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Rights, Liberation and Interests: Is there a Sound Case for Animal Rights or Liberation

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Introduction

Les Burwood and Ros Wyeth are English academics who defend veganism or ethical vegetarianism. Celebrities and academics favouring the idea of animal rights or liberation join them. Burwood and Wyeth advance the case that 'all sentient beings are essentially similar, despite many obvious differences'. They further defend this claim by saying that,

We are, each of us, the experiencing subject of a life, a conscious creature having an individual welfare that is important to us, whatever our usefulness to others. We all want and prefer things, believe and feel things, recall and expect things. Some beings are better than others at doing these things.¹

What follows from this is that all kinds of animal research, sports using animals, and raising beef and chicken or other animal for food are morally wrong and ought to be banned by governments around the world.

About natural individual human rights skepticism abounds,² yet championing of universal rights for animals is gaining support.³

Some old critical points

First, animals have no rights by their nature because only human beings have the requisite *moral nature* on which their rights – these are *natural* not 'moral' rights – are grounded.⁴ Basic rights derive from this, spelling out the 'moral space'⁵ people require in their communities so as to live according to their nature as freely choosing social animals. 'Animal

rights' is a category mistake. It is our dignity as basically choosing agents, who must take the initiative to act and whose actions can turn out to be right or wrong, that leads to our having rights. Usurping of our decision-making authority is to seriously undercut our human moral agency.

Second, Peter Singer doesn't champion animal rights but animal liberation and gives utilitarian reasons for this. We cannot debate utilitarianism in full here.⁶ Still, it should be noted that nothing at all follows – logically, conceptually – from the fact that some policies maximize, others reduce pleasure or satisfaction in the world. That's not what morality is about. Moreover, no one could possibly know whether some given action he or she takes advances or reduces overall satisfaction in the world, nor is this end the highest moral good.

Support for animal rights or liberation, furthermore, gives additional power to governments and their bureaucrats over people's lives. Also, an issue relegated to government for treatment promotes complacency among the population, figuring it is now taken care of without their initiative. (Most of us, for example, do not take an active part in crime control – that is deemed, in this case rightly, I think, the job of specialists.)⁷

Why human beings may use animals⁸

One reason for the propriety of our use of animals is that we are more important or valuable than other animals and some of our projects may require the use, even killing, of animals so as to succeed. This isn't saying human beings are 'uniquely important', a position avidly ridiculed by Stephen R.L. Clark, who claims that 'there seems no decent ground in reason or revelation to suppose that man is uniquely important or significant'.⁹ If humans were uniquely important, that would mean that one could not assign *any* value to plants or non-human animals apart from their relationship to human beings. But there is a scale of importance in nature and among the various kinds, the human being is *prima facie* the most important – even while some members of the human species may indeed prove themselves to be the most vile and worthless, as well.¹⁰

Suppose it turns out that ranking things in nature as more or less important makes sense. If humans qualify as more important than other animals, there is at least the beginning of a reason why we may make use of other animals for our purposes – for instance, when a trade-off is unavoidable. Animal rights or liberation champions testify, at least by

implication, that animals are more important than rocks. So, defenders of the high moral status of animals at least implicitly admit variable importance in nature.

Also, there is evidence throughout the natural world of the existence of beings of greater complexity *and* of higher value. For example, while it makes no sense to evaluate as good or bad such things as planets or rocks, when it comes to plants and animals, the process of evaluation commences very naturally. We speak of better or worse specimens of oaks, redwoods, zebras, foxes or chimps. When we start discussing human beings, our evaluation takes on the additional, vital moral component.

None are more ready to testify to this than animal rights advocates, who, after all, do not demand any change of behaviour on the part of nonhuman animals and yet insist that human beings conform to certain moral edicts *as a matter of their own choice*. So animal rights advocates admit outright that to the best of our knowledge, it is with human beings that the idea of moral responsibility enters the universe. This shows, beyond any reasonable doubt, a hierarchical structure in nature.

The level of importance or value may be noted to move from the inanimate to the animate world, culminating, as far as we now know, with human life. Normal human life involves moral tasks, and that is why we are more important than other beings in nature – we are subject to moral appraisal; it is largely a matter of our own doing whether we succeed or fail in our lives.

Now, when it comes to our moral task, namely, to succeed as human beings, we are dependent upon reaching sensible conclusions about what we should do. We can fail, and too often do, fail at this task. But we can also succeed. The process that leads to our success involves learning, among other things, what it is that nature avails us with to achieve our highly varied tasks in life. Among them could be some that make judicious use of animals – for example, to find out whether some medicine is safe for human use. This would be the rational thing for us to do, so as to make the best use of nature for our success in living our lives. That does not mean that we can do without guidelines for how we might make use of animals – any more than we can do without guidelines for how we use anything else. In a discussion of ethics, such guidelines would become essential but they are not the topic of politics or law in a free society (except when animals or plants become the subject of contractual agreements and their enforcement).

Could not the same argument be used within the human species, giving better people the right to make use of worse people? The answer

is that making choices is a precondition for determining who is better or worse among human beings. And using people against their will squelches their choice – at least with respect to what they ought to do next – so those who are better have the obligation to leave those who are worse to continue to make choices that may well reverse the situation.

The emergence of the interest theory

Burwood and Wyeth say that ‘members of all sentient species have interests which should be protected and sometimes it is useful to put this in terms of their having a right to life, a right to avoid pain, a right not to be involuntarily used as a resource by others. These are core vegan beliefs.’¹¹ But having interests is insufficient for having rights. Here is a hint: The United States of America has an interest in Middle Eastern oil but this does not establish for it the right to lay claim to that oil.

Instead, it is the capacity – however minimal at first, as when one is an infant and child – to direct one’s actions voluntarily toward or away from the fulfillment of proper interests that is relevant to having rights, one that belongs only to human beings. This capacity of voluntary action – something one chooses to do but may choose not to do – is minimal at first and in some cases it may even be seriously impaired, but that does not change the truth of this general fact. Human beings, including infants and the impaired, have rights because of their (budding and temporarily incapacitated) moral nature and infants or invalids have them because they are human infants and invalids, with a serious probability of attaining or recovering their full human moral capacity. For other animals, however, that lack this capacity and won’t develop it, rights are moot.

There are those who claim that being a moral patient can confirm rights on someone. So animals, though lacking moral agency, can, because they can be moral patients, have rights. Our rights to life, or liberty, for example, exist because human beings require a sphere of personal jurisdiction wherein they give voluntary direction to their lives and actions, not because they deserve protection against hazards (positive rights to be shielded from the dangers of Katrina, tsunami, viruses or poverty that no other voluntary agent imposes on them, and so on).¹²

There can be some ethical responsibilities toward animals that have been adopted as pets or have been domesticated by humans or bred as livestock – some obligations are acquired by their owners this way

but not because the animals have rights but because the owners' actions assumed a position of providing reasonable care for such animals. There are no animal rights implicit in the acquisition of such animals. Moreover, it is important to bear in mind that what rights human beings are arise from human nature and the requirements of social or community life; such rights are not invented, created, granted – they have a natural origin, not a conventional one.

Tom Regan's and others' point that non-human animals are not moral agents but patients does not justify the ascription of rights to them. A great painting by Rembrandt, who has long died, is a moral patient. We ought to treat it in certain ways but not because it has any rights. So with Indian burial grounds, historical treasures or ruins. None have rights but they can all be moral patients – meaning, human beings can have moral responsibilities affecting them.

While humans share about 97 per cent of DNA with some higher non-human animals, those final 3 per cent are so vital that human civilization – religion, art, science, philosophy and, most importantly, our moral nature – depends on it.¹³ And even vegans attest to this in their conduct as they appeal to human beings to deal with other animals in considerate ways but not to other animals to do the same. None of them implore lions not to kill zebras or to do it more humanely.

Some might reply here by saying that the killing and infliction of suffering done by nonhuman animals to others is necessary for their survival *qua* the animals they are. Human beings, however, do much of such infliction of suffering for sport and convenience, not out of necessity.

First, it's not established that all the killing and infliction of suffering done in the nonhuman animal world is necessary for survival. When lions kill the cubs in their pride, they are not driven to do this by vital evolutionary forces. Cats *play* with mice as they prepare to kill them. Our own playful use of animals could well be fulfilling important goals for us apart from the games themselves.

Second, human beings live for more than bare survival. Achievements in the arts, philosophy, athletics and so forth attest to this – even animal rights advocacy fits this picture. Mere survival is not *human* survival.

If, perchance, the development of some human potentialities requires the use of animals, even infliction of suffering on them, that may make such use morally proper, unobjectionable. Driving to the theatre, one may crush many small and even not so small non-human animals, causing pain and suffering. Yet it would not be a human life that did without such activities that happen to destroy some other animals.

Ethical reasons can be given for treating nonhuman animals humanely – for avoiding *wantonly* inflicting pain, for example. Still, the higher status of human life in the chain of living beings justifies use of other animals for human purposes (since, comparatively speaking, human interests merit greater service than the interest of nonhuman animals). ‘Animal rights’ (or liberation on a par with liberating slaves) is, therefore, a concept that embodies confusion, and veganism, which rests on it, is wrong.

More on the interest theory

One reason given for why we should ascribe at least legal rights to animals is that they have interests. This amounts to the view that if something can be benefited from certain states, conditions or circumstances, then it may be said, properly, to be a rights possessor. What does it have rights to? Whatever it takes to obtain those matters that are to its interest.

One problem with such interest theories of rights is that it violates the universalizability condition for ascribing basic rights. For, clearly, some beings have an interest in benefits that others also have an interest in, so it would be impossible to respect the rights of both beings if having interests conferred rights on both of them.¹⁴

The people of all kinds of countries have an interest in Middle Eastern oil. To ascribe to them a right to this oil would result in creating peacefully irresolvable conflict.¹⁵ Both Democratic and Republican candidates have an interest in becoming president of the USA, but both cannot have a right to this result – only one can be president.

Compossibility is a necessary feature of successful rights-ascription. To ascribe to *A* the right to liberty implies that others akin to *A* in the relevant respects, say *B*, *C* and *D*, also get this right ascribed to them. An interest-based theory of rights fails to satisfy this requirement.

What is true, of course, is that interest-bearing beings value things. And that is true about animals. Water, sunshine, nourishment, various ecological conditions and so on, are of value to animals. Yet they don’t have rights in consequence of this.

Having rights imposes obligations on others.¹⁶ If nonhuman animals had rights, they would have obligations to other (interest-bearing) beings. Yet, consider that zebras have an interest in and benefit from certain conditions – for example, grazing. Yet, that those conditions are of interest or value to them – they can live longer if they graze – does not imply that the lion, which also has interests – for example in killing

and devouring the zebra – is obligated to respect the zebra's right to such conditions. Neither do human beings need to respect some alleged right of zebras to keep grazing. If human beings ought to let the zebras graze, it will have to be shown based on something other than such supposed interest-based rights of zebras.

'Animal rights', a category mistake

The concept of 'rights' arises only when moral agency emerges in the natural scheme of things. William of Ockham referred to private property rights, for example, as 'the power of right reason'. That is, when rights are correctly ascribed, the agent who has them is generally able to make a considered moral choice between the right and the wrong course of conduct.

So why not violate someone's rights? Because it is demoralizing, it destroys their dignity, and because community life is inhuman without it.

Moral agency

It is the facility to choose freely from among alternative courses of conduct, of which some are right and others wrong, and to be held responsible for that choice, that grounds our basic rights. This is confined to those (adult) human beings who are not crucially incapacitated – who do not suffer serious brain damage, and so on. Why? Because it is such beings who possess free will. What does this mean? They are capable of initiating their most essential activity, namely, conceptual thought. It is such thought that can aspire to understanding principles of conduct.¹⁷

To see the merits of all this, let's consider that most of us confine moral advice, including blame and praise, punishment, ascribing guilt and responsibility, and exoneration, only to other human beings. Even those who would want nonhuman animals treated differently and who find their current treatment abhorrent turn to human beings with their appeal. It is only other human beings who are implored to treat other animals better than they do.

Sympathy for animals' miseries

No doubt many animals are miserable at times, often because humans make them so. Of course, this alone implies nothing much as far as any

rights are concerned. People, too, are often miserable without anyone violating their rights. Sometimes even when others are responsible for this, no rights violations need have occurred. Consider lovers who betray each other or contact sports athletes who hurt, even seriously injure their sparring partners or opponents.

Rights and liberty are political concepts usually applied to human beings. It is human beings who need moral space, that is, a definite (enough) sphere of personal jurisdiction.¹⁸ It is here that their authority to act must be respected and protected so that it is they, not intruders, who govern them. Then they may either succeed or fail in their moral tasks. This is all irrelevant when it comes to animals since they lack developed moral agency.

In their actions animal rights supporters – even when it comes to the Great Apes – act as specie-chauvinists. They do not urge nonhuman animals to behave morally, they do not hold them accountable for misdeeds, they do not so much as imagine that even the most advanced animals may be seriously morally blamed or praised; nor do they propose that animals be tried for crimes.

Morals and animals

Morality does pertain to how we ought to deal with animals but not by way of the political concepts of rights and liberty. One approach to this may be that morality *vis-à-vis* animals (and others) arises in connection with the practice of various major and minor virtues, including generosity, temperance and moderation. One would damage one's character by being cruel to animals, given that they can experience pain, which is certainly a bad thing for them. One could also be wasteful and callous in one's dealings with animals. (This is recognized in our common sense attitudes as we help shape our children's sensibilities toward animals. One need have no such concept as animal rights in mind to object to a child's torture of animals.)

Sadly, though, in our day both the Right and the Left attempt to address moral issues via law and government. This leads to wrongly ascribing rights and then asking for government protection of these rights. After all, it is the original ideology of US society that 'governments are instituted to secure...rights'. Outside of human community life, these concepts have no legitimate valid role to play in our thinking.¹⁹

Arguments from odd cases

Peter Singer, in his various discussions, argues that because there are cases of humans with lower capacities than animals, it would seem that the animals have better claim to having rights than these human since they have greater mental capacity.

The argument for individual human rights based on their nature does not rest on their level of intelligence or mental capacity but on their type of mentality, namely, what Ayn Rand has called 'volitional consciousness'.²⁰ This alone should indicate that invoking special cases of human beings will not undermine their moral nature.

Supposed someone wants to know about the Hungarian dance, the csardas, which the person does not know, or the iguana, an animal, again, the person does not know. If someone were to tell the person about these things it would be folly to begin by mentioning all the bad ways one can dance the csardas or all the deformed iguanas. Instead it is the proper ways of the csardas that would be used to familiarize you, as well as healthy iguanas.

Similarly, to learn about human beings and their lives, one focuses on the normal, healthy cases, not the special ones. And one would use what one learns from this when figuring out what sort of principles and institutions would be suitable for human community life and flourishing. That is how the natural rights approach to identifying what rights human beings have developed, not by means of geometrical deductions from necessary truths.

So using those undeveloped or odd cases will not help us learn about the moral situation of human beings as such, as human beings. Nor about other animals as such, as they are. The methodology invoked by Singer and his supporters, when they try to bolster their case for animal liberation or rights by invoking special cases or borderline cases, is epistemologically flawed and could not guide our understanding of anything outside of geometry, perhaps.

Animals, computers and human minds²¹

That animals do not qualify as rational beings and, therefore, basic rights-holders,²² is not something we know from a syllogistic proof but from reflecting on the evidence and putting forth an explanation that makes better sense than any other. For example, no animal raises the question of whether animals are thinking beings, nor makes any TV programmes on the subject.

Thinking for people is the mode of survival and flourishing – we cannot count on our instincts to get on with our lives. Other animals, in contrast, can handle their lives by means of their instincts and for them their minimal abstract thinking is an aside, brought on usually by human beings, scientists who induce thinking in them while they are in captivity. From this we can conclude, sensibly, that human beings are rational animals. That is what distinguishes us from other living things.

Let me just address very briefly the issue of whether machines can be rational. For example, what should we think about Big Blue, IBM's powerful chess machine, and the accompanying claims of some members of the Artificial Intelligence community? This will be but a brief comment but needs to be included here to round out the discussion of whether animals, and perhaps other non-human beings, may have basic rights to life, liberty and property.

Machines are good at very rapid calculation, mainly because that is how human beings have designed them to be useful to them in various tasks. Even calculators are faster than most of us, when it comes to adding, subtracting and so on, not to mention figuring out the best strategy for winning at chess. Except for a few human beings, such as a Bobby Fisher or Gary Kasparov, who have devoted the bulk of their lives to it, most of us are pretty pedestrian about figuring out how to win at chess. So Big Blue isn't really big news.

Human thinking is self-generated, a matter of one's own free will, something machines aren't up to. That is why *we* can be mentally lazy but neither animals nor machines can. That is why when a machine malfunctions, it makes no sense to blame it, anymore than it makes sense to blame or praise animals for their deeds. That is why believers in animal rights and artificial thinking machines do not address their arguments and appeals to non-human animals or powerful digital computers but, simply, to us.

A thinking being is free to supervise its own impulses, drives, and inclinations and is responsible for the outcome. This is what makes us unique. It is what puts us into the position of worrying about who and what we are, something other animals and machines, evidently, do not do. Whether this is wonderful or not isn't the issue here. What needs to be noted is that our humanity does leave us with certain unique attributes and it is rather pointless to constantly attempt to deny it.²³

Now let's imagine that computers and non-human animals begin, all on their own initiative, to put on conferences about human intelligence, animal rights, or other controversial topics. Let's imagine that they start up laboratories and scholarly journals exploring these issues

just as human beings do now. (I suppose we could use one of the *Star Wars* films as an aid for this thought experiment.) Perhaps then we could begin to seriously consider that they have come to be sufficiently like us and that our uniqueness in nature has disappeared.

Reply to critics

In the title of a comment on my recent paper 'Why Human Beings May Use Animals',²⁴ John Hadley refers to non-human animals as 'others', as if they were akin to, say, one's neighbours.²⁵ (He also loads his title with the notion that *using* such others would be some kind of 'abuse'.) So, then, even before reading his comment, one is already lured into sharing his conclusion, never mind that the argument is yet to come and may turn out to be unsuccessful.

But, of course, this is something many of us do. Let me just get to why I think Hadley's criticism is unsound.

The form of his argument is of the *reductio ad absurdum* variety. He purports to accurately recast my own argument in such a way that (a) it is compatible with what I believe and say, and (b) results in an 'unpalatable conclusion'. What is that? That cognitively impaired human beings may be used (against or apart from their will) by the non-impaired ones.

This not only conjures up Nazis, but Hadley explicitly states that '[i]t was the Nazis who used cognitively impaired human animals as resources for the sorts of tasks that Machan claims are necessary for beings considered more important to "succeed in life" or "flourish" as in medical research.'²⁶ The approach to arguing one's position that charges one's opponent with sharing the views and policies of the Nazis is a pretty low blow but, again, not all that unusual. So how does he justify his rather drastic charge?

Hadley states that in my paper I am making only a generalization when I define human beings as animals capable of moral agency. This is because there are cases of what we would all regard as human beings who are 'incapable of moral reasoning'. He puts it this way: 'After all, if the value of an individual is commensurate with their [*sic*] capacity to engage in moral reasoning, then it is reasonable to suggest that human animals wholly incapable of moral reasoning will have value at least equal to, or even below, some nonhuman animals such as greater apes.'

Here Hadley changes my wording quite significantly. He speaks of the 'capacity of engage in moral reasoning', whereas I speak of moral agency.

He never justifies his rewording. Perhaps he has in mind the same thing, but those were not my terms. Quite a few human beings who are moral agents aren't capable of engaging in moral reasoning at some point, say when asleep. And such reasoning, in any case, is something moral philosophers do, not ordinary folks who, for example, when they act negligently – say by driving recklessly – aren't reasoning much,²⁷ yet their moral agency is in no dispute. Is one necessarily capable of moral reasoning when one is blamed for this? I am not sure but it doesn't sound right – moral reasoning is more of an intellectual activity – it requires *deliberation* – whereas moral agency requires only that one is capable of *intentional* action or conduct, judgments that issue in behaviour. Such judgments may well amount to no more than unexamined beliefs, ones someone has picked up without any 'moral reasoning'.

But perhaps this is indeed minor for even such minimally intellectual performance could rest on the capacity to reason morally. The risk of such recasting of someone's way of stating his or her argument is considerable, however. In the (neo-Aristotelian) moral theory I find sound reasoning itself is *the* moral act, so those who do in fact think correctly, rationally, are *ipso facto* morally praiseworthy. I do not hold that there is some special intellectual activity called 'moral reasoning'.

Is Hadley correct to hold that because I define human beings as 'rational animals', that is, 'animals with the capacity to think abstractly', and ascribe to them moral agency – being responsible to act rightly and open to praise or blame depending upon whether they do so – I am committed to the view that I consider 'rights inappropriate for cognitively impaired human beings'? No.

When one defines a class of beings, one focuses on what they are normally, and in the case of living things, what they are at their state of maturity. So infants and those who are impaired will not (yet or wholly) fit the correct definition of the concept 'human being' fully, but it is clearly understood – in biology, botany and other life sciences – that a certain definition is the most apt way to classify them.

A pheasant, to take another case, may be defined as 'a large bird related to and resembling domestic poultry'. Now some pheasants, in fact, will lose their wings or experience some other temporary or even permanent impediments or alterations, yet this does not lead to their being something other than pheasants. No new classification will be required for such specimens of pheasants and whatever biological or zoological statements will be applicable to pheasants will be applicable to such infant or impaired instances, with appropriate modifications taking account of their special status.

This epistemological approach is routine. Furniture may be defined as 'the movable items such as chairs, desks, or cabinets in an area such as a room or patio', yet when some chairs are affixed permanently to a floor or if one of them breaks and is no longer usable as a chair, or, again, if some piece of furniture from years gone by becomes a fragile museum piece and would break upon being moved, it does not alter the fact that the most apt definition of furniture still applies, provided the requisite modifications are made. 'Model furniture', 'play furniture' or the like will clarify that, though these pieces are indeed properly called 'furniture', they are exceptional for the specified reasons. No wholesale reclassification of them is required or would be rational.

When it comes to impaired people, again the policy of classifying them with normal mature people for the sake of learning what sort of political principles need to be observed in order to treat them properly (say, in the field of medical ethics and law) is the most rational approach to take, provided certain modifications in the way they are to be treated are also spelled out. (Thus, children's rights or the rights of the mentally impaired are not respected and protected exactly the way the rights of healthy human adults are.)

Hadley and some others who have addressed my discussion of the basis of natural rights²⁸ – namely, the normal capacity for mature or adult human beings for moral agency (which is in gradual development from infancy and which is temporarily or permanently undermined for impaired persons) – are making a case for a way to understand what it means to be a given kind of being via a definition that is useless for deriving any kind of policy conclusions, be these ethical or political, or even principles of health or medical care. That is because these definitions are envisioned as having the attributes of logically necessary truths, not of definitions as they develop in such sciences as biology, botany, sociology, economics and psychology. They confuse definitions in the formal disciplines like logic and geometry with those in substantive spheres of knowledge. As such, they rob themselves of any possibility of defining substantive entities, as distinct from formal ones.²⁹

A theory of rights is by its very nature general, guiding law and public policy, and since human beings living in communities who are in need of such guidance aren't formal entities, definable by statements that are necessary truths, there will naturally be some exceptional cases. (This, among other things, accounts for the familiar jurisprudential idea that 'hard cases make bad law', as well as the doctrine of judicial discretion which authorizes legal authorities to make exceptional rulings.)³⁰

Despite Hadley's very confident language alleging that my approach to assessing whether animals have the kind of rights human beings have (that would justify banning their use by human beings) fails, he has not shown such failure, nor, therefore, that my ideas lead to anything like the Nazi practices he claims I must endorse, nor again that nonhuman animals have rights. They do not, whereas young and impaired human beings do, along, of course, with the rest of us (which makes good sense of why Amnesty International and various organizations monitoring governments and legal systems concerning whether they respect and protect rights are focusing on human, not animal rights).

In his comment-review of my book in which I discuss so called animal rights³¹ – posted both on Amazon.com and his website³² – Nathan Nobis says that my basic idea is that 'a being has rights – it is wrong to harm it for pleasure or even serious benefits – only if it has a "moral nature", i.e., a "capacity" to see the difference between right and wrong and choose accordingly (pp. xv, 10).' This is only roughly right and contains a serious misunderstanding. This misunderstanding consists of a mischaracterization of having rights.

Having rights does not mean it is wrong to harm someone for pleasure or even serious benefit, *not if they consent* (as in sports or scientific experiments). Having rights means it is wrong to invade someone's person or property, as when I assault another person or rob him or trespass over his or her dominion.

Harm is definitely not the issue since often invasive actions are not at all harmful, may even be quite helpful. When someone is hospitalized against his will, this is invasive but it is not harmful – it could, in fact, be helpful – but by rights theory it is also a violence against the person, against his human dignity. Or when someone is burglarized, this may not be harmful at all – the person may be so wealthy as not to suffer any harm from the burglary. If I trespass and take up residence on someone's land, that may again not be at all harmful.³³

One clear way to appreciate this point is to contrast the beneficial nature of some paternalistic actions with their rights-violating character. Indeed, in *Putting Humans First* I state that it may well be wrong to harm or hurt animals – I explicitly condemn wanton infliction of suffering – but that is not an issue of rights. For example, even in human relations, when one wrongs another person – say a friend or lover or kin – it is not even usually a matter of violating his rights. It is, rather, not treating the person as he or she deserves or should be treated. Rights violations are only a small group of such untoward actions toward others, mainly to serve as the basis of the rule of law in a free society.

My critic goes on to add to his objection that 'Machan says humans are of that "kind" [meaning moral agents] and animals are not and so concludes that humans have rights and animals have none. But these arguments are imprecise: true, only humans have this capacity, but only some humans, not all. Thus, his theory of rights seems to provide no protection for vulnerable humans who are not moral agents and so lack the moral nature he describes.'

As already discussed, the humans my critic says aren't moral agents are, typically, infants and people in a coma and other marginal instances which are clearly enough known to be marginal. A legal system that aims for the protection of human individual rights deals with some of these cases by making special provisions in light of their special attributes. To object to regarding human beings *in general* as moral agents because of these marginal cases is akin to objecting to regarding, say, chairs as artifacts for sitting simply because, well, one cannot sit on museum chairs or broken ones.

One should not develop theories about how the world should be understood based on marginal, exceptional cases, cases that, by the way, couldn't even be identified as marginal or exceptional without first having a clear enough grasp of typical or normal ones an understanding of which enables one to develop general principles, laws or rules. Where would medicine or engineering be if such exceptions could undercut the principles that guide our actions in these fields? Indeed, no one who embarks upon a systematic statement of ethical or legal principles, based on the most up to date substantive understanding of the world, is ever going to be able to produce the kind of geometrical framework these critics demand of me as I spell out a reasonable conception of human individual rights.³⁴

A brief polemical conclusion

At this point I wish to make what amounts to a declaration, the merits of which rest on everything said thus far.

It seems to me sad and disturbing that thousands of educated human beings appear eager to denigrate the human species. The righteousness with which they denounce specieism appalls me for it is rank misanthropy. These friends of animals are indignant about human beings taking themselves to be better than other animals. They are disdainful toward those who find it credible that human beings are at the top of the animal world. None of this is justified by their arguments and is, furthermore, plainly refuted by their own all too human moralistic stance.³⁵

Consider Peter Singer's emphatic announcement concerning his book, *Animal Liberation*:

... *Animal Liberation* will require greater altruism on the part of mankind than any other liberation movement, since animals are incapable of demanding it for themselves, or of protesting against their exploitation by votes, demonstrations, or bombs.³⁶

Singer continues:

Is man capable of such genuine altruism? Who knows? If this book does have a significant effect, however, it will be a vindication of all those who have believed that man has within himself the potential for more than cruelty and selfishness.³⁷

To start with, what does altruism mean here? It means self-sacrifice.³⁸ So what is called for, if Singer is to be believed, is not humane treatment of members of the nonhuman animal world but, literally, human self-sacrifice. Only for someone who has a very low estimate of the kind of self that is to be sacrificed would this appear to be a morally good thing. The choice offered to make this palatable is between this kind of altruism and 'cruelty and selfishness', the kind of selfishness we have in mind when we speak of cruel people, those who inflict needless, wanton pain and suffering.

But that's a false dichotomy. It also reveals a misanthropy that could only be based on the hasty generalization that because some people are evil, all are unworthy. Or it reveals that Singer is indeed anti-human, considering it justified to promote the sacrifice of human things for the benefit of nonhuman animals that are certainly not selfless.

Yet, to be delighted at being human, one need not take irrational pride in the achievements of other human beings – the Aristotles, Mozarts, Einsteins, Edisons, Van Goughs, Dostojevskys or John Glens and Buz Aldrens, not to mention all the less widely hailed heroes of the world. Yet everyone, at the same time, is justified to have high regard for the human species, to delight in all that it has done to earn a special place in the animal world (as well as lament its frequent destructiveness).

Those who assert a moral and political equality between human beings and other animals – to recall Burwood and Wyeth words, that 'all sentient beings are essentially similar' – should not go unopposed. They are unwisely and often stubbornly dedicated to

making us all feel unnecessarily insignificant, despite what the facts actually warrant.³⁹ And they get entangled in the paradox of exhibiting the very extraordinary human facility of thinking, criticizing, creating ideas and institutions, something other animals are incapable of doing. Most importantly, they admonish and implore humans relentlessly, all the while failing to note that they can only do this *vis-à-vis* human beings, a clue they oddly miss as they assess their own position.

Finally – ideas do have consequences

Some years ago, Richard Weaver wrote a wise book, *Ideas Have Consequences*.⁴⁰ Recently the listing of a firm, Huntingdon Life Sciences – the medical research company – on the New York Stock Exchange was delayed in light of the probability of protests from animal rights activists. This same company had been driven out of the UK for the same reasons. Furthermore, as *The Financial Times* reported, ‘a farm that bred guinea pigs used in medical research, was subjected to a long campaign involving vandalism, firebombings and death threats. It recently announced it would close.’⁴¹

If animals did have rights like we do, well then not respecting and giving protection to these rights would be a scandal. That’s just how the denial of women’s rights or the rights of members of various minority human groups is properly understood. Just as right-to-lifers in the abortion debate believe fetuses have human rights,⁴² and some of them are then motivated to firebomb abortion clinics, animal rights activists are also motivated to violence because they are convinced that the animals – especially great apes or others with fairly complex mentalities – ought never to be used against their will.

But if all of this is wrong, the results of the thinking and activism can be drastically harmful – major medical research projects may be banned and patients across the globe may go without medication and treatment. The question is vital for all concerned.

As I have argued here, animals have no rights, couldn’t really, since rights are based on the general human capacity for moral agency – for being able to choose between right and wrong conduct. Even animal rights champions admit that this is a unique human capacity, since they never preach to animals about how they ought to treat other animals or humans, realizing this would be pointless.

This brings to mind that famous saying by Edmund Burke – ‘All that is necessary for the triumph of evil is that good men do nothing.’

And it is evil, certainly, to allow a violent and wrongheaded group of people to bring about private and public policies that promote the banning of vital medical and other scientific work in support of human well-being.

Notes

1. Les Burwood and Ros Wyeth, 'Ethics and the Vegan Way of Life', *Philosophers' Magazine*, November/December, 1998.
2. See Richard Rorty, *Objectivity, Relativism, and Truth*, Cambridge: Cambridge University Press, 1991.
3. The most respected philosophical defenders of legal protection of animal rights or liberation are Tom Regan, *The Case for Animal Rights*, Berkeley, CA: University of California Press, 1984; and Peter Singer, *Animal Liberation*, New York: Hearst Corporation, 1991. Their arguments differ, Regan defending rights on grounds of a neo-Kantian understanding of the implications of animal consciousness, Singer defending liberation on grounds of utilitarian concerns for including animal experience as part of the calculus of pleasure and suffering.
4. 'Do Animals Have Rights?' in William H. Shaw, ed., *Social and Personal Ethics*, Belmont, CA: Wadsworth Publishing Co., 1993. In my various discussions of animal rights the sort of rights that are at issue are natural rights, pertaining to the constitution of a political community, not the weaker type of rights some dub 'moral'. These latter are different in that they arise out of various non-political, even personal relationships, such as a sister's rights *vis-à-vis* her siblings, a friend's rights *vis-à-vis* other friends, or the rights of someone to whom a promise has been made *vis-à-vis* the promise-maker. The sort of rights at issue in the discussions of animal rights are of the political variety since the argument is that since animals have such natural rights, a just legal administration is obligated to protect them. Moral rights do not require such legal protection – if one promises something to another, the responsibility to fulfill the promise arises but only when the promise is given contractual support would the laws of a free society become involved.
5. Robert Nozick, *Anarchy, State, and Utopia*, New York: Basic Books, 1974, p. 154.
6. But see, for some vital points about Singer's meta-ethics and ethics, Peter Berkowitz, 'Other People's Mothers', *The New Republic*, 10 January 2000. Singer is an ethical non-cognitivist, so his utilitarian ethics has to be a matter of his own preference or some alleged social convention – in any case, it cannot amount to something we human beings are all required to do as a matter of our nature. (For the naturalist approach to metaethics, in the Aristotelian tradition, see Ayn Rand, 'The Objectivist Ethics', *The Virtue of Selfishness, A New Concept of Egoism*, New York: New American Library, 1961; Martha Nussbaum, *The Therapy of Desire: Theory and Practice in Hellenistic Ethics*, Princeton, NJ: Princeton University Press, 1994; and most recently, Philippa Foot, *Natural Goodness*, Oxford, UK: Clarendon Press, 2001. For a distinction between norms such as natural individual rights

and norms such as ethical or moral principles based on human nature, see Douglas B. Rasmussen and Douglas J. Den Uyl, *Norms of Liberty: A Perfectionist Basis for Non-perfectionist Politics*, University Park, PA: Pennsylvania State University Press, 2005.)

7. I discuss some of this in Tibor R. Machan, *Private Rights and Public Illusions*, New Brunswick, NJ: Transaction Books, 1995.
8. Some of the following material is taken from Tibor R. Machan, *Classical Individualism: The Supreme Importance of Each Human Being*, London: Routledge, 1998, and *op. cit.*, 'Do Animals Have Rights?'
9. Stephen R.L. Clark, *The Moral Status of Animals*, Oxford: Clarendon Press, 1977, p. 13.
10. For more, see Tibor R. Machan, *Putting Humans First*, Lanham, MD: Rowman & Littlefield, 2004. Oddly, although this work directly defends a naturalist hierarchical view of what matters most – based on an ontology of emergentism – Mark Bernstein, dealing with the ethics of treating animals (in 'On the Dogma of Hierarchical Value', *American Philosophical Quarterly*, vol. 43 [July 2006], pp. 207–20) falsely asserts that such an approach is a dogma and no one has defended it philosophically.
11. *Op. cit.*, Burwood and Wyeth.
12. What animals lack is natural rights, say, to life, liberty, property, etc. By its very nature a conventional right can be invented, and for that reason animals may have them – cows have them in India, other kinds have them even in America, when the laws create them. But in this discussion I am concerned with whether by their nature animals have the sort of rights human beings have by their nature. For more on the nature of individual human rights, see Tibor R. Machan, *Individuals and Their Rights*, LaSalle, IL: Open Court Publ. Comp., Inc., 1989.
13. B. Bower, 'Chimps to people', *Science News*, 3 September 2005. The piece begins by noting that 'Despite sharing much of their genetic identity with people, chimpanzees exhibit previously unappreciated DNA distinctions, according to the first rigorous comparisons of the two species' complete genetic sequence' (p. 147).
14. Of course, having interests may well be part of being any kind of animal, even any living being – some matters will benefit them, some will harm them. So all rights-bearing animals will have interests, but that will not suffice for having rights, too.
15. Arguably, this is actually one of many mistakes driving much of Middle Eastern politics.
16. Some dispute this but, see, Tibor R. Machan, *Defending Libertarianism*, Burlington, VT: Ashagete, 2006.
17. For more on this, see Tibor R. Machan, *Initiative: Human Agency and Society*, Stanford, CA: Hoover Institution Press, 2000. See, also, Edward Pols, *Mind Regained*, Ithaca, NY: Cornell University Press, 1998; and *Acts of Our Being*, Boston, MA: University of Massachusetts Press, 1982. The compatibility of free will and science is spelled out nicely in Roger W. Sperry, *Science and Moral Priority*, New York: Columbia University Press, 1983.
18. This is one function of the right to private property. For more, see Tibor R. Machan, *The Right to Private Property*, Stanford, CA: Hoover Institution Press, 2002.

19. Of course, here we would need to confront the task of how concepts are to be validated, what makes them ideas with cogent meaning and what disqualifies them as such. Suffice it to say only that the building of concepts rests, in my view, on a combination of experience and rational thinking. Science must follow that process, in its myriad of forms, in order to remain a valid tool of inquiry about the world. See, Edward Pols, *Radical Realism, Direct Knowing in Science and Philosophy*, Ithaca, NY: Cornell University Press, 1992.
20. Ayn Rand, *Introduction to Objectivist Epistemology*, 2nd edn, New York, NY: A Meridian Book, 1990. As she puts the point, 'Man is a being of volitional consciousness: beyond the level of percepts – a level inadequate to the cognitive requirements of his survival – man has to acquire knowledge by his own effort, which he may exercise or not, and by a process of reason, which he may apply correctly or not. Nature gives him no automatic guarantee of his mental efficacy; he is capable of error, of evasion, of psychological distortion. He needs a *method* of cognition, which he himself has to discover: he must discover how to use his rational faculty, how to validate his conclusions, how to distinguish truth from falsehood, how to set the criteria of *what* he may accept as knowledge' (pp. 78–9).
21. The following passages are drawn from Tibor R. Machan, *op. cit.*, *Classical Individualism*.
22. This does not deny that animals can be legal rights holders, in the sense that they could be judged to have a right to an inheritance, for example, upon being made the beneficiaries of a will. It is this line of reasoning that allows Christopher Stone to defend the claim that they might have 'standing' in *Should Trees Have Standing?* 25th edn, San Francisco, CA: William Kaufmann, Inc., 1998.
23. Nearly all the philosophical discussions about human action, even those that stress the role of genetic determinants and evolutionary biology, admit that we are unique in being able to override our instincts, to monitor and choose the desires we will act on. See, for example, Richard Dawson, *The Selfish Gene*, London: Oxford University Press, 1990.
24. Tibor R. Machan, 'Why Human Beings May Use Animals', *Journal of Value Inquiry*, vol. 36, iss. 1 (2002), pp. 9–14.
25. See, John Hadley, 'Using and Abusing Others: A Reply to Machan', *Journal of Value Inquiry*, vol. 38, iss. 3 (2004), pp. 411–14.
26. *Ibid.*, p. 413.
27. Indeed, that may well be the source of their negligence. For more on this point, see Tibor R. Machan, *Classical Individualism* (London, UK: Routledge, 1998), chapter 3, 'Human Action and the Nature of Moral Evil'.
28. See, for example, Nathan Nobis at <http://www.courses.rochester.edu/nobis/papers/review-of-machan.html>.
29. This pretty much means they are unable to produce any kind of theory of rights or ethical conduct based on an understanding of what kind of beings might have such rights or require certain conduct. Perhaps this is why these philosophers seem to be more apt to engage in criticism than theory development, at skeptical reflections rather than at producing a workable understanding of something.

30. I develop some of these points in greater detail in Tibor R. Machan, *Putting Humans First, Why We Are Nature's Favorite* (Lanham, MD: Rowman & Littlefield, 2004).
31. *Op. cit.*, Machan, *Putting Humans First*.
32. <http://www.courses.rochester.edu/nobis/papers/review-of-machan.html>.
33. It was the philosopher J. Roger Lee who made all this clear in a paper titled 'Choice and Harms', critical of another philosopher, Judith Jarvis Thomson (the exchange is included in M. Bruce Johnson and Tibor R. Machan, eds., *Rights & Regulations*, San Francisco: Pacific Legal Foundation, 1983).
34. Unfortunately, these critics do not bother to look at the work I have produced on natural rights theory so as to develop my position as fully as possible – Tibor R. Machan, *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975), and *op. cit.*, *Individuals and Their Rights*, work that paves the way for my discussion of so-called animal rights.
35. No other species is known to be capable of such deeds!
36. Peter Singer, 'Animal Liberation', *The New York Review of Books* (5 April 1975), p. 20.
37. *Ibid.*
38. "Altruism" [is] *assuming* a duty to relieve the distress and promote the happiness of our fellows... Altruism is to... maintain quite simply that a man may and should discount altogether his own pleasure or happiness as such when he is deciding what course of action to pursue.' W.G. MacLagan, 'Self and Others: A Defense of Altruism', *Philosophical Quarterly*, 4 (1954), pp. 109–10.
39. As something of an aside, it is important to consider that this radical egalitarianism gains its most astute philosophical footing in the views of Thomas Hobbes, who advocated reductive materialism, the view that in the last analysis everything is simply *matter-in-motion*.
40. Richard M. Weaver, *Ideas Have Consequences*, Chicago: University of Chicago Press, 1984.
41. Reported in *The Financial Times*, 8 September 2005.
42. For a discussion of the abortion issue, see Tibor R. Machan, *The Passion for Liberty*, Lanham, MD: Rowman & Littlefield, 2003, chapter 17, 'Is Abortion Murder?'

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