



The Politics of Animal Rights

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This article documents and analyses the key developments in British animal protection politics. It argues that there is a strong case for the philosophical validity of at least part of the animal rights position. In addition, the philosophy of animal rights has had a significant influence on the reinvigoration of the animal protection movement. Despite this, it is suggested that the achievement of animal rights objectives is currently unrealistic, and animal welfare, despite its weaknesses, remains the underlying justification for legislation protecting animals. Moreover, animal welfare is a sufficiently flexible concept to offer the best hope for future reforms, and this fact is recognized by most parts of the animal protection movement.

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Introduction

In recent years, the protection of animals has been an, intermittently, important issue in British politics. Occasionally, as during the dispute over live exports in the 1980s and the more recent progress through Parliament of the, ultimately successful, bill to ban fox hunting, the protection of animals has been at the top of the news agenda. Usually, however, it bubbles under the surface as an issue that many voters feel strongly about but which never decides their electoral choice. Animal welfare has been a topic of public and legislative concern since the 19th century. For much of the 20th century, however, it remained a peripheral and neglected issue. This began to change in the 1960s. As both a cause and effect of the renewal of interest, a reinvigorated animal protection movement emerged, in Britain and elsewhere, to challenge the various ways in which animals are exploited. This reinvigorated movement is distinct in terms of both means and ends. The concept of animal rights, although not new, has had a much bigger influence, and this has been accompanied by an emphasis on grass roots campaigning and, at the extremes, a willingness to participate in, sometimes illegal and violent, forms of direct action.

In reality, since the creation of the first piece of animal welfare legislation in 1822 (which made it an offence to wantonly and cruelly beat, abuse or ill-treat a



wide range of domesticated animals including horses and cattle), there have been numerous animal welfare statutes and a complex administrative structure has grown up to enforce them. The need for such an institutional and legislative framework is understandable given the important role played by animals in a country such as Britain. Animals are kept as pets, are sources of entertainment and clothing, and co-exist with us in the wild. The two most significant uses of animals are as food, and for scientific research and toxicity testing. Millions of animals are reared and slaughtered for food each year, and animal agriculture — involving many different sectors such as farming, food production, transport, and agrichemicals — accounts for a significant part of British gross domestic product. Similarly, the animal research community — involving universities, pharmaceutical companies, contract testing laboratories, and animal breeders — is a big business. Not surprisingly, these interests, with considerable capital invested in their industries, are well organised, and this, in part, explains the limitations of animal welfare provision (Garner, 1998, chapter 2).

This article seeks to document and analyse the key issues in animal protection politics. It starts by explaining the philosophical differences between animal welfare and animal rights, before examining how these philosophical differences have impacted upon the nature of the animal protection movement. It is suggested that, while animal welfare is flawed ethically, the abolitionist objectives of the animal rights movement are, at present, politically unrealistic. It is, instead, an extension of the animal welfare concept of unnecessary suffering that has had the biggest impact on public opinion and government policy.

Animal Welfare and Animal Rights

The main justification for recognising the welfare of animals as an important moral objective is the, widely agreed, assertion that animals are sentient beings, having the capacity to experience pain and pleasure. Animal welfare has reached such a degree of acceptability in Britain, as in many other countries, that it can be regarded as the moral orthodoxy. The recognition that animals are sentient is held to mean that we have direct moral obligations towards them, and not to their owners or those seeking to represent their interests. While having moral standing, however, the animal welfare position further holds the principle that humans are morally superior to animals. As a result, since animals have some moral worth, we are not entitled to inflict suffering on them unless the human benefit thereby resulting is deemed to be necessary.

The principle of unnecessary suffering, therefore, can be invoked if the level of suffering inflicted on an animal outweighs the benefits likely to be gained by humans. Robert Nozick (1974, 35–42) provides a concise but admirably



effective definition of animal welfare when he writes that it constitutes ‘utilitarianism for animals, Kantianism for people’. Sacrificing the interests of animals for the aggregative welfare, then, is permissible providing that the benefit is significant enough, but treating humans in the same way is prohibited whatever the benefits that might accrue from so doing.

A challenge to animal welfare comes from two directions. On the one hand, it was commonly argued, particularly before the 19th century, that animals did not feel pain and therefore our only obligations to them were indirect. That is, harming animals only becomes morally significant if it negatively impacts upon the interests of other humans such as those who own them. While this position can still be found in academic philosophy (see, for instance, Carruthers, 1989), the whole basis of animal welfare law in Britain and elsewhere is the acceptance that our obligations to animals are direct ones.

The other challenge faced by animal welfare has come from those who argue that it does not regard animals as morally important enough. This challenge is usually, for shorthand practical reasons, described as animal rights, although this disguises a great deal of variety. This challenge has been made at various points throughout history, although it has been increasingly important, in moral philosophy and in practical political terms, in the last 40 years or so.

This challenge is more varied than the label animal rights would suggest. In the first place, one of the most influential opponents of animal welfare is Peter Singer, the Australian philosopher, who adopts a utilitarian approach. This is distinguished from animal rights through the use of the term animal liberation, the title of Singer’s best-known book (1990). In the same way as Nozick, Singer wants the moral worth of animals to be governed by a utilitarian cost-benefit or pleasure-pain calculus. Unlike Nozick, however, Singer wants humans to be similarly treated.

As far as the relationship between humans and animals is concerned, Singer argues that we ought to consider their interests equally. This does not mean that animals ought necessarily be treated the same as humans, only that like for like interests be so regarded. Crucially, since animals, like humans, are sentient, there is no reason, for Singer, why an animal’s interest in avoiding pain be treated as any less important than a human’s. Singer’s project has essentially drawn the radical conclusion that follows from Jeremy Bentham’s (1748, 311) famous passage that ‘the question’ of moral status is not ‘Can they reason? Nor, Can they talk? But, Can they suffer?’. By prioritising sentience, therefore, greater human cognitive abilities become less relevant (see below).

Genuine advocates of animal rights agree with Singer that animals deserve a higher moral status than the animal welfare position allows. They differ in their assertion that both humans and animals ought, individually, to be granted the protection offered by rights. Some animal rights philosophers suggest that rights can be granted to animals merely on the grounds that they are sentient



(Rollin, 1981). Others, most notably Tom Regan (1984), argue that it is the cognitive capacities of animals that are the key to their status as right's holders.

Animal rights philosophers disagree with Singer's view that animals (and humans) ought to be subject to a utilitarian cost–benefit analysis. For them, it is not permissible to sacrifice the interests of some (humans or animals) in order to achieve an aggregate social benefit. To give an example, the rights view would not sanction the use of humans and/or animals in scientific experiments even if the consequence was that many other humans and animals benefited from it. Again, it is important not to misunderstand Singer's alternative position. An animal welfare view, as indicated above, would sanction the use of animals in such scientific experiments if the benefit to other humans and animals was significant. The use of humans, as rights holders, is prohibited. Singer's view differs from the animal welfare position in the sense that he would be willing to consider a cost–benefit calculation provided that the interests of both humans and animals were treated equally. This leaves open the possibility that it might be permissible to use both (at least some) humans and animals in scientific experiments.

The Animal Protection Movement

Understanding the philosophical debate about the moral status of animals tells us a great deal about the nature of the animal protection movement. The production of academic literature has given the movement respectability, and has provided it with a firm basis for action. There is a good deal of evidence that activists are aware of the key writings (Garner, 2004, 78). They may not be aware of the philosophical complexities involved but animal rights is reducible to easily understood and promotable slogans, and enables activists to distinguish themselves from those who accept the need to uphold the welfare of animals.

The philosophical positions certainly accord with the key fault lines in the animal protection movement. In terms of ends, it is possible to divide the movement into those whose major objective is to minimise unnecessary suffering (animal welfare), and those who seek the abolition of animal exploitation on the grounds that their use infringes the rights of animals. This distinction does not accord exactly with the historical development of the animal protection movement, with progression towards radicalism. Even in the 19th century, for instance, there was an anti-vivisection movement seeking the abolition of scientific experiments on animals, which often found itself at loggerheads with the more staid Royal Society for the Prevention of Cruelty to Animals (RSPCA). Nevertheless, in the last 40 years or so, the animal protection movement has been reinvigorated and this has been accompanied, and partly caused by, a greater radicalism.



The growth of the animal protection movement can be seen in terms of the increasing number of organisations. Of the 35 major animal protection groups in Britain, no less than 18 have been formed since 1960, and most groups have seen a significant increase in membership. It is clearly the case that this growth has much to do with the emergence of animal rights. It is true that various animal welfare groups still exist, such as the RSPCA and the Fund for the Replacement of Animals in Scientific Experiments. Even the RSPCA, though, has been the subject of much inter-cine feuding over the past three decades as animal rights activists have, with some success, sought to take control and change its direction. Moreover, most of the new groups — such as Animal Aid — are abolitionist in orientation. The previously moribund anti-vivisection societies have also been reinvigorated and add to the abolitionist pressure.

In terms of means, the picture is more complex. In the first place, some groups who are essentially abolitionist are nevertheless prepared to engage in much more dialogue with government or MPs than others, thereby risking the compromise of their abolitionist ends. This was particularly evident during the passage of the 1986 Animals (Scientific Procedures) Act (see Garner, 1998, chapter 9) — the legislation governing the use of animals in scientific procedures — when an alliance led by Clive Hollands, director of the abolitionist Advocates for Animals organisation, played a key role in the formulation of the bill and its passage through parliament. A number of other abolitionist groups — and particular the National Anti-Vivisection Society and the British Union for the Abolition of Vivisection — decided to reject the bill and criticise it from the outside.

Since the 1980s, national animal rights groups have been more prepared to consult with government and adopt the trappings of insider status. This in itself is a reflection of the maturity of the movement and the fact that its objectives are now much more acceptable. Despite this, there is no doubt that the radicalisation of the animal protection movement has led to a greater emphasis on grass-roots campaigning, with the formation of many local groups, some of which only have a tenuous link with the national organisations. At the extreme are the very small group of individuals who are prepared to undertake, sometimes violent, direct action under the auspices of the Animal Liberation Front — or some other front organisation — in order to further their ends. It is unthinkable that individuals would take such risks with their own liberty and, occasionally, with the well-being of other humans, if they did not feel morally compelled to do so.

The Political Limitations of Animal Rights

There is no doubt that, philosophically, animal welfare has serious weaknesses. Defenders of human moral superiority must be able to show why it is justified. This involves demonstrating that humans are different from animals in morally



significant ways. Clearly, species membership alone is not sufficient without explaining what it is about humans that make them morally superior to animals. The usual answer to this question is the claim that humans possess a collection of mental characteristics — autonomy, memory, a language, agency — that together constitutes personhood. Humans are persons, therefore, and animals, though sentient, are not. Persons, it is said, can be harmed in much more fundamental ways than non-persons, and have lives that are qualitatively more worthwhile. As a result, it is morally permissible to sacrifice the interests animals have in not suffering in order to defend the much more profound interests humans have.

The personhood argument is usually challenged in one of three ways (see Garner, 2005). Firstly, it has been suggested that at least some animals do possess elements of personhood. This has been the justification for campaigns designed to secure rights for the great apes (see Cavalieri and Singer, 1993). Secondly, is the assertion that not all humans are persons. Thus, in the so-called ‘argument from marginal cases’, it is asked if we persist in justifying the exploitation of animals on the grounds that they are cognitively less able than humans, then what should we do with those humans — the seriously mentally disabled in particular — who do not themselves have the characteristics of personhood? Consistency would seem to demand that we either exploit human mental defectives as well as animals, or that we exploit neither animals nor marginal humans (see Dombrowski, 1997).

The third response to the personhood argument is the, stronger, argument that the mere fact that animals are sentient ought to result in animals being accorded a higher moral status than the animal welfare ethic. We might readily agree that animals do not possess a right to life or a right to liberty, but the same inequality does not apply to the issue of sentience. In some instances at least, the pain suffered by animals is at least as great as the pain suffered by humans, and this could also apply to other forms of suffering such as fear or boredom. Indeed, it is possible to envisage situations where the suffering of an animal would be greater than for a human in a similar situation. Rowlands (2002, 14–15) provides an example to illustrate this point. Imagine that: ‘You and your dog are taken into a room where you are both given a very painful injection. However, the situation is explained to you (the injection is necessary to save your life, the pain will be relatively short lived, there will be no complications, and then you will be allowed to go). Your dog, however, knows none of these things, and so in addition to the pain of the injection, it has the anxiety associated with unfamiliar surroundings, strange people restraining it, and so on. In this case, your dog seems to suffer more than you do’. This so-called ‘sentience position’, then, does not rule out sacrificing animal lives in order to protect human lives. However, it does clearly morally prohibit the infliction of suffering on animals for human benefits that fall short of the protection of human lives.



If we accept the complete animal rights position — or a variant of it that denies animals a right to life, but provides for them a right not to suffer — then the consequences for our treatment of animals is profound. It would mean the end of most scientific procedures using animals, at the very least the abolition of factory farming — if not animal agriculture generally — an end to the use of animals as sources of clothes, and an end to hunting.

The problem here, of course, is that these abolitionist objectives are, at the present time, politically unrealistic. No country in the world has prohibited the use of animals for medical research or as a source of food. The industries involved in these activities are extremely wealthy and have a great deal of political influence. Moreover, most consumers eat meat, and benefit from the production of drugs that have been developed and tested on animals.

It is equally apparent that legislation designed to protect animals in Britain is all based on the animal welfare ethic and not at all based on the principle that animals have rights. Thus, the all-embracing Protection of Animals Act — designed principally to protect pets — originally passed in 1911 and recently updated in the Animal Welfare Act (2006), for instance, is based on the unnecessary suffering principle. The same applies to the primary statute of the Agriculture (Miscellaneous Provisions) Act of 1968 — designed to protect farm animals. The 1986 Animals (Scientific Procedures) Act is even more explicitly framed in animal welfare terms. Thus, before being awarded a licence to use animals in scientific procedures, researchers have to be able to engage in a cost–benefit calculation documenting the level of suffering to be inflicted against the likely benefits of the project.

It should also be noted that animal welfare measures can be abolitionist. Indeed, Blair's Labour Governments carried a number of such measures. For example, the government provided time for a bill that eventually (in 2004), after years of campaigning, provided for the ending of fox hunting. One could, of course, justify the abolition of fox hunting on the grounds that foxes have rights. However, the debate was rarely couched in such terms. Rather, hunting was regarded as illegitimate because the suffering caused was deemed to be unnecessary. Likewise, Labour Governments also ended the testing of cosmetics on animals, the use of wild caught primates in laboratories, and banned fur farms. All of this was justified on the grounds that the suffering inflicted was unnecessary.

An Assessment of Animal Welfare

Demonstrating the politically unrealistic nature of animal rights is not the same thing as saying that we can be satisfied with animal welfare in practice. Indeed, the animal protection movement regularly criticises animal welfare measures. Enforcement failures are a common problem, as is the timid nature of many



statutes, and the secrecy surrounding the operation of the 1986 Animals (Scientific Procedures) Act. In the latter case, under the authority of Section 24 of the Act, little information is provided on individual project licence applications, although since 2003 — after concerted pressure by the anti-vivisection movement — the Government announced that summaries of successful applications for project licences would be made public. It still remains the case, however, that the rejected applications are never made public, and the animal protection movement, or the interested public, are not given the opportunity to comment on applications before they are approved.

Two additional more general problems with animal welfare have been noted. One criticism is that animal welfare is politically equivalent to general anti-cruelty statutes that are weak and ineffective. In Britain, the major primary legislation on animal welfare is based upon the principle of unnecessary suffering. However, the value of the primary statutes governing animal agriculture and animal experimentation is not so much in the basic unnecessary cruelty provisions they both contain, but in the potential they afford for abolitionist regulations to be added. For example, secondary legislation banning veal crates and sow stalls and tethers have been added as regulations under the 1968 Act, and, driven by European Union law, battery cages for egg-laying hens are due to be phased out. In the case of animal experimentation, as we saw, a decision prohibiting cosmetic testing of finished products and the use of wild caught primates was made under the auspices of the 1986 Act. It is interesting to note that any future government could effectively end animal experimentation in Britain by refusing all license applications, and this could be done without the need for further primary legislation.

Perhaps the most important critique of animal welfare is the claim that animal welfare does not challenge the property status of animals and while this remains the case not only is it impossible to achieve the equal consideration of interests, but it also inhibits even the most basic protection of animals (Francione, 1995). There is some truth in the first assertion, that the property status of animals is incompatible with the objectives of the animal rights/liberation movement. Clearly, while animals remain property they cannot have the full entitlement of rights, and especially the right to be free from exploitation, that advocates of animal rights insist they should have.

The property critique of animal welfare, however, is less convincing. It relies on the assumption that while animals remain the property of humans then they are equivalent to inanimate objects that their owners can do anything with. Leaving aside the fact that the state sometimes intervenes and prevents owners from doing what they like with their property (as in the case of listed buildings), it is not generally the case that the property status of animals prevents them from being regarded as sentient beings whom we have direct moral obligations towards. Most modern animal welfare statutes, therefore,



recognise that animals can be harmed directly. In other words, the quality of animal welfare laws and regulations is not primarily a function of the property status of animals. Rather, it is a reflection of a wide range of other factors. These include public perceptions of the priority that ought to be given to animal protection, and the influence of powerful interest groups with a vested, usually economic, interest in animal exploitation.

Conclusion: Extending the Meaning of Unnecessary Suffering

It has been argued in this article that, although the growth of the animal protection movement has been inextricably linked with the emergence of a radical animal rights agenda, that British legislation on animals has principally relied on the animal welfare discourse centring on unnecessary suffering. Of course, the radical agenda of animal rights groups has had an enormously important role in publicising the plight of animals and in making animal welfare more respectable, and therefore more acceptable, to decision-makers. Nevertheless, British animal protection legislation is not dependent upon a rights-based discourse.

For many animal rights advocates, the animal welfare focus is to be condemned as a shameful indictment of an illegitimate human moral superiority. However, this is only partly true. It is a truism that improvements in animal well-being are more likely to come about when human and animal interests are not in conflict. Of course, it is theoretically possible to persuade humans (or enough or the right humans) that animal interests should be protected irrespective of the damage that might be caused to human interests as a result. Human nature being what it is though, it is difficult to see how this would ever be acceptable, particularly as the human gains of animal exploitation are deemed to be considerable.

This human superiority means that it is likely that the only way the protection of animals can be furthered is in terms of an animal welfare agenda focusing on unnecessary suffering, on reforms, in other words, improving the treatment of animals that do not compromise significant human interests. But this is not as negative as it may sound. For there has been a remarkable shift in perceptions of what is regarded as unnecessary suffering. The key point is that what is regarded as unnecessary is not static, and can be altered by subjective political debate. There is enormous potential for animal advocates to expand what is regarded as unnecessary.

Thirty years ago or so, the wearing of fur and the testing of cosmetics on animals was regarded as acceptable. Now, both practices are frowned upon by many people in the Western world. In Britain, as we saw, fur farming was recently prohibited and no licenses are now given for cosmetic testing on animals. Similarly, many aspects of factory farming were regarded as morally acceptable 30



years ago, but are now being dismantled throughout Europe. Even more likely to succeed are those reforms improving the well-being of animals we can identify that are not just costless to humans but are actually beneficial to humans as a by-product. For example, focusing on the health and environmental consequences of factory farming would seem to be an astute tactical ploy.

Many of the changes referred to above are products of changing cultural norms, themselves influenced by animal protection campaigns. What is regarded as unnecessary suffering has also been influenced by knowledge gains. Much more is now known about the content and degree of animal suffering, and it is increasingly difficult to deny that animals suffer in a variety of ways, and not just physical pain. Similarly, developments in alternatives to the use of animals in scientific research are crucial in making the use of animals unnecessary. The fact, too, that the implementation of public health measures has been at least as important as animal research in countering disease is another propaganda weapon for the animal protection movement (Sharpe, 1988).

More to the point, the animal protection movement, and in particular the animal rights strand of it, has spent a considerable amount of time engaged in a strategy designed to show, not that the use of animals is morally wrong irrespective of the benefits to humans, but rather that most, if not all, of the ways in which animals are currently treated are unnecessary in the sense that they do not produce human benefits or that such benefits can be achieved in other ways. It is this, rather than the advocacy of animal rights, that has had the biggest impact on the improvement in animal protection in Britain and elsewhere. Moreover, there is scope for further developments along these lines.

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