Animals, Ethics and Public Policy

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The plight of animals has been an intermittently important issue, particularly in Britain, but it has never been electorally decisive. Similarly, the entitlements of animals have been largely ignored by the political studies community. Where the interests of animals have been considered, in both the political and academic worlds, it is in terms of their welfare, rather than their rights. That is, it is widely accepted that we owe some moral obligations to animals, but the interests of humans, it is commonly argued, must come first, and our right to exploit animals in order to further these interests remain sacrosanct. This article traces the emergence of the animals issue in the context of the post-1945 political and academic climate. It then seeks to review the animal ethics literature. In the process, the prevailing moral orthodoxy about animals is challenged. It is argued that there is no intellectual justification for rejecting a version of animal rights that necessitates fundamental changes to the way animals are currently treated.

Political studies and animals

A well known definition of politics was provided by the political scientist Harold Lasswell in the title of his 1936 book Politics: Who Gets What, When, How? Students of politics may well have different views about the ‘who’ question. Some might think that political resources ought to be redistributed so that the least well-off get more, or that far more ought to be done to equalise resources on the grounds of gender or race. Almost all students of politics, however, would agree that the beneficiaries of principles of justice ought exclusively to be humans.

For a large part of the twentieth century, normative analysis—seeking to answer ‘ought’ rather than ‘is’ questions—was frowned upon even when it related just to humans. This was partly to do with the intellectual influence of a school of thought known as ‘logical positivism’, which denied the validity of any normative statements, and partly to do with the apparent political consensus existing, in the West at least, up to the 1970s. It was in this context that the political theorist Peter Laslett could publish an article in which he argued that political philosophy is dead.1 To emphasise the point, the dominant form of political analysis at the time, particularly in the United States, was so-called ‘behaviouralism’—an approach that seeks to explain political behaviour through the adoption of scientific methods used in the natural sciences. At least until the late 1960s, then, there was little normative thinking about humans let alone animals. The cosy consensus, and the decline of political philosophy, did not last. It was challenged in the 1960s largely from the left by a group of activists and academics who questioned the suffocating bureaucracy and elitism of the postwar settlement, and challenged the nuclear deterrent basis of consensus foreign and defence policy. More significantly, though, repeated economic failures in the 1970s accompanied by severe industrial relations problems led to a return to ideological politics in the West with challenges to the consensus emerging from the right and the left.

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Partly at least as a result of this tumult, political philosophers began to find their voice again. In particular, the 1970s witnessed the publication of what is regarded as the key text of postwar political theory. Written by an American philosopher from Harvard, John Rawls's *A Theory of Justice* sought to put the case for a left-leaning set of liberal political principles. This work has produced an enormous literature, including a book-length riposte to Rawls by another Harvard scholar, Robert Nozick, which defended a libertarian position whereby the state’s role is limited and redistributive taxation illegitimate.

Despite the resurgence of political philosophy as a valid field of study, its agenda remains anthropocentric—or human-centred. Political philosophers have disagreed on the nature of the good life and the political order designed to achieve it. Almost without exception, however, they have regarded it as a question that only applies to humans. Since the time of the Greeks, philosophers have considered the moral status of non-humans, but with very few exceptions non-humans have been relegated to an inferior place in the scheme of things. Even the vast majority of modern political philosophers have sought to reinforce this inferiority. For example, whatever the differences between Rawls and Nozick, both essentially thought that political theory was about the human question. Rawls, in particular, is absolutely clear that nonhumans should be excluded as beneficiaries of his theory of justice. Within the academic discipline of political studies, the issue of the moral status of nonhumans has only been taken seriously by a small group of green political theorists.

**Sentience, autonomy and the moral status of animals**

Challenging anthropocentrism leads us to reject the moral primacy of humans, but it does not necessarily lead us to a focus on the moral worth of individual nonhuman animals. Environmental philosophers who reject anthropocentrism put forward an alternative so-called ‘ecocentric’ ethic that, whilst removing humans from the moral pedestal, also accords value to collective entities such as species and ecosystems. Such a denial of the importance of individuals is anathema from the perspective of the liberal social justice tradition. Moreover, the attempt to attach intrinsic value to the non-sentient, and even non-living, constituent parts of ecosystems is equally flawed morally.

This rejection of an ecocentric ethic is based on the moral importance that can be accorded to sentiency, or the capacity to experience pain and pleasure. It is difficult to see how we can attach moral standing to non-sentient nature when it is pretty obvious that rocks, trees, mountains and rivers cannot be harmed in the same way as sentient beings. It does not seem sensible to talk about wronging non-sentient nature as opposed to harming it. So, polluting a river is to harm it but it is difficult to see how we can wrong the river. Rather, by polluting the river we wrong those sentient beings who benefit from it. This does not mean that non-sentient parts of nature have no value. Instead, the value of nature is extrinsic. In other words, it is valuable for the benefits it provides for those humans and animals that depend upon it. This leaves humans and nonhuman animals as potential recipients of intrinsic value. Few would want to deny that humans have moral standing and there are few serious advocates these days of a so-called ‘perfectionist’ theory of justice in which some humans are regarded as more important than others.

Attaching intrinsic value to animals is not equivalent to according them moral equality with humans. Indeed, the conventional, or orthodox, position regarding the moral status of animals is that,
because animals have some moral worth, it is wrong for humans to inflict unnecessary suffering on them, but, because humans remain superior morally, it is equally legitimate for humans to inflict suffering on animals if there is a substantial benefit to humans likely to accrue. This ethic has been used to justify the extensive exploitation of animals that occurs in the West. Indeed, it is often not realised how central the exploitation of animals is to the functioning of our economy and society. We use and kill billions of animals every year for a wide variety of purposes: in the pursuit of scientific knowledge, to ensure that the products we use are safe, to use parts of their bodies such as their fur and skin, and merely for sport and entertainment.

For good reasons, much of the public debate centres on animal experimentation, but in terms of numbers at least this activity is dwarfed by the raising and killing of animals for food. During the time it takes you to read this article about a million animals will have been slaughtered for food in the United States alone. This, of course, means big profits, and the meat and poultry industry is one of the biggest manufacturing concerns in the developed world. Since the Second World War, humans have developed increasingly efficient and cost-effective ways of converting animals into meat. Gone, for the most part, is the image of animals grazing outside, living a pleasant life before being painlessly put to sleep. Since the intensification of animal agriculture (commonly known as ‘factory farming’) farm animals tend to live lives of pain, distress and boredom. This is the world of the battery cage for chickens, the veal crate for calves, and the stall and tether system for pigs. And we must include, too, the suffering that occurs in the slaughtering process and in the transport of live animals—an issue that provoked considerable public protest in Britain in the 1990s.

It has been my contention⁵ that there is a genuine politics of animal welfare in the sense that what constitutes ‘unnecessary’ suffering is sufficiently vague to be open to debate. Indeed, the definition of ‘unnecessary’ has widened over the past thirty years or so to take into account changing public attitudes to animals that have, in part, been shaped by greater knowledge of the way animals can suffer. For example, the use of animals for the toxicity testing of cosmetics is now widely regarded as unnecessary, as is the wearing of fur for many people. Increasingly now, too, the most extreme forms of factory farming, such as battery cages, are being dismantled at the EU level as a recognition that they are regarded by many as unnecessary.

Despite the improvements to animal welfare that have undoubtedly occurred, they remain relatively minor in scope and animals still pay a heavy price as a result of the application of the animal welfare ethic. In the last thirty years or so, an increasingly large group of scholars and activists have argued that this cost is too high; that animal welfare is flawed because it does not adequately represent the moral status of animals. Indeed, some philosophers have argued that at least some nonhuman animals are not morally inferior to humans. As a consequence, we should not do to animals what we are not prepared to do to humans.

There are two main versions of this ethic. One is provided by the Australian-born Princeton philosopher Peter Singer. Singer’s book Animal Liberation, published in the 1970s, was a best seller and is often regarded as the bible of the animal rights movement. There is a great irony here in that Singer is a utilitarian—an ethical approach that rejects the idea of rights for humans as well as animals. He argues that because at least some animals are sentient then, all things being equal, this capacity of animals to suffer should not be regarded as any less important morally than a human’s capacity to suf-

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fer. He therefore calls for the ‘equal consideration of interests’. In other words, animal and human interests in not suffering should be treated equally.

The second version of the ethic that suggests equality between the species is the more conventional animal rights position. The best known of the philosophers who have advocated the granting of rights to animals is the American academic Tom Regan, who wrote a long and philosophically rigorous book called *The Case for Animal Rights* in the 1980s. Regan argues that according animals a right to life has the effect of building a protective fence around them so that their fundamental interests cannot, under normal circumstances, be sacrificed in order to promote the general welfare. This means that animal welfare is inconsistent with rights precisely because it does allow for the sacrifice of fundamental animal interests provided that a significant benefit to humans occurs.

There is some doubt about the consequences, for animals, of adopting Singer’s ethic. For act utilitarians, an action is only morally permissible if the balance of pleasures or preferences outweighs the infliction of pain or the denial of preferences. At the very least, then, each action or policy—say, the ending of the use of animals for food or research—will have to be judged on its merits, and it is not clear that this would result in a justification, on utilitarian grounds, for abolition. A proposal to abolish animal research, for instance, would have to weigh up the benefits to animals against the benefits to humans and animals, of continuing the practice. By contrast, an animal rights ethic, or at least one which holds that animals have a right to life and liberty, would, if established, automatically justify abolishing the use of animals for food and research, since to continue with these practices is to infringe their basic rights.

This, of course, begs the question of whether animals do have fundamental rights, as is being claimed. The first step in assessing the claims made by all sides in the debate is to recognise that those insisting upon human moral superiority need to find a morally relevant characteristic possessed by humans but not by nonhumans, thereby justifying differential treatment. Whilst it is now recognised that sentiency alone cannot do this work, defenders of the moral orthodoxy tend to focus on personhood. Humans unlike animals, it is argued, have the characteristics of personhood. These characteristics include rationality, autonomy, moral agency, a language capability, free will, self-consciousness and so on. Those opposing an animal rights ethic argue that humans are persons 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.6

**A critique of animal welfare**

Advocates of human/animal moral equality seek to respond to this defence of animal welfare in two main ways. The first is to say that at least some animals do possess elements of personhood. Here, it would clearly be churlish to deny that some animals have cognitive abilities that are considerable. The Great Apes, in particular, would appear to come into this category, and it would be wise to err on the side of caution and assume that they are persons and are treated morally as if they are humans. To a certain extent, this is what is gradually beginning to happen with some countries considering a formal constitutional amendment to that effect. Equally, many species of animals are more than merely sentient possessing *some* of the characteristics of personhood. Regan argues, for instance, that rights are not
granted to animals by virtue of their sentiency, but because they are what he calls ‘subjects-of-a-life’—beings, that is, with considerable cognitive capabilities.

However, there are two main problems with the attempt to show that humans are not the only species with personhood. First, the effect of achieving personhood for those animals, such as the Great Apes, with considerable cognitive abilities would simply be to create another boundary line, above which would contain humans and some animals, and below which would be the vast majority of animals. Second, it is equally clear that even the most intellectually able animals do not have the characteristics of personhood to the same degree as the average normal adult human. As a result, animals will always lose out in a direct application of the personhood argument, if the personhood argument is applied without any further adaptation.

The second response to the defence of an animal welfare ethic is to deny that all humans are persons. Thus, the argument goes, if we are saying that it is personhood that distinguishes humans morally from animals (as opposed to species) then what are we to do with those humans—babies and infants, adults who lack any or the full range of ‘normal’ human cognitive ability—who are not full persons? Logical consistency demands one of two responses. Either we treat these so-called ‘marginal’ humans as if they were full persons, or we regard them, like animals, as non-persons. Of course, if we regard marginal humans as if they were full persons then there is no logical justification for failing to treat animals in the same way. The only way of avoiding this conclusion is to treat marginal humans in the same way as animals. Unsurprisingly, though, there are not many takers for accepting that we can exploit marginal humans in the same way as we do animals, as experimental subjects, for example, or as sources of food even.

Despite the logically flawless character of the so-called ‘argument from marginal cases’, it is not a position that has been decisive in the ethical debate about animals. Part of the reason for this is that it is widely recognised that we often do treat marginal humans in a different way from ‘normal’ humans. We do not, for instance, give those with severe dementia the freedom that other humans would expect, and there is little ethical objection to this in public debate on the issue. Similarly, when choosing the beneficiaries of scarce medical resources, health professionals will often take into account quality of life issues that may put at risk the well-being of less capable humans.

Of course, there is a huge difference between denying marginal humans liberty or the use of expensive medical treatment and actively seeking to exploit them for the benefit of others. To this end, the current treatment of marginal humans is not equivalent to the treatment of animals, and to that extent the force of the argument from marginal cases remains. Ultimately, the argument from marginal cases has not had the impact it perhaps deserves because it challenges the powerful moral intuition that we should protect those humans with severe disadvantages. It is, of course, this very sentiment—defending the interests of the disadvantaged and the powerless—that exponents employ to generate sympathy for the plight of animals. The importance of the species barrier, however, persists.

A right not to suffer

Neither response to the defenders of the moral orthodoxy, therefore, is particularly successful. As a result, according rights to animals on the same grounds as humans has a tendency to appear utopian and far-fetched. This stems largely from the fact that to grant animals a right to life and liberty, as many exponents of animal rights seek to do, is to imply that what is wrong is our use of animals, irrespective

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The Political Quarterly, Vol. 81, No. 1
of the way they are treated. It is to say, in other words, that to use animals for whatever purpose is a form of slavery—a situation that can only be rectified by ‘liberating’ them from the clutches of their oppressors.8

Does this mean, then, that the animal rights project is doomed to be disregarded by the vast majority who cannot accept the moral egalitarianism upon which it is built? I would suggest not, but only if we adopt a much more (morally and politically) acceptable version of animal rights based on the sentiency of animals and not their personhood. This position is to be distinguished from that adopted by some animal rights philosophers (including Regan in his early writings) in which a right to life for animals (and all that follows from it) is drawn from the mere fact of their sentiency. The autonomy defence of the moral orthodoxy (the argument from marginal cases notwithstanding) has put paid to that.

Instead, an animal rights theory based on sentiency must take into account the moral importance of personhood. In effect, this means accepting that the loss of life and liberty for a human is of greater moral significance than it is for an animal. This is hardly controversial. Indeed, at least before the argument from marginal cases is factored in, there is a consensus among animal rights philosophers that human life is more valuable than animal life. For a person, then, death means that a future is taken away, consisting of ‘a constellation of experiences, beliefs, desires, goals, projects, activities, and various other things’.9 If the life is taken of a being that does not have this ‘constellation of experiences’, or has them to a lesser degree, it is difficult to see that being can be harmed to the same extent, providing the death is painless. In Singer’s words:

to take the life of a being who has been hoping, planning and working for some future goal is to deprive that being of the fulfilment of all those efforts; to take the life of a being with a mental capacity below the level needed to grasp that one is a being with a future—much less make plans for the future—cannot involve this particular kind of loss.10

Of course, there is a difference between saying that animals have less interest in life and saying that they have no interest in continued life. In the former case, it follows that if we had to choose between saving the life of a human and an animal we should choose the former but that it is not justifiable morally to kill animals where human life is not at stake. This would mean, for instance, that killing animals for food (even if done humanely) would not be justified unless humans are likely to starve as a result—an outcome that is not the case for the vast majority in the modern world. Even if we adopt what might be called the ‘sentiency position’—that animals have no interest in continued life, but they do have an interest in avoiding suffering pain (and maybe even other forms of suffering such as boredom, stress and anxiety) that is equivalent to a human’s interest in avoiding suffering—then, I would argue, radical conclusions still follow.

This position would hold that whilst killing animals humanely raises no ethical difficulties (as is largely the case in the current moral orthodoxy), humans would no longer be able to use animals, irrespective of the benefits that might accrue from so doing, if suffering is inflicted as a result. It is my contention that applying this principle would have the effect of rendering many current uses of animals illegitimate morally. For instance, whilst killing animals for food humanely raises no ethical objections, inflicting suffering on them in order to provide food would, in almost all cases, no longer be sanctioned. This would certainly rule out the current system of factory farming, and it is an open question whether an extensive system of animal agriculture could ever
meet the ethical requirements of the sentiency position. Similarly, using animals for scientific procedures should only be permitted where the infliction of suffering is minimised or eliminated.

**Conclusion: public policy and the sentiency position**

It has been suggested in this article that it is morally permissible to claim that an animal's interest in avoiding the infliction of suffering—particularly pain—is equivalent, all things being equal, to a human's interest in avoiding the infliction of pain. Insofar as we are prepared to accord humans a right to be free from the infliction of pain by other humans, therefore, then there seems little reason to deny animals a similar right. This, 'sentiency position', it has been argued, is significantly different from both the orthodox animal welfare position and the conventional animal rights position.

In contrast to the former, an animal's interest in not suffering is not to be sacrificed even when significant human interests can be promoted in the process. In contrast to the latter, the moral importance of personhood—a characteristic possessed only by humans (and perhaps a small number of non-human species)—is recognised. As a result, it is not the use of animals *per se* that ought to be of moral concern (as it is for many animal rights philosophers), but what we do to them while they are being used. Moreover, it is the infliction of suffering on animals that ought to concern us and not killing them humanely or depriving them of liberty, providing that this deprivation of liberty does not cause suffering.

The sentiency position offers a clear guide to policy makers. Uses of animals that cause suffering, on farms and in laboratories in particular, ought to be prohibited. In this respect, the current state of the law in Britain and elsewhere is inadequate. Individual elements of factory farming have been gradually abolished over the years, largely on the grounds that they are not regarded as necessary. According to the sentiency position, however, the intensive farming of animals ought to be prohibited in total, not because it is unnecessary, but because it causes suffering.

The legislation relating to animal experimentation in Britain—the 1986 Animals (Scientific Procedures) Act—permits the issuing of project licenses for work involving animals that are deemed to be necessary in terms of the benefits that are likely to accrue for humans and other animals. There is an upper pain limit beyond which work has to be stopped irrespective of any potential benefits lost. Below that, however, suffering is allowed to be inflicted if the benefits are thought to justify it. The sentiency position regards this as an infringement on animals' right not to suffer. As a consequence, only those projects that do not cause suffering—through, for instance, the use of appropriate anesthetic so that the animal is rendered unconscious, and is not allowed to recover if suffering is likely to occur once consciousness is regained—are morally acceptable.

The focus on the sentiency of animals, as opposed to their lives and liberty, is not inconsistent with much of the campaigning of the animal rights movement. The two major issues it focuses on are the treatment of animals on farms and in laboratories, where the greatest degree of suffering takes place. Less attention is paid to the keeping of pet or companion animals, as opposed to their treatment, despite the fact that it involves restrictions on liberty. Equally, zoos and circuses tend to be morally condemned by the animal rights movement not because of the loss of liberty such activity produces *per se* but primarily when the infringement of liberty causes suffering.

This article has also suggested that there is a strong case for making animal protection a central part of mainstream
political theory. It would seem to represent its natural progression. By incorporating animal interests, the structure of liberal ideology is not affected, but its coverage will be. In other words, we do not have to change the fundamental character of liberal ideology but we do have to extend the conceptual arrangements common to it if animals are to be properly protected. As a result, mainstream political theory needs to consider what it means to say that animals have rights against humans, freedoms from humans and equality with humans. Likewise, the recognition that animals have important interests raises questions about how, and by whom, those interests are to be represented. Just as political theorists are increasingly looking beyond the state to take into account the reality of globalisation, they should also look beyond the human species if they are to accurately reflect the moral worth of animals.

Notes
4 See W. Fox, Towards a Transpersonal Ecology, Totnes, Resurgence, 1995.
8 The ‘use position’, a version of animal rights which suggests that animals have a right to liberty and therefore ought to be liberated from human use, is challenged effectively in A. Cochrane, ‘Do animals have an interest in liberty?’, Political Studies, vol. 57, 2009, pp. 660–79.