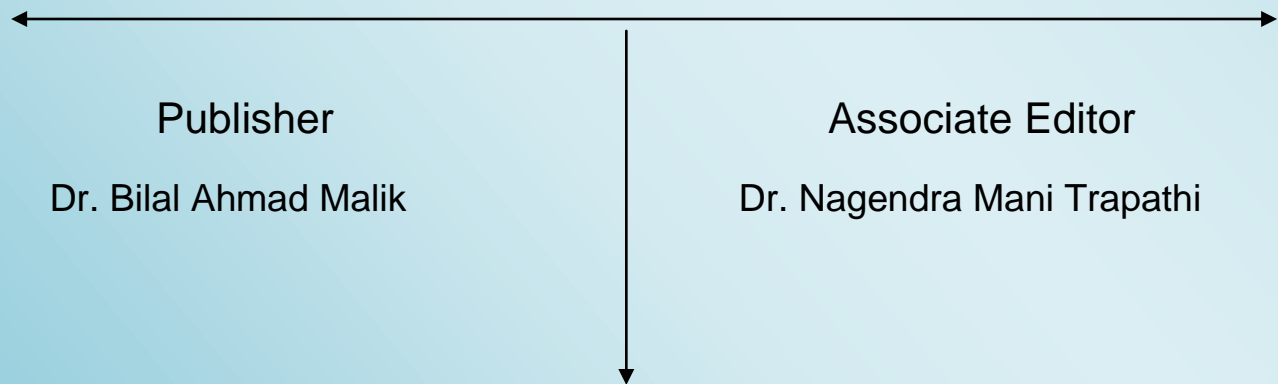


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## DO ANIMALS HAVE RIGHTS?

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### INTRODUCTION

Do animals have rights? Almost everyone believes in animal rights, at least in some minimal sense; the real question is what that phrase actually means. By exploring that question, it is possible to give a clear sense of the lay of the land—to show the range of possible positions, and to explore what issues, of theory or fact, separate reasonable people. On reflection, the spotlight should be placed squarely on the issue of suffering and well-being, as some believe in; to give the position not actually equal to the human positions but at least the non-human animals should be given that much position so that humans will not pass that line which will protect the positions of non-human animals. Population of the earth is getting higher ratios. Forests, species other than humans are getting closer to the humans. As in the village forests where both humans and non-humans are being killed by each other. As from the decades some advocates are against the animal rights and some advocates are in favor of the animal rights. In this topic I would support in giving animals the rights which they carry but are being crumpled by the humans.

The difference between animal welfare and animal rights is explained in the session on '*Ethical and Philosophical Theories*'. In brief, this can be explained as below: -

**Animal welfare:** denotes the desire to prevent unnecessary animal suffering (that is, whilst not categorically opposed to the use of animals, wanting to ensure a good quality of life and humane death).

**Animal rights:** denotes the philosophical belief that animals should have rights, including the right to live their lives free of human intervention (and ultimate death at the hands of humans). Animal rightists are philosophically opposed to the use of animals by humans (although some accept 'symbiotic' relationships, such as companion animal ownership).

#### Welfare v Conservation

The key difference between *conservation* and *animal welfare* is that conservation cares about species (and extinction) whereas animal welfare cares about the individual animal (and its suffering). Animal welfarists believe that each individual animal has an intrinsic value, and should be respected and protected. They recognize that animals have biologically determined instincts, interests and natures, and can experience pain and suffer, and believe that they should therefore be permitted to live their lives free from avoidable suffering at the hands of humans. It is not difficult to see why the conservation movement has attracted support more readily than the animal welfare movement. Animal welfare requires greater altruism and *Animal Welfare in Context*. Empathy than conservation. Care for conservation can be generated by human-centered objectives, such as not wanting

species to become extinct because of the loss for future generations (of humans). Although many people now recognize that animals feel pain and suffer, this comes lower down on their list of priorities for action – and may indeed challenge their own lifestyle and habits.

*"More than any other time in history, mankind faces a crossroads. One path leads to despair and utter hopelessness. The other to total extinction. Let us pray we have the wisdom to choose correctly."*

Woody Allen

## DO ANIMALS HAVE RIGHTS?

Yes, they have their rights which will preserve them, protect them, and there will be duties on the humans not to violate the rights of the animals.

Kantian moral philosophy is usually considered inimical both to the moral claims and to the legal rights of non-human animals. Kant himself asserts baldly that animals are «mere means» and «instruments» and as such may be used for human purposes. In the argument leading up to the second formulation of the categorical imperative, the Formula of Humanity as an end in itself, Kant says:

*Beings the existence of which rests not on our will but on nature, if they are beings without reason, have only a relative worth, as means, and are therefore called things, whereas rational beings are called persons because their nature already marks them out as an end in itself, that is, as something that may not be used merely as a means...*

In his essay «**Conjectures on the Beginnings of Human History**», a speculative account of the origin of reason in human beings, Kant explicitly links the moment when human beings first realized that we must treat one another as ends in ourselves with the moment when we realized that we do not have to treat the other animals that way. He says:

*When [the human being] first said to the sheep, «the pelt which you wear was given to you by nature not for your own use, but for mine» and took it from the sheep to wear it himself, he became aware of a prerogative which, by his nature, he enjoyed over all the animals; and he now no longer regarded them as fellow creatures, but as means and instruments to be used at will for the attainment of whatever ends he pleased...*

One might place the emphasis here on the idea of owing a duty *to* someone, and take Kant to be claiming that it is impossible for us to owe a duty to an animal. It is, after all, notorious that Kant claimed that although we *do* have duties to treat animals humanely, we do not owe those duties to the animals, but rather to ourselves. This claim goes right to the heart of the issue about legal rights for animals, since the duty of respecting a legal right is something that is supposed to be owed *to* the right holder. If we cannot owe duties to animals, then it seems that they cannot have rights. Kant claims that to owe something to someone is to be constrained by his will. To see what this means, consider, first, what happens when you make a promise, and so incur an obligation. As Kant understood promises, what happens when you make a promise is that you transfer the right to make a certain decision, which is naturally your own right, to someone else, in rather the same way you might transfer a piece of property to someone else. If I promise to meet you for lunch at the cafeteria tomorrow, I transfer my right to decide whether to go to you, and I now no longer have the right to decide that I will not go unless you absolve me

from my promise. So my decision now belongs to you – it is a matter for your will to determine, not for mine. So you are in a position to constrain me to go to the cafeteria by your will. You can obligate me.

In the case of animal rights REGAN(1983) he wrote,

*The harms others might face as a result of dissolution of (some) practice or institutions is no defence of allowing it to continue...no one has a right to be protected against being harmed if the protection in question involves violating the rights of others...no one has a right to be protected by the continuation of an unjust practice one that violates the rights of others...justice must be done, though the...heavens fall.*

Regan regard himself as an advocate of animal rights — as a part of the animal rights movement. That movement, as he conceives it, is committed to a number of goals, including:

- The total abolition of the use of animals in science;
- The total dissolution of commercial animal agriculture;
- The total elimination of commercial and sport hunting and trapping.

As for the passion: there are times, and these not infrequent, when tears come to my eyes when I see, or read, or hear of the wretched plight of animals in the hands of humans. Their pain, their suffering, their loneliness, their innocence, their death. Anger. Rage. Pity. Sorrow. Disgust. The whole creation groans under the weight of the evil we humans visit upon these mute, powerless creatures. It is our hearts, not just our heads, that call for an end to it all, that demand of us that we overcome, for them, the habits and forces behind their systematic oppression. All great movements, it is written, go through three stages: ridicule, discussion, adoption. It is the realization of this third stage, adoption, which requires our passion and our discipline, our hearts and our heads. The fate of animals is in our hands. God grant we are equal to the task.

Primatologist Jane Goodall, in her studies of the wild chimpanzees of Tanzania, found that chimpanzees demonstrate the abilities to use tools, convey abstract concepts, express a broad range of emotions, and make decisions based on reason—all characteristics that were previously thought to be uniquely human. If Goodall's conclusions are accurate, the distinction between animals and humans is no longer easy to define. This notion that the differences between humans

and chimpanzees are merely differences of degree has inspired a proposal to grant chimpanzees, gorillas, and orangutans the same legal rights as children and mentally retarded adults. The Great Ape Project, developed in 1993 by a group of anthropologists, ethicists, and scientists, aims to give apes the right to life, liberty, and freedom from torture—which means that they could no longer be used in medical experiments or kept in zoos. Advocates of the Great Ape Project maintain that since apes match or even exceed the intellectual and social capabilities of children and mentally retarded adults, there is no logical justification for denying apes basic rights. According to Peter Singer, cofounder of the project, “We now have sufficient information about the capacities of great apes to make it clear that the moral boundary we draw between us and them is indefensible.”

Despite numerous efforts, scientists have not been able to find any fundamental difference between humans and animals. By all measures, the differences between humans and animals amount to differences of degree, not of kind. It seems quite illogical, then, to believe in a morality that treats humans and animals in fundamentally different ways. This does not mean we must now grant every animal every human right simply because we cannot draw an absolute line between humans and animals. We don't even grant every *human* every human right. Among other rights, children are denied the right to vote and criminals are denied their right to freedom.

There are relevant differences between normal adult humans and both children and criminals which justify this discrimination. Children lack the maturity and civic knowledge to exercise a right to vote. Criminals have violated another person's rights, so their right to freedom is removed as punishment. Both children and criminals, though, are still within our sphere of ethical concern. They have some rights, just not all of them. The question, then, is whether there are relevant differences between humans and nonhumans to justify denying nonhumans each of the rights we claim for ourselves. It goes without saying that the rights dealing with living in our society—constitutional type protections—are not applicable to animals. The rights we really need to consider are the rights to life, liberty, and freedom from torture. The most common difference put forth to justify denying animals these basic rights is our intelligence. . . . There are two major problems with this. First, all humans are not smarter than all nonhumans. Koko, a gorilla which has been taught sign language, has taken several IQ tests. She scores around an IQ of 80. The average IQ of humans is 100, a mere 20 points higher. In order to exclude Koko, are people willing to also exclude mildly retarded or even severely retarded humans, allowing them to be used for food and medical experiments? Certainly not. The second problem is that intelligence is not even relevant to the rights in question. Consider the right not to be tortured. Torture is the intentional infliction of pain and suffering. Do smart people suffer from pain differently than dumb people? If not, why would we believe the suffering of a dog is any different or less important than our own, simply because he can't understand algebra?

Intelligence might be relevant to the right to life, but only to a very limited degree. People value their lives because they know they have a life that will continue into the future. Anyone who has had a pet can probably identify behaviors that indicate the animal expects something to happen in the near future, be it feeding time or a walk in the park.

## UTILITARIANISM

Peter Singer argues that the way we commonly treat animals – for food, clothing, and medical experimentation – is not morally justifiable (*Animal Liberation*). We do not think that it is right to treat women worse than men just because they are women (this is sexism), nor to treat one race worse than another (this is racism). Likewise, it is wrong to treat animals differently just because they are not human. This is 'speciesism'. We can object that with women and men, and different races, there is no difference in those important capacities – reason, the use of language, the depth of our emotional experience, our self-awareness, our ability to distinguish right and wrong – that make a being a person. But there is a difference between human beings and animals with all of these.

Singer responds that these differences are not relevant when it comes to the important capacity that human beings and animals share, viz. sentience. For a utilitarian, an act (or rule) is wrong if it produces more suffering than an alternative. Who is suffering is irrelevant. When it comes to suffering, animals should be treated as equal to people.

Does this mean that we should prohibit eating meat, wearing leather, and animal experiments? Not necessarily. First, there is the question of whether stopping these practices would reduce the amount of (animal) suffering in the world more than it would increase (human) suffering. Second, the utilitarian position only objects to suffering, not to killing. If you painlessly kill an animal and bring another animal into being (as is done when rearing animals), you haven't reduced the total amount of happiness in the world.

We need only ensure that animals are happy when they are alive and slaughtering them painlessly. This would make eating meat much more expensive, because animals would have to be kept in much better conditions. Eating meat is only wrong when animals are not treated as well as they could be.

## DEONTOLOGY

Deontologists argue that killing human beings is wrong because they have a right to life. Having rights is related to our rationality and choices – they protect the ‘space’ which we need in order to make free, rational choices. Animals don’t make choices the way we do, so they don’t have rights. But babies also aren’t rational and don’t make free choices (yet) and some people with severe mental disabilities never do. If they have a right to life, and do not have different psychological capacities from certain animals, then to deny those animals a right to life would be speciesist. With any property that only human beings that justify a right to life, some human beings won’t have it. With any property that all human beings have, some animals have it as well.

Tom Regan argues that to have a right to life, a creature only needs to be a ‘subject of a life’ (*The Case for Animal Rights*). By this he means have beliefs, desires, emotions, perception, memory, the ability to act (though not necessarily free choice), and a psychological identity over time. If a creature has these abilities, there is a way its life goes for it, and this matters to it. A right to life protects this. Although we can’t know exactly which animals meet this criterion, we can be sure that almost all mammals (including humans) over the age of one do so. Because these animals have a right to life, Regan argues, we cannot kill them for any reason less important than saving life. Because we do not need to eat meat or wear leather to live, we should not use animals for these purposes. Regan also argues that an animal’s right to life is equal to a human being’s. We do not normally discriminate between ‘more valuable’ and ‘less valuable’ human lives, even though some people are capable of much greater things than others. So we should not discriminate between ‘more valuable’ human lives and ‘less valuable’ animal lives. This means we cannot justify medical experiments that involve killing animals by the human lives the experiment may help save.

Regan’s view is very counter-intuitive. Our intuitive judgments that the lives of human beings are more valuable than those of animals, and that it is permissible to kill an animal when we need to, are very strong. But what are the arguments supporting these intuitions?

## PRACTICAL WISDOM

Is the speciesism argument valid? Perhaps it is not just the capacities of the being that determine how we should treat it, but also our relationship to it. There is a moral importance to bonding, the creation of special ties with particular others. We ‘naturally’ privilege those closest to us. Our bond to other human beings is special because we share humanity. Of course, not to recognise that an animal can suffer is to show a lack of compassion. To treat it as a meat-growing machine or experimental object is to display a relationship with it that resembles selfishness, because we reduce it from what it is in itself to something that exists only for our sake. Does this mean that eating meat and animal experiments are wrong? We are left without a clear answer, but a sense of the difficulty of the question.

**Five Freedoms:**

The ‘five freedoms’, which were originally developed by the UK’s Farm Animal Welfare Council (FAWC), provide valuable guidance on animal welfare. They are now internationally recognised, and have been adapted slightly since their formulation. The current form is: -

- Freedom from hunger and thirst – ready access to water and a diet to maintain health and vigour
- Freedom from discomfort – by providing an appropriate environment including shelter and a comfortable resting area
- Freedom from pain, injury and disease – by prevention or rapid diagnosis and treatment
- Freedom to express normal behavior – by providing sufficient space, proper facilities and company of the animals own kind
- Freedom from fear and distress – by ensuring conditions and treatment which avoid mental suffering

They cover all three of the states identified by WSPA above.

They are ideal states, and it is recognized that some freedoms may conflict in a situation where animals are cared for by man e.g. the conflict between treatment (such as veterinary treatment) to cure illness/disease and freedom from fear and distress (that may be caused by the handling and procedure).

**Sentience:**

There is now widespread recognition of the ‘sentience’ of animals, which reinforces the need to protect welfare. The European Union has officially recognised animals to be ‘Sentient Beings’ (1997). Sentience implies that animals: -

- Are aware of their own surroundings
- Have an emotional dimension
- Are aware of what is happening to them
- Have the ability to learn from experience
- Are aware of bodily sensations – pain, hunger, heat, cold etc.
- Are aware of their relationships with other animals
- Have the ability to chose between different animals, objects and situations

**CONCLUSIONS**

In my view,

The real question involves animal welfare and suffering, and human control and use may be compatible with decent lives for animals. But the emphasis on suffering, and on decent lives, itself has significant implications. Of course it is appropriate to consider human interests in the balance, and sometimes our interests will outweigh those of other animals. The problem is that most of the time, the interests of animals are not counted at all—and that once they are counted, many of our practices cannot possibly be justified. I believe that in the long-run, our willingness to subject animals to unjustified suffering will be seem a form of unconscionable barbarity—not the same as, but in many ways morally a kin to, slavery and the mass extermination of human beings.

Despite his own views about animals and their claims, Kant’s philosophy captures something about our own existential situation that proclaims our fellowship with the other animals. It is the central insight of Kant’s



philosophy that the laws of reason are our laws, human laws, and that we cannot know whether the world as it is in itself conforms to them or not. The fact that we are rational does not represent a privileged relationship in which we stand to the universe. Kant also believed that morality is a kind of substitute for metaphysics, giving us grounds to hope for what we cannot know through any metaphysical insight – that the world can, through our efforts, be made into a place that meets our standards, that is rational and good. That means we share a fate with the other animals, for like them, we are thrown into a world that gives no guarantees and are faced with the task of trying to make a home here. It is a presupposition of our own rational agency and of our moral and legal systems that the fate of every such creature, every creature for whom life in this world can be good or bad, is something that matters. That is why we should concede the moral claims of the other animals, and protect those claims as a matter of legal right.

Darwin was anxious to oppose the idea that animals are mere “animated machines,” and in making the point was willing to attribute a broad range of psychological capacities to animals. They experience not only pleasure and pain, but terror, suspicion, and fear. They sulk. They love their children. They can be kind, jealous, self-complacent, and proud. They are curious. “There is no fundamental difference,” he said, “between man and the higher mammals in their mental faculties.”

That is why the thought of vivisection bothered him so much. He realized that, to the extent that nonhumans are similar to humans, they should be treated similarly. The view that I have sketched is, I think, Darwinian. It does not elevate someone human characteristic to a place of supreme importance in determining moral status.

Instead, it sees a complex pattern of similarities and differences between species (and among individuals within species!) and treatments appropriate to those similarities and differences. Our treatment of humans and other animals should be sensitive to the pattern of similarities and differences that exist between them. When there is a difference that justifies treating them differently, we may; but when there is no such difference, we may not. On this view, moral rules are not indexed to species—there is not one set of rules for humans, one for nonhumans. The rule against causing pain is not a rule against causing pain to humans.

Three Questions:

- Does this mean we must treat animals in the same way we treat humans? No, not even all people should be treated alike.
- Do animals have moral standing?

Yes, but this simply means that it is objectionable to treat them in certain ways, and that the explanation of why it is objectionable has to do with their own welfare

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