INHERENT VALUE AND MORAL RIGHTS

In Chapter Seven of *The Case for Animal Rights* Tom Regan propounds and analyzes a concept of inherent value. He then argues that all humans and animals that satisfy what he calls the "subject-of-a-life criterion" have this kind of value and have it equally. In Chapter Eight of the book Regan draws a close connection between an individual's having inherent value and its being a bearer of moral rights. I shall examine each of these points in turn in the first two sections of this paper. The third and last section will discuss some aspects of the relation between duties and rights. Although my investigations raise certain criticisms of Regan's views I do not wish to give the impression that his book as a whole is unworthy of serious attention. On the contrary, it seems to me that the book presents the most convincing and best-argued position yet published on the moral duties humans have to animals. What is more, many parts of the book make significant advances on a broad range of more traditional problems in normative ethics, including those that concern human relationships alone.

As will be evident in what follows, I am in complete agreement with Regan's thoroughly deontological approach to ethics with its denial of the adequacy of consequentialism. In this respect my criticisms are made within the same non-utilitarian framework which Regan himself accepts. Indeed, he offers a number of arguments that cast doubt on utilitarianism as a satisfactory general theory of normative ethics. I shall not, however, discuss the merits of these arguments here.

1. Equality of inherent value.

With regard to all humans and animals that satisfy the subject-of-a-life criterion Regan defends the claim that not only do they all have inherent value but that they have equal inherent value. Before examining his argument it will be helpful to state what he means by the subject-of-a-life criterion. For living things to satisfy this criterion they must "... have beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference- and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares
well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else’s interests.” (AR, 243.) Such beings include all humans over one year old who are not extremely mentally retarded or permanently comatose, and all normal (nonhuman) mammals a year or more old. (AR, 78.) The view that some nonhuman mammals do possess all the characteristics listed above is the main thesis defended by Regan in the first three chapters of his book, and I shall not challenge that thesis or its defense here.

In order to justify the claim that both humans and animals² have inherent value and have it equally, Regan reasons as follows. Suppose one were to hold that it is not unjust for a human moral agent to treat animals as inferior beings, that is, as beings of lesser value or worth, but that it is unjust to treat one’s fellow humans in that way. Suppose, further, that one who held such a view would consider it permissible to bring harm to animals if benefits to humans were thereby produced, on the ground that, though animals may have some degree of inherent value, they do not have as high a level or degree of inherent value as humans. Such a position is untenable, Regan argues, because it actually amounts to denying that animals have any inherent value. For it commits one to conceiving of animals as so many “containers” or “receptacles”² of experiences that are intrinsically good or bad for the animals in question and precludes the ascription to animals themselves (the containers or receptacles) of inherent value, a value that belongs to them independently of the intrinsic value or disvalue of their experiences.

The judgment that animals are beings of lower inherent value compared to humans rests on a confusion of different value-concepts. If we assert that a being has inherent value we are ruling out any utility-calculation as a justification for harming it by reference to the quantity of intrinsic value brought about in the lives of other beings. Even when a utilitarian (like Jeremy Bentham or Peter Singer) counts the intrinsic disvalue of an animal’s pain to be equal to the intrinsic disvalue of a comparable pain in a human, this kind of equality, says Regan, would not be the same as equality of inherent value belonging to each individual animal and each human. Regan puts the point this way: “One cannot ask, How much intrinsic value is the inherent value of this individual worth—how much is equal to it?” (AR, 236.) The two kinds of value are “incommensurate.” (AR, 238.)

Just as the inherent value of a being must not be confused with the intrinsic value of its experiences or with its utility for others, so also, continues Regan, its inherent value must not be confused with its possession of certain favored virtues (merits, excellences) or with its being valued by
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another being. (AR, 240.) A conceptual confusion is involved if one claims that, because animals lack certain valuable capacities (merits, excellences, virtues) which humans have, they are of less inherent value than humans. Furthermore, animals may not actually be valued by humans as highly as other humans, but this does not mean that animals do not have the same inherent value as humans. Regan argues that once we are clear about what we are asserting when we assert that an entity has inherent value, we will see that, given that two or more individuals have such value, their value must be equal. (AR, 240–1.) The idea of different degrees of inherent value is precluded by the very concept of inherent value.

Whether this argument is sound depends on whether it is possible to ascribe inherent value of varying levels or degrees to different entities without confusing inherent value with intrinsic value, with utility, with merit or excellence, or with being the object of someone’s valuing. Now it seems to me that this is not only possible, but is actually a correct account of the position held by many people that, first, humans qua human are superior to animals, and second, it is wrong to treat animals as if they were mere objects, resources, or tools, having only instrumental value as means to human ends. Why doesn’t it make sense to say that, unlike inanimate things (rocks, water, dust, air), animals have value as ends-in-themselves just as humans do, but a level or degree of value that is not equal to that of humans? Such a position would entail that each individual animal possesses the same kind of value that human beings possess, that the range of applicability of the concept of inherent value includes both animals and humans, and that the meaning or sense of “inherent value” remains the same whether we predicate it of animals or of humans. But the given position would also entail that there are different quantities, degrees, or levels of that kind of value possessed by different entities, animals having less of it than humans.

The following definition is one way to elucidate the idea of two entities both having some inherent value but one having a greater amount or higher level of it than another. To assert that both X and Y have inherent value but that X’s inherent value is greater than Y’s is to assert that a world in which X’s well-being is realized to a certain degree and Y’s is not realized to that degree is, all things considered, better than an otherwise similar world where Y’s well-being is realized to a greater degree than X’s, this comparative judgment of “better than” being made independently of any consideration of the four types of value which Regan distinguishes from inherent value (namely, intrinsic value, utility, merit or excellence, and being the object of an interest of a valuing subject). Now suppose we held a view like that accepted by many people today, according to which any and all
humans, both moral agents and moral patients, have a greater degree of inherent value than that possessed by any and all animals. We would then believe that an animal's well-being, just because it is the well-being of an animal, deserves the moral concern and consideration of humans (moral agents). We would think it wrong, say, to allow even mentally retarded or insane humans to physically abuse an animal. Although we would know that they did not understand that it was wrong, we would not consider it permissible for us to let them treat the animal that way, even if we saw that it amused them to do so. However, if we had to choose between bringing harm to a human (agent or patient) and causing a comparable harm to an animal, we would take the stand that from the moral point of view it is worse (a greater wrong) to harm the human than the animal. The animal's welfare must be taken into account, but it is not to be given the same "weight" as the welfare of the human.

Although for reasons I have stated elsewhere3 I do not agree with this way of thinking, it is perfectly clear and coherent. No confusion is involved, I submit, in conceiving of animals as having inherent value but at a lower level or degree than that possessed by humans. The question, Do humans have greater inherent value than animals? is then open. It cannot be settled by claiming that a negative answer follows logically from the very meaning of having inherent value.

Does Regan provide any other argument for equality of inherent value between animals and humans? Unless he does so, a crucial premise in his whole case for animal rights is left unsupported. He might argue that the belief in human superiority over animals relies on a difference among individuals that is morally irrelevant and so cannot be used as a ground for treating animals with less respect (assigning lesser weight to their well-being) than humans. To discriminate against animals in that way, he might say, is a form of speciesism. As far as duties of justice are concerned, being an animal rather than a human is not a relevant difference.

This, however, is simply to assert that, if animals and humans both have inherent value, their value must be the same. For a speciesist could retort: Being an animal is a morally relevant difference, since animals as such do not have the same inherent value that humans do in virtue of their humanity. If this were all that was to be said on either side, no reasons are being provided in support of either position.

It is my own view that the dispute between the speciesist and the egalitarian (if we may call it that) reflects a fundamental contrast between two opposing ultimate moral attitudes toward animals. (I am excluding from consideration here a third attitude—the purely exploitative—which is taken by those who reject the idea that animals have any inherent value.)
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The two ultimate moral attitudes are irreconcilable. They are "ultimate" in the sense that there are no more general or more fundamental attitudes toward animals from which either of the two might be derived. They are moral attitudes in that those who adopt either one of them believe that it is the appropriate attitude for anyone (any moral agent) to take toward animals.

In order to settle the issue of which attitude—speciesist or egalitarian—is in truth the appropriate one for anyone to take, one must make clear the belief-system that underlies and supports the attitude. That is, one must make clear how one conceives of animals and how one understands the significance of certain relationships between humans and animals. Let us suppose for the sake of the argument that the belief-system underlying and supporting the egalitarian attitude would be found acceptable to all rational and factually enlightened thinkers who had a developed capacity imaginatively to put themselves in the situation of an animal and take its standpoint concerning what is beneficial or harmful to it. Let us further suppose that the belief-system underlying and supporting the speciesist attitude would be found to be unacceptable by those who had the same qualifications for making ideal judgments. Then one might conclude that, if these ideal judges were to adopt the egalitarian rather than the speciesist attitude as the only appropriate one to take toward animals, the egalitarian attitude would thereby be shown to be justified.

Now in the first three chapters of Regan's book, titled "Animal Awareness," "The Complexity of Animal Awareness," and "Animal Welfare," Regan in effect has presented us with a belief-system that could well be claimed to support the taking of an egalitarian attitude toward animals as an ultimate moral attitude. At the very least those early chapters carry us a long way toward providing the background of beliefs which render the commitment to the egalitarian attitude a reasonable one for any moral agent to make and at the same time render the adoption of the speciesist attitude an inappropriate and unjustifiable way of morally responding to and interacting with animals.

It is in this way that Regan's case for the equality of inherent value between humans and those animals that satisfy the subject-of-a-life criterion might be established. A question remains about whether the method outlined above would require radical changes in Regan's views (set forth in Chapter Four of his book) on how moral judgments can be rationally justified. But adequate discussion of this question would take us into the perplexing problems of the epistemology of normative assertions, a matter beyond the scope of this study.
2. The respect principle and moral rights.

In the remainder of this paper I shall assume that it can be shown that both humans and animals satisfying the subject-of-a-life criterion have inherent value and that they all are equal in inherent value. Where, then, do moral rights come in? Regan takes an interesting position on the connection between inherent value and moral rights. Moral rights are grounded on inherent value in the sense that it is because a human or animal has inherent value that it has moral rights. But in order to make the transition from having inherent value to being a bearer of moral rights, a connecting link must be given. Regan finds this link in a moral principle which he designates “the respect principle.” It is originally stated thus: “We are to treat those individuals who have inherent value in ways that respect their inherent value.” (AR, 248. Italics are Regan’s.)

This principle expresses a moral requirement of justice. It states what sort of treatment is owed an individual as its due. Regan understands it to be violated or transgressed whenever we treat humans or animals having inherent value as if they lacked such value, which occurs “... whenever we treat them as if they were mere receptacles of valuable experiences ... or as if their value depended upon their utility relative to the interests of others.” (AR 248–49. Italics are Regan’s.)

The respect principle is justified by Regan in the way he suggests any moral principle is to be justified, according to the method set forth in Chapter Four. In sum, “... the respect principle meets the relevant criteria for evaluating a moral principle: it is consistent, has adequate scope and precision, and matches a broad range of our reflective intuitions.” (AR, 260.) So the principle is not to be thought of as being grounded on or derived from the assertion that both humans and animals have inherent value and have it equally. Nevertheless it provides the connecting link between the statement that an individual has inherent value and the statement that the individual has a moral right to be treated in a certain way, namely, as a being having inherent value. Regan puts the point as follows: “Since the respect principle sets forth an unacquired duty of justice, calling for the respectful treatment of all who have inherent value, it is argued that those who have this kind of value have a valid claim, and thus a right, to treatment respectful of their value ... Because both moral agents and patients have value of this kind, and have it equally, both are shown to have an equal moral right to treatment respectful of their value.” (AR, 266.)

My doubts center on the move from the assertion that moral agents have a duty to give respectful treatment to an individual that has inherent value to the assertion that the individual has a moral right to such treat-
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ment. According to Regan, the respect principle specifies a certain kind of moral requirement that is owed to animals and humans because they have inherent value. Let us look closely at how Regan gets from this principle to the assertion that the animals and humans in question have a moral right. The crucial steps in his argument are as follows. (AR 272–78.) To have a moral right to something is to have a valid claim against others to be treated in a certain way with regard to the something one has a right to, the validity of the claim resting on a valid moral principle. This principle must lay down a direct duty to treat individuals in the given way as a matter of justice. (AR 272–73.) To say it is a matter of justice is to say that the treatment in question is owed to the individuals as their due. (AR, 273.) Now it is perfectly conceivable for beings which have inherent value to claim, or to have claimed on their behalf, just treatment as their due. (AR, 277.) It is also conceivable that they are owed that treatment “... because they have a right to such treatment.” (AR, 277.) In this case “... what is being claimed as their right is something claimed as their due” (AR, 277) and “... there is nothing logically untoward in correlating a basic right to just treatment with the unacquired duty of justice.” (AR, 277–78.)

Regan then refers to the respect principle as validating the claim whose conceivability has just been defended. The claim made against moral agents is a valid claim because it is “called for” by a valid moral principle. (AR, 278.) This is the respect principle, the validity of which was established earlier.

The last and final step in the argument concerns the equality of rights between moral agents (normal adult humans) and moral patients (those humans who are not moral agents and those animals which satisfy the subject-of-a-life criterion). Here the respect principle again does the trick. “Similarly in the case of moral patients having valid claims-against moral agents... the claims made against moral agents in this regard are validated by appeal to the respect principle and the postulate of inherent value on which it rests. Because moral patients have inherent value and have neither more nor less inherent value than that possessed by moral agents, they have the same right to respectful treatment possessed by moral agents and they possess this right equally.” (AR, 279.)

The problem I find with this reasoning can be approached by asking: Does a moral agent owe the duty of respectful treatment to a moral patient because the patient has the right to such treatment, or does the patient have the right because the agent has the duty? Or is there no logical priority on either side because they mean the same thing? Insofar as Regan asserts that the rights-claim is validated by the respect principle (which specifies a duty), it would seem that moral patients have a right to a certain sort of treatment
because agents have a duty to treat them in that way. It is true that the duty is owed to patients as a matter of justice, but there still remains the question whether this duty—a direct unacquired duty of justice—is the morally required response to a logically prior right belonging to moral patients as beings having inherent value. All that the respect principle says is that there is such a duty and that it is owed as a matter of justice to moral patients. According to this way of thinking such patients have the right to be treated in the given way because they have a claim validated by the respect principle. It follows that they have this right because moral agents have the duty, as specified by that principle. The right depends on the duty since the validity of the rights-claim stems from the very rule that lays down the duty.

When we (normal adult) humans assert our own rights, however, we do not think of them as being grounded on others’ duties toward us. On the contrary, we think that others have duties they owe to us because we have rights. We believe that a certain treatment is due us as bearers of moral rights. To be a bearer of rights is to have a certain status in the moral community. It is to be in the position of rightfully expecting that others acknowledge the moral legitimacy of our claim to what we deem we have a right to. In this connection A. D. Woozley has pointed out the difference between expecting that a person will do something (a prediction of future behavior) and expecting a person to do something.4 If we have a right to be treated in a certain way by others, then we can reasonably expect them to treat us that way, whether or not it is reasonable to expect that they will. To be in the position of reasonably expecting a certain treatment from others is to be in the position of rightfully demanding such treatment in circumstances where it is not forthcoming.

The same holds true when we assert, in others’ behalf, that they have rights. If we believe, for example, that political dissenters in a South American country who are being tortured have certain rights that are being violated, we don’t think that their rights are being violated because their torturers are failing in their duty. We conceive of the victims as bearers of rights which they have simply as human beings. It is because (for the reason that) they have those rights that their oppressors are required as a matter of justice not to violate those rights.

I would suppose the same logical priority would be assumed by those who wish to contend that animals and human moral patients (such as the insane and the severely retarded) have rights. We owe them a duty not to harm, exploit, or abuse them because (for the reason that) they have a moral right to be respected as beings having inherent value. Certainly Regan wants to say that we have a duty to treat them in a way that is respectful of
their inherent value *because* they have such value. Why wouldn’t the parallel structure of thought hold for rights and the duty to respect those rights? Yet Regan’s argument for their rights would not support that structure.

As a possible reply to the foregoing criticism it might be pointed out that the duty of justice stated by the respect principle is a duty that is owed individuals *as their due*. Thus it is not merely the obligatoriness of the duty on the part of moral agents that is the basis for the validity of the rights-claims of animals and humans. It is the fact that the duty in question, being a matter of justice, requires that *what is due* animals and humans be given to them. Since respectful treatment is what is due them in virtue of their being possessors of inherent value, the rights they have are not simply derived from others’ duties understood as no more than moral requirements binding upon them.

This reply, however, cannot be used as a way out of the objection raised above. For the concept of what is due an individual itself introduces the idea of what an individual has a moral right to. To say that a certain kind of treatment is owed (as a matter of justice) to an individual as its due is nothing other than saying that the individual has a right to be treated in that way. The paradigm for the language of owing someone something as her due is the case of contractual obligations (debts, promises, mutual agreements). If we have borrowed something from someone we are not only duty-bound to return it as agreed, but the lender has a moral right (is morally entitled) to have it returned. This is what is due her in the role or position of being a lender. So likewise is the promisee due what the promisor had promised, and to keep the promise is to grant what the promisee has a right to, not merely to do what a rule of duty requires.

If this is how we are to construe what is owed to an individual as its due, then *to accept the respect principle is already to accept the existence of a moral right*, a moral right belonging to any individual that has inherent value. Consequently the respect principle cannot constitute the validating ground for such a moral right. By laying down the normative requirement that respect for an individual’s inherent value is owed it as its due, the moral right to such respect is implicitly being asserted by the principle. How, then, can the principle serve as the connecting link between “This individual possesses inherent value” and “This individual’s claim to be treated as a being possessing inherent value is a valid moral claim, that is, a moral right”? According to Regan’s argument the respect principle was supposed to be the rational basis for the moral right of any being having inherent value to be treated with respect. Under the present interpretation, however, it simply...
asserts that such beings have that moral right. The principle therefore cannot provide a reason for holding that the asserted moral right does exist, that is, that beings possessing inherent value do have the right.

There is one further possibility to be considered. This is the contention that there is neither a logical priority of duty over rights nor of rights over duty, since speaking of one's moral right to a certain sort of treatment and of a duty of justice on the part of others to accord one that treatment is simply saying the same thing in two different ways.

Again, the difficulty with this view is that it denies that moral rights are the ground for duties. A bearer of moral rights is nothing more than an entity that is owed duties because this is what being a bearer of moral rights means. In our own case at least, we surely want to be able to assert that others have a duty to respect our personhood because, as persons, we have a right to the preservation of our personhood. But we are unable intelligibly to make this assertion if there is no logical priority of rights over duties.

In human affairs the deep practical significance of this has been brought out by Richard Wasserstrom in his article, "Rights, Human Rights, and Racial Discrimination." Wasserstrom describes an aspect of the historical situation when racial discrimination was a dominant social pattern in the South. During that era a white Southern gentleman might claim that he had real affection for many Blacks, that he would never knowingly inflict pain or suffering on them, and that he "... often assumed special obligations to make certain that their lives were free from hunger, pain, and disease." These white Southerners were bewildered by the recent social changes brought about by Black militancy. They simply could not understand the Blacks' dissatisfaction with their lot.

Wasserstrom then makes the following comment: "[W]hat this way of conceiving most denies to any Negro is the opportunity to assert claims as a matter of right. It denies him the standing to protest against the way he is treated. If the white Southerner fails to do his duty, that is simply a matter between him and his conscience."

It seems to me that this is one of the consequences of holding that assertions about rights either are derived from or are equivalent to assertions about duties. The question of whether moral agents respect others' rights becomes identical with the question of whether they live up to their duties. The right-holder's claims against moral agents are not viewed as conceptually independent of the agents' duties, which they must be if it makes sense to say the duties are owed to the right-holder because the right-holder has a legitimate claim against moral agents, a claim that can be demanded of others as a matter of right. If we are to conceive of any individual as a bearer of moral rights, we must think of that individual's rights.
as constituting the reason why we have duties which we owe to him or her. It is not just a matter between moral agents and their consciences, but rather a matter of what the right-holder can rightfully demand of moral agents.

My conclusion, then, is that Regan’s use of the respect principle as the validating ground of the moral rights of animals and human moral patients distorts the conceptual relationship between the logic of duties and the logic of rights. This raises the further question of what account can be given for the priority of rights over duties. Would an explanation of that relationship in the case of the moral rights of normal adult humans also be applicable in the case of the moral rights of animals and human moral patients? This will be the subject of the third part of this paper.

3. The priority of rights over duties.

Why are moral rights logically prior to the duties correlative with them? In order to answer this question it is best to begin with the moral rights which we typically ascribe to ourselves and to others (normal adult humans) simply as persons. These are the rights often called “human rights.” They are thought of as belonging to all persons in virtue of their personhood. If any entity is a person, it is a bearer of these rights just because it is a person. Thus they are universal (belonging to every person) and equal (the same for all persons).

When we look at the most basic of these rights—those without which we cannot exercise or enjoy any of our other rights—and if we ask ourselves why we ascribe these basic rights to ourselves and to others simply as persons, we find that unless these rights are respected by others we would be unable to preserve our existence as persons. The reasoning behind this point might be brought out as follows.

Basic rights define certain fundamental areas of human concern over which the individual is given final authority. One’s rights in these areas consist in a set of guaranteed opportunities and permissions which make it possible for one to (choose to) maintain oneself as a living organism and to seek those ends and interests that make up the central values of one’s self-determined conception of a meaningful life. Thus our basic rights set boundaries of inviolability, as it were, around the core of our existence. Beyond these boundaries others are forbidden to intrude without our consent, and within them we are masters of our own destiny as far as that can be within human control. (I put aside here the consideration that in extreme circumstances, where the preservation of the whole system of rights is at stake, it is understood that our rights can justifiably be overidden, with or without our consent.)
The most general categories of basic rights are: security-rights, liberty-rights, autonomy-rights (including the right to privacy), and subsistence-rights. Briefly, security-rights are the rights of each individual to be protected from being killed, raped, assaulted, tortured, or otherwise made the victim of direct physical abuse. These are sometimes called, in sum, "the right to security of person." Liberty-rights are the right of each person to be unhindered by others in the pursuit of one's legitimate (morally permissible) interests. In this category might be included the right to possess and use private property. Autonomy-rights are the right to develop and the right to exercise one's capacities for self-determination, where "self-determination" means the ordering of one's goals and the shaping of one's future according to one's self-chosen value-system or "plan of life." Subsistence-rights are the right to biological survival and the right to a level of physical health at least sufficient to enable one to actively pursue one's legitimate interests. (The so-called "right to life" ordinarily covers both security-rights and subsistence-rights.)

When individuals are thought of as bearers of these rights they are regarded as having a certain status in the community of moral agents. Public recognition is given to their individual domains of thought and action in matters crucial to their carrying on their lives as rational, autonomous beings. They are acknowledged by all as having supreme authority over those conditions of their lives which are essential to preserving their personhood (those characteristics which are necessary and sufficient for their being persons and in virtue of which they are persons). That is why our moral rights are the most important possessions we have, and why a denial or unwarranted infringement of them is the most serious wrong that can be done to us. To violate the rights of persons is to destroy what they need to maintain their very existence as persons.

It is out of self-respect—the firm sense of our own inherent value as persons—that we assert our rights when they go unrecognized or are threatened by the actions of others. If we think that we are in danger of being deprived of what we have a right to we demand that our right be protected by law. Indeed, we believe that it is the basic function of a legal system to make secure our rights and the rights of everyone. We do not ask for ourselves anything more than what we think others can rightfully ask for themselves on the same terms. (That is why self-respect and not self-interest is the basis of our asserting our own rights against others. We make that demand from the moral point of view of impartiality and universalizability. Attempts to establish moral rights on the grounds of self-interest—even rational self-interest—are wrongheaded from the start.)
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In the light of these considerations, I submit, it becomes clear why our rights are the ground of others’ duties toward us, or to put it another way, why our rights provide reasons for others to accord us a certain kind of treatment. Since our rights constitute the moral foundation for our very existence as persons, then, given our self-respect, we will insist that our rights be given public recognition in concrete terms by others’ carrying out the duties correlative with them. Our rights stand with us as bulwarks for the inviolability of our personhood. The appropriate response on the part of others is to respect that inviolability by acknowledging the moral legitimacy of the claims we make against them in the name of our rights. Their obligations toward us follow from the fact that, as beings possessing inherent value, we deserve their respect.

Similarly, if we conceive of others as bearers of moral rights just in virtue of their being persons like ourselves, we understand them to possess the same inherent value as ourselves and so to be worthy of the same respect as we demand of them. And just as we assert our own rights out of self-respect, so we assert that they have rights and, on that ground, believe we have the duty to respect their rights. To respect their rights is to respect them. We see them as deserving that respect from us. Their rights are thus considered by us to impose valid claims against us, claims which we acknowledge to be binding on us by accepting the set of correlative duties. Because they are persons they have rights. Because they have rights, we have duties.

Now this way of looking at the priority of rights over duties can readily be extended to those animals and human moral patients to which Regan wants to ascribe moral rights. What changes would have to be made to do this without logical absurdity or conceptual incoherence? First, instead of thinking of moral rights as defining an area where the rights-holder has supreme authority over its existence as a rational, autonomous (self-determining) being, and instead of thinking of moral rights as setting boundaries around each rights-holder’s life which cannot be invaded without its consent, we must conceive of rights as protecting those conditions essential to the rights-holder’s existence as the kind of being it is. In the case of animals and human moral patients which satisfy the subject-of-a-life criterion, they are all conscious goal-oriented beings having the characteristics listed early in this paper. In particular they are all centers of experiential life whose welfare can be furthered or damaged by the actions of moral agents. Whatever conditions are essential to making it possible for such an entity to realize its welfare are those to which it has a moral right.

Then one might argue that, given the premise that such beings possess inherent value and so are deserving of respect, the moral rights that they
have as beings worthy of respect are logically prior to the duties that moral agents have toward them. For their rights are the foundation for their existence as the kind of beings they are. If we judge beings of that kind to have inherent value equal to our own, then we must, to be consistent, assert that they have rights which are essential to their existence as beings of that kind. We make that assertion out of respect for them, just as, out of self-respect, we assert our own rights to whatever is essential to our existence as persons. We conceive of their rights in the same way we conceive of our own, as making a legitimate or valid claim upon the community of moral agents. Although they are not, as we are, members of that community, it is still true that insofar as they have moral rights the moral community is under the obligation to accord them what they have a right to.

In this light the duty to respect the rights of animals and human moral patients is seen to be the way moral agents give due recognition to those beings as bearers of rights. The fulfillment of that duty in practical life is understood to be the appropriate moral acknowledgment of the basic claim they make to be able to exist as the kind of beings they are. We do not, therefore, bestow rights upon them by placing ourselves under a principle of duty such as Regan's respect principle. Instead, we respect them as beings possessing inherent value and so conceive of the conditions necessary for their existence as setting valid claims against us which we are morally bound to fulfill.

If this view of the rights of animals and human moral patients were accepted, then in order to establish the justifiability of the normative assertion that all such beings do have moral rights one would have to provide an argument which does not assume a principle of duty to be the basis for such rights, and which does not simply make rights-assertions equivalent in meaning to duty-assertions.

One possibility for such an argument might be structured thus. Suppose we could justify the taking of an ultimate moral attitude of respect toward the given class of animals and humans in the way I suggested in the first section of this paper. In taking this attitude we consider them to have inherent value, a value equal to our own. Since we believe the attitude to be justified, we judge it morally as the only appropriate attitude to take toward such beings. We not only respect them but deem them worthy of our respect in virtue of their being the kind of entities they are (namely, having the characteristics that enable them to satisfy the subject-of-a-life criterion). Next, we could specify those conditions in their lives and their environment that must be realized if they are to exist as beings of that kind. Finally it might be argued that, insofar as we take the ultimate moral attitude of respect toward them and deem them worthy of such respect, we will con-
ceive of them as having valid claims against us not to deprive them of the aforementioned conditions. If they have inherent value as the kind of beings they are they have the moral right to exist as that kind of being. Our duties toward them follow as a consequence.

I leave it an open question here whether this line of reasoning can be developed in such a way as to provide sufficient grounds for the contention that animals which satisfy the subject-of-a-life criterion have moral rights. The changes it would require in Regan's own arguments are not so fundamental, it seems to me, that his general approach to the problem need be given up. On basic matters his reasoning is neither incoherent nor misdirected, and he certainly is to be given credit for having presented the most powerful case for animal rights yet published. But for reasons set forth in this paper I do not find his arguments entirely satisfactory as they now stand.

Paul W. Taylor

Brooklyn College

NOTES

1. Tom Regan, The Case for Animal Rights (Los Angeles: University of California Press, 1983). All further references to this book will be given by the initials AR. References to specific pages will be placed in parentheses in the text.

2. Unless otherwise noted, throughout this paper the term "animals" is to be understood as referring to nonhuman mammalian animals that satisfy the subject-of-a-life criterion.


7. Wasserstrom, in Lyons, Rights, p. 56.

8. A careful study of three of these rights (security, liberty, and subsistence rights) is to be found in Henry Shue, Basic Rights: Subsistence, Affluence, and U. S. Foreign Policy (Princeton, NJ: Princeton University Press, 1980). My views on the rights of persons have been greatly influenced by this book.