

Saved

The Historical Roots of Humane Carceral Logics in the United States

Paula Tarankow

1.1 INTRODUCTION

On my office wall hangs an American engraving of *Saved!* a British painting by Sir Edwin Landseer that was an especially favored and easily recognized educational tool among the first generation of animal anticruelty reformers in the United States. In this highly sentimental seaside rescue scene, the dark hair of a nearly drowned white girl spills out of her straw hat while her saturated dress pools over the outstretched paws of her rescuer, a Newfoundland dog, a breed renowned for legendary marine rescues. The averted, skyward gaze of the panting Newfoundland, portrayed by Landseer in the first exhausting moments ashore, appears to offer proof of his nobility to the heavens that lie beyond the seagulls who alone witness this supreme act of courage, countenance, and intelligence. *Saved!* is paradigmatic of the early iconography of the animal protection movement, as it affirms core humane themes: human indebtedness to the loyalty and service of nonhuman animals; the individuality and sentience of animal subjects; and the shared subjectivity, affective communication, and social attachments across the human-nonhuman binary.¹ And yet, from my perspective as a historian, the print lays bare other insights. Read as a scene of imperiled white innocence, *Saved!* speaks to a broader cultural thread running throughout the early American animal protection movement: many strands of humane sentiment often produced racial knowledge, which in turn played a key role in mediating white sympathy for animal suffering and justifying carceral logics. White innocence undergirds the rescued child's worthiness to be saved and the inherent value of her life. White subjectivity structures the viewer's sympathetic identification with her canine lifesaver. In the

¹ See J. KERI CRONIN, *ART FOR ANIMALS: VISUAL CULTURE AND ANIMAL ADVOCACY 1870–1914*, at 30–38 (2018), for Landseer's contributions to animal advocacy and *Saved!*



FIGURE 1.1 Samuel Cousins, print of Sir Edwin Landseer's *Saved!* published by Henry Graves, 1859

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nineteenth century, whiteness pervaded humane reasoning in ways that are rendered invisible in animal law (See Figure 1.1).

These sentimental and didactic strains of imperiled white innocence in *Saved!* were all the more potent in post-Civil War America, given the prevailing understandings and expectations of black criminality. Indeed, the pairing of white innocence with nonwhite criminality was mutually reinforcing. Bearing this in mind, the painting conveys not only a white child saved *by* animals, but also the idea that animals needed to be saved *from* criminalized communities of color. Such redemptive humane logics, as I will explore, undergirded carceral logics.

Animal studies scholars have amply demonstrated the extent to which race is forged in the crucible of ideas about animality and nature. In other words, race is a permanent part of the animal question. “Impassionate disputes over the animal practices of racialized others,” as political scientist Claire Jean Kim discusses, “open a window onto the synergistic workings of the taxonomies of race and species” – twinned logics that are historically conjoined and mutually constitutive.² White reformers who established and retained control of the national leadership of animal anticruelty societies often engaged with cultural debates over the borders of

² CLAIRE JEAN KIM, *DAUGHTERS OF THE ANIMAL QUESTION: RACE, SPECIES, AND NATURE IN A MULTICULTURAL AGE* 25, 283 (2015). See also BÉNÉDICTE BOISSERON, *AFRO-DOG: BLACKNESS AND THE ANIMAL QUESTION* xx (2018).

humanity – the human/animal boundary as well as the humanity of nonwhite communities – in ways that ultimately shored up white male legal authority and sustained white supremacy.

As a window onto the historical roots of American humane sentiment, *Saved!* nevertheless exemplifies pervasive legal and cultural changes by the mid-nineteenth century that strengthened the association between both childhood and innocence and children and animals as emotional investments and worthy objects of protection based on their shared helplessness.³ When early animal welfare reformers invited the public to take imaginative, cross-species leaps that could generate sympathetic identification with animal subjectivity, this imagery overwhelmingly showcased scenes of white humanity.⁴ In the early visual culture of animal welfare, white innocence was commonly depicted in moments of peaceful repose in pastoral landscapes with nature's animal ambassadors.⁵ As historian Robin Berenstein explains, the sentimental white child in the nineteenth century operated “in a busy cultural system linking innocence to whiteness through the body of the child” against which understandings of racial difference were constructed.⁶ Sentimentalism in historical context refers to the moral philosophy of a community that is united by a shared recognition of and sympathy with the humanity of others and sustained through social bonds of mutual obligation. As historian Susan Pearson explains, sentimentalism in the nineteenth-century United States was a conduit for channeling affect modeled on the child-centered family that reproduced “hierarchical, vertical relations of benevolence” and reinforced the difference as well as the dependence of the suffering. It was also “more than simply a predecessor or an alternative to legal, institutional, or coercive methods of creating social change.”

³ SUSAN J. PEARSON, *THE RIGHTS OF THE DEFENSELESS: PROTECTING ANIMALS AND CHILDREN IN GILDED AGE AMERICA* 8, 23, 29–31, 97 (2011).

⁴ See *id.* at 116–28, on the roles of sympathy and sentimentalism in humane perspective-taking during the nineteenth century; CRONIN, *supra* note 1 (emphasis on chapter 3). See, e.g., LORI GRUEN, *ENTANGLED EMPATHY: AN ALTERNATIVE ETHIC FOR OUR RELATIONSHIPS WITH ANIMALS* (2015) (emphasis on chapter 2), on the philosophy of empathy in contemporary humane ethics.

⁵ See PEARSON, *supra* note 3, at 39–42 (describing the relationship between childhood innocence and didactic humane visual culture in the United States yet neglecting a racial analysis); CRONIN, *supra* note 1, at 28, 35, 41, 51, 115, 168, 176, 179, 181 (noting among the fifty-three images featured in J. Keri Cronin's study of early humane visual culture, all of which feature white human subjects when animals are depicted alongside humans, are many scenes exemplifying themes of white innocence that nevertheless do not receive a racial analysis); Paula Tarankow, *Loyal Animals, Faithful Slaves: Animal Advocacy, Race, and the Memory of Slavery 145–47* (Ph.D. Dissertation, Indiana University 2019; available through ProQuest database of theses and dissertations), for a racial analysis of two rare images depicting Black child subjects with humane themes, which were featured in the Massachusetts SPCA's organ *Our Dumb Animals*; See generally LAURA WEXLER, *TENDER VIOLENCE: DOMESTIC VISIONS IN AN AGE OF U.S. IMPERIALISM* (2000), for an influential study of whiteness through sentimentalism's power in nineteenth-century photography to pacify, naturalize, and shroud violent relations.

⁶ ROBIN BERENSTEIN, *RACIAL INNOCENCE: PERFORMING AMERICAN CHILDHOOD FROM SLAVERY TO CIVIL RIGHTS* 4, 6 (2011).

Anticruelty reformers transformed not only sentimentalism but also the reach of the modern state by yoking the language of sympathy to state power.⁷ Consequently, the carceral turn in animal law imbued moralistic judgments of individual behavior with racist and civilizing underpinnings that diverted scrutiny away from structural inequities such as those undergirding human poverty and the related use and treatment of animals, especially by nonwhite individuals.

Such recourse to the legal system to create a more peaceable, kinder society built upon existing frameworks and logics about the perceived rise in crime and newly criminalized human-animal relations after emancipation. In this chapter, I place scholarship on the ideological underpinnings of the animal anticruelty movement into conversation with histories of the construction of race in the United States. In doing so, I recontextualize how white reformers understood and defined the problem of animal cruelty and endeavored to solve it. I also suggest ways in which assumptions of white innocence lay at the core of carceral logics. I begin by charting a new origin story for humane sentiment in the United States rooted in proslavery as well as antislavery sentiment. Here, I provide an inclusive overview of the movement that situates the efforts of African American animal advocates at the turn of the twentieth century within broader debates in the white imagination over black humanity. I then explore how the rise of humane carceral logics, or the rationale that surveillance, policing, prosecution, and incarceration to protect animals through the legal system justified as well as pacified the means, ultimately produced coercive and discriminatory tools that naturalized white reformers' scrutiny of communities of color.

1.2 THE PROSLAVERY AND ANTISLAVERY ROOTS OF HUMANE SENTIMENT

In 1924, Sydney Coleman, who had served on the executive committee of the New York-based American Society for the Prevention of Cruelty to Animals (ASPCA) and as managing editor of the Ohio-based American Humane Association's (AHA) publication, *The National Humane Review*, penned one of the first histories of the animal protection movement. "It is more than a mere coincidence," Coleman pronounced, "that the humane movement in England and America followed so closely upon the abolition of human slavery." As a result of emancipation, he posited, "the rights of the defenseless were established. The conscience of a nation was stirred to its depths, and resulted in the development of an era of humanitarian progress heretofore unknown. . . . Ten years earlier such a movement could not have flourished." Prior to the Civil War, he argued, it was "not difficult to understand the general disregard of animal rights, however, in view of the very general lack of sympathy for the unfortunate members of society." Coleman's overarching narrative

⁷ PEARSON, *supra* note 3, at 13, 130.

placed humane ethics in lockstep with the march of American progress and described a nation irrevocably changed by four years of “fratricidal struggle.” Yet in collapsing nearly three-hundred years of slavery’s influence on the structure and development of American institutions and society and positioning the Civil War as the turning point of the movement, his origin story emphasizes instead white national unity through humanitarian sensibilities that stemmed from a collective awakening to “the spirit of mercy” and a recognition of the rights and humanity of the enslaved.⁸ Coleman clearly presumes a white northern citizenry who successfully and relatively effortlessly challenged slavery and inequality by embracing abolitionist tenets.

This triumphalist, celebratory, northern- and abolitionist-centered narrative continues to hold sway in public consciousness and dominates scholarly attention given to the movement. Yet early animal advocacy was never a solidly northern and abolitionist movement. Between the 1880s and the 1910s, as the so-called New South systematically dismantled black suffrage and enforced the spatial segregation and violent social control that cemented white supremacy, another movement extended legal protections to the animals laboring in the region. In 1880, elite slaveholding families organized the first southern SPCA in Charleston, the cradle of the Confederacy. The Louisiana State SPCA in New Orleans successfully reorganized in 1885 after prior attempts to form a society in the midst of Reconstruction. By 1889, other states in the former Confederacy with SPCAs included Alabama, Arkansas, Georgia, Mississippi, Virginia, and Tennessee. By 1901, SPCAs expanded within these states, and new anticruelty societies were founded in Florida, North Carolina, and South Carolina.⁹ By 1900, all forty-seven states had legislation that delineated and prohibited positive acts of cruelty to animals.¹⁰ American animal advocacy was a cross-racial, cross-regional movement that continued sectional debates over the humaneness of slavery and the humanity of enslaved people. The liberal vision of rights embedded in abolitionist discourses of animal protection could not, and did not, unite all Americans in the cause of humanity.

The post-Civil War marriage between liberalism and sentimentalism nevertheless created essential intellectual common ground for the US movement. A newly forged ideology of sentimental liberalism reconciled dependence with rights and turned cruelty into a social problem to be solved in part by state power.¹¹ White

⁸ SYDNEY H. COLEMAN, *HUMANE SOCIETY LEADERS IN AMERICA: WITH A SKETCH OF THE EARLY HISTORY OF THE HUMANE MOVEMENT IN ENGLAND* 14, 33–34 (1924).

⁹ ADDENDUM: DIRECTORY OF HUMANE SOCIETIES IN THE UNITED STATES, REPORT OF THE PROCEEDINGS OF THE TWENTY-FIFTH ANNUAL CONVENTION OF THE AMERICAN HUMANE ASSOCIATION HELD AT BUFFALO, NY, OCTOBER 14–17, 1901, at 124–26 (1902). See also TARANKOW, *supra* note 5, at 15–17.

¹⁰ PEARSON, *supra* note 3, at 79 (noting the common-law basis for the crime of cruelty was a pure product of the nineteenth-century state). See *id.* at 78, for a historical overview.

¹¹ *Id.* at 3–4.

animal protectionists on both sides of the Mason-Dixon line were not united by broad commitments to racial justice. Instead, the emergent culture of animal protection among white animal anticruelty reformers – comprising Union and Confederate veterans and their families, radical and moderate Republicans and southern Democrats, former enslavers and enslaved people as well as former abolitionists – shared common ground in a paternalistic strain of rights that sought to protect as well as preserve animal and human dependencies. They also shared Christian theological views such as humanity’s duties toward our “fellow creatures,” biblical justifications for dominion that emphasized animals as a species of property and humanity’s obligation to serve as good animal stewards, and the belief that acts of animal kindness allowed devout reformers to emulate the supposed boundlessness of God’s mercy.¹²

While sentimentalism, liberalism, paternalism, and Christian theology truly matter to the origin story of anticruelty sentiment, ignoring the relationship between white supremacy and the rise of the animal protection movement obscures white supremacy’s contributions to the formation of humane carceral logics. Coleman’s origin story not only distorts the geographical scope of the movement by profiling only institutions and reformers above the Mason-Dixon line but also contradicts historians’ consensus on white America’s gradual withdrawal from commitments to equality as the hopeful glow of Reconstruction waned.¹³

The advent of institutionalized animal welfare can be understood as simply the latest in an ongoing sentimental project since the Age of Revolutions to strengthen the moral bonds necessary to sustain a fledgling, egalitarian democracy. Many believed that a commitment to a culture of sensibility, or human sensitivity of perception, especially responsiveness to the pain of others, would help maintain social cohesion and purify society through the encouragement of humanitarian feeling.¹⁴ The Second Great Awakening, an era of Protestant revivalism during the early-nineteenth century, helped crystallize a proactive framework of Christian duty and human perfectibility based on kindness “toward the least among us.” It unleashed a surge of humanitarian reform, including abolitionism, child welfare, prison reform, women’s rights, temperance, and the fight to end domestic abuse, judicial torture, and corporal as well as capital punishment.¹⁵ Awakening theologians, popular religious literature of the day, novelists, abolitionists, and temperance

¹² JANET M. DAVIS, *THE GOSPEL OF KINDNESS* 29–38 (2016); PEARSON, *supra* note 3, at 99, 109; TARANKOW, *supra* note 5, at 99–105.

¹³ For a recent synthesis: *see, e.g.*, HENRY LOUIS GATES, JR., *STONY THE ROAD: RECONSTRUCTION, WHITE SUPREMACY, AND THE RISE OF JIM CROW* (2019) (emphasis on chapter 1).

¹⁴ *See generally* SARAH KNOTT, *SENSIBILITY AND THE AMERICAN REVOLUTION* (2009).

¹⁵ DIANE BEERS, *FOR THE PREVENTION OF CRUELTY: THE HISTORY AND LEGACY OF ANIMAL RIGHTS ACTIVISM IN THE UNITED STATES* 24–29 (2006). *See also* MYRA C. GLENN, *CAMPAIGNS AGAINST CORPORAL PUNISHMENT: PRISONERS, SAILORS, WOMEN, AND CHILDREN IN ANTEBELLUM AMERICA* (1984); LOUIS P. MAZUR, *RITES OF EXECUTION: CAPITAL PUNISHMENT AND THE TRANSFORMATION OF AMERICAN CULTURE, 1776–1865* (1989); MARK

advocates incorporated themes of humanity's moral duty of stewardship over "fellow creatures," linking kindness to animals to their broader advocacy for self-control and denunciations of human impulsivity and proclivity to brutality. American animal advocates who were deeply influenced by antebellum reform movements worked to define a new "gospel of kindness," which, as historian Janet Davis explains, could lay "the foundation of a humane new world rising from the ashes of the Civil War." At once spiritual and secular, this "gospel" soon assumed the trappings of American exceptionalism and evolved into a benchmark for national belonging, assimilation, and readiness for citizenship.¹⁶

The recent memory of slavery gave postbellum white Americans a cultural context for establishing sympathy with the animal world. The central outcomes of the Civil War – emancipation and Confederate defeat – carved new channels for white sympathetic identification with animals after the war, albeit in unexpected ways. The Second Great Awakening also spread southward and helped shape the ideology of slaveholding paternalism. As a cogent southern defense of slavery coalesced by the 1830s, paternalism drew upon an increasing focus on humanitarianism in sentimental culture in efforts to justify the moral righteousness of slaveholding. According to southern apologists for slavery, the mutual obligations inherent in chattel slavery ennobled both white enslavers and the enslaved people under their care.¹⁷ Whereas northern animal protectionists imported the rhetoric and cultural symbols in abolitionist discourse into their work, as featured in the dominant metaphor of the suffering animal-as-slave, postbellum southern protectionists who engaged in the mythologizing of slavery as benign and benevolent centered humane literature on evidence of animals' gratitude and loyalty and often showcased stories of animals on tranquil plantation landscapes and of humane Confederate leaders. After the war, the highly sentimentalized and nationally resonant Lost Cause mythology celebrating the faithful slave not only helped white southerners manage the devastation of sectional defeat but also left its mark in southern humane literature that gained popularity with white audiences across the nation.¹⁸ In Tennessee, Caroline Meriwether Goodlett, the daughter of a Kentucky slaveowner and cofounder of the United Daughters of the Confederacy, the organization responsible for cementing the Lost Cause on the southern memorial landscape to vindicate the South and its heroes, was fervently remembered as a "most

COLVIN, *PENITENTIARIES, REFORMATORIES, AND CHAIN GANGS: SOCIAL THEORY AND THE HISTORY OF PUNISHMENT IN NINETEENTH-CENTURY AMERICA* (1997).

¹⁶ DAVIS, *supra* note 12, at 28–29.

¹⁷ JAMIE WARREN, *MASTERS OF THE DEAD: SLAVERY, DEATH, AND IDEOLOGY IN THE ANTEBELLUM SOUTH* 11, 15, 15 n.16 (2014). See also MARGARET ABRUZZO, *POLEMICAL PAIN: SLAVERY, CRUELTY, AND THE RISE OF HUMANITARIANISM* (2011).

¹⁸ On the national reception of proslavery humane sentiment in Joel Chandler Harris's *Uncle Remus and Brer Rabbit* stories: see TARANKOW, *supra* note 5 (emphasis on chapter 4).

humane lady” in her role as vice-president of the Humane Society of Nashville.¹⁹ As we will see, southern animal protectionists did not appear to be conflicted about embracing both humane sensibilities and white supremacy.

In addition to obscuring the proslavery as well as antislavery origins of American humane sentiment, the narrow history offered by Coleman also falls short of capturing the ways in which African American animal advocates after the Civil War, many of whom had been born into slavery, used the treatment of animals to extend their commitments to racial justice. The roots of humane sentiment in America rightly stretch back to the 1619 arrival of the first enslaved Africans in Point Comfort, Virginia. As historian Thomas Andrews convincingly argues, the roots of contemporary animal-rights philosophies originated not with white abolitionists but with their enslaved counterparts, whose testimonies in slave narratives provided evidence of the role of animalization in creating and maintaining the institution of slavery.²⁰ Some enslaved individuals asserted their personhood in such narratives by staking their claims to humanity on the relationships they nurtured with animals.²¹

African American community leaders who were also animal advocates framed blackness against racist constructions of black animality and critiqued white hypocrisy and apathy toward black suffering that resulted from white supremacist racial violence.²² Such reformers retooled the discourse of humane sentiment in response to debates among northern white philanthropists and segregationists concerning Black readiness for freedom, progress, and full citizenship – debates encapsulated in the oft-invoked phrases “the Negro problem” and “the Negro question.”²³ Coleman’s narrative, therefore, not only overstates white America’s commitments to liberalism but also invites further scrutiny of the limits of white humane sentiment.

The presence of respectability politics in late-nineteenth century animal welfare discourse suggests further how white humanity served as the benchmark against which black humanity was measured. The politics of respectability emerged as an

¹⁹ S. A. Cunningham, *The President of the N.C.D.C.*, 2 CONFEDERATE VETERAN MAGAZINE, Jan. 1894, at 307; S. A. Cunningham, *Founder of the U.D.C.*, 22 CONFEDERATE VETERAN MAG., Nov. 1914, at 496; JOSEPHINE M. TURNER, THE COURAGEOUS CAROLINE: FOUNDER OF THE UDC 55 (1965).

²⁰ Thomas C. Andrews, *Beasts of the Southern Wild: Slaveholders, Slaves, and Other Animals in Charles Ball’s SLAVERY IN THE UNITED STATES*, in *RENDERING NATURE: ANIMALS, BODIES, PLACES, POLITICS* 47 (Marguerite S. Shaffer & Phoebe S. K. Young eds., 2015).

²¹ ANDREWS, *supra* note 20, at 46; JANE SPENCER, *WRITING ABOUT ANIMALS IN THE AGE OF REVOLUTION* (2020) (emphasis on chapter 5).

²² TARANKOW, *supra* note 5 (emphasis on chapter 3); Michael Lundblad & Marianne DeKoven, *Archaeology of a Humane Society: Animality, Savagery, Blackness*, in *SPECIES MATTERS: HUMANE ADVOCACY AND CULTURAL THEORY* 77 (Marianne DeKoven & Michael Lundblad eds., 2011).

²³ NATALIE RING, *THE PROBLEM SOUTH: REGION, EMPIRE, AND THE NEW LIBERAL STATE, 1880–1930*, at 177 (2012).

identifiable strategy within African American communities for claiming rights and demonstrating black worthiness of respect and national belonging. Humane ethics offered yet another avenue to provide countervailing evidence that African Americans were moral, law-abiding, and self-controlled citizens. Respectability politics provided the tools with which to push back against a constant narrative of deficiency by advocating for the reform of individual attitudes and behavior – here, indifference to animal suffering.²⁴ Black reformers such as Booker T. Washington who embraced animal welfare and established Bands of Mercy at the Hampton and Tuskegee Institutes saw kindness to animals as a part of larger social justice projects of self-help and self-improvement through racial uplift.²⁵

Many elite white southern animal advocates in the Jim Crow South continued to defend slavery by emphasizing that chattel slavery, if paternalistic and hierarchical, was at least benevolent. Kindness to animals was, according to this logic, a natural and moral outgrowth of slaveholding culture. Black animal protectionists, however, fervently believed that the ethic of kindness was essentially antiracist and that animal advocacy and civil rights activism were inseparable. By contrast, many white reformers across the nation continued to view humane ethics and behaviors as a proving ground for individual and community morality and a litmus test for full belonging and inclusion in America.²⁶

1.3 THE RISE OF HUMANE CARCERAL LOGICS

The potential of the animal cause to transcend sectionalist sentiments that precipitated the secession crisis energized at least some animal protectionists. Southern reformers in particular hoped their animal welfare organizing would provide countervailing evidence to pervasive northern criticism of a “backwards” and “benighted” region. They promoted southern reintegration by endeavoring to make humane ethics a recognizable signifier of American character.²⁷ In terms of preventative

²⁴ EVELYN BROOKS HIGGINBOTHAM, *RIGHTEOUS DISCONTENT: THE WOMEN'S MOVEMENT IN THE BLACK BAPTIST CHURCH, 1880–1920*, at 186–87 (1993). See also NIKKI LANE, *THE BLACK QUEER WORK OF RATCHET: RACE, GENDER, SEXUALITY, AND THE (ANTI)POLITICS OF RESPECTABILITY* (2019).

²⁵ DAVIS, *supra* note 12, at 72–75, 85, 101, 103. Black animal protectionists appear not to have held any executive leadership positions within white-controlled anticruelty societies in either the North or the South, although some Black reformers were affiliated with or employed by the American Humane Education Society under the aegis of the Massachusetts Society for the Prevention of Cruelty to Animals. See Paula Tarankow, *Jim Key and Jim Crow: African American Animal Advocacy and Civil War Memory*, in *ANIMAL HISTORIES OF THE CIVIL WAR ERA* (Earl Hess ed., 2022).

²⁶ On the antiracist work of the Massachusetts SPCA, see Janet M. Davis, *Cockfight Nationalism: Blood Sport and the Moral Politics of American Empire and Nation Building*, 65 *AM. Q.*, September 2013, at 554–55.

²⁷ TARANKOW, *supra* note 5, at 106–7. See NATALIE J. RING, *THE PROBLEM SOUTH: REGION, EMPIRE, AND THE NEW LIBERAL STATE, 1880–1930* (2012) (discussing the northern criticism of

approaches to the problem of animal cruelty, reformers fervently believed that humane education curricula that invited children to be kind to animals was the most efficacious path forward. As movement scholar Diane Beers notes, “the solution seemed deceptively simple and enticing: teach the children and the children would rise to heal the world.”²⁸ Yet the legal concept of cruelty that defined the “problem” to be solved crystallized through legislation designed to end ongoing abuses perpetrated by allegedly hardened adults who reformers believed lacked the moral values that would ensure a lifelong embrace of humane ethics.

The pursuit of carceral solutions was made possible through new post-Civil War demands on the expanding scope and bureaucratic complexity of state power and local policing through the successful lobbying of private humane associations to pass protective legislation.²⁹ Humane carceral logics hinged on an ascendant belief among white reformers that cruelty could only be stopped by united effort and the coercive force of the law to help ensure the advancement of public sentiment for the animal cause. Evidence of the pain and suffering of individual animals in the annual reports compiled by a Society’s “humane agents” – men, usually not trained police officers, who were privately employed, commonly donned policelike uniforms, and endowed with the power to respond to cruelty complaints, make arrests, confiscate weakened, emaciated, injured, or publicly beaten and abused animals, and patrol municipal thoroughfares for violations of anticruelty laws – provided potent legitimizing proof that aggressive measures were necessary to combat the prevalence of cruelty. When humane agents, often in consultation with veterinarians, determined that an animal was weakened or injured beyond the possibility of recovery, societies tallied and disseminated the numbers of animals “humanely destroyed” or euthanized by a humane agent (See Table 1.1). A humane discourse of policing ensued, in which evidence of animal suffering justified recourse to the law. Anticruelty societies conceived of police power as humane power. By affixing sympathy to the state and installing public powers to their private organizations, SPCAs and humane societies helped shape the landscape of nineteenth-century policing.³⁰ In turning to the law to achieve social change and committing to a legal strategy to combat animal cruelty, animal protectionists contributed to broader shifts in the nature of citizenship and typified national reform strategies after the Civil War that wedded state and private power. A commonly articulated driving mission of humane organizations, here defined by the Connecticut Humane Society in 1895, for example, as “the suppression of cruelty in all its forms; the cultivation of kindness and fellow-feeling in a spirit of common brotherhood; a tender regard for the rights

the South as the nation’s problem to be solved through direct philanthropic and political intervention). On the culture of national reconciliation, *see, e.g.*, DAVID W. BLIGHT, *RACE AND REUNION: THE CIVIL WAR IN AMERICAN MEMORY* (2001).

²⁸ CRONIN, *supra* note 1, at 53.

²⁹ PEARSON, *supra* note 5, at 19.

³⁰ *Id.* at 138, 163.

TABLE 1.1 *Aggregate statistics of the American Humane Association*

Year	Cruelty Complaints	Prosecutions	Animals Relieved	Societies Reporting
1889	10,931	1,246	16,569	47
1896	64,778	2,942	125,093	–
1897	95,389	4,075	154,459	–
1898	79,124	2,359	104,305	–
1899	98,916	3,836	116,200	–
1900	95,093	3,819	110,482	79 out of 200
1901	93,806	3,844	112,890	79 out of 200

Source: Report of the Proceedings of the Annual Conventions of the American Humane Association for years 1889, 1896–1901, Hathi Trust.

Note: The American Humane Association (est. 1877) was an umbrella anticruelty organization that hosted an annual conference for American reformers and compiled aggregate statistics based on its correspondence with 200 SPCAs and humane societies throughout the United States. The category of “animals relieved” indicates a combination of direct relief through watering, food, ordered sheltered rest, and medical intervention up to and including euthanization and likely includes reporting on stray dogs and cats as well as cattle, horses, and mules.

of all God’s creatures, human and otherwise,” ushered in religious and moral reasonings that justified surveillance, arrests, prosecutions, and fines.³¹

Rationales for recourse to the law also had significant gendered components. White male reformers espoused a type of Christian manhood motivated by a sense of injustice rather than mere sentimental love for animals. These men stressed that they were balanced in their sensibilities by blending their commitments to moral suasion and direct relief with justice and action.³² Animal protectionists shared the concerns of Progressive Era moral reformers who responded to a perception of declining standards of personal behavior and character. Such reformers linked the violence and neglect of animals to specific vices such as intemperance and greed that stemmed from an overarching lack of self-control which led to submission to desire, passionate overindulgence, the free reign of appetite, and human depravity.³³ Within this chorus, animal protectionists stressed individual moral reform *rather than* systemic solutions to solve the problem of cruelty. Anticruelty advocates bore witness to major social relocations resulting from rapid immigration, migration, urbanization, and industrialization that produced a high-water mark of human dependency upon commodified animals, especially laboring horses and mules. The populations of these indispensable “living machines” urbanized more rapidly

³¹ Rodney Dennis, *One Mission of Humane Societies*, THE CONNECTICUT HUMANE SOCIETY; 1895 FIFTEENTH ANNUAL REPORT 49 (1896).

³² PEARSON, *supra* note 3, at 149; TARANKOW, *supra* note 5, at 44, 104–06.

³³ PEARSON, *supra* note 3, at 78, 82–83.

than people in the third quarter of the nineteenth century.³⁴ By the late-nineteenth century, emancipation's version of citizenship based on independent, freely contracting individuals remained idealized, even as this ideal no longer reflected the realities of an increasingly complex and interdependent multispecies society.³⁵

The merging of sympathy with state power coincided with the dissemination of crime statistics that explained criminal behavior based on racial difference. As historian Khalil Muhammad has shown, a growing link between race and crime calcified following the 1890 census, which was the first to gather statistical data on African Americans born after emancipation. Leading white social scientists, social reformers, journalists, law enforcement officials, and politicians of the day used crime data that bore the marks of police bias and discrimination to conclude that Black citizens posed a particular threat to America. As Muhammad explains, "the collection and dissemination of racial crime data...simplified reality, justified racism, and redistributed political and economic power from black to white."³⁶ White animal protectionists across the country often elevated the ethical status of animals above that of communities of color by drawing on prevalent understandings of black criminality and scrutinizing immigrants and colonized peoples' fitness for citizenship.

In the nation's capital, the Washington Humane Society's (WHS) uniformed humane agents patrolled city streets on horseback and bicycle alongside the District's police force, confiscated whips, pipes, and other crudely constructed horse bits and clubs involved in "aggravated," "unmerciful," or "brutal" violence, and warned, threatened, and made arrests without warrant. They unharnessed and seized beasts of burden and compelled owners to pay for their temporary lodging, grain, hay, and veterinary attention while detained or ordered to rest. Between the high-water mark years of 1900 and 1917, anywhere from one to ten humane agents employed in a given year shot between 165 and 360 working animals a year, with a median of 230 animals.³⁷ A recurring theme among US reformers, the Society often accused the city's roughly 600 police officers of being uncooperative, indifferent to animal cruelty, and reluctant to enforce anticruelty statutes. In 1905, the WHS president, Virginia patent lawyer Chester Snow, personally prosecuted a case against

³⁴ CLAY McSHANE & JOEL TARR, *THE HORSE IN THE CITY: LIVING MACHINES IN THE NINETEENTH CENTURY* 16 (2007).

³⁵ PEARSON, *supra* note 3, at 133–35; BARBARA WELKE, *RECASTING AMERICAN LIBERTY: GENDER, RACE, LAW, AND THE RAILROAD REVOLUTION, 1865–1920* (2001). On the limits of free labor for former slaves, see, e.g., EVELYN NAKANO GLENN, *UNEQUAL FREEDOM: HOW RACE AND GENDER SHAPED AMERICAN CITIZENSHIP AND LABOR* (2009); AMY DRU STANLEY, *FROM BONDAGE TO CONTRACT: WAGE LABOR, MARRIAGE AND THE MARKET IN THE AGE OF SLAVE EMANCIPATION* (1998).

³⁶ KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA* 3 (2010) (and xvii in the 2019 preface edition).

³⁷ This statistic comes from my data set, which is based on the statistics in the annual WHS reports. All referenced reports are microfilmed in the Washingtoniana Collection, People's Archive, Martin Luther King Jr. Memorial Library, Washington, D.C.

policeman Amos A. Roper for “lashing his horse until blood flowed from its sides and stained the snow.”³⁸ Available records on arrests for animal cruelty indeed reflect a disparity: In 1910, for example, there were 2,017 arrests by humane officers versus 274 (or 13 percent of total arrests) by the police, and in 1916 humane officer arrests outnumbered police arrests 655 to 73 (or 11 percent of total arrests).³⁹ Over the years, humane agents were required to remain on duty until six-o’clock to look after drivers of teams returning from work at that hour.⁴⁰ At the beginning of 1906, the Society divided some seventy square miles of District territory into eight divisions similar to police precincts and each agent was given a division that he was responsible for patrolling constantly. During that year, agents averaged 7 arrests each day for a total of almost 2,000 arrests, and approximately 1,800 complaints of cruelty came directly to the secretary. Agents were required to report in person at the office every morning and by phone at least four times during the day. “By this means,” the Society explained, “the Secretary knows approximately the whereabouts of the agents at all times, and can communicate with any agent within a short time.”⁴¹ By 1907, each agent was also required to visit all parts of his assigned territory, including slaughterhouses, cattle pens, the markets and commission houses where live poultry and calves were handled, brickyards, sand yards, and construction sites, as well as their regular beat in each division.⁴² By 1911, humane agents were on duty during all hours of daylight and oftentimes at night patrolling the entire territory of the District.⁴³

In the process of forging new pathways for animal welfare by helping shape a sympathetic and responsive state, reformers’ efforts to reduce acts of individual violence were a part of larger conversations about how to solve the nation’s problems in the closing decades of the nineteenth century.⁴⁴ At that time, most white Americans saw everyday inequalities as a manifestation of a natural social hierarchy among different groups of people in the community.⁴⁵ Yet pervasive turn-of-the-century evolutionary theory that linked cruelty with savagery and barbarism and humane behavior to civilization stabilized reformers’ assumptions not only that pain and civilization were antithetical to each other but also that sympathy with animal suffering was a marker of racial difference.⁴⁶ As scholar Michael Lundblad explains,

³⁸ *Charge Cruelty to Horse*, WASH. POST, Feb. 12, 1905, p. F10.

³⁹ ANNUAL REPORT FOR THE YEAR ENDING, Dec. 31, 1910; ANNUAL REPORT FOR THE YEAR ENDING, Dec. 31, 1916.

⁴⁰ CONDENSED REPORT OF THE EXECUTIVE COMMITTEE FOR THE YEAR 1905, ANNUAL REPORT FOR THE YEAR ENDING Dec. 31, 1905, at 14.

⁴¹ SECRETARY’S REPORT, ANNUAL REPORT FOR THE YEAR ENDING Dec. 31, 1906, at 15.

⁴² SECRETARY’S REPORT, ANNUAL REPORT FOR THE YEAR ENDING Dec. 31, 1907, at 15.

⁴³ PRESIDENT’S ADDRESS, ANNUAL REPORT FOR THE YEAR ENDING Dec. 31, 1911, at 7.

⁴⁴ See PEARSON, *supra* note 3, at 7, 117.

⁴⁵ KATE MASUR, *AN EXAMPLE FOR ALL THE LAND: EMANCIPATION AND THE STRUGGLE OVER EQUALITY IN WASHINGTON*, D.C. 6 (2013).

⁴⁶ See PEARSON, *supra* note 3, at 75–76; DAVIS, *supra* note 12, at 4, 114, 154, 179, 181.

“Humane reform actually became a new and flexible discourse for claiming superiority over various human ‘races,’ reinforcing the logic that only the more ‘civilized’ group had evolved enough to treat other groups ‘humanely.’” This discourse, he explains, was born “at the same moment that constructions of Black men were also shifting, and, more specifically, while an explosion of lynchings was being justified by the myth of the Back male rapist.”⁴⁷

The WHS waned in its sympathy with the growing African American community in the District. In the process of transferring their paternalistic energies onto animals, anticruelty advocates grew increasingly intolerant of impoverished African American day laborers who depended upon animal muscle to achieve a modicum of economic independence. As historian Kate Masur explains, municipal officials in the District “saw freedpeople as an urban problem to be solved” and drew on “long-standing doubts about freedpeople’s moral and political capacities to justify racially discriminatory policies” while avoiding blatantly racist language.⁴⁸ In the end, reformers chose not to define the problem of animal cruelty as symptomatic of the limited achievements of Reconstruction to help African Americans assume a similar economic standing to white people. Instead, the racialized politics of emancipation informed how reformers demarcated the boundaries of cruel treatment. When it came to prosecuting African Americans who were scraping by below the bottom rung of the economic ladder for violent crimes against equine “wageless workers,” the Society’s sympathies fell decidedly on the side of animals.

While there is no evidence that African Americans perpetrated the majority of violence against animals according to the aggregate statistical records kept by the Society, the annual reports increasingly highlighted violence by African American men. In 1900, the Society began to identify the race of offenders. Over time, the WHS discussed the crimes committed by Black men as a particular “problem,” believing that African Americans’ alleged proclivity to commit acts of violence made them prime suspects. Thus, urban animal anticruelty reformers participated in larger trends in the white condemnation of blackness through their evaluations of black inhumanity to animals and black failure to internalize kindness and self-control, which forged a link between race and crime. The abolitionist-centered rhetoric of the Society turned the master-slave relationship on its head, condemning freedmen and other African Americans as whip-wielding “slave drivers,” with unchecked power over the bodies of “enslaved” horses.⁴⁹

During the height of American imperialist interventions, conversations about “the white man’s burden” hastened discussions among white northern reformers of the imperative to “awaken” Filipinos, Puerto Ricans, and Cubans to the cause of animal

⁴⁷ Lundblad & DeKoven, *supra* note 22, at 77–79.

⁴⁸ MASUR, *supra* note 45, at 52–53, 59.

⁴⁹ On the history of the racial politics of the WHS, see TARANKOW, *supra* note 5 (emphasis on chapter 1); JUSTIN MARCEAU, *BEYOND CAGES: ANIMAL LAW AND CRIMINAL PUNISHMENT* 166–69 (2019).

protection. This “burden” refers to a civilizing imperative tied to American exceptionalism based on the notion that it was the moral duty of white society to rehabilitate and reform “backward” colonial subjects. As moral empire builders, American-sponsored animal protectionists unilaterally banned blood sports such as cockfighting and bullfighting in US-occupied territories and enacted stiff penalties of up to \$500 and a prison term of up to six months. As a form of “animal nationalism,” as Janet Davis argues, “supporters and opponents alike mapped gendered, raced, and classed ideologies of nation and sovereignty onto the bodies of fighting cocks to stake their divergent political and cultural claims about the rights and responsibilities of citizenship and national belonging.” While opponents in the colonies defended their right to preserve their cultural heritage and right to self-determination, white colonial officials who supported cultural assimilation through human-animal relationships “bolstered exceptionalist values of benevolent stewardship.”⁵⁰ Similarly, in Maneesha Decka’s comparative study of animal anticruelty legislation in settler societies within the US and British empires, she finds that such laws reinforced “civilizing missions.” The civilizational rationales embedded in anticruelty statutes, Decka argues, contributed to the social construction of various forms of human difference according to attendant hierarchical logics of gender, race, religion, and class, which targeted minoritized practices as “cruel” and normalized colonial practices.⁵¹ Building empires of kindness at home and abroad created new forms of racial knowledge that privileged masculine, white, Protestant, and middle-class perspectives, approaches, and practices. Rationales for instituting carceral animal law policies at home revealed similar race-making processes.

The unregulated sale of horses in American cities often recycled sickly and spavined specimens to an impoverished, underemployed working-class population comprising millions of formerly enslaved men and new immigrants from Southern and Eastern Europe, Mexico, and Asia, who were frequent targets of animal cruelty prosecution on both coasts. In Los Angeles and New York, as Davis explains, “reportage in animal cruelty cases had the power to transform a defendant, already marginalized on the basis of race, class, or immigrant status, into an unassimilable alien.” “Newspapers routinely described the accused in racial, ethnic, classed, and gendered language,” Davis finds, and “laboring conditions further marginalized people who were dependent on animal muscle.”⁵² Despite the presence of genuine antiracist sentiment among a segment of the humane movement’s executive leadership, day-to-day policing often reinforced existing forms of racial, ethnic, and economic inequality.⁵³

⁵⁰ Davis, *Cockfight Nationalism*; *supra* note 26, at 549–74 (emphasis on 555, 549, 551).

⁵¹ Maneesha Decka, *Welfarist and Imperial: The Contributions of Anticruelty Laws to Civilizational Discourse*, 65 *AMERICAN QUARTERLY*, September 2013, at 515–48 (emphasis on 516–17).

⁵² DAVIS, *supra* note 12, at 85–86.

⁵³ *Id.* at 104.

American reformers who defined cruelty as an aggressive social problem participated in broader conversations about a perceived uptick in crime after emancipation. In 1870, *Our Dumb Animals*, the monthly organ of the Massachusetts SPCA, one of the most dynamic and influential leading animal anticruelty organizations in the United States, declared that the demise of slavery ushered in an “age of humanity.” Editor George Angell, the MSPCA’s indefatigable founding president and lawyer, believed that the animal cause would attract “the noble-hearted, whole-souled men of the day. . . of whatever creed in religion, politics, or other agitated questions” who could “swear fealty to the cause of humanity.”⁵⁴ Speaking in 1876 before researchers and reformers at the annual meeting of the American Social Science Association, Angell affirmed that cruelty and criminal behavior were connected logically as well as empirically. Angell reported that out of 2,000 prisoners recently studied in the United States, only 12 had grown up with pets.⁵⁴ Affective ties to animals, Angell suggested, transformed children into compassionate citizens. The criminal population, he implied, provided evidence of society’s need for the widespread dissemination of humane values that could combat crime rates. In 1889, more than a decade after the end of Reconstruction, Angell felt the waters rising: “There is going on in the United States a steady increase in the number of criminals much greater in proportion than the increase in population. There were 70,000 persons in prison for crime in 1880, and there will be more than 100,000 in prison for great and serious crimes in 1890.”⁵⁵

In the South, humane education pioneer Mary Schaffter who edited the weekly humane column in the New Orleans *Daily Picayune*, “Nature’s Dumb Nobility,” shared Angell’s concern with crime prevention. When the Louisiana State SPCA was unable to afford employing a humane agent, she personally performed this work in the streets “rescuing cruelly-treated horses, and saving dogs from the abuses of thoughtless people.” In an 1890 speech before delegates to the annual meeting of the American Humane Association (AHA) in Nashville, Tennessee, also the first annual meeting of the AHA held below the Mason-Dixon line, she discussed how humane sentiment could help solve the nation’s crime epidemic. “Crime is on the increase,” she declared. “How to prevent crime and what to do with our criminals are among the vital questions of the day.” Schaffter expressed concern that in “an age of advancement and education,” “prison statistics show that by far the greatest number of criminals both read and write.” Prevention-focused humane education provided the best answer, she maintained, because “there must be something

⁵⁴ *Culture and Progress*, 13 SCRIBNER’S MONTHLY, Dec. 1876, at 277–78 (quoted in PEARSON, *supra* note 3, at 87. See also GEORGE ANGELL, TEN LESSONS ON KINDNESS TO ANIMALS 24 (1893).

⁵⁵ *Increase in Crime in the United States*, 21 OUR DUMB ANIMALS, May 1889, at 140. See also *The Criminals of the Future*, 19 OUR DUMB ANIMALS, Nov. 1886, at 49.

radically wrong, then, with the system of education that does not result in self-control.”⁵⁶

As a means for constructing humanity through racial difference, southern discussions of cruelty were also a part of the hardening of racial boundaries and maintenance of white supremacy that racial violence served to accomplish.⁵⁷ As a regional counterpart to the reforming ideology of sentimental liberalism, a southern logic of humane paternalism built upon proslavery ideology and justified the righteousness of transferring benevolent social obligations from loyal enslaved people onto loyal animals. Commitments to animal welfare ultimately helped white southern animal advocates justify white supremacy and affirm the benevolence of “the white man’s burden” in the New South.⁵⁸ Southern humane discourse was inextricably linked to powerful conceptions of crime and violence in southern society. As the abolition of slavery fundamentally reordered the South’s control of black labor, new legal strategies for the purpose of labor control and racial subordination emerged in the form of labor bondage through contract and criminal justice reforms. White fear of black crime and the anger it generated among white people provided the basis for rebuilding white solidarity by reenslaving Black Americans through convict leasing and chain gangs.⁵⁹ In response to criticism that convict labor was unmerciful, cruel, and inhuman, white officials legitimized the outdoor labor on state-controlled plantation-penitentiaries and chain gangs as humane, rehabilitative, and healthful alternatives to incarceration.⁶⁰ At the same time, southern reformers steered the passage of animal anticruelty laws through state legislatures.⁶¹ This suggests in part how the discourse of humane reform served as a framework for distinguishing between blackness and whiteness.⁶²

⁵⁶ *Humane Education*, DAILY PICAYUNE, Oct. 27, 1890, at 6.

⁵⁷ CLAUDE A. CLEGG, *TROUBLED GROUND: A TALE OF MURDER, LYNCHING, AND RECKONING IN THE NEW SOUTH* xvi, xviii (2010).

⁵⁸ E.g., TARANKOW, *supra* note 5 (emphasis on chapter 2).

⁵⁹ COLVIN, *supra* note 15, at 214–34, 243.

⁶⁰ See DAVID M. OSHINSKY, *WORSE THAN SLAVERY: PARCHMAN FARM AND THE ORDEAL OF JIM CROW JUSTICE* 109–10 (1997); ALEX LICHTENSTEIN, *TWICE THE WORK OF FREE LABOR: THE POLITICAL ECONOMY OF CONVICT LABOR IN THE NEW SOUTH* 159, 179 (1996). See also DOUGLAS A. BLACKMON, *SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK AMERICANS FROM THE CIVIL WAR TO WORLD WAR II* (2008).

⁶¹ These criminal justice reforms sometimes funneled into one another, as evidenced by records of Black men in Richmond and Charleston who were convicted of animal cruelty and sentenced to the chain gang, although further research is needed to interrogate the extent of the relationship between SPCAs and Jim Crow bureaucracy. Charleston S.C. 21st July 1901 Executive Meeting Minutes (transcript available in South Carolina S.P.C.A. records, 1880–1971, South Carolina Historical Society, Special Collections, Addlestone Library, College of Charleston, Charleston, South Carolina); *Before the Recorder* (CHARLESTON) NEWS & COURIER, July 7, 1908, at 5; *Before the Recorder* (CHARLESTON) NEWS & COURIER, July 22, 1909, at 3; *Six Months for Beating a Horse*, CHARLESTON EVENING POST, June 10, 1919, at 3.

⁶² MICHAEL LUNDBLAD, *BIRTH OF A JUNGLE* 127–28, 138 (2013). See also Lundblad & DeKoven, *supra* note 22, at 14.

Leading southern reformers professed that the problem of cruelty facing the South in the age of emancipation was essentially a race problem that could be solved through white paternalism and Jim Crow politics. One prominent southern voice in the chorus was lawyer and Mississippi senator Richard Forman Reed, who was an active leader of the Mississippi Society for the Prevention of Cruelty to Animals and served in the executive committee of the American Humane Association. Reed was also the son of a former slaveholding family who had owned Lachnagan plantation near the river port city of Natchez, which was reportedly home to the greatest number of antebellum millionaires in the South. The Reed family was also related to the wife of Jefferson Davis through his maternal grandmother.⁶³ Like Schaffter, Reed addressed his fellow delegates at the AHA in Nashville. In his remarks, he suggested that the problem of southern animal cruelty stemmed from white ingratitude toward the services of servants and slaves as well as from emancipation. “It is shocking to realize that in the nineteenth century people for the sake of a simple whim,” explained Reed, “should deliberately torment not only a harmless, living creature, but a *servant*.” Referring to the fashionable use of the check-rein, a type of rein that held horses’ heads unnaturally high, prevented horses’ neck muscles from sharing the burden of weight, and often caused serious injuries, Reed likened horses to slaves: “For appearances they torture their defenseless and obedient slaves – How cowardly! How wicked! Such people are without love, without gratitude, without refinement.”⁶⁴ Here, Reed aligned himself with those in southern society whose experience with enslaved people allegedly taught them gratitude and a sense of moral duty to defend, protect, and cherish those under their immediate care. Given his views on race, he might have also implied that freedmen never had the opportunity or capacity to develop similar values, or perhaps that emancipated people seemed ungrateful for the ministrations of their white masters. Reed might have invoked the horse-as-slave metaphor because he was addressing an audience of primarily northern reformers, but he did so in a way that reflected well on the humaneness in southern culture in connection with the institution of slavery.

Reed discussed the importance of humane education outreach to Black communities for targeting “those who hate law and order” and carrying a “Solid South” for humane work. The late 1880s and early 1890s marked an upsurge in crime and homicide in the South, and many white observers like Reed believed that Black

⁶³ JAMES L. ROBERTSON, *HEROES, RASCALS, AND THE LAW: CONSTITUTIONAL ENCOUNTERS IN MISSISSIPPI HISTORY* 264 (2019); OSHINSKY, *supra* note 60, at 3; Letter from Richard Reed to Burton N. Harrison (March 6, 1895) (on file in folder “1894–1898,” box 1 Reed (Thomas) Papers, 1787–1926, Mss. 783, Louisiana and Lower Mississippi Valley Collections, Special Collections, Hill Memorial Library, Louisiana State University, Baton Rouge, LA).

⁶⁴ Richard F. Reed, *Humane Work in the South*, LIGHT (undated) (on file in folder “Newspaper Clippings – Historical, 1872–1908, n.d.,” box 1 Reed [Thomas] Papers, 1786–1926, Louisiana and Lower Mississippi Valley Collections, Special Collections, Hill Memorial Library, Louisiana State University, Baton Rouge, LA).

people committed most of the violence.⁶⁵ White perceptions of black proclivity to crime and cruelty offered a psychologically compelling model for interpreting and shaping postwar race relations and anticruelty work.⁶⁶ “The majority of the criminals in the Southern States, as it is well known, comes from the colored race,” he explained. “And there is no exception to this rule when we consider the violators of the laws for the prevention of cruelty. It seems very difficult to educate the negroes to be gentle and kind in their treatment of animals.” He enumerated on the causes:

They are extremely thoughtless. They neglect to properly care for animals under their control, and then, when because of weakness and ill condition, the poor creature fails to do the work assigned it, the negro driver or rider will abuse it severely. They often punish their own children in an extremely harsh and cruel manner, and generally when they have no excuse to punish the children at all.

He assured his audience that “there are many negroes who are merciful and kind,” believing that the majority of Black Americans acted from “uncontrolled passion or thoughtless neglect and seldom from deliberate intent.” Yet he maintained that by educating them to be merciful, humane sentiment could “protect both human beings and the lower animals.” The majority of southern Black people who lacked self-control, Reed believed, “have to be restrained by active enforcement of the law. They will be merciful because they fear the law; not from any moral motive or principle.” He concluded his address with an appeal to noblesse oblige: “We must do our duty toward him, and leave his final destiny to our Divine Father, who cares for even the humblest.”⁶⁷ While paternalistic notions of “the white man’s burden” could be found in northern as well as southern humane sentiment, Reed and others linked freedmen’s apparent lack of self-control in human and animal relationships to prevalent understandings of black criminality.⁶⁸

The postbellum civil theology of Redemption shows the extent to which violence became central to white Americans’ hopes and concerns about the nation. Many came to believe that black suffering was a “natural” condition of freedom; redemption from slavery required redemption through violence to strip Black bodies of dependency, criminality, and promiscuity.⁶⁹ White communities tolerated and even celebrated violence that served to protect white supremacy in defiance of existing laws and procedures.⁷⁰ If anything, the introduction of southern animal anticruelty

⁶⁵ EDWARD L. AYERS, *THE PROMISE OF THE NEW SOUTH: LIFE AFTER RECONSTRUCTION* 153 (1992). See also Gilles Vandal, *Black Violence in Post-Civil War Louisiana*, 25 J. INTERDISC. HIST. 45–64 (1994).

⁶⁶ ABRUZZO, *supra* note 17, at 233.

⁶⁷ REED, *supra* note 64, at 5–7.

⁶⁸ DAVIS, *supra* note 12, at 19.

⁶⁹ CAROLE EMBERTON, *BEYOND REDEMPTION: RACE, VIOLENCE, AND THE AMERICAN SOUTH AFTER THE CIVIL WAR* (2013).

⁷⁰ Many white southerners supported “popular constitutionalism,” the idea that the Constitution provided for local communities to determine which crimes could be punished outside the

laws from 1880 onward shows that animals enjoyed more legal protections in the South than the Black community in the midst of an epidemic of extralegal violence. While southern reformers remained silent on how they reconciled violence to animals with racial violence, animal advocacy appeared to offer humane insight on black humanity.

As late as 1924, the president of the Birmingham Humane Society defended her motives and integrity as a humane woman at a meeting of the Society “where women of the Ku-Klux were attempting to reinstate one of their members who had been discharged from the job as ‘Humane Officer.’”⁷¹ While the president’s speech provided neither reference to nor explanation of the firing of the officer, the controversy provides a rare glimpse at a southern sensibility, however limited or isolated, that racial violence and the prevention of animal cruelty were not incompatible. In their uproar, the female members of the Ku Klux Klan seemed to share an apparent belief that the same hands that could commit acts of violence upon Black bodies could also block the commission of violence upon the bodies of animals. By day, this humane officer might well have kept Black men in check with the power of the law, but under the cover of night, he condoned or even participated in extralegal checks on Black people within the community, including torture and lynching.⁷² While the president did not denounce the activities of the Klan, the controversy over the firing ultimately led to the replacement of the presumably local man with a northerner, a highly recommended Ohioan with fourteen years of experience as a humane officer with the Youngstown SPCA who arrived with letters of introduction certifying his integrity and “humane instinct.” This striking episode from the extant records of the Society suggests that humane discourse in the New South could be capacious enough to harbor a love of animals alongside racist attitudes toward the African American community. The liberal, abolitionist narrative of animal welfare is simply not sufficiently capacious or historically accurate to capture how white supremacy contributed to the formation of humane carceral logics and molded the conversations of anticruelty reformers across the nation.

1.4 CONCLUSIONS

As animal studies scholar and critical race theorist Aph Ko convincingly argues, white supremacy is “zoological in nature and relies upon notions of the human and

formal rule of law. See CHRISTOPHER WALDREP, *THE MANY FACES OF JUDGE LYNCH: EXTRALEGAL VIOLENCE AND PUNISHMENT IN AMERICA* (2002).

⁷¹ Lizzy S. Whelan, President of Birmingham Humane Society Speech, (1924) (on file in Miscellaneous Records—undated; Birmingham Humane Society Records, Birmingham Public Library, Archives and Manuscripts, Birmingham, AL) at 4.

⁷² AMY LOUISE WOOD, *LYNCHING AND SPECTACLE: WITNESSING RACIAL VIOLENCE IN AMERICA, 1890–1940, 98–99* (2009).

the animal to maintain its power and order.” Racism, Ko explains, “is maintained by the human/animal boundary. Within this setup, white supremacy is both anti-black and anti-animal.”⁷³ In an era before the advent of scientific work on animal cognition and behavior, white animal protectionists conceived of humane sentiment and interpreted animal subjectivity within a complex web of racial beliefs. The recent experience and memory of slavery was the main frame through which many postbellum Americans looked into the eyes of animals and saw reflected what they believed was right and wrong about the world in which they lived. The rhetoric of white southern reformers suggests that the animal welfare movement allowed some animal advocates to retool regional identity after the end of slavery and, at times, confirm their illiberal and antidemocratic racial attitudes toward African Americans. Many white animal advocates in the South argued about the extent to which Black people were equipped to embrace a life of freedom; they believed African Americans required white control and political domination, the heavy hand of the law – both in terms of extralegal or “rough” justice and legal prosecution – and, for the young who could still be saved, reeducation through lessons of mercy to curb violent instincts. While humane sentiment holds the potential to generate broad concern for multispecies injustice, even and especially today these connections often need to be made explicit to be recognized.

In the early movement, humane sentiment often produced racial knowledge that in turn reinforced carceral logics. As we have seen, the logic of saving animals from cruelty through the enforcement of anticruelty statutes most often invited racialized scrutiny of nonwhite relationships with animals. Undoing carceral logics and carceral animal law policies necessitates a recognition of discriminatory cultural and legal inheritances from progressive nineteenth-century social reform campaigns led by white reformers.⁷⁴ Even as animal anticruelty reformers worked toward systemic solutions through preventative humane education, humane optics centered on affirmations of the humanity of whiteness – both in terms of full social and political belonging and the inherent possession of humane ethics – against presumptive black inhumanity.

Efforts to improve the lives of animals through carceral policies drove inequitable and racist practices. Historical scrutiny of how humane carceral logics bear the racialized markings of American exceptionalism is necessary regardless of whether it leads to full divestment from carceral policies. Efforts to critically interrogate and undo carceral logics can greatly benefit from understanding how white perceptions of the causes of violence to animals forged insidious markers of belonging and

⁷³ APH KO, *RACISM AS ZOOLOGICAL WITCHCRAFT: A GUIDE TO GETTING OUT*, xix, 4 (2020).

⁷⁴ See MARCEAU, *supra* note 49, at 2 n. 5, for a definition of carceral animal law policies.

exclusion. This history need not detract from the measurable successes of the animal protection movement in the post–Civil War era to lessen animal suffering; rather, it contributes to ongoing antiracist and decolonization projects by scrutinizing the extent to which humane sentiment and carceral logics in the United States developed according to a white supremacist frame.