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PhD Thesis

Title: Animal Advocacy in a Pluralist Society

Submitted September 2015

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Introduction

Human concern with the moral status of non-human animals can be seen to stretch quite some way back into human history. In ancient Greece such concerns were considered to be very much a part of the ethical agenda, with thinkers on the issue being divided into four main schools of thought: *animism*; *vitalism*; *mechanism*; and *anthropocentrism* (Ryder 1989, chapter two). The leading light of the animist school was the renowned mathematician Pythagoras (circa 530 BC), who asserted the view that animals, like humans, were in possession of immaterial souls which, upon death, would be reincarnated in another human or animal body. In accordance with his beliefs, Pythagoras practiced kindness to animals and adhered to a vegetarian diet. Vitalism, of which perhaps the most famous exponent was Aristotle (384-322 BC), held to a belief in the interdependence of soul and body. Aristotle accepted the idea that human beings were animals, but he considered them to be at the apex of a chain of being in which the less rational existed only to serve the needs of the more rational. Mechanism held that both humans and animals were purely physical machines, and neither was in possession of the sort of soul that the animists and vitalists posited. Finally, anthropocentrism asserted that everything in the world has been created for the good of humans but, unlike the vitalism of Aristotle, rejected the idea of the essential ‘animality’ of humankind.

The Romans may have elevated cruelty to animals (and, indeed, humans) to the status of an art form in the arena, but amongst them were some who were appalled at the bloodthirsty enthusiasm of their compatriots. The philosophers Porphyry (whose so-called ‘argument from marginal cases’ would, as will be described in chapter one, come to play a pivotal role in

contemporary philosophies of animal advocacy), Plotinious, and Plutarch, along with the statesman Seneca all advocated kindness to animals and followed a vegetarian diet.

Unfortunately, from the perspective of animal advocacy, it was Aristotle's vitalist philosophy that was to survive the classical age and to exert a significant influence on the development of Christendom. As stated above, Aristotelian ontology posited a teleological hierarchy in which non-rational, or relatively less, rational phenomena were considered to exist purely for the use of those further up the chain of rationality. As Aristotle considered only free (i.e., un-enslaved) males to constitute the pre-eminent form of rational life, the manner in which all other things, sentient or not, were treated was not considered to be of any great moral significance, just as long as it served the interests of these supposedly paradigm rational beings (Kalof and Fitzgerald, 2007, pp. 5-7.). The prominent role that Aristotelian thought was to play in the development of Christianity is largely as a result of the theology of Thomas Aquinas. Aquinas was greatly influenced by Aristotle and set about the task of synthesising biblical teaching with Aristotelian teleology. Although under Christianity the more inegalitarian excesses of Aristotle's world-view with regards to women and slaves would (gradually) be rescinded, the exploitative attitude to other aspects of the natural world inherent in Aristotelian thought have proven more resistant to reform. Indeed, Lynn White in a famous essay entitled *The Historical Roots of Our Ecological Crisis* (1994) claims that it was such Aristotle infused Christianity that has, in large measure, been responsible for the environmental degradation and plight of animals that is of such great ethical concern in the contemporary era.

The moral status of animals was not improved to any great extent by the dawning of the Renaissance. In particular, the increase in the practice of vivisection towards the end of the

seventeenth century arguably represented a new low point in the moral status of non-human animals. The name most frequently associated with this phenomenon in that of Renee Descartes, who put forward the view that non-human animals were mere automata – living machines that were incapable of any form of sense experience who could, accordingly, be experimented upon with no cause for ethical concern on the part of the experimenter. By the eighteenth century, however, such assertions were regarded with a somewhat sceptical eye, and not only was the idea that animals were indeed capable of feeling pain becoming more generally accepted, but assertions were starting to be made that animal pain was just as morally pressing an issue as human pain. This was an idea that was, perhaps, most famously espoused by Jeremy Bentham, who wrote:

The day *may* come when the rest of animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may one day come to be recognized that the number of legs, the villosity of the skin, or the termination of the *os sacrum* are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or perhaps the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day or a week or even a month, old. But suppose they were otherwise, what would it avail? The question is not, Can they *reason*? nor Can they *talk*? but, Can they *suffer*? (Cited in Singer 1995, p. 7).

During the Victorian and Edwardian periods, the cause of animal advocacy was to make greater strides than ever, at least in Britain. In 1824 the Society for the Prevention of Cruelty to Animals (SPCA) was formed which, in 1840, would become the RSPCA, when Victoria, who had accorded the organisation her patronage five years earlier, ascended to the throne. As a result of this heightened concern for the well-being of animals, vegetarianism started to become popular within certain middle class circles and, as a result, The Vegetarian Society was formed in 1847. During this period opposition to vivisection also started to grow, and the National

Anti-Vivisection Society was established in 1875, followed by the British Union for the Abolition of Vivisection (BUAV) in 1898.

The two world wars and their aftermaths that dominated the first half of the twentieth century were to prove something of a setback for the animal advocacy movement, as people's focus became fixed more firmly on the security of their own species, and it wasn't until the 1960s that the pace of the movement once again started to pick up. In 1963 The Hunt Saboteurs Association was formed as a result, to a significant degree, of growing disillusionment with the weak line that the RSPCA generally took on the issue of blood sports, and in 1964 Ruth Harrison released *Animal Machines*, an indictment of the increasingly industrialised nature of animal agriculture. It was, however, with the publication of Peter Singer's *Animal Liberation* in 1975 that the contemporary animal advocacy movement (which is the subject that forms the focus of this thesis) is generally viewed to have got fully underway.

The sphere of animal advocacy can sometimes present something of a confused picture as a result of certain writers sometimes using different terms to apply to the same idea, and the same terms to apply to different ideas. There follows, then, a brief description of the terminology that is utilised in the course of this thesis. The term *animal welfare* will be used to describe those approaches that accept the idea that humans may make use of animals, provided that such use can be considered sufficiently responsible and humane. Such a view, then, generally accepts that humans should be allowed to eat meat, but holds that the animals who are raised for that meat should be well looked after when they are being raised, and slaughtered in a way that is as stress-free and painless as possible. Similarly, animal welfarists generally approve of animals being used in scientific and medical experiments, as long as such experimentation is

for genuinely important reasons (e.g. finding cures for serious debilitating and terminal diseases) and, again, that the animals involved are subjected to as little pain and stress as possible. The term *animal liberation* will be used to describe those approaches that aim to elevate the moral status of animals significantly above that proposed by animal welfarism. In general, animal liberationist positions take a far harder line on subjects such as meat-eating and animal experimentation than does the animal welfarist position. The term *animal advocacy* will be used as a general umbrella term to describe any approach that aims at raising the moral status of animals to any degree, and thus can encapsulate both the animal welfarist and the animal liberationist approaches.

Aim and Structure of Thesis

The thesis sets out to examine the extent to which a substantive animal liberationist ethic can rightfully aspire to impact upon the political agenda of a liberal, democratic and multicultural society. To this end, the thesis can be seen to be broadly divided into two main parts. The first part (chapters one to four) examines the philosophical basis of the contemporary animal liberationist movement in order to examine just what is entailed by a substantive animal liberationist ethic. The second half of the thesis (chapters five to eight) examines recent attempts to theorise animal liberation in more specifically political terms, as well as examining the conflicts that may arise when trying to apply such an ethic within a multicultural and liberal social context.

As stated above, it is with the publication of Peter Singer's *Animal Liberation* in 1975 that the contemporary 'animal rights' movement is popularly agreed to have started in earnest, and so it is with work of Singer that chapter one concerns itself. As described in the chapter, Singer's

status as the father of the modern animal rights movement is somewhat anomalous as Singer, as a philosopher in the utilitarian tradition, is actually extremely wary of the concept of moral rights. Instead, Singer prefers to focus on what, for him, is the less nebulous concept of 'interests' as the key concept in our ethical deliberations. In order for a being to be considered the sort of entity that is capable of having such morally considerable interests it is, for Singer, both necessary and sufficient that the being in question appears to exhibit the capacity for sentience (which Singer broadly describes as the ability to experience sensations of pleasure and pain). For Singer, the prevailing moral orthodoxy places far more importance on the interests of one particular species of sentient being (humans) than it does on the interests of all other sentient beings. Such a position is, for Singer, morally arbitrary and constitutes a form of blatant prejudice which he refers to as 'speciesism' – an ethically unprincipled partiality that humans display for members of their own species at the expense of all others. It is Singer's contention that ethical consistency requires that we strive to purge ourselves of this form of prejudice, in much the same way that we have endeavoured to purge ourselves of other pernicious and arbitrary mindsets such as racism and sexism.

One of Singer's foremost philosophical opponents is Tom Regan, who forms the focus of chapter two. Regan, in a number of publications (most notably *The Case for Animal Rights* first published in 1983), has taken Singer to task on the issue of Singer's utilitarian grounding of his animal liberationist ethic. The core problem with utilitarianism for Regan, is that it regards animals (and, indeed, humans) as constituting merely receptacles of positive or negative experiences, rather than as constituting inherently morally relevant beings in their own right. Thus, whereas Singer is often erroneously (at least in strict philosophical terms) referred to as an advocate of animal 'rights', Regan claims that a rights-based framework is indeed necessary if we are to adequately discharge our ethical duties towards all animals (including, of course,

human beings). Unlike traditional views of natural rights that are based on a system of natural law that derives ultimately from a divine intelligence, Regan's approach to rights adopts a secular stance that makes no reference to such celestial legislation. Instead, Regan posits the existence of such a phenomenon as moral rights as an attempt to explain our settled convictions that those beings that fulfil what Regan refers to as the *subject-of-a-life criteria* are to be considered to be in possession of *inherent value* – a form of value that, Regan claims, renders those who possess it worthy of being accorded moral rights. When we examine the requirements of the subject-of-a-life criteria, claims Regan, we cannot deny that at least some non-human animals can be seen to meet its conditions and, for consistency's sake, should therefore also be viewed as having inherent value and, accordingly, of being in possession of moral rights.

Mark Rowland's has criticised both Singer's utilitarian-based animal liberationist position for reasons similar to those described by Regan, and Regan's rights-based position for being too heavily dependent on what, for Rowlands, is the rather amorphous concept of 'inherent value'. Chapter three examines Rowlands's proposal that the best way to significantly elevate the moral status of non-human animals is in accordance with a particular form of contractarianism. As Rowlands points out, contractarianism has traditionally been considered to be ill-suited to the task of according direct moral status to non-human animals, but Rowlands argues that a modified version of the form of contractarianism presented by John Rawls in *A Theory of Justice* (first published in 1971) can indeed accord such status to animals. It will be recalled that in *A Theory of Justice*, Rawls describes an 'original position' in which contracting parties are convened in order to decide upon the principles that will form the basis of their society. However, as, according to Rawls, such factors as race, sex, or social class are to be considered irrelevant when making decisions that will significantly impact the life-chances of the members

of society, the parties in the original position are precluded, through a 'veil of ignorance' from being aware of the station that they themselves will occupy in the society that results from their deliberations. Rowlands, however, reasons that, if factors such as race, sex and social class are to be considered morally irrelevant when making decisions that will have a considerable bearing on the opportunities of members of society, then species membership should also be considered an equally irrelevant status. Rowlands proposes, then, that the veil of ignorance should be thickened in order to prevent the parties in the original position from knowing not only what race, sex, or social class they will belong to in the society that their selection of founding principles will be based on, they should also be prevented from knowing whether they will be human beings, or some other form or creature that will be impacted by the foundational principles chosen in the original position. For Rowlands the implications of this will, needless to say, be profound.

Chapter four examines the so-called 'ethic of care' approach that is often associated with the development of feminist thought. For ethic of care theorists, those approaches to animal advocacy that are based on interests or rights, as addressed in the previous chapters of the thesis, are guilty of taking a too rationalistic approach to the practice of animal advocacy and, as such, would seem to denigrate the importance of emotion in our ethical decision-making processes. This, according to those associated with the ethic of care approach, is particularly short-sighted when it comes to the issue of animal advocacy as, in many cases, it is precisely a strong emotional response to the ill-treatment of non-human animals that has led those who wish to end such treatment in the direction of the animal advocacy movement in the first place. Ethic of care theorists also take issue with the abstracted, impartialist and universalist aspirations of interests and rights-based approaches, arguing, instead, for an approach to ethics that is embodied, relational and context-specific.

Chapter five marks a shift in the emphasis of the thesis away from the moral, theoretical approaches aimed at grounding a substantive animal liberationist ethic, and towards an analysis of the social and political implications of attempting to integrate such an ethic into a modern, liberal, democratic polity. The chapter examines Martha Nussbaum's 'capabilities approach', and her attempt to extend this approach into the realm of animal advocacy. For Nussbaum, in order for a society to adequately discharge its responsibilities towards its citizens it should strive to ensure that each individual's core 'capabilities' (physical and psychological requirements) are fulfilled. Given , claims Nussbaum, that many forms of non-human animal can also be reasonably viewed as having, at least broadly, the same sorts of capabilities as human beings, then for a society to strive only to realise the capabilities of its human members would be morally arbitrary and politically unjust. Therefore, a truly just society should endeavour to ensure that all beings that are seen to have the sorts of capabilities that she describes are provided with the social and political resources that will facilitate their development.

Chapter six examines the work of Donaldson and Kymlicka and, specifically, their 2011 book *Zoopolis*. In the book the authors take the animal liberationist movement to task for failing to adequately address what the social and political implications of a realised animal liberationist ethic would entail. Donaldson and Kymlicka are particularly scornful of the assertion by such activists as Francione (described in chapter eight of this thesis) that true animal liberation will inevitably necessitate the phasing out of all 'domesticated' animals (using the term to describe not only pets, but all animals that have been brought into existence to serve human needs, such as farm animals and animals used in scientific research). It is, claim Donaldson and Kymlicka,

a peculiar form of emancipation that would occasion the eradication of the very group that is to be liberated. For Donaldson and Kymlicka, it is precisely because domesticated animals have been deliberately brought into being that humans should view such animals as constituting an integral part of society and, as such, should be granted citizenship along with humans. Such a social shift would, needless to say, have significant implications for the way in which non-human animals are treated. Donaldson and Kymlicka also criticise the animal liberationist movement for the lack of attention to which it generally pays to wild animals, on the one hand, and ‘liminal’ animals (i.e. non-domesticated animals that inhabit human-built environments, such as the urban fox) on the other. Donaldson and Kymlicka propose that we should adopt a sovereignty model when considering our duties to wild animals (similar to the approach that we take when considering our interactions with foreign countries) and a denizenship model (similar to that which regulates the relations between host societies and the various forms of migrants) when considering the position of liminal animals.

Chapter seven addresses the conflicts that can arise when attempting to politicise an animal liberationist ethic within the context of a multicultural society. Minority ethnic and religious groups within such a society may have attitudes regarding the status and treatment of non-human animals that differ from those of the majority culture, and so legislation regarding the treatment of animals that does not recognise such cultural factors may be viewed by minority groups as hegemonic. A particular issue of concern here regards the matter of the so-called ‘ritual-slaughter’ of animals intended for human consumption. The main problem is that such slaughter methods often require the animals to be slaughtered without first being stunned – a practice that many within the majority culture of some countries may deem to constitute a form of unnecessary cruelty. Although in Britain exemptions to general animal welfare legislation are granted in order to allow such forms of slaughter, there are those who would like to see

such exemptions rescinded. Indeed, in Denmark such exemptions have been overturned, leading to accusations of anti-Semitism and Islamophobia from the country's Jewish and Muslim communities.

Chapter eight looks at the relationship between the development of animal liberation and liberalism. The chapter notes that the animal liberationist movement is sometimes viewed as constituting a natural development of liberalism, in that it represents the next stage of an 'expanding circle' of liberal concern. However, animal liberationism can also be seen as constituting a challenge to liberal freedoms in its uncompromising attitude to activities such as meat-eating, fox-hunting, and the use of fur by the fashion industry. The thesis also notes that the philosophical foundations that are often pressed into play to try to provide a grounding for liberalism are the same as those that are often used to attempt to ground an animal liberationist ethic (as described in the early chapters of this thesis), and similar problems are encountered in both cases. Given that attempts to discern philosophical foundations for animal liberationism and liberalism are equally problematic, the thesis suggests that, rather than attempting to discern foundations for either, it may prove more profitable to examine the possibility that an animal liberationist ethic may be incorporated coherently within an extant and influential theory of liberalism – specifically, the approach that Rawls originally laid out in his 1993 work *Political Liberalism*. The chapter concludes, however, with the view that a substantive animal liberationist ethic constituting, as it does (in Rawlsian terms), a 'comprehensive moral doctrine' is unlikely to garner the approval required to form a part of the 'overlapping consensus' that constitutes the core values of a modern, liberal and multicultural society.

The thesis concludes, then, with the view that a substantive animal liberationist ethic is unlikely to form a part of the core values or constitutional essentials of a liberal, democratic and multicultural society, and that the animal advocacy movement would probably spend its time more profitably attempting to bring about gradual legislative change through the use of campaigns aimed at engaging the sympathies of the public, on the one hand, and appealing to enlightened self-interest regarding the environmental impacts of intensive animal agriculture, on the other.

Chapter One – Utilitarianism and Animal Advocacy

Utilitarian moral theory was first formulated in the 18th century by the philosopher and legal reformer Jeremy Bentham (1748-1842). Bentham proposed the theory of utilitarianism as a more scientific (in his view at least) alternative to the predominant natural rights theory of his day. Bentham himself was extremely sceptical and scathing regarding the supposed existence of such nebulous, metaphysical entities as natural rights, going so far as to dismiss the concept of such natural rights as ‘nonsense’, and the concept of ‘natural and imprescriptible rights’ as ‘nonsense upon stilts’

In its classical, Benthamite, form utilitarianism held that the rightness of any particular course of action could be determined by the amount of pleasure or happiness that it generated, and is, thusly, sometimes referred to as ‘hedonistic utilitarianism.’ In any given moral dilemma, then, the correct course could be identified as that which generated the greatest amount of happiness or pleasure and the least amount of unhappiness or displeasure. Gradually, however, utilitarianism began to develop in a number of different directions, and ‘utility’ came to be defined in more sophisticated terms, rather than being seen as synonymous with pleasure or happiness as per classical, hedonistic utilitarianism. Perhaps the most notable of the more sophisticated forms of utilitarianism is the theory that has been termed ‘preference utilitarianism.’ This form of utilitarianism holds that the correct course to follow may not necessarily be the one that generates the greatest amount of pleasure in narrow, hedonistic utilitarian terms. Some people, proponents of this view point out, opt to follow a path of physical or intellectual rigour, despite the frustrations or discomforts that are an inevitable part of taking such a path. This aspect of human nature was recognised by John Stuart Mill, another

luminary in the development of utilitarian moral thought, who adjusted the theory accordingly on the grounds that, in his view, it was better to be ‘Socrates dissatisfied than a fool satisfied.’

It is in the somewhat more sophisticated tradition of preference utilitarianism that Peter Singer, arguably the most prominent utilitarian thinker of modern times, has followed, and it is perhaps somewhat ironic, given the antipathy toward the notion of the concept of rights inherent in the development of utilitarian moral theory, that the publication of Singer’s *Animal Liberation* in 1975 (revised ed. 1995 – all references below to this edition.) is often viewed as heralding the dawn of the contemporary phase of the philosophical animal rights movement. Although Singer does occasionally make use of the term ‘rights’ in *Animal Liberation* (a book that was not primarily aimed at the academic demographic) he has subsequently sought to distance himself from the term, and has referred to his usage of it as a regretful ‘concession to popular moral rhetoric.’ (Cited in Regan 1980, p. 307). Rather than attempting to found his philosophical standpoint on what he, like Bentham before him, considers to be the rather amorphous concept of rights, then, Singer prefers to build his theory around the less metaphysically contentious concept of ‘interests’. Indeed, in chapter one of *Practical Ethics* (1993), Singer identifies the concept of the equal consideration of interests as constituting a basic moral principle, which is to say that he views it as a principle at which we very quickly arrive as soon as we attempt to shift our deliberations from a purely egocentric ‘pre-moral’ stage of consideration to a universalisable, and therefore properly moral position.

In order to put Singer’s theory into practice, then, the first question that needs to be addressed is the issue of just what sorts of beings can be meaningfully said to actually have interests. Singer points to the capacity for *sentience* (which he defines as the ability to experience

pleasure and pain) as constituting the essential trait that a being must be in possession of in order to qualify as a holder of the sort of interests that he has in mind. That is to say that all beings who are sentient can be meaningfully said to have, at the very least, a fundamental interest in not suffering pain. As Singer says:

The capacity for suffering and enjoyment is a *pre-requisite for having interests at all*, a condition that must be satisfied before we can speak of interests in a meaningful way. It would be nonsense to say that it was not in the interests of a stone to be kicked along the road by a schoolboy. A stone does not have interests because it cannot suffer. Nothing that we can do to it could possibly make any difference to its welfare. The capacity for suffering and enjoyment is, however, not only necessary, but also sufficient for us to say that a being has interests – at an absolute minimum, an interest in not suffering. A mouse, for example, does have an interest in not being kicked along the road, because it will suffer if it is. (*Animal Liberation*, pp. 7-8).

Singer posits, then, that as animals (or, at least, very many animals) would appear to exhibit this capacity it would seem that, in endeavouring to think morally, we are compelled to take the interests of such beings into account in our moral deliberations. It is important to note, however, that the principle of equal *consideration* of interests does not necessarily imply an ethical imperative of equal *treatment*. Different sentient beings have differing capacities and abilities and, as a result, different interests that need to be taken into consideration in our moral deliberations regarding the issue of how we should treat them. This is an important point as it provides a defence against the derisory accusation that is sometimes levelled at the animal liberation and animal rights movement to the effect that the logical extension of this movement's philosophy leads inexorably to the preposterous notion of 'votes for pigs' or suchlike. The logical extension of the concept of the equal consideration of interests however, when correctly understood, can be seen to entail no such outlandish inference. As pigs, or any animals other than humans, do not have the necessary intellectual ability to grasp the intricacies

of the democratic process, they clearly cannot be seen as having an interest in political enfranchisement. The point that Singer (like Bentham before him) seeks to make is that it is the *like* interests of the various sentient beings that we should endeavour to give equal weight to in our ethical reflections.

As Singer details in *Animal Liberation*, and in more recent writings such as *Eating* (co-written with Jim Mason, 2006) a survey of the ways in which humans currently treat animals in areas such as animal agriculture and scientific research quickly proves that the prevailing social attitude towards animals is not one in which their interests are accorded anything even vaguely resembling equal consideration to the interests of humans. Singer details how animals' most fundamental interests are routinely violated on a massive scale through various forms of laboratory research (*Animal Liberation*, chapter two) and intensive animal agriculture – or 'factory farming' (*Animal Liberation*, chapter three). Such practices cause immense suffering to large numbers of animals in order to produce commodities such as animal-derived food products or animal-tested cosmetics: products that it would, according to Singer, strain the limits of credulity to regard as being in any way essential to the well-being of humans.

For Singer, this exploitative and abusive state of affairs is the social manifestation of a pervading mindset which he terms 'speciesism', (a term first coined by the psychologist Richard Ryder) which Singer defines as 'a prejudice or attitude of bias in favour of the interests of one's own species and against those of members of other species.' (*Animal Liberation*, p. 6). In order to maintain this culture of human supremacy and concomitant animal exploitation morally irrelevant criteria that humans are considered to embody exclusively (or at least pre-eminently), such as the capacity for rationality or self awareness, are utilised as a means of

highlighting the differences between human and animal ontology. These morally irrelevant differences between humans and animals are then employed in order to construct an unfounded and illusory ethical divide which facilitates and perpetuates the exploitation of animals at the hands of humans. In short, this speciesist argument holds that the human possession of capacities such as rationality and self consciousness places humans and animals on opposite sides of an insuperable gulf, and thus justifies human exploitation of animals.

The notion that because animals are not rational or self conscious (or, at least, not as rational or self conscious as human beings) then humans are to be given *carte blanche* to treat them as they will, however, does not, for Singer, stand up well to any form of critical analysis. Firstly, the assertion that animals are not rational or self-conscious is itself an idea that faces a number of obstacles and, as will be described below, the extent to which we can comfortably deny these supposedly ‘uniquely human’ characteristics to at least *some* other animals is highly debatable.

Secondly, even if it were to prove to be the case that certain animals did differ from humans in certain fundamental psychological respects such as those mentioned above, this fact alone would not automatically entail that the way in which such animals are treated should be considered of no moral import. If we agree with Singer’s position that it is a capacity for sentience that ought to be viewed as the fundamental consideration in our determining whether or not a particular being can be meaningfully said to have interests, then it is this capacity that we should have uppermost in our minds when considering the manner in which sentient beings are to be treated. Capacities such as rationality or self awareness may well have some considerable impact on the *type* of interests that a given being may have, but it is the possession of the capacity of sentience alone which renders a being worthy of moral consideration in the

first place. If we humans are to act morally, then, we should not flagrantly disregard whatever interests any sentient being may have in the relentless pursuit of our own.

What might be termed the ‘rationalist supremacist’ approach to morality not only rests upon ethically irrelevant criteria, but is also conveniently ignored when it is in the interests of human beings to do so. As Singer indicates, there are certain human beings who themselves do not appear to operate at a higher level of rationality and self-awareness than many animals (*Animal Liberation*, pp. 81-83). In particular, Singer raises the issue of the so-called ‘argument from marginal cases’, which can be traced back as early as the writings of Porphyry (Dombrowski 1984), and which focuses on those individuals who are afflicted with severe and irreparable brain damage, and who can, therefore, be seen as lacking possession of the supposedly essential and defining character traits which are considered to constitute ‘humanity’.

If one were to adhere rigidly to the idea that it is the possession of traits such as rationalism and self-awareness that accord the unique moral status which humans award to themselves, then no moral problems should arise if we were to decide to treat those marginal humans that do not exhibit these capacities in a similar way to the manner in which many animals are currently treated. The fact that many of those who justify their anthropocentrism through a reliance on capacities such as rationality *would* likely be disinclined to concede that non-rational humans could unproblematically be processed into food or utilised in scientific experiments gives the lie to their claims to have any justification for erecting the pedestal upon which they place human beings, and, for Singer, exposes speciesism for what it is: an entirely unjustifiable partiality for members of one’s own species based solely on the morally irrelevant consideration of species membership.

Animal Agriculture

One of the principle ways in which this speciesist ideology manifests itself in social attitudes to animals can be seen in the enterprise of animal agriculture. In chapter three of *Animal Liberation*, Singer details the many exploitative practices that animals are subjected to in order for humans to be able to eat meat and other animal-derived food products. Of particular concern to Singer is the practice of so-called ‘factory farming’: the highly industrialized, maximum profit oriented production and processing of animals designed to ensure that the various food products derived from them can be made available for humans to buy at the lowest possible financial cost. Singer details the high level of animal suffering that is inherent to this system, and puts forward the view that, given as this whole process serves only to serve humans’ relatively trivial interest in being able to eat nutritionally inessential, ‘luxury’ food products, the development of this aspect of contemporary agri-business can be seen as a clear example of the most fundamental interests of animals being violated in favour of serving the far more frivolous interests of human beings. As such, claims Singer, there is a moral imperative for utilitarian animal liberationists to boycott all products that have been produced by such a system because, as he states:

Until we boycott meat, and all other animal products of animal factories, we are, each one of us, contributing to the continued existence, prosperity, and growth of factory farming and all of the other practices used in rearing animals for food. (*Animal Liberation*, p. 162).

Singer also addresses the question of whether, as well as boycotting the products of the factory farming system, the utilitarian also has a moral duty to boycott meat and other animal-derived

food products that have been produced in accordance with more ‘traditional’, less intensive farming methods than those utilised by the factory farming system. As Singer points out, even traditional animal agriculture is responsible for a considerable amount of animal suffering, and the transportation and slaughter processes that such animals are subjected to is often the same as that which is to be the grisly fate of their factory farmed counterparts (*Animal Liberation*, pp. 145-157). For the utilitarian animal liberationist, then, the question is: are the lives of these traditionally raised animals to be considered generally pleasant enough to outweigh any stresses or pain that they endure during their raising and slaughter?

When faced with this issue, proponents of meat-eating may invoke the so-called ‘logic of the larder’: the argument that, as those animals that are utilised by the animal-derived foods industry are brought into existence purely and simply in order to serve the needs of that industry then, if the industry were to be abolished, such animals would cease to be brought into existence in the first place (see Scruton 2004 for an example of such an argument). This argument has been roundly criticised by Matheny and Chan (2005), who, with Singer (*Practical Ethics*, 1993, p. 121), point out that the argument is entirely inapplicable in the case of factory farmed animals, as bringing a sentient being into existence when that being is destined to live a life blighted by constant pain and suffering can, on the utilitarian view at any rate, easily be dismissed as having conferred no benefit on that being whatsoever.

In the case of an animal that has been raised in a more traditional manner than those that are products of the factory farming system, however, and which *may* therefore be seen as having had a worthwhile life on the whole, the question becomes slightly more difficult from the utilitarian perspective. Essentially, the fundamental question that needs to be addressed is this:

if an animal has been brought into existence in order to become food for human consumption, and that animal lives a life that can be considered, on the whole, worthwhile, is it justifiable to slaughter that animal for its meat, given that it will subsequently and consequently be replaced by another animal that has been brought into existence in order to continue the same cycle.

Such a 'replaceability' argument claims Singer (*Practical Ethics*, pp. 121-128) hinges to a considerable degree on the issue of animal ontology. If we conceptualise living creatures as self-conscious beings with a desire to continue living their lives, then the replaceability argument would seem to be a somewhat dubious one. However, in the case of those beings who, although sentient, lack both a sense of self-consciousness and a concept of futurity, could it, then, be argued that, in killing them, one does them no *personal* wrong (given that they cannot meaningfully be seen as embodying any sense of 'personhood'), and that the wrong that one commits by reducing the amount of pleasure in the universe (assuming, of course, that such animals have led pleasant lives and have been killed painlessly) can be redressed by replacing these animals with others destined to follow the same cycle?

An important question that the above issue raises, of course, is that of just which living beings can be said to be self-conscious and future oriented. Humans (with the exception of the aforementioned 'marginal cases') would fall into this category, but do we really have any empirical evidence for refusing entry to all other species in the way that those who subscribe to the speciesist mindset would seek to? Singer states that quite the contrary is the case. Singer points to the work that has been done in teaching sign language to certain higher primates, who have subsequently been able to demonstrate and articulate that they have both a sense of themselves as distinct entities, as well as a sense of the future. Singer also refers to other

research which seems to suggest that even higher primates such as chimpanzees that have not been taught sign language still appear to exhibit the capacity for conceptual thought (see *Practical Ethics*, pp. 110-117). More recent research has even suggested that chimpanzees appear to have a concept of their own mortality, and to suffer bereavement in a similar way to humans (BBC, 2010). If this were indeed to prove to be the case, then yet another supposed ‘fundamental difference’ between humans and animals would stand in need of serious reassessment.

If, then, we cannot safely and empirically draw the line for self-consciousness and futurity with ourselves on one side of it and all other animals on the other side, just where *do* we draw it? A wealth of anecdotal evidence from people who live with cats and dogs would seem to suggest that such animals also possess the aforementioned capacities to some considerable degree and, if this is indeed the case, can there really be any conclusive reason for denying that those species of animal that are routinely exploited by the animal-derived foods industry might not also be in possession of such faculties?

Singer points to the case of fish as an example of a life-form that is not generally considered to be self-conscious, and so may seem to be a candidate for ‘replaceability’ (*Practical Ethics*, pp. 126-127). It is important to bear in mind however, that for the replaceability argument to prove acceptable on utilitarian grounds, the animal that is killed must not only be replaced, but it must also not be caused to suffer. As Singer suggests, in the case of commercial fishing, neither of these two criteria would seem to be met as, firstly, the fishermen who scoop huge number of fish up in giant trawler nets do not take any steps to replace the fish they remove (as is evidenced by the drastic decline in certain fish species – see Singer and Mason 2006, chapter

nine) and, secondly, the fish thus caught invariably die as a result of suffocation on the deck of the fishing boat – a death that would seem far from being either quick or painless.

In practice, then, perhaps the only animals that the utilitarian could feel justified in eating are those animals that are not only not conscious, but also appear to lack any form of sentience. Most molluscs, Singer suggests, would seem to fall into this category and, indeed, Singer himself, based on this logic, states that he continued to eat creatures such as oysters, scallops and mussels for some time after the publication of the first edition of *Animal Liberation*, despite having felt morally compelled to adopt an otherwise vegetarian diet. However, by the time of the publication of the second edition of the book, Singer had undergone a change of heart, reasoning that, on utilitarian grounds, it was preferable to give such creatures the benefit of the doubt. If, after all, it were to transpire that such creatures were indeed able to feel pain, then to eat a meal of oysters or mussels would be to inflict pain on a significant number of creatures in order to satisfy a relatively trivial human preference for eating seafood (*Animal Liberation*, p. 174).

If, then, as Singer holds, the utilitarian is on the safest grounds when avoiding any foods that require the killing of any animal, what should the utilitarian attitude be towards those animal-derived food products that do not necessitate any animal deaths – most notably eggs and dairy products. As Singer details in chapter three of *Animal Liberation*, the egg industry is one of the most ruthlessly intensive of all factory farming practices (pp. 107-119), in which next to no consideration is given to the interests of the hens who are viewed purely as egg-laying machines, destined to lead extremely unpleasant lives and to meet premature and equally unpleasant demises when they have outlived their most productive years. Singer concludes,

therefore, that the utilitarian's moral obligation to boycott these so-called 'battery eggs' is as strong as the obligation that they have to boycott any other products of the factory farming system.

On the subject of free-range eggs, Singer is more equivocal (*Animal Liberation*, pp. 175-176). Although free range hens may lead relatively pleasant lives, they are still generally sent to the slaughterhouse when their productivity starts to decline. The question here is, then, whether the generally pleasant lives of the hens, together with the benefits to humans of the eggs, can be seen to compensate for the premature and unpleasant end that the hen is destined to meet. Singer omits, however, to factor into the equation the routine extermination of the male chicks that is an inherent aspect of even free range egg production. Such creatures, having no value as egg layers and therefore being seen as nothing more than industrial waste, are typically gassed or disposed of in a 'macerator', a device that shreds chicks alive (Vegan Society, 2010). Once this consideration is taken into account, then, the task of constructing a utilitarian argument to justify the eating of even free-range eggs would seem to be a more difficult prospect than it may have initially appeared.

Similar considerations are to be taken into account when considering whether or not the production and consumption of dairy products can be justified on utilitarian grounds. In chapter three of *Animal Liberation*, Singer details the many stresses that cows are routinely placed under as a result of their exploitation by the dairy industry (pp. 136-138). Such animals are also sent to the slaughterhouse when their productive lives are over to face a death in circumstances which may well cause extreme stress. In addition, Singer adds, the veal industry – one of the most exploitative of all factory farming practices (pp. 129-136) is actually an offshoot of the

dairying industry, as the calves that are exploited by the veal industry have come from cows that have been made pregnant every year in order to keep them lactating. From a utilitarian perspective, which holds that *all* effects of actions (be they direct or indirect) must be factored into our ethical deliberations, the suffering that is wrought by the veal industry must count very strongly against the ultimate justification of the dairy industry.

When all of the above factors are taken into consideration, then, it may seem a fairly inescapable conclusion of Singer's case for animal liberation that there is a necessity for the utilitarian to eschew essentially all forms of animal-derived food products on ethical grounds. As will be described towards the end of this chapter however, not all utilitarian philosophers with an interest in animal welfare would agree with this position.

Animal Experimentation

Aside from food production, the other main area in which the speciesist mindset can be seen to manifest itself that Singer analyses in *Animal Liberation* is in the sphere of animal experimentation in its various forms. In chapter two of the book, Singer details many of the exploitative experimental practices that animals are subjected to in research establishments, military laboratories, universities and private firms engaged in various forms of commercial enterprise. As Singer shows, many of the animal-based experiments that are conducted in these institutions are performed in the name of serving trivial human interests, or, in certain cases, no discernable human interests at all (other than, perhaps, the interest that the experimenter has in satisfying his or her curiosity). Given that such experiments frequently cause a great deal of animal suffering, the fact that they are considered socially conscionable represents for Singer

a clear case of our culturally institutionalised speciesist disregard for the most fundamental interests of animals.

Indeed, the issue of animal testing highlights a paradox inherent to speciesism. Animal testers justify their experiments through simultaneously denying the similarity between humans and animals, whilst also claiming that the data obtained from such experiments can be extrapolated to human beings. As Singer says, describing the ‘researcher’s dilemma’:

Either the animal is not like us, in which case there is no reason for performing the experiment; or the animal is like us, in which case we ought not to perform on the animal an experiment that would be considered outrageous if performed on one of us. (*Animal Liberation*, p. 52).

In deciding whether or not conducting a particular experimental procedure on animals can be justified on utilitarian grounds, then, Singer proposes the following question: is the planned experiment so important and the expected results of the experiment so invaluable that the experimenters would be willing to undertake the same procedure on an orphaned infant with severe and irreparable brain damage? (Singer stipulates that the proposed experimental subject be an orphan in order to avoid the complicating factor of the sentimental attachments of the parents or other family members). If the experimenters would not be willing to use such a human as an experimental subject when they *would* be willing to use an animal at a similar (or, indeed, higher) level of mental ability and awareness, then this can be seen as clear evidence of discrimination based on no other characteristic than the morally irrelevant detail of species membership (*Animal Liberation*, pp. 82-83). Accordingly, claims Singer, only an experiment that was considered so important that the experimenter felt that utilising such a human as a test

subject was justifiable could the experiment itself be considered morally acceptable. The outcome of such a methodology being applied to the area of scientific experimentation, posits Singer, would almost certainly result in a drastic reduction in the number of procedures that are performed.

Criticisms of Utilitarian Animal Liberation

Singer's utilitarian-based case for animal liberation has been criticised on a number of grounds, both from within the philosophical sphere of utilitarianism as well as from the perspective of competing ethical theories. To deal with one of the weaker objections to Singer's theory first, the question is sometimes raised as to how we can be sure that animals are in fact able to experience pain and suffering. Such a view has echoes of the theory put forward by the so-called 'father of modern philosophy' René Descartes, who infamously held that animals were mere automata: living machines with no more ability to experience sensations than non-organic mechanical devices such as clocks. When such views are expressed today, however, it is more likely as an attempt to hide behind the excuse of a lack of philosophical certainty rather than out of a commitment to Cartesian ontology.

The problem of attributing mental states to other beings is, indeed, a thorny philosophical dilemma that has exercised philosophers since the days of the early Greeks – but this problem applies as much to other humans as it does to non-human animals. Most people, however, do not raise the same question regarding the existence of human sentience. Although humans have the advantage of being able to communicate their sensations to others through the medium of language, the fact of the matter is that many of the vocalisations that humans often utilise in

order to express sensations are often non-verbal. In addition, the physiological structure, and, in particular, the nervous system, of many animals is similar to that of humans. Given that this is the case, can it really be credible that creatures who are so physiologically similar to ourselves should not share sensations similar to those that we experience? As Voltaire wrote in criticism of the Cartesian view (cited in Ryder, 1989, p. 60):

Judge (in the same way as you would judge your own) the behaviour of a dog who has lost his master, who has searched for him in the road barking miserably, who has run upstairs and down, from room to room, and who has found the beloved master at last in his study, and then shown his joy by barks, bounds and caresses. There are some barbarians who will take this dog, that so greatly excels man in capacity for friendship, who will nail him to a table, dissect him alive, in order to show you his veins and nerves. And what you then discover in him are all the same organs of sensation that you have in yourself. Answer me, mechanist, has Nature arranged all of the springs of feeling in this animal to the end that he might not feel? Has he nerves that he may be incapable of suffering?

A similar question that is also sometimes raised is the issue of how we can be sure that plants are *not* capable of experiencing pain and suffering – the implication being that if growing and processing vegetable-based foods causes those vegetables to suffer, then it is morally irrelevant whether we chose to eat vegetables or animals, as we are equally culpable either way. Claims regarding the possibility of plant sentience can perhaps be traced to the publication in 1973 of *The Secret Life of Plants*, written by Peter Tompkins and Christopher Bird. The fact, however, that this book is classified by its publishers as ‘Occult/New Age’ and contains chapters with titles such as ‘*Plants and ESP*’ and ‘*Plants Can Read Your Mind*’ should be enough to set alarm bells ringing in the minds of those with even the most rudimentally developed analytic capacities. A search of the peer reviewed academic scientific literature yields little in the way

of evidence that would suggest that the capacity of sentience can realistically be attributed to plant life.

The concept of plant sentience gains little more credibility from philosophical inference than it does from empirical science. If one subscribes to the theory of evolution and, therefore, views the development of the capacity to feel pain as conferring a survival advantage on a living entity, then it is difficult to comprehend why such an entity should develop this capacity without also developing the ability to remove itself from the painful situation in which it has been placed. Similarly, even if one rejects the theory of evolution in favour of some form of 'creationist' or 'intelligent design' hypothesis that posits that the world and everything in it was brought into existence through the machinations of a supreme deity, it is difficult to see how such a divine research and development programme could result in the outcome of a sentient but immobile being.

R. G. Frey (2004) has taken Singer to task for his assertion that a commitment to utilitarianism necessitates the adoption of a vegetarian diet on ethical grounds. Frey argues that, as the commercial animal farming industry is so vast, any individual act of ethically-motivated abstention from the products of this industry is likely to be all but imperceptible. Frey's position is that meat eating has become so ingrained in our culture that ethical attempts to turn back this tide are bound to be doomed to failure. Frey points out that, during the quarter of a century or so that the contemporary animal rights and animal liberation movement have been advocating ethical vegetarianism, the number of commercially farmed animals has actually increased dramatically. Given this situation, argues Frey, the utilitarian really has no empirical grounds for expecting his or her abstention from animal derived food products to do anything to bring

about a change in the modern agricultural practices that are responsible for so much animal suffering. Instead, argues Frey, the utilitarian's time would be far better spent in directly addressing the matter of the animal rearing and slaughtering practices that are the cause of so much animal suffering, and in attempting to persuade farmers and agribusinesses to reform those practices. As an example of what he views as the efficacy of this approach, Frey points to the public furore which erupted when the British public's awareness of veal production methods was raised and which subsequently led to the cessation of the veal crate system in Britain.

Another objection that could be tabled in response to the assertion that utilitarianism requires the adoption of a vegetarian or vegan diet focuses on the animals that are killed in the cultivation process of the plant foods of which such diets comprise. The planting and harvesting of vegetable foods is responsible for the deaths of many animals that live in the crop fields and, as such, Davis (2003) has suggested that less harm to animals may ultimately be caused if human beings were to adopt an omnivorous diet, which comprised a smaller amount of vegetable-based foods than the diet that is followed by vegetarians and vegans, but was supplemented with meat that derived from ruminant animals that had been fed a forage based diet (which does not necessitate such intensive working of the land and, therefore, results in the deaths of fewer field animals).

Outside the sphere of utilitarian theory, Tom Regan, a noted critic of utilitarianism (whose rights-based view will be examined in the following chapter) is extremely sceptical of the notion that a moral obligation for humans to accord animals a significantly improved moral status can be grounded in a utilitarian-based ethic. On a practical level, Regan points out that,

when considering the pros and cons of the meat industry, the utilitarian would need to factor more into the utilitarian calculus than the gustatory preference for meat that many humans have (Regan 1980, pp. 310-311) As Regan points out, the meat industry is big business which employs a large number of people whose interests in the continuation of the meat industry are far from trivial, and which would need to be factored into the utilitarian moral equation when considering the moral status of the meat industry. Furthermore Singer, as a utilitarian, would be compelled not only to take the interests of all those who are *directly* involved in the meat industry into consideration, i.e. those who breed and raise animals for human consumption, but also all of those individuals who are *indirectly* involved in the industry, such as the feed producers, cage manufacturers, the producers of growth stimulants, and so on. Singer would also need to consider the negative consequences for the dependents of all of those who are directly or indirectly involved in the various aspects of animal agriculture, were this enterprise to be abolished. Furthermore Singer, as a preference utilitarian, needs to factor into his equation the preferences of consumers. Given that the vast majority of society's consumers (in the developed world, at least) are not vegetarian, it would appear that a large number of preferences weigh in favour of the status quo *vis a vis* animal agriculture. Granted, one also has to factor the preferences of the animals into the equation, but even when one does this, the question of what choices would result in the optimific outcome is, in the eyes of Regan, shrouded in a considerable degree of doubt. In short, Regan's practical objections to Singer's utilitarian animal liberation position focus on the need for the theory to be backed up with a vast amount of empirical data which, even if it were possible to collate (a contingency about which Regan expresses no small degree of scepticism) is conspicuous by its absence in the writing of Singer.

Regan's objection to utilitarianism, however, goes deeper than doubts about the practicalities of data gathering. Regan points to a paradox at the heart of utilitarianism (or, at least, Singer's

form of utilitarianism) as he sees it which, in his view, casts a considerable shadow of doubt over the viability of utilitarianism as a practical moral theory (Regan 1980, pp 312-318). In particular, Regan points to the conflict in Singer's theory between the principle of equal consideration of interests on the one hand, and the principle of utility on the other. As Regan points out, if Singer considers the equality of interests principle to be a 'basic' moral principle in the sense that it cannot be derived from any other moral principle, then this commits Singer to a paradox, as a utilitarian must hold that it is the principle of *utility* that is, in fact, the sole basis of morality. Indeed, trying to establish any form of working relationship between these two principles, on Regan's view, is something of an onerous task, as despite an initial semblance of compatibility, on closer inspection the two principles actually prove to be mutually exclusive.

According to Regan's account, the equality of interest principle is a *pre-distributive* principle which enjoins us to take the interests of all affected beings into consideration, but which does not tell us what we should do next. The principle of utility, on the other hand, is a *distributive* principle that tells us how we should act – i.e. in such a way as to maximise utility in whatever way that this outcome may be brought about, thus rendering any prior considerations regarding equality of interests (or anything else, for that matter) as entirely moot if such considerations are not conducive to bringing about the optimific outcome. If it could be shown, therefore, that by not taking the interests of certain non-human animals into consideration the optimific outcome would result, then the utilitarian animal liberationist would be forced to choose between either their animal liberationist ideals or their utilitarian moral standpoint. This, for Regan, constitutes proof that utilitarianism cannot be relied upon as a means of considerably improving the moral status, and, by extension, the treatment of non-human animals.

Similarly, Mark Rowlands has also analysed the conflict that appears to bedevil the utilitarian-derived animal liberationist position. Rowlands views Singers approach not as an attempt to *ground* morality in utilitarianism, but rather as method of interpreting the formal principle of justice, and Rowland's objection is that utilitarianism actually provides a very poor interpretation of this basic principle (Rowlands 2009, pp. 42-48). Rowlands points out that it is an essential aspect of our intuitive conception of equal consideration that the moral entitlements that any individual is considered to be owed do not depend upon and are not affected by the attitudes that others may harbour towards them – but this aspect of our moral intuition, states Rowlands, can find no home in utilitarianism. Rowlands takes the example of racism and point out that any interests that a given society's majority racial group may have in ensuring that a minority racial group remains subjugated would, on the utilitarian view, need to be factored into the utilitarian calculus, thus making what this minority group is owed, *as a matter of justice*, contingent upon the inimical feelings that the majority group may have towards them.

This somewhat perverse implication of utilitarianism, holds Rowlands, arises as a result of a clash of principles that utilitarianism has conflated: the principle of equality on the one hand, and the principle of the aggregation of interests on the other. For Rowlands, the utilitarian's folly lies in the attempt to interpret the former principle in the terms of the latter when, in fact, the two principles are not merely non-equivalent but are actually incompatible. That is to say that if we do as the utilitarian would enjoin us to do and take all interests (including the interests of racists, for example) into account, then it would seem that we are contravening the

requirement that we give the interests of each individual equal weight irrespective of what others may think of them.

It would appear, then, that if the utilitarian wishes to remain true to the egalitarian aspirations of the theory it would be necessary to exclude illegitimate preferences such as those held by racists from the utilitarian calculus. However, as Rowlands points out (2009, pp. 48-50), utilitarians cannot have recourse to this move without embroiling themselves in a paradox. On the utilitarian view, judgement regarding what constitutes a legitimate or illegitimate preference can only emerge *subsequent* to the utilitarian calculus. Therefore, one cannot decide prior to the calculus that certain interests (e.g. the interests of racists) are illegitimate and therefore ineligible for inclusion in our moral deliberations. Deciding that certain preferences are illegitimate, and therefore ineligible for inclusion in the utilitarian calculus would seem, then, to imply a commitment to some other prior and *non-utilitarian* standard of justice which stands in need of explication, and which also threatens the theoretical cohesion of utilitarianism as a viable moral theory.

For many, perhaps, the initial appeal of utilitarianism lies in the fact that it appears to take morality out of the contentious realm of ‘natural’ rights which are grounded by ‘natural’ laws and purports, instead, to offer the rigours of an objective ‘moral science’. Having made this promise, however, it then seeks to operate through the use of the somewhat amorphous value of utility and far from certain predications regarding the how this value may be affected by the consequences of various proposed actions.

Given the uncertainty that is inherent to the theory, it is perfectly possible for utilitarians on both sides of various debates regarding the human exploitation of animals (the legitimacy of the meat industry, the moral requirement for vegetarianism, the necessity of animal testing, etc.) to marshal a considerable amount of evidence to *suggest* that their position is the optimistic one, but it is all but impossible for either side to collect enough data to actually *prove* that this is the case. As such, it is difficult to imagine that a requirement for the substantial improvement in the moral status of animals could ever be uncontroversially underwritten by a theory such as Singer's utilitarian-based animal liberation position.

There is little doubt that Peter Singer is a major figure in the contemporary animal liberation and (broadly speaking) 'animal rights' movement. However, the extent to which he has come to hold this position is down to his philosophical reasoning is debatable. *Animal Liberation*, as previously stated, was not written primarily for an academic audience, and it is arguable that those chapters that graphically detail the plight of animals in factory farms and laboratories, together with accompanying photographs, did more to attract people into the movement by appealing to their emotions and conscience than the more philosophical aspects of the book did by appealing to people's sense of reason. The fact that Singer has continued to address a general readership in books such as *Eating* (2006), which also wear their philosophy somewhat lightly would seem to suggest that Singer is very much aware that consciousness raising and emotional appeals are at least as powerful weapons in the fight for animal liberation as is the use of philosophical reasoning. The constructive role that emotion can play in the fight for animal liberation will be examined in later chapters, but for the moment it suffices to say that, when considering the contemporary animal advocacy movement, there are few people involved in it who would not hold with the view that the movement owes a great debt to Singer, even if they do not entirely endorse the more philosophical aspects of his writings.

Chapter Two – Moral Rights and Animal Advocacy

Tom Regan is a leading exponent of a rights-based approach to animal advocacy, which he has expounded most fully in his 1983 work *The Case for Animal Rights* (2nd ed. 2004 – all references below to this edition.). However, unlike traditional natural rights views that claim that such rights are entailed by a natural law that has been established by divine authority, Regan postulates the existence of moral rights as a way of explaining our settled moral convictions that certain courses of action are to be viewed as being inherently right or wrong, and are not dependent on utilitarian calculations regarding the outcome of these actions. In contrast to the utilitarian position taken by Singer described in the previous chapter, then, Regan’s rights-based approach adopts a deontological and, broadly speaking ‘Kantian’ stance to animal ethics. The reason that Regan’s position can only *broadly* be construed as Kantian, of course, is because Kant himself was quite explicit in his view that humans did not have any direct moral duties to non-human animals. Kant was not, however, of the view that the ways in which humans conducted themselves with regards to non-human animals was of no moral relevance whatsoever but, rather, that humans’ dealings with animals were only ethically relevant to the extent that they had ramifications for humans’ conduct towards each other. He wrote:

Baumgarten speaks of duties towards beings that are beneath us and beings which are above us. But so far as animals are concerned, we have no direct duties. Animals are

not self-conscious and are there merely as a means to an end. That end is man. We can ask, “Why do animals exist?” But to ask “Why does man exist?” is a meaningless question. Our duties towards animals are merely indirect duties to humanity. Animal nature has analogies to human nature, and by doing our duties to animals in respect of manifestations of human nature, we indirectly do our duty towards humanity. Thus, if a dog has served his master long and faithfully, his service, on the analogy of human service, deserves reward, and when the dog has grown too old to serve, his master ought to keep him until he dies. Such action helps to support us in our duties towards human beings, where they are bounden duties. If then any acts of animals are analogous to human acts and spring from the same principles, we have duties towards the animals because we cultivate the corresponding duties towards human beings. If a man shoots his dog because the animal is no longer capable of service, he does not fail in his duty to the dog, for the dog cannot judge, but his act is inhuman and damages in himself that humanity which it is his duty to show towards mankind. If he is not to stifle his feelings, he must practise kindness towards animals, for he who is cruel to animals becomes hard also in his dealings with men. (Cited in Pojman, 1994, p. 28).

Kant took this view as, for him, it was only rational and autonomous beings that were to be considered worthy of being accorded direct moral consideration and for Kant, non-human animals were not autonomous beings.

Regan takes exception to Kant’s assertion that non-human animals cannot be viewed as exhibiting autonomy (*The Case for Animal Rights*, pp. 84-85). As Regan has pointed out, Kant operated on the basis of a very specific and idiosyncratic definition of the concept of autonomy. For Kant, individuals could only be considered to be truly autonomous if they were capable of recognising and acting upon the sorts of moral principles that they could, at the same time, advocate that others could also act upon. As Regan concedes, it is unlikely that any non-human animals could be considered to be autonomous in this Kantian sense of the term, but this does not necessarily mean that non-human animals should be seen as being incapable of exercising

any form of autonomy whatsoever. Regan points out that an alternative way of conceiving of the concept of autonomy could be that individuals could be construed as being autonomous if they have the capacity to form preferences and to act in such a way as to satisfy those preferences.

This alternative conception of autonomy, which Regan terms *preference autonomy* (*The Case for Animal Rights*, p. 85), would, as Regan states, still exclude many of the same things from the realm of direct moral concern that the Kantian form of autonomy would exclude: inanimate objects such as rocks or mountains, or collective entities such as species or ecosystems, not being the sorts of things that can formulate or engage in action to satisfy preferences in the sense that Regan proposes, would be excluded from the realm of direct moral concern on both the Kantian and the preference autonomy view. The preference sense of autonomy would, however, include certain individuals that the Kantian version omits, - most notably, of course, many types of non-human animals. There is no reason, claims Regan, to view the Kantian sense of autonomy as constituting a more definitive version of the concept than the preference version. So, for Regan, to exclude non-human animals (or, at least, *some* non-human animals) from the sphere of direct moral concern on the grounds that they do not accord with one particular and arbitrarily chosen definition of the concept of autonomy is unjust.

As soon as it is suggested that some non-human animals should become the subjects of direct moral consideration on the basis of their ability to exercise autonomy in the preference-based sense of the term described by Regan, the question that immediately arises, of course, is just *which* non-human animals should be viewed as being in possession of such a capacity. In order for any non-human animal to be considered autonomous in the preference sense of the term

advanced by Regan, that animal would need to have a fairly high degree of cognitive complexity. Such a creature would need to be considered to be in possession of an awareness of their surroundings; would need to be capable of having beliefs and desires; to have memory and a sense of the future and to be able to act with intention. Even if certain animals could be considered to be in possession of the aforementioned capacities, however, this does not entail that *all* animals are. In fact it is eminently probable that certain, very simple animal life forms have extremely limited cognitive capabilities and do not, therefore, have the necessary capabilities to be considered to be autonomous in the preference-based sense of the term. As evolutionary theory claims that the more cognitively complex and autonomous creatures evolved from the less cognitively complex, non-autonomous creatures this creates something of a quandary. Evolutionary theory does not lend itself comfortably to definitive line-drawing as the very basis of the theory is that the various differences between living organisms is a difference of *degree* rather than a difference in *kind*. The problem of line-drawing is further exacerbated by the fact that even those animals that *can* be considered to be capable of exercising preference autonomy, are *not* actually capable of exercising that capacity at every stage of their lives. Even the higher mammals (including humans beings), when infants, cannot be viewed as having the capacities necessary to be viewed as being capable of exercising preference autonomy, and the same can be said of those unfortunate enough to have been born with severe intellectual debilitations, or to have become afflicted by such debilitations later in life through injury or illness. The problem, in short, then, is not only the problem of drawing lines *between* species, but also, the problems of drawing lines *within* species.

Faced with such a dilemma, Regan counsels a conservative approach. In order to make a start in deliberating ethically about our obligations to non-human animals, Regan suggests that a *tentative* line should be drawn well above the point at which there is any doubt that a particular

creature exhibits the sort of cognitive sophistication necessary for that creature to be considered to be autonomous in Regan's preference-based sense of the term. As such, Regan suggests that in deliberating our moral obligations to animals we take the word *animal* to refer to mentally normal mammals of one year or older (*The Case for Animals Rights*, p. 86). Most people would generally consider such animals to be of a sufficient degree of cognitive complexity to be considered capable of exercising preference autonomy. As such, claims Regan, we should first set about constructing a moral theory than can accord direct moral consideration in the relatively uncontroversial case of the non-human animals identified and then, if we achieve this goal, we can, perhaps, think about expanding the theory to apply to those non-human animals that fall outside this category.

Ideal Moral Judgements

Having identified mentally normal mammals of one year or older as the category of beings who should, in the first instance, be accorded direct moral consideration, Regan sets about constructing a moral theory suitable to the task. In addressing this task, Regan suggests that it may be useful to address the question of what requirements it would be necessary to meet were someone to attempt to make an ideal moral judgement (*The Case for Animal Rights*, pp. 126-130). Such an approach, Regan concedes, is really a hypothetical thought experiment, as it is unlikely that anyone has ever, or will ever meet all the requirements necessary for making such an ideal judgment. Nonetheless, claims Regan, addressing such an issue can provide us with a useful guide in our ethical deliberations. For Regan, in order for a moral judgement to have any claim to qualify as ideal, it is necessary that it comply with at least six criteria, namely:

Conceptual clarity – we need to be clear about the meaning of the terms which we employ in our moral reasoning. In the issue of abortion, for example, much hinges on whether the foetus is to be considered a person which necessitates our having a clear definition of how the term ‘person’ should be conceptualised

Information – moral philosophy cannot be conducted entirely from an armchair. Ethical dilemmas are real-world problems and therefore knowledge of the real-world is needed if our ethical principles are to be of any practical value.

Rationality – it is important for us to strive to ensure that our beliefs are logically coherent, and do not commit us to any contradictions.

Coolness – we should recognise the distorting effect that highly charged emotions can have on our moral deliberations. If we are to attempt to rise to the challenge of the ideal moral judgement, then, we should attempt to remain emotionally calm and collected in our moral deliberations.

Valid Moral Principles – for a moral judgment to qualify as ideal it is necessary that the moral judgement be made for the right reasons. This necessitates that the moral judgement be based on valid or correct moral principles. Therefore we require some criteria for discerning between the numerous moral principles that vie for our ethical attention. The criteria that Regan proposes (*The Case for Animal Rights*, pp. 131-136) are: *consistency, adequacy of scope, precision, and conformity with our intuitions.*

Consistency

It is imperative that a valid moral principle be consistent. If a proposed principle should prove to be inconsistent – if, that is, a principle would seem to imply that a given action could be construed as being both right and wrong – then it will clearly fail to provide rational guidance in the determination of which ethical route we should choose.

Adequacy of Scope

A moral principle needs to provide us with guidance in a wide variety of cases if it is to prove adequate to the task of assisting us in our moral deliberations.

Precision

Although we want a moral principle to have a wide scope it is not enough for a moral principle to offer only vague guidance in a wide range of cases. We also require a principle to provide us with a reasonable degree of precision. We must also bear in mind, however, that ethics is not akin to geometry, and we should not, therefore, require that our moral principles be as precise as geometrical theorems.

Conformity with Our Intuitions

The appeal to our intuitions is, perhaps, one of the most controversial aspects of Regan's theory. Indeed, the role that our intuitions should play in shaping our moral theories is an extremely contentious issue in the field of moral theory as a whole. As such, the relation between intuition and moral theory will be dealt with in some depth in the next chapter. For the time being it suffices to say that, when Regan talks of our moral intuitions, he is not talking about our unexamined moral convictions, or 'gut responses' to a particular issue. Rather, he is referring to what he terms our *reflective intuitions*, that is to say, those intuitions that remain after we have subjected them to the first four of the above listed criteria for making ideal moral judgements.

The Rights View

Using the ideal moral judgement process and the related criteria for evaluating moral principles as a guide, then, Regan proposes a position that he terms *the rights view* as a candidate for the type of moral theory that yields the sorts of moral principles that we should use to regulate our dealings with non-human animals (*The Case for Animal Rights*, chapter 8). According to this theory, certain individuals are to be viewed as being in possession of moral rights that cannot be traded off in the name of pursuing the greater good in the way that a utilitarian ethical theory would seem to sanction.

Key to the rights view are the related concepts of the *subject-of-a-life-criteria* on the one hand, and that of *inherent value* on the other (*The Case for Animal Rights*, pp. 243-248). In short, those beings that are considered to fulfil the subject-of-a-life-criteria are, according to Regan, to be considered to be in possession of inherent value, and it is by virtue of these beings having this inherent value that they are deemed to have the sorts of utility-trumping rights which the rights view asserts.

To be a subject-of-a-life necessitates more than simply being alive, and more, even, than exhibiting some degree of consciousness. Rather, for a being to be considered a subject-of-a-life, that being would need to embody the sorts of traits that were described earlier in this chapter as the sorts of characteristics that are considered suitable for considering that creature to be capable of exercising the sort of preference autonomy that Regan claims should be considered sufficient for a creature to be considered worthy of being accorded our direct moral consideration. More specifically, states Regan:

...individuals are subjects of a life if they have beliefs and desires; perception, memory and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them, logically independently of the utility of their being the object of anyone else's interests. Those who satisfy the subject-of-life criterion themselves have a distinct form of value – inherent value – and are not to be viewed or treated as mere receptacles. (*The Case for Animal Rights*, p. 243).

Another key concept to Regan's theory is the distinction between what he refers to as *moral agents* on the one hand and *moral patients* on the other (*The Case for Animals Rights*, pp.151-156). Moral agents are those beings who, as well as fulfilling the above listed subject-of-life criteria, are also able to formulate or recognise impartial moral principles, and to bring those principles to bear in the determination of which path to follow when deliberating ethical dilemmas. Moral agents, then, are the sorts of beings who exhibit the sort of rational autonomy that Kant emphasised, and of course, it is mentally normal human adults that represent the paradigm case of such ethically autonomous moral agents. As moral agents have rational and ethical abilities it is appropriate, under normal circumstances, to hold them accountable for their actions. Furthermore, not only can moral agents make decisions and perform actions that can be considered to be morally right or wrong, but they can also be treated in ways that can be considered to be morally right or wrong at the hands of other moral agents.

Moral patients, in contrast to moral agents, whilst also fulfilling the subject-of-a-life criteria, are unable to recognise or formulate impartial ethical principles and, as such, are clearly incapable of applying such principles in any form of process of ethical deliberation. As such moral patients are unable to act in ways that can meaningfully be described as being right or wrong. Moral patients may act in a manner that may negatively impact others significantly, even to the extent of causing serious injury or death, but even if this were to prove to be the case, the moral patient concerned cannot be considered to have acted wrongly, as only moral agents can be meaningfully considered to act in ways that are morally wrong.

Moral patients can be seen to fall into two broad categories: (i) those individuals who are conscious and sentient but who lack other mental abilities; and (ii) those individuals who are

conscious, sentient and possess the other cognitive abilities associated with the subject-of-a life criteria, and who can therefore be considered capable of exercising autonomy in the preference-based sense of the term described previously. It is with this second category of moral patient that Regan is mainly concerned. As such, then, the category of moral patients can be seen to include certain types of human being (such as infants and young children, as well as those adults who, for whatever reason, suffer from some degree of mental enfeeblement) as well as certain types of animal (on Regan's conservative assessment, mentally normal mammals over one year of age). Whereas moral patients in the sense described by Regan are incapable of doing wrong they are, nonetheless, capable of suffering wrong at the hands of moral agents. Moral patients, as subjects-of-a-life, are, according to Regan, to be viewed as having inherent value in just the same way that moral agents are. The fact that moral agents, in addition to fulfilling the subject of a life criteria are also capable of bringing impartial ethical principle to bear in their ethical deliberations is of no consequence as far as the idea of inherent value is concerned. All those who have inherent value, states Regan, are to be viewed as having it equally, and to claim that those subjects-of-a-life that are not capable of exercising Kantian-style rational autonomy are to be considered not to have inherent value, or to have it to a lesser degree than those subjects-of-a-life that are capable of exercising rational autonomy would, for Regan, be arbitrary and unjust.

The Respect Principle

The assertion that moral agents and moral patients are both to be viewed as having equal inherent value, Regan concedes, is not, in and of itself, a moral principle as it does not offer any guidance as to how we should deport ourselves in our interactions with individuals who are members of either category. In particular, the idea of inherent value does not provide us

with a normative interpretation of the so-called ‘formal principle of justice’ – the principle that states that we are to give each individual his or her due. However the concept of inherent value does suggest to Regan a foundation on which such a normative interpretation of the formal principle of justice might be formulated. If individuals are viewed as having equal inherent value, then any principle that aims to describe what treatment is due to such individuals as a matter of justice must take their equal inherent value into account. To this end, Regan proposes what he terms *the respect principle* as a principle that fulfils this requirement (*The Case for Animal Rights*, p. 248). The respect principle, Regan declares, states that *we are to treat those individuals who have inherent value in ways that respect their inherent value*, and it is this principle that Regan views as constituting the fundamental principle of the rights view.

The respect principle, according to Regan, presents an egalitarian and nonperfectionist interpretation of the formal principle of justice. That is to say that the principle does not apply only to our dealings with *some* individuals who possess value in addition to certain other traits such as advanced intellectual abilities, but, rather, it requires us to treat all individuals who have inherent value in ways that respect that value, which, accordingly, requires respectful treatment of all those individuals who meet the requirements of the subject-of-a-life criteria, be they moral agents or moral patients.

The respect principle, as defined above, does not yet, concedes Regan, offer the degree of precision that a moral principle should embody. In particular the present formulation of the respect principle does not clarify exactly what is necessitated by the recognition of the equal inherent value held by both moral agents and moral patients. In very broad, and general terms it can be said that we fail to treat individuals who have inherent value with the respect that they

are due, as a matter of justice, if we treat them as if they lacked inherent value, and we do this whenever we treat such individuals as if they were mere receptacles of valuable experiences, or as if their value depended upon their utility relative to the interests of others. For Regan this means that we singularly fail to show the necessary respect for those individuals who have inherent value if we harm them in order to bring about the best aggregate consequences for all concerned, as utilitarianism would seem to require. Such treatment constitutes a blatant expression of disrespect for the inherent value of those individuals who are compelled to suffer harm in the name of securing the greater good.

The respect principle, as a principle of justice requires more of us than that we simply refrain from harming others in order that the greatest good for the greatest number be achieved. The respect principle also requires that we recognise a *prima facie* duty to assist those who are the victims of injustice at the hands of others. As Regan points out, this requirement is not specific to the interpretation of the formal principle of justice offered by the respect principle. All viable ethical theories recognise not only a duty to refrain from acting unjustly, but also a corresponding duty to assist those who find themselves the victims of unjust acts perpetrated by others. For the interpretation of the formal principle of justice offered by the respect principle, then, this requires us to assist all those individuals who have inherent value, be they moral agents or moral patients, human or animal, in those situations in which they are the victims of injustice.

The Harm Principle

With the respect principle in place as a foundational principle of the rights view (or, at least, a *de facto* foundational principle – Regan leaves the matter of whether the respect principle can

itself be derived from a more basic moral principle as an open question), it is possible to augment the rights view with further principles that are derivable from the respect principle. One such principle that Regan claims is so-derivable (*The Case for Animal Rights*, p. 262) is the *harm principle*, which states that *we have a prima facie duty not to harm individuals*, when individuals are defined, of course, in the terms of those beings who have inherent value as a result of their being subjects-of-a-life in the sense previously described.

The harm principle can be seen to derive from the respect principle in that the respect principle, as has been described, is founded on the postulate of inherent value that Regan attributes to all of those individuals who can be seen to meet the requirements of the subject-of-a-life criteria. Those individuals that meet these criteria can be viewed, accordingly, as individuals who have an experiential welfare, that is to say, who have a life that can go better or worse for them depending on what happens to them. Therefore the ideas of benefits and harms can be seen to meaningfully apply to all such individuals, when benefits are construed as opportunities for the realisation of desires, and harms are viewed as anything that precludes the realisation of such desires, thereby detracting from the individual's welfare. As those individuals who have an experiential welfare have inherent value, and because those who have inherent value are owed treatment that respects this value (as per the requirements of the respect principle) then those individuals who have an experiential welfare are owed treatment that respects them as possessors of inherent value. Therefore we *prima facie* fail to treat individuals in ways that respect their inherent value if we treat them in ways that detract from their individual welfare, which is to say, if we treat them in any way that can be seen to cause them harm.

The fact that the harm principle can be seen to derive from the respect principle, states Regan, does not entail that it is always wrong to harm another individuals, irrespective of the circumstances (hence the *prima facie* status of the harm principle). However, states Regan, what the respect principle and harm principle *do* entail is that if a situation should arise in which it is unavoidable that one or more individuals are caused some form of harm, the harm that they are caused must not violate the terms laid out by the respect principle. For example, the harm that an individual is caused cannot be justified on the grounds that the individual is to be viewed as simply a receptacle of valuable experiences (as Regan contends, utilitarianism would have us believe), rather than as an inherently valuable being in their own right.

When Rights Collide

Regan's rights view thus far, then, can be encapsulated as follows: Those beings that are seen to fulfil the requirements of the subject-of-a-life criteria are to be viewed as having inherent value. By virtue of these individuals having inherent value, they are deemed to be worthy of being accorded respect, as per the requirements of the respect principle – a principle that, Regan contends, meets the requirements necessary to be considered a valid moral principle, and which constitutes the fundamental principle of the rights view. One of the most important ways in which we show respect for those individuals who have inherent value is through our observance of the requirements of the harm principle – a principle which is derivable from the respect principle, and which holds that we have a *prima facie* duty not to harm those individuals who can be considered to have inherent value.

The problem with the rights view in its current form, of course, is that it does not seem to offer any guidance on what should be done in those situations in which respecting the rights of one or more individuals would seem to necessitate the compromising of the rights of another individual or group. This is a problem that Regan anticipates, which is why he conceptualises the harm principle as constituting a *prima facie* right not to be harmed, rather than an absolute right not to be harmed.

The *prima facie* nature of the harm principle, then, recognises the likelihood that there may be certain circumstances in which morality may require that the right not to be harmed may need to be overridden. Without the exceptions that are allowed for by the *prima facie* nature of the harm principle there may be occasions on which the harm principle would jar disconcertingly with our considered moral intuitions and, as conformity with such reflective intuitions, it will be recalled, is, according to Regan, a requirement of any valid moral principle, the leeway that is provided by the *prima facie* status of the harm principle is necessary for the harm principle to qualify as a valid moral principle. What this, in effect, amounts to, then, is that the harm principle dictates that we have a duty not to harm those individuals who have inherent value, except in those cases where respecting the rights of those individuals not to be harmed would be considerably at odds with our considered moral beliefs.

The *prima facie* nature of the harm principle might seem, then, to result in a somewhat unfocused moral principle (certainly, those who are dismissive of the idea that our intuitions should play any role in the shaping of our moral principles are likely to be particularly scornful of such a move), but Regan contends that the need for any harm principle to have *prima facie* status can be seen when we compare and contrast his harm principle, which allows for

exceptions in accordance with our considered beliefs, with two similar, but stricter principles: the *pacifist principle* (which states that we should *never* use violence, irrespective of the circumstances); and the *innocence principle* (which states that causing harm to some *may* be justified in certain circumstances, but that it is never acceptable to harm those who are innocent). Regan highlights four situations in which adherence to either the pacifist principle or the innocence principle would yield results that would be so at odds with our considered moral intuitions as to cast significant doubt on any claim that these principles would make to validity, and which would, thus, seem to necessitate the appeal to our moral intuitions allowed for by the *prima facie* harm principle (*The Case for Animal Rights*, pp. 286-294). These cases are: (i) self-defence by the innocent; (ii) punishment of the guilty; (iii) innocent shields; and, (iv) innocent threats.

Self-defence by the Innocent

The case in which it would appear the most obvious that an appeal to our considered ethical intuitions would seem to sanction a decision to override the right not to be harmed is in the case of self-defence by the innocent (*The Case for Animal Rights*, pp. 287-290). The pacifist principle, were it to be strictly observed, would seem to entail that any violence that we may use in defence against an assailant would constitute a contravention of that assailant's right not to be harmed. This would seem to be seriously discordant with most people's considered beliefs regarding the right that the innocent have to defend themselves against violent attack. As the pacifist principle is so at odds with our considered moral beliefs on this issue, then and as, according to Regan, compliance with such reflective intuitions is a reasonable test of a moral principle, we would seem to have a principled basis on which to reject the pacifist principle, in favour of Regan's *prima facie* harm principle.

Punishment of the guilty

A second case in which appeals to our moral intuitions would seem to sanction the overriding of the harm principle is connected to the issue of penal policy. It is part of the considered belief system of most people that mentally competent adults should be held responsible for any crimes that they may commit, and that they be punished accordingly (*The Case for Animal Rights*, pp 290-291). There is, of course, some considerable degree of difference of opinion over just *how* criminals should be punished, but any form of punishment will, by definition, involve some form of harm (often in the form of deprivation of liberty). As Regan points out, however, this condition cannot be seen to apply in the case of non-human animals who, as moral patients, cannot meaningfully be viewed as being guilty of committing crime – even if they can sometimes act in ways that may be detrimental to the well-being of others.

Innocent shields

There are certain situations in which innocent individuals may find themselves in the unenviable position of being used as shields by those who are engaged in some form of unlawful behaviour, as is the case in hostage situations (*The Case for Animals Rights*, pp. 291-293). In such situations the hostages are, of course, innocent and as such we should, *prima facie* at least, not act in any way that may cause them to suffer harm. In such a situation, for Regan, both the pacifist principle and the innocence principle would seem to yield results that would jar with our reflective ethical intuitions. The pacifist principle would seem to present a particular affront to such intuitions, as this principle states that, in such situations, not only should we not do anything that may cause harm to the hostages, but that, furthermore, we

should not act in such a way as to cause harm to the hostage taker. Such a jarring conflict with our moral intuitions, then, would surely cast doubt on the extent to which the pacifist principle could be viewed as a viable ethical principle.

The innocence principle may also encounter problems when attempting to deal with hostage situations, at least in certain circumstances. Regan describes an example in which a terrorist who has somehow managed to commandeer a tank is proceeding to systematically kill a number of hostages one at a time. All attempts to negotiate with the terrorist have been to no avail and there is every reason to believe that the terrorist will persevere with his malevolent enterprise until all of the hostages are dead. The only way to prevent this from happening is to blow up the tank but, although the means to follow this course are available, the terrorist has taken the precaution of strapping one hostage to the outside of the tank, precisely as a disincentive to the authorities of taking such action. If the tank were to be blown up, then, this would certainly result in the death of the innocent hostage who has been strapped to it, along with the terrorist inside. Regan claims that it would accord with most people's considered beliefs to blow up the tank in order to save the remaining hostages, even though this would result in the death of the hapless hostage who has been strapped to it and, again, as Regan contends that conformity with our moral intuitions is a reasonable test of our prospective guiding moral principles, this would suggest that we disregard the innocence principle in favour of the *prima facie* harm principle.

Innocent Threats

The final case that Regan describes that suggests that the harm principle should be overridden in certain cases is that of cases involving what he refers to as innocent threats (*The Case for Animal Rights*, pp. 293-294). To exemplify this type of case, Regan describes a situation in which a small child has attained a loaded gun, and is randomly shooting it in the direction of numerous people. As the child is not a moral agent the concept of guilt cannot be seen to apply, hence Regan's description of such a child as an *innocent* threat. Again, states Regan, in such a case both the pacifist principle and the innocence principle would disallow any action being taken in such a situation that may cause harm to the child. Regan, however, contends that it would count among the considered intuitions of most people that, assuming that all non-violent means of resolving this situation had been exhausted, and as long as a sense of proportionality is observed, it may indeed be necessary to pursue course of action that could cause the child some degree of harm, if this is the only way to prevent others being shot and possibly killed by the gun-toting infant.

The Miniride and Worse-Off Principles

As Regan describes, then, there are certain situations that appeal to our reflective moral intuitions which would seem to suggest the necessity that the harm principle be overridden. However, for Regan, in order for our moral position to remain consistent, it is important that such decisions to override the harm principle are not taken in an ad hoc manner. In order for the overriding of the harm principle to be consistent with the rights view it is essential that the overriding be conducted in accordance with principles that are, themselves, seen to be derivable from the respect principle. Two such principles that Regan proposes to such an end (*The Case*

for *Animal Rights*, pp. 301-312) he refers to as *the minimise overriding harm principle* (or *miniride principle*); and *the worse-off principle*.

The Miniride Principle

The miniride principle Regan describes thus (*The Case for Animals Rights*, p. 305):

Special considerations aside, when we must choose between overriding the rights of the many who are innocent or the rights of the few who are innocent, and when each affected individual will be harmed in a *prima facie* comparable way, then we ought to choose to override the rights of the few in preference to overriding the right of the many.

This principle, claims Regan, can be accurately viewed as being derivable from the respect principle. The respect principle, it will be recalled, holds that we are to treat those individuals who have inherent value in a manner that respects their possession of such a value. This entails that all subjects-of-a-life (both moral agents and moral patients) are owed an equal *prima facie* duty not to be harmed. As a result of all individuals having this right equally no given single individual's right can be given more weight than any other individual when the harm faced by all can be viewed as being comparable. This means that if we are in a situation in which we have to decide whose right to avoid being harmed should prevail, and the harms faced by all concerned are comparable, then the numbers of those concerned should count as a morally salient factor. That is to say, that if we have to choose between overriding individual A's right not to be harmed *or* individuals' B, C and D's right not to be harmed, and the harm faced by all can be viewed as being comparable, then we should opt to override the right of the single individual, A. To do otherwise would, according to the miniride principle, be to arbitrarily accord greater weight to the rights of A than to those of B, C and D, and this cannot be

sanctioned by the rights view. The respect principle entails that we are to count equal rights equally, and this, contends Regan, is precisely what the miniride principle does.

The Worse-Off Principle

The miniride principle would appear to yield principles that would win the endorsement of many utilitarians. However, the worse-off principle reaches very different conclusions. The worse-off principle states (*The Case for Animal Rights*, p. 308):

Special considerations aside, when we must decide to override the rights of the many or the rights of the few who are innocent, and when the harms faced by the few would make them worse-off than any of the many would be if any other option were chosen, then we ought to override the rights of them many.

This principle entails, then, that if we have to choose between overriding the rights of individual A not to suffer a great harm (for example death, arguably the greatest possible harm) or B, C and D's (and, indeed, any number of other individuals) right not to suffer a lesser harm (for example, a broken leg), then, according to the worse-off principle we should choose in favour of individual A. The worse-off principle, then, guards against the aggregating of lesser harms, in the manner that utilitarianism would seem to sanction. On the rights view, then, an infinite number of broken legs cannot be seen to, as it were, 'add up' to one individual's death.

The worse-off principle is also derivable from the respect principle. The respect principle cannot sanction harming A on the grounds that B, C, D, ... *ad infinitum*, will be spared a greater aggregative amount of harm, as to do so would be to regard A as being merely a receptacle of valuable experiences, rather than as an inherently valuable individual in their own right, and

this, of course is in direct contravention of the respect principle. The respect principle, then, entails that when we have to decide whose right not to be harmed must be overridden, but that the harms faced by all concerned are of significantly differing degrees of severity, then the numbers of those involved should not be viewed as constituting an ethically pertinent factor in our deliberations. It is, according to the worse-off principle, the *magnitude* of harm suffered by any given individual that should be the determining factor in our deciding whose rights should be overridden in those cases in which the harms faced by various individuals are of significantly different degrees of severity.

The Liberty Principle

The rights view thus far, then, can be seen to comprise: (i) the respect principle – a fairly formal principle, and the foundation upon which the rights view is based; (ii) the harm principle – which can be viewed as a normative interpretation of the respect principle; and (iii) & (iv) the miniride and worse-off principles – which offer guidance in those areas where the rights of various individuals can be seen to come into conflict.

Before examining the implications of the rights view for the way in which humans interact with non-human animals, states Regan, it is necessary to furnish the rights view with one further principle, which Regan refers to as *the liberty principle*. This principle, Regan asserts, states that (*The Case for Animal Rights*, p. 331):

Provided that all those involved are treated with respect, and assuming that no special considerations obtain, any innocent individual has the right to act to avoid being made worse-off even if doing so harms other innocents.

The liberty principle is also derivable from the respect principle. Any individual who has inherent value is always to be treated with respect, and accordingly must never be viewed merely as a receptacle of valuable experiences, or as being of value only relative to the interests of others. Furthermore, states Regan, as such an individual, being a subject-of-a-life, can be seen to have a welfare, they can do whatever is necessary in pursuit of that welfare, subject to the strictures that all moral agents must observe. To deny an individual the freedom to advance their welfare purely because others may be less well-off as a result is to fail to treat that individual with the respect that they are due as a possessor of inherent value.

An individual's right of liberty is not restricted only to those situations in which individuals who exercise that right themselves benefit from actions that may directly cause others to be less well-off as a result. For example, if the A's harm the B's, and one would be made worse-off relative to the B's if the A's did not harm the B's, then one would be acting perfectly within one's right were one to support the A's in their endeavours, provided that the conditions of the liberty principle were met.

With the liberty principle in place, then, Regan sets about the task of applying the rights view to the way in which humans interact with non-human animals, placing particular emphasis on the use of animals as a source of food, and on the use of animals in science.

The Rights View and the Meat Industry

As described previously, then, the right not to be harmed that the rights view bestows upon non-human animals is a *prima facie* right (as it is, of course, in the case of humans) that the rights view sanctions overriding in certain circumstances. In order to consider the ethical implications of the harm caused to animals at the hands of the meat industry it is necessary to consider the sorts of defences that may be given by those who engage in that industry. It is, believes Regan, something along the lines of the liberty principle described above that is most likely to be appealed to in attempts to defend the institution of animal agriculture and the practice of meat-eating because, as both farmers and meat-eaters are entitled to exercise the freedom entailed by the liberty principle, these groups may claim that they have a right to raise and eat animals respectively. Even though such practices cause harm to animals, those that cause the harm (those engaged in animal agriculture), and those that support those who cause the harm (meat-eaters), Regan anticipates, may seek to justify their behaviour by claiming that, were they to desist in their respective activities they would be rendered worse-off than the animals who are harmed in the process. Furthermore, to attempt to prevent farmers and meat-eaters from engaging in their respective pursuits by aggregating the harms caused to the very large numbers of animals as a result of such activities would, it may be claimed, be to treat farmers and meat-eaters as mere receptacles of valuable experiences rather than as possessors of inherent value, and this, of course, is not acceptable on the rights view.

The above case that Regan predicts that farmers and meat-eaters may present in defence of their practices can only be considered sound on the terms of the right view if it can be demonstrated that the practices of raising animals for their meat, and the subsequent

consumption of that meat, respect the provisions of the liberty principle - which, Regan contends, they singularly fail to do.

To address this issue, Regan enumerates the arguments that he thinks may be put forward as a justification for the harm caused to farm animals in the process of meat production and consumption. The arguments, Regan suggests, are likely to be along the following lines (*The Case for Animal Rights*, pp. 333-334):

1. Animal flesh is tasty and to abstain from eating it is to forgo certain pleasures of the palate.
2. It is personally rewarding to prepare good tasting dishes, a benefit we would have to deny ourselves if we chose not to eat meat.
3. It is our habit, both, (perhaps) as individuals and as a culture, to eat meat, and eating it is convenient; to abstain would be to endure the pains of withdrawal and the loss of convenience.
4. Meat is nutritious, and to cease eating it is to ruin one's health, or at least to run the very serious risk of doing so.
5. Some people (e.g. farmers, meat packers, wholesalers) have a strong economic interest in continuing to raise farm animals, and the quality of their life, as well as that of their dependents, is materially tied to a continuation of the present market in food animals.
6. Not only those who are directly associated with the farm animals industry, but the nation generally has an economic interest in the maintenance and growth of this industry.
7. Farm animals are legal property, owned by farmers, and that gives farmers the rights to treat these animals as they wish, even if this is harmful to the animals.
8. Some farm animals, most notably chickens and turkeys, are not directly covered by the principles prescribed by the rights view, so farmers are at liberty to treat those animals without regard to these principles (and, for similar reasons, consumers are at liberty to eat them).

Regan then examines each of these proposed defences of animal agriculture and the practice of meat-eating that it serves in order to see how well they stand up as justifications for overriding the right not to be harmed of the animals involved (*The Case for Animal Rights*, pp. 334-349).

Taste and culinary challenge

The first two reasons stated above in defence of meat-eating are, claims Regan, wholly insufficient for the task of justifying the overriding of the rights of animals not to be harmed (*The Case for Animal Rights*, pp. 334-337). No-one, states Regan, can defensibly claim a right to do something just because they want to do it. To assume, then, that our 'right' to eat meat can override the right of animals not to be harmed is to simply assume that humans have this right in the first place, whereas any right to engage in such activities would need to be demonstrably *proven*, rather than simply taken as read. This, states Regan, would almost certainly prove to be an insurmountable task for meat-eaters, as even if we assume that humans would be harmed as a result of their being precluded from preparing and consuming meat-based dishes, Regan very much doubts that it could hardly be seriously contended that such a harm could be considered comparable to the harm caused to those animals that are raised and slaughtered in order to enable humans to pursue their passion for cooking and eating meat. Appeal to the liberty principle would not, then, sanction our continuing to support the harm of animals at the hands of meat producers on the basis that relinquishing our meat oriented culinary and gustatory interests would render us worse-off than the animals concerned would be were the practices of meat production and consumption to persist.

Nutrition and Habit

Meat is a very good source of a number of essential nutrients, and, if those nutrients were not available from other sources, then, states Regan, those who claim a right to eat meat would be on a far firmer footing *vis a vis* the rights view (*The Case for Animal Rights*, p337). If we were to run a very serious risk of compromising our health by giving up eating meat, and given that the debilitation that would result would deprive us of a greater range and number of satisfactions than those that are available to farm animals, then we would, claims Regan, be making ourselves worse-off relative to farm animals were we to give up eating meat. As such, appeal to the liberty principle would indeed, in such a case, seem to sanction our continued consumption of meat. This situation, however, is not, according to Regan, actually the case, as all of the nutrients that meat provides are available from other sources. We cannot, then, according to Regan, justify meat-eating on the basis that to desist from doing so would be ruinous to our health.

Habit and Convenience

This defence for meat-eating is, according to Regan, particularly flimsy (*The Case for Animal Rights*, pp. 337-338). The fact that we are habituated to a certain situation cannot provide any moral defence for the perpetuation of that situation, if it is the cause of unnecessary harm to others. The liberty principle, then, which requires that all individuals be treated with respect, will have no truck with the notion that the rights of animals not to be harmed can be overridden on such as insubstantial basis.

Economic Considerations

When we turn our attentions to the economic considerations that may result were the institutions of animal agriculture and the practice of meat-eating that it serves to be abolished, there may, suggests Regan, be those who would claim that the consequences would be so grave that such a social shift would be precluded by both the worse-off principle and the liberty principle (*The Case for Animal Rights*, pp. 338-347).

Those who engage in animal agriculture, Regan predicts the argument may run, would be rendered worse-off relative to the animals raised for their meat if there were to be a total social shift to vegetarianism, as this would entail the loss of their entire livelihood. According to this argument, then, we actually have a *duty* to continue to eat meat to ensure that those employed in the various sectors of the meat industry will not be made worse-off. Regan denies that the above argument constitutes a valid appeal to the worse-off principle. The worse-off principle, Regan reminds us, contains a clause regarding special considerations. In this case, the fact that those who have opted to work in animal agriculture have done so *voluntarily* represents, for Regan, just such a special consideration. Accordingly, we do not owe a duty to those employed in the meat industry to buy their products. The worse-off principle, Regan claims, is suspended when people opt to engage voluntarily in any sort of competitive endeavour, and for Regan, the world of commerce, of which the meat industry is a part, constitutes such an endeavour.

The other argument that Regan anticipates regarding the economic considerations for those involved in the enterprise of animal agriculture draws on the liberty principle. It may be argued, Regan suggests, that, even if we do not have a duty to purchase the products of the meat

industry, it may be claimed that meat-industry professionals are within their rights in raising animals for food, as they would be made worse-off if they did not do this and, as such, it is permissible for them to engage in this activity even if it causes harm to animals. This appeal to the liberty principle states Regan, fails to take into account the clause in that principle that 'all those involved should be treated with respect'. Such a requirement, claims Regan, is clearly not observed by the enterprise of animal agriculture, as this enterprise treats individuals with inherent value as if they were merely renewable resources. Such treatment is unjust in the terms of the rights view as it represents a clear contravention of the respect principle. Individuals that are regarded as renewable resources are regarded, not as individuals with inherent value, but, rather, as merely having value relative to the interests of those who engage in the enterprise of animal agriculture and those consumers who support it.

There may, Regan suggests, be those who argue that it is not only the economic interests of those who directly engage in animal agriculture that are imperilled, but that the entire national economy may be seriously destabilised as a result of the collapse of the meat industry that a wide-scale social shift to vegetarianism would occasion. As a result of such an event, it may be claimed, millions of people may find themselves plunged into dire financial hardship. Again, states Regan, such an argument cannot be used to defend the meat industry on the terms of the rights view. In the same way that the benefits that may be gained by certain individuals as the result of an unjust institution cannot be used as a defence of that institution, then, similarly, the harms that some may face as the result of the dissolution of an unjust industry cannot be used as an argument that such an industry should be allowed to continue. As the meat industry, on Regan's view, constitutes such an unjust industry, no-one involved in that industry can claim the right to be protected against the negative impacts of the cessation of that industry. In any case, suggests Regan, it is highly unlikely that such a dramatic financial meltdown will actually

occur, as a society-wide shift to vegetarianism is unlikely to happen overnight. The dissolution of the meat industry, were it to happen, would occur incrementally, and the economy would therefore be able to gradually adapt to the social change.

Animals as legal property

It may be argued, Regan suggests, that farmers *own* the animals that they raise and are, therefore, entitled to treat those animals in any way they so choose (*The Case for Animal Rights*, pp. 347-349). The clear problem with this argument, states Regan, is that it is precisely the status of animals as property that is the fundamental point that stands in dire need of revision, and so this can hardly be used as an argument for maintaining the status quo.

Animals not Covered by the Rights View

Many of the animals that are raised for food such as chickens and turkeys, it might be argued, are not covered by the rights view (*The Case for Animal Rights*, p. 349) which, it will be recalled, restricts its initial focus to mammals. It may be claimed, then, that those who produce and consume poultry are not contravening the conditions of the rights view and may, therefore, justifiably continue with their respective practices. This argument, however, Regan states, fails to take into account how difficult it is to draw clear lines between those animals who are and those animals who are not subjects-of-a-life in the way Regan describes.

Animals in Scientific Research

The other main enterprise in which humans utilise non-human animals as resources that Regan addresses is the area of animal-based scientific research (*The Case for Animal Rights*, pp. 363-394). The dominant paradigm of scientific research, states Regan, involves the routine harm of animals and, as such, incurs a series of objections from the perspective of the rights view. To argue his case, Regan quotes psychologist C. R. Gallistel who, in stating the case for unrestricted use of animals in neurological research states (pp. 382-383):

Behavioural neurobiological research tries to establish the manner in which the nervous system mediates behavioural phenomena. It does so by studying the behavioural consequences of one or more of the following procedures: (a) destruction of a part of the nervous system, (b) stimulation of a part, (c) administration of drugs that alter neural functioning. These three techniques are as old as the discipline. A recent addition is (d) the recording of electrical activity. All four cause the animal at least temporary distress. In the past they have frequently caused intense pain, and they occasionally do so now. Also, they often impair an animal's proper functioning, sometimes transiently, sometimes permanently.

Regan goes on to quote Gallistel as stating that

‘...most experiments conducted by neurobiologists, like scientific experiments generally, may be seen in retrospect to have been a waste of time, in the sense that they did not prove or yield any new insight... there is no way of discriminating in advance the waste-of-time experiments from the illuminating ones with anything approaching certainty... restricting research on living animals is certain to restrict the progress in our understanding of the nervous system and behaviour... one should advocate such restrictions only if one believes the moral value of this scientific knowledge and of the many human and humane benefits that flow from it cannot outweigh the suffering of a rat.’

Even those who may remain unconvinced by the rights view may very likely find themselves ill at ease with the position put forward by Gallistel seeming, as it does, to offer very little support even to the conservative ‘replace, reduce, refine’ ethos that many in the scientific community endorse (or, at least, pay lip service to). The rights view itself, of course, rejects Gallistel’s position at a fundamental level. The routine use of animals in scientific research presumes that animals’ value is contingent upon the instrumental use that can be made of them by humans. Such treatment is, evidently, not in keeping with the manner that Regan contends individuals with inherent value should be treated. Harmful experimentation conducted on non-human animals in the name of scientific research is a clear contravention of the respect principle and the harm principle which derives from it.

The rights view is not anti-science, as Regan anticipates it may be labelled by certain elements within scientific community, but only seeks to prohibit those scientific procedures that cause harm to non-human animals. If this entails that there will be certain scientific knowledge that will remain beyond our grasp then, states Regan, this is something we must learn to accept, in much the same way that it is generally accepted that we are not entitled to scientific knowledge that may be gleaned through involuntary human experimentation. It is the purpose of the rights view, states Regan, to facilitate this sort of ethical consistency (*The Case for Animal Rights*, pp. 380-381).

Criticisms of the Rights View

As mentioned earlier in this chapter, one of the most contentious aspects of Regan's theory is the extent to which it relies upon the utilisation of our moral intuitions in the construction of our ethical theories. The extent to which our moral intuitions can be relied upon will be looked at in some depth in the following chapter, and so that aspect of Regan's theory will not be analysed in great depth at this point. Suffice it to say, however, that those ethical theorists that are extremely wary of such an appeal to intuition are likely to adopt a somewhat sceptical attitude towards a theory such as Regan's which is so heavily dependent on such a concept.

Aside from the controversy surrounding the issue of whether or not our ethical intuitions should be relied upon in the construction of our moral theories, then, perhaps the other most contentious aspect of Regan's position centres on his assertion of the concept of inherent value. As has been pointed out by various commentators (e.g. Warren 1994; Rowlands 2009) inherent value as presented by Regan constitutes something of a vague and ethereal concept.

Regan's position can be encapsulated thus: We recognise humans as the sorts of being who are in possession of certain natural, moral rights. When we examine *why* we consider humans to be the sorts of beings who are in possession of such rights, we discover that it is because we recognise such beings as having the property of inherent value. When we further examine what it is about humans that makes them the sorts of beings who possess inherent value, we divine that it is in virtue of humans being subjects-of-a-life that we consider them to be infused with this particular value. Certain other creatures, aside from human beings, can also be viewed as being subjects-of-a-life in the way that humans are and, as such, these creatures must necessarily also be viewed as having inherent value. Therefore, as it is possession of inherent

value that makes a being the holder of moral rights, ethical consistency (and, indeed, *logical* consistency) necessitates that we view those animals that possess inherent value as being bearers of the same sorts of moral rights that we consider humans to hold.

A significant problem with this argument can be encountered in its very first premise. The assertion that ‘we’ recognise humans as being possessors of certain moral or natural rights is, quite simply, false. Utilitarian moral thinkers, such as Singer, are vocally opposed to the ontological and epistemological assumptions that support any sort of natural rights position. Therefore, anyone who does not subscribe to the metaphysical basis of natural or moral rights is unlikely to feel compelled to read past the first premise of Regan’s argument and, as such, is unlikely to be swayed by the case that Regan presents.

Regan’s second premise – that the reason that ‘we’ consider humans to have rights is because ‘we’ recognise them as being possessors of inherent value – suffers from similar problems. The idea that we recognise humans as having inherent value (assuming for the moment that we do) doesn’t really do anything to explicate the assertion that we recognise that human beings have moral rights (again, assuming for the sake of argument, that we do). Natural rights and inherent value, on Regan’s account, to all intents and purposes, appear to be two different terms that apply to the same rather vague and insubstantially defined concept. As such, to consider humans as having natural rights in virtue of the recognition of the fact that humans have inherent value, as Regan claims that we do, is actually to commit oneself to the tautology that we consider human beings to have moral rights because we recognise humans as the sorts of beings who have moral rights – a tautology that, of course, persists if we also expand the concept of moral rights/inherent value to apply to certain non-human animals.

The claim that those who *do* recognise humans as having natural rights do so purely as a result of humans being subjects-of-a-life in the way that Regan describes, is also a highly contentious assertion. It is arguably the case that many of those who do subscribe to the idea of natural, moral and specifically *human* rights do so precisely on the basis that they recognise (or, at least, *intuit*) some form of ‘inherent value’ that is exclusive to human beings – some ‘promethean spark’ that sets humans apart from even other higher primates, despite our manifold physiological, and perhaps even psychological similarities. Granted, this specifically and exclusively human form of inherent value may be somewhat vaguely defined, but as Regan’s more catholic, cross-species version of this concept is equally amorphous, he is hardly in any position to demand that the humanist version of inherent value be more fully explicated.

Regan’s position, then, in common with all natural rights positions, suffers from the problem of just how the assertion of the existence of such rights can be grounded in a way that will not prove to be extremely controversial. It could be argued that theories of natural rights may actually be nothing more than vestiges of our theological ancestry. In an age when belief in a divine creator was more widespread than it is today (at least in what might be termed the developed world), natural rights based theories may well have seemed to be eminently coherent: a divine being(s) created the universe and everything in it, including a system of divine and ‘natural’ law, and natural rights were ascribed in accordance with the precepts of this natural law. Remove the divine authority from the picture, however, and one kicks away the very foundations that support the idea of natural or moral rights. Attempting to replace such a divine authority with a notion of inherent value, as Regan does, really raises more questions than it answers. Admittedly, Regan introduces the ideal of inherent value as a postulate, rather

than asserting that it can be demonstrably proven to exist, but unless one can sooner or later hope to give some concrete substance to such a postulate, it is difficult to see how it can be relied upon to do the sort of heavy lifting that the concept is required to do in theories such as the one that Regan seeks to advance.

Chapter Three – Contractarianism and Animal Advocacy

It has often been asserted, both by advocates and detractors of animal rights and animal liberation, that the philosophical approach known as contractarianism is inimical, or at least wholly unsuited, to the project of attributing direct moral status to non-human animals (see, e.g. Carruthers 1992, chapter 5). This situation is, to say the least, unfortunate, as contractarianism has come to attain something of the status of the moral theory *de jour* and, therefore, a failure to find a grounding for animal rights or animal liberation within the context of contractarianism could be seen to leave animal advocates without any real moral purchase for their ambition of significantly elevating the moral status of animals. In an attempt to occupy this lacuna, some theorists have, indeed, attempted to construct a theory of animal rights based on contractarianism.

Probably the most sustained attempt to utilise contractarianism as a method of bestowing direct moral status on non-human animals is to be found in the work of Mark Rowlands, most comprehensively in his work *Animal Rights*, first published in 1998 (2nd ed. 2009, all references below to this edition). Rowlands argues that the tendency to view contractarianism as inimical to the project of animal rights/liberation stems from a general tendency to conflate two forms of contractarianism which are, in fact, quite distinct. Drawing on terminology employed by Kymlicka (1993, chapter 15), Rowlands refers to these two often conflated variants of contractarianism as *Hobbesian contractarianism* and *Kantian contractarianism* respectively (*Animal Rights*, p. 123).

Hobbesian Contractarianism

The theory that Rowlands describes as Hobbesian contractarianism (*Animal Rights*, pp. 123-125) derives, as the name implies, from the writings of the British philosopher Thomas Hobbes. For Hobbes, the morality of the contract ultimately reduces to rational self-interest. Whilst there is nothing, in Hobbes's view, inherently right or wrong about the way in which one chooses to deport oneself, there may be some ways of behaving towards others that could ultimately prove less prudent than others. In particular, riding roughshod over the interests and well-being of others in ruthless pursuit of one's own personal goals may very well have the effect of incurring vendettas against oneself.

To establish a convention, then, in which negotiating parties accord to refrain from causing each other harm in the pursuit of their respective goals is advantageous to all who participate, and society benefits from the stability that such a convention facilitates. Hobbesian contractarianism then, contends Rowlands, conceives of the basis of morality as constituting a hypothetical contract in which mutually beneficial rules of conduct are drawn up and agreed to by rational agents out of a sense of self preservation and advancement.¹

¹ It should be noted that Rowlands's use of the term 'Hobbesian' to describe this form of contractarianism could be viewed as being somewhat contentious. Traditional Hobbesian political contractarianism is characterised not simply by rational agents bargaining with each other for mutual advantage but, rather, involves rational agents consenting to pool their individual autonomy in the body of the 'Leviathan' – the absolutist state represented by an all-powerful sovereign. The form of contractarianism described by Rowlands here, then, can only very loosely (and some might say erroneously) be described as 'Hobbesian'.

The authority of the contract on the Hobbesian view, then, derives from our implicit agreement with its terms and conditions. Our implicit agreement to such a hypothetical contract will, of course, be contingent upon the extent to which we view the contract to be in our own rational self-interest. In particular, we will be looking for protection from those who may be in a position to do us harm, as well as assistance from those who may be in a position to render it. Therefore there is very little reason for us to seek to engage in contractual negotiations with those who, due to a lack of power, are in no position to either harm or help us (a proviso that Rowlands refers to as the “equality of power condition”). Additionally, if one conceives of the contracting situation as comprising rational agents seeking to advance their self-interest, then the notion of contracting with those who lack the rational ability to comprehend such a process is meaningless. Therefore, in order to qualify as a direct beneficiary of the contract, one must be in possession of the requisite level of rational ability to enable one to actually comprehend such a process (referred to by Rowlands as the “rationality condition”).

From Rowlands’s description of Hobbesian contractarianism, then, it is not difficult to see why such a theory seems to have little to offer those who aspire to see a significant improvement in the moral status of non-human animals. Such creatures, being generally in no position to do us any real harm or offer us any real assistance, are unlikely to be viewed as worthy of inclusion in any hypothetical contractual negotiations. More pertinently, such creatures, lacking the requisite level of rationality cannot actually be meaningfully included in the negotiation stage in the first place. Therefore any improvement in the moral status and subsequent treatment of such creatures is contingent upon the interests of those rational contracting agents who may, for whatever reason, wish to see such creatures’ interests protected. If none of these rational

contractors cares about such a contingency, then the treatment of non-human animals is not to be considered a matter of any moral concern whatsoever – an outcome that would clearly be at odds with the ambitions of the animal liberation movement.

Kantian Contractarianism

The adjective ‘Kantian’ when applied to any moral theory may, in the first instance, cause a considerable degree of disquiet amongst those who would seek to significantly elevate the moral status of non-human animals and, in particular, those who would strive to see animals attain direct moral status because, as it will be recalled from the quotes from Kant in the previous chapter, Kant himself would seem to expressly reject such an idea. For Kant our duties towards non-human animals are to be seen as nothing more than indirect duties to other human beings. By practising kindness to non-human animals we predispose ourselves, according to Kant, to act with similar kindness towards our fellow human beings, whereas those who are callous and cruel in their dealings with non-human animals are likely to carry this attitude through to their dealings with other human beings.

Whether or not this theory is true, the idea that the way in which we treat animals is not, in and of itself, of any *direct* moral concern is not a notion that is likely to be greeted with a great deal of enthusiasm by the animal liberation movement. The context in which Rowlands employs the term ‘Kantian’ however (*Animal Rights*, pp. 125-128), refers more to the metaphysical basis of Kant’s work than it does to the actual conclusions that Kant himself draws from that metaphysical basis. Kantian contractarianism does not view the contract as a method of *grounding* a particular moral code, but, rather, uses the contract device as a way of exploring

and explicating the full implications of an already adopted, contract independent moral code. That is to say that the Kantian contract is to be seen as *expository* – that is as a method of identifying whether or not our existing moral code can be viewed as according with moral right. Such an approach is, of course, dependent on a pre-established concept of moral right and wrong, and it is in this epistemological and ontological sense that this particular form of contractarianism can be viewed as ‘Kantian’: whereas, in Hobbesian contractarianism there is no morality outside of the contract, in Kantian contractarianism, as set out by Rowlands, there is an idea of a backdrop of moral truth and objectivity that can be seen as analogous to Kant’s idea of the Moral Law.

For the Kantian contractarian then, the authority of the contract derives from the extent to which it can be seen to comply with the tenets of this moral truth. As such, the equality of power condition and the rationality conditions that Rowlands identifies as central to his account of the Hobbesian version of contractarianism do not necessarily play any part whatsoever in the Kantian form. The Kantian contract does not determine the content of moral truth, but, instead, acts as a heuristic device that enables us to determine what the content of this truth actually is. Therefore, the extent to which an individual who is relatively lacking in power or rationality is to be considered of moral value depends wholly on what it turns out that the content of moral truth has to say on the matter.

In putting forward his theory, however, Rowlands does not make the somewhat ambitious claim to be explicating the content of any moral law in the Kantian sense. Instead, Rowlands, following in the footsteps of Rawls, sets about the rather more modest endeavour of utilising the Kantian contract device as a means of elucidating the basic moral principle of equality as

it is enshrined in the dominant political ideology of liberal democracy. Once we have utilised the Kantian contract in order to fully explore and set out what the liberal principle of equality of consideration actually fully entails, we will come to realise that consistency dictates that we need to seriously reassess many of our current ideas of what constitutes just treatment of others and, in particular, what constitutes just treatment of non-human animals.

The Social Contract and Intuitive Equality Arguments

The theory that Rowlands puts forward, then, can essentially be viewed as a modification or, perhaps more accurately, an extension of the theory that Rawls first put forward in his seminal work *A Theory of Justice* (1971/1999). It is in this work that Rawls introduces his now famous (some would perhaps say *infamous*) concept of the Original Position: a hypothetical initial bargaining situation constructed in such a way so as to rigorously explicate the idea of equal consideration enshrined in contemporary liberal democratic society. It is important to remember, however, that Rawls intended his theory of *justice as fairness*, as he so termed the position that he puts forward in his book, to be primarily *political* in nature in the sense that it aimed to regulate the way in which society's basic institutions operate and interact with the individual, rather than aiming to be a more comprehensive *moral* theory. Rawls does suggest however, that that his theory *could* feasibly be extended in such a direction:

Justice as fairness is not a complete contract theory. For it is clear that the contract idea can be extended to the choice of more or less an entire ethical system, that is, to a system including principles for all the virtues and not only for justice. Now, for the most part I shall consider only principles of justice and others closely related to them; I make no attempt to discuss the virtues in a systematic way. Obviously if justice as fairness succeeds reasonably well, a next step would be to study the more general view suggested by the name "rightness as fairness." But even this wider theory fails to embrace all moral relationships, since it would seem to include only our relations with other persons and to leave out of account how we are to conduct ourselves towards

animals and the rest of nature... We must recognize the limited scope of justice as fairness and of the general type of view that it exemplifies. How far its conclusions must be revised once these other matters are understood cannot be decided in advance. (Rawls. 1999, p. 15).

The task that Rowlands sets himself, then, is, indeed, precisely that of extending Rawls's position to encompass one of those areas to which Rawls himself did not initially apply his theory – namely to the area of human's interactions with non-human animals.

Rawls, it will be recalled, conceived of the original position as comprising a party of negotiators charged with the task of deciding which principles should be chosen in order regulate what he termed 'the basic structure of society'. The negotiating parties operated from behind what Rawls refers to as a 'veil of ignorance', which acted to preclude the parties from having access to certain knowledge that may prejudice them in their choice of principles. Thus, the parties are conceived of as deliberating without possession of the knowledge of the role that they will play in society. Additionally the parties are not provided with the knowledge of their personal aptitudes, nor even of their own conception of the good. Thus conceived, it will be recalled, Rawls holds that the parties in the original position will, out of a sense of rational self-interest, be compelled to opt for the two principles of justice that comprise Rawls's theory of 'justice as fairness'. This aspect of Rawls's theory constitutes what Rowlands refers to as 'the social contract argument' in favour of the two principles of justice (*Animal Rights*, pp. 135-138).

At first glance it may appear that the form of contractarianism laid out by Rawls that Rowlands aims to adopt and adapt is afflicted with the same problems as Rowland's conception of its Hobbesian counterpart when it comes to the task of trying to improve the moral status of non-human animals, and particularly the task of trying to raise such beings to the level of direct

moral considerability. The contracting parties in the original position being, by definition and necessity, rational beings are likely, it may reasonably be assumed, to view only rational beings as worthy of direct moral relevance, and to structure society accordingly. To come to such a conclusion however is, Rowland's contends, to fail to appreciate that Rawls has *two* core arguments backing up his theory, rather than, as often thought, just the social contract argument described above, and that these two arguments are entirely mutually dependent (*Animal Rights*, pp. 139-142).

In addition to the social contract argument for his two principles, then, Rowlands contends that Rawls also puts forward the argument that the two principles of justice are more in tune with our considered intuitions of justice than the principles that currently dominate the explication of our liberal democratic political ideology, and it is this vital argument – termed by Rowlands 'the intuitive equality argument' that is crucial to Rowlands's adaptation of Rawls's position.

Rowlands sets out the intuitive equality argument thus (*Animal Rights*, pp. 133-134):

- P1. If an individual *I* is not responsible for their possession of property *P*, then *I* is not morally entitled to *P*.

- P2. If *I* is not morally entitled to *P*, then *I* is not morally entitled to whatever benefits accrue from their possession of *P*.

- P3. For any individual *I*, there will be a set of properties $S = \{P_1, P_2, \dots, P_n\}$ such that *I* possesses *S* without being responsible for possessing *S*.

- C. Therefore, for any individual *I* there is a set of properties such that *I* is not morally entitled to the benefits which accrue from possession of *S*.

The upshot of this argument, explains Rowlands, is that, if a particular property can be viewed as being undeserved in the sense that the person who has that property cannot rightly be said to have earned it, then that person does not have a moral right to benefit from whatever advantages may flow from ownership of that particular property. Ownership of that particular property is, in short, a morally arbitrary matter and should not act to the advantage (or disadvantage) of the owner of that particular property.

This is an idea that actually does indeed have some degree of influence in liberal societies in the form of the principle of equality of opportunity, which holds that one should not be advantaged or disadvantaged purely as a result of contingencies such as race, gender or socio-economic group. Rawls, however, goes one step further and points out that strict adherence to the intuitive equality argument compels one to recognise that there are other equally undeserved properties that can confer considerable benefits upon their owners, but which are not presently acknowledged as being unfairly possessed properties by the liberal status quo. In particular, Rawls points to the unfairness of the 'natural lottery', which bestows socially advantageous gifts of physical and intellectual prowess upon certain individuals to a far greater extent than it does to others. For Rawls, if we strictly apply the intuitive equality argument to these cases we will see that we cannot mount a principled defence of the notion that people fortunate enough to be born with such natural talents should be allowed to reap the rewards of these talents, any more than we can of the idea that those born into a particular racial or socio-

economic group should be allowed to prosper or languish purely as a result of such an accident of birth.

It is vital not to underestimate the importance of Rawls's intuitive equality argument, states Rowlands, as Rawls's theory, and therefore Rowlands's extension of this theory, is founded on the interaction of this theory with the more well-known social contract argument aspect of the theory, in a process which Rawls refers to as 'reflective equilibrium'. Therefore if a particular description of the original position gives rise to principles that jar with our intuitions regarding justice, then we have a choice: we can either modify the account of the original position, or we can reassess our intuitions. By going back and forth in this manner, Rawls assumes that we will eventually reach a version of the original position that yields principles that are in tune with our considered judgements.

Reflective Equilibrium and Animals

This idea of reflective equilibrium is crucial to Rowlands's contractarian argument for animal rights as he argues that the notion that contractarianism cannot be utilised for such a purpose arises from a tendency to engage in what might be referred to as *unreflective* equilibrium (*Animal Rights*, pp. 139-142). Rawls it will be recalled, through consistent application of the intuitive equality argument reached the conclusion that properties such as athletic ability or intellectual prowess were undeserved properties which should therefore be viewed as arbitrary from a moral point of view – a conclusion which necessitates our modifying the original position so that knowledge of physical or intellectual level is one of the factors that is placed behind the veil of ignorance. There is, however, another undeserved natural attribute that Rowlands claims that Rawls overlooks when constructing his favoured version of the original

position - namely the natural attribute of *species membership*. No one can lay claim to having deserved to be born human, any more than one deserves to have been born into a particular ethnic group, or bestowed with particular physical or intellectual gifts, and so it is at least arguable that species membership should also be viewed as an equally morally arbitrary matter.

Animals' (supposed) lack of rationality cannot be utilised as a means of excluding them from the deliberations that take place behind the veil of ignorance as this too, as another undeserved property, must surely also be bracketed in the original position. Indeed, claims Rowlands, it will very definitely be in the interests of the parties of the original position to ensure that rationality is not to be viewed as a necessary condition for moral relevance (*Animal Rights*, p. 150). Firstly, as the discussion regarding the so called 'argument from marginal cases' discussed in chapter one of this thesis described, there are certain human beings who, for a variety of reasons, will never be rational beings, and the parties, having no reason not to assume that, on the removal of the veil of ignorance, they themselves will transpire to be a member of this group of non-rational human beings, will presumably be keen to ensure that their interests be protected should this contingency be realised. Furthermore, even if the parties are not born into this group of human beings, they will still be, during the infant years of their lives, of limited rational ability, and will presumably be keen to ensure that their interests are protected during this phase of their lives.

On Rowlands's view, then, in considering the moral issue of the raising and slaughtering of animals for consumption by human beings, one needs to enter into the modified version of the original position (*Animal Rights*, pp. 147-153). As a result of Rowlands's extension of the intuitive equality argument, the veil of ignorance has now been 'thickened' in order to preclude

the parties having knowledge of their level of rationality, or of the membership of which species it will turn out that they are a member of when the veil is removed. With regards to the morality of animal husbandry, then, this means that the parties will have to consider the two relevant perspectives on this issue - namely the perspective of human beings on the one hand, and the perspective those non-human animals typically eaten by humans on the other, as, thanks to the modified version of the original position, they have no reason for thinking themselves more likely to transpire to be a member of the former group than of the latter.

This, then, according to Rowlands, would seem to suggest that a form of modified Rawlsian contractarianism can be used to construct a moral argument for vegetarianism (*Animal Rights*, pp. 162-174). In the original position as Rowlands describes it, it is likely that the parties, mindful of the fact that they have as much chance of being a cow as they have of being a human when they are ‘incarnated’ into the society that they create, are likely to think it prudent to make that society a vegetarian one. To find oneself a human in a vegetarian society is, Rowlands argues, likely to prove less detrimental to one’s interests than finding oneself an animal that is eaten by humans in a carnivorous society.

Moral Theory and Intuition

As the concept of intuition plays a prominent role not only in Rowlands’s contractarian argument for animal rights, but also in Regan’s rights view that was described in the previous chapter, it is perhaps appropriate at this juncture to take the opportunity to examine in some depth the issue of the extent to which our intuitions can be relied upon in the construction of our moral theories.

Peter Singer (2005) has strongly criticised the notion that moral intuition can be entrusted with the amount of heavy lifting that it is required to do in theories such as those laid out by Rawls and Rowlands. In particular, Singer points to work that has been conducted in the areas of psychology and neuroscience, which would strongly seem to suggest that our moral intuitions are nothing more than vestiges from our evolutionary past and so, while they may be indicative of how our moral codes became established, they do not necessarily constitute an effective guide to how we should ethically navigate our contemporary ethical lives. Singer points to research that suggests that our moral intuitions are caused by activity in those areas of the brain that are responsible for generating emotions, and only subsequently (if at all) processed by the cognitive areas of the brain. In particular, Singer refers to experiments conducted by Joshua Greene using functional Magnetic Resonance Imaging (fMRI) that would seem to shed significant light on how we make moral judgements.

The experiments were designed in order to examine brain activity during the processing of so-called 'trolley problems'. The standard version of the trolley problem hypothesises a situation in which you are standing by a railroad track along which an out of control railway carriage or 'trolley' is hurtling. Five people are standing on the track, unaware of the rapidly approaching trolley, and will certainly be killed unless something is done to prevent the trolley from hitting them. The only way that you can avoid these five deaths is to throw a switch which will divert the trolley to a sidetrack on which one equally unsuspecting person is standing, who will be killed instead of the five others if this option is chosen. Most people, faced with this scenario, states Singer, find it relatively unproblematic to assert that the correct course of action to take is to throw the switch, thus resulting in the death of one person rather than five.

A variation on this theme, however, tends to cause more of a moral dilemma to those confronted with it. In this scenario, an out of control railway trolley is again on a fatal collision course with 5 unsuspecting individuals. This time, however, rather than standing next to a switch that will change the direction of the trolley, you are instead standing on a footbridge above the track next to a very fat man with whom you are unacquainted. In this scenario, the only way that you can prevent the trolley from hitting the five people is by pushing this one person onto the track in the knowledge that, although this will certainly result in the death of this one particular individual, his physical bulk will provide enough resistance to bring the trolley to a halt before it reaches the other five people on the rails - thus saving five lives at the expense of one. When faced with this scenario most people expressed the opinion that it would be wrong to push the large man into the path of the trolley.

Singer points to the problems that can arise for those philosophers who attempt to account for these differing intuitions with reference to what they see as relevant moral principles. A Kantian theorist, for example, may claim that the difference between the two scenarios is that, in the second, the large man is being used merely as a means to benefit others, whereas in the side-track example - although the death of the solitary individual is an unfortunate consequence of the decision to throw the switch and thus save the other five – the man is not actually being used as a direct means to achieving the end of saving the other five people and he is, therefore, not being treated with disrespect.

However, it is possible to construct a version of the trolley scenario in which flipping a switch does not divert the trolley to a different track, but rather causes the trolley to go around a loop

before re-joining the main track and continuing on its course towards the five unsuspecting individuals. In this scenario the large man is standing on the loop track and will, again, be killed if you make the decision to throw the switch but will, again, bring the trolley to a halt and prevent the deaths of the other five individuals. In this case, the solitary individual is being used just as much as a means to saving the other five as in the case in which he is pushed from the footbridge and yet, Singer reports, respondents felt that in this situation throwing the switch would be the right thing to do, thus viewing this scenario as being more morally analogous to the sidetrack case than to the footbridge case. As people have a strong negative emotional response to the personal, physical violation that is proposed in the footbridge case they immediately say that it is wrong whereas, because those versions of the trolley problem that remove the physical contact element by enabling the action to be taken via the flick of a switch do not elicit such a strong visceral initial response, the situation is viewed more calmly and people tend to revert to the most obvious moral principle of minimising harm.

Such a strong initial response to a personal violation, posits Singer, may well arise as a result of our evolutionary history. For most of our history human beings, as well as our pre-human primate ancestors, have lived in small groups. In such groups, violence could only be perpetrated in an up close and personal manner and, in order to deal with such situations, humans developed immediate, emotionally-based responses to situations involving close physical interactions with others. The notion of pushing somebody off a footbridge, suggests Singer, triggers this primeval emotional response system, in a way that the track-switching case – bearing no resemblance to any situation that our evolutionary ancestors may have faced – does not. However, the fact that we have not evolved a response system to give us the same intuition in the track switching case as is caused by the footbridge case, does not mean that there is any morally significant difference between the two scenarios. In fact, a rational

analyses of the two scenarios suggests that there is actually no morally significant difference between the two scenarios whatsoever.

This hypothesis would appear to be backed up by Greene's fMRI analysis, Singer suggests, which indicated greater activity in the parts of the brain associated with emotional responses when people were confronted with cases that involved close physical contact than with more impersonal cases. Furthermore, those respondents who came to the conclusion that it *would* be right to commit a personal violation if this would result in minimising harm (for example, those who reasoned that it would be morally right to push the fat man in front of the trolley, and thus save the other five people) took longer to reach this conclusion than those who maintained that it was wrong to do so, as well as showing greater activity in the parts of the brain associated with cognitive function. From this (admittedly preliminary) study, suggests Singer, it is perhaps not unreasonable to infer that some people, at least, have an ability to utilise their sense of reason in order to override their initial and intuitive moral responses. This would, perhaps, seem to suggest that there may be a form of intuition that *can* be relied upon after all. Singer refers to this as 'rational intuition' - that is to say, a conclusion that one reaches after rationally assessing one's intuitive emotional responses, perhaps through utilising the sort process advocated by Regan described in chapter two of this work.

There is, however, a problem. Jonathan Haidt, Singer points out, has suggested that such a post-intuitive reasoning process, whilst it *may* be utilised in order to critically evaluate initial intuitive responses to moral issues, is more often utilised in order to produce *post hoc* rationalisations of these initial emotional responses. As such, although, in those situations in which one's reasoning leads to a conclusion that is different to one's initial intuitive response

it is possible to feel relatively confident that one has not been led from the morally correct path by one's emotions, in those situations in which one's reasoning leads one to a conclusion that is in *accord* with one's initial intuitive response it is difficult to be sure if one has *genuinely* critically analysed this response, or rather merely provided an elaborate justification for it.

The idea of reliance on moral intuitions also fails to factor into consideration the fact that different people, operating from different ontological outlooks, may give differing weights to different intuitions, or may entirely fail to have moral intuitions regarding subjects that other people *do* consider to be of moral relevance. Haidt and Graham (2006) have posited that, in most human societies, a propensity for what might be termed a 'psychological moral preparedness' has evolved, that gives rise to intuitions regarding at least five domains pertaining to the concepts of *harm, reciprocity, ingroup, hierarchy* and *purity*, - a phenomenon that Haidt and Graham term 'the five foundations theory'.

Haidt and Graham contend that political liberals generally tend to constrain their moral thinking to the first two of these foundations (harm and reciprocity), from which they derive their dedication to ideas of justice and care. Political conservatives, on the other hand, are more likely to subscribe to virtues that derive their bases from all five foundations. Liberals, therefore, tend to view justice and related virtues (based on the reciprocity foundation) as constituting half of the moral world, whereas such considerations constitute only one fifth of the moral world for conservatives. Conservatives, therefore, may express moral concerns that liberals do not view as constituting a valid part of a specifically moral framework.

By way of explanation of how such a situation may have arisen, Haidt and Graham point to the work of Lawrence Kohlberg, who is generally viewed as the founder of the field of moral psychology, and who proposed a grand theory that unified moral psychology as the study of the progressive development of the individual's understanding of justice. Kohlberg posited that, across cultures, role-taking constitutes the driving force of moral development. As children gain more experience in adopting each other's perspectives, they develop the ability to transcend their own viewpoint and develop a sense of when and why a given action or cultural practice can be considered to be either fair or unfair.

Kohlberg's theory, Haidt and Graham point out, was criticised by Carol Gilligan, who proposed the concept of care as an alternative ethical foundation. Gilligan held that women were more likely than men to base their ethical judgements and actions on concerns about their obligations to care for those with whom they felt emotional bonds. Various debates ensued regarding whether justice or care was more important in moral development, or whether one could be derived from the other but, either way, the general consensus in moral psychology held that morality was about protecting *individuals*. Accordingly, those practices that could not be viewed as protecting individuals were viewed, in the terms of the Kohlberg/Gilligan model as being, at best, mere social conventions of no true moral relevance or, at worst, as constituting positive affronts to 'genuine' morality.

To take such a view of morality, state Haidt and Graham, is to ignore the role that the other three foundations have played in the development of moral systems, and which are still accorded some considerable degree of importance by political conservatives. As such, in debates about morality, advocates of these two respective positions may find themselves in the

situation of essentially speaking different languages, and therefore be highly unlikely to reach any significant degree of accord.

In conclusion, then, the role that ethical intuition should play in our moral deliberations remains a contentious area. If, as Singer maintains, such intuitions are merely vestiges from our evolutionary past, then there is no reason to assume that they will be of any great use in facing the myriad moral issues that are a part of the modern world. Even those intuitions that we convince ourselves that we have subjected to considerable critical scrutiny cannot necessarily be trusted, as the human capacity to think rationally can be put to effective use in providing rationalisations for one's intuitions. If, on the other hand, we *do* decide to allow intuition to play a role in moral deliberation, we are still left with the task of deciding just *whose* intuitions are to be considered of ethical value, and what we should do in those situations where intuitions clash, as in the case where, for example, liberal intuitions regarding justice and rights may clash with conservative intuitions regarding tradition and social order.

Scientific approaches that explain how our moral codes evolved, or what is going on in our brains when we engage in moral deliberation are of questionable use when it comes to deciding how we should conduct ourselves ethically. The adage that 'you can't get an ought from an is' would seem to remain a vexing problem for those who are dedicated to such a scientific approach to morality because, however sophisticated our genetic or neurological sciences may become, it is difficult to see how they can ever provide us with meaningful normative guidance, rather than merely descriptive accounts of physical facts.

Can Contractarianism Accord Rights to Animals?

Rowlands, then, presents us with what can be seen as a reasonable moral, and indeed logical extension of the argument that Rawls presents in *A Theory of Justice*, but the fact that the Rowlands's variation of the theory inherits the dependency on the idea of moral intuition from Rawls's original theory renders it similarly problematic in the eyes of critics like Singer. Additionally, it will be recalled that the contract device in the hands of Rawls and Rowlands does not actually aim at *grounding* morality, but rather aims at fully explicating the implications that are inherent, but perhaps not immediately apparent, in the dominant ideology of liberalism. This of course leaves unresolved the issue of how one goes about grounding and legitimising the claims that liberalism itself makes. Both Rawls and Rowlands seem to assume that liberalism has some form of coherent underlying structure and that, by teasing out the implications of liberalism, they are teasing out the implications of this underlying structure. If, however, it transpires that liberalism does not actually have any coherent underlying structure and is, rather, an ad hoc and arbitrary rag-tag ideology, containing a number of disparate and often contradictory ideas that have been yoked together with the laudable but ill-defined goal of 'trying to be nice to each other', then it would seem that any attempts such as those employed by Rawls and Rowlands that endeavour to discern some core liberal structure may very well be doomed to failure. And if such a fundamental flaw means that contractarianism cannot be utilised as a means of grounding our moral obligation to other humans then, clearly, attempts to extend this approach as a way of grounding our moral obligations to non-human animals would prove similarly fruitless.

Chapter Four – Animals and the Ethic of Care

An approach to animal advocacy that attempts to shift the focus away from an emphasis on the interests or rights of non-human animals, and instead sets itself the task of moulding the character and attitudes of human beings is the so-called ‘ethic of care tradition’, which is often associated with the development of feminist theory. The ethic of care holds that moral value inheres in our relationships with others and, as such, is a context-dependent concept. This relativistic approach to ethics clearly puts the theory at distinct odds with impartial, objective, and universalistic schools of thought based on concepts such as rights and interests. The ethic of care tradition is also scornful of the highly rationalistic approach taken by justice-based approaches such as rights-based and utilitarian theories, emphasising instead the importance of emotion in our moral deliberations.

As described by Sander-Staudt (2015), the ethic of care approach can be seen to derive primarily from the work of Carol Gilligan and Nel Noddings in the 1980s. In her doctoral dissertation, Gilligan had posited a different system of moral development from that asserted by her mentor Lawrence Kohlberg. Kohlberg held that moral development moves through a number of stages during which it becomes progressively more impartial and universalised, and also claimed that girls generally failed to reach the ‘higher’ stages of impartial moral thinking that boys were able to attain. Gilligan criticised Kohlberg’s approach for being gender-biased, and took issue with his assertion that the more impartial stages of moral development could meaningfully be viewed as being superior to the more emotional and relational stages. Rejecting Kohlberg’s hierarchal model of moral development, Gilligan instead claimed that those whose moral outlook was shaped by emotional and relational concerns were acting in

accordance with what she termed a 'different voice', rather than out of a defective sense of moral development.

Nel Noddings developed the idea of care as a feminist ethic in her 1984 work *Caring*, and applied it to the practice of moral education. Noddings held that women's ethics were more oriented towards real-time, face to face moral deliberation, and were sensitive to the particularities of each relationship. Noddings held that caring relationships were basic to human existence and consciousness, and identified two parties in the caring relationship: 'one-caring'; and the 'cared-for'. Noddings described caring as an act of 'engrossment', in which the one-caring receives the cared-for on their own terms, avoiding projecting their own dispositions onto the cared-for, and displacing self-centred motives in order to act on the cared-for's behalf. Furthermore, Noddings identified two stages of caring: 'caring for' and 'caring about'. Caring-for describes the practical application of caring services, whereas caring-about involves the nurturing of a caring disposition. Noddings also argue that the sphere of caring obligation is limited, with those who are capable of reciprocal relationships being the ones to whom we owe the strongest obligations.

A figure who Sander-Staudt points to as being particularly important to the formulation of a political argument for an ethic of care is Joan Tronto. Tronto's feminist care ethic aims to stymie the flow of power to the already powerful, and to redirect power to the wider society. Tronto identifies the political dynamics of care relations, and describes how not only women, but other social groups such as ethnic minorities and the working classes are disproportionately charged with the tasks associated with caring. Tronto asserts that care constitutes one of the

central activities of human existence, and highlights ways in which the importance of caring is degraded in such a way as to perpetuate the privilege of a social elite.

Non-Human Animals and the Ethic of Care

The ethic of care approach to animal advocacy maintains, then, that a feminist, care approach offers a firmer foundation on which to construct a moral framework of animal ethics than the rights or interests based approaches which have traditionally served as the basis of animal liberationist thinking. The rationalist roots and individualistic ontologies of such traditional theories, it is claimed, render them poorly suited to the task of constructing an animal defence ethic and, instead, a feminist care ethic, with its relational ontology and empathetic outlook is far more suited to the task of constructing a suitable ethic of animal defence. Furthermore, many feminists associated with the ethic of care tradition have posited that there are identifiable and important links between the exploitation of non-human animals and the historical subjugation of women. Both situations, such commentators claim, can be seen as manifestations of the same prevailing, masculinist ontology, which operates to the detriment of both women and animals and, for so-called eco-feminists, to the natural world as a whole. This masculinist ontology, it is claimed, is constructed through the establishment of a system of 'dualities' (Kheel 1996). This system constructs a world that is viewed as consisting of sets of polar opposites such as 'man and woman', 'human and animal', 'reason and emotion', 'culture and nature', and so on. All of these dualities, it is asserted, have two common features. Firstly, the first dyad is invariably viewed as being more valuable than the second; and, secondly, this supposedly more important dyad is habitually viewed as being synonymous with masculinity, whereas the second, supposedly less important dyad, is associated with femininity.

This western, masculinist ontology, Kheel asserts, can be traced back to classical philosophy, through the Judeo-Christian religious traditions, and was further entrenched as a result of the increasingly rationalistic and mechanistic position adopted by the development of modern science. This, then, has led to the development of a prevailing ideology that views the supposedly superior rational, cultural, male, human as being granted dominion over the supposedly inferior, emotional, natural, female and animal, which, it is claimed, has led to the subjugation and domination of women and the natural world at the hands of men.

It is not, however, only the prevailing ideology that is criticised by feminist theorists. The main approaches of animal advocacy, generally viewed as being the utilitarian position advanced by Peter Singer in works such as *Animal Liberation* (1975/1995) and the natural rights view put forward by Tom Regan in *The Case for Animal Rights* (1985/2004) are also viewed as problematic, precisely because such approaches have, to a significant degree, been shaped by the prevailing ontology. Of particular concern to many feminists associated with the ethic of care approach is the emphasis that views such as Singer's and Regan's are seen to place on the use of reason and rationalism in the development of an ethic of animal advocacy, and the corresponding way that such approaches, it is charged, seem to denigrate the engagement of the emotions. For feminist theorists such as Kheel, it is precisely this attempt to expunge emotion from intellectual inquiry that was responsible for creating the mechanistic and hyper-rationalistic zeitgeist that would prove to have such appalling consequences for non-human animals. The figure perhaps most closely associated with this zeitgeist is the 17th century philosopher and scientist Renee Descartes, who proposed that those beings who appeared to lack human-like capacities of reason and rationalism were to be viewed merely as machines, who could therefore be experimented on with moral impunity.

What is called for by the ethic of care, then, is not the rigid application of reason and rationalism to the sphere of morality, but, rather, the assertion of the importance of the capacity to feel emotion, and the application of this affective capacity to the task of animal advocacy. Such a move, it is claimed, is actually more in keeping with the motivations that lead many of those concerned with the issue of animal advocacy in the direction of the movement in the first place.

Luke (1996) has asserted that this form of compassion for non-human animals, far from being the preserve of a relatively small number of hyper-empathic individuals is, actually, the default emotional position for human beings in general, and he provides a number of examples to substantiate this claim (pp. 86-88). Firstly, Luke points to the prevalence across cultures of humans adopting non-human animal companions. This phenomenon, Luke claims, clearly exemplifies the emotional bond that many humans feel with animals. Some such companion animals, Luke concedes, may be kept as status symbols or even fashion accessories (pit-bulls and lap dogs, for example), but he goes on to cite a survey conducted by Quigly, Vogel and Anderson that demonstrates that companionship, love and affection were actually the primary reasons that respondents gave for having non-human animal companions.

Related to the phenomenon of companion animals, Luke highlights the therapeutic role that non-human animals can often play in the lives of human beings, as many socially withdrawn or depressed humans have been aided through developing a relationship with a non-human animal. Such people, states Luke, citing research conducted by Beck and Katcher, may experience difficulty in socially interacting with other human beings, but are able to form affective attachments with domestic animals.

Luke also highlights the extensive lengths that humans have been known to go to in order to rescue non-human animals who have found themselves in perilous situations. Luke gives the example of the three grey whales who became entrapped in ice in Alaska in 1988. Holes in the ice through which the whales were surfacing in order to breathe were starting to freeze over and so, in order to prevent the whales from drowning, an extensive rescue mission that ended up costing nearly \$6 million was embarked upon, in an attempt to free the whales. Amongst those who partook in this rescue operation were biologists, environmentalists, media professionals, and both the American and Russian governments. The rescue mission even became the subject of a Hollywood movie made in 2012 entitled *Big Miracle*. Such a phenomenon, contends Luke, indicates the depths of feeling that the plight of non-human animals can stir in human beings.

Finally, Luke raises the issue of the processes of expiation that seem to be a common feature in cultures that hunt animals, as proof of the psychological difficulty that the process of killing non-human animals seems to cause human beings. Luke points to African tribes that engage in purification rituals after killing an animal, and the ancient Babylonian priests who would apologize to the animals who were being sacrificed on the ‘insistence’ of the gods. Western cultures have their own enduring expiatory myths, states Luke, such as the biblical account of the divine dominion over non-human animals that was supposedly granted to ‘mankind’, and the aforementioned Cartesian mechanistic myth that reduced non-human animals to the status of mere automata. These various expiatory mechanisms described above, contends Luke, function as a means of ameliorating the psychological strain induced by the killing of non-human animals by human beings. Such a situation, claims Luke, lends weight to the assertion that many, if not most, human beings experience a sympathetic and empathic connection with

non-human animals. Such an assertion, however, gives rise to the question of how it is that modern societies (where such expiatory mechanisms do not appear to be in evidence to any great extent) can countenance the endemic exploitation by such industries as those associated with animal agriculture and animal-based scientific and medical research.

Luke contends that such a situation is enabled to persist through the social construction of a system of protective strategies (pp. 88-99). Such tactics are employed by animal exploitation industries in order to protect themselves from the public opprobrium that, Luke contends, would otherwise be incurred as result of the truth becoming public knowledge. These strategies include *the creation of cover stories; the denial of harms caused to nonhuman animals; the denial of the subjectivity of nonhuman animals; and the derogation of human sympathies towards nonhuman animals*. Each of these strategies, Luke asserts, operates in one of two ways: either by occluding the realities of the animal exploitation that the industry engages in, therefore preventing a sympathetic or empathic connection with animal from arising in the first place; or, in those situations where there may already be some level of public knowledge of the exploitation of animals that a particular industry engages in, by attempting to mitigate the sympathetic and empathic public response that the knowledge of a particular practice may engender. According to Luke, the cover stories that animal exploitation industries promulgate work by dissuading people from objecting to the practices engaged in by that industry, by attempting to emphasise the alleged necessity of such treatment. The animal agriculture industry propagates the story that it is providing for an essential nutritional requirement of humans by supplying meat and other animal-derived food products. Similarly, animal based research industries claim that the research that they are engaged in is essential if cures to the deadly and debilitating diseases that afflict humankind are to be discovered.

The denial of harms perpetrated against non-human animals by the various animal exploitation industries, Luke claims, is largely effected through the use of euphemistic language designed to obfuscate the realities of the nature of the practices that these industries engage in. Examples might include the use of the term ‘meat plant’ or ‘abattoir’ instead of slaughterhouse, or the use of the words ‘sacrifice’ or ‘euthanize’ to describe the manner in which animals used in medical research are killed.

A tactic that the animal agricultural industry often employs, according to Luke, is to style themselves as being the true guardians of animal well-being. The line that is generally taken by the animal agriculture industry is to claim that it is in the commercial interest of those who raise animals for meat and other food products to ensure that those animals are well cared for, as poorly treated animals, the claim is, will be unhealthy and, as a result, unprofitable. However, such an account claims Luke, does not stand up to scrutiny, as the economies of scale involved in modern, industrialised, ‘factory farming’ methods of animal agriculture mean that farmers can, indeed, derive a profit from unhealthy animals, especially as the use of pharmaceuticals can ensure that animals that are kept in poor conditions can remain just healthy enough to suit the purposes of the industry.

The denial of animal subjectivity, claims Luke, is achieved, like the denial of harms caused to animals, through the use of linguistic manipulation. Use of words such as ‘livestock’, ‘pet’, ‘lab animal’, and so on draw attention away from the notion that these animals are beings that have interests of their own. Such euphemisms entwine the instrumentalisation of non-human animals into the very definition of the animals concerned, thereby propagating an ontology in

which the use to which humans put such animals is popularly seen as ‘what those animals are for’ which, again, has the effect of dissuading humans from developing sympathetic or empathic concerns regarding the treatment of such animals.

When the various attempts to stop humans from sympathising and empathising with the non-human animals that are utilised in the various animal exploitation industries fail, posits Luke, those industries will employ various tactics that are intended to derogate the concerns that people may express for such animals. This derogation often takes the form of characterising concern with animal well-being as a form of overly emotional indulgence. Significantly for a feminist approach to animal advocacy, such an emotional response is often associated with femininity and may, therefore be ‘tolerated’ in women, but be derided in men as being insufficiently masculine.

As stated at the start of this chapter, the way in which emotional concern for non-human animals is often attributed to women is very much key to the feminist approach to animal advocacy. The shift of emphasis away from rationalist conceptions such as rights or interests, and towards a more affective approach to animal advocacy is, indeed, viewed by many feminists associated with the ethic of care tradition as constituting a more feminine ethical approach. Such theorists argue, however, that such an approach should not be derided and denounced as it is by the prevailing ontology (and, in the view of some feminist animal advocates, by the dominant philosophies of animal advocacy) but, rather, such emotional responses to the realities of the treatment of animals by various forms of human industry should be harnessed and put to use in the struggle for animal liberation.

The idea that a shift to a more affective approach to moral deliberation can be seen to represent a more female way of dealing with ethical issues can be seen to derive, to a significant degree, from the work of Carol Gilligan. In her 1982 work, *In a Different Voice*, Gilligan argues that the focus on feeling and particularity (as opposed to the interest and rights emphasis on universality) can be viewed as constituting a key difference between the moral development of men and that of women. Cited in Kheel (1996, p. 28), Gilligan states:

The moral imperative that emerges repeatedly in interviews with women is the injunction to care, a responsibility to discern and alleviate the real and recognizable trouble in this world... The reconstruction of the dilemma in its contextual particularity allows the understanding of cause and consequence which engages compassion and tolerance repeatedly noted and distinguished the moral judgements of women.

Men conversely, it is asserted, are more likely to develop an approach to morality in which relationships are subordinated to rules, which, in turn, are subordinated to universal principles – a process that would clearly seem to lend itself to the development of the sorts of interests or rights-based approaches advocated by the likes of Singer and Regan respectively. Donovan (1996, p. 160-161) however, has raised the importance of ensuring that the sort of ‘caring ethic’ that has been identified by Gilligan is framed within the context of a political perspective. Caring, states Donovan, constitutes an important moral point of departure, but in order to be effective it must be informed by an accurate political view. Donovan points to Carol Adams’s *The Sexual Politics of Meat* (1990; 2004) as constituting a good example of a work that sets out the political (in this case, patriarchal) context of the practice of meat-eating. While a caring ethic focuses on the suffering of the animal, then, this is enlarged by an awareness of the symbolic cultural significance of meat-eating. This understanding of cultural ideologies, states Donovan, facilitates appropriate ethical action, as the deconstruction of such ideologies makes

clear who it is who profits from practices such as meat-eating, and, therefore, who it is that continues to disseminate propaganda in the support of this status quo.

Meat and Masculinity

Adams (2004) contends that the idea that meat is primarily a man's food constitutes one of the principal hallmarks of a patriarchal society. In traditional, non-technological societies, states Adams, the majority of food taboos concern the consumption of meat, and tend to place far greater restrictions on women than they do on men. Correspondingly, states Adams, in technological societies, many cookbooks seem to reinforce the notion that meat is, firstly and foremostly a 'masculine' form of food. These modern cookbooks serve to perpetuate a dietary epistemology that emerged in the 19th century when working class British families were often unable to afford to buy enough meat to feed the whole family, and so it was the male 'head of the household' who was deemed to be the member of the family who was entitled to the lion's share of any meat that the family could afford. This idea that meat is primarily a masculine food, claims Adams, reflects an idea that meat is required in order to maintain strength - something which would have clearly been of concern in an age when working class men were engaged in very physically demanding occupations.

The gender inequality that can be observed in patterns of meat consumption, claims Adams, can be viewed as an extension of the species inequality that is necessarily inherent in such a dietary practice. In most traditional societies, Adams contends, hunting has been viewed as the occupation of the men who, as a result, have controlled the supply of meat. As meat is such a valuable commodity in such traditional societies, this meant that the men who controlled the

meat supply came to gain a disproportionate degree of power relative to the women in these societies. Quoting Richard Leakey, Adams writes (p. 255):

The equation is simple: the more important meat is in their life, the greater relevant dominance will the men command... When meat becomes an important element within a more closely organized economic system so that there exist rules for its distribution, then men already begin to swing the levers of power.

Several factors, Adams suggests, define a socio-economic climate that relies heavily on the use of animals as a source of food. Such societies tend to be defined by a sex-based segregation of labour, with women generally doing more work than men, but that work usually being accorded far less prestige. Secondly, such societies tend to exhibit a significant degree of paternal absenteeism, with child care being viewed as the sole responsibility of the women. Thirdly, the worship of male deities also tends to be a prominent feature of such societies, and finally such societies tend to be based around a system of patrilineality. Conversely, claims Adams, plant-based economies generally tend to exhibit a far greater degree of female empowerment. This, Adams posits, derives from the fact that it is generally the women in such societies who are responsible for gathering the vegetable-based foods, and as a result of being in control of a resource upon which both men and women depend, women are accorded a far higher status than they are in mainly meat-eating societies.

Adams's analysis of a link between meat-eating and patriarchy, however, does not, in and of itself, seem to present an argument for vegetarianism. On the contrary, if meat consumption by men has historically been viewed as a hallmark of patriarchy then, arguably, an increase in meat consumption by women could be viewed as an indication of an increasing level of social equality between the sexes. Indeed, it has been argued by George (2004) that the imperative

for vegetarianism that is generally called for by those within the animal advocacy movement is actually biased against women, in that it is a reflection of a sexist ontological and epistemological position that views the specifically *male* human body as constituting the quintessential *human* body, and which, therefore, fails to take into account the dietary requirements that may be particular to those who do not belong to that group, such as women. George focuses, in particular, on the moral theories of Singer and Regan (pp. 261-267), both of which, as George states, are founded on the principle of equality – that is, on the idea that all ‘persons’ (which for Singer and Regan, of course, includes at least some non-human animals) are to be considered of equal moral worth, and not to be judged in accordance with morally irrelevant factors such as race, age, sex, and so on. A requirement of the principle of equality, claims George, is that no particular individual or group should be disproportionately affected as a result of trying to meet the requirements generated by a system of morality. When applied to the case of vegetarianism then, this means that in order for the principle of equality to be observed, the strictures involved in following such a diet should not be markedly greater for any one section of society than they are for society as a whole.

The theories propounded by Singer and Regan, contends George, fail to implement the principle of equality fairly, as the requirement to be vegetarian puts a significantly greater burden on women (as well as on children and the elderly) than it does on the relatively young, adult males that Singer and Regan have implicitly based their theories around. Infants and young children, George points out, have particularly high vitamin, mineral and energy needs in order to facilitate their constant physical growth. Furthermore, states George (p. 264-265), both women and children are significantly more likely than adult males to suffer from iron deficiency, but this deficiency is far less likely to occur in societies in which meat is habitually eaten. Calcium deficiency, which is of particular concern to vegans, would again, states George

(pp. 265-266), be likely to pose a far greater risk to women, children and the elderly, were they to feel morally obliged to adopt a vegan diet, than it would to relatively young, adult males. Osteoporosis is a particular concern for post-menopausal women, and this condition is likely to be exacerbated in those women who have not had sufficient calcium in their diet during childhood and adolescence.

Another group that are not treated in accordance with the principle of equality in a moral system that necessitates vegetarianism that George identifies are those who may live in environments in which following a vegetarian diet may be particularly difficult, if not impossible (p. 267). The social standard that Singer and Regan assume, states George, is predicated on wealth that has been generated from often environmentally deleterious industrial and agricultural practices. As a result of such wealth, food in modern, technological societies is abundant, and even the poor in such societies have access to adequate nutrition through welfare provision (or, more recently, food banks). The same cannot be said, claims George, of many of the poorer parts of the world.

George anticipates two objections to her position (pp. 267-269). Firstly, predicts George, some may posit that, if the nutritionally vulnerable groups which she identifies were to make use of vitamin supplements, then the concerns that she raises about inequalities would be checked; and, secondly, there are those that might argue that improved sanitation and healthcare would make vegetarianism a more globally viable practice. George contends that the assertion that the nutritional playing ground could be levelled if nutritionally vulnerable groups such as women, children and the elderly were to make use of dietary supplements is significantly flawed. Such an argument fails to take into account that expecting nutritionally vulnerable

groups to make a special effort to supplement their diet would be to place a greater burden on these groups than would be placed on adult males. This greater burden faced by nutritionally vulnerable groups, claims George, represents a contravention of the principle of equality that theorists such as Singer and Regan claim to advance.

The second counter argument that George anticipates is that improving the general living conditions of those in the developing world would better equip them with the ability to follow a vegetarian diet without suffering any ill-effects. This argument, claims George, is equally as flawed as the first, most notably because it fails to take into account the environmentally damaging impacts that the Western system of production and distribution would have if it were to be adopted worldwide (pp. 268-269). The Western food production system is dependent on practices such as mono-cropping, food preservation, transportation, and fortification. The food processing system commonplace in the West necessitates an advanced and complex set of institutions, such as biochemical research and development facilities, industrialised food processing plants, food preservation techniques such as chemical spraying and refrigeration, and petrochemical dependent methods of transportation. All of these activities, George claims, would be likely to have significant and negative environmental ramifications, which would almost certainly prove to be detrimental to environmentalist concerns such as habitat preservation and pollution control – a situation that would lead to grave consequences for many nonhuman animals were such practices to be exported around the world.

George, then, advocates a compromise position which she refers to as ‘semivegetarianism’ (p. 269) - which she describes as a diet that consists of plant foods, milk and dairy products, eggs, and some fish and poultry. No-one, contends George, has a moral requirement to adopt a strict

vegetarian diet, and, furthermore those who *do* adopt such a diet should not be seen as following an ethically laudable if supererogatory practice. Semivegetarianism, claims George, provides a balanced diet that provides for the nutritional requirements of almost everyone, and so can be viewed as good practice. As there are no moral grounds for strict ethical vegetarianism, there are, claims George, no grounds on which to view those who choose to follow such regimens as ethically admirable. On the contrary, posits George, to admire those who do choose such a path could be pernicious from an equality or human rights perspective, as a result of the implicit bias towards a supposed adult male norm that such a view presumes.

Can an Ethic of Care Raise the Moral Status of Animals?

A number of criticisms can be levelled at the ethic of care approach – perhaps the most profound being that, to a significant degree, the entire enterprise appears to be founded on an erroneous premise. The assertion that the sort of interests or rights-based approaches advocated by the likes of Singer and Regan exhibit a sense of disdain for the application of emotion to the enterprise of animal advocacy is simply not true. Nowhere in their writings do Singer or Regan state, or even imply, that emotion is inimical to animal ethics, and that we should strive to expunge our moral deliberations of sentimental considerations. Rather, Singer and Regan claim that the campaign to elevate the moral status of animals should not be based *only* on emotional concern. Singer, (1990, p. 243) for example, writes:

I have not been content to put forward this claim as a bare assertion, or as a statement of my own personal view, which others may choose to accept. I have argued for it, appealing to reason rather than to emotion or sentiment. I have chosen this path, not because I am unaware of the importance of kind feelings and sentiments of respect toward other creatures, but because reason is more universal and more compelling in its appeal. Greatly as I admire those who have eliminated speciesism from their lives purely because their sympathetic concern for others reaches out to all sentient creatures, I do not think that an appeal to sympathy and good-heartedness alone will convince most people of the wrongness of speciesism.

Similarly Reagan (1985, p. 25), displaying significant emotion, writes:

There are times, and these are not infrequent, when tears come to my eyes when I see, or read, or hear of the wretched plight of animals in the hands of humans. Their pain, their suffering, their loneliness, their innocence, their death. Anger. Rage. Pity. Sorrow. Disgust.... It is our hearts, not just our heads, that call for an end to it all....

The assertion made by Singer and Regan, then, is not that emotion should be eradicated, but that it will only get us so far, and should, therefore, be augmented by a reason-based theory in order to extend the concept of animal advocacy to those areas that emotion and sympathy alone may not be able to reach. This leads to a second problem with the ethic of care approach: given the importance that the care ethic places on concepts such as partiality and situated, contextual relationships, and the scepticism that it expresses towards the idea of universalisable principles, it is not immediately apparent how such an approach can compel us to take an interest in the well-being of those who fall outside of our immediate social circles. This problem is compounded by the position put forward by Nel Noddings who, in her seminal work on care ethics *Caring* (1984, p. 150), holds that the caring relation also necessitates a form of responsiveness or reciprocity on the part of the cared-for and, consequently, expresses significant scepticism regarding the idea that an ethic of care can really be considered to encompass those non-human animals who fall outside our observable sphere of moral concern.

One also has to take a somewhat sceptical view of the position espoused by Luke described above, which holds that the relative lack of success that the animal advocacy movement can be seen to have achieved is the result of a conspiracy perpetrated by governments and industry, which is intended to prevent the dissemination of knowledge regarding the treatment of animals out of a sense of fear that, were humans to learn the truth, they would instantly rise up in revolt against the status quo. There may have been a time when information regarding the treatment

of animals in factory farms and laboratories was not widely disseminated or easily accessible, but since the advent of the internet those days are long since over. Detailed information and extensive video footage regarding the treatment of animals by the meat industry and the scientific community is now only two clicks of a mouse away on the websites of organisations such as PETA and other animal advocacy groups. In the modern world, if people remain ignorant of the experiences of animals in factory farms, slaughterhouses or laboratories it is not because they are *prevented* from knowing the truth, it is because they *don't want* to know the truth. Under such circumstances the ethic of care approach would seem to face something of a problem: just how do you *make* people care about something when they display a marked reluctance to do so? It is true that many (possibly most) people do seem to have some degree of emotional attachment to at least certain non-human animals, but it also seems to be the case that many people also have the ability to adopt a morally blinkered attitude to those issues that they would rather not deal with, and it is not easy to see how the ethic of care approach is equipped to deal with this sort of wilful denial.

The problem would seem to be that, when the injunction to care comes into conflict with self-interest, it is very often self-interest that tends to emerge victorious. As such, it would perhaps be prudent to divine some sort of middle way that makes use of the natural concern that many humans seem to feel towards at least some non-human animals, but also takes a realistic approach about how far that concern will actually stretch. Telling people that, if they care at all about animals then they have a duty to become vegetarians, could well prove counterproductive in terms of improving the living standards of non-human animals. Faced with such an assertion, many people may take a head-in-the-sand, 'I don't want to know approach' and refuse to engage in the debate regarding animal agriculture at all. As such, the meat industry will be

faced with little motivation to engage in even moderate reforms, and the status quo regarding animal agriculture will remain unchanged.

The sympathy that many humans feel towards animals may not, then, be strong enough to bring about a *revolution* in the manner in which animals are treated in human society, but such sympathy may be of use in bringing about some significant degree of *reform* of enterprises such as animal agriculture. If people are aware of the fact that a significant amount of the suffering that is caused to animals in modern systems of animal agriculture is a result of the intensive nature of an enterprise that is aimed at producing meat as cheaply as possible, then people may be moved to support less intensive methods of meat production, which cause less animal suffering. It is likely that such a suggestion would be treated with disdain by many ethical vegetarians and vegans, but given that there seems to be very little public or political will to see the ethical code of such groups implemented into policy, it is difficult to see how these groups are actually likely to bring about any real change in the way in which animals are treated. An approach that recognises that the emotional concern that many humans feel towards animals is generally kept in check by a sizable amount of self-interest, however, may be able to utilise that delimited emotional concern to effect at least some degree improvement to the lives of non-human animals.

Chapter Five - Capabilities and Animals

It will be recalled from chapter three that the social contract position has often be viewed as providing inadequate resources for those who would seek to attribute substantive rights to non-human animals, due to the emphasis that the position puts on capacities such as rationality, autonomy, and agency which are often viewed as constituting idiosyncratically human characteristics. It will also be recalled from that chapter that Rowlands (1998/2009) has argued that the form of contractarianism proposed by Rawls in his landmark work *A Theory of Justice* (1971/1999), can actually be expanded and extended in such a way so as to provide non-human animals with many of the substantive protections that those in the animal advocacy movement seek to extend to them. In her 2006 work *Frontiers of Justice*, however, Martha Nussbaum has argued that the sort of social contract position proposed by Rawls is unsuited to according sufficient protections to non-human animals, or to other groups such as other (particularly poorer) nations, and those humans who suffer from severe physical and mental impairments. Nussbaum refers to these as the ‘three unsolved problems of justice’ (*Frontiers of Justice*, chapter one), and it is worth taking a look at each in order to fully discern Nussbaum’s reservations regarding the social contract tradition.

Impairment and Disability

According to Nussbaum no social contract doctrine includes those who have severe physical or mental disabilities amongst the contracting parties who are deciding how society should be structured (*Frontiers of Justice*, pp. 14-18). For those who suffer from disabilities that do not affect their ability to make political decisions, states Nussbaum, this would clearly seem to constitute a fundamental flaw in the social contract position. For Nussbaum the injustice is

made all the more acute when one recognizes that many of the factors that can exclude people from political participation are social rather than inevitable. Accordingly there is no principled basis for excluding such people from a choice situation which is not meant to take for granted any assumptions regarding the design of social institutions.

The omission of people with physical and mental impairments from the contract situation becomes more pernicious, claims Nussbaum, when we recognize a particularly problematic feature of all social contract theories. The social contract tradition, according to Nussbaum, conflates two questions: ‘By whom are societies basic principle designed?’ and ‘For whom are societies basic principles designed?’ In actual fact, claims Nussbaum, these questions should be viewed as being quite distinct. Contract views generally conceive the contracting parties as being synonymous with the citizens that will live together in the society that will result from the choices that they make in the initial contracting situation. The fundamental moral idea in the tradition, states Nussbaum, is that of mutual advantage and reciprocity among the contracting parties. The principles chosen are intended to regulate, firstly and foremostly, the parties’ dealings with one another, with other interests and persons (or animals) being included either indirectly in accordance with the parties’ own direct interests, or at a later, legislative stage, after the establishment of the basic principles. Therefore when the social contract tradition specifies the necessity of certain capacities such as rationality or broadly equal physical and mental ability as prerequisites for inclusion in the initial contracting situation, this decision has serious consequences for people who do not share these traits in the society that results from the principles chosen in the initial situation. The fact that these people are not included amongst those who choose the basic principles, means that their interests are not protected by those basic principles, and the best that such individuals can hope for is that their interests will be accorded some degree of protection either indirectly or at some later stage.

Rawls's version of contractarianism, Nussbaum points out, does distinguish the parties in his 'original position' from citizens in the society that they will create. Citizens will not be encumbered with the constraints of the 'veil of ignorance' and, instead, they will benefit from an extensive moral education intended to nurture sentiments to ensure social stability. As far as questions regarding disability or species membership are concerned, however, this difference is of little consequence. The parties choose political principles as if they were going to be citizens in the society that resulted from the choice of those principles, and the citizens live with the principles chosen under those terms. Therefore although such citizens may make provisions for the interests of humans and animals that were not included in the initial situation, they are unable to make any revisions of the actual principles of justice that might protect the interests of such groups at a more fundamental level. In *Political Liberalism*, states Nussbaum, Rawls expresses himself in a somewhat different manner that highlights his fundamental attachment to the traditional social contract approach. The parties in the original position are now conceived of as being trustees for citizens, but the citizens for whom they act as trustees can be seen to exhibit all of those characteristics that render social contract theory problematic, as the mental and physical abilities of these citizens are unequivocally stated by Rawls to all lie within the 'normal' range.

The 'by whom' and 'for whom' questions, states Nussbaum, do not need to be run together in the manner that they are by social contract approaches. It is possible to conceive a theory that holds that many living beings are worthy of being considered primary subjects of justice, even though they may not be capable of participating in the procedure in which political principle are established. One could, claims Nussbaum, have strong reasons for divining such a theory

and separating out the 'by whom/for whom' questions, if one starts from a position that maintains that many types of lives possess dignity and are worthy of respect. If one thinks in such a manner one would recognize from the start that the ability to make a contract and the possession of those capacities that facilitate mutual advantage in the resulting society are not necessary traits for being considered a citizen who is as worthy of respect as any other.

Nationality

The second problematic area that Nussbaum identifies with the social contract position regards the role that one's country of birth can have in determining one's opportunities in life (*Frontiers of Justice*, pp. 18-21). Given the increasingly interdependent nature of the modern world, states Nussbaum, it is imperative for us to consider issues of justice that are raised as a result of the often vast inequalities that exist between the rich and poor nations of the world. This can often be a difficult issue to address from within the social contract approach, because this view generally tends to construct a single and self-sufficient society. Nussbaum points out that both Kant and Rawls do, in fact, recognize the importance of addressing issues of justice between nations, but tend to think that these are issues that can be dealt with either derivatively, or at a second stage. Thus, Kant and Rawls imagine that after states are founded, relations between these states are still akin to a state of nature, and so additional principles are required in order to regulate their interactions with one another.

In this two-stage approach, then, states are treated as isomorphic, with free, equal and independent persons in the first stage of the argument. At the second stage, if we are to think of a contract as a way to depart from a state of nature, we are, once again, in the position of having to decide who will be included in the group that decides on the principles that will be

established in order to regulate interaction and, in particular, what form of independence and rough equality must be assumed in order for the contracting process to be able to proceed. Nussbaum expresses grave doubts as to whether the ideas of independence and rough equality are in any way meaningful in a world in economic globalization renders so much economic activity interdependent, and frequently leads to a situation in which the parlous economic situations of the world's poorer nation are perpetuated or even exacerbated. Such a situation, claims Nussbaum, raises the very real possibility that certain nations that are particularly unequal to the more wealthy and powerful nations, may well be left out of the group responsible for establishing the international political principles, and that meeting the needs of such nation will be postponed until the basic principles that will greatly impact the lives of their citizens have already been established, and that addressing these needs will be viewed as a duty of charity, rather than fundamental justice. The concept of mutual advantage would seem very strongly to militate against the inclusion of such international entities in any initial contracting situation, as it is difficult to see what wealthy and powerful nations would stand to gain by including such nations within the circle of influence.

Species Membership

Clearly, the aspect of Nussbaum's theory that is most pertinent to the subject of this thesis is that which deals with the concept of justice for non-human animals to which Nussbaum dedicates chapter six of *Frontiers of Justice*. For Nussbaum, social contract theories are poorly suited to extending ideas regarding justice into the realm of non-human animals. As the starting point for contract theories of justice revolve around the concept of rational human adults engaging in a process of deliberation, such theories would seem to explicitly rule out animals as the sorts of beings who should be included within the ambit of the basic principles of justice.

This is, again, states Nussbaum, an inevitable consequence of the conflation of the ‘by whom/for whom question’ that characterizes social contract theories of justice. Thus, theorists in the social contract tradition generally assert either that we have no direct moral duties to animals, and that any duties we have to animals are merely an indirect result of our duties to other people (which, as it will be recalled from chapter two of this thesis, was the position put forward by Kant), or that if we do have direct moral duties towards animals then they are to be viewed as duties of compassion or charity, rather than duties of justice (the position held by Rawls). Nussbaum asserts that these views would seem to be inadequate given the ways in which the lives of vast numbers of animals are impacted by the actions of humans. The choices that we make have a profound impact on the lives of non-human animals every day, and often cause them a great deal of harm. Animals are not merely a part of the furniture of the world but are, rather, active beings trying to live their lives, and are frequently impeded in the pursuit of this by the choices made by human beings. Nussbaum posits that this seems to bare the hallmarks of a problem of basic justice, rather than something that should be dealt with as a matter of charity. Accordingly, Nussbaum claims, this situation would seem to call into question any theory that is conceptually incapable of recognising the relations between humans and animals as being a suitable subject matter for the application of justice.

The Capabilities Approach

Nussbaum, then, proposes her capabilities approach as a means of addressing the shortcomings of social contract theory described above. The capabilities approach, states Nussbaum, starts with ‘a conception of the dignity of the human being, and of a life that is truly worthy of that dignity’ (*Frontiers of Justice*, p. 74), and, she claims, can be duly extended to apply to the case

of non-human animals. As the name implies, the capabilities approach enumerates and attempts to justify a list of capabilities that Nussbaum asserts to be central requirements of a life worthy of dignity, which, in the human case, Nussbaum considers to be (pp. 76-78):

1. *Life*. Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.
2. *Bodily Health*. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.
3. *Bodily Integrity*. Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.
4. *Senses, Imagination, and Thought*. Being able to use the senses, to imagine, think, and reason – and to do these things in a “truly human” way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one's own choice, religious and literary, musical, and so forth. Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to have pleasurable experiences and to avoid nonbeneficial pain.
5. *Emotions*. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one's emotional development blighted by fear and anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)

6. *Practical Reason.* Being able to form a conception of the good and to engage in critical reflection about the planning of one's life. (This entails protection for the liberty of conscience and religious observance.)
7. *Affiliation.*
 - A. Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech.
 - B. Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails provisions of nondiscrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin.
8. *Other Species.* Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. *Play.* Being able to laugh, to play, to enjoy recreational activities.
10. *Control over One's Environment.*
 - A. *Political.* Being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association.
 - B. *Material.* Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason

and entering into meaningful relationships of mutual recognition with other workers.

Animals and the Capabilities Approach

Nussbaum contends, then, that having established the above capabilities list for human beings, the same list can be transposed (and, indeed, that justice demands that it is transposed) to meet the needs of non-human animals (*Frontiers of Justice*, pp. 393-401).

The first capability, the fundamental capability of *life* is, claims Nussbaum of equal importance to non-human animals as it is to human beings (*Frontiers of Justice* pp. 393-394). Nussbaum contrasts her approach with utilitarianism, which tends to place greater emphasis on sentience and the avoidance of inflicting suffering on animals, or, in its preference utilitarianism form, only thinks in terms of according an entitlement to continued life to non-human animals if that can be viewed as something that those animals are consciously aware is in their interests. Under the capabilities approach, by contrast, all animals are to be viewed as having an at least *prima facie* entitlement to continued existence, even if they do not consciously recognise that this is in their interests. Nussbaum concedes that this entitlement may be quite weak in the case of those animals that are not generally thought to exhibit sentience to any significant degree (such as insects), but should at least protect such animals from purely gratuitous acts of killing, as in the case of butterfly collecting, for example. On the other hand, states Nussbaum, when the killing of such creatures is deemed to be necessary by a weighty enough reason – such as the prevention of damage to crops, or in the attempt to stop the spread of insect-borne diseases such as malaria, then, according to Nussbaum, the killing of such creatures is not to be viewed as constituting a contravention of justice. Sentient animals, on the other hand, are, according to Nussbaum, to be viewed as being in possession of a far stronger set of entitlements. Not only

should such animals be protected from gratuitous killing for sport, or for the production of frivolous products such as fur, but they should also be protected from cruelty and painful killing in the production of meat and other animal-derived food products. This leads us to grapple with the morality (and, indeed, the justice) of the *painless* killing of animals for purposes such as food production. Nussbaum proposes that, in the first instance, it may be prudent to concentrate on the more pressing task of the elimination of *cruelty* to animals in the production of meat and other animal derived foods, before attempting the more ambitious task of eradicating the killing of at least the more cognitively advanced animals for the purposes of food production.

The second capability on Nussbaum's list, that of *bodily integrity* can again, claims Nussbaum, be seen to be eminently applicable in the case of non-human animals (*Frontiers of Justice*, pp. 394-395). For those animals that are directly under the control of humans, claims Nussbaum, this capability can be protected and advanced through various forms of legislation aimed at eradicating cruelty and neglect - many of which, points out Nussbaum are, in fact, already extant, if not always rigidly observed. Nussbaum points to what she refers to as the 'striking asymmetry' in legislative protection afforded to those animals raised for food on the one hand, as compared to domestic animals (i.e. pets or companions animals) on the other, and calls for this asymmetry to be eliminated.

With respect to the third capability on Nussbaum's list – bodily integrity – Nussbaum asserts that non-human animals should be viewed as being entitled to protection from violence, abuse and other forms of harmful treatment, even if this treatment does not necessarily cause the animal to experience pain as a result (*Frontiers of Justice*, pp.395-396). Nussbaum gives the example of the de-clawing of cats as an example of such a form of treatment.

The fourth capability on Nussbaum's list, that of the *senses, imagination and thought* in the human case, states Nussbaum, gives rise to a variety of entitlements, such as entitlements to education, free speech, artistic expression, and freedom of religious belief and practice. This capability however, states Nussbaum also, involves a more general entitlement to pleasurable experience, and to the avoidance of unnecessary pain, which can be seen to have clear ramifications for the case of non-human animals (*Frontiers of Justice*, pp. 396-397). As above, this capability can be protected and advanced through legislative measures aimed at strictly regulating how humans interact with non-human animals. Wild animals, states Nussbaum, are entitled to an environment in which they would typically be expected to flourish and, consequently, the facilitating of this capability would necessitate the conservation of wild animal habitats.

As regards the fifth capability on Nussbaum's list, that associated with the *emotions*, this again, states Nussbaum, can be seen as resonating clearly in the case of many non-human animals, who can be seen to express a broad emotional repertoire (*Frontiers of Justice*, pp. 397-398). Like human beings, then, non-human animals should, states Nussbaum, be entitled to express these emotions through the forming of attachments with others, and should not have their emotional development thwarted through isolation and neglect.

The sixth capability – *practical reason* – is, states Nussbaum, a key entitlement in the case of humans, and although there may be no general analogue that can be seen to apply to all non-human animals we can, suggests Nussbaum, make case by case decisions based on the extent to which a particular animal can be seen to exhibit a capacity to set goals and formulate life-plans (*Frontiers of Justice*, p. 398) Where such capacities are deemed to exist, states

Nussbaum, then they should be protected and facilitated, again through legislation ensuring that such animals have access to suitable habitats and stimulating activities.

The capability of *affiliation* – the seventh capability on Nussbaum’s list – can, in the human case, be seen as comprising two components: an interpersonal component on the one hand (being able to live with and towards others), as well as, on the other hand, a more public component centred around the concept of self-respect. Both components, states Nussbaum, are applicable in the case of non-human animals (*Frontiers of Justice*, pp 398-399). As per the capability of the *emotions* described above, non-human animals should be entitled to form attachments both with members of their own species (see below), and with members of other species in the facilitation of their emotional development. Just as importantly, however, is that non-human animals are entitled to reside in a public culture that accords them an appropriate level of respect. This, asserts Nussbaum, means that animals should be granted direct legal status, and be accorded political rights in their own right, even though they lack cognitive sophistication necessary to comprehend such concepts.

With respect to the eighth capability on Nussbaum’s list – that which concerns other species – Nussbaum states that if human beings are entitled to live with concern for, and in relation to animals, plants and the world of nature, then non-human animals should also be seen as worthy of such an entitlement (*Frontiers of Justice*, pp. 399-400) This capability, states Nussbaum, viewed from both the human and the animal side, necessitates the gradual formation of an interdependent world in which all species engage in cooperative and supportive relations. This will call, states Nussbaum (in a statement that has been the cause of some significant degree of controversy) for the ‘gradual supplanting of the natural by the just.’ (p. 400).

The capability of *play* – the ninth capability on Nussbaum’s list – can clearly be seen to be of great significance to all sentient animals (*Frontiers of Justice*, p. 400), and requires many of the same measures called for above in relation to other capabilities, i.e., suitable living environments; ample opportunities to engage in a variety of activities; the ability to associate with other members of their species, and members of other species, and so on.

The tenth and final capability that Nussbaum lists – *control over one’s environment* – can be seen, in the human case, to consist of two elements – one political and the other material. The political element is defined through active citizenship and rights of political participation. When attempting to apply this capability to the case of non-human animals, states Nussbaum, the most important issue is to ensure that such animals are viewed as being a part of a political conception that is formed in such a way so as to ensure that they are accorded adequate respect, and ensures that they are treated justly (*Frontiers of Justice*, pp 400-401). Nussbaum emphasises that non-human animals should be viewed as having direct entitlements within this political conception, even if a human guardian must, as a matter of necessity, be charged with the responsibility of representing the non-human animal in any legal proceedings. The material aspect of the tenth capability, in the human case, includes such things as property and employment rights. In the case of non-human animals the equivalent to property rights can be seen as respect for the territorial integrity of animals’ habitats, both in the case of domestic and wild animals. The non-human animal equivalent of employment rights, suggests Nussbaum, is the right that labouring animals should be seen to possess that entitle them to suitable and safe working conditions.

The Capabilities and the Overlapping Consensus

It is Nussbaum's contention, then, that the ten point list that constitutes her capabilities approach can form a part of the sort of overlapping consensus that Rawls describes in *Political Liberalism* (1993/2005), thereby expanding the sphere of justice to include non-human animals (and, indeed, those human beings that Rawls's theory seems to exhibit difficulty in according direct justice to, such as those with profound physical and mental disabilities). The extent to which such a project could actually be considered feasible, however, must surely be open to some considerable degree of scepticism. Nussbaum's capabilities list, if it were to be strictly observed in the case of non-human animals, would result in policies that would be very likely to be met with less than overwhelming enthusiasm by many members of society. The first and most fundamental capability on Nussbaum's list, that of *life*, would, if it were to be stringently observed in the case of non-human animals, clearly have seismic social and cultural implications.

Firstly, and perhaps foremostly, the meat industry could clearly not continue to operate if the entitlement to life that this capability seeks to accord to non-human animals were to be observed. This would therefore compel the whole of society to eschew meat and adopt a vegetarian diet, and it is eminently likely that such a requirement would be met with a significant degree of resistance from many within society. It is certainly unlikely that a proposal of universal vegetarianism would be the sort of idea that would be likely to attract the sort of wide-spread support necessary to make an idea a suitable candidate to form a part of the sort of overlapping consensus that Rawls proposes.

Nussbaum, indeed, seems to recognise the potential for social disquiet that may be effected through the strict observation of the requirements associated with her first capability when she

writes ‘It seems wise to focus initially on banning all forms of cruelty to living animals and then moving gradually toward a consensus against killing at least the more complexly sentient animals for food.’ (*Frontiers of Justice*, p. 393). Whilst the goal of attempting to ban cruelty to those animals that are utilised by the meat industry may, feasibly, become an element within an overlapping consensus, it is by no means clear that this could then develop into a wide-scale consensus that opposed the actual killing of non-human animals for food. Although there may be those within the animal advocacy movement that may consider it to be a case of cognitive dissonance, or even rank hypocrisy, it does seem to be the case that many people in society do not seem to consider there to be any irreconcilable conflict between a desire to eradicate (or, at least, minimise) cruelty to animals on the one hand, and a desire to continue eating meat on the other. Such an attitude is exemplified by the existence of such large animal welfare organisations such as the Royal Society for the Prevention of Cruelty to Animals (RSPCA), who, as the name implies, are dedicated to the goal of addressing the issues of animal cruelty, but who seem to advance a form of ‘conscientious carnivorism’ (through the awarding of certificates to meat producers who meet certain standards set by the organisation), rather than advocating the adoption of a vegetarian diet.

The capabilities of bodily health and bodily integrity also raise quandaries when applied to the case of animals if one thinks in terms of trying to actualise these capabilities in what might, perhaps, be thought of as their ‘strong’ form, as to do so would, again, inevitably spell the end of animal agriculture and the meat industry, even in its more responsible forms. However well animals that are bred and raised for their meat may be treated, it is an unavoidable fact that such animals’ bodily health and integrity is destined to be, ultimately, severely compromised. It is possible, perhaps, to think in term of employing a ‘weaker’ form of these capabilities by ensuring the health and bodily integrity of such animals whilst they are being raised for food,

by ensuring that such animals have adequate nutrition, living environments and medical care, and respecting their bodily integrity by not employing such practices as the de-beaking of chickens, or tail docking of pigs, but then what one ends up with is really more of a form of animal welfarism than any sort of substantive animal liberationist position.

The sorts of problems described above that arise when attempting to apply the capabilities regarding life and bodily health/integrity to non-human animals can, in fact, be seen to apply to the capabilities list as a whole: any attempt to advance a strict interpretation of Nussbaum's capabilities list in the case of non-human animals is likely to result in such radical implications that it is unlikely to garner the assent of the majority (or, frankly, even a sizeable *minority*) of society, and cannot, therefore, realistically be expected to form a part of a Rawlsian overlapping consensus. On the other hand, any version of the capabilities list that accepts compromise as a part of accepting certain 'gritty realities' of prevailing human attitudes towards animals is likely to result in such a watered down interpretation of the capabilities approach as to render it, for all practical purposes, largely indistinguishable from a well-observed animal welfarist approach.

A further problem with Nussbaum's capabilities approach is that there appear to be areas of inconsistency where the aims and requirements of certain capabilities seem to clash with the aims and requirements of others. This conflict derives, ultimately, from the underlying Aristotelian dedication to generic, teleological flourishing that undergirds Nussbaum's capabilities list, as the flourishing of certain animals may very well be at the expense of that of other animals. To look, again, at the first and most fundamental capability on Nussbaum's list – the capability of *life* – it is clear that, certainly in the wild, the flourishing (or even mere *survival*) of certain animals is entirely dependent on their hunting and killing of other animals

– which, again, is going to have obvious negative implications on the bodily health and integrity (and, indeed, all of the other capabilities) for the animals being killed and eaten. This again, then, raises the vexed issue of predator/prey relations, and the extent to which humans should intervene in this situation. As has been described in previous chapters, the general attitude within the animal advocacy movement has been to adopt, for the most part at least, a largely *laissez-faire*, ‘hand-off’ approach to the sort of predator/prey relations that characterise the ontology of wild animal existence. Nussbaum, however, would seem to suggest that humans intervene far more vigorously in such relations out of a sense of protecting and advancing the flourishing of the animals that are likely to find themselves preyed upon. The afore-mentioned phrase that Nussbaum uses when describing the eighth capability on her list (the capability regarding the interactions of different species) – that actualising this capability ‘calls, in a very general way, for the gradual supplanting of the natural by the just’, is particularly problematic. It is very difficult to see how Nussbaum’s Garden of Eden vision of ‘an interdependent world in which species will enjoy cooperative and mutually supportive relations’ (*Frontiers of Justice*, p. 400) can ever be more than a wildly utopian dream.

Nussbaum’s position, then, would seem to constitute something of a paradox, as many carnivorous wild animals who hunt other animals actually need meat in order to survive. So, even if we were somehow able stop lions and tigers from hunting and killing wilder beasts and gazelles, this would result in the frustration of the carnivorous animals’ most fundamental capability of *life* (and, of course, by extension, all of their other capabilities as well), not simply in the prevention of their being allowed to engage in the species-specific behaviour of hunting.

The Species-Norm Principle and Justice

A critique of Nussbaum's capabilities approach that has been expressed by Donaldson and Kymlicka (2011 pp. 95-99) focuses on Nussbaum's contention that our actualising of animal flourishing should be conducted in accordance with what Nussbaum considers to be the 'species norm' relevant to any particular animal. The problem with this approach, claim Donaldson and Kymlicka, is that it disregards the extent to which domesticated animals (a term which Donaldson and Kymlicka use to describe agricultural animals, as well as companion animals such as cats and dogs) already comprise a significant part of the mixed human-animal societies that are so prevalent in the contemporary world (and which, Donaldson and Kymlicka would want to point out, have been prevalent for quite some time). As a result of this omission, claim Donaldson and Kymlicka, Nussbaum fails to comprehend the true nature and extent of what justice for animals would actually require in such mixed human-animal societies.

The species norm principle that Nussbaum advocates holds that the individual members of any given species thrive and flourish only in the ways that might be considered typical of the species to which they belong. According to Nussbaum, then, justice for animals is observed when we strive to ensure that the individual members of any given species are provided with whatever means they may need to enable them to realise the capabilities that Nussbaum would claim to be typical for the particular species in question. For Nussbaum, then, suggest Donaldson and Kymlicka, the focus of justice for animals is placed very much on what a given *species* requires in order to thrive, as opposed to what any given *individual* may need to thrive and flourish.

For Nussbaum, Donaldson and Kymlicka point out, the species norm principle that she advocates requires that even those individuals who, for whatever reason, may lack the sort of traits and abilities that Nussbaum considers to be typical of that particular species, should be

helped and encouraged to aspire to this species norm as best they can. The aim of social policy for Nussbaum, then, is to provide such atypical species members with whatever resources and training they may require in order to actualise the sorts of capabilities that Nussbaum would argue are largely definitive of that species, to whatever degree they are able to do so.

For Nussbaum, then, as Donaldson and Kymlicka state, species membership constitutes not merely a baseline for justice, but also delineates its extent. Donaldson and Kymlicka point to the example that Nussbaum raises of chimpanzees that have been taught to utilise sign language as an example of the sort of measure that Nussbaum considers to fall outside of the demands of justice for non-human animals, as Nussbaum considers that '[f]or chimpanzees language use is a frill, constructed by human scientists; their own characteristic mode of flourishing in their own community does not rely on it.' (*Frontiers of Justice* p. 363). Nussbaum contrasts this situation with the case of a dog who has been injured and rendered immobile. For Nussbaum, in such a case justice allows (or requires) that such a situated non-human animal be equipped with some form of prosthetic device, if such a procedure would enable the dog to retain mobility. Such a measure is allowed/required in accordance with justice, according to Nussbaum, as mobility is a component of the species norm for dogs, and so justice requires restoring this capacity to the greatest degree possible, if for some reason it should become compromised.

Donaldson and Kymlicka reject Nussbaum's focus on species-specific flourishing as the proposed primary concern of justice for non-human animals. Such an approach, they state, might be applicable in a world in which humans and animals lived entirely discrete lives but, as previously stated, for Donaldson and Kymlicka a major focus of justice needs to be on the mixed human/domestic animal communities that are so prevalent. Such a situation requires that

any form of capabilities theory such as that proposed by Nussbaum should, if it is to prove sufficient by the standards of justice, be aimed at facilitating the flourishing of non-human animals (and, indeed, human beings) in precisely such mixed communities, rather than thinking purely in terms of what non-human animal capabilities would need to be actualised in order to enable animals to flourish in the wild.

For Donaldson and Kymlicka, then, our positive duties toward domesticated animals, cannot be adequately discharged merely by reference to the sort of species norm principle proposed by Nussbaum. Such animals are, of course, members of particular species, but they are also members of an *interspecies* society, and the capabilities that justice should emphasise the importance of actualising are those capabilities that will enable any particular individual to flourish in such a heterogeneous community, even if the actualisation of such capabilities would be of no relevance to any given species of animal in the wild. Wolves and feral dogs, for example, mainly need to communicate with other wolves and feral dogs, but domestic dogs need to learn how to communicate with humans and perhaps other species of animal, as well as learning how to comport themselves in the mixed human/animal societies in which domestic dogs (by definition) live.

The main point that Donaldson and Kymlicka want to emphasise, then, and that Nussbaum would seem to miss, is that the capabilities relevant to the flourishing of any given individual are defined every bit as much by social context as they are by species membership. Human beings have, state Donaldson and Kymlicka, elected to make non-human animals a part of human society and, as such, it is incumbent upon humans to ensure that they equip such domesticated animals with whatever skills they may need in order to enable them to flourish in the resulting mixed human/animal societies – which may well involve the actualisation of

capabilities that may play no role in the flourishing of any given domesticated animal's wild counterparts. For an orphaned and injured wild chimpanzee, who may never be able to be returned to the wild and has been adopted by humans, then, the development of some form of human linguistic capacity, suggest Donaldson and Kymlicka, far from being the 'frill' that Nussbaum dismisses it as, may well prove to be a necessary measure in order to enable that chimpanzee to flourish in the mixed human/animal society which has now become that chimpanzees home. Donaldson and Kymlicka conclude that:

For both humans and animals, justice requires a conception of flourishing that is more sensitive to both interspecies community membership and intraspecies individual variation. It should also be open to evolution, as new forms of interspecies community emerge, opening up new possibilities for forms of animal flourishing. (Donaldson and Kymlicka 2011, p. 99)

To this end, Donaldson and Kymlicka propose a citizenship approach to animal advocacy, which forms the subject matter of the following chapter.

The Capabilities Approach – A Political Theory?

Whereas the first four chapters of this thesis addressed the issue of animal advocacy from within broadly speaking moral terms, Nussbaum's capabilities view is one of the first attempts in the relatively recent move to try to address the issue of animal advocacy in more specifically *political* terms. This, of course, immediately raises the issue of just precisely what it means to address the issue of animal advocacy in such political terms. It is all well and good to employ the discourse of justice to describe our relations with and obligations to non-human animals, but unless this approach can affect a meaningful social shift, then it is really little more than a change in semantics. Nussbaum refers to her capabilities view as a form of 'political liberalism' (*Frontiers of Justice* p. 388). Political liberalism is an idea that was first put forward by John

Rawls in his book of that name, and will be addressed more fully in chapter eight. However, in order to examine Nussbaum's capabilities view, it is necessary to give a brief overview of the theory here.

At the core of political liberalism are three interrelated concepts: comprehensive moral doctrines; political doctrines; and the overlapping consensus. Comprehensive moral doctrines are those doctrines that are adhered to by various groups in society that provide guidance in a wide variety of areas of human life. Such doctrines may often have a metaphysical or theological basis that may not be shared (and, indeed may even appear to be incompatible with) the other comprehensive moral doctrines that are subscribed to by other social groups. Given this potential for serious conflict between the various comprehensive moral doctrines that abound in a modern, liberal and democratic societies, such a doctrine cannot be utilised to regulate the basic structure of society. In order to address this problem, then, political liberalism seeks to establish an 'overlapping consensus' – which is to say an area of agreement between the social groups that can be subscribed to and endorsed by all sections of society, irrespective of the personal comprehensive moral doctrines to which they subscribe, and it is the content of this overlapping consensus that constitutes the political doctrine.

A political doctrine does not merely constitute a *modus vivendi* – a barely tolerated compromise that people subscribe to grudgingly because they are unable to have things all their own way. Rather, a political doctrine, as Rawls conceives it, is fully embraced by and endorsed from the points of view of the various comprehensive moral doctrines. It is also important to point out that, although the political doctrine is endorsed from the point of view of the various comprehensive moral doctrines, some of which may have a metaphysical basis, the political

doctrine itself is not viewed as having such a metaphysical basis, but is, rather, conceived by Rawls as constituting a freestanding conception.

The main dispute that arises within political liberalism, then, concerns exactly what it is that can form the content of the political doctrine that is formulated by the overlapping consensus. Nussbaum contends that her capabilities view could form a part of such a consensus (*Frontiers of Justice*, pp. 388-392), and while this may be the case as far as humans are concerned, it is more doubtful when considering the case of non-human animals.

Nussbaum's theory would seem to take the following form: humans' flourishing matters because humans are the sorts of beings who have a sense of dignity. This sense of dignity would seem to be shared by at least some non-human animals. Ergo, the flourishing of at least some non-human animals would appear to be as morally pressing an issue as the flourishing of humans. This view displays all the hallmarks of a comprehensive moral doctrine. This in and of itself does not pose a problem, as political doctrines are made up of elements from within the comprehensive moral doctrines of the various social groups. The problem, from the perspective of political liberalism, is Nussbaum's contention that her capabilities view can be encompassed in its entirety by a political doctrine. Whereas it may be feasible that certain aspects of her capabilities view as it applies to humans may be deemed acceptable components of an overlapping consensus and the political doctrine that results from it, it is frankly unlikely that her view that the capabilities approach as it applies to non-human animals would meet with a similar level of agreement from those who adhere to different comprehensive doctrines.

For Nussbaum, the physiological and psychological similarities that she holds exist between humans and at least some non-human animals are sufficient to base a significantly elevated

moral status for such animals. Others, however, may not share this view. Those, for example, who subscribe to a, broadly speaking, ‘creationist’ account, which holds that both animals and humans have been created by a divine being who has set humans at the apex of a hierarchy of being, are unlikely to be won over by Nussbaum’s school of thought. Similarly, from within a secularist doctrine, the idea that animals should be viewed on a moral par with humans is likely to be met with a significant degree of scepticism. Most people appear to intuitively subscribe to some promethean notion that there is some indefinable essence that sets human beings apart from and above the rest of animal kind. This indeed is something that Nussbaum recognises when stating ‘...Christianity, Judaism, Islam, and most people’s secular comprehensive doctrines rank the human species metaphysically above the other species and give the human secure rights to the use of animals for many purposes.’ (*Frontiers of Justice*, p. 390). As difficult as it might be to prove such human exceptionalism, the fact that it forms a part of the vast majority of people’s outlook must surely be factored into any political theory that hopes to meet the accord of the populace and become a part of a political doctrine.

A further problem with Nussbaum’s capabilities approach when applied to non-human animals is that, as mentioned previously, it yields problematic consequences for many animals themselves. To facilitate the flourishing of carnivorous wild animals, for example, it is necessary for the flourishing of the wild animals that such carnivores prey upon to be significantly compromised. Again, this is a situation that Nussbaum recognises:

...can we imagine an animal supporting a decent life for species to which it is hostile? Would the trustee of the tiger rightly impute to it a conception that supports a decent life for a gazelle? Nature is not just, and species are not all nice. We cannot expect that they will become nice, or supportive of the good of their enemies. I think, however, that this is not such a severe problem for the political conception, since at this point the trustee can just say, the tiger’s conception is unreasonable insofar as it seeks the death of gazelles, and I, as trustee, shall advance it politically only in so far as it is reasonable. The stability of the political conception is not at stake here: if we do not persuade the

tigers to change their mind, so to speak, we can always control them. (*Frontiers of Justice*, p. 390).

What Nussbaum doesn't explain, having denounced the tiger's conception as 'unreasonable', is just how this situation is actually going to be dealt with. Exactly how does Nussbaum suggest that we 'control' the tigers in her example? Do we round them all up, place them in zoos, and compel them to subsist on a vegetarian diet? As this would constitute a slow form of execution for the tiger, which must eat meat to live, this would seem to compromise the flourishing of the tiger at the most fundamental level. As mentioned above, Nussbaum does seem to hint in the direction of such predator eradication in her edict that we should aim to bring about 'the gradual supplanting of the natural by the just', but such a suggestion would likely be met with extreme disapproval, not only by the public at large, but also by many animal advocates and ecologists.

In short, then, Nussbaum's supposedly political approach to animal advocacy would seem, in fact, to be insufficiently political, at least in the terms that Rawls sets out in his version of political liberalism. Nussbaum's capabilities view, certainly when applied to the case of non-human animals, does not seem to be the sort of view that could be subscribed to by many others in society who hold other comprehensive views, and, as such, to compel others to live in accordance with such a view would be an unreasonable demand of any political doctrine.

Chapter Six – Animal Citizenship

Will Kymlicka is a major writer in the liberal tradition who has written extensively on the related topics of liberalism and multiculturalism. One of Kymlicka's major occupations, perhaps best exemplified in his 1995 work *Multicultural Citizenship*, can perhaps be seen as attempting to bridge the divide that has appeared in contemporary political theory between, broadly speaking, communitarian approaches on the one hand (those theories that argue that the community has a good of its own that is distinguishable from and prior to the goods of each individual that makes up that community), and liberal approaches on the other hand (which argue that it is the interests of the individual that are of paramount importance.).

Kymlicka has argued that the community verses the individual debate that has characterised much contemporary political theory is, in many ways, something of a false dichotomy. In particular, Kymlicka takes issue with the criticism that is often levelled at liberalism by communitarian writers, which claim that liberalism presents a wholly unsupportable, atomistic view of an individual, entirely unencumbered by any broader social context. For Kymlicka, this view constitutes a significant misrepresentation of the liberal position that has come about as a result of *contemporary* liberalism's preoccupation with individual and universal basic rights. According to Kymlicka, if one looks at the development of liberalism in its broader *historical* context, it can be seen that liberals traditionally have, indeed, been well aware of the importance that the broader social context has to the flourishing of the individual.

In contrast to many communitarians, however, for Kymlicka, the broader social context that is of vital importance to the development of the individual is not so much the community, but, rather, the *nation*, as it is the nation that is uniquely able to provide the individual with what Kymlicka refers to as a 'societal culture', which Kymlicka considers to be a necessary good for the development of the individual. According to Kymlicka, a societal culture is a culture which...

...provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be territorially concentrated and based on a shared language. (Kymlicka, 1995, p. 92).

Furthermore, as the nation (in Kymlicka's view at any rate) does not constitute a *moral* community that seeks to impose one particular, comprehensive ideology on all who live there, this makes it the ideal context for a form of 'differentiated citizenship', which will enable all of its inhabitants to subscribe to a common national identity, whilst also following a variety of cultural and religious practices.

Kymlicka is also wary of the term 'multicultural society', as he regards this as a rather imprecise term that causes significant confusion and conflict by treating two quite different forms of societal groups as if they constituted one homogenous mass. For Kymlicka, the more precise terms that should be employed when discussing the issue of 'multiculturalism' are *multinationalism* on the one hand, and *polyethnicity* on the other (1995, pp. 11-26).

Multination states give rise to cultural diversity as a result of previously self-governing, territorially concentrated cultures being incorporated into a larger state. Polyethnic states, on the other hand, give rise to cultural diversity through individual and family migration.

Although, as Kymlicka states, most ‘multicultural’ societies are both multination states *and* polyethnic states, the distinction between the two should be vigilantly observed, as the rights that any given individual may be entitled to are very much dependent upon which group they belong to. The national minorities that are incorporated into a larger state should, according to Kymlicka, be accorded significant self-government rights. Such self-government rights generally involve devolving political power to a political unit substantially corresponding to their historical homeland or territory. Such claims are not viewed as a temporary measure, but are, instead, viewed as inherent and permanent. Indeed, the level of devolution may reach the point that the national minority decides to succeed from the larger nation, and (re)assert itself as an entirely independent nation state in its own right.

Polyethnic rights, on the other hand, are sought by ethnic groups and are not generally aimed at establishing the ethnic group as a separate and distinct political entity. On the contrary, polyethnic rights are generally about inclusion, as they provide a way of giving members of ethnic minorities a way of integrating into the broader, majority culture, but without abandoning important elements of their cultural identity. Such polyethnic rights are often aimed at addressing racial discrimination and may also include public funding for various minority cultural practices and immigrant language education in schools. One of the more controversial areas of polyethnic rights regards the issue of religious based rights, and, from an animal liberation point of view in particular, the issue of religious animal slaughter laws. This is a very important issue and will be looked at in greater depth in the next chapter.

Furthermore, both national minorities and ethnic groups may seek what Kymlicka refers to as ‘special representation rights’ (1995, pp. 31-32), which are aimed at guaranteeing seats for

ethnic or national groups within the central institutions of the larger state. Such rights are often concerned with making the political process more 'representative' and inclusive by implementing various measures to expand the political profile of the political classes outside the white, able-bodied, middle class men that (in Western democracies anyway) it has principally consisted of.

A vitally important aspect of Kymlicka's theory lies in distinguishing between two types of claim that national or ethnic groups might make in the name of protecting their cultural integrity. The two different types of claim at issue are referred to by Kymlicka as *internal restrictions* on the one hand, and *external protections* on the other (1995, pp. 35-44). According to Kymlicka, external protections are intended to ensure that the national or ethnic group are protected from any negative impacts that might result from socio-economic decisions that are made by the larger society, whereas internal restrictions are measures that the minority group may seek to impose on its own members in order to prevent them from engaging in any form of activity that may be construed as deleterious to the well-being of the culture of the group. A liberal society, states Kymlicka, should be sympathetic to a group's claims for external protections, as these are claims that will help to ensure that individuals within that group will have access to the sorts of cultural resources that they will require in order to enable them to flourish *qua* individuals. Demands by a group to impose internal restriction on its members, however, should raise significant liberal concerns, as such restrictions, almost by definition, are likely to result in the form of individual oppression that is such an anathema to the liberal position.

In short then, Kymlicka proposes a citizenship approach to liberalism which see citizens united by a shared national identity, but nonetheless free to engage in a significant degree of self-government (in the case of national minorities) or, (in the case of ethnic minorities) provided with the resources and rights that they need to enable them to participate fully and on fair terms in the larger society without being compelled to discard aspects of their cultural heritage that they may deem essential to their self-worth and dignity and, indeed, even to their very identity. Furthermore, in neither case are groups to be entitled to subject their members to stringent and oppressive restrictions of personal liberty in the name of preserving cultural integrity, as this would be to contravene the very aspect of Kymlicka's theory that makes it a specifically *liberal* theory of citizenship.

It may not seem immediately apparent what implications such a citizenship approach to liberalism holds for the moral and social status of animals, however Kymlicka himself (writing in collaboration with Sue Donaldson) has, in fact, endeavoured to extend the idea of citizenship into the non-human animal realm. In their 2011 book *Zoopolis*, Donaldson and Kymlicka attempt to reconceptualise the animal rights debate by addressing the issue in, what they consider to be, more expressly *political* terms, rather than in the terms of moral philosophy. Using suitably political terminology, they turn their attention to what they consider to be the three groups of animals that any comprehensive and practical theory of animal rights should concern itself with: *domesticated animals*, *wild animals* and *liminal animals*.

Domesticated Animal Citizenship

In chapters four and five of *Zoopolis*, Donaldson and Kymlicka take the traditional animal rights movement to task for the position that the movement espouses with regards to

domesticated animals – using the term ‘domesticated’ to denote all animals that human beings have deliberately brought into existence (companion animals, farm animals, laboratory animals etc.). For Donaldson and Kymlicka, the attitude that the animal rights movement has traditionally adopted towards such animals represents a strategic impasse to effective animal advocacy, and is also both illogical and unjust.

Donaldson and Kymlicka state that the way that the animal rights movement has traditionally held that the issue of domesticated animals should be dealt with can be divided into two categories: (i) the abolitionist/extinctionist approach, and (ii) the threshold approach. The abolitionist or extinctionist approach (*Zoopolis*, pp. 77-89) seeks the abolition of relations between animals and human beings, which effectively necessitates the phasing out of all domesticated animals. This extreme approach is adopted because those animal rights theorists and activists that adhere to abolitionist/extinctionist view consider the very act of domestication to be unjust, and believe that human relations with domesticated animals are inevitably exploitative. This view can perhaps be encapsulated by a quote from the animal rights theorist Gary Francione, who states:

We ought not to bring any more domesticated nonhumans into existence. I apply this not only to animals we use for food, experiments, clothing, etc. but also to our nonhuman companions... We should certainly care for those non-humans whom we have already brought into existence but we should stop causing any more to come into existence... it makes no sense to say that we have acted immorally in domesticating nonhuman animals but we are now committed to allowing them to continue to breed.(Cited in *Zoopolis*; p. 78).

In the view of Donaldson and Kymlicka it is precisely this sort of opinion that has actually been responsible for doing more harm than good to the goal of effective animal advocacy. Such statements often serve to alienate many potential supporters of the animal advocacy movement,

who have been initially drawn to the idea of animal rights precisely as a result of relationships that they have formed with companion animals. As well as being strategically ineffective, state Donaldson and Kymlicka, the abolitionist/extinctionist position is also both logically and morally unsound. Whilst it may well be the case that the history of animal domestication has been one that has been characterised by exploitation and oppression, it does not make any sense to say that the only way that this original injustice can be rectified is through the eradication of the very class that has historically found itself on the receiving end of this ill treatment.

In an attempt to address the problems that are presented by the abolitionist/extinctionist approach, some animal rights theorists have instead proposed what is sometimes referred to as a ‘threshold’ approach (*Zoopolis*, pp. 89-95), which holds out the hope that human relations with non-human animals can be reformed so that they meet the demands of justice. The goal of this approach is to try to identify morally acceptable uses that domesticated animals can be put to that are beneficial to humans, but that do not constitute exploitation of the animal. This view can perhaps be encapsulated by this quote from the animal rights theorist Steve Sapontzis, who states:

The goal is to provide for animals the same sort of protection against the routine sacrifice of their interests currently enjoyed only by humans. Just as it is ordinarily in our best interests not to be hermits but to be of benefit to others in certain ways, so it may well be in the best interests of animals to be of benefit to us in certain ways... Just which uses of animals are really mutually beneficial is, of course, the controversial issue. (Cited in *Zoopolis*, p. 90).

The question of how the use of domesticated animals can be characterised as mutually beneficial and not exploitative to the animal is often addressed in threshold approaches through the use of some hypothetical account of what that animal’s life would have been like in the absence of human care and control. For David DeGrazia (1996), the key issue is whether the

life of the domesticated animal is better than life in the wild – if it is, then our use of that animal is deemed to morally acceptable. This, however, provides a rather weak constraint on the ways in which humans can treat domesticated animals. Most domesticated animals, by definition, have had many of the instinctive physical and psychological traits that enabled their ancestors to survive in the wilderness bred out of them, and would therefore be unlikely to survive let alone flourish were they to be released into the wild.

For Tzachi Zamir (2007), the relevant comparison to be made is not with life in the wild, but with non-existence; that is to say that if a domesticated animal's life can be viewed as on the whole worthwhile, despite whatever use it is put to, then that practice can, again, be considered morally acceptable. This view, however, constitutes, if anything, an even weaker constraint on the uses which humans can put domesticated animals to than does DeGrazia's position, as it is possible to imagine that some extremely exploitative behaviour towards domesticated animals could be justified on the grounds that those animals are still better off than if they had never existed. For example, Zamir himself suggests that the practice of de-beaking chickens, a practice that general scientific consensus would suggest is the cause of long-term pain, can be justified on the grounds that this is a price that it is worth the chicken paying in exchange for existence.

In order to address the various problems and short fallings of both the abolitionist/extinctionist approach on the one hand, and the various threshold approaches on the other, Donaldson and Kymlicka have proposed an alternative model of animal liberation. Their approach rests on two main ideas (*Zoopolis*, p. 101). Firstly, domesticated animals must be seen as being members of our community. We human beings have made the conscious decision to bring these animals

into our society and, in doing so, we have acquired a duty to include them in our social and political arrangements on just and fair terms. The second idea at the heart of Donaldson and Kymlicka's approach is that the appropriate conceptual framework for thinking about how we should discharge the duties that we have acquired towards domesticated animals is the framework of *citizenship*.

There are, of course, many people who would question the extent to which domesticated animals can meaningfully be viewed as citizens. It is generally held that citizenship comprises not simply a range of entitlements but is, rather, the status that is accorded to those who play an active role in the collective endeavour of societal construction. This active role of citizenship is often seen to require the possession of certain capacities (or what John Rawls referred to as 'moral powers') which, in the human case, are usually considered to be: (i) the capacity to have a subjective good and to communicate it; (ii) the capacity to comply with social norms (or cooperation); and (iii) the capacity to participate in the co-authoring of laws. Donaldson and Kymlicka do not dispute the notion that this collection of capacities does indeed constitute a prerequisite to citizenship, but they *do* take issue with the rationalist way in which these capacities are generally interpreted. The first capacity, the capacity to have a subjective good, is generally interpreted as meaning that it is not enough to merely have a good but, rather, that one must have a *reflective* good. The second capacity, the capacity to comply with social norms (or cooperation), is generally interpreted in such a way as to imply that individuals should be able to rationally understand the reason for these norms, and to comply with them in accordance with those reasons. Finally, the capacity to participate in the co-authoring of laws is usually understood as requiring individuals to have the ability to engage in a form of public reason that necessitates an individual having the ability both to articulate their own reasons for advocating

or opposing certain laws, and to comprehend and evaluate other individuals' reasons for maintaining their respective positions.

If one adheres to these rationalist interpretations of the three moral powers then, clearly, animals could probably not be considered to be in possession of them. However, as Donaldson and Kymlicka point out, there are also many human beings who cannot be said to possess these moral powers in this rationalist sense. Of particular interest to Donaldson and Kymlicka are those cognitively impaired human beings who may not possess the rationalist version of the three moral capacities but who have nonetheless, through the campaigning of the disability movement, been striving to be viewed as active citizens, rather than as passive recipients of various form of care (*Zoopolis*, pp. 105-108).

A key concept facilitating the movement for citizenship status for the cognitively impaired is the idea of 'dependent agency' – a form of agency that the cognitively impaired individual exercises with the aid of a trusted helper who has the necessary skills and knowledge to be able to elicit the cognitively impaired individual's subjective views and wishes, which can then be factored into the political process. If, then, such a model of dependent agency can be used to facilitate the citizenship status of cognitively impaired human beings, ask Donaldson and Kymlicka, might it not also be a means through which at least some non-human animals might be seen to fulfil the criteria required to be accorded citizenship status? Can domesticated animals, then, be seen to exhibit the three moral powers in a similar way to that in which cognitively impaired human beings do (*Zoopolis*, pp. 108-122)?

If we look again at the first moral power, claim Donaldson and Kymlicka, (the capacity to have and express a sense of the good) it is fairly uncontroversial to assert that this can be seen to apply to many domesticated animals. Certainly most, if not all, dog and cat owners would be quite sure that their companion animals are able to communicate their subjective wishes through a variety of non-verbal means. Through a process of dependent agency, state Donaldson and Kymlicka, humans could become more adept at interpreting such non-verbal communication in more systematic and detailed ways, and could then factor the subjective wishes of those domesticated animals into the policy making process.

With reference to the second moral capacity, (the capacity to comply with social norms) Donaldson and Kymlicka argue that this capacity can also be seen to apply to domesticated animals. The authors point to recent developments in the study of animal behaviour that seems to suggest that at least some animals observe norms of reciprocity and fair play. Of particular interest is research conducted by Sarah Branson and Frans de Wahl (*Zoopolis*, pp. 117-118) into reciprocity and fairness amongst capuchin monkeys. The capuchins in question were first trained to use small rocks as tokens of exchange for food and then, in pairs, they were asked to barter for treats. One monkey in each pair was asked to exchange a rock for a grape – a much desired treat amongst the capuchins. The second monkey in the pair was then asked to exchange a rock for a piece of cucumber – a far less prized treat. The capuchins who had made the rock for cucumber exchange would frequently refuse to eat the cucumber and would often throw it back at the researcher – thus implying that the capuchins measured and compared exchanges with those around them, and expected to be treated fairly *vis á vis* their fellow monkeys. This hypothesis was bolstered by the fact that, when a single monkey was engaged in a rock for cucumber exchange, they would invariably be perfectly happy with the trade. It was only when

observable others seemed to be getting a better deal than the capuchins would express behaviour that suggested that they objected to what they considered to be unfair treatment.

As regards the third moral capacity (the capacity that enables the co-authoring of laws) Donaldson and Kymlicka suggest that this too can be seen to apply to domesticated animals. Again, drawing on the idea of dependent agency, Donaldson and Kymlicka show how domesticated animals, in concert with their human companions, can indeed act as agents of legislative change. Donaldson and Kymlicka cite a study of urban dog park activism undertaken by Jennifer Wolch (*Zoopolis*, pp. 114-115). Wolch describes how a public park had become a hotbed of drug-taking and prostitution which had led to the park's being abandoned by families and other law-abiding members of the community. The park, however, was then steadily reclaimed by groups of vigilante dog-owners who allowed their dogs to (illegally) run around the park off-leash – thus dispersing those who were using the park for illegal activities. This had the effect of once again making the park a desirable recreational area for law-abiding citizens who, somewhat ironically, then started to complain about the presence of the many off-leash dogs in the park. The dogs and dog owners eventually emerged victorious from this dispute, and the law was changed to enable dog owners to legally allow their dogs to roam off-leash in the park, which thus became a shared recreational area for both humans and animals.

It should be born in mind, however, that, as mentioned previously, when Donaldson and Kymlicka refer to 'domesticated' animals, they are referring not only to the sorts of companion animals described by Wolch, but to *all* animals that humans have domesticated over the generations, including those that were domesticated for the purposes of animal agriculture and scientific experimentation. As such, then, if we were to view all domesticated animals as co-

citizens of a shared human-animal community, then the implications for the ways in which human beings treat animals would necessitate a seismic social shift. For a start, if we are not willing to slaughter and eat our human co-citizens, or to subject them to painful scientific experimentation, then we can have no moral basis for subjecting our animal co-citizens to such treatment either. The citizenship model of animal liberation would therefore seem to achieve some of the main goals of the animal rights movement, without resorting to the eradication of the entire class of domesticated animals. Whether the public at large will ever prove amenable to the idea of citizenship for domesticated animals, however, remains an unanswered question.

Wild Animal Sovereignty

When it comes to the issue of wild animals, Donaldson and Kymlicka state that the citizenship model of inclusion that they advocate for domesticated animals is not the appropriate model to employ. However, the authors also proffer the view that any meaningful animal rights theory must factor the issue of wild animals very much into its considerations, rather than assuming that such animals are, for the most part, outside of the ambit of animal rights thinking. In chapter six of *Zoopolis*, Donaldson and Kymlicka present the argument that, to date, much animal rights theory has, indeed, tended to take something of a laissez-faire attitude to the issue of wild animals, and has largely failed to take into account the variety of ways in which wild animals can be vulnerable to human activity.

Donaldson and Kymlicka identify three main areas in which wild animals can be negatively impacted by human activity (*Zoopolis*, pp. 156-157). Firstly, and most obviously, wild animals are the victims of direct and intentional violence perpetrated by humans through activities such as hunting, fishing and trapping, as well as through so called ‘therapeutic culling’ conducted

as part of wildlife management programmes. Secondly, wild animals are also negatively impacted by the habitat loss that results from the on-going process of human expansion. Finally, wild animals are negatively impacted as a result of the many ‘spillover harms’ that result from human activities such as establishing shipping lanes, building roads and erecting tall buildings, as well as the various forms of human industry that are responsible for various types of pollution. Donaldson and Kymlicka also point to one area in which human beings could actually impact *positively* on the lives of wild animals, through the process of positive intervention: concerted efforts to assist wild animals, through both individual acts and systemic processes, that are aimed at alleviating the negative impacts not only of the human activities described above, but also those that are often associated with natural disasters.

Traditional animal rights theory has hitherto provided scant guidance on most of these issues, and has generally focused its efforts on addressing the first of the above mentioned areas – the direct intentional violence perpetrated against wild animals by human beings. Furthermore, traditional animal rights theory has often proven to be decidedly skittish regarding the issue of positive intervention into the lives of wild animals, and has generally opted for a ‘let them be’ approach. In short, then, traditional animal rights theory has generally put forward the view that our duties to wild animals consist primarily of leaving them alone, and do not extend to rendering assistance. Indeed, in some quarters (at the intersection between animal rights theory and ecological theory) there are those who would claim that we have a duty *not* to intervene in the lives of wild animals. Such views are generally advanced in accordance with one of two arguments that Donaldson and Kymlicka identify as the *fallibility argument* and the *flourishing argument* respectively (*Zoopolis*, pp.163-167).

The fallibility argument, state Donaldson and Kymlicka, points to the negative consequences that have resulted from previous human follies of intervention in nature. The authors point to research conducted by Orford (*Zoopolis*, p. 163) which describes a disastrous culling programme conducted in the national parks of Namibia which had been erroneously based on an inaccurate model of static animal populations, rather than the reality of large-scale variations of population explosion and collapse. Accordingly, given the complexity of natural systems, there has been a general tendency within the animal advocacy movement to adopt the view that we will probably cause less suffering to wild animals if we observe the precautionary principle and mind our own business, as our well-intentioned but ill-conceived interventions may well prove to have catastrophic consequences.

As Donaldson and Kymlicka point out, the fallibility argument has significant strengths, but does not quite seem to address the core issue. The fallibility argument seems to imply that if only we had enough accurate information regarding what the impact of our interventions would be, then we would, indeed, be justified in intervening if we thought that our intervention would have a positive impact on the lives of wild animals. This would seem to be at odds with the spirit of the *laissez-faire* intuition, and this has led to certain writers putting forward the *flourishing argument* for non-intervention in the natural world. Donaldson and Kymlicka cite Everett (*Zoopolis*, p. 165), who puts forward the view that wild animals' flourishing is importantly associated with their ability to exercise their characteristic behavioural traits. Donaldson and Kymlicka concede that this view may indeed have some merit, but that it does not seem to rule out all interventions. Rescuing a deer that has become trapped in the ice does not, Donaldson and Kymlicka credibly opine, seem to be inimical to that deer exercising its characteristic behavioural traits.

Donaldson and Kymlicka suggest, then, that the apparent inadequacies of both the fallibility and flourishing arguments would seem to necessitate a shift in our ethical perspective regarding wild animals from one that asks what duties we may owe to wild animals *qua* wild animals, to one that addresses the issue in more relational and political terms, and asks the question ‘what are the most appropriate sorts of relations between humans and wild animal communities?’ To this end, Donaldson and Kymlicka propose that we should adopt a *sovereignty* model with respect to the rights of wild animals, and the duties that we humans owe them (*Zoopolis*, pp. 167-179). That is to say, we should view our relations with wild animals as relations between self-governing communities, much as we currently view our relations with other members of the international community.

That the notion of wild animal sovereignty may strike many as being, to say the least, somewhat counter-intuitive. Indeed, if one invokes a standard notion of sovereignty, which many would probably view as being something along the lines of ‘the authority to make laws to govern one’s own community’, then the concept of sovereignty would seem to be simply inapplicable to animals, given that they do not appear to exhibit the sorts of intellectual capacities necessary to engage in such activities. Donaldson and Kymlicka suggest, however, that this ‘legal authorship’ view of sovereignty is an unnecessarily (and, indeed, unjustly) restricted one. Such a conception of sovereignty, state the authors, was adopted by the European imperialists as a means of imposing their will on indigenous communities, who themselves failed to display sovereignty in the legalistic sense of the term (*Zoopolis*, p. 172). Donaldson and Kymlicka, drawing on Pemberton, state that sovereignty can and should be more meaningfully defined as the protection of autonomy as a means of community flourishing. Wild animal communities

would indeed seem to benefit from sovereignty thusly defined, and so there seems to be no immediately compelling reason why it should be denied them.

There are those who may query the extent to which protecting the autonomy of wild animals does indeed protect community flourishing, given that the wild, almost by definition, is a harsh and brutal place (somewhat akin to a perpetual ‘failed state’) in which starvation and predation are defining characteristics (see, e.g. Horta 2013). However, Donaldson and Kymlicka argue that it is precisely because food cycles and predator/prey relations are indeed definitive of the ecosystems that wild animals inhabit that they should be viewed, not as a failure to cope, but rather as a part of the context in which wild animals live, and which such animals seem (for the most part) to exhibit the sort of ‘competent agency’ necessary to enable them to manage to live in such an environment as well as could reasonably be expected (*Zoopolis*, pp. 176-177).

Donaldson and Kymlicka concede that this may seem to take us back to the laissez-faire intuition exhibited by much traditional animal rights theory but, they claim, whereas the traditional animal rights view can often seem somewhat ad-hoc and ill-conceived with respect to its attitude towards wild animals, a sovereignty view seems to give a firmer foundation to this intuition, and can guide us in terms of creating legal devices aimed at protecting wild animal sovereignty. Furthermore, protecting wild animal sovereignty does not, claim Donaldson and Kymlicka, simply amount to ‘letting them be’, but is entirely consistent with certain forms of positive assistance and intervention, so long as those acts of intervention are concordant with the overall aim of animal sovereignty (*Zoopolis*, pp. 179-187). For example, the aforementioned example of helping a deer who has become trapped in the ice could not be viewed as in any way inimical to the concept of wild animal sovereignty, and so would be

entirely consistent with this model, whereas a the traditional animal rights model would only seem to allow such an act of positive assistance as an ad-hoc departure from a general principle of ‘letting them be’. At the other end of the scale, blasting an asteroid out of space that was heading towards a wilderness area would also be allowed on the sovereignty model as this, again, could not be viewed as an act that was likely to impact negatively on wild animals’ autonomy and flourishing (quite the opposite, in fact). In short, if an act of assistance or intervention is conducive to the protection of the autonomy of wild animals (both as individuals and as groups) then it is to be deemed morally acceptable (and, arguably, even obligatory) on the sovereignty model. If, on the other hand, an act of intervention or assistance is a veiled attempt at gaining control of wild animals’ habitats, or is likely to result in the long-term dependency of wild animals on human beings (as any attempt to intervene in predator/prey relations almost certainly would) it is to be considered a contravention of wild animals’ sovereign status.

In considering the practical implications of recognizing the concept of wild animal sovereignty, Donaldson and Kymlicka concede that this does represent something of a quandary. In particular the link that we often think of as existing between sovereignty and territory in the human case encounters a number of difficulties when we endeavour to apply the concept of sovereignty to animal communities (*Zoopolis*, pp. 187-196). We need to take particular care to consider the interests of those animals whose principle domain is the air or sea, as well as considering the needs of all animals who engage in acts of migration (*Zoopolis*, pp. 188-191). As far as the issue of migration goes, Donaldson and Kymlicka observe that we should think in terms of developing a *quid pro quo* arrangement. We humans generally consider ourselves to have the right to travel in a way that may entail our entering into the territory of wild animals (when we build roads and establish shipping lanes and flight-paths, for example), and, in return,

we should make provision for those animals whose migration patterns or natural movements may bring them close to areas of human habitation and activity.

The question of where the boundaries of sovereign human and animal territories should be drawn, concede Donaldson and Kymlicka, constitutes a significant challenge to any proposed political theory of animal rights (*Zoopolis*, pp. 192-196). In particular, we need to bear in mind historical injustices that may have been perpetrated by humans against wild animals as a result of their habitats being encroached upon or diminished as a result of human population expansion. It is, for Donaldson and Kymlicka, a matter of justice that such human expansion into wild animal communities should cease *immediately*. We should also, claim the authors, rethink some of the boundaries that currently demark human and animal territories, and consider the possibility that humans be required to move out of rich and fragile ecosystems.

Another area in which Donaldson and Kymlicka consider traditional animal rights theory to exhibit a lack of guidance in determining the nature of our relations with wild animals is in the area of spillover harms – the myriad ways in which human endeavour negatively impinges on the lives of animals in the wild (*Zoopolis*, p.197). Industrial pollution, the building of infrastructure and the establishing of transport routes all pose significant threats to wild animals, and while Donaldson and Kymlicka concede that it is unlikely that these risks can be completely eliminated, they do highlight the need for fairer terms to be determined to ensure that wild animals are not expected to suffer disproportionately, whilst humans reap all of the benefits of such activity. To this end, Donaldson and Kymlicka suggest that justice dictates that humans observe a number of conditions when considering any activity that may have negative consequences for wild animals (*Zoopolis*, p. 198). Firstly, we should endeavour to ensure that

any risks are genuinely necessary in order to achieve a legitimate interest. Secondly, we should strive to ensure that risks and benefits are equitably shared, that is to say, that those who suffer risk in one context benefit from risk in other contexts, and that no one group is ever expected to continually suffer risk so that others may benefit. Finally, Donaldson and Kymlicka state that society has a duty to compensate the victims of inadvertent harm whenever it is possible to do so.

In a nutshell, then, Donaldson and Kymlicka state that justice dictates that we seriously factor potential harms to wild animals into our considerations when we are embarking upon major industrial or infrastructural projects, rather than (as is currently the case) thinking only in terms of how these projects will impact on the lives of humans. Donaldson and Kymlicka look in particular at the effect that the building and utilisation of public roads has on the lives of wild animals (*Zoopolis*, pp. 201-202). As it stands, human beings reap all of the benefits of roads, whereas wild animals are expected to suffer all of the significant risks that such roads pose to their existence, both in terms of the habitat disruption that is necessitated by the initial development of the road, and, of course, from the risks of wild animal/motor vehicle collision (which has a general tendency to negatively impact the wild animal to a far greater degree than it does the motorist). In an attempt to redress this injustice, state Donaldson and Kymlicka, future road development projects should be designed with wild animal underpasses, wildlife corridors should be established, and motor vehicles should be fitted with wildlife-warning devices.

Donaldson and Kymlicka further point out that risk/benefit analysis regarding interactions between humans and wild animals also has to be considered from the perspective of the risks

that wild animals pose to humans, and how humans respond to those risks (*Zoopolis*, pp. 202-203). The present situation, state the authors, tends to involve humans meeting any threats that animals pose with hugely disproportionate force. If, state Donaldson and Kymlicka, humans choose to live in areas that overlap the sovereign territory of such potentially dangerous wild animals as coyotes, mountain lions or elephants, then those humans must accept the risks involved in making such a choice, rather than attempt to eradicate all of the potentially dangerous animals that inhabit that area.

As far as the issue of compensation is concerned (*Zoopolis*, pp. 203-204), Donaldson and Kymlicka suggest that this could take the form of official, state-sanctioned animal rehabilitation centres aimed at providing medical assistance to those animals who have been inadvertently harmed as a result of human activities, either with a view to returning the animals to the wild after they have convalesced or, in cases where the injuries sustained by animals are so severe that they would be unlikely to survive for long were they to be returned to the wild, by providing them with a new home in well designed and well managed refuges.

In sum, then, a sovereignty model would agree with the traditional animal rights view that acts of direct violence perpetrated against wild animals by humans should cease. Also, in concert with many animal rights and ecological theorists, a sovereignty model would state that humans should stop expanding into wild animals' territories, and possibly even roll-back areas of human habitation so that areas of wilderness might be returned to wild animals. However, a sovereignty model would not exhibit the ambivalence or disapproval that animal rights and ecological theory often display towards acts of positive intervention. As long as such acts of intervention can be seen as being compatible with the overall goals of wild animal autonomy,

properly conceived, then such acts would be considered permissible on the sovereignty model. Furthermore, a sovereignty model would require us to be mindful of the issue of animal migration, and to regulate our activities in such a way as to accommodate this. Finally, a sovereignty model would also require us to be mindful of the impacts that the spillover effects of various forms of human industry and mobility are likely to have on wild animals.

The idea of wild animal sovereignty (or, at least, something akin to sovereignty) may well prove to have a greater degree of traction amongst the public at large than the idea of domesticated animal citizenship described previously in this chapter. Ascribing citizenship status to domesticated animals would require most people to affect seismic shifts to their lifestyles (the renunciation of meat, and probably all other animal products, from their diet; a commitment to forgo whatever medical benefits animal testing may yield, etc.), but according something like sovereign status to wild animals would not appear to threaten to cause the same degree of upheaval. Relatively few people would list hunting (be it for sport or sustenance) amongst their list of favoured recreational activities (indeed, public opposition to fox hunting played a significant role in getting it banned in Britain). Similarly, with regard to animal captivity, many people could be considered less certain of their right to visit zoos or circuses than they are of their right to eat meat. Whether or not according sovereignty to wild animals is the best way to protect their interests, when it is possible that some form of ‘stewardship’ model could achieve similar results whilst seeming like a less controversial (and, therefore, potentially more achievable) concept to many people is, however, debatable.

Liminal Animal Denizanship

One of the main shortcomings that Donaldson and Kymlicka identify in the traditional animal rights position lies in what they see as that position's tendency to almost completely ignore a class of animals that they refer to as *liminal* animals (*Zoopolis*, chapter 7). For traditional animal rights theorists, claim Donaldson and Kymlicka, animals are generally divided into one of two clear and distinct categories: *wild* (whom, as previously described, animal rights theorists generally hold humans should leave alone) and *domestic* (whom, the more strident animal rights theorists hold, should be phased out of existence altogether). This wild/domestic dichotomy, however, is exceedingly problematic, state Donaldson and Kymlicka, as it gives us no guidance regarding how we should conduct our relationships with those animals who cannot be characterised in such a manner. This failure on the part of traditional animal rights theory represents no mean oversight, as such animals are ubiquitous in our society, and any theory of animal rights that appears to be in a state of denial over the existence of such animals is likely to be of limited practical application.

Donaldson and Kymlicka identify four broad groups of liminal animal (*Zoopolis*, pp. 219-226): *opportunists*; *niche specialists*; *feral domesticates*; and *introduced exotics*. Opportunists (pp. 219-221) are extremely adaptive species who have learned to thrive in the human-built environment. Animals such as foxes, crows and grey squirrels are often considered to have chosen to live amongst humans, in the sense that they have wild conspecifics and this, claim the authors, has led to many people rejecting the idea that we have any positive obligation towards them (as they can always 'go back where they came from'). Donaldson and Kymlicka, however, state that such a view tends to conflate the *individual* level with the *species* level: although certain *species* may be highly adaptive, this does not necessarily entail that *individuals*

within that species are able to move back and forth between wild and human environments at will. In particular, many such opportunists will have been born into the human-built environment, and will therefore have never actually experienced the truly 'wild' existence of their forebears.

Niche specialists (*Zoopolis*, pp. 222) are much less able to adapt than are opportunists. Such animals have accustomed themselves to certain specific, human constructed ecological environments, and, as such, would struggle to survive were these environments to be denuded. Donaldson and Kymlicka give the example of the corncake which has been driven to the brink of extinction as a result of the introduction of the mechanised mower – a development that had a devastating impact on the environment that the bird had adapted to under traditional agricultural practices.

Introduced exotics (*Zoopolis*, pp. 223) are typically captive zoo animals or exotic pets who have escaped, or been 'released' by their owners, as well as those non-native animals that have been deliberately introduced by humans for a variety of purposes. Such animals are often viewed as particularly problematic when they 'take over' from domesticated versions of the species, often leading to 'eco-fascist' campaigns aimed at their eradication. Donaldson and Kymlicka state the example of the afore-mentioned grey squirrel which has largely replaced the native red squirrel in most parts of Britain, much to the chagrin of many British rural traditionalists.

Feral animals (*Zoopolis*, p. 226) are former domesticated animals (and the descendants thereof) who have escaped from human control. Such animals include both 'pet' animals, such as cats

and dogs, as well as former farm animals such as pigs, horses and cattle. Such animals, state Donaldson and Kymlicka, could be highly valuable in helping humans to understand domesticated animals and in pointing to ‘a possible future relationship between humans and domesticated animals in which animals experience greater agency and independence in establishing the terms of their relationship with us.’

It can be seen, then, that liminal animals are a somewhat broad and catholic group of creatures, but for all their diversity Donaldson and Kymlicka nonetheless identify two characteristics that all such animals share (*Zoopolis*, p. 227). Firstly, there is no other place where many of these animals can be seen to belong; and, secondly, these animals are not eligible or appropriate for the co-citizenship model that the authors would like to see extended to domesticated animals. These two factors indicate that there is a very real need for humans to discern a new model of human-animal relations that recognises the rights of these animals to exist securely amongst us, but does not impose upon them the restrictions that are associated with co-citizenship - and for Donaldson and Kymlicka, the appropriate model is that of *denizenship*. Animal denizenship can be conceptualised in similar terms to the human denizenship status that is generally bestowed on similarly ‘liminal’ humans, such as migrant workers. Such individuals are residents (sometimes long-term residents) of a particular country, but may still identify primarily with the culture of their home country and, accordingly, may not wish to fully engage in the culture of their host country.

Liminal animals, state Donaldson and Kymlicka, are likely to face many of the same problems as human denizens. In both cases, they may be viewed as not really belonging; as being ‘out of place’ - which can give rise to feelings of hostility amongst certain members of society at large.

This may well lead to both human and animal liminals being the victims of various forms of prejudice and abuse, as a result of their perceived failure to conform to social norms and expectations. Donaldson and Kymlicka, therefore, propose three principles of fair denizenship that are aimed at protecting the rights of both human and animal denizens, and which they identify as: *secure residency*; *fair terms of reciprocity*; and *anti-stigma* safeguards (*Zoopolis*, pp. 239-240). Secure residency, state Donaldson and Kymlicka (p. 239), is a core feature of both human and animal denizenship. While in both human and animal cases legitimate attempts can be made to discourage initial entry of both human migrants and exotic liminal animals, the length of residency in the community affects their legal right to be here. Whether they entered legally or illegally, state Donaldson and Kymlicka, both human and animal denizens' rights to remain increases over time

Fair terms of reciprocity, in both the human and animal cases, entail, according to Donaldson and Kymlicka, a reciprocal reduction in both rights on the one side, and responsibilities on the other (*Zoopolis*, p. 240). In other words, if denizens do not wish to fully co-operate with broader social projects, as citizens would, then they cannot rightfully expect to fully benefit from such projects either. Animal denizenship will generally involve a particularly aloof relationship between animals and the broader society, as liminal animals can be considered to have 'opted-out' of the responsibilities of citizenship to a far greater extent than is likely with human denizens. The particular issue that Donaldson and Kymlicka have in mind here regards the issue of predation. No human community would be allowed to opt-out of the broader society's laws and values to the extent that society would turn a blind eye to the members of that community killing and eating each other. Amongst many liminal animals, however, predator/prey relations play almost as much of a core, ontological role as they do in the lives of their wild counterparts. The reason that Donaldson and Kymlicka think that it would be

illegitimate for human society to intervene in this aspect of liminal animal existence is that, as in the case of wild animals, it would be difficult, if not impossible, to do so without having a seriously detrimental effect on the autonomy of such animals. It is difficult to see how humans could intervene to protect liminal animals from the harsh realities of predator/prey relations without, to all intents and purposes, turning them into domesticated animals, and thereby imposing the responsibilities of citizenship upon them which (except in certain exceptional circumstances) would constitute a significant infringement of their autonomy.

Finally, state Donaldson and Kymlicka, we should endeavour to ensure that measures are taken to preclude the stigmatization of denizens in both the human and animal cases (*Zoopolis*, p. 240). In both cases, denizens are often castigated as ‘other’, as ‘not belonging’ or not being ‘one of us’, a mind-set that can frequently lead to conflict between denizens and the broader community. In the specific case of animal denizenship, Donaldson and Kymlicka are particularly keen to raise awareness of the role that various human actions often play in creating and exacerbating conflicts between liminal animals and human society. People may put out food for ‘desirable’ animal denizens such as songbirds, but are affronted when ‘scavengers’ such as rats take advantage of such easy pickings; people leave bin-bags of food-waste inadequately stored, and then are outraged when those bags are torn open by foxes, and their contents strewn across gardens or streets. In both such cases human negligence is largely responsible for the anti-social activity that liminal animals are castigated for, but there is a marked tendency for human beings to ignore the role that their own actions have played in creating these problems, and to lay the blame squarely at the door of the ‘vermin’ who have ‘invaded’ their space.

Such, then, is Donaldson and Kymlicka's case for liminal animal denizenship: Humans should learn to adjust their perspective in such a way as to stop viewing such animals as pests or vermin – as inherently problematic and needing to be 'dealt with' (frequently with lethal force), and, instead, we should learn to view them as co-residents who have every right to live amongst us, even though they may not have attained (nor are they seen to aspire to) the citizenship status that Donaldson and Kymlicka would like to see bestowed upon domesticated animals. The problem that such a view faces as part of an advocated *political* theory of animal rights is that it is likely that such an idea would prove to be something of a hard-sell to the public at large. Much like Donaldson and Kymlicka's idea of domesticated animal citizenship, the notion of liminal animal denizenship would really seem to constitute a part of a *comprehensive* (in Rawlsian terms) doctrine, rather than a truly *political* one. The notion that animals are as inherently worthy of respectful treatment as are human beings reflects a very particular value system - a value system that is, implicitly or explicitly, rejected by the vast majority of people.

Furthermore, in much the same way as there are many people who take great offense at the equation that certain animal liberationists draw between so-called 'marginal humans' and non-human animals, there are likely to be many people who are equally liable to take umbrage at the equation of human migrants with liminal animals that Donaldson and Kymlicka would seem to advocate. In the eyes of many, this would seem to reduce the moral status of human migrants not only to the status of animals, but to the status of a group of animals that are generally problematized and even despised. Indeed, drawing such comparisons is a tactic that is often employed by far right groups as a way of attempting to militate public resentment against migrant workers. Accordingly, many, broadly-speaking, 'liberal-minded' people are likely to be extremely wary of drawing such an equivalence, and this wariness of

conceptualising animal-human relations in such a manner is, again, something that a truly *political* theory of animal rights would need to take care to be mindful of.

Conclusion

Donaldson and Kymlicka's *Zoopolis* constitutes an engaging, compelling and coherent account of how animal rights theory can be expanded and extended in order to address important issues that, as of yet, have remained largely under-theorised in the animal rights literature. The problem, however, is that, whilst Donaldson and Kymlicka describe how traditional animal rights theory might be *built upon*, they do nothing to suggest how society at large can be persuaded to ingest a significant and substantive animal rights ethic in the first place, thereby rendering concerns about how that ethic can be *expanded upon* a largely moot issue. This being the case, it is questionable the extent to which *Zoopolis* can really and meaningfully be considered to be the avowedly *political* theory of animal rights that its sub-title proclaims it to be. Animal rights theory is based, ultimately, on the idea that the interests of non-human animals are worthy of equal respect to the similar interests of human beings, and although this idea has been expounded in great and intricate detail by several eminent philosophers (as described in the early chapters of this work), it remains a controversial idea that has largely proven to be far too radical for all but a very small percentage of people in most of the world. A political theory will need to take into account the fact that, in a pluralist society, there will be many individuals and cultural groups who do not subscribe to such a notion, and may even consider the drawing of such equivalencies to be deeply offensive.

It is certainly unlikely that a substantive animal rights ethic, with its requirements of a vegetarian or vegan diet, and a commitment to abolish all forms of animal experimentation even for serious medical purposes such as cancer research, would be likely to form a part of the ‘overlapping consensus’ that Rawls has suggested should form the basis of a political conception of a liberal society. Whereas many people in such a liberal and democratic society could, arguably, be convinced to subscribe to an ethic of improved animal welfare, based on a notion of responsible and respectful stewardship (an end to the worst excesses of the factory-farming system; the restriction of animal testing to areas of only real, medical importance etc.), Donaldson and Kymlicka’s suggestion that we should conceptualise our relations with non-human animals with reference to political ideas such as citizenship, denizenship and sovereignty may well seem so counter-intuitive to those not already committed to the goals of animal rights that it may have the effect of turning people away from developing an active interest in animal welfare, thus making idealistic revolution the enemy of achievable reform. Again, this is not to denigrate the values of the animal rights movement, but merely to point out that, in a liberal, pluralistic and democratic society, other people are going to be motivated by other comprehensive doctrines that do not view non-human animals in anything like the terms that those involved in the animal rights movement do, and such people are going to play as much of a role in the shaping of societies values as anybody else.

Those who are committed to the goals of the animals rights movement are, of course, free to campaign and proselytize and attempt to win adherents to their cause (as are the devotees of any other comprehensive doctrine), but it is difficult to see why (or, more importantly, *how*) the more demanding requirements of the animal rights movement can be imposed upon those members of a society who do not already share those values, particularly when (as is the case

in just about every country in the world) such people constitute the vast majority of the population of that society.

Chapter Seven – Multiculturalism and Animals

The previous chapter opened with an account of how Kymlicka (1995, chapter 2) has characterised multicultural societies as consisting of two main types: multi-nation states on the one hand, and polyethnic states on the other. Multination states, it will be recalled, constitute multicultural societies in the sense that they comprise two or more previously autonomous and culturally (and possibly linguistically) distinct nations into one larger political entity. Polyethnic states, conversely, become multicultural societies as a result of becoming the locus for large-scale immigration by people from other parts of the world who have brought their various cultural practices with them. Furthermore, Kymlicka points out, multination states and polyethnic states are not mutually exclusive categories, and many multicultural societies can be considered to be multicultural in both senses of the term – that is to say that they are nation states in the sense that they are an amalgam of various previously self-governing national groups, *and* this multination state has subsequently become the new home country for large numbers of immigrants from a variety of other countries and cultures.

The current chapter utilises the concepts of polyethnicity and multinationalism described above to examine the issues that arise as a result of the interplay between multiculturalism and animal advocacy, and explores the tensions and conflicts that may arise between cultural majorities and cultural minorities when the minority groups engage in practices involving animals that the majority group may consider to be the cause of significant and unnecessary pain and suffering for the animals involved. Such accusations may cause minority groups to bridle, and indignantly point out that the majority cultures of countries such as Britain or the United States could hardly be considered to be in a defensible position to adopt the moral high ground on

issues of animal advocacy, given the significant cruelties that are often inflicted on non-human animals in these countries as a result of the industrial agricultural system and various forms of scientific and medical experimentation and research.

When it comes to the issue of the relationship between animal advocacy and multiculturalism, it is often from the polyethnic dimension that most of the concern and conflict is seen to arise. In particular, the issue of the so-called ‘ritual slaughter’ of animals intended for human consumption by certain religious/cultural groups can often be a source of some significant degree of contention, not only for those who would consider themselves to be staunch animal rights and animal liberation activists, but also to those who would not consider themselves to be in any way associated with such ‘extreme’ groups, but who, nonetheless, believe that such religiously oriented slaughter methods are excessively and unnecessarily cruel when compared to the supposedly more ‘humane’ methods of slaughter that are generally employed in countries such as Britain.

The two principal forms of religious animal slaughter that are conducted in multicultural societies such as Britain are those that are associated with Judaism (*shechita*) and Islam (*dhabiha*). Animals slaughtered via these methods are the source of *kosher* and *halal* meat respectively. The main concern raised by animal welfare organisations such as the RSPCA (2013) regarding both such methods of slaughter derives from the fact that, traditionally at least, animals are required to be fully conscious before being slaughtered, rather than being stunned first as they would be if they were to be slaughtered using more conventional, non-religious methods.

Obviously, from a strict animal rights perspective, all forms of animal slaughter are considered anathema, rendering the stunning issue a largely academic concern. However, even from the significantly more modest goals of what might be termed ‘animal welfarism’ (the idea that the well-being of animals is a matter worthy of *some* degree of moral consideration, even if it is accepted that animals can be exploited for a variety of human ends), the issue of such religious slaughter methods constitutes an area of significant contention. In the UK, for example, such religious slaughter methods are exempt from animal welfare legislation that has been enacted in an attempt to ensure that the pain and suffering that animals experience during and prior to the process of slaughter is kept (in theory at least) as minimal as possible. This has led critics of religious slaughter such as the RSPCA to assert that animals are being subjected to an unnecessarily traumatic and painful death in the name of multicultural sensitivity.

A further problem arises from the fact that much of the meat that has come from animals that have undergone such religious slaughter methods often ends up, unlabelled, in the mainstream meat trade, meaning that many people who may object to such slaughter methods on ethical grounds could actually be, unwittingly, eating meat that has come from animals that have been slaughtered in such a manner. This has led critics of religious slaughter such as the National Secular Society (2014) and the British Humanist Association (2014) to claim that the interests of those people who want to eat meat that has come from animals that have been slaughtered as ‘humanely’ as possible are being sacrificed in the name of protecting and promoting the religious values of Jews and Muslims.

This issue has led certain writers to question just how central such slaughter methods in fact are to contemporary Judaism and Islam. As has been suggested by Singer (1995, p. 153), it is

possible that such animal slaughter regulations arose at a time when those methods were, in fact, the most humane that were technologically possible at that particular point in history, as well as being a means of protecting human health by ensuring that people did not eat meat that had come from animals that had died from disease. Indeed, some religious leaders, such as Masood Khawaja, president of the Halal Food Authority, have stated that such stipulations do not, in fact, apply to the modern era, and therefore stunning can be considered religiously acceptable from an Islamic perspective (BBC 2009). Similarly, as has been pointed out by Singer (1995, p.154-155), in countries such as Sweden, Norway and Switzerland, which do not allow exemptions to the law requiring the stunning of animals prior to slaughter, even many of the more Orthodox rabbis have managed to reinterpret their scriptures in such a way so as to enable Jews to eat meat that has come from animals that have been stunned prior to slaughter. Furthermore, this cannot be seen as compelling those Jews and Muslims who, despite the assurance of the more theologically flexible of their religious leaders, feel uncomfortable about eating meat that has come from animals that have been stunned prior to slaughter to act against conscience, as there do not appear to be any directives in Judaism and Islam that state that followers *have* to eat meat at all. Indeed, Kalechofsky (2004), writing from within the Jewish tradition, has suggested that there is significant evidence in the Jewish scriptures to suggest that vegetarianism can be viewed as constituting something of a Jewish dietary ideal. Similarly Foltz (2004), addressing the issue of the Islamic perspective on using non-human animals as a source of food, has suggested that, although there does not appear to be any long-held tradition of vegetarianism within Islam, it can nonetheless be credibly argued that...

...from the standpoint of human health, social justice, ecological stewardship, and compassion towards non-human creation, it can be seen that a vegetarian lifestyle may in fact be preferable for Muslims. Such a lifestyle is not incompatible with the teachings of the Islamic tradition, which can be read in ways that fully support vegetarianism. (Foltz 2004, p. 220).

Jews and Muslims, then, would not be compelled to act against conscience were exemptions for religious slaughter to be abolished, as they would not be obliged to eat the meat that had come from animals that had been stunned prior to slaughter because they would always have the option of deciding to follow a vegetarian diet.

Such a ‘let them eat tofu’ policy, however, could be viewed as being somewhat hypocritical unless it can be unequivocally argued that the conventional, non-religious, slaughter methods that are employed in those countries that do not allow exemptions from animal welfare legislation for religious groups genuinely are significantly more humane than the slaughter methods that are employed in accordance with Jewish and Islamic tenets. If religious slaughter methods *cannot* be viewed as being clearly and significantly more traumatic and painful for the animal than are conventional slaughter methods, then this insistence that such religious minorities conform to ‘our ways’ could be viewed as constituting a rather arbitrary and unprincipled imposition of the majority’s values on a vulnerable minority group. This, then, leads us to address the question of exactly how ‘humane’ so-called humane slaughter methods actually are.

The Ethics of the Abattoir

An RSPCA factsheet (RSPCA, 2008a) describes the way in which most animals in the UK are slaughtered. Large animals such as cattle, sheep and pigs are often stunned using the captive bolt method. This method involves the use of a stun gun that fires a metal bolt into the brain of

the animal, thereby causing the animal (in theory at least) to immediately lose consciousness. Another common method used to stun animals in UK abattoirs is the electrical stunning method. This is often used on sheep, pigs and calves, and involves an electrical current being passed through the animal's brain via a large pair of electrified tongs which (again, in theory) causes the animal to lose consciousness. Some systems also pass the current through the heart, therefore killing as well as stunning the animal. A third, relatively recent, method of stunning pigs is the use of gas. Pigs are exposed to a mixture of air and carbon dioxide until they are fully unconscious. UK legislation requires that this method is used not only to stun, but also to kill the animal. Once an animal is stunned, those animals that are not killed by electrocution or gassing will be subjected to the so-called 'sticking' process: The animal is hoisted off the ground by a hind leg and a slaughterhouse worker uses a knife to sever the major blood vessels in the animal's neck and chest, thereby causing death through loss of blood.

The RSPCA raises a number of concerns regarding the ways in which animals are currently slaughtered in British abattoirs. A particular concern is that animals that are stunned using the electrical method may regain consciousness before they die from blood loss, either because the time between the stunning and sticking process is too long, or because insufficient current has been passed through the brain of the animal. The RSPCA also points out that it is possible for animals that have been stunned via the captive bolt method to regain consciousness if they have not been stunned effectively, as can occur if the stun gun has not been correctly positioned on the animal's head before being fired, or the gun has not been properly maintained.

The RSPCA has, therefore, proposed a number of measures aimed at improving the manner in which animals are slaughtered in British abattoirs. Firstly, the RSPCA proposes that every

abattoir should appoint a specially trained animal welfare officer to oversee the welfare of all animals at the slaughterhouse. Secondly, all abattoir workers responsible for slaughtering animals should be effectively trained and supervised to ensure that they are competent and aware of the importance of correct animal handling and animal welfare. Thirdly, where the captive bolt method of stunning is used, the RSPCA emphasises the importance of ensuring that the pistol is accurately positioned and that the correct charge and calibre of bolt is used to ensure the effective stunning of the animal. Where electrical stunning is used, the RSPCA proposes that minimum stunning currents appropriate to each species be introduced, and that automatic recording is introduced to monitor the level of current used and the duration of the stunning. Furthermore, the RSPCA proposes that, wherever possible, this method is used not only to stun, but also to kill the animal.

When it comes to the slaughter of poultry, the RSPCA (2008b) raises the concern that the highly mechanised and automated nature in which birds are usually slaughtered in Britain makes this an area of particularly pressing moral concern. Poultry slaughter generally involves birds being hung upside down by their legs from metal shackles that are attached to a moving conveyor belt. This conveyor belt then transports the birds through an electrified water bath which is intended to stun the birds and render them unconscious before then having their necks cut, often by an automated neck cutting machine, which causes the bird to die from blood loss. The dead birds are then dropped into a tank of boiling water (or 'scalding tank') which makes it easier to remove the feathers from the birds' carcasses.

The RSPCA raises a number of concerns regarding the manner in which poultry is generally slaughtered. Firstly, the shackling process is a physically demanding one for the slaughterhouse

worker, and the resultant worker fatigue can result in stress and injury being suffered by the bird as a result of incorrect and careless shackling. Secondly, the RSPCA is concerned that some birds may miss the electrified stunning bath as a result of its being positioned too low, thus leading to some birds still being conscious when their necks are cut. Furthermore, if the equipment is badly designed the RSPCA is concerned that birds may suffer painful shocks prior to being stunned by the electrified bath. Additionally, the RSPCA raises the concern that the current passed through the birds may be insufficient to render them unconscious prior to their necks being cut. Birds passing through an automatic neck cutting device may only receive a single cut, thereby rendering their death through blood loss an unnecessarily protracted one. Finally, and most perturbingly, there is the possibility that a bird may be missed by the automatic cutting device, and although a slaughterhouse worker is charged with the task of manually killing any bird that the machine has missed, the speed of the line may entail that even this supposed failsafe is ineffective. This, the RSPCA state, can lead to some birds being both alive and conscious when they enter the scalding tank. The particularly harrowing testimony of one ex-poultry slaughterhouse worker (cited in Gruen 2011, p. 77) brings the reality of the situation vividly and horrifically to life:

The killing machine can never slit the throat of every bird that goes by, especially those that the stunner does not stun properly. So you have what is known as a 'killer' whose job it is to catch those birds so that they are not scalded alive in the tank...

You can hear the squawking from the chickens being hung in the next room as well as the metal shackles rattling. Here come the birds through the stunner into the killing machine. You can expect to have to catch every 5th one or so, many that are not stunned. They come at you 182 – 186 per minute. There is blood everywhere, in the 3'x3'x20' trough beneath the machine, on your face, your neck, your arms, all down your apron. You are covered in it. Sometimes you have to wash off the clots of blood, without taking your eyes off the line lest one slip by...

You can't catch them all, but you try. You see it flopping around in the scalding, beating itself against the sides... another 'redbird'. You know that for every one you see suffer like this there have been as many as 10 you didn't see...

You shut down all emotions eventually. You just can't care about anything. Because if you care about something, it opens up the gate to all those bad feelings that you can't afford to feel and still do your job. You have bills to pay. You have to eat.

But you don't want chicken. You have to be really hungry to eat that.

As a result of the manifold problems in the above described method of poultry slaughter, one of the main recommendations that the RSPCA makes is that other methods of stunning and killing birds be explored. Indeed, in some poultry slaughterhouses a method of killing birds using gas (similar to the method using for killing pigs described above) has been introduced, which, in the opinion of the RSPCA at least, appears to offer significant benefits for bird welfare.

As well as the moral issues regarding animal welfare raised by the RSPCA, further concerns have been raised regarding the ethics of using electricity as a method of stunning or killing animals. The physiologist Dr Harold Hillman (2010) has raised significant doubts about the ethics of using electricity to stun or kill animals:

One common method used to stun animals is the application of powerful electrical currents to their heads, before their necks are cut. Its advocates' belief that this is more humane than cutting the throats of conscious animals is, however, based on a misunderstanding of the word "stunning". Veterinary dictionaries indicate that there are two elements to stunning – paralysing the animals and anaesthetising them. While paralysis is evident, there is absolutely no evidence in physiology, anaesthetics or surgery of burns that electricity anaesthetises...

In fact, the medical literature from a wide variety of disciplines reveals that electrical currents do cause pain to man and animals... Amnesty international has extensive documentation of prisoners in China, Iran, Saudi Arabia, Syria and other countries who have been tortured electrically. The torturers, the victims and some heroic volunteers in Denmark have all found that the greater the power used, the greater the pain... The power of the instruments used for this kind of torture is similar to that used in stunning

animals for slaughter – from a physiological viewpoint, I can see no reason why animals should not react to large electrical currents in the same way human beings do.

No physiologists investigating animal slaughter, other than myself, have considered the evidence from the electrical torture of human beings, and yet it is standard practice to regard evidence from animal physiology as relevant to humans... There is plenty of evidence, direct and indirect that an electrically stunned animal suffers more pain than a ritually slaughtered one. “Shechita and “dhabihah” may be “centuries-old religious practices” but it does not necessarily follow that we should oppose their use today without reviewing the evidence... More detailed research into the effects of electrical stunning is needed before we can be sure that it leads to a relatively pain-free slaughter.

The ethical question mark over the use of electricity to stun or kill animals prior to slaughter would seem, then, to suggest the entirely plausible possibility that the process of stunning animals with the intention of rendering them insensitive to pain and trauma during the slaughter process may, in actual fact, be responsible for at least as much pain and trauma as the process of slaughter itself. And, certainly, any culture that turns a blind eye to untold numbers of sentient creatures being boiled to death, as would appear to be an inevitable if unintended consequence of modern, industrial methods of poultry slaughter, would be skating on very thin ethical ice if it were to start castigating cultural minorities for being insufficiently humane in their dealings with non-human animals. This, of course, does not necessarily mean that the majority culture should shrug its shoulders fatalistically and concede that, as conventional methods of slaughter may cause a significant degree of animal suffering, it will, however reluctantly, allow minority groups to engage in their equally imperfect practices. It is not beyond the realms of possibility for the majority culture to raise its welfare standards and to ensure that they are complied with. If this were done the majority cultures would be in a far stronger position with respect to whatever criticisms it may have regarding practices such as *shechita* and *dhabihah* slaughter.

National Minorities and Animal Advocacy

Not all of the ethical debates surrounding the issue of the relationship between cultural pluralism and animal advocacy derive from the polyethnic dimension of multiculturalism. In countries such as the United States and Canada, where national minority groups constitute the original, indigenous inhabitants of territories which became dominated by immigrant settlers, the issue of the cultural practices that such indigenous groups may engage in involving animals often give rise to a number of ethical issues and 'liberal dilemmas'. Although such minority cultural practices (such as traditional forms of hunting and trapping) can raise concerns from the perspective of animal advocacy, there is often a reluctance to address such issues, and an ambivalence towards passing legislation aimed at proscribing such practices, lest such intervention be viewed as a form of hegemonic cultural imperialism perpetrated by the majority against an indigenous minority that has already suffered great historical injustice at the hands of these imperialist aggressors. Whale hunting offers a particularly salient example of this sort of conflict. The plight of whales, being large and intelligent mammals, often evokes the sympathies of those who are concerned (even to fairly minimal degree) about the well-being of non-human animals. Furthermore whales, being something of a poster-species for the conservation movement, are also an animal that attracts the attentions of those whose principal ethical concerns are focused on more broadly construed environmental matters, rather than specifically on issues of animal ethics per se.

Comstock (2004) has addressed this issue using the example of the Makah, an indigenous people inhabiting the Northwest coastline of the US. The Makah had, for many centuries, hunted the grey whale for food and other resources on a fairly small scale, using small boats and hand held harpoons. By the 1970s, however, international commercial whaling had had

such a devastating effect on global whale populations that all eight great whale species (of which the grey whale was one) had been listed as endangered, and the International Whaling Commission (IWC) issued a moratorium, thus compelling the Makah to desist their centuries' old whale hunting activities. By the 1990s whale populations had rallied to the extent that limited hunting had become ecologically viable and, accordingly, a group representing the Makah approached the IWC with the request that they be allowed to, once again, engage in their traditional whaling practices (only this time using rifles rather than hand held harpoons), claiming that the hunt held great cultural importance to the Makah people, and was central to their tribal identity.

The question that Comstock sets about addressing, then, is the extent to which animal advocates could take a principled stance in arguing that the Makah should not be allowed to reinstate their traditional whale hunting activities, despite the professed importance of this practice to the Makah culture. That is, to what extent should the protection of innocent animal life be seen to act as a trump to the protection of cultural practices and, by extension, to the protection of cultural identity? In order to address this issue, states Comstock, it is first necessary to clarify the terms of the debate, and specifically, to unpack the concept of 'hunting'.

Comstock identifies five different types of hunting (p. 360): *trophy hunting* is engaged in purely for the 'thrill' of the hunt, with no intention of utilising the carcass for anything, other than possibly display purposes; *sport hunting* is also engaged in primarily for recreational purposes, although in this case the intention is to consume the carcass, even though this would not be necessary for the survival of the hunter; *emergency hunters* kill animals not as a way of life, and certainly not as a form of recreation, but only in rare instances in which such hunting is

essential to the survival of the hunter, as no other food source is available; *therapeutic hunting* is engaged in, not for the good of the hunter, but for the well-being of the species and broader ecosystem. Finally, *subsistence hunting* entails the habitual hunting of animals for one of two reasons: for the actual physical survival of the members of the group that engage in the hunt; or for the preservation of that group's cultural identity. It can be seen, then, that the Makah were campaigning to be allowed to engage in such subsistence hunting in this second sense of the term. In attempting to discern whether or not such a form of hunting should be considered morally acceptable, Comstock proposes a thought experiment which involves considering the hypothetical hunting practices of four imagined groups: the *Relaxed Cannibals*; the *Hunters of the Misfortunates*; the *Bonobo Hunters*; and the *Confined Clammers*.

The Relaxed Cannibals (RCs), as Comstock describes them (p. 361), control a vast area of fertile arable land that could easily grow enough vegetable food to meet the RCs' nutritional needs. Despite this, however, the RCs prefer to use this land as a hunting ground to pursue their favourite quarry – a group of human beings of a different ethnic group referred to as Meat Men (MM), who also inhabit this territory. The RCs prefer to hunt and eat the MMs rather than grow crops, as the tribal leaders consider farming to be a somewhat effete activity that is not in keeping with the cult of machismo that permeates the RC cultural identity. Comstock identifies what he considers to be two good reasons to justify intervention to prevent the RCs' from hunting the MMs. Firstly, Comstock points out that the MMs, like the RCs, have interests that they wish to pursue – including (most fundamentally) an interest in staying alive. This survival interest of the MMs, Comstock credibly suggests, can be viewed as more important to the MMs than the RCs corresponding interest in maintaining their cultural hunting traditions, and therefore in this instance the interests of the MMs should be seen as overriding those of the RCs. Secondly, and relatedly, Comstock points out that, as the RCs have ample land available

for cultivation, the cessation of their cannibalistic enthusiasms would not result in their starvation, but would merely deprive them of one particular cultural activity that could feasibly be replaced with another, less homicidal, pursuit.

In order to justify this case for intervention, states Comstock, it is necessary to differentiate between three different types of interest (pp. 362-363): *categorical interests*; *basic interests*; and *serious interests*. Categorical interests, states Comstock, are the projects that we pursue that we feel give meaning to our lives, such as raising a family or dedicating one's life to spiritual enlightenment or artistic endeavour. It is not possible, in Comstock's view, to live well without pursuing some categorical interest or other. Basic interests, on the other hand, are largely biological requirements that have to be met if one is to be able to pursue any other form of interest. Such interests take the form of adequate nutrition and hydration, and all other things that enable one to maintain one's physical integrity. Basic interests, then, must be met not only if one is to live *well*, but if one is to live *at all*. Finally, Comstock describes serious interests as things that we consciously strive for, but which we do not accord the same importance as categorical interests. Such interests could include following a variety of recreational activities which, although pleasurable, are not key to one's self identity in the way that categorical interests are.

With reference to the above terminology then, it can be seen that the RCs' interest in hunting the MMs would probably be characterised by the RCs as a categorical interest, whereas the interests that the MMs have in not being hunted can fairly safely be categorised as constituting a basic interest. This, then, gives rise to a situation in which a categorical interest of one group can be seen to be in direct conflict with a basic interest of another group and in such a situation,

according to Comstock, morality and justice requires that we give the protection of the basic interest precedence over the protection of the categorical interest. The reason that Comstock gives for this decision is as follows: each member of each group can be seen as having both basic and categorical interests. In the hunt scenario, if the RCs are permitted to continue in their practices of killing and eating the MMs, then this protects both the RCs basic interest in biological integrity, and their categorical interest in being able to maintain a culturally important practice. This, however, is achieved at the expense of the MMs basic interest in remaining alive *and*, by extension, at the expense of any categorical interests that they may also have, as these interests will prove difficult to realise once they have been eaten. If, on the other hand, the RCs are prevented from engaging in the hunt, then although this frustrates a categorical interest, it has no impact on the basic interests of the RCs who, it will be recalled, have the option of adopting an agrarian lifestyle which will provide them with abundant nutrition. Accordingly the MMs, having had their basic interest in being able to stay alive met, will be able to pursue their own categorical interests. Therefore, using a process akin to a form of preference utilitarianism, Comstock concludes that we should act in such a way as to protect the maximum number of interests which, in the above scenario, will entail preventing the RCs from hunting the MMs.

The second hypothetical scenario that Comstock envisages (pp. 364-365), *The Hunters of the Misfortunates*, is similar to the first scenario, but in this case the MMs, due to several generations of inbreeding, have regressed to the extent that they no longer have the intellectual sophistication necessary to be able to mentally project further than the immediate future, and therefore, can no longer be viewed as having categorical interests in the sense that Comstock defines that term. Is it the case that, in hunting these genetically impaired MMs, the RCs are committing a moral wrong that is equal to that committed by their forebears? For Comstock,

we would, indeed, still be justified in intervening to stop the RCs from killing and eating these new genetically impaired MMs because, although the MMs may not have categorical interests, they can still be seen as having both basic and serious interests that would be thwarted were the RCs to continue to pursue their categorical interest in hunting them.

The third hypothetical case that Comstock describes, the case of *The Bonobo Hunters* (BHs), focuses on a group that hunts and kill bonobos, an intelligent primate closely related to the chimpanzee (pp. 365-366). The reasons that the BHs give for hunting bonobos are very similar to the reasons that the RCs give for hunting the MMs, i.e. culture, tradition, macho distaste for agricultural activities, and so on. Again, Comstock argues that we would be justified in intervening to stop this practice, if we analyse the conflicts of interest at play. The animal advocate could credibly claim that the death of a bonobo constituted a similar harm to the death of an MM – at least in their genetically compromised incarnation. Furthermore, compelling the BHs to renounce the hunt and to find other sources of food would entail that the BHs renounce just one particular aspect of their culture, which, according to Comstock, could be compensated for by their developing new cultural practices based on their adopting an agrarian-based lifestyle.

The final hypothetical case that Comstock considers (pp. 366-367), the case of *The Confined Clammers* (CCs) involves a group who live on the coast, and survive by and gathering and eating clams and other such simple aquatic life-forms. The creatures that the CCs eat are their only source of nutrition, as they have no arable land available nearby to cultivate, and their ethical tradition proscribes them from hunting larger and more psychologically complex animals. Comstock states that animal advocates would not be justified in intervening to stop

the CCs engaging in their practice for a number of reasons. Firstly, the animals that the CCs eat, due to their metal simplicity, lack both serious and categorical interests. Secondly, the negative consequences to the CCs if they were to be compelled to cease gathering and eating clams would be catastrophic, as if they were to avoid starvation they would have to leave their traditional homelands, which could well have a severe psychological impact and lead to social breakdown.

Having considered these four hypothetical cases, then, Comstock sets about the task of applying the results of this thought experiment to the real-life case of the Makah (pp. 367-370). Firstly, states Comstock, we need to ask what process led to these five members of the Makah petitioning for the right to resume whaling, and whether this genuinely reflects the interests of the whole group, or merely a small sub-set within that group. Is whale hunting *really* essential to the identity of the Makah people, and if so how has the Makah managed to sustain its cultural identity during the decades that the practice has been outlawed? Furthermore, can the request of the representatives of the Makah to hunt whales with rifles from motorboats really be viewed as a genuine continuation of the traditional practice of hunting with hand held harpoons from paddle boats, or does it actually constitute a substantially and substantively different practice that, in fact, has no real cultural or historical precedent? In addressing the moral status of the whales, Comstock notes that they are more like the bonobos than the clams in the preceding thought experiment. Therefore, if we do not consider the Bonobo Hunters to be justified in their hunting and killing of the bonobos for sport and food, than both logical and moral consistency would seem to dictate that we should also consider the Makah desire to hunt whales as similarly morally illegitimate – even if reinstating the hunt can be viewed as constituting a genuine categorical interest of the Makah.

In short, then, Comstock would seem to conclude that when a national minority group has a categorical interest (i.e., an interest based on the preservation of the group's cultural identity, rather than on the actual physical preservation of the group's members) which requires that the group disregard the basic and, by extension, the serious interests of those creatures that are significantly cognitively sophisticated to have such serious interests (such as the whales hunted by the Makah), then the majority culture is morally entitled (or even *required*) to intervene in order to end such practices. This conclusion, however, raises at least two problems. The first problem is that there is no getting around the fact that it is the majority culture that is calling all of the ethical and legal shots in cases such as the Makah whale hunt dilemma. In a country such as Britain, where the majority culture is also the indigenous culture, there is, perhaps, some degree of justification in the assertion that those who choose to come and live in that country ought to abide by the traditional values and resulting laws that have evolved in that country over the course of its historical, ethical and legal development. In a country such as the United States, however, where the majority culture is composed of immigrant groups that have settled, and subsequently come to dominate the original homelands of the indigenous cultural minorities, it is likely to prove particularly irksome to the indigenous cultures that it is the value and legal system that the incomers have constructed that is to be the ultimate arbiter of whose rights and interests should be allowed to prevail. It is difficult to avoid viewing such a situation as, ultimately, being little more than an example of the principle that 'might makes right' – where the majority immigrant culture, having used its power to dominate a territory in the first place, then continues to wield that power in order to ensure that its values penetrate even those areas of the territory that had, nominally, been left to the control of the indigenous cultures.

The second problem that Comstock's conclusion gives rise to is that it could be argued that, when considering the justice of whether or not the majority culture has a principled basis to intervene in traditional hunting practices engaged in by groups such as the Makah, it is necessary to view such practices, not with reference to hypothetical thought experiments, but rather, with reference to the broader socio-cultural context of the majority culture. Given that the Makah inhabit an area of the United States, a country which kills millions of animals each year for food, many of which could plausibly be viewed as having the sort of serious interests that Comstock describes (in addition to their basic, biological interests), then the legal system of the majority culture is inviting accusations of hypocrisy if it takes the decision to outlaw practices such as those engaged in by the Makah in the name of protecting animal welfare. Ethical vegetarians and vegans would no doubt contend that huge-scale slaughter of animals by the meat industry in countries such as the US certainly does not address any basic interest that the population of that country could be seen to have, as the developed nations of the world have access to an abundance of plant-based food from which, the vegetarian argument states, adequate nutrition may be derived. Furthermore, ethical vegetarians and vegans would likely contend that the meat industry cannot plausibly be viewed as addressing any categorical interest that members of that the majority culture of countries such as the US are likely to have as, they may suggest, it is unlikely that many people could credibly hold that their very self-identity is closely connected to their consumption of meat. (It is, however, by no means beyond the realms of possibility that certain meat eaters may counter that meat eating does indeed constitute a vital component of their own personal self-identity, and it would be difficult to argue against such an assertion).

Ethical vegetarians and vegans may, in fact, query the extent to which people in majority cultures in countries such as the US can meaningfully be viewed as having a *serious* interest in

consuming meat and other animal products. The cessation of the meat industry would not entail that people dispense with culinary pursuits or social dining, merely that they replace meat and animal products with plant-derived ingredients. Many ethical vegetarians and vegans may, in fact, contend that it could be argued that people actually have a serious interest in *desisting* from the consumption of meat, given the negative health consequences that it has been suggested have been associated with a diet high in meat (Barnard and Kieswer 2004), and the negative environmental impacts that have been associated with the meat industry (Gruen 2011, pp. 87-89). However, one cannot necessarily extrapolate from the fact that a diet that contains *too much* meat and animal products may be unhealthy, to reach the conclusion that a diet that contains *any* amount of meat and animal products is unhealthy. Similarly, the fact that the current, highly intensive model of animal agriculture has been associated with a variety of environmental problems does not necessitate that *any* form of animal husbandry is inherently damaging to the environment.

Is Multiculturalism Bad for Animals?

The fundamental question that the above raises, then, is the extent to which the majority culture of a multicultural society can take a principled stance against practices that a cultural minority may engage in that are harmful to non-human animals, when the majority culture itself engages in practices that can be viewed as similarly detrimental to the interests and well-being of such animals. In her paper, *Is Multiculturalism Bad for Animals* (2003), Paula Casal examines this question through use of the concepts of noncomparative and comparative desert. She explains:

[S]uppose a committed employee, A, has worked extremely hard and productively for many years, and for that reason deserves promotion. If so, it is regrettable from the perspective of noncomparative desert when A receives only a mean pay rise. Now

consider an additional employee, *B*, who is as hardworking and noncomparatively deserving as *A* but receives an even meaner rise. Some desert theorists argue *B*'s treatment not only involves a second, and even larger, violation of noncomparative desert but is also regrettable from the distinct, and potentially competing, perspective of comparative desert. They claim that since *A* and *B* are equally noncomparatively deserving, considerations of comparative desert require that they both fare equally well. Ideally, *A* and *B* should each be promoted, thereby satisfying the demands of both varieties of desert. However, if the only way to ensure that *A* and *B* fare equally well is for *A* to receive *B*'s meaner pay rise such a distribution would, in one respect, be welcome since it would satisfy comparative desert (p. 16).

From the perspective of comparative desert, then, it would indeed appear that a majority culture would be hypocritical in forbidding minority cultures from engaging in activities such as whale-hunting or slaughter without stunning whilst continuing to engage in meat-eating and animal experimentation. However, states Casal, in order to fully address the situation we also need to factor into our moral considerations the distinction between *horizontal* and *vertical* inequities, as Casal explains:

[I]magine a group of hikers overlooking a badly injured man, who has slipped down a cliff and is now hanging on for his life. After the man shouts to one hiker for help, the potential rescuer refuses on the ground that it is unfair to be singled out when there are other similarly situated individuals who could also perform the rescue. Despite this complaint, most of us remain convinced it would be better for the rescue to take place. A plausible explanation appeals to the fact that it is so much worse for the man to risk death while the hikers continue their walk than for the rescuer to be inconvenienced while the other hikers proceed. The vertical inequity between the man and the hikers, which would exist if he were abandoned, is much greater than any horizontal inequity that would exist amongst the hikers if one of them performed the rescue. (p. 18).

The distinction between horizontal and vertical inequities, states Casal, implies a number of responses to the comparative desert arguments that seem to suggest that cultural minorities should not be allowed to continue their animal-harming practices. Firstly, such arguments should not focus solely upon horizontal inequities. Exemptions to animal welfare legislation could lead to animals suffering far more pain than they deserve, and this vertical inequity

should be balanced against the horizontal inequity that cultural minorities would face if they were to be prevented from engaging in activities such as whale hunting or slaughter without stunning. The second response involves the 'levelling down' objection to strictly egalitarian principles. This objection, states Casal, claims that such principles suggest that if it is not possible for a hospital to provide sight saving treatment for all of its patients, the fact that they all have an equal entitlement to treatment would seem to suggest that the fairest thing to do is to not treat any of them. This would appear to be deeply counter-intuitive, as most of us would strongly feel that there is no reason to tolerate violations of noncomparative desert in order to satisfy principles of comparative desert. If no-one deserves to be blind, states Casal, a world in which everybody is blind is terrible from the perspective of noncomparative desert, and is no better in any respect than a world in which comparative desert is violated because only some are blind.

The interplay between the comparative/noncomparative desert and horizontal/vertical inequities argument, then, would seem to suggest the principle that 'two wrongs don't make a right'. If animals stand to suffer more as a result of exemptions being made to animal welfare legislation than cultural minorities stand to suffer as a result of such exemptions being disallowed, then morality and justice would seem to require that the fundamental interests of non-human animals be given priority over the cultural interests of minority groups. Such an argument may have some validity when addressing issues such as whale-hunting which add to the sum total of animal suffering, but still does not offer clear guidance when addressing the issue of religious slaughter. Assuming that a ban on slaughter without stunning were to be implemented, it is uncertain that the cultural groups that currently prefer to eat meat that has come from non-stunned animals would decide to opt for a vegetarian diet. They may instead, however reluctantly, concede to eat meat that has come from animals that have been stunned

prior to slaughter. This would then, presumably, increase the numbers of animals slaughtered in such a manner, but, as described earlier, there is significant doubt over just how ‘humane’ such so-called humane slaughter methods really are.

We should not, however, give in to a counsel of despair. The fact that the science is, as of yet, inconclusive, does not mean that there is not a definitive answer to be found. Which slaughter methods cause the most or least suffering is, ultimately, an empirical question, and if research should find that a particular method of slaughter is demonstrably less painful and stressful for the animals than all other slaughter methods, then there is no reason why this should not be the method that is adopted for slaughtering all animals, without exemption. Given that welfare considerations are supposedly central to the traditional methods of slaughter practised by Muslims and Jews (*Muslim Council of Britain* 2014; *Shechita UK* 2009), it is difficult to see how either group could make a principled objection were such scientifically incontrovertible and verifiably humane (or, at least, as humane as possible) slaughter methods to be established.

It will be notable how quickly this chapter moved from a discussion regarding the implications of multiculturalism for animal *rights*, to a discussion regarding the implications of multiculturalism for animal *welfare*. This, frankly, reflects the fact that, at the moment at least, a substantive animal rights/liberation ethic is so far from constituting a part of what might be termed the mainstream political agenda that talk of the political implications of such an ethic is close to meaningless. The concept of animal *welfare*, however, would seem to have far more political traction, being a concept that many people (certainly in a nation of supposed animal lovers such as Britain) are familiar with, and at least pay some degree of lip service to in most cases. To those who may be dedicated to a more substantive animal rights/liberation ethic, it

may be somewhat frustrating that the contemporary political sphere will not encompass any more than the modest improvements to animals' lives that are offered by improvements in animal welfare legislation. Certainly, from the perspective of anyone who has reached the moral conclusion that we should be neither conducting experiments on non-human animals nor killing them for food, the suggestion that we should be conducting experiments on non-human animals *in order* to discover the most humane ways of killing them for food is likely to present a particularly depressing picture. Whereas some members of the animal rights/liberation movement may view such modest reforms as at least constituting a step in the right direction towards the goals of a more substantive animal rights ethic, others have dismissed animal welfare legislation as counterproductive, and ultimately inimical to the interests of animals. This debate between animal rights reformists and animal rights revolutionaries will be addressed in some depth in the following chapter.

Chapter Eight – Animal Advocacy and Liberalism

The historical relationship between liberalism and the animal advocacy movement is a relationship which is riven with a significant amount of complexity and contradiction. On the one hand, the development of the animal advocacy movement is sometimes viewed as constituting a part of the ‘expanding circle’ (Singer 1981) of liberal concern that has grown to encompass a concern for the interests of non-human animals, just as it has, hitherto, aimed to raise the moral profile and fight the unjust treatment of other historically oppressed groups such as women, racial minorities and homosexuals. On the other hand, the animal advocacy movement has also been characterised (particularly by the more right-wing end of the media) as a manifestation of political extremism that seeks to curtail the rights and freedoms of individuals to engage in certain activities such as hunting, fishing, meat-eating and the wearing of fur or leather. Thusly, from this perspective, the movement could be seen as constituting a considerable threat to what many might consider to be traditional liberal values.

It is clear, then, that in order to examine the relationship between liberalism and animal advocacy we need to first clarify the concepts that are involved. The philosophical ideas that lay at the foundations of the animal advocacy movement have been described in some detail in the forgoing chapters of this work, and so the present chapter will focus on examining and expounding the concept of liberalism.

Liberalism

Liberalism can perhaps be most simply described as an ideology that is dedicated to the protection of the rights and freedoms of the *individual*. The problem that this definition immediately presents, however, is just how one goes about defining the term ‘individual’. Traditionally, liberals characterise the individual as being synonymous with the human being, as humans have generally been viewed within the liberal tradition as being the quintessentially rational beings who are able to make the sorts of autonomous decisions and lifestyle choices that liberalism styles itself the protector of. This account, however, raises a number of questions. Firstly, how does liberalism view those human beings who, for whatever reason, do not exhibit the capacity for reason necessary to exercise autonomous choice (recall the discussion of so-called ‘marginal cases’ in chapter 1.)? Secondly, what makes liberals so sure that animals (or, at least, *some* animals) are *not* capable of employing reason and exercising autonomy? Finally, why are liberals also so certain that a capacity for reason carries as much moral weight as they consider it to? These three issues will be examined below.

Liberalism and Rationality

As the so-called ‘argument from marginal cases’ describes, not all human beings have the capacity for reason that is so prized within the liberal tradition. As Dombrowski (1984) has described, as early as Porphyry it had been pointed out that certain human beings, either as a result of some form of congenital defect, or an accident that has resulted in severe brain damage, do not have the ability to exercise autonomy (at least, not in the sense that the term ‘autonomy’ is generally employed in liberal circles). If, then, rationality plays such a key role in determining the moral status of an individual, this would seem to present liberalism with

something of a quandary when trying to determine society's responsibilities to such intellectually compromised individuals.

It will, of course, often be the case that such 'marginal' humans will have family to whom their well-being is important, and so it could be argued that society has a duty to protect the interests of such people for the sake of their family members, who will suffer distress if their intellectually impaired loved ones do not have their needs met. To pose this argument, however, is to implicitly suggest that such marginal humans are not, in and of themselves, worthy of direct moral consideration; their wellbeing is, instead, only considered to be important to the extent that it is a matter of concern to their non-marginal relations. The suggestion that an intellectually challenged human being's welfare is entirely contingent upon their relatives' interests is, however, likely to strike many (and, not least of all, many liberals) as an idea that contrasts significantly with our moral intuitions on this matter. Furthermore, the logical extension of the argument that marginal humans' well-being is a matter of mere *indirect* moral concern would seem to imply particularly chilling ramifications for those intellectually impaired individuals who do not have close family to guard their well-being, but who have been left in the charge of the state.

One would be unlikely to find many people who would describe themselves as politically and socially liberal who would be happy with the idea that the welfare of such intellectually challenged individuals was of no concern to society as a whole. Indeed, many liberals may well maintain that it is precisely out of a sense of concern for the wellbeing of such vulnerable individuals that they were led in the direction of liberalism in the first place. Many, if not most (and, probably, *all*) liberals would want to maintain that the well-being of such marginal human

beings is indeed a matter of *direct* moral importance, and that it should not be viewed as being merely contingent upon the interests of others. The well-being of such individuals matters in and of itself, most liberals would likely assert, and their lack of the capacity to exercise reason should be seen to be of no moral relevance whatsoever.

It is when one transposes this line of thinking to the realm of animal liberation that the inconsistency that characterises the liberal relationship with rationality becomes more apparent. Given that non-human animals have not traditionally been considered within the liberal tradition as being capable of exercising reason and autonomy, they can be seen as being analogous to the marginal humans described above. This can present the liberal with something of a dilemma: if a capacity for reason is, indeed, the key for an individual being deemed worthy of direct moral consideration, then the liberal can disregard the interests of non-human animals as being only of indirect moral significance *but*, on pain of inconsistency, must also categorise the interests of the sorts of marginal humans described above in the same manner. If, however, the liberal wants to ensure that the interests of such marginal human beings *are* protected by according them direct moral relevance, then the liberal cannot simultaneously use a lack of a capacity to reason as the basis for proclaiming that animals' interests are to be considered of only indirect moral concern.

Animals, Reason and Autonomy

It could be argued that the liberal tradition, in categorising animals as beings who are incapable of exercising reason, has assumed as a fundamental principle something that actually needs to be demonstrated. Just what exactly do we mean when we talk about a capacity to exercise

reason, and what has traditionally made liberals so certain that this capacity lies beyond the capabilities of non-human animals?

If one were to characterise reason and the related capacity of autonomy along Kantian lines as being something in the order of the ability to formulate (or, at least, to recognise) and, subsequently, act upon certain ethical principles, then it is indeed unlikely that animals could be viewed as possessing such a capacity. This, however, could arguably be considered to be something of an idiosyncratic definition of the concepts of reason and autonomy, and one that is at some distance removed from the capacities that these concepts are more usually seen to embody. Such capacities are, perhaps, more fully encompassed by the concept that Regan refers to as *preference autonomy* (Regan 2004, pp. 84 - 85).

But the Kantian sense of autonomy is not the only one. An alternative view is that individuals are autonomous if they have preferences and have the ability to initiate action with a view to satisfying them. It is not necessary, given this interpretation of autonomy (let us call this *preference autonomy*), that one be able to abstract from one's own desires, goals, and so on, as a preliminary to asking what any other similarly placed individual ought to do; it is enough to have the ability to initiate action because one has those desires or goals one has and believes, rightly or wrongly, that one's desires and purposes will be satisfied or achieved by acting in a certain way. Where the Kantian sense requires that one be able to think impartially if one is to possess autonomy, the preference sense does not.

As Regan describes, then, it is possible to delineate at least two forms of autonomy: Kantian autonomy on the one hand and preference autonomy on the other. Why, then, should liberalism choose to value the former version of autonomy over the latter, particularly when it is the latter form that people usually have in mind when they talk about autonomy in a general sense. Surely, for liberalism to claim that it is the form of autonomy that can be exercised only by (some) human beings that holds the key to optimum moral status is an entirely arbitrary decision.

Reason and Welfare

This, then, leads us to the question of just how important the capacities of reason and autonomy should be in our moral considerations. Wouldn't the capacity for having 'interests' be a more suitable capacity for liberalism to base itself on? On this view the 'individual' that liberalism champions is not necessarily a being capable of exercising reason or autonomy in the Kantian sense, but is, rather, a being who is capable of having interests. If this indeed is the case, then this presents liberalism with another dilemma: if animals can be plausibly viewed as having interests (and most would agree that they can at least be seen as having an interest in a continued life and the avoidance of pain and suffering) then why should liberalism place the interests of some individuals (e.g. humans who want to eat meat) above the interests of other individuals (e.g. those animals that are raised and slaughtered for their meat)? As stated above, to claim that the interests of those capable of employing Kantian autonomy must, as a matter of course, take precedence over those who are capable of only preference autonomy would seem to be something of a morally arbitrary position, unsupported by any substantive moral argument.

In order, then, to fully address the question of the relationship between liberalism and autonomy and, in particular, to address the extent to which liberalism can be viewed as a political position that can protect the sort of preference autonomy that Regan describes (rather than the Kantian form with which it has been traditionally associated) it will perhaps be helpful to take a closer look at the philosophical foundations that have historically been viewed as providing the theoretical underpinnings to the liberal political position.

The Philosophical Foundations of Liberalism

As Gray (1986) describes, the three philosophical ideas that have traditionally been pressed into play in an attempt to provide a philosophical foundation for liberalism are *utilitarianism*, *natural rights theory* and *contractarianism*. It will be immediately apparent that these are the very same theoretical foundations that have also been used in an attempt to provide theoretical support to the idea of animal advocacy, and the problems that these ideas encounter in trying to provide support for liberalism in many ways mirror the problems that they encounter in trying to provide support for the animal advocacy movement.

Natural Rights and Liberalism

As was described at the beginning of chapter two of this thesis, traditional ideas of natural rights were based on the concept of natural law: a supposedly divinely mandated regulatory system that was held to precede any form of human authored legislation. On this view, then, human beings were deemed to be imbued with natural rights because the natural law demanded it, and if human made laws were to be considered just, they would have to be seen to comply with the natural law and the natural rights that this law entailed.

In more recent times, however (and particularly in the aftermath of World War Two), the theological idea of natural law and natural rights evolved into the secular idea of international law and human rights. Like traditional natural rights, human rights are purported to exist prior to any human-constructed legal arrangements, thereby denying despotic regimes the ability to justify committing atrocities against their own people on the grounds that such actions are in

keeping with those countries' laws. Both traditional natural rights and contemporary human rights would seem to lend themselves very well to the liberal project of protecting the rights and freedoms of the individual against the possibility of state oppression. The problem with trying to ground liberalism in ideas such as natural or human rights, however, derives from the problem of trying to ground the idea of these rights themselves. Traditional natural rights, as previously stated, were grounded in theological ideas that cannot be so uncontroversially employed in the modern world. Modern human rights, having divested themselves of any theological moorings are, if anything, even more controversial, seeming to be based on little more than the assertions of those who subscribe to the idea. The core concept of human rights is that such rights are based on the inherent dignity that is possessed by all human beings, and this dignity must be respected by any country's legal system if that country's laws are to be considered just from the perspective of international human rights law. It is worth noting that, from an animal advocacy perspective, the notion of human rights could well be viewed as problematic, as the concept seems to be based on the very idea of human exceptionalism that animal advocates such as Singer have denounced as 'speciesism', as will be recalled from chapter one of this thesis.

Utilitarianism and Liberalism

Utilitarianism is generally held to have developed from the writings of Jeremy Bentham who, as described in chapter one, was well aware of the implications that the theory held for non-human animals. For Bentham, sentience is the crucial capacity that we should factor into our moral deliberations. All interests of sentient beings are to count equally, and the interests of certain sentient beings should not be considered to be of greater or lesser importance because of that individual's race, class, sex, species and so on.

The main problem in attempting to utilise utilitarianism as a means of trying to provide a philosophical foundation for liberalism lies in the aggregative and maximising aspects that are inherent to the theory. Utilitarianism directs us to maximise utility, however that term is defined, (happiness, preference satisfaction etc.) even if this entails that the interests of an individual or minority are ignored and disrespected. Such a state of affairs is obviously problematic from the perspective of liberalism which, as an ideology, specifically sets out to defend the interests of the individual from the totalising tendencies of mob rule. In fact, the implication intrinsic to utilitarianism that the needs of the many must always outweigh the needs of the few or the one, would actually appear to be the very antithesis of the spirit of liberalism, rather than suggest that utilitarian thinking can provide a suitable location for laying the philosophical foundations of liberalism.

Contractarianism and Liberalism

The third philosophical system that has often been used in order to try to provide liberalism with a theoretical foundation is contractarianism. It will be recalled from chapter three of this work that Rowlands has delineated two broad schools of contractarian thought. One form derives to some degree from the writing of Thomas Hobbes, and has thusly been termed *Hobbesian* contractarianism by Rowlands. The other form can be seen to echo the work of Immanuel Kant and has, therefore, been described by Rowlands as *Kantian* contractarianism. In its Hobbesian form, it is unlikely that contractarianism can be utilised in order to provide an adequate foundation for liberalism. This is because Hobbesian contractarianism, in the form described by Rowland at any rate, is an ultimately prudential and self-interested form of contractarianism which contracting parties enter into out of a sense of self-preservation. On

such a view, then, it makes little sense for the parties of the contract to seek to form compacts with those who are in no position to either pose any threat, or, alternatively, to proffer any benefit to them. The outcome of this situation is that those individuals who are not in any position to pose a threat or offer any benefits to anyone will fall outside the purview of the contract and become a moral underclass, whose interests can safely be dismissed by the contracting parties. Such a situation is obviously contrary to the notions of individualism and egalitarianism that lie at the heart of liberalism.

Kantian contractarianism on the other hand, which is probably most closely associated with the work of John Rawls, would seem to offer significantly more support to the liberal cause. Kantian contractarianism does not purport to be *constitutive* of morality but, rather, provides a method for exploring and explicating any given moral theory in a systematic and consistent manner. In Rawls's hands, then, Kantian contractarianism provides a method for fully exploring the implications of the idea of the moral equality of individuals that lies at the heart of liberal thought. Through the utilisation of such concepts as the original position and the veil of ignorance, Rawls constructs a system that aims to screen morally arbitrary factors such as race, sex and even physical and intellectual aptitude out of our moral deliberations, and thus presents a model of what is really involved in people truly treating each other as moral equals. The problem with trying to use Kantian contractarianism to provide a philosophical foundation for liberalism, however, stems quite simply from the fact that that is not what this form of contractarianism is actually designed to do. Rawls, for example, takes the idea of the moral equality of individuals as his *starting point*, and uses the techniques of Kantian contractarianism, not as a means of trying to *ground* this idea, but, rather, as a way of expounding this idea in a more coherent manner than that in which it has been conventionally understood and applied.

If attempts to provide philosophical foundations for both liberalism and animal advocacy would seem to encounter similar difficulties, then, perhaps a more profitable and practical manner of examining the relationship between liberalism and animal advocacy (and particularly the extent to which the former can be expanded to encompass the demands of the latter) can be found in examining the work of one of the foremost contemporary liberal theorists and seeing what implications the explication of these theories may hold for the animal advocacy movement. A good candidate for such analysis is, perhaps, John Rawls's work *Political Liberalism* first published in 1993 (second ed. 2005 – all references below to this edition), a book which has had a significant impact on the sphere of political theory, and particularly on the development of liberalism.

Political Liberalism and Animal Liberation

It will be recalled from chapter three of this work that Rowlands has proposed that the theory that Rawls puts forward in *A Theory of Justice* can be adopted, adapted and extended in such a way as to provide a basis for a substantive animal rights ethic. A significant problem with this view, however, derives from the fact that Rawls himself came to develop concerns about the extent to which the approach that he proposes in *A Theory of Justice* could, indeed, form the principled political and moral basis of a liberal, democratic society – and it is likely that such a fundamental flaw would carry through to any attempt to extend the theory that Rawls presents in that work in order to try to cover the area of animal advocacy, as proposed by Rowlands.

The main problem arises from the fact that, in *A Theory of Justice*, Rawls envisages a stable and well-ordered society whose members are all generally in accord with regards to their

fundamental moral convictions. Such a view, Rawls subsequently came to realise, presents a picture that is significantly at odds with the realities of contemporary, pluralist democratic societies that frequently contain a veritable plethora of (often incompatible) moral, philosophical and religious belief systems. Such a situation, suggests Rawls, is an inevitable consequence of freedom of thought and expression within democratic institutions. It was in order to address this situation that, in *Political Liberalism*, Rawls reconceptualised the idea of *justice as fairness* as a ‘political conception’ of justice that can form a part of an ‘overlapping consensus’ of the various religious, moral and philosophical doctrines (or ‘comprehensive doctrines’ as Rawls refers to them), provided that those doctrines can be deemed ‘reasonable’. As far as the animal advocacy movement is concerned, then, this would seem to raise two related questions: to what extent can the animal advocacy movement be considered to adhere to a reasonable comprehensive doctrine; and, to what extent can the animal advocacy movement hope to have an impact on the overlapping consensus of a pluralistic liberal, democratic society? In order to properly address these questions, it is necessary to examine more closely Rawls’s concepts of reasonable comprehensive doctrines, and of the overlapping consensus.

Reasonable Comprehensive Doctrines

According to Rawls (*Political Liberalism*, p. 59) reasonable comprehensive doctrines have three principal features. Firstly, contends Rawls, a reasonable comprehensive doctrine is an exercise in theoretical reason, which is to say that such a doctrine covers the major religious, philosophical and moral aspects of human life in a more or less consistent way. The second feature of a reasonable comprehensive doctrine that Rawls identifies, is that each reasonable comprehensive doctrine will carry out the task of organising its constituent values in a manner

that is unique to that particular doctrine, thereby distinguishing it from other such doctrines. The final identifying feature of a reasonable comprehensive doctrine, states Rawls, is that it is grounded in tradition, and although such doctrines may gradually evolve over time, it nonetheless relatively stable and not likely to be subject to radical and reflexive change. Rawls concedes that such a definition of a reasonable comprehensive doctrine is somewhat broad, but this, he states, is a deliberate measure to ensure that his view not be construed as arbitrary or exclusive. Political liberalism recognises many religious philosophical and moral doctrines as being reasonable, even if many reasonable people could not bring themselves to subscribe to any of those particular doctrines.

Rawls states that it is an inevitable consequence of the ‘burdens of judgement’ that reasonable persons will, indeed, not subscribe to the same comprehensive doctrine. These burdens of judgement, as Rawls describes them, are ‘the many hazards involved in the correct (and conscientious) exercise of our powers of reason and judgement in the ordinary course of political life.’ (*Political Liberalism*, p. 56). For Rawls then, it is a hallmark of a ‘reasonable person’ that they recognise the limitations that the burdens of judgement place on what measures can be reasonably justified to others, and accordingly, such reasonable people are likely to prove amenable to the ideas of liberty of conscience and freedom of thought. Furthermore it will be considered unreasonable to seek to use political power in order to repress other, differing comprehensive views, provided that those views are, themselves, not deemed to be unreasonable.

The Overlapping Consensus

The second concept that need to be addressed in some depth when considering the implications that Political Liberalism holds for the animal advocacy movement is the idea of the overlapping consensus. When thinking about an overlapping consensus we should bear in mind, states Rawls, (*Political Liberalism*, p. 144) that what we are seeking is a consensus between *reasonable* (and not *unreasonable*) comprehensive doctrines – as political liberalism seeks to address not the notion of pluralism *per se*, but rather, the notion of specifically *reasonable* pluralism. Another feature of an overlapping consensus that Rawls is keen to emphasize is that any idea that forms a part of such a consensus (in Rawls case, the idea of justice as fairness) should be able to be viewed as a freestanding conception of justice, rather than merely forming a part of some or other comprehensive doctrine. This, of course, is not to say that people should not be able to find the resources within their own reasonable comprehensive doctrines to enable them to subscribe to such a political conception. On the contrary, it is of vital importance for reasons of social stability and cohesion that individuals be able to subscribe to such a political conception from within their own comprehensive doctrines. This political conception, states Rawls, constitutes ‘a module, an essential constituent part, that in different ways fits into and can be supported by various reasonable comprehensive doctrines that endure in the society regulated by it.’ (*Political Liberalism*, pp. 144-145).

Overlapping Consensus or Modus Vivendi?

One of the main objections that Rawls anticipates might be raised against the idea of social unity being founded on the idea of an overlapping consensus is that such a consensus really

represents nothing more than a *modus vivendi* (*Political Liberalism*, pp. 145-150). In order to address this accusation, Rawls proposes a model case of an overlapping consensus (p. 145). Such a consensus, states Rawls, contains three views. The first view affirms the political conception because its religious doctrine and account of free faith lead to a principle that enjoins toleration and underwrites the fundamental liberties of a constitutional regime. The second view affirms the political conception that lies within the overlapping consensus on the basis of a comprehensive liberal moral doctrine such as those espoused by Mill or Kant. The third view is not systematically unified and, as well as the political conception of justice, such a view includes a considerable family of values that are non-political. It is, states Rawls, a pluralist view, as each subpart of this family has its own account based on ideas that are derived from within it, and requires all values to be weighed against each other, individually or in groups, in various types of cases.

In such a model of an overlapping consensus, states Rawls, the religious doctrine and the liberal views espoused by the likes of Mill and Kant are to be seen as being comprehensive and general. The third view, states Rawls, is only partially comprehensive, but claims, with political liberalism, that under the reasonably favourable conditions which make democracy possible, political values should usually trump whatever non-political values conflict with them. The first two views, states Rawls, accord with the third on this matter and so all views lead to, broadly speaking, the same political judgement, and, therefore, overlap on the political conception.

The objection that Rawls anticipates, then, claims that, even if an overlapping consensus could be considered to be stable, the idea of political unity founded on such a consensus must,

nonetheless, be rejected as it would appear to have relinquished all aspiration of achieving a true political community and has, instead, reached a compromise position of a public understanding which is ultimately nothing more than a *modus vivendi*. To this objection Rawls responds that we must, indeed, give up our aspirations for true political community, if by true political community we mean a community which is unified in accordance with one particular comprehensive doctrine. Such a contingency, states Rawls, is precluded by the fact of reasonable pluralism and the rejection of this use of political power to quell other, differing but reasonable comprehensive doctrines. Rawls is at pains to point out, however, that this does not mean that an overlapping consensus is nothing but a mere *modus vivendi* (*Political Liberalism*, pp. 147-150).

An overlapping consensus, states Rawls, can be seen to be quite distinct from a mere *modus vivendi* in a number of important respects (*Political Liberalism*, p. 147). These respect can be clearly discerned by comparing a *modus vivendi* to the model case of an overlapping consensus described above. In the model overlapping consensus the object of the consensus (the political conception of justice) is, itself, an eminently *moral* conception. Furthermore, this overlapping consensus is also affirmed on moral grounds, which is to say that it includes conceptions of society and of citizens as persons, in addition to principles of justice and a description of the political virtues through which such principles are embodied in human character and expressed in public life. An overlapping consensus then is not simply a consensus to defer to certain types of authority or to acquiesce with certain institutions. Those who endorse the political conception derive their grounds for such endorsement from the religious, philosophical and moral resources found in their respective comprehensive doctrines. Therefore, although the motivation for subscribing to such an overlapping consensus may be political, the consensus itself comprises values that can be sincerely subscribed to on eminently moral grounds. The

moral object and moral grounds aspects of the overlapping consensus can be seen to combine with a third aspect, namely the aspect of stability. Therefore, all those who subscribe to the various views that support the political conception should not cease to endorse that conception in the event that their comprehensive moral view should become socially pre-eminent. This feature marks a significant difference between an overlapping consensus as a political conception of justice on the one hand, and a *modus vivendi* on the other, as a *modus vivendi*, states Rawls, would be unlikely to remain stable in a situation in which the balance of power had shifted significantly in the direction of any one particular comprehensive view (*Political Liberalism*, p. 148).

Having looked in some depth at the Rawlsian concepts of reasonable comprehensive doctrines and an overlapping consensus, it is now possible to more fully address the two questions posed previously: to what extent can animal advocacy be seen to constitute a reasonable comprehensive doctrine; and to what extent can the animal advocacy movement hope to exert an influence on the overlapping consensus?

It may well be that many within the animal advocacy movement would purport that some form of animal liberationist or animal rights based philosophical position did indeed constitute what they may consider to be their guiding comprehensive moral doctrine. It is noticeable, however, that many of the leading thinkers in the field of animal advocacy, as described in the first part of this thesis, would not seem to consider their guiding philosophies to be an animal advocacy based philosophy *per se*, but would, rather, want to argue that a significant improvement in the moral status of animals is necessitated if one fully and consistently explicates one of the traditional moral philosophical positions. It will be recalled from chapter one, for example, that

Peter Singer claims that his animal liberationist position is necessarily reached as a result of fully thinking through the implications of a utilitarian position. Likewise, in chapter two, Regan argues that his animal rights view is reached as an inevitable consequence of consistently explicating a theory of moral rights, and Rowlands, in chapter three, puts forward the view that at least one form of contractarianism, again, if thought through consistently, leads to a significant elevation in the moral status of animals.

What the three positions put forward by Singer, Regan and Rowlands all have in common is that they all place far greater emphasis on the moral relevance of the capacity for *sentience* than on the moral relevance of the status of *species membership* than is evident in what might be considered the prevailing, conventional moral thinking regarding human beings' responsibilities toward non-human animals. This is not to say that these writers consider species membership to be an entirely morally *irrelevant* factor, but, rather, that membership of the human species should not be considered to constitute the ethical 'be all and end all' when we engage in our moral deliberations. What writers such as Singer, Regan and Rowlands share is the conviction that there is nothing *qualitatively* special about human beings. There may be certain situations in which the relative cognitive complexity of human beings is, indeed, a morally relevant factor, but this is because it is *cognitive complexity* and not humanity per se that is of moral relevance. Ultimately, all three views assume a Darwinian perspective that sees the differences between species as being differences in *degree* rather than differences in *kind*, and it is this aspect of such animal advocacy theories that is likely to constitute something of a significant stumbling block when attempting to move such theories out of the realm of moral philosophy and into the realm of politics.

Many people in liberal democratic society do, indeed, adhere to the sort of human exceptionalism that writers such as Singer, Regan and Rowlands categorically reject. For some, this adherence to human exceptionalism is an express part of their religious belief system, as it may be for the more literalist or ‘creationist’ interpretation of Christianity or Islam. For others, although their notions of the special status of human beings may not result from their adherence to any particular religious belief system, it is often, nonetheless, a very deeply held moral conviction, and any idea that those human beings who are significantly cognitively impaired should be considered more akin to non-human animals than they are to normally functioning humans can often provoke anger and disgust.

Such ideas of human exceptionalism, so long as they form a part of what might be viewed as a reasonable comprehensive doctrine (as they can be seen to in the ‘humanistic’ Judeo-Christian-Islamic religions or, in the ‘partially comprehensive doctrines’ of those that do not subscribe to any specific moral or religious position, but who, nonetheless, still strongly adhere to an idea of the ‘sanctity’ of human beings) will need to be factored in when we are attempting to construct a political conception of justice. As such, then, it is highly unlikely that many people are likely to prove amenable to the idea of making the sort of substantive animal rights or animal liberationist positions advocated by the likes of Singer, Regan and Rowlands a part of any proposed overlapping consensus. On the contrary, given how engrained the notion of human exceptionalism is in the psyche of most human beings, whether as a result of a religious belief system or not, it is very likely that most people would be keen to ensure that the idea of human exceptionalism did, indeed, form a very important part of any proposed overlapping consensus. If this were to prove to be the case, then, there is logically no way in which substantive animal advocacy theories such as those propagated by the likes of Singer, Regan and Rowlands could hope to have any significant impact on the political sphere, as they all

ultimately rest on ideas that are too contentious and controversial to form a locus of wide-scale social agreement. Indeed, such views can be seen, in Rawlsian terms, to very much constitute comprehensive moral doctrines which, although perfectly reasonable when adhered to as personal moral theories, could not, in the sort of politically liberal society envisaged by Rawls, be imposed upon those who subscribe to different reasonable comprehensive doctrines that *do* base themselves around the idea of human exceptionalism. This, of course, is not to say that those who adhere to substantive theories of animal advocacy cannot evangelise and proselytise and attempt to peaceably convert others to their way of thinking (as can any adherents of any reasonable comprehensive doctrine), but merely to say that they would have no principled basis for attempting to foist this view on others were they ever (in circumstances that, it has to be said, it is fairly difficult to imagine) to find themselves with the power of the state at their disposal.

If it is doubtful, then, that a substantive animal rights or animal liberationist ethic is likely to form an acceptable component of an overlapping consensus this leaves us with the question of just what, if any, measures could be introduced in a society such as that which Rawls envisages in *Political Liberalism* to make the treatment of animals by humans a more morally, and more specifically, a more *politically* relevant matter. Would some form of animal welfarist strategy be likely to fare better as an idea that might be considered an issue of basic justice? Animal welfarism, it will be recalled, holds that it is morally acceptable for human beings to make use of non-human animals, just so long as they do so in a humane and responsible manner. Perhaps the key concept of animal welfarism is the idea of ‘unnecessary pain and suffering’, which animal welfarism sets itself the task of eradicating. Indeed, many major animal advocacy organisations such as PETA (People for the Ethical Treatment of Animals) propose such a welfarist position, both as a way of improving the lives of non-human animals in the here and

now, as well as constituting a stepping stone to a society in which a more substantive animal liberationist ethic may be observed.

It needs to be stated, however, that there are those in the field of animal advocacy who reject the idea that animal welfarism offers a means of either improving the lives of non-human animals at the present time, or that it constitutes an effective means of working towards a genuine animal liberationist ethic. The debate between those that subscribe to an animal welfarist position that advocates greater regulation of animal use, and those who reject this welfarist/regulationist position in favour of a more stringent ‘abolitionist’ position is perhaps most extensively set out in the debate between Gary Francione (who adopts the abolitionist stance) and Robert Garner (who advocates the welfarist/regulationist position). As this is such a key debate in the field of animal ethics, it is perhaps worth addressing in some depth.

Abolition or Regulation

In their 2010 book, *The Animal Rights Debate*, Francione and Garner engage in an extensive debate that constitutes something of a major schism within the field of animal ethics – namely the question of whether those who are concerned about the well-being of non-human animals should adopt what might be termed a ‘fundamentalist’ approach that accepts no compromises in its goal of realising a substantive animal liberationist ethic; or whether a position that seeks incremental improvements in the lives of non-human animals through increased regulation that

improves the treatment of animals is a more efficacious means of ultimately achieving a more substantive animal liberationist agenda.

The Abolitionist Position

For Francione, welfarist measures are both morally unacceptable and strategically ineffective. To adopt a welfarist mind-set, maintains Francione, is to perpetuate the notion that the lives of non-human animals are worth less than those of human beings, and that non-human animals are merely to be viewed as the property of human beings, rather than as inherently valuable beings in their own right. Furthermore, according to Francione, increased animal welfare regulation, and the certificates that certain animal welfare organisations award to the producers of meat and animal products that are deemed by the organisation as having met certain standards of humane and responsible production, can actually prove detrimental to the well-being of non-human animals, by leading those who are concerned with animal well-being away from the path of genuine animal liberationist measures by convincing them that there is such a thing as ethically produced meat and animal products – an idea which Francione, of course, vehemently rejects (Francione and Garner 2010, pp. 51-56). Francione criticises the major animal advocacy organisations for being complicit in the continued exploitation of non-human animals. Even organisations such as PETA, that purport to be ultimately pursuing genuine liberationist goals through welfarist measures, are actually, charges Francione, more concerned with fundraising than they are with animal emancipation (p. 74). This leads the organisation to put far more emphasis on the welfarist and regulationist aspects of its agenda, and to play down the more radical liberationist aspects for fear that it will alienate their more conservative donors.

For Francione, then, anything short of an abolitionist campaign that demands ethical veganism as a moral baseline, and engages in educational programs aimed at such vegan/abolitionist views, (rather than campaigning to improve the treatment of non-human animals), will merely result in the perpetuation of the exploitative mind-set that has hitherto characterised the relationship between humans and non-human animals (Francione and Garner 2010, pp. 84-85), and as long as such a mind-set persists, claims Francione, no substantive improvements in the lives of non-human animals are likely to be effected.

The Regulationist Position

Against Francione's abolitionist position, Garner claims that adopting and propagating a suitably robust animal welfarist position (or 'animal protectionist position', as he prefers to term it) is the best way of hoping to improve the lives of non-human animals, at least to some degree, in the here and now. Furthermore, contends Garner, adopting such a welfarist or protectionist approach does not preclude the possibility of a more substantive improvement in the moral status of non-human animals from being realised at some point in the future. Garner has worked his animal protectionist position up into what he has termed a *Theory of Justice for Animals* (2012). Such an approach, according to Garner, facilitates the shift in animal advocacy out of the realm of moral philosophy and more squarely into the political arena. To this end, Garner proposes two models of animal rights, which he refers to as the *sentience position* and the *enhanced sentience position* respectively.

The sentience position, states Garner (2013, pp. 123-124), holds that certain non-human animals (those that are deemed to be sentient) can be uncontroversially considered to have an interest in not being subjected to suffering, as, of course, do human beings. If, then, contends

Garner we consider humans to have a right not to suffer that is founded on their interest in not suffering, then it would be morally arbitrary (and, indeed, logically inconsistent) to deny such a right not to be subjected to suffering to sentient non-human beings. The sentience position, then, does not advance the idea that sentient non-human animals have a right to life, and does not morally rule out the use of non-human animals by human beings. Rather, what the sentience position does entail is the cessation of any procedures that inflict any significant degree of suffering on those animals in the pursuit of human ends. This position can be seen to be importantly different from the more traditional animal welfare ethic, in that animal welfarism holds that it is morally acceptable to subject non-human animals to various procedures that may cause those animals to suffer, so long as the gains to human are considered to be significant, whereas only those procedures that may cause animals to suffer and result in only trivial benefits to humans are disallowed. The sentience position, claims Garner, takes a significantly stronger line and maintains that animals are not to be subjected to procedures that may cause them significant degrees of suffering, whatever benefits to humans may accrue as a result of those procedures.

The enhanced sentience position, as the name suggests, adopts a stronger line than the sentience position, and asserts that certain non-human animals not only have a right not to be subjected to suffering, but that they also have a right to continued life (Garner 2010, pp. 133-134). This right to life, suggests Garner, is not equivalent to the corresponding right to life of human beings as a result of non-human animals relative lack of cognitive sophistication. Nonetheless, the enhanced sentience position imposes far tighter strictures on the treatment of non-human animals by humans than those imposed by the sentience position. In fact, it would only be in the sort of lifeboat cases described by Regan (2004, pp. 351-353), where there is a fairly clear cut decision to be made about whether to save the life of a human on the one hand, or a non-

human animal on the other, that we would be morally obliged to favour the human. The enhanced sentience position would rule out the eating of meat, even if that meat had come from animals that had been well cared for and slaughtered as humanly as possible, unless it was a matter of life or death for humans to eat that meat. Similarly only scientific and medical research that can be clearly demonstrated to offer life-saving benefits to human beings would be allowed under the enhanced sentience position. Furthermore, such scientific and medical procedures would not be allowed to cause suffering to the non-human animal subjects, as they are to be considered to have a right not to have their interests in not suffering violated in the pursuit of human interests of any kind.

The relationship between Garner's sentience position and enhanced sentience positions, then, should be fairly apparent: the sentience position is a position that could, feasibly, be implemented into political policy in the here and now (or, at least, at some point in the not too distant future) without requiring any seismic social shifts and causing any great degree of upheaval. The sentience position does not (arguably, at least) preclude the production of meat or other animal-derived food products, nor does it disallow the use of animals in scientific or medical research, so long as the animals that are subjected to the various procedures necessary to achieve such ends are not caused to experience any significant degree of suffering. The enhanced sentience position, on the other hand, makes significantly greater demands on humans and, as such, would not be deemed acceptable by most members of society, who would likely shun any political party that proposed such measures. The enhanced sentience position is, then, more of a long-term goal that will perhaps, in the fullness of time, become increasingly acceptable to a general public that has gradually become accustomed to living in a society that operates in accordance with the requirements of the sentience position. It is worth noting that even the enhanced sentience position would not be likely to meet with the assent of those who

adhere to the sort of abolitionist (or, as Garner terms it, ‘species egalitarian’) position advanced by Francione, as, despite its morally demanding nature, the enhanced sentience position still holds the view that human life is to be considered inherently more valuable than animal life, and that under certain (albeit, perhaps, exceptional circumstances), human beings have the right to sacrifice the lives of non-human animals if it is in order to meet genuinely essential human requirements.

Of the two broad approaches exemplified by Garner and Francione, then – a gradual, regulative approach aimed at increasing levels of animal welfare on the one hand, versus an uncompromising abolitionist position that accepts no compromises in its pursuit of complete animal emancipation on the other, it would seem likely that it is Garner’s incremental, protectionist strategy that would be more amenable to the general public, and therefore possibly have some degree of political impact. Francione’s abolitionist position, on the other hand, is extremely unlikely to prove acceptable to the majority of people and therefore, in a democratic society, is unlikely to have any influence on political policy. A position as entirely unyielding as Francione’s would, in fact, seem to be inherently *apolitical*, as it does not appear to exhibit any tolerance for the sort of give and take that is largely definitive of the political process in a democratic society.

Animal Welfare and Basic Justice

Even if an approach such as Garner’s reform-based position or some similar welfarist approach could have some impact on political policy, however, this does not mean that such an idea could be considered to be constitutionally essential, or a matter of basic justice as would be

agreed upon in a process of Rawlsian public reason aimed at establishing an overlapping consensus. In fact, Rawls himself seems to specifically refute this possibility stating:

...the status of the natural world and our proper relation to it is not a constitutional essential or a basic question of justice, as these questions have been specified. It is a matter in regard to which citizens can vote their non-political values and try to convince other citizens accordingly (*Political Liberalism*, p. 246).

Assuming that Rawls would include our relation to non-human animals as constituting an element in our relation to the 'natural world', then, this would seem to suggest that even the relatively modest goals of animal welfarism cannot find a place amongst the constitutionally essential elements that comprise Rawlsian basic justice. Any political changes that the animal advocacy movement can hope to make, Rawls seems to suggest, must come from the various animal advocacy groups attempting to win enough converts that politicians start to take notice and implement legislative change. It might be suggested that the remit of public reason should be expanded to cover issues other than basic justice and encompass a range of other issues, including such matters as animal advocacy. However, the problem with this approach is that the more the focus of public reason is expanded out from matters of basic justice, the more difficult it becomes for citizens to resist the pull of their respective comprehensive doctrines, which is likely to lead to an increasing degree of social tension as the sphere of public reason is increasingly inflated to incorporate an ever growing number of social issues.

Conclusion

As can be seen from the chapters that constitute the second half of this thesis, then, recent attempts to address the issue of animal advocacy in more specifically *political* (as opposed to moral) terms all tend to run into the same problem: in a liberal, pluralistic and democratic society any genuinely ‘political’ idea (that is to say, any idea that is to stand any chance of having an impact on government policy) has to be ‘sellable’ to a significant proportion of the electorate. As such, and given prevailing public attitudes regarding the status of non-human animals, it is highly unlikely that any political party that were to espouse the sort of hard line, abolitionist animal rights position advocated by the likes of Francione (as described in the previous chapter) would ever find itself in a position whereby it would be able to exercise the power of the state, and therefore be able to put its theories into practice. As such, it is questionable to what extent such theories could really be said to be *political* in any meaningful sense of the term.

As was described in chapter six, Kymlicka and Donaldson avoid this issue by describing a society which has (somehow) been convinced to subscribe to a substantive animals rights view, and then proceed to apply their ‘political’ approach as a means of deciding what should now be done with all of the animals that human beings have spontaneously and inexplicably decided that they are going to stop eating and experimenting on. This can hardly be considered to truly constitute a genuine ‘political’ theory, however, as any theory that wants to be viewed in such terms would surely need to describe how such a revolution could be brought about, rather than merely describing how a post-revolutionary society would be administrated. Similarly Nussbaum, having constructed her capabilities approach (as described in chapter five) initially

as a theory of justice for humans, assumes that society can be somehow convinced to accept the extension of the theory to non-human animals, whereas the likelihood is that many people would actually be extremely reluctant to accept the sort of strictures and lifestyle changes that such a theoretical extension would necessitate.

Garner's approach (described in the previous chapter), with its strong and weak forms of justice for animals would seem to offer significantly more hope of constituting a more genuinely 'political' position. The strong version of Garner's theory (the enhanced sentience position) may not, for the time being at least, be politically viable for the reasons stated above, but the weaker form of his theory (the sentience position) would seem to constitute the sort of view that a substantial proportion of the electorate could feasibly be persuaded to adopt. However, given that such a view would allow the continued use of animals both as sources of food and as subjects for scientific experimentation (as long as the animals were not subjected to significant degrees of suffering in the process), the extent to which this position could be meaningfully considered to constitute a form of *justice* for animals (as opposed to simply being a form of animal welfarism) is debatable. Nevertheless, it is such a position, whether it be considered a weak form of animal justice on the one hand, or a bolstered form of animal welfarism on the other, which is probably most likely to gain the assent of a substantial proportion of the general public at this particular point in time. A further factor that may prove to have an influence on the thinking of many people when addressing the issue of the utilisation of non-human animals by human beings is the wider environmental impacts of that utilisation – in particular the environmental impacts that are associated with the meat industry.

There follows, then, a look at the extent to which a sense of humane concern for animal welfare (albeit a humane concern that generally falls short of convincing people to adopt a substantive animal liberationist ethic) and enlightened self-interest regarding the environmental issues associated with the human use of non-human animals can, perhaps, expand the concept of animal advocacy in a way that is politically viable. The resulting area of agreement on how humans should treat non-human animals, constituting as it would an area of shared, social morality could, then, be considered to constitute a form of justice for animals, albeit to a somewhat limited extent.

Animal Welfare

Many, perhaps most, people would probably subscribe to the proposal that animals should not be subjected to *unnecessary* pain and suffering. This, however, constitutes something of a formal principle as much hinges on just what one considers the term ‘unnecessary’ to actually denote. As has been described during the course of this thesis, those who follow a vegetarian or vegan diet on ethical grounds hold that, as we do not, in their opinion, actually need to eat meat or animal products in order to survive, than any suffering that is caused to animals as a result of this industry is unnecessary and, therefore, illegitimate. Furthermore critics of animal-based scientific experimentation would also reject the assertion that any harm caused to animals as a result of such a practice could rightfully be deemed to be necessary. What the term ‘unnecessary’ is generally taken to mean, within the context of animal welfare ethics, however, is that animals should be subjected to the minimum amount of pain and suffering that is compatible with their still being utilised as resources for human beings. This generally entails the view that animals may be raised for both their meat and other animal derived food products,

and that animals may also be used in scientific experiments, at least in those cases where the aim of such experiments is to attempt to find cures for serious human maladies.

As was described in chapter seven, the slaughter of animals by the various sectors of the meat industry remains a contentious issue. Arguably, the captive bolt method of pre-slaughter stunning described in that chapter would seem to be about as humane as slaughter can possibly get, *if* correct procedures such as those laid out by the RSPCA that are referred to in the chapter are observed. The use of electricity to stun animals, it will also be recalled from the same chapter, has generated a significant degree of concern from certain quarters as regards both how effective and how ethical it can really be considered as a method of stunning animals, and it is, therefore, necessary that this method of stunning be thoroughly and scientifically scrutinised. Poultry slaughter is a particularly morally problematic area, with the highly automated ‘conveyer belt’ system described in chapter seven clearly being responsible for an amount of animal suffering that would surely be considered unacceptable to anyone with even the vaguest interest in the welfare of animals. Recent development to replace such slaughter methods with ‘controlled atmosphere stunning (CAS) and controlled atmosphere killing (CAK) methods have been welcomed in some quarters, although others have raised ethical concerns about such methods (see Garner pp. 30-31). It may be that unacceptable levels of suffering are an inevitable aspect of any sort of highly-automated process of slaughter as that to which poultry are subjected, and it may well be the case that in order for such meat to have any hope of being produced ethically, such methods will have to be abandoned in favour of less intensive and mechanised methods. This will probably result in an increase in the price of chicken and turkey meat, but it is not beyond the realms of possibility that people could be persuaded to accept some increase in the price of such meat in the name of increased animal welfare, in

much the way that many people have been persuaded to buy more expensive free-range eggs out of concern for animals.

Two relatively recent developments that may be considered to be relevant both from the perspective of animal welfare, and with reference to the environmental impacts of animal agriculture are the use of insects as a source of food for humans; and the development of so-called 'in-vitro' meat. There are some people, perhaps, who may experience ethical qualms about eating mammals and birds, but would not experience the same level of ethical dilemma regarding the consumption of insects (assuming, of course, that they were not put off by any cultural or aesthetic qualms that may beset the notion of eating insects in societies in which this is not traditional). Certainly, the concerns that are often expressed about intensive farming conditions in which animals are kept in extremely crowded and confined conditions would not seem to apply to insects in quite the same way, as many of these creatures live in such conditions in the wild. Furthermore, the extent to which insects are able to experience pain is a far cloudier matter than it is in the case of mammals and other animals that are currently eaten by humans. A relative lack of evidence to support the idea of insect sentience, of course, does not constitute proof that such creatures don't feel pain. The method of slaughter generally used for insects that are intended for human consumption in the small but growing human market is freezing, and many people may be concerned that this could be the cause of an unacceptable level of suffering if it were to transpire that insects are indeed sentient (DeGoede et al. 2013). Indeed, if insects were to prove to be sentient then, from a utilitarian position at any rate, the increased use of insects as a source of food would, if anything, seem to constitute something of a significant moral step backwards, as it would take a significant number of meal-worms, locusts or crickets to provide the amount of meat that can be derived from one cow. On the environmental front, however, the advantages of insect consumption are far more apparent, as

raising such creatures for human consumption is far more efficient and causes far less pollution than is associated with the raising of more traditional farm animals (Glausiusz, 2008).

Artificially produced meat has never been a part of an actual living animal, and so considerations regarding the ethics of rearing and slaughtering animals for food do not arise in this case. The technology to produce such meat is still at a relatively early stage, and meat produced by such a method is still far too expensive for mainstream human consumption at the moment. Technology, however, tends to move forward at a fairly rapid pace in the modern world, particularly when driven by a sense of necessity such as the current environmental concerns that have largely been responsible for the development of this technology. It may well be the case, then, that such lab-grown meat could be widely available and affordable within the course of a decade or so. Furthermore, research into artificially produced meat would seem to suggest that the production of such meat has a significantly lower impact on the environment (see below) than meat produced in the traditional manner (Tuomisto and Joost Teixeira de Mattos 2011).

Environmental Factors

The environmental concerns that surround the area of meat production largely focus on the issues of pollution and climate change. Large scale, intensive animal agricultural system such as the so-called ‘concentrated animal feeding operations’ (CAFOs) that are commonplace in America, have been blamed for causing significant levels of localised pollution. As Gruen (2011, pp. 87-89) describes, as the numbers of animals that are raised in such circumstances increases, the amount of animal waste increases accordingly. The huge amounts of waste that is produced by such operations is generally liquefied and either stored beneath the buildings in

which the animals are housed, or is sent to open-pit 'lagoons' that are located nearby. This waste releases high levels of ammonia and hydrogen sulphide which pollute the air. Gruen cites research by the Environmental Integrity Project in 2008, which found that chicken producers in the top ten chicken producing states in the US released around 481 million pounds of ammonia in 2007, which is an amount eight times higher than the combined total reported by industrial sources.

In addition to the air pollution caused by CAFOs, states Gruen, water pollution is a problem which is also associated with such systems. At one time manure would have been used to fertilise the land, but because of the huge amount of waste produced by intensive agricultural operations much land has now become saturated. Gruen describes the case of Chesapeake Bay, where poultry manure is the greatest source of phosphorus and nitrogen reaching the Chesapeake from the lower Eastern Shore. An excess of these two nutrients is a cause of excessive algae growth, and when these algae die the resultant decomposition consumes oxygen which results in the death of large numbers of fish and other aquatic life forms. Well water is also polluted states Gruen, citing a study by the US geological survey which found that around a third of all of the wells in the Chesapeake Bay area exceeded US Environmental Protection Agency safety standards for levels of nitrate in drinking water as a result of chicken waste seeping into the ground water.

Singer and Mason (2006) describing a visit they made with Alan Kolok, a biologist studying the impact of feedlots on the streams that feed into the Elkhorn River, to a 5000 capacity cattle feedlot in Nebraska write (p. 64):

Alan showed us how the feedlot we were looking at had been built right down to the edge of the north fork of Fisher Creek. A holding lagoon built to catch the feedlot runoff, filled with unpleasant-looking brown water, was separated from the creek by an earth embankment. Alan explained that in heavy rain, it was likely that polluted water would run off from the feedlot into the creek, or could seep through the embankment into the creek. We drove on and came to another feedlot on sloping land not far from the Elkhorn River. Here Alan has found local fish, fathead minnows, showing signs of altered sexual features. As compared with fish captured near a wildlife refuge where there are no feedlots, the male minnows had less pronounced masculine features and females have less pronounced feminine features. This phenomenon is known as “endocrine disruption.” If fathead minnows are altered, the same could happen to fish used for recreational fishing, like bass and catfish, and the Nebraska Department of Game and Parks is concerned about the problem. Alan and his colleagues have published studies hypothesizing that the most likely explanation is the steroids implanted in the feedlot cattle. The cattle excrete them, and when it rains they wash off into the rivers, where they have a half-life of 6 to 12 months.

Singer and Mason also describe the environmental problems that have been linked to so-called ‘mega-piggeries’ that have come to dominate the American pork industry in recent years (pp. 43-44). An adult pig, states Singer and Mason, produces somewhere in the region of four times as much faeces as a human, and so a large pig CAFO of around fifty thousand pigs, can create as much as half a million pounds of waste every day. Singer and Mason describe an incident that occurred in North Carolina in 1995 when an eight-acre pig waste lagoon burst, resulting in the release of 25 million gallons of liquidised pig waste into the New River, killing vast numbers of fish and polluting the river for miles downstream. On a more general level, large scale pig farms have been linked to a variety of human health disorders to the extent that in 2003 the American Public Health Association, the largest body of public health professionals in the US, passed a resolution to try to persuade the government to impose a moratorium on the development of factory farms.

Several aspects of the current meat production system have been linked with climate change. One such aspect is the extensive deforestation that results from the clearance of areas of forest, either for the grazing of animals that are intended for human consumption, or for the growing of large quantities of crops such as soya beans and corn that are intended as animal feed for animals which, in turn, are intended for human consumption. Such deforestation represents something of a climate change vicious circle, as the large amount of CO₂ that is stored in the trees is released into the atmosphere when the trees are first cut-down, and, of course, there are significantly fewer extant trees on the Earth to regulate atmospheric CO₂. Another aspect of animal agriculture that has been linked to climate change is the large amount of methane that is created as a result of cow flatulence. This is particularly problematic as methane is a gas that is far more potent than CO₂. It is perhaps notable that this is a problem that is more associated with what might be termed ‘extensive’ rather than intensive beef production, as cows that graze in fields produce far greater levels of methane as a result of the digestive processes involved in a grass-based diet, than those cows that are raised in feedlots and feed on a diet that consists largely of corn. There is an extent, then, to which the environmental concerns regarding the various methods of animal agriculture can be seen to pull in different directions, with intensive systems being responsible for localised pollution and water contamination, and more extensive, grazing-bases systems having a greater negative impact on climate change (BBC 2014).

Concern has also been raised about the use of antibiotics that intensive animal agriculture operations depend upon in order to keep in check any diseases that would be likely to spread rampantly among animals that are kept in such high numbers in such confined conditions. An article in the Guardian (2013) describes how the increasing use of some of the most powerful antibiotics known to medicine has led to concerns being raised in certain sections of the scientific community about the possibility of anti-biotic resistant strains of bacteria escaping and

infecting human beings. The article quotes molecular geneticist Christopher Thomas as saying ‘There is a lot of worry about whether we should be using the same antibiotics on a farm as we do in [human] clinics, as the resistance developed on farms could spread to humans. However good your hygiene [on farms], it is inevitable that resistant bacteria bred on the farm will get into humans.’ Thomas goes on to list some of the ways in which such antibiotic resistant bacteria could be spread from animals to humans, such as by those people who work with such animals spreading it to their families; by run-off water from the farm, and by meat from infected animals getting into the food chain. With respect to government guidelines on avoiding the routine use of such antibiotics, Thomas goes on to say: ‘There is a fine line where you have lots of animals together. For instance, in an intensive chicken rearing facility if you get one or two animals that get an infection, it’s quite common for vets to decide they need to treat all the chickens in the facility just in case it has already spread to others that are not noticeably sick.’

The most practical solution to this situation, if we assume that society as whole cannot be convinced to adopt a vegetarian or vegan diet, would seem to be that humans at least eat significantly less meat than they do at present. Such a cultural shift would help to reduce the incentive towards ever more intensive methods of producing ever more and cheaper meat to supply an ever expanding market. Less intensive animal rearing methods would have a beneficial impact on animal welfare (at least in comparison to the current situation) and would most likely result in less need for the use of antibiotics which, in turn, would probably have a beneficial impact on human health. As a result of a de-intensification of the animal agricultural industry, it is likely that there would be a significant increase in the cost of meat, but it is not unreasonable to assume that people would be willing to incur this extra expense, if not on altruistic grounds, then at least out of a sense of enlightened self-interest. The negative impact on climate change that results from deforestation in South America as a result of the wide-scale

ground clearance that is necessary in order to grow huge amounts of crops to feed to animals destined to become hamburgers, is felt by people all over the world. Furthermore, meat-eaters are particularly susceptible to ‘super-bacteria’ that may develop from the use of antibiotics necessitated by the modern, intensive methods of animal agriculture.

Reason and Emotion in Ethical Deliberation

It is something of a commonplace within the realm of moral philosophy that rational deliberation alone constitutes an insufficient motivation for ethical conduct (often encapsulated in the phrase ‘you can’t get an ought from an is’). This is something that is, in fact, well recognised by those moral philosophers working in the field of animal advocacy. As will be recalled from the critique of the ethic of care approach to animal advocacy at the end of chapter three of this thesis, philosophers such as Singer and Regan proffer their rationalist arguments, not as a substitute for sentimental appeals, but, rather, as an *accompaniment* to such emotionally charged approaches. It is in order to head off accusations that animal advocates are driven *purely* by emotional concerns (and are, therefore, supposedly inherently irrational), that writers such as Singer and Regan have endeavoured to show that animal liberationist goals can be supported by rational argument. Indeed, Singer in particular, in his more popularly oriented writing, is not above employing language (and, indeed, photographs) that are clearly intended to provoke a visceral rather than rational response, well aware that the recounting of such ‘sad and sentimental stories (to borrow a term that Rorty employs in discussing human rights – 1993, p. 119) are at least as likely (and probably significantly *more* likely) to have an impact on people’s thoughts and actions as are philosophical appeals to reason and rationalism.

This, however, raises a problem. There are, in fact, no shortage of sad and sentimental stories regarding the plight of non-human animals in contemporary, Western societies. Popular culture is replete with sentimental tales of anthropomorphised animals that are aimed at children, yet this emotional bombardment of impressionable young psyches does not, for the most part, lead to a society of adults who are willing to see a substantive animal liberationist ethic, with its requirements of vegetarianism and complete cessation of animal experimentation, become enshrined into society's core values. This, then, would seem to highlight another quandary of moral philosophy: not only can you not get an 'ought' from an 'is', but it can also prove quite difficult to get a 'do' from an 'ought'. As much as sentiment can impact people's conduct, self-interest can often prove to be an even stronger motivating force. There are many people who, although not entirely comfortable with animal agriculture or experimentation, are, nonetheless, unwilling to relinquish their meat eating habits, or to forgo the possibility of discovering cures to serious diseases. In order to have any hope of having a real impact on the political policy of a democratic society, then, animal advocates will need to be realistic about what can be achieved – which will inevitably mean a focus on reform rather than revolution. Appeals to either reason or emotion, or some combination of both, may well convince many people to buy free range meat and non-animal tested household products, but are unlikely to persuade many people to accept the privations that would entail from signing up to a substantive animal liberationist ethic. At some point in the future, when technological development has rendered current animal husbandry and animal experimentation techniques obsolete, so that animals no longer need to be exploited in order for humans to have meat and medicine, then people may be convinced to abandon their old ways. However, at such a juncture animal liberationism may well itself have become obsolete, as businesses and research establishments adopt the new methods for reasons of expediency and efficiency, rather than out of any ethical concerns.

Bibliography and References

Adams, C. J. 2004. The sexual politics of meat. In: Sapontzis, S. ed. *Food for thought*. New York: Prometheus, pp. 248-260.

Barnard, N. and Kieswar, K. 2004. Vegetarianism: the healthy alternative. In: Sapontzis, S. ed. *Food for thought*. New York: Prometheus, pp. 46-56.

BBC, 2009. Islam and animals. Available at: http://www.bbc.co.uk/religion/religions/islam/islamethics/animals_1.shtml

BBC, 2010 Chimps feel death like humans. Available at: <http://news.bbc.co.uk/1/hi/sci/tech/8645283.stm>

BBC, 2014 Should I eat meat. *Horizon*. BBC2. First broadcast 18 August.

British Humanist Association, 2014. Animal welfare. Available at : <https://humanism.org.uk/campaigns/public-ethical-issues/animal-welfare/>

Carruthers, P. 1992. *The animals issue*. Cambridge: Cambridge University Press.

Casal, P. 2003. Is multiculturalism bad for animals? *The Journal of Political Philosophy* 11(1), pp. 1-22.

Comstock, G. 2004. Subsistence hunting. In: Sapontzis, S. ed. *Food for thought*. New York: Prometheus Books, pp. 359-370.

Cushman, F. , Young, L. , and Hauser, M. 2006. The role of conscious reasoning and intuition in moral judgement. *Psychological Science* 17(12), pp. 1082-1089.

Davis, S.L. 2003. The least harm principle may require that humans consume a diet containing large herbivores, not a vegan diet. *Journal of Agricultural and Environmental Ethics* 16, pp. 387-394.

DeGoede, D. M.; Erens, J.; Kapsomenou, E.; Peters, M. 2013. Large scale insect rearing and animal welfare. In Röcklinsberg, H. and Sandin. eds. *The ethics of consumption: the citizen the market and the law*. Wageningen: Wageningen Academic Publishers, pp. 236-242.

DeGrazia, D. 1996. *Taking animals seriously*. Cambridge: Cambridge University Press.

Dombrowski, D.A. 1984. Vegetarianism and the argument form marginal cases in Porphyry. *Journal of the History of Ideas* 45(1), pp. 141-143.

Donaldson, S. and Kymlicka, W. 2011. *Zoopolis*. Oxford: Oxford University Press.

Donovan, J and Adams, C. J. 1996. eds. *Beyond animal rights*. New York: Continuum.

Donovan, J. 1996. Attention to suffering: sympathy as a basis for ethical treatment of animals. In Donovan, J. and Adams, C. J. eds. *Beyond animal rights*. New York: Continuum. pp. 147-169.

Fieldhouse, H. 2004. The failure of the Kantian theory of indirect duties to animals. *Animal Liberation Philosophy and Policy Journal*. 2(2), pp. 1-9.

Foltz, R. 2004. Is vegetarianism un-Islamic? In: Sapontzis, S. ed. *Food for thought*: New York: Prometheus Books, pp. 209-222.

Francione, G. F., and Garner, R. 2010. *The animal rights debate*. New York: Columbia University Press.

Frey R.G. 2004. Utilitarianism and moral vegetarianism again: Protest or effectiveness? In: Sapontzis, S.F. ed. *Food for thought*. New York: Prometheus Books, pp. 118-123.

Fricker, M. 1995. Intuition and reason. *The Philosophical Quarterly* 45(179), pp. 181-189.

Garner, R. 2003. Animals, politics and justice: Rawlsian liberalism and the plight of non-humans. *Environmental Politics*. 12(2), pp. 3-22.

Garner, R. 2013. *A theory of justice for animals*. Oxford: Oxford University Press.

George, K. P. 2004. A paradox of ethical vegetarianism: unfairness to women and children. In: Sapontzis, S. ed. *Food for thought*. New York: Prometheus, pp. 261-271.

Gilligan, C. 1982. *In a different voice*. Cambridge: Harvard University Press.

Glausiusz, J. 2008. Want to help the environment? Eat insects. Available at: <http://discovermagazine.com/2008/may/07-want-to-help-the-environment-eat-insects>

Gray, J. 1986. *Liberalism*. Milton Keynes: Open University Press.

Gruen, L. 2011. *Ethics and animals*. Cambridge: Cambridge University Press.

Gruzalski, B. 2004. Why it's wrong to eat animals raised and slaughtered for food. In Sapontzis, S.F. ed. *Food for thought*. New York: Prometheus Books, pp. 124-137.

The Guardian 2013. *Is the rise in antibiotic use on farms a threat to humans?* 11 June. Available at: <http://www.theguardian.com/society/2013/jun/11/is-rise-farm-antibiotic-use-threat-humans>

Haidt, J. 2007. The new synthesis in moral psychology. *Science* 316, pp. 998-1002.

Haidt, J. and Graham, J. 2006. When morality opposes justice: conservatives have moral intuitions that liberals may not recognize. Second draft of invited submission to special issue of *Social Justice Research*.

Haidt, J. and Joseph, C. 2004. Intuitive ethics: how innately prepared intuitions generate culturally variable virtues. *Dædalus*, Fall, pp. 55-66.

Hillman, H. 2010. There will be blood. Available at: <http://rationalist.org.uk/articles/2382/there-will-be-blood>

Horta, O. 2013. Zoopolis, intervention and the state of nature. *Law Ethics and Philosophy* 1, pp. 113-125.

Joy, M. 2005. Humanistic psychology and animal rights: reconsidering the boundaries of the humanistic ethic. *Journal of Humanistic Psychology*. 45(106), pp. 106-130.

Kalechofsky, R. 2004. The Jewish diet and vegetarianism. In: Sapontzis, S. ed. *Food for thought*. New York: Prometheus Books, pp. 168-176.

Kalof L. and Fitzgerald A. 2007. eds. *The animals reader*. Oxford: Berg.

Kheel, M. 1996. The liberation of nature: a circular affair. In: Donovan J. and Adam, C. J. eds. *Beyond animal rights*. New York: Continuum, pp. 18-33.

Kymlicka, W. 1993. The social contract tradition. In: Singer, P. ed. *A companion to ethics*. Oxford: Blackwell, pp 186-196.

Kymlicka, W. 1995. *Multicultural Citizenship*. Oxford: Clarendon Press.

Luke, B. 1996. Justice, caring and animal liberation. In: Donovan J. and Adams, C. J. eds. *Beyond animal rights*. New York: Continuum, pp. 77-102.

Matheny, G. 2003. Least harm: A defence of vegetarianism from Steven Davis's omnivorous proposal. *Journal of Agricultural and Environmental Ethics* 16, pp. 505-511.

Matheny, G. and Chan, K.M.A., 2005. Human diets and animal welfare: the illogic of the larder. *Journal of Agricultural and environmental ethics* 18, pp. 579-594.

Muslim Council of Britain 2014. Halal meat in the UK. Available at <http://www.mcb.org.uk/halal-meat-in-the-uk/>

National Secular Society, 2014. *Religious slaughter of animals*. Available at: <http://www.secularism.org.uk/religious-slaughter-of-animals.html>

Noddings, N. 1984. *Caring*. Berkley: University of California Press.

Nussbaum, M. C. 2006. *Frontiers of justice*. Cambridge: Belknap Harvard.

Pojman L. P. 1994. *Environmental ethics*. Boston: Jones and Bartlett.

Rawls, J. 1999. *A Theory of justice*. 2nd ed. Cambridge: Belknap Harvard.

Rawls, J. 2005. *Political liberalism*. 2nd ed. New York: Columbia University Press.

Regan, T. 1980. Utilitarianism, vegetarianism and animal rights. *Philosophy and Public Affairs* 9(4), pp. 305-324.

Regan, T. 1985. The case for animal rights. In: Singer, P. ed. *In defense of animals*. Oxford: Blackwell. pp. 13-26.

Regan, T. 2004. *The case for animal rights*. 2nd ed. Berkeley: University of California Press.

Rorty, R. 1993. Human rights, rationality, and sentimentality. In Shute, S. and Hurley, S. eds. *On human rights*. New York: Basic Books, pp. 111-134.

Rowlands, M. 1997. Contractarianism and animals rights. *Journal of Allied Philosophy*. 14(3), pp. 235-247.

Rowlands, M. 2009. *Animal rights*. 2nd ed. Basingstoke: Palgrave Macmillan.

RSPCA, 2008a. *The slaughter of food animals*. PDF factsheet available at: <http://www.rspca.org.uk/allaboutanimals/farm/slaughter/factfile>

RSPCA, 2008b. *The slaughter of poultry*. PDF factsheet available at: <http://www.rspca.org.uk/allaboutanimals/farm/slaughter/factfile>

RSPCA, 2013. *Slaughter without pre-stunning (for religious purposes)*. PDF factsheet available at: <http://www.rspca.org.uk/allaboutanimals/farm/slaughter/religiouslaughter>

Ryder, R. 1989. *Animal revolution*. Oxford: Basil Blackwell.

Sander-Staudt, M. 2015 Care Ethics. *The Internet Encyclopaedia of Philosophy*. ISSN 2161-0002, <http://www.iep.utm.edu>

Sapontzis, S. 2004. ed. *Food for thought*. New York: Prometheus.

Scruton, R. 2004. The conscientious carnivore. In: Sapontzis, S. F. ed. *Food for thought*. New York: Prometheus books, pp. 81-91.

Shechita UK 2009. A guide to Shechita. PDF factsheet available at: http://www.shechitauk.org/uploads/tx_resources/A_Guide_to_Shechita_2009_01.pdf

Singer, P. 1980. Utilitarianism and vegetarianism. *Philosophy and Public Affairs* 9(4), pp. 325-337.

Singer, P. 1981. *The expanding circle*. Oxford: Oxford University Press.

Singer, P. 1985. ed. *In defense of animals*. Oxford: Blackwell.

Singer, P. 1993. *Practical ethics*. 2nd ed. Cambridge: Cambridge University Press.

Singer, P. 1995. *Animal liberation*. 2nd ed. London: Pimlico.

Singer, P. 2005. Ethics and intuitions. *The Journal of Ethics* 9, pp. 331-352.

Singer, P. and Mason, J. 2006. *Eating*. London: Arrow Books.

Tompkins, P. and Bird, C. 1973. *The secret life of plants*. New York: Harper Perennial.

Tuomisto, H. L. and Joost Teixeira de Mattos, M. 2011. Environmental impacts of cultured meat production. *Environmental Science and Technology* 45(14), pp. 6117-6123.

Vegan Society, 2010. Egg crime – can you crack it? Leaflet available at:
<http://www.vegansociety.com/resources/Downloads.aspx>

Warren, M. 1994. Difficulties with the strong animal rights position. In Pojman, L. P. ed. *Environmental ethics*. Boston: Jones and Bartlett, pp. 47-51.

White, L. 1994. The historical roots of our ecological crises. In: Pojman, L.P. ed. *Environmental ethics*. Boston: Jones and Bartlett, pp. 9-14.

Zamir, T. 2007. *Ethics and the beast*. Princeton: Princeton University Press.