

THE MORAL *STATUS* OF ANIMALS: A CRITICAL ANALYSIS AND A GRADUALIST PROPOSAL*

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ABSTRACT

In this essay the author, after having distinguished and analyzed four options on the moral *status* of animals, argues in favour of the third, for which animals undergo an unjustifiable harm not only from the suffering caused to them by many human practises, but also from a death induced in advance. Finally, he defends the principle of the equal consideration of the interests and suggests that the value of life of sentient beings is directly proportional to their cognitive, emotional and social complexity.

KEYWORDS

Moral status, animal ethics, equal consideration of interests, gradualist approach

1. INTRODUCTION: FOUR OPTIONS FOR THE MORAL STATUS OF ANIMALS

The question of the moral *status* of animals is nowadays hard to avoid for anyone who deals with practical ethics, and more generally with moral philosophy, given the enormous interest it arouses in the public opinion. It is sufficient to see the amount of websites in favour of vegetarianism or veganism and against vivisection and

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factory farms. Or take a look at the ever-growing number of associations in favour of animals. Not to mention the many campaigns promoted or sponsored by famous actors. But, above all, by now most moral philosophers have expressed an opinion on the ethics of the relationship between man and animal, highlighting its importance. In this paper I will try to identify the most plausible position on so current and so controversial a subject.

Asking ourselves what is the moral *status* of animals means asking the following questions: do we have moral obligations to animals? If the answer is yes, are they due to the effects that our actions towards them have on humans, or are they *direct* obligations, because animals deserve consideration as such? If, as in the latter case, animals are moral *patients*, in what sense are they part of the moral community? How much do their interests count compared to human interests? And what relation does their value as individuals have with that of our own species?

I will divide the answers to these questions into four main options (listed in ascending order of consideration of animals).

O₁ (anti-animalism): animals do not possess any moral *status*. We have no direct obligations to them, they are not part of the moral community (they are not moral patients). This is the widely prevalent attitude in the history of Western thought. It can be found in Aristotle, St. Augustine, Thomas Aquinas, Kant, etc., and today is represented by Carruthers, Narveson and Peter Harrison¹. Not to attribute any moral *status* to animals means not to ascribe a direct moral consideration even to their suffering, i.e. not to accept what we might call the *minimal animalist argument* (hereafter MAA), structured as follows:

it is directly wrong to procure unjustified suffering to sentient beings
 animals are sentient beings

it is directly wrong to procure unjustified suffering to animals

O₁'s supporters deny MAA either because they do not subscribe to the first premise (Aristotle, Narveson, etc.) or because they do not subscribe to the second (Descartes, P. Harrison) or because they reject both of them (Carruthers). They either deny that animals suffer or they deny the relevance of their suffering. While denying direct consideration to non-human sentient beings, these philosophers make extensive use of indirect reasons for not mistreating them (among which stands out the one made famous by Ovid motto: *saevitia in bruta est tirocinium crudelitatis in homines*). In their perspective, the interests of animals matter only when they are causally related to human interests.

¹ Cf. Carruthers 2011, Narveson 1977 and Harrison 1991.

O₂ (moderate animalism): animals possess moral *status*, i.e. they are worthy of direct moral consideration, but it is not comparable (in any way) to that of humans, whose value in itself is higher and whose interests are to be given greater importance. Whoever chooses this option, in modern times Scruton, Pollan etc.², accepts MAA and accordingly rejects all those human practices that involve unjustified suffering directed at other sentient beings (the emblematic example is given by intensive rearing). But he does not think that animal suffering has the same weight as human suffering. Furthermore, he does not believe that an early induced death constitutes a harm to beings without a sense of the future (or lacking a sense of the long-term future). Or, if it is, it is not such as to render their killing unjustifiable.

O₃ (strong animalism): animals possess a full moral *status*. This type of position is defended by Singer, Regan, Rachels, DeGrazia, Nussbaum, Korsgaard, etc.³. They, going beyond MAA, also give weight to animal life, arguing that its abbreviation damages them. Many of O₃'s supporters arrive to accept the idea that equal consideration should be given to the interests of animals and human beings when equal or that all «subjects-of-a-life» should be ascribed equal value, coming to recognize the suffering of animals the same weight as human suffering. But they believe that this does not preclude the possibility of valuing the life of mentally more complex beings (persons) as being more important than the life of mentally less complex beings (non-persons), because the former receive greater harm from a premature death than the latter.

O₄ (radical animalism): all sentient beings have the same moral *status*, irrespective of their biological belonging or cognitive abilities. It is the thesis supported by radical animal rights movements and is founded on the texts of Sapontzis, Johnson, Dunayer, etc.⁴, from which comes the request (addressed to defenders of O₃) to draw fully the consequences of attributing equal consideration to sentient beings or equal value to subjects-of-a-life, placing them on the same level also in regard to the value of their lives and to the harm they receive from an early death. For the proponents of this option, there is no convincing argument for asserting that the life of a mentally more complex being has more value than the life of a less complex being.

In the following paragraphs I will argue against O₁, O₂ and O₄, defending the animalism of O₃.

2. AGAINST O₁

The thesis that denies non-human animals any direct moral consideration, dominant in the Western philosophical tradition, today is no longer likely to be

² See Scruton 2004, Pollan 2006.

³ Cf. Singer 1975, Regan 1983, Rachels 1990, DeGrazia 1996, Nussbaum 2006, Korsgaard 2011.

⁴ See Sapontzis 1987, Johnson 1983, Dunayer 2004.

proposed because the premises supporting MAA (*conditio sine qua non* for offering animals a ticket to join the moral community) are hardly questionable, making its conclusion fully compelling.

In fact, with regard to the second premise of MMA, we should note that attributing states of consciousness to at least some parts of the animal world is at present the predominant position in the scientific community, which is not with Descartes, Harrison and Carruthers. The recent *Cambridge Declaration on Consciousness*, underscribed by eminent scholars (cognitive scientists, neurophysiologists, neuropharmacologists, neuroanatomists, etc.), is significant in this respect. In this text we find written that it is fully justified on the basis of available scientific data to ascribe consciousness to animal species other than our own⁵. The data that comes from the study of animal behaviour, evolutionary theory and physiology (especially neurophysiology) make it reasonable to attribute the ability to feel at least to all or almost all vertebrates, plus cephalopods (highly-developed marine molluscs such as octopus, cuttlefish, squid, flying squid, musky octopus, etc.). The specimens of these species, in addition to a complex central nervous system, possess *nociceptors*, axonic terminations of sensory neurons that appear to constitute «the machinery or plumbing of pain»⁶. *The Cambridge Declaration* confirms this conclusion. It closes with the following statement: «the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Non-human animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates»⁷. Moreover, numerous studies prove that animal species closest to our own are able to go beyond simple sensitivity, showing complex mental qualities such as performing rational operations of a certain level, recognising themselves in the mirror, perhaps learning languages, and so on⁸.

With regard to the first premise of MAA, which identifies in sensitivity a sufficient condition for possessing moral *status*, it does not appear ethically plausible that the ability of a being to experience pain should not impose at least a *direct* obligation not to make it suffer. This thesis is nowadays largely shared (few people today believe at the same time that animals feel pleasure and pain and that such states of consciousness are morally irrelevant, at least in direct terms, as Aristotle, Aquinas and Kant did). Those who deny it usually do so on rationalistic or contractualist grounds. In the first case, moral relevance is only attributed to the suffering of rational beings. But such an attitude does not seem convincing. Meanwhile, even if

5 *The Cambridge Declaration on Consciousness* was written by P. Low, edited by J. Panksepp, D. Reiss, D. Edelman, B. Van Swinderen, P. Low and C. Koch and declared publicly on 7 July 2012 at the *Francis Crick Memorial Conference on Consciousness in Human and non-Human Animals*, Churchill College, University of Cambridge.

6 Rollin 1989: 124.

7 Low 2012.

8 Cf. Singer 2011.

we have direct obligations only to rational beings, it is questionable – in the light of what we have just said – that *all* animals are excluded from this category. However, if we make such an assumption, then we must also exclude from the moral community all those atypical humans who, for various reasons (genetic, developmental or tied to pathologies or accidents), are at the same mental level as animals (*argument from marginal cases*).

But the main path pursued today to limit the moral community to human beings is of a contractualist nature, a perspective already broadly present in tradition (it can be found, for example, in Stoic and Epicurean thought). In its general lines it is a theoretical model that defines moral conduct exclusively in terms of instrumental rationality, conceiving it as an agreement between individuals trying to pursue their interests in the most effective way. Instead of obeying the golden rule, contractualism seems guided by what has been called the silver rule: «Treat others as others treat you»⁹. In other words, this type of theory is founded on a *principle of reciprocity*, according to which «it is impossible for A to have duties to B unless B has duties to A»¹⁰. With this approach, it can be argued that we have no direct obligations to animals as they are not in a position to have obligations to us. This way of thinking, which bases duties on reciprocity, has many undesired effects, however. First of all it should also be applied to infants or gravely retarded humans, who are also incapable of reciprocity, with the effect of relieving us from any direct obligation towards them. Moreover it should also be applied to remote future generations, nullifying or seriously limiting our commitments to their needs. As Singer has written,

We could save ourselves a lot of money and effort by storing radioactive waste from nuclear power plants in containers designed to last no more than, say, 150 years. If we only have duties to those who have duties toward us, why would that be wrong? There is an old joke that goes, “Why should I do anything for posterity? What did posterity ever do for me?”¹¹.

This is not to say however that contractualism *qua talis* produces such adverse outcomes for animals and that it can protect them only by resorting to weak indirect reasons. At least if we refer to the *ideal* contractualism of Rawls and Scanlon (where rational contractors are in a state of ignorance about the natural qualities they will have)¹². Van De Veer gives proof of that. He resumes the Rawlsian concept of *original position* (the hypothetical initial situation in which persons agree to establish in

9 Cavalieri 1999: 53.

10 DeGrazia 1996: 66.

11 Singer, Mason 2006: 243.

12 Only the theories *à la* Rawls and Scanlon, today, in the English-speaking world, are labeled with the term *contractualism*. They are differentiated from the theories *à la* Narveson and Gauthier, indicated preferably with the term *contractarianism*.

accordance with justice the principles of the society of which they will be members), but introduces an important change in the *status* of unawareness of the contracting parties (the famous *veil of ignorance*, placed as a guarantee of impartial choices): deliberating individuals are not only unaware of their physical and mental characteristics and the role they will play in the society in which they will live, but they do not even know which animal species they will belong to. They only know that they are beings with sensitivity, without knowing how it will be employed: whether that of a dog, a cat, a horse or an elephant. With these premises, the principles that the contractualistic paradigm produces acquire the characteristics of a theory of interspecific justice¹³.

In the light of all this, I would therefore say that, among the options on the moral *status* of animals, O₁ does not appear to be well founded.

3. AGAINST O₂

But it is possible to go beyond MAA and sustain, against O₂'s defenders, that it is not only morally wrong to make animals suffer in an unjustifiable manner; it is morally questionable to kill them as well. This thesis can be found in the advocates of O₃ and O₄.

Peter Singer argues brilliantly against the claim of moderate animalists that animals do not suffer any harm in being killed. This attitude is well exemplified by Scruton. He does not see anything wrong in killing, without causing suffering, cattle that have been reared in a traditional way, as they, unlike humans, do not have «an eye to the future» (they have no aspirations, plans, etc., and their life has a repetitive character). In his view,

there is a real distinction, for a human being, between timely and untimely death. To be «cut short» before one's time is a waste – even a tragedy [...]. No such thoughts apply to domestic cattle. To be killed at thirty months is not intrinsically more tragic than to be killed at forty, fifty, or sixty¹⁴.

A reasoning of this kind, however, even to accept it, does not seem to cover the entire animal world, as already pointed out. There are certainly animals that are self-conscious and have «a look toward the future»: apes, dolphins, whales and so on. But even if it were true that all non-human species are devoid of a prospective view of reality, it cannot be said that they do not lose anything in dying before their time. Also beings which are only sentient, without self-awareness and rationality, killed

13 Cf. Van De Veer 1983.

14 Scruton 2004: 88.

prematurely lose all those satisfactions conform to their own species which they would have enjoyed living longer: more food, more sex, more children to be raised, etc.¹⁵. They do not need to have a sense of the future and/or a desire to continue living to undergo harm. The fact that a lizard – assuming it is a being without complex mental gifts – cannot have an interest (in the sense of desire) to live, having no sense of the future, does not mean that it is not in its interest to avoid a premature death. That it is not – cannot be – interested in continuing its life does not mean that it is not in its interest to continue it.

In addition, Scruton's reasoning is put to a difficult test by the argument from marginal cases. As Singer observes, Scruton's view could be repropounded by replacing the animals with atypical human beings (as suffering from relevant brain disabilities). That is, it could be said that

there is a real distinction, for a cognitively normal human being, between timely and untimely death. To be «cut short» before one's time is a waste – even a tragedy [...]. No such thoughts apply to a being unable to make plans for the future. For such a being to be killed at an early age is not intrinsically more tragic than to die in old age¹⁶.

Scruton's argument therefore implies that «it would be permissible to kill humans who, because of profound intellectual disabilities, are not conscious of their lives as their own and do not look forward to future achievements». But «Those who find this conclusion too shocking to accept cannot defend the killing of animals for meat on the grounds that animals lack the higher mental abilities that make it wrong to kill normal humans»¹⁷. If we are not disposed to support the morality of killing of an innocent human being – in broad terms – with severe cognitive limits (and we do not have to be), then we cannot accept the morality of killing sentient beings (which do not harm us) without a prospective view of the future, just because they belong to other species.

If these theses are correct, then not only O_1 , but also O_2 , i.e. moderate animalism, is an inadequate option for the moral *status* of animals.

4. AGAINST O_4

At this point, putting aside alternatives O_1 and O_2 , we have still to choose from O_3 and O_4 for our notion of animals' moral *status*. Despite the undeniable fascination of

15 Cf. Singer, Mason 2006: 253.

16 Singer 2009: 576.

17 Singer, Mason 2006: 253.

O₄, for which the life of all sentient beings has equal value (it is attractive to think of an equality that, in addition to the boundaries of race and sex, also crosses the boundaries of species), some of its results are strongly counter-intuitive. We can see them in Joan Dunayer's theses which criticises Singer as guilty of making morally unjustified distinctions between animal species, favouring apes (which he wants to give legal *status* to) and valuing the life of a paradigmatic human as more important than that of a hen. For Singer, it is not speciesism to think that the killing of thousands of humans (for example, the death of three thousand people on September 11, 2001) is more tragic than the killing of several million chickens (the thirty-eight million killed in American slaughterhouses on that same day)¹⁸, while according to Dunayer it is¹⁹. In fact, to be a speciesist does not only mean privileging one being over another solely because the first belongs to the human species and the second does not (this is the *old* form of speciesism which Singer also contrasts). But also discriminating against animals by adopting an anthropocentric perspective. Singer represents a *new* form of speciesism. He wants to extend moral *status* beyond the human sphere, but illegitimately favouring the animals closest to man on the mental plane over those more distant. Hence the consequence of placing self-aware and rational beings (persons) at a hierarchically higher level with respect to beings which do not possess such characteristics (non-persons)²⁰.

Dunayer's animal ethics reaches a further level of radicalism because in it the axiological assumption for which all sentient beings possess the same value is associated with the descriptive thesis whereby it is sufficient to have any kind of nervous system, even the most rudimentary, to have psychological states. This leads her to ascribe the capacity to experience pleasure and pain to insects and arachnids, ctenophores and coelenterates such as jellyfish, hydra, sea anemones, gorgonians and corals²¹. Thus arriving to assert that a spider has the same right to life as a human being²².

I would say that the decisive move to defend the plausibility of O₃ over O₄ is to assert that the same factors that for O₂'s supporters (moderate animalists) are crucial to having a «right to life», in reality play a significant role in attributing *greater* value to the life of a mentally more complex being than to the life of a mentally less complex being. What are these factors? Meanwhile a non-repetitive pattern of life compared to the inevitably fixed nature (static, always the same) of the life of beings without the characteristic traits of a person, whose satisfactions are simply incremental. For them, as McMahan points out, «Each day is merely more of the same. As an animal continues to live, goods may continue to accumulate in sequence,

18 Cf. Singer 2001: 12-13.

19 See Dunayer 2002: 16-17.

20 Cf. Dunayer 2005.

21 See Dunayer 2004: 127.

22 Cf. Dunayer 2004: 134.

but the effect is merely additive»²³. This argument, which we have already found outlined by Scruton, if – contrary to what is asserted by him – does not seem to be a good strategy to deny value to the life of merely sentient beings and to argue that they do not suffer harm from an early death, can instead be a convincing tool to argue that persons receive greater harm from death before their time.

We can perhaps say the same thing about future-oriented desires, and in particular that of continuing to live. Expressed in Regan's terms, a mentally complex individual, in addition to having future-oriented *welfare-interests*, also has (in more) future-oriented *preference-interests*²⁴. If the first are sufficient to lead to a ban on killing (and therefore those who link this prohibition to the *status* of the person are mistaken), the presence of a preference-interest to not die makes the life of an individual more important and the harm they receive from a prematurely induced death of greater gravity. Compared to a merely sentient being, a mentally complex subject with a premature death not only loses the satisfactions of future life, has also frustrated his preference to survive and all the future-oriented preferences that presuppose remaining alive in order to be satisfied.

5. DEFENCE AND ARTICULATION OF O₃

Having eliminated O₁, O₂ and O₄, there remains O₃, which appears the most convincing option for the moral *status* of animals. It has taken various forms, starting from the models developed by Singer and Regan 30-40 years ago, which philosophically still represent the two main points of reference for those who want to defend the reasons of animals. Although Regan's deontological model is not without problems, it seems preferable to the utilitarian model of Singer because utilitarianism is an ethical theory that is hardly in a reflective equilibrium with our considered beliefs. It is sufficient to think about issues like justice (distributive and retributive) or special obligations, on which the results of the application of the utilitarian conception are difficult to accept²⁵. But the limits of the utilitarian theoretical model do not invalidate the principle of equal consideration of interests advanced by Singer. In fact, this principle accords with a broad spectrum of moral theories. As Regan rightly points out, it does not imply the principle of utility and even less utilitarianism, even though compatible with them²⁶. But most of all, it does not appear to offer counter-intuitive results, as is often believed, because this option is

23 McMahan 2002: 197.

24 By «preference-interests» Regan means what we are interested in. By «welfare-interests» he means what is in our interest. The two concepts must be kept distinct because not everything that interests us is in our interest and vice versa (see Regan 1983: 87-88).

25 About this see, for example, Allegri 2008.

26 Cf. Regan 1983: 211-217.

fully compatible with the thesis of favouring the value of the life of self-aware and rational beings over purely sentient beings. This means we can attribute equal value to the suffering of all sentient beings with little difficulty. Meanwhile, putting the pain of animals on the same plane as human pain does not mean that they suffer as much as we do. The pain of many sentient species does not appear to match ours in its intensity and duration. And even in those cases where it may be (I think of the animals closest to us for their mental complexity), in situations of dilemma, the greater value of our life must lead us to favour the human animal over the non-human animal. That is, once the value of the lives is differentiated, even if we attribute the same importance to the pain of a dog as that of a human, in situations of serious conflict the greater damage inflicted by death to humans will cause us to give precedence to the latter's pain²⁷.

But, remaining in comparison with Singer, it should be noted that in order to establish the value of lives and the harm that individuals receive from a premature death, perhaps a simple division like that between persons and non-persons, favoured by him, is not appropriate, because it does not capture the multiple differences existing between individuals. Between fully self-aware and rational beings – typical humans – and mere sensory containers, there are many intermediate gradations. The concept of a person is hardly categorical. One can be *more* or *less* a person. And *almost* a person. Self-awareness and rationality do not have an “all or nothing” nature. Inasmuch as a dog, cat or ape is self-aware and rational, it is difficult to conceive of them as persons in the same way as an ordinary human being. It therefore seems more plausible to posit a *gradualist* conception of the value of life and the harm caused by death, for which the value of life increases gradually, rising up the phylogenetic scale, on the basis of the complexity of an organism. Expressed in more precise terms, the value of sentient life is *directly proportional* to the cognitive, emotional and social complexity of individuals. The more an organism is complex under these aspects, the more its life has value. And the more harm it receives from premature death.

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²⁷ See the excellent examples in DeGrazia 1993: 26-27.

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