

The Rights of the Nonhuman World

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Western philosophers have typically held that human beings are the only proper objects of human moral concern. Those who speak of *duties* generally hold that we have duties only to human beings (or perhaps to God), and that our apparent duties towards animals, plants and other nonhuman entities in nature are in fact indirect duties to human beings. Those who speak of moral *rights* generally ascribe such rights only to human beings.

This strictly homocentric (human-centered) view of morality is currently challenged from two seemingly disparate directions. On the one hand, **environmentalists** argue that because humanity is only one part of the natural world, an organic species in the total, interdependent, planetary biosystem, it is necessary for consistency to view all of the elements of that system, and not just its human elements, as worthy of moral concern in themselves, and not only because of their usefulness to us. The ecologist Aldo Leopold was one of the first and most influential exponents of the view that not only human beings, but plants, animals and natural habitats, have moral rights. We need, Leopold argued, a new ethical system that will deal with our relationships not only with other human individuals and with human society, but also with the land, and its non-human inhabitants. Such a "land ethic" would seek to change "the role of *Homo sapiens* from conqueror of the land community to plain member and citizen of it." It would judge our interaction with the non-human world as "right when it tends to preserve the integrity, stability, and beauty of the biotic community", and "wrong when it tends otherwise."

On the other hand, homocentric morality is attacked by the so-called **animal liberationists**, who have argued, at least as early as the eighteenth century (in the Western tradition), that insofar as (some) nonhuman animals are sentient beings, capable of experiencing pleasure and pain, they are worthy in

their own right of our moral concern. On the surface at least, the animal liberationist ethic appears to be quite different from that of ecologists such as Leopold. The land ethic is *wholistic* in its emphasis: it treats the good of the biotic *community* as the ultimate measure of the value of individual organisms or species, and of the rightness or wrongness of human actions. In contrast, the animal-liberationist ethic is largely inspired by the utilitarianism of Jeremy Bentham and John Stuart Mill. The latter tradition is individualist in its moral focus, in that it treats the needs and interests of individual sentient beings as the ultimate basis for conclusions about right and wrong.

These differences in moral perspective predictably result in differences in the emphasis given to specific moral issues. Thus, environmentalists treat the protection of endangered species and habitats as matters for utmost concern, while, unlike many of the animal liberationists, they generally do not object to hunting, fishing or rearing animals for food, so long as these practices do not endanger the survival of certain species or otherwise damage the natural environment. Animal liberationists, on the other hand, regard the inhumane treatment or killing of animals which are raised for meat, used in scientific experimentation and the like, as just as objectionable as the killing or mistreatment of "wild" animals. They oppose such practices not only because they may sometimes lead to environmental damage, but because they cause suffering or death to sentient beings.

Contrasts such as these have led some philosophers to conclude that the theoretical foundations of the Leopoldian land ethic and those of the

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animal-liberationist movement are fundamentally incompatible, or that there are “intractable practical differences” between them. I shall argue on the contrary, that a harmonious marriage between these two approaches is possible, provided that each side is prepared to make certain compromises. In brief, the animal liberationists must recognize that although animals do have significant moral rights, these rights are not precisely the same as those of human beings; and that part of the difference is that the rights of animals may sometimes be overridden, for example, for environmental or utilitarian reasons, in situations where it would not be morally acceptable to override human rights for similar reasons. For their part, the environmentalists must recognize that while it may be acceptable, as a legal or rhetorical tactic, to speak of the rights of trees or mountains, the logical foundations of such rights are quite different from those of the rights of human and other sentient beings. The issue is of enormous importance for moral philosophy, for it centres upon the theoretical basis for the ascription of moral rights, and hence bears directly upon such disputed cases as the rights of (human) foetuses, children, the comatose, the insane, etc. Another interesting feature is the way in which utilitarians and deontologists often seem to exchange sides in the battle—the former insist upon the universal application of the principle that to cause unnecessary pain is wrong, while the latter refuse to apply that principle to other than human beings, unless there are utilitarian reasons for doing so.

In section I I will examine the primary line of argument presented by the contemporary animal-rights advocates, and suggest that their conclusions must be amended in the way mentioned above. In section II I will present two arguments for distinguishing between the rights of human beings and those of (most) nonhuman animals. In section III I will consider the animal liberationists’ objection that any such distinction will endanger the rights of certain “nonparadigm” human beings, for example, infants and the mentally incapacitated. In section IV I will reply to several current objections to the attempt to found basic moral rights upon the sentience, or other psychological capacities, of the entity involved.

I

Why (Some) Animals Have (Some) Moral Rights

Peter Singer is the best known contemporary proponent of animal liberation. Singer maintains that all sentient animals, human or otherwise, should be regarded as morally equal; that is, that their interests should be given equal consideration. He argues that sentience, the capacity to have conscious experiences such as pain or pleasure, is “the only defensible boundary of concern for the interests of others.” In Bentham’s often-quoted words, “the question is not, Can they reason? nor, Can they talk? but Can they suffer?” To suppose that the interests of animals are outside the scope of moral concern is to commit a moral fallacy analogous to sexism or racism, a fallacy which Singer calls *speciesism*. True, women and members of “minority” races are more intelligent than (most) animals—and almost certainly no less so than white males—but that is not the point. The point does not concern these complex capabilities at all. For, Singer says, “The claim to equality does not depend on intelligence, moral capacity, physical strength, or similar matters of fact.”

As a utilitarian, Singer prefers to avoid speaking of moral rights, at least insofar as these are construed as claims which may sometimes override purely utilitarian considerations. There are, however, many other advocates of animal liberation who do maintain that animals have moral rights, rights which place limitations upon the use of utilitarian justifications, for killing animals or causing them to suffer. Tom Regan, for example, argues that if all or most human beings have a right to life, then so do at least some animals. Regan points out that unless we hold that animals have a right to life, we may not be able to adequately support many of the conclusions that most animal liberationists think are important, for example, that it is wrong to kill animals painlessly to provide human beings with relatively trivial forms of pleasure.

This disagreement between Singer and Regan demonstrates that there is no single well-defined theory of the moral status of animals which can be

identified as *the* animal liberationist position. It is clear, however, that neither philosopher is committed to the claim that the moral status of animals is completely identical to that of humans. Singer points out that his basic principle of equal *consideration* does not imply identical *treatment*. Regan holds only that animals have *some* of the same moral rights as do human beings, not that *all* of their rights are necessarily the same.

Nevertheless, none of the animal liberationists have thus far provided a clear explanation of how and why the moral status of (most) animals differs from that of (most) human beings; and this is a point which must be clarified if their position is to be made fully persuasive. That there is such a difference seems to follow from some very strong moral intuitions which most of us share. A man who shoots squirrels for sport may or may not be acting reprehensibly; but it is difficult to believe that his actions should be placed in *exactly* the same moral category as those of a man who shoots women, or black children, for sport. So too it is doubtful that the Japanese fishermen who slaughtered dolphins because the latter were thought to be depleting the local fish populations were acting quite *as* wrongly as if they had slaughtered an equal number of their human neighbours for the same reason.

Can anything persuasive be said in support of these intuitive judgments? Or are they merely evidence of unreconstructed speciesism? To answer these questions we must consider both certain similarities and certain differences between ourselves and other animals, and then decide which of these are relevant to the assignment of moral rights. To do this we must first ask just what it means to say than an entity possesses a certain moral right.

There are two elements of the concept of a moral right which are crucial for our present purposes. To say that an entity, X, has a moral right to Y (some activity, benefit or satisfaction) is to imply at least the following:

1. that it would be morally wrong for any moral agent to intentionally deprive X of Y without some sufficient justification;
2. that this would be wrong, at least in part, *because of the (actual or potential) harm which it would do to the interests of X.*

On this (partial) definition of a moral right, to ask whether animals have such rights is to ask whether there are some ways of treating them which are morally objectionable because of the harm done to the animals themselves, and not merely because of some *other* undesirable results, such as damaging the environment or undermining the moral character of human beings. As Regan and other animal liberationists have pointed out, the arguments for ascribing at least some moral rights to sentient non-human animals are very similar to the arguments for ascribing those same rights to sentient human beings. If we argue that human beings have rights not to be tortured, starved or confined under inhumane conditions, it is usually by appealing to our knowledge that they will suffer in much the same ways that we would under like circumstances. A child must learn that other persons (and animals) can experience, for example, pain, fear or anger, on the one hand; pleasure or satisfaction, on the other, in order to even begin to comprehend why some ways of behaving towards them are morally preferable to others.

If these facts are morally significant in the case of human beings, it is attractive to suppose that they should have similar significance in the case of animals. Everything that we know about the behaviour, biology and neurophysiology of, for instance, nonhuman mammals, indicates that they are capable of experiencing the same basic types of physical suffering and discomfort as we are, and it is reasonable to suppose that their pleasures are equally real and approximately as various. Doubts about the sentience of other animals are no more plausible than doubts about that of other human beings. True, most animals cannot use human language to *report* that they are in pain, but the vocalizations and "body language" through which they *express* pain, and many other psychological states, are similar enough to our own that their significance is generally clear.

But to say this is not yet to establish that animals have moral rights. We need a connecting link between the premise that certain ways of treating animals cause them to suffer, and the conclusion that such actions are *prima facie* morally wrong, that is, wrong unless proven otherwise. One way to make this connection is to hold that it is a *self-*

evident truth that the unnecessary infliction of suffering upon any sentient being is wrong. Those who doubt this claim may be accused (perhaps with some justice) of lacking empathy, the ability to “feel with” other sentient beings, to comprehend the reality of their experience. It may be held that it is possible to regard the suffering of animals as morally insignificant only to the extent that one suffers from blindness to “the ontology of animal reality”; that is, from a failure to grasp the fact that they are centres of conscious experience, as we are.

This argument is inadequate, however, since there may be those who fully comprehend the fact that animals are sentient beings, but who still deny that their pains and pleasures have any direct moral significance. For them, a more persuasive consideration may be that our moral reasoning will gain in clarity and coherence if we recognize that the suffering of a nonhuman being is an evil of the same general sort as that of a human being. For if we do not recognize that suffering is an intrinsic evil, something which ought not to be inflicted deliberately without just cause, then we will not be able to fully understand why treating *human beings* in certain ways is immoral.

Torturing human beings, for example, is not wrong merely because it is illegal (where it is illegal), or merely because it violates some implicit agreement amongst human beings (though it may). Such legalistic or contractualistic reasons leave us in the dark as to why we *ought* to have, and enforce, laws and agreements against torture. The essential reason for regarding torture as wrong is that it *hurts*, and that people greatly prefer to avoid such pain—as do animals. I am not arguing, as does Kant, that cruelty to animals is wrong because it causes cruelty to human beings, a position which consequentialists often endorse. The point, rather, is that unless we view the deliberate infliction of needless pain as inherently wrong we will not be able to understand the moral objection to cruelty of *either* kind.

It seems we must conclude, therefore, that sentient nonhuman animals have certain basic moral rights, rights which they share with all beings that are psychologically organized around the pleasure/pain axis. Their capacity for pain gives them the right that pain not be intentionally and needlessly inflicted upon them. Their capacity for pleasure

gives them the right not to be prevented from pursuing whatever pleasures and fulfillments are natural to creatures of their kind. Like human rights, the rights of animals may be overridden if there is a morally sufficient reason for doing so. What counts as a morally significant reason, however, may be different in the two cases.

II

Human and Animal Rights Compared

There are two dimensions in which we may find differences between the rights of human beings and those of animals. The first involves the *content* of those rights, while the second involves their *strength*; that is, the strength of the reasons which are required to override them.

Consider, for instance, the right to liberty. The *human* right to liberty precludes imprisonment without due process of law, even if the prison is spacious and the conditions of confinement cause no obvious physical suffering. But it is not so obviously wrong to imprison animals, especially when the area to which they are confined provides a fair approximation of the conditions of their natural habitat, and a reasonable opportunity to pursue the satisfactions natural to their kind. Such conditions, which often result in an increased lifespan, and which may exist in wildlife sanctuaries or even well-designed zoos, need not frustrate the needs or interests of animals in any significant way, and thus do not clearly violate their rights. Similarly treated human beings, on the other hand (e.g., native peoples confined to prison-like reservations), do tend to suffer from their loss of freedom. Human dignity and the fulfillment of the sorts of plans, hopes and desires which appear (thus far) to be uniquely human, require a more extensive freedom of movement than is the case with at least many nonhuman animals. Furthermore, there are aspects of human freedom, such as freedom of thought, freedom of speech and freedom of political association, which simply do not apply in the case of animals.

Thus, it seems that the human right to freedom is more extensive; that is, it precludes a wider range of specific ways of treating human beings than does the corresponding right on the part of animals. The argument cuts both ways, of course. *Some* animals,

argued that pain may be *worse* in some respects for nonhuman animals, who are presumably less able to distract themselves from it by thinking of something else, or to comfort themselves with the knowledge that it is temporary. Brigid Brophy points out that “pain is likely to fill the sheep’s whole capacity for experience in a way it seldom does in us, whose intellect and imagination can create breaks for us in the immediacy of our sensations.”

The net result of such contrasting considerations is that we cannot possibly claim to know whether pain is, on the whole, worse for us than for animals, or whether their pleasures are any more or any less intense than ours. Thus, while we may justify assigning them a somewhat weaker right to life or liberty, on the grounds that they desire these goods less intensely than we do, we cannot discount their rights to freedom from needlessly inflicted pain or unnatural frustration on the same basis. There may, however, be *other* reasons for regarding all of the moral rights of animals as somewhat less stringent than the corresponding human rights.

A number of philosophers who deny that animals have moral rights point to the fact that nonhuman animals evidently lack the capacity for moral autonomy. Moral autonomy is the ability to act as a moral agent; that is, to act on the basis of an understanding of, and adherence to, moral rules or principles. H. J. McCloskey, for example, holds that “it is the capacity for moral autonomy... that is basic to the possibility of possessing a right.” McCloskey argues that it is inappropriate to ascribe moral rights to any entity which is not a moral agent, or *potentially* a moral agent, because a right is essentially an entitlement granted to a moral agent, licensing him or her to *act* in certain ways and to *demand* that other moral agents refrain from interference. For this reason, he says, “Where there is no possibility of [morally autonomous] action, potentially or actually... and where the being is not a member of a kind which is normally capable of [such] action, we withhold talk of rights.”

If moral autonomy—or being *potentially* autonomous, or a member of a kind which is *normally* capable of autonomy—is a necessary condition for having moral rights, then probably no nonhuman animal can qualify. For moral autonomy requires such probably uniquely human traits as “the capacity

to be critically self-aware, manipulate concepts, use a sophisticated language, reflect, plan, deliberate, choose, and accept responsibility for acting.”

But why, we must ask, should the capacity for autonomy be regarded as a precondition for possessing moral rights? Autonomy is clearly crucial for the *exercise* of many human moral or legal rights, such as the right to vote or to run for public office. It is less clearly relevant, however, to the more basic human rights, such as the right to life or to freedom from unnecessary suffering. The fact that animals, like many human beings, cannot *demand* their moral rights (at least not in the words of any conventional human language) seems irrelevant. For, as Joel Feinberg points out, the interests of non-morally autonomous human beings may be defended by others, for example, in legal proceedings; and it is not clear why the interests of animals might not be represented in a similar fashion.

It is implausible, therefore, to conclude that because animals lack moral autonomy they should be accorded *no moral rights whatsoever*. Nevertheless, it may be argued that the moral autonomy of (most) human beings provides a second reason, in addition to their more extensive interests and desires, for according somewhat *stronger* moral rights to human beings. The fundamental insight behind contractualist theories of morality is that, for morally autonomous beings such as ourselves, there is enormous mutual advantage in the adoption of a moral system designed to protect each of us from the harms that might otherwise be visited upon us by others. Each of us ought to accept and promote such a system because, to the extent that others also accept it, we will all be safer from attack by our fellows, more likely to receive assistance when we need it, and freer to engage in individual as well as cooperative endeavours of all kinds.

Thus, it is the possibility of *reciprocity* which motivates moral agents to extend *full and equal* moral rights, in the first instance, only to other moral agents. I respect your rights to life, liberty and the pursuit of happiness in part because you are a sentient being, whose interests have intrinsic moral significance. But I respect them as *fully equal to my own* because I hope and expect that you will do the same for me. Animals, insofar as they lack the degree of rationality necessary

for example, great whales and migratory birds, may require at least as much physical freedom as do human beings if they are to pursue the satisfactions natural to their kind, and this fact provides a moral argument against keeping such creatures imprisoned. And even chickens may suffer from the extreme and unnatural confinement to which they are subjected on modern "factory farms." Yet it seems unnecessary to claim for *most* animals a right to a freedom quite as broad as that which we claim for ourselves.

Similar points may be made with respect to the right to life. Animals, it may be argued, lack the cognitive equipment to value their lives in the way that human beings do. Ruth Cigman argues that animals have *no right to life because death is no misfortune for them*. In her view, the death of an animal is not a misfortune, because animals have no desires which are *categorical*; that is which do not "merely presuppose being alive (like the desire to eat when one is hungry), but rather answer the question whether one wants to remain alive." In other words, animals appear to lack the sorts of long-range hopes, plans, ambitions and the like, which give human beings such a powerful interest in continued life. Animals, it seems, take life as it comes and do not specifically desire that it go on. True, squirrels store nuts for the winter and deer run from wolves; but these may be seen as instinctive or conditioned responses to present circumstances, rather than evidence that they value life as such.

These reflections probably help to explain why the death of a sparrow seems less tragic than that of a human being. Human lives, one might say, have greater intrinsic value, because they are worth more to their possessors. But this does not demonstrate that no nonhuman animal has *any* right to life. Premature death may be a less *severe* misfortune for sentient nonhuman animals than for human beings, but it is a misfortune nevertheless. In the first place, it is a misfortune in that it deprives them of whatever pleasures the future might have held for them, regardless of whether or not they ever *consciously anticipated* those pleasures. The fact that they are not here afterwards, to *experience* their loss, no more shows that they have not lost anything than it does in the case of humans. In the second place, it is (possibly) a misfortune in that it frustrates

whatever future-oriented desires animals *may* have, unbeknownst to us. Even now, in an age in which apes have been taught to use simplified human languages and attempts have been made to communicate with dolphins and whales, we still know very little about the operation of nonhuman minds. We know much too little to assume that nonhuman animals never consciously pursue relatively distant future goals. To the extent that they do, the question of whether such desires provide them with *reasons for living* or merely *presuppose* continued life, has no satisfactory answer, since they cannot contemplate these alternatives—or, if they can, we have no way of knowing what their conclusions are. All we know is that the more intelligent and psychologically complex an animal is, the more *likely* it is that it possesses specifically future-oriented desires, which would be frustrated even by *painless* death.

For these reasons, it is premature to conclude from the apparent intellectual inferiority of nonhuman animals that they have no right to life. A more plausible conclusion is that animals do have a right to life but that it is generally somewhat weaker than that of human beings. It is, perhaps, weak enough to enable us to justify killing animals when we have no other ways of achieving such vital goals as feeding or clothing ourselves, or obtaining knowledge which is necessary to save human lives. Weakening their right to life in this way does not render meaningless the assertion that they have such a right. For the point remains that *some* serious justification for the killing of sentient nonhuman animals is always necessary; they may not be killed merely to provide amusement or minor gains in convenience.

If animals' rights to liberty and life are somewhat weaker than those of human beings, may we say the same about their right to *happiness*; that is, their right not to be made to suffer needlessly or to be deprived of the pleasures natural to their kind? If so, it is not immediately clear why. There is little reason to suppose that pain or suffering are any less unpleasant for the higher animals (at least) than they are for us. Our large brains *may* cause us to experience pain more intensely than do most animals, and *probably* cause us to suffer more from the anticipation or remembrance of pain. These facts might tend to suggest that pain is, on the whole, a worse experience for us than for them. But it may also be

for moral autonomy, cannot agree to respect our interests as equal in moral importance to their own, and neither do they expect or demand each respect from us. Of course, domestic animals may expect to be fed, etc. But they do not, and cannot, expect to be treated as moral equals, for they do not understand that moral concept or what it implies. Consequently, it is neither pragmatically feasible nor morally obligatory to extend to them the same *full and equal* rights which we extend to human beings.

Is this a speciesist conclusion? Defenders of a more extreme animal rights position may point out that this argument, from the lack of moral autonomy, has exactly the same form as that which has been used for thousands of years to rationalize denying equal moral rights to women and members of “inferior” races. Aristotle, for example, argued that women and slaves are naturally subordinate beings, because they lack the capacity for moral autonomy and self-direction; and contemporary versions of this argument, used to support racist or sexist conclusions, are easy to find. Are we simply repeating Aristotle’s mistake, in a different context?

The reply to this objection is very simple: animals, unlike women and slaves, really *are* incapable of moral autonomy, at least to the best of our knowledge. Aristotle certainly *ought* to have known that women and slaves are capable of morally autonomous action; their capacity to use moral language alone ought to have alerted him to this likelihood. If comparable evidence exists that (some) nonhuman animals are moral agents we have not yet found it. The fact that some apes (and, possibly, some cetaceans) are capable of learning radically simplified human languages, the terms of which refer primarily to objects and events in their immediate environment, in no way demonstrates that they can understand abstract moral concepts, rules or principles, or use this understanding to regulate their own behaviour.

On the other hand, this argument implies that if we *do* discover that certain nonhuman animals are capable of moral autonomy (which is certainly not impossible), then we ought to extend full and equal moral rights to those animals. Furthermore, if we someday encounter extraterrestrial beings, or build robots, androids or supercomputers which function

as self-aware moral agents, then we must extend full and equal moral rights to these as well. Being a member of the human species is not a necessary condition for the possession of full “human” rights. Whether it is nevertheless a *sufficient* condition is the question to which we now turn.

III

The Moral Rights of Nonparadigm Humans

If we are justified in ascribing somewhat different, and also somewhat stronger, moral rights to human beings than to sentient but non-morally autonomous animals, then what are we to say of the rights of human beings who happen not to be capable of moral autonomy, perhaps not even potentially? Both Singer and Regan have argued that if any of the superior intellectual capacities of normal and mature human beings are used to support a distinction between the moral status of *typical*, or paradigm, human beings, and that of animals, then consistency will require us to place certain “non-paradigm” humans, such as infants, small children and the severely retarded or incurably brain damaged, in the same inferior moral category. Such a result is, of course, highly counterintuitive.

Fortunately, no such conclusion follows from the autonomy argument. There are many reasons for extending strong moral rights to non-paradigm humans; reasons which do not apply to most non-human animals. Infants and small children are granted strong moral rights in part because of their *potential* autonomy. But *potential* autonomy, as I have argued elsewhere, is not in itself a sufficient reason for the ascription of full moral rights; if it were, then not only human fetuses (from conception onwards) but even ununited human sperm-egg pairs would have to be regarded as entities with a right to life the equivalent of our own—thus making not only abortion, but any intentional failure to procreate, the moral equivalent of murder. Those who do not find this extreme conclusion acceptable must appeal to reasons other than the *potential* moral autonomy of infants and small children to explain the strength of the latter’s moral rights.

One reason for assigning strong moral rights to infants and children is that they possess not just

potential but *partial* autonomy, and it is not clear how much of it they have at any given moment. The fact that, unlike baby chimpanzees, they are already learning the things which will enable them to *become* morally autonomous, makes it likely that their minds have more subtleties than their speech (or the lack of it) proclaims. Another reason is simply that most of us tend to place a very high value on the lives and well-being of infants. Perhaps we are to some degree "programmed" by nature to love and protect them; perhaps our reasons are somewhat egocentric; or perhaps we value them for their potential. **Whatever the explanation, the fact that we do feel this way about them is in itself a valid reason for extending to them stronger moral and legal protections than we extend to nonhuman animals, even those which may have just as well or better-developed psychological capacities.** A third, and perhaps the most important, reason is that if we did *not* extend strong moral rights to infants, far too few of them would ever *become* responsible, morally autonomous adults; too many would be treated "like animals" (i.e., in ways that it is generally wrong to treat even animals), and would consequently become socially crippled, antisocial or just very unhappy people. **If any part of our moral code is to remain intact, it seems that infants and small children must be protected and cared for.**

Analogous arguments explain why strong moral rights should also be accorded to other nonparadigm humans. The severely retarded or incurably senile, for instance, may have no potential for moral autonomy, but there are apt to be friends, relatives or other people who care what happens to them. Like children, such individuals may have more mental capacities than are readily apparent. Like children, they are more apt to achieve, or return to moral autonomy if they are valued and well cared for. Furthermore, any one of us may someday become mentally incapacitated to one degree or another, and we would all have reason to be anxious about our own futures if such incapacitation were made the basis for denying strong moral rights.

There are, then, sound reasons for assigning strong moral rights even to human beings who lack the mental capacities which justify the general distinction between human and animal rights. Their rights are based not only on the value which they

themselves place upon their lives and well-being, but also on the value which other human beings place upon them.

But is this a valid basis for the assignment of moral rights? Is it consistent with the definition presented earlier, according to which X may be said to have a moral right to Y only if depriving X of Y is *prima facie* wrong because of the harm done to the interests of X, and not merely because of any further consequences? Regan argues that we cannot justify the ascription of stronger rights to nonparadigm humans than to nonhuman animals in the way suggested, because "what underlies the ascription of rights to any given X is that X has value independently of anyone's valuing X." After all, we do not speak of expensive paintings or gemstones as having rights, although many people value them and have good reasons for wanting them protected.

There is, however, a crucial difference between a rare painting and a severely retarded or senile human being; the latter not only has (or may have) value for other human beings but *also* has his or her own needs and interests. It may be this which leads us to say that such individuals have intrinsic value. The sentience of nonparadigm humans, like that of sentient nonhuman animals, gives them a place in the sphere of rights holders. So long as the moral rights of all sentient beings are given due recognition, there should be no objection to providing some of them with *additional* protections, on the basis of our interests as well as their own. Some philosophers speak of such additional protections, which are accorded to X on the basis of interests other than X's own, as *conferred* rights, in contrast to *natural* rights, which are entirely based upon the properties of X itself. But such "conferred" rights are not necessarily any weaker or less binding upon moral agents than are "natural" rights. Infants, and most other nonparadigm humans have the *same* basic moral rights that the rest of us do, even though the reasons for ascribing those rights are somewhat different in the two cases.

IV

Other Objections to Animal Rights

We have already dealt with the primary objection to assigning *any* moral rights to nonhuman animals;

But isn't this what is at issue?

Even infants?

Isn't this speciesism?

But won't our instinctual love for them prevent this?

that is, that they lack moral autonomy, and various other psychological capacities which paradigm humans possess. We have also answered the animal liberationists' primary objection to assigning somewhat *weaker*, or less-extensive rights to animals; that is, that this will force us to assign similarly inferior rights to nonparadigm humans. There are two other objections to animal rights which need to be considered. The **first** is that the claim that animals have a right to life, or other moral rights, has absurd consequences with respect to the natural relationships *among* animals. The **second** is that to accord rights to animals on the basis of their (differing degrees of) sentience will introduce intolerable difficulties and complexities into our moral reasoning.

Opponents of animal rights often accuse the animal liberationists of ignoring the realities of nature, in which many animals survive only by killing others. Callicott, for example, maintains that, whereas environmentally aware persons realize that natural predators are a vital part of the biotic community, those who believe that animals have a right to life are forced to regard all predators as "merciless, wanton, and incorrigible murderers of their fellow creatures." Similarly, Ritchie asks whether, if animals have rights, we are not morally obligated to "protect the weak among them against the strong? Must we not put to death blackbirds and thrushes because they feed on worms, or (if capital punishment offends our humanitarianism) starve them slowly by permanent captivity and vegetarian diet?"

Such a conclusion would of course be ridiculous, as well as wholly inconsistent with the environmental ethic. However, nothing of the sort follows from the claim that animals have moral rights. There are two independently sufficient reasons why it does not. In the first place, nonhuman predators are not moral agents, so it is absurd to think of them as wicked, or as *murdering* their prey. But this is not the most important point. Even if wolves and the like *were* moral agents, their predation would still be morally acceptable, given that they generally kill only to feed themselves, and generally do so without inflicting prolonged or unnecessary suffering. If we have the right to eat animals, in order to avoid starvation, then why shouldn't animals have the right to eat one another, for the same reason?

This conclusion is fully consistent with the lesson taught by the ecologists, that natural predation is essential to the stability of biological communities. Deer need wolves, or other predators, as much as the latter need them; without predation they become too numerous and fall victim to hunger and disease, while their overgrazing damages the entire ecosystem. Too often we have learned (or failed to learn) this lesson the hard way, as when the killing of hawks and other predators produces exploding rodent populations—which must be controlled, often in ways which cause further ecological damage. The control of natural predators may *sometimes* be necessary, for example, when human pressures upon the populations of certain species become so intense that the latter cannot endure continued *natural* predation. (The controversial case of the wolves and caribou in Alaska and Canada may or may not be one of this sort.) But even in such cases it is preferable, from an environmentalist perspective, to reduce human predation enough to leave room for natural predators as well.

Another objection to assigning moral rights to sentient nonhuman animals is that it will not only complicate our own moral system, but introduce seemingly insoluble dilemmas. As Ritchie points out, "Very difficult questions of casuistry will...arise because of the difference in grades of sentience." For instance, is it morally worse to kill and eat a dozen oysters (which are at most minimally sentient) or one (much more highly sentient) rabbit? Questions of this kind, considered in isolation from any of the practical circumstances in which they might arise, are virtually unanswerable. But this ought not to surprise us, since similarly abstract questions about the treatment of human beings are often equally unanswerable. (For instance, would it be worse to kill one child or to cause a hundred to suffer from severe malnutrition?)

The reason such questions are so difficult to answer is not just that we lack the skill and knowledge to make such precise comparisons of interpersonal or interspecies utility, but also that these questions are posed in entirely unrealistic terms. Real moral choices rarely depend entirely upon the comparison of two abstract quantities of pain or pleasure deprivation. In deciding whether to eat molluscs or mammals (or neither or both) a human

society must consider *all* of the predictable consequences of each option, for example, their respective impacts on the ecology or the economy, and not merely the individual interests of the animals involved.

Of course, other things being equal, it would be morally preferable to refrain from killing *any* sentient animal. But other things are never equal. Questions about human diet involve not only the rights of individual animals, but also vital environmental and human concerns. On the one hand, as Singer points out, more people could be better fed if food suitable for human consumption were not fed to meat-producing animals. On the other hand, a mass conversion of humanity to vegetarianism would represent “an increase in the efficiency of the conversion of solar energy from plant to human biomass,” with the likely result that the human

population would continue to expand and, in the process, to cause greater environmental destruction than might occur otherwise. The issue is an enormously complex one, and cannot be solved by any simple appeal to the claim that animals have (or lack) certain moral rights.

In short, the ascription of moral rights to animals does not have the absurd or environmentally damaging consequences that some philosophers have feared. It does not require us to exterminate predatory species, or to lose ourselves in abstruse speculations about the relative degrees of sentience of different sorts of animals. It merely requires us to recognize the interests of animals as having intrinsic moral significance; as demanding some consideration, regardless of whether or not human or environmental concerns are also involved. . . .

The Moral Status of Animals

ROGER SCRUTON

The account of moral reasoning that I have sketched offers an answer, even if not a fully reasoned answer, to the question of animals. In developing this answer, I shall use the term “animal” to mean those animals that lack the distinguishing features of the moral being—rationality, self-consciousness, personality, and so on. If there are non-human animals who are rational and self-conscious, then they, like us, are persons, and should be described and treated accordingly. If *all* animals are persons, then there is no longer a problem as to how we should treat them. They would be full members of the moral community, with rights and duties like the rest of us. But it is precisely because there are animals who are not persons that the moral problem exists. And to treat these non-personal animals as persons is not to grant to them a privilege nor to raise their chances of contentment. It is to ignore what they essentially are and so to fall out of relation with them altogether.

The concept of the person belongs to the ongoing dialogue which binds the moral community. Creatures who are by nature incapable of entering into this dialogue have neither rights nor duties nor personality. If animals had rights, then we should require their consent before taking them into captivity, training them, domesticating them or in any way putting them to our uses. But there is no conceivable process whereby this consent could be delivered or withheld. Furthermore, a creature with rights is duty-bound to respect the rights of others. The fox would be duty-bound to respect the right to life of the chicken and whole species would be condemned out of hand as criminal by nature. Any law which compelled persons to respect the rights of

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