ANIMAL RIGHTS AND THE VALUES OF NONHUMAN LIFE

I believe that animals have intrinsic value, that is, value in their own right, not derived from the ways they serve human welfare. Indeed, I believe that living things in general have intrinsic value, as individual organisms and as systematically related in ecosystems and the biosphere as a whole. Those who hold at least some nonhuman organisms or systems of organisms to be intrinsically valuable generally fall into one of three theoretical approaches: animal welfare, animal rights, and environmental ethics. These three perspectives differ in their criteria of intrinsic value. They therefore draw the lines of moral considerability—that is, the class of entities that should serve as ends, or that for the sake of which we ought to act—in different places.

Advocates for animal welfare hold that the fundamental criterion for moral considerability is sentence, or the capacity to suffer. This draws the line of moral considerability at least to include vertebrates, and arguably much further. Sentence generates a claim on moral agents to protect and promote the interests of those who have it. Peter Singer (1976, 152), the most prominent advocate of this view, believes that sentence qualifies an organi-
ism for equal consideration of its interests. According to this principle, moral agents should give equal weight to substantively equivalent interests, regardless of the species of the individuals whose interests they are. The animal welfare perspective does not ground rights, understood as claims that cannot be overridden simply by appeal to the greater aggregate interests of others. In accord with utilitarian logic, animals may be sacrificed to advance total welfare. Animals are fungible, to the extent that they will experience equivalent welfare levels.

Advocates of animal rights hold that the fundamental criterion for moral considerability (at least strong enough to ground rights claims) is subjecthood. To be a subject requires not simply sentience, but the capacity to have propositional attitudes, emotions, will, and an orientation to oneself and one's future (Regan 1983, 243). This more stringent criterion draws the line of rights bearers at least to include the great apes, dolphins, whales, dogs, pigs, and other highly intelligent mammals, and arguably includes all mammals and birds. Subjecthood generates rights not only against the infliction of pain but to the conditions for integrity of consciousness and activity, including freedom from boredom, freedom to exercise normal capacities, freedom of movement, and the right to life. The animal rights view embodies a strong claim of equality, namely, that animals with equivalent morally relevant capacities have equal rights, regardless of species membership. In accord with deontological moral theories, these rights cannot be overridden by the aggregate interests of humans or any other beings.

Advocates of environmental ethics (Callicott 1992) hold that the criterion of moral considerability is being alive, or more generally, a system of life, especially a "natural" one as opposed to part of the humanmade environment. Morally considerable entities generate claims to preservation and health. The environmentalist's object of concern is typically an aggregate or system: a species, an ecosystem, the biosphere. Organisms, from this perspective, are fungible, valued for their role in perpetuating the larger unit, but individually dispensable. Nonliving components of systems of living things, such as rivers and mountains, may also be valued for their role in sustaining the system, and so may be preserved at the expense of individual organisms. Sensitive to the destructive influence of human activity on natural ecosystems, environmentalists tend to focus their concern on wild animals and their habitats over domesticated animals and their habitats. They also value biodiversity and rare over degraded and common ecosystems.

These three views lead to conflicting prescriptions. The animal welfare perspective can countenance animal experimentation, provided that the gains for humans outweigh the losses to the animals. Thus, if dreadful experiments on a few thousand chimpanzees enable the development of drugs that save millions of humans from AIDS, animal welfare advocates should not object. Animal rights advocates do object. Beings with equal capacities have equal rights. Chimpanzees, they argue, have capacities at least equivalent to mentally retarded children. If using mentally retarded children for such experiments would violate their rights, then using chimpanzees for these experiments equally violates the chimps' rights.

Animal rights and animal welfare advocates also disagree with environmentalism. Feral pigs, not native to Hawaii and reproducing rapidly in an environment without predators, are destroying the Hawaiian rainforest, threatening its unique biodiversity. Rabbits, not native to Australia, are similarly wreaking ecological havoc in the Australian outback. Environmentalists advocate hunting down the pigs and rabbits, even using germ warfare (myxomatosis virus) to control their populations. From an animal rights perspective, this violates the pigs' and rabbits' rights to life. Rabbits in Australia are also driving various species of plants to extinction. Environmentalists advocate sacrificing the rabbits for the sake of the plants. This is perverse from both an animal rights and animal welfare perspective: The animals have moral considerability, but the plants have no competing claims to consider (Regan 1983, 362). To take a more extreme case, Saponzis (1987, 237) and Rakowski (1991, 363-367) defend an animal rights case for eliminating predators due to the suffering they inflict on their prey, if painless methods of limiting prey populations (e.g., contraception) could be implemented. From an environmentalist perspective, such wholesale destruction of species and interference with natural processes is morally wrong.

I find myself moved by some of the considerations advanced by all three perspectives. This puts me in a quandary. How can I do justice to the values upheld by all three, given their conflicts? I shall argue that, while each perspective has identified a genuine ground of value, none has successfully generated a valid principle of action that does justice to all the values at stake. The plurality of values must be acknowledged. I shall pay particular attention to a deeply entrenched style of argument in the animal rights/animal welfare literature. This style infers principles of morally right action immediately from the possession of the morally relevant qualities, typically by drawing on an analogy with parallel principles of action that we already accept for human beings. I shall argue that this style of argument neglects certain background conditions, present in the human case but not always in the case of animals, that enable the principles in question to serve reasonable functions in the lives of human agents. I shall then suggest an alternative approach to understanding the evaluative claims of the three perspectives, drawn from what I have elsewhere (Anderson 1993) called a "rational attitude theory of value." Finally, I shall consider how this framework may guide us adjudicating the conflicts among them.

THE ARGUMENT FROM MARGINAL CASES

The central argument for the animal rights/animal welfare perspectives draws an analogy between animals and human beings who lack distinctive human capacities. It is known as "the argument from marginal cases," or AMC
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agents, the natural and social relations they do and can have with moral they go wrong, and what we can learn from the pacities of moral patients. Their shape also depends on the nature of moral species membership makes. In the subsequent section, I will focus on the count of the morally irrelevant fact of species membership.

Irrelevant feature of an animal.

These rights are grounded in their possession of morally relevant capacities, such as sentence and will, that nonhuman creatures also have. To be morally consistent, therefore, we must extend these same rights or consideration to any creature with equivalent capacities. As Dombrowski (1997, 31) asserts, describing Tom Regan's view, "If the relevant respects in which certain marginal humans possess capacities that merit rights also apply to certain animals, then these animals also merit the appropriate rights."

The style of argument embodied in the AMC generates principles of justice, defining what moral agents owe to individual, morally considerable creatures. Several features of this style of argument are worth noting. It has a striking simplicity, deriving principles of justice immediately from the possession of valuable capacities. It thereby assumes that such possession is a sufficient condition for entitlement to be treated in accordance with a certain principle of justice. It also assumes that species membership is a morally irrelevant feature of an animal.

If moral rights could be grounded so easily, then advocates of the AMC would be on strong ground in arguing that opponents of animal rights are guilty of "speciesism." This charge invokes an analogy with racism. The wrong of racism is commonly thought to consist in discrimination against people on account of a morally irrelevant trait. Similarly, the wrong of speciesism is thought to consist in discrimination against animals on account of the morally irrelevant fact of species membership.

I shall argue that the AMC fails to appreciate the rich complexity of both animal and human lives, and the ways this figures in rights claims. It also fails to appreciate the natural conditions under which, and the social relations within which, certain principles of justice make sense. Principles of justice cannot be derived simply from a consideration of the intrinsic capacities of moral patients. Their shape also depends on the nature of moral agents, the natural and social relations they do and can have with moral patients, and the social meanings such relations have. I shall expose the deficiencies of the AMC by presenting a series of test cases, considering where they go wrong, and what we can learn from the AMC's mistakes. In the following section, I will focus on some of the morally relevant differences that species membership makes. In the subsequent section, I will focus on the connections of rights with social membership, and in the next section, on the connections of rights to capacities for reciprocity.

THE MORAL SIGNIFICANCE OF SPECIES MEMBERSHIP

Animal rights advocates acknowledge that what species an animal belongs to makes a difference to its capacities. Newts can feel pain; sea anemones can't. Their point is that what really matters to an individual animal's moral entitlements is its capacities, not the normal capacities of its fellow species members. The analogy with racism helps make this point, for in that context we acknowledge the injustice of using average group capacities as a proxy for determining how an individual is to be treated. In this individualistic framework, individuals must earn entitlements on their own merits, independently of their membership in generally meritorious groups. Thus, individuals, mentally retarded people, and demented people cannot claim rights on account of the rational capacities of the normal human. If they have rights, this must be because of intrinsic capacities they possess—which nonhuman animals equally well possess.

To see what is wrong with this way of thinking, consider the following case. There is some evidence that chimps and parrots can be taught a language, at least up to the linguistic level of a toddler. Let us suppose that this is so. There are some human beings whose potential for language development is limited to the level of the average toddler, and hence no greater than the potential for language possessed by chimps and parrots. It is evident that any human, even with such limited linguistic capacities, has a moral right to be taught a language. If the AMC is right in deriving moral rights from individual capacities, then chimps and parrots also have a moral right to be taught a language.

The conclusion is absurd. But it could be argued that the AMC requires only minor modification to get the case right. Moral rights aim to protect individual interests. Even where the linguistic capacities of a human and a parrot or chimp are identical, their interests in learning a language are not. It is no disadvantage to chimps or parrots that their potential for language are so limited. For the characteristic species life of chimps and parrots does not require sophisticated linguistic communication. It is a grave disadvantage to a human being for its language capacities to be similarly limited. For the species life of humans does require language. Every human being therefore has a profound interest in learning a language. This interest is certainly strong enough to ground every human's right to be taught a language. Of course, a chimp or a parrot may also have an interest in learning a language, in the sense that communicating with humans may be a good for them. I assume that it is, since chimps and parrots, once having learned to communicate with humans, seem to enjoy doing so even when it does not give them immediate material rewards, such as food. Nevertheless, chimps and parrots do not need to learn a language and are not harmed if they do not learn one. As species, they can get long perfectly well, probably even better, without us. But humans cannot get along without other humans. The AMC must therefore be modified, along the lines that Singer suggests:
What matters for moral claims is not equivalent capacities but equally important interests.

This answer is partly right. It acknowledges that what is in an animal's interests depends not only on its individual capacities, but on the normal life of its species. The significance of species membership to the good of an animal goes beyond this, however. Consider the evocative idea of "animal dignity" introduced by Martha Nussbaum (2000) as a contrast with Kantian dignity. Nussbaum argues that individual humans possess a form of dignity that attaches to their animal bodies, distinct from the one they claim in virtue of their rationality. She does not explain the content of this dignity. But I think the following is in the spirit of her suggestion. Her idea is not simply that human dignity calls for the protection and care of our bodies, insofar as this is needed to underwrite each individual's own rationality or self-concept. For humans have this "animal" dignity of the body even if they lack reason and self-understanding. Even a profoundly demented Alzheimer's patient, unable anymore to recognize herself or others, or to care about or for herself, has a dignity that demands that others care for her body. It is an indignity to her if she is 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 animal 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. There is no way to place animals on an equal footing in this system of meanings. If we were to dress up and spoon-feed a dog as we would an Alzheimer's patient, such action would not dignify the dog, but make a mockery of it.

This is not to deny that animals have a dignity. Indeed, the fact that we can conceive of mocking a dog reflects our recognition that dogs have a dignity we ought to respect. We would rightly be outraged at some fool who turned a dog into a figure of ridicule by spray-painting graffiti on its fur. We could even say that such treatment violates the dog's right to dignified treatment. But the conceptual world in which this sort of moral claim makes sense is considerably more complex than the one in which the AMC, even as modified, has a home. For the interests being protected by such a right are unintelligible apart from a system of meanings in which species membership per se has moral significance. It is a system of meanings in which humans qua human have a status—a form of dignity—higher than animals, even with respect to features they share with animals. The moral hierarchy implicit in this system is not designed to deny nonhuman animals moral standing. For the meanings in question endow animals with their own species-specific dignity. An animal's interest in its dignity exists only in relation to human beings. The dignity of an animal, whether human or nonhuman, is what is required to make it decent for human society, for the particular, species-specific ways in which humans relate to them. (This is not to say that animals don't have other values independent of relations to humans.) Finally, the right at stake exist not only to protect the interests that the rights bearer has in relating to humans, but the interests humans have in decent relations to the rights bearer. They do not flow immediately from a creature's capacities, but make sense only within a complex system of social relations and meanings.

RIGHTS AND SOCIAL MEMBERSHIP

Let us explore the social conditions of a different sort of rights claim by considering the following case. There is evidence that sophisticated mammals, such as the great apes and dolphins, have intellectual, affective, and agentic capacities at least equal to that of toddlers. Let us suppose that this is so. Human toddlers have a moral right to have their needs for food, shelter, and love directly provided by humans in human society. It therefore follows from the AMC that each individual great ape and dolphin also has a moral right to have its needs directly provided by humans in human society.

This case might seem easily handled by the version of the AMC advanced by Singer, in which the animal's interests rather than its capacities make the morally relevant difference. Here, human provision may even be a positive harm to the animals, rather than just an unneeded benefit, as language learning was in the previous case. If humans provided the necessities of life to great apes and dolphins, the latter would lose some of their species-typical skills in providing for themselves. From an environmentalist point of view, this would be bad, because it would constitute a degradation of the animal from its valued wild state. I think it would also be bad for the animal, in the sense that this would make its life go less well. The exercise of species-typical skills and capacities is, in general, good for animals. Here I endorse the theory of "behavioral needs," according to this theory, the good of a scavenger, for instance, consists not only in getting adequate nutrition, but in foraging for its food. Bears, who scavenge for food, get profoundly bored in zoos, which rarely provide sufficiently complex environments for them to fully exercise their foraging skills. Even in the absence of
mental suffering (such as boredom), I would argue that the deprivation of opportunities to exercise healthy species-typical behaviors, or even tempting them away from such exercise, is, other things being equal, bad for the animal. The rangers in Yellowstone National Park rightly stopped feeding grizzly bears in part for this reason.

Suppose, however, other things are not equal. Suppose a particular pod of dolphins in the ocean would starve if we did not feed them, due to a sudden collapse of their usual sources of food. Do they have a moral right to human provision? Let us distinguish this claim, based on the concept of moral rights, from other reasons we might have for feeding the dolphins. Environmentalists might take an interest in feeding the dolphins, to preserve a valuable participant in the oceanic ecosystem. But this is an attitude toward a collective (the whole pod) that does not necessarily extend to each dolphin in the pod. This would remain so even if we had a moral obligation to preserve the species, or the ecosystem of which they were a part. Out of sympathy, we might also want to feed the dolphins. But this is not the same as according each dolphin a specific moral right to our provision.

In general, individual animals living in the wild do not have a moral right to our direct protection and provision, even if they need it to survive. Nor do individual animals in the wild have a right to our assistance to protect them against animal predation. This is not, as Regan (1983, 185) asserts, because predators do no moral wrong to their prey in killing them. For we have a moral obligation to protect human children from predation, even though nonhuman predators do no moral wrong in killing them. The answer lies rather in the connection of rights to provision with membership in society. An essential commitment of any society is the collective provision of goods to its members. The possession of morally significant capacities alone does not make one a member of human society, with claims to social provision. Being born to a member of society does make one a member of that society, however. This is why infants and other humans without developed potential, or recoverable rationality have moral rights to provision. So here is a species-specific moral entitlement that humans have: automatic inclusion in human society, with the positive rights that accompany this. Why are individual moral rights to provision tied to social membership? Only social membership could vindicate these rights, by specifying who has the obligation to provide the necessities of life to which individuals. This contrasts with rights to nonaggression, which can be observed by everyone without collectively instituting a division of moral labor.

Thus, when the moral rights in question are rights to positive provision, only members of human society can claim them. This, of course, does not exclude all animals from claiming rights to provision. Two classes of animals have been incorporated into human society: domesticated animals, and captives from the wild (e.g., animals in zoos and marine parks). The fact of incorporation commits their owners or stewards to providing their protection and means of subsistence, since they have no alternative means of providing for themselves. To fail to provide is an act of cruelty, rightly condemned by society and rightly prevented by force of law. Domestic, zoo, and lab animals have more extensive rights than wild animals.

This is not because the former are thought to be morally superior, or to have more valuable intrinsic capacities, than wild animals. The AMC misleads, insofar as it assumes that the only way to ground a difference in moral rights is to assert a moral hierarchy. That would be true if all moral rights flowed directly from the estimability of the rights bearer's intrinsic capacities. But they don't. Consider, for example, that only house-trained pets have the right to freedom of the house. Other animals are either kept out of our homes, or caged. This is not because the capacity to regulate one's excursions is a criterion of moral superiority. It is due simply to the fact that we can't tolerate a fouled house. Only house-trained pets have the right to roam the house because only they are fit for intimate human society. Hence it is not just rights to provision, but rights constitutive of certain kinds of social standing, that depend on an animal's actual membership in human society.

RIGHTS AND RECIPROCITY

Skeptics about animal rights (if they are not simply skeptics about animal minds) tend to argue that animals cannot have rights because they lack the rational capacity to enter into reciprocal relations with other rational agents. The intuition behind this claim is contractualist. Moral rights are conceived as the product of some kind of rational agreement or convention, based on a negotiated balance of the interests of the parties, or reached through the reciprocal exchange of reasons. This thought can be expressed independently of any idea of a historical contract. On Kant's ([1785] 1981) view, only rational beings have rights because only they are "ends in themselves," or worthy of respect. This conclusion is entailed by Kant's conception of what respect consists in: being treated only in accordance with principles that one has sufficient reason to accept. Since only rational beings can have reasons to accept or reject principles of action, only they can be subjects of respect. Since all rational beings are subjects of respect, the only morally right principles of action are those that all rational beings have reason to accept. The concept of reciprocity is built into Kantian theories as in contractualist frameworks.

Against this argument, there are two possible responses. One is to deny the major premise, that only beings capable of entering into reciprocal relations can possess moral rights. This is the response offered by the AMC. Animal rights advocates observe that we extend moral rights to humans who do not and cannot exercise reason nor enter into reciprocal relations with others. Infants, severely retarded people, the insane, the elementally all enjoy various rights, including the right to life. Since they cannot enjoy these rights in virtue of their rationality, they must enjoy them in virtue of some
other capacity they possess—presumably, their sentience and emotional capacities. Whatever capacity one picks as the one that grounds rights, the AMC argues that there exist some animals that possess the same capacity. Therefore, at least some animals have the same rights as "marginal" human beings.

We have already exposed some weaknesses in this style of argument. Rights bearers enjoy some rights not in virtue of their intrinsic capacities, but in virtue of their membership in human society, the requirements of standing in a particular sort of relationship to humans, or the interests of other people in standing in a certain relationship to the rights bearers. It is not clear which rights are dependent on social relations in one of these ways. At least, the immediate derivation of rights from the bare possession of certain capacities or interests, without regard to the interests and capacities of the agents supposedly bound by those rights claims, or the relations of rights bearers to moral agents so bound, cannot withstand scrutiny.

A different response to the skeptic about animal rights is worth exploring. This is to deny the minor premise of the skeptical argument, that animals are incapable of entering into reciprocal relations with humans. Vicki Hearne, a philosophically sophisticated animal trainer, adopts this strategy. We can learn a lot about animals and about the importance of reciprocity from her accounts of animal training. Consider her account of how riders and horses come to communicate in a language expressed in the medium of touch:

With horses ... the handler must learn to believe, to "read" a language she has insufficient neurological apparatus to test or judge, because the handler must become comprehensible to the horse, and to be understood is to be open to understanding. ... [In the plight of the fairy green rider mounted on a horse ... every muscle twitch of the rider will be like a loud symphony to the horse, but ... one that calls into question the whole idea of symphonies, and the horse will not only not know what it means, she will be unable to know whether it has meaning or not. However, the horse's drive to make sense of things is as strong as ours. ... So the horse will keep trying but (mostly) fail to make sense of the information coming through the reins and the saddle. ... The rider will be largely insensitive to the touch messages the horse is sending out, but because horses are so big, there will be some the rider will notice. ... If the rider is working with the help of a good instructor and is very brave (smart), then out of this unlikely situation will come the conversation we call the art of horsemanship. (Hearne 1986, 107–108)

In Hearne's tale, the merging of wills that is horsemanship—a riding together, with consummate skill and grace, as a shared end, a joint, cooperative activity—is produced by the reciprocal attempts of rider and horse to make themselves understood to the other.

Properly trained dogs, too, are capable of reciprocal relations with humans, a capacity that entitles them to more and more rights, the more commands they understand and obey. The authority relation that competent owners have over their dogs is a relation that itself must be earned through the coherent and responsible assumption of command, including a commitment to respect the dog's "right to the consequences of its actions." One of these rights is to be disciplined, that is, for its misbehavior to be corrected, for only so can it learn the behaviors necessary for rights to freedom. The same is true of children, of course. Applying the AMC in a manner not found in the standard animal rights literature, Hearne observes that the same rights and conditions on rights apply to humans, when the rights in question are "civil," or pertaining to the entitlements of freedom in human society:

We don't imagine we can grant civil rights to human beings without first assuming authority over them as teachers, parents and friends, but we have lately argued, strangely, that rights can be granted to animals without first occupying the ground of commitment that training them. ... The mastery of the "okay" command is not an achievement of love but rather of the simultaneous granting and earning of some rudimentary rights—in particular, Salty's right to the freedom of the house, which, like my right to the freedom of the house, is contingent on making a limited number and kind of messes, respecting other people's privacy, refraining from leaping uninvited onto furniture and laps and making the right distinctions between mine and thine, especially in the matter of food dishes. ... In most adult human relationships we don't have to do quite so much correcting in order to grant each other house privileges, but that doesn't mean that house privileges don't depend on the possibility of such corrections. (Hearne 1986, 49, 53)

Discipline ennobles the dog by establishing the reciprocal, cooperative relations through which it earns civil rights, and hence an entitlement to civil respect.

There are many lessons to be learned in Hearne's rich account of the connections among responsible authority, civil rights, communication, and reciprocal relationships. I want to focus on one: the connection between having rights and the capacity to engage in a mutual accommodation of interests, to adapt one's behavior in response to the claims, corrections, and commands of others. I think this, and not "reason" in the more demanding sense of autonomous reflection on the validity of claims, holds the key to understanding why reciprocity is so important to rights. (Possessing reason is of course a sufficient condition for the capacity for reciprocity, but as Hearne's cases demonstrate, it is not necessary.) It is not so much that the capacity for reciprocity commands our esteem and thereby obliges us to recognize rights (although this is an element). It is that to bind oneself to re-
spect the putative rights of creatures incapable of reciprocity threaten
to subsume moral agents to intolerable conditions, slavery, or even self-
immolation. As it cannot be reasonable to demand this of any autonomous
agent, it cannot be reasonable to demand that they recognize such rights.

To make this point vivid, consider the case of vermin, such as certain
species of rats and mice, who have found their ecological niche inside
human homes. Such creatures are human symbionts—they do not live in
the "wild" and would die if expelled from human spaces into fields or
forests. Rats and mice are certainly subjects, in Regan's sense. So by the stan-
dard reasoning accepted in the animal rights literature, they have a right
to life. It follows that we violate their rights by exterminating them or expel-
pelling them from our homes.

Such reasoning fails to appreciate the implications of granting rights to
creatures who implacably behave in ways hostile to human interests. Ver-
min, pests, and parasites cannot adjust their behavior so as to accommodate
human interests. With them, there is no possibility of communication,
much less compromise. We are in a permanent state of war with them, with-
out possibility of negotiating for peace. To one-sidedly accommodate their
interests, as animal rights theorists demand of moral agents with respect to
rights bearers incapable of reciprocation, would amount to surrender.

Beings whose interests are so fundamentally and essentially antagonistic
to humans cannot claim even negative rights against interference and ag-
gression from us. At least, there must be some possibility of securing peace
via avoidance before an animal can claim rights to anything except freedom
from subjection to gratuitous cruelty. Vermin, pests, and parasites may be
killed, deprived of subsistence, and driven out of their human niches, in
ways that, if necessary, cause them great suffering, even if their innate intel-
lectual and affective capacities are considerable. Indeed, we have an obliga-
tion to our fellow members of society (whether human or animal) to drive
them out, whenever this is necessary to protect ourselves (Warren 1997,
116–117).

It could be argued that in such cases, the interests of humans simply
outweigh the interests of vermin. But this thought is hard to credit. Except
in plague conditions, most vermin do not threaten to kill us. What are rats
in the bedroom to us, compared to a painful death for the rat? The animal
welfare perspective, which eschews rights talk in favor of the principle
of equal consideration of interests, is hardly better off. Someone com-
mited to an impartial, nonspeciesist, nonanthropocentric consideration of
interests would hardly find compelling the claim that a filthy house is worse
than a painful death. Indeed, the animal welfare perspective, by lowering
the bar of moral considerability down to mere sentience, makes the predic-
ament even worse. There are strong evolutionary reasons for thinking that
the capacities for locomotion, perception, and sentience evolved in tandem
(Warren 1997, 55–56). This means that even insects can feel pain. (If you
think you doubt this, consider your reaction to seeing children pull wings
off flies.) Since the animal welfare position insists on cross-species mini-
mization of pain, and insect pests are vastly more numerous than us, it isn't
difficult to see how little human interests would figure, in aggregate, under
the principle of equal consideration.

I am not claiming that we may treat vermin any way we please, say, by
torturing them for fun. Even vermin have some degree of moral consider-
ability. I am claiming that the level of moral considerability they "have"
(that is, that humans owe them) is profoundly diminished by the joint oc-
currence of two facts about them: the essential opposition of their interests
to ours and their incapacity for reciprocal accommodation with us. Moral
considerability is not an intrinsic property of any creature, nor is it superven-
ient on only its intrinsic properties, such as its capacities. It depends,
deeply, on the kind of relations they can have with us.

I conclude that the AMC misses out on the implicit social background
requirements for rights, because it models animal rights claims on human
rights claims, where these requirements can be taken for granted. Humans
are by their species nature fit for living with one another in society. What-
ever hostile relations exist among them are products not of their essential
natures, but of contingent social identities (e.g., of Nazi and Jew, slave
owner and slave) that can be, and ought to be, discarded. Animals, however,
cannot discard their species nature at will. Some have the potential for living
peacefully with humans; others do not. This species difference matters for
the rights they can claim.

So, the AMC is mistaken in equating speciesism with racism. Species
membership, over and above the intrinsic (nonrelational) features of
animals, matters for the rights they can claim. Nevertheless, sensitivity to
the social and natural conditions for grounding rights claims does not
put all animals on the other side of the rights divide from us. Instead, these
conditions require us to face up to a series of morally significant species
distinctions. First, a condition on being a bearer of rights (beyond protec-
tion from wanton cruelty) is that peace be possible between the animal and
those supposed to be bound by rights claims. Such peace may be secured
by cooperative living, captivity, or occupation of separate habitats. This con-
dition places those human symbionts that are parasites and pests—living in
human-created niches, or on human bodies, at human expense—on the
other side of the rights divide, and domesticated animals, captives, and wild
animals not living in human-created niches at our expense, on the other.
Second, a condition on having rights to the positive provision of the means
of life is that one actually be incorporated into human society. This condi-
tion places wild animals on the other side of the positive rights divide, and
domesticated animals and captives on our side. Third, a condition on hav-
ing a right to be incorporated in human society is that life with humans is
necessary to the animal. This places domesticated animals on the human
side of the rights divide, and wild animals on the other side. Fourth, a con-
dition on having a claim against being incorporated into human society is

that such a life would be bad for the animal. This makes many wild animals eligible for a right that no human has.

These social conditions on animal rights are not simply dependent on the species nature of the animals themselves. They are also dependent on historically contingent facts about human beings. Humans, for most of their natural and social history, have had a necessarily antagonistic relationship to many animals. Hunter-gatherers could not have survived without hunting. Nomadic herdsmen could not have survived without killing their animals for food. Jared Diamond (1997) persuasively argues that the rise of human civilization itself depended on the massive (and probably brutal) exploitation of animals for food, clothing, transport, and energy. During this lengthy period of human history, the social conditions for granting animals substantial moral rights did not obtain. Even today, many human societies have no other option than to rely on hunting and herding for a living. Even more, have no other option for survival than to encroach upon wild animal habitats. It is no wonder, then, that old habits die hard. The possibility of moralizing our relations to animals (other than our pets) has come to us only lately, and even then not to us all, and not with respect to all animal species. But once it becomes possible, we have compelling reasons to do so.

THE MANY VALUES OF ANIMALS

The criticisms I have made of the AMC are not directed against the idea that animals have rights. They are directed against simplistic ways of justifying animal rights, and simplistic ways of defining their contents. My intent has not simply been critical, but also constructive. I hope to have shown that there is no single criterion of moral considerability, and that what rights should be extended to a creature depend not only on its individual intrinsic capacities, but on its species nature, its natural and social relations to the moral agents to whom rights claims are addressed, and the social and historical background conditions applicable to the moral agents themselves. Different rights emerge in different social contexts. There is no easy way to simplify the task, either by asserting the moral equality of species (which makes no sense of the distinctive content of human dignity, nor of our animal dignity), nor by arranging species in a single hierarchy of estimability (which makes no sense of important yet nonhierarchical distinctions, as between domesticated and wild animals). The themes I want to highlight are of the plurality of values associated with animals, and the contextual justification of moral claims concerning them.

The previous sections have said a lot about contextual justification, about the natural and social background contexts in which rights claims make sense. It is time to focus on pluralism. In previous work, I have argued that there is a plurality of qualitatively different values. All claims of value addressed to human beings are normative for some human response. They prescribe an “ought” for our feelings, deliberations, and actions. Different kinds of value are normative for different kinds of favorable responses or ways of valuing. A “way of valuing” here refers to a favorable attitude, which is a complex of emotional dispositions toward, beliefs about, and patterns of deliberation and action oriented to what is valued. In the case of animal rights, we are especially interested in ways of valuing animals intrinsically, where our valuation of the animal is not justified by appealing to the ways we care about ourselves. Examples of such favorable attitudes of intrinsic valuation include respect, love, admiration, and consideration.

An evaluative claim is valid when it is apt or rational for us to respond in the prescribed way. A type of attitude is rational if we subject it to normative standards and thereby exercise some reflective control over its responses. Given the principle that “ought” implies “can,” evaluative prescriptions need to be sensitive to the contours of our actual affective, deliberative, and agentic capacities. At the same time, the fact that we engage in evaluation entails that we subject our responses to critical, reflective control (which is, to “reason”). So we don’t simply take our actual responses as given, but ask whether they are rational, justified, or make sense. To the extent that we are rational, we modify our responses by reflecting on the answers to such questions. Thus, to be valuable is to be the proper object of a rational favorable attitude.

Against this theory, skeptics might claim that it is not irrational to take any attitude toward any object. Wholesale skepticism about rational constraints on affective responses is unintelligible, however. Some affective responses have constitutive objects. A standard case is fear. Fear takes as its constitutive object some danger or threat to the well-being of some person or creature one cares about. If there is no threat, or if the threat is to someone one (rationally) doesn’t care about, it is not rational to feel fear. Wherever feelings or attitudes have constitutive objects, they have rationality constraints. Let us turn our attention, then, to the various values of animals, that is, the variety of ways in which we rationally, favorably respond to them.

When animal welfare activists describe the miserable conditions of animals in ghastly experiments, such as Lobo tests (in which animals are exposed to noxious chemicals until half of them die), the response of any person of decent human feeling is sympathy for the animals. Sympathy takes as its proper object the suffering or disadvantage of another. All sentient beings are capable of suffering. So it is always rational to sympathize with a sentient being who is suffering. Sympathy therefore knows no inherent species boundary. In the light of sympathy, we view the relief and avoidance of suffering as reasons for action.

In People of the Forest, Hugo van Lawick’s 1991 film based on Jane Goodall’s research, we perceive the stunning aptness of applying an extraordinarily rich anthropomorphic vocabulary to describe the distinctive personalities and activities of the chimpanzees of Gombe. No thinner vocabu-
lary can make sense of their behavior. Love, friendship, grief, and social ostracism are unmistakable phenomena, to which the different chimp responses in their own ways. Hearne (1986, 62) testifies to a similar individuality among dogs. Her playful Airedale, finding the retrieving dumbbell whimsically set on end instead of its usual position, “enjoyed the play on form” and “tossed it in the air a few times on his way back with it, to show his appreciation for the joke.” By contrast, a German Shepherd, full of rectitude, “glared disapprovingly at the dumbbell and at me, then pushed it carefully back into its proper position before picking it up and returning with it, rather sullenly.” The apt response to these cases is the bracing recognition that one is confronting animals who have their own point of view, with its own independence and integrity. Any animal with perception has its own point of view, of course. But there is a difference in kind—in integrity—between an animal’s discrimination among phenomena in a generic way (responding to a dumbbell as a thing to be retrieved, for instance) and discrimination in a highly individualized way, reflecting the animal’s distinctive, stable, unified character and personality (responding to the dumbbell’s unusual position as a joke, or as an incompetent performance on the part of the trainer). This respectful recognition—a mixture of awe and attention—amounts to an acknowledgment that this independent point of view makes its own claims, and should be heeded. To heed this point of view in the case at hand means to continue to play jokes with the Airedale, but to play fetch straight with the German Shepherd. Kant thought that only rational beings commanded such respect, and in his technical definition of respect, this is true. But I do not see why we should be so stinting with our heeding of others’ points of view, except, as argued above, in contexts of an antagonism of interests, where the lack of reason entails an incapacity for reciprocal accommodation. Respectful attention to the claims of animals is rational except in the latter context.

My 2002 World Wildlife Fund calendar features glossy photographs of a majestic breaching humpback whale; polar bear cubs cuddling up to their mother, who appears to be alert to the photographer’s presence; a magnificent eagle skillfully capturing a fish while skimming the water; an inquiring giant river otter poking its head out of a stream; a splendid multicolored green-winged macaw; and much more. Superb individuals, all. Such representations appeal to a range of responses in us: our sense of beauty, curiosity about other minds, delight in the sheer glory and diversity of the animal kingdom. If our response stands out as most consistently apt, however, it is admiration. The proper object of admiration is excellence. Each animal depicted in the calendar manifests excellent qualities or capacities: beauty, intelligence, care for others, athleticism, and so forth. So, admiration is also a rational response to animals. Admiration makes us want to contemplate animals and also to preserve and protect their estimable qualities.

When I take my seven-year-old daughter to the Huron River in Michigan, or to the Atlantic Ocean in midcoast Maine, we spend endless hours together by the water, looking for shells, crawfish, crabs, fish, seaweed, and other living things. She speaks to me, wide-eyed, of how there must be a “kabillion” grains of sand on the beach. Her fine observational skills lead her to one discovery after another: minute, perfectly formed snail shells in unexpected locations, metallic green beetles and flies, an extraordinarily dense tangle of red worms under a rock in a tidal pool (we wonder how they can survive in the sharp sand, unlike slugs). She asks, and sometimes correctly answers, questions about how one creature is related to another: Do seagulls eat snails? What lives among the seaweed? Are those freshwater crawfish just little lobsters? Comparing the flora and fauna at the different locations, she grasps, at some level, that the living things she knows are part of one vast interconnected system. Our responses to the natural world around us on such occasions are wonder and awe. The proper object of awe is the sublime, that which is so grand that it gives us intimations of the infinite. The proper object of wonder is the wonderful, that which commands our contemplation and quest for understanding. Nature is both sublime and wonderful, so these responses are rational, too. They make us want to study nature, and also to preserve and protect it, in its full integrity and complexity.

With this much pluralism about the values of animals in place, we can now identify the origins of the three perspectives with which I opened this essay. The animal welfare perspective originates in our sympathetic reactions to animals. The animal rights perspective originates in our respect for animals, our sense that their independent perspectives make claims on us that we ought to heed. It also, although it does not want to admit it, trades on our esteem for animals. The environmentalist perspective originates in our wonder at and awe of nature, conceived as an interconnected system of organisms, as well as in our admiration for individual animals.

Because all of these responses are rational, we should try to find the proper place for each of these perspectives in our policies, to take seriously all of the reasons these attitudes make salient to us. Because the principles of action proposed by the advocates of these perspectives are rigidly uncompromising in relation to the competing claims of the others, none of them are eligible for unqualified or exclusive endorsement. We need to search harder for sensible policies in these areas.

NO EASY ANSWERS

It is common, in essays written by those who believe that animals have rights, to conclude by drawing up a bill of rights for animals. My initial response to this is: It depends on what is meant by a bill of rights. If what is meant is a sweeping set of categorical imperatives for animals, valid in all contexts for all creatures possessing some defined capacities, that trump all considerations other than competing rights, thereby relieving us of any responsibility for investigating and evaluating the consequences of obeying
and enforcing these imperatives, I demur. But we might mean something more modest. John Stuart Mill (1977, 66) defined an individual's right to something as a claim on society to protect her possession of it, either by legal means or moral suasion. He thought that, in specific contexts, we knew enough about the consequences of alternative policies to know that enforcing certain rights would be a good idea. Believing that we must consider the consequences of enforcing rights does not commit one to a consequentialist moral theory. Kantian and contractualist views, too, insist on considering the consequences of different policies. Only they reject a purely aggregative function for weighing the consequences, due to the distributive nature of the demands of respect as something we owe to each morally considerable creature, not just something owed to an aggregate. It follows that on these views, too, the rights to which we are entitled are contingent on the circumstances.

There are ways of defining rights so that the countervailing considerations are necessarily outweighed by the interest that the right protects. Thus, it is uncontrovertial, except among obtuse skeptics about animal minds, or people who think something suspiciously metaphysical is going on when we talk about rights, that all sentient animals, even vermin, have a moral right against the wanton or sadistic infliction of suffering. We have enough experience with the consequences of anticulte laws to know that the consequences of legally enforcing such moral rights are acceptable. I also think animals have a right, which should be legally enforceable, against subjection to painful experiments merely to test cosmetics. Safe, nontested cosmetics are readily available, and the human interest in having novel cosmetics pre-screened for safety on animals is too trifling to count against horrors such as the Draize test (in which the cosmetic is applied to rabbits' eyes to test for inflammatory reactions).

But what about animal experimentation for medical purposes? Here the human interests at stake are profound. In my reading of the antivivisectionist literature, I have become convinced of two propositions. One is that there are lots of scientific experiments on animals that are monstrous, and of dubious scientific value. The other is that animal rights advocates, such as Francione (2000, 31-49), who categorically oppose animal experimentation, are ignorant of science. None of their general claims about the unreliability of animal models for understanding human disease, or the availability of scientific alternatives to animal testing, such as computer models, reflects a serious engagement with science. It is easy to pick and choose just those cases that prove one's point. But that is an unreliable way to make decisions. One of the purposes of scientific method, which seems lost on antivivisectionists, is to guard against such biases. I also do not trust the simplistic formulas for assessing the consequences advanced in the standard animal welfare and animal rights literatures—the equal consideration of interests, or rights as trumps—to yield morally reliable results (they certainly don't work even when only human interests are at stake). Here is an arena where it is literally dangerous to philosophize from an armchair. While we must recognize a powerful claim of animals against cruel treatment, even for compelling purposes, a responsible comparison of the interests on all sides requires far more empirical research into the consequences of alternative policies, and a far more nuanced moral theory. The latter is not something that can be pulled out of a hat via a four-line argument such as the AMC.

Consideration of the values of ecosystems also makes me reluctant to endorse a general right to life for animals, even for highly intelligent mammals such as pigs. Ecosystems are wonderful awe-inspiring. To take these responses seriously is to acknowledge reasons to protect and preserve the integrity of ecosystems. Ecosystems do not exist merely for the exploitation of humans, and not merely for the exploitation of other animals either. We have rightly enacted laws to protect the integrity and biodiversity of ecosystems and endangered plant and animal species. So we already acknowledge that we need not permit human beings to lay waste to the environment. Nor should we permit rabbits and pigs to do so, especially given the fact that it was our own wrongdoing that enabled their destructiveness in the first place. Again, the AMC offers little understanding of the moral issues at stake. Of course, we acknowledge a right of humans not to be killed for harming the environment. But that is because we can reason with one another and reach a reasonable accommodation of our interests in exploiting and preserving nature. (On the other hand, if a group of terrorists were determined to destroy an ecosystem, say by spreading nuclear waste, and we could only prevent this by killing them, the killing would justified.) We cannot reason with feral pigs and Australian rabbits. So violent means are sometimes necessary to deal with their depredations (Warren 1997, 114-117).

I would, however, support a right of great apes against human predation. Here the distinction between generic and individualized points of view is morally significant. Ruminants and rodents have a point of view that is generic. While they may have an interest in continued life, one day is like the next, and a longer life does not add up to more than an accumulation of days. It is not evident to me that this sort of interest in continued life is important enough to be protected by a right. By contrast, great apes are certainly among those creatures who have the kind of individuality, described above, that commands our respect. They have a biography. Their lives unfold as a development of personality in long-term intimate social relations with others. When they die, other members of their society grieve, and their social order goes into upheaval. Their deaths are therefore not merely unwanted, but meaningful from the perspective of the apes themselves. This kind of interest in continued life is compelling and deserves protection by a right. To hunt down great apes for sport or food violates that right.

Even here, we must not forget the calamitous fate of the Ik (Turnbull 1972). Their hunter-gatherer society disintegrated into a Hobbesian nightmare, partly due to the fact that they were prohibited from ranging into
their traditional hunting grounds, which had been turned into a nature preserve. Desperately poor miners today depend on chimpanzee bushmeat for a substantial part of their diets. The hunting done to supply their demand for meat probably poses the greatest current threat to the chimps' survival. It is unlikely that the miners would suffer a fate as bad as the Iks', were they to be deprived of bushmeat. Yet those of us who care for the apes must heed the demands of respect for the miners, by finding them some alternative means of subsistence. We cannot justly enforce a right against hunting apes while blithely leaving the costs of this prohibition to be borne by those least able to afford them.

If there is a general conclusion to be drawn from this essay, it is that there are no easy answers. Animals have rights, to be sure. But once we acknowledge the plurality of values, the inadequacy of simplistic moral formulas, the dependence of rights on the natural and social contexts, and the consequences of their enforcement, we have quite a lot more work to do to figure out what they are.

NOTES

I thank Stephen Darwall, Rachana Karnatak, and David Velleman for helpful conversations. After I drafted most of this essay, I came across Mary Anne Warren's Moral Status (1997), which draws some of the same conclusions I do about animal rights and moral consideration. I recommend it for those interested in a more extensive treatment of these issues.

1. Cora Diamond (1978) makes a similar point about the obtuseness of AMC arguments for vegetarianism. Dombrowski (1997, 42) suggests, for example, that if sentence or subjecthood are not sufficient grounds for a right not to be killed for food, then there can be no moral objections to killing mentally retarded children for food. Diamond observes that our moral objections to eating people have little to do with any such right, for we abhor eating human corpses, amputated human limbs, human blood, and so forth, even when the tissue is made available by means that don't violate anyone's rights. We mark what it means to be human in part by making cannibalism taboo. (Even in societies that practice it, the consumption of humans is always freighted with ritual significance; it is never just another food in the pantry.) I would add that it is hard to imagine how social relations could carry on if people knew that their companions were salivating at the prospect of gobbling them up.

We find it difficult to carry on intimate, companionate relations with any creature whom we view as dinner. No wonder we extend the taboo against eating to all of our companions, including our pets.

2. This claim needs to be qualified. Evolutionary theory suggests that reproductive behaviors are those most likely to entail the sacrifice of the individual animal to the survival of its progeny. In addition, disease sometimes provokes animals into species-typical but self-destructive responses. Thus, my claim should be understood to exclude species-typical behaviors that tend to lead to the serious injury, sickness, or death of the individual.

REFERENCES


University Press.