

The Scope of the Argument from Species Overlap

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ABSTRACT *The argument from species overlap has been widely used in the literature on animal ethics and speciesism. However, there has been much confusion regarding what the argument proves and what it does not prove, and regarding the views it challenges. This article intends to clarify these confusions, and to show that the name most often used for this argument ('the argument from marginal cases') reflects and reinforces these misunderstandings. The article claims that the argument questions not only those defences of anthropocentrism that appeal to capacities believed to be typically human, but also those that appeal to special relations between humans. This means the scope of the argument is far wider than has been thought thus far. Finally, the article claims that, even if the argument cannot prove by itself that we should not disregard the interests of nonhuman animals, it provides us with strong reasons to do so, since the argument does prove that no defence of anthropocentrism appealing to non-definitional and testable criteria succeeds.*

1. Introduction

The argument from species overlap, which has also been called — misleadingly, I will argue — the argument from marginal cases, points out that the criteria that are commonly used to deprive nonhuman animals of moral consideration fail to draw a line between human beings and other sentient animals, since there are also humans who fail to satisfy them.¹ This argument has been widely used in the literature on animal ethics for two purposes.

First, it has been used to defend the view that moral anthropocentrism is an instance of speciesism. Speciesism is the unjustified disadvantageous consideration or treatment of those who do not belong to a certain species. Moral anthropocentrism (or anthropocentrism, for short)² is a very common viewpoint, which can be defined as the prescription of (A):

- (A) It is justified to consider disadvantageously those who do not satisfy a certain criterion *X* with respect to those who satisfy *X*, where *X* is satisfied only by human beings and by all human beings.

Second, the argument from species overlap has been used to claim that we should not disregard the interests of nonhuman animals. This implies that we should stop acting towards nonhuman animals in ways that harm them, including using them as resources, as well as start taking their interest seriously when it comes to acting in favour of them as we would in the case of humans in those cases in which we can benefit them. We can say that the argument questions (D):

(D) It is justified to disregard, totally or partially, the interests of those who fail to satisfy a certain criterion X , and it is not justified to disregard, totally or partially, the interests of those who satisfy X , where X is not satisfied by nonhuman animals.

Although (A) and (D) may seem similar, they differ in two important ways. First, (D) is not comparative, as (A) is. It just points to some way of treating nonhuman animals regardless of how others are treated. (A), however, is a comparative definition (as the term ‘disadvantageously’ shows). We may treat nonhuman animals well yet fail to give the satisfaction of their interests the importance that we give to the satisfaction of human interests. This would still be an anthropocentric position.³ Second, (D) does not require that all humans be morally considerable, or fully morally considerable. It only requires that nonhuman animals are not fully morally considerable. But (A) and (D) do have something in common, which is that both can be used to deprive nonhuman animals of full moral consideration.

Given the definitions presented above, to see if anthropocentrism is an instance of speciesism we need to examine if there is any value X may have that may render (A) correct, that is, if there is any criterion that can draw a morally relevant distinction between nonhuman animals and humans.⁴ The argument from species overlap shows that no criterion whose satisfaction is (i) not merely definitional and (ii) open to corroboration can do this, because no such criterion can be fulfilled by all humans and only by humans. There are a number of criteria consisting in the possession of certain capacities or relations that no nonhuman animal satisfies, but none of them is satisfied by all humans.

This being the case, the argument from species overlap can also be used to question (D). Rejecting (A) but accepting (D) would mean that we would not have to give full consideration to all humans. Since most of us disagree with this view, the argument can be very convincing in leading us to reject (D).

For this reason, the argument is widely used in the literature on the moral consideration of nonhuman animals. However, it is often misunderstood in several ways. For instance, it is often assumed that it can be applied in the case of capacities but not relations. And it is sometimes believed that its purpose is to claim that humans and nonhuman animals should be treated in the same way. Or that it proves that nonhuman animals should be morally considered in certain ways. There are other confusions regarding its aims, and the way it is formulated is sometimes problematic in several respects. In fact, the term most commonly used for it (the ‘argument from marginal cases’) reflects some of these problems.

This article intends to clarify these confusions, to explain the ways in which the argument can be useful. Section 2 explains how the argument works, as well as the consequences it implies. Section 3 presents several formulations of it. Section 4 explains the scope of the argument, that is, which views it challenges. Section 5 reviews the question of its name. Section 6 concludes by pointing out what the argument proves and what the argument does not prove, as well as what aims can be pursued by using it.

2. The Point of the Argument

Anthropocentrism can be defended by simply claiming that only humans are morally considerable, or by pointing to some criterion which is identifiable with the fact of being

human, such as the fact of having 100% human DNA. That is, by assuming what we can call a definitional criterion.⁵ In other cases, it is defended that humans are God's chosen species and that only those who belong to this species are morally considerable, or that humans are more important for other metaphysical reasons which appeal to criteria whose satisfaction cannot be tested.⁶

The argument from species overlap is *not* directed against these views. But we will have to reject them anyway if we accept that in order to defend a morally relevant distinction between the ways we should consider different individuals it is necessary to appeal to further reasons that are open to corroboration. That is, if we accept that we need to base those distinctions on criteria that are not merely definitional and whose possession is testable. This seems a sound requirement, and it appears to be arbitrary to reject it. For this reason, relatively few theorists among those who have defended (A) have done so by means of merely definitional or untestable criteria.⁷

However, in other cases (A) and (D) are defended by pointing to other criteria whose possession can be corroborated, and which are not merely definitional. Those criteria can be of two kinds. They may refer to (i) attributes that are intrinsic to individuals (basically, certain individual capacities); or to (ii) relations individuals may have with other subjects.

With this type of arguments it is often asserted that human beings should be favoured over other animals, or that nonhuman animals should not be considered, because only humans have, for example, certain cognitive capacities, the command of a language or the ability to recognise and assume responsibilities.⁸ In other cases it is claimed that the reason for such privileged consideration is that we humans maintain among us a relation of solidarity, affection, power relations, possibilities for interaction, and other social relationships⁹ that allegedly we do not have with other animals. The prescription which results may be formulated as follows:

- (C) It is justified to disregard those who fail to satisfy a certain criterion *C*, or to consider them in a disadvantageous way with respect to those who do satisfy *C*, where *C* can denote (i) the possession of certain cognitive or linguistic capacities, the possibility of having duties, or other capacities related to these ones; or (ii) the fact of having emotional bonds with moral agents or other individuals, of being in a situation of power over other individuals, of interacting commonly with them or, in general, of having a privileged relationship with them, and it is not justified to disregard those who satisfy *C*.

Anthropocentrism can be combined with (C) by substituting *C* for *X*, as follows:

- (AC) It is justified to consider disadvantageously those who do not satisfy a certain criterion *C* with respect to those who satisfy *C*, where *C* is satisfied only by human beings and by all human beings.

And we can do the same in the case of (D):

- (DC) It is justified to disregard, totally or partially, the interests of those who fail to satisfy a certain criterion *C*, and it is not justified to disregard, totally or partially, the interests of those who satisfy *C*, where *C* is not satisfied by nonhuman animals.

Given the reasons mentioned above regarding merely definitional and non-corroborable arguments, we can accept that (AC) and (DC) are the only plausible ways to defend (A)

and (D). However, the argument from species overlap points to a significant fact that is commonly forgotten by those who defend (AC) and (DC). They often take for granted that all humans satisfy *C*. But this is an incorrect assumption. We can see this by looking at the criteria that appeal to certain individual features (such as, for instance, intellectual capacities, the command of a language or the possibility of having responsibilities). There are a number of human beings who do not have such capacities. They include humans with significant intellectual functional diversity¹⁰ and babies (that is, all humans at the beginning of their lives).

Similar conclusions can be inferred in the case of the defences of anthropocentrism that are based on relational factors such as emotional bonds, possibilities for interaction, or power relations. There are many humans with whom no one has emotional bonds. Some may respond to this by claiming that humans have a universal emotional bond among them, that is, that all humans have affection for the rest of humanity or have a feeling of solidarity with them. However, although some may actually have those feelings, they are not possessed uniformly by all human beings: there are many who do not love the other members of their species. Otherwise many of the terrible aggressions among humans that we can see on an everyday basis today would not take place. Similarly, there are many humans with whom we do not have any possibility for interaction. And there are many humans who are clearly much worse off in terms of power relations than other humans. If we consider such criteria morally relevant, these humans will be deprived of full moral consideration.

Therefore, satisfying the criteria *C* can stand for is not equivalent to belonging to the human group. So the argument points out that it is not possible to defend treating nonhuman animals disadvantageously in comparison with humans by claiming that only humans satisfy any of those criteria and nonhumans do not.

Given this, what also follows from the argument is that if we want to avoid having any human deprived of full moral consideration or of a certain kind or level of consideration, we cannot deprive nonhuman animals of it by appealing to (DC).

3. Different Formulations of the Argument

Thus far we have seen the argument explained, let us see it formulated now. There are different ways this can be done. There are different versions of the argument, which can vary depending on the premises they accept, the view they question and the way they question it. To start with, we can consider a version of the argument that merely intends to question of anthropocentrism, by rebutting (AC):

The argument from species overlap: the antianthropocentric version

- (ASEA1) If and only if (AC) nonhuman animals should be disadvantageously considered with comparison to humans.
- (ASEA2) There are sentient humans who do not satisfy *C*.
- (ASEA3) It is not the case that *C* is satisfied only by humans and by all humans.
- (ASEA4) It is not the case that (AC).
- (ASEA5) Nonhuman animals should not be disadvantageously considered with comparison to humans.¹¹

Other versions of the argument, instead, may not just be intended to question anthropocentrism, but also whether (C) can be a sound view. One way to do this is by

simply pointing out at the counter-intuitive consequences that follows from accepting (C), and therefore using a negative version of the argument from species overlap:

The argument from species overlap: the negative version

(ASON1) (C).

(ASON2) There are sentient humans who do not satisfy C.

(ASON3) There are sentient humans who should be disregarded or disadvantageously considered with respect to others.

The way the conclusion in the negative version of the argument, (ASON3), follows is clear. Therefore, this conclusion can only be unacceptable if the premise on which it is based, (ASON1), that is, (C), is unacceptable too.

Alternatively we may want to make this claim in a more positive way by pointing out that accepting (C) has consequences for both humans and nonhuman animals. Step by step, this could be done as follows:

*The argument from species overlap: the biconditional version*¹²

(ASEB1) There are sentient humans who do not satisfy C.

(ASEB2) If and only if (C) it is justified to disregard the interests of those humans who fail to satisfy C.

(ASEB3) If it is not justified to disregard the interests of those humans who fail to satisfy C then it is not the case that (C).

(ASEB4) If and only if (C) it is justified to disregard the interests of nonhuman animals.

(ASEB5) If it is not the case that (C) then it is not justified to disregard the interests of nonhuman animals.

(ASEB6) If it is not justified to disregard the interests of those humans who fail to satisfy C then it is not justified to disregard the interests of nonhuman animals.

Finally, we can present a categorical formulation of the argument in which we include as a premise the prescription that no sentient human should be disregarded or disadvantageously considered:¹³

The argument from species overlap: the categorical version

(ASEC1) There are sentient humans who do not satisfy C.

(ASEC2) If and only if (C) it is justified to disregard the interests of those humans who fail to satisfy C.

(ASEC3) If it is not justified to disregard the interests of those humans who fail to satisfy C then it is not the case that (C).

(ASEC4) If and only if (C) then it is justified to disregard the interests of nonhuman animals.

(ASEC5) If it is not the case that (C) then it is not justified to disregard the interests of nonhuman animals.

(ASEC6) It is not justified to disregard the interests of those humans who fail to satisfy C.

(ASEC7) It is not the case that (C).

(ASEC8) It is not justified to disregard the interests of nonhuman animals.

These diverse versions of the argument present their case differently. But, in different ways, what they succeed to show is that there are two ways we can proceed regarding the

use of criteria *C* with the intention of disregarding or disadvantageously considering nonhuman animals:

- (a) We may continue to maintain these criteria, that is, we may accept (*C*). This means we will defend the deprivation of consideration of nonhuman animals and of those humans who fail to have certain capacities or relations. This might allow us to justify the ways we currently act towards nonhuman animals (including their current widespread use as resources, in particular for food,¹⁴ as well as our refusal to spend resources on helping them when they need it).¹⁵ But it will also justify using in similar ways those humans who fail to satisfy *C*.
- (b) We can reject these criteria as acceptable ones. Accordingly, we will no longer have reasons to deprive nonhuman animals of full moral consideration. This entails, among other things, that the current use of nonhuman animals as food should be given up, and that we have reasons to help nonhuman animals when they need it, just as we do when humans need help.¹⁶

4. The Scope of the Argument: Individual Capacities and Relations

The argument from species overlap has been repeatedly used by those who question moral anthropocentrism and argue that anthropocentrism is a form of speciesism. But in the literature it has been always used to question only those defences of anthropocentrism that appeal to individual capacities. Yet the argument is also effective to question other defences of anthropocentrism that appeal not to individual capacities but to relations. This should not be surprising if we look at the way the argument proceeds. The point of the argument is to show that some criteria that are appealed to in order to justify anthropocentrism also exclude some humans, since there are humans who do not satisfy them. But humans differ not only in their intrinsic features, but also in their situation with regard to others. And these differences affect the way they can fulfil the moral requirements that such defences of anthropocentrism propose. Hence, the argument works not only when we consider criteria that appeal to individual capacities, but also with criteria that appeal to relationships.

5. The Name of the Argument: Why The Term ‘Marginal Cases’ is Incorrect

We may wonder how this has remained unnoticed thus far. Why have those who use the argument not seen that it questions too the defences of anthropocentrism that claim that relations are relevant? One of the reasons is to be found in the name that has generally been used for it: ‘the argument from marginal cases.’ Such a designation, which was introduced by one defender of speciesism, Jan Narveson,¹⁷ is inappropriate for reasons we will see now.

There are three ways in which those who do not satisfy *C* can be considered to be ‘marginal cases’.

1. *Marginality with respect to a typological taxon.* We may assume that the use of the term ‘marginal cases’ is taking as a reference a taxon of human being which we would be meant to fit more or less closely, so those who fall outside the limits set as paradigmatic

would be called ‘marginal’. The term ‘marginal cases’ would refer to those humans who do not fit what would be considered a ‘normal’ human being. Since that human model would be defined by the possession of certain capacities, those who lack them would be ‘marginal’ humans.

This typological account of species membership can be seriously questioned on scientific grounds in favour of other criteria such as a phylogenetic or genetic one, or even a reproductive or recognition one. In addition, this view has quite counterintuitive consequences, and does not distinguish those who fail to satisfy *C* from the rest of humans. First, most of us would agree that babies who are born with some cognitive deficiency are certainly human, and not to a lesser degree than others. Yet the typological view of species membership implies that they would be considered marginal humans. Second, this view also implies the odd conclusion that those humans who have perfectly normal intellectual capacities but who lack other capacities that most humans have (such as the ability to walk, or to hear or to see) would also be marginal members of the species. Third, even if we accepted the idea that some humans can be marginal for not having certain capacities, this would apply only to those who do not have those capacities due to congenital reasons. It would not apply in the case of those who lack them due to brain injuries, or to acquired — not congenital — diseases. Fourth, it would not apply to babies either. And fifth, it would not work for criteria based on relations. So, understood in this way, this term cannot describe correctly the argument we are considering.

2. *Genetic marginality.* We could claim that when we speak of marginality within a species it is not a typological taxon that we must think of, but rather having genetic information that diverges from the standard one among humans. According to this view, it is not in phenotype, but in genotype that marginality can be found.

This view does not work to justify the use of the name ‘marginal cases’ either. First, someone may fail to satisfy the criteria that defenders of anthropocentrism propose without it having to do at all with the information in her genes. Again, this will be the case if she is a baby, or if she lacks those capacities due to injuries, or if she suffers from a condition that alters her capacities and does not have a genetic cause (for instance, a disease caused by the ingestion of some toxic substance). Second, suppose there are two individuals who both have a genetic predisposition to suffer from a certain condition that reduces their cognitive abilities. Suppose one of them eventually develops that condition while the other one does not. Basing marginality on deviations from a genotype that is considered normal entails that, if the former person is a marginal case, the latter is a marginal case as well, even if her cognitive capacities are not actually affected in any way. And third, it is obvious that this alleged genetic marginality can have nothing to do with failing to satisfy *C* when we consider relations, not capacities.

3. *Marginality with respect to the satisfaction of certain criteria.* We have seen that the argument from species overlap is meant to show that the view of species as defined by the satisfaction of criteria *C* is wrong. The argument points out that there are individuals of a certain species who do not satisfy some criteria that members of this species are commonly assumed to satisfy. So the argument from species overlap actually questions the very idea that there are humans who are marginal with respect to membership in the human species.

However, it may be thought that what the term ‘marginal’ refers to here is not species membership, but the satisfaction of criteria *C*. But the use of this term is questionable in

this case as well. Note, first, that the term ‘marginal’ means ‘at the margins’. However, there are many human beings who are not at the margins in this sense, since they do not satisfy the criteria that are at stake here in any way, not even in a marginal one. Simply, they do not satisfy them at all. Therefore, the language of ‘marginality’ is not properly applied here, either. Second, we must take into account that, even if the terminology of ‘marginality’ is used with regard to the satisfaction of certain criteria, rather than species, it would be very possible for confusions to arise. People might still assume that it is species as such that is being referred to with this term. In fact, many of those who use the name ‘argument from marginal cases’ may not have reflected on what *exactly* the word ‘marginal’ means in it. The potential for such misunderstandings would render the use of the term inadvisable even if it were true that we could speak meaningfully of marginality in the case of the satisfaction of certain criteria. Third, we must also take into account that ‘marginal cases’ is an expression that is open to misinterpretations of a different sort. In particular, it might be thought that it designates cases that are marginal in the sense of having little relevance. But this is not the case. As we have seen, the argument can be applied to all humans at the beginning of their lives. In addition, it is not clear whether the number of humans who are not babies but nevertheless are in that situation is a tiny enough one that it could be considered a marginal fraction of the human population. Finally, the argument would appear to be still powerful even if it covered only very few cases.

Hence, the term ‘argument from marginal cases’ must be rejected since it is incorrect in light of what the argument from species overlap states. This is paradoxical, given that this argument is actually the very one that this term is intended to name.¹⁸

In contrast, the term ‘species overlap’ has several advantages:

- (i) It is not only applicable in the case of the criteria that appeal to capacities, but also in the case of those that focus on relations.
- (ii) It describes what the argument points out better than the concept of ‘marginality’. By using the term ‘overlap’ we do not just point out the differences present within a certain species. Rather, we consider individuals of different species, and we look at their similarity when it comes to failing to satisfy certain criteria. We can therefore say that there is an overlap with respect to how members of the species fail to satisfy certain criteria. The name thus refers to the fact that the satisfaction of certain criteria *C* can stand for does not draw a line which separates all members of one species from all members of other species, which is the main point of the argument.
- (iii) The term ‘species overlap’ has been used already for several years, and is probably the only strong candidate to replace the expression ‘marginal cases’.¹⁹ This is a reason to favour this term over other possible alternatives.
- (iv) Finally, the name is better than other alternatives that have been used in very few cases, such as ‘argument from human misfortune’²⁰ or ‘argument from nonparadigmatic humans’.²¹ The reason for this is that the argument is not only applicable in the case of the human species. It can also be employed to question any position that, by appealing to some of the mentioned criteria, draws a difference between the moral consideration of animals who do not belong to certain nonhuman species. For instance, suppose someone argues that only great apes deserve full moral consideration, and not other animals, on the basis that only they have certain cognitive capacities. The argument from species overlap would work against this

argument, too. The term ‘species overlap’ is compatible with its use whether the preferred species is a human or a nonhuman one.

6. The Aims of the Argument from Species Overlap

In light of what we have seen, we can conclude that the following aims can be pursued successfully by using the argument from species overlap.

First, the argument refutes (AC), which is the most plausible, if not the only plausible defence of (A) (the anti-anthropocentric version of the argument shows this clearly). The other possible ways to defend (A) (by definition or by means of criteria which cannot be verified) can hardly provide us with any sound rationale of it. Therefore, the argument leaves anthropocentrism without any plausible defence. If we assume that justified moral views must rely on testable and not merely definitional criteria, the argument from species overlap shows anthropocentrism to be unjustified, and therefore a form of speciesism.

Second, although by itself the argument does not refute (D), it helps to question it. To be sure, the argument from species overlap does not *prove* that humans or nonhumans must be considered or treated in a certain way. The categorical version simply assumes among its premises that humans must not be disadvantageously considered or disregarded. But it does not justify this premise; it simply takes it for granted. The argument (both in its biconditional and its categorical version) just points out that *if* no human must be deprived of full moral consideration, then nonhumans must not be deprived of it either. However, the argument does show us that if we want to grant that no sentient human is disregarded or disadvantageously considered by means of a nondefinitional criterion whose satisfaction can be corroborated, we must reject the criteria that exclude nonhumans. That is, no criterion meeting those requirements can justify disregarding the interests of nonhuman animals without accepting disregarding the interests of some humans, too. The argument implies that those who refuse to accept that humans who fail to satisfy *C* can be disregarded or deprived of full moral consideration must reject (C). This entails that they can no longer accept (DC) too — which, as we saw above, is the only plausible defence of (D).

This is very important, given that most people think no human being should be disregarded or disadvantageously considered.

Some theorists have complained, however, that the use of this argument can mean that the consideration we have towards those human beings who do not satisfy criteria *C* will be diminished. Due to this, they claim that the argument should not be used.²²

This complaint is misdirected. It fails for two reasons. The first is that those who make this claim do so because they continue to assume that nonhuman animals cannot be morally considered as humans are. They are speciesist, and are taking for granted the disadvantageous treatment of nonhuman animals and their disregard. Therefore, they have not understood that the purpose with which the argument has been presented is to question those very views (not to merely improve a bit the current situation of nonhuman animals). Once we question speciesism and disregard for nonhuman animals, none of the consequences these theorists fear follow. That is, no human being risks being less considered according to those who defend that nonhuman animals should not be less considered than humans are today.

The second reason why the view of these theorists is questionable is that it is as if they are trying to blame the argument for pointing out that there are humans who do not satisfy certain criteria. But this is just a fact (which is obviously not created by the existence of the argument). So, in asking us to not consider what the argument points out these theorists are asking us to not consider the facts. Moreover, they are asking us to not consider facts that are highly relevant to the discussion that is going on here.

It may be argued that they do not complain at considering facts but at the moral view assumed by presenting the argument. But this is not so. To see this, consider the negative formulation of the argument (which is probably the one that expresses more clearly the fears expressed by these theorists):

(ASON1) (C).

(ASON2) There are sentient humans who do not satisfy *C*.

(ASON3) There are sentient humans who should be disregarded or disadvantageously considered with respect to others.

As I have just said these theorists are actually defenders of speciesism who would happily accept (AC). In criticising the argument, their aim is to continue to defend (A) and (D), while denying the consequences that follow from doing so when it comes to humans. So their problem is not really with the normative claim, (C), as such, since they do not object to it as far as they think that only nonhuman animals are affected by it.²³ Therefore, if they see something objectionable in the argument it has to be the fact that there are humans who do not satisfy *C*. However, this fact is not created by the use of the argument. The argument just takes that fact into account. So at the end of the day the problem these defenders of speciesism have is actually with facts.

It may be argued that these theorists do have a point, though, since there has been at least one theorist (Raymond G. Frey) who has accepted the argument and yet continued to maintain (D), and has therefore extended disregard for nonhuman animals to those humans who do not satisfy (C). This is a position that most people strongly reject. But what this entails is not that we should reject the argument. Rather, the fact that the number of those who may accept Frey's view is insignificant is actually the reason why the argument is used. The argument is intended to convince those who reject Frey's view, who are the overwhelming majority.

A different concern here would be that in this way we may think that the reason why we should take nonhuman animals into account after considering the argument from species overlap would be the need to protect all humans. However, this would seem to go against the goal of clear moral reasoning. It seems to be giving up the task of finding what justifies the way we can act. Instead, we would be rationalising and trying to find a rule from which we can infer the results that we wanted to achieve in the first place. But this is not a limitation of the argument itself, but rather due to a lack of considering the argument and its implications carefully.

There is, however, a different way to proceed in moral reasoning. If we consider the consequences that are derived from a certain criterion unacceptable, this can lead us to question whether that criterion is justified. Therefore, if we assume that it is unacceptable to disregard or to consider disadvantageously those sentient humans who do not satisfy *C*, that must drive us to question *C*. In this way, the argument invites us to question the most basic defences of anthropocentrism, and, therefore, anthropocentrism itself.

Finally, we can go a bit further than this and look at a third aim the argument from species overlap can help us to achieve. If we maintain that all humans who can feel suffering and wellbeing must be granted full moral consideration, we might think that what really matters in order to get this protection is the way they would be harmed or benefited if they were not protected. And, if we accept this, then we can conclude that what really matters is the way any individuals who are affected by our decisions will be harmed or benefited by them. This would imply that all those who can have positive or negative experiences should be morally considered. And since nonhuman animals meet this criterion, this implies we should give them full moral consideration. The argument cannot prove this claim, that is clear. But as we have seen it gives us strong reasons to consider accepting it.

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NOTES

- 1 This argument was already presented in the 18th century by several philosophers, including Hume and Bentham. See David Hume, *Treatise on Human Nature* (New York: Oxford University Press, 1978), §176; Jeremy Bentham, *Introduction to the Principles of Morals and Legislation* (Oxford: Clarendon Press, 1996), p. 282n, and it was later addressed in the 20th century in Leonard Nelson, *System of Ethics* (New Haven, CT: Yale University Press, 1956), pp. 142–43. And long before that, Porphyry had also presented the argument. See Porphyry, *On Abstinence from Killing Animals* (Ithaca, NY: Cornell University Press, 2000), book 3, 15: 3–4. In present times, the argument became popular after its presentation in Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (New York: New York Review/Random House, 1975). It has been addressed in virtually every book on animal ethics ever since, and has been examined in particular detail in several works including Tom Regan, ‘An examination and defense of one argument concerning animal rights’, *Inquiry: An Interdisciplinary Journal of Philosophy* 22,1–4 (1979): 189–219; Daniel A. Dombrowski, *Babies and Beasts: The Argument from Marginal Cases* (Chicago, IL: University of Illinois, 1997); Evelyn B. Pluhar, *Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals* (Durham, NC: Duke University Press, 1995); Jesse Ehrert, *The Argument from Species Overlap*, Masters thesis (Blacksburg, VA: Virginia Polytechnic Institute and State University, 2002); Mark Bernstein, ‘Marginal cases and moral relevance’, *Journal of Social Philosophy* 33,4 (2002): 523–39; Alastair Norcross, ‘Puppies, pigs, and people: Eating meat and marginal cases’, *Philosophical Perspectives* 18,1 (2004): 229–45; Scott D. Wilson, ‘The species-norm account of moral status’, *Between the Species* 11,5 (2005): 1–29, <<http://digitalcommons.calpoly.edu/bts/vol13/iss5/7/>> (accessed 14 July 2012); Julia Tanner, ‘The argument from marginal cases: Is species a relevant difference’, *Croatian Journal of Philosophy* 11,2 (2011): 225–35. I have examined the argument briefly in Oscar Horta, ‘What is speciesism’, *Journal of Agricultural and Environmental Ethics* 23,3 (2010): 243–66.
- 2 The term ‘anthropocentrism’ is often used to mean something different from this, such as the view that the only valuable beings are humans or that humans see things or recognise what is valuable from their own human perspective. It is used differently here, to mean only what (A) prescribes.
- 3 To be sure, most anthropocentrists would not explain their attitudes this way. They would just claim they believe ‘humans come first’, without saying anything about any criteria being satisfied or not. But their view can nevertheless be seen as fitting what (A) prescribes, since they defend the view that nonhuman animals be treated disadvantageously because they do not satisfy a certain criterion (being human) which only humans (by definition) satisfy.
- 4 Note that rejecting (A) as the argument proposes does not entail that we must treat humans and nonhumans in the same way — as seems to be assumed in Mary Midgley, *Animals and Why They Matter* (Athens, GA: University of Georgia Press, 1983) and Elizabeth Anderson, ‘Animal rights and the values of nonhuman life’ in C. R. Sunstein & M. C. Nussbaum (eds) *Animal Rights, Current Debates and New Directions* (Oxford: Oxford University Press, 2004), pp. 277–98. It just entails not giving priority to human interests when they are not more significant than those of others.

5 This definitional views can be formulated as assuming this prescription:

(DefA) It is justified to consider disadvantageously those who do not satisfy the criterion consisting in, or being identifiable with, being human.

For definitional defences of anthropocentrism see for instance Tony Lynch & David Wells, 'Non-anthropocentrism? A killing objection', *Environmental Values* 7,2 (1998): 151–63; Raimond Gaita, *The Philosopher's Dog: Friendships with Animals* (London: Routledge, 2003); Richard A. Posner, 'Animal rights: Legal, Philosophical and pragmatic perspectives', in Sunstein & Nussbaum (eds) op. cit., pp. 51–77.

6 See for instance James B. Reichmann, *Evolution, Animal 'Rights' and the Environment* (Washington, DC: The Catholic University of America Press, 2000); Tibor Machan, *Putting Humans First: Why We Are Nature's Favorite* (Oxford: Rowman and Littlefield, 2004).

7 See notes 5 and 6 for exceptions.

8 See for instance René Descartes, *Discours de la méthode* (Paris: Vrin, 1930); William Paton, *Man and Mouse* (Oxford: Oxford University Press, 1984); Michael P. T. Leahy, *Against Liberation: Putting Animals in Perspective* (London: Routledge, 1991); Peter Carruthers, *The Animal Issue: Moral Theory in Practice* (Cambridge: Cambridge University Press, 1992); Roger Scruton, *Animal Rights and Wrongs* (London: Metro, 1996).

9 See for instance William Whewell, *Lectures on the History of Moral Philosophy in England* (London: John Parker, 1852), p. 223; Lawrence C. Becker, 'The priority of human interests' in H. B. Miller, & W. H. Williams (eds) *Ethics and Animals* (Clifton, NJ: Humana Press, 1983), pp. 225–42; Peter S. Wenz, *Environmental Justice* (New York: SUNY Press, 1998); or Michael Goldman, 'A transcendental defense of speciesism', *Journal of Value Inquiry* 35,1 (2001): 59–69.

10 This term has been coined as an alternative to expressions such as 'intellectual disability', 'mental retardation' and other similar ones, which entail assuming certain capacities as the standard against which we compare those who lack them. Instead, the term 'functional diversity' refers the fact that different individuals differ with regards to the functions they can perform. See Philip Patston, 'Constructive functional diversity: A new paradigm beyond disability and impairment', *Disability and Rehabilitation* 29,20–21 (2007): 1625–33.

11 This can be done in a very simple way without mentioning nonhuman animals at all by skipping (ASEA1) and (ASEA5), but the purpose of the argument can be understood more clearly if we include these steps.

12 In addition to this biconditional positive version of the argument another biconditional negative one could be presented, concluding that if it is justified to disregard the interests of nonhuman animals if and only if they fail to satisfy *C* and it is actually the case that it is justified to disregard the interests of nonhuman animals then it is justified to disregard the interests of those humans who fail to satisfy *C*.

13 For the distinction between the categorical and biconditional versions of the argument see for instance Pluhar (1995) op cit., or Dombrowski, who in his *Babies and Beasts*, p. 26, calls these two versions of the argument, respectively, the strong and the weak versions. Pluhar's is probably the most developed defence of the biconditional version, while Regan, in 'An Examination and Defense of one Argument Concerning Animal Rights' and in *The Case for Animal Rights* (Los Angeles, CA: University of California Press, 1983) is probably the most significant champion of the categorical one.

14 It has been estimated that between approximately one and three trillion animals are killed for food each year, considering vertebrates alone (fishes being the overwhelming majority of them). See FAO — Food and Agriculture Organization of the United Nations, 'Livestock primary', *FAO Statistical Database* (2012): <<http://faostat.fao.org/site/569/default.aspx#ancor>> (accessed 4 January 2012); Alison Mood & Phil Brooke, 'Estimating the number of fish caught in global fishing each year', *Fishcount.org.uk* (2010): <<http://www.fishcount.org.uk/published/std/fishcountstudy.pdf>> (accessed 4 October 2012); Alison Mood & Phil Brooke, 'Estimating the number of farmed fish killed in global aquaculture each year', *Fishcount.org.uk* (2012): <<http://www.fishcount.org.uk/published/std/fishcountstudy2.pdf>> (accessed 11 March 2013).

15 There are many cases in which nonhuman animals living in nature could be aided by humans to spare them significant harms even when humans are not responsible for those harms. Humans would certainly be aided in similar situations if they faced the significant harms nonhuman animals face in the wild, which indicates that disconcern for them is due to speciesist attitudes. On this see for instance Yew-Kwang Ng, 'Towards welfare biology: Evolutionary economics of animal consciousness and suffering', *Biology and Philosophy* 10,3 (1995): 255–85; Tyler Cowen, 'Policing nature', *Environmental Ethics* 25,2 (2003): 169–82; Beril I. Sözmen, 'Harm in the wild: Facing non-human suffering in nature', *Ethical Theory and Moral Practice* 16,5 (2013): 1075–88; Oscar Horta, 'Zoopolis, intervention and the state of nature', *Law, Ethics and Philosophy* 1 (2013): 113–25.

- 16 The argument from species overlap has been responded to by defenders of (A) in several ways. In this article I do not have the space to address how these responses may be rebutted but only to clarify this argument. Let me just point out that some of them can be rejected because they have just assumed that there is a response to the argument without actually providing it (see for instance Philip E. Devine, 'The moral basis of vegetarianism', *Philosophy* 53,206 (1978): 481–505, at p. 487; Robert Nozick, 'Do animals have rights?', in his *Socratic Puzzles* (Cambridge, MA: Harvard University Press, 1997), pp. 305–10, at p. 306); or because they have tried to deny that there are actually humans who fail to satisfy criteria *C* (see for instance Paton op. cit., p. 33; Jon Wetlesen, 'The moral status of beings who are not persons: A casuistic argument', *Environmental Values* 8,3 (1999): 287–323). Then, others have argued that some humans should not be granted direct full consideration because they do not satisfy *C*, but that they could be given indirectly honorary consideration because that would go in some way or another in the interests of those humans who do satisfy *C* (see Jan Narveson, 'On a case for animal rights', *The Monist* 70,1 (1987): 31–49, pp. 46–47; Leslie P. Francis & Richard Norman, 'Some animals are more equal than others', *Philosophy* 53,206 (1978), 507–27, p. 510; John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971); H. Tristram Engelhardt Jr, *The Foundations of Bioethics* (New York: Oxford University Press, 1986), p. 116; Daniel A. Moros, 'Taking duties seriously: Medical experimentation, animal rights and moral incoherence', in D. C. Thomasma & T. Kushner (eds) *Birth to Death: Science and Bioethics* (Cambridge: Cambridge University Press, 1996), pp. 313–24, at p. 319; Carruthers op cit.; Angelika Krebs, *Ethics of Nature* (Berlin: de Gruyter, 1999), p. 117; Torbjörn Tannsjö, 'Human value', *Acta Obstetricia et Gynecologica Scandinavica* 79,11 (2000): 929–30). Critics of this position may argue that those would be fully contingent reasons and that this idea clashes against the view most of us have that all those humans should be directly protected for their own sake. Others argue that in the case of babies at least they have the potential to satisfy *C* even if they do not do it now (see Leahy op. cit., p. 205; Devine op. cit., pp. 503–4; Ronald Dworkin, *Life's Dominion: An Argument about Abortion and Euthanasia* (London: HarperCollins, 1993), p. 185). Critics of this position can argue that we should care for babies due to the interests they have now, not their potential, and that accordingly we should not care less for babies without this potential (such as those with congenital terminal diseases that will kill them in a few years or months). In addition, those who accept a definitional defence of anthropocentrism, or one which appeals to criteria whose possession cannot be corroborated, sometimes object to the argument from species overlap, but then we must note that the argument is not directed against those views, but against those that defend anthropocentrism on the claim that only they possess certain nondefinitional criteria that can be verified. As we have seen, the views appealing to definitional criteria or to criteria whose possession cannot be corroborated can be rejected, instead, just by arguing that those are not the kind of criteria that can justify a morally relevant distinction.
- 17 Jan Narveson, 'Animal rights', *Canadian Journal of Philosophy* 7,1 (1977): 161–78.
- 18 Daniel A. Dombrowski has written that the language of 'marginal cases' is problematic, and that '[p]erhaps a better label would be "argument from species overlap", but it is unlikely that, at this late date, this improved label would replace the one that is currently in use' ('Is the argument from marginal cases obtuse?', *Journal of Applied Philosophy* 23,2 (2006): 223–32, at p. 232n). If the terminology of marginality were simply inexact it would not be appropriate to introduce a change, in light of the extensive use it has had. However, given the magnitude of the problems with the name, the change in the terminology appears to be really necessary.
- 19 See Harlan B. Miller, 'A terminological proposal', *Society for the Study of Ethics and Animals Newsletter* 30 (2002); Ehnert op. cit.; Wilson op. cit.
- 20 Lilly-Marlene Russow, 'Bioethics, animal research, and ethical theory', *Institute for Laboratory Animal Research Journal* 40,1 (1999): 15–21.
- 21 David DeGrazia, 'Regarding animals: Mental life, moral status, and use in biomedical research', *Theoretical Medicine and Bioethics* 27,4 (2006): 277–84; Evelyn B. Pluhar, 'Experimentation on humans and nonhumans', *Theoretical Medicine and Bioethics* 27,4 (2006): 333–55.
- 22 Lynch and Wells have claimed that the use of the argument opens what they call an 'ethical Pandora's box': Lynch & Wells op. cit., p. 155. See also Nozick op. cit.; Carl Cohen, 'The case for the use of animals in biomedical research' in S. M. Cahn & P. Mackie (eds) *Ethics: History, Theory and Contemporary Issues* (Oxford: Oxford University Press, 1998), pp. 829–36; Gerald V. O'Brien, 'People with cognitive disabilities: The argument from marginal cases and social work ethics', *Social Work* 48,3 (2003): 331–37.
- 23 See in particular Cohen op. cit.