STRANGERS TO NATURE

Animal Lives and Human Ethics

EDITED BY
Gregory R. Smulewicz-Zucker

Strangers to Nature

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LEXINGTON BOOKS
Lanham • Boulder • New York • Toronto • Plymouth, UK

Published by Lexington Books
A wholly owned subsidiary of The Rowman & Littlefield Publishing Group, Inc.
4501 Forbes Boulevard, Suite 200, Lanham, Maryland 20706
http://www.lexingtonbooks.com

Estover Road, Plymouth PL6 7PY, United Kingdom

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British Library Cataloguing in Publication Information Available

Library of Congress Cataloging-in-Publication Data
Strangers to nature : animal lives and human ethics / edited by Gregory R. Smulewicz-Zucker.
p. cm.
Includes bibliographical references and index.
ISBN 978-0-7391-4547-0 (cloth : alk. paper)—ISBN 978-0-7391-4549-4 (electronic)
1. Animal welfare—Moral and ethical aspects. 2. Human-animal relationships—Moral and ethical aspects. 3. Animal rights. I. Smulewicz-Zucker, Gregory R., 1983–
HV4708.S69 2012
179'.3—dc23
2011042531

The paper used in this publication meets the minimum requirements of American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI/NISO Z39.48-1992.

Printed in the United States of America

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Acknowledgments

I was first encouraged to undertake this project by Stephen Eric Bronner and Michael J. Thompson. As editor of the *Logos* series, Michael J. Thompson has been an invaluable source of support and guidance. Without his help and patience, this volume would not have appeared. I am extremely grateful to all of the contributors of this volume for their commitment to this project, their patience throughout the process, and their excellent scholarship. During the preparation of this volume, I benefited from the advice of Paola Cavalieri, David de Grazia, Frank Kirkland, Jeremy J. Shapiro, and many friends and colleagues at Hunter College, CUNY, The Graduate Center, CUNY, and the University of Cambridge. Members of my family, particularly Renate G. Smulewicz, Daniel P. Smulewicz, and Alexa J. Zucker, were very supportive of this project. My dogs, Nadja, Romy, and Mitya, granted me the time I needed to work and, I would like to think, appreciated the importance of the volume's topic. I would also like to thank my first editor, Joseph Parry, and second editor, Melissa Wilks, at Lexington Books for their support and patience. Erin Walpole and Alison Northridge of Lexington provided editorial assistance that was incredibly helpful. Lindsey Frederick, the production editor, carefully reviewed the pages of this manuscript and improved the volume's quality. Josephine Donovan and Gary Francione kindly agreed to review the manuscript and provide comments. Anne Burns gave advice on securing an image for the cover. Finally, I might never have undertaken this project had it not been for my mother, Hedda Smulewicz, who first encouraged me to consider the well-being of animals and has been my role model.

Introduction

Gregory R. Smulewicz-Zucker

The title of this book comes from Ralph Waldo Emerson's essay "Nature." In it, Emerson writes:

> The world proceeds from the same spirit as the body of man. It is a remoter and inferior incarnation of God, a projection of God in the unconscious. But it differs from the body in one important respect. It is not, like that, now subject to the human will. Its serene order is inviolable by us. It is, therefore, to us, the present expositor of the divine mind. It is a fixed point whereby we may measure our departure. As we degenerate, the contrast between us and our house is more evident. We are as much strangers in nature, as we are aliens from God. We do not understand the notes of birds. The fox and the deer run away from us; the bear and tiger rend us.[1]

Emerson describes an estrangement from nature, conceived in spiritual terms. He suggests that human degeneration is part of the estrangement from nature. Further, he emphasizes the ways our relation to animals becomes corrupted by this estrangement. Clearly, for Emerson, estrangement from nature is deleterious to human well-being. Despite Emerson's spiritual language, his statements about the estrangement of humans from nonhuman animals resonate in our more secular age. Humans and animals share the same planet. We domesticate animals and cohabit with them. We remove animals from their natural environments, whether by placing them in captivity or displacing them. Animals are used to make food and to test products for human consumption. We experiment on them to better understand the diseases that afflict us as well as to develop cures. Although there are myriad ways that the lives of humans and animals have become entwined, humans and animals remain strangers in a manner similar to Emerson's description. We have little understanding of their interests or the effects our actions have upon them. Our relationship to animals has become more complex and involved, but our vocabulary for understanding our ethical relation to animals remains limited. This is a problem for the practice of ethics.

It is the task of ethical philosophy to understand our conduct in the world. Because human influence on and control of the natural world is having greater consequences than ever before, the human impact on the lives of animals is more obvious than ever before. We cannot properly interrogate our conduct in the world without a deeper understanding of how our actions affect animals. Therefore, it is crucial that the human-animal relationship become more central

to ethical inquiry. For those concerned with ethical theory, the issues of animal ethics and animal rights raise several questions: What intellectual dilemmas remain unresolved for those who wish to extend ethical consideration to animals? Which established ethical theories might be extended and restructured to include animals? Must an ethical theory be based on the moral capacities of humans or upon claims about the nature of animals? How and why should the historical bias of humans against animals undergo transformation? Contributors to this volume were asked to address these questions. The purpose of the essays in this book is to attempt to overcome the ethical estrangement of humans from animals by developing new arguments for what a human ethic toward animals might look like.

The field of animal ethics has undergone a revolution over the last forty years. Concern with the ethical status of nonhuman animals has been prevalent throughout the history of writings on ethics.[2] Yet, the issue of animal ethics has gone from being briefly discussed in a few lines and footnotes by major philosophers, like Thomas Aquinas, Immanuel Kant, and Jeremy Bentham, to becoming a more central concern for many current thinkers.[3] The pioneering works of Peter Singer, Tom Regan, Mary Midgley, and Bernard Rollin helped to make the ethical status of animals a major intellectual and public concern. While these authors may not be familiar to the general public, their work has had a profound impact on society. These works brought terms like "speciesism" (showing prejudice based on species membership) and "anthropocentrism" (assigning value to human beings above other species) into the lexicon. Their arguments reinvigorated the ethical argument for vegetarianism and veganism. Their writings often publicized and highlighted the conditions many animals live under, provoking investigative journalists to pay greater attention. Perhaps most significantly, their writings have helped inspire the various movements on behalf of animals. Popular organizations like PETA have their intellectual roots in these writings. Understanding these ethical theories, therefore, leads to an understanding of the causes for the change in the public's awareness of animals and the conditions they live under.

In his seminal *Animal Liberation*, Peter Singer asserted that "there can be no moral justification for regarding the pain (or pleasure) that animals feel as less important than the same amount of pain (or pleasure) felt by humans."[4] Basing his argument on the utilitarian notion that suffering should be minimized, Singer argues that animal suffering deserves equal ethical consideration as human suffering. Moving away from Singer's focus on suffering, Tom Regan's *The Case for Animal Rights* developed a robust theory of animal rights based on the notion that animals are "subjects-of-a-life." According to Regan, animals are "subjects-of-a-life" and deserve ethical consideration because:

> they have beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain, preference- and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an

> individual welfare in the sense that their experiential life fares well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else's interests.[5]

Based on these criteria, Regan argued that animals have inherent value. Taking another approach, Mary Midgley sought to critique the bias toward animals inherent to Western ethical theory. Summarizing her argument, Midgley writes, "My point now is simply that the rationalist tradition did in general, as much as the Christian one, dismiss animals out of hand from the moral scene, that it did so on grounds that are not obviously acceptable today, and that the subject did, therefore, largely escape attention."[6] Unlike Midgley's critique of Western rationalism, Bernard Rollin attributed the denial of animal suffering and consciousness to a specific course taken by the sciences post-Darwin. He argued that "the elimination of animal consciousness from scientific concern can be seen as either a symptom or a result of a general reductionistic wave sweeping European culture at the end of the nineteenth and beginning of the twentieth centuries, a movement which aimed at cleansing, purifying, and getting rid of unnecessary frills."[7] In response to this turn, Rollin called for a return to a common sense approach to acknowledging animal consciousness and suffering.

Since the early works of the aforementioned philosophers, thinking about animal ethics has developed to include a rich array of alternative philosophical positions. It has become clear that both intellectual progress in ethical theory and practical change for the sake of bettering the lives of animals necessitates this development. The field of animal ethics has become a growing matter of philosophical and public concern, which has attracted the attention of intellectuals outside of the field like Martha Nussbaum, Cass Sunstein, Christine Korsgaard, Georgio Agamben, and Jacques Derrida as well as novelists like J.M. Coetzee and Jonathan Safran Foer. Nevertheless, many philosophers and professional journals remain reluctant to recognize animal ethics as an intellectually important field of inquiry. Presenting the diversity of alternative ethical positions in a single volume can display the intellectual seriousness of this field. Yet, at the same time, the publication of this volume is motivated by the contention that good ethical philosophy can convince the unconvinced with persuasive arguments. While the purpose of this volume is to critically engage a variety of alternative ethical frameworks, it also hopes to reassert the role of ethical theory in giving individuals reasons for modifying their conduct.

Several excellent edited books and readers exist on animal ethics already. Most of these books, however, tend to consist mainly of statements or modified statements of the most familiar theories of animal ethics and animal rights. While these theories are undeniably important, restating older theories suggests that some consensus has been reached in the field of animal ethics. This volume seeks to show that the field is still ripe with innovation. Another characteristic common to other edited books on this subject that is not shared by this book is the absence of descriptive essays. Essays that describe animal suffering in zoos, laboratories, and factory farms are common. Such essays tend to avoid

developing any ethical theory for why the mistreatment of animals is wrong, but underlying these writings is the notion that public awareness can elicit sympathy and change behavior. Recording animal suffering is important for raising awareness and motivating people to act on behalf of animals, but such essays lie more in the terrain of journalism than ethical theory proper. This volume is unique in its focus on ethical theory. All of the essays collected here are concerned with the ideas that can motivate a changed attitude toward animals. Thus, this volume is addressed to readers who are already familiar with the realities of the inhumane treatment of animals, but are seeking reasons for why ethical consideration should be extended to animals.

Few people doubt that the severe mistreatment of animals is ethically wrong. But good ethical theory does not merely provide rules for conduct; it also provides reasons for why people should adhere to certain forms of right conduct. In this respect, an understanding of animal ethics can offer individuals insight into their conduct toward animals. The enterprise of animal ethics can thus aid human self-understanding by provoking individuals to think about the basis for their everyday attitudes toward animals. Further, in a sense, the seemingly obvious view that severely harming animals is patently wrong is a means of continuing to dismiss animal ethics as a serious concern. Although it is desirable that there is agreement that animals should not be caused severe harm, this consensus belies the intricate distinctions in ways animals can be harmed. We may agree that animals should not be tortured, but we seldom ask how much the extreme pain of animals is a part of daily human practices. Killing animals for food in factory farms is a mundane event that we rarely consider as causing extreme harm to animals. In addition, when we invoke extreme harm as a threshold for what constitutes the improper treatment of animals, less obviously harmful practices like putting animals in zoos escape ethical consideration. While it is beyond the scope of this introduction to argue why such practices are wrong, the point is to show that ethical theory can expand the scope of our moral thinking. While it may confirm and provide a rational basis for our intuitively held beliefs, it can also challenge us to change our attitudes and conduct. Hopefully, the essays in this book will provoke people to broaden their understanding of the ways they negatively affect animals and change their actions.

The first section of this book, "Incorporating New Ethical Traditions," looks at existing philosophical theories and shows why these theories necessitate ethical consideration of animals. Each essay draws upon the work of a particular philosopher and extends their claims to include animals. Drucilla Cornell begins her essay by agreeing with Jacques Derrida's concern about the inadequacies of the language of rights when brought to bear on animals. Yet, she addresses Derrida's concerns by finding an alternative ground for obligating humans to treat animals with ethical consideration through an examination of Ernst Cassirer's argument that humans are symbol-using creatures. Cosmopolitanism has become an increasingly prominent concept in ethical and political theory.

Eduardo Mendieta develops a cosmopolitan argument for the ethical consideration of animals based on Jürgen Habermas' communicative ethics. Mendieta argues that a Habermasian cosmopolitan ethic can inform a non-metaphysical understanding of animal rights. Both Julian Franklin and Heather Kendrick base their arguments on Kantian ethics, but with different focuses. Franklin argues that Kant's notion of a Categorical Imperative establishes animal rights as a moral principle. Franklin suggests revising Kant's influential Formula of Humanity: "Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means." In its place, Franklin argues for a Formula of Sentience: "Act in such a way that you always treat sentience in your own existence or in the existence of any other, never simply as a means, but also as an end." Unlike Franklin, Kendrick finds such a revision of Kant problematic. Yet, she suggests that Kant can still be useful for animal ethics through an application of his third formulation of the Categorical Imperative: the Kingdom of Ends. She argues that the notion can be extended to include animals as having ends. In contrast to the foregoing contributors, Andrew Linzey takes a theological approach. He derives a Christian ethic that prohibits the mistreatment of animals from the moral thought of C.S. Lewis.

The contributions included in the second section, "Extending and Critiquing the Discourse," primarily problematize various aspects of the existing discourse on animal ethics with an aim to resolve issues so the discourse can advance. Paola Cavalieri opens this section with a survey and critique of the various ways Western philosophy has excluded animals from ethical consideration. She charges that these methods of excluding animals from consideration have not only had deleterious effects for animals, but for the practice of ethical philosophy in general. Moving away from a critique of theory, Rod Preece offers a critique of animal ethics in practice. From the standpoint of an animal ethicist, Preece identifies the erroneous and misleading claims made by advocates of animal rights. He shows how these claims harm the movement and argues for greater collaboration between animal rights advocates and the scientists that are so often vilified by the movement. Ted Benton offers a critique of practice in a different vein. Adopting a Marxist critique, Benton argues that animal ethical theory has been too divorced from socioeconomic concerns, specifically in its emphasis on the "liberal-individualist" concept of "rights." Benton calls for a discourse that is firmly grounded in issues of power and socioeconomic relations. Also drawing from Marx, Gregory R. Smulewicz-Zucker argues that the commodity form, as understood by Marx and Georg Lukács, presents a problem for the development of animal ethics. He argues that the commodity status of animals creates a contradiction in our conduct toward animals, which harms the consistency of the ethical guidelines by which we live as articulated by Hegel's concept of "ethical life."

The final section, "Developing New Ethical Grounds," includes essays that articulate innovative arguments for grounding the animal ethics discourse upon

new ethical categories. Michael J. Thompson freely draws from arguments in Hegelian ethical theory, but does so to interpret harm to animals as destructive of the public good and the ethical well-being of society as a whole. Although Thompson's essay is broadly Hegelian in character, his use of Hegel aids a robust argument for ethics as a public good and grounds animal ethics in the terrain of social goods and public ethical values. Working within a similarly phenomenological vein, Michael Allen Fox notes that humans and animals share common physical spaces. The way we approach physical space, he argues, is constituted, in part, by our ethical outlook, which means that we not only occupy physical space, but, what Fox calls, "moral space" as well. Humans, according to Fox, need to rethink the values within the moral space that we occupy in light of developing ecological crises. The essays by Lori Gruen and Ralph Acampora attempt to form new grounds for the development of ethical attitudes toward animals. Gruen's argument looks to ways to overcome differences between humans and animals. She attempts to do so by developing the notion of "entangled empathy" as a kind of ethical skill. She notes that we are "entangled" in relations with other creatures. Empathy is understood by Gruen as an ethical skill that enables us to connect to others and their circumstances. Entangled empathy is thus a form of "moral attention" that gives us the capacity to interrogate and attempt to understand the needs of creatures with whom our lives are intertwined. Sympathy, rather than empathy, is the focus of Acampora's essay. Based on shared physical vulnerability, Acampora argues that humans should sympathize with the bodily suffering of animals. A shared experience of bodily suffering elicits the kind of sympathy that Acampora finds could inform a new kind of animal ethics. Writing from the standpoint of his experiences as a longtime animal ethics advocate, Bernard Rollin critiques the detachment from practical issues in the construction of animal ethics. As one of the early proponents of the field of animal ethics, Rollin found that the most effective appeal on behalf of animals was by extending already existing and socially accepted moral concerns to animals. Rollin's approach is largely achieved through an appeal to common sense. He argues that changing people's attitudes toward animals is best achieved by showing how common sense notions, such as, that animals suffer, are incongruous with our current treatment of them.

Each essay, in its own way, attempts to overcome the estrangement of humans from animals described by Emerson. The final essay in this volume, by Peter Sloterdijk, echoes Emerson's concerns. Sloterdijk's essay does not fit easily into any of the aforementioned sections. In a more literary tone than the other essays, Sloterdijk points to the various attempts to bridge the divide between humans and animals. Although the essay questions the extent to which the divide can really be overcome, it poses a challenge to those faced with the issue of finding a way to ground the ethical consideration of animals. The problem of animal ethics may be a fundamental one, but Sloterdijk notes that there have been successful arguments for ethical consideration of animals, such as that of Pythagoras of Samos. Pythagoras' solution may not have survived into

modernity, but Sloterdijk suggests that it opened up a discourse that has been important to human ethical thought ever since and one that should not be abandoned.

The essays in this volume continue a long tradition in ethical philosophy. The tradition may be old, but, as Sloterdijk's closing essay implies, the field is still very much in its infancy. At present, however, the discipline of animal ethics has greater momentum than ever before, thanks, in part, to the efforts of thinkers like Singer, Regan, Midgley, and Rollin. Yet, this momentum needs to be exploited. One way of doing this is showing that the matter is by no means settled. There continue to be provocative ethical arguments for extending ethical consideration to animals. It is to be hoped that the problem illustrated by Emerson can one day be overcome in such a way that yields an end to the suffering of animals. The essays collected here point to the various reasons for why and how this could be achieved.

Notes

1. Ralph Waldo Emerson, "Nature" in *Essays and Poems* (New York: Barnes & Noble Classics, 2004) p. 43.
2. For an anthology of writings on animals see: *Awe for the Tiger, Love for the Lamb: A Chronicle of Sensibility to Animals*, ed. Rod Preece (New York: Routledge, 2002).
3. The most famous exception to this rule is the work of the neopolationic philosopher, Porphyry. See: Porphyry, *On Abstinence from Killing Animals*, trans. Gillian Clark, (Ithaca: Cornell University Press, 2000).
4. Peter Singer, *Animal Liberation*, Updated Edition, (New York: HarperCollins Publishers, 2009) p. 15.
5. Tom Regan, *The Case for Animal Rights* (Berkeley: The University of California Press, 2004) p. 243.
6. Mary Midgley, *Animals and Why They Matter* (Athens: The University of Georgia Press, 1983) p. 12.
7. Bernard E. Rollin, *The Unheeded Cry: Animal Consciousness, Animal Pain, and Science* (Oxford: Oxford University Press, 1989) p. 68.

Part I

Incorporating New Ethical Traditions

Chapter 1

Imagining a World without the Violation of Animals

Drucilla Cornell

As I write, we are facing what has been publicly called the worst ecological disaster we have faced so far in the twenty-first century. I am of course referring to the explosion of BP's oil drill off the coast of Louisiana, which continues to spew thousands of gallons of oil out daily. The destruction of the ecosystem of not only Louisiana, still not recovered from Katrina, but of other Southern states, is clearly going to be devastating and longlasting. The oil has now reached shore, and of course, innumerable species of animals are beginning to suffer the effects, from death to severe illness. Of course, such a disaster does not only affect animal species directly, but also indirectly, through the destruction of the entire ecosystem. Human beings will suffer as well, given the dire impact the oil spill has already had on the fishing industry, as well as on other economically sustaining activities such as tourism. Here we see that there is a bond between all creatures and the ecosystem, including humans. As the philosopher Jacques Derrida has argued:

> A large-scale disorganization-reorganization of the human earth is under way. One can expect the best and the worst from it, of course. But, without offering praise for some elementary vegetarianism, one can recall that the consumption of meat has never been a biological necessity. One eats meat not simply because one needs protein—and protein can be found elsewhere. In the consumption of meat, just as in the death penalty, in fact, there is a sacrificial structure, and therefore a "cultural" phenomenon linked to archaic structures

> that persist and that must be analyzed. No doubt we will never stop eating meat—or, as I suggested a moment ago, some equivalent, a substitute for some carnate thing. But perhaps qualitative conditions will be changed, together with quantity, the evaluation of quantity, as well as the general organization of the field of food and nourishment. On the scale of the centuries to come, I believe there will be veritable mutations in our experience of animality and in our social bond with other animals.[1]

Tragically, as Derrida reminds us, the need for these mutations is precisely because of a destruction of so many other species with which we share our planet. For Derrida, philosophy has been implicated in what he calls carno-phallo-logocentrism. Indeed, in his text, *The Animal That Therefore I Am*, he closely analyzes Adorno's assertion that Kantian notions of autonomy and dignity not only involve a project of mastery and sovereignty over nature, but a profound hostility and even a cruel hatred against animals and the animality of ourselves.[2] Whether or not one completely agrees with his reading of Kant, Derrida's primary point is that Western philosophy is implicated in a desperate gesture that separates "man" from animals, including our own identification as animals. As he explains:

> The axiom of the repressive gesture against animals, in its philosophical form, remains Cartesian, from Kant to Heidegger, Levinas, or Lacan, whatever the differences between these discourses. A certain philosophy of right and of human rights depends on this axiom. Consequently, to want absolutely to grant, not to animals but to a certain category of animals, rights equivalent to human rights would be a disastrous contradiction. It would reproduce the philosophical and juridical machine thanks to which the exploitation of animal material for food, work, experimentation, etc., has been practiced (and tyrannically so, that is, through an abuse of power).[3]

Crucial to this repressive gesture, for Derrida, is a complex analysis of how the very notion of sovereignty excludes God, the sovereign, and the animal from the reach of any imagined social contract or covenant that establishes both the nation-state and the rights-bearing citizen of the state. In his seminar, *The Beast & the Sovereign*, Derrida carefully analyzes thinkers as diverse as Rousseau, Hobbes, Descartes, and Lacan. All of these thinkers develop a complex notion of what makes us human that involves a fundamental break between us and animals. For example, he takes Hobbes to be exemplary in his argument that one cannot have a covenant with animals:

> And in the argument about language, that beasts do not understand, we find again the word "accept": brute beasts could not accept or make known to us, any more than God could, that they accept a convention or enter into that mutual acceptance that a convention is. Here:
>
> To make Covenant with bruit Beasts, is impossible; because not understanding our speech, they understand not, nor *accept* of any translation of Right; nor can

> translate any Right to another: and without *mutuall* acceptation, there is no Covenant.[4]

As diverse as these thinkers are, there are two reasons that they reject the idea of a covenant with animals. The first is that animals do not share in any of the bases that motivate human beings to form social contracts; for example, fear in Hobbes, and reason in Immanuel Kant. For Lacan, animals are not subject to the signifier, so they do not enter the symbolic order rooted in Lacan's particular notion of how we must accept our castration to effectively enter language at all. For Derrida, all of these assumptions rely on outdated notions of the animal, and on philosophical presuppositions about our own animality as a species. First of all, as Derrida reminds us, modern primatology has taught us that certain of the great apes practiced taboos against incest, taboos that are indeed more rigorously enforced than that taboo among human beings, and that therefore, the great apes can be understood to accept symbolic castration. Against Hobbes, Derrida argues that animals do indeed suffer and experience fear. Against the entire grain of Western political philosophy, Derrida argues that animals do have complicated sets of conventions and social relations, and that animal societies are by no means limited to the so-called "higher animals."

> To take only this example, very close to our seminar, it will not be enough to take into account this hardly contestable fact that there are *animal societies*, animal organizations that are refined and complicated in the organization of family relations and social relations in general, in the distribution of work and wealth, in architecture, in the inheritance of things acquired, of goods or non-innate abilities, in the conduct of war and peace, in the hierarchy of powers, in the institution of an absolute chief (by consensus or force, if one can distinguish them), of an absolute chief who has the right of life and death over the others, with the possibility of revolts, reconciliations, pardons granted, etc.—it will not suffice to take into account these scarcely contestable facts to conclude from them that there is *politics* and especially *sovereignty* in communities of non-human living beings. "Social animal" does not necessarily mean political animal; every *law* is not necessarily ethical, juridical, or political.[5]

When it comes to language, Derrida argues almost all the great philosophers of the Western tradition argue that animals can only react, they cannot respond, and because they cannot respond, they cannot enter into a relationship or covenant with human beings. The one great exception in Western philosophy to this idea that animals are not symbolic creatures capable of response is Ernst Cassirer. Cassirer famously argued that human beings are not primarily rational creatures: they are symbolic creatures, and that as such, we are in a continuum with other creatures, including many species of animals who share many of our capacities for symbolization. In his volume on language in *The Philosophy of Symbolic Forms*, Cassirer uses three dimensions to distinguish symbolic forms, explaining

their coherent formation: significance, representation, and expression.[6] Significance for Cassirer is crucial for understanding his conception of language. It is the possession and ability to work with an established set of symbols. Symbols are established both by the history and the convention behind their meanings, so that these symbols come to have universal applicability for those whose lives are embedded in a particular symbolic form. In language, it is this universal applicability that allows human beings to designate an object that can be repeatedly recognized as the same. Universal applicability also is crucial to the importance Cassirer places on the distinction between actuality and possibility. Universal applicability allows us to expressly name and designate objects, even if they are not present to us. To draw out the significance for a human being of a conventionally shared world of universal names, Cassirer movingly tells the story of how Helen Keller, the great U.S. writer, teacher, and activist, became mesmerized by a world of objects that arose before her even in her blindness, as she was able to give those objects names. Helen Keller overcame her inability to see and hear in order to flourish as a productive member of her community by teaching and writing. According to Cassirer, a world arose for Helen Keller only when she was able to master the art of naming, and grasp the universal applicability that inheres in language. It was almost miraculous for Helen Keller to grasp that "water is water is water," in all its shapes and forms. Said differently, we are able to learn what water means, and this meaning goes beyond any of the experiences we have with water. Water can operate in many different ways for human beings, yet we are still able to recognize it as water, and imagine possible worlds by using water as a metaphor.

For Cassirer, the capacity of objects to have a name of potential universal applicability is one of the main outstanding characteristics of human language. Linguistic designation not only gives us a world in symbol, but also provides us with an experiential relation to the world and the actuality of everyday life. This means that different languages that name objects with the status of universal applicability are indeed representing different things in the world. What is important for Cassirer is not the designated world per se, or the way words actually function as names. Rather, Cassirer aims to explain how human beings who speak different languages actually live in different and divergent worlds of both actual and possible objects. Despite the vast differences in the representational fields in which we live as human beings, such fields always occur in human language as a symbolic form with universal applicability. However, universal applicability is only one of the primary functions of language. The second is what Cassirer calls "vivification." Cassirer reminds us that the archetonic form of language vivifies, so as to allow language to make an individual sign, speak the whole of the world to those wielding a particular language. It is both universal applicability and the vivifying power of language that allow human beings to translate from one another the representational fields of experience, even as they live in different symbolic forms. The possibility of translation emerges through a constantly negotiated struggle to come to terms

with the designation and significance of words vivified in other languages. It is not only the inherent flexibility given in the infinite malleability of symbolic forms, understood as always opening into a horizon of possibility rooted in the inherent metaphoricity of language that makes the feat of translation possible. Those who wish to pass over such a linguistic bridge must open themselves to new ways of envisaging and opening up the world. They must allow their own habits of living in the world to be interrupted, in order to enter the divergent worlds offered by other human languages, but also to "listen and translate" to ourselves the responses of animals to us.

Cassirer argues animals know how to use signs to express themselves; can grasp rudimentary signs; and can communicate with one another in complex animal societies. The key difference for Cassirer between humans and animals—and here Cassirer is speaking of most mammals, not just the great apes—is that animals do not experience significance in the same way as human beings. As we have seen, for Cassirer, significance begins with an established set of principles. Symbols must be established through conventional meaning, so they come to have universal applicability to those fluent in a given language. It is this universal applicability that allows human beings to designate an object as the same object, and this process can be engaged repeatedly, even when the object is absent. For Cassirer, animals do not simply receive information from the concrete world: they also learn from it. But there are two main differences, and some of Cassirer's conclusions would now have to be tested by the much deeper understanding we now have of animal communities. Let me just stress what for Cassirer are the main differences.

The first is that animals do not move from the abstract to the concrete in the same way as humans do. Again, to return to the example of Helen Keller, in the English language, the word "water" can operate in many different ways, and we use water as a metaphor to build possible worlds. Yet we are able to give significance to water as a universalizable object, and this allows us not only to move from the concrete to the abstract, but from the abstract to the concrete. Animals do learn to abstract, but in a more practical sense. For example, animals are capable of drawing analogies, so as to be able to symbolize wetness to themselves. Given that animals have a sense of identity, which includes some likes and dislikes, they are able to express their likes and dislikes in accordance with wetness, which they are able to recognize across a variety of experiences. We have all seen the visceral abject reaction of some cats if some of their paws gets wet. Cats can recognize a pond, a swimming pool, and an ocean through a knowledge of wetness. The difference is that wetness can never be thoroughly abstracted in a world of meaning in which water takes on a separate meaning completely separate from experience. Again, this distinction takes us back to what Cassirer believes makes for difference between humans and those other mammals with whom we share so much. We are not only able to recognize

water in many different forms, but we are able to abstract from wetness into a world of meaning, and then name concrete objects in accordance with those meanings. Thus we are not only able to recognize water in its many different forms, but we are able to turn water into a metaphor, so as to create a possible world of new objects of meaning. Animals live in a more literal world of significance and representation. We can see, then, how the insistence by Cassirer that human beings are symbolic rather than rational creatures puts us in a continuum with animals, who are clearly also recognized as symbolic creatures. The difference between humans and animals is not of rationality, as in Kant, and certainly not as in Hobbes, that they cannot experience fear, and learn which objects are fearful. At least those animals that practice the incest taboo would also seem to be able to place themselves, if in a different sense, under the signifier, in that their own communities arise out of the acceptance of "castration," in that all others in their shared community cannot be turned into sexual objects. There are taboos that say: this one, not the other one. But for Cassirer, human beings live in a richer symbolic universe in a specific sense. This symbolic universe is one marked by a unique human distinction between actual and possible objects. Animals—and Cassirer will develop this insight at great length—cannot think possible objects and utopian worlds in the same way human beings can.

What is the relevance of Cassirer for the debate about animal rights? Jacques Derrida has warned us about the language of rights as being inadequate as a way for us to think about our relation to animals:

> One cannot expect "animals" to be able to enter into an expressly juridical contract in which they would have duties, in an exchange of recognized rights. It is within this philosophico-juridical space that the modern violence against animals is practiced, a violence that is at once contemporary with and indissociable from the discourse of human rights. I respect this discourse up to a certain point, but I want to reserve the right, precisely, to interrogate its history, its presuppositions, its evolution, its perfectibility. In this sense, it is preferable not to introduce this problematic concerning the relations between humans and animals into the *existing* juridical framework.
>
> That is why, however much sympathy I may have for a declaration of animal rights that would protect them from human violence, I don't think this is a good situation.[7]

Let me elaborate on Derrida's insight as to why animal rights is not the best political or ethical solution to the obvious and horrendous exploitation of animals by human beings. First, let me note that what I will argue about why rights it not the best solution does not in any way legitimate the dominant view of Western philosophy, that human beings cannot have some kind of covenant with animals. We have usually seen the idea of a covenant as that between juristic persons with symmetrical rights and duties. But there is no reason that a covenant needs to be defined so narrowly. So although I will argue against animal rights, it is not because I do not think it is possible for human beings to

have some kind of covenant with animals, nor that Derrida is wrong in forcefully reminding us that the very idea of a covenant, and with it, the establishment of sovereignty, has ruthlessly defined the human as against the animal. I am also not making an argument that there is necessarily any solid philosophical reason why animals could not be made juristic persons within any given legal system. The debate often bogs down as to whether animals have enough capacities to make them juristic persons. Although I have subscribed to what Cassirer has denoted as the differences between animals and humans, these differences would not necessarily lead to the conclusion that animals could not have rights. Often, the debate about animal rights has turned on whether or not they have enough capacities to have rights. As we have already reviewed, animals have extensive capacities, and these capacities certainly could underscore the need to give them rights. But to some degree, this debate is misguided, in that we for instance give the status of juristic person to corporations, which are clearly not living beings at all, and yet, we give such entities the status of juristic persons. Thus the reach of who and what can and cannot get the status of juristic person does not necessarily turn on whether or not these persons are part of the human species or some ideal of humanity. It turns as much on the politics and ethics behind how legal fictions can and should be used. Thus it is important to note that I am not making a technical legal argument about the extension of rights to animals, because they do not have enough capacity. If we made animals juristic persons, we could clearly develop a whole field of law in which people would be trained, for instance, to represent dogs, elephants, and whales in courtrooms. That they cannot speak a human language does not necessarily mean that we cannot train lawyers to represent them if we give them the status of juristic persons. I want, then, to turn the debate away from the question of what kind of capacities animals must have in order to have rights, to focus more broadly on how we should rethink the covenant that we should have with animals, and the obligations that would flow from them, but not from within a rights framework.

Cassirer can help us, perhaps, approach our obligation differently. If we are the animal that can imagine a different possible world, should we not be obligated to imagine a world in which there were no horrible oil disasters that will now wipe out so many species in the ecosystem of, at least, the Southern states of the United States? What then, if we do not speak of animal rights in the technical sense, because we do not impose reciprocal duties between animals and humans? After all, it is not whales who are building oil rigs so deep into the oceans that human beings can drill, but are incapable of fixing accidents. Here we have run into one more example of the limits of our technological rationality. The efforts to fix them would be laughable if these spills would not be so destructive. We have dropped giant mud balls with the hope of covering the hole; we have tried to use an elaborate straw-like technique; and we have tried to

cover the ever exploding oil by dropping a giant container over it. None of these have worked. The republican slogan, “drill, baby, drill!” has clearly taken its toll. But if we were to impose upon human beings special obligations that would not technically be rights, what would these look like? I can only imagine such a world of special obligations, and therefore what I offer is a sketch.

These obligations would include three aspects. The first, and perhaps most obvious, we would be called upon to avoid cruelty to animals of a sort evidenced in every slaughterhouse. The second is that we would be called upon to respect the many species of animals in their communities with their rituals, practices, and relationships, and we should seek to allow them the space to “govern” their communities in their own way without the infringement of human greed—perhaps inseparable from the drive of capitalism to destroy those domains. In other words, we must respect that animals do have domains and communities, and that part of our covenant with them is that we must learn to see what those are. The third obligation, related to the section, is that we must respect the wider ecosystem in which animals live, so that their domains are not destroyed or trampled upon. All three of these obligations could then give us a notion of how animals can be violated if they cannot in a technical sense be wronged. When we think about violation, we should do so through the demand on us to respect that animals do indeed have domains of life, and that when we trample on them, let alone destroy them, we are violating many different species with whom we share this planet.

Ultimately, then, I am in agreement with Derrida that the juridical language of rights, as it has been so incorporated in the carno-phallo-logocentric tradition, is not adequate to how we think about our special relations to animals. I am using the word “special” here to indicate that they are not reciprical obligations, but obligations that are imposed on us as creatures who can and should imagine a world in which animals are not violated. Derrida argues against the idea that we only have duties toward our fellow humans:

> But does one only have duties toward man and the other man as human? And, above, all, what are we to reply to all those who do not recognize their fellow in certain humans? This question is not an abstract one, as you know. The worst, the cruelest, the most human violence has been unleashed against living beings, beasts or humans, and humans in particular, who precisely were not accorded the dignity of being fellows (and this is not only a question of profound racism, of social class, etc., but sometimes of the singular individual as such). A principle of ethics or more radically of justice, in the most difficult sense, which I have attempted to oppose to right, to distinguish from right, is perhaps the obligation that engages my responsibility with respect to the most dissimilar [*le plus dissemblable*, the least “fellow”-like], the entirely other, precisely, the monstrously other, the unrecognizable other. The “unrecognizable” [*méconnaissable*], I shall say in a somewhat elliptical way, is the beginning of ethics, of the Law, and not of the human. So long as there is recognizability and fellow, ethics is dormant. It is sleeping a dogmatic slumber. So long as it

> remains human, among men, ethics remains dogmatic, narcissistic, and not yet thinking. Not even thinking the human that it talk so much about.
>
> The "unrecognizable" is the awakening. It is what awakens, the very experience of being awake.[8]

Thus I am clearly calling, with Derrida, for an ethic of responsibility that includes animals. But in a certain sense I am also calling for a specific kind of recognition of how animals are indeed symbolic creatures who live in rich communal domains, and that in a certain sense we are called upon both to see these domains and to learn to "hear" what animals have to say to us.

Some strong animal rights activists such as Peter Singer have argued that the great apes at least are so close to us that they should be granted almost the same rights as us. And he has argued that certain human beings who do not have the capacities of the great apes should not be given the same rights as the great apes. In other words, rights become correlated with capacities. There are at least two problems with this correlation. The first, as we have already seen, is that it excludes certain humans from having certain rights, and even from the designation "human." The second is that it is problematic to impose reciprocal duties on even the great apes, as I have already argued earlier in this essay. We have special obligations to them that we should not impose on them as having toward us. But why make a distinction between the human and animals at all, even the carefully crafted one of Ernst Cassirer? The answer is again ethical. The great South-African writer Steven Biko powerfully argued that we want to make the designation "human" as inclusive as possible, precisely because so many people, given the force of racism, have been excluded from the register of the human. Biko argues that this is one of the principles of African humanism.[9] Thus, in a certain sense, if we identify the human, even as Cassirer does, with symbolic capacity, and say that it is this capacity alone, then even this identification would be too exclusive. However, even if we ethically choose to open the register of humanity as wide as we can, beyond any particular notion of capacity, we can still rely on Cassirer's insight that those of us who are symbolic creatures in the two senses that Cassirer associates with the human would still have the special responsibility to prevent the violation of animals. As Derrida powerfully argues, we are never in more need of this mutation of our understanding of our humanity in our relation to the other species with whom we share this planet.

Notes

1. Jacques Derrida and Elisabeth Roudinesco, *For What Tomorrow . . . : A Dialogue,* Trans. Jeff Fort, (Stanford: Stanford University Press, 2004) p. 71.

2. Jacques Derrida, *The Animal That Therefore I Am*, Ed. Marie-Louis Mallet, Trans. David Wills, (New York: Fordham University Press, 2008).

3. *For What Tomorrow*, p. 65.

4. Derrida, *The Beast & the Sovereign, Volume 1*, Trans. Geoffrey Bennington, Second session, p. 55. Derrida's emphasis. (Chicago and London: The University of Chicago Press, 2009).

5. *The Beast & the Sovereign*, p. 16.

6. Ernst Cassirer, *The Philosophy of Symbolic Forms, Vol. 1: Language* (New Haven: Yale University Press, 1953).

7. *For What Tomorrow,* p. 74.

8. *The Beast & the Sovereign, Vol. 1*, p. 108.

9. Steven Biko, *I Write What I Like* (Chicago: University of Chicago Press, 2002).

Chapter 2
Animal Rights and Kantian Ethics

Julian H. Franklin

My purpose in what follows is to show that Kant's categorical imperative, when correctly interpreted, establishes animal rights as a fundamental moral principle. Kant assumed the moral law applied to humans (and any other rational beings) alone and expressly ruled out animals. I believe, however, that he simply failed to explore the full implications of the categorical imperative.

The first, and for Kant the principal, formulation of the categorical imperative is the Formula of Universal Law (FUL): *Act only according to that maxim whereby you can at the same time will that it should become a universal law.* This rule puts the burden of universalization on acts by a human only, which is unarguably acceptable. But the discussion of FUL then embodies a more debatable assumption, which is made altogether tacitly. For Kant implies that humans as rational agents are the sole class of entities that adherence to the moral rule protects. He fails to reflect, at least in this context, that to be obligated by a rule and to benefit by a rule are two different things, and this difference, with respect to FUL, must not be overlooked. The Formula of Universal Law is obviously binding only on humans, and not on animals. But it is not obvious that humans alone are the beneficiaries of that rule: I, as a fellow human, ought not to be harmed by another human without just cause on the part of that other. But why does this protection not include animals as well? Even though animals cannot be expected to recognize a moral law toward others, they too should benefit from moral law as a constraint on humans. They too ought not to suffer any injury without just cause from any human agent. And by just cause in this context nothing more is meant than reasonable self-defense by humans against imminent animal aggression.

One effective illustration of this view of FUL is the proposition: "I will eat the meat of any animal I please." At first thought this maxim seems capable of being universalized. Its adoption universally would not lead to any contradiction or subvert the very basis of society as would, for example, the maxim "I will lie whenever it is in my interest to do so." If this maxim were adopted universally, the very point of it would be negated. If everyone were committed to telling lies, no one would believe anyone. The most immediate threat to the continued existence of a social order would be the universal lack of good faith in making and in keeping contracts.

But now let us consider the maxim "I will eat the meat of any animal I please" more carefully. This maxim, literally construed, permits me to eat the meat of fellow human beings. And when this cannibalistic maxim is taken as a universal rule, I am liable to become its victim. Others may make meat of me. What I failed to see in my maxim on eating meat is that I along with all other humans belong to a species of animal. Once I correct that error I can see that my maxim, taken as a universal law, legitimizes cannibalism. This would not mean that humans are required to practice cannibalism, or will actually begin to eat each other. But it would mean that eating another human is no more immoral than eating beef or pork.

The same objection to the rule on meat also applies to "harming" in the ordinary usage of that term. Suppose I take as my maxim 'I can harm any animal I choose insofar as that advances my interests.' Here too, since humans are a species of animal, I strip myself, as well as all my fellow humans, of protection by a moral law. I am inviting a war of all against all, a theoretical destruction of society. The categorical imperative thus seems to demand of me and all other rational beings not only that we utterly remove meat from our diets, but that we respect the integrity of animals under all ordinary circumstances. The categorical imperative thus appears as a founding principle of animal rights.

It might be objected here that we have arrived at this result only by exploiting a semantic confusion, i.e., by a very non-specific use of the term "animal." Suppose, then, we distinguish humans as rational animals from all other species. Our maxim might then become "I will eat the meat of all non-human animals." It would now seem to pass the test of universalization and defeat all claims of an inherent moral right in animals. I could now not only eat an animal; I could also visit other harm upon an animal aside from killing it for food and would be free to do so without just cause. A neighbor might suffer injustice if I kicked his or her dog, but not the dog.

It appears, however, that the second way of stating the maxim on eating meat or harming another violates a fundamental condition of the categorical imperative. A maxim to be tested must be universal in its range. Only then can we ask whether it can also be taken as a universal law by every rational being. But a maxim limiting my diet to non-humans is not universal is limited in its range and cannot be tested by universalization as a law. Humans are a species of animal, their mental capacities notwithstanding, and they must not be exempted when a maxim on eating meat is formed for testing its acceptability as a universal law. Other than speciesism—uncritical preference for our own species—eating or harming a rational animal is no

different from eating or harming an individual member of some other species. The second version of the maxim on meat and on harming thus fails to pass the test of universalization as a law and must be rejected.

Here, however, a possible objection must be considered. The categorical imperative depends for Kant on the moral freedom of the individual. Humans, unlike any other sentient being, are held to be free to adopt a rule of action that contradicts all their natural instincts and inclinations. Instincts and inclinations arise within us from the sensuous world. "But. . . when we think of ourselves as free, we transfer ourselves into the intelligible world as members" (Grounding, 453). That membership cannot be experienced or proven empirically. But it is the necessary condition for the possibility of an act of pure practical reason, or a categorical imperative. Hence our involvement in the sensuous world of cause and effect is not the whole of our condition, as it is for animals. It might appear, therefore, that the rule on eating or harming animals does not apply to us.[1]

Nevertheless, our involvement in the sensuous world cannot be overcome within our present lifetime, which means, in turn, that we cannot in this lifetime completely realize the categorical imperative. We do not possess a "holy will," and that is why the categorical imperative appears to us always as an ought-to-be-done rather than a rule that we have actually followed or even can follow: "Now if I were a member of only that [intelligible] world," says Kant, "all my actions *would* always accord with autonomy of the will. But since I intuit myself at the same time as a member of the world of sense, my actions *ought* to so accord" (G, 455) .This is not to say that perfect realization of the moral law is denied forever. The very need to get to it, among those who work toward it sincerely, is a guarantee of immortality to pursue the goal of perfection in an eternal future and to come ever closer to achieving it.

Kant's somewhat dubious theology notwithstanding, humans do not escape a world they share with other sentient beings so long as they are alive. We are thus entitled to class them as animals for as long as they are here and as far as we know. Suppose, then, we tried to avoid the pejorative overtones of the term "animal" by substituting "sentient being." The maxim we propose to test would now read "I shall eat the flesh of any sentient being I choose." The inclusion of human beings would now be less of shock and the failure of the maxim thus worded to pass the test of universalizability more readily accepted. At that point the radical implications of the categorical imperative would have to be recognized even by habitually carnivorous humans. All animals, non-human as well as human, are sentient beings and the moral law forbids us to eat them, or to harm them in any way without just cause.

Kant's second form of the categorical imperative refers to humanity directly and leaves no doubt that animals are not meant to be included. According to the Formula of Humanity (FH) we are required to "Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means" (G, 429). This formula is meant

to be a more subjective and more developed way of expressing the basic idea of a categorical imperative. In FUL Kant states the categorical imperative in terms of the legitimacy of maxims when they are viewed as possible laws; in FH he states the categorical imperative in terms of the legitimacy of the ends of actions in the sense of their goals. "An end" in this context is the subjective ground by which an act of will is determined. Hence while FUL deals only with the formal principles of the will, or a will considered in abstraction from any end whatever, FH deals with the will's subjective goals.

Kant's question, then, is whether there is any end or goal which can be taken as morally necessary. Most of our ends arise from material needs or passing inclinations, and these goals are relative or transitory. But "humanity" when it is taken as itself an end is radically different from these others. It constitutes an "objective" end, an end of "absolute value." And this is what is meant by an "end in itself":

> Suppose, however, there were something *whose existence* has *in itself* absolute value, something which as *an end in itself* could be a ground of determinate laws; then in it, and in it alone, would there be a ground of a possible categorical imperative—that is, of a practical law.
> Now I say that man, and in general every rational being, *exists* as an end in himself, *not merely as a means* for arbitrary use by this or that will (G, 428).

Up to a certain point, FH may be taken as merely another way of putting FUL. If I were to treat another human individual as a mere means, that individual would be my slave or something close to a slave, and that would violate his or her humanity, and thus constitute a clear violation of the Formula of Humanity. But enslavement is also forbidden by the principle of universal law. In other words, the maxim, "I will exploit another human being whenever possible" cannot be universalized and fails the test of the first form of the categorical imperative as well as the second. FH would thus far seem to be a restatement of FUL from a subjective point of view.

This connection becomes a little clearer when we consider Kant's comment on "end-in-itself in his *Critique of Practical Reason.*" His explanation of that phrase, so minimal in the *Grounding,* is here a bit more expansive.

> In the whole of creation everything one wants and over which one has any power can also be used *merely as a means*; a human being alone, and with him every rational creature, is *an end in itself*: by virtue of the autonomy of his freedom he is the subject of the moral law, which is holy. Just because of this every will, even every person's own will directed to himself, is restricted to the condition of agreement with the *autonomy* of the rational being, that is to say, such a being is not to be subjected to any purpose that is not possible in accordance with a law that could arise from the will of the affected subject himself; hence this subject is to be used never merely as a means but at the same time as an end (KPV, 587).

The key idea for present purposes in the above quotation is "not to be subjected to

any purpose that is not possible in accordance with a law that could arise from the will of the affected subject himself." Any "law that could arise" from the person's will has to be a maxim sanctioned by the principle of universal law. The rule of FH requires me, the actor, to test the act that I wish another to execute as though it were my own act and to see whether the maxim from which that act follows would be consistent with the universalization rule (FUL) as it would apply to me. Thus far FH is not shown to add anything to FUL. The only difference is the subjective point of view—its application to another via my own conscience.

Nevertheless, there is one important difference in the *goal* of FH which is of capital importance in showing its relevance to our treatment of animals. FH is an obligation to promote the *happiness* of others. It has nothing to do with advancing their moral perfection except in so far as I am not bound to help another to achieve some illegitimate purpose. In the second part of *The Metaphysics of Morals,* which is his short treatise on virtue, Kant makes this point explicit. Under the heading "What Are the Ends That Are Also Duties?" he begins discussion with a summary answer, "They are *one's own perfection* and *the happiness of others*" (MV, 150). This striking statement of theme makes it very clear that our duty to others does not involve an obligation to strengthen their will to moral perfection. Moral perfection is an utterly inward transformation; it is a duty only to one's self which others cannot share. The duty that falls on each of us toward others is rather the duty to advance their happiness. Only in that sense do I share and promote their ends—ends which are presumably rooted in inclinations.

But this duty to promote happiness has two important exceptions. The end which the other seeks must, first of all, be permissible in the light of the categorical imperative. It must not, for example, require me to tell a lie. The second, which comes as a bit of a surprise, is that "it is open to me to refuse them [the others] many things that they *think* will make them happy but that I do not" (MV, 151). This rule is qualified by respect for the rule of justice. If the thing asked for by another rightly belongs to him or her, and it is in my possession, then I am bound to return it even though it is likely to be used unwisely. But otherwise I need not cooperate in a mistaken quest for happiness.

Under this aspect of FH we may use the labor of another as a means to our end, as long as it is a means to the other's end as well, normally by payment of a proper wage. And according to all the reasoning we advanced with respect to FUL, the rule of FH must apply to animals as well.

To put an animal to work without regard to its welfare and comfort—which is to treats it as a means only—is clearly to violate the second form of the categorical imperative (presented to us as the Formula of Humanity). Let it not be objected here that the non-human animal, unlike the human, does not insist on being rewarded for its labor or that the labor not be onerous—that the animal does not express a desire for happiness in any conscious way. But the second formula of the categorical imperative serves animals by protecting them not directly but indirectly through a

duty laid on us. We are morally bound to see to it that animals are not treated as mere means. Insofar as an animal works for us or serves us as a pet, we are obliged to ensure its well-being and guard against any exploitation.

This point depends on recognizing the inner life and consciousness of animals, on which Kant is notoriously wrong:

> [T]he value of all objects that can *be produced* by our action is always conditioned [on our inclinations]. Beings whose existence depends, not on our will, but on nature, have none the less, if they are non-rational beings only a relative value as means and are consequently called *things*. Rational beings, on the other hand, are called *persons*, because their nature already marks them out as ends in themselves—that is, as something not to be used merely as a means—and consequently imposes to that extent a limit on all arbitrary treatment of them (and is an object of reverence) (G, 428).

Absent this error, Kant's illustrations of Formula of Humanity are readily extended to include non-human animals. There are four such illustrations roughly parallel to the four illustrations of Formula of Universal Law, and non-human animals may be added to each version of FH without strain.

The first illustration condemns suicide as a way to "escape from a painful situation." To commit suicide is to construe life as a mere means to a tolerable existence. But the thought behind this applies to every form of sentience. Sentient existence implies hope in the future, and to give that up is to use one's "person" simply as a means to comfort in the present. But hope in the future must not be sacrificed for comfort. Nothing is more precious than hope; and even a fly, desperately buzzing to get through a window, must have hope of some sort if it is conscious at all.

Kant's second illustration is to make a false promise to another. That is use the other person merely as a means, which is forbidden. Although all sorts of social interactions require using others as a means, it is surely legitimate if the person used does so knowingly and participates in the benefit directly or indirectly. Forbidden only is to "make use of another man *merely as a means* to an end he does not share."(430) But *mutatis mutandis* this applies to domesticated animals as well. They share in an end for which they are used if they are adequately compensated for their efforts. Unlike human workers participation is involuntary. But even human workers may share in the benefits of the end without necessarily endorsing it, as long as the compensation is adequate. Animals too must not be used merely as means. They must enjoy well-being in their working life, and must not be discarded at the end as mere thing-like instruments. The dog retired for old age, the horse put out to pasture after long service, are not beneficiaries of mere kindness as Kant would have it; they are entitled to share in the benefits they helped to produce.

In the third illustration Kant requires us to develop our "capacities for greater perfection." Neglect of these capacities may be "compatible with the *maintenance* of humanity as an end in itself, but not with the *promotion* of this end" (432). I take

this to refer to one's own perfection rather than the perfection of humanity in others. One's proper plan of life is constant movement toward the end of a truly good will. Consistent with what we have argued earlier, one aspect of that movement toward perfection would be the ever greater development within ourselves of consideration for animals.

The subject of the fourth illustration is "happiness" considered to be "the natural end which all men seek." Kant comments that it is not enough simply to refrain from interfering with humanity's *pursuit* of happiness: "This is. . . merely negatively and not positively to agree with *humanity as an end in itself* unless every one endeavors also, so far as in him lies, to further the ends of others, for the ends of a subject who is an end in himself must, if this conception is to have its *full* effect in me, be also, as far as possible, my ends" (430). In this illustration of FH the ends considered are clearly empirical and relative ends. If others, for example, are in need of shelter, I must help to build a house. Indeed, all of humanity's happiness taken as my end would only be an aggregate of the empirical ends of all individuals. But with this understanding of advancing happiness FH ought to be extended to include not only humans but all sentient beings. If it is intuitively wrong not to help another human being in trouble where that is feasible, then it is also wrong not to help an animal where that is feasible. We may not be strictly obliged to get food to a hungry elk somewhere in the forest. But we may be strictly obliged to rescue a bug that is drowning in a puddle at our feet.

Concern for the well-being of animals is thus inseparable from the second form of the categorical imperative when its meaning is fully understood. It ought, accordingly, to be rephrased as FS rather than FH: *Act in such a way that you always treat sentience in your own existence or in the existence of any other, never simply as a means, but also as an end*.

We may now turn briefly to those interpretations which would understand the second form of the categorical imperative as a *limitation* of the scope of the first, rather than of the same or possibly expanded scope as we have argued above. Thus Thomas Pogge, conceding that the scope of FUL, if taken alone, might give protection to nonrational beings, considers this possibility to have been ruled out by Kant's language in FH, which expressly refers to humans only:

> [T]he fact that all and only rational beings can apply, and are bound by, the universalization requirement [in FUL] does not entail that all and only rational beings are protected by it. Formulas I [FUL] and Ia [the law of nature], though providing the *form* of the supreme principle of morality, offer no suggestion for how the *scope* of the required universalization is to be determined.
>
> My alternative interpretation views Formula II [FH] as contributing precisely this determination, in two steps:
>
> B_1 As rational beings, we recognize as ends in themselves exactly those beings who have a telos that is of absolute value. However, only a good will has absolute

> value. Therefore, exactly those beings who have the potential for a good will qualify for the status of ends in themselves.
>
> This argument provides what Kant needs: a way of showing just whom moral reasoning must take into account, and on what grounds. The argument singles out human beings—or rather persons, i.e. beings who are rational, and thus capable of acting from duty.[2]

The second part of Pogge's alternative interpretation is in effect a reversal of the apparent relation of FUL and FH as it is given in Kant. It is clear from what Pogge has said above that FH is not to be read in the light of FUL but that FUL is to be read in the light of FH:

> B_2 Rational beings must treat one another as ends in themselves, i.e. each must choose maxims so that all can contain or endorse them (even while the maxim's end remains attainable for him) [the rule of FH]. However, I may assume that all persons can endorse *my* adopting M if (and only if) they can endorse M's adoption by any other person as well. In order to test M, I must therefore ask: *Can all persons endorse that* M *should be available to any person* (even while M's end remains attainable)? I cannot will M if it fails this test.[3]

This tendency to read FUL in the light of FH and thus to narrow the scope of the formula of universal law seems to be fairly widespread in modern Kant commentaries. Allen Wood, for example, speaking of Kant's distinction between "persons" and "things," is not completely unsympathetic to those who refuse to accept a distinction which treats nonrational beings as mere means. But he seems to believe that a correct analysis of FH necessarily leads to that conclusion: "Once again, Kant's exclusionary claim [with respect to animals] can be made out only as a corollary of his positive argument that rational beings alone are to be regarded as ends in themselves."[4] This seems to be the same contention that we have seen in Pogge. Wood is assuming that the status of end in itself rules out the possibility of treating non-rational sentients as objective ends in any sense at all.[5]

But in the light of what we have argued as the proper scope of Kant's second formulation, this restriction of FUL to humans cannot be justified. Animals are ends in themselves as much as humans; this is a necessary implication of *either* of the first two forms of the categorical imperative.

Pogge, to be sure, is right to say that FH, as he interprets it, would rule out maxims that seem to defeat Kant's intention in FUL by referring to a particular subset of persons. By way of example he constructs the following maxim: "As Europeans we may reasonably will that all Europeans may colonize." He believes that. "Taking FUL strictly as given and by itself, this maxim can be universalized without contradiction even though it is clearly a self-serving statement by a European." But FH now serves to save Kant's universalist intention. For FH requires that we adopt no maxim that disadvantages other humans for our benefit. Hence a maxim discriminating against a particular subset of persons would have to

be rejected because the members of that subset would be treated as a means.[6] Pogge sees no other way to avoid a problem that is seemingly inherent in FUL.

Nevertheless, we have already shown that Kant is tacitly assuming that any maxim presented to the test of FUL must already be fully universal in its form. It must be universal in its subject and in its objective, and Pogge's illustration fails both sides of this test. Hence there is no need of anything in FH to filter out maxims to be tested by FUL, which discriminate against a particular subset of subjects. And there is no reason not to regard FH, as Kant would formulate it, as another way of looking at FUL. By the same reasoning, there is nothing lost if FH is rephrased as FS, that is, in terms of sentience: "Treat sentience in yourself as well as others never as a means only but also at the same time as an end."

The Formula of the Kingdom of Ends is taken by Kant as his third and final formula for the categorical imperative. But it is introduced by, and depends on, a preliminary principle, the Formula of Autonomy (FA). In effect, FA is a statement of the Formula of Universal Law in reverse. FUL begins with the maxims of an individual which arise from inclinations and then subjects those maxims to the critique of reason. The test is whether any given maxim can be universalized as law. FA, conversely, begins with the idea of a law and works back to the maxims it can support. It is an act of moral legislation in which a subject lays down the moral rule by which its maxims will be tested. It is "the idea of the will of every rational being as a will that legislates universal law. According to this principle all maxims are rejected which are not consistent with the will's own legislation of universal law" (G, 431).

The rational individual, presented as a moral legislator, can now be envisioned as a citizen-legislator in a possible Kingdom of Ends. And Kant now supposes a multiplicity of such rational legislators gathered into one community. Each of them will have fully acknowledged the duty, imposed by FH, to treat other humans never as a means only but also at the same time as an end. Let us also suppose that "one abstracts from the personal differences of rational beings and also from all content of their private ends." Now a remarkable ideal can be glimpsed. "Hereby arises a systematic union of rational beings through common objective laws, i.e., a kingdom that may be called a kingdom of ends (certainly only an ideal), inasmuch as these laws have in view the very relation of beings to one another as ends and means" (G, 433).

One must be wary, however, of any attempt to imagine what a "kingdom of ends" might look like. The idea is too abstract to be concretized.

> By 'kingdom' I understand a systematic union of different rational beings through common laws. Now laws determine ends as regards their universal validity; therefore, if one abstracts from the personal differences of rational beings and also from all content of their private ends, it will be possible to think of a whole of all ends in systematic connection (a whole both of rational beings as ends in themselves and also of the particular ends which each may set for himself): that is,

> one can think of a kingdom of ends that is possible on the aforesaid principles (G, 433).

When Kant says that the kingdom of ends is "certainly only an ideal" he is not denying that it could become a "kingdom of nature." But that possibility is surely considered to be remote and perhaps never quite able to be completely realized. In the *Critique of Pure Reason* he refers to the kingdom of ends as a *corpus mysticum* (KRV, A 808) which is replaced by *mundus intelligibilis* in the *Grounding*.

The rational individual is not therefore obliged to adopt maxims that will bring about any given conception of the Kingdom of Ends as though he or she were obligated to promote reforms pointing society in that direction. What Kant requires instead is "A complete determination of all maxims by the formula that all maxims proceeding from his own determination ought to harmonize with a possible kingdom of ends as a kingdom of nature" (G, 436). The individual is to "legislate" only in the sense that what he or she does will not be inconsistent with any possible Kingdom of Ends, and thus his or her role is limited to strict adherence to the basic moral rules. We can at least be sure that a maxim against lying will harmonize with whatever shape that kingdom takes. Kant, indeed, ends his discussion of the Kingdom of Ends (and the Formula of Humanity as well) by advising the conscientious individual to stay away from anything fancy. "But one does better if in moral judgment he follows the rigorous method and takes as his basis the universal formula of the categorical imperative: Act according to that maxim which can at the same time make itself a universal law" (G, 436-7). He thus ends with something very close to FUL as a rigorous procedure that points us toward a kingdom of ends. One might include all three formulas, however, in order "to bring the moral law closer to intuition." Each contains the other two as implications.

Animals obviously cannot be conceived as legislators in a Kingdom of Ends. But it is the same as with the first two forms of the categorical imperative. Just as they were among the beneficiaries of FUL and of FS which are binding only on humans, so also with the Kingdom of Ends in which they would have the status of protected subjects.

Such are the ways in which the logic of the categorical imperative points to animal rights. That Kant saw none of this is partly explained by the culture of his time. There was, indeed, the beginnings of a vegetarian movement which was already strong in England, and which was more and more concerned not only with a healthful diet but with the cruelties associated with eating meat. There were well-known attacks on cruelty to animals in slaughtering by Bernard Mandeville; sympathetic understanding of the animal psyche in David Hume, and insistence by Jeremy Bentham that the pain of animals as well as humans had to be considered in calculations of utility. But none of the authors mentioned seem to have abstained from eating meat and from other practices associated with cruel treatment. They had foreseen and opened up the path, but had not yet moved to a theory of animal rights. Kant, furthermore, was in some respects also a victim of the traditional indifference to animals in the rationalist tradition going back to Stoics and Descartes of which he

was an heir. Both in their own way denied that animals had any power of reasoning and suggest that they were governed solely by instinct (KPV 53).

Yet Kant was not a cruel man and seems to have looked for ways to rule out the more obvious forms of cruelty to animals. He found his answer in the ancient and ever recurring idea of an "indirect duty" of humans toward animals. But so far as animals are concerned we have no direct duties. Animals are not self-conscious and are there merely as a means to an end. That end is man. We can ask, "Why do animals exist?" But to ask, "Why does man exist?" is a meaningless question. Our duties toward animals are merely indirect duties toward humanity. Thus, if a dog has served his master long and faithfully, his service, on the analogy of human service, deserves reward and when the dog has grown too old to serve, his master ought to keep him until he dies. Such action helps to support us in our duties toward human beings, where they are bounden duties. If then any acts of animals are analogous to human acts and spring from the same principles, we have duties toward the animals because thus we cultivate the corresponding duties toward human beings. If a man shoots his dog because the animal is no longer capable of service, he does not fail in his duty to the dog, for the dog cannot judge, but his act is inhuman and damages in himself that humanity which it is his duty to show toward mankind. If he is not to stifle his human feelings, he must practice kindness toward animals, for he who is cruel to animals becomes hard also in his dealings with men.[7]

This idea of indirect duty is old. It is clearly stated in St. Thomas,[8] and may go back at least to the Greeks.[9] Nevertheless, it cannot be sustained. If inflicting pain and death on animals, without legitimating cause, is not cruel per se, why should it harden us toward humans? And if it does in fact harden us toward humans, it must be because we have become insensitive to the wrong of harming of animals. As Broadie and Pybus put it:

> [W]hatever is not an end in itself cannot be an object of direct moral concern. But Kant holds that animals are not ends in themselves. If, therefore, we are to speak, as Kant wishes, of maltreating an animal, we are to speak of something which is not an object of direct moral concern. Now maltreatment is a moral concept, in so far as it refers to a mode of dealing with objects which is unfitting to their nature. But if animals are not objects of direct moral concern, then in what can maltreatment of them consist?[10]

Nevertheless, the idea of indirect duty is still such a common way of soothing troubled consciences, it may be appropriate to quote Robert Nozick's eloquent and devastating critique:

> Some say people should not do so [kill animals wantonly] because such acts brutalize them and make them more likely to take the lives of *persons*, solely for pleasure. These acts that are morally unobjectionable in themselves, they say, have

> an undesirable moral spillover. (Things then would be different if there were no possibility of such a spillover—for example, for the person who knows himself to be the last person on earth.) But why *should* there be such a spillover? If it is, in itself, perfectly all right to do anything at all to animals for any reason whatsoever, then provided a person realizes the clear line between animals and persons and keeps it in mind as he acts, why should killing animals tend to brutalize him and make him more likely to harm or kill persons? Do butchers commit more murders? (Than other persons who have knives around?) If I enjoy hitting a baseball squarely with a bat, does this significantly increase the danger of my doing the same to someone's head? Am I not capable of understanding that people differ from baseballs, and doesn't this understanding stop the spillover? Why should things be different in the case of animals? To be sure, it is an empirical question whether spillover does take place or not; but there *is* a puzzle as to why it should, at least among readers of this essay, sophisticated people who are capable of drawing distinctions and differentially acting upon them.[11]

A final question is whether the ban on eating the flesh of animals should be extended to plants as well. It is a point most often encountered as an objection raised by carnivores who, threatened in their eating habits, put it forward as a *reductio ad absurdum* of the animal rights position. But it also has a long history as a serious theoretical objection, having been raised by the Stoics and Peripatetics who were notoriously hostile to the idea of animal rights. Thus Porphyry:

> They say that the first people to exist did not have a happy life, for superstition does not stop short at animals, but imposes itself even on plants. For how does a man who slaughters an ox or a sheep do greater injustice than one who cuts down a fir or an oak, if these also have a soul by reincarnation? These, then, are the most important arguments of the Stoics and the Peripatetics.[12]

Porphyry's answer is to deny that plants have feelings:

> But when someone says we ought not to use an ox for relish . . . what does he take from our life that is either necessary for our preservation or good for our virtue? On the other hand, the comparison of plants with animals is obviously forced. It is the nature of animals to have perceptions, to feel distress, to be afraid, to be hurt, and therefore to be injured. Plants have no perception, so nothing is alien or bad to them, nothing is harm or injustice . . .[13]

I personally hold some variation on Porphyry's view. Since plants do not have a central nervous system, there is a sense in which they do not feel pain. But those who are earnest in contesting this view, or whose moral principles include respect for life as such, will adopt a fruitarian lifestyle in whole or part. Strict fruitarians will not eat a living plant. They will wait until the fruit of a plant has ripened and dropped before consuming it. It is, indeed, an ascetic style of life, and when I encounter wiseacre objectors to animal rights who ask why rights should not extend to plants as well, I have a ready answer. I recommend fruitarianism to them as a way

to ease their troubled consciences.

Notes

1. I am indebted to George Kateb, Emeritus Professor, Department of Politics, Princeton University for raising this issue.

2. Thomas W. Pogge, "The Categorical Imperative" in *Kant's Groundwork of the Metaphysics of Morals*, ed. Paul Guyer, (Lanham: Rowman & Littlefield Publishers, Inc., 1998) pp. 197-198.

3. Ibid., p. 198.

4 Allen W. Wood, *Kant's Ethical Thought* (Cambridge: Cambridge University Press, 1999) p. 124.

5. Paul Guyer, on the other hand, who also argues for the priority of FH in interpreting the categorical imperative, may leave the door open for a broader view of the scope of the categorical imperative. He holds that "any particular exercise of rational nature is itself an instance of that which is absolutely good and yet also has an aim that is outside of and larger than itself." Paul Guyer, "The Possibility of the Categorical Imperative" in *Kant's Groundwork of the Metaphysics of Morals*, ed. Paul Guyer, (Lanham: Rowman & Littlefield Publishers, Inc., 1998), p. 233.

6. See the quotation from Pogge on p. above.

7. Immanuel Kant, "Duties to Animals and Spirits" in *Lectures on Ethics*, trans. Louis Infield, (Indianapolis: Hackett, 1981) pp. 239-40. These are transcripts of university lectures given by Kant between 1775 and 1780. It is interesting to note that Kant's evident concern for animals did not diminish over the years. His expression is even stronger in his *Doctrine of Virtue* of 1797 which is the second half of his *The Metaphysics of Morals* even though he is not yet able to express his feelings of concern without hiding behind the veil of indirect duty: A person's cruelty to animals, says Kant, "dulls his shared feelings of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality in one's relation to other men. The human being is authorized to kill animals quickly (without pain) and put them to work that does not strain them beyond their capacities (such work as he himself must submit to). But agonizing physical experiments for the sake of mere speculation, when the end could also be achieved without these, are to be abhorred.—Even gratitude for the long service of an old horse or dog (just as if they were members of the household) belongs *indirectly* to a human being's duty *with regard* to these animals: considered as a *direct* duty, however, it is always only a duty of the human being to himself." (MV 443)

8. *The Summa contra Gentiles of Saint Thomas Aquinas*, literally translated by the Dominican Fathers from the latest Leonine Edition, (London: Burns, Oates, and Washburn Ltd., 1928) Third Book, Part II - Chapters LXXXIV-CLXIII, ch. CXII, p. 92; *Summa Theologiae*, (Westminster: Blackfriars, 1969) vol. 29, trans. David Bourke and Arthur Littledale, Ia2ae.102,6, p. 225.

9. See generally Richard Sorabji, *Animal Minds and Human Morals: The Origins of the*

Western Debate (Ithaca: Cornell University Press, 1993).

10. Alexander Broadie and Elizabeth M. Pybus, “Kant and the Maltreatment of Animals,” *Philosophy* 53 (1978), p. 560. Regan, surprisingly, disagrees with Broadie and Pybus on the grounds that maltreatment could have meant for Kant merely making something unfit for efficient human use, which would apply also to spoiling an inanimate instrument. But surely what Kant had in mind was not spoiling but causing suffering. See: Tom Regan, *The Case for Animal Rights* (Los Angeles: University of California Press, 2004) p. 180.

11. Robert Nozick, *Anarchy, State, and Utopia*, (New York: Basic Books, 1974) p. 36.

12. Porphyry, *On Abstinence from Killing Animals*, trans. Gillian Clark, (Ithaca: Cornell University Press, 2000) p. 33.

13. Ibid., p. 91.

Chapter 3

A Place for Animals in the Kingdom of Ends

Heather M. Kendrick

Immanuel Kant's ethical doctrine regarding non-human animals (henceforth, "animals") has become rather infamous among animal-sympathetic commentators. Kant's idea that we have only "indirect duties" to animals that are really not duties to animals at all, but are instead covert duties to humanity, has been widely, and emphatically, rejected. Alexander Broadie and Elizabeth M. Pybus led the charge, arguing that Kant's failure to account for the strong intuition that animals are objects of direct moral concern is itself a reason to reject his ethical theory as a whole.[1] Kant's anthropocentrism makes providing for animals in a satisfying way within his ethical framework no easy task.

Yet, more recently, the enduring popularity of Kantian ethics combined with rising concern for animals by ethicists has resulted in various attempts to do just that. Those wishing to put forth a Kantian doctrine of animal treatment have two choices: they may try to save Kant's indirect-duties approach by doing battle with its more counterintuitive implications and showing that it provides for a more extensive set of obligations than it seems, or they may try to replace it with some other account of animals that accords with those aspects of Kantian ethics that they consider most important to preserve. The accounts on both sides have been problematic. Those choosing to support Kant's stated doctrine have the advantage of avoiding major (and possibly damaging) reconstruction of the Kantian system, but cannot escape the myriad problems, both empirical and

theoretical, with the indirect-duty view. Those who endorse a revisionist approach can avoid those problems, but at the risk of losing some of the basic tenets of Kantian doctrine.

I, too, am joining those who consider Kant's ethics well worth keeping, but the loss of moral concern for animals much too high a price. I will argue that Kant's indirect-duty approach is unsalvageable, and will take the second road, finding—or constructing—another shelter for animals within Kant's framework, using a revised conception of the Kingdom of Ends.

Kant's Indirect-Duty Doctrine and Its Unsavory Implications

Kant's doctrine of indirect duties can be found in a short passage in the *Metaphysics of Morals*[2] and in two passages in the *Lectures on Ethics*.[3] Kant states in no uncertain terms that we do not have true duties to animals. A human being, he claims, can only have a duty to other human beings, because the object of our duty must be a person (and, furthermore, an object of experience—we cannot have a duty to a person who is beyond the limits of our experience, such as God).[4] In Kant's terminology, nonrational beings of all kinds are not persons, but things.[5] Like other things, "all animals exist only as means, and not for their own sakes... whereas man is the end."[6] When we take it that we have duties to animals, we are committing an "amphiboly in moral concepts of reflection"—that is, making a sort of mistake. We are mistaking our duty *with regard to* animals for a duty *to* animals.[7] Kant states that such duties "[belong] *indirectly* to a human being's duty *with regard to* these animals"[8] and that they "have an indirect reference to our duties towards mankind;"[9] thus the theory has become known as the theory of indirect duties.

We have indirect duties regarding animals because mistreatment of them violates a duty to humanity. Kant construes it as a duty to oneself: cruelty to animals demeans us and damages our own humane and sympathetic qualities.[10] Ultimately, however, the reason it is wrong for us to damage those qualities is that they are conducive to moral behavior toward other human beings.[11] "A person who already displays such cruelty to animals," he writes, "is also no less hardened toward men," and he approvingly cites an engraving by Hogarth, "The Stages of Cruelty," that depicts a child being cruel to animals and eventually growing up to be a murderer.[12]

Despite his denial that we have direct duties to animals, Kant's prescriptions for their treatment are surprisingly extensive. We may kill them, but it must be done quickly and without pain. We may put them to work, but it must be work that "does not strain them beyond their capacities," similar to the work that we do ourselves. We may not use them for painful experiments "for the sake of mere speculation."[13] A dog that has served his master faithfully should be rewarded with a comfortable retirement, not simply shot when he is no longer of

use.[14] Even less popular species are given their due by Kant: he tells us that "we cannot even contemplate cruelty to a wolf" if we have studied its behavior and seen how greatly it cares for its young, and speaks favorably of Leibniz for placing a grub back on a leaf when he was done studying it.[15] The scope of Kant's concern for animals is laudable, even as its basis is suspect. Broadie and Pybus suggest that Kant wanted to account for the common belief that animals are owed moral consideration, but was unable to find an adequate way to do so: "Having unceremoniously ushered animals out of the front door of the moral universe, Kant has, with commendable discretion, tried to smuggle them in through the back."[16]

This back-door approach is fraught with problems. The first is that it plainly contradicts common sense. According to Kant, shooting the faithful dog violates no duty to the dog; it violates only the shooter's duty to herself. This is regarded by many as objectionably counterintuitive. Broadie and Pybus criticize Kant for claiming to present a theory that accords with ordinary views of morality and then endorsing a view of animals that runs deeply contrary to those views.[17]

Another counterintuitive implication lurks behind the first. If only the threat of harming our sympathy toward other human beings stands in the way of our using animals however we wish, that leads to a claim that is difficult to accept: if torturing animals had no effect on our sympathy toward human beings, then we would have no obligation to refrain from doing it. Worse, as noted by Allen Wood, if it turned out that torturing animals actually improved our attitude toward other human beings—for instance, by releasing aggression—then we would have a duty to do it.[18] There is no basis, on the indirect-duty view, for claiming that torturing animals would still be wrong even if it did not damage our sympathy toward human beings.

An indirect-duty apologist could respond by accepting this disturbing implication, but emphasizing that it is merely theoretical: in our world there is indeed a close connection between harming animals and damaging our kindly qualities toward human beings. There is, however, reason to doubt that. Surely cultures have existed in which people thought nothing of treating animals cruelly without this in turn leading to widespread cruelty toward fellow human beings. It seems doubtful, for instance, that places where bullfighting or other blood sports are traditional and popular are in general more brutal than places where they are not. And even if there is some correlation between cruelty to animals and cruelty to human beings, it would have to be a very strong correlation to ground universal duties.

Even if there is a strong correlation, it may not be a necessary one. According to Kant, animals are analogues of humanity, and observing this analogy helps us cultivate our duties to humanity.[19] But Kant's relegation of animals to the realm of merely indirect duties is based on a deep and significant difference between us and them. J. Skidmore suggests that it would be more consistent with Kant's doctrine for him to advocate training ourselves to separate our attitude toward animals from our attitude toward human beings.

Since our sympathy toward animals can at times be a moral distraction, instead of reinforcing the superficial analogy between human and animal qualities, we should be shaping our sympathy to reflect what Kant sees as a clear moral difference between human beings and animals.[20] The indirect-duty theorist could claim that human beings are psychologically incapable of doing so, but this is doubtful. Robert Bass points out that "the long history of racism, nativism and xenophobia is testimony that humans have generally not had much trouble in distinguishing, and treating differently, the members of an in-group, us, and those outside, them, even when the in-group and those outside were much more alike than humans and the other animals."[21]

The case of someone who inevitably harms animals in the pursuit of something that benefits humanity lends further support to the idea that we not only can, but should, shape our sympathy to exclude animals. According to Kant, "when anatomists take living animals to experiment on, that is certainly cruelty, though there it is employed for a good purpose; because animals are regarded as man's instruments, it is acceptable."[22] The researcher who does these cruel, but in Kant's view justified, experiments must be obliged to shape her sympathy in the way Skidmore suggests. Without taking care to do so, she might damage her sympathy toward human beings. If it is possible for her to shape her sympathy to avoid this result, then the strong connection does not hold. If it is not possible, then the indirect-duty theory would have to forbid any use of animals that causes suffering, even when it is in service of an important human goal. This consequence subverts the foundation and intentions of the theory.[23]

One final problem with Kant's treatment of animals is that it suggests a similarly precarious position for other nonrational beings who would normally be considered moral patients. Christina Hoff suggests that Kant would have trouble finding an adequate place for mentally impaired human beings in his theory. He could claim that our duties with regard to them are also indirect, but "it is implausible that our duty to feed a hungry retarded child would turn out to be indirect and, in this respect, essentially distinct from our duty to feed a normal child."[24] Or he could find some way of moving them under the umbrella of direct moral concern, but any method he could use to do this would make it difficult to justify excluding animals.

Kant's indirect-duty theory, as I and many others have argued, is highly counterintuitive and rests on a dubious empirical claim about the psychology of sympathy. These difficulties compel Kantians to offer a new defense and explication of the theory, or else replace it with a revised Kantian account of the moral status of animals.

Saving the Indirect-Duty Doctrine

Despite the problems with the indirect-duty theory, some have tried to support it by showing that it offers, or can be made to offer, a stronger account of obligations involving animals than it seems at first look. Tim Hayward claims that the theory has been unfairly maligned based on a misreading. Under Kant's view, although animals are not the direct objects of duties, they nevertheless benefit from the duties that we have, and he asks what is really added to that by asserting a duty *to the animal*.[25] It is only a problem, he argues, if the protection afforded animals under the theory is insufficiently secure.

He considers the argument that its insecurity is due to the contingent psychological prediction on which it is based, and replies that this is a misinterpretation. Kant's actual claim was not empirical, according to Hayward. He argues that the "humanity" damaged by adopting a cruel maxim is actually "the moral quality which one is to show other humans—as an *example.* In short, what we have here is not primarily a physical, or psychological, but a moral offense."[26] This argument is unconvincing in the face of the textual evidence. Although Kant does claim that the duty to avoid cruelty to animals is a duty to the self to avoid harming one's own morally-useful sentiments, he repeatedly justifies that duty by reference to the necessity of keeping our moral sentiments in good health for the sake of other human beings. Hayward instead tries to use the formula of universal law to establish that cruelty is a moral offense: it is a contradiction, he claims, to say "I will always treat beings with a capacity for suffering as if they have no capacity for suffering."[27] The usual problems of maxim-formulation apply here, but as stated, it does not seem contradictory unless as-if maxims are always considered contradictory.

Lara Denis offers a more extensive reconstruction of the theory that stays close to Kant's stated doctrine, and attempts to show that it is "more substantive and interesting than philosophers have often acknowledged," although she does not rule out the possibility of other Kantian doctrines.[28] She uses Kant's discussion of self-mutilation as a guide. According to Kant, self-mutilation is normally a violation of a duty to oneself, and is *prima facie* wrong. He admitted of some instances, however, in which it would be permissible, such as amputation to save one's life.[29] Denis uses this as an example of an action which we must avoid unless a stronger ground of obligation—in this case, the duty to preserve one's animal nature as a precondition for preserving one's rational nature—is present.[30]

Denis applies this reasoning to examples involving animals, and concludes that the wrongfulness of subjecting animals to suffering is similarly *prima facie*. "We should not be willing to diminish or thwart our dispositions to love and sympathy for trivial benefits," but when the action is taken "to preserve or substantially to further his own rational nature or that of other rational beings" then this stronger ground of obligation overrides the *prima facie* wrong.[31] This interpretation accords with Kant's disapproval of torturous experiments

undertaken "for the sake of mere speculation, when the end could also be achieved without these"[32] and his claim that cruel experiments on animals are acceptable "when employed for a good purpose."[33] The indirect-duty view, then, allows for the infliction of suffering on animals if the benefits to a rational being are great enough.

Although arguing for the legitimacy of animal research under Kant's view, Denis claims that it would forbid many current practices because the benefits they bring to humanity are too trivial to serve as overriding grounds of obligation. Among them she includes eating animals simply because one likes the taste of meat (as opposed to when other adequate food sources are not available), and using animals for leather and fur when other suitable fabrics can be obtained.[34]

It is not clear, however, that the prohibition on killing animals for food would extend to *eating* them, since most people who eat animals do not also kill them, or watch them being killed. Contemporary intensive farming keeps most of the animals out of sight, and the packaging and presentation of meat makes it easy for people to psychologically distance themselves from the animal it once was. Since the meat eater is often entirely divorced from the violence entailed in obtaining it, her tender sympathies will not be exposed to damage. This would seem to imply that the wrong is committed by those who run and work at the farms and slaughterhouses, not those who merely eat what is produced there.[35]

Denis responds that there seems to be a duty to think about where one's goods come from, and thus to make the suffering of animals in distant farms vivid to ourselves.[36] On its own, this response is questionable, since one could argue that rather than making the cruelty vivid to ourselves, we should strive to maintain our obliviousness in order to protect our delicate sentiments. But Denis avoids this issue by further arguing that there is a duty not to support wrongful action by others; once a consumer does know of the cruel treatment of animals on farms, he or she then has an obligation not to participate in that cruelty by buying or consuming the products of it.[37] That makes the obligation not to eat meat independent of whether our own sympathy is damaged by it, so long as we realize that others' sympathy is being so damaged.

Denis and others (a similar indirect duty argument for vegetarianism has also been put forth by Dan Egonsson)[38] are correct in noting that Kant's theory, taken seriously, would involve significant reform in our current uses of animals; nevertheless, this fails to rescue it from the intuitive problems discussed in the previous section. If Kant's theory does prohibit killing animals to eat them, it does so only for our sake, not theirs. Emer O'Hagan, in criticizing Denis, emphasizes this strangeness: "Typically ethical vegetarians choose not to eat meat because they care about the conditions under which animals live and die, not to avoid damaging their moral character."[39]

Even if the Kantian is willing to make peace with the indirectness of duties

with regard to animals, the problems related to Kant's psychological thesis remain. Some instances of suffering inflicted on animals for the sake of humanity are approved of by Kant even though, if the thesis is correct, those actions may cause damage to the agent's sympathy. Denis argued that this is similar to Kant's belief that self-mutilation is justified under certain conditions. Although this is a plausible interpretation of Kant, Skidmore's critique still holds: given that we may encounter situations in which our sympathy is at odds with our direct duties to human beings, rather than simply override our sympathy in that case (and, presumably, do damage to it), we should anticipate this possibility by shaping our sympathy to better reflect the real moral differences between animals and human beings. It would have been more consistent for Kant to deny any duties with regard to animals. Defenses of the indirect-duty view such as the one offered by Denis are unable to solve this problem. As a result, Kant's attempt to get animals in through the back door is unsuccessful. A revisionist Kantian approach is needed to account for obligations involving animals.

Revisionist Approaches

Various attempts have been made to replace the indirect-duty approach with one that affords greater consideration of animals while remaining faithful to a substantial part of Kant's ethics. These attempts can be roughly divided according to which formulation of the categorical imperative they focus on revising.

One approach is to try to use an appeal to the formula of universal law (FUL): "I ought never to act except in such a way that I could also will that my maxim should become a universal law."[40] One of the difficulties of FUL is determining the proper description of a maxim in order to test its universalizability; how it is described will affect its apparent permissibility. The same action can be described in various ways, and there is no defined procedure for determining which is the correct description to use when judging the maxim. Overly general maxims tend to forbid too much; overly specific maxims are usually too permissive (e.g., "I will kill people with red hair"—which I can will to be a universal law because my hair is brown).

One particular area of ambiguity relevant to the current discussion is the question of which beings to take into account when formulating one's maxim. If I kill an animal, have I violated a stricture against killing? Kant would say no, but the formula of universal law does not readily provide this response. My maxim could be, "I will kill other living things," which I cannot will to be universal law, since I too am a living thing and would be killed. Bringing in a concept of personhood is a way of solving this problem. Kant can say that our maxims should make reference to persons *as such.* This explains why "I will kill people with red hair" is a too-specific description of a murder (since it makes a mere empirical attribute the focus, rather than the victim's personhood). A

concept of personhood is needed, and this is where the formula of humanity (FH) connects with FUL. Any attempt to justify duties to animals on the basis of FUL will have to confront the issue of maxim description.

Jens Timmermann offers a Kantian argument based on imaginary projection of ourselves into an animal's situation;[41] essentially the same argument was previously presented (though rejected) by Skidmore.[42] A rational agent would not will that he be treated with disregard for his suffering if he were in the future to be somehow reduced to the mental functioning of a dog. Timmermann takes this to be proof that pain is directly morally relevant and that it is inconsistent for a rational being to disregard animal suffering.[43] Although the appeal is implicitly to FUL—Timmermann is suggesting that it is a contradiction of will to disregard animal suffering, and uses the imaginary projection as evidence of this—it does not suffer from the difficulty of maxim-description previously mentioned, since it makes the rational agent's wishes, rather than the animal, the primary focus.

Despite the cleverness of this approach, there are a number of problems with it. One is that it is not clear that our desire not to suffer in such a hypothetical future has any moral significance, rather than being merely self-love. Another, suggested by O'Hagan, is that it is at least conceivable that one might be willing to endorse such treatment of oneself: "Reduced to my animality, I would dislike having pain inflicted upon me; I would rail against it, but still I can rationally will that were I nonrational I wouldn't deserve moral consideration."[44] Skidmore makes a similar point: "We cannot infer from the ends we must have as rational agents any conclusions about what we must will regarding a scenario in which we lose such agency. Once we lose our rational agency we no longer set the ends necessary to sustain it. . . ."[45] Skidmore concludes that the only way to establish that it would be wrong to harm us should we become irrational would be to appeal to the intrinsic evil of suffering.

Julian Franklin also addresses FUL, diverging further from Kant in the process. He attempts to show that Kant's animal-excluding formulations of the categorical imperative are inconsistent, and that they should be reconstructed to include all sentient beings. First he considers the formula of universal law (FUL). It is a clear abuse of FUL to include in one's maxim references to particulars such as one's race or profession, or names of specific people.[46] Maxims that include such details are not properly formulated. Franklin goes on to claim that maxim formulations that exclude animals are similarly illegitimate. Instead, maxims should refer to sentient beings in general. Franklin claims that his version of FUL makes it "truly universal" and reveals our duties to animals.[47] But FUL cannot be applied on its own without being understood in light of a concept of personhood, so trying to use it to protect animals will fail as long as a justification for removing references to species (or, more precisely, references to rational status) from our maxims is not given. Franklin shows that if those

references are removed, FUL will forbid harming and killing animals, but has not shown why they *should* be removed. Franklin holds that they are morally irrelevant as are race, sex, hair color, and other features, but that sentience is morally relevant and should be left in (lest we be forbidden to eat vegetables). What is morally relevant, however, is just what is at issue. Why sentience, and not the broader category of life or the narrower one of rationality, is the correct level of description remains to be established. We must appeal to a further argument for personhood, and that is where FH comes in.

The second formulation of the categorical imperative, called the formula of humanity (FH), is "So act that you treat humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means."[48] What, exactly, he meant by "humanity" is a matter of debate. At times Kant uses it interchangeably with "rational nature," but commentators have disagreed with what aspect of rational nature is really the end in itself. Some candidates are the capacity to set any ends at all, the capacity to set moral ends, autonomy, the good will, and some combination of rational faculties.[49] None of these interpretations would theoretically limit the scope of FH to human beings; any beings, human or not, that had the characteristic in question would be included. All of the possible candidates, however, involve a high level of rationality, and this has the effect of limiting it to human beings.

Franklin believes that this limitation is unjustified, and seeks to replace FH with FS (formula of sentience). Franklin's argument for FS is not based on an analysis of Kant's reason for making rationality (or some aspect or expression of rationality, depending on interpretation) the end in itself. Instead, he shows that FS can function the same way FH does by showing that the examples Kant uses to demonstrate the application of FH can also be accounted for by FS. At best, this establishes that Kant could have endorsed FS rather than FH, but not that he should have. He seems to be placing the burden on Kant to show that formulating FUL and FH/FS in terms of sentience rather than rationality would be impossible. But the connection between being rational and being an end in itself is very strong in Kant; to sever this connection is to do considerable violence to his theory as a whole. Franklin, like Regan, has arrived at something that appears similar to Kant in its prescriptions, but lacks the deep structure on which Kant grounded his principles.

Allen Wood takes a more strictly Kantian approach in his revision of FH. Wood defends what he calls Kant's logocentrism—the grounding of all duties in the value of rational nature—but takes issue with Kant's adoption of what he calls the "personification principle," which is the idea that the imperative to respect rational nature must always mean respecting it as instantiated in a particular rational person.[50] Wood's response is that rational nature, including fragments of it and even preconditions of it, should be respected wherever it is found; for instance, in the proto-rational or semi-rational minds of animals.[51] For Wood, the clause in FH that refers to particular persons is unnecessary, and instead the command is to treat humanity (in the sense of rationality) as an end

in itself. Wood tries to draw an analogy with why we should show respect for children, those who have lost the use of reason, and corpses. Treating such people (and former people) badly shows disrespect for the rational being they will become, or that they once were.[52] This analogy is unsuccessful, because animals are not in a similar situation: even if they possess evolutionary antecedents of reason, they are not going to develop reason. They are not like children, except metaphorically. Furthermore, Onora O'Neill points out that it is not obvious that all or even most animals participate in any kind of rational nature at all, fragmented or otherwise.[53]

Christine Korsgaard has also advocated extending the concept of the end in itself to include animals. She starts with the claim that when we, as rational beings, choose something, we thereby confer value upon it. It is our desire for something that makes it valuable, rather than the other way around. This extends even to our own humanity: by valuing our own ends, we are elevating ourselves to the status of end-in-itself.[54] When we value ourselves as ends-in-ourselves, what we are valuing is not only our rational nature, but also our animal nature. When we will a certain treatment of ourselves based on our animal nature, we are also willing it for the other beings that share our animal nature.

Animals have a natural good that matters to them. This is something that they share with us but do not share with objects such as cars that might in some sense be said to have things that are good or bad for them, but not in a way that matters *to* them. Although plants and other living things can be plausibly described as having things that are good or bad for *them* rather than for those who use them, and thus have a good in a deeper sense than the way cars have a good, they differ in an important way from animals. Animals can experience the satisfaction or frustration of their needs, and these experiences can be pleasant or unpleasant. Like a human being, an animal "welcomes, desires, enjoys, and pursues its good."[55]

As moral legislators, we promote our natural good, and condemn those things that harm us. We value what preserves our bodily existence—the nature that we share with animals—and forbid those things that frighten or harm us. Animal nature is valuable because we inevitably hold it to be valuable in ourselves. We cannot rationally value it in ourselves and be indifferent to it in other creatures that possess it. When we regard ourselves as ends-in-ourselves, we are including our animal nature in that. "It is therefore our animal nature, not just our autonomous nature, that we take to be an end-in-itself."[56]

There is much to recommend in Korsgaard's account. It allows for serious, direct duties to animals, and stays faithful to Kant in many respects. It makes good use of Korsgaard's own interpretation that all value arises from our conferral of it on objects of our choice, although this may also work against her argument when considered by those who reject this interpretation.[57] But she has diverged sharply from Kant in elevating animals to the status of ends-in-

themselves. The end-in-itself plays two roles in Kant: it is both the source and the object of the categorical imperative, both the moral agent and the moral patient. It is the reason we have duties, and it is also the entity that we have duties to.

Korsgaard accuses Kant of "conflating two slightly different conceptions" of the end-in-itself when he claims that only rational beings can obligate us and therefore only rational beings can be members in the Kingdom of Ends.[58] She regards the moral-agent and moral-patient sense of "end-in-itself" as referring to two separate kinds of entities that may overlap but need not be coextensive. Korsgaard claims that animals are ends-in-themselves in the moral-patient sense due to our legislation on behalf of our animal nature. This decouples the second sense from the first: being an autonomous legislator is no longer a necessary aspect of being an end-in-itself. That is not how Kant would have it; it is our status as autonomous beings capable of setting our own ends that makes us the kind of being that can never be merely a means. "Morality is the condition under which alone a rational being can be an end in itself, since only through this is it possible to be a lawgiving member in the Kingdom of Ends. Hence morality, and humanity insofar as it is capable of morality, is that which alone has dignity."[59] Thus Kant, for better or worse, held the classes of moral agents and moral patients to be coextensive, and the concepts inseparable.

Korsgaard seeks to show that a creature can be an end-in-itself in the moral-patient sense without being one in the moral-agent sense. This is more than a terminological difference. An animal-concerned Kantian may wish to follow her in this divergence from Kant, but the gain achieved for animals in this way comes at considerable expense: Kant's argument for the infinite worth of the end-in-itself based on its moral agency is undermined.

My criticism of Korsgaard so far belies a larger interpretational difference between us. Korsgaard holds that by valuing ourselves, we thereby become the end-in-itself, and since what we value in ourselves includes our animal nature, animal nature is also an end-in-itself. I do not accept her interpretation of the source of our status as an end-in-itself, because it discards Kant's own argument that rational nature, in particular autonomy, gives us this status. It is more faithful to Kant to say that only rational nature exists as an end in itself, and that other ends that it sets for itself have a derivative value; furthermore, unlike the indirect-duty doctrine, this is an aspect of Kant that deserves faith. It provides a compelling argument for the incomparable worth of autonomous beings. I will not, however, delve into all the interpretational issues at stake here.

There is another problem in Korsgaard's theory that remains even if her interpretation is accepted. The moral standing of animals in her theory is more tenuous than it initially appears. Our obligations to animals are based on the value we confer on our own animal nature. This would mean that, if we had no animal nature, we would have no obligations to animals. It is possible to imagine a finite being that is rational but not animal. By this I mean not that it would not fall into the biological definition of "animal"—an intelligent plant, for

instance—but rather, a being that is rational, but not embodied as we are, and devoid of the kinds of physical needs and frailties that we suffer from. It might be an artificial intelligence, an angel, or an alien life form that exists purely as thought. I will term such a creature the "rational non-animal."

In Korsgaard's theory, a rational non-animal would have duties to human beings, because it would have the same duty to respect rational nature that we have. As a fellow rational being, it would have the kind of obligations to us that we have to each other. Even though it would not have an animal nature to value in itself, it would still be required to value our animal nature insofar as it supports our rational nature. But it would not have any reason to value animal nature in beings that do not have a rational nature. It could treat animals however it pleased, provided it did so out of sight of any human beings that would be upset by it. One might object that in being cruel to animals, the rational non-animal is treating human beings with disrespect, because it is damaging something that *they* have ascribed value to. This may be correct, though it would make the rational non-animal's duty to animals suspiciously indirect. But the example can be modified to bring the problem back to the front. Perhaps in this world there are no rational animals, no human beings. In such a world would the rational non-animal have any reason to refrain from treating animals with cruelty? Korsgaard would have to say no, and this brings back the same kind of counterintuitive implications that are present in the indirect-duty theory.

So far, attempts to justify duties to animals on the basis of FUL or a variation of FH have failed. The final candidate is the formula of the Kingdom of Ends (FKE): "act in accordance with the maxims of a member giving universal laws for a merely possible Kingdom of Ends."[60] This kingdom is "a whole of all ends in systematic connection (a whole both of rational beings as ends in themselves and of the ends of his own that each may set himself)."[61] Richard Dean attempts to use FKE to bring animals into Kantian ethics. Dean proposes a constructivist account of FKE in which a hypothetical community of rational deliberators, committed to morality, agree upon a set of rules. The rules that this community would agree upon are the moral principles we should adopt. According to Dean, the Kingdom of Ends is the necessary bridge that allows us to apply the pure principles of the other formulations to the real world.[62] Dean claims that these quasi-original-position legislators would choose rules that prohibit mistreatment of animals. They would choose those rules because most members of the union care about sentient beings and do not want them to suffer. According to Dean, that gives us a good reason to prohibit mistreatment of animals even if our concern for animal suffering is nothing more than a "brute psychological fact." But it is not merely a brute fact; it is an attitude we *ought to* adopt because cruelty to animals can lead to wrongful treatment of human beings.[63]

Dean's view, then, is close to Kant's indirect-duty doctrine, but with the addition of duties based on a recognition that most people care about animal suffering—one might call it "indirect duties plus." As a result it is subject to the same objections that I have already brought up against the indirect-duty doctrine: the difficulty of establishing the psychological claim that cruelty to animals damages our sympathy toward human beings and the counterintuitive implications of making the wrongfulness of animal cruelty dependent on its effects on human beings. The additional claim that the concern that most people have for animals would be sufficient reason to prohibit animal cruelty on its own does not escape these problems. It still rests on a dubious psychological claim. Our culture may be somewhat concerned with animal suffering, but this probably has not been the case at all times in human history and may not be the case in all places today. And it is not even clear that our culture does show a high degree of concern about animals. The widespread industrialized agriculture that is the source of so much animal suffering suggests that most people do not care a great deal about the suffering of these animals. The "psychological fact" that most people are sympathetic to animals may only be a fact about some types of animals; most people care little about the suffering of chickens as long as they are out of sight.

The arguments offered thus far for revising or expanding the categorical imperative to account for animals in some way other than the indirect-duty doctrine have been found wanting. The FUL approaches failed to show that maxims involving harm to animals are not universalizable. The FH approaches made changes to the identity of the "end in itself" that are either unjustified or risk undermining too much of the Kantian project. And the FKE approach offered by Dean essentially collapses back to the indirect-duty doctrine and all its attendant problems. I will propose another revisionist FKE approach in the next section, one that accords with much of Kant's doctrine, while avoiding many of the problems of other revisionist theories.[64]

Animals in the Kingdom of Ends

In rejecting the claim made by Korsgaard (and, in some sense, Wood) that animals are ends-in-themselves, it may seem that I have no choice but to return to the much-maligned indirect-duty doctrine. What room does this leave for the possibility of substantial moral concern for animals? Like Dean, I believe the formula of the Kingdom of Ends is the most fruitful one to use in developing an account of our obligations involving animals, but unlike Dean, I will not rest my argument on a contingent psychological claim.

FKE is perhaps the least well known of the three main formulations of the categorical imperative. There is, however, much to find appealing in it, as it is the richest conception of the categorical imperative. FUL deals with the form of the law, and FH with its matter; they come together in FKE, an imagined kingdom of universal laws that respect the humanity of all citizens and in which

the ends of all citizens are in a state of systematic unity. Dean remarks that FKE is particularly fruitful for helping us apply FH in the “messy” real world.[65] On the face of it, however, animals do not fare well in the Kingdom of Ends.

For Kant, there are only two kinds of beings: persons and things. Persons are rational beings, the end-in-itself of FH. Things are everything else, including both animals and nonsentient beings of all kinds.[66] In the Kingdom of Ends, persons are legislators, the autonomous authors of the laws that constitute moral principles. If we were subject to the law without also legislating it, then we would be compelled heteronomously, but since we are legislators at the same time, our autonomy is preserved. Animals, as beings incapable of acting according to self-originating principles, cannot legislate in the Kingdom of Ends, and are not autonomous. Therefore they cannot be members of the Kingdom of Ends. Since they are not members, Kant does not believe their ends will figure into the systematic unity of ends. Animals are merely means to be used to achieve the ends of the members. But dividing the moral universe into these two classes, persons and things, is Kant’s mistake. It fails to recognize an important way that animals are different from other kinds of things.

Kant’s kingdom includes two types of persons. The members are those who both legislate and are bound by the laws of the kingdom; this is the class into which rational human beings fall. The sovereign is a person who legislates without being subject to the laws; this would presumably be God.[67] This leaves out a third class that exists in a real kingdom: those subject to the laws that do not participate in legislating them. These non-members would still be governed by, and more importantly, protected by, the laws. In Kant’s political philosophy, he refers to this class as “passive citizens,” as opposed to the true citizenship possessed by “active citizens.”[68] The term, however, comes with some unpleasant baggage: Kant regrettably regards a large group of human beings as passive citizens, including servants and women in general. In the Kingdom of Ends, rational beings are all members—the equivalent of active citizens. I prefer the term “subject” to describe those who occupy the “passive citizen” role in the Kingdom of Ends, to emphasize that they are the inverse of the sovereign, who legislates without being subject to the law. The symmetry is not precise, because animals are not really subject *to* the law either, in the sense that they cannot recognize the law and conform their actions to it accordingly. Their actions may, in some cases, be constrained by the law, but only mediately, through a member that is responsible for them. It is perhaps more accurate to say that an animal is the subject *of* the law, rather than *to* the law. Nevertheless, this is a quality they share with members, who in addition to being constrained by the law, are also protected by, hence subjects of, the law.

Kant, despite his love of symmetry, did not recognize the existence of subjects in the Kingdom of Ends. He may have seen things as filling this role, but there is a difference between legislation that governs things and subjects.

Laws can (and, I will argue, should) be enforced for the good of subjects—they can take into account their best interests. Laws about mere things are concerned only with how those things relate to members (or subjects). Because of this difference, it is appropriate to separate subjects from things in the Kingdom of Ends. This provides a place in the kingdom for non-rational human beings and animals. This picture of the Kingdom of Ends requires two claims: first, that animals have ends in a way that things do not; and second, that those ends are ones that we ought to take into account in establishing the systematic unity of the Kingdom of Ends.

A Kantian may look suspiciously on the ascription of ends to animals, and understandably so. In Kant's doctrine, setting ends for oneself is a unique ability of rational beings, and sets us apart from animals.[69] By virtue of this ability we are able to act for reasons we choose, rather than always on impulse. Kant ascribes a power of choice (which he links with the faculty of desire) to both human beings and animals, but holds that the human power of choice is free, whereas the animal power of choice is pathologically necessitated.[70] Lacking reason, animals have no option other than to choose according to their strongest desire. In the *Groundwork of the Metaphysics of Morals*, Kant describes the will as "a capacity to determine itself to acting in conformity with *the representation of certain laws*," and then goes on to state that an end is "what serves the will as the objective ground of its self-determination."[71] Based on this passage, it appears that Kant would not regard animals as having ends, since they do not have a rational will, meaning they do not act according to their recognition of principles.

Despite Kant's apparent intention to limit the concept of ends to rational beings, other passages show that he need not have done so. After giving the above definition, he goes on to divide ends into two kinds, "subjective ends, which rest on incentives," and "objective ends, which depend on motives."[72] Incentives are sensuous, and motives are rational. Animals could not have objective ends, but there is no reason to deny them incentives in the form of desires and other impulses. A passage in the *Metaphysics of Morals* provides a different definition of end: "an object of the choice (of a rational being), through the representation of which choice is determined to an action to bring this object about."[73] It is unclear whether the parenthetical restriction of this to rational beings is meant to imply that only rational beings have ends, or whether it is merely intended to limit the current discussion to rational beings, since the rest of the passage deals with matters of moral obligation. In any case, because he does ascribe a power of choice to animals, if an end is conceived of as an object of choice, it is consistent with most of Kant's remarks to regard animals as having subjective ends. The animal power of choice is directed at some goal, and the animal is determined to do whatever it can to achieve that goal.

Kant ascribes only the most primitive mental faculties to animals.[74] He denies that they have any reasoning abilities at all, even the fragments and preconditions of reason that Wood discusses. Whatever they do that appears to

be rational is actually instinct.[75] Although this was a common belief in the past, it is no longer plausible. Behavioral studies have demonstrated problem-solving abilities in animals that cannot be attributed to mere instinct. A notable case is that of Betty, a crow studied at Oxford University, who bent a wire into a hook to retrieve a piece of food from the bottom of a container.[76]

In Kant's terms, animals use reason prudentially, to achieve goals, but they do not use reason to set those goals for themselves. Betty evidently reasoned out a way to achieve her goal, but what she did not do was choose the goal for herself. Scavenging food is the path that nature has chosen for her. Kant says something similar, referring to nature as having "destined" animals to the end of satisfying their own needs.[77] An animal is not an end-in-itself in Kant's sense, because it is not a source of ends—it has ends but they are not self-generated. Because they cannot engage in end-setting, they are not legislators in the Kingdom of Ends. They do, however, have ends, and those ends can be taken into account by the members of the Kingdom of Ends. Animals should have their own place in the kingdom: they are not persons, but they are also not mere things.

The objection may be raised that if animals are regarded as having ends, so might plants, or even non-living objects. There is one sense in which this is true, especially in the case of plants and other living things, but that is not the sense of "ends" that I am using here. An end in the current context is an object of choice, something desired, and not something that can be plausibly ascribed to beings lacking minds. Korsgaard worries that her own theory, in making use of the idea of what is "good for" animals, might be open to a similar objection, and thus introduces the idea that animals, unlike plants or machinery, have a good that *matters* to them, something that is good from their own perspective.[78] Likewise, the sense in which animals have ends is different from the sense in which plants or machinery have ends. Animals' ends matter to them, because animals are conscious, and can experience the achievement or frustration of them.

So far I have argued that animals can be regarded as having ends of a certain kind, allowing them to be considered part of the systematic unity of ends. This leaves the more difficult project of showing that the legislators not only can, but *ought* to take those ends into account. The answer is found by considering the value of happiness.

Kant defines happiness in a few passages. In the *Critique of Pure Reason*, he defines it as "the state of a rational being in the world in the whole of whose existence everything goes according to his wish and will."[79] This passage could be taken to imply that non-rational beings cannot be happy, although this is another case in which he may have limited it to rational beings only due to the context in which he is discussing it. He may have believed that happiness is dependent on a rational will, although there is no persuasive reason for him to

limit it this way. Animals have a power of choice, and obtaining the objects of their power of choice could certainly be described as having things "go according to their wish and will." Similar definitions of happiness are provided in the *Groundwork*: "that complete well-being and satisfaction with one's condition"[80] and "the entire satisfaction of [needs and inclinations]."[81] Neither makes reference to rationality, and both may be attributed to non-rational animals that have ends. If Kant does limit happiness to rational beings, he does not do so consistently. This can be seen in a passage in the *Critique of Practical Reason* in which Kant states that a person's reason "does not at all raise him in worth above mere animality if reason is to serve him only for the sake of what instinct accomplishes for animals."[82] "What instinct accomplishes for animals" appears to refer to "satisfaction of his needs as a sensible being" which is also identified with happiness in the passage. A concept of happiness drawn from Kant can thus be applied to animals. Animals have subjective ends—objects of their power of choice, or desires—and achieving those ends involves satisfying their needs and inclinations, which in turn is happiness.

Kant has a reputation for disdaining happiness, partly earned by passages like the above. He strenuously denies that happiness is the basis of the moral law, and that its attainment is the primary function of reason. But he does not disregard it in his ethics. Rather, he intends to show that it is a conditional, rather than unconditional, good. In the famous passage that opens the *Groundwork*, he argues that the only thing that can be considered "good without limitation" is the good will. Other things that are often considered good—talents, qualities of temperament, and even happiness—are not unconditionally good, but achieve goodness only when connected with a good will. Talents and other gifts of nature can do a great deal of harm when they are possessed by an evil person, as can power, wealth, and other gifts of fortune. He first claims that happiness is akin to other gifts of fortune, resulting in boldness and arrogance if not kept in check by the good will. His second remark about happiness is a more compelling argument. An "impartial rational spectator" does not at all enjoy seeing an evil person happy, so "a good will seems to constitute the indispensable condition even of worthiness to be happy."[83]

Kant accordingly characterizes virtue as "worthiness to be happy." Virtue is the supreme condition of anything else being good, but it is not the whole and complete good without the addition of happiness. The highest good of a possible world is for happiness to be distributed in proportion to virtue, and therefore we must make the happiness of others our end.[84] This imperative shows that Kant was not blind to the importance of happiness, but rather, gave it a very significant place in his ethics. He denies that it is unconditionally good, but it is necessary for the attainment of the highest good.

This account of the best possible world echoes the idea of the Kingdom of Ends. In the kingdom, all members would be autonomous moral agents, possessed of a good will, and would promote each other's ends, thereby assisting in each other's pursuit of happiness. Happiness would be in proportion to virtue,

and in the best possible way, with everyone possessing a high degree of both. But it seems there is no place for animals in this picture. Animals cannot have a good will, cannot be virtuous, and so cannot be worthy to be happy, on Kant's view. They would not be deserving of unhappiness, either, as an evil person is; their happiness would simply be a matter of indifference (except when it affects the happiness of members of the kingdom).

But there is a flaw in Kant's argument. According to Kant, a rational spectator enjoys seeing a virtuous person happy, but dislikes seeing an evil person happy, and that is evidence that happiness is not unconditionally good. The conclusion seems correct, but there is a puzzle: why is it that the rational spectator wants a virtuous person to be happy, and does not want an evil person to be happy? The answer seems to be that happiness is a good thing, and good people deserve good things. But this means that we have evaluated happiness as a good thing prior to asserting that good people should have it. Happiness must be judged good independently from its connection with a good will in order to make that assertion. It need not be unconditionally good, but it must at least be prima facie good.

An impartial, rational observer enjoys seeing a good person happy, but disdains seeing an evil person happy; the latter is an affront to reason. Our intuition does suggest a relationship between virtue and worthiness to be happy, but it is not as clear-cut as Kant would have it. Consider another example: the sight of a happy child at play meets with almost universal approval and enjoyment, and few things upset people more than the sight of a child in deep distress. Children, we strongly believe, ought to be happy, even deserve to be happy. Yet children, prior to a certain age, are not moral agents and so cannot be said to be virtuous. In Kant's view it would appear that children cannot be worthy of happiness.

Examples involving children always bring a host of complications with them. Although children are not yet moral agents, they are presumed to be heading that way. One could argue that their status as potential moral agents justifies granting them a similar standing to moral agents in an ethical theory. In this case, that does not really solve the puzzle. Even if we regard children as potential agents, we cannot know if they will grow up to be good-willed or evil. Not knowing which path they will take, there seems to be no more justification for judging them worthy to be happy as unworthy.

Animals are a more clear-cut example, because they are not and never will be moral agents. But our intuitions are similar. The sight of happy animals at play is generally regarded with pleasure and approval, yet they do not have good wills. An indirect-duty theorist would likely say that our appreciation of animal happiness is simply a bit of bleed-through from our attitude toward human beings, similar to the amphiboly that leads us to mistakenly think we have duties to animals. Yet it still calls into question the claim that an impartial spectator

approves of happiness only when it is connected with a good will.

The example of both children and animals is better accounted for by the assertion that we judge happiness to be a prima facie good independent of its connection with virtue. Kant's example to demonstrate that happiness is not good "without limit," our dislike of seeing evil people happy, effectively demonstrates that happiness is not an unconditional good. But what it shows is that the prima facie goodness of happiness can be destroyed under certain conditions. The good will is not what makes happiness good; rather, it is the presence of evil that robs it of its goodness. Young children and animals are innocent; they are not moral agents so cannot really do good, but they also can do no evil. Animals can do things to harm us, and we restrain or kill them as a result, but we do not take such actions to punish them. We may resent their presence at times, but when we are thinking clearly and impartially, we do not blame them for their actions. Non-moral and pre-moral beings like animals and young children are not capable of forfeiting the value of their happiness the way rational beings can.

The happiness of an evil person is offensive to a rational, impartial spectator because it is a stark demonstration of the inconsistency in that person's will. She wills that her own desires be satisfied in abundance, while disregarding—or even contravening—the ends of others. Animals have no such contradiction in will. Their power of choice always aims at their own desires, but they do not have a rational will to present an alternative to them. They cannot generalize their actions as we do. Because they do not have the kind of will that we would impute a contradiction of will to, their happiness is not an affront to reason. The happiness of animals (and other non-rational beings capable of happiness) therefore retains its prima facie goodness.

It may seem that judging animals' happiness to be good would require dispensing with Kant's claim that virtue is the necessary condition for worthiness to be happy. But that claim will still hold true for rational beings. We do not have the innocence of young children and animals, because we are capable of recognizing and responding to the moral law. We can do right or wrong, but we cannot opt out of the moral arena. Failure to have a good will results in the forfeit of our worthiness to be happy. For us, virtue remains the condition of worthiness to be happy. The notion of worthiness itself should perhaps be confined to rational beings, since it implies desert. Animals do nothing to *deserve* happiness (nor to deserve unhappiness), but it is good for them to be happy.

So far it has been shown that happiness is a prima facie good, that it loses this status when attached to an evil person, and that this is consistent with much of what Kant said about the connection between virtue and worthiness to be happy. What still needs to be explained is why happiness is prima facie valuable. Kant provides a clue when he states that happiness is the "one end that can be presupposed as actual in the case of all rational beings (insofar as imperatives apply to them, namely as dependent beings) and therefore one purpose that they

not merely could have but that we can safely presuppose that they all actually *do have* by a natural necessity."[85] All finite rational beings (in other words, all rational beings except the sovereign, God) have their own happiness as an end. As members of the Kingdom of Ends, we are required to extend our concern for happiness to all members, rather than serving our own happiness at the expense of others'. Happiness is not something that an individual may or may not value, the way more specific ends vary greatly from individual to individual. Happiness, as previously defined, is the fulfillment of our desires and needs. It will therefore be an end for any being that has any desires or needs at all. It is the end that underlies all other ends. It is therefore necessarily endorsed by us as valuable.

Thus, in the Kingdom of Ends, rational beings strive to include all ends in the systematic unity, as far as that is possible. We can and should legislate on behalf of non-member subjects in a way that we need not, and indeed cannot, do for things. A Kantian need not choose between dismantling central pillars of the theory and giving up real moral concern for animals. There is a place for animals in the kingdom.

This account has relied on FKE to establish an obligation to consider animals' ends. But what of the other formulations of the categorical imperative? Will they need to be revised in light of the new picture of FKE? It was previously argued that FUL cannot be understood without appealing to a concept of personhood to allow for the proper formulation of maxims. I have not, however, argued that animals are persons in the Kantian sense; rather, they occupy a separate status along with other non-agent moral patients. In light of this proposed category, the claim that FUL must be understood in light of FH should be modified: FUL should be understood in light of both FH and FKE. The proper formulation of maxims needs to account for the morally relevant features of the situation, and moral relevance is determined in part by reference to the classes of beings involved, whether they be person, thing, or subject. Subjects are beings that are, essentially, under our guardianship as legislating members of the Kingdom of Ends. Using such beings without regard for their ends is a contradiction; it defies the very concept of guardianship. It is true that this is not such a clear contradiction as can be found when universalizing, for instance, lying. Korsgaard points out that FUL does not apply well in cases involving animals for the same reason that it does not apply well in many cases involving human beings: it is at its clearest and strongest when dealing with matters of social practices and conventions. Since animals do not participate in or understand such practices, FUL will not easily apply to our interactions with them. Korsgaard argues that this is an intrinsic difficulty with FUL, not one specific to the animal issue, since many wrongful ways of treating human beings do not involve such practices and conventions either.[86]

FH seems highly problematic for a theory that seeks to grant moral

consideration to animals. It commands us to treat humanity (or rationality) as an end-in-itself. On the face of it this seems to exclude animals as written, and one may be tempted, in light of FKE, to revise it in some way, such as Franklin does when he changes it to FS. This is, however, not necessary. FH demands that we treat our own and others' humanity with the respect due to it as an end-in-itself. That does not rule out the possibility that other kinds of beings may also be included in moral consideration. Like FUL, FH may simply not be the best formulation to use when animals are involved. But perhaps FH, viewed in light of FKE, does have something to say on this issue. FH commands us to treat humanity—which is defined not in terms biological species but in terms of rationality—as an end in itself. Rational beings have a particular status in the Kingdom of Ends as legislators, which includes guardianship of the subjects (non-agent patients). When we fail to exercise guardianship of animals, fail to properly legislate on their behalf, we are violating our own standing in the kingdom. We have failed to respect our own rationality, and in doing so committed a violation of a duty to the self.

This explanation of how FUL and FH can address obligations involving animals is not intended to show that either one provides a satisfying account on its own. It is only meant to show that they are not inconsistent with the proposed extension of FKE (which I dub the animals-as-subjects view). The Kingdom of Ends is, as Kant himself says, "a very fruitful concept."[87] It deals better with animals because it is richer and more nuanced than the other formulations; for that reason it also proves especially useful in considering human beings in the context of—as Dean puts it—the messy real world.

I have resisted granting animals the status of ends-in-themselves, as Korsgaard, Franklin, and (in some sense) Wood have done. This raises the question of what, exactly, the moral status of animals is. Animals, as discussed previously, cannot be regarded as ends-in-themselves because they are not a source of ends. This means that our duties involving them are different from our duties to other human beings. It is not the animals that bind us in a relation of obligation; the source of the obligation is ourselves as rational beings. Our duties to other rational beings, on the other hand, are duties that originate in them as well as in ourselves. Animals have a different, though by no means unimportant, place in the Kingdom of Ends.

Rational beings are the creators of the moral universe. Without rational beings, animals would exist, and would still be happy at times and suffer intensely at others, but this would not be right or wrong; it would simply be. This is difficult for us to acknowledge. The temptation is to insist that pain and suffering are evil, and happiness good, regardless of our presence. But that is only because we are looking at it as rational beings. We cannot truly imagine ourselves out of the picture, because our mind's eye is still there to judge what we envision. Thus we assign value to these things through time, before and after our existence, and even across possible worlds. Nevertheless, that value is dependent on us. Animals' status in the moral realm is not just different from

ours, it is in fact dependent on ours.

Although animals cannot assign moral value, they still have ends that matter to them; thus it would not be true to say that without rational beings, nothing in the universe would matter. Things would still matter to animals, from their perspective. Unhappiness (such as pain) would still be bad from their perspective, and happiness good. There would, however, be no moral value attached to their likes and dislikes. It is only rational beings who can say that animals should be happy and should not suffer. The moral status of animals is dependent on our existence as rational beings.

Since our own moral status is the precondition for animals to have any status, the preservation of rational beings must take precedence over animals' interests. This would include not just the preservation of the lives of rational beings, but also the preservation of rationality in those beings. In a situation where harming an animal is required to save the life of a rational being, there would be conflicting grounds of obligation, one pointing toward protecting the animal's interests as a subject of the Kingdom of Ends, the other based on the rational being's status as an end in itself. Since rationality is a prerequisite for an animal's status as a subject, it is a stronger ground of obligation and thus in this conflict its preservation must be upheld as a duty at the expense of the animal's interests.

One might worry that in declaring that animals have a dependent status as subjects, I may have left them in nearly the same position that Kant did: the object of some weak and easily overridden duties that amount to little more than "use animals as you wish, but avoid being cruel when possible." But the dependent status of animals does not mean that their interests will always be overridden by our own ends in the case of a conflict. The moral status of animals is dependent on our existence as rational beings, but not, for example, on our personal comfort or desires. There will be times when various personal ends will conflict with animals' happiness, just as our various personal ends can conflict with other rational beings'. We will at times have to forgo our desires in order to care for our subjects. This is not a problem, but simply the nature of our obligations as members of the Kingdom of Ends. It is, after all, also true of our relationship with other rational beings. We should pursue our private ends in such a way that they can harmonize with the ends of the subjects of the Kingdom of Ends, as well as with the other members. That includes thinking to the future as well as the present. If, as things stand currently, a conflict exists between the ends of human beings and those of animals, it is not enough to simply regretfully acknowledge the conflict. We should also ask how we can shape the world to reduce or avoid that conflict in the future. This is one of the areas in which FKE shines. It provides a regulative ideal, a direction for moral improvement, not just a decision tool for present action. It calls on us to use our ingenuity and our technology to bring our imperfect world closer to the

kingdom. Despite the subordinate standing that animals have in the Kingdom of Ends, the animals-as-subjects view makes serious and extensive demands on human beings with respect to our treatment of animals.

Remaining Objections

Some possible objections to the animals-as-subjects theory need to be dealt with. The first is that basing the theory on the claim that happiness is a good threatens to make Kant into a utilitarian. This both calls into question whether it is a Kantian theory at all, and opens it up to the same kinds of objections that are raised against utilitarianism. First, it is an unfounded caricature that Kant has little regard for happiness. True, he strenuously argues that it cannot be the source of moral principles, and that it is not unconditionally good. But it is also "necessarily the demand of every rational but finite being,"[88] and is sufficiently important that a possible world cannot achieve a whole and complete good without it. The formula of the Kingdom of Ends, arguably the most practical and richest of the formulations of the categorical imperative, demands that we consider our actions as though we were members of such a possible world of virtue and happiness. Extending his theory to include animals in the scope of our concern for happiness does not make him a utilitarian any more than do his own remarks about our obligation to make others' ends our own. Second, the elements of utilitarianism that lead to most of the objections to it are not present in the animals-as-subjects theory. There is nothing in the theory that entails that happiness is aggregable; robbing one person's happiness to distribute it among others is inconsistent with the Kingdom of Ends' systematic unity. Happiness is also not regarded as an unconditional good, as its relationship with virtue (in human beings) is retained from Kant; thus we do not have to consider the happiness of the serial killer and similar cases that cause problems for utilitarianism. Happiness is also not the source of moral principles, but the promotion of it in others is an end that we should adopt *given* the categorical imperative that derives from reason. And though happiness (considered as the fulfillment of one's subjective ends, meaning needs and inclinations) is an end all rational beings necessarily have, it is not the *only* end such beings have. I have emphasized it here merely because it is the one most relevant to animals, as they do not have a rational will to present them with ends other than the satisfaction of their own desires.

Another potential objection is likely to be raised by those wishing to establish direct moral concern for animals. They may claim that, for all my objections to the indirect-duty view, I have arrived at something very much like it via a different route. Ultimately, animals' moral standing is still derivative from ours, still dependent on our values. The obligation to be concerned with their happiness originates in our own recognition of the value of happiness. Once again it seems that we treat animals well for our own sake rather than for theirs. And once again, it may be objected, animals' standing is contingent; if we

had not been the sort of beings that have happiness as an end, then we would have had no obligation to animals and could do what we pleased with them.

There is some degree of truth in this objection. Animals are indeed dependent on us for their moral standing, but in a way that is much more secure, and less contingent, than in the indirect-duty view. First, the counterintuitive implication of the standard indirect-duty theory—that if our sympathy were not damaged by cruelty to animals, then there would be nothing wrong with it—does not hold in the animals-as-subjects theory. The obligations we have to promote their ends are not merely covert obligations to other human beings; they are obligations that hold because happiness is valuable. We have obligations to treat animals a certain way regardless of whether it has an effect on any rational being.

The fact that human beings have their own happiness as an end is not a merely empirical, psychological claim as is the connection between animal cruelty and the damaging of sympathy. Kant points out that happiness is *necessarily* the end of all finite, rational beings, by our very nature. The attempt to construct a counterintuitive counterfactual claim from it also fails, because finite, rational beings *by their nature* always have happiness as an end. We cannot conceive of finite, rational beings existing and not valuing happiness. The most we can do is imagine that no such beings ever existed. Under that counterfactual condition, it is indeed correct to say that animals' happiness would have no moral importance. Some may object greatly to that implication, regarding it as equally counterintuitive to the indirect-duty view. But it is really just an acknowledgment that without any moral agents there can be no moral values, and not so counterintuitive when considered in that way.

Should this still be characterized as an indirect-duty view, even if it does not much resemble Kant's? I have refrained from characterizing animals as ends-in-themselves the way Korsgaard and Franklin have, reserving that term for rational beings, and I have stated that FH as it applies to animals may be regarded as an obligation to respect our own rational nature insofar as moral reason demands that we consider ourselves the guardians of animals. But that does not make animals' moral standing as indirect as the traditional indirect-duty view would have it. Our obligations would not benefit animals merely incidentally, as in Kant's view; instead they would be directly concerned with the happiness *of that particular animal*. Although the origin of that obligation is our own reason, the animal is still the subject of our moral legislation, not some possible effect on our own character. The source of moral importance need not be the same as its location. Timmermann makes a convincing argument along these lines. He claims that many of our duties that involve each other are actually duties to the self rather than duties to others. The fact that something can be classed as a duty to the self in Kant's scheme does not make it an insignificant obligation, and concern for others can be an inseparable part of

fulfilling it. He uses the analogy of a guardian. If I make a promise to a child's parents that I will take care of the child, then my direct duty is really to the child's parents, rather than being grounded on an obligation to the child. Nevertheless, the child's welfare is quite pertinent to my carrying out the duty. Being concerned for the child is an integral, not incidental, part of the obligation.[89]

The theory of animals as subjects in the Kingdom of Ends is not a true direct-duty view, in that it does not elevate animals to the status of ends-in-themselves as Korsgaard and Franklin have done. Yet it is significantly different from Kant's indirect-duty view, since it involves obligations to treat animals well for their own good and not just for the good of one's character or the potential effect on other moral agents. It provides a sturdier basis for our obligations and better accords with our intuitions. It also avoids some of the problems of revisionist direct-duty theories.

Comparison to Other Revisionist Kantian Approaches

Certain aspects of my animals-as-subjects theory appear similar to Korsgaard's theory. She also claims that it is the value we place on a certain aspect of our human nature that leads to moral consideration of animals, but she identifies the crucial aspect as our animality, rather than happiness. In both cases the obligations ultimately stem from the interest we have in our own well-being. Despite these similarities, the animals-as-subjects theory has two advantages over Korsgaard's: it requires less revision of the Kantian system as a whole, and it solves the problem of the "rational non-animal" that was earlier raised against Korsgaard. In Korsgaard's view, animals are ends-in-themselves. We have duties to them in just the same way that we have duties to other human beings. Being an end-in-itself is no longer linked to being a source of ends. This is a major revision of Kant, as discussed previously. The animals-as-subjects theory offers a more modest revision, and does not require tampering with the deep connection between reason, autonomy, and the end-in-itself. It keeps intact the idea that members, as ends-in-themselves, have a special status in the Kingdom of Ends. O'Hagan, criticizing Korsgaard and Wood, remarks that Kantians attempting to establish moral concern for animals "distance themselves from Kant's meta-ethics in dangerous ways."[90] The animals-as-subjects theory avoids some of those dangers by retaining rationality as a requirement for being an end-in-itself.

I argued previously that the possible existence of a rational non-animal suggests counterintuitive implications of Korsgaard's approach similar to those that arise from the indirect-duty view. It can be seen now that the animals-as-subjects theory avoids this problem. A rational non-animal would not necessarily value animality. Such a rational being, however, would still have its own happiness as an end, provided it is a finite being (in other words, it is not God). Its desires would not be aimed at anything bodily, but it would still have desires.

It may, for instance, desire information, or other intellectual goods. Happiness as Kant takes it—and I have been following him—is not limited to physical feelings of pleasure. It is a state in which everything goes according to one's "wish and will." Even a non-animal being, provided it is rational and finite, would be considered happy if its desires were satisfied. Rational non-animals would therefore value happiness, even if they do not value animality, and would still have the obligation to consider the happiness of animals in the Kingdom of Ends.

Wood's view, as O'Hagan notes, also significantly alters Kant, although it does not strike quite as close to the heart of Kant's system as Korsgaard's does. Rationality is retained as the end-in-itself, leaving intact Kant's argument that links moral standing with reason. But his attempt to classify animals as ends-in-themselves based on their possession of elements of reason leads to a problem. Many of the animals that seem like candidates for moral consideration could end up excluded on the grounds that they do not possess any elements of reason, or the reverse problem could occur, with the necessary aspects of reason drawn too broadly. The animals-as-subjects theory gives better guidance in drawing the boundaries of moral standing. To be part of the class of subjects, a being must have the capacity for happiness, using the broad definition of happiness as the state of achieving one's ends, and with ends defined as objects of the power of choice (or, put simply, things that are desired).[91] This avoids setting the bar so high that only animals with sophisticated reasoning powers would be included, nor setting it so low that we would have obligations with regard to individual plants. It limits our scope to creatures with minds sufficient to have a power of choice and to experience the achievement or frustration of the ends that are the object of that power. It does not require even partial rationality, but it does require consciousness.

The requirement that subjects in the kingdom are beings with ends—specifically the kind of ends "that matter to them," as Korsgaard terms it—thus acknowledges the intuition that sentience has moral importance. Franklin makes sentience the center of his theory, a sufficient condition for being an end-in-itself. As with Korsgaard's view, this breaks the link between being an end-in-itself in the moral agent sense and being an end-in-itself in the sense of being an object of respect. The animals-as-subjects view, on the other hand, avoids breaking this link, but does not thereby disregard the moral significance of sentience. The legislators in the Kingdom of Ends must legislate on behalf of sentient beings in a way that they need not (and cannot) be concerned with non-sentient things. The animals-as-subjects theory stays closer to Kant than does Franklin, while not giving up the importance of sentience.

In addition to his sentience-based reading of FH (or as he terms it, FS), Franklin attempts to make an argument for direct duties based on FUL. Timmermann also appeals to FUL, using a different line of argument. But

arguments that appeal to FUL will always fail unless they are accompanied by an account of how maxims are to be formulated, which will require establishing an independent argument for the moral relevance or irrelevance of certain characteristics (e.g., being a rational being). This is a problem not only for views that try to use FUL to demonstrate duties to animals, but for FUL in general. FUL is best understood with reference to the other formulations. Since FUL is highly problematic in this way, a theory based on one or more of the other formulations has an advantage. The animals-as-subjects theory takes the Kingdom of Ends as a starting point and thus avoids the problems inherent in reliance on FUL.

I have intended to show that the animals-as-subjects theory avoids some of the difficulties of the Kantian revisionist positions offered by Korsgaard, Wood, Franklin, and Timmermann. It requires a less extensive revision of Kant, while capturing much of what makes these other views appealing. The problems inherent in the indirect-duty view, despite its defense by Denis and Hayward and its partial revision by Dean, have already been discussed in detail and do not need to be revisited.

Closing Thoughts

I will close by pointing out one aspect of the proposed theory that makes it especially appealing as a replacement for the indirect-duty view. The category of subjects is able to encompass other kinds of moral patients that are not well accounted for in Kant's doctrine. If only rational beings can be persons, and everything else is a thing, that has disturbing implications for human beings that are not rational. Children are not the main problem: they can be dealt with by an appeal to their potential to become rational beings. The command to treat rational nature as an end in itself plausibly extends to caring for those who are in the process of acquiring it. But permanently non-rational beings cannot get a foot in the door this way. A human being born with defective or missing reason would have to be classed as a thing by Kant, and we would have indirect duties with regard to them only because of the effect that cruelty to them might have on our moral character. But in the view I have proposed, such human beings are not mere things. They are not persons, because they cannot be legislators in the Kingdom of Ends, but like animals, they are under the protection of the members and are beneficiaries of our legislation.

The ability to recognize that harming a non-rational being, be it an animal or a mentally impaired human being, is wrong because of the effect on that being, rather than because of the effect on oneself or other rational beings, gives the proposed theory a substantial advantage over the indirect-duty view. Even if, as some of its proponents claim, indirect duties can be used to demonstrate a fairly wide array of obligations, it cannot escape the implication that our benevolent treatment of non-rational beings of all kinds, human or animal, is essentially practice for the proper treatment of rational beings. Hoff's objection

that Kant would have to regard the duty to feed a hungry non-rational child as essentially different from the duty to feed a hungry normal child would not apply in this revised view. Our duty in both cases would be substantially the same: to promote the child's happiness and satisfy her needs, not out of a worry about the effect on our character, but out of the recognition that the happiness of both members and subjects should be our concern.

It is beyond my scope to offer a complete defense of Kantian ethics in general. Rather, I have tried to show that given Kant's ethical framework, a better account of animals than his indirect-duty view can be derived. Those who object to the anthropocentric basis of Kant's theory are unlikely to find my account satisfying, but they are not my primary target. Instead, the animals-as-subjects view is offered to those who are already sympathetic to Kantian ethics but are unsatisfied with Kant's treatment of animals. The proposed view acknowledges serious, extensive obligations governing our treatment of animals, and regards the happiness of animals as important regardless of its effect on human beings. It also helps show that the failure of Kant's indirect-duty view does not necessitate rejecting his ethics as a whole. We need not choose between abandoning animals or abandoning Kant: both can be saved.

Notes

1. Alexander Broadie and Elizabeth M. Pybus, "Kant's Treatment of Animals." p. 375, *Philosophy*, vol. 49 (1974), pp. 375-83.

2. Immanuel Kant, *Metaphysics of Morals*, trans. Mary J. Gregor, in *Practical Philosophy* (Cambridge: Cambridge UP, 1996) p. 6:443. (All references to Kant use the Academy edition pagination.)

3. Immanuel Kant, *Lectures on Ethics*, trans. Peter Heath (Cambridge: Cambridge UP, 1997) pp. 27:458-60, 710.

4. Kant, *Metaphysics*, p. 6:443.

5. Immanuel Kant, *Groundwork of the Metaphysics of Morals,* trans. Mary J. Gregor, in *Practical Philosophy* (Cambridge: Cambridge UP, 1996) p. 4:428.

6. Kant, *Lectures*, pp. 27:458-9.

7. Kant, *Metaphysics*, pp. 6:442-43.

8. Kant, *Metaphysics*, pp. 6:443.

9. Kant, *Lectures*, p. 27:460.

10. Kant, *Metaphysics*, p. 6:443; *Lectures*, pp. 27:459, 710.

11. Kant, *Metaphysics*, p. 6:443; *Lectures*, p. 27:459.

12. Kant, *Lectures*, p. 27:459.

13. Kant, *Metaphysics*, p. 6:443.

14. Kant, *Lectures*, p. 27:459.
15. Kant, *Lectures*, p. 27:459.
16. Broadie and Pybus, p. 383.
17. Broadie and Pybus, p. 375.
18. Allen Wood, "Kant on Duties Regarding Nonrational Nature I." pp. 194-95, *Proceedings of the Aristotelian Society Supplement*, vol. 72 (1998), pp. 189-210.
19. Kant, *Lectures*, p. 27:459.
20. J. Skidmore, "Duties to Animals: The Failure of Kant's Moral Theory." pp. 557-8, *Journal of Value Inquiry*, vol. 35 (2001), pp. 541-59.
21. Robert Bass, "Undermining Indirect Duty Theories." p. 21, *Between the Species*, no. 6 (2006), http://digitalcommons.calpoly.edu/cgi/viewcontent.cgi?article=1031&context=bts
22. Kant, *Lectures*, p. 27:460.
23. Heather [Kendrick] Fieldhouse, "The Failure of the Kantian Theory of Indirect Duties to Animals." *Journal for Critical Animal Studies*, vol. 2, no. 2 (2004), http://www.criticalanimalstudies.org/journal-for-critical-animal-studies/archives/ A more detailed version of this argument was developed by Bass, pp. 8-9.
24. Christina Hoff, "Kant's Invidious Humanism." p. 68, *Environmental Ethics*, vol. 5, no. 1 (1983), pp. 63-70.
25. Tim Hayward, "Kant and the Moral Considerability of Nonrational Beings." p. 133, *Royal Institute of Philosophy Supplement*, vol. 36 (1994), pp. 129-42.
26. Hayward, p. 138.
27. Hayward, p. 138.
28. Lara Denis, "Kant's Conception of Duties Regarding Animals: Reconstruction and Reconsideration." p. 406, *History of Philosophy Quarterly*, vol. 17, no. 4 (Oct. 2006), pp. 405-23.
29. Kant, *Metaphysics*, p. 6:423.
30. Kant, *Metaphysics*, p. 6:423.
31. Denis, "Kant's Conception," p. 414.
32. Kant, *Metaphysics*, p. 6:443.
33. Kant, *Lectures*, p. 27:460.
34. Denis, "Kant's Conception," p. 415.
35. Denis, "Kant's Conception," pp. 415-16.
36. Denis, "Kant's Conception," p. 416.
37. Denis, "Kant's Conception," p. 416.
38. Dan Egonsson, "Kant's Vegetarianism." *Journal of Value Inquiry*, vol. 31, no. 4 (1997), pp. 473-83.
39. Emer O'Hagan, "Animals, Agency, and Obligation in Kantian Ethics." p. 541, *Social Theory and Practice*, vol. 35, no. 4 (Oct. 2009), pp. 531-54.
40. Kant, *Groundwork*, p. 4:402.
41. Jens Timmermann, "When the Tail Wags the Dog: Animal Welfare and Indirect Duty in Kantian Ethics." p. 135, *Kantian Review*, vol. 10 (2005), pp. 128-49.
42. Skidmore, p. 553.

43. Timmermann, p. 135.
44. O'Hagan, p. 543.
45. Skidmore, p. 554.
46. Franklin, p. 32.
47. Franklin, p. 35.
48. Kant, *Groundwork*, p. 4:429.
49. Lara Denis, “Kant's Formula of the End in Itself: Some Recent Debates.” pp. 247-52, *Philosophy Compass*, vol. 2, no. 2 (2007), pp. 244-57.
50. Wood, p. 193-96.
51. Wood, p. 198.
52. Wood, p. 198.
53. Onora O'Neill, “Kant on Duties Regarding Nonrational Nature II.” p. 224, *Proceedings of the Aristotelian Society Supplement*, vol. 27 (1998), pp. 211-28.
54. Christine Korsgaard, “Fellow Creatures: Kantian Ethics and Our Duties to Animals.” pp. 92-94, *The Tanner Lectures on Human Values*, vol. 25 (2005), pp. 77-110.
55. Korsgaard, pp. 102-103.
56. Korsgaard, p. 104.
57. Denis, “Kant's Formula,” pp. 252-55.
58. Korsgaard, p. 95.
59. Kant, *Groundwork*, p. 4:435.
60. Kant, *Groundwork*, p. 4:438-39.
61. Kant, *Groundwork*, p. 4:433.
62. Richard Dean, *The Value of Humanity in Kant's Moral Theory* (New York: Oxford UP, 2006) pp. 185-86.
63. Dean, pp. 187-88.
64.The following section is partially drawn from a previous publication: Heather M. Kendrick, “Animals in the Kingdom of Ends.” *Between the Species*, vol. 13, no. 10 (2010), http://digitalcommons.calpoly.edu/bts/vol13/iss10/2/
65. Dean, p. 186.
66. Kant, *Groundwork*, p. 4:428.
67. Kant, *Groundwork*, p. 4:434.
68. Kant, *Metaphysics*, pp. 6:314-15.
69. Kant, *Metaphysics*, p. 6:387.
70. Kant, *Critique of Pure Reason*, trans. Paul Guyer and Allen Wood (Cambridge: Cambridge UP, 1997) p. B 562.
71. Kant, *Groundwork*, p. 4:427.
72. Kant, *Groundwork*, p. 4:428.
73. Kant, *Metaphysics*, p. 6:381.
74. For more discussion of Kant's view of animal minds, see Heather

[Kendrick] Fieldhouse, “The Status of Animal Minds in Kant.” *Philosophical Writings*, vol. 25, no. 1 (spring, 2004), pp. 3-18.

75. Immanuel Kant, *Critique of the Power of Judgment*, trans. Eric Matthews (Cambridge: Cambridge UP, 2000) p. 5:464.

76. Alex A. S. Weir, Jackie Chappell, and Alex Kacelnik, “Shaping of Hooks in New Caledonian Crows.” p. 981, *Science*, vol. 297 (Aug. 9, 2002), p. 981.

77. Immanuel Kant, *Critique of Practical Reason*, trans. Mary J. Gregor, in *Practical Philosophy* (Cambridge: Cambridge UP, 1996) p. 5:61-62.

78. Korsgaard, pp. 103-104.

79. Kant, *Practical Reason*, p. 5:124.

80. Kant, *Groundwork*, p. 4:393.

81. Kant, *Groundwork*, p. 4:405.

82. Kant, *Practical Reason*, p. 5:61-62.

83. Kant, *Groundwork*, p. 4:393.

84. Kant, *Practical Reason*, p. 5:110-11.

85. Kant, *Groundwork*, p. 4:415; cf. *Practical Reason*, p. 5:25.

86. Korsgaard, pp. 96-98.

87. Kant, *Groundwork*, p. 4:433.

88. Kant, *Practical Reason*, p. 5:25.

89. Timmermann, pp.140-41.

90. O'Hagan, p. 554.

91. The ascription of desires to animals would, of course, be disputed by some. I will not tackle that issue right now, except to say that desire in this context can be construed as something quite basic. To say an animal has desires is to say it has a power of choice that impels it to take action to reach a certain goal. This could be as simple as moving across the room to a food dish.

Chapter 4

Interspecies Cosmopolitanism: Animal Rights without Metaphysical Foundations[1]

Eduardo Mendieta

1. Introduction

There is a fundamental contradiction at the core of the notion of cosmopolitanism, one that I will argue is not idle but generative. On the one hand, there is a reference to the whole wide world, to the universe, to the boundless expanse of nature, the known and unknown "cosmos." On the other hand, there is a reference to an all-too human notion, to a circumscribed, limited, fragile, and at times unacknowledged institution, namely the polis as a realm in which humans rise above nature. Thomas Hobbes captured this tension wonderfully in his *Leviathan*. In the state of nature we are like rapacious and unhinged wolves, while it is only in a contingently constructed commonwealth that we acquire rights. In the state of nature there is no right. We are all equal, but only because we are all equally capable of killing each other, either by strength, cunning, or machination. We have risen above the state of nature and created an artificial automaton that wields the sword of war in order to impose a peace. Peace, which is unnatural, is the foundation of the polity within which we acknowledge each other as equals under the watchful eye of the sovereign. Even for Kant, we remained irrevocably citizens of two worlds: the phenomenal world of nature, and the noumenal world of the moral law. Kant also captured the contradiction at the heart of the "cosmopolitan" ideal in one of the most

provocative versions of the categorical imperative: "act as though the maxim of your action can become a universal law of nature." Of course, Lucretius and Marcus Aurelius also already understood this dual "citizenship" of the human. Kant's philosophical anthropology, from a pragmatic standpoint, as well as his cosmopolitan project, are ultimately based in the Stoic notion that it is precisely as creature of nature that we all belong to the same nomos. In fact, Kant went so far as to argue that it is "nature" that compels us to rise to the level of the self-legislating creature that we have become. It is by the cunning of nature itself that we are forced to be cosmopolitan. In this sense, then the contradiction that Hobbes, Rousseau and Kant noted at the heart of cosmopolitanism dissolves, but not without giving rise to a different contradiction. From Hobbes, through Locke and Rousseau, to Kant, the juxtaposition between nature and the polis is resolved into the realization that the artificial creature that is the commonwealth, to use Hobbes' language, is but a natural response of the human. For, as Margaret Macdonald put it curtly, "even Hobbes" unpleasant savages have sufficient sense, or reason, to enable them to escape their "natural" predicament."[2] Indeed, it is by the "law of nature" that humans are compelled to seek their preservation by entering into the contract that establishes the commonwealth. Politics is not contrary to human nature, but rather an extension of it. But already in chapter XIV of part one, "On Man," Hobbes reveals a new contradiction: if the state is an artificial creation, to what extent does it supersede or remain tethered to the natural condition of the human. Locke will make explicit this contradiction when he argued that the aim of government is the preservation of fundamental natural rights, the most fundamental of these being the right to one's life and the fruit of one's labor, which is undertaken for the sake of one's preservation. For Locke, then, the fundamental end of political society is the preservation of private property, a legal fiction if there ever was one, but which is grounded in the right granted by the state of nature. The contradiction, or paradox, is now between the authority the sovereign has to create and enforce the law, and the "natural" rights individuals have which that sovereign must either aim to protect or use as guides for its own legislating. The opposition between nature and state now becomes the opposition between some natural right and some artificial rights. Jeremy Bentham will attempt to dissolve this contradiction in the corrosive acid of his legal positivism and utilitarianism. Law is always and only the law enacted by extant authority. Law can only aim at the general welfare of the commonwealth, and there is no other gauge or standard by which to adjudicate on the legitimacy of the law. In his line-by-line critique of the French *Declaration of the Rights of Man and the Citizen*, Bentham claims: "that there are no such things as natural rights—no such things as rights anterior to the establishment of government—no such things as natural rights opposed to, in contradistinction to, legal: that the expression is merely figurative; that when used, in the moment you attempt to give it a literal meaning it leads to error, and to that sort of error that leads to mischief—to the

extremity of mischief." This claim will be re-articulated most succinctly and quotably in the following way: "*Natural rights* is simple nonsense: natural and imprescriptible rights, rhetorical nonsense,—nonsense upon stilts."[3] If "natural rights" can no longer guide the production of law by the sovereign, is then the sovereign a blind and absolute legislator? For Bentham, however, there is notwithstanding his rejection of natural right, a reference to nature. He begins his *An Introduction to the Principles of Morals and Legislation* with the booming affirmation: "Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do . . . The *principle of utility* recognizes this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and law."[4]

All of post-Kantian moral and political philosophy is but an attempt to resolve what we can call the Hobbes-Bentham problem, which has two horns. On the one hand, we have the problem of either the deference, nay subordination, of the artificial automaton that is the commonwealth to something that remains "imprescriptible" or the utter subordination of all rights to the fiat of the sovereign. On the other, we have the problem of either the priority of reason to happiness, or, whether the force of authority is one that is either nourished and guided by rationally discernable principles or whether it is simply the expression of a principle that is subordinate to feeling (pain and pleasure). Bentham sought to dissolve the paradox of the origin of the commonwealth, but he fell back upon a different conception of the human being, one that conceives him as a natural creature of feeling, of passion. Bentham trades Hobbes' philosophical anthropology that grounds reason in nature for a philosophical anthropology that grounds reason in feeling, which is grounded in nature, nonetheless. At play here, however, is always a metaphysical conception of the political association, law and government. So long as political philosophy remained ensnared in the tangles of philosophical anthropologies grounded in the metaphysics of nature, cosmopolitanism remained caged in the provincialism of an anthropocentric metaphysics.

Cosmopolitanism, however, has been stripped of this metaphysical baggage and has been analyzed in much more abstemious philosophemes. A stronger claim can be made, in fact, namely that the moral and political promise implicit in cosmopolitanism is cashed out in proportion to the way in which moral and political philosophies that raise its banner disavow and dispossess themselves of strong metaphysical commitments to either humans and nature. Cosmopolitanism calls for a post-metaphysical stance, and post-metaphysics finds its *lingua franca* in cosmopolitanism. Thus, a quick survey of the contributions to the clarification of cosmopolitanism as a desirable and possible ideal in the twenty-first-century—that is to say, a survey of the works by Martha Nussbaum, Kwame Anthony Appiah, Judith Butler, and Walter Mignolo, to mention the ones that have influenced me the most—reveals that we can analyze

cosmopolitanism as both an "epistemic" and a "moral/ethical" principle.[5] As an epistemic attitude it challenges the monopoly of one worldview, and advocates epistemic humility and fallibilism. As an ethical/moral principle or guiding norm, it commands the mutual respect of humans and the solicitous moral regard for those who are our others. Cosmopolitism, in short, implies a dual relationship that urges that we remain cognitively open to the other and that we be morally accountable for and to the other. Cosmopolitism is not at all like what we can call "elite" knowingness, or Davos man internationalism. Cosmopolitism is not simply an insouciant tolerance that blithely looks on with amusement at others. To put it in terms of Habermas' language, cosmopolitanism brings together the first person with the third person perspective. To put it in pedestrian terms: this person, life form, cultural configuration, etc., matters to me and I have an uncircumventable moral relationship to it, but I also can see myself as someone who is challenged to know it and to see how in knowing it, it transforms my view of the world. As an ethical/moral relationship cosmopolitanism is thus about co-existence and co-habitation—to use Judith Butler's recent language.[6] To act and to known the world from a cosmopolitan standpoint is to ask oneself about the conditions and duties of co-existing and cohabitating. Indeed, Kant already noted that it was the fact of the planet's finitude that forces us to seek to occupy every corner of the planet with equal claims as every other human being. The physical fact of the geography of the planet forces us to be cosmopolitan, namely to aim to co-exist and co-habit. Kant, as well as most Kantians after him, did not consider to what extent this cosmopolitan ideal of co-existence and co-habitation included non-humans.[7] We know that in his ethics lectures Kant talked about subsidiary duties to animals, that is, we do have duties to animals, but only as a proxy for duties toward other humans.

There should be no need to try to persuade you that one of the greatest challenges we face as humans, in general, and as philosophers, in particular, is the ecological crisis. This crisis has several components, or rather, victims. First and foremost, there is the moral and political challenge entailed by the fact that the poorest of the poor will suffer once again disproportionably the disastrous consequences of the warming up of the atmosphere. Second, there is the moral and political challenge of how to distribute the burdens of halting and hopefully reversing the ecological effects of too much consumption, which again is unevenly distributed throughout the planet. Third, there is the moral and political challenge of the depletion of biodiversity throughout the planet. This extinction of life, due to human agency, has been so massive that biologists and ecologists call it the "Sixth Extinction," to compare it with other similar extinctions that have taken place in the natural history of life on earth.[8] Of course, this is not one but several moral and political challenges, for the massive planetary extermination of countless species is not just of consequence to the overall "status" of life on the planet, but also to the unforeseen consequences for

future generations. Indeed, the future of "life' on the planet is not simply an issue about future human life, but also of both "plant" and "animal" life *tout court*. It is this particular cluster of problems that I want to consider, namely to what extent the already two millennia old ideal of cosmopolitanism must be re-thought in terms of not just a legal/political order of rights, of mutual rights and duties, that is extended to only human subjects, but now of right and duties that must be extended to the entire space of nature, of the cosmos, of that physical horizon in which we live, to which we belong, along with every other living being on the planet. We are truly on the threshold of a cosmopolitan order that captures the earliest intuitions of the Stoics, namely that by nature we all, as living beings, live under a legal umbrella that grants us all rights, that is, equal protections. In the following I will argue that the combined resources of discourse ethics, deliberative democracy, dialogic or communicative cosmopolitanism can provide us with the kind of critical resources that would allow us to face some of the challenges that we face due to the ecological crisis. Most concretely, I want to argue that the universalization, discourse and democratic principles Habermas has elaborated by linguistifying Kant's moral philosophy allow us to develop a non-metaphysical and non-anthropocentric grounding of rights of nature. It is precisely Habermas' post-metaphysical turn that has allowed Frankfurt School-inspired "critical theory," to be able to offer some theoretical tools that can help in the discussion of what rights not just other humans and cultures have, but also what other non-human being may or should have. Postmetaphyiscal critical theory has matured not simply to a postsecular stance, but also to a post-anthropocentric moral and legal consideration of life.[9] In this way, then, postmetaphysical thought is the foundation for an interspecies cosmopolitanism that offers a de-centered universalism that thinks from the standpoint of the future of life on the planet. We are now in the position to recognize that the moral and political promise of cosmopolitanism can be actualized if we transform intra-species cosmopolitanism into an interspecies cosmopolitanism, lets we betray cosmopolitanism's inner logic of dissolving no longer tenable and extremely costly anthropocentric "ontological luxury."[10]

2. Nature in Critical Theory

Left-Hegelianism—the larger rubric under which historical materialism belongs—is a form of romanticism. This is explicit in Karl Marx's youthful and mature writings. In his *Philosophical-Economic Manuscripts* of 1844, Marx talks about the "humanization of nature and the naturalization of man," as a critical remark on the deforming effects of bourgeois society, on the one hand, but also as a reflection on the way in which what humans do and make, they do as creatures of nature.[11] Some almost 20 years later, in the *Grundrisse*, Marx will be more specific and will write on the social production of the human ear and the human hand through and by the invention and production of social

tools.[12] For Marx, we are social creatures through and through, but our sociality is not bought at the expense of our natural, or human, nature. We are social animals that produce their social character through the making of devices and technologies that are developed for the sake of dealing with nature. Thus, the humanization of nature is mediated by technology, and in turn technology is embedded within a whole set of social relations. Technology itself is a social relation that mediates the human/nature nexus. There is thus no access to nature except through techno-social *dispositifs*. The naturalization of man, the other side of the dialectic, means that humans discover and produce their natural character as they produce those apparatuses that allow them to deal with nature. Just as language has what Karl-Otto Apel and Habermas have called a dual structure, one that points directly to nature and to other social agents simultaneously, technology points to nature while also networking a whole ensemble of social relations. In this way, already in Marx we find proleptically Georg Lukács' pointed formulation: "nature is a societal category."[13]

Lukács took the inchoate step already implicit in Marx's materialistic dialectic. If we produce our natural essence, our what Marx called "species being" (*Gattungswessen*) by transforming nature through technology, then what is produced is a social detritus. We never have an unmediated access to nature, and what we take to be nature, i.e., that which is untouched by humans, is itself already a social effect. What Peirce said about Kant's concept of the noumena applies as well to what Lukács said about a pre-social concept of "nature," namely that such a notion is incoherent, at best, and at worst, a reification of social relations that aims to mask the constructedness of our world.

First generation critical theorists, such as Theodor W. Adorno, Max Horkheimer, and Herbert Marcuse, retained the left-Hegelian romanticism that guided Marx and Lukács, but given their specific social situation, they put the accent on the "nature" side of the social production of nature. If, to use the Kantian language, we are compelled by nature to rise to the social level, and society imposes itself sovereign over the natural world, nature itself can re-assert itself not just through the paroxysms of human violence, but also through the dialectic of misconstrued or misrecognized nature.[14] In other words, the death of nature, brought on by the technological reification and hyper-social alienation, is to be countered by the resurrection of nature. Against new myth of technological supremacy, Adorno and Horkheimer called for recognition of the still "unsocialized" nature in the human. Both agreed that, for instance, Freudian psychoanalysis was a critical method that analyzed the ways in which nature re-asserted itself against pathological forms of socialization and how socialization remained incomplete. For Adorno and Horkheimer, in fact, the human being is the natural animal that is deformed by society, one that nonetheless remains insufficiently socialized. For Adorno, most concretely, we are the Nietzschean mangled animals that is not animal enough or is too socialized for its own good. The *Dialectic of Enlightenment*[15] is not just a Hegelian critique of the myth of

rationalization and the reaffirmation of mythological thinking, in the form of the ideology of technoscience; it is also a reaffirmation of Marx and Lukács's analysis of the social production of human nature.[16] For Adorno and Horkheimer, we remain caught between the extremes of too much un-enlightened socialization, i.e., socialization driven by reification and alienation, and submission to too many unsocialized natural urges, i.e., again due to either their repression or economic manipulation. Thus, Adorno and Horkhemier added a new level of clarification to the Marxian left-Hegelian romantic philosophical anthropology that explored the social production of nature in and through the human. On top of this natural sociality and social naturalness there is the social production of a pathological or deforming naturalness that leads us to rattle the cage of civilization even at the risk of dismantling it to the detriment of all. For this reason, the concept, as the privileged medium of grasping nature, is always both a weapon of self-subjection, and the only means of our own emancipation.

Adorno and Horkheimer, however, were in a philosophical dialogue with, on the one hand, Marcuse and Bloch, and on the other, Walter Benjamin. Marcuse and Bloch articulated the critique of instrumental reason that affirmed the possibility of nature to be resurrected by the emergence of a non-reifying technology, a technology that would not vivisect nature and in the process also lead to the pathologies of reason. Benjamin on the other hand, called for a type of thinking that recruited the help of theology in order to reawaken dead nature. Against both tendencies, Adorno and Horkheimer affirmed the social character of both epistemology and technology, and above all their inescapability and irreversibility. There was no way that we could return behind Lukács, Marx, Hegel and Kant, with their respective critiques of metaphysical thinking. As against the affirmation of a romantic Schellingian metaphysics and a theological metaphysics, Adorno and Horkheimer affirmed the irreversible and irretrievable loss of the magic of nature for the sake of our *Mündigkeit*. We have been inconsolably expelled from the garden of nature, and remain also still too far from the heaven of paradise, in which all creatures would be brothers and sisters, the lion and lamb, co-existing next to each other.

3. Science as Ideology, Communicative Rationality, and the Genesis of Law

Notwithstanding its neo-Hegelian character, the *Dialectic of Enlightenment* turned out to be too much of a critique of rationality *en toto* because in it Horkheimer and Adorno conceived rationalization as the reification of reason in terms of scientific, or instrumental, rationality. In other words, the *Dialectic of Enlightenment* led to a totalizing critique of reason inasmuch as all reason led to both reification and alienation. It became imperative to understand how the enlightenment project of the rationalization of social existence could be

uncoupled from the scientific rationalization of both nature and the social world. This is where Habermas's work intervened, and becomes both immanent and a new dialectical correction of the reifying telos of Adorno and Horkheimer's totalizing critiques. There are two key points of reference for a proper understanding of how Habermas's work contributed to disentangling first generation critical theory's from its defeatist total critique of reason. The first is Habermas *Knowledge and Human Interests* from 1968.[17] In this book Habermas sought to offer a philosophical anthropological theory of knowledge interests by way of a conceptual reconstruction of the evolution of social theory and the critique of knowledge since Kant, all the way through Freud and Nietzsche. In other words, already in this early work Habermas was offering an immanent analysis of the constitution of knowledge interests that disaggregated the types of knowledge that humans acquire by virtue of how they are oriented toward specific object realms and their corresponding guiding interests. Thus, we have an interest in controlling nature so as to survive, which directs our instrumental knowledge interest, or technical interest. We have an interest in understanding others, who cannot be properly instrumentalized. This practical interest presupposes mutuality and intersubjective relations. And we have an interest in emancipation, or liberation from social relations and modes of self-understanding that have regressive and repressive consequences. This is the interest in critique. These knowledge constitutive interests take form in the media of labor, interaction and language. But it is in language that all the three cognitive interests are united, for it is through language that we can relate to the world as an objective and independently standing reality, and relate to others in normed ways. Additionally, it is in and through language that we can articulate our critique of all reifications.

Habermas will abandon this philosophical anthropological grounding of knowledge interests because they presuppose a history of the human species as the proper subject of the history of the acquisition of these particular knowledge interests. But, it is important to underscore that in *Knowledge and Human Interests*, the evolution and acquisition of certain knowledge competencies is part of our natural history. In other words, it is part of our natural history that we have evolved the capacity to instrumentalize nature by reifying it in nomothetic models that render it as something for us, as a standing reserve for our technical interest. As Henning Ottman noted in a paper from the late seventies, this very technical or instrumental interest in "managing and controlling" nature also reveals a "nature in itself" that does not challenge the instrumental knowledge interest as such, but only specific interpretations of it—purely scientistic and positivist interpretations, for instance. In other words, within Habermas's own early work on the need to distinguish about certain forms of knowledge there is a place for the need to recognize the limits of instrumental rationality, even within the form of knowledge that is most instrumentalizing.[18]

The second key point of reference for understanding how Habermas disentangled critical theory from its defeatist total critiques of reason is the massive two-volume work *Theory of Communicative Action*, whose subtitles are properly disclosive: reason and the rationalization of society, for volume one, and lifeworld and system: critique of functionalist reason.[19] What is relevant for our purposes is that Habermas has transformed his philosophical anthropological theory of knowledge into a theory of rationalities, or types of rationality. As with *Knowledge and Human Interests*, the *Theory of Communicative Action* (TCA henceforth) proceeds by way of conceptual or theoretical reconstructions. What is significantly different in the new work is the claim that in order to approach a typology of rationality we must do so in terms of the rationalization of society. Thus, a theory of reason becomes a theory of social rationalization, which in turn becomes a theory of the ways in which different social institutions embody certain types of rationality. It is for this reason that a proper critical social theory must also be a theory of modernity, that is to say, a theory about why our modern societies embody the forms of rationality they do in the respective institutions that make those societies self-steering and self-critical.

The major theoretical gain of TCA is that it allowed us to disaggregate not just types of rationality, but also the types of discourses that correspond to different validity claims: Thus, we have theoretical, practical, and aesthetic discourses that have to do with truth, rightness and truthfulness. In this way, Habermas has secured the autonomy of practical discourses that deal with questions of ethics and justice independently from theoretical or even aesthetic discourses, even as they may enter into dialogue. Thus, the pathologies of reason diagnosed in such powerful and evocative language by Adorno and Horkheimer have become in Habermas language pathological modes of social rationalization that can and should be criticized with the aid of counter-models of directed and transparent modes of social rationalization. The most important gain, however, is that now critical theory can contribute to a clarification of a normative theory of morality that combines the best work on developmental moral psychology with deontological moral philosophy. It is on the basis of the clarification of the validity claims of truth, rightness and truthfulness that drove the Habermasian project to develop a discourse ethics and a deliberative theory of democracy. It is at the level of practical discourse oriented to morality and democracy that we encounter the practical questions of co-existence with other forms of living entities. I like to briefly discuss Habermas's treatment of the question of animals and life in general at the level of moral theory before I turn to the question of rights, and whether there is possibility for a discourse theoretical grounding of animal rights.

Habermas's most extensive treatment of the question of animals others is to be found in his long essay entitled "Remarks on Discourse Ethics," which is included in *Justification and Application*: *Remarks on Discourse Ethics.*[20] In section 13 of the main essay, "Remarks on Discourse Ethics," Habermas is

addressing Günther Patzig's critique of discourse ethics's anthropocentrism and its putative deficit with respect to ecological moral and ethical challenges. Habermas acknowledges that the anthropocentric profile of Kantian deontological moral theories, of which discourse ethics is a variant, do seem to blind them to "questions of the moral responsibility of human beings for their nonhuman environment." (105) Even within a Kantian framework it would be possible to recognize that there are duties toward animals and nature precisely as derivative or secondary duties, which are always referred to human beings, existing or future ones. But Patzig pushes past this recognition. He asks: does nature have a claim on our duty to respect it independently of our duties to humans? Does nature have a moral status that commands our respect independent and irrespective of other human beings?[21] Habermas acknowledges that we do have the moral intuition that animals do make moral claims on us precisely in their bodily integrity, which is revealed to us when they suffer some cruelty. Habermas writes: "We have an unmistakable sense that the avoidance of cruelty towards all creatures capable of suffering is a moral duty and is not simply recommended on prudential considerations or even considerations of the good life." (106). In fact, Habermas is here rejecting Kant's subordination of our duties toward animals to duties toward other human beings. "Animals confront us as vulnerable creatures whose physical integrity we must protect *for its own sake*." (106). This *for its own sake*, is what in humans we call personal dignity. Thus, animals may be said to have a unique form of dignity that commands our moral consideration. The moral considerability of non-human suffering is based on their vulnerable physical integrity. Animals are irreducibly alive and thus also vulnerable in their own way. But, taking distance from Patzig, Habermas notes that these moral claims remain of a different character and order than the claims humans make on us. There is no way in which our moral considerability of animal suffering can be part and parcel of the deontological structure of the moral point of view. Why? Habermas makes the following distinction. When we address the physical vulnerability of an animal we are addressing the bodily integrity of a nonhuman animal. When we address the physical vulnerability, or injurability, of a human being, we address it in terms of personal integrity (of which physical integrity is only a part, even if it is only a large and important part). Habermas notes, and I quote at length because it is so crucial:

> The person develops an inner life and achieves a stable identity only to the extent that he also externalizes himself in communicatively generated interpersonal relations and implicates himself in an ever denser and more differentiated network of reciprocal vulnerabilities, thereby rendering himself in need of protection. From this anthropological point of view, morality can be conceived as the protective institution that compensates for a constitutional precariousness implicit in the socialcultural form of life itself. Moral institutions tell us how we should behave towards one another to counteract the extreme vulnerability of the individual through protection and considerateness.

> Nobody can preserve his integrity by himself alone…. Morality is aimed at the chronic susceptibility of personal integrity implicit in the structure of linguistically mediated interactions, which is more deep-seated than the tangible vulnerability of bodily integrity, though connected with it. (109)

Evidently, our moral duties toward the personal integrity of other human beings does not carry over into animals, because we cannot attribute personality to them, since they are not part of our communicative world. We don't come to an understanding with them about something in the world, even if we are in non-verbal forms of symbolic interaction with them. Habermas concludes: "Like moral obligations generally, our quasi-moral responsibility towards animals is related to and grounded in the potential harm inherent in all social relations" (109). Thus, not only does the suffering of animals command our moral considerability, on the grounds that the physical integrity of animals is an issue for their own lives—it is their suffering that commands my moral response to them—they also command our moral considerability because even if we are not able to reach "understandings" with them, they are embedded within social relations within which they are vulnerable to the potential harm that is part and parcel of every social interaction.[22]

But how are these moral claims embodied in our social interactions? How do our moral intuitions take shape in social institutions and direct our social interactions? This is what Habermas set out to answer in his *Between Facts and Norms*[23] (henceforth BFN). At the heart of this treatise on law and democracy are two key ideas, which are directly relevant to the aims of the present paper. First, that "law is the medium through which communicative power is translated into administrative power" (BFN, 150) that is, the power that is generated when humans come together to act in accord guided by an opinion generated through public discussion and publicly held gets transformed into administrative action. Law is the medium that transforms this communicative power into administrative wherewithal. Second, that "law is the only medium in which it is possible reliably to establish morally obligated relationships of mutual respect even among strangers" (BFN, 460). Rights, which is the way we experience law, embody moral intuitions while also guiding our everyday interactions in a non-coercive way that nonetheless regularizes our mutual expectations. Rights stabilize our mutual behavioral expectations and serves as either dis-burdening or un-burdening mechanisms insofar as they transfer the weight of moral oughts to the positive sanction of enforceable law. In this way, law is Janus faced. One face is directed at enforceable sanction, while the other points in the direction of moral duties. In fact, in a recent paper entitled "Human Dignity and the Realistic Utopia of Human Rights" Habermas put it this way:

> Because the *moral promise* is supposed to be cashed out in *legal currency*, human rights exhibit a Janus face turned simultaneously to morality and to law. Notwithstanding their exclusively moral *content*, they have the *form* of

> enforceable subjective rights that grant specific liberties and claims. They are designed to be *spelled out in concrete terms* through democratic legislation, to be *specified* from case to case in adjudication, and to be *enforced* in cases of violation. Thus human rights circumscribe precisely that part of morality which *can* be translated into the medium of coercive law and become political reality in the robust shape of effective civil rights.[24]

Evidently, this way of thinking about law assumes that law is not just the fiat of the sovereign but instead that positive law is the materialization of rational decisions that either have or would have the assent of all those affected by those laws. Rights result from the crystallization of the abstract character of the "legal form," that is, rights are the instantiation of the general form of law. To use Rousseau's language, we could say that "right" or "*droit*" is only that which treats the general body politic in the form of generality. The form and content of law is always general, i.e., it applies to all, and establishes a general relation among the individual members of the polity. Habermas takes this key Rousseauian idea of the general form of law, and links it with what he calls the democratic principle, namely:

> only those statues may claim legitimacy that can meet with the assent (*Zustimmung*) of all citizens in a discursive process of legislation that in turn has been legally constituted (BFN, 110).

The interpenetration of the legal form with and by the democratic principle is the site of the genesis of rights. A polity must always deliberate on what "statues" it is willing to submit so as to deal with the contingencies of economics and politics. Rights are always being generated to deal with those contingencies, but at the basis of the legislative edifice is a set of basic rights that allow for the further specification of rights. At the same time that rights are meant to "stabilize" our behavioral expectations, they are also, and perhaps most importantly, mean to give voice to our moral intuitions, those intuitions that could be the basis for an agreement about how we should treat each other and all kinds of members of the polity, even if we don't acknowledge directly as our equals and are merely treated as strangers or "others."

4. Neither Law nor Morality, but Political Morality

I began this essay by sketching out what I called the Hobbes-Bentham problem, one that I argue has two horns. Over the twentieth-century, the horn about the relationship between the sovereign and the rights of individuals became the problem of the relationship between morality and law. The genocides of this "century of extremes" made starkly that the law had to embody morality, and that morality could never be reduced to a particular community's ethos, or mores. The declaration of human rights meant to solve this tension by giving

institutional form to some basic universal moral intuitions: human *rights* now are the voice of *moral* norms. Bentham's denunciation against the French Declaration of the Rights of Man and the Citizen that such rights were but the "extremity of mischief" became in the lips of postcolonial critics of European colonialism and neocolonialism the accusation that they were but "imperial Trojan horses" to smuggle in European moral values, and above all, their specific political values and practices. Micheline Ishay has provided us with an outstanding history of this critique, but also of the ways in which the language, and logic, of human rights has also been used by anti-imperialist critics.[25] Since the end of World War II, and the Universal Declaration of Human Rights adopted in 1948, one of the major challenges to political and moral philosophy is to square the circle of moral universalism sans ethnocentrism and legal efficacy sans imperial fiat. In other words, one of the main theoretical problems of the last half century, in the aftermath of two world wars, has been how to conceive rights as a form of law that is post-state, nor not tethered to a specific state, and at the same time as expressing universal moral norms that are post national, that is, they don't express the moral values of a particular people. This is where the discourse of human rights converges with the renaissance of cosmopolitanism, for the latter is both post-state and post-national. Nonetheless, one of the ways in which the squaring the circle of the moral universalism and global legal enforceability has been attempted is to the development of discursive and procedural theories of political deliberation and juridification. Of course, all other kinds of theoretical models have been put forth spanning a wide expectrum: from those that totally moralize law to those that eviscerate law of all moral content and reduce it to the autopoetic differentiation of a system. On one extreme, so to say, we have Levinas and Derrida, from whom the force of the law is always some sort of ethical violence. The law cannot but be a form of violence, and for this reason the justice promised by and cashed out in law remains *à venir.*[26] The possibility, the promise of justice, is predicated on the deconstruction of the present law. For this reason, "deconstruction is justice."[27] On the other extreme, we have Niklas Luhmann, for whom law is a social system that operationalizes normative expectation according to the code legal/illegal. By operationalizing the expectability or normative expectations in positive law, the legal system acts as "society's immune system."[28] The legal system immunizes society from the destructive effects of the violence that arises when people don't act in accordance with given expectations. Law tries to anticipate, and preempt, possible conflict, by providing a way to defuse behavioral ambiguity. Law disambiguates behavioral uncertainty thus defusing conflict by offering a distinct type of communication, namely what is communicated when we refer to the law: whether it is part of the legal system. In this sense, the legal system is part of the social systems that reduces complexity by creating a distinct type of differentiation. "Law serves to continue

communication by other means,”[29] namely the means of the code legal/illegal. Luhmann’s systems theory is a functionalist form of legal positivism.

In between these two extremes, we have the discourse theoretical model of ethics and democracy first anticipated by Karl-Otto Apel, but only fully developed by Habermas. This model, which can also be called the communicative rationality theory of ethics and politics, is in fact a theory of political morality that offers the most sophisticated and expansive resolution of what I called above the paradox of squaring the circle of morality and law. I already provided a thumb sketch of the virtues of Habermas’s proposal and how it can be seen as providing some resolutions to old paradoxes without incurring the burden of new ones. In contrast to the relationship between Hobbes and Bentham, Locke and Rousseau, Kant and Hegel, the discourse theoretical model of both morality and law, is not new wine in old bottles. For the moment, relying on an already rich bibliography, let me just say that two major accomplishments of the discourse theoretical model are: first, that this model shows how law is always already entwined with morality, and second, that law, which is “cashed out in the currency” of rights—that is, made into an administrative means, a means to coordinate action—is generated in the midst of political deliberation.[30] In order to make these two accomplishments look more plausible as accomplishments and not simply as sleights of hand, I want to turn to a brief discussion of what Kenneth Baynes has called a political conception of rights that at the same time demonstrates why rights have to be understood as forms of critique, that is, when anyone invokes the language of rights, they are already evoking a type of critique. Inasmuch as rights have a forensic character, that is, they diagnose violence, unauthorized, an illegitimate coercion, they operate as political devices. They are forms of political critique that entails political solutions.

In an essay published in *Political Theory* in 2000, titled “Rights as Critique and the Critique of Rights”[31] Baynes sets dissolves productive not just Marx’s critique of rights, but that of Wendy Brown, for whom, following Marx, rights are the means by which individuals are subject to a subordinating power. Rights are not the means of their liberation, but the very tools of their subjugation. Baynes sets out to demonstrate that this critique is based assumption of three irresolvable paradoxes, which he nicely labels thusly: First, there is the paradox of politics and rights, which foregrounds how rights depoliticize and naturalize political conflicts, by assuming that the claiming of granting of rights is linked to something that is prepolitical or natural (see my Hobbes-Bentham problem above). Second, there is the paradox of the “subject formation,” which highlights how the rights that are claimed on behalf of a specific subject are “exogenous” to a political system. In other words, the subject is already formed so that it can claim its right. Third, there is the paradox of “institutionalization,” which points out starkly how if rights are meant to depoliticize and they remain exogenous to a given political system, then how are they to be

"institutionalized" or "implement" with any degree of determinancy. Indeed, what rights can be claimed from any given political standpoint of the claims remain pre-political and exogenous. Baynes claims that these paradoxes dissolved in the acid bath of dialectical critique.[32] Relying on Claude Lefort, Baynes demonstrates, convincingly, that rights are not the property of possessive individuals, ideal members in an atomistic social ontology, but rather, constitutive of relationships. Rights are rights to relationships, political relationships. Indeed, we could take Lefort and Baynes and argue that John Locke's conception of the supreme aim of government as the protection of property is but a reification of a more fundamental aim: government is the formalization of relationality, the protection of relations. In other words, Locke's inalienable right to property, as a right to one's own product, that is, to a relation to one else, is the obfuscation of a more fundamental relation: the relation to others, and through them, to oneself.

Additionally, we remain enthralled by the paradox of the alleged depoliticizing and naturalizing effect of rights only we fail to see that right were above all ways in which the very horizon of the political was established. So long as the King retained all rights, and all right was but a gift of the sovereign, the subject could only step into the light of the sovereign gaze at his mercy and magnanimity. But this is precisely what a new order of sovereignty challenged when an order of law and rights was established. Now both the sovereign and the citizen would occupy a space, a horizon demarcated by right. There is a dialectic between the political and rights—the space of the political waxes and wanes with the ebbing and flowing of rights. Totalitarian societies contract the space of the public precisely by abolishing the reign of rights. Conversely, the sporadic and then systematic violation of rights, and their complete disregard, means the abolition of the means by which individuals can participate. In this sense, then, rights are ways of inscribing and reinscribing the "boundaries of the political." Thus, the claim of one right, is already to unleash the dialectic of claiming rights, and in that sense the discourse of rights entails the right to have rights. The logic of rights is the logic of mutual recognition by enabling political participation. Politics then here is defined as the horizon of recognition, in which social agents may be formed.

For this reason, the indeterminancy of the right is not a vice, but a virtue. Rights acquire determinacy in the context of specific claims that are voiced by differently positioned, differently recognized or misrecognized social agents. As Lefort put it: "[Rights] stem from a domain that the state cannot occupy. They are constantly aroused by the need for the aspirations of minorities or particular sections of the population to be socially recognized."[33] In other words, rights are "seismographs"—to use Habermas's expression—of social injustice that is uniquely historically produced. They are thus also a seismograph of the political. Right remain indeterminate so long as the political remains indeterminate, and the political must remain indeterminate as long as social agent produce and

reproduce their political existence, even under conditions not of their choosing. For this reason, Lefort argues, we must understand rights as a "constitutive element of political society," and thus as a "generative principle" of democracy.[34] For Baynes, Lefort's claim about the generative character of rights is mirrored—if not directly or with reference to Lefort—by Habermas's analysis of the co-originality of rights and democracy. For Habermas, re-inscribing Kant and Hegel's respective theories of morality and law, the "system of rights" is the "reverse side" of the principle of democracy. This means, there can't be democracy without the acknowledgment of individuals, and individuals are acknowledged as such only through a system of rights. Habermas expresses this co-originarity in the following way:

> *At a conceptual level*, rights do not immediately refer to atomistic and estranged individuals who are possessively set against one another. On the contrary, as elements of the legal order they presuppose collaboration among subjects who recognize one another, in their reciprocally related rights and duties, as free and equal consociates under law. This mutual recognition is constitutive for a legal order from which actionable rights are derived. In this sense "subjective" rights emerge equiprimordially with "objective" law (BFN, 88).

This means that the interpenetration between rights and democracy, in terms of the co-originarity of subjective and objective law, is parallel in the presupposition of citizen's public and private autonomy. In other words, popular sovereignty is neither above nor below private autonomy, and conversely, the latter is neither above nor below the former. Neither can be derived from the other, both are interdependent and mutually reinforcing. There is no popular sovereignty unless the rights of citizens are respected, and spelled out, even if ever so incompletely, in a system of rights, and conversely, these rights can only be spelled out in the exercise of popular sovereignty. This is but a more philosophically elaborate articulation of what Hannah Arendt had already recognized in 1967, when she wrote: "We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights."[35] In this way, finally, the paradox of the institutionalization of rights is resolved into the open dialectic of the ceaseless institutionalization of rights through the jurisgenerative action of different social actors in accordance with their distinct and unforeseeable needs and demands.

In a more recent essay Baynes takes further this analysis of rights and elaborates more explicitly his conception "political conception of rights."[36] He develops this conception in dialogue with four theorists of rights: Ignatieff, Rawls, Pogge and Joshua Cohen, who are juxtaposed to Habermas's own version of rights, nuanced and expanded by Seyla Benhabib and Rainer Forst. What Benhabib and Forst add is a clarification about the normative status of the discourse theoretical model that dispenses with any metaphysical assumptions

about humanity (such as natural law does, or highly ambiguous notions of human dignity) while at the same time steering clear of any excessive moralization of fundamental rights. Benhabib pursues a line laid out by Arendt, and echoed by Lefort, namely the notion of "right to have rights."[37] This expression has two valences: a moral and a "juridico-legal" one. The latter refers to the legal status of a citizen within a legal community. The former refers to the most minimal and basic moral right of humans to belong to a political community that would acknowledge their "legal personality" (this would be a right never to be rendered stateless, or not to have a legal personality). Forst, on the other hand, argues that the right to have rights is but the "right to justification." It is a "right to be respected as a moral person . . ." which takes on the form of "a right to, and the capacity for, the reciprocal and general justification of morally relevant actions norms."[38] Both Benhabib and Forst converge in the following consequence, however, and that is debate over a contested norm presuppose both specific institutions and discursive practices as well as specific legal and political institutions for their resolution. Consequently, in Forst's terms, "The main reason why moral constructivism must be accompanied by, and integrated with, political constructivism is that, since moral construction can only lead to a very general list of rights for which we can assume that no normatively acceptable reasons count against their validity, these rights can only be concretely justified, interpreted, institutionalized, and realized in social contexts, that is to say, only within a legally constituted political order."[39] Still, Baynes thinks that both contributions to the further elaboration of the discourse theoretical model remains too unambiguous vis-à-vis the concrete social struggles for the recognition of rights at the international level. It is here where Baynes's own proposal for a political conception of rights come to the fore, namely as a corrective that foregrounds the way in which "human rights are understood as conditions for inclusion in a political community, including a still emerging global political community."[40] Most concretely, by "political" Baynes means that he wants us to see that human rights are: first, claims against and for political institutions, in contrast to claims against other individuals; second, in this reading, human rights are primarily rights dealing with the "basic conditions of membership in a political community," and third, human rights are political because the type of justification given for them is "determined by their political role," that is, the way in which they have political consequences and efficacy.[41] In the language of the earlier essay, rights have a fundamentally generative function: they refashion the political space in such agent can fashion their agency and subjectivity in accordance with the extent and force with which we acknowledge mutual rights.

5. Postmetaphysics and the Right to Have Rights

On the basis of this understanding of the relationship between the moral point of view and the genesis of rights within a polity, understood and clarified in terms of the logic of rational deliberation, we can develop a postmetaphysical and non-anthropocentric paradigm for animal rights that gives expression to our moral intuition that non-human suffering does command our moral considerability that also imposes upon us enforceable legislation that protects all those who are injurable and vulnerable by virtue of the fact that they are, even if unwittingly, members of our community. The issue is not whether animals are rational, and thus command the respect every rational entity commands. Nor is it whether animals can communicate, or enter into our "space of reasons," and thus hypothetically at some point assent to the consequences of the enforcement of some rights. Nor, furthermore, is the issue whether they can suffer, as Bentham objected against Kant. The issue cannot be of where and when are we willing to move the line of who or what is within the horizon of moral considerability, for if moral considerability is reduced to the locus of this line, then we are still in the grip of a circular specism—we can only admit of our duties to other entities that are always defined in terms of something that we either lack or possess, and thus, cannot admit duties to a living being that is not in some way sharing our metaphysical space. It is precisely against this kind of metaphysical chauvinism that we humans invented the institution of rights—humans and non-human. Rights are one of the few human institutions we invented *not* for the sake of preserving and protecting that which is similar, familiar and can argue and talk back; on the contrary, we invented (human) rights to force ourselves to respect and protect that which is alien, different, vulnerable, indefensible and speechless. This is Habermas's insight, which takes us beyond Kant, Regan and Singer—namely that we can recognize, very clearly, that we legislate rights not merely on prudential and consequentialist reasons, nor solely on the grounds of metaphysically dubious grounds of "intrinsic worth," but, on the contrary, because we recognize the mutual vulnerability of forms of life that command from us our protection insofar as we have arrived at a moral insight that regardless of the metaphysical status of these beings, they nonetheless command our protection.[42] Rights look simultaneously in two directions: they look to our moral intuitions and they look to how to administer our interactions when we are lost in a sea of moral uncertainties. There are plenty of cases within the history of moral philosophy that have argued that we have moral intuitions about our moral duties toward animals. Now we have the added urgency that we must force ourselves to consider animals for their sake and for our sake, and for the sake of life on the planet. We legislate rights not because we are so forced by God, nature, or history; but because we are the kind of creatures who can bring both legal and moral order to the world. Rights do not require metaphysical foundations because they are expression of our gratuitous legislating will to live

in accordance with moral reason and the concomitant will to submit to its non-violent coercion (*gewaltloss Gewalt*).

Notes

1. A much shorter version of this essay appeared in Cynthia Willett and Leonard Lawlor, eds., *Recenterings of Continental Philosophy*, Vol. 35. SPEP Supplement 2010 of *Philosophy Today*, Vol. 54, 208-216.

2. Margaret Macdonald, "Natural Rights" in Jeremy Waldron, ed. *Theories of Rights* (Oxford: Oxford University Press, 1984), 26.

3. Jeremy Bentham, *The Works of Jeremy Bentham*, ed. John Bowring (Edinburgh and London: Simpkin, Marshall & Co., 1843), Vol. 2, p. 500-501. Quoted in Gary B. Herbert, *A Philosophical History of Rights* (New Brunswick and London: Transaction Publishers, 2004), 260.

4. Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (Mineola, NY: Dover Publications Inc., 2007), 1-2. Italics in original.

5. See Eduardo Mendieta, *Global Fragments: Globalizations, Latinamericanisms, and Critical Theory* (Albany: SUNY Press, 2007), the introduction; and most recently, in my article "From Imperial to Dialogical Cosmopolitanism" in *Ethics & Global Politics* Vol. 2, No. 3 (2009): 241-258.

6. See Judith Butler, "Why Judaism Is Not Zionism: Religious Sources for the Critique of Violence" in Eduardo Mendieta and Jonathan VanAntwerpen, eds., *The Power of Religion in the Public Sphere* (New York: Columbia University Press, forthcoming).

7. The notable exceptions are Ursuala Wolf, *Das Tier in der Moral* (Frankfurt: Vittorio Klostermann, 1990), and Julian H. Franklin, *Animal Rights and Moral Philosophy* (New York: Columbia University Press, 2005), and as I will argue, Habermas.

8. See Elizabeth Kolbert, "The Sixth Extinction? There have been five great die-off in history, this time the cataclysm is us" *The New Yorker*, Vol. 85, No. 15 (Mary 25, 2009), 53 ff. and David Quammen, "Planet of Weeds," in *Natural Acts: A Sidelong View of Science and Nature* (New York and London: Norton, 2008), 161-188.

9. On the notion of "postmetaphysical thought" see Jürgen Habermas, *Postmetaphysical Thinking: Philosophical Essays* (Cambridge: The MIT Press, 1992), on the relationship between postmetaphysical and postsecular, see Jürgen Habermas, *Between Naturalism and Religion* (Cambridge: Polity, 2008), as well as my recent interview with Habermas, "Philosophy's New Interest in Religion? On the Philosophical Significance of Postsecular Consciousness and the Multicultural World Society—An Interview by Eduardo Mendieta with Jürgen Habermas" available on-line at: http://blogs.ssrc.org/tif/2010/02/03/a-postsecular-world-society/

10. I am appropriating this term from Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977), xi.

11. The passage reads: "*Communism* is the *positive* supersession of *private property* as *human self-estrangement*, and hence the true *appropriation* of the *human* essence through and for man; it is the complete restoration of man to himself as *social*, i.e., human, being, a restoration which has become conscious and which takes place within the entire wealth of previous periods of development. This communism, as fully developed naturalism, equals humanism, and as fully developed humanism equals naturalism; it is the *genuine* resolution of the conflict between man and nature, and between man and man, the true resolution of the conflict between existence and being, between objectification and self-affirmation, between freedom and necessity, between individual and species" in Karl Marx, *Early Writings*, ed. By Quintin Hoare (New York: Vintage Books, 1975), 348. All italics in original.

12. See the still indispensable book by Alfred Schmidt, *The Concept of Nature in Marx* (London: New Left Books, 1971).

13. See Georg Lukács, *History and Class Consciousness* (Cambridge: The MIT Press, 1971), 234.

14. See William Leiss, *The Domination of Nature* (Boston: Beacon Press, 1974), and my essay "Globalizing Critical Theory of Science" in Max Pensky, ed., *Globalizing Critical Theory* (Lanham, MD: Rowman & Littlefield, 2005), 187-208.

15. Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenement: Philosophical Fragments* (Stanford: Stanford University Press, 2002)

16. See Steven Vogel, *Against Nature: The Concept of Nature in Critical Theory* (Albany: SUNY Press, 1996). See also the discussion of the conception of nature in Habermas vis-à-vis Derrida in Richard Ganis, *The Politics of Care in Habermas and Derrida: Between Measurability and Immesurability* (Lanham, MD: Lexington Books, 2011), chapter 3.

17. Jürgen Habermas, *Knowledge and Human Interest* (Boston: Beacon Press, 1971)

18. See Henning Ottmann, "Cognitive Interests and Self-Reflection" in John B. Thompson and David Held, eds., *Habermas: Critical Debates* (Cambridge: The MIT Press, 1982), 79-97.

19. Jürgen Habermas, *Theory of Communicative Action*: *Reason and the Rationalization of Society, Volume 1* (Boston: Beacon Press, 1984), and *Theory of Communicative Action*: *Lifeworld and System: Critique of Functionalist Reason, Volume 2* (Boston: Beacon Press, 1987)

20. Jürgen Habermas, *Justification and Application: Remarks on Discourse Ethics* (Cambridge: The MIT Press, 1993). This book in English is an augmented translation of the German book *Erläuterungen zur Diskursethik* published in 1991.

21. This is precisely the line of questioning that Julian H. Franklin pursues in his *Animal Rights and Moral Philosophy*, chapters 3 & 4.

22. See the important work by Bryan S. Turner, *Vulnerability and Human Rights* (University Park: The Pennsylvania State University Press, 2006), and how it develops from different sources Habermas's intuitions.

23. Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: The MIT Press, 1996).

24. Jürgen Habermas, "Human Dignity and the Realistic Utopia of Human Rights" in *Metaphilosophy*, Vol. 41, No. 4 (July 2010): 464-480.

25. Micheline Ishay, *The History of Human Rights: From Ancient Times to the Era of Globalization*, 2nd edition (Berkeley: University of California Press, 2008), see also

her “The History of Human Rights and Critical Theory” in Michael J. Thompson, ed. *Rational Radicalism and Political Theory: Essays in Honor of Stephen Eric Bronner* (Lanham, MD: Lexington Books, 2010), 97-112.

26. Jacques Derrida, “Force of Law: The “Mystical Foundation of Authority”” in Drucilla Cornell, Michel Rosenfeld, David Gray Carlson, eds., *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992), 27.

27. Ibid., 15.

28. Niklas Luhmann, *Social Systems*, trans. John Bendmarz, Jr. with Dirk Baecker (Stanford: Stanford University Press, 1995), 374.

29. Ibid., 375.

30. See René von Schomberg and Kenneth Baynes, eds. *Discourse and Democracy: Essays on Habermas's* Between Facts and Norms (Albany: SUNY Press, 2002), and David Ingram, *Habermas. Introduction and Analysis* (Ithaca and London: Cornell University Press, 2010)

31. Kenneth Baynes, “Rights as Critique and the Critique of Rights: Karl Marx, Wendy Brown, and the Social Function of Rights” *Political Theory*, Vol. 28, No. 4 (August 2000), 451-468.

32. Ibid., 457.

33. Quoted by Baynes on Ibid., 459.

34. Ibid., 460.

35. Hannah Arendt, *The Origins of Totalitarianism* (New York: Schoken Books, 2004 [1967]), 382.

36. Kenneth Baynes, “Discourse ethics and the political conception of human rights” in *Ethics & Global Politics*, Vol. 2, No. 1 (2009): 1-21.

37. Seyla Benhabib, *The Rights of Others* (New York: Cambridge University Press, 2004)

38. Rainer Forst, “The Basic Right to Justification: Toward a Constructivist Conception of Human Rights” in *Constellations*, Vol. 6, No. 1 (1999): 35-60, quote at page 44.

39. Ibid., 48.

40. Baynes, “Discourse ethics and the political conception of human rights,” 6.

41. Ibid, 7.

42. Many of my arguments are similar, or at least parallel, to some of the arguments made by Richard Posner in “Animal Rights: Legal, Philosophical, and Pragmatic Perspectives” in Cass R. Sunstein and Martha Nussbaum, eds., *Animal Rights: Current Debates and New Directions* (New York and Oxford: Oxford University Press, 2004), 51-77. In the same way that I take distance from Singer and Regan, I also want to take distance from Steven M. Wise, who has provided, nonetheless, a wonderfully useful and comprehensive list of the obstacles that animals rights face in his essay for this same volume, see his “Animal Rights, One Step at a Time.”

Chapter 5
C. S. Lewis's Theology of Animals

Andrew Linzey

In 1944, C. S. Lewis gave the Commemoration Oration at King's College, London. Entitled "The Inner Ring," it provides a significant insight into his understanding of theology, specifically moral theology. His starting point is taken from Tolstoy's *War and Peace* in which Boris, a soldier in the Russian Army, discovers that there are really two kinds of rules: the ones laid down by army regulations—the written system—and also an unwritten system of rules dictated by an inner circle or ring.

Lewis takes this example as a paradigm of the Christian life. All of us, he suggests, want to be part of the Inner Ring—that group of people in any organization or institution who really organize things, get things done: the people who have power to make things happen. While the existence of such rings is not evil in itself, Lewis maintains that membership of a ring may require us to do something which otherwise we might regard as wrong. The following describes a membership invitation:

Over a drink or a cup of coffee disguised as triviality and sandwiched between two jokes, from the lips of a man, or woman, whom you have recently been getting to know rather better and whom you hope to know better still—just at that moment when you are most anxious not to appear crude, or naïf or a prig—the hint will come. It will be the hint of something which is not quite in accordance with the technical rules of fair play: something which the public, the ignorant, romantic public, would never understand: something which even the outsiders in your own profession are apt to make a fuss about: but something, says your new friend, which "we"—and at the word "we" you try not to blush

for mere pleasure—something "we always do." And you will be drawn in, if you are drawn in, not by desire for gain or ease, but simply because at that moment, when the cup was so near your lips, you cannot bear to be thrust back again into the cold outer world.

It would be so terrible to see the other man's face—that genial, confidential, delightfully sophisticated face—turn suddenly cold and contemptuous, to know that you had been tried for the Inner Ring and rejected. And then, if you are drawn in, next week it will be something a little further from the rules, and next year something further still, but all in the jolliest, friendliest spirit. It may end in a crash, a scandal, and penal servitude: it may end in millions, a peerage and giving the prizes at your old school. But you will be a scoundrel.

Lewis concludes, "The quest of the Inner Ring will break you heart unless you break it." Again, "Until you conquer the fear of being an outsider, an outsider you will remain."[1]

It is difficult not to sense some autobiographical relevance to Lewis's narrative. The notion that Christian discipleship may, and sometimes surely does, involve standing out, even standing alone, was personified in his own life: Lewis was an outsider and, arguably, remained so until the end of his life. Although he held prestigious positions at Oxford and Cambridge, he was conspicuously the odd man out in the academic circles which he inhabited. Although probably the most widely read theologian of his time, he was not regarded as such by the Oxford theological community. More to the point: his very popularity as a Christian communicator aroused considerable jealousy among his colleagues. Even as he became an insider to the many who read or heard him—many more than was probably imagined even by his contemporaries—he remained an outsider to many of his closest colleagues.[2]

Being an outsider, not part of the "Inner Ring," gave Lewis ironically a distinct advantage over other theologians. He was able to raise questions and issues that others took for granted. While many of the "Inner Ring" theologians of his day are now barely remembered, it is to Lewis that continuing generations of Christians (and non-Christians) have looked for inspiration and theological clarity. Lewis's interest in, and concern for animals, regarded by many contemporaries as wholly or largely eccentric, is a prime example of his lasting legacy.

Aspects of Lewis's Theology of Animals

Lewis's theology of animals may be classed under four major headings: animal pain, animal resurrection, human superiority, and human cruelty.

Firstly, the subject of animal pain. What immediately distinguishes Lewis's work is his frank acknowledgment of the reality of such pain and the profound problems it raises for belief in God. "The problem of animal suffering is appalling; not because the animals are so numerous . . . but because the

Christian explanation of human pain cannot be extended to animal pain. So far as we know beasts are incapable either of sin or virtue: therefore they can neither deserve pain nor be improved by it."[3]

Note the unmistakable sense of personal distress in the way in which he approaches this issue: "I know there are moments when the incessant continuity and desperate helplessness of what seems at least to be animal suffering makes every argument for Theism sound hollow. . . ." Lewis "turn(s) with distaste from "the easy speeches that comfort cruel men," from theologians who do not seem to see that there is a real problem, who are content to say that animals are, after all, only animals." And why should animals present this difficulty? Chiefly because "pain without guilt or moral fruit, however low and contemptible the sufferer may be, is a very serious matter."[4]

When introducing the subject of vivisection, for example, Lewis insists that the evil of pain is a prerequisite for discussion: "A rational discussion . . . begins by inquiring whether pain is, or is not, an evil. If it is not, the case against vivisection falls. But then so does the case for vivisection. If it is not defended on the ground that it reduces human suffering, on what ground can it be defended? And if pain is not an evil, why should human suffering be reduced? We must therefore assume as a basis for the whole discussion that pain is an evil, otherwise there is nothing to be discussed."[5]

How then does Lewis account theologically for the existence of animal pain? In one sense, of course, he cannot—at least in a straightforward way—and hence its continuing problematical character. But he is adamant that we cannot excuse animal suffering by some of the usual theological routes, the "easy speeches of cruel men." These fall into three categories: the first denies that animals suffer. Following Descartes, animals are viewed as machines with insufficient self-consciousness to undergo suffering, a view current in Lewis's day and which counted among its supporters no less a theologian than Charles E. Raven. "[I]t may be doubted whether there is any real pain without a frontal cortex, a foreplan in mind, and a love which can put itself in the place of another; and these are the attributes of humanity," wrote Raven in 1927.[6]

The second route is that while some suffering may be ascribed to animals, God is not actually concerned about their suffering. This line also has not lacked its theological proponents. "The Creator's mind . . ." wrote Peter Geach, "seems to be characterised by mere indifference to the pain that the interlocking teleologies of life involve. . . ."[7] Lewis would have recoiled from such a view entailing as it does a Creator impossibly unjust. Neither does Lewis adopt the third conventional option that all suffering is the direct result of man's fall from grace. Lewis does not rule out some kind of link between human sinfulness and creaturely corruption but, post-Darwin and the discovery of dinosaurs, it cannot serve as a complete explanation. As Lewis's disputant, C. E. M. Joad, states: "The hypothesis that the animals were corrupted by man does not account for animal pain during the hundreds of millions of years (probably about nine

hundred million) when the earth contained living creatures, but did not contain man."[8]

Lewis then takes up what some might say is the most logical but also the most hazardous explanation, namely that "[s]ome mighty created power had already been at work for ill on the material universe, or the solar system, or, at least the planet earth, before ever man came upon the scene."[9] Because Lewis cannot resign himself to predation, carnivorousness and pain as the result of God's direct will, he has no choice but to affirm that such things are due to "Satanic corruption" or, as he later postulates, Satanic "distortion."[10] One consequence of this view is that humanity has a redemptive role or might have had one. "It may have been one of man's functions to restore peace to the animal world, and if he had not joined the enemy he might have succeeded in doing so to an extent now hardly imaginable."[11] This is a view, incidentally, taken up and developed at length by T. F. Torrance who holds firmly to the link between human and creaturely corruption and who postulates that it is "man's task to save the natural order through remedial and integrative activity, bringing back order where there is disorder and restoring peace where there is disharmony."[12]

Secondly, there is animal resurrection. Lewis is keenly aware that even if animal pain can be explained by reference to the idea of Satanic distortion, the underlying problem of justice remains. Whether induced by Satanic forces or God's direct allowance, the problem is not just how these things can be but also how God will ultimately resolve them—and still be judged as just, loving and holy. Lewis responds by offering—albeit speculatively—a theory of tame animals' resurrection. A tame animal acquires a "self" or "personality" in relation to its human owner and therefore as the human subject is resurrected so will its animal companion. Note here that humanity remains the central place or focal point of resurrection. Lewis is anxious that talk of animal resurrection should not dislodge the central theological axis of human sinfulness and human salvation. "The error we must avoid is that of considering them [animals] in themselves," he writes. "Man is to be understood only in his relation to God. The beasts are to be understood only in their relation to man, and through man, to God."[13]

Two things should perhaps be noted about Lewis's theory. The first is that he offers this view speculatively; not, of course, as doctrine. He is well aware of its difficulties not least of all in relation to wild animals—for which, incidentally, Lewis also had a keen sympathy. When pressed by Joad, his purpose is made explicit: "to liberate imagination and to confirm a due agnosticism about the meaning and destiny of brutes." He continues: "I had begun by saying that if our previous assertion of divine goodness was sound, we might be sure that in some way or other "all would be well, and all manner of thing would be well." I wanted to reinforce this by indicating how little we knew and, therefore, how many things one might keep in mind as possibilities.[14] The key to understanding Lewis at this point is his emphasis on the imagination. If

God is truly good, so that no suffering in creation is ultimately left unredeemed, we must be free to think and imagine possibilities concerning the eventual triumph of divine goodness over evil.

In this regard, secondly, we should recall Lewis's view that the purpose of good literature is to arouse and satisfy the imagination,[15] and if this is true of good literature, it can be no less true of creative theology. In *The Great Divorce*, Lewis gives imaginative expression to his thesis in the description of the love of a Great Lady whose very large family included not only many children but also numerous animals.

> "What are all those animals? A cat, two cats—dozens of cats. And all those dogs . . . why, I can't count them. And the birds. And the horses."
> "They are her beasts."
> "Did she keep a sort of zoo? I mean, this is a bit too much."

And the reply comes that expresses Lewis's conception of the fecundity and authenticity of God's love mirrored through faithful human agency: Every beast and bird that came near her had its place in her love. In her they became themselves. And now the abundance of life she has in Christ from the Father flows over into them.[16] Lewis's imagination concerning animals was concentrated on companion animals not, I think, in principle to the detriment of other species, but rather because he grasped the possibility that in their relations with humans, some animals could find their true (originally God-given) selves, with the corollary, though this is not explicitly acknowledged, that humans too become most authentically human when they reflect God's redeeming purposes for other creatures.

Thirdly, we consider human superiority. Lewis, consistent with Christian tradition, regards humans as superior to animals. But he utilizes this argument not as is usually done to justify the morally inferior treatment of animals but rather the reverse. His discussion of vivisection is illustrative of his method.

The only rational line for the Christian vivisectionist to take is to say that the superiority of man over beast is a real objective fact, guaranteed by Revelation, and that the propriety of sacrificing beast to man is a logical consequence. We are "worth more than many sparrows," and in saying this we are not merely expressing a natural preference for our own species simply because it is our own but conforming to a hierarchical order created by God and really present in the universe whether any one acknowledges it or not.

Given his sense of the Satanic distortion of the universe and the potentially redeeming role of humanity in creation, it is not surprising that Lewis finds such an argument unconvincing:

> We may fail to see how a benevolent Deity could wish us to draw such conclusions from the hierarchical order He has created. We may find it difficult to formulate a human right of tormenting beasts in terms which would not

> equally imply an angelic right of tormenting men. And we may feel that though objective superiority is rightly claimed for man, yet that very superiority ought partly to consist in not behaving like a vivisector: that we ought to prove ourselves better than the beasts precisely by the fact of acknowledging duties to them which they do not acknowledge to us.[17]

This neat reversal of the traditional argument from superiority may owe something to repeated exchanges with his colleagues at Magdalen College, Oxford, who were exasperated by his thoroughgoing anti-vivisectionism. In fact they form an integral part of Lewis's worldview. Notice specifically how his conception of the cosmological hierarchy rules out "might" constituting "right"; instead moral "greatness warrants *noblesse oblige*."[18]

Fourthly, the subject of human cruelty. Unsurprisingly Lewis is convinced that the infliction of cruelty on animals is a significant moral evil. If the existence of "natural evil" is bad enough, it is much worse that humans use their free will to imitate Satanic corruption by themselves becoming tormentors. In this conviction, Lewis will brook no theological opposition. He is dismissive, for example, of the idea that we can be cruel to animals because of the supposition that they have "no souls"—indicating, once again, how the logic of the argument works as much the other way. "The absence of 'soul' . . . makes the infliction of pain upon them not easier but harder to justify." He continues: "For it means that animals cannot deserve pain, nor profit morally by the discipline of pain, nor be recompensed by happiness in another life for suffering in this. Thus all those factors which render pain more tolerable or make it less totally evil in the case of human beings will be lacking in the beasts."[19]

Lewis goes on to make his well-known argument against experimentation, namely that it is vivisectionists—not anti-vivisectionists who are the real sentimentalists. Noting that most vivisectors (in his day) have no theological background and are mostly naturalistic and Darwinian in orientation, he claims to have discovered a "very alarming fact":

> The very same people who will most contemptuously brush aside any consideration of animal suffering if it stands in the way of "research" will also, in another context, most vehemently deny that there is any radical difference between man and the other animals. On the naturalistic view the beasts are at bottom just the same sort of thing as ourselves. Man is simply the cleverest of the anthropoids. All the grounds on which a Christian might defend vivisection are thus cut from under our feet. We sacrifice other species to our own not because our own has any objective metaphysical privilege over others but simply because it is ours. It may be very natural to have this loyalty to our own species, but let us hear no more from the naturalists about the "sentimentality" of anti-vivisectionists. If loyalty to our own species, preference for man simply because we are men, is not sentiment, then what is it? It may be a good sentiment or a bad one. But a sentiment it certainly is. Try to base it on logic and see what happens!

This reversal of the charge of sentimentality is coupled with a counter-charge that those who advocate experiments on animals logically imperil the status of human subjects as well. Lewis is ruthless in exposing the faulty logic of his antagonists:

> [T]he most sinister thing about modern vivisection is this: If a mere sentiment can justify cruelty, why stop at a sentiment for the whole human race? There is also a sentiment for the white man against the black, for the Herrenvolk against the Non-Aryans, for "civilized" or "progressive" peoples against "savage" or "backward" peoples. Finally for our own country, party, or class against others. Once the old Christian idea of a total difference in kind between man and beast has been abandoned, then no argument for experiments on animals can be found which is not also an argument for experiments on inferior men. If we cut up beasts simply because they cannot prevent us and because we are backing our own side in the struggle for existence, it is only logical to cut up imbeciles, criminals, enemies or capitalists for the same reason.

What informs Lewis's uncompromising critique is his utter rejection of utilitarian justifications for cruelty. Cruelty even to animals is "symptomatic" of a modern failure to recognize moral evil and marks the acceptance of secular utilitarianism as the common standard of right and wrong. He concludes: "The victory of vivisection marks a great advance in the triumph of ruthless non-moral utilitarianism over the old world of ethical law; a triumph in which we, as well as the animals, are already the victims, and of which Dachau and Hiroshima mark the more recent achievements."[20]

Problems with Lewis's Approach

I now turn to consider some of the difficulties with Lewis's theology of animals. The first concerns Satan and creaturely corruption. One of the reasons why Lewis's speculations have been widely dismissed among academic theologians is his insistence on the reality of Satan or the devil. We know the dilemma only too well: if Satan is not a created being, then we have two gods, and if Satan is a created being who made him—or her? Indeed Joad understandably, if mischievously, characterizes Lewis's view of creaturely corruption as "satan tempting monkeys."[21] The problem is perhaps more fairly stated by William Temple, himself a believer in Satan: "shelve the responsibility . . . on to Satan if you will. . . . We still have to ask, Why is the Devil wicked?"[22]

In fact, Lewis comes to his view about Satan not only because it has some scriptural justification,[23] but chiefly because of his love of stories or myths: "If it offends less, you may say that the "life-force" is corrupted, where I say that living beings were corrupted by an evil angelic being. We mean the same thing: but I find it easier to believe in a myth of gods and demons than in one of the

hypostatised abstract nouns. And, after all, our mythology may be nearer to the literal truth than we suppose."[24] Even if we maintain a modern agnosticism about supernatural evil (an agnosticism I do not fully share[25]), it is difficult to dispute Lewis's underlying moral conviction that the "intrinsic evil of the world lies in the fact that animals, or some animals, live by destroying each other."[26]

For many who have abandoned, or who no longer feel sure in the worldview of limited dualism, Lewis's views will appear archaic, even medieval—a description which he would surely have relished. But the myth of Satan has enduring theological and ethical significance. If we close our minds to this imaginative possibility, we may be led to one indubitably worse, and sadly it is one exhibited by more and more "natural" or "ecological" theologians. It is that God really did make the world as it is with all its attendant predation, futility, cruelty, and waste and that consequently we ought morally to resign ourselves to it. This is what I have described elsewhere as the "Anti-Gospel of Jesus our Predator."[27] Either predation is or is not God's will. If it is, not only does God become less praiseworthy and less good, but, as Lewis acknowledges, dire consequences also flow for humans from this perceived lack of divine magnanimity.[28] It may be that without something like a limited cosmological dualism, it is impossible even to recognize it.

To give one example: Brian L. Home, in an otherwise sagacious and perceptive discussion, concludes that the discoveries of natural science force upon us a reconsideration of the nature of evil. "Modern zoology leads us to suppose that death and sickness, earthquakes and floods, have always been part of the structure of the planet. . . ." He continues that such a perspective "require[s] us to view pain and death not as evil and outrageous, arising out of some act in the distant past, but as plain and inescapable facts of biological existence. Physical and moral evil become separated."[29] The result is frighteningly reductionistic: we should learn to regard these "occasions" in both the human and animal sphere as "occasions for love," so that the worst that evil could do to such love "would be to provide it with fresh opportunities for loving."[30]

But, if Lewis can be charged with solving one problem by creating another, Horne even more so. We may fail to recognize the face of Christ in a theory of a world created by God in which hundreds, thousands, even millions of years of sickness and death are experienced by animal creatures, and latterly by human creatures, simply to facilitate "fresh opportunities for loving." What can we conclude about a kind of love which wants to perpetuate opportunities for itself, the whole possibility of which is itself predicated on the existence of a created world of gross unloveliness? For myself, I would rather embrace the myth of Satan, than worship a god whose love was so plainly callous and unjust.

The second difficulty concerns Lewis's speculations about animal resurrection. We need to recall Lewis's thesis that "The tame animal is in the deepest sense the only natural animal. . . ." At one level the thesis appears

absurd. Why should animals need taming, let alone be more "natural" for it? Why cannot animals be seen as natural in the state in which they appear in creation? Evelyn Underhill accuses Lewis of advancing an "intolerable doctrine" comprising "a frightful exaggeration of what is involved in the primacy of man." Her protest deserves a hearing:

> Is the cow which we have turned into a milk machine or the hen we have turned into an egg machine really nearer the mind of God than its wild ancestor? This seems like saying that the black slave is the only natural negro. You surely can't mean that, or think that the robin redbreast in a cage doesn't put heaven in a rage . . . And if we ever get a sideways glimpse of the animal-in-itself, the animal existing for God's glory and pleasure and lit by His light . . . we don't owe it to the Pekinese, the Persian cat or the canary, but to some wild creature living in completeness of adjustment to Nature, a life that is utterly independent of man . . . Of course I agree that animals too are involved in the Fall and await redemption and transfiguration . . . And man is no doubt offered the chance of being the mediator of that redemption. But not by taming, surely? Rather by loving and reverencing the creatures enough to leave them free . . . your concept of God would be improved by just a touch of wildness.[31]

In the absence of an extant reply from Lewis, two things should perhaps be said by way of explanation and defence. The first is that Lewis, and Joy especially, always kept animals and had a clear fondness for them. Indeed the reference to the Great Lady in *The Great Divorce* who kept a menagerie of animals could have been a reference to Mrs. Moore (Lewis's long-standing female companion) and latterly to his wife, Joy, both of whom enjoyed a variety of animal friends.[32] The root of Lewis's conviction about companion animals is therefore not difficult to discern. Almost all those who live in close proximity to animals quickly discover their innate capacities to relate and respond to the presence of their human companion. It is this discovery, I think, that fuels Lewis's sense that human relationship with animals can be an ennobling, fulfilling experience—and not just for the human beings concerned. It is not surprising that Lewis should interpret such a relationship in theological terms sensing that human/animal interaction brings out latent potential in animals so that individual animals become "part" of the life of the human partner and are therefore, in that sense, liberated to be more than what they once were. We see this idea played out, again and again, in Lewis's fictional writings. In *Perelandra*—to take only one example—nonhuman terrestrial creatures are docile and kind, exhibit rationality, and are perfectly ordered to their human companions with whom they share a natural, joyful communion.[33] (Incidentally, it is very doubtful that Lewis would ever have approved of caging wild birds or genetically manipulating dogs for their aesthetic appeal).[34]

The second is that what underlies Lewis's view of tame animals is his repeated caution about animal consciousness. Although he thought it more than

reasonable to ascribe sentiency at least to the higher animals, he was reticent about the precise character of their consciousness. He doubts whether most animals can be self-conscious in a way that is true of human subjects. And if they have no sense of "self," how can their "selves" be redeemed? Animals cannot be "recompensed" in a future life if there is no enduring "self" to be so "recompensed." He writes: "If the life of a newt is merely a succession of sensations, what should we mean by saying that God may recall to life the newt that died today?"[35] Tame animals provide for Lewis an imaginative illustration of what could be meant by animal redemption, of how at least some animals acquire a sense of enduring "self" through interacting with their human companions.

Although what Lewis wrote was probably bold and contentious, we can now see with hindsight that his speculations about animal consciousness were simply ahead of their time. So much work has been done over the last fifty years on the sentience and consciousness of the higher mammals that it is difficult to doubt that they are self-aware. Indeed one leader in this field, Donald R. Griffin, maintains that "The question of self-awareness [of mammals] is one of the few areas of cognitive ethology where we have some concrete evidence."[36] The case, therefore, for expanding the realm of self-consciousness in mammals makes Lewis's case for including animals, whether tame or not, within the sphere of resurrection immeasurably stronger.

One disappointment must however be registered. Time and again Lewis indicates that the suffering of animals is in a special category: they do not sin and therefore cannot deserve pain; their suffering can bear no moral fruit because they are innocent. But the logic of his argument is to make the existence of such suffering more, not less, in need of theological soul-searching. It is precisely because animals are (at human hands) so often unprotected, undefended, vulnerable, and morally innocent that their misery should be deserving of special moral solicitude. Once realized, the question of justice for animals which Lewis raises, in ways in which few theologians have done either before or after, acquires an even greater urgency. Lewis argues that there is "no question of immortality for animals that are merely sentient" that is, capable of feeling pain but not necessarily self-conscious at least in ways plainly analogous to human beings.[37] But the issue of God's justice cannot, I think, be so easily dispensed with. It should follow that God's justice is such that each and every experience of innocent suffering, however incomprehensible to us, will ultimately be transfigured and redeemed.

The question is plainly stated and effectively answered by Keith Ward who maintains that if God is good it must follow that each and every sentient creature, human or animal, must have the possibility of "achieving an overwhelming good" in terms that compensate for their earthly suffering. For "if one supposes that every sentient being has an endless existence, which offers the prospect of endless happiness, it is surely true that the sorrows and troubles of

this life will appear very small by comparison." Ward concludes: "Immortality, for animals as well as humans, is a necessary condition of an acceptable theodicy: that necessity, together with all the other arguments for God, is one of the main reasons for believing in immortality."[38] Lewis, in my view, does not go far enough in defending systematically and theologically the imaginative vision of a re-created world which he envisages so clearly in his fictional works. "The beasts in your world seem almost rational," comments Ransom in *Perelandra*. "We make them older every day," answers the woman. "Is not that what it means to be a beast?"[39]

The third difficulty concerns Lewis's view of carnivorousness and the potential role of humans as redeemers of the animal world. As we have seen, carnivorousness is perceived to be the result of Satanic corruption. God's original will was that life should not eat life or, at least, sentient life. The corruption of animals is, according to Lewis, in one sense analogous with the corruption of humans. He writes: For one result of man's fall was that his animality fell back from the humanity into which it had been taken up but which could no longer rule it. In the same way, animality may have been encouraged to slip back into behavior proper to vegetables. Lewis offers a highly speculative theory to explain the relation between predation and fecundity:

> It is, of course, true that the immense mortality occasioned by the fact that many beasts live on beasts is balanced, in nature, by an immense birth-rate, and it might seem that if all animals had been herbivorous and healthy, they would mostly starve as a result of their own multiplication. But I take fecundity and the death-rate to be correlative phenomena. There was, perhaps, no necessity for such an excess of the sexual impulse: the Lord of this world thought of it as a response to carnivorousness—a double scheme for securing the maximum amount of torture.[40]

Such an ingenious theory serves to indicate how seriously Lewis viewed the apparent need for animals to eat other animals in order to live and indeed for humans to eat other animals. Both, it should be stressed, are the result of a double-slip into sinfulness: as animals descend to their lowest possible nature, so also do humans. In the light of this, it is extraordinary that Lewis does not directly consider one obvious way in which humans can reverse the effects of their sinfulness by becoming vegetarian or at least by consuming as little sentient life as possible.

Lewis of course was no ascetic and would have reacted unfavorably to any notion of enforced religious asceticism by fiat. But this should not make us overlook the fact that Lewis's theology does provide two rather neat grounds for ethical and theological—as distinct from ascetical—vegetarianism. The first is similar to his rejection of animal experimentation: the infliction of pain on animals in breeding, rearing, and slaughtering animals, especially in intensive conditions, causes animals some degree of suffering, sometimes intensely so. If

there is a *prima facie* obligation to avoid the infliction of pain and suffering on animals, there is a corresponding obligation to avoid meat products which cause such suffering whenever we are free to do so.

In addition to this conditional argument, there is another which goes to the heart of Lewis's whole system of thought. We are in a moral mess: humans as well as animals. By living and eating other forms of sentient life, we participate in a system that is fundamentally evil. This system is not wrought by God and exists at variance with the will of the Creator: creation will, in the end, be redeemed and transfigured. What better way can there be to oppose this corrupted order but by opting out, or at least opting out as much as possible, where we have the choice? Lewis may have replied that such is the present order of creation that, like it or not, we can only—this side of eternity—live with it. But the counter-question that must be posed is this: Why is it that having rejected theologically the system of predation as morally intolerable did he not also reject it practically by becoming an ethical vegetarian?

With hindsight, we now know in a way in which Lewis possibly did not that a vegetarian diet is both possible and even—in health terms—desirable. Lewis acknowledges that his concern for animal resurrection will put him "in company with the old maids"[41]—and he may have felt, defensively, that by becoming a vegetarian when his Lord was obviously not averse to fish, was simply one speculative step too far. Moreover, as a wine imbiber and pipe-smoker (as I am myself) Lewis probably felt uneasy with those who rushed with religious zeal into the field of personal asceticism (as I do myself). Nevertheless, one cannot escape the fact that Lewisian theology is capable of appropriation in support of the vegetarian cause in a way in which Lewis himself might have found disconcerting.[42]

Lewis muses that humans might have had a redemptive role in creation if it had not been for the Fall. Indeed part of his speculation about tame animals resurrection is, as we have seen, spurred on by the notion that animals can be liberated to be themselves through human agency. Now if this is true, there is scope for human activity to help release creatures from premature death and pain by humans themselves taking active steps to desist from exploitation. Lewis, as far as I know, nowhere makes this connection directly but it logically follows from his overall theology. Humans can now make a difference in reversing Satanic corruption, by themselves electing to kill and injure as few animals as possible. We are thus able to see Lewis's contention that animals can only be understood in their relationship to human beings as a deeper issue for practical theology. Humans are morally at the center of creation: as their Fall affects the non-human world so too will their redemption. Since animals are involuntarily tied to human sin, the redemption of humanity matters to the animal world.

Lewis's Legacy

How then shall we judge Lewis's legacy on animals? Notwithstanding some difficulties, even inconsistencies, there are three ways in which his thought has been substantially vindicated.

Firstly, while Lewis was characteristically tentative in ascribing pain and especially self-consciousness to animals, he never let the problem get lost in a myriad of qualifications. Lewis frequently indicated the limits of our knowledge in trying to speak of animals, so to speak, from the inside, but not in such a way as to allow our unknowing to count decisively against them. The value of his work is that even at a stage when we know comparatively little about sentiency and self-consciousness in animals, he took the risk of facing the problem head-on. The empirical knowledge accumulated over the last fifty years has demonstrated the range and complexity of animal awareness.[43] What is impressive is the way in which his work anticipates an emerging contemporary sensitivity. The paucity of serious theological reflection about animals has become a moral scandal. Lewis addresses some of the issues that must, sooner rather than later, assume a much greater significance in the minds of contemporary theologians.

Secondly, however speculative some of his theories may be, Lewis has been right in sensing that a proper theodicy must take greater account of animals. The "easy speeches that comfort cruel men" have come back to haunt them as those outside the Christian tradition have vigorously criticized its moral humanocentricity. But movements of ecological sensitivity, which otherwise Lewis might have supported, have shown themselves in reaction to be prone to the deification of nature in which, shorn of metaphysical notions, God becomes wholly identified with nature and thus predation itself is baptized as a new natural law.[44] "Whole earth" theologians have singularly failed to address the issue which Lewis squarely faced: the intrinsic evil of animal predation. This omission on the part of the most eco-theologians has compromised a proper regard for animal welfare, not to mention a doctrine of God who is just and holy. Lewis has kept alive a trinitarian tradition sensitive to issues of animal pain while others have ventured into pathways of pantheism and panentheism.

Thirdly, Lewis's rejection of utilitarian justifications for cruelty constitutes a high water mark in theological discussion of animals. Nowhere is this legacy clearer and his prophetic voice stronger than in his stand against animal vivisection, specifically his claim that arguments for experiments on animals also logically justify experiments on humans. He himself refers in this context to experiments performed by the Nazis—a hardly uncontentious thing to do in 1947.[45] Since then, there has been a steady growth in human as well as animal experimentation.[46] We now know that not only Jews but children, blacks, prisoners of war, mental patients and ordinary soldiers have been subject to experimental procedures without their full knowledge and consent. Indeed to

complete the list, we must also add experimentation on embryos, now legalized in the United Kingdom up to fourteen days old. All these procedures are justified on the same utilitarian grounds which also justify animal experimentation.[47] The acceptance of the argument for utility in the case of animals would, as Lewis correctly forecast, imperil human subjects as well. In short: a world in which cruelty to animals goes unchecked has turned out to be a morally unsafe world for human beings.

More than anything else, Lewis's rejection of vivisection ensured his status as an outsider to the Inner Ring. His idea that the police should be called in to investigate what was happening to animals in laboratories[48] could hardly have endeared him to his scientific colleagues. We need to recall Lewis's words about the seductiveness of the Inner Ring: "Of all passions the passion for the Inner Ring is the most skillful in making a man who is not yet a very bad man do very bad things."[49] This passion is exemplified in the person of Professor Weston who stalks Lewis's fiction as the representative human who thinks he may do anything—"anything whatever"—so long as it is in pursuit of human benefit.[50] Like Lewis Carroll,[51] he was deeply perturbed by the rise of a secular science which admits of no moral limits save the interests of the controlling species.

In defending the existence of Satan, Lewis encounters the objection that such a belief is contrary to the "climate of opinion." He replies: "Now I take a very low view of 'climates of opinion.' In his own subject every man knows that all discoveries are made and all errors corrected by those who ignore the 'climate of opinion.'"[52] Perhaps the most important legacy of Lewis to theology is the realization that its most creative work may be carried out by outsiders to the Inner Ring, those who have the tenacity and courage to grasp those issues not favored by the current "climate of opinion."

Notes

Originally published in the *Anglican Theological Review*, vol. LXXX, no. 1, Winter 1998. Earlier versions of this paper were presented to Moravian College, Pennsylvania, and to the C. S. Lewis Society at Oxford University. I am grateful to Michael Ward and Walter Hooper for encouraging me to publish. Responsibility for the views expressed remains, of course, my own.

1. C. S. Lewis, "The Inner Ring" in *The Weight of Glory and Other Addresses* (New York: Macmillan, 1949), pp. 62-65.
2. Some account of his struggles is given in A. N. Wilson, *C. S. Lewis: A Biography* (London: Collins, 1990), esp. pp. 148ff.
3. Lewis, *The Problem of Pain* (hereafter *PP*) (London: Collins, 1940), p. 117.

4. Lewis and C. E. M. Joad, "On the Pains of Animals," (hereafter *OPA*) *The Month*, vol. 3, no. 2 (February 1950), p. 98; extract in Andrew Linzey and Tom Regan (eds.), *Animals and Christianity: A Book of Readings* (hereafter *AAC*) (London: SPCK and New York: Crossroad, 1989; Eugene, Oregon: Wipf and Stock, 2006), pp. 55-62.

5. Lewis, *Vivisection* (hereafter *ViV*) foreword by George R. Farnum (Boston, MA: New England Anti-Vivisection Society, 1947), p. 1; my emphases; extract in *AAC*, ibid, pp. 160-164. Some people unaware of Lewis's interest in animals wonder how he came to write a major anti-vivisectionist tract. Apparently, the then Vice-Chancellor of Oxford University, Sir Richard Livingstone, drew the attention of his friend George R. Farnum, President of the New England Anti-Vivisection Society, to Lewis's book *PP*, and Farnum subsequently wrote to Lewis. During their correspondence (sadly no longer in the NEAVS' archives and presumably lost), Lewis was invited to write, or offered to write, the above essay. It was published as a pamphlet by a variety of anti-vivisection societies both in the United Kingdom and the United States, including the British Union for the Abolition of Vivisection and the National Anti-Vivisection Society, until the later 1970s. Also collected in Walter Hooper (ed.), *Undeceptions: Essays on Theology and Ethics* (London: Geoffrey Bles, 1952), pp. 182-186.

6. Charles E. Raven, *The Creator Spirit* (London: Macmillan, 1927), p. 120; cited and discussed in A. R. Kingston, "Theodicy and Animal Welfare," *Theology*, vol. LXX, no. 569 (November 1967), pp. 482-88, and extract in *AAC*, pp. 71-78.

7. Peter Geach, *Providence and Evil* (Cambridge: CUP, 1977), p. 77; extract in *AAC*, pp. 52-55.

8. Joad, in *OPA*, p. 97; AAC, p. 59.

9. Lewis, *PP*, pp. 122-123.

10. Revised terminology in discussion with Joad: "Moral corruption is not the only kind of corruption. But the word corruption was perhaps ill-chosen and invited misunderstanding. Distortion would have been safer," Lewis in *OPA*, p. 102; original emphases; in *AAC*, p. 62.

11. Lewis, *PP*, p. 124.

12. T. F. Torrance, *Divine and Contingent Order* (Oxford: OUP, 1981), p. 130; my emphasis; cited and discussed in Andrew Linzey, *Christianity and the Rights of Animals* (London: SPCK and New York: Crossroad, 1987), pp. 35f.

13. Lewis, *PP*, p.126; extract in *AAC*, p. 108.

14. Lewis in *OPA*, p. 95; *AAC*, p. 62; original emphases.

15. Cited and discussed in Brian L. Home, "Seeing with Another Eye: Literature and Religion" in Andrew Linzey and Peter J. Wexler (eds.), *Heaven and Earth: Essex Essays in Theology and Ethics* (Worthing, Sussex: Churchman Publishing, 1986), p. 127. I am grateful to Home for this and other insights into the relationship between believing and the imagination.

16. Lewis, *The Great Divorce* (London: Geoffrey Bles, 1946), p. 99. The discussion is explicitly concerned with redemption: "Redeemed humanity is still young, it has hardly come to its full strength. But already there is joy enough in the little finger of a great saint such as yonder lady to waken all the dead things of the universe into life, ibid, p. 99. Lewis's vision includes "planning Ghosts" who want to make heaven like hell and therefore implore others to "cut doom the trees, kill the animals, build a mountain railway, smooth out the horrible grass and moss and heather with asphalt," ibid, p. 71. More poignantly; hell is a shrunken state where wider sympathies are utterly eclipsed: "For a damned soul is almost nothing: it is shrunk, shut up in itself," ibid, p. 113.

17. Lewis, *ViV*, p. 3; original emphasis; *AAC*, p. 162.

18. Molly Beer Kramer and Andrew Linzey, "Vivisection" in Paul Barry Clarke and Andrew Linzey (eds.), *Dictionary of Ethics, Theology and Society* (London and New York: Routledge, 1996), p. 873. While Lewis clearly holds to a God-given order in creation, he everywhere assumes that this is a *moral* ordering involving humankind in the exercise of God-like care and compassion. In Lewis's fiction it is the anti-heroes who fail to grasp this moral dimension and assume that dominion means despotism. The fraudulent Ape King, for example, mouths conventional notions of human superiority: "I hear some of you are saying that I'm an Ape. Well, I'm not. I'm a Man. If I look like an Ape, that's because I'm so old. . . . And it's because I'm so old that I'm so wise. And it's because I'm so wise that I'm the only one Aslan is ever going to speak to. He can't be bothered talking to a lot of stupid animals. He'll tell me what you've got to do, and I'll tell the rest of you," *The Last Battle: A Story for Children* (London: The Bodley Head, 1956), p. 35. Lewis would certainly have wanted no truck with contemporary claims for simple equality, either between humans and animals, or between men and women. Inequality for Lewis was a God-given state but he accepted the need for the "legal fiction" of equality in order to restrain wickedness. He writes: "The authority of Father and Husband has been rightly abolished on the legal plane, not because this authority is in itself bad (on the contrary, it is, I hold, divine in origin) but because Fathers and Husbands are bad. Theocracy has been rightly abolished not because it is bad that learned priests should govern ignorant laymen, but because priests are wicked men like the rest of us." And he adds: "Even the authority of man over beast has had to be interfered with because it is constantly abused," "Membership" in *The Weight of Glory*, p. 37.

19. Lewis, *ViV*, p. 4; *AAC*, p 162.

20. Lewis, *ViV*, p. 6-8; *AAC*, pp.163-164.

21. Joad in *OPA*, p. 102; *AAC*, p. 62.

22. William Temple, *Nature, Man and God*, Gifford Lectures for 1932-1933 and 1933-1934 (London: Macmillan, 1935), p. 503.

23. Lewis cites Luke 13:16 where human disease is apparently directly attributed to Satan. For exegesis see, e.g., Everett Ferguson, *Demonology of the Early Christian World*, Symposium Series Volume 12 (Lewiston/Queenston/Lampeter: Edwin Mellen Press, 1984), pp. 12f.

24. Lewis, *PP*, pp. 123-124.

25. My agnosticism has been challenged by the perceptive work of Michael Lloyd, see especially his entry on "The Fall" in the *Dictionary of Ethics, Theology and Society*, pp. 368-370, and his contribution, "Are Animals Part of Fallen Creation?" in Andrew Linzey and Dorothy McCarthy (eds.), *Animals on the Agenda: Questions About Animals for Theology and Ethics* (London: SCM Press, and Chicago: University of Illinois Press, 1999), pp. 147-160. Following Mascall, Plantinga and Davis, Lloyd argues that only the thesis of an angelic Fall which predated the human Fall can give a sufficient account of the enormity of natural evil as well as the work of Christ in redemption: "disease, disorder, division and death are seen as being at variance with the will of God (hence the healing and nature miracles of Christ) and as being healed in principle by the Cross (hence the Biblical visions of a future in which the wolf lies down with the lamb, and death and pain are no more)," *Dictionary*, p. 370. Lloyd's three-volume work on evil, providence and free-will will, when published, make a seminal contribution to theological discussion of this topic.

26. Lewis, *PP*, p. 123.

27. See Andrew Linzey, "Hunting as the Anti-Gospel of Predation," Chapter 7, *Animal Theology* (London: SCM Press, and Chicago: University of Illinois Press, 1995), pp. 114-124.

28. Experiencing the depths of bereavement, Lewis confronts the horrible possibility of divine indifference to, even delight in, suffering, imagining the world in the grip of a "Cosmic Sadist and Eternal Vivisector," *A Grief Observed* (London: Faber & Faber, 1961), p. 32. Later, he specifically rejects the idea of creation as an "experiment" and God as an experimenter, pp. 42f.

29. Brian L. Home, *Imagining Evil* (London: Darton, Longman and Todd, 1996), p. 130.

30. Ibid, p. 131.

31. Evelyn Underhill, "Letter to C. S. Lewis," in Charles Williams (ed.), *The Letters of Evelyn Underhill* (London: Longmans, Green and Co., 1943), pp. 301-302. I am grateful to Duncan Forbes for this reference.

32. Even before she met Lewis, "Joy kept as many as fourteen felines on the premises at one time," Lyle W. Dorsett, *Joy and C. S. Lewis: The Story of an Extraordinary Marriage* (London: HarperCollins, 1988), p. 64.

33. On encountering such friendly animals, Ransom notes that "the ferocity of terrestrial animals was, by cosmic standards, an exception . . .", Lewis, *Perelandra* (London: The Bodley Head, 1943), p. 49. In fact, Perelandra is an Edenite paradise where nonviolence and vegetarianism reign.

34. Indeed, Lewis is prescient about the dangers of genetic engineering for both animals and humans. The absolute conquest of animals and nature are precursors to the self-enslavement of humanity. His warnings—in the context of recent debates about genetics—have a contemporary ring: "For the power of Man to make himself what he pleases means . . . the power of some men to make other men what *they* please," *The Abolition of Man* (Oxford: OUP, 1943; HarperCollins edition, 1978), p. 37 original emphasis.

35. Lewis, *PP*, p. 125; *AAC*, pp. 107-108, and discussion, p. 84.

36. Donald R. Griffin, *Animal Thinking* (Cambridge, MA: Harvard University Press, 1984), p. 249.

37. Lewis, *PP*, p. 126.

38. Keith Ward, *Rational Theology and the Creativity of God* (Oxford: Basil Blackwell, 1982), pp. 201-202; see also *The Concept of God* (Oxford: Basil Blackwell, 1974), p. 223.

39. Lewis, *Perelandra*, p. 72.

40. Lewis, *PP*, p. 123.

41. Lewis, *PP*, p. 124. He adds: "I have no objection to the company. I do not think either virginity or old age contemptible, and some of the shrewdest minds I have ever met inhabited the bodies of old maids." Lewis also notes that John Wesley defended animal immortality; see Wesley, "The General Deliverance," *Sermons on Several Occasions*, vol. II, introduction by John Beecham (London: Wesleyan Conference Office, 1874), pp. 281-286; extract in *AAC*, pp. 101-103.

42. Lewis, to my knowledge, nowhere directly confronts vegetarianism as an ethical issue. Any incidental reference is usually less than welcoming. For example, Screwtape admonishes Wormwood to ensure that his patient dilutes his Christian faith by becoming a "Christianity And" kind of believer: "You know—Christianity and the Crisis, Christianity and the New Psychology, Christianity and the New Order, Christianity and

Faith Healing . . . Christianity and Vegetarianism . . .,” *The Screwtape Letters: Letters from a Senior to a Junior Devil* (London: Geoffrey Bles, 1942; London: Fontana Books, 1955), p. 126.

43. See, e.g., Donald R. Griffin, *Animal Thinking*, op. cit., *Animal Minds* (Chicago: University of Chicago Press, 1992), and *The Question of Animal Awareness* (New York: Rockefeller University Press, 1981); S. Walker, *Animal Thought* (London: Routledge, 1983); and for a general introduction, see Marian Stamp Dawkins, *Through Our Eyes Only? The Search for Animal Consciousness* (Oxford and New York: W. H. Freeman/Spectrum, 1993).

44. See, e.g., Anne Primavesi, *From Apocalypse to Genesis: Ecology, Feminism and Christianity* (Minneapolis: Fortress Press, 1991). She writes: “If Nature is seen as ‘not God,’ then this licences human control over it,” p. 146; for a critique, see my review in the *Scottish Journal of Theology*,1992, vol. 45, no. 2, pp. 265-270.

45. “We all hear that Nazi scientists had done them. We all suspect that our own scientists may begin to do so, in secret, at any moment,” Lewis, *ViV*, p. 11; *AAC*, p. 163.

46. In fact, unknown to Lewis and many others they had already begun, see, e.g., Susan E. Lederer, *Subjected to Science: Human Experimentation in America before the Second World War* (Baltimore and London: The Johns Hopkins University Press, 1995). Although not an anti-vivisectionist, Lederer shows clearly how the two causes were historically intertwined, pp. 27ff. Also she recounts grisly and utterly inhuman experiments on vulnerable human subjects including—to take only one example—“a diagnostic test for syphilis, tested on orphans and hospital patients,” pp. 82f. For further discussion, see Michael A. Grodin and Leonard H. Glantz (eds.), *Children as Research Subjects: Science, Ethics and Law* (Oxford and New York: OUP 1994) and for a detailed account of the Nazi experiments and the development of ethical thinking, see George J. Annas and Michael A. Grodin (eds.), *The Nazi Doctors and the Nuremberg Code: Human Rights in Human Experimentation* (Oxford and New York: OUP, 1992). For my own critique of animal experimentation, see Linzey, “The Place of Animals in Creation—A Christian View in Tom Regan (ed.), *Animal Sacrifices: Religious Perspectives on the Use of Animals in Science* (Philadelphia: Temple University Press, 1986), pp. 115-148.

47. R. G. Frey concedes that the benefits from experimentation logically justify the use of humans as well as animals: “if securing the benefit licenses (painful) experiments on animals, it equally licenses (painful) experiments on humans since the benefit may be secured by either means,” *Rights, Killing and Suffering: Moral Vegetarianism and Applied Ethics* (Oxford: Basil Blackwell, 1983), p. 113.

48. Lewis concludes his essay on vivisection: “We must first decide what should be allowed: after that it is for the police to discover what is already being done,” *ViV*, p. 12; *AAC*, p. 164.

49. Lewis, *The Weight of Glory*, p. 63.

50. Weston’s original plan was to colonize other planets in the service of humankind; see Lewis, *Out of the Silent Planet* (London: The Bodley Head, 1938; London: Pan Books, 1960), pp. 29f. Subsequently Weston sees himself as the embodiment of the very Life Force of the universe: (To Ransom) “Do you see, you timid, scruple-mongering fool? I am the Universe. I, Weston, am your God and your Devil. I call that Force into me completely . . . ,” *Perelandra*, p. 109.

51. Of the thirteen *Popular Fallacies About Vivisection* penned by Lewis Carroll (Charles L. Dodgson), it was the thirteenth “that the practice of vivisection shall never be

extended so as to include human subjects" that earned his greatest mockery (printed for private circulation, Oxford, June 1875), pp.14-16.

52. Lewis, *PP*, p. 122.

Part II

Extending and Critiquing the Discourse

Chapter 6

The Ruses of Reason: Strategies of Exclusion

Paola Cavalieri

Are animals "bons à penser" (good to think [with])?[1] According to French anthropologist Claude Levi-Strauss, the answer to this question is positive. As is well known, Levi-Strauss's claim referred to the specific role played by animals in symbolic thought. But if one asked the same question in a more general sense, the answer could be very different. In Western culture, the role most often played by animals is that of negative term of comparison within a discourse directed at establishing human superiority. This very role can generate the suspicion that self-serving distortions may permeate claims and arguments, and that human thinking in general, and human ethical reflection in particular**,** may be at its weakest when nonhuman animals are the subjects. In fact, it was recently suggested that if one looks at our philosophical history, one finds that "admirable theorists, who have been giving scrupulous and impartial attention to other questions tend, when the animal issue heaves up its head, to throw the first argument which occurs to them and run."[2]

The results of a survey of the claims advanced during the centuries with an eye to drawing a line between *Homo sapiens* and the members of other species—a line having to do with the rules as to "what can be used, eaten or killed, and what not,"[3] that is, with the arrangement of beings in the moral community—seem to confirm such harsh judgment. I have argued elsewhere that no conclusive argument can be advanced in defense of the attribution of an inferior basic moral status to intentional members of species other than our own.[4] What is offered here is instead a sort of catalogue and critique of the problematic claims which accompany the course of our philosophical reflection and which have been advanced by authors from the most disparate schools and ages with the more or less avowed goal of excluding nonhumans from moral protection. Several of such claims were advanced with reference to some human beings: but in these cases too animals were involved as absent referents—that is,

as beings whose treatment is appropriated as a metaphor for the treatment of other beings[5]—and in fact the humans in question were "animalized" or "dehumanized."

In what follows the arguments I am examining are grouped not by date or author, but by their defects.

Rejecting Evidence

The first category is that of plain falsehoods, or false statements. Obviously, false statements can be more or less easily refutable. Just to give an example, it is one thing to refute the statement that it is impossible for a woman to run faster than a man, and quite another to rebut the claim that a particular illness is caused by a particular virus. In view of this complicating factor, the occurrences of falsehood which are given center stage here are confined to the less uncontroversial.

For instance, every sensible person thinks that rationalist philosopher René Descartes' claim that animals are mere natural automata, acting "mechanically, like a clock which tells the time better than our judgment does,"[6] is patently false—indeed, David Hume observed that "[n]ext to the ridicule of denying an evident truth, is that of taking much pains to defend it; and no truth appears to me more evident, than that beasts are endowed with thought and reason as well as men. The arguments are in this case so obvious, that they never escape the most stupid and ignorant."[7] Even the allegation that, if animals could speak, they could as easily communicate their thoughts to us as to their fellows, since they "have many organs which are allied to our own" is false, as we know that the capacity for producing consonants is, for physical reasons, the prerogative of very few vocal systems.[8] But in the former "automata" case there were scholars who for decades saw the claim as worth defending, and in the latter a detailed scientific evidence wasn't as yet available. There is, however, a further statement by Descartes which can be questioned in the easiest way—that is, by merely pointing to a single contrary instance. In the context of his attempt to show that, unlike humans, nonhumans are mere machines, Descartes states: "For it is a very remarkable fact that there are no men so depraved and stupid, without even excepting idiots, that they cannot arrange different words together, forming of them a statement by which they make known their thoughts."[9] Unfortunately, the contrary instances here are—and have always been—many more than a single one. In the words of a German professor of Special Education, among severely intellectually disabled people, there are individuals who "[do] not respond to any stimuli in a perceptible way, [are] unable to take part in communication, and cannot react to other people or [their] surrounding at all."[10] Descartes himself could not but be aware of this, as we know that in the seventeenth century small hospitals for the sick lodged lots of disabled people—among which them individuals with severe impairments—rejected by their families, and turned into targets for public amusement and ridicule.[11] Nonetheless, the commitment to his implausible thesis of a radical dichotomy

between ourselves and the other animals led him to reject evidence all around him.

Another impressive case of turning one's face away from reality is offered by Arthur Schopenhauer, the nineteenth-century German author who is credited as an outspoken philosophical defender of animals, due to his attack on Kant's view of animals and to his advocating an extension of compassion beyond the boundary of the human species.[12] In the context of his condemnation of cruelty to animals, Schopenhauer gets to the issue of the requirement of vegetarianism, and here is what he writes:

> For the rest, we may observe that compassion for sentient beings is not to carry us to the length of abstaining from flesh, like the Brahmans. This is because, by a natural law, capacity for pain keeps pace with the intelligence; consequently men, by going without animal food, especially in the North, would suffer more than beasts do through a quick death, which is always unforeseen; although the latter ought to be made still easier by means of chloroform. Indeed without meat nourishment mankind would be quite unable to withstand the rigours of the Northern climate.

Quite apart from the alleged relation between "capacity for pain" and "intelligence," and from the biased balancing of human and nonhuman interests, the last sentence of this passage is amazing. Peter Singer tersely comments that Schopenhauer "gives no basis for [the] geographical distinction" between the regions where the Hindus live and the "Northern" regions.[13] And we can add that already in Schopenhauer's time his claim could be easily belied, if not by good medical advice, by the fact that Great Britain harbored a significant vegetarian movement, which was starting to spread in other European countries.

The last instance of falsehood we shall mention is a little more peculiar, and this for two reasons. First, because the author in question, Claude Levi-Strauss, is, according to a custom we too have followed in the opening lines, usually classified as an anthropologist rather than as a philosopher, though he now also tends to be spoken of as one of the philosophical founders of structuralism, the approach according to which the elements of a set must be understood in terms of their relationship to the entire system. Second, because the involved claim is less directly falsifiable than the ones previously considered.[14] While discussing at the end of the 1940s the relationship between nature and culture with an eye to the animal/human distinction, Levi-Strauss states: "The social life of monkeys does not lend itself to the formulation of any norm. Whether faced by male or female, the living or the dead, the young or the old, a relative or a stranger, the monkey's behavior is surprisingly changeable. Not only is the behavior of a single subset inconsistent, but there is no regular pattern to be discerned in collective behavior." Such a claim is particularly surprising. When Levi-Strauss wrote, the discipline of primatology was living through a period of rapid growth. Indeed, Levi-Strauss himself mentions some of the relevant literature. Since among the works cited there is Solly Zuckerman's famous book *The Social life*

of Monkeys and Apes, we can directly entrust the rejoinder to Zuckerman, who, in a further edition of the volume thus refutes the Levi-Strauss's dismissive judgment at three different levels. First, he states that, far from being inconsistent, the behavior of monkeys and apes reveals a versatility which is "the expression of a clearly-defined dynamic as opposed to rigid pattern of social behavior." Then, he argues that the specific characteristics of nonhuman primate behavior are identical with certain features of the behavior of the primitive human group. And finally, and quite sensibly, he objects that if the behavior of "creatures from which we were evolved" had been as rigidly specialized as, e.g., the behavior of ants, it would have been impossible to conceive of a process leading toward humanity.[15] (The reference to insects is especially interesting, and we shall come back to it.)

Replacing Arguments with Beliefs

In periods in which religious and philosophical reflection tended to overlap, such as, for example, the Middle Ages one obviously finds a number of both direct and oblique appeals to authority, or, to use a term coined by Jeremy Bentham, "ipsedixitisms" (from the Latin "Ipse dixit," "He, himself, said it"). Ipsedixitisms are given as though no supporting argument is necessary, with the result that mere assertions are smuggled into arguments. For obvious reasons, their use is particularly frequent within defenses of discriminations, and this both in the nonhuman and in the intra-human case.

As far as nonhumans are concerned, good examples are offered by Christian authors. For example, in his *Summa Theologica*—a great theological work with philosophical ambitions written in the second half of the Thirteenth Century and revolving around a collection of disputations—Thomas Aquinas asks whether it might be "a sin to slay dumb animals and plants."[16] And, though his negative reply is also supported by some arguments—which will be examined later—Aquinas makes in this context ample use of appeals to authority. Of course, he mentions the commandments of "God Himself": "Everything that moveth and liveth shall be meat to you" (Gn. 9:3), commenting that "[a]ccording to the Divine ordinance the life of animals and plants is preserved not for themselves but for man." But he also refers to Aristotle's dictum that "it is not unlawful if man use plants for the good of animals, and animals for the good of man" (Polit. i, 3) as well as to Augustine's statement that "by a most just ordinance of the Creator, both their life and their death [i.e., of animals and plants] are subject to our use" (De Civ. Dei i, 20). Thus, apart from God, the authority of both Greek philosophers and Christian authors are called upon to grant plausibility to a problematic ethical move.

Among the latter, the fourth-century theologian Augustine of Hippo was certainly a good choice, as his work as well, as it is apparent from the quotation above, was embedded in appeals to authority in the form of appeals to "faith"—something that, despite any philosophical disguise, relies by definition on beliefs that do not rest on logic or evidence. And, against the background of the

theological fights of the Fourth Century CE, such appeals were not only explicit—“And first Christ shows your abstention from killing animals. . . to be the greatest superstition”[17]—but also more circuitous, as it is the case with the general view that God brings good out of evil, on the basis of which we are told that those who question the suffering of animals “have a perverted sense of values,” since they do not understand that such suffering produces the greater good of making us recognize the striving for unity of the “lower living creatures” and, accordingly, the superior unity of God.[18]

In a sense, however, given the contexts and agendas of both Augustine and Aquinas, all this, though regrettable, is not wholly surprising. What is more surprising is instead that the long shadow of such an approach casts itself well over the seventeenth-century, that is, the age of the scientific revolution. In fact, if there is a discourse most decidedly conditioned by a complex system of external, extra-philosophical, prohibitions and demands emanating from religious power, it is that of one of the founding fathers of modern philosophy, that is, once again, René Descartes. Indeed, starting from the famous passage in which he declares his commitment to adhere “constantly to the religion in which by God’s grace, [he] had been instructed since [his] childhood,”[19] one can detect in Descartes’ work a number of tributes to the dogmas of faith—and this also with reference to the status of nonhuman beings. Consider, for example, the following excerpt:

> I have here enlarged a little on the subject of the soul, because it is one of the greatest importance. For next to the error of those who deny God, which I think I have already sufficiently refuted, there is none which is more effectual in leading feeble spirits from the straight path of virtue, than to imagine that the soul of the brute is of the same nature as our own; and that in consequence, after this life we have nothing to fear or to hope for, any more than the flies and ants.[20]

Isn’t all this argument revolving around religious beliefs accepted as authoritative? Cannot one detect, looming in the background of such a passage, a veiled reference to the absolute degree of appeals to authority—that argument “by authority of the scepter” that occurs when, either implicitly or explicitly, a threat of force is made? A subject “of the greatest moment,” an error “already sufficiently refuted,” another error exceptionally “powerful in leading feeble minds astray from the straight path of virtue”. . . . Indeed, the threat of the Inquisition seems to hang over not only the reader, but the timid philosopher himself.[21]

Trifling with Consistency

Falsehoods and ipsedixitisms are serious flaws for any philosophical position. Their very conspicuousness, however, makes them easily questionable. The situation is different with other, subtler defects. Among them are forms of

inconsistency. The lower discernibility of inconsistencies, however, does not make them less serious faults. For it is clear that any position which implies mutually inconsistent claims, or is based on internally inconsistent arguments, is untenable.

And the history of discourse on nonhuman animals pullulates teems with inconsistencies. Quite apart from the recourse to appeals to authority, for example, Augustine's treatment of the animal issue is characterized by a number of conflicting claims. On the one hand, commenting on the view that the killing of animals is wrong, Augustine maintains that "we see and appreciate from their cries that animals die with pain."[22] On the other, as we have seen,[23] apropos of the problem represented in theodicy (the vindication of God's justice in the face of the existence of evil) by the question of the suffering of the innocents, he grants animal pain a pedagogical value, insofar as, by commending the vigor of the animal soul, it points to the "ineffable unity of the Creator." Then, he claims that, since a condemnation of the destruction of animals is the ridiculous outcome of a perception conditioned by our own mortality, we are commanded to make "an act of faith" rather than criticize the Creator's masterpiece.[24] Finally, with reference to the problem of the presence in animals of those labor pains he sees as the penalty for original sin, he observes that first, we don't know what animals feel when they give birth—"do their sounds portend joyous song or grief?"—and second, that it is pointless to dwell on such a matter, for if animals don't suffer labor pains, the problem doesn't exist, and if they suffer them, the real punishment lies in the fact that humans must share with animals this condition, and such a punishment would be supremely unjust weren't it caused by the original sin.[25] Thus, if one tries to recapitulate all this, one finds on the one hand that we see and appreciate that animals suffer, but also that we do not know whether their vocalizations portend pleasure or suffering; and on the other, that animal suffering is meant to make us aware of God's unity, but also that it can lead us astray, so that we must make an act of faith to avoid criticizing God's work. But this is not all. As it has been noticed,[26] in the final discourse one can find something assimilable to the "kettle logic" recorded by Freud apropos of the man who, being charged with having damaged a borrowed kettle, retorted first, that he had given the kettle back undamaged, then, that the kettle was already defective; and finally, that he had never borrowed the kettle at all. To paraphrase Freud, so much the better: if only a single one of the different lines of defense were to be accepted, Augustine would feel safe.[27]

Another conspicuous example of inconsistency concerns a specific formulation of a deep-seated view about our treatment of animals which can be thus summarized: though animals, as mere means, are excluded from the moral community, there are limits to what can be done to them—limits that are dictated by the fact that our behavior toward animals can rebound upon our behavior toward the only true objects of moral concern, that is, other human beings. The most famous formulation is the one offered by Immanuel Kant, the primary proponent of deontological ethics**,** against the background of his ends/means doctrine—a doctrine whose general justification will not be

challenged in this context,[28] where the focus is only on its local application and internal coherence. In the *Lectures on Ethics*,[29] Kant states:

> [S]o far as animals are concerned, we have no direct duties. Animals are not self-conscious and are there merely as a means to an end. That end is man. We can ask, 'Why do animals exist?' But to ask, 'Why does man exist?' is a meaningless question. Our duties toward animals are merely indirect duties toward humanity. Animal nature has analogies to human nature, and by doing our duties to animals in respect of manifestations of human nature, we indirectly do our duty toward humanity. Thus, if a dog has served his master long and faithfully, his service, on the analogy of human service, deserves reward, and when the dog has grown too old to serve, his master ought to keep him until he dies. Such action helps to support us in our duties toward human beings, where they are bounden duties.

If, with some effort, we forget about the irritating dogmatism of the claim that "to ask, 'Why does man exist?' is a meaningless question," what we are left with is: a) animals are mere means; b) accordingly, we have no direct duties toward them; c) however, animal nature has analogies to human nature; d) accordingly, we have duties toward animals that are in fact indirect duties toward humanity. But the question is: is the sense in which animal nature has analogies to human nature a morally relevant sense or not? If not, there is no ground for the fear that a certain kind of behavior could rebound upon the behavior toward the only beings that matter morally, namely, human beings. If, however, the answer is yes, then the risk of passing from cruelty toward nonhumans to cruelty toward humans arises from the fact that in the former case as well we violate direct duties. Kant, instead, contradictorily maintains that the analogies aren't morally relevant and that we must anyway fear a negative impact on our duties toward humanity.

Traditional ends/means doctrines of Kantian ascent are (in)famously discriminatory toward nonhuman beings. The contrary holds in the case of a different strand in moral philosophy—that is, utilitarianism. Starting at least from Jeremy Bentham, utilitarian philosophers have shown a strong tendency to grant moral consideration to animals, and John Stuart Mill is no exception. Indeed, he is even willing to employ the attitude toward animals as a test of the soundness of his doctrine: "Granted that any practice causes more pain to animals than it gives pleasure to man; is that practice moral or immoral? And if, exactly in proportion as human beings raise their heads out of the slough of selfishness, they do not with one voice answer 'immoral,' let the morality of the principle of utility be for ever condemned."[30] And yet, the tendency to neglect the members of other species is so deep-rooted that, apropos of the issue, even Mill incurs inconsistency—in this case, inconsistency in the application of his own stated principles. In *On Liberty*, while discussing liberty in the religious sphere, Mill considers the possible objections to an extension of the prohibition against eating pork in force among Moslems to non-Moslems living in Islamic countries. After excluding the possibility of criticizing such extension as

religious persecution, since "nobody's religion makes it a duty to eat pork," he states that the only tenable ground of condemnation would be "that with the personal tastes and self-regarding concerns of individuals the public has no business to interfere." This is a curious reply. For Mill seems not to notice that what he is considering is a situation covered by his harm principle—"the only purpose for which power can be rightfully exercised over any member of a civilized community, against his [sic] will, is to prevent harm to others"—insofar as it inherently revolves around the violation of some interests, namely, the interests of the pig (or "pork"). How, then, can he imply that we are merely dealing with the "personal tastes and self-regarding concerns of the individuals"? Clearly, he can do so only because, in patent contradiction with his so powerfully avowed stance, he does not really rank nonhuman beings among the "others" with whose protection the public has the right to interfere.[31]

Muddling Things Up

Because the validity of deductive arguments depends on their form, formal fallacies—deductive arguments that have an invalid form—are fallacies par excellence. There are, however, modes of reasoning whose flaw is not in the form of the argument—modes that have been classified as informal fallacies. Since Aristotle, informal fallacies have been ranked in several categories. Prominent among them are the fallacies ensuing from ambiguities. An ambiguity results when the same term is employed with different meanings—for instance when, in a syllogism, the middle term is used in one sense in the major and in another in the minor premise, so that in fact there are not three, but four terms ("All heavy things have a great mass; This is heavy fog; therefore this fog has a great mass").

A flagrant example of this fallacy can be seen in Thomas Aquinas' *Summa contra Gentiles*.[32] Aquinas is rejecting the view that "dumb animals" have an immortal soul, and, after alleging that in animal souls "we find no activity higher than the activities of the sentient part," he states:

> Every form separated from matter is actually understood. Thus the active intellect makes impressions actually understood, inasmuch as it abstracts them. But if the soul of a dumb animal remains after the body is gone, it will be a form separated from matter. Therefore it will be form actually understood. But 'in things separated from matter understanding and understood are the same' (*De Anima*, III, iv, 13). Therefore the soul of a dumb animal will have understanding, which is impossible.

According to a famous list of stratagems, this line of reasoning could be classified as a trick "to extend a proposition to something which has little or nothing in common with the matter in question but the similarity of the word; then to refute it triumphantly."[33] Actually, what is here used in two senses is not a word, but a phrase, "separated from matter," but the result is the same, so

much so that even the nineteenth-century Jesuit Joseph Rickaby, a resolute opponent of the idea of animal rights, cannot fail to notice the fallacy. We can give the floor to him: "The term 'separated from matter' is here used in two senses—(a) of a logical separation by abstraction, *logô*; (b) of a real separation in nature, *phusei*. Aristotle's saying means that the universal, as such, exists only in mind. But the departed soul of a bear, if it be at all, is not a universal."[34] In other words, Aquinas reaches the desired conclusion only by taking profit of a homonymy, that is, by making recourse to two notions that are covered by the same word.

And, regrettably enough, one might say the same of a crucial passage in the very David Hume who, from an empiricist standpoint, so emphatically defended the idea that nonhumans are "endow'd with thought and reason as well as men." In his seminal *Inquiry into the Principles of Morals*, Hume, after claiming that justice is an "artificial virtue," envisages the circumstances of justice, that is, those conditions in whose absence justice would be useless. John Rawls, who accepts Hume's characterization of such circumstances, summarizes them under three headings: moderate scarcity, moderate selfishness, and relative equality. As for the first two, Hume's argument is plain enough: if there was a superabundance of resources, or unlimited altruism, then there would be no need for rules of justice, since there would be no threat of justice. What interests us here, however, is the third circumstance. Hume illustrates it in this way:

> Were there a species of creatures intermingled with men, which, though rational, were possessed of such inferior strength, both of body and mind, that they were incapable of all resistance, and could never, upon the highest provocation, make us feel the effects of their resentment . . . [o]ur intercourse with them could not be called society, which supposes a degree of equality; but absolute command on the one side, and servile obedience on the other . . . And as no inconvenience ever results from the exercise of a power, so firmly established in nature, the restraints of justice and property, being totally *useless*, would never have place in so unequal a confederacy.[35]

Immediately after, Hume adds: "This is plainly the situation of men, with regard to animals." But something seems to have gone wrong here. For though Hume states that the absence of *any* of the three circumstances of justice would make justice "useless," it is evident that the meaning of the term is not the same in all instances. In fact, if in the case of the first two conditions (moderate scarcity and moderate selfishness) "useless" means something like "pointless," in the case of the third condition the situation is very different. Here, the absence of relative equality would not remove the threat of injustice—on the contrary, the threat of injustice if anything would be exacerbated in situations of gross inequality of power. Hence the claim that justice would be "useless" in this context turns out to be a claim about the difficulty of ensuring compliance with justice: the real problem is that in the absence of relative equality, respecting the rules of justice provides no advantage to the stronger party, who can act unjustly with impunity, so that pronouncing principles of justice is likely to be in vain. So, thanks to

ambiguity in the use of a term—"useless"—the sinister idea that justice ceases to be relevant just in those conditions of extreme inequality in power which make it especially significant can surreptitiously be introduced eluding critical analysis.[36] In fact, Hume himself seems embarrassed by the implications of his argument's contractarian overtones, since, after excluding on the basis of its nonhuman beings from the sphere of justice, he hastens to clarify that the same does not hold in the case of human beings: for on the one hand, the great superiority of Europeans above native peoples merely "tempted us to imagine ourselves on the same footing with regard to them," and on the other, women, though in many nations reduced to semi-slavery, are "commonly able to break the confederacy [of men], and share with the other sex in all the rights and privileges of society." Indeed, fallacies can be sneaky, but, like the repressed, they often obliquely resurface.

And, apropos of trickiness, there is a peculiar subform of ambiguity that is worth considering before leaving the realm of these fallacies—equivocation. An equivocation arises when things or facts of one kind are presented as if they belonged to another, and often takes the form of a category mistake, or of the confusion between different realms.

We mentioned before that Aquinas' attempt to exclude nonhuman animals from the prohibition of killing is not based only on appeals to authority, but also recurs to purportedly rational discourse. It is just in this context that the medieval theologian offers a significant instance of equivocation:

> I answer that, There is no sin in using a thing for the purpose for which it is. Now the order of things is such that the imperfect are for the perfect, even as in the process of generation nature proceeds from imperfection to perfection. Hence it is that just as in the generation of a man there is first a living thing, then an animal, and lastly a man, so too things, like the plants, which merely have life, are all alike for animals, and all animals are for man. Wherefore it is not unlawful if man use plants for the good of animals, and animals for the good of man . . . [37]

What is the argument here? Apparently, what Aquinas says is the following: a) it is not wrong to use a thing for the purpose for which it is; b) in the "order of things" the imperfect are for the perfect; c) this is shown by the process of generation, which proceeds from imperfection to perfection—for example, in the generation of humans there is first a living thing, then an animal, and lastly a human being; d) analogously, plants, which merely have life, are for animals, and animals are for humans; e) accordingly, it is not wrong for humans to use plants for the good of animals, and animals for the good of humans. Quite apart from any consideration about the teleological and hierarchical metaphysical framework, it is clear that the argument does not stand up to scrutiny. For Aquinas makes a parallel between two strings located at two different levels: one that is made up of different phases undergone by the same substrate—namely, an individual being; and another that is composed of different kinds of

beings. This implies that no straightforward transition such as the one required by the argument is possible between the strings. By equivocating between the two levels, however, Aquinas smuggles in the desired conclusion.

Stacking the Deck

If, as is the case here, what one is dealing with is the defense of a preconceived view, it is only to be expected that the more general bias gives rise to specific forms of partiality. And in fact, one-sided cases loom large in the literature. One-sided thinking tends to choose data favoring its pre-established conclusion, and to ignore or downplay the evidence against it. One-sidedness can obviously take various forms. Here, we shall consider the practice of slanting, that is, of ignoring the counterevidence and choosing examples that help ensuring the desired result; and the politics of oversimplification, that is, the tendency to cover up relevant complexities and making intricate issues appear to be simpler than they actually are.

Edmund Husserl, one of the founders of the phenomenological method, paid some attention to nonhuman beings. Since phenomenology is the study of the structures of consciousness as experienced from the first-person point of view, the question of the specific perspective of the members of other species—pace Descartes—naturally arises. And in fact, Husserl grants nonhumans a psyche—that is, a unity of sense, indicating itself through its features. However, he does not cross the Rubicon line that separates “nature” (i.e., animals) from “culture” (i.e., humans). On his view, as has been observed,[38] the individuality of an animal is at best only a natural individuality, for the psychic character of an animal “is not an *individual* one in the strong sense of the word, because the psyche is constituted only through *typical* features and properties.” Thus, we find Husserl claiming that each generation of animals reiterates what is typical of the species; that the know-how of animals is merely instinctive; that animals do not learn from experience; and that “their conscience does not achieve the knowledge of a world which includes things that subsist and persist in time.”[39] In this case as well, however, we shall avoid confronting such specific (and certainly not new!) claims in themselves, in order to focus on a more general aspect of Husserl’s line of reasoning. For, apart from the theoretical framework, such claims have an empirical facet that needs support. And indeed, Husserl offers some such support. But what are the nonhuman beings to whom he points to? They are the bees: “A bee does not act,” Husserl states. That is to say, the example he chooses comes from the realm of insects—a realm whose inhabitants are, from an evolutionary perspective, among the most removed from human beings. We are vertebrates, mammals and primates; bees are invertebrates, arthropods and hymenoptera. Whatever the cognitive skills of the hymenoptera might be, it is certainly a form of one-sidedness to compare them directly with human beings, in order to emphasize the higher worth of the latter. Insects have totally different brains, nervous systems, anatomies and forms of reproduction; they have different forms of life. Is it by chance that Husserl does

not consider apes, or monkeys, or other mammals? Might not this be because it would become much more difficult for him to claim that "animals" are not "*individual*s in the strong sense of the word"?

That the answer to the latter question might be positive is shown by another, closely connected, example. For, in the same period when Husserl made these observations, that is, around 1930, another German philosopher who had been Husserl's student, Martin Heidegger, was delivering a series of lectures on "The Fundamental Concepts of Metaphysics." According to Heidegger, who vastly influenced twentieth-century philosophy, Western philosophical tradition has been mistaken in defining human beings as "rational animals," since this would suggest that between humans and nonhumans there are differences in degree, while these two "determinations of essence" are separated by "an abyss . . . which cannot be bridged by any mediation whatsoever."[40] And this is what Heidegger states to substantiate his claims: "The bee, for example, has its [*sic* in translation] hive, its cells, the blossoms it seeks out, and the other bees of the swarm. The bee's world is limited to a specific domain and is strictly circumscribed." And, though tentatively adding that "this is also true of the world of the frog, the world of the chaffinch and so on," it is just on the bee that he expands: "The worker bee is familiar with the blossoms it frequents. . . but it does not know the stamens of these blossoms *as* stamens, it knows nothing about the roots of the plant and it cannot know anything about the number of stamens or leaves, for example.[41] For Heidegger, what is in question here is a structural inability: the animal (the bee) is "world-poor" because he does not even have the possibility of knowing such phenomena, while the human being is "world forming" insofar as it can not only know but also extend and penetrate "everything that he relates to." In order to stress the absence in the bees of any recognition of both presence and absence, Heidegger mentions an experiment. He states that, after placing a bee before a bowl filled with honey, "it has been observed that if its abdomen is carefully cut away while it is sucking, [the] bee will simply carry on regardless even while the honey runs . . . from behind."[42] Such disquieting passage, by showing [how does it show this? not clear to me] that Heidegger had absolutely no interest in animals in and for themselves, points to the question of his real agenda in investigating them—an agenda he does not conceal, and even openly declares: "Of all the beings that are, presumably the most difficult to think about are living creatures, because on the one hand they are in a certain way most closely akin to us, and on the other they are at the same time separated from our ek-sistent essence by an abyss."[43] Animals do represent a challenge for the preconceived view of the absolute uniqueness of human beings, and it is therefore advisable to selectively focus on bees and to ignore as far as possible such threatening beings as the apes—those very apes of whom, when forced to reckon with them, Heidegger will dogmatically,[44] and once again absurdly, state that they "have organs that can grasp, but . . . do not have hands."[45]

Yet, focusing on examples that favor the desired outcome and understating the contrary ones isn't the only available strategy in case of biased perspectives.

There is also, as we mentioned, the possibility of oversimplifying. And it is just one of Heidegger's philosophical interlocutors, the French existentialist author Jean-Paul Sartre, who offers the best example of such policy. Sartre thus presents his view of humanism: "[I]f God does not exist there is at least one being whose existence comes before its essence, a being which exists before it can be defined by any conception of it. That being is man."[46] And how does Sartre illustrate his view? First, he states that, if one considers an article of manufacture as a paper-knife, one sees that it has been made by an artisan who had in mind a definite conception of it. Then he suggests that, according to traditional Western doctrine, either the conception of man (sic) in God's mind is comparable to that of the paper-knife in the artisan's mind, or, if God has been suppressed, each man is a particular example of a universal conception—the "conception of Man." Finally, he opposes to this perspective in which the essence of man precedes his historic existence the existentialist idea that "man" first of all exists, and only afterward defines himself—that he is nothing else but that which he makes of himself. This is his conclusion: "But what do we mean to say by this, but that man is of a greater dignity than a stone or a table?" A paper-knife, a stone, a table . . . Even Mary Warnock, who devotes much attention to Sartre's thinking, cannot but observe that the example of the paper-knife "is in fact unfair," and that the mentioned contrast would be rather more difficult to draw if Sartre "took an animal instead of a paper-knife as an example."[47] Yet, the word "animal" nowhere appears in the text, and that uniqueness of human beings that directly turns to the detriment of nonhumans is built on a comparison with inanimate things.

Philosophy Gone Wild

Richard Sorabji notices that attempts to draw the human-nonhuman dividing line have included among others "debates over whether animals know God, have speech, laughter, foresight with an associated knowledge of causes, preparation, memory, emotion, universals, or concepts; and also over whether they can distinguish good and bad, just and unjust, expedient and inexpedient, can be happy, can achieve technical knowledge, are political, can count, do geometry, are born defenseless and naked, have a sense of rhythm, no shame, have a face, something which shows emotion and character, engage in sex at all seasons, with their own sex or with other species."[48] Then, speaking of the Stoic doctrine, he summarizes in a single, withering sentence the shared and undeclared goal of this deluge of considerations: "They lack syntax, so we can eat them."[49]

Is this (enthymematic) syllogism absurd? It seems so. But what exactly do we mean by absurdity? This is a tricky matter. It is difficult not to be aware of the role that traditional cultural imprinting and prejudice can play in defining something as absurd. Indeed, just to give an example amongst many concerning the question of nonhuman beings, English writer Roger Scruton has stated that "it is absurd to assign rights to animals."[50] In this light, any charge of absurdity would obviously stand in need of strong theory-based support. However, what

shall be involved here is not purely theoretical absurdity, let alone existential absurdity, but rather that ordinary sense of “absurdity” which verges on “incongruity” and has to do with the etymology of “absurd” (from Latin *absurdus*, discordant, out of tune), focusing on claims that appear particularly dissonant in their specific discursive context.

A good introduction is offered by the libertarian political philosopher Robert Nozick.[51] Since Nozick’s aim is to refute the so-called argument of marginal cases, according to which equal ethical consideration is owed to nonhuman and human beings at the same mental level due to the moral irrelevancy of mere species membership, his starting point is the question: “How can someone’s merely being a member of the same species be a reason to treat him in certain ways when he [i.e., a severely intellectually disabled human] so patently lacks those very capacities?” Nozick admits that “this does present a puzzle.” However, he is not prepared to abandon the standard view that all members of our species morally matter more than all members of other species. Therefore, after reflection, he concludes that “[n]othing much . . . should be inferred from our not presently having a theory of the moral importance of species membership that no one has spent much time trying to formulate because the issue hasn’t seemed pressing.” Here, then, is a philosopher who, confronting an intellectual challenge, admits that he has no reply but claims that it doesn’t matter, since the reason is that nobody has tried hard enough to come up with such a reply. If one thinks that an essential feature of philosophy is the endeavor to offer rational answers to hard questions, Nozick’s way of proceeding sounds surprisingly incongruous.

More often, however, incongruity concerns content rather than procedure. Some absurd claims refer to animal “nature” and shape. The Hellenistic philosophical school of Stoicism, for example, is famous for its dismissal of animals. In the first century BCE, Roman orator Marcus Tullius Cicero[52] puts into the mouth of the Stoic participant in a philosophical dialogue the claim that the necks of oxen “were naturally made for the yoke, and their strong broad shoulders to draw the plough”; and less than two centuries [later], Epictetus, a main representative of the last phase of the school, produces this variation on the theme: “For the ass, I suppose . . . [exists] because we had need of a back which is able to bear something; and in truth we had need also of his being able to walk . . .”[53] Even such claims, however, are nothing if compared to the opinion of Chrysippus, one of the founders of Stoicism, who, according to Porphyry, had asserted that the animate nature or soul of the pig functions like salt, preserving the tasty meat until it is ready to be eaten by humans.[54]

Less coarse, but equally striking, are some statements on animal life and animal death. Not surprisingly, in the wake of Descartes, the most incongruent claims about animal life can be found in French literature. Two examples can suffice. Toward the end of the seventeenth-century, Cartesian philosopher Nicolas Malebranche[55] offers this description of nonhuman beings: “They eat without pleasure, cry without pain, grow without knowing it; they desire nothing, fear nothing, know nothing; and if they act in a manner that

demonstrates intelligence it is because God, having made them in order to preserve them, made their bodies in such a way that they mechanically avoid what is capable of destroying them." And only sixty years ago French essayist Georges Bataille abandons mechanistic fixations only to lyrically state that "every animal is *in the world like water in water*."[56] adding that, when one animal eats another, there is "never anything between them except that quantitative difference. The lion is not the king of the beasts: in the movement of the waters he is only a higher wave overturning the other, weaker ones."[57]

Curiously enough, on the other hand, it is instead to German authors that we owe the most paradoxical approach to nonhumans' death—that is, the idea that animals do not really die. What can it mean to say that a nonhuman being doesn't really die? There is, first, a commonsensical reading of the claim that is, obviously, the most improbable. Yet, there was at least one philosopher who propounded it—namely, Malebranche's contemporary Gottfried Leibniz. In a letter dating to 1678, Leibniz, having considered the possibility that there was "some incorporeal substance in beasts which is called a sentient soul," stated that in such a case not only should he provide for a place for these souls after death, but also, should condemn the eating of animals and "the tyranny which men exercise against them."[58] Some years later, however, he had found a way out. This is the solution he advanced:

> [All] this made me judge that there is only one reasonable view to take—namely, the conservation not only of the soul, but also of the animal itself and its organic machine... [N]o one can specify the true time of death, which for a long time may pass for a simple suspension of noticeable actions, and is basically never anything else in simple animals—witness the resuscitations of drowned flies buried under pulverized chalk. . . . And since there is no first birth or entirely new generation of an animal, it follows that there will not be any final extinction. Animals are not born and do not die.[59]

And two years before his death he confirmed and even expanded his thesis: "Thus, abandoning their mask or their tattered dress, [animals] merely return to a smaller stage. . . [A]nimals cannot be generated and cannot perish. they are only unfolded, enfolded, reclothed, unclothed and transformed."[60] Isn't such a perspective as harsh as the Cartesian doctrine? One element confirms the parallelism: as in Descartes' case, very sensible worries loom through the absurdity of the claims in question—worries that surface when, before exposing his solution, Leibniz emphatically dissociates himself from the view that animal souls "pass from body to body."[61] For what does this evoke but the dreaded ghost of the heretical doctrine of metempsychosis, with its attending dreadful chastisements?[62]

On the other hand, there is the possibility of a more theoretical construal of the view that animals do not die. One example is offered by Georg Wilhelm Friedrich Hegel, the nineteenth-century philosopher whose grand speculative synthesis is dominated by the ideal figure of a macrosubject—Spirit—which

assumes the shape of human individuals. There has been some discussion about whether the notion of death is central to Hegel's philosophy, but, whatever the solution to this dispute, for Hegel the only death deserving the name is that of self-conscious beings, which he equates with human beings. For on the one hand human death is ascribed to the *spiritual* order, which has the "element of death in itself as belonging to its essence,"[63] by means of the idea that in self-consciousness fear of death is related to universality via the experience of absolute negativity;[64] and on the other, nonhuman "death" is ascribed to that *natural* order which is dominated by "the disparity between finitude and universality," and is therefore seen as nothing other than a "finishing," an "immediate passing away."[65] Quite consistently with this, Hegel, while distinguishing the person ("the will which exists for itself") from mere living organisms also states: "[A]s a person . . . I have organs and life only so far as I will. The animal cannot mutilate or kill itself, but a human being can."[66] It is apparent that what is at stake here is a stipulative notion of death. But can there be a stipulative notion of death? Admittedly, there are in the field of bioethics discussions about new criteria for death—e.g., criteria based on brain functions rather than on vital functions—but certainly they do not hinge on the incongruous possibility that the death of some individuals is less of a death than the one of other individuals.

Hegel, however, is not alone in defending such a view. Analogously stipulative is in fact the notion of death employed by Martin Heidegger, unsurprisingly the philosopher whose dismissal of animal death is most dramatic. Coherently with his view that an unbridgeable gulf separates humans and nonhumans, Heidegger draws a sharp distinction between biological death as a natural phenomenon that is appropriate to animals—beings that are "merely living"—and the "death proper" which pertains to Dasein, or "There-being," the term by which he denotes the human being. In fact, though the meaning of such term is meant to underline, contra the Cartesian tradition of the disembodied cogito, the intrinsic "being-in-the-world" of the human subject, what then prevails in Heidegger's portrayal of humans is the more conventional stress on cognitive abilities, in the form of a characterization of Dasein as an entity capable of an understanding of Being, and accordingly of experiencing beings "as such." All this while nonhumans, though not trivially seen as governed by mechanical behavior, are, as we already stressed, conventionally characterized as fully instinctual beings, forever lost in a "captivation" to which the access to the "as such" is barred.[67] Thus, we read Heidegger stating, e.g., that"[t]o die means to be capable of death as death. Only man dies. The animal perishes. It has death neither ahead of itself nor behind it;"[68] and also that "Mortals are they who can experience death as death. Animals cannot do so."[69] Apropos of such claims—as well as of Hegel's ones—nothing seems more appropriate than a remark made by Elisabeth de Fontenay apropos of the refusal of death to animals: "*Et voilà*! The trick, if one can say so, is played: this huge metaphysical machinery . . . had the goal to grant human beings the power of life and death on animals . . . I can put the animal to death according to the whims of my needs

and fancies, since he doesn't die, he can merely finish. It was essential to carry this bloody tautology speculatively to its term."[70]

The Morals of the Story

Having reached the end of this survey, it is difficult to avoid the conclusion that the faults of our behavior toward nonhuman animals have deeply affected, and infected, our capacity for moral reflection. There is, however, a conclusive oddity that deserves mention. Central to much Western thinking is the idea that the worth of human beings is connected with, in the words of a contemporary Kantian author,[71] "the capacity for normative self-government," or the capacity to generate and follow moral norms. The view that only beings who are moral agents are worthy of respect is in fact so pervasive as to be almost uncritically accepted. But, as it has been suggested, it suffices to make explicit the reasoning behind it to make evident its perverse character. For, in such context, the characteristic to be valued is a capacity to recognize that there are other points of view than ours, and the conclusion is that our interests should automatically override the demands of all other entities. In other words: "we are absolutely better than the animals because we are able to give their interests some consideration: so we won't."[72] This paradox well recapitulates an entire, deplorable history of inane and self-serving ruses.

Notes

1. Claude Levi-Strauss, *The Savage Mind* (London: Weidenfeld and Nicholson, 1966) pp. 63, 162.

2. Mary Midgley, *Animals and Why They Matter* (Athens: University of Georgia Press, 1983) p. 74. In a Bourdieusian vein, one could also point to the power of *habitus*, that is, the set of socially inculcated cognitive dispositions. Though he himself does not consider the case of animals, focusing instead on the case of women, Pierre Bourdieu emphasizes how, when dealing with institutions that have been inscribed for millennia in the objectivity of social structures and in the subjectivity of cognitive structures, even "the most alert of analysts" is liable to draw on forms of "unthought unconscious;" see Pierre Bourdieu, *Masculine Domination* (Stanford, CA: Stanford University Press, 2001) p. 114-116.

3. Raymond Corbey, *The Metaphysics of Apes: Negotiating the Animal-Human Boundary* (Cambridge: Cambridge University Press, 2005) p. 26

4. See Paola Cavalieri, *The Animal Question* (New York: Oxford University Press, 2001) pp. 69-85.

5. Carol Adams, *The Sexual Politics of Meat. A Feminist-Vegetarian Critical Theory* (New York: Continuum, 1991) pp. 40-46.

6. René Descartes, Letter to the Marquess of Newcastle, 23 Nov. 1646, in *Descartes: Philosophical Letters* (Oxford: Oxford University Press 1970).

7. David Hume, *A Treatise on Human Nature* (Oxford: Oxford University Press, 1968) p. 176.

8. René Descartes, “Discourse on Method,” in R. Descartes, *Discourse on Method and Meditations on First Philosophy* (New Haven & London: Yale University Press, 1996) part V, p. 36. On vocal systems, see Sue Savage-Rumbaugh and Roger Lewin, *Kanzi: The Ape at the Brink of the Human Mind* (New York: John Wiley and Sons, 1994) pp. 224-233.

9. René Descartes, “Discourse on Method,” cit., part V, p. 35.

10. Christoph Anstötz, “Profoundly Intellectually Disabled Humans and the Great Apes: A Comparison,” in P. Cavalieri e P. Singer, *The Great Ape Project* (New York: St. Martin’s, 1994).

11. Andrew T. Scull, *Decarceration*, 2nd ed. (London: Polity Press, 1984) p. 13.

12. Arthur Schopenhauer, *On the Basis of Morality* (London: George Allen, 1903) p. 146.

13. Peter Singer, *Animal Liberation*, 2nd ed. (New York: New York Review, 1990) p. 210.

14. Claude Levi-Strauss, *The Elementary Structures of Kinship* (Boston: Beacon Press, 1969) pp. 6-7.

15. Solly Zuckerman, *The Social Life of Monkeys and Apes* (London: Routledge & K. Paul, 1981) Appendix 4. pp. 445-446.

16. Thomas Aquinas, *Summa Theologica*, Treatise on the Cardinal Virtues, Of Murder, Question I, “Whether it is unlawful to kill any living thing?.”

17. Augustine, *On the Morals of the Manicheans*, 2.17.54.

18. Augustine, *On Free Will*, Book III, 3.23.

19. René Descartes, “Discourse on Method,” cit., part III, p. 16.

20. Ibid., part V, p. 36.

21. We know, for example, that, when his friend and correspondent Marin Mersenne wrote to him of Galileo's fate at the hands of the Inquisition, Descartes immediately suppressed his treatise *De homine*.

22. Augustine, *On the Morals of the Manicheans*, 2.17.59.

23. Augustine, *On Free Will*, Book III, 3.23.

24. Augustine, *The City of God*, Book XII, chapt. 4.

25. Augustine, *Contra Julianum*, *Opus imperfectum,* 6.29.

26. Elisabeth de Fontenay, *Le silence des bêtes* (Paris : Fayard, 1998) p. 268.

27. Sigmund Freud, *The Interpretation of Dreams* (New York: Avon, 1998) pp. 152-153.

28. *The Animal Question*, cit., pp. 50-53.

29. Immanuel Kant, *Lectures on Ethics* (New York: Harper and Row, 1963) pp. 239-241.

30. John Stuart Mill, “Whewell on Moral Philosophy,” in *Collected Works* (London: Routledge and Kegan Paul, 1985) vol. X, pp. 185-187.

31. John Stuart Mill, *On Liberty* (Cambridge: Cambridge University Press,1989) pp. 85-86. For the “harm principle” see ibid., p. 13.

32. Thomas Aquinas, *Summa contra Gentiles* II, 82, “That the Souls of Dumb Animals are not Immortal.”

33. Arthur Schopenhauer, *The Art of Controversy* (New York: Cosimo, 2007) Stratagem II, p. 16.

34. Joseph Rickaby, *Of God and His Creatures. An Annotated Translation (with some Abridgement) of the Summa Contra Gentiles of St. Thomas Aquinas* (Whitefish, MT: Kessinger Publishing, 2006) n. 453, p. 300.

35. David Hume, *An Enquiry Concerning the Principles of Morals* (Indianapolis: Hackett Publishing Company, 1983) pp. 25-26.

36. See Paola Cavalieri and Will Kymlicka. "Expanding the Social Contract," *Etica & Animali*, vol. 8 (1996), pp. 5-32.

37. Thomas Aquinas, *Summa Theologica*, Treatise on the Cardinal Virtues, Of Murder, Question I, "Whether it is unlawful to kill any living thing"?

38. Christian Lotz, "Psyche or Person? Husserl's Phenomenology of Animals," in D. Lohmar and D. Fonfara, eds., *Interdisziplinäre Perspektiven der Phänomenologie* (Dordrecht: Springer, 2006) pp. 190-204.

39. Hua [Husserliana] XV, pp. 180-181; French translation "Le monde et nous. Le monde environnant des hommes et des bêtes," *Alter*, vol. 3 (1995), pp.189-203.

40. Martin Heidegger, *The Fundamental Concepts of Metaphysics: World, Finitude, Solitude* (Bloomington: Indiana University Press, 2001) p. 282.

41. Ibid., p. 193.

42. Ibid., p. 242.

43. Martin Heidegger, "Letter on Humanism," in William McNeill, ed., *Pathmarks* (Cambridge: Cambridge University Press, 1998) p. 248.

44. On Heidegger's dogmatism on this point see Jacques Derrida, "*Geschlecht* II: Heidegger's Hand," in John Sallis, ed., *Deconstruction and Philosophy*: *The texts of Jacques Derrida* (Chicago: The University of Chicago Press, 1987) p. 173.

45. Martin Heidegger, *What Is Called Thinking?* (New York: Harper and Row, 1968) p. 16.

46. Jean-Paul Sartre, "Existentialism Is a Humanism," in Walter Kaufman, ed., *Existentialism from Dostoyevsky to Sartre* (New York: Meridian Publishing Company, 1989) p. 290.

47. Mary Warnock, *Ethics since 1900*, 3rd ed. (Oxford: Oxford University Press, 1978) pp. 106-107.

48. Richard Sorabji, *Animal Minds and Human Morals. The Origins of the Western Debate* (London: Duckworth, 1993) pp. 90-91.

49. Ibid., p. 216.

50. Roger Scruton, "Beastly burdens," *Times Higher Education*, 30 August 1996.

51. Robert Nozick, "About Mammals and People," *The New York Times Book Review*, 27 November 1983.

52. Marcus Tullius Cicero, *On the Nature of the Gods,* book II.

53. Epictetus "The Discourses," Book II, chapt. VIII.

54. Porphyry, *On Abstinence*, III, 20.1.

55. Nicolas Malebranche, *The Search after Truth* (Cambridge: Cambridge University Press, 1997) pp. 494-495.

56. Georges Bataille, *Theory of Religion* (New York: Zone Books, 1992) p. 19.

57. Ibid., p. 27.

58. G. W. Leibniz, "Letter to Hermann Conring de Mars," in Leroy E. Loemker, ed., *Philosophical Papers and Letters* (Dordrecht: Reidel, 1969) p. 190.

59. G. W. Leibniz, "A New System of the Nature and Communication of Substances," in *Philosophical Essays (*Indianapolis: Hackett, 1989) p. 141.

60. G. W. Leibniz, "Principles of Nature and Grace, Based on Reason," in *Philosophical Essays*, cit., p. 209.

61. "A New System of the Nature and Communication of Substances," cit., 140.

62. At the dawn of the century, for instance, the Italian philosopher Giordano Bruno had been sentenced to be burned at the stake by the Inquisition because of his teachings about metempsychosis.

63. Georg Wilhelm Friedrich Hegel, *Aesthetics. Lectures on Fine Art* (Oxford: Clarendon Press, 1975) vol. I, p. 349.

64. Georg Wilhelm Friedrich Hegel, *Phenomenology of Spirit* (Oxford: Oxford University Press, 1977) # 194, p. 117; see on this Michael J. Inwood, "Hegel on Death," *International Journal of Moral and Social Studies*, vol. 1 no. 2 (1986), pp. 109-122.

65. G. W. F. Hegel, *Aesthetics*, cit., p. 349.

66. Georg Wilhelm Friedrich Hegel, *Philosophy of Right* (New York: Cosimo Classics, 2008) # 47, p. 8.

67. Martin Heidegger, *The Fundamental Concepts of Metaphysics: World, Finitude, Solitude* (Bloomington: Indiana University Press, 2001) pp. 247-248.

68. Martin Heidegger, "The Thing" in *Poetry, Language, Thought* (New York: Harper and Row, 1971) p. 176.. It should be noted, however, that Heidegger in at least one occasion seems to claim that even some human beings do not die: "Hundreds of thousands die *en masse*. Do they die? They succumb. They are done in. Do they die? They are inconspicuously liquidated in extermination camps. And furthermore—impoverished millions now perish from hunger in China. But to die is to endure death in its essence . . . We are capable of this only if the essence of death makes our essence possible." See Marin Heidegger, "Die Gefahr," Bremer und Freiburger Vortrage, Gesamtausgabe 59, 56 (Frankfurt am Main: Vittorio Klostermann 1994) translated and quoted in Christopher Ellis, "Static and Genetic Phenomenology of Death," *Contretemps*, no. 2, (May 2001), p. 167.

69. Martin Heidegger, *On the Way to Language* (New York: Harper and Row, 1982) pp. 107-8: see on all this Matthew Calarco, "On the Borders of Language and Death: Derrida and the Question of the Animal," *Angelaki*, vol. 7, no. 2 (2002), pp. 17-25.

70. Elisabeth de Fontenay, *Le silence des bêtes*, cit., p. 543.

71. Christine Korsgaard, "Morality and the Distinctiveness of Human Action," in Frans de Waal, *Primates and Philosophers: How Morality Evolved*, ed. by Stephen Macedo & Josiah Ober (Princeton: Princeton University Press, 2006) p. 119.

72. Stephen R.L. Clark, *The Moral Status of Animals* (Oxford: University Press, 1984) pp. 107-108.

Chapter 7

Ideology in Animal Rights Advocacy: Sound Ethics, Dubious Practices

Rod Preece

To many of those researching and writing in the field of animal ethics, the case for the rights of animals is so eminently invincible that its demonstration is seen to need little rigorous argument. Certainly, there are frequent discussions about the relevant ethical criteria, revolving around pain and suffering, about whether animals are property or persons, about the value of life itself, on the issue of marginal cases, the legal status of animals, the appropriate distinctions, if any, between the attributes of human animals and nonhuman animals, and such like. But the basic idea that nonhuman animal interests are entitled to radical promotion and protection remains largely undiscussed and unchallenged within the animal rights coterie. Indeed, generally speaking, the rights of animals are seen to be so obvious they are assumed within the discourse; and, frequently, subsequent argument appears more like rationalization than elaboration or objective justification. Argument and evidence appear often to be chosen not because they are logically and empirically appropriate but because they further the cause; the strongest contrary argument and evidence are often ignored; the opponents are taken at their weakest rather than their strongest points; the combatants write to win, not to discover. We are often left more with ideology than philosophy.

As a consequence of their efforts to convince others of what they find so indubitably valid, many animal rights advocates, even those writing in the guise of objective discourse, assert their case rather than argue or explain it. Their adversaries are often depicted in the worst possible light (as are the animal rights

advocates by their opponents), and they thus appear as behaviorists, indeed often as Cartesians or Kantians,[1] when in reality they usually hold to a view of the animal world different only in degree from that of the animal rights advocates themselves. Despite their similarities and the fact that the animal rights advocates are able readily to convince those who are susceptible to their claims, the advocates generally fail to convince those who ought to be a primary object of their hortative endeavors—those with the greatest professional interests and with the greatest influence on public policy with regard to animal issues: the animal welfare scientists, ethologists, veterinarians and zoologists; and, those with less political but more intellectual influence: the professional historians and anthropologists of the human-animal nexus.

One palpable anomaly lies at the very heart of animal rights discourse; it is one which highlights the all-too-abstract nature of much of that discourse. Borrowing Richard Ryder's favored coinage of "speciesism," derived by analogy from the terms "racism" and "sexism," animal rights advocates denounce their adversaries' attitudes to animals as "speciesist." These adversaries assume something exclusive in the human armory that separates them from other animals when, the advocates contend, none is warranted. Yet, to talk of animal rights itself smacks of "speciesism." To compare human rights with other animals' rights in general, as opposed to the rights of a particular species, is already to treat the human as a special case. Unless animal rights include human rights, to talk of animal rights is to treat human animals in one category and all other animals as sharing something in common in a separate category. This approach allots a special privilege to humans as worthy of separate treatment from other animals. If it is appropriate to talk of distinctive human rights (the right to vote, the right to freedom of speech, the right to assemble, for example) then one must talk equally of the rights of giraffes, of gorillas, of dolphins and of zebras rather than the rights of animals, unless one assumes that all species share similar rights—and thus that the right to vote is of relevance to the horse. Unless a special case for humans can be made, human rights should be treated as an intrinsic aspect of animal rights. Such a special case seems dubious in that almost invariably humans choose reason, complex speech, a refined moral sense and manual dexterity as the categories which elevate humans above other animals for no better reason than it is humans doing the choosing and the choice is made in favor of the characteristics in which humans excel. There is no logical ground why reason should accord greater rights than echolocation, or the capacity for unaided flight, or speed, or a number of other qualities, some of whose exact nature to date we are unable to divine. Attributes which humans do not possess or possess in lesser degree than other animals are at least as capable of fulfilling species needs as reason; in many cases more so. Indeed, reason in excess and its attendant factors may well hinder the achievement of species needs, whether in humans or in other species. Logically, the human is entitled to be treated as one species just as the giraffe is treated as one species. In each case the relevant rights are determined according to the needs, purposes and wants of the species in question. To spend time demonstrating the degree of reason, moral sense or

complex emotions in nonhuman animals serves ultimately to denigrate those animals for it is to measure them by human standards in capacities in which they will inevitably fall short of the human standard. They will then come to be seen as lesser order beings who are closer to humans than was previously thought but beneath humans nonetheless. If echolocation or speed or intuition were chosen as the standard of excellence we would be measuring humans by the standards of other animals; it would have as little validity as the current measurement of nonhuman animals by human standards. If such demonstration of nonhuman animal capacities by human standards succeeds in elevating the animals in the immediate present above the level to which they have been traditionally assigned, which is in itself most admirable and the benefits it provides in raising the status of animals is most rewarding, it fails nonetheless to acknowledge them as beings with other attributes which aid them in fulfilling the needs, purposes and wants as the beings that they are with the needs, purposes and wants they may have. These attributes enable each species to satisfy its needs and fulfill its purposes as well, sometimes better, than human attributes enable humans to satisfy their needs and fulfill their purposes.

In animal rights discourse it is not always transparent who or what is entitled to ethical consideration. Is the relevant category of consideration "animal" or is it "a being capable of feeling pain and suffering"? If it is the latter, then animal microbes, and at least some worms, as well as other animalcules, might be deemed to lie outside the realm of ethical consideration. In fact, it is not always clear what is to count as animal, for the conception of animal is in part cultural. In hunter-gatherer societies the quarry of the male hunters is viewed as animal while the gatherings of the women, including lizards, fledgling birds and small mammals are relegated to an inferior category—analogous to our distinction between animals and vegetables. The classical Greeks distinguished between land animals and sea animals, thus classifying dolphins and whales among the fish; and they pondered the question whether sea or land animals were to be evaluated more highly. And when they wrote on animal ethics it was always the more complex and sentient animals they had in mind considering "reason" and "pain" as essential aspects of animal being, as attention to commentary on Theophrastus and the words of Porphyry will attest. Modern scientific taxonomy, beginning with Linneaus in the eighteenth century, is only more explanatory in our own cultural context. And even within the scientific taxonomy of our culture there are boundaries between animal and vegetable where the distinctions become blurred. Rather than having to field gratuitous questions on whether flies or centipedes[2] possess rights, the animal rights advocate might be wise to discard the category of animal per se with some concept such as 'beings with the capacity for pain and suffering.' On the surface, such a point may appear trivial, even forced. But I was accosted a short time ago by a scientist at the University of Cambridge that if I espoused animal rights I should not distinguish between drosophila (on which he conducted his research) and mammals for, he insisted, they are all constituent parts of the animal continuum.[3] Despite such

not uncommon inconveniences, animal rights advocates continue to talk, and write, of animal rights in the abstract when the rights of sentience would appear more appropriate.

In order to know the rights of humans one must understand the needs, purposes and wants of the human species. Correspondingly, to know the rights of giraffes one must know the species needs, purposes and wants of giraffes. To be sure, most animals, including human animals, may be said to have rights, but they differ according to the specific attributes of the species. The bat's capacity for echolocation is essential for it to continue to act as a bat. The koala requires access to eucalyptus leaves for its health. Neither echolocation protection nor access to eucalyptus leaves are appropriate to the rights of cattle. In order to gain an understanding of the rights of, say, pigs, animal rights advocates might find it profitable to refrain from their generic language and look to the research of the pig scientists to comprehend the nature and needs of the pig. It is not that the ethics of animal rights advocates are wanting; far from it. Rather, it is the language in which the ethics is expressed which often alienates those who have an abiding interest in what they consider to be the well-being of the animals they study. If their apprehension of the well-being of the animals they study leaves something to be desired, as it very often does, it can most readily be influenced through the scientists' understanding of the animal rather than through abstract conceptions of rights.

Most animal welfare scientists currently reject the claims of animal rights advocates out of hand, at least in part because the advocates pay insufficient attention to the empirical nature of particular species and describe the rights of animals without reference to the vast amount of research undertaken to determine the needs of a given species. And on the occasions they do take the specifics of a species into consideration they tend to get the matter wrong by taking those facts into consideration only to the degree they accord with what the advocates hoped would be the findings. It is, then, scarcely surprising that most of the animal welfare scientists look askance at animal rights advocates when the conclusions of their own research are ignored, rejected or employed according to their usefulness to the advocacy alone.

Frequently, the animal scientists are painted in very misleading strokes by the animal advocates. Such scientists are often depicted as Cartesians or quasi-Cartesians who deny that animals feel pain, or suffer or have emotions. In reality, the scientists are attempting to discern not just whether a species feels pain, suffers and has emotions—which in most cases they accept without question—but the degree to which pain may be anticipated, the nature of emotions and suffering experienced and the relation between pain, suffering, reason and emotions in particular species—all of which is of considerable importance in helping to determine the appropriate treatment for the species in question. Of course, animal rights advocates are absolutely right (in my estimation) that a great deal more needs

to be done to promote the interests of all sentient animals, including a vast improvement in general recognition of their worthiness for serious ethical consideration, which in turn requires that the animals not be employed for human purposes unless they also benefit to at least equal degree. They are entitled to be treated as ends in themselves, as Goethe argued against Kant. But, unless the animal rights advocate is willing to listen to (with a critical open mind), and engage in respectful discourse with, such scientists the animals will receive short shrift. Unless animal rights advocates take a more open-minded approach to the scientists, they will hinder the progress of the cause they promote with such justified ethical indignation. And when they do address themselves to the scientists in more respectful terms the scientists themselves may well be persuaded to ask questions in their research which relate more directly to the issues which animal rights advocates bring to the fore. Otherwise, being morally right may well prove to be politically wrong.

If animal rights advocates often fail to consider the empirical nature of animals, the scholarship of some advocates concerning the history of animal ethics is even wider of the mark. Again, the history appears more like a rationalized ideology than an attempt to discover a truth. Indeed, the history of animal ethics as sometimes written appears as an implicit expression of the view that our age is the first in Western cultural development to recognize the moral worth of animals, such history having, with a few rare and notable exceptions, denied them all ethical recognition. In much animal rights literature thus pertaining we will find a section on Cartesianism in which it is stated, or at the very least implied, that the views of Descartes and Malebranche on animals as automata played a predominant role in the history of Western culture and often, it is mooted, they continue to do so today. In fact, no more than a handful in Britain subscribed to the doctrine wholeheartedly in its animal aspects (and at least one of those deeply impressed by the theory stated he was unwilling to abide in practice by the theory's implications for attitudes to animals). And if there were more adherents in France they were still greatly outnumbered by those who treated the whole idea as preposterous, including the Roman Catholic Church itself. The prolific letter-writer Mme. de Sévigné declared to her daughter that even the reputation of Descartes could not convince her of the idea of animals without thought and without emotions. As often as not, the animal-as-complex-machine aspects of Cartesianism were merely fodder for the wits. Noting Descartes' analogy between a watch and an animal, Bernard Fontenelle announced that if he put a dog machine next to a bitch machine, in short order he would have a pup machine, but if he put two watches side by side and waited a whole lifetime no third watch would appear. This convinced him that dogs were worthier and more noble than watches. In England, Viscount Bolingbroke noted the same analogy and insisted that, despite Descartes, his tenants would still be able to tell the difference between the town bull and the parish clock.

Again, in much writing on animal ethics, the idea of animals being capable of pain and suffering, and that fact being of vital importance in ascribing rights to animals, pride of place is usually accorded to the eighteenth-century utilitarian

Jeremy Bentham. He is usually regarded as the great innovator in the animal ethics lexicon. Indeed, the pain and suffering criterion has been described more than once as the "Benthamite dictum" or the "Benthamite nostrum." Yet the relevance of pain and suffering was recognized long before Bentham and was placed as the central point in the earlier writings of Dean, Berrow, Hildrop, Primatt and a number of others who have been sometimes ignored, sometimes downplayed, in the literature. It is not central but equally present in many yet earlier writers, notably Moses Maimonides in the thirteenth century and in the medieval Jewish tradition in general.

Surely, the evocative passage from Rousseau in *Emile* (1762) ought to have long been recognized in the animal advocacy literature as a primary statement of the preeminent role of suffering and the human awareness of it. Rousseau tells us that, as he matures:

> Emile . . . will begin to have gut reactions at the sounds of complaints and cries, the sight of blood flowing will cause him an ineffable distress before he knows whence comes this new movement within him . . .
>
> Thus is born pity [i.e., compassion], the first sentiment that touches the human heart according to the order of nature. To become sensitive and pitying, the child must know that there are beings like him who suffer what he has suffered, who feel the pains that he has felt, and there are others whom he ought to conceive as being able to feel them too. In fact, how do we let ourselves be moved by pity if not by transporting ourselves outside of ourselves and identifying with the suffering animal, by leaving, as it were, our own being to take on its being. It is not in ourselves, it is in him that we suffer.[4]

This may not be as pithy as Bentham's later 1789 assertion—"The question is not, can they *reason*? Nor, can they *talk*? but, can they *suffer*?"[5]—but it surely reflects empathy and the awareness of the relevance of pain and suffering far more acutely than any other historical statement, at least of those of which I am aware.

Why is it ignored? It is either because of inadequate scholarship or because some prominent animal rights advocates have a vested interest in not recognizing that, along with a myriad of similar, if less profound, statements, Rousseau's words reflect a general, if ultimately inadequate, compassion felt throughout human history, including Western history. Contrary to the impression one receives from so much of the literature, a recognition (and sometimes the language) of animal rights is no new phenomenon but is a part of a general human consciousness, decried though it may have been by those who sought self-interest or their own species interest rather than heeding their inner being. Some influential animal rights advocates wish to be seen as a revolutionary vanguard rather than as a part of a historical continuity. They do not wish to acknowledge the generality of their worthy precursors lest it detract from their own image as radical innovators and purveyors of a new and striking ethic. Their ethic may well be *somewhat* new and striking, and it is most certainly (from my perspective) just and honorable, but is not

at all as new and striking as they depict.

If they have the significance of Descartes and Bentham wrong—and a host of others to boot—nowhere are they further from the truth than in their honoring of Charles Darwin. He is, of course, to be greatly admired for his discovery of the process of natural selection in evolution, though his role in discovering the theory of evolution itself is less impressive, there being at least two and a half millennia of prior contributions to the idea of, and even evidence for, evolution. Where animal rights scholars get Darwin hopelessly wrong is in his supposed novel appreciation of the attributes of animals. It is common to read in the animal rights literature, here in the words of Marian Scholtmeijer, that "the Darwinian revolution profoundly altered society's conception of animals,"[6] or from Michael Allen Fox who referred to "the work of Charles Darwin (1809-1882) which breached the species barrier so dramatically."[7] And these statements are from among the more admirable of animal rights' scholars. In fact, while Darwin's influence on our understanding of the manner in which evolution takes pace was without parallel, he had little influence on the status of animals; and most certainly not a positive one, as his advocacy of unregulated vivisection attests.

Darwin is often lauded for his recognition in *The Descent of Man* (1871) "that there is no fundamental difference between man and the higher animals in their mental faculties."[8] Moreover, Darwin continued:

> man and the higher animals, especially the Primates, have some few instincts in common. All have the same senses, emotions, intuitions and sensations—similar passions, affections and emotions, even the more complex ones such as jealousy, suspicion, emulation, gratitude and magnanimity. . . they possess the same faculties of imitation, attention, deliberation, choice, memory, imagination, the association of ideas and reason, though in very different degrees.[9]

Certainly, in light of the frequent animal advocate assumption that there are few, if any, prior acknowledgments of human-animal continuity, the claim appears to be truly revolutionary, as so many from Peter Singer to Michael W. Fox and James Rachels have asserted.

Yet, Darwin's observations are merely a restatement of views long held in Western society on the human-animal relationship. Thus, for example, even ignoring the numerous classical Greek examples, the French army surgeon Ambroise Paré stated as early as the mid-sixteenth century that "magnanimity, clemency, docility [i.e., the capacity to learn], love, carefulness, providence, yea knowledge, memory & C. is common to all brutes."[10] In the mid-seventeenth century, the Puritan leveller Richard Overton was citing Paré with admiration and approval. We find extensive listings of similar attributes in the writings, for example, of Rorarius, Gilles, Bary, de la Chambre, Bayle, Voltaire and George Nicholson, with Nicholson citing a broad variety of sources maintaining similar views. In the early eighteenth century we encounter the influential Bishop of

Durham, Joseph Butler, taking it as common knowledge that other animals "share apprehension, memory, reason . . . affection . . . enjoyments and sufferings."[11]

By the nineteenth century, the acknowledgment was even more pervasive. Thus, for example, the devout theist and anti-materialist Sir James Brodie, President of the Royal Society when *The Origin of Species* (1859) was first published, avowed in his *Psychological Enquiries*, published sixteen years before *The Descent of Man* and four years before the *Origin*, that "the mental principle in animals is of the same essence as that of human beings; so that even in the humblest classes [i.e., species] we may trace the rudiments of those faculties to which, in their state of more complete development, we are indebted for the grandest results of human genius. I am inclined to believe that the minds of the inferior animals are essentially of the same nature with that of the human race."[12] The evidence from the prominent, early veterinarian William Youatt, writing in 1839, is even more compelling. He wrote in very similar words to Charles Darwin in the 1871 *Descent*, and at far greater length, ascribing to the animals: senses, emotions, consciousness, attention, memory, sagacity, docility, association of ideas, imagination, reason, instincts, the moral qualities, friendship and loyalty, each of which Youatt acknowledged to exist in other species and to differ from human attributes only by degree.[13] Nor did Youatt seem to think he was advocating a new and controversial doctrine. Clearly, Charles Darwin added nothing to the conception of the similarity between human and other animal attributes, however much he may have greatly influenced our understanding of the manner of evolution. Human-animal continuity and similarities in their sentient, emotional and rational natures were well recognized long before Darwin.

Animal rights advocates are no less misleading when they inform us, as did PETA, for example, of the welcome news that Pope John Paul II had declared in 1990 that animals have souls, an apparently startling change in official Roman Catholic thought. Indeed, John Paul *had* so declared. What is misleading is to leave the impression that John Paul II was changing the doctrine of the Roman Catholic Church. He was not. In fact, the Church has traditionally held the view that animals have souls, but sentient and mortal souls as opposed to the rational and immortal souls claimed exclusively for humans, as laid down by Thomas Aquinas in the thirteenth century. Pope John Paul's statement did not amend or clarify the issue of the nature of the animal soul. To all intents and purposes, the position of the Church remained unaltered.

It is difficult to escape the conclusion that a portion of animal rights advocates and scholars, though by no means all, choose their evidence and argument with more concern for the cause than for scholarship and accuracy, and in so doing alienate a large number of people of influence who would be more readily convinced by a sober and industrious investigation of the issues. Despite the justice of their cause, through the tactics and slipshod methods of some, they mar their own scholarly reputation, causing many to take them less seriously than they might—and

convincing some other non-scientists to take them more seriously than they should. Animal rights advocacy could benefit from a healthy dose of earnest and honest scholarship in lieu of ideology. If there are some who display already an impressive scholarship, equally there are some who do not. Ideology masquerading as scholarship serves ultimately to harm the eminently worthwhile cause of animal protection and promotion. And, of course, if the advocates need to move closer to the animal welfare scientists, a reciprocal *rapprochement* of the scientists to the advocates is equally necessary. Advocates and scientists share a lot more in common than either of the adversaries is customarily willing to concede.

Notes

1. I am here employing "Cartesian" to mean someone who believes that animals are complex machines, like watches, possessing neither thought nor emotion; "Kantian" I use to mean someone who denies that animals are ends in themselves. Insomuch as we may have a duty to animals it is not direct but is a duty to ourselves in furthering our own virtue.

2. Perhaps we owe an indirect duty (see note 1) to such beings as flies and centipedes, refusing to destroy them gratuitously, and a direct duty toward more complex animals.

3. "Animals are humans, too," was the obvious response I gave. "If being animal is the criterion for permitting invasive experimentation, then invasive experimentation may be performed on humans too." My adversary was not one of the more enlightened scientists!

4. Jean-Jacques Rousseau, *Emile, or On Education* (1762; reprint, trans Allan Bloom, New York: Basic Books, 1979), 55.

5. Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789; reprint, ed. J.H. Burns and H.L.A. Hart, London: Methuen, 1982), 17, 4, 282.

6. Marian Scholtmeijer, *Animal Victims in Modern Fiction: From Sanctity to Sacrifice* (Toronto: University of Toronto Press, 1993), i.

7. Michael Allen Fox, *Deep Vegetarianism* (Philadelphia: Temple University Press, 1999), 18.

8. Charles Darwin, *The Descent of Man, and Selection in Relation to Sex*, 2nd ed. (New York: A. L. Burt, 1874), 74.

9. Ibid., 89.

10. Quoted in Richard Overton, *Man's Mortalitie* (1643; reprint, ed. Harold Fisch, Liverpool: University of Liverpool Press, 1968), 26.

11. Joseph Butler, *Analogy of Religion, Natural and Revealed, to the Constitution and Course of Nature* (1734; reprint, London: Longmans, 1834), 28.

12. Quoted in Elijah Buckner, *The Immortality of Animals, and the Relation of Man as Guardian, from a Biblical and Philosophical Hypothesis* (Philadelphia: George W. Jacobs, 1903), 56-57.

13. William Youatt, *The Obligation and Extent of Humanity to Brutes, Principally*

Considered with Reference to the Domesticated Animals (1839; reprint, ed. Rod Preece, Lampeter: Mellen, 2003), 47-104.

Chapter 8
Animal Rights and Social Relations

Ted Benton

> Animals—whom we have made our slaves we do not like to consider our equals.—Do not slave-holders wish to make the black man other kind? . . . the soul by consent of all is superadded, animals not got it, not look forward if we choose to let conjecture run wild then animals our fellow brethren in pain, disease, death & suffering & famine; our slaves in the most laborious work, our companions in our amusements. They may partake, from our origin in one common ancestor we may be all netted together.[1]

> The life of the species, both in man and in animals, consists physically in the fact that man (like the animal) lives on inorganic nature. . . . Just as plants, animals, stones, air, light, etc, constitute theoretically a part of human consciousness, partly as objects of natural science, partly as objects of art—his spiritual inorganic nature, spiritual nourishment which he must first prepare to make palatable and digestible—so also in the realm of practice they constitute a part of human life and human activity. . . . Nature is man's inorganic body—nature, that is, in so far as it is not itself human body. Man lives on nature—means that nature is his body with which he must remain in continuous interchange if he is not to die. That man's physical and spiritual life is linked to nature means simply that nature is linked to itself, for man is a part of nature.[2]

In what follows I consider the main arguments for assigning, or recognizing, intrinsic moral value to non-human animals. Although there are significant arguments that tell against the case for animal rights, I think a convincing argument in favor can still be made. However, I suggest that the most influential advocates of the moral status of animals have tended to present their arguments at a level of abstraction that diminishes their salience to the diversity of forms of human/animal interaction within which moral considerations emerge. In

particular, I'll be suggesting that the persuasive power of arguments for moral recognition is unlikely to be practically efficacious while prevailing socioeconomic dynamics and power-relations that incorporate both humans and non-human animals into exploitative or degrading practices persist. Viewed in another way, my suggestion is that to be convinced of the necessity for the moral status of animals to gain full practical recognition is also to be convinced of the necessity for deep socioeconomic transformation.[3]

The quotations above are intended as reminders that concern for the moral status of non-human animals, and recognition of the intimate interconnections and interdependencies that characterize human relationships to them and the natural world, is not a new phenomenon. Darwin's extraordinarily radical comparison of the treatment of animals with the human slavery he so detested should not be dismissed as a passing thought. The insights of his later evolutionary hypothesis confirmed the "netting together" of this early conjecture. Humans and other species are bound together both by relations of kinship and common descent, and by ecological interdependence. In his much later *Descent of Man*, Darwin committed himself to a view of moral progress through which an ever-widening sphere of human sympathies, aided by the use of reason, drew into its ambit tribes, then nations and all of humanity, finally being extended beyond our species to all sentient beings:

> Sympathy beyond the confines of man, that is, humanity to the lower animals, seems to be one of the latest moral acquisitions . . . This virtue, one of the noblest with which man is endowed, seems to arise incidentally from our sympathies becoming more tender and more widely diffused, until they are extended to all sentient beings. As soon as this virtue is honored and practiced by some few men, it spreads through instruction and example to the young, and eventually becomes incorporated in public opinion.[4]

That other great nineteenth-century thinker, Marx, also recognized commonality in the human and animal predicament—both shared the needs and vulnerabilities of embodied, organic "active natural beings." Humans were not to be set over and against nature, but to be understood as part of nature—albeit a part endowed with consciousness and free, collective agency. As well as our material dependence on our "metabolism" with non-human beings, Marx recognised in humans a need for "spiritual nourishment"—for an aesthetic and moral relationship with the rest of nature. In this respect, however, Marx recognised a key metaphysical difference between humans and other animals, where Darwin remained more inclined to emphasize continuities, matters of degree that separated us from our fellow species. As we shall see, these differences of emphasis have continued to run through subsequent disputes on the moral status of non-human animals.

The Background: "New" Social Movements

The current phase of political and philosophical engagement with the topic can be seen as a consequence of the intertwining and deepening of two rather distinct currents of radical thought and action that emerged in the West during the 1960s. First was a reawakening of anxiety about potentially catastrophic human impacts on the earth. The new wave of environmental critique and political action emerged first in the United States, with pioneering writers such as Rachel Carson,[5] Murray Bookchin,[6] and Barry Commoner[7] raising the alarm. It was, perhaps, Carson's evocation of the desolation of spring without bird-song in her classic *Silent Spring* that most caught the popular imagination. But she and the others had a message that went beyond simple protest at damage to nature: they implicitly or explicitly called into question a whole mode of human social and economic life whose escalating demands on naturally given life-support systems must eventually bring disaster. By the end of the 1960s an emergent mass environmental movement was gaining intellectual support from elite bodies such as the "Club of Rome" whose *Limits to Growth* report became an international bestseller.[8] By the beginning of the 1970s the United Nations itself had taken up the issue with a major conference on *The Human Environment* held in Stockholm in 1972.

But if what humans were doing to nature was a matter for radical thought and action, so, increasingly, was what some humans were doing to other humans. The decades following the end of World War II were characterized by revolts of the colonial subjects of the world against the arrogance and exploitation of empire. As one former colony after another won its political independence, and residual ideologies of racial superiority met their match, new sources of discontent emerged. In the United States, especially, a renewed political consciousness among African Americans first demanded civil liberties, the right to respect and an end to racial segregation. And soon these demands were joined and partially displaced by more radical voices demanding the right to be different, to be acknowledged for their self-determined cultural and intellectual identity: black was to be both powerful and beautiful.

Possibly inspired by, but certainly emerging alongside this movement, there arose voices contesting yet another source of human separation and subordination: that of gender. Again, the reawakened feminist movement soon moved beyond the demands of earlier phases of the movement for equal pay, equal opportunity, civil liberties and equal treatment under the law, to question quite fundamental aspects of the organization of gender relations in society. While struggles continued to realize the more traditional aims of the movement, some within the movement began to assert "difference" as the basis for a new politics in which women would determine their own priorities and seek recognition for self-asserted identities and values. Similar processes were at work in movements contesting other sources for felt exclusion, stigmatization or oppression—a shift from demands for full recognition and integration within the

existing framework of law and society toward a more independently self-defining and self-assertive demand for recognition, even for society itself to be transformed in the light of their insights. We might characterize these processes as shifts from the demands for rights to struggles for "liberation."

Animal Liberation: The Utilitarian Case

The political culture of the United States and many other liberal democracies, then, was riven by the emergence of very diverse and cross-cutting radical movements by the beginning of the 1970s. It was in this context that concern for the well-being of non-human animals reemerged in a new form. Instead of enlarged sympathy for the suffering of members of other species the new call was a more intellectually rigorous and politically hard-edged demand for rights—even for "liberation." The work of Peter Singer was by far the most influential intellectual source for this revitalization of opposition to mistreatment of animals. Singer's book, *Animal Liberation* (1975),[9] in both its title and argument, situated itself as the logical implication of the other liberation movements. Just as those who suffered abuse or oppression because of their race, gender or sexuality rightly contested discriminatory treatment on the basis of "racist" or "sexist" bias, so, too, should we contest mistreatment of animals purely on the basis of "speciesist" bias.

However, despite Singer's advocacy of animal "liberation," and use of the term "rights," the moral theory he deployed in defence of animals was one within which the concept of rights did not have a firm place. As is well known, nineteenth-century advocates of utilitarian moral theory—Jeremy Bentham, especially—had already demonstrated its direct application to the moral status of animals. For utilitarians, the key variables for moral calculation are pleasure and pain, or, what tend, for them, to be equated, happiness and suffering. If the moral value of an act (or rule of conduct) is given by the balance of pleasure and pain produced by its consequences, then how could one exclude other animals from the calculation? The answer to this is, presumably: only if either they do not have the capacity to experience pleasure or pain, or their pleasures and pains do not count morally. It is at this point that the legacy of evolutionary—or, more broadly, materialist—thinking about our place in nature helps out. If we share descent from a common ancestor with other species, if we are anatomically and physiologically comparable in the appropriate respects and if we have recognizable, if different, behavioral responses to sensory experiences of various kinds, then there is a powerful cumulative case for accepting that members of those other species do, indeed, experience pleasure and suffer pain. Further, if the ability to suffer pain or experience pleasure is what it takes to enter into the moral universe, then the mere fact of belonging to a different species is no more justifiable as a basis for exclusion than other irrelevant considerations—such as race, gender or sexual orientation.

The great strength of utilitarianism as a resource for arguing the case for the moral standing of animals is that its fundamental criteria for moral evaluation carry across the species boundary relatively smoothly. Some latter-day Cartesians may continue to deny that members of other species are conscious beings, whose struggles to escape from torture, and cries when physically damaged are merely mechanical effects. However, the balance of evolutionary thought, neurophysiology, animal ethology and common sense points decisively in the opposite direction. So, we should not underestimate the achievement of utilitarianism in decisively bringing other species into the charmed circle of those beings that are worthy of moral consideration in their own right.

Unfortunately, there are some philosophical difficulties surrounding the utilitarian approach to moral value, not all of them deriving from its extension to include non-human animals. First, there is the tendency, among the "classical" writers, to suppose that happiness is simply a function of aggregate experiences of pleasure and pain. But some will argue that it is possible to be happy, though in pain, and also that there is no equivalence between the pursuit of sensory pleasure and true happiness. Underlying these doubts is a reservation introduced into utilitarian thought by John Stuart Mill.[10] His view was that pleasures were not simply susceptible to being counted, measured and aggregated without regard to quality. In some sense the pleasure of listening to a Beethoven sonata is not fully commensurable with being able to scratch an itchy back.

Considerations like this do start to destabilize the utilitarian calculus even within its core domain of human experience. Interestingly, however, an unreconstructed utilitarianism, one that refused to recognize the moral significance of the culturally imposed hierarchy of values, might find it easier to keep animals in the circle. Whatever view one might take of the possibility that, even for non-human animals, not all pleasures are equal, at least the category of sensory pleasures and pains is one fully shared across the species boundary.

Contemporary utilitarians, aware of the difficulties associated with measurement and calculation of pleasure and pain, have commonly replaced this moral ontology with the concept of preferences. The difference between moral good and bad is a matter of the consequences of an act or rule for the aggregate satisfaction of preferences. The logical structure of this approach to moral theory has much in common with neo-liberal economic thought, where preferences as expressed in market transactions aggregate to the common good. Pragmatic considerations aside, this approach suffers, like unreconstructed pleasure/pain utilitarianism, from the withdrawal of judgments of quality—satisfaction of preferences for wallpaper is no more, no less significant than satisfaction of preferences for health care or education.

There are problems to do with the process of aggregation, too. Matters of public policy often will not be reducible to satisfaction of aggregate preferences. The public good may involve reasoning about the compatibility of different orders of preference, or, where resources are constrained, giving more weight to some preferences than others. Perhaps the most telling of the standard objections

to the utilitarian calculus, however, has to do with its reliance on aggregating *consequences* of acts (or rules). Acts are not good or bad in themselves, for utilitarians, but can only be deemed so in virtue of their consequences. One uncomfortable implication of this is that it might justify inflicting serious harms on individuals if the aggregate consequences end up on the positive side of the balance sheet. We might, for example, justify publicly flogging or hanging an innocent person on trumped-up charges in the expectation that this will strike such terror in the onlookers that they will improve their behavior so as to avoid the same fate. Or, more to the point of the present discussion, we might inflict cramped and degrading living conditions on captive animals in the expectation that the pleasures to be gained from eating their meat will far outweigh their suffering. In short, animals might be included in the moral calculation, only to find they don't count that much.

The Case for Rights

So, the great persuasive power and moral force of the utilitarian case notwithstanding, its limitations are also fairly clear. Recognition of this prompted advocates of an alternative "mainstream" moral theory to construct a rather different case on behalf of animals. This alternative tradition does not accept that the moral worth of an act is reducible to its consequences. Some actions, it is argued, can be seen to be good or bad in virtue of their intrinsic character. Torture, or the death penalty, it is argued are simply wrongs, irrespective of what beneficial consequences might be derived from them in some circumstances. This "deontological" tradition of moral thinking has as its most important inspiration, the work of the eighteenth-century philosopher, Immanuel Kant, and its key moral concept is that of rights. The leading advocate of the rights-view has been the US philosopher Tom Regan.

Regan's classic work, *The Case for Animal Rights*[11] applies a more stringent criterion for possession of moral value than that of the utilitarians. Central to the rights tradition has been the notion of autonomous self-identity as a source of inherent value, and Regan argues that at least some non-human animals are sufficiently psychologically complex that not only does the difference between suffering and flourishing apply to them (as in utilitarian thinking), but they also have some sense of their own identity through time. They are, in other words, continuous conscious subjects of the various things they do or that happen to them. They are, in Regan's phrase, "subjects of a life," and, as such, are bearers of inherent value, and so of rights. For Regan, as bearers of rights, they are also bearers of *equal* rights. To admit of a hierarchy of rights would be to risk a slippery slope to admitting inequality of rights within the human species. To provide the authoritative moral protection that vulnerable beings require, rights have to have universal, and therefore equal, application across the whole spectrum of "subjects of a life."

A common objection to this sort of argument is to draw on the attributes that have been most distinguished as conferring inherent value in the rights tradition as it has been applied to humans, as supposedly unique beings: our possession of rationality, autonomy, free will and moral responsibility—attributes often connected to the ability to use language. No matter how generous we are in our attribution of psychological complexity to other species, none possesses the full complement of these distinctive abilities.

Regan's response does acknowledge the significance of these differences, but they do not, for him, justify withdrawing from other animals the requisite moral standing. First, there are many humans who lack the full complement of these distinctively human capacities—infants, psychologically damaged individuals, those suffering from profound psychological illnesses, and others, perhaps suffering from addiction or other states that impair moral autonomy. If we deny inherent value, and so rights, to non-human animals because they do not possess the full complement of psychological capacities, then in consistency we would have to deny rights to these mentally impaired humans, too, since all that distinguishes them is the morally irrelevant criterion of species membership. Indeed, one might argue that since a central purpose of the attribution of rights is protection of the vulnerable from harms that might be done to them, the need for rights is most acute in the very category of humans who lack full autonomy, and are especially vulnerable to abuse.

Regan's use of the comparison between psychologically disabled humans and non-human animals is, of course, open to further discussion, but I think it carries enough conviction to proceed with the argument. The next step is Regan's way of dealing with the moral significance of those attributes possessed by most humans, but (probably) not by members of any other species. He does this by way of a distinction between moral agents and moral patients. Fully psychologically competent humans are moral agents, and possess both rights and corresponding moral responsibilities to respect the rights of other moral agents and of moral patients. Moral patients, whether human or non-human have fundamental rights in virtue of their possession of the capacities to suffer or benefit from the actions of others, and their sense of themselves as continuing "subjects of a life." However, they do not have correlative moral responsibilities—it makes no sense, for example, to morally blame a predator for its "abuse" of its prey. This dispenses with a common but superficial jibe against animal rights advocacy.

The Radical Critique of Rights

The upshot of this, it seems to me, is that the case for animal rights is well made. It is not philosophically water-tight, but few philosophical arguments are. For the rest of this chapter, I'll work on the (provisional) assumption that it is quite philosophically defensible to attribute rights to non-human animals. To be addressed next are questions about what can be expected of rights-attributions in

protecting non-humans from abusive or exploitative treatment. In part these are questions about the limitations of rights in protecting moral patients, whether human or animal, and in part they are questions about the limitations of rights specifically in their extension beyond the species boundary.

First, there is a long tradition of critique of rights that still has some purchase, despite the near-universal moral authority of the language of rights. More precisely, I think this tradition of critique should be understood as directed against a particular, liberal-individualist conception of rights. It is a further question whether a radicalized conception of rights could offer deeper and firmer protection of the vulnerable.

The most widely understood element in the radical critique of (liberal) rights makes use of a distinction between formal and substantive rights. Equal rights under the law, for example, extend to all the right to legal defense if accused of crime, or to seek legal redress for unjustified harms that are suffered. However, if one lacks legal training or resources to employ a competent legal representative, these rights are purely formal—one does not have *substantive* access to the law. Another way of putting this is to say one *has* rights, but is not able to *exercise* them. Recognition of this has led to a certain radicalization of the liberal tradition, according to which some form of public provision is devoted to making resources available, so that those who are disadvantaged by their socioeconomic position can substantively enjoy the rights that would otherwise be merely formal entitlements. One limitation of this, of course, is that while the broad pattern of social and economic inequality persists, redistributive measures (such as, in this case, legal aid and the availability of "non win no fee" advocacy) are liable to be withdrawn as the balance of power or sentiment changes.

Other elements in the radical critique of liberal rights have to do not so much with its individualism, but, rather, the way it thinks of individuals, their powers and the conditions of their well-being. The tendency of liberal rights, both in philosophy and in their legal expression, is to think of well-being, or the set of "basic interests" of an individual that require protection in the form of rights, as a set of monadic experiences or powers: freedom of thought, or association, the "pursuit of happiness" and so on. It is as if the institutionalization of rights could offer protections to each individual, so to speak, as an independent entity, in abstraction from his or her surrounds. What this leaves out of account, or renders marginal, is the extent to which happiness is dependent on the quality of inter-personal relationships, and the extent to which the pursuit of happiness is fool's errand if carried on without regard for the happiness of others.

Related to this is the tendency in the "mainstream" tradition of thinking about rights to conceptualize both recognition of, and abuse of rights as characteristics of inter-personal interactions, and ones in which each party acts intentionally, exercising his or her "free will." This does, indeed capture quite well many instances of rights abuse and respect for rights. However, it does not

capture all of them—it misses perhaps the most widespread, deeply entrenched and least recognized forms of rights-abuse. These are the abuses embedded in the routine, structurally produced processes of advantage and disadvantage, success and failure, self-respect and feelings of inadequacy that characterize societies with deep-rooted social and economic inequalities. These structural sources of deprivation of rights include those having to do with the difference between formal and substantive rights, but are not reducible to them. They have to do, for example, with the presence or absence of the resources in family life and in schooling that are necessary for infants and children to grow to adulthood as individuals with fully developed capacities for active and confident participation in a society to which they belong, and which acknowledges their contribution.

Power, Inequality, and the Rights of Animals

These lines of critical reflection on the dominant, liberal understanding of rights in their application to humans also have a bearing on the likely effectiveness of rights-allocations to non-human animals caught up in the same structure of socioeconomic relations. To explore the implications of this it is necessary to introduce some more distinctions. First, the category "non-human animal" will not do the work required of it. Other species, no less than ourselves, have their own distinctive natures, as products of long and unique evolutionary histories. They have their own characteristic bodily forms and functions, behavioral dispositions, life-histories, ways of organizing their sexual (in sexually reproducing species) and reproductive activities, and, for many, their own distinctive mental abilities, emotional and social needs and so on. If we count as "basic rights" the requirement that individuals of different species be allowed to meet the needs that flow from their evolved nature in this sense, then this imposes strong constraints on the way the living-conditions of non-humans that are included in human social and economic systems are provided.

This, in turn, points to a further consideration of the great variety of ways in which non-humans of many species have become incorporated into human social practices. Some of these practices are modeled sufficiently closely on patterns of social interaction among humans that the "core" paradigm for rights application works quite well. This is particularly so in relationships between human household members and "pet"—or "companion"—animals. In most cases the species concerned are ones that have a high degree of sociality in their ancestral wild populations, and sufficient learning ability to adapt their social dispositions to the artificial context of human households. In the best examples, the relationships developed in this context are ones in which the material and social needs of the animal are routinely met, and the animal is recognized as an individual "quasi person": crucially, it is more than a replaceable instance of its species, but, rather, an individual valued in virtue of its unique character. The allocation of rights works quite well here, since the abuse of rights—physical

mistreatment, torture, or, crucially, neglect—can be readily identified as specific behaviors (or their absence) that constitute pathological deviations from accepted standards.

However, even in the case of pet-keeping, the distortion imposed on the evolved mode of life of the ancestral populations is very considerable: human-imposed regulation of opportunities to move around, of times and places for feeding and excretion and so on, and, more centrally, control over their sexual and reproductive lives—in most cases denial of this last. In short, even in the most benign of human incorporations of non-humans, unequal power relations are evident, and as the above critical reflections suggest, where there are unequal power-relations there is also risk of abuse of rights. Because the owner/ pet relationship is so closely modeled on inter-personal relations, the apparatus of rights—partly embedded in socio-cultural norms, partly established in law—is a useful ally in the defense of pet animals from abuse and neglect where this is a departure from accepted standards of treatment. However, a critical conception of rights, one that is fully cognizant of the implications of systemic inequalities of power and interest, might pose questions about those “accepted standards,” and whether they “accept” too much.

Two other, more strenuously contested, forms of incorporation of non-humans into socioeconomic practice are the rearing of animals for food and the use of animals in experimental science, whether for testing medicines, toxic substances or in “pure” research. There is space here to deal—all too briefly—with just the first of these. It is now quite rare in western farming systems for farm animals to be recognized as individuals. They are, rather, instances of the species (or breed), valued either for their potential as sources of food, or for their economic value. In specifically capitalist farming systems, it is the latter form of value that is pre-eminent. The long-term dynamics of capitalist agriculture tend toward economies of scale and increasingly instrumental control of the life-processes of organisms in the service of maximization of economic returns and capital accumulation. These processes affect both humans and non-humans that are employed in agricultural production, with the proviso that the human employees have available modes of organization and political representation that offer a degree of protection of their basic rights that is not available to the non-humans. It is, perhaps, here, that the significance of Regan’s distinction between moral agents and moral patients is at its most pertinent.

In the case of farm animals, the dynamics of capitalist development have imposed long-run transformations in the conditions of life of farm animals, from systems in which species such as sheep or goats maintained something very close to their ancestral mode of life as collective nomadic grazers, taking with them an equally nomadic shepherd and his dogs, through systems in which grazing animals are allowed to maintain much of their social organization, but within open spaces confined by fences or hedgerows, often with seasonal variations, to currently dominant systems in which “stock” animals are reared in rigorously calculated confined spaces indoors, selectively bred to maximize the

specific yield expected of them, and fed a diet, including chemical additives, calculated to maximize profit.

It is in these more recent "factory farming" systems that are present the most systematic distortions of the mode of life of the species concerned, even to the point of manipulation of the bodily structure and physiological processes of the animals involved. If we think of rights in terms of the ability of animals to live according to the requirements of their evolved natures then this must count as profound and systematic abuse of rights. However, it is an abuse that the "mainstream" liberal-individualist view of rights has difficulty in accessing. The interactions between individual farm workers and the animals may well be entirely benevolent in their motivations, and the identification of individuals morally responsible for the "abuse" may be very difficult—after all, this is a legally sanctioned form of economic organization, in which decision-making roles may be highly dispersed, and the products may be consumed by retail customers who have no real sense of the systematic abuse condensed in their purchase. As Marx put it, "the process disappears into the product."

In Defense of Animals: Welfare, Rights, Liberation?

Of course, activism on behalf of captive animals has in most liberal democracies been quite successful in gaining media attention and exposing abusive systems to public gaze. There have been broadly two common responses to this: first, the tightening of regulatory regimes to ameliorate suffering in intensive systems, and, second, movements of consumers toward choice of products proclaiming high welfare standards, or to vegetarian diets. Both of these are welcome, but short of fundamental socioeconomic change they are limited in their effectiveness. Regulatory action is, in this sphere as elsewhere, is constrained by the requirement not to hinder the competitive position of the industry, and by the associated tendency to "regulatory capture" of the enforcement apparatus.

Conscious consumer choice is another welcome trend, but in the case of choice on grounds of animal welfare there are two problems. The first is the difficulty of getting reliable and unambiguous labeling, and the second is the price premium on "organic" and related branding. This makes clear consciences much easier for the affluent, but is much more difficult for those on low incomes. Plainly, the vegetarian option has much to recommend it. Even here, though, some limitations have to be acknowledged. As a consumer choice it has the benefits that it provides incentives for suppliers of non-meat foodstuffs, there is no dependence on the claims of retailers about welfare standards in their source-farms, and the environmental costs of vegetable food production and consumption are far less. However, there are strong sociological reasons for thinking that the interests of producers actively and powerfully shape consumer preferences on the large scale, despite the ability of independent-minded and morally firm minorities to go against the grain. Short of dismantling the powerful economic interests that shape the food-culture, I think it is unlikely

that vegetarianism will become the majority choice. Unfortunately the evidence points to an international tendency for increased affluence to be accompanied by increased meat intake—with potentially catastrophic longer-term consequences.

The main burden of this argument is, of course, not to undermine the valuable achievements of social movements and pressure groups in ameliorating the conditions endured by animals reared for food, or in creating consumer demand for products that do not involve animal suffering. Rather, the argument points to both the value, but also the limitations, of the attribution of "rights" to non-human animals. They, like humans in relatively powerless positions in a deeply unequal socioeconomic system, have few resources with which to assert their rights. In the case of non-human animals, the situation is, of course, much worse. Lacking moral agency, and so lacking citizenship rights, they are incapable of conceptualizing, articulating, demanding and fighting for their rights.

It is here that the analogy between "animal liberation" and the various liberation movements on behalf of oppressed or stigmatized humans reaches its limits. The utilitarian and the "rights" approaches to asserting the moral standing of not human animals both work by demonstrating the commonality between humans and non-humans in their possession of morally relevant attributes. In extending the helping hand of moral protection beyond the species boundary, these approaches at the same time include animals within the human moral community: we can apply our moral codes to them because, after all, they are like us (in relevant respects). The similarity with struggles to extend rights to oppressed humans is especially evident in early phases of these movements, when demands for rights are made *on behalf of* oppressed groups by their sympathizers—often among the highly privileged. Often this has been because a crucial aspect of oppression has been denial of access to literature, to free association, to a public voice. In many ways the situations of African Americans during slavery and subsequently, and women prior to the achievement of civil liberties and the extension of the franchise (in the West) were comparable to those of "moral patients." Though they had moral agency, they were prevented from exercizing it in the public domain.

However, as liberation movements gathered momentum, and members of oppressed groups acquired the ability to speak on their own behalf, to articulate their own vision and define their own identities, the demands for inclusion, to be treated like other members of the prevailing order, without discrimination, cease to be consensual. A movement for rights becomes a movement for liberation. It is precisely this transition that is not possible for animals—rights, perhaps, but not liberation? However, this is not necessarily the end of the argument. As we saw from the discussion above, as well as the attributes—sentience, the vulnerability to suffering and capacity for flourishing, the sense of identity through time—that we share as "active natural beings," there are indefinitely many cross-cutting differences of evolved nature, needs and dispositions, patterns that are peculiar to each species.

Perhaps "liberation" for non-human animals must simply mean being free to live the lives for which their evolutionary ancestry prepared them? This is a powerful-seeming argument, but the practical conditions for its implementation are long gone. This is for two reasons. First, most domesticated animals are dependent on conditions of life at least partly provided by humans as a result of the displacement of the pressures of natural selection in favor of selection by humans to meet human requirements: to a significant extent, a history of captivity within human socioeconomic systems is now written into their biological nature. Second, the sheer numbers of captive and domesticated animals, combined with the vast extension of human socio-economic transformation of natural habitats imposed by intensive agriculture, is such that "liberation" in this sense would be unsustainable—and potentially catastrophic for humans and animals alike. A small-scale intimation of this is given by the devastating impact on UK aquatic wildlife of mink "liberated" by well-meaning animal activists.

It seems likely that for a lengthy transitional period, populations of domesticated animals would remain dependent for at least some of their needs on human provision. Even so, there would be ways that whatever remains of ancestral dispositions and preferred modes of life could be introduced into these new care-regimes. The key point here is that an ethic of human moral obligation would entail recognition of *difference* among the range of formerly domesticated breeds and species. While *consistent* with the morality of rights, this tells against the tendency towards inclusion, based on similarity, that has been the dominant argumentative strategy in the *advocacy* of rights. Though full "liberation" might not be applicable or practicable in the treatment of formerly domesticated animals, a potentially effective analogue of it might be developed. The idea of human representatives who would speak on behalf of non-humans as a way of giving them a voice (albeit at one remove) in legislative assemblies, or in policy-making institutions is already being advocated. There might still be a likelihood that "anthropocentric" interests would prevail, but much could be done to provide safeguards against this if the general will were disposed to do so.

A further reason why attempts at shifting from a rights to a liberation perspective are so difficult has to do with limits to knowledge. Harms may be done from the best of intentions if the needs and interests of others are not fully understood.[12] Might there be ways of determining those interests in the absence of a literal "voice" on the part of non-humans? Perhaps the best that could be done would be thorough-going ethological studies, in which observations of the behavior of the species concerned, and their ecological preferences could be assessed, as far as possible in the absence of human intervention.

Nature: Beyond the Bounds of Human Society

So far, I have for the most part confined the discussion to issues arising in contexts where non-human animals have been consciously, and usually

deliberately, drawn into regular, institutionalized human social practices. These are contexts that have tended to pose the moral dilemmas that have been the focus of philosophical discussion. However, there are two other broad categories of relationship to non-human species that also demand attention. Interestingly, when these relationships have been discussed, the moral concepts deployed have been rather different, though it is not obvious why this should be so. The two categories of relationship I have in mind are, first, the relationships we have to species that have either survived and multiplied, or newly colonized, more-or-less specialized habitats that humans have preserved/created, for quite other purposes. The term "commensals" is often used here, but the range is probably greater than the usual reference of this word. Some commensals, such as cockroaches, rats and house-mice are commonly thought of as "pests," or "vermin," and have few (but still some!) advocates among mainstream animal rights activists. Rabbits, some species of deer, foxes, badgers, bats, voles, frogs, toads and newts all probably have higher populations that would otherwise be the case if it were not for their ability to adapt to humanly-transformed habitats, and they inhabit an ambiguous zone in human-social responses to them. Sometimes they are seen as "natural" and valuable as objects of conservation concern, sometimes as pests that should be "culled" in pursuit of some human interest, sometimes as morally insignificant "collateral damage" when their habitats are destroyed by housing or infrastructural "development," or when once-profitable forms of land-management are displaced by "progress."

This category of species contingently associated with human habitation has a loose and vague boundary with another category—that of "wild" animals. Since most of the earth's land surface has been significantly modified by more than 10,000 years of agricultural practice and urbanization, perhaps only the denizens of some remote marine habitats are in the fullest sense "wild," but a less restrictive view would include any species whose evolved nature has been uninfluenced by association with human habitation and agricultural production. This would, of course, include many, if not most, of those that now occupy such niches as are available in human habitations, agricultural land, infrastructures and derelict land.

Except where commensals are seen as "vermin," the main normative discourse and legislative action surrounding the treatment of these two categories of non-human is that of "conservation." Even though the individuals of "wild" mammalian species (and, often, birds) are clearly no less psychologically complex than the range of domesticated species that come up for debate as bearers of rights, the concept of rights rarely extends this far. The case for protection of these species is, these days, conducted under the rubric of "biodiversity conservation." There are two broad discursive strategies in general use, and a further one that is sometimes paid lip-service, then dropped. The increasingly dominant strategy is that of actual or possible instrumental value: biodiversity as a source of economic wealth, or livelihoods, through tourism, intellectual property rights, etc. This strategy is, loosely, utilitarian. The second

strategy is closely aligned with the rights-view, but the rights, in this context, are human rights: the right to experience, or to engage with, the natural world. Human well-being is (rightly!) understood to be indissolubly bound up with opportunities to interact and identify with the non-human world (see the quotation above, from Marx).

The third, somewhat tentative, half embarrassed, strategy is to claim inherent value on behalf of non-humans. Not so much a "right," this is to say we have "no right" to destroy or degrade the richness and diversity of the species with which we share the planet. This sort of argument has its original home in the tradition of "deep ecology,"[13] and is often seen as a rather marginal and extreme perspective, so far from the mainstream that it should be displaced in favor of more "moderate" values. However, this may be a mistake. Popular moral sentiments toward non-human nature may be "deeper" than many environmental activists and organisations suppose. This is, I think, also implicit in the widespread sympathy for the notion that a close relationship with non-human nature is essential to human well-being. At first sight this seems to be an anthropocentric argument,[14] but what is usually meant by 'relationship to nature' in this context is, precisely, a non-instrumental one. In other words, if we think a close relationship to nature is important for human well-being, this implies that human well-being involves non-instrumental valuing of nature for its own sake.

But what sort of "valuing for its own sake" is this? Certainly, it may involve the sort of extension of human sympathy and compassion for sentient beings of other species that Darwin thought was one of "the noblest with which man is endowed." But there is a difference between having sympathy or compassion and allotting rights. Moreover, the love of nature associated with desire to protect it, along with much of the more established discourse of conservation, is concerned with not just individuals of particular species (though it does include this), but with diversity of species, with their manifold interdependencies, mutualisms and competitive interactions. Communities of organisms, ecosystems, landscapes, as well as non-sentient species, including plants, fungi and micro-organisms are hard to incorporate under the concept of "rights," but we do need normative concepts with which to advocate their worth.

Conclusion

My argument, here, has been to defend the applicability of the concept of rights to a range of non-human animals that stand in some sorts of social relationship to humans. At the same time, I have suggested that the dominant "liberal-individualist" conception of rights that has been the usual vehicle for extension of moral concern to non-humans is limited in ways that also apply to its use in defense of exploited, oppressed or stigmatized humans: it is liable to be blunted in its effectiveness by unequal power relations. Finally, I have suggested that there is a case for extending moral concern to aspects of the non-human world, and the beings that inhabit it, beyond the reach of the concept of "rights." The

requirement is for a sufficiently diverse and difference-respecting normative framework as a basis for fundamentally re-thinking and re-valuing our relationships with the rest of nature. To bring this into being would require a profound change not just in values and sentiments, but also in economic systems and power relations among humans themselves.

Notes

1. Charles Darwin, *Charles Darwin's Notebooks 1836*-1846, ed. Paul H. Barrett, Peter J. Gautrey, Sandra Herbert, David Kohn, & Sydney Smith, (Cambridge: Cambridge University Press, 1987), pp. 228-229.

2. Karl Marx, *Economic and Philosophic Manuscripts of 1844* in *Collected Works* Vol 3 (London: Lawrence & Wishart, 1975) pp. 275-276.

3. The arguments given here are developed in more detail in: Benton 1993 and Benton 1998, and are discussed in Moog & Stones (eds) 2009. Ted Benton, *Natural Relations: Ecology, Animal Rights and Social Justice* (London: Verso, 1993); Ted Benton. 1998 Rights and justice on a shared planet: more rights or new relations? *Theoretical Criminology* 2(2): 149-175; Sandra Moog & Rob Stones (eds) *Nature, Social Relations and Human Needs: Essays in Honour of Ted Benton* (New York: Palgrave Macmillan, 2009).

4. Charles Darwin, *The Descent of Man and Selection in Relation to Sex*. London: Murray, 1874) p. 123.

5. Rachel Carson, *Silent Spring* (New York: Fawcet Crest, 1962).

6. Murray Bookchin, *Post-scarcity Anarchism*. (Berkeley: Ramparts, 1971).

7. Barry Commoner, *The Closing Circle: Nature, Man and Technology*. (New York: Knopf, 1971).

8. Donella H. Meadows, Dennis L. Meadows, Jørgan Randers, and William W. Behrens, III, *The Limits to Growth* (New York: Universe Books, 1972).

9. Peter Singer, *Animal Liberation* (London: Jonathan Cape, 1975).

10. John Stuart Mill, "Ulilitarianism" in *John Stuart Mill: A Selection of His Works*, ed. John M. Robson (New York: Macmillan, 1966).

11. Tom Regan, *The Case for Animal Rights* (London: Routledge, 1984).

12. Steven Lukes, *Marxism and Morality* (Oxford: Oxford University Press, 1985).

13. Arne Naess, *Ecology, Community and Lifestyle*, trans. David Rothenberg, (Cambridge: Cambridge University Press, 1989).

14. This is the view of Robyn Eckersley, for example. See Robyn Eckersley, *Environmentalism and Political Theory: Towards an Ecocentric Approach* (London: University College London Press, 1992).

Chapter 9

The Problem with Commodifying Animals

Gregory R. Smulewicz-Zucker

A contradiction has developed in the modern human relationship to animals.[1] On the one hand, humans have developed closer and more complex relationships with animals. We have pets that enhance our emotional and moral lives and that we treat with respect, concern, and love. We also increasingly use animals as sources of support and consolation for the sick, the elderly, and the disabled. At the same time, one of the most prevalent ways we engage animals is by using them to make things. Humans use animals to make food, clothing, cosmetics, and a host of other objects that satisfy human needs. Making things out of animals is not new, but, in modernity, objects for use are distinct insofar as they take on the form of commodities. In this paper, I argue that the fact that much of the way we use animals is now shaped by the commodity form presents a problem for animal ethics in particular as well as for the broader consistency of human attitudes toward animals. The commodity form facilitates treating certain animals as things. At a time when our ethical relationship to some animals has enhanced, the commodity form has the effect of pulling an even greater number of animals out of the sphere of our ethical concern by reifying our ethical relation to the animals used in commodity production.

Drawing on the insights of Karl Marx and Georg Lukács into the social effects of the commodity form, I extend their claims to argue that, when we introduce Hegel's concerns about ethical life, the commodity form does harm to the consistency and rationality of human ethical experience. By using some animals to make commodities, we foreclose the possibility that we can ethically

consider them. Foreclosing certain animals from ethical consideration harms human ethical capacities by restricting our ethical worldview and making it arbitrary. The purpose of this paper is to argue that the transformation of animals into commodities prevents them from becoming objects of ethical consideration and, thus, hinders human ethical development understood as grounded in the Hegelian concept of ethical life. James Serpell illustrates the contradiction I referred to earlier when he points out that there is a contradiction in our moral attitude toward pigs, which we exploit for economic goods, and the pets that we treat with care and love. He notes that "Pigs are no less intelligent than dogs or cats; they are sociable and clean and, when tamed, make amiable pets."[2] Serpell's analysis is ultimately historical and focuses on the ways pet-owning has been perceived as aberrant. But an ethical engagement with the social contradiction he identifies begs a question: Why is the inconsistent treatment of animals a bad thing?

The inconsistencies in our treatment of animals generated by the commodity form do violence to our ethical capacities because, according to Hegel, we are members of a normatively grounded ethical order. Hegel argues that there is a relation between individuals and objective standards of right that form an ethical order, or ethical life [*Sittlichkeit*]. Individuals are embedded in a rational normative and social structure that institutionally binds their actions when actualized in the state. Hegel uses the term ethical life to reconcile subjective good with objective right: "In ethical life as a whole, both objective and subjective moments are present, but these are merely its forms. Its substance is the good, that is, the fulfillment of the objective [united] with subjectivity."[3] Ethical life refers to the fact that individuals are shaped by objective norms that guide their behavior, but also contribute to the shaping of those norms through the reasons they give for their actions.[4] The contradiction in our modern use of animals is a contradiction within ethical life. Developing close emotional relationships with some animals, while treating others as commodities, is problematic for the concept of ethical life because it creates an irrational ethical order. While our conduct toward animals maintains the appearance of being part of a rational order, looked at from the standpoint of commodification, our conduct toward animals appears far more arbitrary. At the same time that we set up norms governing our emotional ties to some animals, the commodity form blocks our capacity to extend ethical consideration to other animals.[5] Thus, ethical experience becomes distorted due to the irrationality of our conduct toward animals.

I begin by discussing the work of Gary Francione on animal ethics. Though I agree with Francione's conception of animal sentience as a basis for extending ethical consideration to animals, I find Francione's critique of the property status of animals problematic because of its focus on property status of animals rather than their commodity status. This leads to my argument that it is the commodity form that distorts our relation to the animals used to make commodities. Aristotle's influence on Marx's conception of the dual nature of commodity is

significant in this regard because his argument rests on the way certain kinds of exchange distort the *telos* of objects, humans, and society as a whole. Marx's account of the commodity reveals how the commodity becomes something that is seen as independent of the natural properties and the labor processes necessary to the production of the commodity. Lukács develops this insight into an epistemological argument about the way the objectification of the commodity leads to the objectification of human consciousness. Tracing these ideas through Aristotle, Marx, and Lukács is meant to show how it is possible for animals used in commodity production to be denied ethical consideration. In the third section, I return to the contradictory quality of our relationship to animals in modernity. We rely on and contribute to normative rules in our ethical behavior. These normative guidelines are incoherent with respect to our treatment of animals. My reading of Hegel, which focuses on his emphasis on the rational coherence of ethical life, aims to show why our inconsistent treatment of animals can be understood as destructive of the universalism Hegel thinks is required of a rational ethical life. The penultimate section synthesizes my arguments about the nature of the commodity and the coherence of ethical life. It considers the implications of these arguments for animal ethics, stressing the importance of making the problem of the commodity a more central concern for animal ethics. I conclude by discussing some of the implications my position has for reform on behalf of animal welfare.

1. The Violation of Animal Sentience: From Property to Commodity

By viewing the status of animals as commodities as a problem for animal ethics, my critique is similar to that of Gary Francione. Francione's argument, however, centers on a critique of the legal status of animals as property. Francione suggests that "By treating animals as property, we necessarily fail to accord moral significance to animal interests."[6] Ultimately, in this section, I suggest that Francione is wrong in privileging the critique of animals as property over the critique of animals as commodities. Nevertheless, I agree with Francione's underlying ethical claims about why we should accord moral significance to animal interests. At issue is animal sentience. Francione's position is compelling because he avoids the pitfalls of making strong claims about animal interests to which philosophers of mind, like Thomas Nagel, have provocative responses.[7] Francione acknowledges the difficulties in making claims about animal minds, but insists that we can recognize some basic degree of sentience in animals that makes animals worthy of ethical consideration.

Sentience, for Francione, refers to subjective awareness: "A sentient being is self-aware in that she knows that it is she, and not another, who is feeling pain and suffering."[8] Self-awareness is a characteristic that has evolved in certain beings and "helps them adapt to their environment and survive."[9] Thus, Francione concludes, if animals are self-aware, they have an interest in their

survival. Further, I would add that humans interact with animals and other humans as though bare sentience is expressed behaviorally and is indicative of an interest in survival. Without reference to complex mental states, we interpret an animal's cries or attempts to physically escape certain situations as expressions of pain and an interest in survival. Such a position avoids more complex criteria for attributing ethical status to animals like Tom Regan's subject-of-a-life criterion.[10] An animal's cognitive capacities may be very different from those of normal humans, but this does not justify harming them. Indeed, as Francione points out, we acknowledge that severely mentally disabled humans have very different cognitive capacities from normal humans, but do not use that to ethically justify harming them. Our ethical conduct is contradictory when we suggest that differences in cognitive capacities are ethically significant in our treatment of one species and not another.

While I agree with Francione's emphasis on sentience as an important basis for granting ethical consideration to animals, there are important disagreements. Francione insists on abolishing animal use. He argues that if we admit self-awareness in animals, we cannot use animals as our property, even if we treat them humanely. Similar to my earlier statement about the contradiction in our conduct toward animals, Francione argues:

> We suffer from a sort of "moral schizophrenia" where animals are concerned. We claim to take animal interests seriously, but we do not. I argue that our moral schizophrenia is in large part related to the property status of animals. Although we purport to accord moral significance to animal interests, the reality is that animals are nothing more than commodities with extrinsic value alone, and we regard them exclusively as means to our ends.[11]

I agree that there is a contradiction, or "schizophrenic" quality, in our treatment of animals, but, in contrast, think that Francione confuses two concepts when he uses "property" and "commodity" interchangeably. The property status of animals *per se* does not seem to me to necessarily violate their status as sentient beings. A loving pet-owner does not deny sentience to their pet when they care for it.

Francione may be right when he suggests that the property status of animals is sometimes used to legally justify the institutional exploitation of animals,[12] but it does not follow that we find ethical legitimacy in mistreating animals because we view them as property. Rather, I argue that we justify our mistreatment of animals on the basis of viewing them as commodities. As property, animals are treated in a variety of ways. This ranges from treating them with love and respect to treating them sadistically. Yet, animal welfare groups can remove a pet from a sadistic or negligent owner and there is a moral consensus that removal of a pet from such a home is the right thing to do. When animals are seen as commodities, there is no such variability in treatment and there is far less moral opposition. As commodities, animals become solely subject to the logic of the commodity form within the modern capitalist market.

We still recognize that the law is in some sense subject to ethical considerations, but we do not make similar demands upon the modern market economy. Therein lies the dilemma for animal ethics because in subjecting animals to the commodity form, their sentience is wholly denied.

2. The Critique of the Commodity: Aristotle, Marx, and Lukács

If the commodity form poses a barrier to the extension of ethical consideration to animals, what are the characteristics of commodities that are problematic for animal ethics? We encounter products made from animals more frequently than we encounter animals themselves. Commodification transforms animals from objects within the sphere of nature into objects whose value is produced for the sphere of exchange. Thus, as Marx notes, nature provides the raw material that humans work on to produce objects for use: "the physical bodies of commodities, are combinations of two elements, the material provided by nature, and labour."[13] Understanding how we relate to commodities helps explain how we relate to animals as commodities. The prospect for the development of an ethical relationship to animals is changed by the fact that they are turned into commodities. This transformation, as explained in the accounts offered by Marx and Lukács of the effects of the commodity on modern society, sets up a barrier to the ethical consideration of animals and constrains the scope of human ethical development.

Drawing from Aristotle, Marx understands the commodity as having a dual nature: a use-value and exchange-value. In contrast to Marx's analysis of the commodity, which is specific to capitalism, Aristotle identifies two kinds of exchange: exchange for the sake of acquiring an object because of its usefulness and exchange for the sake of acquiring wealth. Thus, Aristotle writes, "For natural riches and the natural art of wealth-getting are a different thing; in their true form they are part of the management of a household; whereas retail trade is the art of producing, not in every way, but by exchange."[14] Acquiring an object for its usefulness is natural according to Aristotle because it is consistent with using the object for its proper ends (see Aristotle's notion of *telos*). In contrast, acquisition for the sake of wealth is an unnatural use of the object since it divorces the object from the properties that make it what it is.[15] This second form of exchange carries ethical and social implications for Aristotle. First, it orients people away from using objects to satisfy their needs and toward using objects to amass wealth. Second, it creates forms of association that are based solely upon amassing wealth.[16] Both of these consequences pervert human nature because it directs human action to the endless pursuit of wealth as an end in itself:

> Hence some persons are led to believe that getting wealth is the object of household management, and the whole idea of their lives is that they ought either to increase their money without limit, or at any rate not to lose it. The origin of this disposition in men is that they are intent upon living only, and not

> upon living well; and, as their desires are unlimited, they also desire that the means of gratifying them should be without limit.[17]

Thus, for Aristotle, certain kinds of economic exchange, based on unnatural and improper conceptions of how objects are to be used, have the effect of changing human behavior for the worse by making humans acquisitive beyond their needs. In short, both the way humans engage the world and each other is reformed by certain kinds of economic exchange.

Marx builds upon Aristotle's insights into how our conception of the object becomes distorted under certain economic conditions. Further, he is more rigorous in explaining how, under capitalism, our perception of the object becomes distorted. The distinction between the extents to which an object is seen as related to its nature informs Marx's understanding of how a commodity becomes perceived as a free-standing thing divorced from its prior manifestations. As a use-value, according to Marx, the usefulness of a commodity is based on "the physical body of the commodity itself, for instance iron, corn, a diamond, which is the use-value or useful thing."[18] Like Aristotle's account, Marx's notion of a use-value depicts the commodity as still closely related to the natural materials out of which it is made since its properties determine its usefulness. Hence, the usefulness of a fur in keeping someone warm is related to the fur's natural properties, which are related to the properties of the fox from which the fur was removed. Yet, the value of the commodity is not merely found in its usefulness, but in its capacity to have its usefulness exchanged for commodity's with other use-values, that is, in its exchange-value. Because these commodities have different use-values, Marx locates their common element in the labor-time employed to make the commodities. With labor as the common element in all commodities, it becomes possible for commodities to be exchanged for each other. The exchange-value of one commodity for another is determined by how much labor was expended to produce the commodity. In this process, the use-value becomes irrelevant: "We have seen that when commodities are in the relation of exchange, their exchange-value manifests itself as something totally independent of their use-value. But if we abstract from their use-value, there remains their value, as it has just been defined."[19] As exchange-value, the material properties of the commodity that determine its usefulness cease to matter.

Stressing the absence of the natural properties of the commodity as exchange-value, Alfred Schmitt explains that "As a determinant of exchange-value, labour is abstract, general and undifferentiated; as a determinant of use-value it is concrete, particular and composed of many distinct modes of labour. The exchange-value of a commodity has no natural content whatsoever. It is indifferent to its natural qualities because it is the embodiment of human labour in general measured by the time outlaid, and all the determinations of nature are extinguished in it."[20] Because the exchange-value of a commodity is "indifferent to its natural qualities," the object is perceived as something free-standing and divorced from its nature as well as the particular labor of the individual who

made the commodity. Marx thus noted that "the commodity-form, and the value-relation of the products of labour within which it appears, have absolutely no connection with the physical nature of the commodity and the material [*dinglich*] relations arising out of this."[21] The commodity is seen in terms of the general labor instilled within it, which gives it its value and a price for exchange.

The magnitude of the value of the commodity is measured by money. It is in this final form of the commodity, the money-form—in which the commodity is understood purely in terms of measured magnitudes of value—that commodities relate to one another. In this final form, the commodity appears completely divorced from both the nature and labor used to manufacture it: "It is . . . this finished form of the world of commodities—the money form—which conceals the social character of private labour and the social relations between the individual workers, by making those relations appear as relations between material objects, instead of revealing them plainly."[22] Marx calls this phenomenon the fetishism of commodities. All of the prior relations that led to the production of the commodity become concealed in the commodity: "The mysterious character of the commodity-form consists therefore simply in the fact that the commodity reflects the social characteristics of men's own labour as objective characteristics of the products of labour themselves, as the socio-natural properties of these things."[23] While Marx's emphasis is on the way the commodity in its final form conceals social relations of labor, it is not inconsistent with his argument, to point out, as Alfred Schmitt has done, that nature also becomes concealed in the object: "The products of labour become commodities, and therefore no longer incorporate the living interaction between men and nature, but emerge as a dead and thing-like reality, as an objective necessity by which human life is ruled, as by a blind fate."[24] Schimitt, however, rightly notes that nature does not become completely dissolved in the commodity form, rather, the point is that in our perception of the commodity form, the commodity is treated with indifference to its natural material, what Schimitt calls the "indifference of form towards material."[25]

Through Marx's analysis, the commodity form can be understood as mediating our relationship to animals. Perceived as a commodity, it becomes impossible to ethically relate to the animal that was used to make the commodity because the animal appears as something different. All natural properties that make our emotional attachment to animals possible become more distant in our perception of the commodity form. If our close emotional ties to some animals are predicated on our ability to relate to them directly, turning animals into commodities has the completely opposite effect. We still interact with an animal, even when it has been transformed into a commodity since the commodity retains its natural properties, but our interaction with the commodity conceals our interaction with the animal used to make the commodity. Just as our awareness of the natural properties in the commodity is diminished, our awareness of the animal used to make the commodity is also diminished.

While Marx offers an explanation for how commodities conceal a relation to nature, which I have applied to an understanding of the animal-based

commodity, he does not fully explore the epistemological implications of this phenomenon. A deeper analysis of how the commodity distorts human consciousness is offered by Lukács. He explains the distortion of consciousness through the concept of reification. In capitalism's separation of the commodity from the forces that produced it (i.e., commodity fetishism), Lukács identifies a process by which the objectification, or "thingification," of the commodity permeates society as a whole.[26] The objectification of the commodity leads to the objectification of all human engagement with the world.[27] Because the kind of objectification that Lukács associates with the production of commodities is central to the working of capitalism, Lukács sees the encroachment of objectification on every aspect of society as necessary to the survival of capitalism: "As the commodity becomes universally dominant . . . The fate of the worker becomes the fate of the society as a whole; indeed, this fate must become universal as otherwise industrialisation could not develop in this direction."[28] This occurs because society as a whole is compelled to "satisfy all its needs in terms of commodity exchange."[29] As Tom Rockmore puts it, the commodity "becomes the universal category of society as a whole."[30]

As society becomes structured in accordance with the commodity form, reification carries epistemological consequences. Perceiving commodities as things through their rational objectification distorts consciousness. Our cognition of objects becomes "distorted in its objectivity by its commodity character."[31] The apparent objectivity of the commodity not only conceals the social relations that produced them, but prohibits deeper interrogation into the nature of the object. All that is cognizable is the commodity in its immediacy. The commodity appears completely knowable as a free-standing objective thing independent of the relations that produced it. In the commodity form "the relations between men that lie hidden in the immediate commodity relation, as well as the relations between men and the objects that should really gratify their needs, have faded to the point where they can be neither recognised nor even perceived . . . the reified mind has come to regard them as the true representatives of his societal existence. The commodity character of the commodity, the abstract, quantitative mode of calculability shows itself here in its purest form: the refied mind necessarily sees it as the form in which its own authentic immediacy becomes manifest and—as reified consciousness—does not even attempt to transcend it."[32]

While I have argued that Marx's analysis of the commodity suggests that the commodity mediates our relation to animals, for Lukács, the epistemological implications run deeper. In the commodity, our capacity to relate to the animal becomes completely lost. The reification of consciousness creates the illusion that we are relating to the commodity as an independent object with its own ontological status. Under reification, our cognition of the commodity prohibits an awareness of the animal used to make it. The problem Lukács illustrates is that the experience of the commodity is not only alienating, but objectifying.[33] Without explicitly referring to Marx, Peter Singer indicates the existence of

something like an alienated relation to animals used as commodities when he writes that "In general, we are ignorant of the abuse of living creatures that lies behind the food we eat. Buying food in a store or restaurant is the culmination of a long process, of which all but the end product is delicately screened from our eyes. We buy our meat and poultry in neat plastic packages. It hardly bleeds. There is no reason to associate this package with a living, breathing, walking, suffering animal."[34] Yet, from a Lukácsian standpoint, relating to animals that have become commodities ceases to be a problem of overcoming the means by which we place them outside of the sphere of ethical consideration.[35] Instead, Lukács' analysis of the commodity implies a deeper problem to overcome: a whole form of epistemological engagement with the world entails reification. Human engagement with commodities made from animals is predicated on our seeing them as things.

If it is true, as Lukács suggests, that commodities reify consciousness, then our ability to understand animals used in commodity production as things worthy of ethical consideration is significantly curtailed. We come to understand them as things for our use. The commodity form distorts our relation to the entire set of animals that can be used in commodity production. Our conduct toward them is subject to the structuring of relations under the commodity form. The logic of our relation to these animals is defined by capitalism. The possibility of an ethical relationship is banished insofar as capitalism operates independent of ethical considerations. Hence, the commodity form has the effect of removing certain animals from the sphere of ethical consideration purely on the basis of their transformation into commodities.

Aristotle, Marx, and Lukács all recognize that certain kinds of economic arrangements distort our cognitive relationship to objects we use. But Marx and Lukács offer no ethical criteria that would allow us to pass ethical judgment on the practice of turning animals into commodities. Aristotle's conception of the two forms of exchange would because he views one as inconsistent with nature. But Aristotle's account is pre-capitalist and cannot address the distinct consequences of the capitalist commodity produced under the conditions of the modern division of labor. His understanding of exchange is based on an unnatural use of the object and does not account for the alienating and reifying effects of commodity production. Marx and Lukács offer a description of the commodity that is consistent with the kind of account Ted Benton identifies when he notes that, as commodities, animals "are subjected to an intensified reification, a systematic exclusion from recognition as beings with a subjective life, or sentience, let alone interests or rights."[36] The commodity conceals the animals used to produce it. It becomes impossible to ethically relate to the animal because our relationship to the commodity is defined by the experiences of reification and alienation. Our awareness of the animal is lost when we only encounter the commodity and the animal is withdrawn from possible ethical consideration. In reshaping the conditions that define our relation to the animal, the commodity causes us to treat certain animals in a manner that contradicts our everyday treatment of other animals. Treating some animals with ethical

concern and excluding others on the basis of their commodification subjects some animals to rules of ethical conduct while animals that are turned into commodities are subject to the logic of the commodity form. Two distinct rules of conduct with respect to animals are therefore present: one being the set of rules we submit ourselves to when we engage with the pets and animals we have close emotional ties with and the other being the set of rules that we accept when we engage with commodities.

3. Ethical Inconsistency and *Sittlichkeit*

As I argued earlier, Aristotle is deeply concerned with the ethical ordering of society as a whole. He sees some forms of economic exchange as conducive to the ethical well-being of society while others are destructive of it. But Aristotle's system relies on a notion of natural ends that cannot ethically evaluate the problems presented by two contradictory sets of norms in modernity. For Aristotle, nothing can legitimate the use of objects in a manner that contradicts their nature since doing so is understood as a perversion of the object's nature. The existence of contradictory norms within society can be addressed using Hegel, particularly because the introduction of the concept of *Sitllichkeit* is part of Hegel's project of reviving the kind of ethically cohesive community represented by the *polis* for modernity where norms come into conflict.[37] Certainly, there is controversy over Hegel's ability to accommodate difference within an objective rational ethical life. However, my application of Hegel's concept of ethical life is not concerned with a conflict between ethical norms. Rather, it is concerned primarily with the ways economic norms that govern our use of animals constrain the extension of ethical norms to those animals. It is my view that the logic of capitalist rationality distorts a rational and universalizable ethical engagement with certain animals.

For Hegel, the ethical well-being of society is reliant on a rational objective ethical life that grounds the ethical legitimacy of actions. Without an objective ground, ethics becomes arbitrary: "human beings *think* and look for their freedom and the basis of ethics in [the realm of] thought. But however exalted, however divine this right may be, it is nevertheless transformed into wrong if the only criterion of thought and the only way in which thought can know itself to be free is the extent to which it *diverges from what is universally acknowledged and valid* and manages to invent something *particular* for itself."[38] The validity of actions is measured against the ethical norms that guide and legitimate actions. *Sittlichkeit* provides the objective normative grounds for ethical action. Through our participation in *Sittlichkeit*, humans receive guidance for their ethical conduct. Reasons have to be given for actions and the question of whether or not an act counts as ethical is based on the extent to which it coheres with the rational whole of ethical life. The ethical order of *Sittlichkeit* may change, but these changes only occur, according to Hegel, when better reasons compel a reorganization of *Sittlichkeit* in order to sustain its rationality. Thus,

"with the laws of right, the spirit of reflection comes into play and their very diversity draws attention to the fact that they are not absolute. The laws of right are something *laid down*, something *derived from* human beings. It necessarily follows that our inner voice may either come into collision with them or concur with them."[39] Crucial to Hegel's concept of ethical life is that it offers a rational ground that individuals can appeal to when offering reasons for their actions. As a system of intersubjectively developed norms, individuals can refer to these norms to evaluate the strength of their reasons for acting as well as challenge the normative structure with better reasons that force ethical life to reorganize in order to sustain its rationality.

Through the discussion of the commodification of animals, I have argued that our conduct toward animals becomes subject to a relation governed by the commodity form. If this is true, then this disrupts the rational coherence of ethical life because the set of norms that govern our relation to commodities are not the same as the norms that guide our relation to the animals for whom we show concern. Such dichotomous norms for conduct distort ethical rationality by placing some norms outside of the sphere of ethical rationality. For Hegel, our ethical conduct must always be rationally questioned: "In right, the human being must encounter his own reason; he must therefore consider the rationality of right."[40] When individuals commit an act, they must be able to evaluate that action along rational lines in accordance with a universalizable normative standard. Stressing the importance of our actions fitting into a rational order, Robert Pippin argues:

> for the action to count as mine, it must make a certain kind of sense to the agent, and that means it must fit in intelligibly within a whole complex of practices and institutions within which *doing this now* could have a coherent meaning. In Hegel's account, I can bring about something, and know what it is I am doing, and can have reflectively endorsed the action as, all things considered, what I ought to be doing, and can be doing it voluntarily, uncoerced . . . yet the action could be part of a practice that has either gone dead in a certain way, or requires of the agent further commitments incompatible with others necessary within some form of life.[41]

If the normative guidelines for conduct are inconsistent, our conduct in the world becomes inconsistent because we lose the standards to which we appeal in our evaluation of our actions. According to Hegel, when we lose the capacity to rationalize our actions in accordance with the normative structure of ethical life, we are forced inward to our subjectivity: "When the existing world of freedom has become unfaithful to the better will, this will no longer finds itself in the duties recognized in this world and must seek to recover in ideal inwardness alone that harmony which it has lost in actuality."[42] An irrationally structured and unharmonious ethical life thus forces the individual back into forming her own rules of conduct. The ethical order as a whole becomes disentangled because it ceases to offer a coherent structure that guides action and forms a standard against which actions can be measured. The incoherence in the

normative rules for our conduct toward animals represents a dissonance in ethical life.

Hegel's concept of ethical life suggests that humans rely on an ethical order. This order may be subject to change, but it forces us to subject our actions to reasons. When it is impossible for us to present our reasons for acting to others, our actions are no longer universalizable. At present, our conduct toward animals looks something like this. Our treatment of animals as commodities and our treatment of them as pets follow opposing rules of conduct. At stake in this inconsistency is the rationality of our ethical conduct and, as a consequence, our capacity to act ethically. Without rational normative grounds that govern our actions, the justification for our actions is forced inward. In this case, "reverence for the existing order is in varying degrees absent, and people seek to equate accepted values with their own will, with what they have recognized."[43] For Hegel, the retreat inward leaves open the possibility for unethical action. Ethics ceases to be objective and becomes something for me alone (what Hegel calls *Moralität*). As Hegel puts it, "Where all previously valid determinations have vanished and the will is in a state of pure inwardness, the self-consciousness is capable of making into its principle either *the universal in and for itself*, or the *arbitrariness* of its *own particularity*, giving the latter precedence over the universal and realizing it through its actions—i.e. it is capable of being *evil*."[44] What is crucial here is that the absence of a rationally structured ethical order forces individuals to rely on their own whims to govern their conduct.

Following Hegel's argument, I wish to suggest that our conduct toward animals is unethical because it does not conform to any coherent standard of rational ethical life. The commodity form facilitates this by redefining a relationship to an animal as a relationship to a commodity that is ostensibly independent of any relation to its natural determinations. But the reality of this concealment of the animal within the commodity does not escape the fact that turning animals into commodities is inconsistent with the fact that we develop emotional ties with an array of animals. Many dogs have beautiful coats, but we do not wear their coats. Pigs are highly intelligent, but we rarely keep them as pets. The rules governing our conduct toward animals are arbitrary because the commodity distorts the way we relate to the animals used in commodity production. An arbitrary set of rules for conduct cannot be consistent with the kind of objective ethical order that Hegel describes because this arbitrariness violates Hegel's criteria that an ethical order be rational and universalizable. While I am not suggesting that our conduct toward animals is based on purely subjective grounds in Hegel's sense, it does seem to me that our treatment of animals is unethical on broadly Hegelian grounds insofar as we have failed to apply a coherent set of ethical rules for conduct universally to animals.

4. The Analysis of the Commodity and the Future of Animal Ethics

The account of the commodity offered by Marx and Lukács offers an analytical vantage point that explains how the way we interact with animals used to make commodities escapes ethical interrogation. We are, for the most part, far more ethically attentive and aware of our treatment of dogs and cats than we are when we encounter a commodity made from animals. If it is true that the commodity operates in accordance with the logic of capitalism, the commodity form has the effect of legitimating our incongruous treatment of animals because certain animals become subject to that logic. The commodity conceals a relation to an animal as a relation to a thing. Yet, commodification is not something that we as individuals actively do. Rather, it is something that happens in accordance with the development of capitalism. This seems to suggest that the blame rests on a system of socioeconomic life instead of on humans as ethical agents. While my argument has rested on the notion that socioeconomic structure can shape human ethical experience, this raises the problem of what we, as agents, can do about it. The problem of structure versus agency resurfaces.[45]

In this essay, I have attempted to draw attention to the way the commodity poses a problem for the consistency of ethical human action. Further, I have argued, through my interpretation of Hegel's notion of *Sittlichkeit*, that inconsistencies in our ethical attitudes disrupt our reliance on a normative ethical order. It does little practical good either for us or for animals to argue that the development of a coherent ethical attitude toward animals is dependent upon the end of the commodity form. What we can do is recognize the significant barriers to ethical awareness that the commodity form establishes. This means that we recognize that the commodity form is destructive of the shared normative basis that enables us to act ethically. For the discipline of animal ethics, this means bringing the discourse into new terrain. Not only does it suggest that our engagement with animals is complicated by our modern socioeconomic use of animals, but that our modern use of animals affects the ethical self-conception of society as a whole. Ultimately, this compels the question of the grounding for our ethical norms. It seems to me that a society in which universalizable reasons ground our ethical actions is preferable to one in which ethical consistency is not a demand. Indeed, the everyday activities of individuals within ethical life are reliant on such consistency. Individuals hold each other accountable to certain expectations of ethical behavior. We hold these expectations even if unethical acts occur under conditions of concealment. We have equal moral aversion to sweatshop labor if it occurs publicly or if it takes place in secrecy. Once we become aware of unethical acts committed in private, we have an obligation to correct them because we rely on the consistent application of ethical norms. Similarly, even if the commodity form distorts our awareness of animals, once we are aware of this fact, we have an obligation to make our conduct toward animals consistent.

There remains a further problem that my argument poses: A contradiction in ethical life may introduce arbitrariness to our ethical conduct, but this says

nothing about which side of the contradiction is ethically preferable. If it is true that our contradictory treatment of animals disrupts the structure of ethical life, which norm should prevail? Should our treatment of animals follow the model of the more complex relationships we have forged with pets or should it follow the model of the ethically distanced relationship we have to animals as commodities? Sentience, as laid out by Gary Francione, is one reason for accepting that animals deserve some degree of ethical consideration. It is a starting point for attributing basic interests to animals that we should not violate, but I would also suggest that in our developing ties to animals we recognize emotional affinities with them. We see them as capable of emotional experiences similar to our own. This does not mean that animals necessarily have any of these experiences. At this point, I am not prepared to make any claims about the nature of animal experience beyond bare sentience.[46] However, this does mean that since we are capable of developing complex relationships with animals, the fact that we foreclose the possibility of relating to other animals along the same lines introduces incoherence to our ethical relationships. We contradict our conduct within ethical life by acknowledging emotional attachments to some animals and proscribe including other animals from these kinds of relationships. Admitting certain animals into the sphere of emotional relationships attests to the fact that we believe they are capable of these relationships. Barring other animals from these relationships through commodification thus becomes an arbitrary determination in ethical life. And, in addition to harming animal sentience, this means that we harm our capacity to relate to animals.

Many people accept our paradoxical relationship to animals in modernity. But how much of this acceptance is based on the fact that most people who relate to animals emotionally never have to cause direct pain to the animals they use as commodities? Unlike previous generations, we do not have to kill animals to make clothing or furniture. We do not have to kill the animals that we eat. The dilemma that this paper attempts to thematize is the fact that many people who have developed increased sensitivity toward animals never have to commit acts of cruelty toward animals. Perhaps our modern sensitivity toward animals has only developed because industrial production shields us from these acts. Perhaps we can be kinder to dogs because we never have to kill a pig. This certainly yields progress for dogs. But what ethical criteria are governing our relationship to pigs if our use of them is only made possible by the fact that we do not have to kill them ourselves? Rationality has practical meaning for our ethical actions. Ultimately, at stake is the question of how much of our ethical attitude we are willing to make subject to the economic rationality of the commodity. By accepting the use of animals as commodities, we concede an aspect of the rationality of ethics to the domain of economic rationality. Ethics becomes confined. It is only allowed to operate where the commodity form does not. The problem of the commodification of animals reveals a problem with how seriously we take ethics.

5. Politically Engaging the Commodification of Animals

While the focus of this essay has been to introduce the problem of commodification to the discourse on animal ethics, the question remains what this means in terms of practice. Calling for the abolition of capitalism is too lofty and too impractical a goal for the advocates and movements working on behalf of animals. Animal advocates have for a long time called for tighter restrictions and reforms in the ways animals are used in production. The conclusions drawn from this essay suggest further movement in this direction. As sentient beings, animals have a status different from other commodities exchanged in the market. Advocates of animal welfare should highlight the differences between animals and other commodities. Through a direct engagement with the commodification of animals, advocates can confront one of the major mechanisms that render animals into things without ethical status. Many advocates of animal welfare call upon consumers to boycott goods made from animals or specific companies known for causing extreme harm to animals used to produce their goods. This has led to self-regulation on the part of many companies. Although preferable to no regulation, tactics that focus on compelling companies to self-regulate focus the movement's energies too narrowly. Greater advocacy for governmental control is needed. The movement's energies are better spent advocating broader changes in regulation than in singling out specific companies.

While not as radical as calling for the abolition of capitalism, my suggestion for changing the commodity status of animals means greater governmental regulation of capitalism and how it uses animals. There are a number of changes in the United States that could be made that would ameliorate the commodity status of animals by preventing the mass production of animals. One such change would be the introduction of federal laws to regulate the conditions under which farm animals are raised. Here, advocates should focus on the abolition of factory farms. The abolition of puppy mills and kitten mills would similarly curtail the mass production of animals. Movements advocating change in these areas have mobilized, but require greater support and energy. A more radical alternative that would severely hamper the commodification of animals would be to end livestock and meat trading on the Chicago Mercantile Exchange. Such a movement does not yet exist and it is beyond the scope of this essay to articulate how such an aim might be achieved, but advocating for such change becomes the object of serious consideration when the issue of the commodification of animals becomes a part of the animal ethics discourse.

Notes

Acknowledgments: Several people took the time to read and critique drafts of this essay. I am particularly indebted to Michael J. Thompson for his extensive comments and his enormously helpful suggestion that I ground the essay's concern with the contradictions in human conduct toward animals in a discussion of Hegel. Frank Kirkland read this essay and corrected my interpretations of Hegel and Marx. Stanley Aronowitz, Stephen Eric Bronner, Paola Cavalieri, Gerald Press, and Richard Wolin read early drafts of this essay and provided suggestions that improved this essay. Jeremy J. Shapiro and Istvan Hont discussed some of the general themes of this essay with me at length. I am grateful to all of these patient and astute interlocutors. I should also note that my dog, Nadja, who passed away in 2010, sat patiently as I worked out some of the ideas for this essay. Nadja's successors, Romy and Mitya, sat by my side (less patiently) as I wrote this essay. Any flaws with this essay are, of course, my own.

1. By distinguishing humans from other animals, I do not mean to suggest that humans are not animals. Rather, I use the different terms in their common sense meaning and do not see doing so as morally problematic as others might. Further, Gary Francione uses the term "moral schizophrenia" to refer to what I see as an ethical contradiction. Francione also argues that the cause of this is the property status of animals. In contrast, I will argue that it is the commodity status of animals. See Gary L. Francione, *Introduction to Animal Rights: Your Child or the Dog?* (Philadelphia: Temple University Press, 2000) pp. 50-80.

2. James Serpell, *In the Company of Animals: A Study of Human-Animal Relationships* (Cambridge: Cambridge University Press, 1996) p. 19.

3. G.W.F. Hegel, *Elements of the Philosophy of Right*, ed. Allen W. Wood, trans. H.B. Nisbet (Cambridge: Cambridge University Press, 1991) p. 189.

4. Allen W. Wood, *Hegel's Ethical Thought* (Cambridge: Cambridge University Press, 1990) pp. 196-198.

5. Though it is beyond the scope of this essay, a Hegelian would ultimately have to address how this contradiction relates to the problem of actualizing right in institutions.

6. Gary L. Francione, "Equal Consideration and the Interest of Nonhuman Animals in Continued Existence: A Response to Professor Sunstein" in *Animals as Persons: Essays on the Abolition of Animal Exploitation* (New York: Columbia University Press, 2008), p. 151.

7. See, Thomas Nagel, "What is it like to be a bat" in *Mortal Questions* (Cambridge: Cambridge University Press, 1979).

8. Francione, "Introduction," in *Animals as Persons*, pp. 10-11.

9. Ibid., p. 10.

10. For Regan's discussion see Tom Regan, *The Case for Animal Rights*, 2nd Edition (Berkeley: University of California Press, 2004) pp. 243-248. For Francione's response to Regan's "complicated" rights theory, see Gary L. Francione, *Introduction to Animal Rights*, pp. xxxii-xxxiv.

11. Francione, "Equal Consideration," p. 150.

12. Ibid., pp. 151-152.

13. Karl Marx, *Capital*, Volume 1, trans. Ben Fowkes (New York: Penguin Books, 1990) p. 133.

14. Aristotle, *Politics*, 1257b19-22

15. Scott Meikle, *Aristotle's Economic Thought* (Oxford: Clarendon Press, 1995) pp. 46-47.
16. M.I. Finley, "Aristotle and Economic Analysis" in *Articles on Aristotle: 2. Ethics and Politics*, ed. Jonathan Barnes, Malcolm Schofield, and Richard Sorabji (London: Duckworth, 1977) pp. 150-152.
17. Aristotle, *Politics*, 1257b38-1258a3.
18. Marx, p. 126.
19. Ibid., p. 128.
20. Alfred Schmidt, *The Concept of Nature in Marx*, trans. Ben Fowkes (London: New Left Books, 1971) pp. 65-66.
21. Marx, p. 165.
22. Ibid., 168-169.
23. Ibid., 164-165.
24. Schmidt, p. 68
25. Ibid., p. 75.
26. See the discussion in Tom Rockmore, *Irrationalism: Lukács and the Marxist View of Reason* (Philadelphia: Temple University Press, 1992) pp. 89-90.
27. As Russell Jacoby explains, "Reification was a form of unconsciousness, a form specific to capitalism. The capitalist commodity structured the consciousness of society by burying the human and historical relations under neutral and quantitative relations: This was the primal bourgeois myth that repelled insight." Russell Jacoby, *Dialectic of Defeat: Contours of Western Marxism* (Cambridge: Cambridge University Press, 1981) p. 119.
28. Georg Lukács, *History and Class Consciousness: Studies in Marxist Dialectics*, trans. Rodney Livingstone (Cambridge, Massachusetts: The MIT Press, 2002) pp. 90-91.
29. Ibid., p. 90.
30. Rockmore, p. 90.
31. Lukács, p. 93.
32. Ibid., p. 93.
33. See the discussion in Stephen Eric Bronner, *Of Critical Theory and Its Theorists*, Second Edition (New York: Routledge, 2002) pp. 53-54.
34. Peter Singer, *Animal Liberation*, Updated Edition, (New York: HarperCollins Publishers, 2009) p. 95.
35. See, for example, Mary Midgley's discussion of the way Western rationalism has excluded animals in Mary Midgley, *Animals and Why They Matter* (Athens: The University of Georgia Press, 1984).
36. Ted Benton, *Natural Relations: Ecology, Animal Rights, and Social Justice* (London: Verso, 1993) p. 72.
37. For a discussion see M.J. Inwood, "Hegel, Plato and Greek 'Sittlichkeit'" in *The State and Civil Society: Studies in Hegel's Political Philosophy*, ed. Z.A. Pelczynski (Cambridge: Cambridge University Press, 1984).
38. Hegel, p. 12.
39. Ibid., p. 13.
40. Ibid., pp. 13-14.
41. Robert Pippin, *Hegel's Practical Philosophy: Rational Agency as Ethical Life* (Cambridge: Cambridge University Press, 2008) p. 5.
42. Hegel, 166.
43. Ibid., 167.

44. Ibid.

45. For an account that argues that Hegel's concept of the absolute is an attempt to overcome this dichotomy, see Gillian Rose, *Hegel Contra Sociology* (London: Athlone, 1981).

46. The basis for my reservations can be found in: Nagel, "What is it like to be a bat."

Part III

Developing New Ethical Grounds

Chapter 10
Why We Have Ethical Obligations to Animals: Animal Welfare and the Common Good

Michael J. Thompson

1.

I start with a basic conviction: that the abuse and purposeful harm done to animals at the hands of human beings is morally wrong not because of any intrinsic sense of rights that an animal possesses or because the act of causing pain or killing is somehow intrinsically ethically wrong, but because of the effects that these practices have on the nature of our ethical sensibilities, and on our own status as ethical agents. I see the abuse of animals at the hands of human beings and as a result of their actions as ethically wrong because of the deformations it causes in our ethical culture and therefore take what is commonly critiqued as an anthropocentric position. I take this view because I think that the acts and ethical concepts that we are a part of, that we witness, that occur in our social and communal lives, affect the contours of our moral development. In what follows, I want to defend this anthropocentric position by drawing on the sociality of our ethical life and arguing that the paradigm for the legal protection of animals needs to be grounded in a defense of our collective ethical sensibilities and the ways that these sensibilities exert a force that shapes the ethical personality of individuals.

This argument stems from a more comprehensive idea about the nature of moral concepts that seeks to understand our normative ideas in objective terms. By objective, I mean a characteristic of moral ideas that classifies certain acts, practices, values, institutions, and so on, as objectively correct or perverse based on the ways that those acts or practices or values are able to enhance a certain status of our humanity. We must have a means to make ethical judgments in an

objective sense for them to achieve a more meaningful, more robust role in our culture and move us away from the corrosive influence of moral relativism and an emphasis on ethical subjectivity. Lastly, I want to argue that the laws of a society that seeks to protect the common good of its members must extend basic protection to animals from the pain and suffering caused by human beings and that the basic rationale for this is that the state and its laws have a moral imperative to protect to the common fund of ethical values and practices that occur within the political community.[1]

To make these insights cohere, I propose that a more satisfying, more consistent argument can be constructed through what I call *reflexive ethics*: an ethics that considers the various ways human beings are constituted by the actions and behaviors that they, or others within society, perform. Reflexive ethics is a way of thinking about human value that sees it as intrinsically linked and constituted by the concepts and actions agents perform and that the ultimate criterion of ethical validity is not the minimization of pain, the maximization of individual good, a deontological claim to individual preferences, or anything of that kind. Rather it consists of the various ways we can diagnose pathological forms of ethical self-conception, relations, and self-constitution. What I mean by this is not that there exists some functionalist conception of ethics in the sense that one ought to perform only those acts that are best for the community as a whole but, rather, a criterion that is formalistic in the sense that it asks the question: what kind of relations, practices, values, and so on, are best for our ethical self-constitution? The view of ethics I take here is derived heavily from the insight that our ethical and moral conceptions of the world are deeply constituted by the practical and conceptual spheres within which we are individuated. Against the paradigm of utilitarian and liberal individualism, this position conceives of ethics as social. Considering these preliminaries, the basic thesis I wish to defend here derives its structure from the Hegelian view that sees ethics as “ethical life” (*Sittlichkeit*): as a fabric or constellation of concepts, norms, and practices that we as individuals absorb and that also constitute our own subjective normative conceptions about the world. What is crucial, on this view, is that this ethical substance be valued as a common good—as a kind of property that we all collectively share and that actively shapes and forms the moral personality of individuals. We ought therefore to be concerned, as the young Hegel once put it, with “the moral corruption of the public heart.”[2]

If we take this view, then we must explore the ways that ethical life actively *constitutes* individuals and their moral agency. As I see it, the discourse of rights is inadequate to contain the more robust ethical argument for our obligations to animals and their protection from purposeful harm. Animals do not qualify as rights-holders, and there is no reason that they ought to in order to be protected from harm and suffering. In place of a rights-based approach, we need to place emphasis on the *relational context* of our ethical self-development and self-constitution. I take it as axiomatic that moral value systems operate not in the realm of pure thought but are deeply embedded in the ethical personality of

agents and that this is itself the product of the ways we relate to others (human as well as non-human others). I also see our ethical life as defining the nature of our humanity—in other words, that our moral status as human beings is a function of the nature and content of our ethical life. Our normative views of the world are not simply ideas to which we subscribe, they are also informed and shaped by forms of moral cognition that are in turn oriented by certain basic value concepts. These values we absorb from forms of socialization—from the ways we are treated by others, the traumas and fears to which we are exposed, and so on. On this view, ethical life is the sum total of the values that are involved in our self-constitution as well as the concepts we employ for our individual and collective self-understanding. Ethical values, moral concepts, therefore have a functionalist quality to them. We constitute our relation to others and to ourselves—in practice as well as in our normative ideas—through the ethical schemas that we absorb from our culture, our institutions, the prevailing ideas that exist around us. Distortions in these ethical schemas, or ways that we relate to others (again, human as well as non-human) pervert the totality of ethical concepts, that constitutes the ethical substance of a culture and of the individual as well.

But this does not mean that our ethical personality is mechanistically determined. Rather, it means that our sense of value, or our space of normative concepts is to be understood, in one sense, as the means we use to gain self-understanding of the underlying normative obligations we have to others as well as ourselves. It is therefore important to understand the sphere of ethical value as the mediating category that determines our relation to the world, as the web of concepts and practices that define our humanity. Broadly speaking, I take the view that ethical theory ought to consider the ways in which there exist objective ethical postulates grounded in our understanding of the ways in which ethical life serves to form, shape, and develop or hinder certain potentialities in human agents. I take a perfectionist view of human ethical development not in the sense that there is some specific content to be perfected but rather that certain negative characteristics have the effect of perverting or corrupting certain higher capacities. In order to secure a set of social practices that will secure our ability to realize our fullest capacities as ethical beings rather than reproduce those practices and value systems that pervert our ethical substance. This does not mean that every ethical choice, view, concept, or act should be allowed if it satisfies an abstract condition of human perfection. Rather, I see it as a guide for being able to critique the existent conditions of any given institution or cultural practice, something akin to that Erich Fromm termed a "normative humanism."

To explore this argument, I will seek to argue for a paradigm of reflexive ethics as a way of conceiving ethical theory in order to get to my larger claim that we have ethical obligations to animals despite them being non-persons and that the state and the laws also have an obligation to protect animals from suffering and to see those institutions and practices that systematically cause harm and abuse to animals as contrary to a society based on any conception of

justice and collective welfare. If my basic thesis about reflexive ethics can convince you of the notion that our ethical life—our system of values and norms—are constitutive of our ethical personalities as well as of others, that the very ethical personality of many of us can be affected by the actions we perform and tolerate and accept, then I also want to suggest that the state and the laws of a just society have an *obligation* to protect animals from abuse and suffering. This obligation stems from the need to protect the common stock of social practices, values, and institutions from any pathological effects on the processes of ethical individuation. In this sense, the introduction of certain kinds of practices, habits, and norms—in this particular case, the abuse of animals—is seen as a violation of the common good since the common good in this sense is seen as the reservoir of value systems, habits and practices that form our ethical culture. Put in stronger terms, a just society cannot accept the abuse and unnecessary killing of animals—for pleasure, for sport, for profit, or whatever—because of the ways those common practices can deform the ethical life of society as a whole.

But this thesis requires that we see ethical life in a very different way, specifically as a common fund of ethical concepts that have the power to shape the orientations and practices of the individual members of the community. We need to see ethical life itself as a kind of common good: the quality and integrity of which we can see as determinative of individual members of society. Ethics, on this view, are social rather than simply subjective or personal—and as a result, I will argue that we need to rethink the ways in which animal abuse, suffering, and pain affect our collective ethical sensibilities. I am not convinced that the anti-anthropocentric critique made by many who see animals as having rights in and of themselves is convincing and I offer here an alternative view of grounding the protection of animals by the state and its laws from pain and suffering caused by human beings.

2.

What does it matter if animals are granted ethical consideration or not? It could be argued that it is an issue of personal choice, grounded in emotional consideration rather than rational argument. If I have an affection for animals, I might not want them to be abused; but if I don't, I might not mind that they are used/abused for food, sport, or whatever. There is nothing, on this view, that obligates in any valid sense the extension of my ethical obligations toward animals, let alone a collective (i.e., societal and legalistic) obligation not to harm them in whatever way that the law or social custom forbids. I am not concerned with the actual facts of whether or not animals actually do suffer or feel pain. I believe that they do, but my concern is that ethical arguments need not take this exclusively into consideration because, as I see it, ethical postulates need to be grounded in our own capacities for ethical self-understanding and self-constitution. I want to make an argument here that specifies animals but that

can, and I think must, also be made for "non-rational" nature in general. As I see it, our ethical sensibilities are harmed whether or not the object of our abuse actually feels pain or suffers. The seeming contradiction is that, if we value the state of pain and suffering as the locus of why the ethical treatment of animals matters, we will come to value some animals over others. As Marian Dawkins argues, "giving ethical value to the ability to suffer will in the end lead us to value animals that are clever. Even if we start out by rejecting Descartes' reasoning criterion, it is the reasoning animals that are the ones most likely to possess the capacity to suffer."[3]

But there is another way of reasoning our ethical obligations to animals, and it comes not from a discussion of the actual pain and suffering that they experience and whether that has intrinsic value, but in terms of our own sensibilities. Daniel Dennett provides us with an opening to this kind of thinking when he says that "there are perfectly good reasons for treating all living animals with care and solicitude. These reasons are somewhat independent of the facts about just which animals feel which kinds of pain. They depend more directly on the fact that various beliefs are ambient in our culture, and matter to us, whether they *ought* to matter or not."[4] This seems to me to indicate a path toward understanding our ethical obligations to animals that does not rest on whatever traits they may possess or without grounding these claims in some intrinsic value of animals themselves.[5] The problem I wish to solve here is to show that these beliefs in fact *ought to matter* because of certain ontological considerations about the nature of values and their power to shape and condition us. I am not convinced that we can easily extend rights to animals simply because they suffer or feel pain or because they are vulnerable. It seems to me more correct, and more morally persuasive, to ground our obligations toward non-humans in a kind of perfectionism that sees our ethical sensibilities, our moral personality and character, as realized through the ethical life of our collectively shared norms and ethical concepts.[6] It rests in the insight that the abuse of animals constitutes a pathology of our ethical sensibilities and that we need to treat animals with moral respect and extend legal protection to their welfare because a society that does so moves within a space of ethical reasons more valuable and that deserves our allegiance to one that does not. In order to make this argument, I will need to show the ways in which ethical values—seen here as normative or evaluative conceptions about the world—are shared socially and exert formative effects upon individuals.

3.

The starting point for my thesis is the insight that practical agents absorb ethical concepts and value systems from the forms of socialization they encounter during the process of "ethical individuation." This is a process not only of ego-formation akin to that of Kohlberg where individuals evolve different levels of moral capacity and moral consciousness. Rather, it refers to the *content* of

ethical claims, categories, and concepts. For the sake of simplicity, I will refer to these as *values*. Values are specific kinds of concepts that shape the moral cognition of agents.[7] They are conceptual, not purely intellectual or even explicitly conscious, but it is a "reality structure that is immanent to our action, as a matter of meeting the world and qualifying it as a moment of our constant or momentary exigencies."[8] Values unite our cognitive and affective orientations to the world; they are the substantive ways we break down the world and evaluate it as good or bad, acceptable or unacceptable, security or fear.[9] If we collect these value categories together, we have a "value field": a nexus of value-concepts that we utilize to frame, evaluate, and understand the world. Ethical life is the totality of this value field; it consists of the ways we share with others certain normative and evaluative concepts about the world. Seen in this way, ethical life becomes a much more substantive concept in that we are able to see it as the precondition for the type of ethical agency that any specific individual achieves.

Reflexivity in this case refers to the ways in which the various actions performed, the institutions that exist in society, and, consequently, the value systems that are current in any culture, come to shape the development of any specific individual. An ethics that is reflexive is therefore sensitive to this functionalist understanding of values and the notion that ethics are not simply intellectualist in nature, but are part of a lived, social system of understanding and acting in the world. In this sense, I see real limitations to the deontological and utilitarian approaches that dominate the discourse of animal rights. My thesis is that ethical life itself needs to be seen as a system of values that are determinate in the process of ethical self-development and ethical self-understanding. The key distinction between this view and those based on utilitarian or liberal conceptions of ethics is that it sees certain acts or practices as ethically wrong that distort the common fund of values. Those acts, practices, institutions, and so on that inject a pathological element into the ways that we fulfill our lives are seen as unethical. The abuse of animals constitutes such a violation of the common fund of ethical norms. I argue that this is the case because the abuse of animals has developmental consequences on our own sensibilities and ethical capacities. I will develop this layer of my argument in the next section of this paper.

Now, on this view, the concept of ethical life is a property of social life itself because it is the fundamental set of values that can be shaped and created in order to legitimate, justify, or whatever certain institutions, practices, and, just as importantly, certain kinds of hierarchy and status of others. Values are not abstract in this sense, they are concrete in that they are conceptual frames utilized to make normative sense of the nature of the world. Values themselves, however, can be shaped and created in order to cement certain forms of relational life. So, feudal societies have an interest in emphasizing values of hierarchy, or inequality, of self-denial, and so on. This means that values are in some way constituted by the social environment and the functionalist needs of

the structure of the community or institution itself. I call this the *value constitution thesis*, and it means that the values we come to possess are a function of the ways we are inculcated, the type of social relations we are socialized into, and the various kinds of acts and practices with which we are acculturated. It means, as Erich Fromm has suggested, that "the main passions and drives in many result from the *total existence* of man, that they are definite and ascertainable, some of them conducive to health and happiness, others to sickness and unhappiness. Any given social order does not *create* these fundamental strivings, but it determines which of the limited number of potential passions are to become manifest or dominant."[10] This means that the ethical personality of the individual is deeply affected by the collective set of practices and value-orientations that surround him. The process of ethical individuation is, in this sense, a process of absorption of moral values that come to constitute the ethical orientations of any given person.[11]

If we take the value constitution thesis seriously, then I think we should think about ethics in a socialized, rather than purely individualized or subjectivist, way. This view sees the individual ethical personality and the fabric of social norms and practices as mutually constitutive but it places greater emphasis on the role of socialized norms and institutions in shaping ethical selves. The reflexive moment enters once I realize that my criterion for judgment and critique must take into consideration the ways in which certain actions, institutions, practices, and so on have the effect of diluting, distorting, polluting the fabric of ethical life. This is because certain practices or institutions can have the effect of mutilating the ethical potentiality within individual agents. If I am exposed to certain forms of social relations—whether in terms of the family, in society at large, or whatever—that deform my ethical capacities, then we need to judge those relations reflexively: they are wrong because they have the power to damage, to distort certain ethical capacities in us as moral agents.

This notion means that ethics are social, and this means that they are both collective and individual at once.[12] To illustrate this point, consider the following. Imagine a community that derives its water resources from a single source, a reservoir or lake of fresh water around which the inhabitants of the town live. The entire water supply is furnished by this fund of fresh water. It is obvious that each individual member would have an interest in protecting the highest quality of the reservoir and its contents since not only themselves, but others they know (and even may not know) will be affected if there is some pollution or defect in the water supply. It stands to reason that anything done to pollute, damage, or compromise the quality of this reservoir would be seen as a violation of a collective good since those would be actions that had an adverse effect on each individual within that community and, in the end, the quality of the community as a whole. Indeed, even further, we could say that any rational community would seek to protect this collective good from the harmful acts and practices that would do harm to this resource and they would structure laws and

the coercive powers of the state to objectify such protection. This example is meant to illustrate the way that ethical substance—seen here as the collection of concepts, practices, norms, and values—is also a collective property of all individuals within society. If we translate the ethical concept in a more abstract way, we can see that the basic idea here lies in the fact that any given individual can be affected by the acts of others not only *directly*, but also *indirectly* in the sense that those common goods that all use in some way or another can be damaged or degraded by certain acts.[13] On this view, it becomes important to see that we are dealing not with the intrinsic value of objects but, rather, with the integrity and quality of our ethical life as a whole, with its concrete content.

If we return to the Hegelian thesis that ethical life is the very texture of the universal, the conceptual scheme that connects individuals together *qua* individuals while uniting us through a higher principle of integration, we should also see that it is also something through which we are able to obtain our individual sense of ethical personality, our ethical self-consciousness. In this sense, it should be seen that the relation between the subject and the objective world around any given person is a constitutive one. I mean by this that individuals begin to grasp their sense of ethical categories not from a purely rational point of view but, rather, from the common stock of values that any culture makes available to them. If we approach the question from this point of view, ethical life derives a kind of ontological status in that its existence—something independent of the individual although deeply constitutive of the individual. This is exemplified in the Hegelian proposition that ethical life is the unity of both *objective* and *subjective* elements.[14] This is a crucial insight in that it shows a rich relation between the individual subject and the totality of ethical life to which he is a part. But it also proposes that there is a point of view from which we are to evaluate the ethical personality of the individual. There is a sense that one is more developed, possess a higher sense of self-development the more that he is able to integrate the emotive and intellectual spheres of his inner life with the ethical capacity to live a life that affirms the positive, creative, i.e., non-destructive capacities within the human personality. From an ethical point of view, it seems to me that this is the most important way to begin evaluating the basic principles of a humanistic critique of modern culture. The abuse of animals becomes a central obstacle to the advancement of such a culture.

We recognize in the animal suffering and pain a commonality with our own selves who possess a similar (if not identical) capacity for suffering, pain, relatedness, and so on. When we fail to recognize this in the animal other, we open ourselves up for defects in our own ethical substance and capacities, not unlike what Hegel himself explores in his famous analysis of the "master-slave" dialectic in his *Phenomenology of Mind*. This illustrates further the point that individual and society are linked dialectically in the conception of ethical life. This is because the view of ethical life is that the individuals who make up the social order reflect, or absorb the substance of the ethical values, concepts, and norms that exist within it. Here we see the reflexive moment in ethical life: the

actions we perform, or others within our society perform, have effects upon others and ourselves. It means that such actions need to be judged by the extent to which they are able to adversely affect others. A reflexive understanding of social actions and norms means that ethical judgment needs to take into account the ways in which different practices and relations have effects upon the ethical personality and psychology of individuals as well as the collective ethical life of society at large, since these two elements—the individual and his social relations—cannot be analytically separated without falling into abstraction.

4.

This brings me to the problem of obligation. If we see values as a central mechanism in the processes of moral cognition of the individual, then it stands to reason that the ethical personality of any individual is the sum total of these values constituting a system that guides, legitimates, and conditions our actions in the world. From the point of view of human actions and value, it is this that seems to me to be at the base of ethical theory. If we are able to establish certain kinds of actions, institutions, behaviors, habits, and so on that in fact shape human morality—i.e., the complex of value systems that make up our ethical personality—then we need to be able to judge the extent to which they lead us to ends that are good or are in some way pathological. This is where the issue of obligation becomes salient. In my view, we have obligations to protect against those practices, norms, value systems, and institutions that in fact pervert the processes that are constitutive of the development of our moral personhood.

The basic criterion for judgment of such ethical values and practices is the extent to which one's moral personality or the moral personality of others can be harmed or perverted by either performing certain acts or by being exposed to them. In this sense, we make moral judgments in relation to how they affect, shape, influence, the values that will in turn have effects upon us and those within our community. In this sense, the perfectionist insight is that we exist in society, that society itself exists, not simply as a passive entity, but as an active context. If we conceive of the common good not as a collection of particular, arbitrary categories of right conduct, nor as a set of natural laws or some metaphysically determined understanding of what is proper, right, and just, but rather as those practices and values that enhance our sociality, or those goods that enable us to live in a social world that enhances our creative potentialities as opposed to those that are destructive, then we need to see absence of animal abuse as a component of the common good. When we see the common good as a fund of value concepts or a moral substance that makes up our culture, then we begin to see that certain things can be harmful to the values and practices that make society possible.[15] This culture then has an active influence on individuals, organizing and orienting their thoughts and actions. The ethical ground for judging any ethical postulate, any practice, institution, or value rests on the extent to which they are able to aid in the realization of an integrated, developed,

creative, and unselfish moral personhood. We have a higher obligation to those values because they strengthen our relation to the world and to others; they enable us to realize a higher sense of our duties to a totality outside of our own selves. Those acts that are destructive—of others, of ourselves, of nature, and so on—means a pathological relation to the world and to ourselves. To those values and practices that enhance those elements of our ethical life, we owe no allegiance. Indeed, it could be argued that we are obligated not to follow laws or habits and norms that go against that.

This perfectionist account is important, in my view, for developing a more critical conception of ethical judgment in general, but also, in particular, to the project of understanding our ethical obligation toward protecting animals from the harm done to them by humans. The protection of animal welfare therefore falls into the domain of an obligation once we see that not doing so, i.e., by allowing, tolerating, or performing acts of violence, pain and suffering on them, can have pathological effects on our own culture of ethical concepts and values and, in the end, on the kinds of individuals that our ethical culture will produce. It is not that animals possess rights, it is rather that we possess an obligation to prevent harm and prevent their suffering at the hands of humans because to allow the inverse would be to allow for pathological forces to reshape the value systems that reproduce our culture through the ethical personality of individual agents. The basic principle of a rational ethical life, of a kind of ethical culture that we can say is more humane, more ethical, more progressive, is one that universalizes its reasons for acting. When we allow for exceptions to these reasons, we lose the coherence of our rational ethical life, we begin to degrade as ethical beings.

But what is the origin of this obligation? Do we have an obligation to animals themselves or to ourselves? This question is crucial since it rests on the deeper issue of the object of our moral commitments. As I see it, the foundation for an obligation to animals lies not in the ethical status of the animal, but in our obligation to uphold certain standards of action and conduct that can secure the ethical life of which we are a part. The reason that this obligates us is because, as I have argued above, the ethical life to which we belong has formative power on others as well as ourselves. In this sense, we are concerned with the ways that certain ends, or at least certain end states can be produced from the existing norms and practices within the community. As T.H. Green observes in linking moral ends to legal obligation: "those actions or omissions should be made obligations which, when made obligations, serve a certain moral end; that this end is the ground or justification or rationale of legal obligation; and that thus we obtain a general rule, of both positive and negative application, in regard to the proper matter or content of legal obligation."[16] This also serves as the basic ground for the legal protection of animals: rather than seeing them as rights-bearers, we need to see animals as worthy of protection, and ourselves as obligated to offer that protection, because of the pathological impact not doing so would have on our shared ethical life. In place of emphasizing the ethical

status of the animal, we must focus on the status of our practices and the ways that those practices are able to shape our own sensibilities.

5.

The notion that our ethical judgments need to take into consideration the reflexive character of human actions, institutions, and practices means that we are moving in a different space of moral reasons than much of modern ethical theory allows. If my thesis is correct, then the basic problem of ethical life is the notion that we must become conscious of our ethical interrelatedness to other beings not simply because that interrelatedness has some kind of intrinsic value but, as I suggested above, because moral consciousness is not simply a philosophical problem: it is a social fact. On this view, ethical life is the collective of moral concepts and value-orientations that shape our self-conceptions as well as our conceptions of others. We possess ethical obligations to the relational structure of our lives; our ethical status is defined by the ways we relate to others, to the ways that this treatment of others has an effect upon us and others. We are relational beings whose ethical value is determined by the ways we order these relations. The object of our ethical concern therefore becomes not a specific being, but those values that predicate our actions *toward* other beings. We possess ethical obligations to animals for a similar reason: because humane treatment of things that, at least appear to us to feel pain and suffer, is an act that is more creative, more empowering, than an act of sadism, of destruction. The acts we perform are a function of the kind of humanity that we embody. The perfectionist understanding of human ethical life that I see to be foundational is one that sees our creative, fuller human capacities as being perverted by acts of destruction and sadism. The introduction of these practices within the ethical life of the community constitutes a pathology within the ethical system or value field of the community as a whole—it affects me as well as others. A society that tolerates or actively allows the abuse of animals is therefore one that similarly degrades its own ethical capacities and humanity. If our ethical concepts define what it is/means to be human, then we are left with the notion that our humane treatment of animals falls strongly under the sphere of ethical obligation.

Animal abuse therefore becomes pathological because of its relational character. The abuse of animals means the causing of unnecessary pain and suffering to animals without consideration for their welfare or their possession of those features of life we possess in common. Even if animals could be shown *not* to feel pain, *not* to suffer in some neurological or biological sense, it still matters that they appear to suffer and feel pain; it matters that such abuse is a practice that amplifies the destructive, dominating impulses within our ethical character; it matters because such acts can have pathological effects on the individual as well as collective ethical capacities and norms. It degrades the collective ethical culture of any given society. And this is important not only

because this will have a negative impact on other persons, but because we need to see negative impacts on our shared ethical life as itself pathological. When human beings cause this kind of pain and suffering, it is not, in my view, the mere act of the causation of pain and suffering that is somehow intrinsically wrong or unethical. Rather, I want to make a broader, deeper claim: that the causing of this pain and suffering is a deliberate neglect of the recognition that that other being possesses similar capacities to us as humans. If Hegel is right, then our own ethical sensibilities are the result of a twofold process of recognition and the contours of ethical life. The process of recognizing the other is a crucial move for the simple reason that it is, Hegel argues, the very path out of our particularity. By perceiving the other as possessing along with me similar traits, I come to see myself as part of a broader fabric of ethical universality. Even though Hegel means this in terms of human beings as "other," I think that the logic of this argument can be extended to animals as well.[17]

It is only by deliberately playing down or ignoring the common features we possess with animals that we begin to see the act of animal abuse become acceptable or justified.[18] There is, to be sure, a phenomenological element to this argument that is important to stress. Animal abuse therefore exemplifies some of the deepest pathologies of human ethical self-development. When we refuse to recognize—i.e., bring to moral consciousness—the characteristics we share in common with animals, such as relatedness, capacity for suffering, to experience pain, and so on, we are actively suppressing our capacity to reach a more fully developed form of existence. Recognizing these features in other animals is the *phenomenological* realm of experiencing the other. The mechanism of recognition is the central moment where we can see our ethical sensibilities as being tied to the treatment of animals and their welfare. To abuse an animal, deprive it of the things necessary for survival, or mistreat it in some other way, I am actively repressing the sensibilities that make me an ethical being. It is not simply, as the indirect duties thesis holds, because it will make me be callous toward other humans; the more essential point is that it makes me less ethical of an agent and, given the functionalist account of ethical life I provided above, degrades (or at least potentially degrades) the ethical life of the community itself by introducing such pathologies into the value field of our culture. Even if I do not participate in bull fighting events, the fact that it exists, that an institution involving so many people for such inhumane ends does exist means that there is a deep impact on the ethical sensibilities of that society.

Now, if we merge this insight of the thesis of recognition with that of the structure of ethical life, then we can see that the obligations we have toward animals begins to take on a deeper, more complex form. If we view the development of human ethical subjectivity as occurring in tandem with the ethical substance of the community as a whole, and we also see the process of recognition as the basic mechanism for rational ethical life, then we see that the argument for extending our ethical obligation to animals is a function of the extent to which our relations to animals can be seen as enhancing or degrading

the ethical substance to which we belong. Recall that Hegel's Aristotelian understanding of ethical life privileges the relation between substance and its accidents: individuals absorb the ethical concepts and practices that exist within their particular culture, they are reflections of that ethical totality. The thesis that the abuse and suffering of animals also degrades human ethical capacities and sensibilities can therefore be grounded in this very insight. Whether it be a kind of malignant sadism or a passive acceptance of industrialized suffering and abuse, when we live within a society that allows, accepts, enjoys the benefits of, the suffering of animals, we are degrading the ethical sensibilities of the individual members of that community. It builds on the Hegelian insight, amplified by Axel Honneth, that "social reality is permeated rational reasons that we cannot infringe without consequences for our relationship with ourselves."[19]

This argument seems, on first glance, to suffer from the counter-claim that there is no direct causal relation between the existence of animal suffering and my own ethical capacities or sensibilities. I may be a vegan, vegetarian, or whatever despite the fact that institutions that foster animal abuse, pain, and killing persist. But this misses the point. Since, in a Hegelian sense, each individual is effectively an accident of a greater ethical substance, then we need to take a more holistic view. The protection of animals from harm ought not to indicate an intrinsic right that an animal possesses, rather the justificatory logic for their protection must stem from the fact that allowing those practices introduces elements of sadism, violence, and other perversions of our ethical personality into the system of ethical life as a whole. It is in the interest of the common good that we protect and enhance to the best of our ability the collective fund of ethical norms and values, the very substance of which is responsible for the processual shaping of individual ethical personalities. If this argument is accepted, then we can see a different way of arguing for the necessity of protecting animals from abuse in individual or specific cases, from a more holistic institutional sense. Tolerating or accepting such institutions and practices becomes a deformative act of the ethical substance of society at large. It is, then, an element of the common good.

We only need to think of the various ways in which actions that cause suffering in other beings is deeply destructive to the ethical personality or character structure of an individual to gain some insight into the extent to which such practices can affect the sensibilities of human self-development. In many ways, the cause of animal abuse, the kind of sadism, is itself a product of the broader pathologies of society. Erich Fromm knew this to be the case about the act of killing in general, a motive borne out of "an unbearable sense of boredom and impotence and the need to experience that there is someone who will react, someone on whom one can make a dent, some deed that will make an end of the monotony of daily experience."[20] This, Fromm notes, is the result of distortions within the character structure of the individual; they are, to be sure, rooted in the structure of society itself, "the social circumstances under which man lives."[21]

Violence, sadism, are the results of pathologies in our social order, they are expressions of a sense of indeterminacy of social being and consciousness.

From this we can now develop an axiomatic thesis about the nature of rational ethical life and the need to extend ethical obligations to animals as a dimension of the common good of any rational society. I take Fromm's Hegelian understanding of "rational" here as basic, i.e., "any thought, feeling, or act that promotes the adequate functioning and growth of the whole of which it is a part, and irrational [is] that which tends to weaken or destroy the whole."[22] Animal suffering can therefore be seen as one of the crucial layers of a system of ethical values that is central in the formation and maintenance of the most humane and good aspects of man's ethical personality. If we accept the notion that the abuse of animals constitutes a distortion of the recognitive relations that are at the heart of humane ethical life, then we must also accept the thesis that the abuse of animals constitutes a violation of rational ethical life. We now come back to the original thesis with which Kant had wrestled: that the abuse of animals constitutes, in a reflexive sense, a damaging of the moral capacities of man. Kant's thesis is that animal abuse is an act that is "inhuman and damages in himself that humanity which it is his duty to show toward mankind. If he is not to stifle his human feelings, he must practice kindness towards animals, for he who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals."[23] The problem with this formulation is that it lacks the ethical structure to give it meaning, not that it suffers from being an "indirect duty" to animals.[24] The true end of a rational ethical life, then, is also negative in that it needs to protect subjects from those processes and institutions that degrade them, that mutilate them. In this sense, we need to see the fabric of ethical norms and practices as a crucial part of the common good to which any humane, democratic order must aspire. But why?

6.

If ethical life has the ability to form deep patterns of ethical motivation, sensibility, and practice, orienting individuals within society toward different ends, and we see the abuse of animals as one of the crucial pathologies of our ethical life, then it seems to me to be valid that the objective institutions of our political life ought to see it as a crucial goal to protect animals from such abuse and to be able to articulate laws to prevent such acts. If we accept the notion that animal abuse constitutes a social pathology in the ethical sensibilities of the human community, then I see this as a necessary and sufficient ground to extend legal protection to animals. Of course, my argument makes it clear that I do not see the discourse of rights as a suitable means to give shape to this in legalistic and political terms. Rather than seeing animals possessing rights, I see the law and state needing to protect ethical life from the distortions of acts of animal abuse. Animals deserve our ethical consideration but also protection from harm at the hands of humans because, as I have argued above, those acts amplify the

destructive, pathological elements of the human ethical personality. But they also introduce into the collective sensibilities of the ethical culture certain distortions of our ethical capacities.

Henry Salt, in his famous defense of animal rights from 1892, argues that "[t]ogether with the destinies and duties that are laid on them and fulfilled by them, animals have also the right to be with gentleness and consideration, and the man who does not so treat them, however great his learning or influence may be, is, in that respect, an ignorant and foolish man, devoid of the highest and noblest culture of which the human mind is capable."[25] But this argument, on my reading, seems to contain two different theses. First, that animals are deserving of rights because of what they are and what they do; and second, that the man who maltreats them is somehow devoid of some more developed, ideal, perfect moral state than the man who treats them with respect and kindness. I think these two views are at odds with one another and I do not believe that rights are the proper way of conveying his second thesis, which I see to be the more important of the two.

If we see the state and its laws as important in protecting the common good of the community as well as of the individual, it seems to me that this means rethinking the argument of ascribing rights to animals in the sense that they can make a rights-based claim against others.[26] Joel Feinberg tries to find a middle ground by arguing that:

> But if we hold not only that we ought to treat animals humanely but also that we should do so for the animals' *own* sake, that such treatment is something we *owe* animals as their *due*, something that can be *claimed* for them, something the withholding of which would be an *injustice* and a *wrong*, and not merely a cause of damage, then it follows that we do ascribe rights to animals.[27]

But one can still quarrel with the extent to which this argument resolves the deeper issue of whether or not people simply believe that animals have rights, *ought* to be given their due, *ought* to be respected in their own right, and so on. It is possible that most of us may, in fact, as Feinberg claims, find such an argument to be persuasive, but it would be only from a thin point of view, contingent on our prior emotive attachments to animals themselves. But this is still wide open to the dual problems of formalism as well as projectivism. In the first instance, there is no grounding ethically for *why* individuals *ought* to treat animals with moral consideration and respect—it simply imposes a rights-based argument for their (assumed) interests. We therefore are reduced to merely a legalistic claim, one that lacks a comprehensive, let alone satisfying, moral justification. To me, the most important problem I have with the rights-based discourse is that it lacks a substantive ground for legitimacy. Rights do not have the necessary outcome of transforming our ethical sensibilities, nor does it have a strong sense of legitimacy in the minds of those who simply do not believe animals have interests.

The real progressive tendency contained in the doctrine of rights, if one were to look at it historically, is that they enable and legitimize certain kinds of claims by individuals against those that limit their freedom or their own interests. It is predicated on the agency of the individual, reflected in the power and legitimacy of the state, to make such a claim. But we must ascribe interests to animals since they are unable to make them known to us, to make claims upon us—we must come to see animals as persons, to some extent at least, and I think this falls into the trap of projectivism. True, there are some mammals that seem to make claims on because of their dependence upon us (such as certain pets), but we cannot know for sure that these are their genuine interests, if they even have any of their own. We cannot *know* that they would prefer living in a suburban home rather than in the wild, even if we may say that they live an objectively better quality of life in our protection and care. We believe it good for them, we cannot know that they themselves possess an interest in this arrangement. But we cannot deny that it matters to us that they enjoy such security and comfort. It seems to me that this projectivist dimension of our relation to animals is one weakness for the rights-based claim for the protection of animals. But let me take this argument a step further. It seems to me that the critique of laws that seek to protect animals from cruelty are too concerned with giving animals their own legal status. I see no reason why this is intrinsically more superior. Bernard Rollin, seeking to defend this position, argues that "[a]s was the case in some nineteenth-century slave protection rulings, the object of moral concern is not the slave or the animals, but the general welfare of the 'real' objects of moral concern, humans. Humans may be brutalized by cruelty to non-humans, be they Negroes or animals; therefore such cruelty must be prohibited!"[28]

But does it follow that rights for animals in and of themselves really takes us much further? As I noted above, I do not see how this gets us out of the problem of formalism. Put simply, if animals cannot act on their own interests, if they consistently require the agency of others to apply rights to them, to ascribe rights to them, then it seems to me that the grounding, the rationale for legislation that protects animals is more usefully served and secured if we make the argument that it disturbs, distorts, the ethical substance of the human community. There is nothing, as far as I can see, that makes this an intrinsically limiting argument since animals can still be given full protection without assuming that they *possess* rights. For Rollin, the problem with a position that considers the effects of animal abuse on the morality of the culture as a whole is that it does not cover the totality of the ways animals suffer. The anthropocentric view is flawed, he argues, because "the measure of criminality is not the effect on the health and welfare of the animal, but rather the intentions of the *human perpetrator*. Clearly, the laws are designed to deal not so much with animal suffering as with human sadists, who can presumably represent a grave danger to public welfare."[29] But such a limitation is not inherent to this approach. If we consider the argument I am developing here, then we can see that the suffering

of animals, the institutions that are the cause of it, as well as individuals who may or may not be sadistic, are all covered by the thesis that the causing of suffering, pain, harm, and so on, to animals is a disruption of the ethical substance of the human community. Animals have no reflexive commitments to me; they have no way to make their interests known to me, at least in a way that is legally useful; they have no real participation in human morality nor, to any rational extent, to each other.[30] But this does not mean we are devoid of any moral obligations toward them:[31] instead, they are derived from the fact that we are moral beings, that our ethical value systems are, arguably, one of our most precious possessions as social beings. We have ethical obligations to them because pathological, malignant, sadistic, uncaring, relations with them are themselves intrinsically wrong; they are wrong morally because, as I have sought to argue here, our ethical life is functionalist in nature, not metaphysical. The fact that our ethics are social, that we as individuals are accidents of the moral substance that governs our collective norms and moral concepts, means that we have ethical obligations to animals. When an animal is made to suffer by human agency—because of market forces, institutional demands, or perverse sadistic individuals, or whatever—it is a deformation of the ethical substance, a degradation of the way we treat each other, other animals, our environment, and so on.

My contention is that if we consider human ethical capacities, practices, and concepts as I have construed it in this essay, as a *collective property*, then we need to see the ways that we treat non-human others as part of the deep structure of our collective ethical life. Animals deserve our ethical treatment not because they can claim rights against us, not because they intrinsically, in and of themselves, somehow deserve to be treated so—rather, it is because the abuse of animals constitutes a kind of treatment, a kind of practice, a kind of relation that perverts our collective ethical life. If Fromm's basic argument is also correct, then we can see that the perfectionist argument attains more persuasiveness since we need to protect not the rights of animals as ends in themselves, but rather the very concept of a culture that values life, that punishes degradation, one that values those relations between humans, animals, and other sentient beings that encourages not the pathological and malignant tendencies in human life but those that enhance our kindness, relatedness, and so on. Rights may be the dominant language of how we see our treatment of others, but I am not convinced that this provides a deep rationale for the protection of animals from harm and abuse. The state and its laws should be mobilized to protect animals from abuse not because they possess rights, but because the maltreatment of them is a violation of a more evolved, more humane, a *better* kind of ethical culture that ought to command my loyalties, that I should see as legitimate because of the universal, rational character of the duties it imposes on me, the only kind of duties that a rational individual ought to accept.

7.

In this essay, I have tried to show that there exists a different way of thinking about ethics that can serve the political and legal arguments for the protection of animals from abuse and unnecessary suffering. Indeed, if we take the ethical conviction that human beings can improve their condition, can become more humane, more ethical, better in any substantive sense of the word, as not only possible but also as desirable, then it seems to me that animal welfare is a crucial element in this ethical viewpoint. More to the point, I have tried to show that there is a necessary link between a conception of rational ethical life conceived as a space of reasons where we see that the values and practices that proliferate in any society have deep formative effects upon individuals. I have also argued that extending Hegel's concepts of recognition as well as that of ethical life is more compelling and more satisfying means to make the argument for the protection of animals from abuse as well as the need to see that we, both as individuals as well as our institutions, have ethical obligations to animal welfare. Finally, I see it as a simple extension of this argument that the institutions of the state are justified in protecting animals from abuse by weeding out those practices and institutions that allow those practices to continue.

Seeing our ethical obligations as grounded not in animals and their intrinsic value or their intrinsic qualities but rather in the ways our relations toward them can be evaluated is crucial. As I see it, modern ethical theory and the moral sensibilities of modern culture emanate from the rational structure of Enlightenment thought. Although I am not critical of rationalism, I am critical of the individualistic and legalistic traditions and forms of thought that the Enlightenment brought forward. In politics, the move toward individual rights was an important transitional phase away from forms of feudal and communitarian life. But this was purchased at the price of a more satisfying understanding of an ethical community that was truly modern in the sense that the autonomy of individuals was still protected. How to do this without the concomitant dangers of social atomization? The response to this needs to be an understanding of the ways in which our moral grammar of individualism and rights is limited, and this can be seen in our attempt to understand our ethical obligations to animals. I have tried to show that the real concern should be placed on the ways that our treatment of animals constitutes a particular relational moment that can amplify either healthy or pathological aspects of our ethical character structure. I have also tried to argue that such practices come to be embedded in our ethical life, the collective reservoir of normative concepts that guide our personal ethical development and the construction of our moral personality. If this is accepted, then my thesis that the humane treatment of animals becomes an issue of the common or public good can be grasped.

I think this is an argument that can also be applied to other forms of non-rational nature, such as the environment as a whole. But with animals, it takes on a more immediate ground because of our affinities with them, the ways that

we recognize in them many of the same traits that we possess. This act of "recognition" (*Anerkennung* in Hegel's sense, literally, to "re-cognize") is important because the active repression of that recognition—something that makes possible the abuse and domination of animals in the first place—is a basic element in the distortion of our own ethical capacities and personality. But I think that the ways we, either as individuals or what we condone in society through our institutions, treat the environment more generally can fall under this understanding as well. I may not see many affinities between myself and a tree or a river, but the fact remains that destruction, wanton abuse of power over other objects is itself problematic. This brings me back to the issue of reflexive ethics: the notion that our actions and institutions have formative effects upon our own ethical character and sensibilities and need to be evaluated on this basis. If we view the question of the ethical treatment of animals from this perspective, we can see that the sociological and psychological effects of animal abuse, in its myriad forms, needs to be seen as a pathology of the ethical sensibilities of a rational ethical community. It simply does not matter if this smacks of anthropocentrism in the sense that it does not see animals as worthy of intrinsic value. It is anthropocentric in that it sees the burden of ethical life on human agents and not on animals; but it is not anthropocentric in that it sees humans are more heavily weighted at all times in terms of their interests, that their needs and wants are superior to all other beings and concerns. Instead, it is important to see how our ethics can be shaped to enrich our treatment of others, to be justified by making certain values and practices generalizable. Attempting to ground animal rights in the intrinsic value of animals or in a conception of them as rights-bearers does not get us out of the problem of projectivism since there is no way for them to be able to make their interests known to us. We can ascribe those interests to them, but we cannot know that they hold conceptions of their interests, that they can communicate them to us, and bring claims against others for those interests. If they cannot, then they are still reliant upon us to assume those interests, to bring those claims for them, and to defend them against when we deem to be unjust, unethical treatment.

Now, this brings me to the crux of my argument. If we cannot escape the projectivist problem when it comes to animals, it does not follow that this leaves us with a less persuasive or less morally compelling position. I see ethics almost exclusively as a human institution. In this sense, the rationale for our ethical treatment of animals, for bringing them into the sphere of our moral recognition, and protecting them with the powers of law and the state rests on the fact that we have a moral burden to maintain a rational ethical life. And a rational ethical life needs to be generalizable which means that when I treat a human with respect and care but abuse animals, or if I live in a society that allows those practices in their myriad forms, then we are tolerating a degradation of that collective moral substance. On Hegel's view, this would consist of a contradiction in our ethical culture: the expansion, enlargement of the sphere of moral recognition to include animals, to absorb as proper objects of moral consideration rests on the fact that

we value care, lack of pain and suffering, and so on as universal values. I do not need to prove that animals have interests—the validity of animal protection laws must be predicated on our need to seek to attain the highest possible advance in our ethical sensibilities. Since, as I have argued above, ethical life possesses a functionalist character, it seems more than simply a matter of choice: we can see that there are deeply pathological effects upon our ethical self-development when we allow maltreatment of animals.[32]

In the end, I am convinced that the basic question that guides my thesis relates to exactly what kind of society we would prefer to live within. Animals are therefore to be considered as one of many possible objects of this theory of understanding our ethical orientations to non-humans: trees, oceans, lakes, the atmosphere, nature as a whole—all become part of our moral universe, of objects toward which we need to show care and respect, albeit in different ways. It could be argued that this is part of a larger evolutionary path in human culture: to begin to see that our improvement as an ethical community, that the improvement of our culture and the kinds of individuals we would like to see reproduced in it, are possessed of certain basic or fundamental ethical conceptual frames. If this is so, then I would think that the practice of animal abuse and/or the toleration of institutions that produce it need to be counted as one of the most pressing concerns of our moral self-understanding. But in the end, this seems to me to be a more basic, more foundational kind of ethical intuition: that the cultivation of our rational ethical sensibilities requires that we treat animals with care and respect, and that this treatment requires the full enforcement of rational law and the state.

Notes

1. I point to suffering as additional to that of pain because, as Andrew Linzey points out, “while pain usually accompanies suffering, it is not always identical with it. Suffering thus refers to more than physical pain, including what has been termed the mental experience of pain, including such sensations as shock, fear, foreboding, anxiety, trauma, anticipation, stress, distress, and terror.” *Why Animal Suffering Matters: Philosophy, Theology, and Practical Ethics*. (New York: Oxford University Press, 2009), 10.

2. G.W.F. Hegel, “Berne Fragments,” in *Three Essays, 1793-1795*, trans. Peter Fuss and John Dobbins. (Notre Dame, IN: University of Notre Dame Press, 1984), 59.

3. Marian Stamp Dawkins, *Animal Suffering: The Science of Animal Welfare*. (London: Chapman and Hall, 1980), 153.

4. Daniel C. Dennett, *Consciousness Explained*. (Boston: Little Brown, 1991), 453.

5. Christine Korsgaard develops a version of this argument by maintaining that animals deserve moral consideration because they are in fact ends in themselves. She conceives an animal as “an organic system to whom its own good matters, an organic

system that welcomes, desires, enjoys, and pursues its good." *Fellow Creatures: Kantian Ethics and Our Duties to Animals*, 103. *The Tanner Lectures on Human Values*, no. 25 (2005): 79-110. There is no way for her to *know* that this is the case. I believe Korsgaard falls into the projectivist fallacy of thinking that an animal "welcomes, desires, enjoys, and pursues its good." Instead, it could be argued that she *needs* an animal to possess those qualities for the Kantian argument to maintain coherence. Indeed, it could be argued that if it were shown that animals do not possess those qualities, then the obligational structure that is grounded in those assumptions would also collapse and we would have no ethical obligations to animals, or at least very limited ones. I will critique this position in section five of this paper.

6. I therefore take up here a claim that is opposite to Paola Cavalieri's interesting project of extending the logic of human rights to animals. She sees human rights theory as an adequate framework for animal rights since it "avoids the confusion between broad and narrow morality, and essentially focuses on the special class of moral concerns having to do with the basic institutional protection of individuals from interference—hence, its stress on the fundamental negative rights to life, freedom, and welfare. Second, the criterion for access to the sphere of rights holders is simply the fact of being an agent, that is, an intentional being that has goals and wants to achieve them." *The Death of the Animal: A Dialogue*. (New York: Columbia University Press, 2009), 39. Again, I think this still falls into the trap that Dennett points to since it is still dependent on the animal possessing the very qualities that qualify it as a bearer of rights. It stands to reason that if an animal or if all animals were to be found to lack those capacities—i.e., that of being an agent, possessing intentionality, a will to achieve goals, and so on—then we would be under no obligation to extend them the protection of rights. See the interesting critical discussion by Emer O'Hagan, "Animals, Agency, and Obligation in Kantian Ethics." *Social Theory and Practice*, vol. 35, no. 4 (2009): 531-554.

7. M. M. Marini, "Social Values and Norms," in E.F. Borgatta and R.J.V. Montgomery (eds.) *Encyclopedia of Sociology*. (New York: Macmillan, 2000), 2828-2840.

8. Georges Gusdorf, *Traité de l'existence morale*. (Paris: Colin, 1949), 49.

9. Robin M. Williams, Jr. "Change and Stability in Values and Value Systems: A Sociological Perspective," in Milton Rokeach, *Understanding Human Values: Individual and Societal*. (New York: The Free Press, 1979), 16. Also see Shalom Schwartz, "Universals in the Content and Structure of Values: Theory and Empirical Tests in 20 Countries," in M. Zanna (ed.) *Advances in Experimental Social Psychology*, vol. 25 (New York: Academic Press, 1992), 1-65. For a more expansive treatment of the concept of values in social theory, see Steven Hitlin and Jane Allyn Piliavin, "Values: Revisiting a Dormant Concept." *Annual Review of Sociology*, vol. 30 (2004): 359-393.

10. Erich Fromm, *The Sane Society*. (New York: Rinehart and Co., 1955), 14.

11. As Allen Wood has observed with respect to Hegel's understanding of the nature of ethical subjectivity, "[m]y personality is constituted through the socialization I have received, and my sense of who I am is drawn from the roles I am assigned." *Hegel's Ethical Thought*. (Cambridge: Cambridge University Press, 1990), 197.

12. For an important discussion, see Raymond Polin, *La création des valeurs*. (Paris: Presses Universitaires de France, 1952), 224-237.

13. This is an insight of John Dewey as well when he argues that "[t]he public consists of all those who are affected by the indirect consequences of transactions to such an extent that it is deemed necessary to have those consequences systematically cared

for." *The Public and Its Problems*. (New York: Henry Holt, 1927), 15-16. Dewey also highlights an understanding of society as possessing an ethical substance since "a community as a *whole* involves not merely a variety of associative ties which hold persons together in diverse ways, [it is] an organization of all elements by an integrated principle." 38.

14. G.W.F. Hegel, *Grundlinien der Philosophie des Rechts*. (Stuttgart: Reclam, 1970), §144 *Zusatz*.

15. See the informative discussion in Cicero, *De legibus*, I: xv.42-xvi.45.

16. Thomas Hill Green, *Lectures on the Principles of Political Obligation*. (London: Longmans, Green and Co., 1927), 38.

17. I have developed this thesis of animals as an integral part of Hegel's thesis of "recognition" (*Anerkennung*) in my paper "Enlarging the Sphere of Recognition: A Hegelian Approach to Animal Rights." *Journal of Value Inquiry*, vol. 45, no. 3 (2011): 319-335. Specifically, I argue that what I call the "recognitive structure" is a central mechanism for understanding the ways in which animals can be brought into the space of reasons of rational ethical life.

18. See the interesting discussion of the effects of "animalization" on both humans and animals and the propensity for violence, exploitation, and murder by Mark S. Roberts, *The Mark of the Beast: Animality and Human Oppression*. (West Lafeyette, IN: Purdue University Press, 1998).

19. Axel Honneth, *The Pathologies of Individual Freedom: Hegel's Social Theory*. (Princeton, NJ: Princeton University Press, 2010), 31.

20. Erich Fromm, *The Anatomy of Human Destructiveness*. (New York: Henry Holt, 1973), 281.

21. Ibid., 289.

22. Ibid., 295.

23. Immanuel Kant, *Lectures on Ethics*. (London: Methuen, 1930), 239-40.

24. For a critique of Kant's indirect duties thesis, see Heather Fieldhouse, "The Failure of Kantian Theory of Indirect Duties to Animals." *Animal Liberation Philosophy and Policy Journal*, vol. 2, no. 2 (2004): 1-9. Also see the discussion by Lara Denis, "Kant's Conception of Duties Regarding Animals: Reconstruction and Reconsideration." *History of Philosophy Quarterly*, vol. 17, no. 4 (2000): 405-423.

25. Henry S. Salt, *Animals' Rights: Considered in Relation to Social Progress*. (Clarks Summit, PA: Society for Animal Rights, 1980), 17.

26. Although standard, I still think the basic critique by H. J. McCloskey is correct on this point. McCloskey argues that animals require interests for them to be the subject of rights. See his "Rights." *The Philosophical Quarterly*, vol. 15, no. 59 (1965): 115-127.

27. Joel Feinberg, "Can Animals Have Rights?" in Tom Regan and Peter Singer (eds.) *Animal Rights and Human Obligations*. (Englewood Cliffs, NJ: Prentice-Hall, 1976), 196.

28. Bernard E. Rollin, *Animal Rights and Human Morality*. (New York: Prometheus Books, 1981), 78.

29. Ibid., 79.

30. Tom Regan argues, with respect to the problem of interests, that we need to consider a second meaning of the term. "[I]n saying that *A* has an interest in *X* we are not saying (nor necessarily implying) that *A* is interested in *X* in either the episodic or dispositional sense. What, then, are we saying? What we seem to be saying is this: that *X* would (or that we think *X* would) benefit *A*, that *X* would contribute to *A*'s good or well-

being. . . . For the present it is sufficient to remark that, in the sense of ‘interests,’ a necessary condition of literally speaking of a being as having an interest is that it must be the sort of being which can have a good. Animals, it seems, can meet this condition.” “McCloskey on Why Animals Cannot Have Rights.” *The Philosophical Quarterly*, vol. 26, no. 104 (1976), 254. But this still seems to me to fall into the domain of my critique. We need to attribute this need to them, whether or not they ontologically have that need or not. In other words, the mere fact that they need it does not necessitate an ethical obligation. But even more, the real active moment in rights is the ability to make claims for those interests. We can preserve the interpretation of interests that Regan puts forth here within the structure of argument I am making here.

31. This is McCloskey’s argument, see his “Rights.”

32. The literature here is large. See Randall Lockwood and Frank R. Ascione (eds.), *Cruelty to Animals and Interpersonal Violence: Readings in Research and Application*. (West Lafeyette, IN: Purdue University Press, 1998); Frank R. Ascione and Phil Arkow (eds.) *Child Abuse, Domestic Violence, and Animal Abuse: Linking the Circles of Compassion for Prevention and Intervention*. (West Lafeyette, IN: Purdue University Press, 1999); Andrew Linzey (ed.) *The Link between Animal Abuse and Human Violence*. (Sussex: Academic Press, 2009); Kathleen Heide, *Animal Cruelty: A Pathway to Violence against People*. (New York: AltaMira Press, 2003).

Chapter 11
Relating to Animals in Space and Time: An Exercise in Moral Imagination

Michael Allen Fox

Introduction

The need to think seriously about nonhuman animals from an ethical point of view—in fact, to integrate them into the moral community—is urgent, for three connected reasons. The first is that other species cohabiting the planet with us are becoming extinct at an alarming rate, in large measure because of human activity of various sorts.[1] Second, certain animal species that are not at risk of extinction, namely, vast numbers of domesticated animals that exist only to serve human will and desire, are consuming and despoiling natural resources at an unsustainable rate.[2] Third, there is a growing awareness of systemic cruel and exploitative human practices involving animals (factory farming being only the clearest and best known example), which contemporary moral philosophy also reflects.[3] All of this notwithstanding, why should we care about animals and their future? Many don't care very much, if at all—or so it seems. And we can scarcely hope for cultural rethinking and widespread change to come about without large numbers of people being on board. In what follows, I do not presume to answer the above question about caring in any definitive way, although I have tried to do so elsewhere.[4] Rather, my purpose is to articulate a different way of viewing animals—and indeed the moral community—which might stimulate the imagination in ways that could produce the social momentum that arguments alone (important though they are) cannot.

Moral Distance

Moral distance is a concept that has featured in a number of recent ethical discussions. It is usually (though not exclusively) summoned up by ethical problems affecting humans alone, such as world hunger, poverty, the responsibility to protect human rights, or obligations to future generations. "Distance," in these contexts, can be understood in two general and several specific senses. In general, we may speak of moral distance in reference to the degree of involvement or indifference felt toward others, whether located near to or far from us. But we could also be describing a degree of moral obligation toward others that is believed to exist, whether felt or unfelt. Specifically, moral distance can have spatial, temporal, relational, and consequential reference points, and each of these has different aspects. Thus, *spatial distance* may be near, far, or in-between; *temporal distance* may indicate what is either past or future (with the normal implication that the objects of interest are past or future *persons*); *relational distance* refers to alterity (or otherness), and includes any different form of identity that humans bear, share, and/or honor, but it may also encompass degrees of biological relatedness (as when we think about nonhuman animals); *consequential distance* designates the extent to which the impact of actions is recognized, and responsibility for it taken, by those who perform them.

That these dimensions of distance are interconnected needs no elaboration. But the overriding question that looms before those who think about moral distance is whether any or all of the above distinctions are relevant to our sense of moral concern, to evaluation of our moral obligations, and to the moral judgments we make about our actions and omissions. Some argue, for example, that our obligations are the same, whatever the distance. Opinions then vary, however, concerning whether this is true for all kinds of distance or only certain ones. Others contend that degrees of nearness or remoteness have an important, even decisive, bearing on how we should frame our moral obligations. Debates then revolve around which sorts of distance matter most, and how much weight should be assigned to each.[5]

The *relational* sense of moral distance provides a useful perspective on the issue of animals' ethical standing. For it is commonly maintained that, assuming we have moral obligations to animals at all, we have them to the degree to which animals resemble us biologically, that is, with respect to evolutionary lineage, anatomy, DNA profile, behavior, and so on. It is as if the more animals are like us, the more entitled they are to be liked—or at least to be respected and treated fairly. (Such a view is frequently found even among animal rights theorists.) This stance has a strong intuitive appeal; but the trouble with it is that it retains a rather narrow human-centered bias, and for this reason, tends to replicate the division between beings that count and those that don't (or are of lesser

significance), which characterizes the ethical tradition we need to go beyond. Traditional views establish a "moral pecking order," placing humans at the top; hence we do not advance very far by merely waving a wand of blessing over certain species that demonstrate their sentience, intelligence, or language capacity (for instance) to our satisfaction, and thereby, as it were, establish their claim to qualify as rights-bearers.[6] For this leaves all remaining species out in the cold, the moral wilderness. As a number of other philosophers (e.g., Albert Schweitzer, Kenneth Goodpaster, Paul Taylor, and Val Plumwood) have urged, in order to enable genuine progress toward a meaningful interspecies ethic to take place, we require something better than a merely grudging extension of past modes of thinking—something in the nature of a guiding vision or framework that exhibits our kinship with other life-forms in more vivid and compelling detail.

Deen Chatterjee observes that "Boundaries demarcate not only physical, political, and other space but the moral space of inclusion and exclusion determining the limit and extent of our moral concern."[7] This is certainly true, especially as matters stand. But might it be possible to develop a different, less hierarchical conception of moral space that helps expand rather than contract the moral community? I believe so. And such a move is essential because the ways in which we think about space determine how we utilize it. At present, we humans utilize space in a reckless and species-self-serving manner, which lacks regard not only for the future of our own kind, but also for the flourishing of other life-forms. This is brought home to us daily in media reports of dwindling habitats, extinctions, human-caused disasters (such as the catastrophic Gulf of Mexico oil spill), and the numerous situations of abuse and mismanagement of animals in experimentation, pet-keeping, zoos, livestock-rearing, commercial fishing, hunting, the fur trade, entertainment, racing, fighting, drudgery, and so on.

Moral Space

It seems axiomatic that physical space is essential for the enactment of the moral life, and that this condition is bound to hold for any organism participating in the moral life. The reason is that when we talk about "the moral life," we intend something more than what is merely theoretical and mental. As the phenomenologists always remind us, what we are, who we are, what we stand for, and how we relate to one another are not things or facts so much as events that happen "out there," in nature, in the material/social world. It follows that for any type of *moral* existence to have significance, it must be played out in concrete, physical terms. And therefore too, if a shared and genuinely inclusive form of moral life is ever to develop between humans and nonhumans, it will unfold via modes of embodiment that express who and what we are in the physical space that is also moral space. In parallel, animals will also develop

their lives in moral space, in accordance with how humans allow and encourage this to happen. A fresh attempt to define and depict moral space, then, will be of considerable assistance in evolving a new notion of the moral community. As I trust will become apparent, describing the world (or parts thereof) as moral space is meant to be taken literally, not just figuratively.

A number of writers in diverse disciplines have eloquently expressed the idea that the space in which we are situated and act is constituted by our very presence in it as a space of valuing. Geographer James Proctor, for instance, suggests that "we inhabit a moral earth. It is moral precisely because we inhabit it. The values we have woven into our existence on earth are not necessarily the best ones possible, nor certainly are they self-evident, but there is never some value vacuum we must fill; the earth is already a moral place."[8] Perception is infused with value from as early as we are able to have preferences and make value discriminations. Being cultural animals, humans develop a complex awareness of the world and in doing so, discover themselves already immersed in a value-field of action, as phenomenologists again demonstrate.[9] These values may be (and often are) contested, but value-absence is not something we encounter. Michael Curry, also a geographer, observes accordingly that "places . . . the basic sites of human activities, are essentially normative."[10] Against this background, one can say that each individual human takes on the value-laden world, and then, as a group of playwrights puts it, the challenge of the moral life becomes how to "change . . . his [or her] piece of the world to make it better."[11]

Within this valuing world, I think we all understand the moral density of physical space in a personal sense. Human beings are agents, and while there are different ways to conceive of agency, central to any adequate understanding of it must be the fact of embodiment and the spatial expression of intention, motivation, personality, and will in the world. We live to act and act to live. Actions take place in space and in it, reveal their consequences. Both species and individual development are dramas that unfold in space, and space is the implicit (if not explicit) reference point whereby planning for the future takes place, and whereby we measure responsibility for the past and present. Each of us seeks to optimize the conditions for thriving in our own individual ways, and this involves having the room to be active, respect for bodily inviolability, lack of restraint, minimal restrictions on where and when we can express ourselves or venture forth, and the like. Whether or not these conditions are fulfilled in our individual lives is of crucial importance to us.

What about animals? It is increasingly evident that they too need space in which to survive, thrive, and conduct their species-specific business on the planet. Ecology also teaches that the balance of nature depends upon species diversity. So, whether we value animals in themselves, as means to the larger end of protecting nature, as resources, or all three, there is an incentive to recognize animals' lives as unfolding—for better or worse—in moral space. Their survival consequently depends on keeping this space as open and

uncompromised as possible. But there are other ways in which animals help define moral space. The intriguing suggestion has been made by Claude Blanckaert, anthropologist and director of CNRS (French National Center for Scientific Research), that each nonhuman species has a unique and perspectivally defined sense of space, with its own complex significations.[12] Many animals create recognizable communities of caring, concern, and cooperation.[13] Among some species there are cultural practices, emotional relationships with fellow-members, and individual personalities that develop over time.[14] Animals of all sorts have played a huge role in defining human life, and in myriad ways. Paul Shepard has even explained at length that humans would hardly be what they are in any important respect without our long history of interacting with animals as we have.[15] And Frans de Waal contends that the origins of human moral behavior (and hence, of moral space) are to be found in the way we have evolved from other animals.[16] Existentialists point out that while physical objects "are" in space, human beings "emerge" in space. But so, too, in their own ways, do animals. Animals are not mere things; they are sophisticated beings whose lives project themselves in moral space, both in their own terms and in interaction with humans. Furthermore, many animals (such as elephants, dolphins, orangutans, and dogs) clearly have subjectivity as well as life histories in space and time (including preferences, memories, anticipations, noteworthy acts, emotional reactions, places of residence, and so on) that can be documented in narrative fashion[17]—enough, by some accounts, to call them "persons" in both conceptual and moral senses.[18]

Species (1): Ontology, History, and Narrative

"Species" is a taxonomic label for a class of living organisms, indicating that the individuals belonging to this unit have in common certain behavioral and biological characteristics, a developmental lineage, and the ability to interbreed.[19] Although there are some who challenge the usefulness of this level of classification for various reasons,[20] it still remains scientifically robust, and in any event what I want to say here could be said of another biological classification that might someday replace analysis of living things according to their species. The question at present is this: Does a species name designate anything real in its own right, a whole that is more than the sum of its parts, or is it merely a convenient label? A few brave souls have argued that species are indeed distinct entities,[21] and even that they have a moral status over and above any that may pertain to their individual members.[22] And some who dispute these ontological claims still maintain that humans have duties to preserve species.[23] While I am sympathetic to outlooks that help assign species a prominent status, I wish to take a different tack, concentrating instead on the historical and narrative dimension of species.

Whatever philosophical or scientific rank one attributes to species, individual animals belong to them, and this fact has some important bearing on how we should think about them *as individuals*. For one thing, a species, representing and being the product of an evolutionary lineage, has a history. And as such, things have happened to it that are more than just what is represented in an abstract flow chart of evolutionary speciation. Holmes Rolston, III writes, "The claim that there are specific forms of life historically maintained in their environments over time does not seem arbitrary or fictitious at all but, rather, as certain as anything else we believe about the empirical world, even though at times scientists revise the theories and taxa with which they map these forms."[24] I take it he means by this that species not only have a "natural history" in the usual sense, but also possess a history in a (perhaps) more interesting sense, in that there is a narrative or story which places them within the drama of life unfolding on this planet. Although we may not and cannot know all the details of this narrative, we are able to make some educated guesses about the "chapters" it contains: those about competition with other species, survival strategies, and niche adaptations, for instance. We can understand species within ecosystems and visualize how both move through time together in response to dynamic changes in the biosphere and geosphere.

Now if species have a history and an implicit narrative to reveal, then the individuals the species comprises participate in this story that takes place over space and time. Indeed, they inherit their collective history and incorporate it into their very being, just as we do. That constitutes, in part, what they (and we) are today. This perspective matters because it enables us to see animals as having a stake in existence comparable to our own, and a story to tell about how they survived and got to where they are. And if species longevity counts for anything, then members of vast numbers of species even have a much greater stake in existence than do humans.[25] Possessing a history imparts a quality of richness and endurance through adversity and through space and time that (in our better moments) we acknowledge as having moral significance in respect to human ethnic, linguistic, and other groups. So too can it be seen as something that commands respect—even awe—in relation to animals.

Skeptics may ask, however, "Given that species come and go through time, and are often extinguished by natural selection and cataclysmic events, why should we try to preserve them?" But although the extinction claim stated here is true, I think this challenge misses the point, in that we can only deal—in relative ignorance—with the present and the choices with which it confronts us.[26] And this is a time of monumental human impact on other species that urgently needs to be reined back. The threat our kind poses to the survival of other species has never been greater and can be expected to grow as human population increases and resources and available land dwindle. Animal habitats are compromised by pollution, urban expansion, farming, resource exploitation, and overfishing/overhunting. What is less well publicized is that global warming

(much of which stems from the sources just listed) is contributing very significantly to the rate of extinctions.[27] This places the question of habitat loss within a larger context, and also suggests a moral imperative—one that is centered on animals for a change—to reduce and bring under control the level of greenhouse gas emissions.

Species (2): Diversity, Community, and Relatedness

Most of the ethical concern surrounding species has to do with the diversity of natural kinds and the widely perceived need to protect and preserve it. "Diversity," in this context, refers to the entire spectrum of organisms on the planet and the conditions for their flourishing. But why does diversity matter so much? Chris Maser, a leading research scientist, ecologist, and environmental consultant, remarks as follows:

> Today . . . as I meet each living thing that shares the world with me, I see the pinnacle—the culmination—of billions upon billions upon billions of genetic experiments, all of which have taken place over millions of years, all embodied in each butterfly, each rose, each tree, each bird, and each human being. Every individual living thing on Earth is the apex of creation, because every living thing is the result of an unbroken chain of genetic experiments (each individual that ever lived being part of a single experiment) that began with the original living cell that filled the lifeless sea with life.[28]

Diversity, then, denotes not only the proliferation of life-forms, but also the myriad solutions to environmental challenges that surviving species represent. Diversity is a property of healthy ecosystems, that is, of species living in communities and in self-regulating relationships with one another. Maser points out that there is more to the picture as well: "Diversity is not only the quality of being different but also is the richness of the world and our experience of it."[29] Therefore, the preservation and studying of diversity are beneficial not only in terms of gaining an understanding of strategies for survival, but also because they yield general knowledge and appreciation of the world around us.

In view of these points, it would seem otiose to argue (although some have felt it necessary to do so) that diversity is of value—ecologically, in human/utilitarian terms, psychologically, and aesthetically. And it certainly seems at least *prima facie* clear that this value ought to be preserved. But is this "ought" merely a prudential one, that is, a warning to look after human preference-interests? My suggestion is that an ethical argument mandating the protection and enhancement of species that exist at present can be grounded in the fact that each species has a deep history paralleling our own, and that species diversity contributes abundantly to the health of the planet and to the life-enhancement of various organisms.

While it is difficult, if not impossible, to break away from an anthropocentric standpoint (or at least reference point) for discussing issues of value, a proper understanding of anthropocentrism allows for the recognition and affirmation of both intrinsic and instrumental value in nature. Human experience may inescapably be the home base from which we depart and to which we must always return in making value-judgments, but it does not follow that all such judgments must be human-centered. To cut to the chase, this means that we can confidently assert the value of species diversity in its own right, on the grounds that the ability to flourish is of benefit to each natural kind in its own terms and independent of whatever value that species might have for humans. Not only this, but the contribution of each kind to the healthy functioning of the entire biosphere may be seen as creating value from multiple species-perspectives. At the same time, implicit here are various sorts of instrumental value that humans derive from membership in a well-tuned, productive biosphere, and from the utilization of other species for their own ends.

Now inasmuch as species are the carriers of diversity, and individual animals populate species, conditions have to be made right for individual animals to thrive. At a minimum, animals require intact habitat and human restraint in matters of predation and other forms of exploitation and consumption. As I've maintained in the previous section, addressing climate change is also crucial to preventing species extinctions. Commitment to these objectives calls upon our knowledge about nature to date, but it likewise must rest upon the scope of our ignorance and the humility this should appropriately engender. Bryan Norton notes that "Species are most likely to fulfil their essential needs in undisturbed habitats," but prefaces this with the observation that "The first reason favoring habitat protection is . . . lack of knowledge. . . ."[30] This takes us back to the theme that ecosystem space is the locus of moral concern, if we want to enhance diversity. As noted earlier, animals, like humans, occupy moral space; and, being members of species (understood as above), they occupy "moral time" as well. We need to let these images soak in.

Humans and Animals

To everyone except evolution-deniers, humans *are* animals. But whether this is grudgingly conceded or acknowledged as obvious, relatively few show a willingness to enter imaginatively into the possible implications of the fact. I have tried here to describe how this might be done, or at least, to sketch a first step in the process.

The task to be faced, so far as humans and other animals are concerned, is to work out a new set of relationships, of ways to coexist on this planet. To guarantee the integrity of habitats, and assert respect for animals as individuals and as members of enduring species, is to provide breathing space for organisms

that are under stress everywhere, owing to humans' invasive presence. But it is also to create the conditions for more favorable and constructive interactions where and when humans and nonhumans encounter one another as groups or as individuals within this newly defined moral geography of peaceful cohabitation. Here, experiments in mutual understanding can take place and new information can be allowed to reveal itself. Ethics can then become part of the natural world rather than remain the guarded domain of human-chauvinistic moral theorists who fancy themselves to exist apart from, and above, animals and nature. Curiously, perhaps, sharing moral space that is also physical space requires separation as much as togetherness. For example, the greatest respect we can show toward wild species is to leave them alone and their territory intact and inviolable. In relation to domesticated animals, on the other hand, the use of intimately shared space entails our taking responsibility for promoting the welfare of species we have adopted into our social community. Some would even maintain that showing the appropriate amount of care and concern for these ultimately means terminating the enslavement to human wants and preferences of animals used for food and other exploitative purposes.

However we look at these specific matters, political and economic sacrifices will have to be made. Humans are the responsible parties in the human-animal relationship, and likewise, are the ones who, in the end, will determine the nature and quality of moral space. For a viable interspecies ethic to emerge, therefore, we will have to teach ourselves the hard lesson that human interests do not and must not always trump those of nonhumans. Self-control in matters of power, domination, and exploitation of animals and nature has not been a salient characteristic of our species thus far. Nor has prudence with regard to protecting the conditions on which the future of earthly life will depend. But we should never underestimate the force of imagination—allied with feelings—in helping expand our ethical consciousness and the circle of moral concern. Moral imagination does not require the capacity to visualize a full-blown alternative to the status quo, let alone to describe it in images or capture it conceptually. In a passage that doubtless everyone even remotely interested in animal ethics now knows almost by heart, Jeremy Bentham wrote that "The day *may* come when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. . . . The question is not, Can they *reason*? nor Can they *talk*? but, Can they *suffer*?"[31] My point in citing Bentham is not to endorse his utilitarian approach, but rather, to illustrate that what counts in bringing about a revolutionary alteration of our current ethical framework is the willingness to destabilize it and the ability to see beyond its boundaries. While we would all agree it is impossible to view the future with any certainty, we ought to know equally well that we will need every bit of ethical inspiration we can gather in order to ensure that a liveable planet shall endure.

Notes

1. E.O. Wilson, *The Future of Life* (New York: Vintage, 2003).

2. Henning Steinfeld et al., *Livestock's Long Shadow* (Rome: Food and Agricultural Organization of the United Nations, 2006); Christie Keith, "The environmental impact of pets," *San Francisco Chronicle*, 13 November 2007, http://articles.sfgate.com/2007-11-13/living/17267874_1_cat-litter-pet-ownership-dog.

3. Lori Gruen, "Animals," in *A Companion to Ethics*, ed. Peter Singer (Cambridge, MA: Blackwell, 1993), pp. 343-353; Angus Taylor, *Animals and Ethics: An Overview of the Philosophical Debate* (Peterborough, ON: Broadview Press, 2003); Marc Bekoff, *Animals Matter: A Biologist Explains Why We Should Treat Animals with Compassion and Respect* (Boston: Shambala, 2007). As an uncomfortable aside, note that an estimated 3-4 million unwanted pets are euthanized annually in the United States alone (http://www.humanesociety.org/issues/pet_overpopulation/facts/overpopulation_estimates.html).

4. Michael Allen Fox, "Why We Should Be Vegetarians," *International Journal of Applied Philosophy*, vol. 20 (2006), pp. 295-310.

5. The following sources have been helpful in constructing my account of moral distance: Deen K. Chatterjee, "Moral Distance: Introduction," *The Monist*, vol. 86, no. 3 (July 2003), pp. 327-332; and Val Plumwood, *Environmental Culture: The Ecological Crisis of Reason* (New York: Routledge, 2002). Plumwood recognizes several dimensions of distance (or "remoteness") that affect morality, in addition to those I discuss; see especially pp. 71-80.

6. John Rodman, "The Liberation of Nature?" *Inquiry*, vol. 20 (1977), pp. 83-131; John Rodman, "Four Forms of Ecological Consciousness Reconsidered," in *Ethics and the Environment*, ed. Donald Scherer and Thomas Attig (Englewood Cliffs, NJ: Prentice-Hall, 1983), pp. 82-92.

7. Chatterjee, "Moral Distance," p. 327.

8. James D. Proctor, "A Moral Earth: Facts and Values in Global Environmental Change," in *Geography and Ethics: Journeys in a Moral Terrain*, ed. James D. Proctor and David M. Smith (London: Routledge, 1999), p. 151.

9. See Carol S. Becker, *Living and Relating: An Introduction to Phenomenology* (Newbury Park, CA: Sage, 1992); Alphonso Lingis, *The First Person Singular* (Evanston, IL: Northwestern University Press, 2007); Steen Halling, *Intimacy, Transcendence, and Psychology: Closeness and Openness in Everyday Life* (New York: Palgrave Macmillan, 2008).

10. Michael R. Curry, "'Hereness' and the Normativity of Place," in Proctor and Smith, eds., *Geography and Ethics*, p. 96.

11. Denis Shepard, in Moises Kaufman and the Members of the Tectonic Theater Project, *The Laramie Project* (New York: Vintage Books, 2001), p. 95.

12. Claude Blanckaert, review of *The Great Ape Project: Equality Beyond Humanity*, ed. by Paola Cavalieri and Peter Singer (London: Fourth Estate, 1993), *Revue de Synthèse*, vol. IV, nos. 1-2 (January-June 1994), pp. 261-266, especially p. 264.

13. Frans de Waal, *The Age of Empathy: Nature's Lessons for a Kinder Society* (New York: Harmony Books, 2009).

14. Amy Hatkoff, *The Inner World of Farm Animals: Their Amazing Intellectual, Emotional, and Social Capacities* (New York: Stewart, Tabori & Chang, 2009); Maddalena Bearzi and Craig B. Stanford, *Beautiful Minds: The Parallel Lives of Great Apes and Dolphins* (Cambridge, MA: Harvard University Press, 2008); Tom Spears, "Study finds animals have personality, CanWest News Service (Canada), 26 November 2007, http://www.flmnh.ufl.edu/fish/InNews/personality2007.html; Carl Zimmer, "Looking for personality in animals, of all people," *New York Times*, 1 March 2005, http://www.nytimes.com/2005/03/01/science/01anim.html.

15. Paul Shepard, *The Others: How Animals Made Us Human* (Washington, DC: Island Press, 1997).

16. Frans de Waal, *Good Natured: The Origins of Right and Wrong in Humans and Other Animals* (Cambridge, MA: Harvard University Press, 1996).

17. See, for example, Jane Goodall, *Through a Window: My Thirty Years with the Chimpanzees of Gombe* (Boston: Houghton Mifflin, 1990).

18. Paola Cavalieri, ed., *Etica & Animali*, vol. 9 (1998): special issue devoted to "Nonhuman Personhood"; Gary L. Francione, *Animals as Persons: Essays on the Abolition of Animal Exploitation* (New York: Columbia University Press, 2008); David Sztybel, "Animals as Persons," in *Animal Subjects: An Ethical Reader in a Posthuman World*, ed. Jodey Castricano (Waterloo, ON: Wilfrid Laurier University Press, 2008), pp. 241-257. See also, more generally, Françoise Wemelsfelder, "Animal Subjectivity," in *Encyclopedia of Animal Rights and Animal Welfare*, 2nd ed., ed. Marc Bekoff (Santa Barbara: Greenwood Press/ABC-CLIO, 2010), vol. 1, pp. 45-47.

19. This is meant to be a generally acceptable definition of "species." However, considerable controversy surrounds the matter of definition, both historically and today.

20. See Robert A. Wilson, ed., *Species: New Interdisciplinary Essays* (Cambridge, MA: MIT Press, 1999), pt. V.

21. For example, Michael T. Ghiselin, *Metaphysics and the Origin of Species* (Albany: State University of New York Press, 1997).

22. For example, Holmes Rolston, III, *Environmental Ethics: Duties to and Values in the Natural World* (Philadelphia: Temple University Press, 1988), chap. 4.

23. For example, Bryan Norton, ed., *The Preservation of Species: The Value of Biological Diversity* (Princeton: Princeton University Press, 1986).

24. Rolston, *Environmental Ethics*, p. 136.

25. To view animals, in this manner, as existentially enriched by species membership, and as defined by belonging to collectives that endure through space and time, also reveals that their lives possess greater breadth of moral significance than that found in ethical theories focusing entirely on animals as individuals (such as the animal rights perspectives of Tom Regan or Gary Francione). This revelation, in turn, makes it possible to incorporate obligations toward species into our ethical vision, which animal rights theories have thus far struggled without success to do.

26. For a detailed statement of this outlook, see Bill Vitek and Wes Jackson, eds., *The Virtues of Ignorance: Complexity, Sustainability, and the Limits of Knowledge* (Lexington: University Press of Kentucky, 2008).

27. The United Nations Framework Convention on Climate Change, Intergovernmental Panel on Climate Change's *Fourth Assessment Report* (2007) states that twenty-five percent of mammals and twelve percent of birds may become extinct within the next few decades:

http://www.unfccc.int/essential_background/feeling_the_heat/items/2905.php. See also International Union for Conservation of Nature, "World's most endangered primates revealed," 18 February 2010, http://www.iucn.org/?4753/Worlds_most_endangered_primates_revealed; World Wildlife Fund, "New study shows Bengal tiger's habitat in danger," 19 January 2010, http://www.worldwildlife.org/who/media/press/2010/WWFPresitem14914.html; David Adam, "Carbon emissions creating acidic oceans not seen since dinosaurs," 10 March 2009, *The Guardian*, http://www.guardian.co.uk/environment/2009/mar/10/carbon_emissions_oceans_copenhagen.

28. Chris Maser, *Ecological Diversity in Sustainable Development: The Vital and Forgotten Dimension* (Boca Raton, FL: Lewis, 1999), pp. 23-24. Climate change is even driving radical suggestions by some scientists that species whose habitats are endangered by rising temperatures be transplanted to other parts of the globe. See Suzanne Goldenberg, "In search of a home away from home," *The Guardian Weekly*, 12 March 2010, pp. 28-29.

29. Maser, *Ecological Diversity*, p. 19. Another ecologist establishes that "*The greater the habitat variety, the greater the species diversity*," and that (at a very large biogeographical scale) the greater the species diversity, the greater number of habitats: "The more species, the more habitats they recognize" (Michael L. Rosenzweig, *Species Diversity in Space and Time* [Cambridge: Cambridge University Press, 1995], pp. 32, 176 [emphasis in original]).

30. Bryan G. Norton, "Epilogue," in Norton, ed., *The Preservation of Species*, p. 279. See also Bill Vitek and Wes Jackson, eds., *The Virtues of Ignorance: Complexity, Sustainability, and the Limits of Knowledge* (Lexington: University Press of Kentucky, 2008).

31. Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1780), chap. 19, sec. 1 (emphasis in original).

Chapter 12

Navigating Difference (again): Animal Ethics and Entangled Empathy[1]

Lori Gruen

"Speciesism," "humanormativity," "human exceptionalism"—these are terms that have been used to identify a perceived ethical problem with human attitudes toward and treatment of other animals. Speciesism, akin to sexism and racism, is the view that our species is superior to other species in virtue of a morally irrelevant characteristic—species membership[2]; humanormativity, akin to heteronormativity (and later homonormativity), is the view that humans are the gauge or normative measure against which others are judged deficient, deviant, lacking[3]; human exceptionalism harkens back to nationalist theories that set one nation or one people apart from and above others. The attitudes evoked by these terms and the practices that emerge from and support them are increasingly viewed to be unjustifiably prejudicial and oppressive, but they are also at the very core of scholarship in virtually every field in the "humanities."[4]

Humanism rests on a deeply entrenched value hierarchy—we define the human, human action, human mindedness, human morality, human creativity, human knowledge against the animal and just below the divine. We construct animals as others and ourselves in the image of God, presumably to elevate our value, but in the process we lower theirs and fundamentally, and often perilously, deny our own animality.[5] The limitations of humanism have led some to advocate a "post-humanistic turn" and I think that is a good idea, but some post-humanisms are more appealing than others. In what follows I will first, briefly, elaborate my understanding of humanism and its limitations. I will then discuss the most prominent response to these limitations that comes from

animal advocates, what I will call the sameness response, and discuss some worries with it. I will then turn to feminist rejections of the sameness response that are critical of the isolated individualism central to both humanism and the sameness response to it. I will end by advocating my preferred alternative, what I have been calling entangled empathy, which might be considered a type of post-humanism that helps us navigate difference and build meaningful, ethical interspecies relationships.

"We Are Not Them" Humanism

A commitment to human uniqueness has deep roots going back to ancient texts in both eastern and western traditions.[6] Theorists often go to great lengths to establish humans are different from and better than animals. Consider this from Augustine:

> Though in fact we observe that infants are weaker than the most vulnerable of the young of other animals in the control of their limbs, and in their instincts of appetition and defense, this seems designed to enhance man's superiority over other living things, on the analogy of an arrow whose impetus increases in proportion to the backward extension of the bow.[7]

These days there are less contorted but perhaps more complicated attempts to distinguish us from them:

> An animal might be aware of her experiences and of herself as the subject of those experiences, and yet her attitudes might still be invisible to her, because they are a lens *through* which she sees the world, rather than being parts of the world that she sees. . . . The experiences that she was aware of having would still be experiences of things as "to-be-eaten" "to-be-fled" "to-be-cared-for" and so on; and her responses to those things would still be governed by the teleological content of her experiences.
>
> But as rational beings we are aware of our attitudes. We know of ourselves that we want certain things, fear certain things, love certain things, believe certain things, and so on. And we are also aware of the potential influence of our attitudes on what we will decide to do. We are aware of the *potential grounds* of our actions—of the ways in which our attitudes incline us to respond. And once you are aware of the influence of a potential ground of action, you are in a position to decide whether to allow yourself to be influenced in that way or not . . . you now have a certain reflective distance from the impulse that is influencing you, and you are in a position to ask yourself, "but *should* I be influenced in that way?" You are now in a position to raise a *normative* question, a question about whether the action you find yourself inclined to perform is justified.[8]

Of course there are differences between humans and other animals. Indeed, all

animals are different one from the other, as members of biological groups and as individuals. Chimpanzees are closer to humans genetically and evolutionarily than either is to another great ape, the gorilla. All great apes are markedly different from ungulates, carnivores quite distinct from herbivores, monotremes very unlike cats. Given the tremendous variety of animal shapes, sizes, social structures, behaviors and habitats, separating humans from all other animals is a peculiar way to categorize organisms. But these constructs have purposes and in this case differentiating the human from the animal establishes animals as "others" of lesser worth, others that can be readily used for human ends.

Sameness Response

The standard response to the "we are not them" construct is to turn both to empirical work to show that such a view defies reality and to ethical argumentation that demands that like cases be treated alike.[9] If ethological and cognitive research shows that other animals share many of the qualities that we admire in ourselves and to which we attach moral significance, then we ought to admire and value those qualities in whatever bodies they arise. As I've discussed elsewhere, many species of non-humans have rich social relationships—orangutan mothers stay with their young for ten years and even though they eventually part company, they continue to maintain their relationships over time. Less solitary animals, such as chimpanzees, baboons, wolves, and elephants maintain extended family units built upon complex individual relationships, for long periods of time, in some cases up to fifty years. Meerkats in the Kalahari Desert are known to sacrifice their own safety by staying with sick or injured family members so that the fatally ill will not die alone. Like humans, many non-human animals negotiate their social environments by being particularly attentive to the emotional states of others around them. When a conspecific is angry, it is a good idea to get out of his way. Animals that develop life-long bonds are known to suffer terribly from the death of their partners. Some are even said to die of sorrow.[10] Recent studies in cognitive ethology have suggested that some non-humans engage in manipulative and deceptive activity, can construct "cognitive maps" for navigation, act altruistically, and some non-humans appear to understand symbolic representation and are able to use language. It appears that many, if not most, of the capacities that are thought to distinguish humans, have been observed, often in less elaborate form, in the non-human world.

Some of the work that has been done to explore attributes that we may share with other animals has led to new avenues of inquiry that help us rethink how we have conceptualized certain ideas and practices. Consider the idea of norms and norm governance. The general social scientific understanding is that norms are standards of social behavior that are expected by a group. When a norm is transgressed there is generally a group recognition of the transgression and

typically there is a response. The responses to norm violations will vary depending on contexts. If a new member of the group is being taught a norm the reaction to its violation will tend to be different than when a so-called "trouble-maker" violates the norm, particularly if it is a repeated violation. Most of the literature on social norms treat them as unique to humans. For example, in "A Framework for the Psychology of Norms" Chandra Sripada and Steve Stich write, "Humans are unique in the animal world in the extent to which their day-to-day behavior is governed by a complex set of rules and principles commonly called *norms*."[11] And Ernst Fehr and Urs Fishbacher suggest that: "The human capacity to establish and enforce social norms is perhaps the decisive reason for the uniqueness of human cooperation in the animal world. The evidence indicates that other animals largely lack the cognitive and emotional capacities that are necessary for social norms."[12] Sripada and Stich even suggest that the ability to recognize and respond to norms is part of innate psychological mechanisms that are "universal, [human] species-typical emotional structures," structures that serve in both the norm acquisition function and the norm implementation function.

The sameness response to such claims of human uniqueness allow us to refocus inquiry by challenging the human-centered assumptions being made. Are these emotional structures unique to humans? It seems that these very structures developed to serve a social purpose and it is unlikely, although possible, that closely related species facing similar social pressures would develop very different psychological mechanisms to address those pressures. It is at least plausible that the capacity to recognize and respond to norms may exist in other social animals in addition to the human animal.

There is a large and growing body of literature that supports the view that cooperation and sanction do occur among relatively large groups of animals who are apparently genetically unrelated (individuals that are not direct kin). Chimpanzees provide excellent examples. In natural settings where populations are not threatened, chimpanzees live in fission-fusion societies in which their smaller, tighter knit groups of between four to ten come together with the larger community of approximately one-hundred individuals on a fairly regular, although not day-to-day, basis. The ability to share resources, exchange information, and to manage social interactions in such a large group would best be facilitated through adherence to some sort of norms. In addition, the complex behaviors exhibited in these regular meetings would also be best explained by the existence of norms. Chimpanzees have long-term memory, they are socially tolerant and intelligent; they have quite flexible social repertoires; they have complex communicative abilities (some can even use basic human symbolic language systems); they understand and respond to the emotions of others; they understand the consequences of their and others' actions and there is at least some evidence that they are able to inhibit their behaviors. They also engage in complex behaviors that researchers have variously described as "fairness,"

"other-regarding behavior," "inequity tolerance," "punishment or sanction," "cooperation," and "retaliation." It is possible that this is the wrong way to describe the behaviors, but at least in some cases, norm-based descriptions do seem apt. Here are some of those cases:

In Bossou, chimpanzees are occasionally observed crossing roads that intersect with their territories. One of the roads is busy with traffic, the other is mostly a pedestrian route, both are dangerous to the chimpanzees. On video recording of chimpanzee behavior at the crossings, adult males were found to take up forward and rear positions, with adult females and young occupying the more protected middle positions. The positioning of dominant and bolder individuals, in particular the alpha male, was found to change depending on both the degree of risk and number of adult males present. Researchers suggested that cooperative action in the higher risk situation was probably aimed at maximizing group protection. This sort of risk taking for the sake of others is also often observed in male patrols of territorial boundaries in other parts of Africa. In these instances, a bold male, who may or may not be the alpha of the group, together with others with whom he has an alliance, begin a patrol with the goal of potential food rewards as well as protecting the group from neighboring threats.[13]

In captivity, Frans de Waal and Sarah Brosnan developed a series of tests to try to analyze cooperative behavior (food sharing) among chimpanzees. They found that adults were more likely to share food with individuals who had groomed them earlier in the day. They suggested that the results could be explained in two ways. The "good-mood hypothesis," in which individuals who have received grooming are in a benevolent mood and respond by sharing with all individuals or the "exchange hypothesis," in which the individual who has been groomed responds by sharing food only with the groomer. The data indicated that the sharing was specific to the previous groomer. The chimpanzees remembered who had performed a service (grooming) and responded to that individual by sharing food. de Waal and Brosnan also observed that grooming between individuals who rarely did so was found to have a greater effect on sharing than grooming between partners who commonly groomed. Among partnerships in which little grooming was usually exchanged, there was a more pronounced effect of previous grooming on subsequent food sharing. They suggest that being groomed by an individual who doesn't usually groom might be more noticeable and thus warrant greater response, in the form of food sharing or it could be what they call "calculated reciprocity." They write, "not only do the chimpanzees regulate their food sharing based on previous grooming, but they recognize unusual effort and reward accordingly."[14]

In a different set of studies, de Waal and his collaborators have described reconciliation behaviors in which a high-ranking female will work to help two male chimpanzees "make-up" after an altercation. This kind of behavior, in which the female first attends to the "winner," then reassures the "loser" and

encourages him to follow her to a grooming session with the winner, has no obvious or immediate benefit for the female, but does impact social harmony. Once the males begin grooming each other, she will usually leave them alone.[15]

One of the clearest indications that there are norms in place is activity that corresponds to reactions to violations of norms. de Waal describes one such incident at the Yerkes Field Station:

> Jimoh, detected a secret mating between Socko, an adolescent male, and one of Jimoh's favorite females. Normally the old male would merely chase off the culprit, but for some reason—perhaps because the female had repeatedly refused to mate with Jimoh himself that day—he this time went full speed after Socko and did not give up. He chased him all around the enclosure—Socko screaming and defecating in fear. Before Jimoh could accomplish his aim, several females close to the scene began to "woaow" bark. This indignant sound is used in protest of aggressors and intruders. At first the callers looked around to see how the rest of the group was reacting, but when others joined in, particularly the top-ranking female, the intensity of their calls quickly increased until literally everyone's voice was part of a deafening chorus. The scattered beginning almost gave the impression that the group was taking a vote. Jimoh broke off his attack with a nervous grin on his face, he got the message.[16]

And consider some of the behaviors I witnessed when I visit a group of chimpanzees with whom I periodically interact. When I arrive, there is usually a lot of excitement, I imagine this is both because it is something different from the daily routine and also because I bring lots of treats. During one visit Keeli, an adolescent male, started displaying in ways that are inappropriate for a chimpanzee in his position in the social hierarchy. At one point, Darrell, then the alpha male, decided it was time to put Keeli in his place and began displaying and chasing Keeli around the enclosure, smacking him when he got close enough. While this was going on the other chimpanzees in the group tried to get out of their way, which is quite typical, but on this occasion Sarah, the older female, began "woaow" distress vocalizations. Upon hearing the vocalizations, Darrell continued chasing Keeli around the enclosure but also began reassuring all the other chimpanzees as he did so. The reassurance not only calmed the other chimps down but also slightly distracted Darrell from the intensity of his pursuit. When he eventually caught Keeli, he smacked him, but not as hard as he might have had he been in full pursuit. The next day Keeli sat apart from the group pouting.

On another occasion I observed a surprising set of behaviors. Sarah likes to look at books, so when I visit I occasionally bring her children's books that can withstand chimpanzee handling for at least a few minutes. I gave Sarah her book and before she could really start "reading" it, Harper, a young male chimpanzee, came over and took it away. Sarah didn't struggle with Harper when he took it. Then moments later, Sheba a very smart female chimpanzee (the daughter of

Nim Chimpsky), who didn't appear to me to have noticed Harper's behavior because she was happily eating her dried mangos, went over to Harper and took the book from him. This in itself wouldn't be surprising as taking things that others have is typical among members of a group that aren't clearly dominant. What was surprising was that rather than keeping it herself, she promptly gave it back to Sarah. There were no vocalizations that I was aware of that might indicate Sarah was distressed by Harper's thievery nor that Sheba was trying to appease any distress. It just looked to me as though Sheba was setting things right.

How might we explain the risky behavior the males engage in to protect the group? Or the strategic exchange of food and grooming? Or reconciliation behaviors? Or the sanctioning/reassuring behavior and the rectification behavior? One plausible explanation would be that the chimpanzees are trying to promote social harmony or well-being (in addition to furthering their own) and that they achieve this, in part, by recognizing and acting on certain norms. In the case of the male protection of the group there is coordinated activity that the strong engage in for the sake of the others. In the case of food exchange for grooming, individuals remember the behavior of others and reward it, particularly when longer term positive social engagement is desired. The behaviors I observe amongst my chimpanzee friends may best be explained by positing that the chimpanzees understand social norms, those that distinguish right or apt or appropriate behavior from wrong or inappropriate behavior, and act to enforce the norms. I'm quite certain that these chimpanzees don't ask themselves whether they should be acting the way they are acting or whether their actions are justified, but I do think they are acting under normative forces.

If we can see that the force of norms might be felt in social groups that aren't made up of humans then we can ask ourselves different conceptual questions about the nature of norms and normativity. Yet, while sameness views can provide openings for thinking about ourselves, our practices, and our concepts in new ways, it is also deeply problematic when those holding these views unwittingly project human capacities or extend our conceptions of motivation onto other animals.

To illustrate this worry about unwitting projection, consider a controversy that has been going on for decades in research into what is called "Theory of Mind." When Sarah (mentioned above) was tested originally in the 1970s, she was given tasks that were based on our own conception of mentation and what it means to have and understand mental states such as "intentions," "knowledge," "belief," "thinking," "guessing," "pretending," and "liking." Sarah was shown a set of four video-taped recordings of a human facing a problem and the tape was stopped just before the human was to solve the problem. She was then presented with photographs, one of which depicted the solution to the problem. She was asked to pick the photograph that solved the problem for the human in the video and she passed the test well above chance levels which indicated to David

Premack and Guy Woodruff that Sarah could "impute mental states to herself and to others" and thus had a "theory of mind."[17]

Yet when other chimpanzees at other laboratories were tested, they all failed miserably.[18] It appeared that no other chimpanzees could pass what are called "non-verbal false belief tests," often used with human children before they can speak. A test was designed to determine whether chimpanzees understood that seeing meant knowing. Two humans would stand outside an enclosure with a desirable food item. One of the humans would not be able to see the chimpanzee. (Her eyes might be covered; she would have a bucket over her head; or she would be looking away.) The other human would be looking right at the chimpanzee. If the chimpanzee went to the human that could see him and asked for food, rather than going to the human who could not see him to ask for food, researchers could conclude that the chimpanzees understood that seeing was an important part of the way individuals formed mental states. But the chimpanzees approached the humans randomly in this set of experiments.[19] None of this work supported the original conclusion that chimpanzees could attribute wants, intentions, beliefs, or purposes to themselves or others. Indeed, quite the opposite was being claimed. Cecilia Heyes even suggested that since "there is still no convincing evidence of theory of mind in primates. We should stop asking Premack & Woodruff's question."[20]

But when chimpanzees were not viewed as hairier, stronger versions of human children and researchers started to pay attention to chimpanzee difference, the theory of mind tests could be reformulated. Brian Hare and his colleagues noticed that chimpanzees did seem to understand something about the visual perception of other chimpanzees.[21] Hare created an experiment in which a subordinate chimpanzee and a dominant chimpanzee were put in competition over food, and showed that the subordinate would systematically approach the food the dominant could not see and avoid the food the dominant could see.[22] In a variation on this theme, a subordinate watched food being hidden that the dominant could only sometimes see, depending on whether or not the dominant chimpanzee's door was open or closed during the time of hiding. When the dominant was released, the subordinate would only approach the food that the dominant had not seen being hidden, even though the dominant could see it now. After a series of experiments, the researchers claimed, "We therefore believe that these studies show what they seem to show, namely that chimpanzees actually know something about the content of what others see and, at least in some situations, how this governs their behavior."[23] They concluded, "At issue is no less than the nature of human cognitive uniqueness. We now believe that our own and others' previous hypotheses to the effect that chimpanzees do not understand any psychological states at all were simply too sweeping."[24] The researchers attribute the chimpanzee's success in demonstrating an understanding of another's psychological state to the ecological relevancy of the experiment. Observing differences, in this case that

competing for food rather is a more typical behavior for chimpanzees than begging for it from a human, led to a recognition of complex social cognitive abilities.

That the sameness view leads to empirical problems is troubling, but it also leads to theoretical problems. When what we are looking for is similarities—how we might share the same general type of intelligence or cognitive skills, the same sensitivities and vulnerabilities, the same emotional responses—we tend to obscure or overlook distinctively valuable aspects of the lives of others. We assimilate them into our human-oriented framework; we grant them consideration in virtue of what we believe they share with us; we allow them to be seen, perhaps for the first time, through our distinctively human gaze. And in our magnanimous embrace of the other, we end up reconfiguring a dualism that will inevitably find some "other" to exclude.

Feminist theorists have long been critical of this standard humanist problem. As Naomi Schor put it, "If othering involves attributing to the objectified other a difference that serves to legitimate her oppression, saming denies the objectified other the right to her difference, submitting the other to the laws of phallic specularity. If othering assumes that the other is knowable, saming precludes any knowledge of the other in her otherness."[25]

Varieties of Difference

There are (at least) three types of feminist responses to the sameness view. Each rejects the abstract individualism of liberal humanism and its sameness shadow in favor of contextualizing relationships and recognizing both the ontological and ethical implications that spring from them. The first feminist response focuses on the particularities of relationships, rather than intrinsic capacities generalized over, to try to determine what is ethically salient in our attitudes and actions toward other animals. As I will show, however, this view reverts to a different sort of humanism. The second type of response emerges from the new turn toward material feminism. Material feminism is undoubtedly post-humanist; on this view there are no individual humans to elevate about all else. But I worry here that this view may go too far in valuing every kind of material relation. The third response is what I am calling engaged or entangled empathy that draws on the previous two views, as well as some important insights from the sameness response to humanism, but differs significantly from each.

Particular Familial Relations

Feminist theorists have long been critical of faulty universalism that has been a cornerstone of so much theorizing in ethics, political philosophy, epistemology, and theories of personal identity. Drawing on these criticisms, feminist philosophers Elizabeth Anderson and Eva Kittay have recently taken on the

sameness response to thinking about other animals and those who promote such responses. In particular, they are responding to sameness arguments that equate the moral considerability of non-human animals with that of significantly cognitively impaired humans (a thorny debate that brings animal studies, feminism, disability studies and practical ethics into dialogue). Their rejection of sameness views, most pointedly those of Jeff McMahan and Peter Singer, are based on the view that species-specific social relations make a difference from an ethical perspective.

According to Anderson, a human person's normative commitments do not emerge solely from her intrinsic psychological capacities (those very capacities that sameness proponents have been trying to discover or illuminate); rather such commitments are constructed and made meaningful in social relations with other humans. To illustrate what she is thinking in terms of relations to others who are not moral agents (or "persons" as they are called in the mainstream ethics literature) such as most non-human animals and human moral patients, she has us consider an individual with a profound case of Alzheimer's. This individual is unable to recognize herself or others, to reason, or to care for herself. Anderson argues that this individual's dignity would be violated if she was:

> . . . not properly toileted and decently dressed in clean clothes, her hair combed, her face and nose wiped, and so forth. These demands have only partially to do with matters of health and hygiene. They are, more fundamentally, matters of making the body fit for human society for presentation to others. Human beings need to live with other humans, but cannot do so if those others cannot relate to them as human. And this specifically human relationship requires that the human body be dignified, protected from the realm of disgust, and placed in a cultural space of decency.
>
> If the relatives of an Alzheimer's patient were to visit her in a nursing home and find her naked, eating from a dinner bowl like a dog, they might well describe what shocks them by saying, "They are treating her like an animal!" The shock is a response to her degraded condition, conceived in terms of a symbolic demotion to subhuman animal status. This shows that the . . . dignity of humans is essentially tied to their human species membership, conceived hierarchically in relation to nonhuman animals and independently of the capacities of the individual whose dignity is at stake.[26]

Yet there is no obvious reason to invoke a hierarchy of moral status here. Species-based relationships don't seem to obviously answer the value question. One can imagine that if one treated a dog like a horse, or a chimpanzee like a child, or a bear like a ballerina, some might object in a similar vein, without invoking a value hierarchy.

Of course, specific social relations will determine how moral agents come to understand their attitudes to moral patients. Indeed, a family who has their mother with Alzheimer's in a top-of-the-line facility might find the state-run

care "undignified"; they might even think that the state-run facility "treats people like animals." But this judgment could be the result of snobbery or speciesism, and we should not draw moral conclusions from such judgments. These judgments, in themselves, don't show that human nonpersons, by virtue of their social relations with other, sometimes judgmental, human persons are due more consideration or attention than non-human non-persons.

Eva Kittay has made similar arguments. As the mother of a severely cognitively impaired daughter Sesha, Kittay is vividly attuned to the role of social relations in understanding our moral commitments to others. When we think of moral patients she urges us to think of them as "someone's child . . . That social relationship [entails] a series of appropriate emotional and moral responses. . . . It is morally (and emotionally) appropriate to care for one's child for the child's own sake. It is the practices that define parenthood, and not simply the intrinsic properties of the product of the pregnancy." She too wants to focus on species-specific social relations, particularly those that model the family. She writes:

> Family membership is conditional on birth lines, marriage, and (under particular conditions) adoption, not on having certain intrinsic properties . . . Families (or adequate substitutes) are critical when we are dependent, as in early childhood, during acute or chronic illness, with serious chronic conditions including disability, and in frail old age. At these times, we are generally best served by close personal ties. Families are called on in times of moral crisis for the support of family love and loyalty. Similarly, I propose that membership in a group of moral peers based solely on species membership has as its appropriate moral analogue family membership, not racism . . . As humans we are indeed a family.[27]

Here, Kittay is suggesting that partiality to one's own family needn't be thought of as necessarily prejudicial. She is urging us to think of speciesism—favoring one's own species over members of other species—as on par with favoring one's own family. Insofar as we think it is ethically permissible to grant greater weight to the interests and desires of members of our own family, so is it permissible to grant greater weight to the interests and desires of members of our own species.

There are a number of worries about this view even if we accept the premise, as I do, that species-specific social relations do matter from a moral point of view. It might simply be suggested that ultimately we aren't morally justified in caring more about our own children and family members than the children and family members of our neighbors and colleagues; it is just a function of the way we have arranged our social relations and institutions that we are psychologically oriented toward favoring our own family members and, practically, it works out well if every family takes care of their own. There are, in fact, different cultural practices and alternative family arrangements in which

caring for one's own family members more than for other people is not thought to be justifiable. Favoring one's own family and how we understand who counts as a family member are arguably artifacts of our particular social and cultural practices. And cultural practices are often the very sorts of practices that should be held up to ethical interrogation, because they tend to make certain kinds of prejudices seem natural. Even within our own culture, there are limits beyond which favoring one's own family members become questionable. We cannot go to any lengths to further the interests of our own children over the interests of other people's children. In addition to being limited, partiality to one's own family members is not thought to be ethically required. We don't think that the parent who sends her children to public school and sends the money she would have spent sending them to private school to support education in the developing world is doing something unethical; indeed, many would find that admirable. So, partiality to family looks more like a contingent feature of our social relations and not obviously a principle for organizing those relations and the ethical obligations that might spring from them.[28]

Even if an argument could be made in favor of partiality to one's family it is important to recognize that families come in many forms and I'd argue that families and intimate social units can include more than just humans. My immediate family (I prefer to call it a pack) for quite some time has not included any other humans but does include other animals. Just as Kittay finds it offensive when Sesha is compared to animals, I find it problematic that my intimate social unit is considered less valuable, less genuine, less meaningful than one that is made up exclusively of humans or humans and their "pet."

Consider Dawn Prince-Hughes, an autistic writer and anthropologist, who found the most comfort in the company of animals, and it was through her observations of, and work with, gorillas that she was eventually able to enter into a human family. Prince-Hughes, by spending time watching captive gorillas who were "so sensitive and so trapped," began to understand herself, the world, and other humans. Through them she learned that "persons are more than chaotic knots of random actions" and "that as people we are reflected in one another. Because the gorillas were so like me in so many ways, I was able to see myself in them, and in turn, I saw them—and eventually myself—in other human people."[29] Bonds of kinship extend beyond the species border, in our own culture and in others. If other animals can be part of families, then the family does not serve as a model for identifying morally relevant distinctions between species.

Before I turn to the material feminist view, I want to say one more thing about Kittay's criticism of the sameness model, and add a small wrinkle. Kittay is concerned (even disgusted) when Sesha is compared with an animal, but those who work with and study animals are also troubled when perfectly healthy, cognitively functioning non-humans are compared to cognitively impaired humans. The sameness construct distorts both and leaves little room for non-

human animals who themselves have cognitive disabilities. I know a chimpanzee named Knuckles who has cognitive and motor-control deficits believed to be due to cerebral palsy. Knuckles has lived at the Center for Great Apes, a sanctuary in Florida, since he was two years old. He receives round-the-clock care from human caregivers, while also being allowed supervised visits with other chimpanzees. He is quite distinct in his abilities from other non-cognitively impaired chimpanzees, who are also quite distinct from humans with cognitive impairments. If we want to get an accurate picture of the range of beings who deserve our moral attention, attending to the variety of differences is essential.

Kittay and others who have personal stakes in the lives of humans with cognitive impairments have made the importance and value of their lives, experiences, and interests more vivid. They have reminded us of the centrality of relationships and the importance of epistemic humility. But there is no reason to extend that humility to only human relationships then stop when relationships cross the species border. Those studying and caring for non-human animals have also enlivened our understanding of the value of the lives, experiences, and interests of other animals and the relationships these individuals form with one another are meaningful and enlivening.

Material Matters

Material feminists, though by no means univocal, push epistemic boundaries and encourage a reassessment of our illusory understandings of nature as something distinct from and opposed to culture, a binary that is central in maintaining the "we are not them" construct. Material feminists are particularly dismayed by feminists who have eschewed nature and the study of science for fear of being labeled essentialists or positivists as well as postmodernists who reduce the other-than-human-world to discourse.[30] They see such views as reproducing a kind of anthropocentric dualism that is reminiscent of the sameness response discussed earlier.

Donna Haraway has long tried to correct this and find ways to talk about nature, animals, and the material world in other than dualist terms. Her recent focus on companion species has us recognize that animals and organisms are not passive others, but, as Stacey Alaimo and Susan Hekman suggest "agentic forces that interact [or intra-act] with and changes the other elements in the mix, including the human."[31]

One of the central insights of material feminism is that we are already in relations with all sorts of life forms and, for the most part, we have not been recognizing this. That we are already in relations should ground the demand for more conscientious ethical reflection and engagement. Since we necessarily exist in relation with other animals, and our perceptions, attitudes and actions are entangled with them in ways that make their experiences go better or worse,

which in turn affects our own experiences, to varying degrees, then this is a social/natural fact that should be attended to. The ontological recognition that we are in unavoidable relations to all sorts of other beings and organisms raises profound ethical questions. As Karen Barad puts it "the ethical questions that we will want to consider are not only about how nonhuman animals are being appropriated for human desires but also how our desires and our beings are co-constitutively reconfigured as well."[32] And the path to answers to such questions is not clear.

Attending to all life forms, finding agency and intra-agency in other animals as well as whole ecosystems and even the dirt, may go so far that the ethical questions become overwhelming.[33] Our relations to other organisms are varied and the meaning and significance of particular relations also varies. Some of these relations are more tangible: animals that are in the relation as the eaten, animals made homeless by increased human consumption and habitat destruction and the effects of climate change, animals slaughtered for fun or profit. Some relations are less tangible: our relations to the bacteria that are a part of our guts and the viruses and other animals' DNA that are now apart of the human genome. While a recognition of these relations has important epistemic implications, it is also clear that not all relations are ethically equivalent. If we are all parts of bioassemblages, companion species, coexisting and coevolving and co-constituting, then an ethic of respect and right perception provides an epistemic anchor, but it can't help navigate the ship through complex terrain. We live in a world of conflicts and need guidance about how to resolve at least some of that conflict, some of the time.

The other day I was driving to my university to meet a colleague who is a stem cell biologist and I was reminded again of the importance of difference and making distinctions. I came across some Canadian geese lined up along the side of a street staring into the road where one of their kin lay dead, presumably recently hit by a car. I was quite moved by this sight. Perhaps these geese were mourning, standing together in grief at the death of a member of their community, their gaggle. Perhaps they were merely responding to change—but even so, their response to change is qualitatively different from a stem cell's response to change. The death of the goose is, to my mind, profoundly different than the destruction of an in vitro embryo to create stem cell lines or the death of those cells when the medium in the dish becomes contaminated. The material feminist recognition of life and its various entangled processes and their commitment to deconstructing sameness/difference, masculine/feminine, organic/machine, and culture/nature binaries may leave us unable to ethically respond to differences between kinds of fellow creatures.

The ethical implications of this expansive ontology suggest that the life that sustains us in our communities matters, and it certainly does. As Judith Butler has recently suggested:

> we are reciprocally exposed and invariably dependent, not only on others, but on a sustained and sustainable environment. Humanity seems to be a kind of defining ontological attribute… But what if our ontology has to be thought otherwise? If humans actually share a condition of precariousness, not only just with one another, but also with animals, and with the environment, then this constitutive feature of who we "are" undoes the very conceit of anthropocentrism. In this sense, I want to propose 'precarious life' as a non-anthropocentric framework for considering what makes life valuable.[34]

But this appears to be a new form of vitalism that does not seem any better prepared to address the practical problems that attended earlier versions promoted by some environmental ethicists. Perhaps, like philosopher William Goodpaster, who encouraged us to think beyond the human and the animal and to consider valuing life itself over thirty years ago, the focus on the significance of complex intra-actions among living things is meant to focus our "sensitivity and awareness" rather than to guide our actions.[35]

Perhaps what is most troubling about the ethical shift that some material feminists appear to be calling for is that it appears to miss, or divert attention away from, the deep ways in which our emotional, cognitive, and embodied connections are oriented toward particular others with whom we share or can share a particular quality of connection.[36] I take this to be an important insight of both the sameness response proposed by many animal advocates and the family focus that Anderson and Kittay recommend. I can't connect with embryonic stem cells or microbes (even those that are part of me) and my connection to bugs is thin. I am not moved to act for their sakes if there are other conflicting values in play. While I do feel a deep sense of grief when humans fell old trees or pave meadows or dump toxics in wetlands, that grief is driven by concern for the creatures that made their lives and their homes in these places, by my one-sided projection of connection, and perhaps by my feeling of "species shame." Clearly there is value to be attended to in all the places of the earth that sustain life, but that value is abstract, I am not connected to the meadow or the wetland or the insects that inhabit them in the way that I can be to the animals, fish, and birds who make their homes there. My sense is that the reason I can't connect is because it isn't possible to be in direct *ethical* relation to ecosystems or organisms that exist in ways that I can't imagine, beyond metaphor or projection, what it is like to be like.[37]

Entangled Empathy

Being in ethical relation involves, in part, being able to understand and respond to another's needs, interests, desires, vulnerabilities, hopes, perspectives, etc. not by positing, from one's own point of view, what they might or should be. To recognize another's distinct orientation does not mean that we are not also, as the material feminists note, shaping and co-constructing each other's needs,

interests, desires, even identities. While everyone is entangled with particular others and to some extent with various forms and forces of life, not recognizing that there is a particular embodied being who organizes her perceptions and attitudes can be problematic. We need only reflect on the various ways that those in positions of power have obscured or disavowed the subjectivity of those they seek to dominate and the struggles for recognition that follow to realize the importance of holding on to the self, however porous or shifting her boundaries may be. Empathy is a way of connecting to specific others in their particular circumstances and thus is a central skill for being in ethical relations.

As I understand it, entangled empathy is a process whereby individuals who are empathizing with others first respond to the other's condition (most likely, but not exclusively, by way of a pre-cognitive empathetic reaction).[38] There are a myriad of ways such reactions can go wrong, but they are also often right, especially in directing needed attention in the right directions and there are often important details to be gleaned from these initial reactive attitudes. From these reactions, we move to reflectively imagine ourselves in the position of the other, and then make a judgment about how the conditions that she finds herself in may contribute to her perceptions or state of mind and impact her interests. These perceptions will involve assessing the salient features of the situation and require that the empathizer seek to determine what is pertinent to effectively empathize with the being in question. Entangled empathy requires that there be room to correct empathetic responses.

So, entangled empathy involves both affect and cognition. The empathizer is also attentive to both similarities and differences between herself and her situation and that of the fellow creature with whom she is empathizing. She must move between her own and the other's point-of-view. As Diana Meyers has recently written:

> Given that people aren't transparent to one another, accurate empathy seems to require gradually building up propositional and intuitive knowledge of the other that is then fed into an imagined scenario, which may in turn be corrected and reimagined after further observation and thought, and so on. In other words, alternating between the first-person perspective of the individual you are empathizing with and your own third-person perspective on her is part and parcel of empathy.[39]

This alternation between the first and third person points-of-view will minimize narcissistic projections, a worry associated with some forms of empathetic engagement.

Many standard accounts of empathy suggest that what one does when one empathizes is put oneself into another's shoes. This does not require that the empathizer accurately characterize the person or being with whom she is empathizing as the empathizer can maintain her own perspectives, values, beliefs, and attitudes, just from someone else's embodied position, as it were.

This is one way to understand problematic anthropomorphizing (not all anthropomorphizing is problematic[40]) with animals and can lead to profound mistakes both in judgments and in practices. But in moving between the first and the third person perspective, as Meyers suggest, one must genuinely attempt to understand how the one being empathized with experiences the world and this requires gaining as much knowledge of the ways she lives as is possible. In the case of other animals, to empathize well, one must understand the individual's species-typical behaviors as well as her individual personality, and that is not easy to do without observation, over a period of time. Many current discussions of the claims animals make on us fail to attend to the particularity of individual animal lives. The overgeneralizations that Kittay, Anderson and others criticize in sameness accounts can be avoided if one is engaged in entangled empathetic interactions.

Some have argued that empathy with others needn't bring about good results for the individuals who are being empathized with as it doesn't have any motivational pull. Some have even suggested that "good" torturers are good empathizers and that allows them to more fully access the tortured individual's weak spots. Yet, in the psychological literature, empathy is often coupled with a motivational state that leads to "helping action."[41] If the development and exercise of empathy involve both affective empathy (emotional contagion, imitation, etc.) and cognitive empathy (reflective engagement with the feelings of the other, perspective taking, etc.) then it is likely that empathy is motivational. But the motivations can take different forms. Some people moved to help a distressed individual with whom they are empathizing may be motivated to end the distress because it causes them discomfort; others may be moved because they are unable to imagine themselves in a situation in need in which others do not come to their aid; others may be motivated because their sense of themselves as an empathetic person requires it. Indeed, some combination of motivations may be operating much of the time. Unlike sympathizing with someone in distress in which the sympathizer feels bad or sorry for the person, entangled empathy involves the empathizer directly and thus is motivating.[42]

Entangled empathy as I am construing it involves both affect and cognition and will necessitate action. The empathizer is attentive to both similarities and differences between herself and her situation and that of the fellow creature with whom she is empathizing. How might this process of empathetic engagement help to overcome the problems with the sameness approach and the dualism and anthropocentrism that it threatens? Because entangled empathy involves paying critical attention to the broader conditions that undermine the well-being or flourishing of those with whom one is empathizing, this requires those of us empathizing to attend to things we might not have otherwise (much as the material feminists would have us do) and figure out how to better navigate difference. Entangled empathy requires gaining wisdom and perspective and,

importantly, motivates the empathizer to act ethically. I suggest that entangled empathy with other animals is a form of moral attention that focuses our perception of the claims they make on us, helps us to reorient our ethical sensibilities and overcome the limitations that standard humanist responses to them pose. It is also an ethical skill that can assist us in navigating various forms of human difference, a skill that in our violent world still needs to be taken up and thoughtfully honed.

Notes

1. Parts of this discussion are drawn from my book *Ethics and Animals* (Cambridge: Cambridge University Press, 2011). I am indebted to participants in the Pacific Society for Women in Philosophy 2010 Conference at San Francisco State University, to the Feminist, Gender, and Sexuality Studies Salon participants at Wesleyan University, to the Animal, Violence, Justice Research Cluster members at the University of Washington's Simpson Center, and to Robert Jones, Mary Jane Rubenstein, and Margot Weiss for their insightful comments on earlier versions of this paper.

2. Richard Ryder coined the term and it was popularized by Peter Singer. Tzachi Zamir, in *Ethics and the Beast* (Princeton, NJ: Princeton University Press, 2007) explores multiple and contested ways to understand "speciesism."

3. See Micheal Warner, *Fear of a Queer Planet* (Minneapolis: University of Minnesota Press, 1993) and Lisa Duggan, *The Twilight of Equality?* (Boston: Beacon Press, 2003).

4. Of course much work in the sciences depends upon the bodies of animals used in research, so the humanities and social sciences aren't alone in their dependence on humanism.

5. There are other ways of understanding "humanism" and my interest is not in staking out any particular territory for understanding and refuting "humanism" or "post-humanism" *per se*, I am primarily interested in the set of prejudicial ideas that have become associated with humanism.

6. Aristotle and Mencius are obvious examples.

7. Thanks to Mary Jane Rubenstein for bringing this remarkable quote to my attention. It is from *City of God*, Book XIII, Chapter 3.

8. Christine Korsgaard, "Reflections on the Evolution of Morality" pp. 21-22 (available online).

9. This is the strategy of the mainstream animal rights movement and of the first wave of animal ethics, as seen in works by Peter Singer, Tom Regan, and others.

10. The Moral Status of Animals, *Stanford Encyclopedia of Philosophy* (http://plato.stanford.edu/entries/moral-animal/).

11. Chandra Sripada & Stephen Stich, "A Framework for the Psychology of Norms" in Peter Carruthers, Stephen Laurence & Stephen Stich (eds.), *The Innate Mind, Volume 2: Culture and Cognition*. (New York: Oxford University Press, 2006).

12. Ernst Fehr & Urs Fishbacher, "The Nature of Human Altruism" *Nature* 425 (2003).

13. Kimberly Hockings, James Anderson & Tetsuro Matsuzawa, "Road-crossing in chimpanzees: a risky business" *Current Biology* 16 (2006) pp. 668-670.

14. Sarah Brosnan & Frans de Waal, "Variations on tit-for-tat: Proximate mechanisms of cooperation and reciprocity" *Human Nature* vol. 13 no. 1 (2002) pp. 129-152.

15. Frans de Waal, "Primates—A Natural Heritage of Conflict Resolution." *Science.* vol. 289 no. 5479 (2000) pp. 586-590.

16. Frans de Waal, *Good Natured* (Cambridge, Mass: Harvard University Press, 1996) pp. 91-2.

17. David Premack & Guy Woodruff, "Does a Chimpanzee Have a Theory of Mind?" p. 515, *Behavioral and Brain Sciences* 1 (1978) pp. 515-526. Sarah is an "enculturated" chimpanzee, she has spent most of her life in regular interactions with humans.

18. Daniel Povinelli, et. al. "What young chimpanzees know about seeing." *Monographs of the society for research in child development,* vol. 61 no. 3 (1996).

19. Ibid.

20. Cecilia Heyes, "Theory of mind in nonhuman primates" p. 102 *Behavioral and Brain Sciences* vol. 21 (1998) 101-114. For an interesting discussion of how rearing history might influence results see Megan Bulloch, Sally Boysen & Ellen Furlong "Visual attention and its relation to knowledge states in chimpanzees *Pan troglodytes*" *Animal Behaviour* 76 (2008) pp. 1147–1155.

21. Brian Hare et al. "Chimpanzees know what conspecifics do and do not see." *Animal Behaviour.* Vol. 59 (2000) pp. 771-786.

22. Brian Hare, Josep Call & Michael Tomasello, "Do chimpanzees know what conspecifics know?" *Animal Behaviour.* Vol. 61 (2001) pp.139-151.

23. Michael Tomasello, Josep Call & Brian Hare, "Chimpanzees understand psychological states – the question is which ones and to what extent" p. 155 *Trends in Cognitive Sciences* vol. 7 (2003) pp. 153-156.

24. Ibid, p. 156.

25. Naomi Schor, "This Essentialism Which Is Not One," *differences* vol. 1 no. 2 (1988) See also Lori Gruen & Kari Weil "Teaching Difference: Sex, Gender, Species" in Margo DeMello (ed.) *Teaching the Animal* (New York: Lantern Books, 2010) pp. 127-144.

26. Elizabeth Anderson, "Animal Rights and the Values of Nonhuman Life." In Cass R. Sunstein and Martha Nussbaum (eds.). *Animal Rights: Current Debates and New Directions*. (Oxford University Press, 2004) p. 282.

27. Eva Kittay, "At the margins of moral personhood" *Ethics* 116 (2005) p. 124.

28 There is a lot of interesting work about familial partiality See, for example, Niko Kolodny "Which Relationships Justify Partiality? The Case of Parents and Children," *Philosophy and Public Affairs* 38:1 (2010) pp. 37–75.

29. Prince-Hughes, Dawn. *Songs of the Gorilla Nation: My Journey through Autism*. (Harmony Books, 2004) p. 3.

30. The claim that feminists are "biophobic" has been challenged, most notably by

Sara Ahmed see "Open Forum Imaginary Prohibitions: Some Preliminary Remarks on the Founding Gestures of the 'New Materialism,'" *European Journal of Women's Studies* vol. 15, no. 1 (2008) pp. 23–39. However, judging from the backlash against ecofeminism and the repeated, yet mistaken, claims that ecofeminism is essentialist (see Greta Gaard, "'Ecofeminism' Revisited: Rejecting Essentialism and Re-Placing Species in a Material Feminist Environmentalism" *Feminist Formations*, (forthcoming) there is force to the material feminist view that some feminists eschew "nature."

31. See Stacy Alaimo, "Transcorporeal Feminisms and the Ethical Space of Nature," *Material Feminisms*, (eds.) Stacy Alaimo and Susan Hekman (Bloomington: Indiana UP 2008) p. 251. See also Kari Weil's discussion in "Shameless Freedom." JAC 30 (3-4) 2010.

32. Karen Barad, "Queer Causation and the Ethics of Mattering" p. 335 in Noreen Giffney and Myra Hird (eds.) Queering the Non/Human (Hampshire: Ashgate Publishing, 2008).

33. Alaimo quoting McWhorten on dirt, ibid. p. 247.

34. Pierpaolo Antonello & Roberto Farneti. "Antigone's claim: A conversation with Judith Butler." *Theory & Event* vol. 12 no. 1 (2009) as quoted by James Stanescu in "Species Trouble: Mourning, Biopolitics, and the Precarious Lives of Animals" (unpublished manuscript).

35. As Goodpaster wrote "It seems to me that there clearly are limits to the operational character of respect for living things. We must eat, and usually this involves killing (though not always). We must have knowledge, and sometimes this involves experimentation with living things and killing (though not always). We must protect ourselves from predation and disease, and sometimes this involves killing (though not always). The regulative character of the moral consideration due to all living things asks, as far as I can see, for sensitivity and awareness, not for suicide (psychic or otherwise)." *Journal of Philosophy* vol. 75, no. 6 (June 1978) p. 324.

36. Stephanie Jenkins and Mary Jane Rubenstein have both suggested to me that the resources for theorizing about connections to particular others is very much a part of Butler's focus in her recent writings.

37. When I say I am not connected to these abstract places I don't mean to suggest that others who have formed particular, meaningful connection to such places aren't really connected. But their situated knowledge may ground their connections in ways that it can't ground mine. Of course, whether the connection is reciprocated or metaphorical will need to be considered.

38. This discussion builds on my earlier work on what I was calling "engaged empathy." See for example, "Empathy and Vegetarian Commitments," in Steve Sapontzis (ed.) Food *for Thought: The Debate over Eating Meat* (NY: Prometheus Press, 2004) pp. 284-294. Reprinted in Carol Adams & Josephine Donovan (eds.) *The Feminist Care Tradition in Animal Ethics* (NY: Columbia University Press, 2007) pp 333-344 and "Attending to Nature," *Ethics and the Environment* 14(2) (2009) pp. 23-38.

39. Diana Meyers " Empathy for Border Crossers" (unpublished manuscript)

40. See, for example, Brian L. Keeley, "Anthropomorphism, Primatomorphism, Mammalomorphism: Understanding Cross-Species Comparisons" *Biology and Philosophy* vol. 19 no. 4 (2004).

41. See, for example, C. Daniel Bateson's research in *The Altruism Question: Toward a Social Psychological Answer*. (Hillsdale, NJ.: Lawrence Erlbaum, 1991) and Martin Hoffman on internalization and guilt in *Empathy and Moral Development* (Cambridge: Cambridge University Press, 2000).

42. Because of the variability around the understanding of the terms empathy and sympathy not everyone would agree here. For example, Stephen Darwall claims that "empathy can be consistent with the indifference of pure observation" whereas sympathy involves concern for the person sympathized with and this concern is motivational, in "Empathy, Sympathy, and Care." *Philosophical Studies* 89 (1998) pp. 261-282. It should be clear from my discussion that empathetic distress is not something one can remain indifferent to and this is the case whether or not the empathizer has concern for the individual with whom she is empathizing.

Chapter 13
Toward a Properly Post-Humanist Ethos of Somatic Sympathy

Ralph R. Acampora

Late modernity is a time of valuational ferment, especially as regards ecological concerns. As Strachan Donnelley of the Hastings Center observes, "we are seemingly in a period of profound flux in our philosophical understanding of ourselves and our ethical relation to the natural, animate world."[1] It has become widely acknowledged that the reigning modernist ethos of humanism has brought us down a cultural path leading toward environmental crisis and bioethical confusion. There is substantial truth for example, in David Ehrenfeld's polemical critique of humanism's arrogance namely, that the intellectual and social ideals of human dignity and power became so exclusively and exuberantly anthropocentric that they have grown to the cancerous extremity of endangering biospheric health and beauty.[2] Since this situation presents difficulties of epistemic and ethical import, it can be characterized as problematic in a Deweyan sense.[3] Environmental crisis and bioethical confusion are existential catalysts for further scientific and moral inquiry. At a very basic level of disposition, we worry about our own prospects and care about how we affect others'.

Consequently, a number of trans-human moral theories have arisen in opposition to the dominant ideology of anthropocentrism.[4] Yet, the more generally popular of these ethical systems tend to "elevate" nonhuman beings into our still all-too-humanist sphere of moral concern, often by drawing attention to the "higher" (i.e., humanoid) mental capacities of other organisms.[5] Whether contingently or essentially, consequentialist appeals to sentience and

deontological definitions of subjectivity function effectively as standards of moral significance (perhaps only) by utilizing positive comparisons to human exemplars of consciousness.[6] Hence, accidentally or necessarily, they attract the charge of personification from reactionary anthropocentrists. To avoid the real or rhetorical label of anthropomorphism, I propose that we animal ethicists shed anthropocentric hierarchy altogether—even (the risk of) its appearance—and place our moral thought and political activity behind the truly post-humanist task of reappreciating bodily animacy as such. Thus we may extend the range of caring regard in the very gesture of recognizing our own vital status as animate zoomorphs.

I undertake this task by engaging a bio-existential hermeneutic of body in view of Edith Wyschogrod's observation that "classical phenomenology's account of the body subject [can be] recontextualized so as to highlight the body's receptive capacities, its vulnerability, its patience; it is thus replete with ethical significations," and with respect to Carol Adams' conclusion that "A relationship exists between reclaiming the body and its full range of feeling, and reclaiming animals' bodies, including women's. A feminist care ethic for the treatment of [other] animals offers the possibility of such reclamation."[7] Interpreting phenomenal bodiment along these lines, we enter into a mode of philosophizing that is fruitful for inter-species ethics. For the live body is the primary locus of existential commonality between human animals and other organisms, and the appreciation of commonality undergirding differentiation enables the growth of moral relationships.[8]

In order to illustrate the concrete import and philosophic plausibility of these claims, I would like to appropriate and look to de-anthropocentrize Werner Marx's neo-humanist meditations on phenomenologizing moral reflection.[9] Marx attempts to delineate a path for developing non-metaphysical morality by demonstrating that it is possible—without resorting to transcendent theology or rationalistic systems—to find "a measure on earth" for ethical conduct. He believes that this earthly standard is discoverable in the capacity for compassion, which manifests itself preeminently through one's encounter with mortality. Basically, the pattern suggested is that confrontation with death and dying produces a sense of life's transience, contingency, dependence; this feeling, in turn, breeds an affection of solidarity with those beings who share the condition of mortality. As against our present concerns, however, Marx believes that the concomitant transformation of attunement from solitary horror under the shadow of fatality to altruistic joy in the company of others—is "an unfolding of what characterizes man as a *human being above all.*"[10]

This anthropocentrist interpretation rests on two premises: (1) the conviction that the catalyst of compassion, genuine mortality, stems from self-reflexive awareness and elicits rational insight; (2) the assumption that both these forms of consciousness (i.e., self-reflection and intellectual intuition) are exclusively human phenomena. As Marx's mentor, Martin Heidegger, would have it, only humans truly die—other animals, by counter-example, merely perish. One way of challenging such an interpretation would be to marshal

ethological evidence for nonhuman modes of "being-unto-death."[11] Another tack, one I will follow instead, is to shift the platform of comparison by suggesting that we may ground moral compassion for other animals in the sensation of sharing carnal vulnerability (rather than mortality under the aspect of mental phenomena).[12]

Allow me to explicate what I mean by "sharing" such a sensibility; from that elaboration the moral connections with compassion can be made manifest. On a somatic level, then, it seems to me that we are aware of our own physical vulnerability—susceptibility to injury and illness just in virtue of being sentient entities of animate flesh. We might share this sort of somatic sensitivity with another (kind of) organism in the minimal sense of becoming aware that our susceptibility to suffer harm is like that of the other organism. My claim on this construal is that such minimal mutuality of common carnal nature suffices phenomenologically to establish compassionate concern for the other—in the mode of its being the proper object or "patient" of ethical consideration. In another, stronger sense of sharing, the second party might also become aware of our vulnerability being similar to its own; this richer form of reciprocity is requisite, it appears to me, for interspecific compassion to take on the aspect of respect—whereby both parties appropriately regard each other as moral subjects, agents or actors.[13] Some of our relationships with other primates (particularly apes), with cetaceans (such as dolphins), and most especially with domesticated companion and work animals (such as dogs and horses), feature reciprocally cognizant compassion grown into moral respect.

Yet, I wish to dwell not so much on these examples as on the former (and broader) sort of morally compassionate concern, that variety sufficiently based merely on one party's sensing of bodily vulnerability felt (immanently) to be similar to another's. Here we move beyond, or rather behind, Marx—to the founding generation of phenomenologists. For it is Edmund Husserl himself and his student, Edith Stein, who provide more illuminating accounts of relevance.

Husserl spoke of what he called the science of somatology, whose "foundation is finally the direct somatic perception that every empirical investigator can effect only on his own body and then the somatic [clarification] that he performs in the interpretive apprehension of perceived alien animate organisms as such."[14] With respect to such somatology's concernful application, Stein's extension of her mentor's thought inclusively incorporates transpecific cases: "The type'human physical body' does not define the limits of the range of my empathic objects," she says, "For example, I may sense-in pain when [a nonhuman] animal is injured."[15] Although Stein remains skeptical about the possibility of understanding certain gestures of another (kind of) animal, latter-day phenomenologists such as Kenneth Shapiro have pointed to the promise of "kinesthetic empathy" in becoming familiar with (the significance of) the positions and movements of other animate organisms.[16] A similar point is made from the perspective of Anglophonic philosophy by the analytic thinker Ian Hacking: "We sympathetically experience an emotion akin to another by picking

up cues from the body. . . . We perceive the emotions of animals when we attend to their bodies. . . . We do not *infer* [as by analogy] that animals have emotions from the[ir] movements and dispositions."[17]

What is the ethical import of cross-species somatology? I hold that it provides the experientially primordial basis of what we sometimes refer to as the "moral sense"—this being a point that comes into sharper relief through interspecific illustration. Historically, of course, moral sensibility has been the province of a largely Scottish tradition of moral sentiment. Thinkers such as Shaftesbury, Hutcheson, Hume, and Smith conceived of it as an innately altruistic ethical faculty. In the current discussion, whose terms I am presently trying to set, "moral sense" signifies a more densely physical pattern than does the relatively rarified notion of psychic sympathy to which traditional moral sense theorists appealed.[18] I think that, since the eighteenth-century theories leave phenomena of moral sentiment up in the air, more recent models of empathetic identification can be used to (try to) ground those phenomena in a "psycho-ethics" of projective imagination (i.e.,, stirring moral sentimentality by taking an other's role in the "mind's eye").

However, to the contrary of these psycho-ethical views, it is my contention that (especially the transpecific) moral life is primarily rooted—as a matter of phenomenal fact—in corporal *symphysis* rather than in mental maneuvers in the direction of typical sympathy. As I use it, "symphysis" is meant to designate the felt sense of sharing with somebody else a live nexus as experienced in a somatic setting of direct or systemic (inter)relationship.[19] I believe that speaking of symphysis is the best way to *describe* the (proto-ethical) feeling that prepares us to take other animal beings into moral account.[20] Inferential reasoning by analogy may rationally *justify* that assurance, and psychology of imagination may scientifically *explain* it via empathic projection, but only somatologies of genus-being and of alien specificity can properly (i.e., phenomenologically) articulate its actual experience of conviviality.[21]

From this last perspective, then, an ethos sculpted somatically by symphysical encounters would constitute a character or culture morally sensitive to the existential element or being-in-the-world of flesh, including that carnal vulnerability shared with any live body as such.[22] Take a current illustration, for contrastive example: the aftermath of the Deepwater Horizon oil rig's sinking in the Gulf of Mexico. The plight of those caught in the throes of this incident might be the object, via projective identification, of a moral sentimentalist's pity ("poor pelican, all covered in crude"); somebody who has had truly symphysical encounters, who has shared the somatic experiences of swimming with coastal people or surfing with porpoises in the Gulf, is more apt to feel compassionate communion or solidarity. Similarly and respectively, the practical implications of these distinct approaches and attitudes are likely to manifest as a difference between lightweight and hard-core engagement—feeling bad for a while or donating a bit to clean-ups, say, versus volunteering for rescues and changing energy-consumptive politics or lifestyle.

The move I advocate toward such a symphysical ethos is nothing novel but, rather, a re-creative valuation of somatic sensibilities common to many if not most deontic experiences had during childhood and in the lifeworlds of other cultures (i.e.,, beyond the recalcitrantly humanist horizons of "maturity" and "the developed world").[23] With respect to the latter, though we do have much to learn from the life-philosophies of nature that indigenous peoples' tribal traditions bespeak (especially the basic notion that other earthlings may be properly deemed persons or nations), my considered conviction is that we should learn these lessons upon invitation only (instead of conceptually colonizing those traditions in academic or activist endeavors of ideological imperialism).[24] Exchange across this terrain is fraught—witness the controversies over subsistence and/or traditional hunting—and here I will venture only a couple (hopefully air-clearing) remarks.[25] On the one hand, animal advocates might usefully be reminded of the deontological tradition from which the discourse of rights springs. Of particular import is the Kantian maxim that we ought not treat ends-in-themselves *merely* as means. The qualifier *merely* is all too frequently forgotten or ignored, as if we had always only a stark choice between respecting dignity and using resources. There is, however, at least the theoretical possibility of a hybrid attitude that could be called respectful usage.[26] On the other hand, indigenous peoples need perhaps to acknowledge that the cultural, religious, or ritual status of a practice (animal-exploitive or otherwise) does not in and of itself make the practice immune from ethical criticism—even if holders of the tradition in question have been subjected to a history of colonial maltreatment. Indeed, the principle at stake—that culture can be submitted legitimately to critique—constitutes the very fulcrum for condemnation of turpitude such as slavery and genocide (to which, of course, indigenes themselves have been no strangers).

Resuming the main thread of our discussion, and given that the present author is not himself a practitioner or guardian of indigenous custom or wisdom, it might be best for us to take up the developmental vantage intimated earlier, turning as it were inward and backward. What Arne Naess has said about the green philosophy of deep ecology can be said equally well about the significance of body phenomenology for animal ethics, namely, that it "is largely an articulation of the implicit philosophy of five-year-old children who have access to at least a minimum of animals, plants, and natural places"—who thus, in the context of transpecific conviviality, experience themselves as fundamentally similar to other organisms. Like Naess' ideal ecosophists, bioethicists one day "may be said to be people who have never found biological, political or other arguments to undermine those [biophilic] attitudes implicit in childhood."[27]

This suggestion is not merely an idle piece of romantic speculation from the rhetoric of environmentalist advocacy.[28] Rather it is an intimation of a fairly widespread phenomenon—namely, a natural affinity for animate others or "biophilia"—hypothesized in, and gaining confirmation from, a number of

scientists' research.[29] In the background here is what appears to be a tendency toward compassionate morality widespread throughout the human species and rooted in the pervasively sociable orientation of primates generally (in particular among great apes such as ourselves and chimpanzees).[30] One of the foremost researchers in this area, the environmental psychologist Eugene Myers, has concluded that "a naturally occurring consequence of self in relation is the propensity to take to heart the welfare of others to whom we are close."[31] This propensity is at least zoocentric (if not biocentric) in scope and a key component of its source in "animate relatedness" (the closeness or proximity just alluded to) is cross-species attunement to coherence of bodily integrity and similarity (conveyed, e.g., by coordination and congruence of movement or contact).[32]

A salient aspect of such developmental discoveries is that children's concern about and for nonhuman animals reveals itself as a "self-organizing dynamic of morality" and indeed "it does so more vividly than does their moral development toward other humans, because in the case of animals the [dominant] culture encourages a [speciesist] *dis*continuity" through messages and mechanisms of distancing and *de*sensitization, including "detachment, concealing the harm, misrepresentation, and shifting the blame" (compare, e.g., media representations of barnyard bliss at "Old MacDonald's Farm" to actual animal agribusiness and slaughterhouse processes stocking our supermarkets);[33] Myers thus endorses a precursor's claim that "one can only *lose* a moral sense" such as we have been discussing.[34] If this is right, then our moral starting position is *already* one of corporal compassion with other species and so the burden of proof would *not* be upon anyone to justify transpecific "traction" of moral symphysis but rather on the anthropocentrist who wishes to deny, dissolve, or otherwise *dis-tract* us from our proto-ethical predispositions toward somatic/animalic ties of conviviality.

At this juncture, I want to theoretically elaborate my commentary on the post-humanist task of re-creating a symphysical ethos. I am borrowing the very notion of "task" as a guiding principle for moral philosophy from Carleton Dallery, according to whom the term is vocational and so means "work owed." From the vantage of existential phenomenology, Dallery suggests, "we discover our debt and our task by being open to the world, and not by deducing obligations or inferring prescriptions or having emotions."[35] Following this insight, I add only that the discovery of work owed to other animals is mediated by a somatic mode of being sensitive to the organismic vulnerabilities within the animate world of flesh. This is a sensitivity made appreciative and appreciable by our own bodily participation as *animals ourselves* in that carnal lifeworld. (Some may recognize the "camosphere"of which I speak as akin to what the late Maurice Merleau-Ponty called "flesh of-the-world.") Thus I maintain that my symphysical stance on bio-morality axiologically avoids deconstructive doubts regarding the ethical enterprise as such, precisely because I resist the temptation of traditional theory to metaphysically vouchsafe obligation.[36]

Now,[37] when "inter-species ethics" is mentioned, at least in North American discourse, the position with which it is most readily associated is that of "animal

rights." Arguments on behalf of this position can be grounded culturally or metaphysically.[38] The classic contemporary statement for animal rights follows the middle path of reflective equilibrium (balancing pure ethical theory and our moral intuition),[39] and bases rights-bearing on the inherent (non-anthropogenic) value or worth of living subjectivity. While my symphysical ethos likewise centers on a vital value (that of live bodiment), its relational axiology judges the notion of (objectively) intrinisic worth to be at best idle and at worst incoherent. There is another salient point of comparison: from the perspective of the most recent work in animal rights theory, corporal compassion can be criticized for not (being capable of) grounding a normative theory of ethics on its own. Julian Franklin, for instance, claims that "compassion cannot serve as an independent and sufficient ground of rights for animals, or indeed for humans either" because "rules of reason are indispensable for deciding conflicts and avoiding bizarre applications of compassionate feelings" (e.g., to those rightly held blameworthy otherwise).[40] In response, I would concede that compassion is not the whole story of morality (inter- or intra-species). However, it is crucial to remember that neither is rationality alone enough for ethics to have purchase in the realm of lived experience. Corporal compassion, I hold, is a necessary condition for the comprehensibility and appeal of (at least animal) ethics—no more, yet no less.[41]

Another transhuman ethic is that of animal liberation. As theorized by its founder, Peter Singer, it is based upon a biologically egalitarian (species-blind) application of preference utilitarianism. By contrast, in respect of appropriating traditional thought, I have preferred to align my work with the moral sense heritage. Moreover, the emancipatory vision of animal *liberation* differs somewhat in perspective from my own convivial conception of symphysical *solidarity* (the difference, in brief, of letting-go versus being-with). These historical and perspectival distinctions do not, however, make the two ethics incompatible. In fact, as regards their driving principles, I would say that they are best conceived as complementary: *compassion* (between bodies) is what underlies the very attention to suffering that is the hallmark of animal liberation; *calculation* (of interests) could help decide conflicting allegiances generated or informed by symphysis.

Criticisms and Defenses

Having sketched the outline of my position and provided some comparative context for it, I turn to consider various objections. It might be thought, first of all, that my approach via "symphysis" or somatic sympathy relies on a moribund or marginal facet of philosophy, inasmuch as that discipline has in modernity become dominated by theories of mind. To the contrary, however, it should be noted that the most recent generation of philosophic inquiry has seen a resurgence of interest in the body. This development is manifest in many quarters of the field: postmodern thinkers who thematize the social construction or inscription of the bodily, analytic philosophers of mind who are rediscovering

the import of embodiment, pragmatists who acknowledge the performative aspect of the lived body, neo-feminists who theorize the significance of material and perceived bodies, etc. It is clearly the case that, at least on the contemporary scene, philosophy of body is no longer given short shrift.

Secondly, with respect to terminology, it will be worthwhile to explain why I have resorted to neologism (in speaking of symphysis, that is). If it is ethical mileage that I am after, would it not be plainer to invoke empathy, for instance? I do not think this difference reduces merely to a semantic quibble (in the pejorative/pedantic sense)—for empathy does, it seems to me, presuppose an empathizing subject disparate from an "empathized" object; whereas the phenomenon on which I concentrate posits a more primordial togetherness (not total fusion, of course, but not bifurcation either). The empathizer as such is building a bridge across an inter-subjective chasm or gap; those aligned by symphysical encounter are already "in sync" with each other and thus do not require external connections. Indeed, empathy is even less apt in characterizing cross-species relations—because we don't have as much epistemological feedback to check for accuracy as in the conspecific (human) case, it becomes a bit like playing one-way ping-pong.

Why not, then, talk of sympathy? Actually, that would be an improvement—but one that calls for a couple caveats. In the first instance, and following Hacking on this point, it would be best to specify that we are invoking sympathy-*with* rather than sympathy-*for*. That latter sort is tantamount to pity, which comes off as patronizing: "Sympathy[-for]," Lori Gruen remarks, "has the potential for being condescending or paternalistic." Too, it must be stressed that the kind of sympathy I am spotlighting is primarily somatic in nature (as distinct from, say, imaginative sentimentality). In a word, then, I am onto sym*physis*.

Moving on, now, some may see only limited applications for symphysis in handling animal-ethical problems. Referring to welfare concerns and the existence value of species, Shapiro asks, "How far can sensitivity to physical vulnerability take us in sorting these out?" Recall, first, that the vulnerability I bring into focus is not simply a matter of exposure to damage but also to disease—and ultimately, of course, to death. Thus, so long as we school ourselves in the animate forms of other beings, we can indeed resonate with their health and well-being interests through symphysical attunement. Likewise, the same approach can illuminate the aesthetic significance of extra-human phenotypes—which provides a richer rationale for protecting biodiversity than purely economic/ecological reasoning, *without* appealing to any moral metaphysics of genotype (e.g., questionable properties such as inherent worth or natural integrity).

Still on the plane of applications, another objection might be that my reliance on symphysis presumes a pre-cultural bodily constitution that has little purchase on highly sedimented contexts of inter-species contact, such as scientific laboratories or zoological parks. Of what help is "somatic sympathy" at these sites, when it would appear to be undercut by the very structure of such institutions? My reply would be to make a point of this lack itself—that is to

say, we know there is something bioethically amiss in labs and at zoos *precisely because* native expectations for symphysis are so often thwarted there and thus we sense ethical interruption or moral emptiness (a phenomenon not unlike the "privative" modes of being Heidegger was wont to reference, e.g., recognizing utility or health upon breaking down or falling ill). It is also noteworthy at this juncture to clarify the status of the bodily states to which I appeal: briefly, then, I am not claiming that they are entirely pre-cultural or purely given; rather, I assert more modestly that they are only co-basic with cultural mediation—and so deserve, not necessarily pride of place, but yet equal play.

Some may ask, *what about plants?* I used to think that the horizon of ethical standing shone evenly around the limit of live flesh (roughly a biocentric boundary), but—impressed by Hans Jonas' meditations on the meaning of motility—I have become inclined to side with Mary Anne Warren in allowing for differential weightings of moral considerability (whereby factors of moral relevance additional to corporality, say sentience and/or sapience, could—depending on the circumstances of a given case—result in greater regard and ultimately preferential treatment). In my current estimation, therefore, botanic beings are owed a modicum of direct concern but not necessarily to a degree on par with the status of other forms of life that/who may display extra features of ethical salience. Yet I record these thoughts tentatively and with some trepidation, because I believe biosophic morality is still very much in its youth (if not infancy any longer)—and that pragmatist Anthony Weston is right to take a developmental view of ethics and urge that we modulate method in accord with any given point of ethical evolution. For growth into maturity, an adolescent value-assemblage is typically exposed to treatments of analytical systematizing. "At the formal stage," Weston observes, "we have learned to seek precision, lucidity, literalness, seriousness, and theoretical unity." Earlier on, at the originary stage, we can expect quite a different scenario: "Our task is germination . . . [in] a mode of exploration and experimentation, as a risk and a venture. . . . We should be inventing new institutions, new practices, new metaphors, new poetry, new songs. . . . This is the time to be unsystematic, open-ended, improvisatory, metaphorical, pluralistic. A little wild-eyed." During this exciting phase—which, I submit, post-humanist or pro-vitalist ethics has yet to outgrow—it would be premature to proceed meticulously in legalistic fashion; rather, we should strive to hear and try to cultivate prophetic voices of intellectual instigation and moral challenge.

Heading toward conclusion, it is fit to cite Shapiro's synoptic challenge: "what is the cash value of Acampora's founding an [animal-friendly] ethic in bodily animacy?" Here the critic rightly forces the pragmatic issue of concrete biopolitics and animal advocacy/activist concerns. To put the problem in a nutshell, it may seem that symphysis is too blunt a criterion for complex or detailed ethical decision-making. I acknowledge this shortcoming, yet beg the reader to remember that my present purpose is *not* to deliver a set of normative principles, still less to supply an applied-ethics algorithm—it is, much rather, to

proffer a genuinely trans-human vision of axiological *meta*-ethics and phenomenological *proto*-ethics. As Hacking has said of Hume's sentiment theory, though a moral code is not directly derivable from it, still "you cannot have morals without it" and "sympathy strongly and rightly constrains moral sensibility"; making a similar point in relation to and on behalf of inter-species morality, I would say that corporal compassion is a necessary (albeit insufficient) condition for an animal-friendly ethos. It is especially important to keep this overarching point in mind because (as Shapiro and others have also indicated) symphysical awareness (like the instinct of biophilia) is no guarantee of ethical behavior, as the keen psychosomatic sensitivities of torturers and other exploiters attest. So why insist on symphysis? Without it, I hold, we animal ethicists and advocates would be reduced to the arid legalities of rights discourse and cool calculus of utilitarianism—we need corporal compassion to morally motivate ourselves as well as others, and properly cultivated it can meet the post-humanist challenge of just that task.

Notes

Author's note: This paper is an expanded revision of an earlier essay of mine entitled "The Problematic Situation of Post-Humanism and the Task of Recreating a Symphysical Ethos," *Between the Species* 1995 (Winter/Spring): 25-28. The current version benefits most of all from, and includes a rejoinder to, the response issued by Dr. Kenneth Shapiro as "The Lived-Bodily Basis of an Animal Friendly Ethic," *Between the Species* 1995 (Winter/Spring): 29-32. It also serves as an invitational overview of my book *Corporal Compassion: Animal Ethics and Philosophy of Body* (U. of Pittsburgh Press, 2006).

1. "Animals, Science, and Ethics," *Hastings Center Report,* May/June 1990, p. 2 (supp.).

2. Ehrenfeld attributes this malignancy to a hubristic faith in rational control. See his *The Arrogance of Humanism* (New York: Oxford University Press, 1978). See too Carolyn Merchant's *The Death of Nature* (New York: Harper and Row, 1980), and the special issue of *Free Inquiry* (Spring 1993) that considers the question, "Does Humanism Encourage Human Chauvinism?." Cf. recent rehabilitators of humanism, who argue for its ecosophic promise: Jeremy Bendik-Keymer's *The Ecological Life: Discovering Citizenship and a Sense of Humanity* (Lanham, MD: Rowman & Littlefield, 2006) and Wendy Lynn Lee's "Environmental Pragmatism Revisited: Human-Centeredness, Language, and the Future of Aesthetic Experience," *Environmental Philosophy* 5.1 (Spring 2008): 9-22.

3. For references to the problematic situation's dynamics, see *The Moral Writings of John Dewey,* James Gouinlock ed. (New York: Hafner Press, 1976).

4. Refer, for example, to *Environmental Philosophy: From Animal Rights to Radical Ecology,* 4th ed., Zimmerman et al., eds.

5. Probably the most trenchant critique on this point has come from feminism's contribution to inter-species moral philosophy—see, e.g., *The Feminist Care Tradition in Animals Ethics*, J. Donovan and C. J. Adams eds. (New York: Columbia University Press, 2007). Cf. Neil Evemden's suspicion that "the very idea of animal 'rights'—an idea that seems to presuppose a humanistic interpretation of justice and individuality—amounts to a kind of subterfuge to draw certain nonhumans into the protected circle of human self-definition." Quoted from his *The Social Creation of Nature* (Baltimore: Johns Hopkins University Press, 1992), p. 141 n33.

6. Attend to the transmission of philosophic theories into political practices. Cf. Peter Singer's Animal *Liberation* (New York: Avon, 1975) and Tom Regan's *The Case for Animal Rights* (Berkeley: University of California Press, 1983) with socio-historical accounts of movement-building in Susan Sperling's *Animal Liberators* (Berkeley: U. of California Press, 1988) and James Jasper and Dorothy Nelkin's *The Animal Rights Crusade* (New York: Free Press, 1992).

7. "Does Continental Ethics Have a Future?," *in Ethics and Danger,* A. B. Dallery *et al.* eds. (Albany: S.U.N.Y. Press, 1992), p. 236; "Caring about Suffering: A Feminist Exploration," in Donovan and Adams (2007), ch. 8, p. 221.

8. Compare Leon Kass' *The Hungry Soul: Eating and the Perfecting of Our Nature* (University of Chicago Press, 1999), esp. ch. 1.

9. See especially *Towards a Phenomenological Ethics: Ethos and the Life-World,* S. Heyvaert trans. (Albany: S.U.N.Y. Press, 1992).

10. *Phenomenological Ethics,* p. 56 (italics added).

11. Cf. David Farrell Krell's phenomenological contestation of Heidegger's dying/perishing distinction, in *Daimon Life: Heidegger and Life-Philosophy* (Bloomington: Indiana University Press, 1992), esp. pp. 317ff. ("Cristy's Mortality").

12. These two approaches are not entirely exclusive of each other. Cora Diamond intimates a provocative amalgam of both: "The awareness we each have of being a living body, 'being alive to the world,' carries with it exposure to the bodily sense of vulnerability to death, sheer animal vulnerability, the vulnerability we [humans] share with them [other animals]." Quoted from "The Difficulty of Reality and the Difficulty of Philosophy," in *Philosophy and Animal Life* (New York: Columbia University Press, 2008), p. 74.

13. Mental factors (e.g., second-order consciousness of each other's mutual recognition) must also come into play for respect in this sense to emerge fully as a moral phenomenon.

14. *Ideas III,* sec. 2 b. *Collected Works,* vol. 1, T. Klein, Jr. and W. Pohl trans. (The Hague: Martinus Nijhoff, 1980), p. 7.

15. *On the Problem of Empathy, W.* Stein trans., 3rd ed. (Washington, D.C.: I.C.S., 1989), p. 59. The term "sense-in" (as in *"Einempfindung")* suggests what I would like to stress, viz. that the operation at stake is primarily somatic rather than purely psychic (a point confused by continued use of the words "empathy" and "sympathy," which are encumbered by mentalistic connotations).

16. "Understanding Dogs through Kinesthetic Empathy, Social Construction, and History," *Anthrozoos* vol. 3, no. 3, pp. 184-195.

17. "On Sympathy: With Other Creatures," *Tijdschrift voor Filosofie* 63 (2001): 710. For Hacking, this point is undergirded by evolutionary biology: "As Darwin insisted, th[e emotion-expressive] musculature, like that of the rest of our [human] bodies, has much in common with that of [esp. mammalian] animals" (711).

18. Compare Max Scheler's *The Nature of Sympathy,* P. Heath trans. (Englewood Cliffs: Prentice-Hall, 2004).

19. David Seamon uses the word in his "Different Worlds Coming Together: A Phenomenology of Relationship" *(Dwelling, Seeing, and Designing: Toward a Phenomenological Ecology* [Albany: S.U.N.Y. Press, 1993]); as he notes, it originated in medical usage and means in ancient Greek, "the state of growing together" (p. 23). A Latinate cognate would be "concrescence," but that term—at least in philosophic discourse—has acquired Whiteheadian overtones that are not necessarily implied by my usage. It is also important to note that symphysis is not a state of total fusion: as per Kuang-Ming Wu, "'the twain' osmotically interpenetrate, mutually infuse, *while keeping intact their respective integrities*" (*On the Logic of Togetherness: A Cultural Hermeneutic* [Leiden: Brill, 1998], p. 12 [*italics added*]).

20. Hacking seems to be indicating symphysical awareness when he profiles the moral experience "that is *a relation of felt identity of body*. It is a relation of sympathy between [hu]man and beast [sic], *which works through the living bodies of the two*" (691, *italics added*).

21. Greco-Germanic philosophy from Aristotle to Hegel and Marx has evolved a tradition of philosophical anthropology on the premise of studying the human animal's species-being strictly; the trans-humanizing task before us now is to go beyond that tradition's homo-exclusive bounds into the ontology both of generic animality (if there be any) and of other-than-human speciations.

22. Compare Sue Cataldi's *Emotion, Depth, and Flesh: A Study of Sensitive Space: Reflections on Merleau-Ponty's Philosophy of Embodiment* (Albany: S.U.N.Y. Press, 1993); Shannon Sullivan's *Living Across and Through Skins: Transactional Bodies, Pragmatism, and Feminism* (Bloomington: Indiana University Press, 2001); and Richard Shusterman's *Body Consciousness: A Philosophy of Mindfulness and Somaesthetics* (Cambridge University Press, 2008).

23. On the notion of "deontic experience" (as the felt sense of obligation) see Thomas Birch's "Moral Considerability and Universal Consideration," *Environmental Ethics* 15.4 (Winter 1993): 322-326.

24. See Deborah Bird Rose's *Nourshishing Terrains: Australian Aboriginal Views of Landscape and Wilderness* (Canberra: Australian Heritage Commission, 1996).

25. The rest of this paragraph derives from my "Animal Philosophy: Bioethics and Zoontology," in *A Cultural History of Animals in the Modern Age*, ed. Randy Malamud (Oxford: Berg, 2007), pp. 145f.

26. For defense of such, see Val Plumwood's critical discussion of the "use exclusion assumption" in her *Environmental Culture: The Ecological Crisis of Reason* (London: Routledge, 2002), pp. 156-59.

27. "Notes on the Politics of the Deep Ecology Movement,"in *Sustaining Gaia: Contributions to Another World View,* F. Fisher ed. (Melbourne, Australia: Monash University, 1987), p. 180. Cf. Stephen Kellert's *The Biophilia Hypothesis* (Washington, DC: Island Press, 1999).

28. The present passage derives from my *Corporal Compassion*, pp. 93f.

29. See *The Biophilia Hypothesis*, S.R. Kellert and E.O. Wilson eds. (Washington, D.C.: Island Press, 1993), and Stephen Kellert's *Kinship to Mastery: Biophilia in Human Evolution and Development* (Washington, D.C.: Island Press, 1997).

30. See primatologist Frans de Waal's *Good Natured: The Origins of Right and Wrong in Humans and Other Animals* (Harvard University Press, 1996), esp. chap. 2, and psychologist Martin Hoffman's *Empathy and Moral Development* (Cambridge University Press, 2002), esp. pp. 22 and 282.

31. Olin Eugene Myers and Carol Saunders, "Animal as Links toward Developing Caring Relationships with the Natural World," in *Children and Nature: Psychological, Sociocultural, and Evolutionary Investigations*, P.H. Kahn and S.R. Kellert eds. (Cambridge: MIT Press, 2002), p. 160; the next sentence above paraphrases p. 156. To quell any incipient queasiness about naturalistic determinism, it would be helpful here to heed the interpretive advice of Lawrence Hatab: "Calling empathy natural is simply to say that it shows itself spontaneously in human experience, that it is in some sense intrinsic to human comportment, though dependent on environmental influences for its flourishing (analogous to the natural propensity for language that is nevertheless not automatic or self-generating)." *Ethics and Finitude* (Lanham: Rowman & Littlefield, 2000), p. 147.

32. On somatic origins, see also Gene Myers' *Children and Animals: Social Development and Our Connections to Other Species* (Boulder: Westview, 1998), p. 42. The next sentence quotes from pp. 153f. (inc. Myers' own citation of Jerome Kagan).

33. See, e.g., Gail Eisnitz' *Slaughterhouse* (Amherst, NY: Prometheus, 1997).

34. Cf. Hatab: "If empathy is primal in human experience in some way, then to whatever extent empathic relations are indicative of an ethical sense (caring-about and caring-for), in this respect human beings do not 'become' ethical as life proceeds, they are *already* ethical to a certain extent" (*Ethics and Finitude*, p. 147).

35. "Thinking and Being with Beasts," in *On the Fifth Day: Animal Rights and Human Ethics,* R. Morris and M. Fox eds. (Washington, D.C.: Acropolis, 1978), p. 85.

36. In *Against Ethics* (Bloomington: Indiana University Press, 1993), e.g., John Caputo claims that obligation simply happens—i.e.,, without the rational(izing) justifications of philosophy. In the analytic context, cf. Richard Garner's *Beyond Morality* (Philadelphia: Temple University Press, 1994), which perhaps presses meta-ethical skepticism into nihilism.

37. The next two paragraphs derive from my *Corporal Compassion*, pp. 124f.

38. Compare Henry Salt's *Animals' Rights* (Clarks Summit, PA: Society for Animal Rights, 1980 [orig. 1892]) and Daniel Dombrowski's *Hartshorne and the Metaphysics of Animal Rights* (Albany: S.U.N.Y. Press, 1988).

39. See Tom Regan's *The Case for Animal Rights* (Berkeley: University of California Press, 1983); note the Rawlsian methodology therein.

40. *Animal Rights and Moral Philosophy* (New York: Columbia U. Press, 2005), pp. 78/80.

41. Compare Lawrence Hatab's observation in *Ethics and Finitude* (Lanham: Rowman & Littlefield, 2000): "From a developmental standpoint, empathic affects emerge prior to cognizance of moral principles, and the affects seem to predispose people toward, and help activate, moral principles" (p. 149). Thus affective connection takes (at least temporal) precedence over discursive deliberation; that the former phenomenon is a necessary, not sufficient condition for ethics is also made clear by Hatab (at pp. 154-61).

Chapter 14
Animal Ethics and Recollection

Bernard E. Rollin

At one point in my career, I was engaged in conversation with a colleague of mine from Korea who taught Eastern thought and Asian religion. As he often did, he was complaining about our faculty salaries, and reflecting on possible sources of additional income. Only half joking, I made the following suggestion based on the fact that he was quite charismatic and did a good job playing the "Asian sage" role. "Why don't you start a cult or religion? If you worked diligently, you should be able to attract a couple of thousand adherents. If people can buy into Raelianism, Scientology, and the Maharishi, you can surely sell your version of Eastern thought. Part of the dogma you teach could be the renunciation of personal wealth and property, to be turned over to you by potential acolytes. It would be easy to find a thousand people willing to believe in virtually anything. If you charge each one a measly $10,000 to undertake a spiritual journey under your guidance, you will quickly amass $10 million and no longer need to rely on your university salary."

I was, of course, being facetious. Yet it is precisely in this spirit that too many philosophers approach the extraordinarily difficult task of deriving an ethic for guiding and constraining the treatment of animals in society. Like pure mathematicians, they build perfectly consistent systems that are internally logically sound and even aesthetically appealing, but have no contact with reality. It is perfectly reasonable for the mathematician to proceed in this way; pure mathematics has a life of its own with no need for it being interpretable in a way that fits the real world. In ethics however, a moral system that does not mesh with reality is of little value in enhancing the treatment of those it purports

to cover. An impracticable ethic, unlike an impossible mathematical universe, is not beautiful; it is more silly than anything else.

One cannot blame philosophers for failing to connect to the real world. Analytic philosophy, which dominated Anglo-American thought for most of the twentieth-century, stressed conceptual clarification and eschewed practical issues. I vividly recall Professor John Wisdom, a leading figure in ordinary language philosophy and successor to Wittgenstein in the chair of logic at Cambridge, and a close friend of mine, admonishing me when I told him of my intention to try to develop the field of veterinary medical ethics. He remarked, "teaching veterinarians about ethics is like teaching cats to catch mice." (To his credit, Wisdom later reversed his position after reading my work in animal ethics had led him to abandon fox-hunting.) But that statement spoke volumes about analytical philosophy's perspective on applied ethics: it was up to people within a field to articulate the ethics of that field, not the job of philosophers.

Having myself been trained in analytic philosophy, I would never have gotten involved with what was derisively called "applied ethics," had I not been recruited by our veterinary school to create a course in veterinary ethics comparable to medical ethics courses in human medical schools. But I was so recruited, with the charge that I articulate what appeared to be emerging and growing social ethical concern for animals in a way that could guide nascent veterinarians in future practice. As I strived to accomplish this, I did not initially reckon on my veterinary students applying that very ethic to the use of animals in their own curriculum.

In 1978, I taught my ethics course to sophomore veterinary students for the first time. Although I had not yet developed anything more than a sketch of animal ethics, I did teach them that animals were not simply tools for human use, but had some intrinsic value beyond our use of them. I explained intrinsic value as they themselves caring or valuing what happened to them, even if no one else did. In the middle of the semester, the students expressed concern about some uses of animals in their curriculum they had heard about. Perhaps the most egregious of such practices was the repeated use of dogs and other animals to teach surgery. At my own institution, dogs were, in a student's third year of study, subjected to nine distinct and unrelated surgical procedures, such as femoral fracture induction and repair, cystotomy, optical enucleation, and 6 others over three weeks, with the animal euthanized after the ninth procedure. There was no requirement for students to provide after-care to these animals and, to do so would have necessitated the students cutting classes. To veterinary students, the prospect of the surgical exercises was horrifying. During my first ethics class, in 1978, my co-teacher, world-famous experimental surgeon Dr. Harry Gorman and I brought to our class students who had already experienced these exercises, and their reports of these labs simply intensified the anxiety our second year students were already feeling.

The next week of class, the students presented me with a petition directed to the dean, affirming that they would not do multiple surgeries, but instead would over-anesthetize the animal during the first procedure. When I presented the

students' case to the dean, he instructed me to carry the student concerns to the surgery faculty for their response. I was despondent. It was the surgical faculty members who had created the multiple surgery approach to student surgical training! They would hardly be sympathetic to its rejection by students on moral grounds! My job, then, was no longer just reasoning out what was acceptable use of animals in teaching. It was now the far more difficult task of convincing those who had developed this approach and were perpetuating it, of its moral wrongness.

As I reflected upon this Herculean task, I suddenly recalled a hitherto (to me) gnomic concept articulated by the great philosopher Plato. In essence, Plato affirmed that when dealing with ethics and adults, one could not *teach,* one needed to *remind.* Clearly, it would be quite impossible for me, a non-veterinarian, to approach the surgeons and tell them that they were not teaching surgery properly. To do so would be to court disaster, and would certainly eventuate in their tuning me out. That, I surmised, was what Plato meant when he cautioned against *teaching* ethics. Why would surgeons defer to me on matters relating to teaching surgery?

I decided to further follow out Plato's logic. It was clear what he meant when he said one could not teach ethics to adults. What then, could he have meant when he affirmed that one could *remind*? I reasoned that surely people who became veterinarians, animal doctors, did so in large measure because they thought animals were worth caring about in themselves. (Much later, I would express this insight as the *pediatrician* ideal model for veterinarians, rather than the *garage mechanic* model. Most veterinarians express adherence to the former.) If that were the case, perhaps I could instill doubt in the surgeons about teaching surgery via multiple use of animals by reminding them of their fundamental commitment to animals as ends in themselves.

I thought through my strategy and made an appointment with the surgeon responsible for the teaching program. As we sat down to discuss the issue, I asked him if multiple use of an animal was the only way to teach surgery."The only way?" he replied, "Of course not!" "Is it the best way?"I continued. "No!" he exclaimed." It is a terrible way! It is just the cheapest way! Do you think that I like teaching that way? I hate it! I did not go into debt and become a veterinarian, an animal doctor, in order to cut on an animal over and over. It is wrong! You are the ethics and animal welfare person! You get it stopped!"

Astonished, I replied: "Me?! I have no credibility whatever with the veterinary school. How can I affect policy? But tell me: do the other surgeons feel as you do?" Of course," he replied. "Then we can get it done," I said. Sure enough, after a few weeks of intense dialogue, the surgeons adopted a policy of single survival surgery with the students graded as much on after-care as on carpentry. A year later, the surgeons unanimously voted to further modify the program and make all teaching surgery terminal, with the students learning after -care in the clinics on client animals, and pain and suffering eliminated.

With the resolution of this issue, my thinking on animal ethics was significantly augmented. Having lived through the civil rights era, I realized that Martin Luther King and Lyndon Johnson had acted in accord with Plato's admonition to remind rather than teach. Their successful appeal to the US public was not based in creating new moral principles for the treatment of black Americans. It was rather their *reminding* citizens of their commitment to the notion that all people should be treated equally and that black people were people.

Let us suppose that I had approached the veterinary surgeons with a frontal attack: "How can you people be so incredibly cruel? How can you make students cut on an animal nine times? You are sadists and psychopaths not fit to be educators shaping young minds!" Can anybody seriously believe that I would have made progress in abolishing multiple surgery? The surgeons' defenses would have sprung up and they would have concocted myriad rationalizations defending the practice. I would have been condemned as "anti-science" and as an "animal crazy." This strategy would have shut down, perhaps irrevocably, any moral dialogue pertaining to teaching surgery by way of repeated use of animals.

To supplement and elucidate Plato's notion of reminding versus teaching, I created my own metaphorical explanation of the strategy I deployed in terms of martial arts. There are two distinct and antithetical approaches to hand-to-hand combat. One is a sumo approach, wherein one exerts one's force against the force of one's opponent, in the manner of offensive versus defensive linemen in football. This is a viable approach if you and your opponent are of equal size and strength; ideally you are larger. It is a recipe, however, for certain defeat if you are fighting someone of superior size and strength. In such a case, one is far better advised to use an opponent's strength against that opponent, so that you redirect that strength to unbalance the opponent, or to throw them. The logic similarly obtains in ethical debate. Particularly if one is arguing against a more powerful opponent (as I was against the surgeons), one fares far better by showing that opponent that your ethical position is implicit in their own ethical assumptions, albeit in a hitherto unnoticed way, rather than attempting to force your position upon them.

This in turn brought me to a new realization regarding animal ethics. If, as appeared to be the case, Western society was moving steadily toward greater moral concern and moral status for animals, it would not do so by creating a totally new ethic for animals *ex nihilo.* Rather, it would look to our extant ethic for the treatment of human beings, and export it, *mutatis mutandis,* appropriately modified, to the treatment of animals.

While such a move is not always possible, it is far easier to accomplish than one would think. After all, a good deal of societal education is devoted to assuring that we all grow up with the same social ethical skeleton or core. Indeed, if we did not in a significant way to share much the same foundational ethical beliefs, it would be difficult for society to function in a non-anarchistic way.

My success with the surgeons occasioned a major insight. Given the extent to which we all share an ethical skeleton which society works very hard to instill in all of us beginning in childhood, would it not be far more fruitful to attempt to deduce the logical extension of that ethic were society to wish to apply that ethic to animals, than to create a new ethic from whole cloth, an ethic that might well lack a point of contact with what most people already believe ethically?

The first question that presents itself as logically prior to applying a given ethic to animals is the question of whether animals belong in the moral arena at all, or ought to be counted as objects of moral concern. This turns out to be a rather minor question when one considers the general public, i.e., the ordinary person who is neither a scientist nor philosopher. To such people, how one treats animals is certainly an ethical question, albeit one which historically did not arise very often prior to the advent of burgeoning societal concern for animal treatment which begin in the late 1960s and early 1970s. Insofar as it is patent to common sense that animals feel pain, distress, fear, loneliness, boredom, pleasure, joy and numerous mentational states and modalities that matter to them, common sense is quick to acknowledge animals as members of the moral circle.

Nonetheless, I felt compelled to buttress that belief by arguing at length that there are no *morally relevant differences* between people and animals that allow us to exclude animals from what I called "the scope of moral concern." Claims like "animals do not have a soul," "humans are more powerful than animals," "animals cannot reason," can all be shown to be irrelevant to animal moral status. Consider these responses: Cardinal Bellarmine pointed out that if animals indeed do not have souls as Catholic theology dictates, then wrongs perpetrated on them in this life will not be redressed in the afterlife, and thus we are obliged to be especially attentive to them morally. If human power is the basis for removing animals from the moral circle, one has essentially said that "might makes right," a proposition that morality largely exists to refute! And, while possession of reason is certainly a necessary condition for being considered a moral *agent*, it is not the case that it is necessary for being a moral recipient—consider babies, the insane, the senile, the comatose.

What makes something an object of moral concern, or places it in the moral arena, wherein we are obliged to weigh our treatment of it by appeal to our moral principles, is that what we do to that entity *matters* to it. We have no direct moral obligations to rocks, tables, chairs, computers, or diamonds because none of these objects are conscious or sentient, and thus what we do to them does not matter to them. To be sure, we often do not do as we please with such entities—wreck or destroy them in a cavalier fashion—because what we do to them may matter to a person, or to an animal, and thus one wrongs a person or animal by wrecking their table or their nest, but that is not to say that the table or the nest is itself a direct object of moral concern. If one destroys an unowned table, one has wronged no one, save perhaps some unknown person who could have used the table.

Another way to state the same point is to affirm that only a sentient entity can have intrinsic value. Intrinsic value, in my view, means that what happens to an entity matters to it even if it does not matter to anyone or anything else. Because it is capable of valuing what happens to it, either in a positive or negative way, such valuing is inherent in it. Rocks, tables, hammers may have great *instrumental* or use value to others, but what happens to them does not matter to them. It is for this reason that one does not transgress against a table or a hammer when one destroys it or throws it away. Similarly, it is for the same reason that we are held morally blameworthy when we treat another human simply as a tool. If one owns the hammer, it is morally permissible to throw it away when one is finished with it. But it is not morally permissible to throw away the carpenter, even if one has hired him to do a job now completed. Any being capable of caring about what happens to it, then, has intrinsic value by virtue of such caring, even if we focus only on its instrumental value for us.

The ability to experience pain is a sufficient condition (but not a necessary one) for a being to be morally considerable. Pain is an invaluable biological tool for survival. Though people may wish they did not feel pain when afflicted with it, a moment's reflection reveals that those without that capability do not live a good life. People lacking the ability to feel pain, whether as a result of a genetic malfunction or as a result of a nerve-destroying disease like leprosy, have no alarm system warning of injury or some other harm, and eventually suffer shortened life-spans from disease or infection.

But the ability to feel pain is not a necessary condition for moral considerability. For example, a person or animal unable to feel pain warning of burns or infection resulting in loss of a limb would still be morally considerable, and we would be blameworthy if we did not help such a person or animal preserve their limb, for example, since being able to walk or run or have two arms very much matters to the person.

Or, to take a more forceful example: David Hume pointed out that organisms could have possibly evolved so as to be motivated to flee danger or injury or to eat or drink not by pain, but by "pangs of pleasure" that increase as one fills the relevant need or escapes the harm. In such a world, "mattering" would be positive, not negative, but would still be based in sentience and awareness.

In our world, however, the "mattering" necessary to survival is overwhelmingly negative—injuries and unfulfilled needs ramify in pain. But physical pain is by no means the only morally relevant mattering—fear, anxiety, boredom, loneliness, grief, certainly do not equate to varieties of physical pain, but are surely forms of "mattering." This was recognized in the 1985 U.S. laboratory animal legislation I helped author in its demand for control of "distress," a catch-all term for negative experiential modalities like the above, not just physical pain.

In the end, the difficulty I found was not convincing ordinary people that animals have a moral status. Rather it was so convincing the scientific community. Completely surprising to ordinary people was the scientific

community's denial that one can legitimately be said to know that animals are conscious or even have feelings. Though contemporary science pays unfailing lip service to Darwin as providing the foundational base for modern biology, it actually rejected Darwin's point that if morphological and physiological traits were phylogenetically continued, so too were mental traits, for they did not come from nowhere. That skeptical position about animal mind, coupled with the denial of any relevance of ethics to science, constituted a formidable barrier to talking to scientists about animal ethics, and was in fact so firmly ensconced in the minds of scientists that I have called it "scientific ideology" or "the common sense of science" because it is to scientists what ordinary common sense is to non-scientists. Since scientific common sense also eschewed any truck with philosophical examination of its own assumptions, it was nearly impossible to argue with scientists about their ideology, which they erroneously saw as "facts" about science. In the end, we were able to overcome severe scientific skepticism about the presence of morally relevant "matterings" or mentational states in animals only by legislating in federal law the demand for control of pain and distress that arises in the course of animal research.

In any case, ordinary people generally readily accepted the need for including animals in the moral arena. But a major obstacle to progress in this area was presented by the extreme limitations of what common sense morality had countenanced as the purview of animal ethics—the ethic of anti-cruelty, forbidding the infliction of cruelty upon animals.

Although aspects of the anti-cruelty ethic trace back to the Bible—e.g., not yoking an ox and an ass to the same plow because of the significant difference between them in size and weight; not forcing the animals to work on the Sabbath—the anti-cruelty ethic only became codified in British law in the late 1700s and in US law in the early 1800s. However, even among philosophers who denied any moral status to animals, such as St. Thomas Aquinas during the Middle Ages and Immanuel Kant during the Enlightenment, cruelty to animals was strictly forbidden on the grounds of the psychological insight that those who would visit cruelty upon animals were likely to "graduate" to doing the same thing to people. It is now known that abuse of animals by children is one of three pieces of sentinel behavior signifying future psychopathy. Most recent US serial killers have early histories of animal abuse, as do many of the students who have opened fire on their classmates in high schools, and the majority of violent offenders housed in Leavenworth federal prison. It has also been determined that there is a connection, known as "the link," between animal cruelty and spousal and child abuse. This sort of data has helped to elevate animal cruelty to a felony in 40+ states.

Nonetheless, the anti-cruelty laws are strictly limited in scope. Cruelty does not consist simply in inflicting pain or harm upon an animal. As stated in various statutes, such infliction must be "deliberate," "intentional," "purposeless," "deviant," "unnecessary," "sadistic," and other such qualifiers. As one court put it, nothing "ministering to the necessities of man" can be

legally viewed as cruelty. Similarly, no "accepted practices" can be legally prosecuted as cruelty. Thus, attempts to prosecute trappers using a steel-jawed trap have failed, as have efforts to stop knife castration or hot-iron branding of beef cattle. No accepted practice in agriculture or research can be prosecuted as cruelty. Furthermore, cruelty must involve the infliction of physical pain or deprivation—courts do not recognize infliction of psychological suffering as cruelty.

A moment's reflection reveals the patent inadequacy of such laws for regulating animal suffering. If one draws a pie chart representing all the suffering that animals experience at human hands, only a tiny percentage represents what occurs as a result of intentional cruelty. The vast majority of animal suffering is occasioned by "normal" not sadistic animal use, such as confinement agriculture, toxicology testing, or animal research. For example, consider one area of animal use—the raising of broiler chickens for food. Somewhere between 20 and 40 percent of such animals go to market with fractures, broken wings, or deep bone bruises. We raise somewhere around ten billion such chickens a year. If we take the low estimate of fractures and bruising, *two billion* instances of suffering are created in this area alone. Fortunately, there is nothing like two billion instances of cruelty per year occurring in the United States.

What this tells us, of course, is that the overwhelming majority of animal suffering is invisible to the social ethic, i.e., not covered by any law. One judge, adjudicating an anti-cruelty case against steel jawed traps, commented to the plaintiffs that if they wished to see an end to the use of such traps, they should not go to the judiciary, which interprets the law, i.e., codified societal ethic, but rather to legislatures, which codify and articulate that ethic. And this is precisely what society has been doing over the past four decades, articulating expanded animal ethics that goes well beyond cruelty by utilizing the legal system. Thus, in the year 2004, over 2100 bills pertaining to animal welfare were introduced in legislatures across the United States.

Awareness of ever-increasing concern about animal treatment in society provided me with the missing piece in my attempt to construct an animal ethic that would resonate with ordinary people. It was clear to me that society would move well beyond cruelty. It was also clear to me that, in attempting to do so, society would look to our extant ethic for human beings, and attempt to expand it, *mutatis mutandis*, appropriately modified, to the treatment of animals.

So society was faced with the need for new moral categories and laws that reflect those categories in order to deal with animal use in science and agriculture and to limit the animal suffering with which it is increasingly concerned. At the same time, recall that Western society has gone through almost fifty years of extending its moral categories for *humans* to people who were morally ignored or invisible—women, minorities, the handicapped, children, citizens of the third world. As we noted earlier, new and viable ethics do not emerge *ex nihilo*. So a plausible and obvious move is for society to continue in its tendency and *attempt to extend the moral machinery it has*

developed for dealing with people, appropriately modified, to animals. And this is precisely what has occurred. Society has taken elements of the moral categories it uses for assessing the treatment of people and is in the process of modifying these concepts to make them appropriate for dealing with new issues in the treatment of animals, especially their use in science and confinement agriculture.

What aspect of our ethic for people is being so extended? One that is, in fact, quite applicable to animal use, is the fundamental problem of weighing the interests of the individual against those of the general welfare. Different societies have provided different answers to this problem. Totalitarian societies opt to devote little concern to the individual, favoring instead the state, or whatever their version of the general welfare may be. At the other extreme, anarchical groups such as communes give primacy to the individual and very little concern to the group—hence they tend to enjoy only transient existence. In our society, however, a balance is struck. Although most of our decisions are made to the benefit of the general welfare, fences are built around individuals to protect their fundamental interests from being sacrificed to the majority. Thus we protect individuals from being silenced even if the majority disapproves of what they say; we protect individuals from having their property seized without recompense even if such seizure benefits the general welfare; we protect individuals from torture even if they have planted a bomb in an elementary school and refuse to divulge its location. We protect those interests of the individual that we consider essential to being human, to *human nature,* from being submerged, even by the common good. Those moral/legal fences that so protect the individual human are called *rights* and are based on plausible assumptions regarding what is essential to being human.

It is this notion to which society in general is looking in order to generate the new moral notions necessary to talk about the treatment of animals in today's world, where cruelty is not the major problem but where such laudable, general human welfare goals as efficiency, productivity, knowledge, medical progress, and product safety are responsible for the vast majority of animal suffering. People in society are seeking to "build fences" around animals to protect the animals and their interests and natures from being totally submerged for the sake of the general welfare, and are trying to accomplish this goal by going to the legislature. In husbandry, this occurred automatically; in industrialized agriculture, where it is no longer automatic, people wish to see it legislated.

The basic rights protecting human beings are, in the United States, enumerated in the Bill of Rights, which can be seen as a theory of those interests that are essential to a human being or to human nature—not being tortured, believing as one wishes, freely expressing oneself, holding on to one's property are of central importance to being human. The final piece of the puzzle of how one creates an ethic for animals that would "remind" people in our society and lead them to "recollect" the basis for a comprehensive ethic for animals now fell

into place for me. I realized, as Aristotle thought and common sense dictated, that animals too had natures, *teloi,* the "pigness of the pig," the "dogness of the dog." Furthermore, there are ways of harming animals that go well beyond the utilitarian concern with inflicting pain on animals. Aristotle recognized that different animals evidenced different ways of fulfilling the fundamental nature of living things—nutrition, locomotion, sensation, cognition and reproduction. Biology studies the actualization of these functions in different sorts of animals, and it is the set of these functions that constitutes the animals' nature. Secondary school biology is still studied in this Aristotelian way. There is nothing mystical about *Telos*; it is simply what common sense recognizes as "fish gotta swim, birds gotta fly."The only departure that must be made from Aristotle today is to see *Teloi* not as fixed and immutable, but as slices or snapshots of a dynamic process of evolution, genetically encoded and environmentally expressed.

Thus an adequate morality toward animals should address not only pleasure and pain, but the full range of possible matterings following from animals' natures. When we evaluate, for example, gestation crates for sows, we must compare them to what a sow does in nature when she actualizes her *Telos*—covering a mile a day rooting and foraging, nest building, all of which behaviors are impossible to perform in a crate. In fact, given the *Telos* template, it is evident that we regularly violate fundamental interests of animals determined by their natures—we prevent their moving; we stop them from eating what they are naturally built to consume by not letting them graze or hunt or forage; we abort their coping with weather change; we do not allow them to exercise. Aborting these natural activities harms the animals in many ways, impeding their exercise of powers they possess to survive.

The overwhelming use of animals in society, both historically and at present, is agricultural. In traditional agriculture, prior to the industrialization of agriculture, the regnant imperative was *good husbandry.* For virtually all of human history, animal agriculture was based foursquare in animal husbandry. Husbandry, derived from the old Norse word "hus/bond," bonded to the household, meant taking great pains to put one's animals into the best possible environment one could find to meet their physical and psychological natures or *Telos*, and then augmenting their ability to survive and thrive by providing them with food during famine, protection from predation, water during drought, medical attention, help in birthing, and so on. Thus traditional agriculture was roughly a fair contract between humans and animals, with both sides being better off in virtue of the relationship. Husbandry agriculture was about putting square pegs into square holes, round pegs into round holes, and creating as little friction as possible doing so. So powerful is the notion of husbandry, in fact, that when the Psalmist seeks a metaphor for God's ideal relationship to humans, he seizes upon the shepherd in the 23rd Psalm:

> The Lord is my shepherd; I shall not want;
> He maketh me to lie down in green pastures;
> He leadeth me beside still waters;

He restoreth my soul.

We wish no more from God than what the husbandman provides for his sheep. In husbandry, a producer did well if and only if the animals did well, so productivity was tied to welfare. No social ethic was thus needed to ensure proper animal treatment; only the anti-cruelty designed to deal with sadists and psychopaths was needed to augment husbandry. Self-interest virtually assured good treatment.

After World War II, this beautiful contract was broken by humans. Symbolically, at universities, Departments of Animal Husbandry became Departments of Animal Science, defined not as care, but as "the application of industrial methods to the production of animals" to increase efficiency and productivity. With "technological sanders"—hormones, vaccines, antibiotics, air-handling systems, mechanization—we could force square pegs into round holes, and place animals into environments where they suffered in ways irrelevant to productivity. If a nineteenth-century agriculturalist had tried to put 100,000 egg-laying hens in cages in a building, they all would have died of disease in a month; today such systems dominate.

The new approach to animal agriculture was not the result of cruelty, bad character or even insensitivity. It developed rather out of perfectly decent, prima facie plausible motives that were a product of dramatic significant historical and social upheavals that occurred after World War II. At that point in time, agricultural scientists and government officials became extremely concerned about supplying the public with cheap and plentiful food for a variety of reasons. In the first place, after the Dust Bowl and the Great Depression, many people in the United States had soured on farming. Second, reasonable predictions of urban and suburban encroachment on agricultural land were being made, with a resultant diminution of land for food production. Third, many farm people had been sent to both foreign and domestic urban centers during the war, thereby creating a reluctance to return to rural areas that lacked excitement; recall the post World War I song. "How are you gonna keep 'em down on the farm now that they've seen Paree?" Fourth, having experienced the spectre of literal starvation during the Great Depression, the American consumer was, for the first time in history, fearful of an insufficient food supply. Fifth, projection of major population increases further fueled concern.

When the above considerations of loss of land and diminution of agricultural labor are coupled with the rapid development of a variety of technological modalities relevant to agriculture during and after World Was II and with the burgeoning belief in technologically-based economics of scale, it was probably inevitable that animal agriculture would become subject to industrialization. This was a major departure from traditional agriculture and a fundamental change in agricultural core values—industrial values of efficiency and productivity replaced and eclipsed the traditional values of "way of life" and husbandry.

It is this notion of legally encoded respect for animal nature to which society in general is looking in order to generate the new moral notions necessary to talk about the treatment of animals in today's world, where cruelty is not the major problem but where such laudable, general human welfare goals as efficiency, productivity, knowledge, medical progress, and product safety are responsible for the vast majority of animal suffering. People in society are seeking to "build fences" around animals to protect the animals and their interests and natures from being totally submerged for the sake of the general welfare, and are trying to accomplish this goal by going to the legislature. In husbandry, this occurred automatically; in industrialized agriculture, where it is no longer automatic, people wish to see it legislated.

It is necessary to stress here certain things that this ethic, in its mainstream version, is *not* and does not attempt to be. As a mainstream movement, it does not try to give human rights to animals. Since animals do not have the same natures and interests flowing from these natures as humans do, human rights do not fit animals. Animals do not have basic natures that demand speech, religion, or property; thus according them these rights would be absurd. On the other hand, animals have natures of their own and interests that flow from these natures, and the thwarting of these interests matters to animals as much as the thwarting of speech matters to humans. The agenda is not, for mainstream society, making animals have the same rights as people. It is rather preserving the common-sense insight that "fish gotta swim and birds gotta fly," and suffer if they don't.

This new ethic is *conservative*, not radical, harking back to the animal use that necessitated and thus entailed respect for the animals' natures. It is based on the insight that what we do to animals *matters* to them, just as what we do to humans matters to them, and that consequently we should respect that mattering in our treatment of use of animals as we do in our treatment and use of humans. *And since respect for animal nature is no longer automatic as it was in traditional husbandry agriculture, society is demanding that it be encoded in law.*

With regards to animal agriculture, the pastoral images of animals grazing on pasture and moving freely are iconic. As the 23rd Psalm indicates, people who consume animals wish to see the animals live decent lives, not lives of pain, distress and frustration. It is for this reason in part that industrial agriculture conceals the reality of its practices from a naïve public—witness Perdue's advertisements about raising "happy chickens," or the California "happy cow" ads. As ordinary people discover the truth, they are shocked. When I served on the Pew Commission and other commissioners had their first view of sow stalls, many were in tears and all were outraged.

Just as our use of people is constrained by respect for the basic elements of human nature, people wish to see a similar notion applied to animals. Animals, too, have natures, what I call *telos* following Aristotle—the "pigness of the pig," the "cowness of a cow." Pigs are "designed" to move about on soft loam, not to

be in gestation crates. If this no longer occurs naturally, as it did in husbandry, people wish to see it legislated. This is the mainstream sense of "animal rights."

In the case of farm animals, people wish to see their basic needs and natures, *teloi,* respected in the systems that they are raised. Since this no longer occurs naturally as it did in husbandry, it must be imposed by legislation or regulation. A Gallup poll conducted in 2003 shows that 75 percent of the public wants legislated guarantees of farm animal welfare. This is what I call "animal rights as a mainstream phenomenon." Legal codification of rules of animal care respecting animal *telos* is thus the form animal welfare takes where husbandry has been abandoned.

The notion of *telos* and its violation, far more specific to animal ethics than simply talking about pain, completed my account of animal ethics that would resonate with and thus be "recollected" by ordinary people in Western society. I deployed these notions in a ten-year campaign, ultimately successful, to create some protection, including federally mandated control of pain and respect for animal nature when we house them, encoded in federal law, despite violent opposition from the research community. I similarly used these ideas when, in 2007, I convinced the world's largest pork producer, Smithfield, to agree to phasing out gestation crates or sow stalls. Our society has continued its concern that *telos* be respected in numerous referenda abolishing veal crates, battery cages for laying hens, and sow crates; in unequivocal rejection of zoos that are prisons (state of the art when I was young); in rejection of circuses and animal shows forcing animals to behave in ways grossly violative of their natures (witness spectacular success of Cirque de Soleil, which uses no animals).

Perhaps the most poignant example of the efficacy of the ethic I developed occurred in 1980, when, having finally published the ethic, I did a full day seminar on animal ethics for representatives from every Canadian Federal Ministry that dealt with animal issues. In the course of the discussion, they reasoned that the best way to make progress in legislation derived from animal ethics was to create a Bill of Rights for animals. In attendance at the seminar was a high official from the Ministry of Fisheries and Oceans. Some years later, I received an anonymous copy of a memo from someone at this ministry. The memo had been sent to the director of the Vancouver aquarium, who had requested permission to take two killer whales from Canadian waters for an exhibit at the aquarium. The minister responded that such permission would be granted only when the aquarium had demonstrated that the exhibit was designed to respect and accommodate the animals' *teloi.*

Appendix
Voices for Animals: A Fantasy on Animal Representation

Peter Sloterdijk

Translated from German by Lisa Marie Anderson

The Pre-World in the World

There is a separation of powers about which political philosophy knows nothing.[1] To Greek myth we owe unforgettable intuitions into the primary dramas that play out entirely in the veiled depths of being before something like an ordered world can arise. If the things that occur in the world do not yet exhibit—as a later, edifying philosophy would have it—a quiet circling of the orders of being in themselves, but are rather a stage in the struggle of cosmogonic powers, then every present condition of the world can only be understood as a "position" ["*Lage*"] in the strategic sense of the word. Eons and the regimes of gods, as well, are only extended situations. Even the political forms of human life, empires and cities, can never signify anything more than transitory foundations of fallible orders against the backdrop of tremendous fermentations of powers bound in the depths. It is in the very nature of things that hulking forces—the Greeks called them Titans—prepare their eruption while in their mute agonies strength is amassing toward a great retaliation. The mythtellers of the classical era were well aware that the reign of the Olympian gods under Zeus's command embodied only a historical compromise. The pre- and sub-Olympian world, the realm of the elemental and the titanic, of the

overpowering and the monstrous, is only fettered, not extinguished; it is concealed by images of worldview from above and whitewashed by Olympian abstractions. But as long as the technical achievements of the age of the gods—the conveniences of civilized life and the rituals that protect them—offer their services, humans too have a share in the victory of the new over the old gods, and enjoy the *status quo* once the monstrous has been tamed. They tend fire, the vulcanic element, in their stoves; they carry the sea in their pitchers; they let the gale do its work in their sails; they allot the fields to Mother Earth so that she can apply to them her powers of growth; they tame the spermatic primordial forces as they breed domestic animals. The Greek tellers are aware of all this, aware that the viable orders of Olympian times are mere ceasefires arbitrated in the prehistoric wars of the gods, and vulnerable to new uprisings by the pre-Olympian powers. The separation of powers is never completed once and for all, because it is itself the world-forming struggle. This world-war is about the compensation of that part which is always enslaved only by appearance—about the representation of the pre-world in the world. What we call civilization is never anything other than a pause in the interminable struggle between elemental force and configured power.

Has civilization not then been given a task it cannot possibly master? For if the elemental is that which, as pure strength and unreflected force of nature, precedes all representation, then how can the unrepresentable be given a place, a seat, a voice in the representative order? Can the archaic find a representation in the contemporary, one that is anything other than the continuation of its initial subjugation by new means?

The Nature Contract

The biblical tradition characterizes the cohabitation of humans with pre-human nature, especially with animal creation, in two ways—first in the Adamic mode and then in the Noachic. When Adam, the creature of the late sixth day, is awakened to his paradisal existence, he discovers an abundance of creatures which had been called into existence on previous days of creation. Adam compensates for earlier creation's privilege of age by his privilege of appellation: in his ability to give names to the older creations, the newer creation retains both the spiritual prerogative and the trace of his creation in the divine image. The creation with the power to name is thereby proven to belong more closely to the über-being (who will rest on the seventh day) than do those who were created before him. Language itself represents the older creations to the human, but on the condition that he does not name these beings arbitrarily, but rather makes use of the gift of the true name, which makes him God-like. Adam possesses the grace of later creation, inasmuch as his late arrival means that he can observe and give fitting names to earlier creation.

We know that this Adamic grace was revoked. The motivation for the Flood in the biblical account is the fact that God regretted having created humans. In

an upsurge of criticism against creation, God (who can clearly be disappointed) decides to remove from the face of the earth any life that cannot swim. The Flood destroys humans and land animals in equal measure, without differentiating between the older and the newer creatures. Only the just Noah and the animal crew of his ark are excepted from the holocide. Their emergence from the ship after the waters have receded begins a second succession of life—but now one in which humans and animals have become coeval. Noah's ark is a symbol, still not sufficiently understood, for the ontological coevality of postdiluvian creatures. For them, the prius of the animals of Genesis over humans is no longer valid. Noah exceeds Adam: he does not merely give the animals their true names; he operates the first preserve. He is the first to practice the protection of nature from nature. Postdiluvian animals will share with humans dependence on a technical and, even more so, a juristic shell [*Hülle*]. To be sure, even after the Flood, only a small number of animals became domestic animals in the stricter sense of the word—symbionts, commercial partners, the animal proletariats of humans. But the rainbow-symbol above the still soggy earth testifies that from now on all creatures will be ark-beings, inasmuch as they are recipients of a promise previously unheard of: in the time of the Noachic covenant, no more of God's species-ideas shall perish because of God's anger or elemental surging up. The wooden ark can be abandoned once the waters have receded; the metaphorical ark remains as a shell around the lives that have been spared. It testifies that life no longer has any existence in and of itself. It is no longer the original gift that gives itself; after the catastrophe, even life itself is given only as a promise. And as its addressee and covenant-partner, Noah stands at the beginning of a line of animal advocates who would give to pre-human life legal rights in the eyes of humans. He is the earthly partner in the first nature-contract, in which God, in a postdiluvian consciousness, covenants to humans and animals never again to make use of catastrophe as *ultima ratio* against the waywardness of creation. But as contemporaries of industrial world culture have seen, this first nature contract has not been sufficient, because now our technical "way of life,"[2] like a second Flood, endangers the existence of animal life on earth—even more so than did the first.

Advocatus bovis

In dealings with the animal, morals and appetites part ways early on. Whereas the standard of animal husbandry that emerges from the laws of farming life makes a functional vegetarianism obligatory and accordingly compels the custodial care of a scarce good, in the way of life[3] of nomadic herdsmen, meat-eating comes to the fore and with it interest in manipulation of the herds by breeding. From the farmer's kitchen comes the wisdom that one cannot have one's cake and eat it too; but the herdsman's cleverness knows better and knows how to both maintain and consume the herds. Two wisdoms, two economies, two styles of being in the world. Human history is clouded by the opposition between the good and the bad herdsman; in it the antithesis unfolds between

agrarian morality and nomadic morality, and this antithesis sets the stage for the contest between rootednesss and speculation, between a spirit of preservation and blithe wastefulness, between vegetable provisions and animal assets.

The idea of an advocacy on behalf of animals can only arise in a zone of intensified friction between both manners of production in the world, namely the point at which writing bursts into the farming world and provides the means for that world to explain its own principles. There is doubtless an element of early radicalism in play when Pythagoras of Samos comes forward with a daring and pointed vegetarian-metaphysics and condemns killing of any kind. In so doing, the philosopher extends the standard for herbivorous animals to humanity as well, and censures those members of the genus who are, by analogy, the predators within the human community. Since there cannot be, in his estimation, several human natures existing alongside each other, but rather only one true and one distorted human nature, the existence of flesh-eaters must have arisen from a later corruption. They did not emerge from the first nature, but rather from its coddling [*Verweichlichung*], from folly and degeneracy. Unmistakably, Ovid has his Pythagoras declare: "But after that bringer of trouble [*non utilis*]. . . had crammed his greedy gut with the flesh from a body, he led us down the wrong path" (*Metamorphoses*, Book XV, 140-143).[4] So the first animal advocate must step forth also as a defender of nature against its forms of decline.

For Pythagoras, the original criteria for the solidarity between human and animal lie in their common possession of a soul and common vegetarian potential, out of which follows an ethical obligation (the existence of predators in nature itself is glossed over, as if an embarrassment). This argument about souls serves to integrate the animal world into an expanded commune of all living things; for this reason, any consumption of meat possesses the structure of a cannibalistic act. Whoever eats animals, particularly domestic ones, consumes his companions and thereby commits an offense against the prohibition on endophagy upon which (together with the incest taboo) all civilization rests. What is more, the Pythagorean appeal exposes the deception upon which the farmer's ritual slaughter rests: according to the philosopher it is not true that the gods delight in blood on the altars and the odor of burning flesh. And what is abhorrent to the gods should be even more so to humans: "Don't you do it . . . Pay close attention to my admonition, and when you devour the flesh of your fresh-butchered cattle, taste it and know you are eating your labor's companion!" (XV, 179-182).

This ancient critique of ritual sacrifice is the beginning of a story of resistance against a hunger that makes the thirst of the gods the pretense for its own satisfaction. From this point on, representation [*Stellvertretung*] will be the paradigm for a critique that pleads not only its own case. With its appeal on behalf of an unscathed existence for animals, it defends the noble intuition that a sense of integrity transcends the appetite.

Half-world

Even if the Pythagorean attempt to integrate animals into the commune of souled beings and to place them under the protection of the endophagy taboo has failed in the European tradition, it also opens a series of attempts to establish deeper foundations for the ontological neighborship of human and animal. Thus, in a Christian-Platonic metaphysics, the animal becomes the human's fellow in creation, his *compagnon de route* on the path through his finite relations. This is not limited to those animals which, through domestication, became the closer neighbors of humans; rather, all animalia are integrated into this characteristic nearness, insofar as they can be included in the somatic kinship of humans. If the tradition defined the human as *animal rationale*, then it also paid tribute to the common fleshly constitution of human and animal, albeit with the important, perhaps fatal addition that the human, through endowment with *ratio*—or, one should say, spirit-soul [*Geistseele*]—is both subject to and towering above the animal condition. While animals are, in the metaphysical sense, nothing-but-mortal, mortal humans, according to the tradition, also possess a share in an immortal substance. Thus animals are more thoroughly afflicted by the formula "being-towards-death" than are existing humans, even if they know nothing of this directedness toward their end. To be sure, the human is in the world as a knower of the secret kept from the animal: the human has achieved insight into the condition of mortality and a view of those co-mortals who, unlike himself, seem to know nothing of what lies before them. Their non-knowledge is not a deficiency, however; it is connected to an unsurpassed mooring in being, which the higher animals manifest in their stoic *savoir mourir*, whereas the lower animals meet their end like an externality that casts no shadow over their existence. The price of the human's foreknowledge is his ontological lability, which makes him at once inferior and superior to the animals. The human's inferiority to the animal is reflected within the tradition not least in the idea, found in many cultures, that certain animals are to be worshipped as gods—as if it were their mission to represent the weaker human before the eternal. Where, on the other hand, it is the animal that exhibits weakness, especially in its mute suffering, there it is the humans who occasionally hear the call to represent the animal's cause.

The most significant delineation of a modern theory of difference and kinship between human and animal is found in the notes on natural philosophy for the lectures on the *Fundamental Concepts of Metaphysics* which Martin Heidegger delivered in Freiburg in the winter of 1929-1930. Here the capacity of beings for being-in-the-world is determined to be the criterion for their ontological rank. That which is most closed off from the world—stones, which are for Heidegger "worldless" because of their merely autonomous occurrence—takes the lowest position in this scale of ecstasy, while the human—the being which is most plainly open-to-the-world, always suspended in the world's dangers, with a "world-forming" character—embodies the upper limit of extension into the lightening of being [*Lichtung des Seins*]. In this view,

even a god would be closer to stones than to humans, because his world-superiority would bear more resemblance to mineral worldlessness than to human exposure in the abyssal total circumstance we call the world. In this gradation of openness to the world, the animal occupies a middle position. It is certainly sentient of the world around it, reaching out, suffering, metabolic, opened to its fellow beings—a condition to which the old discussion about animals' souls testifies even when it denies the existence thereof. The openness of animals is always accompanied by a captivation [*Benommenheit*]: the animal extends not into an unlimited space *per se*, the cosmos or the universe, but rather into a vicinity, a surrounding to which modern biology rightly assigns the designation of "environment" [*Umwelt*]. The "around" [*das "Um"*] in the beings-around-one characterizes the animal half-ecstasy that does not break through to the open heavens of the world as world. Therefore the deepest human empathy into animal so-being [*Sosein*] is colored by woefulness—as if humans, by listening in to their own animal condition, understood the stress of animal existence better than the animals themselves ever could. Heidegger suggested the term "world-impoverishment" for an animal captivation gazing up to a not quite lightened environment bound by stimuli and reflexes—a term that should likely be reserved for animals and yet so clearly builds a bridge between the human and animal conditions. World-impoverishment: a word that already by its logic conjures the opportunity to come to the aid of the poor by representing them in their essential deficiency. If the animal world is on its way to speech without arriving there, then the "living being that has speech" can use its privilege to protect the mute members of the animal family from the exploitation of their impoverishment. But has the history of the animal classes not also shown that the rich live at the expense of the poor and the poor at the expense of the poorer?

Chosen Animals

An Indian legend tells of a master who learned that one of his students had died of a snakebite. After thinking for a moment he replied, "This man must not have embraced snakes with undivided love." Such stories testify to the power of monastic milieus seeking to put into practice a metaphysics of the unity of all things, one which pursued the cosmic inclusion of all beings. The purpose of these schools of boundless coexistence was to overcome preferential love and limited empathy and to learn a superhuman kind of inter-animal solidarity. But the mystical monisms remained only rare and privileged blossoms on the stem of coarser cultures. The truth about humans' love of animals is that it is a conditional and selective love, even where it exceeds a childish stage and signifies more than a luxuriant affectivity. Like money and attention, sympathy is a scarce resource whose expenditure is affected by chance and caprice. This kind of love always retains the features of a feudal gesture. It is no wonder that for this love, too, a revision came due at the beginning of the modern period.

There is a reason why modern animal advocacy has attempted to institute a shift in its intercessions on behalf of the animal world, one from sympathy to appreciation: in order to emancipate itself from the contingency of scarce emotions. This motivational change was unavoidable in an age in which the production and exploitation of living things is conducted on an industrial scale. Under these conditions, no longer empathy but only the law can watch protectively over living beings impacted by objectification. Thus even the higher animals are currently affected by the process of the juridification of modern conditions of existence, as though modern mass democracy were casting its light and its shadows into the animal sphere.

But do we not also find, among today's animals, the rich and the happy, the beautiful and the privileged? Indeed, a few species and races of domestic animals have certainly hit the jackpot in the process of civilization. This is especially true of horses, whose eon-long history of egregious suffering suddenly seems to be over. The animal that for millennia was exploited like no other as a fighting and working machine emerged from the Industrial Revolution as many early socialists had prophesied the human would: as a being for whom alienation is past, who may, in a post-historical pasture, dedicate himself to those activities that remain when everything else has been accomplished. Indeed, the vast majority of today's horses are happy pensioners, and even if a few run in circles at fairs and racetracks as in the most terrible history, most horses in the First World have been released into post-history. It is comforting to think that the promises of historical philosophy have been fulfilled for at least one animal species. If history continues for the majority of humans, at least there is one animal whose only remaining concession to alienation is its significant role in the dreams of young girls "with life before them."

Notes

1. Translator's note: *Teilung der Gewalten* is the traditional German rendering of "separation of powers," and the one that Sloterdijk uses here. He will go on to use *Gewalt*/*Gewalten* and *Macht*/*Mächte* in ways that are clearly not interchangeable, and given his usage throughout the essay, it seems most appropriate to translate *Gewalt* as "force" and *Macht* as "power"—in all cases except in this phrase common to political philosophy.

2. Translator's note: Sloterdijk uses the English words "*way of life*" in the original.

3. Translator's note: Also "*way of life*" in the original. In the previous clause, Sloterdijk uses the term *bäuerlich[e] Lebensweise* to refer to what I have translated as farming life.

4. Translator's note: All translations from the *Metamorphoses* are Charles Martin's (Norton). Verse numbers have been standardized with that edition.

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