

THE JUDGMENT-VIEW OF PAIN*

NIKOS PSARROS

*University of Leipzig
Institute of Philosophy
Beethovenstr. 15,
D-04107 LEIPZIG
GERMANY*

psarros@uni-leipzig.de

Abstract: In this paper a concept of pain is introduced that regards pain as a formal entity that can be realized in various material ways, similarly to the concept of justice. Pain utterances have rather the character of evaluative judgments and not of propositional descriptions. They aren't therefore true or false, but adequate or inadequate, correct or wrong, according to the circumstances and the context, in which they are made. Because pain is constituted by the interplay of individual and public attitudes also *inside* a given cultural context we are always capable of extending our concept of pain by integrating other cultural attitudes towards pain and also capable of giving arguments that shall convince the members of an other culture to accept our ideas about pain.

Key-words: Formal entities. Judgment. Pain.

1. FORMS OF PAIN

In everyday life the word 'pain' refers to an inhomogeneous field of negative sensations, emotions, feelings and experiences that can roughly be divided into three major categories: *somatic pain* caused by

* I wish to thank Ingvar Johansson, Geert-Lueke Lueken, Katinka Schulte-Ostermann, and an anonymous reviewer for their helpful criticism, comments and discussion.

injuries, somatic or psychosomatic disease, healing processes, bodily functions, strain, inflammations, over-excitation of the sensory apparatus, physical violence or electroshocks; *emotional pain* caused by stress, threats, or the witnessing of violence, heavy accidents, or tragic situations; *intellectual pain* embracing cases of frustration or disappointment at the experience of the failure of actions and projects, or the experience of insult, mobbing, contempt, or unjust or degrading treatment.

The prevailing opinion in our days is that the latter two categories make up something like the realm of the *metaphorical use* of the word ‘pain’, while somatic pain is regarded as the ontologically primordial reference of it, *i.e.* as the only kind of pain, of which we can have direct sensual experience¹. This does neither mean that we regard emotional or intellectual pain as “morally” inferior – in jurisprudence for example deliberately causing emotional pain is regarded as a crime and suffering from it entitles someone to financial compensation –, nor that we cannot feel emotional or intellectual pain. We associate them, however, with emotions like sorrow or disappointment, so that the terms ‘emotional’ and ‘intellectual pain’ denote rather a high intensity level of such emotions and conditions of mental distress and not a feeling of its own right like somatic pain.

The alleged ontological primordially of somatic pain is often connected with the idea that its realm is – at least for humans – *ontologically homogeneous*. This link is normally justified with reference to modern medicine and biology that regard all human bodies as instantiations of the same type of organism. In contrast, the terms “emotional” and “intellectual pain” are thought to be something like collective labels that do not have necessarily a uniform ontological status.

The conviction that somatic pain is anthropologically universal is rooted deeply in our world-view. This universality is confirmed by the

¹ Cf. von Wright (1968, p.70), Hardcastle (1999, pp. 16 f.).

fact that we normally infer the presence of pain in others just by noticing their behaviour: distress, moaning, attempts to avoid causes of pain or to neutralize them etc. In the eyes of neurophysiologists this universality is also confirmed by their success in identifying and mapping at least parts of the human “pain system”² and in demonstrating that humans show reproducible patterns of brain activity when exposed to a predefined kind of pain-causing stimuli. The fact that sometimes people deviate from the universal pain behaviour is explained by referring to different cultural and idiosyncratic attitudes toward somatic pain³ and not for example by the circumstance that people experience pain in various, mutually incompatible ways.

The firm faith in the universality of pain allows us even to ascribe pain sensations to higher animals and to interpret their behaviour in this way. Some people – among them renowned contemporary philosophers like Peter Singer – think that every animal possessing a complex central nervous system is capable of somatic pain sensations and that it should be treated accordingly⁴.

The same firm faith in the universality of pain together with the view that pain is ontologically homogeneous support are used as the metaphysical foundation of a purely extensional and realistic semantics of pain terms. At a first glance such semantics appear philosophically adequate and well suited for technical applications, *e.g.* the set up of a formal ontological system for medical purposes. I will argue, however, that a purely extensional semantics of pain results in severe logical, ontological and moral problems. My claim is that somatic pain is as ontologically inhomogeneous as the other two realms of pain and that the term pain cannot be explicated by an exhaustive list of extensionally determined properties.

² Cf. Hardcastle (1999, pp. 101f).

³ Cf. Zborowski (1952), Sternbach and Tursky (1965), Melzack (1973).

⁴ Singer (1993).

2. FACTUAL AND MORAL PAIN ONTOLOGICAL AND EPISTEMOLOGICAL PROBLEMS

Physicians and neurophysiologists regard somatic pains as “warning signals” that point to the malfunction, damage or over-excitation of tissues and organs. The absence of such signals can have fatal consequences: Medical literature contains numerous reports of the so called “congenital insensitivity to pain”⁵, a fortunately quite rare defect that manifests itself as a complete lack of pain sensations including “kinaesthetic” pains, *e.g.* the feeling of pain caused by intolerable pressure on joints. Individuals with this syndrome die after a short life as crippled creatures, displaying a variety of infections, open wounds, ulcers etc. that become rampant because of their inability to feel the pain normally associated with them. On the other hand, medicine always implemented and implements more or less successfully various methods – from analgesic drugs, psychotherapy to modern neurosurgery – in order to relieve people from chronic pain or from pain that has become unbearable. We know further that there are pains without a specific cause like chronic pains and the so called “phantom” pains, *i.e.* pains that appear to stem from limbs that have been paralyzed or even amputated. Thus apart from our everyday experience with pain, medical and neurophysiological evidence also supports the conviction that pain is a matter of fact – a homogeneous phenomenon that accompanies human life from the cradle to the grave, like breathing and heart beating. The proposed facticity of pain allows us to treat it as a scientific object, to formulate theories and models, and to develop scientific methods for its treatment and elimination.

From a philosophical point of view the phenomenal existence of pain means that we can ask about its ontological status and concern ourselves with the epistemological problem of its knowledge. Unless we

⁵ Cf. Melzack (1973, p. 15), Hardcastle (1999, p. 59).

stick to a Cartesian categorical Substance Dualism between an immaterial *res cogitans* and a material *res extensa*⁶, there are roughly three monist approaches to the ontology and the epistemology of pain:

1) *Phenomenalism*. Pain experience, including its unpleasant qualities, is a form of “nonpropositional” knowledge⁷ about a particular state of our body as a whole, to which we have direct, “prelinguistic” access. Pain terms derive their meaning from the generic equivalence between our bodies that results in similar behaviour under similar conditions. We recognize the pain of others (including higher animals) primordially in nonpropositional vis-à-vis situations by noticing behaviour that is similar to our behaviour when we suffer from pain⁸ and we acknowledge their suffering because we have a direct experience of the awfulness of pain. Neurophysiological states or other particular bodily processes are regarded in this approach as necessary conditions for experiencing pain.

⁶ Cartesian Substance Dualism has to cope with the difficulty of the interaction of both realms. Descartes thought that there is a kind of weak influence of the *res cogitans* over the *res extensa* mediated by a special cerebral gland. This view was attacked by the Occasionalists (cf. footnote 9). On the other hand, accepting such a dualism is compatible with the universality and the facticity of pain, since it accepts that individual human *res extensae* are – at least functionally – equivalent. The only deviation from a monistic materialist approach is that animals as not being *res cogitantes* do not suffer from pain. This contra intuitive consequence renders Cartesian Substance Dualism an unattractive position, because of its consequences for the moral treatment of animals.

⁷ Cf. Schildknecht (2003).

⁸ For the explication of the vis-à-vis Situation see Berger and Luckmann (1970, p. 31). A similar position takes Schütz (1974, pp. 137f.), Roelcke and Knipper (2000) apply the phenomenological approach on pain and disease.

2) *Occasionalist materialism*:⁹ Pain experience is the description of mental states that are related to neurophysiological processes or states. This relationship can be coincidental, supervening¹⁰, causal, or an identity relationship between mental and neuronal states – depending on the particular theory. The universality of the pain vocabulary rests on the functional equivalence of the mental *and* the nervous constitution between individuals. The awfulness of pain is part of its mental aspect, while physiological and behavioural reactions to pain causing agents are manifestations of the nervous activity.

⁹ Occasionalism is a philosophical doctrine that can be traced back to the Stoics and the Arab medieval philosophy. Its main thesis is that no substance in the world can interact causally with any other, so that their instantiation is caused by God. The substances and their actions are thus the occasions of divine activity. Applied to the philosophy of mind Occasionalism proposed by Louis de la Forge, Arnold Geulincx and developed to its final form by N. Malebranche claimed that both the *res cogitans* and the *res extensa* (in Cartesian terms) were separated from each other so that neither the mind can act on matter or vice versa. The main argument for this was derived from the notion that causality is given only when one *knows* that he has done something (*quod nescis quo modo fiat, non facis*: if you do not know how a thing is done then you do not do it). Since no one mind how he manages to move the body attached to it, then it cannot cause its movements. Minds are only spectators of the bodily motions who are then caused by God. Malebranche went a step further claiming that sensations and ideas were also not the product of the mind but of God's. I use here the term Occasionalist materialism instead of the commonly used Parallelism in order to stress the formal similarity between the occasionalist variant of Substance Dualism and the Monism concerning both the categorical separation of mental and neural processes and the circumstance that they are embedded in a third realm, which for the classical Dualists was God and for the modern monists is Nature resp. the physical world.

¹⁰ I regard Davidson's *Anomalous Monism* as a variant of Occasionalist Materialism.

3) *Eliminative materialism*. Pain experience is the description of certain neurophysiological states using the “rough-and-ready”¹¹ vocabulary of everyday life. Starting from the premises that the meaning of each single term of a given vocabulary cannot be determined independently from the totality of the vocabulary, and that the meaning of a descriptive vocabulary is always embedded in a “theory-laden” presuppositional frame, eliminative materialism claims that our everyday mental vocabulary, of which the pain terms are a subgroup, is a primitive theory, a sort of “folk psychology” that has proven to be false¹². The only theory up to date that correctly describes mental phenomena is neurophysiology. Thus the terms used to describe pain will eventually disappear either because they are neurophysiologically meaningless, or because they are synonymous with the descriptions of various states of the nervous system after irritation by pain causing agents. Since all everyday mental terms belong to the false theory of folk psychology, the negative emotions accompanying pain will also show up to be either neuronal states or meaningless – the awfulness of pain will lose its awe. The objectivity of pain results here only from the functional equivalence between the individual nervous systems.

Despite the particular differences between all those approaches concerning the exact ontological status of pain and the epistemological attitudes we can have toward it, all of them treat pain phenomena in a purely descriptivist manner. The result is the categorical separation of two aspects of pain, namely pain as a matter of fact from pain as a matter of “ought”, or in my terminology, the separation of the *factual* from the *moral* (aspect of) pain¹³. The term ‘factual pain’ refers here to the factual aspect of pain, namely to various physiological and behavioural reactions

¹¹ Hardcastle (1999, p. 152).

¹² Churchland (1981); Hardcastle (1999).

¹³ Regarding this point Materialism is in accordance with Cartesian Substance Dualism.

that normally are connected with experiencing pain. On the other hand, the realm of 'moral pain' refers to the moral aspect of pain, i.e. to our attitude towards our own pain sensations in various situations, to our expectations from others when we suffer from pain and to our reactions when we see someone suffering from pain.

Even if the ontological and epistemological status of factual pain is not yet completely settled, about the status of moral pain there seems to be no doubt: Factual pain is awful, therefore letting people deliberately suffer from pain and causing pain is generally considered not only as morally bad, but in some cases as a severe crime. Enduring pain is tolerated only when there is either no possibility of avoiding it in order to save someone's life, for example in urgent surgical operations in the outback without anaesthetics, or when the results of avoiding pain are more severe for the health of a person than tolerating a certain "amount" of it, as in some cases of dental surgery or in wound treatment. Deliberate administration of pain for every other purpose than the restoration of the health, and threatening with pain is in the most parts of the world strictly forbidden.

The categorical separation of the factual from the moral aspect of pain raises, however, the question about their connection: How do we know, that what we are supposed neither to cause nor to tolerate is identical with what we recognize and describe as pain? Which aspects in the behaviour of others allow us to recognize that they suffer from pain? Why do we suffer when we feel pain? What is the difference between pain and other unpleasant feelings, *e.g.* itching or tickling? Are only creatures that possess a nervous system capable of experiencing pain? And finally, why would we allow a biology student to vivisect a worm, but not a dog?

A monist could try to reconstruct the link between the two aspects as given by social convention: Since pain is felt by the vast majority of humans as unpleasant (the handful of masochists are regarded normally as somehow queer), a convention has come into

existence in the course of human history to treat it as something that has to be avoided, of which humanity became aware in the course of its civilisatory process. Regardless of the particular reconstruction of this convention – as a co-ordination of beliefs, intentions and behaviours in Lewis' sense¹⁴, or as a kind of agreement in a contractualist manner – this explanation does not resolve the problem, but it rather shifts it to the determination of the object of the convention, namely the circumstances or phenomena that make up the realm of factual pain. The medical and neurophysiological explanations of pain cannot replace this desideratum, since they have to refer to everyday pain experiences as their explananda. The eliminativist remark that until the eve of neurophysiology people had just false opinions about their actual situation that were subsumed under the label 'pain' doesn't help us either because by declaring pain and the attitudes towards it to mere neural states the difference between the factual and the moral aspect of pain collapses, since both are reduced to same kind of entity, namely neural states. But in order to ascribe a neural state a given sensational quality – e.g. pain, colour, sound etc. – one has still to refer to the everyday sensational experience that is expressed in terms of "folk psychology".

In addition to these difficulties, it is necessary in order to explain moral pain as the result of a convention on the treatment of factual pain to separate the latter from its bearer, *i.e.* to give an account of somatic pain independently of the subject that suffers from it. Only so we can establish an *object*, upon which a pain convention is made. Otherwise pain conventions would refer to singular behavioural traits of single individuals – a rather contra-intuitive concept of pain. The separation of the factual pains from their bearers is, however, impossible, since the pain a subject experiences is neither something external that comes upon the subject, nor is it a *property* of its body, but a *state* of the subject itself. I

¹⁴ Lewis (2002).

cannot give my pain away for example, nor can I take the pain of another person. Similarly, I cannot compare my pain with the pain of my neighbour's in the same sense as I can compare my height with hers, and I cannot observe her pain, as I can observe the shape of her face: I can observe my neighbour's pain only as long as she is suffering from it, her face, however, is observable also when she is not aware of the observation, sleeping, or even not physically present – we can take pictures or make a mask of a face and study it in absence of its bearer. With other words, observing pain always requires in a sense the “co-operation” of a person experiencing pain at the very moment of the observation. We cannot observe pain in spite of a person's statement that she doesn't experience pain or in spite of a general behaviour that does not display any signs of pain, as well as we cannot study pain with an actor who simulates pain situations.

At this point occasionalist and eliminative materialists would object, pointing to the fact that it is nowadays possible to get – admittedly still quite coarse – pictures of the nociceptive part of the nervous system in action¹⁵ that in principle pain has become observable independently from its bearer. They neglect, however, the fact that such an observation has always to be confirmed by the examined person under the given sincerity conditions, which here means that a person cannot be forced to accept the diagnosis that she is suffering from pain. The observation of the bare neural activity associated with pain cannot refute under normal conditions a person's statement that she doesn't experience any pain at that particular moment. Since it is conceptually impossible to give an objective account of what pain is, it becomes evident that the moral treatment of pain cannot be the result of any sort of agreement or convention in the normal understanding of the word.

¹⁵ Cf. Hardcastle (1999, pp. 109 f.).

A possible strategy for saving the convention theory could consist in accepting everything people declare as factual pain – be it a bodily sensation, a neuronal state or anything else – also as pain in the moral sense. This would result, however, in a situation that is well captured by Wittgenstein’s “beetle in the box” allegory:

... Suppose everyone had a box with something in it: we call it a “beetle”. No one can look into anyone else’s box, and everyone says he knows what a beetle is only by looking at his beetle. – Here it would be quite possible for everyone to have something different in his box. One might even imagine such a thing constantly changing. – But suppose the word “beetle” had a use in these people’s language? – If so it would not be used as the name of a thing. The thing in the box has no place in the language-game at all; not even as a *something*: for the box might even be empty. (Wittgenstein 2002, §293)

Wittgenstein demonstrates here that the idea of a purely descriptive meaning collapses when it is applied to something that by its very nature cannot be reified. Applying these considerations on somatic pain results in following alternative:

1) Because of the impossibility of the reification of factual pains, regarding factual pain as the primordially existent entity and moral pain as a mere convention on it, results in the collapse of both concepts, rendering thus the convention explanation of their proposed linkage obsolete.

2) If we deny the existence of factual pain, but nevertheless insist that moral pain is a meaningful concept, then the latter becomes something that has nothing to do with any facticity, a mere contingent moral attitude toward a disparate variety of behaviours and medical findings that happen to share the same tag.

Accepting the second alternative we cannot understand moral pain any more as the result of a convention, but rather as social construct

that is implemented by sheer social power¹⁶. Pain becomes so a purely moral category with no exact correlation in the factual world. People suffer from pain only when their sensations, behaviour or bodily states fit in the norm of moral pain that is enforced and accepted in their social environment. Pain is no longer a universal category by virtue of its facticity; still, it remains a homogeneous one, at least within the realm of the norm. But what are the criteria that make up this norm? How can we distinguish between someone who is merely simulating pain from someone who is really suffering from it? Who enforces this norm and why is it accepted? What could prevent a fierce inquisitor from claiming that – according to the pain norm of his organisation – people in the dungeons do not suffer from pain induced by torture, but because they aren't mentally prepared to tell the truth? What happens if someone cannot comply with the pain norm? Is there a possibility to oppose it, to undermine it, to enlarge it, or to establish alternatives? Should we, on the other hand, refrain from expressing our pain and from demanding aid

¹⁶ 'Social power' is regarded by M. Foucault as the decisive factor that determines the prevalence of a specific historical attitude towards socially relevant phenomena. His sociohistorical works aim at demonstrating his thesis by showing how the understanding and the handling of the socially anomalous, e.g. punishment, disease, mental disorder and pain, changed fundamentally in the course of the historical development of the western European societies. Concerning especially pain, Foucault demonstrates this in the opening pages of *Discipline and Punishment* (Foucault 1991), where he cites the report of the execution of Prince Damien who killed his father and King of France in the year 1747. During the execution procedure that lasted for hours and involved several kinds of torments the delinquent endured all the pains bravely and even encouraged his executioners to continue their work, seeking in the torture the salvation of his soul, an attitude that was shared by spectators and judges. Foucault's claim is that both delinquent and punishers could not resist accepting the social power of the idea that this kind of punishment wasn't cruel, but rather the only adequate way to pay for the sin of killing the own father and the King. Both parts played their expected roles in a balanced social drama.

and relief just because our behaviour doesn't fall into the scope of the pain norm of a foreign social environment? And finally, how shall we treat people who don't share our particular pain norm, and animals that aren't even capable of understanding it? Aren't they experiencing any pain?

We have seen so far that the treatment of pain as a homogeneous phenomenon of the factual world results either in the dissipation of the meaning of both the factual and the moral aspect of pain, or in the neglect of factual pain and in the declaration of moral pain as the only meaningful concept – a concept that applies, however, only within the borders of a given social environment.

3. PAIN AS A FORMAL ENTITY

Both perspectives are deeply unsatisfying because they contradict our everyday intuitions that pain is at the same instant a fact and a moral issue, and that – notwithstanding some cultural “adjustments” – it is something universal. The above mentioned problems result from the categorical separation of factual and moral pain that is rooted in the opinion that only the description in terms of a purely observational language renders something a factual and objective entity and that normative or moral evaluation is something that can be added to or superimposed in a second step on the “norm-free” description. This may hold for things like stones, cars or birds, but it doesn't for pain: Talking about pain involves normative elements including culturally inherited rules and views about what counts as pain and what not and also rules that enable us to correlate our subjective sensations with our culture's concepts of pain.

The realm of pain can be compared with the realm of justice: Justice is a universal concept in the sense that in every culture there is the notion of it. On the other hand, on the “material” level what is called ‘just’ is not in every situation and every culture the same. The just

settlement of a quarrel between two landowners because of the border of their properties is quite different than the just settlement of the case between the thief and the robbed. In the first case a just settlement could be to put the border line in the middle of the two properties, taking land from the one landowner and giving it to the other. Exactly the same procedure is in the case of theft, however, deeply unjust. Justice demands here to take the stolen property from the thief and return it to its legitimate owner and additionally to punish the thief. But justice is not a one-way road of enforcement of the socially accepted view over the individual: The legitimacy of the court and of the verdict has to be accepted by the defendant who has the right of appeal. In another culture the “just treatment” of similar cases could be significantly different, up to the point that we couldn’t perhaps understand why it should be called “just” any more. Our experience with justice shows that “being just” is a *formal* and not a *material* property. Being a formal property means that we cannot rely on empirical and descriptive criteria for its characterization, but we have to consider always also normative ones – concepts, ideals, rules and customs and so forth. “X is just” is not a proposition, nor a true description of a fact, but an adequate *evaluation* of a situation.

Similarly, despite all the differences between justice and pain, pain can also be regarded as a formal entity that can be realized in various material ways. Based on this analogy pain utterances¹⁷ have the character

¹⁷ Pain utterances should not be confused with statements about being in pain. Pain utterances come normally in the 1st person singular form (*e.g.*: I have a headache), while statements about being in pain have normally the 3rd person form (*e.g.*: She suffers from toothache). Pain statements have besides their evaluative also a descriptive character rendering them thus true or false. Nevertheless, even in that case the truth or falsehood of such statements is interwoven with their adequacy; there are normally no independent descriptive criteria for separating sharply the descriptive from the evaluative aspect (cf. the so-called *thick ethical concepts* introduced by B. Williams). This becomes obvious

of evaluative judgments and not of propositional descriptions. They aren't therefore true or false, but adequate or inadequate, correct or wrong, according to the circumstances and the context, in which they are made. An example of this complex situation is the pain-socialization of infants. They have to learn that not every minor discomfort deserves being called pain. If an infant complains about pains in a situation that from the adults' point of view is just a "painless touch" then it has to learn that in such a situation one normally cannot say "it hurts"¹⁸. Naturally there are exceptions and unclear situations and also a "right of appeal": if for example the infant insists that the otherwise painless touch causes her pains then a doctor should be consulted. Still more disturbing is the opposite case, the insensitivity to pain. All normal explanations ruled out we must assume either that such a person is a case of the already mentioned "congenital insensitivity to pain" or that she doesn't apply correctly the rules of pain expression. These rules are not only linguistic ones in the narrow sense of the term; they also include our non-verbal pain expressions, gestures, grimaces and general behaviour.

Pain utterances have the character of judgments. As such they can be adequate or inadequate, a circumstance that shows in their acknowledgment by the others and in their response. Additionally their adequacy varies with the particular circumstances, similarly to the

when for example adults have to decide if an infant in the cradle cries because of pain or because of other reasons.

¹⁸ This learning begins already in the phase of preverbal communication between parents and babies in a process that has been described by Bråten (1998) as "altercentric participation" or as "intersubjective attunement in a triangular subject-subject-object format" (Bråten 2003). It is important to notice that this form of communication is not just mere reflex conditioning, but from its beginning a form of co-operative action between caring adults and baby. Thus from the first days of his life the newborn human being learns to differentiate the world through the *attitudes* toward it that it learns to share with his family.

adequacy of the juridical judgments: Even if two people have committed the same crime, this doesn't mean automatically that they get exactly the same sentence. There are various factors that have to be considered so that each verdict is unique and "tailored" to each defendant individually.

Obviously, in the case of pain we do not pass judgments in the same sense as in justice. Our pain vocabulary doesn't rely on a conceptual system that has been installed by a political act. We differentiate nevertheless between various conditions and circumstances so that our attitudes concerning the expression of pain and our reactions to it are not uniform. The relationship between pain and suffering is a good illustration: Not every pain is attributed the same degree of suffering to and not every pain is considered as connected with suffering either. The statements, for example, that someone *suffers* from toothache, migraine, rheumatic or traumatic pain are under normal conditions fully accepted as fully adequate. Such pains *entitle* someone to suffer and to express his suffering unconditionally and put on us the obligation to express our pity and to do everything possible in order to provide relief. However, in the case of labour pains the entitlement to suffer and the obligation to provide relief is somehow "weaker" in the sense that during labour a certain intensity of pain is considered as a normal side effect of the whole process. A pregnant in labour is not felt pitied for, nor would she normally describe her situation in such terms. This doesn't mean naturally that birthgiving is not exhausting both for the becoming mother and the baby. Nor does it rule out that sometimes something can go astray so that the accompanying pain is not any more normal rendering medical intervention obligatory. Even weaker is the "entitlement" to suffer for someone who experiences the pains of healing wounds. Sometimes doctors administer analgesics, but they do not have to do so unless the intensity of pain rises beyond a certain limit.

There are, however, cases where pain and suffering seem to be mutually excluded: A masochist, for example, cannot suffer from the pain he's experiencing since he seeks it as a source of lust. A Christian

martyr endures the tortures with joy and forgives his tormentors giving in this way testimony of God's almightiness and goodness. Admittedly, masochists and martyrs do not represent the standard of pain experiencing, but the point is that we can integrate them into our concept of pain. Interestingly we are astonished when we hear that in some parts of the world people exercise practices that to our understanding *have* to be unendurably painful without showing any pain distress and not even signs that they try to suppress a pain. Such cases are the "hook-swinging" in some parts of India, where a celebrant is hanging free on steel hooks thrust into his back¹⁹, or the *anastenária* fire-walking dance in northern Greece²⁰. The astonishment about such reports arises from the fact that such practices are not integrated in our everyday concept of pain, even if they occur next to our door: The average contemporary Greek is astonished about the invulnerability of the *anastenária* fire-walkers to the same extent as the average western European.

The judgment-character of pain utterances manifests itself also on the level of the individual experience. In a study published 1959 soldiers wounded on the battlefield declared often that these particular injuries were less painful or even painless in contrast to the reports of civilians with similar injuries. This attitude toward pain was not extended, however, to other injuries like punctures²¹. But we must not expose

¹⁹ Melzack (1973, p. 22).

²⁰ This dance is celebrated in two northern Greek villages in January and May of every year. After a night of contemplation and meditation the dancers begin the next day to dance around the fire carrying the icons of St. Constantine and Helena until after several hours their leader enters the glow followed by the rest. They continue to dance barefoot in a state of trance until the fire cools down. The dancers do not get any burns from the glow and they do not feel any pain.

²¹ Cf. Beecher (1959). The author of this study stresses the point that the wounded soldiers were not in a state of shock that could explain their

ourselves to greater risks in order to learn that we judge the painfulness of situations not in a uniform way: People with an aversion against injections feel the stitch of the needle *before* it penetrates the skin; we can to some extent oversee various pains depending on the situation, we can simulate pains and we have sometimes problems convincing the company physician that we do not simulate pains in order to get a work-free day.

Against the judgment-view of pain outlined here, the objection could be raised that it neglects the fact that pain is always accompanied by some basal forms of behaviour like the fleeing reflex, the crying and several pain specific postures of the body that make up a universal trait of pain in all higher vertebrates. It cannot be denied that pain is associated with reflexes; but this association relies – like every somatic reaction associated with pain – on the determination of what pain is and *not* the other way round. The same types of reflexes are associated also with other feelings, *e.g.* fear, or they are also instantiated when we are surprised or in deep sorrow and so forth. On the other hand if pain were nothing else than a certain type of reflexes then torture would not be a severe crime of its own right, but rather a sort of intimidation. No torturer, however, induces just reflexes, not even the hard-boiled among them would describe their activity in this way. Torturers cause pains because they want that their victims suffer. If pains were mere reflexes

insensitivity to pain. Such phenomena are explained today by recurring to the fact that the body produces in cases of stress the so called endorphins, substances that act like opioids resulting in the reduction or even the disappearance of pain. A materialist can use the endorphin theory as an argument against the judgment character of pain (cf. Hardcastle 1999, p. 140), since this mechanism is triggered apparently automatically in situations of high stress. The problem is, however, that the characterization of a situation as of “high risk” is also a judgment that is influenced by various individual and social factors. Thus the endorphin theory is a good explanation for some pain phenomena, but it does not give an account of the nature of pain.

then there would be also no need for anaesthetization during surgical operations, the inhibition of the muscle activity would be sufficient²².

According to the judgment-view of pain the factual aspect of pain is interwoven with the moral one, and the individual aspect with the social. Pain does not refer to a uniform realm of bodily and neuronal states but to a plural network of individual attitudes, culture-specific rules, norms and language games that are linked by a Wittgensteinian “family resemblance”²³. In this relationship there is space for both, the culture-specific norms that set up the frame for adequate pain judgments and the “first person authority” of the individual that can always challenge and shift this frame. On the other hand, the judgment-view of pain does neither deny nor neglect the importance of the “material foundation” of pain, namely the nervous system with its specialized nociceptors and the neuronal apparatus concerned with the processing of their signals. In contrast to the descriptivist and empiricist approaches, however, it does not regard the function of this apparatus (*i.e.* its response to pain stimuli) as the *cause* of pain perception, but its *malfunction* as the cause of specific perceptive pain disorders. In other words, the function of the neuronal pain system is only a *necessary condition* for pain perceptions.

4. OUTLOOK

The judgment-view of pain enables us to understand how a cross-cultural consensus about pain can be achieved, despite the fact that every person is raised in a particular cultural environment with its particular

²² Operations in the intestine or open heart operations require the inhibition of the function of the smooth muscles resp. of the heart muscle. In case of the intestinal smooth muscle this is achieved by the local administration of curare-like drugs.

²³ Wittgenstein (2002, §67).

pain norms and rules, without recurring to “social power” theories or to the apparent superiority of the Western World. Because pain is constituted by the interplay of individual and public attitudes also *inside* a given cultural context we are always capable of extending our concept of pain by integrating other cultural attitudes towards pain and also capable of giving arguments that shall convince the members of an other culture to accept our ideas about pain. The fact that today almost nobody is forced to cross cultural borders concerning pain is a sign for the progress of the effort to establish a universal pain culture.

On the other hand, the judgment-view of pain enables the establishment of a broadly accepted ontology of pain for medical purposes by integrating the findings of neurophysiological pain research in a wider theory of pain. Being a highly regulated and standardized practice that is accepted – at least as one serious healing alternative – almost everywhere on Earth modern medicine provides a “constant attitude” environment towards pain that renders such a task possible. Obviously this ontology will be of a multilevel and hierarchical structure²⁴. Additionally it will have “fuzzy” borders since modern medicine is not integrated in every culture in exactly the same way.

Finally the judgment-view of pain can provide the basis for a better understanding of animal pain without any neurophysiological reference. According to the judgment-view, the adequacy of pain attribution to animals is dependent from the intensity of their interactions with us and from the strength of our bonds with them. It is thus not surprising that we are more susceptible for the pain of the animals that live close to us or partake more or less intensively in our lives. On the other hand we have great difficulties in noticing the pain of animals, with which we do not share our habitat regardless of the species

²⁴ For a practical example of setting up such an ontology cf. Smith and Rosse (forthcoming).

they belong to. The commandment to avoid cruelty against animals is thus not grounded solely on our compassion and sympathy with creatures that behave similarly to us when exposed to pain causes, but also – in a Kantian sense²⁵ – to a great extent on the fact that we regard cruelty as something that results in blunting of the character.

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²⁵ Kant (1980, §17).

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