MORAL COMMUNITY AND ANIMAL RIGHTS

Steve F. Sapontzis

In this paper I discuss three possible justifications for what I believe to be the basic objection to extending moral rights to non-human beings; "But they're just animals!" Many people who are well-informed about not only the physical but also the psychological and social interests of animals still feel justified in treating animals as resources for fulfilling human interests. This is because animals supposedly lack that something of fundamental moral worth which calls for respect and not merely for humane treatment and slaughter.

It is three interpretations of that morally significant something which I want to consider here. These three interpretations all involve the idea that only those who participate in some kind of moral community with us can be entitled to moral rights against us. These three interpretations are the major premises of the following arguments against animal rights:

A1: Only those who respect the moral rights of others are entitled to moral rights. ("the reciprocity requirement")
A2: Animals cannot respect moral rights.
A3: Therefore, animals cannot be entitled to moral rights.

B1: Only moral agents are entitled to moral rights. ("the agency requirement")
B2: Animals cannot be moral agents.
B3: Therefore, animals cannot be entitled to moral rights.

C1: One is entitled to moral rights against others on the basis of his (capacity for) familial, personal, political, economic, etc., relations to them. ("the relations requirement")
C2: Animals cannot enter into such relations with humans.
C3: Therefore, animals cannot be entitled to moral rights against humans.

I will take up each of these arguments in turn. But before doing so, I want briefly to indicate what I think animal rights are about, so that it will be clear to what the above are objections. I believe that talk of "liberating" animals and extending moral "rights" to them refers to changing our attitude toward animals from one which regards them as beings who must be treated humanely but who are, nonetheless, fundamentally resources for fulfilling human interests to an attitude which regards animals as fellow creatures whose interest in an enjoyable, satisfying life must be respected and protected in the way basic human interests are respected and protected. Currently, basic animal interests, e.g., in life and liberty, are routinely sacrificed to satisfy human interests, some of which, e.g., in hunting and gourmet cooking, are far from basic; the primary purpose of extending moral rights to animals would be to insure that their interests could be sacrificed for fulfilling human interests only in the sorts of situations and according to the sorts of principles which justify sacrificing the interests of some humans to fulfill the interests of others.

I. THE RECIPROCITY REQUIREMENT

This requirement is based on one interpretation of the correlation between rights and duties. This interpretation is number (3) on W. D. Ross' famous list of possible interpretations of that correlation:

(3) A right of A against B implies a duty of A to B.... What is meant by (3) is that A's having a right to have a certain act done to him by B implies a duty for A to do another act to B, which act may be either a similar act (as where the right of having the truth told to one implies the duty of telling the truth) or a different sort of act (as where the right to obedience implies the duty of governing well).

When this correlation is coupled with the common belief that animals are incapable of recognizing and acting on duties, it quickly follows that animals are incapable of having moral rights.

The most obvious response to this argument is that our common practice shows that being able to
recognize and act on duties is not a necessary condition for having moral rights. Infants and the severely retarded, brain damaged, and senile are not regarded as resources for fulfilling the interests of normal humans (even though they could provide outstanding material for medical research). In spite of their inability to recognize and act on duties, their interests are protected by moral rights. However, while this “argument from marginal cases” strongly suggests that our attachment to our species is stronger than our commitment to the reciprocity requirement, it is neither particularly telling nor insightful.

It is not particularly telling because if we make the following revision in our formulation of the reciprocity requirement, nearly all the marginal cases can be easily and reasonably accommodated:

A1*: Only those who do, will be able to, are to a threshold degree able to, may again be able to, or did respect the moral rights of others are entitled to moral rights.

The remaining marginal cases, namely, the severely, incurably retarded or psychopathic from birth, constitute a very small, sequestered group which can be treated as “honorary rights-holders” out of deference to the feelings of species affinity most of us share. This special treatment of these uncommon, isolated cases does not compromise the reciprocity requirement, for that requirement is intended for common cases. Just as giving women and children first place in the lifeboats does not imply that they normally have superior rights to men, so making a few, extraordinary people honorary rights-holders does not imply that the reciprocity requirement is not being observed in normal situations. Morally special cases are situations in which our common moral principles must be superseded; consequently, we cannot infer from our practice in such special cases to what our common moral principles are.

This argument from marginal cases is not particularly insightful because it does not come to grips with the reason why the reciprocity requirement has such intuitive appeal. I think the reason behind this appeal is not species prejudice but a matter of fairness: A’s having a right against B is correlated with B’s having a duty to A; it would be unfair for B’s liberty to be thus restricted without A’s liberty also being similarly (or otherwise appropriately) restricted. For example, if A has a right to the fruits of his labor, then B is obligated (ceteris paribus) not to go into A’s field and take his corn. It would be manifestly unfair, then, for A not to be obligated to respect B’s right to the fruits of his labor and to remain free to go into B’s field and take his corn. Thus, fairness, coupled with the commonly accepted principle that “a right of A against B implies a duty of B to A” (1 on Ross’ list), requires that one is obligated to respect the moral rights of others only if they are obligated to respect his moral rights.

The Achilles heel of that argument is that it cannot provide a basis for the obligations of the powerful to the powerless. The argument presumes that A is powerful enough to interfere with B’s well-being and that he can inhibit that power in exchange for B’s inhibiting his power to interfere with A’s well-being. But what if A is blind, sickly, malnourished, timid, squeamish, poor, ignorant, a weakling, kindhearted, or otherwise unable to pose a threat to B’s well-being? B cannot be obligated through exchange to inhibit his power to interfere with A’s well-being when A has no power to interfere with B which he can inhibit in return. Thus, if reciprocity were a necessary condition for having moral rights, the weak would be excluded from having moral rights against the strong.

The reciprocity requirement implies that only those strong enough to pose a threat to us can gain moral rights against us. Such a Machiavellian view of moral rights fits ill with our common morality. One of the basic purposes of moral rights is to protect the weak against the strong, so that the weak can have a fair chance of fulfilling their interests. To the extent that a theory of moral rights cannot provide a basis for this function, it is surely inadequate, for we are not discussing a few marginal cases here but a primary, pervasive purpose of moral rights.

In order to remedy this inadequacy, we may note that just as there is a strong intuitive appeal to the reciprocity requirement, so there is a strong intuitive appeal, again based on fairness, to limiting the application of that requirement by having different requirements for A’s having moral rights against
those who are as powerful as he is and against those who are vastly more powerful than he is. If A and B are equally powerful, then if B gives up a power which A does not reciprocate, he will be at a disadvantage in the competition for fulfilling interests. Reciprocity is needed here to prevent exploitation and to insure an intuitive sort of equality of opportunity. However, when the weak are dealing with the strong, the situation is reversed. In order to prevent the strong from exploiting the weak and to insure that the weak have a fair chance of fulfilling their interests, what is required is that the strong inhibit their power over the weak and/or that the weak be given additional power against the strong. Giving moral rights to the weak, with correlative duties for the strong but without correlative duties for the weak, would help accomplish this.

If this distinction is correct and the reciprocity requirement does not apply to dealings between the strong and the weak, then the reciprocity requirement generally does not apply to dealings between humans and animals and, therefore, generally does not pose an obstacle to extending moral rights to animals. Humans are vastly more powerful than animals. No animal preys on us or ordinarily threatens human lives; no animal ordinarily threatens to imprison us, to take our territory, to destroy our societies, to cause us pain, or otherwise to interfere with our fulfilling our basic interests. On the other hand, we routinely do all these things to animals. So, if fairness is the goal, what is needed is not that animals agree to treat us "as well as" we treat them; what is needed is to protect animals from human exploitation. Extending moral rights to animals would help accomplish this.

II. The Agency Requirement

This requirement maintains that only moral agents are entitled to moral rights. "Having a right to" something is in the same family as being able to claim something "as one's due," being "entitled to" it, being "owed" it, "meriting" it, "deserving" it, and having "earned" it. These phrases suggest that in order to have rights we must do something like pass a test, achieve a certain standing, or attain a plateau to which the appropriate response is respect. We can earn the respect embodied in moral rights only by being (capable of being) moral agents, because respect, being the highest of moral acknowledgements, must be reserved for the highest of values, and as Kant said, "Nothing in the world—indeed, nothing even beyond the world—can possibly be conceived which could be called good without qualification except a good will."9

Kant believed that since animals lack practical reason, they are merely creatures of nature excluded from the community of moral agents, or "kingdom of ends," and may, therefore, be regarded as mere means to human satisfaction. Others have disagreed: Hume thought it so evident that animals have practical reason that he declared it would be ridiculous to spend time defending that they do;9 Darwin thought that animals exhibit a great variety of virtues, at least some of which contemporary naturalists also believe they have observed;10 and even Harry Truman declared, "If you want a true friend in this life, get a dog." So, that animals cannot meet the agency requirement is not obvious. However, since I and others have elsewhere extensively discussed the ability of animals to meet this requirement,11 I wish here to discuss the agency requirement from the same perspective from which we viewed the reciprocity requirement, namely, that of accomplishing the goals of morality.

Thoroughly settling this question is certainly out of the question here, but enough can be said briefly to establish a reasonable presumption against the agency requirement and to indicate where the burden of proof lies. We have already noted that protecting the weak and insuring that all have a fair chance of fulfilling their interests are goals of morality. Kant to the contrary notwithstanding, minimizing suffering and increasing enjoyment of and satisfaction with life are also goals of common morality. Finally, promoting and rewarding virtues such as integrity, courage, and compassion are also goals of common morality. How the agency requirement impacts these three families of common moral goals will give a substantial indication of its moral worth.

The agency requirement functions directly in promoting and rewarding (the capacity for) virtues: only the (potential) virtuous will have their
Although maximizing moral priority of interests protected by moral rights. However, fulfilling this third family of moral goals does not require the agency requirement, since those capable of being moral agents can be recognized as being of superior worth even if those who are not capable of being moral agents are accorded moral rights. Although liberating non-moral agents (assuming that is what animals are) would prohibit routinely sacrificing their interests, it would not prohibit giving fulfilling the interests of moral agents priority over fulfilling those of non-moral agents in non-routine situations, such as the traditional ‘burning building’ examples. Giving moral agents pride of place in our hierarchy of values need not involve extending to them something like the divine right of kings, so that they may dispose of non-moral agents in the way serfs could be disposed of for their master’s benefit. Like the rulers in Plato’s Republic, moral agents may be entitled to and receive the rights and responsibilities for which their special talents qualify them without being encouraged or even allowed to be tyrants over those who do not share their talents.

Intuitively, minimizing the suffering and maximizing the happiness of all beings with interests should be most readily accomplished by rejecting obstacles to the impartial consideration of the interests of all, and the agency requirement is such an obstacle. Some philosophers have questioned whether a species-neutral utilitarian calculus would really call for an end to treating animals as resources. However, several billion birds and mammals and trillions of fish are slaughtered annually just in the United States, and in virtually all cases there are non-animal alternatives for fulfilling the human needs for which these animals lose the remainder of their potentially happy lives. These facts put the burden of proof squarely on those who would counter the intuitive and contend that utility may be maximized by treating animals as resources. To date, this burden has not been met; so, we may follow our intuitions and conclude that the utilitarian family of moral goals would be more effectively pursued without the agency requirement.

Similarly, the goals of protecting the weak and giving all a fair chance at fulfilling their interests could be more effectively pursued by extending moral rights to all beings with interests. Since in this world the clearly moral agents, namely, humans, are vastly more powerful than the supposedly non-moral agents, encouraging moral agents to regard non-moral agents as resources exacerbates rather than corrects the disparities of power in our world. So, once again, common moral goals could be more effectively pursued by rejecting the agency requirement.

It might be countered that our power over animals and our consequent use of them to satisfy our interests do not constitute an unfair advantage needing moral correction. Since we are moral agents and they are not, we are entitled to have power over them and to exercise that power (humanely, of course) to our advantage.

In response, we may note that it is rather strange to say that our ability to judge and act disinterestedly entitles us to disregard with impunity the interests of others. Intuitively, the power that moral agents ought to have and exercise is the power to carry out moral judgements and to establish the reign of morality in the world. Once again, it is not the power of the feudal lord to use others (humanely, of course) as he pleased but something like the restricted, counter-balanced power of Plato’s philosopher-kings which is the power befitting moral agents. Only Kant’s “holy will,” a being who cannot be tempted from or mistaken in the pursuit of the good, is worthy of having and exercising uninhibited power over others. Consequently, it remains arbitrary that other beings with interests are so vastly weaker than we are that they cannot protect their interests from being routinely sacrificed by us. In order to provide these others a fair chance at fulfilling their interests, we need to inhibit, not rationalize, our self-interested exercise of power. The agency requirement is such a rationalization.

Thus, none of our three families of common moral goals needs the agency requirement, and two of them would be more readily attained without it. The linguistic tradition cited earlier in favor of this requirement is lightweight in comparison to these reasons against it. While Kant provides a substantive argument for treating all moral agents as ends in themselves, he merely presumes that only the interests of moral agents should be protected against routine sacrifice. To my knowledge, no one has
provided a substantive justification of the agency requirement. This may be due to coupling the intuitive appeal of the idea that those who have acted immorally deserve to have (some of) their rights taken away (at least temporarily) with a failure to distinguish clearly between immoral and non-moral agents, thereby leaving the agency requirement looking intuitively acceptable and in need of no further justification. Whatever the reason for this omission, until a substantive justification for the agency requirement is provided, the arguments just developed indicate that being (capable of being) a moral agent should not be a requirement for having moral rights.

III. THE RELATIONS REQUIREMENT

This requirement derives from one of the traditional objections to both utilitarianism and Kantianism: the universal egalitarianism they profess is both unfaithful to common morality and unconvincing as a goal for moral reform. In common morality we are not under an obligation to give equal consideration to everyone. We are not only permitted but even obligated to give priority to the interests of our families, friends, colleagues, and compatriots, and a world from which these non-egalitarian commitments were abolished would not be enhanced but impoverished. Consequently, a moral theory based on universal impartiality must be artificial and unconvincing. Moral rights and responsibilities are not based on abstract principles but on our living together, entering into familial, personal, political, economic, etc., relations with each other, and, in general, being involved in each other’s lives. It follows that since animals cannot enter into these relations with us, we are not only justified in giving priority to fulfilling human interests but even obligated to do so.

An obvious response to this argument is that we can have personal, extended-familial, and quasi-economic relations with animals, and even if the more extensive relations we can have with humans would, according to this theory, justify our giving priority to fulfilling human interests, they do not justify our treating animals as resources for human satisfaction. This is because, as we have already seen, there are ways of giving priority to fulfilling human interests which do not sanction the routine sacrifice of animal interests. Consequently, more than a justification of giving priority to fulfilling human interests is needed to justify withholding moral rights from animals—especially, since, as we have already seen, common moral goals would be more readily attained through extending moral rights to animals.

A more fundamental response to the argument for the relations requirement is that it is as mistaken about common morality as is abstract egalitarianism. One of the primary functions of morality, especially of moral rights, is to inhibit favoritism based on familial, personal, etc., relations. To accomplish this, we have developed a “justice is blind” family of moral imperatives: “take a disinterested viewpoint,” “give equal consideration to all concerned,” “try to universalize your actions,” “disregard (as if behind ‘a veil of ignorance’) individual differences,” and so forth. This family of moral imperatives is as much a part of common morality as are the relational priorities noted above. For example, while a father is justified in giving priority to fulfilling the interests of his child, he would not be justified in doing so by taking food from another needy child, enslaving a stranger, or killing a business competitor. A father can be morally criticized even for using his discretionary income to purchase luxuries for his child while contributing nothing to help starving children in other parts of the world. Thus, in addition to relational rights and responsibilities, common morality also contains egalitarian rights and responsibilities, with the latter counter-balancing the former by restricting the ways in which relational priorities may be pursued, imposing impartial obligations on us, requiring us to add a disinterested appraisal to our judgements of what is right, and so forth.

The advocates of the relations requirement seek to incorporate common egalitarian principles into their theory by claiming that these principles are based on the capacity humans have to enter into personal, political, etc., relations with any other human and the fact that today we do have political and economic relations with people throughout the world. In these two ways we form a global, human community which, it is claimed, creates the moral
rights and responsibilities we have against and to all humans—but, of course, not to animals, since they lack this capacity and are not partners in our global politics and economy.

This analysis simply does not ring true. When I contribute to charities helping starving children in Asia or refuse to purchase products made in South Africa, it is not at all because Asian children or South African blacks are my partners in a global economy or because I may come to have personal or political relations with them. I contribute and boycott because I recognize a need I can help meet and an injustice I can help combat. In so far as there is a sense of community underlying my actions, it is not a political, economic, or linguistic community but, roughly, a sense that we are all vulnerable, suffering beings and ought to help each other out. It is not being part of a global community that creates our moral obligations to all humans; rather, it is feeling that “we’re all in the same boat” and morally bound to each other that gives us a sense of being part of a global, moral community. Thus, at the global level, the relations theory has the relation between morality and community backwards. Consequently, it does not succeed in incorporating the common egalitarian principles which counter-balance our familial, political, etc., priorities.

If our sense of a global, moral community derives from our ability to be moved by and feel obligated to help relieve the suffering of others, then that animals are unable to enter fully into familial, economic, etc., relations with us does not preclude their entering into a global, moral community with us and benefitting from having moral rights against us. It would be our inability to feel moved by and obligated to help relieve the suffering of animals which would prevent the extension of moral rights to animals on the grounds of this sort of community. However, the existence of the animal rights movement shows that we are capable of being so moved and feeling so obligated.

The fabric of common morality is a weave of contrary forces; arguments for animal rights need not deny this nor otherwise attempt to make common morality out to be simpler than it is. This is because what is being sought for animals are the same basic moral rights against the routine sacrifice of one’s interests which are already enjoyed by humans. If equality and priority can interweave to form a practicable morality when dealing with interhuman relations, they can do so when dealing with relations between humans and animals. Perhaps Peter Singer’s clarion call for “equal consideration of interests” has caused misunderstanding on this point. However, if we remember that such phrases as “all men are created equal,” “equal standing before the law,” and “equal opportunity for all” have become standard parts of our moral tradition without denying that “charity begins at home” and similar traditional priorities, such misunderstanding should simply fade away.

IV. CONCLUSION

There is no denying that for the reasons cited in support of the reciprocity, agency, and relations requirements, animals cannot enter fully into the community that humans can enjoy with each other. However, that this incapacity justifies treating animals as resources for human satisfaction is neither self-evident nor established by the arguments for that inference which have been offered to date. The arguments offered here do not demonstrate that that inference could not be justified, but I think they do show that until (if ever) such justification is provided, that inference should be rejected.

Most people, philosophers included, seem to feel that we are obviously justified in sacrificing animals as resources for human satisfaction and, consequently, that calls for liberating animals from such treatment must be wrong. Anti-animal rights arguments are attempts to justify that feeling. The arguments of this paper have tried to combat that feeling not just by criticizing the proposed justifications for it but also by emphasizing that liberating animals is at least strongly suggested by a variety of moral concerns which also have strong intuitive appeal. In closing, I would like to quote a few sentences from William James which, I think, express the feeling which motivates advocates of animal rights: “Take any demand, however slight, which any creature, however weak, may make. Ought it not, for its own sake, to be satisfied? If not, prove why not.”

California State University, Hayward

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NOTES


4. P has an interest in x if and only if x affects (will affect, would affect) P’s feelings of well-being. “Feelings of well-being” refers to pleasure and pain, feeling fit and feeling ill, elation and depression, feelings of fulfillment and frustration, and the many other feelings which contribute to or detract from the enjoyment of or satisfaction with life. In this paper, as throughout the animal rights literature, “animal” refers to all and only non-human beings with interests, which is almost certainly a more limited use than the biological understanding of the term. See my “The Moral Significance of Interests,” *Environmental Ethics*, vol. 4 (1982), pp. 345-58, and “Interests and Animals, Needs and Language,” *Ethics and Animals*, vol 4 (1983), pp. 38-49.


6. Some philosophers claim that infants and marginal people do not have morale rights; see, for examπ→ H. L. A. Hart, “Are There Any Natural Rights?,” *The Philosophical Review*, vol 64 (1955), pp. 175-91. However, these philosophers would not agree that infants and marginal people may be routinely sacrificed as resources for fulfilling the interests of normal humans. Consequently, viewed from the perspective of what animal rightists are seeking for animals, these philosophers are extending moral rights to infants and marginal people; the difference here is merely terminological.

7. That some animals occasionally threaten human interests cannot be used as an objection to regarding animals as too weak to be considered under the requirements for moral rights and obligations among the equally powerful. Marginal case arguments are no more telling against animals than for them.


10. See Chapters III and IV of Darwin’s *The Descent of Man* and the ethological studies cited in Mary Midgley’s *Beast and Man* (Ithaca; Cornell University Press, 1978).


13. The only at all plausible response so far to these facts is the so-called “replacement argument:” slaughtered animals are replaced by animals bred just for that purpose; so, slaughter does not cause a loss of happiness in the animal world. Since this argument has been adequately rebutted elsewhere, I shall not deal with it here. See my “On Being Morally Expendable,” *Ethics and Animals* vol. 3 (1982), pp. 58-72, and George P. Cave, “On the Irreplaceability of Animal Life,” Evelyn B. Pluhar, “On Replaceability,” and James E. White, “Are Sentient Beings Replaceable?,” all in *Ethics and Animals*, vol 3 (1982), pp. 91-117.
