

Animal Rights and the Values of Nonhuman Life

by Elizabeth Anderson (2005)

Animal Welfare, Animal Rights, and Environmentalism

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 sentience, or the capacity to suffer. This draws the line of moral considerability at least to include vertebrates, and arguably much further. Sentience 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 sentience qualifies an organism 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 biodiverse 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 chimps 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, Sapontzis (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. ...

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 distinctively human capacities. It is known as “the argument from marginal cases,” or AMC (Dombrowski 1997). Most humans have morally relevant capacities, such as for autonomous action, that no animal has. Yet we do not treat possession of distinctively human capacities as a prerequisite for having rights or being entitled to equal consideration, for we acknowledge that infants, severely retarded and demented people, and other humans who do not have or cannot develop or recover such distinctively human capacities have rights and are entitled to equal consideration. All such humans have the rights not to be killed for food, imprisoned in a cage for human convenience, subjected to deliberately disabling experiments, and hunted down or tortured for entertainment or profit. These rights are grounded in their possession of morally relevant capacities, such as sentience 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, infants, 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 potentials 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 along 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.¹ For the interests being

¹ Cora Diamond (1978) makes a similar point about the obtuseness of AMC arguments for vegetarianism. Dombrowski (1997, 42) suggests, for example, that if sentience 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

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 rights 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.² Here I endorse the theory of "behavioral needs."³ 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

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.

³ Skeptics have questioned the experimental evidence that has been taken to confirm this theory. But some of the skepticism seems based on behaviorist presuppositions that have been discredited on other grounds. For a sensitive discussion of the theory of behavioral needs, the evidence for it, and its critics, see Young (1999).

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, 285) 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 excretions 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 demented 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 bearer. 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 s/he hasn’t sufficient 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 fairly 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, s/he 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 instances. ... 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 respect the putative rights of creatures incapable of reciprocity threatens 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 standard reasoning accepted in the animal rights literature, they have a right to life. It follows that we violate their rights by exterminating them or expelling 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. Vermin, 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, without 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 aggression 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 intellectual and affective capacities are considerable. Indeed, we have an obligation 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 rat feces 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 committed 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 predicament 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 minimization 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 considerability. I am claiming that the level of moral considerability they “have” (that is, that humans owe them) is profoundly diminished by the joint occurrence 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 supervenient 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. Whatever 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 protection 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 condition 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 condition places wild animals on the other side of the positive rights divide, and domesticated animals and captives on our side. Third, a condition on having 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 condition 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 herders 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, not even 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). ...

NO EASY ANSWERS

... 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 Kamtekar, 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 considerability. I recommend it for those interested in a more extensive treatment of these issues.

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