

Being Claimed in Immediate Response to an Other: Against a Foundationalist, and Towards a Relational, Understanding of Moral Status

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In this essay, I propose a phenomenological alternative to the established candidates of what grounds moral status, namely the experience of being claimed in immediate response to an Other. Drawing from late-Wittgensteinian moral philosophy, I develop this alternative in critical juxtaposition to theories that aim to derive moral status from values grounded in independently accountable empirical properties. Against such theories, I expound how meaningful talk of moral status must instead be understood to be rooted in the individuals' morally charged immediate responsiveness to Others, a responsiveness that preconditions the very possibility of separating value and fact. If my analysis is sound, then the empirical property or set of properties that is commonly taken to qualify as a candidate for a ground of moral status in fact presupposes a phenomenological dimension of 'ethical encounter'. The recognition of this deeper phenomenological level would, while not disposing with the notion of moral status, transform its meaning and, thus, how much of the philosophical debate on moral status is conducted.

1. 'Being Claimed in Immediate Response' as a Philosophical Motive

Moral equality is undoubtedly a notion of great moral significance, and one that resonates deeply with us. It is a widespread belief that we all have the same moral worth. The equivalent of this belief is found in moral philosophy in the form of the widespread theoretical commitment that we, at least the "typical adult humans",¹ have *full equal moral status*.² In addition, recent decades have seen various attempts, both theoretical and socio-political, to make the case for the moral worth of those who are not traditionally considered part of this core group of moral equals but whom we still regard as morally significant. In moral philosophy, these upheavals were to a large extent reflected in the attempts to deliver a theoretical framework on the basis of which the expansion of the circle of beings considered as having moral worth should become possible in rational and justifiable ways. While there were (and still are) numerous disagreements over which entities – infants, the cognitively impaired, mammals, insects, plants, stones, cyborgs, entire ecosystems – should be accorded what kind of moral status – full,

¹ Benjamin Sachs, 'The Status of Moral Status', *Pacific Philosophical Quarterly* 92:1 (2011), pp. 87–104, at p. 88.

² For a comprehensive overview of the various accounts of full moral status (or FMS), cf. Agnieszka Jaworska and Julie Tannenbaum, *Stanford Encyclopaedia of Philosophy: Spring 2021 Edition*, edited by Edwin N. Zalta (online at <https://plato.stanford.edu/entries/grounds-moral-status/>, accessed 2021-12-23), Ch. 2.

partial, or none; located on a continuum or as an all-or-nothing matter³ – the paradigm for moral status is virtually always taken to be the presupposed moral equality between individual *persons*.⁴

In rejecting this approach, I instead want to show that the property(/-ies) upon which moral status is usually grounded presupposes a phenomenological dimension of “ethical encounter”.⁵ I think a good starting point for explaining what I mean by ethical encounter is what some philosophers at times refer to in terms of *being claimed in immediate response to an Other*.⁶ Although this is a core notion – if not *the* core notion – in a certain strand of late-Wittgensteinian moral philosophy,⁷ it is not treated as an axiom or principle, as this would be in conflict with its fundamentally experiential nature. It is better understood as a motive, a theme, or an intimation that by its very nature eludes definition, that is, it eschews being framed in definitive theoretical terms because it intimates the very experiential basis for any meaningful theorising. Accordingly, it is articulated and inflected in varying forms, depending on the context and the point in question. It is best described, I think, as a *pointing* or *appealing*, namely, to the readers’ own respective experience in the attempt to awaken *their* sense of what *they* take to be of the deepest moral significance. So the abstract description – *being claimed in immediate response to an Other* – is at best secondary to the examples that illustrate that it is these that “wear the pants”,⁸ invoking the readers’ imagination and implicitly summoning them to scrutinise how they themselves understand the matter at hand.⁹ While thinkers such as Raimond Gaita, Christopher Cordner, R. F. Holland, and others have provided a multitude of examples to trace the crystallisations of this responsiveness,¹⁰ in this paper I will present my own rather simple scenarios, which I hope will be nonetheless expedient in elucidating what I am after.

2. Morally Salient Properties and the Fact/Value Distinction

When philosophers make the case for the moral status of a group of beings, they usually proceed along the following lines: 1) a group of beings on the ‘moral margin’ that is deemed to be mistreated is identified and the question of the group’s moral status is raised; 2) the focus of attention shifts towards what is considered the moral core group, i.e. human beings,¹¹ a group considered to consist of equally morally salient members; 3) there is a resort to the property(/-ies) by virtue of which human beings are

³ For an overview of the various groups for which moral status is claimed, as well as of the types of moral status themselves, cf. Agnieszka Jaworska and Julie Tannenbaum, ‘The Grounds of Moral Status’ and Mary Anne Warren, *Moral Status: Obligations to Persons and Other Living Things* (Oxford: Clarendon Press, 1997).

⁴ Cf. Steve Clarke and Julian Savulescu, ‘Rethinking our Assumptions of Moral Status’, in *Rethinking Moral Status*, edited by Steve Clarke, Hazem Zohny, and Julian Savulescu (Oxford: Oxford University Press, 2021), pp. 1–19, at p. 1.

⁵ Cf. Christopher Cordner, *Ethical Encounter: The Depth of Moral Meaning* (London & New York: Palgrave Macmillan, 2002).

⁶ In the text, I will often refer to this simply as ‘ethical responsiveness’ or ‘ethical encounter’.

⁷ This includes at least some of the proponents of the Swansea School (e.g. Roy F. Holland, Peter Winch) and contemporary philosophers influenced by them (e.g. Christopher Cordner, Raimond Gaita, Hugo Strandberg, and Joel Backström).

⁸ Raimond Gaita, ‘The Personal in Ethics’, in *Wittgenstein: Attention to Particulars*, edited by D. Z. Phillips and Peter Winch (London & New York: Palgrave Macmillan, 1989), pp. 124–150, at p. 148.

⁹ This makes it possible that the readers may not share the picture of moral significance with which they are presented, thus allowing for disagreement. This kind of ‘real disagreement’, however, is integral to the kind of moral philosophy in question. I will return to its relevance in section 6.

¹⁰ To illustrate only a few significant instances, cf. Raimond Gaita, *Good and Evil: An Absolute Conception* (London & New York: Routledge, 2004), p. xv–xviii, or Christopher Cordner, *Ethical Encounter*, p. 67.

¹¹ Sometimes the adjectives ‘typical’, ‘ordinary’, ‘healthy’, or ‘adult’ are added for further delimitation.

ascribed moral status;¹² 4) it is shown that the same property(/-ies) are, either wholly or partly, to be found in the respective marginal group, thus exposing the irrationality of our established attitude and calling for a transformation of our conception of, and action towards, those beings.¹³

This way of proceeding reveals a conception of morality as being concerned with rational action, that is, action called-for on pain of inconsistency in practical deliberation. How one ought not to act is thus framed in terms of irrational action or, put differently, immoral action is taken to be action that violates the rationality of an underlying theoretical framework to which one is committed. While theoretical frameworks diverge, one widespread common denominator is, as indicated above, the assumption that any ascription of moral value presupposes an independently established factual basis framed in terms of empirical properties.¹⁴

It is thus held that moral status, if it is to be properly determined, must be grounded in properties,¹⁵ and that these properties are to be determined empirically, that is, through empirical perception and especially through the more exact empirical science. The empirical determination of properties is taken to deliver the factual basis for the ascription of moral value, an ascription that is treated as a strictly separate endeavour. This commitment is found explicitly in Goodwin:

The concept of moral standing (or moral patiency) is fundamentally evaluative, because it pertains to the moral worth, value, or considerability, of a particular entity. In contrast, the notion of psychological patiency pertains simply to whether an entity has the capacity to suffer (or feel pleasure). It must be kept conceptually separate from the moral-evaluative concept of moral standing (or moral patiency).¹⁶

Goodwin makes clear that psychological standing – the factual psychological properties of a given being or group of beings that are determined empirically – is clearly distinct from moral standing, that is, our evaluation of these properties.

If, for instance, the question arises as to what kind of moral duties we have towards, say, sheep, one would first ask what sheep are (the answer to which will include that they are hoofed herbivores, mammals, that they feel fear, pleasure, pain, etc.). The second step would be to ask which properties, if any, confer some form of moral status on their bearer. In order to determine this, reference is made to the moral core group, i.e. human beings, in relation to which it is assumed to be a given that certain properties, for example the propensity to feel pain, having agency, being a subject-of-a-life,¹⁷ and so on, do confer moral status on their bearers. Once it is determined that the marginal group in question does in fact exhibit the morally salient property(/-ies), then the only philosophical task left is to expose the inconsistency between our practical deliberation on, and treatment of, other human beings and the members of the marginal group.

According to this approach, there are two corresponding ways by which people may come to have their views of what is morally salient changed: either by learning new facts (thus changing the

¹² Cf. Clarke and Savulescu, 'Rethinking our Assumptions of Moral Status', p. 4

¹³ Ibid., p. 6; cf. also Gaita, *Good and Evil*, p. 166 (although in a critical spirit). It should be further noted that the just sketched structure 1)–4) is usually not overtly articulated in just this way; my point is rather that on closer examination, contemporary discussions of moral status tend to reveal this underlying logic.

¹⁴ As the debate on the fact/value distinction is far too extensive to account for it in detail here, I will restrict myself to a simplified sketch to illustrate my point. For an overview of the debate, cf. Philip S. Gorski, 'Beyond the Fact/Value Distinction: Ethical Naturalism and the Social Sciences', *Society* 50:6 (2013), pp. 543–553.

¹⁵ For a brief overview of the different theoretical accounts of property-grounded moral status cf. Clarke and Savulescu, 'Rethinking our Assumptions of Moral Status', p. 4.

¹⁶ Geoffrey P. Goodwin, 'Experimental Approaches to Moral Standing', *Philosophy Compass* 10:11 (2015), pp. 914–926, at p. 915.

¹⁷ Depending on the theory, the morally salient property(/-ies) are defined as, for example, the propensity to feel pain, having agency, having interests, and so on.

data on the basis of which moral evaluation takes place) or by detecting and straightening out irrationalities in their evaluations of the facts¹⁸. Now, although I do not think these two ways are necessarily fruitless, I hope to cast doubt on their efficacy in the following reflections.

Let us assume that someone who eats factory-farmed meat (and is fully aware of how the animals he eats are kept) is presented with the following two reproaches: 1) *"You should not eat this kind of meat because, after all, the animals suffer terribly from their horrible living conditions."* Is it imaginable that the one who knows how the animals lived before they were slaughtered does not know that they suffered? Is it possible that he actually believes that they might be automata with clockwork-like bodies yet unable to feel pain? It *does* seem to me to be imaginable that someone would actually *claim* to believe that. However, I find it hard to imagine that if someone like that were confronted with the 'information' – perhaps even backed up by some kind of empirical research – that animals, in fact, do feel pain, he might honestly respond, "Oh, really? I did not know that at all! Thank you for letting me know; from now on, I will only be kind to animals." If someone claims that animals cannot feel pain, what evidence could be produced to make him change his mind? After all, to whatever behavioural or neuronal data is presented, he may simply reply along these lines: "Sure, their behaviour and neuronal activity does look like pain, but it simply *isn't*; what appears to be a soul is merely an illusion.' This is the crux of the Cartesian picture of the animal machine.¹⁹

2) *"You should not eat this kind of meat because doing so is irrational: you ascribe moral value to human beings' preference not to suffer pain but fail to do so in respect to animals despite the fact that they exhibit the very same property."*²⁰ Here, it is easy to imagine that someone might simply reply, "Well, sure, animals don't want to feel pain, just as we don't. The difference is that *our* preference matters and *theirs* doesn't." How does the proponent of the empirical-property view respond to that? It would be pointless for him to appeal to rationality, i.e. to a self-contradiction in the thinking of the disagreeing interlocutor, because her point is precisely that our preference is *not* equal to that of the animals. When asked why she thinks so, the objector may simply reply, "This is just how I feel about it." It seems that here our philosopher has reached a wall, and one that is erected on the basis of his own commitment to the fact/value distinction.

Let me elaborate. Our philosopher may raise the objection that how the subject evaluates (or ought to evaluate) is dependent on the object's factual properties. When seeing a child drowning, we would all say that we ought to try to save it, which, according to our philosopher, means that the given empirical data (i.e. the child exhibiting the preference to live) yields a certain evaluation (i.e. that one ought to try to save it). But here, the philosopher turns matters upside down. Even on his own view according to which fact and value are strictly separate, it is not the property in question – the preference to live per se – that elicits a certain kind of moral response. It is the other way around: the respective property is only deemed morally relevant *because we evaluate it to be so*. This follows from the assumption concomitant with the fact/value distinction that the world is nothing but a "tideless factual sea"²¹ into which value only enters through *our* acts of evaluation. So the concurrence of our respective subjective evaluations makes it (misleadingly) appear as if it were the property from which the moral relevance

¹⁸ For a similar point, cf. Joel Backström, 'Wittgenstein and the Moral Dimension of Philosophical Problems', in *The Oxford Handbook of Wittgenstein*, edited by Oskari Kuusela and Marie McGinn (Oxford: OUP, 2011), pp.729–751, at p. 747.

¹⁹ Cf. David Cockburn, 'Human Beings and Giant Squids', *Philosophy* 69:268 (1994), pp. 135–150, on pp. 138–139.

²⁰ This argumentative route is, for instance, taken by Singer in his attempt to expose and efface speciesism and thus to 'expand the circle' of those beings that we acknowledge to be morally considerable. Cf. Peter Singer, *Animal Liberation* (New York: Open Road Media, 2015), at p. 41.

²¹ Roy F. Holland, *Against Empiricism: On Education, Epistemology and Value* (Oxford: Blackwell, 1980), at p. 105. It should be noted that Holland does not share such a view of the world; the expression "tideless factual sea" is hence to be read in a critical and, I think, slightly lampooning tone.

can be inferred. It is only because – or to the extent that – our evaluations concur that the property will appear to elicit a certain moral response.

This means that if the sketched empirical-property outlook wants to avoid the pitfalls of relativism, the only authority left to appeal to is common sense. Ultimately, the philosopher may only revert to claims along the lines of “That is simply how one evaluates it.”²² But this is precisely what is challenged by the above objector who values differently from how ‘one’ does. Not only is the philosopher’s outlook unable to argumentatively appeal to such a misfit but the very possibility of such a misfit sheds light on how the entire project of attempting to empirically determine morally salient properties is, as it were, rotten to the core.

3. Value and Socialisation

The critical objection may be raised that I am oversimplifying the nature of evaluation by presenting it as the act of the individual subject. Instead, it may be held, our evaluations should be understood as arising from processes of socialisation: while the act of evaluating is indeed carried out by the individual subject, it presupposes values.²³ These values, however, are not produced by the subject itself but are instead acquired by being initiated into a social world. According to this picture, values are the socially acquired criteria that every act of evaluation presupposes. So, when I am confronted with a drowning child, I do not simply happen to judge this as a situation requiring my intervention in the form of help. Instead, in order to judge the situation thus, I must have already undergone a process of socialisation in which I have come to internalise certain values – such as the value of human life and the concomitant acknowledgement that it should be protected whenever possible – that serve as the background conditions for my judgement that I ought to help. This account is compatible with the fact/value distinction. It could be said that small children, for instance, may register the objective facts of a situation – say, of a severe accident – but given that they have not yet come to learn that a human life is of great value, they will not evaluate it as a grave event.²⁴

While I do think that our social environment plays a crucial role in our moral development, the above account is far too vague. The question is what role exactly others play in this development. Consider the following situation: a girl and her brother are playing in the garden while their parents are inside. She sees the boy trip, fall, and hit his head with considerable force, causing him to cry out in pain. Although the girl witnesses the situation unfold, she remains unfazed, ingenuously continuing to play. Is it imaginable that she perceives what was happening, i.e. that she registers the empirical facts, including the fact that her brother is in pain, but that she simply does not care about it because she has not (yet) acquired certain values?

Now, it seems to me that to the extent we try to make sense of the girl’s experience of the situation from the position of a detached observer – under philosophical laboratory conditions, as it were – we will not arrive at a satisfying answer to this question. The answer to the question how someone experiences certain a situation requires that the one who is to reply must in some way ‘encounter’ the one whose experience stands at issue – otherwise, she will simply not know what she is talking about. As Wittgenstein suggests that if we want to understand pain, we cannot do so in abstracto

²² Appeals to common sense are indeed very frequent in the literature on moral status. For example, cf. Jaworska and Tannenbaum, ‘The Grounds of Moral Status’, esp. Chs. 1 & 6.

²³ For an overview of thinkers who share this outlook, cf. Kyle M. Matsuba, Theresa Murzyn, and Daniel Hart, ‘Moral Identity Development and Community’, in *Handbook of Moral Development*, edited by Melanie Killen and Judith G. Smetana (New York & London: Psychology Press, 2014 (2005)), pp. 520–521.

²⁴ Cf. Hugo Strandberg, *Forgiveness and Moral Understanding* (Cham: Palgrave Macmillan, 2021), at p. 218.

but must imagine what it actually means to be in the presence of someone's pain²⁵, so I suggest that instead of thinking in abstracto about what it means for someone to experience a certain situation, we have to imagine what it would be like to actually be in this person's presence. What is required is thus that we imagine someone to be there in the presence of the girl and her brother, witnessing the situation unfold and responding to it. The perspective that first comes to mind is that of the children's parents. Let us thus imagine how they might understand, and respond to, their daughter's apparent indifference.

First-off, it is probably safe to say that every parent would be taken aback when one of their children were to give the impression of being so utterly indifferent towards the suffering of another. The question is how exactly they would understand, and respond to, this apparent indifference. First an account that I take to miss the mark: Let us assume that the parents come on the scene. Seeing that the boy is hurt and crying, the mother goes over and looks after him, caressing and comforting him, perhaps applying a plaster to the wound. Meanwhile, the father, irritated by his daughter's demeanour, takes her apparent indifference to be indicative of the fact that she still lacks the values required for evaluating her brother's predicament as would be called-for. Accordingly, he tends to her and tells her (although probably in a way more suited to a young child), "If you see that your brother is in pain, you should not simply continue to play, but you should help and tell your mother or me about it!" If the father then realises that the girl fails to grasp why she should do so, he may continue by saying, "You have to do that because others are important and because it is bad to let them suffer." If she still does not get the point, then he can of course try to rephrase it in different ways, hoping that she will catch on. As long as he is caught up in this role of the teacher of shared values, however, he will have only two ways of responding to her apparent lack of understanding, namely either by imparting to her ever more facts about existing mores or by trying to convey a sense of the importance of these facts by reverting to how they, after all, shed light on 'our' shared values.

Engaging with his daughter in such ways may surely be fruitful in that it may make the girl follow certain practical instructions; indeed, it may even result in her accepting her father's teachings and thus internalising the values in question. If so, however, she will become like her father: she will help the one in pain because she has learned that Others are valuable, and that Others are valuable because, well, that is simply 'our' value. Part of her coming to think like this, however, will be that she, too, will come to develop a picture of the world as filled with morally neutral facts, on the one hand, and with socio-moral values that tell 'us' what 'one' ought to do, on the other. The girl who would have thus internalized her father's teachings, in other words, would also come to endorse a version of the fact/value distinction, yet not because she realized it to be the best way of understanding the world but because she, at least partly due to her father's misguided attempts at moral education, failed to come to see what it means for something – or someone – to be of genuine moral importance in the first place.²⁶ Ultimately, what the girl thus educated will 'have' is just more facts – for even a statement like 'X is what we value' is ultimately nothing but a statement of fact. In that regard, it does not substantially differ from the kind of statement of fact 'Human beings have preferences' (although of course the former is a social fact while the latter is a natural one). The important point is that neither entails a sense of moral significance on the part of the speaker. Neither because some entity or way of acting has certain properties nor because people generally ascribe moral value to it will it be seen as being of moral relevance. One could describe the girl who comes to conceive of moral demands in this way as having failed to see their *point*.

²⁵ Cf. Ludwig Wittgenstein, *Philosophical Investigations*, trans. G. E. M. Anscombe (Oxford: Blackwell, 1963), §286–7 & §302–303.

²⁶ Cf. Strandberg, *Forgiveness and Moral Understanding*, p. 218.

4. Rousing Someone's Moral Responsiveness

When I just stated that to the extent that the girl will merely act according to an instruction or an internalised value, she will not get the *point* of what she is doing, it could be assumed that what I am aiming at is that there must be a deeper level of rational grounding, such as a transcendental justification of the values in question. Showing why I think this does not work would unfortunately exceed the scope of this text.²⁷ What I can do, however, is to sketch my alternative, namely, that this 'deeper' level is not one of further justification at all but of the kind of morally charged encounter with otherness that I have adumbrated above.

I said that thinking within the kind of fact/value distinction sketched above only allows for a change of moral attitude either by presenting new information or by exposing inconsistency in thought. Yet, if one rejects this distinction altogether, a third alternative emerges.²⁸ I will now show that this alternative underlies the other two options, and I will elucidate this by modifying the above example.

In the example, the focus was on moral education in the sense of a passing-on of values by the parent to the child, together with the hope at least for compliance with, and at best an internalisation of, those values. But the father's reaction to his daughter's apparent indifference to her brother's pain can also take a different form, namely, that of an attempt to make her see the situation in a different light. Such a reaction will involve trying to make her receptive to her brother's pain, to let her be touched, or claimed, by it. If so, the focus of the father's attending to his daughter will shift away from a concern with values (i.e. with *what* is deemed important) and towards a concern with *him* (i.e. her brother) and his pain. One could say that the father's role has become that of someone guiding her attention, yet not merely as a signpost pointing in a certain direction but as someone who tries to convey a sense of the moral weight of the situation within the very process of redirecting her attention. This could be articulated in the father's saying (with an emphasis that expresses his sense of the gravity of his son's pain), "Look at your brother, look, he is crying and in pain! The poor boy! Do you see the wound on his forehead? That must have hurt!" Alternatively (or additionally), the father may simply take the girl face to face with her brother, confront her with his pain close-up, attend to him in a loving way that is plain for her to see, and perhaps at times turn to her so as to invite her to relate to her brother in a similar way. The father's speaking and acting in such a way may help to redirect her attention and thus to arouse in her a sense of the moral significance of the situation.²⁹

If he succeeds in touching her – or, rather, in her letting herself be touched by her brother's pain – it may well be that she will be saddened or even start to cry. Yet, that reaction will then not be a result of, say, the consequences she fears for having ignored his pain or of the recognition that she has violated a moral rule. Rather, it will be "an expression of the recognition of the pain he is in",³⁰ an expression inseparably tied up with her recognition of his reality and her sense of his moral importance for her.³¹ If it is, then she will get what I have called the *point* of why her brother's pain is of moral relevance.

I say the father can only 'help' his daughter to open up in this way because, ultimately, he cannot do it for her, nor can he teach her how to do it. The attending and the experiencing is something she can only do herself.³² That said, the fact that he can so much as play a role in the process presupposes that

²⁷ For lucid discussions exploring why rational justification by itself will not do and must presuppose a deeper experiential level, cf. Gaita, *Good and Evil*, Chs. 3 & 4, and Cordner, *Ethical Encounter*, Ch. 5.

²⁸ For another critical thematisation of the same issue, cf. Gaita, *Good and Evil*, p. 167.

²⁹ Cf. Cordner, *Ethical Encounter*, p. 108.

³⁰ Peter Winch, 'Who is my Neighbour?', in *Trying to Make Sense* (Oxford: Blackwell, 1987), at p. 163.

³¹ For an extensive discussion of the connection between the ethical encounter and the sense of the other's reality disclosed by it, cf. Gaita, *Good and Evil*, Ch. 4, e.g. p. 51.

³² In such a case, as in the case of Jesus' helping the man understand who his neighbour is, "no one truly has the answer who has not arrived at it for him or herself" (Winch, 'Who is my Neighbour?', p. 157).

she is already responsive to *him* (i.e. that his being touched by the boy's pain touches her) in such a way that her father's presence and his appeals help her awaken her responsiveness to her brother.³³ If so, then it seems that what the father does in relating to her is better described as (indirectly) helping her in her moral development than as (directly) morally educating her. It also means that her father will not understand the impression she gives – namely of being indifferent to her brother and his pain – to indicate a total absence of responsiveness towards him but rather one that is, for whatever reason, obfuscated. If the father would take the girl to be lacking *all* responsiveness in relation to her brother, then it would become unclear how his response to her – namely his attempt of rousing her responsiveness – could be understood at all, for it would then resemble the reaction of someone who, irritated by someone's blindness, would appeal to this person so as to rouse her vision and 'open her eyes'. So, if he would take her to be utterly unresponsive, he would most likely assume from the outset that every attempt to change that predicament would be in vain. His response to her shows that is not the case. He can only be understood as trying to *awaken* her responsiveness, in other words, if it is assumed that he takes her to already be responsive, in a however faint or obfuscated way.

There is obviously no guarantee that his words or deeds will be conducive to stirring his daughter's responsiveness. Still, it must be possible, not least because the above-mentioned reprimands, focusing on irrationality, presuppose that she has already come to develop a sense of the moral significance of the situation. Only once a direct moral responsiveness is developed will it make sense for the father to point out an inconsistency in the girl's different moral responses. The girl may, for instance, develop into a person who is generally morally responsive to Others' suffering yet may still, in a single instance, suddenly relapse into what appeared to be her former indifference. Her father may then say, "Hey, but you know he is in pain, right? Usually, you are there for him when something like this happens but now you are so cold and unmoved. What is going on?" (It should be remarked, however, that it would be quite strange to read this reprimand in terms of a *logical inconsistency* between the kind of moral understanding that he knows she has and her present failure to live up to that understanding for that would suggest that he takes her failure to be a failure to infer the right kind of information from the situation at hand, information that she does infer in other situations of the same kind. He would interpret the moral shortcoming as being a cognitive shortcoming at bottom. Yet, if a person known to be empathetic suddenly fails to display empathy, we would usually not assume that this person has failed to interpret the situation correctly, but rather that something has happened to cloud the person's responsiveness, making her somehow morally stunted. This is how I suggest the father's reprimand is best understood.)

But in what sense does the direct responsiveness described above 'ground' the fact/value distinction? If we assume that the girl indeed comes to develop a deepened responsiveness to her brother and his pain, then this will no doubt go hand in hand with a different description of the situation, that is, it will be reflected in what she takes to be the facts of the situation. Indeed, if we stay with the example, it may be questioned whether prior to her awakening, the girl even had a conception of her brother's pain. It could be imagined that she used the word 'pain' primarily because she learned that others use it to describe similar behaviour.³⁴ If it is assumed that this usage was barely coloured by her personal experience of Others' pain, however, then it can hardly be said that she grasped the reality – i.e. the reality of an Other's suffering – captured by it. A sense of this reality is inseparably tied to our

³³ Cf. Strandberg, *Forgiveness and Moral Understanding*, p. 218; Gaita, *Good and Evil*, p. 164: "Actions have the power of revelation; a certain kind of love, for example, might reveal its object to us."

³⁴ A state that, I think, would be considered morally deeply troubling in the case of a child who is no longer an infant. Accordingly, it is near unimaginable that a girl old enough to use the word 'pain' has no experientially enriched understanding of what it may mean.

relation to it, i.e. to how it claims us in response.³⁵ Or, as Peter Winch puts it, “recognizing another as a fellow human being is in a certain way inseparable from *behaving towards him as a fellow human being*”.³⁶ In a similar vein, the scientifically minded philosopher’s assumption that pain is a plain empirical fact – the kind of “psychological patiency” that Goodwin has in mind – stands in need of amendment. If it makes sense to speak in this respect of plain empirical facts at all, it would perhaps be in reference to a given entity’s bodily movements or its neurological brain activity. But none of that is pain per se. It requires one to experience such facts *as pain* in order to regard them as part of the factual make-up of the situation; this experience is “[w]hat gives us so much as the idea that living beings, things, can feel”³⁷ (in this case, that they can feel *pain*). And the very fact that we are ‘always already’³⁸ inclined to speak of certain behaviour as pain behaviour (irrespective of a possible classification of the being exhibiting it) shows that at times we simply do experience Others as being in pain, an experience that can only be understood with reference to our response to it. Thus, articulating pain in terms of mere ‘psychological patiency’ will no longer appear as the clearer description, cleansed from all remnants of ‘merely’ subjective feeling. On the contrary, it will appear the result of an abstraction, an abstraction that may be necessary in order to conduct empirical research but nonetheless one through which the meaning of the object of investigation (i.e. the pain) will likely be thinned out, if not distorted.³⁹

The flipside of the coin is that the kind of seeing in question is in itself morally charged, i.e. it comes with being claimed by the Other’s presence, in our case by the presence of an Other in pain. The moral *responsiveness* elicited in the direct encounter with the Other must be presupposed in order to meaningfully speak of the kind of *responsibility* on which action-centred moral philosophy focuses.⁴⁰ The sister can only be responsible for failing to help her brother if she can be assumed to be morally responsive to him, just as we are responsible for inflicting suffering on animals because we are morally responsive to them. One could say that the kind of being claimed by an Other’s presence – in the examples above, by the Other’s pain – is the experience of the ‘inside’ of moral normativity. It is the experience in which one feels the pull towards the Other – in this case, the pull to attend to him and alleviate his pain – yet in a way in which the taking-in of the situation and the reaction to it are not yet separated. As such, it lies beyond – or rather, at the roots of – any possible subsequent separation of fact from value, say in order to conduct empirical research. At the same time, however, this experience is also what prevents a total severing of the tie between fact and value, lest we lose sight of what we mean when speaking of pain. In other words, our experiences of moral responsiveness to Others and the senses of moral significance arising from them must continue to nourish our thought in order for us to meaningfully speak of what we owe to Others (and how we may fail to live up to what we owe them). Now, much needs to be said about how, according to my account, it is to be understood that we can fail to live up to the Other’s claim (and, hence, of what we owe to Others), but that would require another text. Instead, I will conclude this essay with a brief outlook on what follows from the above reflections for the discussion of moral status.

³⁵ Cf. Gaita, *Good and Evil*, p. 59: “The ‘reality’ of moral value is inseparable from the reality of it as a claim on us, and serious responsiveness to that claim is internal to the recognition of its reality.”

³⁶ Winch, ‘Who is my Neighbour?’, p. 156; emphasis in the original.

³⁷ Cf. Ludwig Wittgenstein, *Philosophical Investigations*, §283.

³⁸ This transcendental formulation is not supposed to indicate a commitment to a Kantian outlook but simply to render the *Unhintergebarkeit* of the experience of some behaviour as pain behaviour.

³⁹ Cf. John McDowell, ‘Values and Secondary Qualities’, in *Mind, Value, and Reality* (Cambridge, Mass.: Harvard University Press, 1998), pp. 143–145 (although in reference to fear instead of pain.)

⁴⁰ Cf. Stanley Cavell, *Conditions Handsome and Unhandsome: The Constitution of Emersonian Perfectionism* (Chicago: University of Chicago Press, 1990), at p. 25.

5. Categorising Experiences of Moral Responsiveness

Because I have focused on an example that features (unimpaired) human beings, let me conclude by clarifying what it means to think along the same lines in relation to other beings and their moral relevance for us. As stated above, moral status is commonly ascribed on the basis of properties: one identifies that a creature has (a) certain property(/-ies) deemed to be of moral relevance in respect to human beings, and concludes that other beings with the same property(/-ies) must, at least in that respect, be ascribed the same moral relevance.⁴¹ My discussion has turned this account on its head. I have tried to show that we do not ascribe moral relevance to human beings because they are bearers of certain properties, but rather, inversely, we ascribe certain properties to human beings because we experience them as claiming us in a morally charged response to them.⁴² Similarly, we do not first identify that human beings prefer not to suffer pain and therefore decide we will / ought to try to avoid inflicting it on them; instead, the very response to how they claim us already contains the understanding that whenever possible they are not to be harmed. The explicit articulation of the moral obligation to spare the Other's pain whenever possible is thus not separate from the experience of the Other but rather a spelling-out of that very experience. But if the morally charged encounter with Others lies at the root of coming to understand them as morally significant, then no detour via empirical facts or Singer-style arguments from analogy is called for in order to show that they are of moral import. If the encounter is foregrounded, the question whether it is a human being or a member of a 'moral margin group' is secondary. Many encounters with other beings, including many of those who constitute the so-called moral margin, are 'always already' *experienced* as being morally significant before any attempts can be made to ascribe to them a determinate moral status. This is not a common sense claim like the one criticised above but rather the precondition both for there being a common sense *and* for the possibility of deviation from it. Even the Cartesian who denies that animals do in fact feel pain can only do so by having earlier experienced them as being able to suffer.⁴³ So, in order to fathom what moral relevance Others may reveal themselves to have means primarily to engage with them face to face and in an open way. It is on the ground of such encounters that we will describe other beings as being able to feel pain, fear, etc., in a way that is morally meaningful to us.⁴⁴

This insight will not always yield simple solutions. While in encounters with infants and the cognitively impaired, we would all certainly experience ourselves as morally summoned by their presence, perhaps even more than in the case of the typical healthy human adult. In other encounters, matters will be less clear. I am certain that I would experience the presence of a seriously wounded sheep as claiming me in an intense moral response, yet I doubt that the presence of a wounded fly or a damaged house plant would claim me in similarly gripping way (although experience may yet prove otherwise). While I would probably be quick to end the fly's misery out of a sense of pity, this act would surely be far more gut-wrenching if the animal were a sheep.⁴⁵ Moreover, it is much easier to imagine

⁴¹ Cf. Raimond Gaita, *Good and Evil*, pp. 114–115.

⁴² Cf. David Cockburn, 'Human Beings and Giant Squids', pp.145–146.

⁴³ In this sense, there is thus something self-defeating in the Cartesian's claim, at least that animals *generally* do not feel pain. One may obviously doubt whether a *particular* animal may not fake pain behaviour. But even that presupposes an experientially substantiated understanding of genuine pain.

⁴⁴ Cf. David Cockburn, 'Human Beings and Giant Squids', at p.148: "That we can see these similarities between the behaviour of flies and squids and that of human beings is a *reflection* of, not a condition of, our ability to ascribe the pain or fear. We might then, with some justice, reverse Wittgenstein's remark, writing instead: 'Only of what has sensations; sees; is blind; hears; is deaf; is conscious or unconscious can one say that it is a living human being or resembles (behaves like) a living human being.'"

⁴⁵ It should be emphasised that what I have in mind when speaking about *the* sheep or *the* fly is precisely not an encounter with them as instances of an overarching species, the knowledge of which allows me to infer whether the

a genuine disagreement over the kind and intensity of moral claim exerted by flies or house plants than by, say, human infants or the cognitively impaired. If someone were to tell me that she feels little remorse for smashing house flies simply because they annoy her, I would take this as much more credible and much less morally troubling than if she said she would relate in that way to annoying infants. Yet, that does not mean that I would any more agree with her, let alone be pacified by relativistic slogans reverting to the subjectivity of perspective. Given the fundamentally experiential nature of being ethically claimed by an Other, such “real disagreements”⁴⁶ may not be solved, and if the ethical experiences seem to diverge, arguments will be of little help.

This being said, it is also possible – and of great ethical importance – that how someone else reacts to such beings may help oneself open up to a deeper ethical responsiveness.⁴⁷ Some years ago, when I commonly used to swat annoying house flies, I met someone who always carefully caught them in a matchbox and released them on the balcony. This was no deep moral revelation, but it did make me come to regard my previous handling of the insects as somewhat brutish and callous. More importantly, however, it made me relate differently to the animals; not only do I now act differently towards them (I adopted the other person’s way of dealing with them) but seeing her treat them so gently has given rise to what I would call a deepened sense of moral responsiveness to them.⁴⁸

The upshot of the above is that the experience of being claimed in immediate response to an Other conditions that this Other is taken up in the class of beings that are considered morally significant, and not vice versa. It is not by identifying a being – regardless of whether it is human or not – as belonging to a certain class, distinguished by certain properties, that I ascribe a certain moral status to it, from which I can then deduce which kinds of actions towards it are morally prohibited, allowed, demanded, and so on; rather, it is through morally loaded encounters with individual Others that I can detect similarities and differences between those Others and thereby make out different forms of responsiveness. It is only on the basis of such experiences of similarities and differences between the ways in which Others claim me in response that I may then subsequently (and more or less clearly) categorise different forms of moral considerability, i.e. trying to circumscribe what is owed to which kind of being.

The cognitively impaired, the sheep, the fly, and the house plant are members of some of the typical moral margin groups the moral status of which is nowadays common to discuss in moral philosophy. Focusing on the experience of being morally claimed, however, shows that these beings, in addition to all those ‘normal healthy adult humans’, simply *do* call forth my moral responsiveness to them. That is sufficient for saying that they all simply are of moral concern and, if one wants to use this kind of language, can thus be said to have some moral status⁴⁹. Perhaps they will, either in some respects or generally, not be considered our moral equals, but that point will boil down to their being morally less significant only if moral significance is attached to, and inferred from, certain properties, so that lacking those properties that are deemed morally salient in respect to *us* will result in *their* being of less moral import. If one rejects this view – as I do – it may simply mean that the ways in which *they* claim *us* are different from how *we* claim *each other*, not that these claims are less significant (although, of course they may be). Ultimately, only the encounter with them will tell.

respective individual animals do feel pain and whether this pain is morally salient. On the contrary, it is the experience with individual animals that will fundamentally shape how one understands the species.

⁴⁶ Rush Rhees, *Without Answers* (London: Routledge & Kegan Paul, 1969), at p. 94, although his entire discussion (pp. 94–96) is of relevance for my point.

⁴⁷ Cf. Hugo Strandberg, *Forgiveness and Moral Understanding*, Ch. 9.

⁴⁸ It may be even more appropriate to say that her gentleness not only deepened my responsiveness *towards flies* but that it also coloured my overall responsiveness to Others – it changed me as a person. In this way, how one morally relates to Others is deeply tied up with the kind of person one is.

⁴⁹ Joel Backström, ‘Wittgenstein and the Moral Dimension of Philosophical Problems’, at p. 743.

One last note to anticipate a possible objection: My overall point is *not* that moral status talk should be done away with altogether. I do think such talk may indeed be called for, especially as a theoretical aide for the kind of political discourse concerned with the development of laws serving to ensure that not only those who have the legal status of *persons* receive just legal treatment. I think Backström is correct when he claims that a language reform “can be introduced for special purposes, practical, scientific, political and so on” while simultaneously agreeing with Wittgenstein that such a reforms is possible only “in very definite and small areas, and it presupposes that most concepts remain unaltered”⁵⁰. We can indeed artificially attempt to reshape the meanings of our moral language for concrete purposes and perhaps with good reasons behind it but we should remain aware that this leads to a rupture between our creation and the deeper seated moral understandings expressible by this language. (The present paper was merely an attempt to bring out those deeper-seated understandings.) If, thus, the moral status of certain groups is defined in order to be able to guarantee them just legal treatment, it should be done in the awareness that any such definition is, ultimately, ‘grounded’ in our shared senses of how the members of those groups claim us – each of us individually – in immediate, morally charged response to them. Due to its being rooted in the individuals’ experience, any such definition must remain inherently unstable and, thus, tentative at best.

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⁵⁰ Ibid.

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