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Joanna Andrusiewicz, Uniwersytet Warszawski

Rozważania nad etycznym wymiarem relacji między człowiekiem a przedstawicielami innych gatunków sięgają korzeniami czasów antycznych. Przez wieki sytuowały się jednak na odległych rubieżach filozofii. Jeśli już poświęcano zwierzętom pozaludzkim uwagę, to w bardzo ograniczonym zakresie. Zwykle koncentrowała się ona na jednym z dwóch zagadnień.

Po pierwsze, myśliciele podejmowali wysiłki wykazania, że status moralny zwierząt pozaludzkich jest znacznie niższy niż status moralny człowieka. Uzasadnienia tej tezy miewały różny charakter – od silnie zakorzenionego w wierzeniach religijnych po skrajnie laickie i racjonalistyczne. Tak dalekie od siebie perspektywy łączyła rola, jaką w każdej z nich odgrywały zwierzęta inne niż człowiek. Jak ujęła to Joanna Górnicka-Kalinowska – *zwierzęta dają nam przyjemne poczucie wyższości i przewagi w świecie przyrody*[1].

Drugi nurt filozoficznych rozważań dotyczył problemu etycznego wymiaru zadawania zwierzętom bólu i przysparzania im cierpień. I tu w centrum namysłu pozostawał człowiek. Tym, co najbardziej interesowało większość myślicieli, nie była krzywda zwierzęcia, ale etyczna ocena postępowania człowieka łamiącego reguły społeczne i wpływ przemocowych zachowań na charakter i trwałe dyspozycje ich sprawcy. Często pojawiała się tu obawa, że okrucieństwo wobec zwierząt może przyczynić się do okrucieństwa wobec ludzi[2].

W tym kontekście nie zaskakuje, że termin *animal ethics* odnosił się początkowo wyłącznie do rozważań na temat okrutnego traktowania zwierząt[3].

Sama dyscyplina akademicka liczy sobie niespełna 50 lat, a jej powstanie wiązane jest z działalnością Grupy Oksfordzkiej i publikacją *Wyzwolenia zwierząt* Petera Singera w 1975 r.[4] Książka ta wywarła ogromny wpływ na powstanie i roz-

1 J. Górnicka-Kalinowska, *Cierpienie i krzywda zwierząt a moralne obowiązki człowieka*, „Życie Weterynaryjne" 2017, 92(6), s. 409.

2 Zob. B.E. Rollin, *The regulation of animal research and the emergence of animal ethics. A conceptual history*, "Theoretical Medicine and Bioethics" 2006, 27, s. 285–287.

3 Jw.

4 Zob. np. D. Sztybel, [hasło:] Animal Welfare and Animal Rights, A Comparison, [w:] *Encyclopedia of animal rights and animal welfare*, ed. Marc Bekoff, wstęp J. Goodall [2nd ed.], Greenwood, Santa Barbara, 2009, s. 49–51; P. Singer, *Wyzwolenie Zwierząt*, przeł. A. Alichniewicz, A. Szczęsna, PIW, Warszawa 2004 r. s. 15–26.

wój dyscypliny naukowej, wykraczającej dziś daleko poza jej początkowe rozumienie – nowoczesnej i interdyscyplinarnej, sięgającej nie tylko do innych dyscyplin humanistycznych, ale i do nauk empirycznych[5].

Zaledwie pięć lat później opublikowany został jeden z najczęściej do dziś czytanych numerów naszego czasopisma – ETYKA, Tom 18 z 1980 r. To w nim ukazały się pierwsze w Polsce przekłady kanonicznych dla *animal ethics* tekstów, m.in.: „Zwierzęta i ludzie jako istoty równe sobie" Petera Singera, „Szowinizm gatunkowy, czyli etyka wiwisekcji" Richarda Rydera, „Obowiązki człowieka i prawa zwierząt" Joela Feinberga, „Prawa i krzywda zwierząt" Toma Regana i „Zwierzęta i ludzie, czyli granice moralności" Bernarda Rollina.

Dziś, z pewnym opóźnieniem, oddajemy w Państwa ręce numer jubileuszowy, przygotowany z okazji czterdziestej rocznicy wydania „żółtej" ETYKI i podobnie jak on poświęcony w całości etycznym aspektom relacji między człowiekiem a zwierzętami pozaludzkimi. Szczególne miejsce zajmują w nim teksty pięciorga autorów, których artykuły zostały opublikowane w ETYCE 1980, T. 18 i którzy na zaproszenie Redakcji przygotowali teksty do numeru jubileuszowego.

Pierwszym z nich jest „Speciesism and Painism: Some Further Thoughts", autorstwa Richarda D. Rydera. Twórca pojęcia *speciesism* (szowinizm gatunkowy, gatunkowizm, gatunkizm) przybliża Czytelniczkom i Czytelnikom teorię *Painizmu* – stanowiska etycznego, zgodnie z którym jedynym istotnym moralnie kryterium przynależności do wspólnoty moralnej jest zdolność do odczuwania bólu. Wszystkie inne rodzaje krzywd i naruszeń można wywieść właśnie z niej, dlatego – twierdzi Ryder – zdolność do odczuwania bólu pozostaje jedynym niearbitralnym kryterium, a *Painism* najbardziej adekwatną perspektywą etyczną.

Drugi tekst o szczególnym statusie, "Animals' Pleasures", napisany przez Katarzynę de Lazari-Radek i Petera Singera, stanowi swego rodzaju przeciwieństwo artykułu Rydera. Autorzy analizują w nim rolę przyjemności, odczuwanej przez zwierzęta inne niż człowiek, w namyśle etycznym. W życiu codziennym, dowodzą Autorzy, każdy, kto styka się np. ze zwierzętami towarzyszącymi, dostrzega nie tylko zdolność zwierząt do odczuwania przyjemności, ale wpływ tej ostatniej na jakość ich życia. Równocześnie w debacie akademickiej rola ta pozostaje niedoszacowana. To ból i cierpienie nieodmiennie dominują w dyskursie etycznym.

W artykule "Toward a Moderate Hierarchical View About the Moral Status of Animals" Stefan Sencerz przedstawia autorską propozycję hierarchicznej wizji statusu moralnego zwierząt. Bierze przy tym pod uwagę dwa czynniki: poziom rozwoju umysłowego jednostki i wagę, jaką mają dla niej samej jej interesy. Stanowisko to,

5 Jw.

twierdzi Autor, pozwala z jednej strony uzasadnić szczególny status moralny ludzi, z drugiej zaś uwzględnić istotną część naszych intuicji moralnych dotyczących właściwego traktowania zwierząt.

Rozważania dotyczące zróżnicowania statusu moralnego żywych istot pojawiają się również w tekście Stephena Clarka. W "Humanity: Respecting What is Real" dowodzi on, że nawet jeśli przyjąć dyskusyjną przesłankę o wyższości statusu moralnego człowieka, nie da się usprawiedliwić moralnie większości praktyk eksploatacji zwierząt pozaludzkich. Co więcej, podstawą wyjątkowego statusu człowieka może być tylko zdolność do szanowania tego, co realne – w tym wszystkich istot pozaludzkich.

Kwestia szacunku odgrywa też kluczową rolę w teorii Toma Regana, którego tekst ukazał się w ETYCE z 1980 r. W numerze jubileuszowym publikujemy artykuł Joanny Andrusiewicz „Śmierć zwierzęcia w filozofii Toma Regana". Autorka rekonstruuje i analizuje w nim argumentację filozofa, który jako jeden z pierwszych przyjął i uzasadnił stanowisko głoszące, że przedwczesna śmierć samoświadomej istoty, nawet całkowicie bezbolesna, nie jest obojętna moralnie – niezależnie od tego, czy istota ta jest człowiekiem, czy nie. Autorka szkicuje też konsekwencje hipotetycznego przyjęcia perspektywy Regana dla legalnych i powszechnie stosowanych praktyk wobec zwierząt pozaludzkich.

Numer zamyka artykuł Anny Jedynak, nawiązujący do jej tekstu z pierwszej żółtej ETYKI. Analiza zmian, które zaszły w ciągu 40 lat w debacie dotyczącej relacji między ludźmi a zwierzętami pozaludzkimi, skłania Autorkę do wniosku, że punktem wyjścia w dyskusji nie jest już tradycyjna perspektywa antropocentryczna. Dziś, dowodzi w "Animal Rights: A New Vista", dominuje bardziej kompleksowe podejście, uwzględniające osiągnięcia nauki i zagadnienia związane z ochroną środowiska.

Joanna Andrusiewicz

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Introduction to Call for Papers on Ethics of War

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Maciej Zając, IFIS PAN

The field of war ethics changes its focus, and grows, in reaction to salient conflicts of the day – and this is how things should be. World War II made the deficiencies of contemporary law and policy crystal clear, remaining the obvious reference point up to this day. It was in reaction to the atrocities of the Vietnam War that Michael Walzer and others made just war theory relevant again, featured in military academies and politician's speeches. The Iraq War inspired the so-called revisionists in just war theory and fixated military ethicists' glance on the complex conundrums of counterinsurgency, while G.W. Bush's War on Terror ignited debates on torture, use of private military contractors and targeted killing. Had these wars been different, contemporary ethics of war would have dealt with different problems, or at the very least it would apportion attention and expertise differently.

Consequently it is no surprise that the Russian invasion of Ukraine, launched clandestinely in April 2014 and escalated in February 2022, has generated its own ethical problems. A rare large scale, conventional, inter-state conflict, fought both with legacy Soviet systems and cutting edge contemporary technologies, the Russo-Ukrainian War is different from the asymmetrical, low-end (though not low harm) conflicts of the last thirty years. It is also marked by the almost complete disregard shown by the aggressor side to the issues of justice, both *ad bellum* and *in bello* ones. Indeed, as I write these words, use of nuclear weapons in offensive warfare is being openly threatened, and one is to assume, considered, by the Kremlin. Both frost and hunger are being weaponized against civilians, with the inhabitants of Ukraine being far from the only target, or casualty, of such policies. In a globalized world, the suffering is also global.

While the issue of *ad bellum* justice is uncharacteristically straightforward, many other questions are anything but answered. Nuclear blackmail, and nuclear-backed imperialism, stand out as theoretically underappreciated yet vastly important problems. So does the role of the global community in limiting the spillover effects of the war from hurting the most vulnerable. Devising an appropriate

international response to crimes against humanity and acts of genocide committed by a nuclear power, yet by conventional means, offers another set of stark problems.

These heavyweight questions are just the very first ones that spring to mind when one contemplates the events of the current war. Russian attacks on power plants and heating stations, conducted at the verge of winter, unfortunately may be said to have some precedent in the actions of Western powers in Serbia and Iraq. Whether such attacks are legal under international laws of armed conflict, and, if they are legal, whether the laws should change is another subject ripe for debate. So is the issue of POW's notorious vulnerability to wanton and needless cruelty, once again exposed by this war. The internment of Mariupol garrison commanders in Turkey seems to offer a glimpse of a solution far more civilized than the current system.

As far as the ethics of novel military technologies are concerned, the widespread use of armed drones, permeating to ever lower levels of military organization has major, though unclear implications both for the future of drones and that of autonomous weapons. Does the wildfire proliferation of armed drones prove the attempts to frame them as illegitimate, morally suspect weapons were naïve and futile? Or does it prove ethicists should double down their efforts to shackle such technologies in their infancy? The general problem is far from the only one. What about the use of drones or autonomous weapons that cannot be tied to a particular actor against critical infrastructure, such as the Nord Stream pipelines? How are such attacks to be responded to or deterred?

Regarding technology, this is also the first conflict of this size followed almost in real time by a truly global audience of sympathizers, spectators and trolls capable of impacting political and military outcomes through influence campaigns, donations, volunteer online work etc. It is clear that trying to sway one's government to increase or cease support for a side of this conflict is not morally neutral, nor is transferring money for the war effort. How should we think of these new forms of extended participation in conflict? And given their importance, how should those who report the truth about the ugly realities of war proceed? What about pundits and commentators with large audiences – what are their responsibilities, and what standards can we expect of them? The questions that may be asked about the behavior of essentially private citizens may of course also be asked about the behavior of governments – and corporations. What degree of assistance to the victim state may be required? What degree of involvement with the aggressor state is permissible?

What these and many other conundrums placed in the spotlight by the Russian invasion have in common is that they need answers – most quite urgently. Consequently we invite a variety of learned and considerate voices to opine on these in our journal's special issue. Among questions and doubts, one thing is certain – when confronted with the evils of war, we cannot stay silent, and we cannot cease to reflect.

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Speciesism and Painism: Some Further Thoughts

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Richard Dudley Ryder, Royal Society for the Prevention of Cruelty to Animals

Speciesism

I invented the word *Speciesism* in 1970 and since then it has been written about by many thinkers including Peter Singer and Richard Dawkins.

The period 1970 to 2010 was a period of unprecedented reform for nonhuman animals. In Britain twelve new animal protection laws were passed, while in the EU no less than forty-two new pieces of animal welfare legislation became law (Bowles 2018).

Speciesism is mostly about human arrogance and discrimination against other animals merely because they are of another species. It is an irrational prejudice like racism and sexism, and is based upon morally irrelevant differences such as size, complexity, dissimilar appearance to humans (e.g. octopuses and lobsters), or apparent lack of rationality or intelligence. But it is painience that matters, not rationality or intelligence.

Seventy years ago humans and animals were regarded as being entirely different. Christianity insisted that humans (allegedly created in the image of God) were in a separate category. Animals were said to lack 'souls' and 'rationality.' So what? Perhaps Aristotle and Aquinas really meant 'consciousness.'

Early animal rights campaigners were often anti-slavers. They included Jeremy Bentham, John Stuart Mill, and William Wilberforce.

In 1789 Bentham said of animals—"The question is not can they reason? Nor can they talk? But can they *suffer*?"

Anti-speciesism follows the hitherto ignored moral implications of Darwinism.

Animals and children, being unable to defend themselves verbally, have similar moral standing. Both groups need special protection.

Our important moral similarity with the other species is our common capacity

to experience pain. There is growing scientific evidence that many nonhuman species can suffer. For me, pain (broadly defined) is at the centre of Ethics.

Painism

Painism (1990) is a moral theory that covers all painient beings, human and others. In my theory of *Painism,* pain is very broadly defined to include all negative experiences:

e.g.

Why is lack of liberty wrong?	Because it causes pain.
Why is denial of equality wrong?	Because it causes pain.
Why is injustice wrong?	Because it causes pain.

"Pain" means all forms of suffering and so includes all negative psychological states:

e.g.

Why is fear wrong?	Because it causes pain.
Why is depression wrong?	Because it causes pain.
Why is boredom wrong? (e.g. animals kept in farm, laboratory and other cages)	Because it causes pain.
Why is unsatisfied drive wrong?	Because it causes pain.
Why is guilt wrong?	Because it causes pain.
Why is disgust wrong?	Because it causes pain.

* *The only moral wrong is causing (or permitting) pain to others*. Who do we mean by "others"? We mean anything external to ourselves that can experience pain, whether it is a human or nonhuman animal, a robot, a machine, or an alien from outer space (provided they are all sentient, or to be precise, *painient*).

* We are mainly concerned about *quantities* of pain (intensity x duration) and not the vehicles or qualities of pain. There are no *morally lesser types* of pain or pleasure as Mill suggested.

So X amount of pain in a dog or a robot matters equally with X amount of pain in a human.

* As regards the classic conflict between Consequentialists such as Bentham on one side, and Deontologists such as Kant on the other, Painism supports Bentham's belief that *what matters is the end result in terms of pains and pleasures*, but it also agrees with the Kantian view that *each individual matters*. As pain seems to be more powerful than pleasure, Painism proposes that our main *duty* is to prevent, stop or reduce the pain of others, starting with the Maximum Sufferers. A lesser duty is to give pleasure to others and make them happy (e.g. by giving them comfort, care, or mutually enjoyable sex).

* The word "pain" covers all negative experiences. Arguably, however, the word "sentient" covers only the senses (omitting thoughts and even emotions for example.) The word *painient* is more precise. It excludes positive sensations such as warmth but can include all negatives, including negative thoughts. Maybe an alien from outer space could be sentient but not painient. Her reactions to danger or damage could be 'reflex' and without feeling.

* Painism says we cannot add up pains (or pleasures) *across* individuals as happens in Utilitarianism because no-one actually experiences such totals. A pain, to be a pain, has to be experienced. Utilitarianism totals the pains and pleasures of all individuals affected. Painism does not allow such totalling (aggregation) *across* individuals.

* The trouble with Utilitarianism is that a group of sadists or rapists can be allowed to torture a victim provided the total of all their pleasures adds up to more than the victim's pain!

* A masochist consents to pain because he derives a pleasure from doing so that is greater than the pain. If they cause the avoidance of greater future pains, both guilt and fear can have good effects.

* You cannot add up the experiences of loves or fears of a group of people and make a meaningful total, so why do it with experiences of pain? There are barriers that block the passing of consciousness from one individual to another. Normally, no-one else can *directly* experience my consciousness (although the artificial connection of one brain to another might one day enable this). My empathy with what you are feeling is not identical with your suffering.

* So the *quantity of sufferers* in a disaster does not matter, morally speaking. The wrongness of an event should be measured by the amount of pain experienced by *the Maximum Sufferer*. One individual suffering agony matters more than a million suffering slightly. So in "Trolley Situations" (familiar to all philosophers) killing fewer victims is not necessarily morally better than killing many victims. It is the amount of pain felt by each individual (particularly the Maximum Sufferer) that matters.

Painism focuses upon all sentient *individuals*.
It focuses upon *pain* (broadly defined).
It focuses upon *victims* (not upon doers or "agents").
Painism is '*consequentialist*.'
Pain avoidance is the immediate objective.
But happiness remains the ultimate objective.
Pain is the great destroyer of happiness.
Pleasures can help to produce happiness.

Painism says it is correct to add up contemporaneous pains and pleasures *within* individuals but not *across* them. But it is difficult to play off pains against pleasures because pains are nearly always *more powerful* than pleasures. For example, most would forego several hours of ecstasy in order to avoid an hour of expert torture. Furthermore, pains are not exact negatives of pleasures. There are also some differences between a pleasure and a reduction of pain.

If pain was to be considered the exact negative of pleasure then a cost-benefit analysis would be theoretically possible between one individual on each side of the equation, e.g. the pain of the Maximum Sufferer versus the pleasure of the Maximum Beneficiary.

Pain

* Pains and pleasures colour all our experiences and affect most of our behaviour.

* Pains, and their avoidance, dominate our lives.

* Pain is sometimes defined as "unpleasant sensory or emotional experience."

* But in Painism I define pain more widely to also include perceptual, cognitive and mood states—i.e. perceptions, thoughts, and moods. They can all be negative, causing suffering.

* So there are at least five types of pain or suffering that are relevant to Painism:

(i) negative sensations (e.g. 'physical' or nociceptive and neuropathic pains)

(ii) negative feelings or emotions (e.g. grief, fear, disgust, horror, frustration or boredom)

(iii) negative perceptions (e.g. of ugliness, distortion, mutilation, negative hallucinations and other unpleasant interpretations of sound, vision, touch or smell)

(iv) negative thoughts of (e.g. shame, rejection, danger, loss, guilt and awareness of failure, unfairness, criticism, insult or death)

(v) negative moods (e.g. depression caused, for example, by loss, frustration, or prolonged stress etc.)

All these experiences are unpleasant.

* In scientific psychology 'pain' is similar to concepts such as 'negative reward,' 'negative reinforcement,' 'punishment,' and 'aversive stimulus.'

* Pains of all five types can be severe, moderate, or mild, and brief (acute) or long lasting (chronic).

* Pain is always a *negative* experience and this unpleasant quality is often associated with electrical and chemical activities in brain networks such as the *anterior cingulate cortex.*

Ten Questions

1) Is Painism only concerned with Maximum Sufferers?

No. Painism may give priority to Maximum Sufferers but it is concerned with *all* sufferers.

2) Are Trade-Offs (e.g. cost-benefit analyses) allowed in Painism?

Yes, but trade-offs can only be between *individuals.* The trade-off of big pains for smaller ones is possible. So is the trade-off of small pleasures for larger ones. But the trade-off of pains against pleasures is less certain.

Causing severe pain that is unconsented-to is never justified, nor does one individual's pleasure ever justify another's pain. (I regard these rules as arbitrary but axiomatic.) But causing slight and brief pain in one individual in order to avoid or reduce severe pain in another may well be justified. The brevity of the pain here seems to be important.

3) Does intensity of pain matter more than its duration?

Painism sees the *amount* of pain as approximately the product of intensity and duration of recent pain.

Amount of pain = Intensity of pain x Duration of pain

4) Does the sequence of pains and pleasures matter?

Yes, later pains (or future pains) count for more than earlier pains. (All's well that ends well and all's wrong that ends badly.)

5) Is severe pain considered worse than death?

Yes, possibly, if death is painless.
Death, even if it is painless and ends in oblivion, still matters because of the pain it causes to relatives and friends.

6) Can the intensity of pain be measured?

Yes. The British government's Home Office has been scientifically estimating the intensity of pain in animal experiments for some thirty years. This work comes under the administration of the Animals (Scientific Procedures) Act 1986, and is based upon my CRAE recommendations made in 1976. Similar procedures and principles (such as the principle that the severity of a sufferer's pain matters more than the quantity of sufferers) should also be applied to human welfare legislation.

7) Should severe pain be treated separately?

No, but severe pain is a very different experience from slight pain (e.g. a brief irritation, a moment's inconvenience, or a passing twinge).

8) Is human nature intrinsically good or bad, compassionate or cruel?

Human nature is both compassionate *and* cruel. Painism encourages natural compassion and inhibits natural callousness.

9) Does the lack of Free Will invalidate Painism?

No more than it may invalidate other moral systems. Free Will may be like Quantum Mechanics rather than Newtonian Physics. Quantum Physics includes an element of unpredictability or freedom. I believe the brain is a complex machine and the consciousness of our decisions only occurs *after* our brain has taken the decisions. But who understands Time? Who understands Consciousness?

10) If the brain operates according to Quantum laws does this answer the problem of Determinacy and Moral Responsibility?

To an extent. Subatomic particles *appear* to have Free Will. Why do they go one way rather than another? How can they influence each other at a distance? Particles 'wait' to be observed before they 'act.' Is such "observation" the same thing as *consciousness*? *Our experience of our apparent Free Will may be our direct experience of the operation of Quantum Physics itself.*

Triage

So how should a painist nurse or doctor behave at the scene of a large accident where there are many casualties?

They should apply the rules of Painist Triage:

(i) give immediate analgesic and other help to:
(a) those in agony (especially those who are going to die), and
(b) those whose lives are at immediate risk

(ii) then treat all the others to reduce their pain and make them well.

Action (i)(a) means reducing the pain of Maximum Sufferers. As soon as this is Done, the Painist nurse or doctor should move on and treat the new Maximum Sufferers, and so on. So amongst those in pain they should always treat the Maximum Sufferers first. Painism here puts the relief of agony at approximately the same level of priority as saving life. In order to avoid later suffering, painists also help those who are not yet in pain.

Conclusions

* Painism not only brings together the best of Utilitarianism with the best of other Ethical theories, it also joins philosophy with psychology by bringing together their previously separated languages. It overcomes some of the problems of modern Ethics. It has been hailed as the "best candidate" moral theory. (Joy 2019)

* Pain is a very strong foundation on which to build a moral theory.

* We all know about the reality of pain. It is a basic part of all our lives. It is not like trying to build an ethical theory upon what an unknown God is supposed to want us to do.

* Anything that causes pain (e.g. racism, sexism, or speciesism), however 'natural' it is, is prima facie morally wrong.

* Painism is consequentialist. It focuses not upon the character of the doer but upon the experience of the victim.

* A country's government has the duty to care for all painients within its borders, not only humans. Painience itself gives rights and moral standing. All painients qualify as persons and citizens, and should be called "she," "he," or "they," as appropriate.

* Painism gives emphasis to each painient individual.

* The science upon which Painism is based, in particular the evidence that nonhumans can experience pain, exposes the irrationality of Speciesism.

* As already said, Painism is concerned with the amount of pain (suffering) experienced by each sentient individual regardless as to what that individual looks like (robot, alien, or animal). So X amount of pain in a sentient robot matters the same as X amount of pain, in, say, an armadillo or a human.

* When assessing a moral situation, simply look for the individual pains arising.

* Painism uses modern and secular language but is close to the moralities of Jainism, Buddhism, and some other faiths, and to the concept of *Ahimsa* (non-violence). It is also close to Christianity's emphasis upon love for our neighbours, where Painism would define 'neighbours' or 'others' to include all sentient (painient) things.

* Perhaps the great difference between beings is not whether they are alive or not, but whether or not they are painient. Increasingly, we should all feel part of the community of consciousness and respect it.

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Glossary of Useful Words

Pain	=	any form of suffering or negative experience.
Painient	=	able to feel any form of suffering or negative experience
Sentient	=	able to feel sensations, including positive ones
Consciousness	=	general awareness

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Biographical Note / Nota biograficzna

Richard Dudley Ryder - Royal Society for the Prevention of Cruelty to Animals

Dr Richard Ryder uzyskał tytuł magistra psychologii eksperymentalnej i stopień doktora na Uniwersytecie w Cambridge i był profesorem filozofii w Tulane University. Zaproponował termin *speciesism* w 1970 roku pracując w Oxfordzie a termin *painism* w 1990r. Jest przewodniczącym Animal Interfaith Alliance (AIA) i przewodniczącym Royal Society for the Prevention of Cruelty to Animals (RSPCA).

Richard Dudley Ryder, Royal Society for the Prevention of Cruelty to Animals

Dr Richard Ryder gained his MA (Experimental Psychology) and PhD at Cambridge University and was Mellon Professor at the Department of Philosophy at Tulane University. He invented the terms *Speciesism* in 1970 while working in Oxford, and *Painism* in 1990. He is currently President of the Animal Interfaith Alliance (AIA) and President of the Royal Society for the Prevention of Cruelty to Animals (RSPCA).

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Animals' Pleasures

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Abstract
In this article we argue that it is reasonable to believe that normal vertebrate animals can feel pleasure, and that there is sufficient evidence for a capacity for pleasure in some invertebrates. It follows that the pleasures of animals are morally significant. We argue for that in a few steps. First, we explain why philosophers used to concentrate more on pain rather than pleasure in regard to animals. Second, we define the notion of pleasure and show how it implies to non-human animals. Third we discuss whether animals are conscious beings and how they may feel pleasure. It is true that we do not know exactly how pain and pleasure feel to nonhumans, but this is also true for other humans. Even though we can give a detailed verbal description of what we feel, pains and pleasures are subjective and we do not have any certain insight into what another human is feeling. This limitation should not stop us from behaving in a way that takes into account the fact that both we and many nonhuman animals are beings who can suffer and enjoy.

Keywords: animals, pleasure, pain, suffering, well-being, hedonism.

Abstrakt
W tym artykule dowodzimy, że kręgowce mogą odczuwać przyjemność i że istnieją wystarczające dowody na to, aby stwierdzić, że przyjemność odczuwają również niektóre bezkręgowce. Według nas oznacza to, że przyjemności zwierząt są istotne z moralnego punktu widzenia. Dochodzimy do tych wniosków w kilku krokach. Po pierwsze, wyjaśnimy, dlaczego w przypadku zwierząt filozofowie zwykli koncentrować się bardziej na bólu niż przyjemności. Po drugie, definiujemy pojęcie przyjemności i pokazujemy, jakie ma ono znaczenie dla zwierząt innych niż ludzie. Po trzecie, zastanawiamy się, czy zwierzęta są istotami świadomymi i w jaki sposób mogą odczuwać przyjemność. Prawdą jest, że nie wiemy dokładnie, jak ból i przyjemność odczuwają zwierzęta, ale prawda ta dotyczy również innych ludzi. Chociaż możemy podać szczegółowy, werbalny opis tego, co czujemy, ból i przyjemność są subiektywne i nie mamy żadnego pewnego wglądu w to, co czuje inny człowiek. To ograniczenie nie powinno powstrzymywać nas od zachowywania się w sposób uwzględniający fakt, że zarówno my, jak i wiele zwierząt innych niż ludzie, jesteśmy istotami, które mogą cierpieć i cieszyć się.

Słowa kluczowe: zwierzęta, przyjemność, ból, cierpienie, dobrostan, hedonizm.

"Being a pleasure-seeker adds considerably more to one's interests than if one were merely a pain-avoider. Being able to feel good means being able to enjoy life. There is more at stake, more to be gained, and lost."

(Jonathan Balcombe, "Pleasure and Animal Welfare")

Introduction

It is now widely accepted that a difference in race is not a reason for giving more weight to the interests of a member of one race than we give to a member of a different race - even if one of these races is our own, and the other is not. The same is true about a difference in sex. We hold that this also goes for a difference in species. The most fundamental form of the principle of equality is the principle of equal consideration of interests. This provides the basis for regarding all humans as equal, despite evident factual differences between human beings. It also provides the basis for giving equal consideration to the interests of human and nonhuman animals. We will not defend this claim further here, for to do so would only be to repeat arguments that one of us has already put forward in *Etyka* and other works.[1] Members of different species will, of course, have some distinct interests. Many humans, for example, have an interest in learning a foreign language. To the best of our knowledge, no nonhuman animals have such an interest. But humans and nonhuman animals also have some similar interests. Jeremy Bentham began his *Introduction to the Principles of Morals and Legislation* with the words: "Nature has placed mankind under the governance of two sovereign masters, pain and pleasure,"[2] but he could as well have said, and it would have been consistent with his views, that nature has placed all animals, including humans, under those two sovereign masters. We do not have to accept Bentham's view that the desires to avoid pain and to experience pleasure determines everything we do, but he was surely right to think that these interests are extremely important to us.

The principle of equal consideration of interests leaves open the question of how we should think of interests. The two main contenders are that something is in my interests if it satisfies my desires, and that something is in my interests if it leads me to experience a greater surplus of pleasure over pain than I would

1 P. Singer, *Zwierzęta i ludzie jako istoty równe sobie*, "Etyka", 18, 1980, s. 49-62; *Wyzwolenie zwierząt*, Marginesy, Warszawa 2018, *Etyka praktyczna*, PiW, Warszawa 2004.

2 J. Bentham, *Introduction to the Principles of Morals and Legislation,* 1789.

otherwise have had (or, if I am so unfortunate as to experience more pain than pleasure, a smaller surplus of pain.) On the desire-satisfaction theory, at least in its pure version, having one's desires satisfied does not require that the satisfaction is actually experienced, or even that one is aware that it has been satisfied. In an example given by Derek Parfit, I strike up a conversation with someone sitting next to me on the train. I find her very likeable, and when, as the train arrives at our destination, she tells me that she has a life-threatening illness, I form a strong desire that she should overcome the illness. But she disappears into the crowd on the platform, and we have not exchanged names or contact details, so I will never know if she does. Nevertheless, on the pure desire-based view, it is in my interests that she survive.[3]

This example is a powerful argument against the pure form of desire satisfaction. A different version of desire theory accepts this point, and specifies that the satisfaction of a desire is only in someone's interests if that person knows that the desire is satisfied.[4] There is, however, a different objection to this view: some desires simply seem not to be worth satisfying. John Rawls offers the example of a man whose chief desire is to count the number of blades of grass in lawns. Doing so gives him no pleasure, even when he succeeds in getting an accurate count, and knows that he has done so. Nor would not counting blades of grass make him miserable.[5] Nevertheless, this is an irrational desire, and satisfying it does not make his life go better. It would, in our view, be in his interest for us to persuade him instead to do things that give him pleasure, even if at present pleasure is not something he desires. For these and other reasons, we reject the desire-satisfaction theory, and instead favour hedonism, that is, the view that it is in our interests to have the greatest possible balance of pleasure over pain.[6] This view implies that it is in the interests of any sentient being to experience pleasure. In this article we argue that it is reasonable to believe that normal vertebrate animals can feel pleasure, and that there is sufficient evidence for a capacity for pleasure in some invertebrates. It follows that the pleasures of animals are morally significant.

3 For the original version of this example and the uses Parfit makes of it, see D. Parfit, *Reasons and Persons,* Oxford University Press, 1984, p. 151, 468, and 494.

4 Ch. Heathwood, "Desire Satisfactionism and Hedonism", Philosophical Studies, 2006, 128 (3), pp. 547-548.

5 J. Rawls, *A Theory of Justice,* The Belknap Press HUP, 1999, p.379.

6 For a fuller discussion of our reasons for rejecting desire-satisfaction theories, see K. de Lazari-Radek and P. Singer, *The Point of View of the Universe,* Oxford University Press, 2014, pp.215-239; K. de Lazari-Radek, *What Should a Consequentialist Promote*, *The Oxford Handbook of Consequentialism*, ed. D. Portmore, OUP 2020, p. 208-9; K. de Lazari-Radek, *Godny pożądania stan świadomości*, WUŁ, Łódź 2021, s. 163-199.

Two Reasons for Focusing on Pain Rather than Pleasure

In practice, those who accept that we should be concerned about the interests of animals, and are active in trying to reform those practices that show little or no concern for animals, focus almost entirely on reducing the pain and suffering we inflict on animals. This is understandable, and there are two different ways in which that focus can be justifiable. The more straightforward reason is that it is often easier to know how to detect that an animal is experiencing pain and suffering than it is to know that an animal is experiencing pleasure and happiness, and similarly, it is often easier to know how to alleviate pain and suffering than it is to know how to increase pleasure and happiness. That is a generalization, of course, and isn't always true, but when we read accounts of painful procedures performed on animals, whether they are experiments in laboratories, or the branding of a cow's skin with a hot iron, we know that we could prevent these forms of suffering by persuading legislators to change the laws so that people could not do these things to animals. It is much harder to imagine legislating that would increase the pleasure of animals.

The second reason why we may be justified in giving priority to relieving pain and suffering, rather than producing pleasure, is that animals may be capable of experiencing greater extremes of pain than of pleasure. The meaning of this may not be obvious, so here is a thought experiment that may make it easier to grasp: suppose that a good fairy said that she had the power to grant you an hour of the greatest pleasure you have ever experienced; but unfortunately, before you could say yes, an evil fairy arrived and said that although she did not have the power to prevent you experiencing an hour of the greatest pleasure you have ever experienced, she did have the power to ensure that, if you accepted the good fairy's offer, you would also experience an hour of the greatest pain you have ever experienced. Now would you accept the good fairy's offer? We would not. Our intuition is that we may be capable of experiencing greater extremes of pain than of pleasure. There may be an evolutionary reason for this, because pain is a signal of a threat to our survival, and failing to respond promptly to it can lead to even immediate death. Failing to respond to a feeling of pleasure could also, in the long run, threaten our survival – for example if we stopped eating some delicious food – but less immediately. And indeed, the example of food shows the greater urgency of pain, for if we stop eating for long enough, we will not only miss out on the pleasure of eating food we like, but we will also experience the pain of hunger.

Our pain/pleasure scale might therefore look like this:

X----------0----------Y

Where X is the greatest pain we can possibly experience, 0 is the neutral point, where we are experiencing neither pain nor pleasure, and Y is the greatest pleasure we have ever experienced. (If you are unsure how to think about the neutral point, we would suggest that you think of it as the point at which, other things being equal, you would be indifferent between staying awake for a time in that state, or being in a deep dreamless sleep.)

This is speculative, and further research would be needed to show that it is correct; but if it is the case that we have a stronger preference for avoiding extreme pain than we do for gaining extreme pleasure, what conclusion should we draw from this? Not, we emphasize, the position taken by "negative utilitarians" who hold that the only consequences we should take into account are those that reduce pain and suffering. Negative utilitarianism prohibits trading off any suffering at all for the sake of pleasure or happiness. So, to go back to our earlier example, if the evil fairy had the power only to say that, if you accept the good fairy's offer of an hour of the greatest pleasure you have ever experienced, you will suffer a mild headache for one minute, the negative utilitarian would still reject the good fairy's offer. That is not, we believe, what most people would prefer. If we were able to quantify pleasures and pains, then we would give equal weight to both. If, as has been suggested, the basis for an objective measure of quantification is to use a "just perceptible increment" as the unit of measurement[7], then we would give equal weight to one unit of pleasure and one unit of pain. Our point here is only that to give a higher priority to reducing extreme suffering than we give to producing extreme pleasure *may* be defensible, even if, in practice, we were equally capable of doing both.

To say that it is defensible to give priority to reducing suffering, whether of humans or of animals, does not imply that promoting pleasure is unimportant. On the contrary, it is possible that our understandable focus on reducing suffering has led us to neglect opportunities for increasing pleasure, even when that could be done at little or no cost. That thought is an important motivation for addressing the topic of the pleasures of animals, to which we now turn.

7 F. Y. Edgeworth, *Mathematical Psychics*, Kegan Paul, London, pp. 98-102.

What is pleasure?

The greatest of 19th century utilitarians, Henry Sidgwick, defined pleasure as "desirable consciousness", a feeling "which the sentient individual at the time of feeling it implicitly or explicitly apprehends to be desirable – desirable, that is, when considered as a feeling, and not in respect of its objective conditions or consequences, or of any facts that come directly within the cognizance and judgment of others besides the sentient individual".[8] We embrace this definition but in order to explain why this is an illuminating way to think of pleasure, we need to discuss it and bring it together with some recent work in neuroscience.

Pleasure is a specific state of mind that we call a *feeling* – an experience that is different from thoughts, sensations, or emotions. It is important to distinguish between feelings and sensations, something philosophers often do not do.[9] In psychology and neuroscience, however, the distinction is easy to discern. Magda Arnold, an American psychologist, explained that feelings are responsible for a positive or negative reaction to what we experience. A positive reaction is pleasure defined as "a welcoming of something sensed that is appraised as beneficial and indicates enhanced functioning". Negative reaction is pain, taken as "a resistance to something sensed that is appraised as harmful and indicates impaired functioning". In Arnold's summary: "What is pleasant is liked, what is unpleasant, disliked."[10] Sensations, on the other hand, are experiences that are results of impacting on our senses: taste, smell, sight, hearing, and touch. A sensation "informs" us about the world around us and a feeling "evaluates" that piece of information and signals how it could affect us. This differentiation explains well why the same sensation – e.g., of listening to the same song – is sometimes a pleasure and sometimes a nuisance, depending on other circumstances.

The distinction between a sensation and a feeling is clear in neuroscience, which has found two distinct systems, sensory and hedonic. The evolutionary function of the former is to "provide the facts about the world", while the latter gives "a subjective commentary on the information provided to them by sensory system"[11]. The hedonic mechanisms, as the neuroscientists put it, "take a mere sen-

8 H. Sidgwick, *The Methods of Ethics*, 7th ed., Macmillan, London 1907, p. 131.

9 The views of pleasure suggested by Gilbert Ryle and Fred Feldman fail to make this distinction. For discussion, see K. de Lazari-Radek, *Godny…*, pp. 374-408.

10 See also K. de Lazari-Radek, *What should a consequentialist promote*, p. 212.

11 P. Shizgal, "Fundamental Pleasure Questions", p. 9.

sory signal and transform it into a hedonic and 'liked' reward". They liken pleasure to "an additional niceness gloss painted upon the sensation"[12].

This niceness gloss can be applied to whatever experiences we have: not only physical sensations like tasting something or having sex, but also thoughts, imagination, and understanding. For this reason, a common belief is that there are many different kinds of pleasures: bodily pleasures, mind pleasures, intellectual pleasures, and so on. John Stuart Mill distinguished between higher and lower pleasures, and gave overriding weight to the former,[13] and your everyday experience may suggest to you that the pleasure that we get from resolving a philosophical problem is very different from the pleasure we get from tasting delicious food. But if pleasure is a "niceness gloss" that our hedonic system puts on experiences, then it is the experiences that differ, rather than the pleasures we get from them.

So how do we know that what we feel when having our favorite dessert, and what we feel when we hold our child for the first time, are both pleasures? The common feature that is intrinsic to all pleasures is a positive evaluation of the sensations that we are experiencing. Sidgwick talks of the feeling of pleasure as one that we "apprehend as desirable." The word "apprehend" may be less commonly used today than it was in Sidgwick's time. It suggests grasping something, and can be used to refer to a physical grasping as when we speak of the police having apprehended a suspect, or to describe grasping something intellectually, as in apprehending a new idea. So, to apprehend a feeling as desirable is to grasp, to understand, or become aware of it as desirable.

The word "desirable" can mean either "what is desired" or "what is worthy of desire". In the first sense, pleasure would be connected with a simple fact that we desire something. In the second sense, it is more of a normative or evaluative judgment – something that we should desire, if, for example, we are rational. We interpret Sidgwick to be using "desirable" in this second sense.

Sidgwick's understanding of pleasure as a feeling distinguished by its evaluative component has not been always accepted. Instead, some philosophers still link pleasure with desire. That view appeared to be supported by an experiment conducted in 1951 by J. Olds and P. Milner. In order to find what they thought to be a pleasure center, they implanted electrodes in a specific part of the rats' brains and presented them with a lever they could press in order to stimulate it. The rats pressed the lever constantly, and to the exclusion of all other activities, sometimes

12 K. Smith, S. Mahler, S. Pecina, K. Berridge, Hedonic Hotspots: Generating Sensory Pleasure in the Brain, in M. Kringelbach, K. Berridge (eds.), Pleasures of the Brain, p. 27.

13 J. S. Mill, *Utilitarianism,* edited by K. de Lazari-Radek and P. Singer, Norton, New York, 2021, pp. 12-16. (first published 1863)

even until they died from starvation. Olds and Milner interpreted the rats' intense and overriding desire to stimulate that area of the brain as an indication that they were experiencing pleasure. Critics of hedonism mockingly suggested that the experiments showed that for hedonists, an ideal world would be one full of sentient beings with electrodes in their brains who did nothing but press a lever. But current research does not support the conclusions Olds and Milner drew from their research. old claims. Berridge and his colleague Morten Kringelbach believe that Olds and Milner had not discovered a "pleasure center" at all, but rather a "desire center". The parts of the brain that are responsible for desire, Berridge and Kringelbach point out, are distinct from those that are associated with pleasure, and are associated with different neurochemical substances – dopamine -- whereas the parts responsible for pleasure are associated with opioids – morphine-like substances produced by the brain. What the rats experienced was "wanting," rather than pleasure itself. That is why they continued to press the lever.[14] Desire is not a reliable indication of pleasure.

Sidgwick's definition, in terms of apprehending a feeling as desirable was therefore closer to what neuroscience has discovered than the view that pleasure is to be understood in terms of what we actually desire. The language used by Berridge, portraying the system that provides pleasure as painting a "niceness gloss" on experiences, makes pleasure a form of evaluation, and fits well with the idea that pleasure is the feeling we get when we apprehend something as good, or intrinsically worthy of being desired.

To apply this view of pleasure to nonhuman animals, we need to note that Sidgwick says that the apprehension of pleasure as desirable may be implicit or explicit. An explicit understanding of the desirability of a feeling one is experiencing would seem to be possible only for self-aware beings who make normative judgments about their own experiences. This may be possible for some nonhuman animals, such as the great apes, or elephants, but for other animals, the understanding of the desirability of a feeling at the time of experiencing it would have to be implicit. What would that be like? We will return to this question after we first set aside a more fundamental objection to the idea that animals can feel pleasure.

14 M. Kringelbach, *Pleasure Center*, OUP, Oxford 2009, p. 57.

Are Animals Conscious Beings?

Descartes famously declared that animals are nothing but mindless, emotionless machines.[15] His view may have made it easier for experimenters, in the days before anesthetics, to cut animals open to see how their internal organs functioned. This mechanistic view of animals did meet with some opposition. Voltaire described experiments in which dogs were nailed down and dissected alive. The result was, he wrote, that "you discover in him all the same organs of feeling as in yourself." He then threw out this challenge: "Answer me, mechanist, has nature arranged all the springs of feeling in this animal in order that he might not feel?"[16] Later Charles Darwin argued strongly that animals have emotions.[17] Nevertheless, animals continue to be denied feelings, or at least, the claim that it is "unscientific" to attribute feelings to animals has frequently been revived, especially by those who have an interest in causing pain to animals. In experimental psychology, for a period in the 1960s and '70s, it was unacceptable to say that giving an electric shock to an animal caused it pain. Instead, the "scientific" language was that the shock was a "negative stimulus" or that it elicited an "aversive response" because the attempts of the animal to avoid it could be observed, whereas the pain could not be.[18]

As recently as 2004, researchers working for the French National Institute for Agronomical Research denied that force-feeding ducks or geese to produce *foie gras* caused the birds suffering or pain, saying that "the use of these notions is inappropriate for animals because they imply a psychological element."[19] Marc Bekoff, a scientist who has spent a lifetime working with animals, describes a scientist with a similar stance when he tells a story about a man he calls „Bill," an animal behavior expert. Bill would happily tell him, in informal conversation, about how his dog Reno loved playing with other dogs, but would become anxious if Bill was away, and jealous if Bill paid too much attention to his own daughter; but then in commenting on a paper at a conference, Bill would be skeptical about attributing emotions to animals. When Bekoff tackled him about that, Bill would say that he didn't *really* know if Reno enjoys playing with other dogs, or becomes

15 Descartes, *Discourse on Method,* (1637) part 5, and 'Letter to Henry More,' February 5 1649.

16 Voltaire, *Dictionnaire Philosophique* (1764), see the entry 'bêtes.'

17 Ch. Darwin, *The Descent of Man,* (1871) ch. 3; *The Expression of the Emotions in Man and Animals* (1872).

18 See B. Rollin, *The Unheeded Cry: Animal Consciousness, Animal Pain, and Science,* University of Oxford Press, New York, 1989.

19 We owe this reference to E. Reus and D. Olivier, "Mind-Matter for Animals Matters: Science and the Denial of Animal Consciousness," *Between the Species*, 13 (7) (2011), p20, available at https://digitalcommons.calpoly.edu/bts/vol13/iss7/6/. The original source is an article published on the website of the National Institute for Agronomical Research (INRA), on Dec. 15, 2004.

depressed or jealous. Like many other scientists, Bekoff suggests, Bill has to suppress the beliefs about animals formed from his everyday experiences with his dog, for fear that these beliefs will make him appear „unscientific" to his colleagues.[20]

To combat this lingering attitude that there is something unscientific about attributing feelings to animals, in 2012 prominent neuroscientists from all over the world gathered in Cambridge and issued "The Cambridge Declaration on Consciousness." This statement summarizes the current state of neuroscience regarding the neurobiological substrates of conscious experience in both humans and non-human animals, and concludes that "the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness." This applies, the scientists state, not only to mammals and birds, but also to "many other creatures, including octopuses."[21]

Over the decade since the Cambridge Declaration, the study of animal consciousness has become a growing field, drawing together such fields as neuroscience, evolutionary biology, psychology, animal behavior, animal welfare science, and philosophy. The journal *Animal Sentience,* founded in 2016, brings together scientists interested in studying, in a rigorous manner, the subjective experiences and feelings of animals. As one recent survey of the field notes, "debates about animal consciousness have moved on from the question of whether any non-human animals are conscious to the questions of which animals are conscious and what form their conscious experiences take".[22]

The capacity of nonhuman animals has also now been recognized in the law in several jurisdictions, most notable in the European Union, where in 2008, the Treaty of Lisbon declared that "since animals are sentient beings," the member nations are to "pay full regard to the welfare requirements of animals…"[23] Similar legislation exists in New Zealand, the Canadian province of Quebec, and the Australian Capital Territory. As we write, an Animal Welfare Sentience Bill is being considered in the parliament of the United Kingdom. Passage into legislation seems assured, with the main debate being whether the scope of the bill will extend beyond vertebrates.

20 M. Bekoff, *The Emotional Lives of Animals,* New World Library, Novato, California, 2007, pp. 114-5.

21 *The Cambridge Declaration on Consciousness,* proclaimed by Ph. Low, D. Edelman and Ch. Koch at the Francis Crick Memorial Conference on Consciousness in Human and Non-human Animals, Churchill College, Cambridge, UK, July 7, 2012. The Declaration is available at https://fcmconference.org/

22 For discussion see J. Birch, A. Schnell and N. Clayton, "Dimensions of Animal Consciousness," *Trends in Cognitive Sciences,* 24 (10) (2020) 789-801.

23 *Treaty on the Functioning of the European Union* (Lisbon, 2008), Article 13.

Can Animals Feel Pleasure?

Now, even when it is widely accepted that animals can feel pain, the significance of pleasure in their lives is still often minimized, if not denied outright. Jerrold Tannenbaum, an American veterinarian, for example, has written:

> It does not seem even remotely plausible to postulate that most animals in the wild, or bred for use in research laboratories, have a need or drive to be happy or to lead a generally happy life in the same way in which they have physiological needs to eat, drink, or eliminate. [24]

Perhaps, though, this does not seem "remotely plausible" because we have not, until recently, looked for it. Accounts of the sexual activity of animals, for example, tend to focus on its evolutionary function, and therefore to ignore the evidence that, in many species, it produces pleasure. This is in sharp contrast to accounts of human sexual activity, even though the evolutionary function of sex in humans is the same as nonhuman animals. To this some may object that in humans we observe a great deal of sexual activity that cannot lead to reproduction and so must be engaged in for pleasure, for example masturbation, oral sex, and homosexual acts. But masturbation, by both males and females, is common in mammals, and homosexual acts have been observed in about 300 species of animals, while oral sex also occurs. The clitoris is present in females of many species of mammals, and female orgasms have also been detected, especially in primates.[25] The evidence that animals of many different species find sex pleasurable is therefore strong. Perhaps, just as psychologists focused on psychological problems in humans, and it was only recently that positive psychology began to be considered an important area of human psychology, so too it is only recently that pleasures in animals have become of a field of scientific interest. It is also possible that neglecting animal sexual pleasures is part of a more general phenomenon of trying to maintain the greatest possible gulf between us and the "lower" animals.

The idea that animals cannot experience pleasure, or have no interest in it, is, of course, completely contrary to our daily observations. Anyone who lives with or

24 J. Tannenbaum, *The paradigm shift towards animal happiness: what it is, why it is happening, and what it portends for medical research*. In: E.F. Paul and J. Paul (eds), *Why Animal Experimentation Matters: The Use of Animals in Medical Research*, New Brunswick: Transaction Publisher, pp. 93-130, 2001, quoted from J. Balcombe,

25 B. Bagemihl, *Biological Exuberance: Animal Homosexuality and Natural Diversity* ETC, we owe this reference to J. Balcombe…

near domestic animals can describe a situation in which we have at least a strong presumption that they feel pleasure. Kasia's cat Maya, for example, comes to her in the morning and lies on her back to be stroked. She does not like to be touched much but she definitely does in the morning. When Kasia stops doing that, Maya moves her paws and encourages Kasia to keep stroking her. It is also obvious that Maya likes certain kinds of food but dislikes others. It is easy to observe how enthusiastic Maya is about the food she likes.

A growing body of data shows that animals take pleasure in such obvious things as food and sex but also playing, getting high, or learning things. Dogs are famous for their eagerness to learn things when they are with humans they are attached to. Both domestic and wild cats (including lions, jaguars and leopards) are known to adore the scent of a catnip plant, while reindeer get high on hallucinogenic fly agaric mushroom.[26] The internet is full of videos showing wild animals having fun in ways we can easily understand and appreciate: ravens rolling themselves down a snowy slope[27], stoats playing on a trampoline[28], Australian magpies hanging upside down from towels on clotheslines[29],and a grandmother bonobo tickling her granddaughter[30].

Observation of animals' behavior is a powerful source of our knowledge about their pleasures. But it is true that it is easier to say something about the pleasures of animals who are biologically closer to us – mammals especially, and apes in particular – than it is of the pleasures of reptiles or fish, and the difficulty is even greater with invertebrates. Animals differ significantly in their sensory abilities – some species have a stronger sense of smell, while others hear a different spectrum of sounds, or experience different tastes. Cats, for example, do not have receptors responsible for a sweet taste, and therefore, in contrast to many other animals, show no interest if presented with something sweet. We do not always know what another human being is feeling, and it is even harder to be confident in our inferences, from observation alone, about the feelings of a nonhuman animal.

Fortunately, to add to the knowledge we have from observation, we can now draw on recent findings in neuroscience. With minor exceptions, all vertebrates share the same basic anatomy with a skeleton and muscles enabling them to move; the same five senses of sight, smell, hearing, touch and taste; similar neurological

26 J. Balcombe, pp. 161-162.
27 https://www.youtube.com/watch?v=tnUN4wIxzmI
28 https://www.youtube.com/watch?v=PVkH5EKxUBI
29 https://www.youtube.com/watch?v=EV4qZ_lgStw; https://www.youtube.com/watch?v=yJN5_1tfqXo
30 https://www.youtube.com/watch?v=SPdf-BBL0co

structures (the amygdala and the hypothalamus); and the same brain chemicals (dopamine, serotonin and oxytocin).

We have defined pleasure in such a way that it has an evaluative element. But as we said in the previous section the evaluation does not have to be a deliberate or reflectively considered judgment. Most non-human animals, as far as we can tell, do not think in terms of "good", "bad", or "valuable" and do not self-consciously reflect on and evaluate what they experience. Nevertheless, they act in ways that lead them to experience pleasure, and to avoid experiencing pain or discomfort. An animal is conscious, in the sense specified by Thomas Nagel, and endorsed by many other philosophers, when there is something that it is like to be that animal.[31] If we imagine ourselves as Kasia's cat being stroked, or as a rat tasting something sweet, or, for that matter, as a laboratory rat receiving inescapable electric shocks, in each case, there is something there to be imagined. In contrast, if we imagine ouselves as a ball being hit around the court in a tennis match, there is nothing that it is like to be that tennis ball. The term "phenomenal consciousness" is sometimes used to distinguish this form of consciousness from self-consciousness, with the word "phenomenal" being used in the sense that the Oxford English Dictionary describes as chiefly to be found in philosophy and psychology, where it means "consisting of or belonging to the realm of phenomena or appearances; capable of being known empirically, esp. through the senses or through immediate experience, perceptible; of, designating, or relating to a phenomenon as directly perceived, sensed, or experienced..." When animals, or human infants, act so as to obtain states of phenomenal consciousness we may regard this as indicating an implicit judgment that these states are good, or when they seek to avoid them, an implicit judgment that they are bad, unless we have reason to believe that, as in the Olds and Milner experiment, it is only the "desiring" system that is controlling the behavior, in isolation from the hedonic system.[32]

How can we know, though, in nonverbal animals, that the hedonic system does in fact give desirable states of phenomenal consciousness? We have seen that neuroscientists talk of pleasure as something to which we give a positive evaluation. They have found brain mechanisms, so-called "hedonic hotspots," responsible for constructing what they call "an affective evaluation" to whatever stimulates the brain. In the brain of a rat, one hotspot is a cubic millimeter or so in size (roughly proportionate to a cubic centimeter in a human brain). The evidence that these

31 T. Nagel, "What is it like to be a bat?", The Philosophical Review, Vol. 83, No. 4 (Oct., 1974), pp. 435-450.

32 For discussion of phenomenal consciousness and its moral significance, see G. Kahane and J. Savulescu, "Brain Damage and the Moral Significance of Consciousness," *Journal of Medicine and Philosophy*, 34, pp. 6-26, 2009.

hotspots are truly the parts of the brain that when activated give us a feeling of pleasure is that in humans reporting subjective experiences of pleasure while their brains are being scanned, these hotspots are activated. In addition, we are familiar with the way in which humans react in their behavior and facial expressions when they experience pleasure. Although nonhuman animals cannot report their subjective experiences to us, we can nevertheless see similar behavioral reactions in many mammals that occur when there is activity in the same part of the brain that is active in humans who report experiencing pleasure. Darwin already noticed that many animals, when tasting sweet or bitter substances have facial expressions that are recognizably similar to those that humans have when encountering the same tastes, and this has been confirmed by more recent studies.[33] These parallels hold, not only between humans and other primates, but also between primates and rodents, such as rats. For example, in response to a sweet taste, both rats and human infants stick out the tongue to lick their lips, and also the fingers or paws, while a bitter taste leads to gaping, shaking of the head, and wiping of the mouth. Not surprisingly, the liking reaction to sweet substances is stronger when the subjects are hungry. Twentieth-century scientists limited by the belief that science can only report what is observable would have been unable to make any further inferences about mental states from this evidence, but today neuroscientists are willing to talk of facial reactions to a sweet food as reflecting "a hedonic evaluation of it that incorporates physiological needs." Thus Kyle S. Smith, Stephen V. Mahler, Susana Peciña and Kent C. Berridge describe the "liking" reaction of the brain as having "objective neural and behavioral indicators" and note that there are methods of quantifying these indicators that apply "in animals and humans alike."[34]

Conclusion

That animals are capable of experiencing pleasure may be clear to those who are close to them in everyday life, but when it comes to accepting this in scholarly or scientific deliberations, this truth is only slowly soaking into our heads. This may

33 C. Darwin, *The Expression of the Emotions in Man and Animals* (1872); P. Ekman, "Facial expressions." In M. Robinson, E. Watkins and E. Harmon-Jones, eds., *Handbook of cognition and emotion*, Wiley, Chichester, 1999, pp. 301-20; K. C. Berridge, Measuring hedonic impact in animals and infants: microstructure of affective taste reactivity patterns. *Neurosci Biobehav Rev*, 24 (2000) 173-98, as cited by Kyle S. Smith, Stephen V. Mahler, S. Peciña, K. C. Berridge, "Hedonic Hotspots: Generating Sensory Pleasure in the Brain". In K.C. Berridge and M. Kringelbach, *Pleasures of the Brain*.

34 K. S. Smith, S. V. Mahler, S. Peciña, K. C. Berridge, *Hedonic Hotspots…*, pp.28-9.

be a sign of just another prejudice that we have towards nonhuman animals. There is no reason why we, humans, would have this special capacity to experience pleasure while other animals would not.

It is true that we do not know exactly how pain and pleasure feel to nonhumans, but this is also true for other humans. Even though we can give a detailed verbal description of what we feel, pains and pleasures are subjective and we do not have any certain insight into what another human is feeling. This limitation should not stop us from behaving in a way that takes into account the fact that both we and many nonhuman animals are beings who can suffer and enjoy.

Our conclusions have implications for our interactions with animals. Animals with a capacity for pleasure have an interest in experiencing pleasure in their lives. Hence, in accordance with the principle of equal consideration of interests mentioned at the outset of this article, we should regard opportunities to add to the amount of pleasure in their lives with the same importance as we give to adding similar pleasures to the lives of humans.

Of animals under direct human control, by far the largest number exist in factory farms. At least 50 billion animals are raised in factory farms each year. These animals are exposed to severe suffering and there are, as we argued in Section 2, reasons for giving priority to the relief of this suffering, but that does not mean that we are justified in depriving them of many of the pleasures that animals can have when kept in conditions better suited to their social and behavioral needs. This deprivation adds to the already more than sufficient case for ending factory farming.

What about animals in their natural habitat? Recently some philosophers have raised the issue whether we are justified in interfering in nature in order to reduce the suffering of wild animals.[35] This question requires us to decide whether there is value in the preservation of nature and natural ecological systems, free, as far as possible in this period of the Anthropocene, from human interference. It is, therefore, beyond the scope of this article to discuss it, but we can point out that if such interference in nature is justified, it would appear to be justified, not only to reduce the suffering of animals living freely in natural habitats, but also to increase the pleasure in their lives.

35 O. Horta, Debunking the idyllic view of natural processes: population dynamics and suffering in the wild, Telos, 2010, XVII/1, pp. 73-88.

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Toward a Moderate Hierarchical View About the Moral Status of Animals

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Abstract

In this essay, I develop a moderate hierarchical position about the moral status of animals that is based on two factors: on the level of mental development of a being who is affected and on the significance of the interests that are affected. I argue that this view accommodates two different sets of moral intuitions. On one hand, it explains why, in general, humans have the *special* moral standing that is typically attributed to us. On the other hand, it also allows us to accommodate much of our intuition about how animals ought to be treated. In addition, this view is supported also by plausible general theoretical considerations. Subsequently, I explore some implications of this view for some real-life examples of our interactions with animals, especially, for the practice of raising them for food using industrial methods. I argue that this practice is morally wrong and that the correct approach is to adopt a (nearly) plant-based lifestyle.

Keywords: animal ethics, moral standing

Preliminaries: the concept of moral standing

Let us assume, for the sake of this essay, the following:
(MS) A being has a *moral standing* (and thus is included directly in a *sphere of morality*) if and only if the moral status of our actions (i.e., whether or not they are obligatory, right, permissible, wrong, forbidden, and so on) *intrinsically* depends on how this being is affected.[1]

(MS) has two general features. First, it is neutral with regard to theories determining who or what has a moral standing. In principle, such a theory may be spelled out in terms of someone having moral rights (cf. Regan 1983), or someone being

1 This way of defining "moral standing" (sometimes alternatively called "moral status" or "moral considerability") is fairly standard among English speaking philosophers. Cf., for example, Tom Regan (1982, p. 203), DeGrazia (2008, p.183), Tom Beauchamp and James Childress (2009, p. 66), Morris (2011), p. 262, Jaworska and Tannenbaum (2018), Sencerz (2010, 2022). However, not everyone agrees that the concepts of moral status and standing are equivalent. Christopher Morris (2011) provides a convincing argument that it is best to understand the moral standing as a kind of moral status. In particular, some entities may have the moral status of a mere thing; consequently, we can do to and with them whatever we wish. Other entities may have the moral status of the full moral standing; consequently, they are fully protected by the rules of morality.

a proper object of direct moral duties (cf. Morris, 2011), or someone being able to instantiate intrinsically valuable states of affairs such as pleasure and pain or the satisfaction and frustration of preferences (cf. Singer 1975, 1993; Sencerz 2011, 2020), or someone falling within the scope of virtuous behavior, and so on.[2] Second, (MS) does not imply that everyone within the sphere of morality has exactly the same moral standing. In particular, it does not imply that everyone has the same basic moral rights or is object of the same basic direct duties, or that these duties are equally stringent, or that all virtues apply to all beings in exactly the same way, or any similar thing (depending on how a particular theory is formulated). For example, Jaworska and Tannenbaum (2018) introduce the concepts of *Full Moral Status* and *Degrees of Moral Status*, the latter concept allowing for a possibility of moral hierarchy among beings within the moral sphere.[3]

2 One qualification is immediately in order. Some philosophers prefer not to formulate their views in terms of moral status or standing. For example, James Rachels (2004, p. 164) accepts the general idea of defining moral standing in terms of the scope of direct duties. He agrees, furthermore, that different theories of the moral status of animals "all assume that the answer to the question of how an individual may be treated depends on whether the individual qualifies for a general sort of status, which in turn depends on whether the individual possesses a few general characteristics" (pp. 166-67). He thinks, nevertheless, that this is the wrong way because "There is no characteristic, or set of characteristics, that sets some creatures apart from others as meriting respectful treatment. […] Instead we have an array of characteristics and an array of treatments, with each characteristic relevant to justifying some types of treatment but not others" (p. 182). Consequently, Rachels prefers not to talk of moral standing and rather say that the fact that a certain act would cause pain to a creature is a reason not to do it. It is not clear to me, however, why exactly Rachels' terminology is preferable. It seems to me that talking of someone being affected in some way as a reason not to do something is, for all practical purposes, equivalent to attributing a moral standing to this being.Similarly, Rosalind Hursthouse believes that the idea of a moral standing does not neatly fit within virtue ethics (2006, 2011). She argues, nevertheless, that some ways of treating animals would be automatically included into various forms of virtuous behavior. Rather than engaging in the terminological debates, let me simply stipulate that (MS) intends to classify views outlined by Rachels and Hursthouse as implying that animals have *some* moral standing (that may require further elucidation) and that, consequently, animals are included into the sphere of morality.

3 To illustrate this possibility, some theologians postulate that God is an absolute sovereign with absolute power and total dominion over the rest of creation. Thus, we do not have any valid claims or rights against God, and God does not have any duties to us. On the contrary, God can do to or with us whatever He wishes. Consequently, this doctrine assumes also that everything we receive from God is a matter of divine grace rather than a duty or entitlement. This example illustrates also a possibility that a moral standing can involve some relational components that define, at least in part, the kinds of obligations that beings who occupy one level might have towards beings who occupy a different level. Robert Nozick (1975, pp. 35-49) was one of the first who considered a possibility of hierarchical views of these sorts and introduced in this context the maxim of "utilitarianism for animals, Kantianism for people" (p. 37). This is not to imply that he also endorsed this maxim. In 2022, I have discussed a few versions of hierarchical views that are based on the assumption that only human beings have immortal souls.

The moral status of animals and a problem for egalitarian accounts

According to viewpoints that started to emerge in the 1970s, animals should be included in the sphere of morality and, furthermore, they should be given the same basic moral status as that of humans. For example, Peter Singer (1973, 1975, 1993) proposed that all sentient beings, including both human and non-human animals, are morally equal in the sense that similar interests should be treated similarly no matter who has those interests. Tom Regan (1983) developed an alternative to Singer's view, grounded in the idea that everyone who is an experiential subject of life has equal inherent value.[4] But what does it mean in practice to say that "all (i.e., both human and non-human) animals are equal"? What does it entail for cases where all available alternatives involve causing (or at least allowing) some serious harm?

To consider but one example, suppose that three men and a dog are the only survivors of a shipwreck. Their lifeboat can accommodate only three of them. One of them must go overboard or else all four will die. What should they do?[5] It seems that any plausible theory addressing these sorts of cases would be badly in need of some reasonable *weighing principles* that could help us to make choices between interests of parties involved in a conflict.

There seem to be three general ways to approach the issue. First, one could argue that interests of some beings should always trump the interests of others because these *beings* belong to different kinds such that, generally speaking, beings belonging to one of these kinds have superior mental abilities. Second, one could argue that the interests of some beings should prevail because these *interests* belong to different kinds; for example, these interests have various levels of importance to parties who have those interests. Finally, one can develop a view that combines and reconciles both of these factors. In his very interesting paper, Donald VanDeVeer (1979) attempted to develop just such a view; it will be introduced and examined in the next section. Subsequently, I will attempt to expand on VanDeVeer's insights and ideas.

4 An Oxford scientist Richard Ryder (1971, 1975) postulated that our prevalent attitudes toward animals, especially those adopted in animal laboratories, display an indefensible bias analogous to the errors of *racism* and *sexism*. To emphasize this analogy, he even coined the term *speciesism* which shortly thereafter became part of the philosophical and even ordinary lexicons.

5 On this topic see, for example, Singer (1985) and Regan and Singer (1985).

Two factor egalitarianism

All views discussed by VanDeVeer presume a distinction between, on one hand, someone being interested (or taking interest) in something and, on the other hand, something being in someone's interest (p. 151). For example, organic food and exercise may be in someone's interest (in the sense of contributing to someone's well-being) even though he is not interested in exercising and eating organic. Similarly, being alive rather than dying may be in an animal's interest even though, consciously, she does not take interest in being alive. All discussed principles are formulated in terms of what is in someone's interest (rather than what someone is interested in).

Furthermore, VanDeVeer's principles assume the distinction between *basic* and *peripheral* interests, elucidated as follows:

> in the absence of certain sorts of goods many creatures cannot function in ways common to their species; they do not function in a "minimally adequate" way, for example, in the absence of food, water, oxygen or the presence of prolonged, intense pain. We may say that it is in a creature's *basic* interest to have (not have) such things. In contrast there are goods such that in their absence it is true only that the being does not thrive and that are, then, not in its basic [but in its *peripheral*] interest (e.g., toys for my dog). The distinction is admittedly vague but not empty. Its application must, in part, depend on contextual matters (Van De Veer 1979, p.153).

It seems plausible to maintain that basic interests carry greater moral importance than peripheral ones. For example, intuitively speaking, it is one thing to sacrifice animals to protect something as *basic* as our lives or health, and it is a completely different thing to sacrifice animals for something as trivial as new fancy clothes, a new toy, or the pleasures of trophy-hunting. It is one thing to impose on someone a minor inconvenience, affecting only the peripheral interests of this being, and it is a quite different thing to take someone's life.

VanDeVeer considered five different weighing principles allowing to adjudicate interspecies conflicts of interests: namely, 1) *Radical Speciesism*, 2) *Extreme Speciesism*, 3) *Interest Sensitive Speciesism*, 4) *Two Factor Egalitarianism*, and 5) *Species Egalitarianism*. *Radical Speciesism (RS)* implies that animals and their interests have no moral weight at all (no matter how basic they are). RS allows animals to be treated in any way whatsoever (provided that this has no negative implications

for humans). This is an obviously repugnant conclusion. Thus, the view must be rejected.

From the second principle, *Extreme Speciesism (ES)*, it follows that that, in cases of conflict, even the most peripheral interests of humans override the most basic interests of animals. This principle implies, for example, that there is nothing wrong with torturing animals for pleasure. This, too, is a repugnant conclusion. Thus, again, the view must be rejected.[6]

According to the third view, i.e., the *Interest Specific Speciesism (ISS)*:

> When there is a conflict of interests between an animal and a human being, it is morally permissible, *ceteris paribus*, so to act that a basic interest of the animal is subordinated for the sake of promoting a *like* interest of a human being (or a more basic one) but one may not subordinate a basic interest of an animal for the sake of promoting a *peripheral* interest of a human being (Van De Veer 1979, p.153).

This principle is more plausible than the previous two. For one thing, it imposes some limitations upon how we can treat animals; for example, we cannot sacrifice their basic interests for anything trivial. Still, this view encounters some serious problems. Namely, it takes into account only one factor (namely, how basic someone's interests are). It completely ignores, however, the vast differences in mental abilities of various beings whose interests are at stake. In effect, it groups together beings as different as humans, chimpanzees, whales, dogs, kittens, birds, fish, snakes, oysters or ants (assuming that oysters and ants are sentient and have interests).

This lumping together has highly counterintuitive implications. For there seems to be a moral disparity between, say, (1) fulfilling or sacrificing interests of someone whose mental abilities are at the level of a normal human adult, (2) fulfilling or sacrificing interests of those whose mental life is at the level of big apes, (3) fulfilling or sacrificing interests of dogs or kittens, and (4) doing it to an oyster or an ant.

Consider, for instance, the following "trolley" problem: if I veer right, I will run over a normal human adult; if I veer left, I will run over a kitten; there is nothing else I can do. It seems obvious that I should veer left and spare the human adult. This seems to imply that, other things being equal, a life and basic interests of adult humans are more valuable than a life and basic interests of kittens. But it is just as obvious that I should spare a life of a chimpanzee rather than the life of

6 I criticize and reject all views of these sorts in Sencerz, 2020.

a kitten, and that I should spare a life of a kitten rather than a life of a snake or an ant or an oyster. The levels of the mental capacities of affected beings seem morally relevant. Yet *Interest Specific Speciesism* completely ignores this factor. This is why this principle is implausible and must be rejected.

Let us move directly to the fifth principle, leaving the fourth principle undiscussed for a moment. *Species (or Radical) Egalitarianism* implies that "it is morally permissible… to subordinate the more peripheral to the more basic interest and not otherwise" (Van De Veer 1979, p.155). Like *Interest Specific Speciesism*, this view gives no weight at all to the levels of someone's mental abilities. Therefore, this view must be rejected, too.

VanDeVeer's favorite view, *Two Factor Egalitarianism* (TFE), assumes the relevance of both already discussed factors: namely, (1) the importance of interests that are at stake; and (2) the levels of psychological capacities of the parties whose interests are in conflict. It also uses the additional theoretical concept of *serious interests*, defined as interests that are neither basic nor peripheral. VanDeVeer elucidates this concept in the following manner:

> A rough criterion for serious interests would be that something is in a being's serious interest if and only if, though it can survive without it, it is difficult or costly (to its well--being) to do. Hence, it may be in the serious interest of a lonely child to have a pet or in the serious interest of an eagle to be able to fly. (Van De Veer 1979, p.154)

Using these ideas, the principle for adjudicating conflicts of interests for beings belonging to different species is stated as follows:

Two Factor Egalitarianism: When there is an interspecies conflict of interests between A and B (e.g., an animal and a human being), it is morally permissible, *ceteris paribus*,

(1) to sacrifice the interest of A to promote a like interest of B if A lacks significant psychological capacities possessed by B,

(2) to sacrifice a basic interest of A to promote a serious interest of B if A substantially lacks significant psychological capacities possessed by B,

(3) to sacrifice the peripheral interest to promote the more basic interest if the beings are similar with respect to psychological capacity (regardless of who possesses the interests). (Van De Veer 1979, p.154)

Let us consider first a few reasonably uncontroversial examples illustrating how this principle is supposed to work (cf. VanDeVeer, pp. 154-5), starting with the already mentioned example of some people and a dog stranded on a safety raft. One of them has to be sacrificed or else all of them will die. Clearly, it is a conflict between the basic interests of humans and the basic interests of animals. In this case, however, human mental abilities are significantly more developed than the abilities of animals. A natural thing to say is that, in this case, the interests of humans should prevail.

Radical egalitarian position based on rights, like the one developed by Tom Regan (1983), seems to have difficulties with incorporating this intuition. In contrast, because typical human beings tend to have mental capacities substantially higher than dogs, TFE incorporates this intuition with considerable ease. Thus, in this respect, TFE seems to have an advantage overmore radical egalitarian positions.

The second kind of conflict involves serious interests of a typical human and peripheral interests of an animal. For example, suppose that my dogs would be happier if I lived on the ocean shore, taking them, each morning, on an extended roam on the beach. Unfortunately, in order to live on the shore, I would have to radically change my career, seriously affecting my (at least) serious interests. The principle would allow me to continue on the current course even when my dogs end up being slightly worse off than they would have been otherwise. (In some cases, basic interests may be at stake, too, for example when moving would lead to losing my job and the means of supporting the entire family, including our dogs.)

The third kind of conflict involves the peripheral interests of a human and the basic interests of an animal. For example, in order to obtain a fly-swatter, I must kill a wildebeest for its tail. The principle would not allow this sort of trade off. This is plausible as there are other ways to obtain a fully functional (and/or good-looking) swatter.

The fourth kind of conflict involves my peripheral interests and also the peripheral interests of an animal. For example, suppose I can spend money on a new wallet for myself or on new toys for my dogs. In this case, the principle would allow me to buy a new wallet.

To explore TFE further, consider now a case involving building a new hospital when it is inevitable that, in the process, we will destroy an ant colony. This seems morally permissible because the basic and serious interests of persons (e.g., interests in being alive and healthy) trump the basic and serious interests of ants. The situation would be, however, quite different if we had to kill a pack of wolves who

live on the grounds where the hospital is to be built. Yes, our basic and serious interests are still at stake. But wolves are much more sophisticated than ants. Furthermore, there is no real necessity to sacrifice their lives as it is reasonably easy to find a new home for them. Thus, the wolves' relocation is morally preferable over killing them. Yes, it imposes upon them some inconvenience and perhaps even hardship during relocation. But these are compensated by saving many human lives and protecting our health. On the other hand, it would be yet another thing to destroy an ant colony simply because someone is too lazy to walk around it or simply because one feels like doing it. By the standards of TFE, such actions would be morally wrong.

Sometimes, imaginary and highly unusual cases, as well as our intuitions about such cases, are all we have to test our moral principles. It seems, however, that TFE could be supported by arguments based on more systematic theoretical considerations. I will attempt such a defense in the next section.

Towards a Defense of Two Factor Egalitarianism

My defense relies on a consequentialist (broadly utilitarian) theory developed by an Oxford philosopher R.M. Hare (1976 and 1981),further endorsed and explored, among others, by Peter Singer (1993) and, in its applications to animals, by John and Sebo (2020).[7] This defense is based on the distinction between two levels of moral thinking: the intuitive level suitable for everyday purposes and the more reflective, critical level, which allows us to assess and determine what our intuitively held rules should be.[8]

The *intuitive level* of moral reasoning includes our everyday, common-sense dispositions, attitudes, and emotions, as well as general rules that we apply in most of our ordinary circumstances. We rely on these intuitive rules when we do not have enough time for critical thinking, careful consideration of all alternatives and their consequences, or when there are other reasons not to trust our critical skills. Hare brought to our attention several constraints that such rules must satisfy. For example, ordinary people tend to be biased towards their own interests and the interests of their loved ones; e.g., parents making decisions about organ transplants

7 I introduce, defend, and explore some implications of this sort of theory for questions about animal ethics in Sencerz, 2011.

8 In addition to two levels of *normative* thinking, Hare also proposes a meta level that allows us to define moral concepts and elucidate moral language, develop ways of arguing about normative issues, and so on. I will put all metaethical considerations of these sorts to one side.

tend to overestimate benefits for their children and also tend to favor the interests of their children in comparison with the interests of other children. So, if they were to make their moral decisions solely on the principle of utility, it would be very likely that they might overestimate the value of their actions for themselves and their loved ones, and underestimate the value of their actions for others. Consequently, it is likely that they might make unfair decisions. To counteract this potential bias, it may be safer to act on more simple intuitive rules requiring that all humans ought to be treated equally and that people who have conflicts of interests should recuse themselves from making final decisions.

In addition, humans tend to show weakness of will (i.e., we do not always do what we think is right). For this reason, it seems as though very complex rules allowing for multiple exceptions would be hard to internalize and follow. Thus, intuitive rules need to be relatively simple and easy to internalize and apply. Furthermore, our knowledge is limited and we do not have indefinite time to make our moral decisions. Again, this provides a reason for not using the principle of utility as the one and only rule of one's conduct and instead adopting rules which are relatively simple and easy to follow. To use a bit of technical jargon, internalizing and acting on reasonably simple rules seems to have higher expected utility than using the utilitarian principle directly.

How do we decide, however, which intuitive rules are the correct ones? We do this at the critical level, which assumes that an agent has perfect knowledge, is not a victim of weakness of will, is not biased towards his or her own interests, and has enough time to think about all relevant matters. Thus, the critical level has several functions. First, we use it when we decide how to design our intuitive-level rules. Second, we use it when we discover that those principles are in conflict, so we need to adjudicate between them. (For example, we encounter an example analogous to Kant's case of an innocent person chased by bandits, and we realize that we cannot save his life without lying. So, we realize that we must break one of the intuitive rules, and the only relevant question is which rule to break.) Third, we use the critical level when we encounter an unusual case for which those rules are not designed. Finally, we use it when it is clear beyond a reasonable doubt that there are conclusive reasons to depart from intuitive-level rules. According to Hare, at the critical level, and only at that level, we ought to use straightforward utilitarian considerations and base our reasoning on the idea of bringing about the best possible balance of utility.

A case can be made that TFE is exactly the sort of general principle that we should adopt for our intuitive thinking to guide our choices in cases where it is

inevitable that we will harm someone. For TFE is reasonably simple, easy to internalize, and allows us to adjudicate correctly the conflicts of interests in a vast array of ordinary life cases.

We have already seen some formal reasons supporting TFE. For example, it does not hinge on the obviously irrelevant factors such as someone's DNA or someone's belonging to this or that species. TFE is not biased towards or against some beings simply because they belong to some biological kind. To wit, it is not a form of speciesism. This is a good thing.

Another good thing about this principle is that it is grounded in factors that clearly seem morally relevant. In particular, it takes into consideration how basic the interests at stake are. The distinction between various kinds of interests is admittedly vague but not vacuous. We use this principle when we decide issues of intra-species justice: e.g., choosing between policies determining distribution that affect various groups of humans to various degrees. The fact that a policy affects someone's interests minimally, while significantly supporting the basic interests of others, is frequently treated as a reason to adopt it. (Thus, for example, someone may favor raising taxes on the very rich for the sake of providing healthcare to all.)

Furthermore, based on my experience of teaching numerous courses in environmental and animal ethics, the distinction between basic, serious, and peripheral interests is reasonably easy to grasp and use; in fact, we already frequently use just this distinction while making decisions about ordinary life cases. To illustrate this point with an example, sometimes my students are initially apprehensive about the full incorporation of animals into the sphere of morality. This is the case because they worry that this would entail extending to animals the full moral protection that is as rigid and relatively exceptionless as the protection we currently extend to humans. In practical terms, they know that hunting humans is morally wrong while, at the same time, they are unwilling to admit (at least initially) that, say, hunting or fishing would also be wrong. This is the case, I suspect, because many of them grew up in rural parts of Texas and, being less than affluent, they frequently rely on hunting and fishing to get a reasonably balanced diet (or, in some cases, to eat at all).

They very quickly grasp an intuitive difference between, on one hand, the Inuit hunting seals because their lives depend on it as they have no other way of getting food and, on the other hand, trophy hunting. The former seems to them clearly justified because of the fact that the basic interests of humans are at stake. Apparently, students think that this suffices to trump the basic interests of animals. The trophy hunting seems to the same students quite questionable, to put things mildly.

Apparently, what bothers them is the fact that only trivial interests of humans are at stake and that the endeavor is wasteful and causes serious environmental damage. Interestingly enough, once they see the situation in those terms, they stop thinking about animal ethics in rigid and absolutistic terms and are willing to approach other situations with more flexibility, too (or, we might say, more open-mindedly). Only then do we revisit their own upbringing, background, and activities. Many of them report that, without hunting, their lives would be miserable. Some of them admit that they prefer to hunt non-indigenous wild hogs (that constitute an environmental hazard) rather than other animals. And they emphasize that they do not waste any part of hunted animals. Bottom line, most of my students perceive what they do as much closer to what the Inuit do than to trophy hunting. Apparently, at the intuitive level, they see their interests as serious (and in some cases even basic) rather than trivial, and they feel that these interests suffice to sacrifice animal interests. By contrast, they perceive the interests of trophy hunters as relatively insignificant (or, we might say, peripheral) and thus insufficient to justify killing animals merely for trophies and fun.

Similar considerations arise when we discuss some cases emerging in the ethics of animal research. Generally, my students see problems with using animals for testing something so trivial as the development of a new fancy cosmetic or for determining the LD-50 to develop , say, a new detergent or an additive to food. They see such tests quite differently, however, than the studies leading to the development of vaccines and medications that may save many human and animal lives. Again, they tend to have a good intuitive grasp of the difference between basic and trivial interests of someone and of the different moral importance of those interests. They also agree that, just as TFE requires, we should use alternatives that do not involve animals (when such alternatives are available), that we should use animals who are as simple as possible (say, reptiles or amphibians rather than rats, and rats rather than apes), and that we should hurt animals as little as possible, sparing them unnecessary suffering, discomfort, and so on.

There is one remaining difficulty: namely, why and to what degree the levels of someone's mental abilities should morally matter, too. Presumably, what philosophers traditionally characterized as *persons* would occupy the top level in the moral hierarchy. The concept of a person is typically characterized in terms of a cluster of attributes involving intellect and rationality: the ability to form beliefs that some situations are actual while other are only possible; the ability to think through counterfactual and probabilistic situations; the desire that actual situations become non-actual and vice-versa; the awareness of logical and causal connections

between states of affairs; the assigning of comparative values to various states of affairs; remembering the past and devising plans for the future; using language to issue statements, commands, and questions; recognizing that other beings have the same abilities and forming desires to communicate with them; as well as autonomy and self-consciousness, etc.[9] But why should we believe that such beings occupy a privileged position in the sphere of morality? A sophisticated consequentialist could use at least three complementary strategies to answer this question.

The first strategy involves adopting a broadly Benthamian hedonic calculus. Persons would likely feel a greater amount and greater variety of pleasures. In particular, being interconnected with others (including connections to geographically and historically distant people), humans might participate in others' successes and tragedies and feel pleasures in vicarious ways. Having a memory of the past and ability to think about the future, they would take pleasure (or pain) in their own past and future. In particular, they would very likely feel fear when confronted by the possibility of facing disagreeable things and, especially, possibility of premature death. And furthermore, humans might relive their past harms, adding new harms on top of the already experienced ones. To illustrate this with an example, child abuse or rape may provide scars that last one's entire lifetime. By contrast, animals seem to live much more in the "now." To simplify matters, we might say that persons are the best conduits of utility measured in broadly Benthamian terms.

The second strategy involves modifying the classical Benthamian hedonic calculus along the lines sketched by J.S. Mill in his *Utilitarianism*. As he noticed, critics frequently challenged his theory on the grounds that it is a doctrine worthy only of swine. He replied to this challenge noticing that:

> [A] beast's pleasures do not satisfy a human being's conceptions of happiness. Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification. […] It is quite compatible with the principle of utility to recognize the fact, that some kinds of pleasures are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.[10]

9 On this topic see, for example, Mary Ann Warren's (1973) characterization of persons as well as Peter Van Inwagen's characterization of what it means to be fully rational (van Inwagen 2015, pp. 183ff).

10 John Stewart Mill, *Utilitarianism* 2004 (1863), Project Gutenberg (October 2004), http://www.gutenberg.org/ebooks/11224. All quotations are from the 2nd chapter of this book.

The distinction between *qualitatively* different pleasures allowed Mill to maintain that

> It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides.

The third strategy could be adopted to support the same conclusion and would involve going beyond the typical hedonic calculi. Defending his ideal utilitarianism, G.E. Moore (1993, chapter 6:113) argued that the experience of beauty and friendship may be reasonably treated as intrinsically good. Similarly, Robert Nozick argued that there is something else than experiences that is valuable by means of the thought experiment involving his famous "experience machine" (able to simulate any experience we may choose). When given an opportunity to be hooked up to such a machine, we tend to refuse the offer and prefer to continue with our real lives, finding value in experiencing the contact with reality rather than in experiencing the states of consciousness simulating such contact.[11] Finally, to use one more example, Bernard Gert (1998, pp. 48-50, 104-105) argued that one of the things on the list of final valuable goals is freedom. Each of these conceptions of value would favor attributing to persons a special privileged position within the sphere of morality.

To wit, we might say that persons are the best conduits of utility measured in both broadly Benthamian quantitative terms, in Mill's qualitative terms, and in terms outlined by pluralistic approaches to intrinsic value like those proposed by Moore, Nozick, and Gert. This is why persons should occupy the paramount position in the sphere of morality.

This conclusion is consistent with more traditional views about the moral status of persons and animals like those put forth by, for example, Aquinas and Kant who argued that reason, intellect, and rationality have paramount value and exist as

11 Nozick (1974, pp. 42-45). Furthermore, there may be some experiences that no machine can simulate and that are available only to persons; for example, some kinds of religious experiences (specifically mystical) may be in this group. Interestingly enough, according to Hindu and Buddhist sources, only humans may reach spiritual awakening leading to full liberation (*moksha*, *nirvana*). Presumably, no machine could simulate awakening with all it entails.

ends in themselves.[12] The two philosophers inferred from this claim that interests of those who lack reason and autonomy do not matter at all and that we can do whatever we want to animals. But this conclusion is neither plausible nor implied by the basic tenets of their theories. Suppose that I encounter yet another trolley problem where my choice is to run over a kitten or to run over nobody. It is obvious that I should spare the life of a kitten. So, it is obvious that the life and other interests of a kitten have some value, even if they are not quite as valuable as the interests of fully autonomous beings. To wit, a much more plausible interpretation of such views seems to be that rational beings can use animals in ways that further their intellectual nature (as opposed to in any way whatsoever).[13]

The distinction has serious practical implications. It may justify using animals when our lives, or better our existence as rational beings, depend on it. For example, it would justify using them in the conditions of subsistence because, in such circumstances, there is nothing else we can do to survive. This implication is consistent with TFE. But it does not justify eating them for pleasure, performing trivial experiments on animals, or hunting them for trophies. For none of these activities is necessary to further our intellectual nature. So, more generally, what kind of positions within morality would be occupied by less than fully rational beings?

David DeGrazia provided a very useful point of departure: treating personhood as a cluster concept encompassing several different features such as moral agency, autonomy, the capacity for intentional action, rationality, self-awareness, sociability, linguistic ability, and so on and so forth, we should notice that these properties come in degrees and many of them are found to some degree in many nonhuman animals (DeGrazia 2008, p. 193). In fact, each of them is exemplified by some animals to higher degrees than by some humans.[14]

12 Aquinas's and Kant's positions are almost identical in their applications to animals. In essence, they both endorse the so-called "indirect duties" view implying that animals are mere things and thus we can treat them as we wish, provided we do not negatively affect humans. This is not to deny that their positions are quite different at the level of justification for the most basic principles. Nearly all relevant fragments from Aquinas and Kant are gathered in Reagan and Singer (1976) and quoted in Sencerz (2020) where I analyze and refute their views.

13 Christine Korsgard (2004, 2012) offers a much more robust defense of this interpretation of basic tenets of Kantian (even if not Kant's) approach to animals.

14 Contrary to what DeGrazia says at one point, this is true even for such features as autonomy or linguistic abilities. In a brilliant exchange with Steve Paulson (2020), a leading contemporary primatologist Frans de Waal takes issue with human exceptionalism and argues that big apes have morality, community, linguistic abilities and culture (or, in fact, a variety of cultures with unique customs and tool-making technologies that vary from one group to another), display grief for those who pass, show forms of superstition, react with compassion to weaker ones, and show deep remorse (reminiscent of standard human remorse) for their past misdeeds. On this issue, see also Tague (2020).

Autonomy, reason, and other features depending on intellect are non-binary either; we gradually grow into becoming fully autonomous beings blessed with a sophisticated ability to use reason and intellect and to base our actions on principles. Not all humans have this ability fully developed. We tend to respect children's choices about the color-schemes for their clothes, games they want to play, and food they want to eat. But the mental abilities of big apes and many other animals exceed those of a small child. So, perhaps we should respect their choices, too. Many other mammals are well more sophisticated that someone might suppose. Elephants recognize themselves in a mirror. Pigs read our moods, have high emotional intelligence, recognize themselves in a mirror, and are skillful at playing video games (see Estabrook 2015 and Davies 2015). Arguably, they may have some rudimentary ability to make choices, too. Even though their skills are far from Kantian full-fledged autonomy, I would argue that their preferences and will should also be given some weight.

Furthermore, to return to Mill's distinction, presumably only the most mentally sophisticated beings can fully enjoy most of the higher quality pleasures related to intellectual pursuits, aesthetic enjoyment, the appreciation of justice, and so on. Still, big apes can enjoy some of the qualitatively high pleasures, too. We know, for example, that they like to paint for fun and that their art is reminiscent of arts produced by 7-9 years old children. So, perhaps it is not too farfetched to think that they may have some sense of beauty, too and, in effect, are better conduits of utility than, say, pigs, cows, or kittens.

In a similar vein, wolves, dogs, and rodents show solidarity to other beings belonging to their species and even a sense of proto justice. Wolves make sure that everyone in a pack has something to eat. Dogs refuse to perform the tricks when they are not rewarded in the same way as their partners performing analogous tricks. Rats are willing to liberate other confined rats and share food with them. If these properties are morally relevant and exemplified to various degrees by beings belonging to various species, it seems plausible to think that the moral status based on these properties also comes in degrees. This supports the sliding-scale model of moral status according to which "Persons have the highest moral status, Great Apes and dolphins a bit less, elephants and monkeys somewhat less than apes and dolphins, middling mammals still less, rodents less, and so on down through the phylogenetic scale" (DeGrazia 2008, p. 192).[15]

15 It is good to recognize immediately that this sliding-scale model may be combined with treating the full-fledged (fully developed) persons as being protected by moral considerations constructed in a neo-Kantian instead of consequentialist way. But, in this essay, I will not explore this possibility any further.

Two factor egalitarianism and the meat industry

There is no doubt that the meat and dairy industry, in its current form, imposes an enormous amount of harm on animals, the environment, and humans (including our social and personal health). In the industrial world, a great majority of animals are raised on factory farms under conditions causing them excruciating suffering, typically throughout their lives.[16] Animals raised in these circumstances cannot fulfill their most basic instinctual needs such as nursing, stretching, moving around, rooting, grooming, establishing their social order, selecting mates, procreating, or rearing their offspring. This leads to extreme boredom and depression, which induce stress and the suppression of the animals' immune systems.

The meat industry is an inefficient and environmentally damaging way of producing food, using about 10-11 times more energy when compared to a plant-based diet.[17] It is also inefficient in its water usage (consuming about 87% of the world's freshwater resources)[18] and providing food.[19] It causes soil erosion,[20] and creates an enormous amount of hazardous waste. And it contributes to greenhouse gas emissions that are bigger than the total emission from ships, planes, trucks, cars, and all other means of transport put together.[21]

Animal industry causes also problems concerning matters of public health. For example, pollutants released by factory farms constitute a serious health risk, as shown by significantly higher numbers of the incidents of pneumonia, respiratory diseases, and cancer.[22] Furthermore, the livestock industry relies heavily on antibiotics contributing to the problem of antibiotic resistance[23] and contributes to

16 Singer (1975, Chapter 3) and Mason and Singer (1990) still provide some of the best descriptions of what happens on factory farms. See also a more than 2-hour long documentary, "Earthlings", produced by Shaun Monson and available free of charge at numerous sites on the internet. PETA produced a short documentary "Meet Your Meat" documenting the same facts (available for free on the PETA website).

17 Cf. Pimentel (1997), pp. 16, 20; Pimentel and Pimentel (1996), p. 93) and Engel (2000), pp. 870-872.

18 Pimentel, Houser, at all (1997), p. 100.

19 As John Robbins (2012, p. 325) observed, "By cycling our grain through livestock, we not only waste 90 percent of its protein; in addition, we sadly waste 96 percent of its calories, 100 percent of its fiber, and 100 percent of its carbohydrates."

20 As Pimentel, Harvey et al (1995, p. 1117) observed, "During the last 40 years, nearly one-third of the world's arable land has been lost by erosion and continues to be lost at a rate of more than 10 million hectares per year."

21 Cf. Matthews (2006) and Froggatt, Wellesley, and Baile (2014).

22 See, for example, Horrigan, Lawrence, and Walker (2002, p. 445).

23 According to the European Centre for Disease Prevention and Control, "Antimicrobial-resistant infections currently claim at least 50,000 lives each year across Europe and the US alone, with many hundreds of thousands more dying in other areas of the world". Quoted in "Antimicrobial Resistance: Tackling a crisis for the health and wealth of nations" (The Review on Antimicrobial Resistance, Chaired by Jim O'Neill), December 2014, p. 3. The same paper estimates the global problem at the level of about 700,000 premature deaths, p. 5.

numerous zoonotic diseases that remain harmless when carried by animals but become deadly after being transmitted to humans.[24] And the industry has a devastating impact on workers who make the production of meat possible. As one of the slaughterhouse workers noticed:

> Every sticker [slaughterhouse killer] I know carries a gun, and every one of them would shoot you. Most stickers I know have been arrested for assault. A lot of them have problems with alcohol. They have to drink, they have no other way of dealing with killing life, killing animals all day long. If you stop to think about it, you're killing several thousand beings a day. (Eisnitz 1997, p. 87)

Regarding personal health, there are literally hundreds of scientific studies demonstrating that vegan and/or low-fat vegetarian diets leads to lower rates of coronary heart diseases, significantly lower rates of heart attacks, cancers, diabetes, hypertension, strokes, and other degenerative diseases (typically between 10-20% of rates for meat eaters), and generally live longer.[25] On the flip side, there are numerous world class athletes who are vegan or vegetarians.[26]

To sum up, eating meat seems unnecessary for our flourishing and athletic excellence. Vegan and low-fat vegetarian diets are not only healthier than meat counterparts but are also more environmentally sound. Taking it all into account, TFE implies that we ought to adopt a vegan lifestyle as a basic point of departure and depart from it only when we can establish a fully symbiotic relation with animals.

24 For example, H1N1 influenza ("Spanish Flu") killed about 50 million people beginning in 1918; in 2018 only, HIV/AIDS caused about 770,00 people deaths, H1N1 influenza (again), this time known as the "Swine Flu" killed about a quarter million people in 2009-2010, and COVID-19 that has already killed more than 1.5 million people globally.

25 "100 Scientific Reasons Not to Eat Meat" is a sample of such studies providing a link to, and a brief summary, of each; retrieved from: https://honeyforsweetnes.wordpress.com/2015/10/06/100-scientific-reasons-to-not-eat-meat/.

26 A partial list includes Dave Scott (six-time winner of Hawaii's Ironman Triathlon), Sixto Linares (world record holder for the 24-hour triathlon), Edwin Moses (400 meters hurdler undefeated in international competition for eight straight years), Paavo Nurmi (held twenty world records and nine Olympic medals), Andreas Cahling (1980 "Mr. International" title in body building), and Scott Jurek (arguably, the greatest ultramarathon runner of all time).

Some remaining difficulties: the "logic of larder" and the importance of rules

Consequentialist arguments like the one just developed sometimes encounter the following rejoinder. Suppose that an animal is treated humanely and so, on balance, has an enjoyable life. Suppose, furthermore, that we can painlessly kill this animal and replace it with another that has an equally enjoyable life. If we do this, the total amount of utility in the world will remain constant. So, it seems that consequentialism implies that there is nothing wrong in painlessly killing animals and replacing them with others (provided that they have equally enjoyable lives). Suppose now that the killed animal is used by a third party in ways that bring some extra pleasure to the world and this pleasure could not have been obtained in any other way. Again, it would seem that consequentialism implies that we ought to bring animals into existence, use them in ways that generate surplus of pleasure, and then kill them painlessly and replace them with other "happy" animals. So, is there a convincing reason to disallow this type of killing as a general exception to TFE and similar principles? In the remainder of this paper, I will respond to this argument.[27]

Let us realize, first, that this proposal does not apply to the current state of animal industry that routinely imposes on animals prolonged and excruciating suffering. Given the current conditions, animal lives are, on balance, not worth living.

Second, it is not completely clear what the proponents of this rejoinder would count as the treatment of animals that is *humane* enough to make the practice of producing meat morally defensible. The proponents of this argument hardly ever lay down clear and verifiable conditions that would make the practice morally acceptable. The evolutionary psychologist Diana Santos Fleischman encountered this problem when, not wanting to go fully vegan, she spent about a year researching animal products to try to find those that met some specific standards so she could be a "humaneivore" (i.e., someone who only eats humane animal products). She summarizes the acceptable standards in five points:

1. The animals must be able to actualize all of their basic desires (e.g., dust bathing, rooting, forming bonds with conspecifics, etc.).

27 R.M. Hare (1993) proposed just this sort of argument. Lisa Kemmerer (2007) challenged Singer's utilitarianism, and its implications for animals, in a similar way. I replied to this challenge in Sencerz (2011). I would like to acknowledge here that the arguments in this section rely heavily on John and Sebo (2020), especially in the section on "Farmed animals and the logic of the larder", pp. 570-579.

2. The animals must have no idea they are about to be slaughtered or are transported to slaughter.

3. Animals must be killed painlessly.

4. Animals must not be altered in any way without anesthetic (this includes tail docking, debeaking, and castration that are usually done without anesthetic).

5. Animals must receive adequate veterinary care so they do not suffer physically for very long (e.g., hens who have uterine prolapse most often die of it without any respite from what must be horrible suffering).[28]

Clearly, these conditions are never satisfied by the dominant forms of animal industry and one can doubt that smaller (so called, "self-sustainable") farms fulfill them either. Fleischman provides three evolutionary reasons why it is unlikely that we will ever treat animals "humanely" for as long as we raise them for meat and other commercial purposes.

First, nonhuman animals give off few, if any, kinship cues. We do not perceive them as belonging to the same broad "family" of sentient beings to which we should relate with respect and benevolence. Consequently, we do not naturally feel or develop compassion for them. Second, with the possible exception of pets (whom we tend to treat as members of our families), animals do not establish reciprocal relations with humans. Specifically, there is nothing they can do in the future that could benefit (or harm) us in a way that would make up for the loss of benefits we derive from our current treatment of animals. Thus, reciprocity does not provide a reason for treating animals kindly. Finally, most interactions with nonhuman animals have no reputational consequences. Animals cannot tell anyone that they are being neglected or abused. On the contrary, the standard methods used by the animal industry are legally and culturally sanctioned as a "proper" and "acceptable" way of producing food. In effect, the only constraints applicable to animals are the considerations of economic efficiency with all the suffering that they entail.

But let us suppose, contrary to fact, that animals are raised in ways that fulfill all five conditions for "humane farming," as laid down by Fleischman. Perhaps this could be done if we completely abandoned the industrial methods of producing meat and produced it exclusively on small self-sustainable farms. Is it true that

28 Cf. Diana Santos Fleischman, Ph.D., "Understanding Evolution Made Me Vegan", posted on her blog, https://dianaverse.com/2020/04/07/evolutionmademevegan/

happy animals raised in this way and replaced by other happy animals (in ways suggested at the beginning of this section) would generate some surplus utility? I doubt this is the case for mammals and birds. The self-consciousness and the ability to form relations with others, which most animals raised for food possess, make it impossible. Let me explain why.

First, self-conscious (and not merely conscious) beings have some understanding and anticipation of their future. For example, our dogs tend to wait near the door when they expect (one of) us to return home. Arguably, self-conscious animals also have some preferences regarding their future. In particular, other things being equal, such beings would desire to continue their existence, would desire not to be killed, would want to be free now from worries about the future, and so on. Any act of killing would thwart all such future-oriented preferences and desires. Slaughterhouse killing could also cause suffering resulting from the anticipation of premature death.

In addition, animals form relations with each other such that their fulfillment adds pleasure to their lives while their frustration hurts them. One of our dogs went into a period of extensive mourning and depression when her partner passed away. None of our (currently three) dogs likes when we take only one of them for a walk, or to a vet. They wait for their partner and give her a healthy and joyful "rubbing" when she returns to the pack. Many desires and preferences of this kind are frustrated when we kill animals, even painlessly. Animals having future-oriented desires as well as desires concerning each other (like for example our dogs) are not replaceable even in principle. But this is also true about most farm animals. Consequently, other things being equal, it would be wrong to kill them. Replacing them with other completely happy animals does not quite restore the balance of utility.

None of these considerations would apply, however, to very simple merely sentient beings that are unable to form relations with others and cannot anticipate the future. So, assuming they are raised painlessly, should we grant a general exception to TFE and allow raising them for food?

I doubt it is the case. I worry that granting these sorts of exceptions undermines our moral principles, our understanding of nonhuman animals as beings who deserve our respect, and the ways our society and culture functions; in the end, it erodes our characters. A pioneer of *Animal Liberation* movement, Peter Singer, made the point in the passage emphasizing that, from a purely practical point of view:

> it would be better to reject altogether the killing of animals for food, unless one must do so to survive. Killing animals for food makes us think of them as objects that we can use as we please... To foster the right attitudes of consideration for animals... it may be best to make it a simple principle to avoid killing them for food. (Singer 1993, p. 134)

A similar point was made by the philosopher and animal rights activist Lori Gruen in her brilliant book *Ethics and Animals* (2011, p. 103):
So, we might say that what is wrong with eating animals who live good lives and then die naturally (or accidentally) is that, in doing so, we don't respect them in the right way, as "fellow creatures," who, like us, do not belong in the category of the edible. Another way of putting this point is to say that in turning other animals from living subjects with lives of their own into commodities or consumable objects we have erased their subjectivity and reduced them to things. To do this is morally problematic, because it miscategorizes them and perpetuates our own misperceptions. It also forecloses another way of seeing animals, as beings with whom we can empathize and learn to understand and respond to differences. When we identify no-human animals as worthy of our moral attention because they are beings with whom we can empathize, they can no longer be seen merely as food.

To use one more similar argument:

> meat-eating offers the grounds for subjugating animals: if we can kill, butcher, and consume them—in other words, completely annihilate them—we may as well experiment upon them, trap and hunt them, exploit them, and raise them in environments that imprison them, such as factory and fur-bearing animal farms. (Carol Adams 2015, p. 100)

John and Sebo (on whose work I heavily rely in this section) buttress these arguments by several empirical studies of the so-called "meat paradox" that demonstrate connections between, on the one hand, seeing nonhuman animals as food and, on the other hand, seeing them as having diminished mental lives and moral value which excuses hurting them. For example, as they summarize one such study (by Jonas Kunst and Sigrid Hohle (2016)):

> [It demonstrated] that processing meat, beheading a whole roasted pig, watching a meat advertisement without a live animal versus one with a live animal, describing meat production as "harvesting" versus "killing" or "slaughtering," and describing meat as "beef/pork" rather than "cow/pig" all decreased empathy for the animal in question

> and, in several cases, significantly increased willingness to eat meat rather than an alternative vegetarian dish.

Psychologists involved in these and several other studies believe that these phenomena occur because people recognize an incongruity between eating animals and seeing them as beings with mental life and moral status, so they are motivated to resolve this cognitive dissonance by lowering their estimation of animal sentience and moral status. Since these affective attitudes influence the decisions we make, eating meat and embracing the idea of animals as food negatively influences our individual and social treatment of nonhuman animals (John and Sebo 2020, p. 574).

In another study, Rothgerber (2015) showed that "conscious omnivores" were less likely than vegetarians to perceive their diet as something they should follow; they departed from their diet more and felt less guilty about it, were less disgusted by factory farmed meat, and believed less strongly in the idea of animal rights.

Similar considerations apply at the social level. The very fact that society and culture ethically and legally sanction raising non-human animals for consumption leads to a tendency of ruling them out from the sphere of moral (and legal concern). In effect, it creates conceptual, legal, and moral room for perpetuating current forms of abuse.

When I took an earlier stab at the issue of whether or not animals are replaceable (Sencerz, 2011), I thought a reasonably clear line of demarcation could perhaps be drawn at the level of fish and other aquatic life. Animals such as shrimp or mollusks or fish have both very simple mental lives and are easily distinguishable from mammals and birds. There are many people who, rather than practicing pure vegetarianism, eat fish and seafood or even gain pleasure from the practice of catching fish. These people do not develop bad habits like those who work in the meat industry and do not end up abusing birds, mammals, and humans. On the contrary, many of them stick with their pesco-vegetarian diet and are as respectful of other forms of life as they should be. These sorts of animals seem to be replaceable. So, assuming they are raised and killed painlessly, we should perhaps grant a general exception to TFE and allow raising them for food (Sencerz, 2011).

I am much less sure these days. For I also know people who, after initially granting only one exception to vegan or vegetarian lifestyle (namely, the exception for eating seafood) soon slid completely into a full-fledged carnivorous diet involving animal atrocities. Thus, so far as I am concerned, I do not accept using the

bodies of fish and other aquatic life in any form or way (except when basic human interests are at stake; e.g., it is a matter of life or health).

As far as animal products such as milk or eggs go, consuming them may be justified in cases when we have established fully symbiotic relations with animals (e.g., hens or cows or goats are treated in ways analogous to pets). In such circumstances, neither their basic nor serious interests would be sacrificed. And I do not see how such practices would open the door to animal abuse. I do not believe that these ways of interactions with non-human animals would be morally questionable.

Summary and conclusions

In this essay, I attempted to develop a hierarchical view about the moral status of animals that attempted to take into consideration two factors: the level of someone's mental development and the importance of interests to this being. I have shown that this view has plausible implications for a broad array of cases involving our interactions with non-human animals. Also, it is defensible on the grounds of more general theoretical considerations. Next, I explored the consequences of this view for current forms of animal industry and the practice of eating meat. I argued that they are morally indefensible. Finally, I considered a possible exception to this view for the situations where non-human animals have happy lives and are killed painlessly. I argued that granting such exceptions is way too risky from a moral point of view. If my arguments are correct, animals can be used only to protect our basic interests (such as life or health), and animal products can be used only when we establish fully symbiotic relations with non-human animals ensuring favorable conditions for the full satisfaction of their basic and serious interests.

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Humanity: Respecting What is Real

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Abstract
The notion that "human beings", mainstream humanity, is best conceived as "in the image and likeness of God" has an effect even on secular philosophers, scientists and farmers, despite our understanding that mainstream humanity is only one twig within a larger evolutionary bush. Even if it is taken seriously, it does not license most of our current exploitation. Nor does a merely "contractual" theory of rights and duties support our denial of proper consideration to non-human creatures. Affection rather than self-interest is a better basis for an ethical life. But even empathetic affection is not the whole story: the better way is to respect and admire what is real – and the realization of reality is what classical Platonic philosophers meant by *Nous,* rather than simply the capacity to reason our way to conclusions. If mainstream humanity has any ground to claim an exceptional status it lies in the possibility of respecting what is real – including all non-human creatures. How that realization must affect our lives here now is an ongoing project.

Keywords: Image of God; Dominion; Affection; Reality; Nous.

Is Humankind Exceptional or Not?

Once upon a time there were many creatures of roughly "human" form, with whom our ancestors could reasonably converse, and yet perceive as of another kind than they. Nowadays we label them as *Neanderthals, Denisovans, Floresiensis* or whatever other sort begins to appear in the fossil record, and in our DNA. Once upon a time we called them elves or trolls or dwarves, and may have had many other labels to distribute across a varied landscape[1]. Something like this scene is represented nowadays in works of science fiction to describe our possible futures: the manifold human species of Niven's *Ringworld,* for example. Olaf Stapledon even supposed, in *Last and First Men*, that an entire biological order might some day have descended from a human stock, to fill the empty niches of a newly terraformed Neptune, and our descendants include both "supermen" and sea-squirts. Once upon a time, our ancestors could also suppose that entirely non-human animals could talk to them (and be understood): the other animal kinds that populate our earth had their own

1 See Clark, "Elves, hobbits, trolls and talking beasts".

lives and cultures, and our relations with them, whether as prey or predator or simple neighbour, might follow customary rules.

It should by now be clear that the characterisation of hunting as the human pursuit of animals that are "wild", though it speaks volumes about our Western view of hunters, is quite inappropriate when it comes to the hunters' view of animals. For the animals are not regarded as strange, alien beings from another world, but as participants in the same world to which the people also belong. They are not, moreover, conceived to be bent on escape, brought down only by the hunter's superior cunning, speed or force. To the contrary, a hunt that is successfully consummated with a kill is taken as proof of amicable relations between the hunter and the animal that has willingly allowed itself to be taken (Ingold, *Perception*, 69).

That perception may, of course, be as self-deceiving as William James' suggestion that a vivisected dog (vivisected without even anaesthetic) would willingly devote himself to the cause of medical advancement, if only he could understand the gain (James, *Will to Believe,* 58):

> Consider a poor dog whom they are vivisecting in a laboratory. He lies strapped on a board and shrieking at his executioners, and to his own dark consciousness is literally in a sort of hell. He cannot see a single redeeming ray in the whole business; and yet all these diabolical-seeming events are often controlled by human intentions with which, if his poor benighted mind could only be made to catch a glimpse of them, all that is heroic in him would religiously acquiesce.

The hunters are at least not generally quite so vile. They do not torture their prey. They may even acquiesce in their own mutilations or destruction if their prey proves more alert and dangerous than they! This is not, by the way, to suggest that present-day hunter-gatherers or foragers are literally the relics or remnants of our pre-civilized past: they are as likely themselves to be refugees from some earlier urban society, as are – it seems – the Tupi-Guarani of Brazil (see Clastres, *Society against the State*). But such societies may still be our best available evidence for how our pre-urban, pre-civilized, ancestors once saw the world and their neighbours.

In time the other human, almost-human, species died or were assimilated in what we now reckon mainline humanity, and no human populations since have been isolated long enough to become true species. Changes in human life have influenced our attitudes: we began to lay claim to property, and especially to agricultural land; we learnt to specialize in one craft or another, and began to make distinctions between more and less worthy lives; we domesticated "animals" (and

also enslaved foreigners and the poor); we created cities as something more than market-places. Above all, we came to consider ourselves "exceptional": even those tribes which continued to consider other animals as sentient, "ensouled" creatures, insisted that *human* life was special. Even if we could expect to be born again as beasts, it was only in our *human* incarnations that we could hope to become gods, or to be released from the Wheel, and the chance of being born human, a Buddhist text informs us, is as if a blind turtle swimming in the Great Ocean were inadvertently to poke its head out through a single life-belt floating at random in that Ocean (Bodhi, *Discourses of the Buddha,* 1871–72 [*Saccasamyutta* 47–48]). We have a special opportunity, and therefore a special status. Even if, as the Koran declares, "no creature is there crawling on the earth, no bird flying with its wings, but they are nations (*umman*) like unto yourselves" (*Koran* 6.38: "*The Cattle*")[2], it is still the *human* form that serves as the image of God, to be esteemed even above all other created spiritual powers. The failure to acknowledge that pre-eminence was the cause of Satan's fall![3]

This doctrine, that human beings are made "in the image and likeness of God", deputized to "rule over the fish of the sea and over the birds of the sky and over every living thing that moves on the earth" (*Genesis* 1.26-30), has frequently been interpreted as giving us license to use all such creatures for our own good, irrespective of *their* good. That implication has also often been denied:

> Although it is true that we Christians have at times incorrectly interpreted the Scriptures, nowadays we must forcefully reject the notion that our being created in God's image and given dominion over the earth justifies absolute domination over other creatures" (Francis, *Laudato Si',* §67)[4].

Permission to eat our fellow creatures is not given, in the story, till after the Flood (*Genesis* 9:1–4) — and even that permission is strangely qualified: "this bond doth give thee here no jot of blood!" (Shakespeare, *Merchant of Venice* 4.1). So also John Paul II:

2 So also Beston (*Outermost House,* 25): "'They are not brethren, they are not underlings; they are other nations, caught with ourselves in the net of life and time, fellow prisoners of the splendour and the travail of the earth".

3 "We created you and then formed you and then We said to the Angels, 'Prostrate before Adam' and they prostrated except for Iblis [which is the Arabic term for Satan]. He was not among those who prostrated. God said, 'What prevented you from prostrating when I commanded you?' He (Iblis) replied, 'I am better than him. You created me from fire and You created him from clay'. God said, 'Descend from heaven. It is not for you to be arrogant in it. So get out! You are one of the abased.'" (*Koran* Surah 7 (al-A`raf), 11–13).

4 I have examined the notion and its implications most recently at greater length in Clark, *Can We Believe in People?*

> As one called to till and look after the garden of the world (cf. *Genesis* 2:15), man has a specific responsibility towards the environment in which he lives, towards the creation which God has put at the service of his personal dignity, of his life, not only for the present but also for future generations. It is the ecological question—ranging from the preservation of the natural habitats of the different species of animals and of other forms of life to "human ecology" properly speaking—which finds in the Bible clear and strong ethical direction, leading to a solution which respects the great good of life, of every life. In fact, "the dominion granted to man by the Creator is not an absolute power, nor can one speak of a freedom to 'use and misuse,' or to dispose of things as one pleases. The limitation imposed from the beginning by the Creator himself and expressed symbolically by the prohibition not to 'eat of the fruit of the tree' (cf. *Genesis* 2:16–17) shows clearly enough that, when it comes to the natural world, we are subject not only to biological laws but also to moral ones, which cannot be violated with impunity" (John Paul II, *Evangelium Vitae*, §42, citing his earlier encyclical, *Sollicitudo Rei Socialis* (30 December 1987), §34).

But even Popes John Paul II and Francis still allow us considerable freedom to decide what is or is not a commendable or permissible use of the non-human. We are allowed to use animals for food, for service, for medical and other experimentation, and so forth, as long as we don't treat them "cruelly" or cause them "unnecessary suffering". We are to be held to a higher standard in considering our own kind. Cruelty, as Chesterton observed, is "a vile thing; but cruelty to a man is not cruelty, it is treason. Tyranny over a man is not tyranny, it is rebellion, for man is royal" (Chesterton, *Dickens*, 197). The chief moral of being in "God's image" has rather to do with how we are to treat each other, than how we treat the non-human.

God made us "images" of Himself, according to the story, rather as earthly rulers may set up statues of themselves to make their presence known, and insist that everyone pay something like the same respect to the statues as they would to the king's own person. Human beings, that is, are to be reckoned sacred, and any disrespect or injury to them – by other humans - is taken as disrespect or injury to God. Jesus of Nazareth drew the further inference that even *neglecting* people is an offence against God, not merely actively oppressing them (*Matthew* 25:31–46). So human beings are each, individually, representatives and—as it were—heirs of God: each is sufficient reason for the whole world to exist, according to the Rabbinic gloss:

> A man stamps many coins with one seal, and they are all identical, but the King of the kings of kings stamped every man with the seal of the first man, and none is identical with his fellow. Therefore it is the duty of every one to say: For my sake the world was created (Urbach, *Sages,* 217, citing *Mishnah: Sanhedrin* 4.5; see also *Matthew* 22.21).

Whether this inference is clearly compatible with the other claims of *Genesis* – that God declared his various creations *good* before ever he created *man* – may be disputed. But the story lies behind much humanistic ethical theory in European societies, even for philosophers who would wish to be independent of any scriptural authority. Human beings, it is to be supposed, are "ends in themselves" and must be acknowledged as such, whereas all merely non-human creatures, though they have some value, are to be valued chiefly as means. "Utilitarianism for animals, Kantianism for people" (Nozick, 1974, 39)[5]. Even such animal liberationists as Tom Regan and Peter Singer often suppose that animals which are not (as they think) "self-aware" can easily be replaced: as long as there are more or less contented chickens individual chickens can be killed with no compunction. Animals that seem more similar to humans deserve, they suppose, superior care[6]. Only human beings – or by occasional concession, animals a little more like humans (primates, perhaps, and dolphins) - are to be considered "rational" or "personal" beings: only they can have significant life-plans, take responsibility for their actions, or have "personal" relationships with others. Only they have any "right to life". All other "animals" must live from moment to moment, according to inbuilt programs of behaviour, and have no concept either of truth or justice – the prerogative of beings who can realize they are mistaken either about the facts or about their duties. On this strict account, of course, many creatures of our own species (infants, the insane and senile) must be counted failures – and perhaps some successful sociopaths as well. John Paul II was wise to insist that clearly *rational* discourse was not the only mode of personal connection, nor the sole criterion of worth: those who are "completely at the mercy of others and radically dependent on them, and can only communicate through the silent language of a profound sharing of affection" (*Evangelium Vitae,* §19) are still to be considered members of the human family. Why such a silent

5 Weirdly, it is sometimes, apparently, supposed that the very animals who are thus considered merely means ought themselves to respect human beings as their true ends and masters: "man eaters" are to be put to death for their crimes, despite that the very argument for excluding them from ethical consideration denies that they have any duties to disregard.

6 The point is forcibly made by Dunayer, *Speciesism*, that this is still a "speciesist" discrimination. It also, of course, depends on a contentious reading of what it is like to be a chicken or any other similar creature. Chesterton was of the opinion that "a turkey is more occult and awful than all the angels and archangels" (Chesterton, *All Things Considered*, 220): in which case we should perhaps feel a wondering respect for it.

language is to be confined within our singular species remains obscure. More exact and open ethological enquiry has cast doubt on this minimalist interpretation of animal thought and behaviour (see, for example, Bekoff, *Emotional Lives*), but in truth the obvious answer has always been available:

> If the dog wants something, he wags his tail: impatient of Master's stupidity in not understanding this perfectly distinct and expressive speech, he adds a vocal expression – he barks – and finally an expression of attitude – he mimes or makes signs. Here the man is the obtuse one who has not yet learned to talk. Finally something very remarkable happens. When the dog has exhausted every other device to comprehend the various speeches of his master, he suddenly plants himself squarely, and his eye bores into the eye of the human. … Here the dog has become a "judge" of men, looking his opposite straight in the eye and grasping behind the speech, the speaker (Spengler, *Decline*, vol.2, 131).

According to legend, humans and non-humans ceased to communicate clearly when we were driven from Eden – but the fault, it seems, is rather that we are deaf than that they are dumb. All animals can communicate, and may hold us to account. Affection, and mutual responsibility, can obtain even across species, and it is in the possibility of such affection – call it properly, love – that we are, by Christian and Jewish tradition, more like God.

Natural and Contractual Rights

Let me begin again. One common way to rationalize the notion that only "rational" creatures can have "rights", at least "in their own right", is to ground the existence of rights, and concomitant duties, on some implicit contract. Only "rational" creatures can make and abide by contractual agreements, and so all "non-rational" ones lie outside the sphere of justice. Nothing that they do, or that it is done to them, can violate any rights, since there has been no agreement, and can be no agreement, to respect them, nor to acknowledge duties. At first glance, this would seem to suggest that rights and duties are only the product of actual, formal agreements, but a sort of metaphorical extension allows for the existence of tacit agreements, such that (it is supposed) all "rational" creatures are bound by, and can profit from, the agreements that they *could* have made, and should have made to secure their peace. It may also be suggested that it would also be rational to extend such rights even

to those who cannot, at the moment, acknowledge any reciprocal duty. It is clearly in my own interest that I was not denied such rights when I was still an infant, and that I will not lose them if I lose my mind, whether for good or for a while. We can therefore include "non-rational" creatures in the tacit bargain if they are the very same creatures as would themselves be able to keep such bargains "in their right (or developed) minds". Once that step is taken it is not clear why the same courtesy should not be offered to others: what bargain actually non-rational creatures *would* have accepted if they understood the context, and could keep their word, would at least provide a guide-line for their proper treatment. Indeed, something like this notion has been used to *defend* our agricultural use of the non-human: it is presumed that they *would* have agreed to surrender their milk, their fleece, their eggs, their "surplus males" (since there is no real need for more than some small proportion of male organisms to make sure the species is continued), their gonads, or even their own lives beyond a certain point, in exchange for protection against other predators, for health care and a sort of pretended affection on the part of their human overlords (see, for example, Budiansky, *Covenant of the Wild*). The claim has been challenged: it cannot reasonably, in any case, be considered any good excuse for modern intensive agriculture. There may be some sense in a "covenant of predation" of the sort imagined in Ingold's study: most prey species, at any rate, are accustomed to losing their weaker or older members (and many, at the same time, are themselves preying on other kinds), and there is some reason to think that apex predators do contribute something to the stability and diversity of the land around them, via "trophic cascades" (see Weiss, et al, "Social and Ecological Benefits of Restored Wolf Populations"). Maybe humankind would be better off also, if we had appropriately discerning predators – apart, that is, from our own immediate kindred: *homo homini lupus*. We are often our own predators, but have some dream of another, better relationship. We may also dream of a wider and more lasting peace:

> The wolf also shall dwell with the lamb, and the leopard shall lie down with the kid; and the calf and the young lion and the fatling together; and a little child shall lead them. And the cow and the bear shall feed; their young ones shall lie down together; and the lion shall eat straw like the ox. And the sucking child shall play on the hole of the asp, and the weaned child shall put his hand on the adder's den. They shall not hurt nor destroy in all My holy mountain; for the earth shall be full of the knowledge of the Lord, as the waters cover the sea. (*Isaiah* 11.6-9).

That dream is very distant, and – plainly – requires a radical change in the whole way of things. But we may still hope that the dream will be anticipated in little local friendships, and animate a general willingness to take other life-forms seriously, as actual and potential partners, and sometimes simply as neighbours in a world we did not make.

The contractual model can be extended in the way I have proposed – but it is in any case a profoundly flawed analysis of moral rights and duties. We cannot create such rights and duties merely by *agreeing* to defend them – any more than the agreements made by desperate brigands can justify, or even excuse, their actions. Even if brigands agree to share out their spoils "equitably", even if they gain their victims' forced consent by offering them "protection" against other brigands, that does not give them any right to those spoils. Thomas Hobbes appealed to an imagined "state of nature", wherein no-one was at fault for seeking to preserve her life, and the life of those bound to her by the ties of natural affection, at whatever necessary cost, and concluded that the one immediately necessary step must be to surrender most of that liberty, on the sole condition that her neighbours did so too. The bargain also required that we all cede our first unbounded liberty to a sovereign judge and arbiter, whether that be a single master, or a senate. Even that robust defence of Sovereignty had limits: we could not cede a liberty we did not at first possess, nor would any sane person agree to do just anything at the Sovereign's command, even if we ceded a right of judgment in most matters lest even worse befall. Our choice might then be either to obey or to submit to punishment. And if the Sovereign too often gave commands that could not be, and would not be, obeyed, even its Hobbesian authority must lapse: we have no duty, as George Berkeley saw ("Passive Obedience"), even to *submit* to obvious psychopaths, let alone obey them (not even if any sovereign is likely to be little psychopathic).

Such speciously contractual arrangements do not seem to match our actual expectations of what is due to our companions and fellow citizens. Maybe there are intelligent creatures elsewhere in the cosmos who are something like octopus or turtles, born alone and bound to make whatever bargains they can manage with whatever other they meet, if they can even imagine their own identity over time, and their prospective partners' similar identity. We ourselves – and almost all "higher vertebrates" – are born and reared within a family or flock, and have "friends" of one sort or another from our first beginnings: "friends", or in ancient Greek terms *philoi*, those to whom we are attached, to whom, in some way, we "belong".

Friendship (*philia*) and justice (*to dikaion*) seem … to be concerned with the same objects and exhibited between the same persons. For in every community there is thought to be some form of justice, and friendship too; at least men address as friends their fellow-voyagers and fellow-soldiers, and so too those associated with them in any other kind of community. And the extent of their association is the extent of their friendship, as it is the extent to which justice exists between them. And the proverb "what friends have is common property" expresses the truth; for friendship depends on community. Now brothers and comrades have all things in common, but the others to whom we have referred have definite things in common-some more things, others fewer; for of friendships, too, some are more and others less truly friendships. And the claims of justice differ too; the duties of parents to children, and those of brothers to each other are not the same, nor those of comrades and those of fellow-citizens, and so, too, with the other kinds of friendship. There is a difference, therefore, also between the acts that are unjust towards each of these classes of associates, and the injustice increases by being exhibited towards those who are friends in a fuller sense; e.g. it is a more terrible thing to defraud a comrade than a fellow-citizen, more terrible not to help a brother than a stranger, and more terrible to wound a father than anyone else. And the demands of justice also seem to increase with the intensity of the friendship, which implies that friendship and justice exist between the same persons and have an equal extension (Aristotle *Nicomachean Ethics* 8.1159b25-1160a8; tr. W.D.Ross).

What Aristotle, and far too many other theorists, neglect is the obvious experience of identical trans-species friendships. Human beings, indeed, are characterized across the world by their inclination to "make friends" with other creatures, to take them into their households to be brought up in multi-species societies. Even Augustine, who absorbed too much of the Stoic attitude to animals, and was eager to distance himself from his youthful Manichaeanism, acknowledged that we are limited by our *language* more than animals by their natures!

If two men, each ignorant of the other's language, meet, and are not compelled to pass, but, on the contrary, to remain in company, dumb animals, though of different species, would more easily hold intercourse than they, human beings though they be. For their common nature is no help to friendliness when they are prevented by diversity of language from conveying their sentiments to one another; so that a man would more readily hold intercourse with his dog than with a foreigner (Augustine, *City of God,* 19.7).

It is not only human beings who feel affection and concern for those not of their species, though we seem constantly surprised to find that such bonds ex-

ist even between cats and dogs, sheep and rabbits, mice and snakes, as though it were obvious to everything what biological kind another creature represents. Human beings, though, have developed such social ties more strongly and with more casuistical concern: there is a conflict between the necessary affection any decent or competent farmers must feel for their cattle, and their firm intention to control, exploit and kill their charges. The merely sociopathic option of refusing to acknowledge their cattle's feelings or their own duties toward them is unlikely to breed successful farmers. The British farmers who deeply regretted that they were required to kill and cremate the stock infected or possibly infected by Foot-and-Mouth disease a few years ago, were not simply and disingenuously regretting their *economic* loss: they believed that the implicit bargain of domestication had been broken, and that their cattle had not been granted appropriate medical care, nor allowed their proper end, to give their flesh to be eaten and enjoyed. The farmers, perhaps, felt rather as Plotinus argued:

> What is the necessity of the undeclared war among animals and among men? It is necessary that animals should eat each other; these eatings are transformations into each other of animals which co not stay as they are forever, even if no one killed them, And if, at the time when they had to depart, they had to depart in such a way that they were useful to others, why do we have to make a grievance out of their usefulness? (Plotinus, *Ennead* III.2 [47].15, 16-21: Armstrong, vol.3, 89-91)

> Plotinus was perhaps a little more consistent than most of us can now manage: human citizens too might rightly be compelled to serve the common good, and had no real reason to regret their own decease.

A manifold life exists in the All and makes all things, and in its living embroiders a rich variety and does not rest from ceaselessly making beautiful and shapely living toys. And when men, mortal as they are, direct their weapons against each other, fighting in orderly ranks, doing what they do in sport in their war-dances, their battles show that all human concerns are children's games, and tell us that deaths are nothing terrible, and that those who die in wars and battles anticipate only a little the death which comes in old age - they go away and come back quicker (Plotinus, *Ennead* III.2 [47].15, 31-40: Armstrong, vol.3, 91-3).

At least we don't expect to be eaten (and in fairness, Plotinus himself did not eat or otherwise consume non-humans).

Respecting the Real

Neither imaginary contracts nor even the responsibilities created by natural ties of affection and "belonging" are fully adequate grounds for ethical concern. Even creatures – human or non-human – that we do not much like, and for whom we feel no sentiment of "belonging", are still real beings: it is enough that they *exist* as the things they are, and that they therefore offer an *ethical* as well as a physical obstacle to all our plans. The first commandment, for all sane persons, is to respect reality, and to require some positive excuse for forcing change on it. This may seem surprising: isn't it more often claimed that *ethical* sensibility identifies what *ought* to be, and seeks to bring what presently really is into some greater conformity to that ideal? Pain, disease, depression, cruelty and oppression are all real elements of our experience, and *should be* healed or banished. But perhaps those elements are evils precisely because the creatures they oppress are real, and to be respected. We may need to re-establish the old distinction between "substances" and their affects: *how* things are may need correction; *that* they are does not. Even those entities, those living substances, that we find most distasteful, dangerous or degraded have their own beauty: as Aristotle said, there is something wonderful and beautiful in even the smallest, commonest and apparently "base" of living creatures (Aristotle, *De Partibus Animalium* 1.645a15f). And what is it "to be beautiful"? Every real thing is beautiful, and such as to awaken joy in those who really see it. "They exist and appear to us and he who sees them cannot possibly say anything else except that they are what really exists. What does 'really exist' mean? That they exist as beauties" (Plotinus, *Ennead* I.6 [1].5, 18f). And again; "for this reason being is longed for because it is the same as beauty, and beauty is lovable because it is being" (*Ennead* V.8 [31].9, 41). Reality is what engages us: no-one, Plotinus says, would choose pleasures founded only on a fiction:

> Certainly the good which one chooses must be something which is not the feeling one has when one attains it; that is why the one who takes this for good remains empty, because he only has the feeling which one might get from the good. This is the reason why one would not find acceptable the feeling produced by something one has not got; for instance, one would not delight in a boy because he was present when he was not present; nor do I think that those who find the good in bodily satisfaction would feel pleasure as if they were eating when they were not eating or as if they were enjoying sex when they were not with the one they wanted to be with, or in general when they were not active (*Ennead* VI.7 [38].26, 20-5: Armstrong, vol.7, 169).

At any rate, anyone who *did* thus prefer illusion – some brain manipulation, say, to persuade one that one was happy, wise, much beloved and successful - would be seriously, lethally, mistaken. This fundamental, contemplative, recognition of real things is needed if we are even to recognize what may be "wrong" in the current way things are. That recognition depends on there being substantial entities, organisms, which are focused on some particular form of beauty, some particular *reason* for their having the parts and patterns that they do. There are no substantially "evil" beings – not even spiders, rats or hagfish – even if we feel an automatic distaste for them. That was perhaps our first sin: to seek out "the knowledge of good and evil", and so to divide the whole rich world into good and evil things, to treat as merely "vermin" what should be simply other things, and to identify "good things" only among those things that serve our interests. The solution may lie in "philosophy", in the serious attempt to see things clearly and see them whole. It may also lie in properly observant art: "good art shows us how difficult it is to be objective by showing us how differently the world looks to an objective vision" (Murdoch *Sovereignty,* 86), or even in some sudden, unexpected perception:

> I am looking out of my window in an anxious and resentful state of mind, oblivious to my surroundings, brooding perhaps on some damage done to my prestige. Then suddenly I observe a hovering kestrel. In a moment everything is altered. The brooding self with its hurt vanity has disappeared. There is nothing now but kestrel. And when I return to thinking of the other matter it seems less important (Murdoch *Sovereignty*, 82).

What character would then be displayed by someone who simply chose to shoot the kestrel, to reassert what Murdoch called the "fat relentless ego" (Murdoch *Sovereignty,* 51)?

This approach may seem extreme: it is also possible, even common, to be similarly struck by probably insentient creatures, and even by wholly inanimate objects, both works of human art and natural monuments, as long as they display a unity and order that we can recognize as beauty. Some entities have points of view, and feel pain or pleasure in their various activities, but this is not the primary reason to respect them, nor the only way in which they can be treated badly. Artists, indeed, will usually know this well: the material for their own activity must be respected, even if it is only "stuff", but especially if it is already a real substance.

Actually, in urging the importance of a respect for reality I am maybe conceding something to those who have argued for human "exceptionality":

> Man is the first *objective* animal. All others live in a subjective world of instinct, from which they can never escape; only man looks at the stars or rocks and says "How interesting…", instantly leaping over the wall of his mere identity (Wilson *Philosopher's Stone*, 129).

The claim lacks any definite evidence: many other creatures may have much the same experience, of suddenly intuiting the real, independent being of whatever object had previously been present to them only as prey, predator, rival, potential mate or occasional companion – or even simply as a smudge or a loud noise. And many human beings plainly live their lives without any such real insight. That there is such an insight, however, seems both evident and desirable: this is much more what "the wise men of old" intended in speaking of *Nous* as the central element of both human and divine being. In translating "*nous*" as "reason", "intellect" or even "intuition" we often conceal what was intended. *Nous* is not *reason,* in the usual sense of working out conclusions from firmly or provisionally accepted premises: such is *dianoia*, reasoning. Nor is *Nous* even the immediate intuition of necessary truths:

> One must not suppose that the gods and the "exceedingly blessed spectators" in the higher world contemplate propositions (*axiomata*), but all that we speak about are beautiful images in that world, of the kind which someone imagined to exist in the soul of the wise man, images not painted but real. This is why the ancients said that the Ideas were realities (*onta*) and substances (*ousiai*) (Plotinus *Ennead* V.8 [31].5, 20-25: Armstrong *Enneads,* vol.5, 255).

The activity of *Nous*, in other words, is the recognition of real things, which are not simply identical with their phenomenal shadows, their reflections or echoes or representations. That is the moment when we may suddenly discover that we ourselves are represented, in other creatures' eyes, by similarly misleading sensory images. We even realize that our usual perception of our own very selves is also misleading: how we are presented to ourselves through sense and imagination is not what we really are, nor how we are present to or in a fully realized "intelligence". As Lloyd Gerson recognizes:

> Whereas nature contemplates by operating according to an image of *Nous*, only a person can recognize that he himself is an image and that he is thinking with the images of *Nous*. The recognition by the perceptible Socrates that he is not the real Socrates,

> a recognition that must of course occur in a language that is ineluctably metaphorical, is more than mere assent to a proposition about Socrates ("Metaphor as an Ontological Concept", 269).

Gerson here assumes that this insight is reserved for "persons" – which may be simply a criterion for "personhood" – but there is some reason to extend the revelation. By Plotinus's account, *Nous* in its eternal being comprises and contains all real substances, and so also all the real beings whose phenomenal echoes we label as stones, plants, animals and so forth. It follows – since *Nous* cannot be separate from its objects (Plotinus, *Ennead* V.5 [32]) - that all such real beings are themselves *noetic,* even if in their merely phenomenal, temporal appearances they have no conscious contact with their eternal being – any more than we human beings usually do. The Divine Intellect, the *Logos*, contains all Forms as eternal realities: "it lived not as one soul but as all, and as possessing more power to make all the individual souls, and it was the 'complete living being', not having only man in it: for otherwise there would only be man down here" (Plotinus, *Ennead* VI.7 [38].8, 29-32). All real things, all the eternal templates, reside within the single unified Form of all Forms – from which it follows that – if Humanity is to be "in the image and likeness of God" – it must also be "a lumpe where all beasts kneaded be" (Donne "To Sir Edward Herbert at Julyers" [1651]: *Major Works*, 200-1), and be the representative, as Chesterton suggested, of the whole mammalian order, or even of all creation.

We stand as chiefs and champions of a whole section of nature, princes of the house whose cognisance is the backbone, standing for the milk of the individual mother and the courage of the wandering cub, representing the pathetic chivalry of the dog, the humour and perversity of cats, the affection of the tranquil horse, the loneliness of the lion (Chesterton, *What's Wrong,* 264).

Or at least there are many aspects of humanity congruent with the real beings of our neighbours and cousins, as also vice versa. Whether our ordinary humanity can quite bear this burden may be moot: in Christian tradition the incarnate Logos is to be found in one singular Hebrew Rabbi. Hans Urs von Balthasar summarizes the thought of Maximus the Confessor on this point as follows: "in the Logos, all the individual ideas and goals of creatures meet; therefore all of them, if they seek their own reality, must love him, and must encounter each other in his love. That is why Christ is the original idea, the underlying figure of God's plan for the world, why all the individual lines originate themselves concentrically around him" (Balthasar, *Cosmic Liturgy,* 152). And so all creatures are to be loved "in Christ".

This last, explicitly Christian, step may go beyond the province of a jobbing philosopher. It may be enough, for the proper philosophical appreciation of the cosmos and our role in it, to realize that it is in acknowledging and respecting what is real that we may find a properly *human* activity. If we are to consider ourselves different from all other creatures it must be in the rare chance of appreciating and respecting those others (and also acknowledging that they may do so too). How we shall live in the light of that appreciation and respect may still be hard to say, and also to do: Isaiah's hope is hardly for us to realize, but we may at least look toward that hope, and change our present ways.

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Śmierć zwierzęcia w filozofii Toma Regana

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Abstrakt

Przedwczesna śmierć samoświadomej istoty, nawet całkowicie bezbolesna, nie jest obojętna moralnie. I nie ma znaczenia, czy istota ta jest człowiekiem. Stanowisko to, nierzadkie dziś na gruncie *animal studies*, jako jeden z pierwszych przyjął i uzasadnił Tom Regan. W niniejszym artykule przedstawiono jego argumentację – opisano dwie najważniejsze zasady Stanowiska praw: Zasadę szacunku i Zasadę krzywdy oraz relacje między kategoriami podmiotów moralnych, obiektów moralnej troski i podmiotów życia. Zrekonstruowano i przeanalizowano problem etycznego wymiaru śmierci zwierzęcia, jako jednostki, naszkicowano też konsekwencje hipotetycznego przyjęcia Stanowiska Praw dla dopuszczonych dziś prawnie i powszechnie stosowanych praktyk wobec zwierząt pozaludzkich.

Słowa kluczowe: etyka zwierząt, Tom Regan, moralność, zwierzęta pozaludzkie, śmierć

Wprowadzenie

Przedwczesna śmierć samoświadomej istoty, nawet całkowicie bezbolesna, nie jest obojętna moralnie. I nie ma znaczenia, czy istota ta jest człowiekiem. Takie stanowisko nie budzi dziś dużego zaskoczenia, reprezentują je różni filozofowie i szerzej, teoretycy *animal studies*. Można tu wymienić choćby Richarda Rydera, Petera Singera, Davida deGrazie, Carol J. Adams, Gary'ego L. Francione. Jako jeden z pierwszych przyjął i uzasadnił je Tom Regan. W niniejszym artykule zrekonstruuję jego argumentację na rzecz uznania przedwczesnej śmierci zwierząt innych niż człowiek za istotną moralnie, szczególnie w przypadku jednostek, które nie tylko są żywe, ale mają życie rozumiane w sposób biograficzny. Dlatego, podobnie jak Regan, skupię się na zwierzętach zaliczanych na gruncie jego teorii do grupy podmiotów życia.

Ponieważ amerykański filozof nie krył przekonania, że przyjęcie jego argumentacji powinno przekładać się nie tylko na istotne moralnie wybory jednostek, ale na zmianę prawa stanowionego, naszkicuję też konsekwencje hipotetycznego przyjęcia Stanowiska Praw dla legalnych dziś i powszechnie stosowanych praktyk wobec zwierząt pozaludzkich. Punktem odniesienia będzie dla mnie rodzime otoczenie prawne. Polska jest jednym z krajów, w których życie i dobrostan zwierząt

innych niż człowiek są dobrami ustawowo chronionymi. Mogłoby się więc wydawać, że postulaty amerykańskiego deontologa trafiają tu na bardzo podatny grunt, byłby to jednak wniosek przedwczesny.

Zwierzę (nie) jest rzeczą

Gdy w 1997 r. ogłoszono Ustawę o ochronie zwierząt[1], ogromne emocje wzbudził otwierający ją – i do dziś szeroko cytowany – Art. 1. Ust. 1:

> „Zwierzę, jako istota żyjąca, zdolna do odczuwania cierpienia, nie jest rzeczą. Człowiek jest mu winien poszanowanie, ochronę i opiekę."

To sformułowanie miało określać ducha ustawy a jednocześnie wskazywać kierunek zmian prawnych, odpowiadających nie tylko poszerzającej się wiedzy na temat zwierząt innych niż człowiek, ale i wzrastającej wrażliwości społecznej, przejawiającej się m.in. coraz powszechniejszą niezgodą na przedmiotowe traktowanie zwierząt. Ten sam akt prawny jest jednak żywym świadectwem naszej bezradności pojęciowej – kolejny ustęp artykułu pierwszego głosi bowiem:

> „W sprawach nieuregulowanych w ustawie do zwierząt stosuje się odpowiednio przepisy dotyczące rzeczy."

Pojawia się więc problematyczna kategoria istot, które co prawda nie są rzeczami, ale nie są też osobami, bo w wielu sprawach odnoszą się do nich przepisy dotyczące rzeczy.

W myśl ustawy dobrami chronionymi są m.in. zdrowie, życie i dobrostan zwierząt. Równocześnie uwzględniono liczne sytuacje, w których zwierzęta mogą zostać zabite zgodnie z prawem. Do „wyjątków" należą m.in.: (1) ubój i uśmiercanie zwierząt gospodarskich oraz uśmiercanie dzikich ptaków i ssaków utrzymywanych przez człowieka w celu pozyskania mięsa i skór, (2) połowy ryb, (3) konieczność bezzwłocznego uśmiercenia, (4) usunięcie poważnego zagrożenia sanitarnego ludzi lub zwierząt, (5) zabijanie i ubój zwierząt gospodarskich z nakazu powiatowego lekarza weterynarii, (6) usuwanie osobników bezpośrednio zagrażających ludziom lub zwierzętom (jeżeli nie ma innego sposobu), (7) polowania, odstrzały i ograniczanie populacji zwierząt łownych, (8) usypianie ślepych miotów, (9) uśmierca-

1 Ustawa z dnia 21 sierpnia 1997 r. o ochronie zwierząt, Dz.U. 1997 nr 111 poz. 724, Art. 1.

nie zwierząt gatunków obcych zagrażających gatunkom rodzimym lub siedliskom przyrodniczym[2].

Podobnie ustawa mająca zapewniać ochronę zwierzętom wykorzystywanym do celów naukowych lub edukacyjnych kładzie nacisk na unikanie cierpienia zwierząt i planowanie procedur tak, aby wykorzystywać ich możliwie najmniej, ale dopuszcza prowadzenie badań, które skończą się ich śmiercią[3]. Warto tu odnotować, że od 2015 r. zabicie zwierzęcia w celu pozyskania tkanek i/lub narządów do badań *in vitro* nie wymaga zgody Lokalnej Komisji Etycznej ds. Doświadczeń na Zwierzętach a jedynie odnotowania tego w odpowiednim rejestrze.

Zabijanie zwierząt sankcjonuje też w dość oczywisty sposób Ustawa Prawo łowieckie[4], określająca łowiectwo jako element ochrony środowiska przyrodniczego polegający na ochronie zwierząt łownych („zwierzyny") i gospodarowaniu ich zasobami w zgodzie z zasadami ekologii oraz zasadami racjonalnej gospodarki rolnej, leśnej i rybackiej[5]. Zwierzęta dzikie mieszczące się w kategorii „łownych" określone są w niej jako dobro ogólnonarodowe stanowiące własność Skarbu Państwa[6].

Z jednej strony polskie prawo postrzega więc życie zwierzęcia (przynajmniej jeśli należy do kręgowców lub – w mniejszym stopniu – głowonogów) jako dobro ustawowo chronione, z drugiej uwzględnia liczne wyjątki pozwalające na odbieranie go, nie tylko w sytuacji, gdy chodzi o samoobronę czy obronę innych ludzi. Z jednej strony stwierdza wprost, że zwierzę nie jest rzeczą, z drugiej w wielu sytuacjach traktuje zwierzęta jak przedmioty. Nie jest to specyfika polskiego otoczenia prawnego. Jeden z bardziej wpływowych dziś teoretyków etyki zwierząt, amerykański profesor prawa Gary L. Francione, twierdzi, że prawa zwierząt będą łamane tak długo, jak długo zwierzęta będą miały status prawny rzeczy, a więc dopóki dozwolone będzie posiadanie ich na własność (Francione 2012, 2016, n.d.). Czyli dopóty, dopóki język prawa i etyki nie przezwycięży obecnej nieporadności pojęciowej, w której zwierzę – nawet jeżeli formalnie nie jest rzeczą – nadal jest traktowane jak rzecz.

Debaty społeczne towarzyszące zmianom prawnym wpływającym na sytuację zwierząt pozaludzkich wskazują, że coraz szerzej podzielane jest przekonanie, że (przynajmniej niektóre) zwierzęta nie powinny być traktowane w sposób przedmiotowy. Dobrym przykładem mogą być tu dyskusje i akcje protestacyjne zwią-

2 Ibidem, Art. 6.

3 Ustawa z dnia 15 stycznia 2015 r. o ochronie zwierząt wykorzystywanych do celów naukowych lub edukacyjnych, Dz.U. z 2015 r., poz. 266 ze zm.

4 Ustawa z dnia 13 października 1995 r. Prawo łowieckie, Dz.U. z 1995 r., Nr 147, poz. 114 ze zm.

5 Ibidem, Art. 1.

6 Ibidem, Art. 2.

zane z ponowną legalizacją uboju rytualnego w Polsce, protesty wobec wykorzystywania i przeciążania koni w transporcie turystów do Morskiego Oka, czy żywe reakcje na doniesienia na temat realiów prowadzenia eksperymentów na zwierzętach. Odnosząc się do problemu nienadążania prawa stanowionego za intuicjami moralnymi coraz większej liczby obywateli, Dorota Probucka stwierdza:

> „(…) obecność społeczno-ideowej formacji, jaką jest Ruch na Rzecz Praw Zwierząt (*Animal Rights Movement*), stanowi w aspekcie historycznym przykład największego rozdźwięku między prawem stanowionym a moralnością i jest dowodem na to, iż wymogi prawa pozytywnego kolidują z wrażliwością znacznej liczby jednostek, których świadomość moralna wyprzedza świadomość prawną. (…) Albowiem wszyscy zwolennicy idei praw zwierząt sądzą, że obecnie obowiązujące w cywilizacji Zachodu prawo przyzwala (…) na zachowania nie tylko obiektywnie okrutne, ale także moralnie niegodziwe i niesprawiedliwe" (Probucka 2013, 10).

Należy przy tym zaznaczyć, że w owych protestach wobec niegodziwego traktowania zwierząt widoczna jest niespójność czy niekonsekwencja. Jednostki postulują rezygnację z pewnych nieakceptowalnych, ich zdaniem, praktyk, czerpiąc równocześnie korzyści z innych praktyk, równie mocno godzących w prawa i/lub dobrostan zwierząt, często posiadających takie same lub bardzo zbliżone zdolności kognitywne czy zdolność doświadczania bólu. Różnica ta jest szczególnie jaskrawa w przypadku innego odniesienia do zwierząt towarzyszących i do zwierząt tradycyjnie hodowanych i zabijanych na potrzeby przemysłu spożywczego. Gary L. Francione określa to zjawisko mianem moralnej schizofrenii (Francione 1996) a jedna z bardziej rozpoznawalnych organizacji prozwierzęcych działających w Polsce – Stowarzyszenie Empatia – przekuła je w hasło „Jedne kochasz, drugie zjadasz. Dlaczego?" (Empatia n.d.)[7].

Prawo stanowione w dużym stopniu odzwierciedla wspomnianą niekonsekwencję i niespójną świadomość moralną większości ludzi. Skutkuje to pewną nieporadnością pojęciową, wspólną obu obszarom. Filozofowie proponują różne strategie przezwyciężenia tego impasu pojęciowego i pokonania (pojęciowego) dystansu między człowiekiem a innymi zwierzętami. Część utylitarystów stara się całkowicie zniwelować dystans, przenosząc punkt ciężkości na znajdujące się

7 Problem od wielu lat bada też Melanie Joy, autorka terminu „mięsny paradoks", określającego strategie radzenia sobie przez ludzi z dysonansem poznawczym spowodowanym równoczesnym żywieniem przekonania, że zwierząt nie należy krzywdzić i jedzeniem mięsa i innych produktów odzwierzęcych, cf. *Why We Love Dogs, Eat Pigs, and Wear Cows: An Introduction to Carnism* (*Dlaczego kochamy psy, jemy świnie i nosimy krowy: wprowadzenie do karnizmu*), Conari Press, 2009.

w centrum ich zainteresowań wartości (szczęście, satysfakcję itd.) i pozostawiając ich „nosicieli" poza głównym obszarem swoich zainteresowań. Myśliciele nastawieni bardziej panteistycznie podobnie eliminują ów dystans, przypisując wartość życiu jako takiemu. I, podobnie jak utylitaryści, niewystarczająco skupiają się na żyjących jednostkach. Poprawne ujęcie statusu moralnego zwierząt wydaje się jednak wymagać zarówno docenienia podmiotowości zwierząt pozaludzkich, jak i docenienia różnic między poszczególnymi gatunkami. Zarówno pomijanie faktu, że każde zwierzę jest odrębną istotą z własnym życiem i historią, jak i zacieranie różnic między gatunkami, sprawiają, że proponowane rozwiązania są niesatysfakcjonujące.

W niniejszym artykule zostanie przedstawione stanowisko, które przezwycięża wskazaną wyżej nieporadność pojęciową, ale nie za cenę ignorowania istotnych etycznie różnic między poszczególnymi zwierzętami. Podstawą argumentacji będzie próba, jaką podjął Tom Regan, który – wychodząc od rozpowszechnionych poglądów moralnych i powiązanej z nimi wrażliwości moralnej, a zarazem uwzględniając obecną wiedzę biologiczną – starał się uchwycić **coś** szczególnie istotnego, co łączy niemal wszystkich ludzi i wiele zwierząt innych gatunków, a co sprawia, że ich śmierć, nawet jeśli całkowicie bezbolesna, przestaje być obojętna moralnie. Filozof próbował równocześnie pokazać, że w sytuacjach trudnych wyborów dostrzeżenie różnicy między gatunkami jest możliwe i daje się obronić w sposób niearbitralny.

Punktem wyjścia jest dla Regana refleksja nad złem śmierci zwierzęcia jako indywidualnego podmiotu życia (*subject of a life*) (Regan 1988, XI–XV). Filozof stwierdza, że intuicja moralna podpowiada nam, że niektóre jednostki mają pewną niezbywalną wartość, która sprawia, że ich życie ma znaczenie, niezależnie od tego, jak postrzegają to inni, ani od tego, na ile są one użyteczne lub szkodliwe dla osób trzecich. Śmierć każdego posiadacza tej wartości liczy się więc moralnie.

Konstruując teorię etyczną, która miałaby stanowić normatywną podstawę poszanowania tej wartości i porządkować nasze, tj. powszechne intuicje moralne, Regan robi kilka ważnych kroków argumentacyjnych, które opierają się na zasadniczych rozróżnieniach pojęciowych. Po pierwsze, odróżnia podmioty moralne (*moral agents*) od obiektów moralnej troski (*moral patients*), co uwzględnia fakt, że przedstawiciele różnych gatunków mogą różnie liczyć się moralnie. Następnie, aby wyartykułować niezależną wartość podmiotów moralnych i obiektów moralnej troski oraz postawę, jaką należy zajmować wobec posiadaczy wartości wrodzonej – szacunek – Regan objaśnia pojęcie wartości wrodzonej oraz powiązane z nim uprawnienia tych istot. Ta aparatura pojęciowa służy mu do wyodrębnienia

centralnego elementu jego ontologii moralnej – podmiotu życia. To kluczowe dla filozofii Regana pojęcie, które pozwala mu wyjaśnić, na czym polega zło uśmiercenia zwierzęcia, nawet całkowicie bezbolesne. Nie oznacza to, że filozofia Regana kategorycznie zabrania zabicia zwierzęcia. Dopuszcza je, ale poddaje rygorystycznym warunkom zgodnym z coraz szerzej podzielanymi intuicjami moralnymi o wartości moralnej zwierząt. W dalszej części artykułu opisano, jak przebiega u Regana ten proces konstrukcji i w których momentach wykazuje on zgodność z wrażliwością moralną poszerzającą krąg wspólnoty moralnej o (przynajmniej niektóre) zwierzęta pozaludzkie.

Impasu w artykulacji naszych intuicji moralnych nie można przezwyciężyć, wybierając klasyczną teorię etyczną i odpowiednio „przycinając" ją do nich. Właściwym punktem wyjścia są nasze intuicje moralne, które jednak potrzebują podparcia w postaci adekwatnej aparatury pojęciowej. Dysponując nią, można sięgnąć do istniejących teorii w poszukiwaniu najbardziej właściwych narzędzi pojęciowych. Wybierając odwrotną strategię, tj. zaczynając od teorii, które wyrażały poglądy dalekie od naszych intuicji moralnych, jesteśmy skazani na filozoficzną bezradność i – w najlepszym wypadku – możemy to rzetelnie i przekonująco opisać.

Zastanawiając się nad najlepszą podstawą etyczną sprawiedliwości, Regan analizuje szczegółowo zastane teorie normatywne, ostatecznie dochodząc do wniosku, że najwłaściwszym wyborem jest perspektywa teorii praw. Tylko uznanie praw moralnych należycie chroni jednostkę, która liczy się moralnie. Tylko one nie pozwalają na skrzywdzenie jej dlatego, że mogłoby to przynieść korzyść innym. Prawa stanowią bowiem rodzaj karty atutowej, przebijającej wszystkie inne argumenty, które mogłyby za tym przemawiać (Cohen, Regan 2001, 197).

Podmioty moralne i obiekty moralnej troski

Odwołując się do powszechnych intuicji moralnych, Regan postuluje poszerzenie kręgu moralnej troski (i naszych powinności wobec tych, którzy się w nim znajdują) o przynajmniej niektóre zwierzęta pozaludzkie. Aby uniknąć arbitralnych rozstrzygnięć, rozważa obecne w literaturze kryteria, mające rzekomo przesądzać o tym, że ludzie należą do kręgu, a zwierzęta – nie. Dzięki ustaleniom badaczy zajmujących się naukami biologicznymi wiemy, że zarówno ludzie, jak i (niektóre) zwierzęta mają interesy i pragnienia, które – przynajmniej w odniesieniu do ludzi – są uważane za moralnie doniosłe przez bodaj każdą normatywną teorię etyczną. Aby wykazać, że możemy zaliczyć do kręgu moralnej troski ludzi i tyl-

ko ludzi, nie kierując się przy tym uprzedzeniami, konieczne byłoby znalezienie istotnego moralnie kryterium, będącego (1) cechą wszystkich ludzi, (2) nieobecną u jakiegokolwiek innego gatunku. Jeśli okaże się, że nie ma takiego obiektywnego czynnika, trzeba będzie uznać, że jeśli ludzie mają równe, naturalne prawo do oszczędzania im niezasłużonego bólu – a to jest najbardziej podstawowy interes, jaki może mieć jednostka – mają je także, przynajmniej niektóre, zwierzęta (Regan 1982, 12–18). Stwierdzenie, że nie ma takiego kryterium, ale i tak zamierzamy przypisywać prawa tylko ludziom, byłoby przejawem szowinizmu gatunkowego (*speciesism*) – uprzedzenia opartego na subiektywnych odczuciach wyższości naszego nad cudzym, analogicznego do innych wykluczających uprzedzeń, takich jak rasizm, seksizm, ageizm czy adultyzm.

Podstawową kwestią staje się ustalenie, co sprawia, że niektóre istoty mają wartość wrodzoną. Za punkt wyjścia Regan ponownie obiera moralność potoczną, w szczególności sytuację dwóch grup, na które autorzy teorii normatywnych dzielą często ludzi. Do pierwszej grupy – podmiotów moralnych (*moral agents*) – zaliczani są ci, którzy mają zdolność odróżniania tego, co dobre od tego, co złe, mogą więc stwierdzić, co należy zrobić zgodnie z zasadami moralnymi i dokonać świadomego wyboru, a w konsekwencji ponoszą odpowiedzialność moralną za swoje czyny (Regan 1988, 151; Cohen, Regan 2001, 191–194). Do grupy tej zaliczane są dorosłe (lub przynajmniej dojrzałe psychicznie), zdolne do racjonalnego postępowania jednostki. Pozostali przedstawiciele naszego gatunku należą do grupy obiektów moralnej troski (*moral patients*). Obejmuje ona ludzi, którzy z racji etapu rozwoju biologicznego lub stanu psychicznego/fizycznego nie spełniają warunków wstępnych, które umożliwiłyby im kontrolowanie własnych zachowań do tego stopnia, żeby uznać ich odpowiedzialnymi moralnie za własne czyny (m.in. niemowlęta, dzieci, osoby dotknięte schorzeniami neurodegeneracyjnymi itd.) (Regan 2001, 152–154). Przedstawiciele obu grup zaliczani są do wspólnoty moralnej, o ile jednak na podmiotach moralnych spoczywają pewne obowiązki wobec siebie samych, siebie nawzajem i wobec obiektów moralnej troski, o tyle obiekty moralnej troski nie mogą zostać nimi obarczone. Ich postępowania wobec siebie wzajemnie i wobec podmiotów moralnych nie można zakwalifikować jako dobre lub złe w kategoriach moralnych – nawet jeśli wyrządzają innym krzywdę, nie ponoszą za to moralnej odpowiedzialności. One same mogą jednak być przedmiotem dobrych lub złych działań podmiotów moralnych – mogą np. zostać skrzywdzone lub niesprawiedliwie potraktowane. Relacja między nimi nie jest więc symetryczna (Regan 1988, 151–154).

Przyglądając się naszym intuicjom i praktykom, Regan szuka wspólnego mianownika, który sprawia, że zarówno podmiotom moralnym, jak i obiektom moralnej troski przypisujemy posiadanie wartości przesądzającej o ich istotności moralnej. W poszukiwaniu decydującego czynnika filozof korzysta z zasobów pojęciowych normatywnych teorii etycznych, dokonując ich krytycznego przeglądu.

Odnosząc się do etyki czci (poszanowania) dla życia Alberta Schweitzera, Regan stwierdza, że kryterium bycia żywym jest zdecydowanie zbyt szerokie – obejmuje nie tylko ludzi i zwierzęta pozaludzkie, ale rośliny i wiele innych żyjących organizmów. Filozof odrzuca je więc jako problematyczne i nieadekwatne (Regan 1988, 241–243). Rozważa liczne kryteria kognitywne, m.in. rozum, świadomość, samoświadomość rozumianą jako świadomość wyższego rzędu, swoistą metaświadomość (świadomość, że jest się czegoś świadomym), koncepcję własnej tożsamości, zdolność dokonywania wolnych wyborów, posługiwanie się językiem (Regan 1982, 12–18; Regan 2011c; Gzyra 2015, 442). Zdaniem filozofa spełniają je przedstawiciele licznych gatunków zwierząt (przede wszystkim prymaty, ale także inne ssaki), równocześnie nie spełniają go niektórzy ludzie, niebędący racjonalnymi podmiotami moralnymi (m.in. niemowlęta, małe dzieci, niektóre osoby starsze, osoby z poważnym upośledzeniem umysłowym). Filozof odrzuca więc możliwość opierania wartości wrodzonej jednostek jedynie na kryteriach kognitywnych i jako alternatywę rozważa niekognitywne kryterium zdolności do odczuwania (*sentience*), które dawałoby podstawę do uznania praw także wykluczonych wcześniej ludzi i znacznie większej grupy zwierząt pozaludzkich (Regan 1997, 109–110). Zdolność do odczuwania uznaje za kryterium konieczne, ale niewystarczające. W przypadku szerokiego definiowania sensytywności do grupy posiadających tę cechę jednostek zaliczałyby się również te, które co prawda postrzegają zmysłowo otoczenie (odbierają qualia), ale nie odczuwają emocji, nie są zdolne do celowego działania, nie doświadczają przyjemności ani bólu, nie mogą więc mieć pragnień ani subiektywnych interesów, a zatem – zgodnie z powszechnymi potocznymi przekonaniami – nie ma podstaw, aby przypisać im posiadanie praw. Także wąsko zdefiniowana sensytywność, rozumiana w sposób hedonistyczny, a więc ograniczająca się do zdolności do doświadczania przyjemności i bólu, nie jest, zdaniem Regana, satysfakcjonującym kryterium. Mogłaby stanowić uzasadnienie dla niezadawania nieusprawiedliwionego cierpienia, nie jest jednak wystarczająca jako podstawa podstawowych praw moralnych (np. prawa do czy życia – bezbolesne zabijanie nie byłoby tu podejrzane etycznie) (Regan 2006, 83; Gzyra 2015, 441–442). Regan odrzuca też kryteria charakterystyczne (być może) tylko dla ludzi, ale nieadekwatne z innych powodów, jak kryterium posiadania nieśmiertelnej duszy – oparte na wierzeniach religijnych

i niesatysfakcjonujące, ponieważ ograniczone do określonych systemów światopoglądowo-normatywnych (Regan 1997, 1997, 109–110). Łatwo zauważyć, ze pojęcie nieśmiertelnej duszy (charakterystycznej tylko dla ludzi) samo przez się wyróżnia ludzi spośród reszty świata przyrody, a więc zakłada to, co miałoby być przedmiotem dowodu.

Regan dochodzi wobec tego do wniosku, że nie ma istotnego moralnie kryterium, które pozwoliłoby w sposób niearbitralny uwzględnić wszystkich ludzi, ale wykluczyć wszystkie zwierzęta. Jeśli więc ludzie mają równe, naturalne prawo do oszczędzania im niezasłużonego bólu, mają je także, przynajmniej niektóre, zwierzęta (Regan 1982, 12–18).

Z punktu widzenia niniejszego opracowania bardzo istotne jest dostrzeżenie charakteru argumentacji Regana. Nie dowodzi ona istnienia charakterystycznego zbioru cech wspólnych podmiotom moralnym i obiektom moralnej troski, który nakazałby uznać je wszystkie za posiadające równą wartość moralną, ale braku powodów, aby wykazać brak przynależności zwierząt do kręgu moralności. Dotychczasowe normatywne teorie etyczne nie zawierają zasobów pojęciowych, które pozwalałyby na jednoznaczne wykluczenie zwierząt pozaludzkich ze sfery moralnej. Ta cecha argumentacji Regana jest szczególnie ważna w obecnym kontekście, którym jest niespójność potocznych przekonań moralnych. Jeżeli argumentacja Regana jest przekonująca, to brak dowodu na równość ludzi i zwierząt nie jest powodem do odrzucenia tezy o równej wartości moralnej ludzi i innych zwierząt. Wystarczy, że nie ma powodów teoretycznych, aby podważyć przekonanie o tej równości. Ciężar dowodu spoczywa zatem nie na tych, którzy głoszą równość wszystkich zwierząt, ale na tych, którzy twierdzą, że jedne z nich są cenniejsze od pozostałych. Zadaniem filozofa jest tu w mniejszym stopniu uzasadnienie potocznego przekonania o równości, a w większym wyeksplikowanie, na czym to przekonanie się opiera. Temu drugiemu poświęcona jest kolejna sekcja niniejszego artykułu.

Wartość wrodzona, wartość wewnętrzna

Za podstawę praw filozof uznaje posiadanie przez jednostkę szczególnej, ugruntowanej w niej samej wartości. Tę ostatnią nazwie początkowo wartością wewnętrzną (w eseju *The moral basis of vegetarianism* z 1972 r. używa określenia *intrinsic worth*),

później – wrodzoną (*inherent value*)[8]. Zgodnie z przedstawionymi wyżej wnioskami wartość ta nie może być bezpośrednio związana z żadnym z odrzuconych kryteriów, nie może też być zależna od perspektywy osób trzecich (Regan 1982, 27–33). Wartość wrodzona jest zakorzeniona ontycznie w jednostce, logicznie niezależna od czyichkolwiek interesów czy opinii, niezależna od umiejętności posiadanych przez jednostkę i tego, na ile jest ona użyteczna dla innych (Regan 1980, 108–110). Na gruncie teorii Regana jest też konceptem kategorycznym – jest równa i niestopniowalna u wszystkich posiadających ją jednostek (Regan 1988, 235–241, 243; Cohen, Regan 2001, 191–195, 216; Regan 1980, 108–110).

Posiadanie wartości wrodzonej implikuje posiadanie podstawowych praw (uprawnień) moralnych, w tym fundamentalnego prawa do bycia traktowanym z szacunkiem. W tym miejscu pojawia się naczelna zasada etyki Regana. Sprawiedliwość wymaga, żeby jednostki posiadające wartość wrodzoną były traktowane z szacunkiem i nigdy jedynie jako pojemnik na wartości (tak, jak dzieje się to w teoriach utylitarystycznych), czy zaledwie jako środek do celu (Regan nawiązuje tu otwarcie do filozofii Immanuela Kanta (Regan [in] Cohen, Regan 2001, 194)). Zasada szacunku (*Respect Principle*) jest w filozofii Regana zasadą kategoryczną i niepodważalną, równie silną w przypadku podmiotów moralnych i obiektów moralnej troski. W żadnej sytuacji nie może zostać przeważona przez inną, bo szacunek i zapewnienie ochrony jednostce nie są przejawami sentymentu czy wrażliwości, ale wymogiem elementarnej sprawiedliwości, którą jesteśmy winni posiadaczom wartości wrodzonej (Regan 1988, 187, 262–265, 278–279, 286–294, 329; Regan 1980, 108–110; Regan [in] Cohen, Regan 2001, 191–194). Z Zasady szacunku wynikają prawa pozytywne i negatywne, fundamentalne dla filozofii Regana, oraz korespondujące z nimi obowiązki spoczywające na podmiotach moralnych zdolnych do odpowiadania na prawa innych, m.in. obowiązek pomagania (*duty of assistance*). Do najważniejszych praw moralnych należą (1) prawo do życia, (2) prawo do integralności cielesnej, (3) prawo do wolności i (4) prawo do niedoświadczania możliwego do uniknięcia (*gratuitous*) cierpienia (Regan [in] Cohen, Regan 2001, 197; Regan 1997, 105).

Ponieważ krzywdzenie istoty posiadającej wartość wrodzoną dla cudzej przyjemności lub korzyści jest równoznaczne z traktowaniem jej wyłącznie jako środka do celu[9], jest równoznaczne z brakiem poszanowania tej wartości. Z faktu posia-

8 W wydanej w 1983 r. monografii *The Case for Animal Rights* filozof stosuje już rozróżnienie na wartość wrodzoną (*inherent value*), niestopniowalną, związaną integralnie z jednostką i wartość wewnętrzną (*intrinsic value*) – zmienną w zależności od poziomu szczęścia/przyjemności itd. (w odniesieniu do filozofii utylitarystów).

9 To odwołanie do filozofii Kanta stanowi równocześnie jeden ze szczególnie interesujących wątków w myśli Regana i jeden z punktów zaczepienia dla jej krytyków.

dania wartości wrodzonej wynika więc prawo jednostki do niebycia krzywdzoną – w ten sposób z Zasady szacunku Regan wywodzi drugą – Zasadę krzywdy (*Harm principle*) (Regan 1988, 235–241, 243; Regan 1980, 108–110; Regan [in] Cohen, Regan 2001, 191–195). O ile Zasada szacunku ma charakter kategoryczny, o tyle Zasada krzywdy narzuca bezpośredni obowiązek niekrzywdzenia jednostek, który opiera się na intuicjach przedrefleksyjnych (*prereflective intuitions*), jest to jednak obowiązek *prima facie*, który w wyjątkowych okolicznościach może zostać przeważony na mocy innej, ważnej zasady moralnej. Filozof opisuje cztery rodzaje takich sytuacji: obrona własna niewinnego (np. człowieka napadniętego w lesie przez dzikie zwierzę); ukaranie winnego (dotyczy tylko podmiotów moralnych, przykładem jest kara ograniczenia lub pozbawienia wolności); niewinne żywe tarcze (np. podczas ataków terrorystycznych i napadów); niewinne zagrożenia (np. zwierzęta chore na wściekliznę) (Regan 1988, 187, 286–294). Wyrządzenie szkody posiadaczom wrodzonej wartości może więc być moralnie uzasadnione – i nie być niesprawiedliwe – ale zawsze musi uwzględniać tę wartość i ich prawo *prima facie* do niebycia skrzywdzonym (Regan 1988, 262–265, 278–279, 329; Regan [in] Cohen, Regan 2001, 191–194).

Podmioty życia

Ustalenie, które jednostki mają wartość wrodzoną, będącą podstawą praw moralnych (i korelujących z nimi obowiązków podmiotów moralnych), ma pozwolić na niearbitralne zakreślenie kręgu moralnej troski, a tym samym wyjście poza potoczne przekonania moralne o wartości zwierząt (a więc i ludzi). Dopiero na tej podstawie będzie można próbować objaśnić, co łączy wszystkie istoty wymagające moralnej uwagi. Czerpiąc z dotychczasowych propozycji, przedstawianych w literaturze jako kryteria przesądzające o moralnej istotności jednostek, ale nie uznając żadnej z nich za wystarczającą, jako najbardziej adekwatne rozwiązanie Regan proponuje kryterium przynależności do grupy podmiotów życia (Regan 1988, 243).

Kategoria podmiotu życia (*subject of a life*) zajmuje w filozofii Regana szczególne miejsce. To złożone kryterium, pozwalające stwierdzić w sposób niearbitralny, czy jednostka posiada wartość wrodzoną, którą mamy obowiązek szanować i chronić. Przynależność do grupy podmiotów życia jest warunkiem wystarczającym, ale niekoniecznym do stwierdzenia, że jednostka ma wartość wrodzoną, a w konsekwencji – podstawowe prawa moralne (Regan nie wyklucza, że mogą ją posiadać jednostki nienależące do tej grupy). Dla zrozumienia kategorii podmiotu życia

kluczowe jest ponowne odwołanie się do kategorii podmiotu moralnego i obiektu moralnej troski. Zdaniem Regana ten tradycyjny podział jest niewystarczający, ponieważ nie pozwala uchwycić czegoś bardzo istotnego. Proponuje więc nową kategorię, obejmującą wszystkie jednostki należące do grupy podmiotów moralnych i część spośród tych należących do obiektów moralnej troski:

> Jednostki są podmiotami życia, jeśli mają przekonania i pragnienia; percepcję, pamięć, poczucie przyszłości, w tym własnej; życie emocjonalne wraz z uczuciami przyjemności i bólu; interesy odnoszące się do preferencji i interesy odnoszące się do dobrostanu [*preference- and welfare-interests*]; zdolność inicjowania działań w podążaniu za swoimi pragnieniami i celami; psychofizyczną tożsamość rozciągniętą w czasie, autonomię preferencyjną; indywidualny dobrostan w tym sensie, że ich życie jest w ich odczuciu dobre lub złe, logicznie niezależnie od tego, czy są przedmiotem czyjegoś zainteresowania. Te, które spełniają kryterium bycia podmiotem życia, mają szczególny rodzaj wartości – wartość wrodzoną – i nie powinny być postrzegane jako zaledwie pojemniki [na wartości] (Regan 1988, 243).

Bycie podmiotem życia oznacza więc znacznie więcej niż bycie „po prostu" żywym, zdolnym do odczuwania (sensytywnym) czy świadomym, nie narzuca jednak tak wysokich standardów autorefleksyjnych, jak kryterium bycia podmiotem moralnym. Kluczowe jest posiadanie własnego, niepowtarzalnego życia, własnej biografii, na którą składają się wszelkie przeszłe doświadczenia tego konkretnego zwierzęcia, własna, unikalna perspektywa, która z nich wynika i której nie można w żaden sposób zastąpić ani „podrobić". To własne, biograficzne życie (*a life*) jest niezależne logicznie od użyteczności jego posiadacza dla kogokolwiek innego i od tego, jak jest przez innych postrzegany (np. jako ważny / nieważny, pożyteczny / bezużyteczny). Mowa tu więc o istotach, które niewątpliwie posiadają podmiotowość, ale niekoniecznie podmiotowość moralną. Nie wszystkie podmioty życia zdolne są do autorefleksji, wszystkie jednak mają poziom świadomości pozwalający im snuć plany i dążyć do ich realizacji. Te, które nie są równocześnie podmiotami moralnymi, nie są w stanie odróżniać dobra od zła, mogą jednak doświadczać jednego i drugiego (Regan 1988, 152–154).

Filozof podkreśla, że kategoria podmiotów życia nie została utworzona, aby można było wyprowadzić z niej wniosek o wartości wrodzonej podmiotów moralnych czy obiektów moralnej troski, ale po to, by uchwycić istotne moralnie podobieństwo między posiadaczami tej wartości, które dostrzegamy intuicyjnie (moralność potoczna) (Regan 1988, 244–248; Regan 1980, 108–111, Regan 2005, 59–61).

Podobieństwo to zasadza się na ścisłej zależności między konkretną jednostką, konkretnym organizmem funkcjonującym w danej rzeczywistości a jego biografią. Ta ostatnia jest czymś jedynym i niepowtarzalnym, związanym nierozerwalnie z biologicznym bytem jednostki – jest przyczynowo uzależniona od unikalnego egzemplarza istoty o określonej strukturze fizycznej. Unikatowość biografii wiąże się ściśle z konkretnym zwierzęciem – jego doświadczeniami, odczuciami, emocjami, pragnieniami, wspomnieniami, świadomością i (w niektórych przypadkach) samoświadomością; przyjemnościami, których doświadczyło i cierpieniami, które były jego udziałem. Nie ma dwóch identycznych biografii, choć niektóre są łudząco podobne. Jeśli to wyjątkowe, niepowtarzalne życie, rozumiane nie czysto biologicznie, ale właśnie biograficznie, ma wartość, to unicestwienie jednostki będącej jego podmiotem wiąże się nieuchronnie z naruszeniem tej wartości. Kategoria podmiotów życia pozwala przypisać im wartość wrodzoną w sposób zrozumiały i niearbitralny, wyjaśnia też, dlaczego mamy bezpośrednie obowiązki moralne wobec nich, a równocześnie dlaczego mamy słabsze podstawy, żeby przyjmować, że mamy takie obowiązki wobec innych żywych istot, które nie należą do tej kategorii (Regan 1988, 244–248; Regan 1980, 108–111; Regan 2005, 59–61).

Śmierć podmiotu życia

Istotom, które spełniają kryterium przynależności do grupy podmiotów życia, należy się szacunek. Jak wspomniano wcześniej, wyprowadzona bezpośrednio z kategorycznej Zasady szacunku Zasada krzywdy nakłada na podmioty moralne bezpośredni obowiązek *prima facie* niekrzywdzenia posiadaczy wartości wrodzonej. Zwierzęta, podobnie jak ludzie należący do grupy obiektów moralnej troski (tj. podmioty życia niebędące podmiotami moralnymi), nie są w stanie odróżniać dobra od zła i podejmować świadomie decyzji moralnych. Dlatego, podobnie jak oni, są zawsze niewinne. Zasada, w myśl której krzywdzenie niewinnych jest *prima facie* złe, odnosi się więc w sposób oczywisty nie tylko do dzieci czy osób poważnie upośledzonych psychicznie, ale i do zwierząt (Regan 1988, 294–301).

Regan wyróżnia dwa rodzaje krzywd, których mogą doświadczać zarówno podmioty moralne, jak i obiekty moralnej troski. Pierwszym są krzywdy wyrządzane przez działanie (*inflictions*) – cierpienia związane z ingerencją w cudzą fizyczność, często wiążące się z długotrwałym bólem; drugim – deprywacje (*deprivations*), tj. krzywdy związane z odbieraniem lub limitowaniem czegoś, co jest jednostce potrzebne lub dla niej ważne, skutkujące ograniczeniem jej autonomii

i obniżeniem jakości jej życia (Regan 1988, 329–330). Oba rodzaje krzywd można powiązać z praktykami powszechnie stosowanymi przez ludzi wobec zwierząt. Do krzywd pierwszego typu zaliczają się np. praktyki hodowlane związane z okaleczaniem zwierząt – przycinanie dziobów, obcinanie ogonów, kastrowanie bez znieczulenia, krępowanie ciała. Przykłady krzywd związanych z ograniczaniem zwierzętom możliwości realizacji potrzeb charakterystycznych dla gatunku stanowią takie praktyki, jak utrzymywanie zwierząt w zbyt dużych skupiskach, zbyt monotonnym otoczeniu, przy nienaturalnym oświetleniu, na niewłaściwym, raniącym ciało podłożu czy w zbyt małych klatkach. Do szczególnie jaskrawych przykładów wyrządzania zwierzętom krzywd obu typów należy hodowla przemysłowa[10].

Czy śmierć pozaludzkiego podmiotu życia może być dla niego krzywdą? Regan twierdzi, że samoświadome zwierzęta mają pragnienia związane z własną przyszłością, równocześnie wydaje się ekstremalnie nieprawdopodobne, że mają koncepcję własnej śmiertelności, a to oznacza, że nie mogą mieć wymaganego np. przez Petera Singera (Singer 1993, 97–98) „pragnienia by dalej żyć" (Regan 1988, 243). Nie oznacza to jednak, że „humanitarne" zabicie zwierzęcia jest czynem neutralnym etycznie. Śmierć zwierzęcia należącego do grupy podmiotów życia jest dla niego ogromną krzywdą, bo na zawsze zamyka przed nim wszystkie możliwości. Zwierzę, które ma rozumiane w sposób biograficzny życie, tj. własną, niepowtarzalną historię, na którą składają się jednostkowe doświadczenia, zdarzenia i odczucia, własne dążenia i plany, z chwilą śmierci traci wszystko. Śmierć jest dla niego większą szkodą niż dla poważnie upośledzonego intelektualnie człowieka, który w mniejszym stopniu reaguje na otoczenie, jest mniej świadomy, ma mniej pragnień i bardziej ograniczoną możliwość intencjonalnego działania niż pozaludzki podmiot życia. Eksperymenty na zwierzętach pozaludzkich, które kończą się ich śmiercią i które mogłyby być z równą, jeśli nie większą, skutecznością prowadzone na opóźnionych w rozwoju ludziach, są więc przejawem szowinizmu gatunkowego (co stwierdza również Peter Singer Singera (Singer 2004, 129–146)). Analogicznie śmierć jest większą krzywdą dla podmiotu życia będącego równocześnie podmiotem moralnym, niż dla podmiotu życia, który nim nie jest (Regan 1988, 99–103, 314–315, 333–337, 370).

Nie oznacza to, że Regan twierdzi, że wymiar moralny ma wyłącznie śmierć tych zwierząt, które należą do grupy podmiotów życia. Po pierwsze, jak wspomniano, przynależność do grupy podmiotów życia jest warunkiem wystarczającym a nie koniecznym do stwierdzenia, że jednostka ma wartość wrodzoną. Po drugie,

10 Zakres i powszechność ich stosowania różni się w zależności od skali hodowli, otoczenia prawnego w danym kraju i praktyki prawnej.

nakreślenie linii precyzyjnie oddzielającej podmioty życia od zwierząt, które nimi nie są, jest bardzo trudne, pojawiają się przypadki budzące wątpliwości. Dzięki naukom empirycznym zdobywamy też systematycznie nową wiedzę o zwierzętach, co wiąże się z korygowaniem wcześniejszych podziałów. Dlatego filozof przyjmuje, że w wielu przypadkach lepiej jest zastosować zasadę przywileju wątpliwości (*benefit of a doubt*), tj. potraktować „problematyczną" jednostkę tak, jakby miała wartość wrodzoną, nawet jeśli nie jesteśmy tego stuprocentowo pewni (Regan 1988, 390–392, 396)[11].

Analizując przykład hipotetycznej sytuacji, w której w czteroosobowej szalupie znalazło się pięciu rozbitków o mniej więcej równej wadze: czworo normalnie rozwiniętych, dorosłych ludzi i pies, Regan stwierdza, że w obliczu tragicznej alternatywy: albo utoną wszyscy, albo jeden pasażer wyrzucony za burtę, chociaż wszyscy rozbitkowie mają równą wartość wrodzoną i *prima facie* równe prawo do niebycia skrzywdzonym, to pies powinien stracić szansę na ratunek. Kluczowe jest to, że szkoda wiążąca się ze śmiercią jest funkcją szans na uzyskanie satysfakcji, które jednostka bezpowrotnie traci. Ponieważ każdy standardowo rozwinięty, dorosły człowiek ma więcej potencjalnych możliwości znalezienia satysfakcji niż pies, śmierć każdego z ludzkich rozbitków byłaby dla nich *prima facie* większą stratą, a co za tym idzie *prima facie* większą szkodą niż dla psa (Regan 1988, 285–286, 308).

Stanowisko Praw nie pozwala nie tylko na skrzywdzenie jednostki (poza wspomnianymi, wyjątkowymi przypadkami), ale też na istotne pogorszenie jej sytuacji dlatego, że będzie to dla kogoś innego korzystne. Dotyczy to także traktowania zwierząt pozaludzkich – wyrządzanie im krzywdy nie może być usprawiedliwione przez korzyści, jakie odniosą z tego inni, w tym zło, którego unikną. Z tego powodu za niedopuszczalne Regan uznaje m.in. eksperymenty na zwierzętach, które kończą się ich śmiercią – niezależnie od tego, czy zabicie zwierzęcia stanowiło część eksperymentu (np. w testach toksyczności kończących się z chwilą śmierci określonej liczby zwierząt), czy po zakończeniu obserwacji podjęto decyzję o uśmierceniu zwierzęcia, chociaż mogło dalej żyć, nie doświadczając na co dzień bólu czy znacznego dyskomfortu (ale jego śmierć była łatwiejszym rozwiązaniem z perspektywy osoby/instytucji odpowiedzialnej za potencjalne zapewnienie mu dożywotniej opieki) (Regan 1988, 110, 113–116, 312–315, 393).

Innym rodzajem krzywdy związanej ze śmiercią, wyrządzonej podmiotowi życia, może być eutanazja. Odnosząc się do problemu eutanazji zwierząt, filozof za-

11 Regan bierze też pod uwagę argument z równi pochyłej – wykorzystywanie zwierząt nienależących do grupy podmiotów życia sprzyja wykorzystywaniu tych, które do niej należą (Regan 1988, 390–392, 396).

uważa, że w przypadku większości z nich nie możemy oczywiście zastosować standardowych kryteriów, jak w przypadku ludzi należących do grupy podmiotów życia. Przede wszystkim nie można oczekiwać od zwierzęcia, że w jakiś sposób poprosi (*form request*) o eutanazję, co stanowi jeden z warunków koniecznych dobrowolnej eutanazji ludzi. Wymagałoby to zrozumienia koncepcji własnej śmiertelności i posiadania środków umożliwiających wyartykułowanie pragnienia zakończenia własnego życia (Regan 1988, 111). Interpretacja zachowania zwierząt w sytuacjach zagrożenia życia nie dostarcza wystarczających dowodów na to, że zwierzęta taką koncepcję rozumieją (Regan 1988, 111). Ich sytuacja różni się też znacząco od położenia ludzi w nieodwracalnym stanie wegetatywnym – w przeciwieństwie do nich zwierzęta (nadal) mają preferencje i stany psychiczne (Regan 1988, 112–113). Nie oznacza to, że nie można mówić sensownie o eutanazji zwierząt. Należy jednak podkreślić, że filozof używa tego terminu w znacznie węższym znaczeniu, niż przyjęto w języku potocznym, naukach weterynaryjnych czy w odniesieniu do zwierząt uśmiercanych w doświadczeniach naukowych.

Regan przyjmuje trzy warunki konieczne akceptowalnej etycznie eutanazji zwierząt pozaludzkich: (1) jednostka musi zostać zabita przy użyciu najmniej bolesnej dostępnej metody; (2) zabijający musi być przekonany, że śmierć zabijanego leży w interesie zabijanego, a przekonanie to musi być prawdziwe; (3) motywem zabijającego musi być troska o interesy, dobro lub dobrostan zabijanego. Na tej podstawie filozof twierdzi, że w przypadku zwierząt pozaludzkich można mówić o dwóch rodzajach eutanazji – eutanazji uwzględniającej preferencje (*preference-respecting euthanasia*) i eutanazji paternalistycznej (*paternalistic euthanasia*) (Regan 1988, 110–111).

Decyzja o eutanazji zwierzęcia może być akceptowalna w sytuacji, gdy zwierzę jest terminalnie chore, cierpi nieodwracalnie lub doświadcza przewlekłego bólu, którego nie da się uśmierzyć. Każdy taki przypadek należy jednak rozpatrywać indywidualnie, biorąc pod uwagę konkretną jednostkę, jej stan i rokowania. W niektórych przypadkach życie zwierzęcia w bardzo złym, niedającym się polepszyć stanie, jest gorsze od śmierci (Regan 1988, 113). Jeśli zwierzę cierpi, niezależnie od tego, jak długo mogłoby jeszcze żyć, jego dominującym pragnieniem jest, aby cierpienie się skończyło (Regan 1988, 112–113). Jeśli spełnione są trzy wymienione wyżej warunki konieczne, zabicie zwierzęcia będzie stanowiło paradygmatyczny przykład eutanazji uwzględniającej preferencje. Decyzja o jej dokonaniu będzie wyrazem respektowania preferencji zwierzęcia – nie woli zakończenia życia, ale pragnienia, by cierpienie się skończyło, bo śmierć jest jedynym sposobem, by im

zadośćuczynić (analogicznie jest, zdaniem filozofa, w przypadku małych dzieci) (Regan 1988, 113–114).

Przykładem nieakceptowalnych etycznie praktyk, określanych mianem eutanazji, jest rutynowo wykonywane w schroniskach (np. w USA) zabijanie zdrowych zwierząt towarzyszących, które przez określony czas nie znalazły nowego opiekuna (Regan 1988, 114). Filozof określa takie przypadki mianem eutanazji paternalistycznej (*paternalistic euthanasia*), bo opartej na projekcji woli i osądu ludzi na zabijane zwierzęta; przekonaniu, że to oni wiedzą lepiej, co dla nich dobre. Biorąc pod uwagę, że śmierć uniemożliwia zwierzęciu realizację jego planów (jeśli jest zdolne do ich tworzenia) i zaspokajanie potrzeb, w sytuacji, w której nie mamy do czynienia z opisanym wcześniej cierpieniem, śmierć nie leży jednak w najlepszym interesie zwierzęcia. Filozof analizuje też główny argument przemawiający za taką praktyką – biorąc pod uwagę możliwości finansowe i lokalowe schronisk, uśmiercenie zwierząt, które nie znalazły opiekuna, umożliwia przyjęcie tam innych zwierząt, które będą miały szansę na znalezienie nowego właściciela. Zgodnie z tym tokiem rozumowania, lepiej dać [jakąś] szansę na znalezienie domu wszystkim zwierzętom, niż pomóc mniejszej liczbie, a pozostałe zostawić samym sobie. Regan odpowiada na to, że (1) fakt, że rozstrzygniemy, że tego rodzaju praktyka nie może być uznawana za eutanazję, nie przesądza automatycznie o jej negatywnej ocenie moralnej; (2) z przytoczonego argumentu nie wynika, że uśmiercenie jest najlepsze dla zabijanych zwierząt, tylko dla innych, które dzięki temu zyskają szansę na znalezienie opiekuna; (3) taki tok rozumowania można by zastosować równie dobrze do bezdomnych ludzi w przytułkach (Regan 1988, 115–116).

Implikacje normatywne stanowiska Toma Regana

Teoria Regana pozwala na uchwycenie i ochronę wartości, którą jest życie zwierzęcia, posiadającego własną, unikalną biografię. Daje podstawy do bronienia poglądu, że odebranie życia takiej jednostce nie tylko nie jest moralnie obojętne, ale stanowi zasadniczą krzywdę:

> (…) ból jest bólem, gdziekolwiek się pojawia, a przedwczesna śmierć, której można było uniknąć, jest wielką krzywdą dla każdej biograficznej istoty, niezależnie od tego, czy jest człowiekiem, czy nie (Regan 1991, 141).

Przyjęcie perspektywy Stanowiska Praw i przeniesienie jej na grunt prawa pozytywnego narzuciłoby istotne ograniczenia dotyczące praktyk powszechnych stosowanych obecnie wobec zwierząt – szczególnie tych należących do grupy podmiotów życia. Choć już dziś ich życie jest w niektórych krajach, w tym w Polsce, dobrem ustawowo chronionym, prawo dopuszcza liczne sytuacje, w których wolno je zabijać. Przyjęcie Stanowiska Praw oznaczałoby zakazanie takich praktyk jak hodowla i chów zwierząt dla pozyskania mięsa, mleka, jaj, skór i futer; polowania i połów ryb. Wykluczone byłoby prowadzenie eksperymentów wiążących się z naruszeniem podstawowych praw moralnych zwierząt, w tym prowadzących do ich śmierci – nawet bezbolesnej – i uśmiercanie zwierząt w celu pobrania ich tkanek i narządów do eksperymentów. Niedozwolone byłoby „usypianie ślepych miotów", o ile nie spełniałoby przesłanek eutanazji uwzględniającej preferencje zwierząt. Przyjęcie perspektywy Regana ograniczyłoby też możliwość wykorzystywania zwierząt w przemyśle rozrywkowym. Nie wpłynęłoby natomiast na możliwość samoobrony człowieka przed zwierzętami, które – w sposób niezawiniony – stanowią dla niego zagrożenie (np. zwierzęta chore na wściekliznę, dzikie zwierzęta, które zaatakowały człowieka) ani na odstraszanie zwierząt tam, gdzie stanowią one realny problem dla codziennej egzystencji człowieka. Nie wykluczałoby też kontynuacji trzymania w domach zwierząt towarzyszących.

Podsumowanie

W niniejszym artykule pokazano sposób na przezwyciężenie pojęciowej bezradności, która daje się zaobserwować zarówno w potocznych przekonaniach moralnych, jak i w niektórych rozwiązaniach prawnych, zgodnie z którymi zwierzę nie jest rzeczą, a jednak stosują się do niego normy takie jak do rzeczy. W tym celu nakreślono, zaproponowane przez Toma Regana, spojrzenie na problem etycznego wymiaru śmierci zwierzęcia, szczególnie takiego, które ma życie rozumiane w sposób biograficzny a nie wyłącznie biologiczny.

Przyjmując za punkt wyjścia moralność potoczną, Regan starał się uchwycić coś szczególnie istotnego, co łączy niemal wszystkich ludzi i wiele zwierząt innych gatunków, i co sprawia, że ich śmierć, nawet ta całkowicie bezbolesna, nie jest obojętna moralnie. Równocześnie próbował pokazać, że w szczególnie trudnych sytuacjach dostrzeżenie różnicy między gatunkami jest możliwe i daje się obronić bez arbitralnych rozstrzygnięć. Zgodnie z jego stanowiskiem śmierć części zwierząt pozaludzkich stanowi dla nich ogromną szkodę, czasami większą niż dla (niektórych)

ludzi. Dzieje się tak w przypadku tych zwierząt, które należą do grupy podmiotów życia i które nie tylko są żywe w sensie czysto biologicznym, ale mają swoje życie rozumiane w sposób biograficzny – swoją autentyczną i niepowtarzalną historię i zbiór doświadczeń, własne pragnienia i dążenia.

Na śmierć zwierząt pozaludzkich można spojrzeć z różnych perspektyw. Jedną z nich jest ta skupiona na jednostce. Niezależnie od tego, jak wielka jest skala i powszechność zjawiska, „przedmiotem cierpienia, przyjemności czy doznań jest zawsze indywidualna istota" (Górnicka-Kalinowska 2015, 183). Zwierzę, będące podmiotem życia, mające własne „przekonania i pragnienia; percepcję, pamięć, poczucie przyszłości, w tym własnej; życie emocjonalne wraz z uczuciami przyjemności i bólu; interesy odnoszące się do (…) preferencji i dobrostanu (…); zdolność inicjowania akcji w pogoni za (…) pragnieniami i celami; psychofizyczną tożsamość rozciągniętą w czasie", z chwilą śmierci doznaje największej możliwej krzywdy – traci wszystko.

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Animal Rights: A New Vista

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Abstract

The debate on animal rights has been influenced by changes in science, philosophy, nature, and social life over the last 40 years. These include (1) increased moral sensibility that gradually embraces creatures which are more and more distant from those closest to us; (2) environmental threats and their connection with people's attitude towards animals; (3) scientific discoveries in the field of ethology and animal emotionality, which indicate evolutionary roots of morality; (4) new philosophical concepts (embodied, embedded, enactive and extended mind, and posthumanism) and revision of the concept of subjectivity; (5) exposing the vagueness of the notion of rights and how it is related to the concepts of duty and need. These changes suggest that the point of departure in discussions of the relations between humans and non-human animals has shifted from the traditional human perspective to a more inclusive approach that relies on the developments in science and the inclusion of environmental concerns.

Keywords: animal rights, emotions, evolutionary heritage, moral sensibility, posthumanism, subjectivity.

Abstrakt

Na dyskusję o prawach zwierząt wpłynęły w ciągu ostatnich 40 lat zmiany, zachodzące w nauce, filozofii, przyrodzie i w życiu społecznym. Należą do nich: 1. Pogłębianie wrażliwości moralnej, stopniowe obejmowanie nią istot coraz odleglejszych od bliskiego nam kręgu. 2. Zagrożenia środowiskowe i ich związki ze stosunkiem człowieka do zwierząt. 3. Odkrycia naukowe w zakresie etologii i emocjonalności zwierząt, wskazujące na ewolucyjne korzenie moralności. 4. Nowe koncepcje filozoficzne (dotyczące umysłu rozszerzonego, ucieleśnionego i zagnieżdżonego; enaktywizm, posthumanizm) i rewizja pojęcia podmiotowości. 5. Ujawnienie niejasności pojęcia prawa i jego związków z pojęciem obowiązku i potrzeby. Te obserwacje sugerują, że punkt wyjścia w dyskusjach na temat relacji między ludźmi a zwierzętami innymi niż ludzie przesunął się z tradycyjnej perspektywy ludzkiej w stronę bardziej kompleksowego podejścia, które korzysta z osiągnięć nauki i uwzględnia zagadnienia związane z ochroną środowiska.

Słowa kluczowe: emocje, ewolucyjne dziedzictwo, podmiotowość, posthumanizm, prawa zwierząt, wrażliwość moralna.

Today, 40 years after the publication of the issue of *ETYKA* devoted entirely to animal rights, the background against which this problem continues to be addressed is different. Various changes have taken place: in the development of civilisation; in the direction the world seems to be heading in, especially in view of multiple

threats; in the development of science; in the shaping of our sensibility and in the deepening of philosophical and ethical thought. This paper presents a general outline of the changes in the recent decades, which shed new and slightly different light on the problem of animal rights. 40 years ago the key problem regarding the relation between humans and non-human animals was framed in terms of the moral status of animals and their suffering caused by humans. Today the issue is more multifaceted due to the new horizon of the environmental crisis, as well as the philosophical and scientific developments in the area of the nature of sentience, rationality, and subjectivity.

Developing moral sensibility

In the moral development of mankind, we are witnessing a gradual broadening of the area that includes beings whose fate is no longer as indifferent to us as it used to. More and more new subjects are being considered deserving of moral rights. At first, care was extended only to members of the closest social group, then – as peaceful contacts developed – also to those of the more distant groups. Still, for many centuries, rights were not granted, or were granted in a limited form, to slaves, people of lower status, or those from the other tribes, nations, races, religions, and cultures, or "different" in some other respect.

Of course, sometimes those who were "different" may have seemed either a threat or a potential resource. In such cases, what emerged as a primary concern was either one's own safety or pursuit of one's self-interest. Another impediment to reflection on the moral rights of "others" was noticing differences rather than similarities. The gradual growth of interest in the fate of "others" and thus in granting them rights became possible due to the recognition that they were not so very different from us. Trade and cultural exchange helped people get to know one another much better. That is one of the reasons why Christianity seemed so revolutionary: it saw in everyone, without exception, a fellow human being.

It might seem that in our globalised world this potential for expanding the circle of beings who have moral rights has been completely or almost completely exhausted. But that is not the case, not only in terms of championing animal rights but also in the human realm, and it is not only a matter of general issues concerning human rights, but also of considering specific situations when those rights may be disregarded and of anticipating preventive measures.

In fact, in the recent decades after the political transformation various institutions and organisations have been established in Poland, designed to guard various rights: the Commissioner for Human Rights (1988), Women's Rights Centre (1994), International Movement for Animals – Viva! Foundation (1994), Consumer Ombudsman (1999), Ombudsman for Children (2000), and Patient Ombudsman (2012). The prohibition of corporal punishment of children, introduced in 2010, indicates that apart from enforcing the already recognised rights, new ones should also be adopted. Currently, the establishment of an Animal Ombudsman is under consideration. For the time being, the function of the animal welfare advocate was established in the Polish Ethical Society in 2018. The growing moral sensibility has also found reflection in legislation: in 1997, Poland adopted the Animal Protection Act (amended several times, though not always in ways approved by animal rights activists). Moreover, 25 October is celebrated annually as the Animal Protection Act Day.

Obviously, the social climate in which the debate on animal rights is taking place has changed significantly since 1981. Such issues as recreational hunting (including the participation of children), factory farming and its conditions, or ritual slaughter are now being addressed far more widely and with more energy. Publications on animal rights are disseminated, vegan and vegetarian diet is being promoted, and a network of catering establishments is growing to meet such needs. Cosmetics companies attract customers with announcements that they do not test their products on animals, and court cases for animal abuse or neglect are more frequent, because the 1997 act provides a much broader legal basis in this respect than its very modest 1928 predecessor.

Unfortunately, though moral awareness encompasses increasingly wider circles of beings (not only animals) and is followed by relevant legal regulations, this does not necessarily involve the universal development of human moral sensibility. On one hand, we have institutions that protect animals, on the other, we hear about drastic and thoughtless infliction of suffering on animals. Institutional sensitivity, shaped by individual forerunners, is in turn supposed to shape and influence social sensibility on a broader scale. This process takes time, and it will probably never be completely successful (after all, even though murder and theft have been penalised since time immemorial, they still keep happening). Nowadays, one may expect punishment for animal abuse or neglect, but in many communities such acts are not considered reprehensible; moreover, some local communities would rather extend compassion to the punished offender than to the tormented animal. Whistleblowing about the conditions of factory farming is still sometimes consid-

ered somewhat malapropos. Moreover, we may expect regress in terms of animal rights protection in Poland, since there are proposals to limit the provisions of the current law, as well as opinions that involvement in animal rights is foreign to our national tradition.

Therefore, in order for the desired moral and social changes to proceed on a broader scale, it is still necessary to further popularize and discuss the issue of animal rights. The starting point for this discussion is typically the question of human rights and whether animals are sufficiently similar to humans to grant them certain rights that humans enjoy. Some have denied rights to animals, pointing out the differences between them and humans (a less developed cerebral cortex, lack of reason, lack of immortal soul, lack of moral duties, hence also lack of rights), while others, on the contrary, demanded rights for animals on account of their similarity to humans (sensibility, capacity to suffer, biological and emotional needs). The unquestioned and unconsidered assumption in this approach is that people have moral rights. To its credit, philosophy sometimes questions the obvious, and in this case it seems appropriate to apply Hare's principle of universalizability and ask about something apparently obvious: what traits make humans eligible for moral rights, and whether animals have these traits as well. Such a level of consideration, perhaps too sophisticated for public discourse, seems to be quite appropriate in philosophy.

Environmental threats

We are living in a time of serious threats that put the future of our species at stake. Climate warming, natural disasters, floods, droughts, typhoons, desertification of large areas, rising sea levels, melting of glaciers, loss of natural habitats for many species (including *homo sapiens*, since due to the direction of change currently inhabited areas will at some point become uninhabitable), increasing pollution, (including smog), unchecked population growth and the resulting problems with food production, depletion of natural resources, growing mass of non-biodegradable waste, climate migrations, epidemics of an uncertain aetiology – all this makes life on Earth less safe and untroubled than we have become used to imagine.

The reflection on the extent to which these threats are the result of human activity comes quite late. Already in 1972, a report by the Club of Rome *The Limits to Growth* (Meadows et al. 1972) was published, containing a reasonable forecast of a dramatic collapse of our way of life due to natural barriers to growth. More

than forty years later, in the documentary entitled *Last Call* (Cerasuolo 2013) the authors of the report state that had the proposed changes been implemented immediately after the report, a transition to a sustainable model and containment of threats could have been achieved, whereas at present it might be too late. However, this pessimistic conclusion does not release us from the duty of care for the planet and from attempts to modify our lifestyles, for example, by curbing our unbridled consumption.

The aforementioned threats are in certain ways connected with our cohabitation with animals on this planet.

First of all, we are engaged in large-scale livestock production, which requires vast areas of land to grow fodder and consumes significant amounts of water. These inputs of natural resources are much higher than those needed to feed the same number of people relying on a vegetarian, and especially a vegan diet. In the face of dwindling land and water resources, it would seem that industrial animal farming should be abandoned or at least reduced. There is the additional argument about the health benefits of plant diet, which are important in view of the prevalence of civilisation diseases (Melina, Craig and Levin 2016). This was not a popular argument 40 years ago. On the contrary, what was stressed back then were the alleged dangers of a vegetarian diet, such as the risk of nutritional deficiencies. Secondly, livestock produce greenhouse gases, exacerbating the climate change effect; abandoning or limiting livestock production would allow to curb this (Eisen, Brown 2022). Thirdly, the conditions under which animals are kept, transported, and slaughtered pose the risk of transmitting previously unknown viruses from livestock to humans. For instance, diseases caused by such viruses as Ebola, SARS, and probably also the current SARS-CoV-2, have a zoonotic origin. Particularly dangerous are the Asian 'wet markets,' where various species of animals that would never interact in the wild are kept in crowded conditions and slaughtered (Naguib et al. 2021). Viruses can pass from immune carrier species to the less immune ones, where it multiplies and then attacks humans. There is an opinion that successive zoonotic pandemics are only a matter of time (Holmes 2022). Pandemics may also be a consequence of climate change, as previously unknown viruses that have been trapped in permafrost are released (Miner et al. 2021). Fourthly, we are witnessing the sixth mass extinction in Earth's history. There are species that have already disappeared, others are disappearing or are seriously endangered. The direct usefulness of other species to human economy may not be evident, but the impoverishment of biodiversity, as well as disruption of ecological balance due to ecosystems collapse, is a cause for concern.

These are all reasons indicating the need for a revision of the principles of our cohabitation with animals. This would involve a significant reduction of their exploitation and preservation of natural wildlife habitats. The latter would require multiple and comprehensive measures, such as limiting environmental pollution and slowing down climate change. Such a course of action would also directly benefit humankind.

The unfortunate direction the world is heading in seems to encourage the protection of animal rights. There is one caveat here, however. The motivation for such protection, forced by circumstances, may turn out to be purely pragmatic. Instead of including the component of care for animal welfare, the rationale for such protection seems to be simply the prevention of a disaster. As long as the exploitation of animals seemed profitable, we continued it, and now, when its abandonment seems more advantageous, we will, at best, consider limiting it. In both cases, there is no interest in the welfare of animals or their rights. In both cases, animals are treated instrumentally, as subservient to human needs.

What stance should ethicists or activists interested in respecting animal rights adopt in this situation? Even earlier, before the era of those new threats, their motivation may have diverged from that of animal lovers who find paternalistic pleasure in communing with animals (Singer 1975, *Preface*). Nowadays, this motivation differs from that of pragmatists, who are primarily concerned with the interests of the *homo sapiens* species. In such a situation, ethicists and activists can enter into a pragmatic alliance with the pragmatists and take advantage of the emerging trend in order to convince the society to respect animal rights. They can even refer to the arguments of pragmatists, i.e. use *ex concessis* arguments, thus enhancing the persuasive effect. In this way, however, they distort their own position.

One might presume that entering into a strategic alliance with pragmatists will be more acceptable to an activist than to an ethical theorist. This is understandable, since an activist is primarily concerned with effectiveness. However, such an alliance, apart from being anthropocentrically oriented, would be limited, because the pragmatic approach does not include all the postulates of animal rights defenders. For example, keeping dogs on short chains does not significantly worsen the condition of the planet and so is of little interest to a pragmatist, who will pay more attention to industrial farming.

Philosophers, on the other hand, are rather concerned with the clarity of principles and argumentation. So, if they do enter into an alliance with pragmatists, they should do it cautiously, locally, and limiting the alliance to a particular issue, and perhaps only temporarily, so as not to compromise principles and values.

Emotions and altruism in the animal world

The capacity of animals to feel, especially to feel pain and to suffer, is undeniable. For some, this is a sufficient argument obliging us to take care of them.Others need to reinforce it with evidence that animals capable of suffering are similar to us also in other respects; this is hardly surprising since we are typically more concerned about our own feelings than those of others, and we seem to care more about the feelings of beings who are more similar to us, than those who are less similar. The suffering of the former can arouse in us the fear of our own suffering, while we can remain more indifferent to the pain of the latter. Moreover, we value ourselves and those similar to us highly, so we are more likely to grant some rights to them rather than to those with a different psychophysical makeup.

Recent decades have brought new discoveries in animal ethology and neurobiology. On one hand, they indicate a closer similarity between animals and humans than previously thought. On the other, they stimulate us to as think about the traits that animals share with us, and the significance of these traits in the human makeup. Should these traits constitute an important part of our humanity, their presence in (particular species of) animals would be of consequence. These discoveries have largely put into question the view, still predominant in the 20th century, that behaviours shaped by evolution are oriented only towards survival, advantage, and possibly gene transmission, that they are selfish and have nothing to do with morality, which is a purely human invention which makes it possible to harness evolutionary heritage. Contrary to that view, it has been shown that animals experience many of the emotions which we had previously attributed only to ourselves, and they are motivated by these emotions to behave in ways which are by no means selfish. Animals know kin altruism and reciprocal altruism between unrelated individuals. As a result of evolutionary kin or group selection, individual behaviour is often oriented towards increasing the prospects of survival of an entire group rather than the individual's own benefit. This is particularly evident among animals that form complex social structures.

More highly organised animals feel emotions similar to ours, e.g. fear, joy, anxiety, rage, attachment, and sadness. They suffer when witnessing the suffering of individuals with whom they have a bond, and they care about these close others' well-being, sometimes being even willing to suffer losses in order to ensure the other's welfare. They are therefore capable of making sacrifices. Moreover, they feel the need to show compassion, and follow their own sense of justice, sometimes trying to administer it themselves. Consequently, perhaps animals deserve not only

care or protection, but also a certain recognition of their subjectivity (the Animal Protection Act of 1997 did not go that far though). Like humans, animals are no strangers to competition and fighting, but there is no doubt that the roots of our morality derive from the evolutionary heritage passed on to us by our animal ancestors.

Recent decades have abounded in numerous experiments leading to this conclusion. Publications appeared that presented animals as beings more similar to us than we had been used to imagine, the similarities involving traits we thought were exclusive to humans. These publications contain the results of experiments (de Waal 2006, 2010), and some also offer a wider philosophical perspective (Changeux et al. 2005), while others have a purely popular character and are based on everyday observations that draw attention to the problem, though without documenting it (Wohlleben 2017).

Obviously our morality is not limited to that inherited from our animal ancestors, but transcends it due to our more developed cerebral cortex and capacity to reason. In comparison with animals, we are better able to anticipate the consequences of various actions and to take them into account in our decisions, more adept at making comparisons, spotting analogies, generalising, formulating problems and methodically seeking solutions. Which brings us to the second issue mentioned above: what part does evolutionary heritage play in our moral endowment? Does it constitute its core, or at least an important and inalienable component, or perhaps just a negligible margin? The answer to this question determines to what extent our awareness of this heritage makes us perceive animals with more appreciation.[1]

What follows are a few examples of present day views , spanning from the one that emphasizes the significance of evolutionary heritage the most to the one that emphasizes it the least.

Psychologist and economist Daniel Kahneman, a proponent of the dual process theory, is of the opinion that in cognitive and decision-making matters (including moral issues) we can rely either on rational, often complex thinking available only to humans, or on emotions, habits, or the need of the moment (Kahneman 2011); the non-rational mode of operation is the one we share with animals. According to Kahneman, the first mode surpasses the second one, as it allows us to obtain useful knowledge, unattainable by other means, and to make more beneficial decisions. In this context, even discoveries concerning the advanced emotionality of animals

1 A similar question was also present in earlier metaethical reflection, when the rationalist theme competed with the emotive one (considered without any connection to the animal issue).

and their pro-social behaviour do not significantly reduce the human-animal divide.

Polish neurobiologist Jerzy Vetulani pointed out that humans are endowed with two centres of moral decision-making, which are not always compatible: the emotional, evolutionarily inherited one, and the rational, uniquely human one (Vetulani 2009, 2010). As neuroscientific evidence shows, in the situation of a moral dilemma, both parts of the brain are active: the one responsible for reasoning and the one analogous to the areas responsible for emotional morality in primates. According to Vetulani, the inescapable source of moral dilemmas lies precisely in the parallel functioning of these two decision-making centres and in the absence of a superior authority that would arbitrate between them. He noted that animals are spared such dilemmas, since they are endowed with only one of these centres.

Joshua Greene, a psychologist, neuroscientist, and philosopher, also sees the opposition of these two moral decision centres but tries to distinguish the areas of their operation (Greene 2005). He assumes the emotional centre gets triggered by personal problems (i.e. those in which at least one of the solutions requires a direct action from the decision-maker and is accompanied by significant emotional involvement), and the rational centre by other, non-personal issues. He refers to a well-known experiment concerning the so-called Trolley Problem (Thomson 1976). Let us recall the questions asked of respondents in this experiment. First, would they turn a switch diverting a trolley from a track where it would kill five people onto a track where it would kill only one person? Second, would they shove a fat man off a footbridge to his death under the wheels of a trolley, which would result in stopping the trolley and saving the lives of five people who are standing on the tracks? Most respondents reply in the affirmative to the first one, but much fewer to the second one (Bakewell 2013, Rehman et al. 2018). And yet the result in both cases seems to be the same: saving five lives at the expense of one. By way of explaining the apparent inconsistency of the respondents, Greene says that the first problem has an impersonal character and is resolved on a rational level, while the second one has a personal character and is resolved on an emotional level, where we resist involvement in a direct, violent intervention against human life. In this sense, our animal, emotional legacy is not in collision with the other moral decision centre, but has its own, separate domain of functioning.

There are also scientifically supported views, according to which the contrast between evolutionary and uniquely human values in moral cognition is not so sharp. Their proponents include such neuroscientists as Antonio Damasio (Damasio 2005) and Giacomo Rizzolatti (Rizzolatti 2005), who was involved in

the discovery of mirror neurons. Both of them see our biological makeup as a substrate for morality, one that is subsequently rationally processed by way of selection, ordering, and generalisation. They also both lean towards an integrated model of moral cognition. In their view, without an evolutionary morality built on impulses, reflexes, emotions, desires, and needs, there would be no uniquely human morality.

According to social psychologist Jonathan Haidt, emotions are always decisive in moral matters (Haidt 2001). Decisions are only rationalised *ex post* for the purpose of integrating beliefs or for the purpose of polemics. Emotions "notify" reason about the decision, after which it begins its final and complementary part of the task. In Haidt's view, the illusion that reason is the direct decision-maker results from very quick emotional rationalisation of the emotional decision. His concept finds support both in everyday experience, since feelings often overpower logic, and in neurological knowledge, which shows that significantly more neural impulses run from emotional to rational centres than in the opposite direction. Therefore, emotions may more easily dominate the scrupulous weighing of arguments than succumb to it.

Views on the role of the emotional component in our moral cognition may affect our attitude towards the beings we have inherited this component from. Respect (or lack of it) for the contribution of this evolutionary legacy to our morality may therefore translate into respect (or lack of it) for animals. Incidentally, making animal rights dependent not only on animal sensibility, but also on their similarity to us in terms of emotions or altruistic inclinations, or on the significance we attribute to our animal legacy, seems itself guided by our emotional attitude rather than by an impartial weighing of arguments.

Mind and subjectivity in the context of biology and technology

Not because of animals, but not without relevance for the animal cause, there have been revisions in understanding of the boundaries of the mind and a transformation of the notion of subjectivity. This has been the result of new concepts in the philosophy of mind, which have emerged in recent decades. Some of them have been informed by biology and others by technology.

The biologically oriented ones include the following three:

> The concept of the embodied mind emphasises the role of sensorimotor processes in shaping our basic cognitive faculties and ways of comprehending the world and our-

> selves. The mind can develop only through operating (relying on our physical makeup) on some empirical material and cannot come into existence without this kind of medium (Lakoff, Johnson 1999).

The concept of the embodied embedded mind goes one step further. Since sensorimotor processes are only possible through interaction with the environment, not only the body but also the environment is constitutive of the mind. Both body and environment are the material of the mind, no less than gray matter is the substrate of cognitive processes (Pecher 2005, Robbins 2009). In particular, what is constitutive of consciousness are emotions, which are triggered by external stimuli and are registered initially as perceptions in the body and only later as conscious feelings (Prinz 2005).

Enactivism additionally assumes that the environment is not only an essential basis for the occurrence of sensorimotor processes, but it is also reciprocally shaped by the organism. The processes that constitute consciousness can only take place in the context of complex, multilateral interactions between three dynamical systems: neural, somatic, and environmental (Thompson, Varela 2001). Enactivists doubt whether – contrary to the Brain-in-a-vat philosophical fantasy – it is possible, even as a thought experiment, to separate the body and the environment from brain processes crucial for consciousness, as something external to them. A similar view is espoused by Hideya Sakaguchi who is involved in research on lab-grown cerebral organoids exhibiting activity resembling that of human brains. He believes that due to a lack of a supporting sensorimotor base, such organoids will develop neither actual thinking nor consciousness. Bioethical problems could appear only if the organoids had such a base (Cell Press 2019).

Concepts inspired by the development of technology include the extended mind thesis, as well as posthumanism and related views.

The former extends the boundaries of the mind to incorporate external objects that support the brain in its cognitive processes. Such objects may include, for example, a notebook or a computer, if they perform functions analogous to those of grey matter, i.e. data storage and/or processing (Clark, Chalmers 1998). In the original form of this concept, the extended mind was conceived of as a heterogeneous aggregate, but due to criticism (Adams, Aizawa 2001) this conceptionhas been modified. As a result, the mind has begun to be seen not so much as a static hybrid object, but rather as a dynamic complex, a neurophysiological cognitive process with its diverse setting (Menary 2009). The concept of a distributed mind goes even a little further, making social interactions and even language an integral

part of the extended mind; after all, discussion sometimes nurtures the cognitive process and language intensifies social interactions and co-creates the basis for expanding cognitive possibilities on a scale previously unavailable (Logan 2007).

Whereas the extended mind thesis finds inspiration in the already existing technological achievements, posthumanism (or transhumanism) is rather inspired by the prospects of further technological development (Ferrando 2013). Posthumanism explores the possibilities of improving the human species through deep technological interventions, relying on such resources as genetic engineering, human-machine interfaces and artificial intelligence. Future humans may be radically different from the contemporary ones, which brings up the question of human nature. According to posthumanists, there is no fixed human nature. It is variable and conditioned by circumstances: in the past, by way of evolution, and in the future, through human decisions involving self-creation. As a result of blurring the boundaries of human nature, other boundaries also seem less rigid: between biology and technology, nature and culture, natural and artificial intelligence, between humans and animals (Haraway 1991). One of the most keenly discussed issues is the one about the subjectivity and potential rights of artificial intelligence.

How relevant are these concepts to the status of animals or their rights? First and foremost, they challenge the hallowed philosophical divisions, in the context of which animal rights have so far been considered. The position of humans as an undisputed point of reference in such considerations is now being undermined by perceiving the mind not as an object but as a process that has a heterogeneous basis, and by redefining subjectivity and human nature. Emphasis is being put on the significance of factors that inform consciousness: bodily rootedness in the environment, perception, motility, and emotional experience. This allows a perspective that brings human beings closer to animals. Questioning the obvious usually removes barriers that stand in the way of new solutions. It becomes easier to replace anthropocentrism with universal ethics that recognises the subjectivity of animals (Wolfe 2009).

Questions about the status and rights of artificial intelligence also support the animal cause, since they contribute to breaking the human monopoly on rights. Moreover, when considering the possibility of AI rights, the question of AI's emotional potential is often raised. The general assumption is that AI's lack of the capacity to feel prevents it from having rights. This opens up further discussions about substitutes of emotions or about the artificial embodiment of machines in order to enable them to develop emotions, or at least their substitutes. Of relevance for the animal cause is that in order to resolve the issue of eligibility for rights, the capacity

for experiencing emotions is taken into account, which at least higher animals have developed beyond any doubt. Humans believe they have more rights because they surpass animals intellectually. However, they are not willing to grant AI rights according to the same criterion, even though in the next generations human capacity for problem-solving and learning will increasingly give way to that of AI. On the contrary, humans ask about AI's sensibility and emotional makeup, which tend to be disregarded in animals.

On the other hand, the new concepts may also impede the implementation of animal rights. Such phenomena as globalisation and growing density of our connections with the outside world, with technology, with other people and communities, have challenged the traditional concept of subjectivity, which is no longer seen as primary or autonomous, but secondary to the extensive network of global interactions. The boundaries of subjectivity get blurred, and traditional subjects – human individuals – are being replaced by substitutes, like in the distributed mind concept. Sometimes the whole planet with its huge maze of connections is perceived as a collective subject. If the consequences of such considerations were to be taken seriously, talking about anyone's rights would be rather difficult.

Posthumanism is engrossed in the idea of future humans, who are supposed to be even more perfect. Perhaps possession of rights will be determined by how perfect one is (this is unofficially taking place already in societies with a high degree of inequality). This would not be in the interest of animals, as the distance separating them from posthumans could be even greater than the distance from the contemporary humans.

Finally, the blurring of boundaries, including those between humans and animals, may go too far and distract us from the needs that are unique to animals. This would be similar to the case of early feminism when the attempts to overcome gender inequalities diverted attention from the uniquely feminine needs. It seems, however, that those new concepts did not undermine the philosophical tradition and did not pervade everyday thinking enough to have a negative effect on the implementation of animal rights.

Rights or needs?

A view has come up that talking about rights without reference to obligations is meaningless. This is worth exploring here, even though so far it has not affected

mainstream thinking about animal rights. There are two ways of formulating this view:

1. Each right should be correlated with an obligation on the part of some other subject. The entitled party's right is exercised as a result of fulfilling an obligation by the obliged party. Otherwise, it is a dead letter.

2. The concept of rights and obligations serves to regulate human relations. One can only find one's place in this network of relations by participating both in the rights and the obligations. Excluded are those who would participate in rights only. Thus, having rights is inextricably linked with having obligations.

Roger Scruton subscribed to both these versions, referring in particular to the second one in his argument that animals are not entitled to any rights (Scruton 2000). The first version found its proponent in the Polish philosopher Leszek Kołakowski (Kołakowski 2008). Even though he meant primarily human rights, his argument can be extended to animal rights as well.

According to Scruton, only those subjects have rights who also have obligations. It should also be noted that some animals do perform useful tasks in the service of humans. They are rewarded for good performance and disciplined for shortcomings. Can we therefore say that they have no duties? The assumption that only the person who handles the animal has duties reduces the animal to the role of a tool or Cartesian mechanism, and nowadays, such an idea is difficult to support, especially in view of the discoveries mentioned in part 3 of this text. Besides, Scruton was not consistent in his position. For instance, he pointed out the duty of a mother toward her unborn child. The child therefore has rights, but no duties.

Kołakowski, on the other hand, was convinced that one can talk about a right only when the beneficiary is aware of it, which implies excluding small children and animals from the group of the entitled ones. However, adults still have obligations toward children, and this obviates the idea of symmetry between rights and obligations. According to Kołakowski, such obligations toward the unentitled would be based not on rights, but on needs.

Overall, Kołakowski opposed the idea of formulating human rights in general terms, without indicating the subjects obliged to implement these rights. He suggested that in such cases we should speak not so much about rights as about basic needs. This view is not popular though because of the currency the notion of human rights has gained and its significance as a regulatory idea in human relations.

Replacing rights with needs, even with the proviso that they are inalienable or fundamental needs, undoubtedly somewhat diminishes the gravity of the problem. However, it also lays bare the unvoiced fact that the subject obliged to implement a right is not always indicated.

Referring to rights without specifying the subjects obliged to implement them may give rise to a certain fiction: we believe that the entitled person (especially if it is us) deserves to exercise the right, and we expect this to take place, while ignoring the question of who is supposed to actually make it happen or to whom we should direct our claims about it. This may be far removed from civic culture and create an atmosphere of laying claims without any specific addressee. Talking about needs instead of rights unmakes this fiction. It can also mobilise subjects who have no obligations.

It is worth quoting one significant example: the 2011 amendment of the Animal Protection Act repealed the provision about catching homeless animals and placing them in shelters, and limited the provision only to those animals posing a serious threat. The reason was the lack of a sufficient number of shelters, as well as the existence of obstacles to building an adequate amount of such places. Consequently, municipalities could not be burdened with the obligation to implement the provision in its original version. Looking at this from Kołakowski's point of view, due to the repeal of the obligation to provide animals with shelter, their right to it loses force and one can only speak of an unfulfilled need.

So is it better to talk about animal rights or needs? The former term has already taken root in public discourse, and it is difficult to imagine a change. The whole extensive issue of concern for animal welfare is based on the 'animal rights' watchword. The advantage of this term is that it emphasises the seriousness of the problem. If there is any defect in it, it is more semantic than moral in nature. Moreover, the discussion about the symmetry of rights and obligations makes us more sensitive to the problem of implementation of rights, and it can stimulate reflection concerning possible semantic clarification of the applied terminology.

Conclusion

The decades that followed the publication of the 1980 *ETYKA* issue have profoundly changed the philosophical, social, and cultural background for animal ethics debate. The society that discusses these questions is more aware and more receptive to the issues of animal suffering. Furthermore, the philosophical background for

this debate is now richer in the various conceptualisations of mind, human and non-human. Ethics has also developed into a more inclusive discourse that makes room for the discussion of agents, subjects, and other value-holders of different kinds. A key area of theoretical development that is of paramount importance in animal ethics comes from the debates on artificial intelligence and transhumanism – the traditional arguments for ethical differences between human and non-human might just not hold.

The animal ethics discourse from 40 years ago was modelled on the human rights discourse, which was the source of its strength but also of some of its weaknessesstemming from the human rights framework. Solutions might reside - as it is also the casefor the human rights discourse - in transcending the language of rights. One example of a potential solution lies in the language of needs.

While the discourse has moved forward since 1980s, it is important to remember that such progress is not a given, and while new philosophical and scientific tools might be available, this might not always translate into social and political progress. Development of ethics frameworks may help, but there is no guarantee.

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