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Cruelty, Kindness, and Unnecessary Suffering

TOM REGAN

The ideas of cruelty, kindness, and unnecessary suffering play prominent roles in the growing debate over our treatment of animals. An index of how pervasive these ideas are, is that a philosopher who does not rely on them, or not all of them, or who argues in ways that give other ideas a place of prominence, might none the less be viewed as resting his case against, say, vivisection or factory farming on these very ideas. Thus, for example, Renford Bambrough, in his editorial in the October 1978 issue of *Philosophy*,¹ by way of contrasting the essays in that issue with the work of Peter Singer and myself, writes that '(t)he emphasis of Peter Singer and Tom Regan has been on animal suffering and human cruelty'. For obvious reasons it is not part of my task to consider how accurate a characterization of Singer's position this is.² As for my own, two comments at least are in order. The first is that, even if it were true that I place emphasis on 'animal suffering and human cruelty', it would not be true that my position centred on *just* these two ideas. Equally central, for good or ill, is my attempt, successful or otherwise, to understand whether it is wrong to *kill* animals and, if so, why, *independently* of questions of suffering or cruelty.³ But, second, it is not true that *cruelty* is central to my thinking.

¹ Renford Bambrough, 'Editorial: Tyger and Kestrel', *Philosophy* 53, No. 206 (October 1978), 433.

² It is perhaps worth pointing out that significant philosophical differences exist between Singer and myself. These are brought out in part in our respective essays in the January 1978 issue of *Ethics* (see his 'The Parable of the Fox and the Unliberated Animal' and my 'Fox's Critique of Animal Liberation'). For further developments see Singer's 'Animals and the Value of Life' in *Matters of Life and Death*, Tom Regan (ed.) (New York: Random House, Winter 1979), and my own 'Vegetarianism, Utilitarianism, and Animal Rights' (*Philosophy and Public Affairs*), forthcoming, and 'Animal Rights and Human Wrongs' (*Etyka*), forthcoming.

³ This point is especially clear in my discussion of whether animals have a right to life in section II of my 'The Moral Basis of Vegetarianism', *Canadian Journal of Philosophy* (October 1975) and reprinted in Tom Regan and Peter Singer (eds), *Animal Rights and Human Obligations* (Englewood Cliffs: Prentice Hall, 1976). My argument is subjected to close critical scrutiny by Singer in his 'Animals and the Value of Life', op. cit. For some criticisms of my own, see my 'An Examination and Defense of One Argument Concerning Animal Rights' (*Inquiry*), forthcoming.

On the contrary, this is a concept which, if my memory serves me well, I never use and which, even if my memory serves me ill and I do speak of cruelty in this or that place, certainly it is not central to my argument. So Bambrough's characterization of my position is not quite accurate. But questions about its accuracy aside, his characterizing my position in terms of its reliance on cruelty is instructive. It illustrates the hold this concept has on how people tend to think about criticisms of the ways animals are treated, as if anyone who, like myself, argues against contemporary farming methods or vivisection *must* put the case in terms of 'being against cruelty' or, as many others seem to think but Bambrough does not say, in terms of 'being for kindness'.

I do not believe this is true. I do not believe cruelty or kindness must play central roles. Certainly they do not play central roles in my position. And it is fortunate that they do not. For the injunction to be kind as well as the prohibition against being cruel, as I hope to explain, cannot serve as adequate principles by reference to which we can determine how animals ought to be treated. This is one thing I hope to show in what follows. As for the idea of unnecessary suffering, this is an idea that I believe *is* central; but it is also one that is importantly ambiguous. I hope to be able to explain this ambiguity and explain what it means to say that we are obligated to prevent unnecessary suffering. Once this is made clear I shall indicate what roles I think cruelty and kindness can play in the philosophy of the humane movement.⁴

Cruelty

It would be difficult to find anyone who is in favour of cruelty. Thus, when individuals and organizations champion the cause of animal welfare by denouncing cruelty to animals, they strike a responsive moral chord. Theoretically, however, I do not believe that our negative duties to animals are adequately grounded if we endeavour to rest them on the prohibition against cruelty. This becomes clear once we become clearer about the idea of cruelty itself.

Cruelty is manifested in different ways. People can rightly be judged cruel either for what they do or for what they fail to do, and either for what they feel or for what they fail to feel. The central case of cruelty appears

⁴ I have touched on the ideas of kindness and unnecessary suffering elsewhere. For a brief discussion of the former, see my 'Exploring the Idea of Animal Rights' in *Animal Rights: A Symposium*, D. Patison and R. Ryder (eds) (London: Centaur Press, 1979); for the latter see 'On the Right to be Spared Gratuitous Suffering' (*Canadian Journal of Philosophy*), forthcoming.

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to be the case where, in Locke's apt phrase,⁵ one takes 'a seeming kind of Pleasure' in causing another to suffer. Sadistic torturers provide perhaps the clearest example of cruelty in this sense: they are cruel not just because they cause suffering (so do dentists and doctors, for example) but because they enjoy doing so. For convenience I shall term this 'sadistic cruelty'.

Not all cruel people are cruel in this sense. Some cruel people do not feel pleasure in making others suffer. Indeed, they seem not to feel anything. Their cruelty is manifested by a lack of what is judged appropriate feeling, as pity or mercy, for the plight of the individual whose suffering they cause, rather than pleasure in causing it; they are, as we say, insensitive to the suffering they inflict, unmoved by it, as if they were unaware of it or failed to appreciate it *as suffering*, in the way that, for example, lions appear to be unaware of, and thus are insensitive to, the pain they cause their prey. Indeed, precisely because one expects indifference from animals but pity or mercy from human beings; and precisely because the absence of pity or mercy manifest a want of what makes human beings human; people who are cruel by being insensitive to the suffering they cause often are called 'animals' or 'brutes', and their character or behaviour, 'brutal' or 'inhuman'. Thus, for example, particularly ghastly murders are said to be 'the work of animals', the implication being that these are acts which no one moved by the human feelings of pity or mercy could bring themselves to perform. The sense of 'cruelty' that involves indifference to, rather than enjoyment of, suffering caused to others I shall call 'brutal cruelty'.

⁵ Locke writes as follows:

One thing I have frequently observed in Children, that when they have got possession of any poor Creature, they are apt to use it ill: They often *torment*, and treat very roughly, young Birds, Butterflies, and such other poor Animals, which fall into their Hands, and that with a seeming kind of Pleasure. This I think should be watched in them, and if they incline to any such *Cruelty*, they should be taught the contrary Usage. For the Custom of Tormenting and Killing Beasts, will, by Degrees, harden their Minds even towards Men; and they who delight in the Suffering and Destruction of Inferior Creatures, will not be apt to be very compassionate, or benign to those of their own kind . . . (John Locke, *Some Thoughts Concerning Education*, 5th edn (London: printed for A. and C. Churchill, 1905). See also James Axfell (ed.) *The Educational Writings of John Locke* (Cambridge: Cambridge University Press, 1968), sec. 116, 225–226).

The general approach to our duties to animals suggested by this passage—namely, that our duties to animals are indirect duties to humankind—I label 'the Kantian account' and subject it to criticism in my 'Exploring the Idea of Animal Rights', *op. cit.* In an earlier examination of cruelty I failed to distinguish the brutal sense. See my 'Animal Rights and Human Wrongs', *op. cit.* Discussions with Professor James Nickel have been very beneficial in this regard.

Now, cruelty of either kind, sadistic or brutal, can be manifested in what I shall call active or passive behaviour. By 'passive behaviour' I mean to include acts of omission and negligence; by 'active', acts of commission. Thus a man who, without provocation, beats a dog into unconsciousness is actively cruel, whereas one who, through negligence, fails to feed his pet to the point where the dog's health is impoverished is passively cruel, not because of what he does but because of what he fails to do. Both active and passive cruelty have fuzzy borders. For example, a woman is not cruel if she occasionally fails to feed her cat. She *is* cruel if she fails to do so most of the time. But while there is no exact number of times, no fixed percentage, such that, once it is realized, cruelty is present, otherwise not, there are paradigms none the less.

We have, then, at least two kinds of cruelty (or two senses of the word 'cruelty') and two different ways in which cruelty can be manifested. Theoretically, therefore, cruelty admits of at least four possible classifications: (1) active sadistic cruelty; (2) passive sadistic cruelty; (3) active brutal cruelty; and (4) passive brutal cruelty. Let us grant that all varieties of cruelty ought to be condemned and discouraged. The question that remains is, granting this, does anti-cruelty, in any or all of its forms, provide an adequate basis for our negative duties to animals? I do not believe it does. For cruelty, in all of its forms, necessarily involves reference to an individual's mental state—namely, whether one takes pleasure in causing or allowing another to suffer, or whether one is indifferent to doing this. Thus, if anti-cruelty were advanced as a basis for our negative duties to animals, it would follow that we fulfil our negative duties to them so long as we are not cruel to them—i.e. so long as we do not enjoy, or are not indifferent to, causing or allowing them to suffer. This is manifestly inadequate. How one feels about what one does is logically distinct from the moral assessment of what one does. More particularly, how one feels about the suffering one causes an animal is logically distinct from whether it is wrong to make the animal suffer. To make an animal suffer is not justified just on the grounds that one is not indifferent to its suffering, or just on the grounds that one does not enjoy making it suffer. In other words, to make an animal suffer is not justified just on the ground that the one who makes it suffer is not cruel, in any or all of cruelty's various forms. So, while we can agree that cruelty is to be condemned and ought to be discouraged, we must not agree that the prohibition against cruelty provides a satisfactory basis for our negative duties to animals.

Kindness

Kindness perhaps is an idea second only to cruelty in terms of its currency in discussions about our treatment of animals. 'Be kind to animals', we are

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enjoined, and few, if any, would take exception to the spirit of this injunction. But, like the prohibition against cruelty, the prescription to be kind will not bear the weight some people want to place on it. It simply will not do the job of helping us determine our positive duties to animals.

Like 'cruel', 'kind' and its cognates are terms of moral appraisal we use to assess and describe a person's acts or character. A kind person is one who is inclined (disposed) to act with the intention of forwarding the interests of others, not for reasons of self-gain, but out of love, affection or compassion for the individual whose interests are forwarded. Kind people, in a word, are not selfish, not ones who act to forward the interests of another only if or so long as doing so forwards their own interests.

What, then, does the injunction to be kind to animals mean? It means either that, when it comes to this or that individual act, we are to treat animals in such a way that our intention is to forward their interests, not from a selfish motive but out of love, affection or compassion for them, *or* that we are to cultivate, through such individual actions, the disposition to treat animals in this way, for these reasons. And there is no denying, I think, the moral worth of the ideal the injunction to be kind, interpreted in either of these ways, places before us. And yet, for reasons in some cases not unlike those given against the view that the prohibition against cruelty can satisfactorily serve as the basis for our negative duties to animals, the injunction to treat animals kindly fails to provide us with a satisfactory basis for determining our positive duties.

My reasons for saying this are as follows. First, kindness, like cruelty, has conceptual connections with 'the mind of the agent'—namely, with the agent's motives and intentions. And this invites the same observation in the case of kindness as was apposite in the earlier case of cruelty: the morality of what persons do (the rightness or wrongness of their actions) is logically distinct from, and should not be confused with, their 'mental states', including the motives or intentions from which their acts proceed. Thus, while those who act kindly deserve our moral admiration, they deserve this not because they thereby do what is right (possibly they do; but possibly they do not); they deserve this because they exhibit their goodness as people. So, just as the evil which cruelty is must be kept distinct from judging a cruel act wrong, the good which kindness is must be kept distinct from judging a kind act right.

Secondly, the injunction to be kind to animals must fail to capture or account for the idea that we *owe* it to animals to treat them in certain ways, that treating them thus-and-so is something that is *due* to them. The injunction in question cannot capture or account for this because kindness is not itself something we *owe* to anybody, is not *anyone's* due. To be the beneficiary of a kind act no doubt generally is to be blessed, but no one has a claim on anyone else's kindness. Thus, if sense can be made of the idea that we owe it to animals to treat them in certain ways and that they

have valid claims against us,⁶ we cannot look to the injunction that we be kind to animals as a principle which accounts, or even helps account, for this dimension of our duties to animals. For these reasons, then, the injunction to be kind to animals, like the prohibition not to be cruel to them, cannot serve as a principle we might use for determining what are our duties to animals.

Unnecessary Suffering

If our obligations to animals are not accounted for by either preventing cruelty or increasing kindness, where else are we to look? A prominent candidate is the duty to prevent unnecessary suffering, an idea which does play a vital role in my own position.⁷ There are four points I wish to make about this idea on the present occasion.

The first is that the duty to prevent unnecessary suffering is logically distinct from the ideas of cruelty and kindness. This is clear because this duty does not require that we prevent unnecessary suffering from this or that motive or intention, or only after we have got ourselves into this or that mental state. In particular, therefore, this duty does not require that we prevent unnecessary suffering out of love, compassion or, in a word, kindness.

Second, the duty in question has considerable intuitive force. It seems to strike at the heart of morality, and one can only wonder how (that is, for what reasons) someone would deny that we have this duty. Cora Diamond, it is true, seems to deny this when she writes⁸ that 'We cannot point and say, "This *thing* (whatever concepts it may fall under) is at any rate capable of suffering, so we ought not to make it suffer"'. But I myself do not find a clear, let alone a persuasive, argument to support her apparent dissent from the duty to prevent unnecessary suffering, as applied to animals. For example, she writes the following,⁹ evidently by way of explaining or defending her position, I am not sure which:

... if we appeal to people to prevent suffering, and we, in our appeal, try to obliterate the distinction between human beings and animals and just get people to think of 'different species of animal', there is no footing left from which to tell us what we ought to do, because it is not

⁶ I argue this point in the essays cited earlier and am especially indebted to Joel Feinberg's work on related topics. See especially his 'The Rights of Animals and Unborn Generations' in *Philosophy and Environmental Crisis*, W. Blackstone (ed.) (Athens: University of Georgia, 1974).

⁷ See, especially, 'The Moral Basis of Vegetarianism', *op. cit.*

⁸ Cora Diamond, 'Eating Meat and Eating People', *Philosophy* 53, No. 206 (October 1978), 470.

⁹ *Ibid.*, 478.

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members of one among species of animals that have moral obligations to anything. The moral expectations of other human beings demand something of me as other than an animal; and we do something like imaginatively read into animals something like such expectations when we think of vegetarianism as enabling us to meet a cow's eyes. There is nothing wrong with that; there *is* something wrong with trying to keep that response and destroy its foundation.

I truthfully do not know how to respond to this, which is not to say that it is false nor, indeed, to offer any detailed criticism whatever. I simply do not understand what *relevance* talk of 'enabling us to meet a cow's eyes', etc., has to assessing whether we have a duty not to cause cows (or other animals) unnecessary suffering. Perhaps this is just a confirming instance of that 'obtuseness' with which Professor Diamond credits me.¹⁰ I do not know, and I shall not endeavour to pursue the matter further, except to say, as a matter of autobiographical fact, that the duty not to cause animals unnecessary pain appears to me to be both clearer and truer than Professor Diamond's apparent attempt to explain or defend her denial that it is.

Third, the concept of unnecessary suffering is ambiguous.¹¹ For suffering can be judged to be unnecessary relative to two quite distinct points of view. According to the first, we assess how much, if any, suffering is necessary by asking how much must be caused or allowed in order to achieve a chosen goal. Assessed from this point of view, a given amount of suffering is necessary if the goal could not be achieved if the given amount of suffering were not caused or allowed; any suffering such that the goal could have been achieved without causing or allowing it, is, in this sense of 'unnecessary suffering', unnecessary.

It will be useful to give this sense of 'unnecessary suffering' a name. I shall refer to it as 'the factual sense', intending thereby to emphasize the moral neutrality of judging suffering as necessary or unnecessary in this sense. For when one judges, for example, that a given amount of suffering is necessary in this, the factual sense, one conveys only that, *as a matter of fact*, the goal of the action or activity could not have been achieved if the amount of suffering had not been caused or allowed.

The second sense of 'unnecessary suffering' I shall call 'the moral sense'. In this sense to judge that a given amount of suffering is necessary is to judge that causing or allowing it can be defended on moral grounds (i.e. can be given a principled moral justification), whereas to judge that suffering unnecessary is to judge that such a justification cannot be given (i.e. that at least some of the suffering cannot be morally justified).

¹⁰ Ibid., 468.

¹¹ On this point, see my 'On the Right to be Spared Gratuitous Suffering', *op. cit.*

It is clear that causing or allowing a given amount of suffering can be necessary in both senses; *or* that another given amount of suffering might be necessary in one sense but not in the other. In any case, it should be clear that the procedures appropriate for determining how much suffering is necessary in the factual sense are different from those which are appropriate for determining how much is necessary in the moral sense. For example, one does not show that flogging one's slaves does not cause unnecessary suffering, in the moral sense, on the ground that if one did not cause or allow the amount of suffering the slaves endure, one could not realize the goal of having productive slaves. More generally, one does not establish that the amount of suffering caused or allowed is necessary, in the moral sense, by establishing that it is necessary, in the factual sense. To establish the necessity, in the moral sense, of the amount of suffering caused or allowed, one must provide a moral justification of the goal in the pursuit of which the suffering is caused or allowed, and while granting that how we are to give such a justification is a question justly renowned for its difficulty, it at least is clear that moral justifications are not given just by noting that someone (e.g. the slave owner) *has* a certain goal.

It is not part of my present intention to address the question, How are goals to be morally assessed? Rather, I want now to point out that the ambiguity of 'unnecessary suffering' frequently stands in the way of significant communication between, say, critics and defenders of vivisection. Critics, for example, might point to the Draize test¹² and cry, 'Unnecessary suffering!' And defenders might reply, 'Only that suffering which is necessary is caused or allowed'. Or critics of factory farming methods might point to ten hens to a cage and shout, 'Unnecessary suffering!' Defenders might reply, 'Only necessary suffering is caused or allowed'. The point to realize is that *both* sides might be correct, if, as seems often to be the case, each side uses the idea of unnecessary suffering in the different senses I have distinguished, the critic claiming that the suffering is morally unnecessary, the defender, that it is factually necessary. By itself, of course, awareness of this ambiguity does not establish which side is right. Cognizance of this ambiguity, however, can serve the useful

¹² The Draize test, named after its inventor, is a test used to determine the eye-irritancy of various products (e.g. toothpaste or talcum powder). Rabbits are a common test subject, since they lack tear ducts and thus are unable to rinse substances from their eyes or dilute them. Concentrated solutions of the test substance are allowed to drip into one of the rabbit's eyes; the other eye is let alone. Redness, swelling, loss of cornea or iris, degree of blindness, extent of ulceration, etc., are measured and the eye-irritancy of the test substance is thereby established. There is a growing movement to bring a halt to such tests. The point I try to make in the body of the essay is that the case for stopping tests like this one does not depend on the tests themselves or those who conduct them being cruel.

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purpose of putting us on our guard and may, if we are mindful of it, help promote that degree of understanding necessary as a preliminary for determining which side to a given controversy is closer to the truth.

But there is one further idea this ambiguity can help us understand. By making use of the two senses of 'unnecessary suffering' we can state quite precisely what it means to say that we have an obligation to prevent unnecessary suffering. This means that we have an obligation (a) to prevent all suffering caused or allowed in pursuit of any goal that is itself morally unjustified and (b) to prevent any suffering over and above what is factually necessary which is caused or allowed in pursuit of a morally justifiable goal. The case for contending that modern factory farming methods or the routine use of animals in research violate this obligation will be as strong or as weak as the case that can be made for maintaining that these practices cause or allow animals to suffer unnecessarily for one or both of these reasons.

One final point. Earlier I argued that neither the prohibition against cruelty nor the injunction to be kind can serve as a basis by reference to which we can determine what our obligations are. If, however, we accept, as I have argued elsewhere¹³ that we should, the obligatoriness of preventing unnecessary suffering, then the place of kindness and cruelty in the movement to bring about better treatment for animals can be seen more clearly. In order for anti-cruelty and pro-kindness to play important roles, the following assumptions must be made:

1. People who try to become, or who are encouraged to be, or who are kind people are less likely to cause or allow animals to suffer unnecessarily than people who do not try, or who are not encouraged to be, or are not kind people.
2. People who are, or those who are not discouraged from becoming, or those who are encouraged to become cruel people are more likely to cause or allow animals to suffer unnecessarily than people who are not, or those who are not discouraged from becoming, or those who are encouraged to become cruel people.

I am not certain whether either of these assumptions could be established conclusively, and certainly I do not myself have a battery of empirical data which proves either or both beyond a doubt. All that I shall say is that the assumptions seem to me to be highly probable and that, to the best of my knowledge, this is a judgment that is commonly shared by other philosophers, whatever their view on 'animal rights', etc. So I do not think I am assuming anything extravagant or eccentric, when I accept the two assumptions as stated. Now, if these assumptions are granted, then the place of anti-cruelty and pro-kindness becomes apparent. Roughly speaking,

¹³ See, especially, 'The Moral Basis of Vegetarianism', *op. cit.*

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since kind people tend to forward the goal of preventing unnecessary suffering, while cruel people tend to frustrate it, we have an obligation to try ourselves, and to encourage others, to become kind and avoid becoming cruel. Thus, the injunction to be kind and the prohibition against cruelty do have roles to play in furthering the cause of improving the lot of non-human animals, if the empirical assumptions stated earlier happen to be true, and if at least one of our obligations to animals is to prevent their unnecessary suffering. The task of encouraging kindness and discouraging cruelty, while not confusing the role of either, must remain the on-going challenge of those formal organizations and private individuals dedicated to the cause of animal welfare.¹⁴

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¹⁴ I want to thank Dale Jamieson for his helpful criticisms of an earlier draft of this essay.