Against Liberation

Putting Animals in Perspective

Michael P. T. Leahy

ROUTLEDGE

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AGAINST LIBERATION

This provocative and timely book questions the underpinnings of the most common contemporary assumptions regarding animal rights. Michael Leahy discusses the equivocal basis of the rights of animals by focusing on the writings of prominent pro-liberation advocates. The theories of Singer, Regan, Midgley and many others —that animals are no less than persons with rationality and self-consciousness—are analysed in detail.

Leahy proposes a re-interpretation of animal identity which is strengthened by many previously neglected philosophical arguments. Wittgenstein and his immensely influential philosophy of language are given particular emphasis. The popular claims that some animals, notably the Ameslan apes, have linguistic potential are carefully evaluated but rejected. Leahy's conclusion is that much of our talk about animals is dangerously anthropomorphic and encourages a confused elevation of their status to that of quasi-human beings.

Bloodsports, furs, zoos, the use of animals for food and in science are among the topics treated (and defended) by Leahy in an ethical and more broadly philosophical context.

As *Against Liberation* embraces animal behaviour, bio-medicine, jurisprudence and economics as well as dog breeding and food fads, it will appeal not only to philosophers but to the concerned general reader, animal enthusiast and scientific specialist alike.

This revised paperback edition features a substantial Afterword in which the author defends his conclusions against some of his more vociferous critics.

AGAINST LIBERATION

Putting animals in perspective

Michael P.T.Leahy

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TO ROSEY, ISABEL AND MILES

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LIST OF ABBREVIATIONS

AR	Aristotle (1959) *The 'Art' of Rhetoric,* J.H.Freese (tr.), London: William Heinemann.
BB	Wittgenstein (1958) *The Blue and Brown Books,* Oxford: Basil Blackwell.
DA	Aristotle (1986) *De Anima (On the Soul),* H.LawsonTancred (tr.), Harmondsworth: Penguin Books.
H&R	Haldane, E.S. and Ross, G.R.T. (trs) (1970) *The Philosophical Works of Descartes,* 2 vols, Cambridge: Cambridge University Press.
NE	Aristotle (1976) *The Nicomachean Ethics,* J.A.K.Thomson (tr.), Harmondsworth: Penguin Books.
P	Aristotle (1948) *The Politics of Aristotle,* E.Barker (tr.), Oxford: Clarendon Press.
PI	Wittgenstein (1958) *Philosophical Investigations,* 3rd edn, New York, Macmillan. (First pub. 1953.)
ST	St Thomas Aquinas, *Summa Theologica,* in A.C.Pegis (ed. and tr.) (1948) *Introduction to Saint Thomas Aquinas,* New York: Random House.
Z	Wittgenstein (1967) *Zettel,* G.E.M.Anscombe and G.H. von Wright (eds), Oxford: Basil Blackwell.

HAWK ROOSTING

I sit in the top of the wood, my eyes closed.
Inaction, no falsifying dream
Between my hooked head and hooked feet:
Or in sleep rehearse perfect kills and eat.

The convenience of the high trees!
The air's buoyancy and the sun's ray
Are of advantage to me;
And the earth's face upward for my inspection.

My feet are locked upon the rough bark.
It took the whole of Creation
To produce my foot, my each feather:
Now I hold Creation in my foot

Or fly up, and revolve it all slowly—
I kill where I please because it is all mine.
There is no sophistry in my body:
My manners are tearing off heads—

The allotment of death.
For the one path of my flight is direct
Through the bones of the living.
No arguments assert my right:

The sun is behind me.
Nothing has changed since I began.
My eye has permitted no change.
I am going to keep things like this.

Ted Hughes
Lupercal (1960)

INTRODUCTION

> Language sets everyone the same traps; it is an immense network of easily accessible wrong turnings.... What I have to do then is erect signposts at all the junctions where there are wrong turnings so as to help people past the danger points.
>
> (Ludwig Wittgenstein 1980a: 18e)

Books are often bought on the strength of an introduction requiring, as often as not, a cramped and hurried read in a crowded bookshop. On the same strength they are sometimes reviewed; but that is a less reputable story. Most readers with any sort of exposure to the issues surrounding the increasingly well trampled field of animal liberation and alleged animal rights, and that is every sane and literate person over the age of 12, will find this a somewhat unusual book. Some might think it insidious. For this reason I think it both worthwhile and only fair to provide the unsuspecting with a foretaste of what I will be attempting to establish in the coming pages. The oddity of the book is not the only reason. I see its message as appealing particularly, but not exclusively, to nonprofessionals who feel that the often fraught issues of vegetarianism, field sports, the fur trade, animal experimentation and so on, are best approached with generous helpings of common sense. Unfortunately the intervening arguments, in support of common sense and against the varieties of intellectual extremism, will rarely themselves *be* commonsensical; although, I hope, not to the point of being incomprehensible to readers prepared to treat the text patiently.

The contemporary background

So what is unusual or odd about my contribution to the moral and philosophical issues which bedevil discussion of our treatment

of animals? Several significant books have appeared in recent years, most notably by Andrew Linzey (1976), Stephen Clark (1977), Bernard Rollin (1981), Mary Midgley (1983), Tom Regan (1983), Vicki Hearne (1987), and, best known of all, Peter Singer (1983) whose *Animal Liberation*, first published in 1975, is generally credited with having galvanised contemporary enthusiasm in topics with a considerable history but, until then, a low profile. These have generated numerous satellite articles in the so-called scholarly press and even the publication of new journals, such as *Ethics and Animals* and *Between the Species*, exclusive to the area. Neither has the press, nor television, of the western world been idle. The quality newspapers bristle with items about intensive farming, hunt saboteurs or endangered species and magazines such as *Newsweek* and the UK Sunday Supplements highlight lengthy reports on topics such as recent research on animal learning, the less than peaceable activities of the Animal Liberation Front, and the use of animals in science. As if all this were not enough it is dwarfed by a wealth of scientific and technical literature from relevant disciplines as diverse as ethology, bio-medicine, economics and jurisprudence.

If there is no merit in merely treading paths adequately laid by others, then why yet another book? Now the paths laid by Regan, Clark, Rollin, Midgley, Linzey and Singer are substantial enough in radiating a deep commitment to matters animal, which is no bad thing, and have eased the way for considerable numbers of devotees to follow them. Furthermore they all lead in roughly the same direction. Unfortunately, despite its warm-hearted and often intuitive appeal, I am firmly convinced that it is the *wrong* direction. To drop the metaphor: these authors, although differing from each other considerably in the nature and emphasis of their arguments, for example, Rollin (1981) is authoritative on animal experimentation and Linzey (1976) on the religious dimension, tend to agree substantially in their conclusions. They share the conviction that the treatment of animals by western society in the well publicised and contentious areas to which I have referred is little short, and sometimes nothing short, of criminal. These writers are therefore, and understandably, very sympathetic towards, and in most cases influential advocates for, all sorts of claims made on behalf of animals and the consequent reforms that these imply. These claims, in most cases, go far beyond the prevailing legal requirements (some advocate, for instance, that vegetarianism is a moral duty or that 'intensive' farming should cease forthwith) and are extreme enough to strike ordinary mortals as idealism born out of crankiness. Nonetheless their

appeals leave in their wake a residue of guilt, the product of smooth and apparently compelling argument, the substance of which is that we ordinary mortals who eat meat, go fishing, or visit zoos, are pretty frightful in our complacency.

I do not pretend to be the first to have entered the lists against the received views of the liberationists. Anthony Kenny's *Will, Freedom and Power* (1975) and R.G.Frey's *Interests and Rights* (1980) in very different ways anticipate attacks that I shall employ. Both are important, mainly because they are practically the only writers to acknowledge the importance of the writings of Ludwig Wittgenstein for our understanding of the ontological and psychological issues involved; what exactly we are talking about in discussing, say, whether dogs *think*. Wittgenstein (1889–1951) is a towering figure in contemporary philosophy, competing with Einstein and Freud as the greatest theorist of the present century, and it is incredible that his many references to the nature of animals are almost totally ignored by the liberationists.[1] Frey is sent packing almost as abruptly and it is only Regan and to a lesser extent Midgley, of the writers so far cited, who subject Frey's views to any sort of extended scrutiny. But my preeminent task will be to tease out in considerable detail the implications of what Wittgenstein has to offer to a particular picture of human, then by subtle contrast animal, nature and then to follow up, on my own account, the implications for the practical issues involved.

Konrad Lorenz and choosing a dog

At the outset I offered a foretaste of my method. This I have so far failed to deliver. So, by way of example, I turn to a passage in one of Konrad Lorenz's deservedly celebrated books, *Man Meets Dog* (1959), although most readers will be more familiar with his earlier *King Solomon's Ring* (1964), first published in 1952. Lorenz is discussing the factors governing the choice of a dog both individually and in terms of breed. Red Setters show devotion but are 'too sentimental' whereas Sealyhams show fidelity and a genuine love of fun. He is patronising towards the 'good honest Boxer' or Airedale that lacks sensibility and 'independence of character'. Whilst allowing that they will not appeal to everyone his preference is for 'dogs not too far removed from the wild form' and of lesser pedigree; hence his favourite Chow-Alsatian crossbreds (1959:82). He continues with this observation:

> A mistake often made by animal lovers without much knowledge of dogs is to choose one which makes the friendliest overtures on first acquaintance. But one must not forget that one is thereby inevitably choosing the greatest *fawner* and that one will be less pleased later on when the dog greets every stranger in the same way…
>
> *Sycophancy* is one of the worst faults a dog can have and, as I have already mentioned, it comes from a persistence of the indiscriminate friendliness and *servility* which very young dogs show towards all people and adult dogs. It is a *defect* only in adult dogs; in young ones it is perfectly normal and in no way reprehensible.
>
> (Lorenz 1959:84–5, my italics)

It is instructive to remember that Lorenz's views, which might have emanated merely from an intelligent and experienced breeder of dogs, are in fact those of a scientist of international repute and a pioneer of that branch of zoology known as ethology. His preoccupation with pets, birds, fish in tanks, and farm animals was not just an excess of 'Noah's Ark Syndrome' but born of the early ethologists' concern with instinct and the need to describe the behavioural repertoire of his subjects.[2] Those species capable of being kept in captivity and yet under conditions as near natural as possible, like dogs, cats, fish and small rodents, make the ideal subjects for prolonged scientific observation and experiment. So we have an expert speaking. Despite the homely and approachable nature of his remarks, which immediately engage the most casual reader, Lorenz knows what he is talking about. Yet nonetheless controversy is close to the surface. I am not thinking of the debate that might ensue upon, say, an enthusiast for Airedales or Red Setters defending the breed; Lorenz is generous in allowing for personal idiosyncrasies when it comes to a choice of pet. What is at issue is the *language* that he employs. Many will uncritically agree with him; fawning dogs seeming to be as contemptible as fawning people, grovelling towards those they regard as their betters. Angela Lambert (1989), in her recent account of the pre-war English debutantes, found that many of them were still waited upon by women considerably older than themselves, part servants and part companions, whose loyalty, devotion, and lack of remuneration, seemed almost slavelike. As she describes it, they seemed to regard themselves as a lower form of life destined only to serve the whims of the aristocracy. People who find such states of affairs contemptible rather than touching might well compare the 'servility' of these women with the shortcomings of Lorenz's

'fawner'. Note the depths of his disapproval which seems to amount to moral condemnation by contrast with the virtues of 'aloofness' and 'exclusiveness':

> Unfortunately, it is impossible to foretell whether the playful young pup will grow into a sycophant or whether, with maturity, he will acquire the necessary aloofness towards strangers.... Chows develop this exclusiveness early and even at eight or nine weeks of age they show marked individuality of character.
>
> (Lorenz 1959:85)

With all of this, as I have allowed, many will agree. But many will not and one does not have to be particularly knowledgeable about dogs to register a mild protest. Lorenz, perhaps in his eagerness to commend the chow and alsatian, might be thought improperly to elevate these breeds and, just as improperly, to demean those he objects to. The procedure is improper because he trades on the language of what are *human* virtues and vices rather than canine ones. This is my view. The evidence offered by Lorenz for the labels of fawner or sycophant, both offensive rebukes if directed at people, is that the offending dogs are indiscriminate in their friendliness and quick to give it.

Now this behaviour, other things being equal, is a vice neither in animals nor humans; indeed it might well be accounted a commendable trait akin to gregariousness. But the qualification is important since if things are *not* equal (if we have, let us say, only the *appearance* of friendliness) then the proper diagnosis might be more insidious since fawners, flatterers, sycophants and toadies are notoriously pleasant when it suits them. So is the groveller. So what is necessary to be one; with all of the implicit moral censure? (And it *is* implicit. The phrase 'a well-intentioned toady' or 'an honest sycophant' carries a distinct whiff of self-contradiction.) What is necessary in order to qualify as one of these dubious characters must involve some combination of self-abasement and insincerity; dishonesty in the service of self-advancement. To be merely servile, like the ancient companions, is not to be a sycophant; but if they *despise* the mistress they obey then it is. Furthermore all of these character ascriptions carry with them some sort of self-awareness; awareness, albeit not always clearly focused, that one is *being* insincere or whatever. What could be meant by describing someone as an unwitting sycophant? At best the person in question might give the *appearance*, to a casual observer, of behaving in this unacceptable fashion. Perhaps he

gushes or his manners are artless, but if the required insincerity is not present, then it is *wrong* to label him as if it were. A person with this undeserved stigma of moral fault, which cloaks something far less odious (indeed artlessness of manner can be a very attractive trait), is very close to those dogs of which Lorenz has such a low opinion. There is a difference also. A person, being *compos mentis*, is *capable* of the type of insincerity required to be correctly labelled a sycophant. Its presence was simply ruled out for the purposes of the example; most people, most of the time, are not insincere. But with dogs, momentous difficulties arise when we try to make sense even of their *capability* for the sophistication necessary to exhibit anything like insincerity, let alone its actual presence. Indeed any form of pretence, of which insincerity is a less reputable species, if attributed to dogs in an other than technical or metaphorical sense raises similar problems.

> Why can't a dog simulate pain? Is he too honest? Could one teach a dog to simulate pain? Perhaps it is possible to teach him to howl on particular occasions as if he were in pain, even when he is not. But the surroundings which are necessary for this behaviour to be real simulation are missing.
>
> (Wittgenstein 1958b: sect. 250)

Lest an exasperated reader, familiar with certain examples of apparent simulation in all sorts of animal behaviour, is tempted to close the book at this point I shall, once again, anticipate what is to come. Several small mammals, such as the American opossum, 'sham dead' when confronted by a predator who, if they are lucky, loses interest in a stationary victim and moves on to more exciting matters. The opossum lives to die another day. But it has not been cleverly shamming. The explanation is a state called thanatosis; a temporary paralysis, akin to hypnosis, brought about by the shock of confrontation. Thanatosis can also occur as a result of a sudden change of position. A frog suddenly turned over upon its back will be similarly paralysed but soon recover. Lorenz himself provided the explanation of another type of extraordinary behaviour. A squirrel in captivity will eat only a certain amount of food. If there is more than it can consume it may well be observed to go through all the motions of burying the surplus on the hard floor of its cage. This act of shadow burying leaves the squirrel content despite the fact that the food is still obviously there to see. But it is a mistake to see this, and many other bizarre 'shadow'

performances, as a simulated burial or whatever. Lorenz showed that these were so-called fixed action patterns, a form of complex automatism which lies at the heart of the animal's repertoire of instincts.

These two examples are revealing but not conclusive. Much of this book will be concerned to show, in a sustained way, precisely *why* it is incorrect to attribute to all animals, with the odd rare possible exception, even the *capability* of pretence, insincerity, and a whole range of other 'mental' attributes. What follows from this for the practical and moral issues involved will be intriguing. But the issue facing us here is the value of Lorenz's talk of dogs as fawners and sycophants, and it would seem to ring distinctly hollow if based solely on the evidence of gregariousness on the part of creatures whose capacity for lack of sincerity or related varieties of subterfuge is, to say the very least of my counter-examples, a moot point. With dogs we seem to be on even stronger ground to counter the charges than in the case of the artless and gushing person. In desperation his critic might argue that the lack of social graces masks a schemer whose deceit knows no bounds but for which he has no hard evidence; at least we cannot prove otherwise. This popular device of quibblers is desperate because, lacking evidential support, it would be based purely upon the object of attention being a human being capable of dissembling. But with dogs, if my doubts are justified, even this dubious manoeuvre is not available. But dubious manoeuvres make good rhetoric and there must be many readers influenced by Lorenz's marvellous books who speak slightingly of spaniels or setters because his argument has faltered by too closely identifying dogs with human beings.

In defence of Lorenz

But *does* it falter? Since I am using the Lorenz quotations to provide a foretaste of what will be a lengthy discussion it will be worthwhile to pick at a few more threads. He is an expert naturalist, a fact too well known to benefit from my acknowledgement, so how might he be defended? Firstly, it might be claimed after all that some animals, higher mammals perhaps, are capable of the insincerity and deceit necessary to qualify as sycophants and fawners properly so called. Now I have already given several reasons for doubting that this is possible since it involves our regarding animals as what are called *moral agents*, capable of vice and virtue. Furthermore, none of the liberationist authors to whom I have so far referred to are prepared to argue

that even the highest mammals can be so categorised. Tom Regan (1983:151–6) allying them with human imbeciles and infants, talks of them as moral *patients*, and these comparisons are typical. However, it is fair to warn the reader that I shall be employing the *type* of argument that disqualifies dogs as authentic sycophants or fawners to undermine the attribution to animals of a whole range of what are often called mental abilities, such as desires, emotions, intentions, preferences, self-awareness, *in the sense in which these terms are used of human beings.* To this escalation of the attack Regan and the others will be seen to be united in implacable opposition.[3]

Secondly, it might be claimed for Lorenz that in training my guns upon the understanding of, say, 'sycophancy' as we might use it or withhold it of aged retainers or artless youths, I am missing the point. He is talking of an exclusively *animal* characteristic. Now there are, of course, such characteristics. Autotomy is the facility possessed by reptiles such as shore crabs by which the reflex action of a special muscle can cast off certain parts of their bodies if they are seized by a determined predator. The rejected claw or whatever grows back. Human beings are not autotomous nor, I think, would it enrich the human condition if we were. Typically the term 'autotomy', apart from a superficial resemblance to 'autonomy', suggests nothing that might be human. Where there *is* such a suggestion the term almost invariably implies a similarity. Thanatosis, discussed above, is not exclusive to animals nor is the term. It has its human analogue in most people's experience of being unable to move or cry out in extreme fear. One is as if momentarily hypnotised, as the explorer David Livingstone discovered in a singularly unenviable way:

> The lion growled horribly in my ear and shook me like a terrier does a rat. The shock produced a stupefaction in me, like that which a mouse must feel when caught by a cat. It induced a sort of state of anaesthesia, in which I felt neither the pain nor the shock, although I was fully conscious at the time. I was like a patient slightly under the influence of chloroform, who sees all the motions of the operation he is undergoing yet can feel no trace of the knife. This extraordinary state was not the outcome of any mental process, but the shock removed all trace of fear, and eliminated all horror—even in the very face of the lion.
>
> (Burton and Burton 1977:272–3)

Lorenz cannot claim that sycophancy is a trait exclusive to animals, like autotomy, since the term has primary application in the human sphere. It would be unbelievably misleading to use 'sycophant' of animals yet deny any human analogues and this is clearly not Lorenz's intention since, as we have already seen, he is trading on the pejorative implications of the accepted usage. So if there cannot be an identity with this accepted usage then there must at least be a substantial similarity with it; as in the case of thanatosis.

This brings us to a third possible defence of Lorenz and one that will be influential in this book. It develops the idea of there being a 'substantial similarity' between the two uses. Stephen Clark, for example, argues for the presence in many animals, including vervet monkeys and dogs, of 'the roots of conscience' which, like sycophancy, hints at implications of morality (1985:50). To lack conscience speaks for a degree of insincerity. He continues:

> To be a 'good dog' is to have those virtues of character that must be fairly widespread in a natural population if creatures of that kind are to survive and reproduce. A good dog is discriminating in her choice of mate [and] may show some signs of having preferred the paths of virtue to those of easy gratification. Human animals alone…have taken the next step, that of trying to assess their own sentiments in the light of reason.
>
> (Clark 1985:50–1)

This passage might well fill an astute reader with disquiet. It is a thicket of problems into which I will be venturing later. Let me just hint at the cause for suspicion. The 'virtues of character' picked upon by Clark relate explicitly to reproductive and survival strategies which have enabled some species to flourish at the expense of others which either struggle or become extinct. Now such 'virtues' do not necessarily carry with them either moral agency or moral approbation. The snake that lies in the sun, warms up its ovaries and proliferates is *doing simply that*. If we approve of it and prefer it to its sun-shunning fellows with smaller broods it is simply on the grounds of an efficient survival strategy. But this is not *moral* approval. The successful quarterback or financier is not *thereby* a 'better person' (the phrase which, in a rough-and-ready way, encapsulates the essence of moral approval). Clark, not unlike Lorenz, seems to be equivocating. He establishes a sense of 'virtue' which is undeniably true of animals, namely that they perform certain functions, in this case of

survival, efficiently. Such a use is common in English; it is perfectly proper to talk of the virtues of the Volkswagen, or those of bottled water in the tropics. But this sense of 'virtue' is morally neutral. Clark then glides effortlessly on to talk of the dog's discrimination and its preferring 'the paths of virtue'. Here the implication of *moral* approval, the arena in which 'virtue' has its more emphatic location, is clearly intended. It might well be claimed, in Clark's defence, that he is simply pointing to the roots of conscience and that these roots are morally neutral. If this be so, then how do these roots suddenly become invested with moral significance? Indeed the suspicion remains, and I shall attempt to justify it, that the *moral* significance is inextricably involved with Clark's next step, the human one, that of assessing sentiments 'in the light of reason'.

Anthropomorphism and the expert

If the criticisms that I have levelled at Lorenz are plausible then he has done more than unjustifiably demean the dogs he dislikes by harking to the language of moral vice appropriate for humans. He has, in the process, presented a distorted picture of the very nature of these creatures by the implication that they have the *capacity* for the sophistication necessary to deserve such labels as 'fawner'. It might be added, to redress the balance, that he is extravagant and misleading in attributing to his favoured Lupus cross-breds the capacity for the virtues of 'aloofness' and 'exclusiveness'; if, indeed, they *are* virtues. Whether or not, in either case, the element of sophistication, absent in dogs, is again necessary for their proper, morally praiseworthy, attribution. The same might be said of Clark's praise of 'good' dogs as 'discriminating' ones. What Lorenz has done, and it is something that he does frequently, is to indulge in *anthropomorphism*. Yet it is a habit that he also warns against: animals are *animals*, not to be viewed as if they were human beings in similar circumstances and treated accordingly. In *King Solomon's Ring* he casts scorn upon visitors to zoos who

> are in the habit of wasting sentimental pity on animals that are absolutely contented with their lot.... People are specially apt to pity those animals which, owing to their particular emotional associations, play a prominent role in literature, like the nightingale, the lion and the eagle.
>
> (Lorenz 1964:49)

The eagle is too stupid to suffer from any loss of freedom and the lion too 'enviably indolent'. He also ridicules the idea, popular with almost all shades of liberationist, that the higher mammals have an inborn love of freedom and suffer a perpetual call of the wild:

> The notion…that a really tame mongoose, fox or monkey, once let loose, must certainly attempt to regain its 'precious freedom' for good and all, implies a false anthropomorphization of the animal's motive. It does not want to get away, it only wants to be let out of the cage.
>
> (Lorenz 1964:72–3)

That a scientist like Lorenz, anxious to avoid the expense of false sentimentality upon animals, nonetheless fails to avoid some of its less obvious pitfalls is particularly enlightening. For a start it demonstrates that anthropomorphism is both more elusive and pervasive than is often supposed. It can be crass, of course, and many think this best exemplified in children's books like *The Wind in the Willows, Winnie the Pooh* or the Brer Rabbit stories. It might be thought that liberationists would applaud the depictions of animals in these and other wonderful books since the children who read them seem to overflow with fellow feeling for the real things, be they toads, donkeys, mice or the tiniest bug. In fact such works tend to be dismissed for perpetuating objectionable stereotypes: the silly goose, bloodthirsty wolf, sly fox, overweening toad, and the rest. Rollin discusses this very sensibly (1981:45). But many anthropomorphic flights of wishful thinking are *not* transparently so and it is to the exposure of certain of these, and the consequent implications, that this book is devoted.

The second reason why Lorenz's flirtation with anthropomorphism is enlightening is that it encourages a justifiable scepticism over accepting *every* claim made by experimental scientists in this, as in any other, field. Forensic experts in a court of law can establish incontrovertibly that the fatal bullet was fired from exhibit *A*, and that the clothes of the accused betray minute stains of a blood-type identical with that of the victim. These are the acknowledged fields in which the honest testimony of the expert witnesses is properly accepted by judge and jurors as the truth. But if the ballistician stated his conviction that the defendant murdered the deceased or, even more hazardously, that he murdered out of greed or envy, then these views would be struck from the record and he would probably lose his job. Unfortunately it is rare that an alleged expert will tip his hand as blatantly as this. Life would be simplified were it so.

Indeed there are often bitter disputes over precisely where the boundaries of expertise are to be drawn particularly in fields, unlike the law, where no attempts have been made to clarify, let alone codify, an equivalent to the jurist's rules of evidence.

Our own field, that of understanding animals, is notorious for such boundary disputes, in part because there are so many purveyors of alleged expertise jostling for recognition. Here is a revealing, if controversial, example. It will be discussed at length later. Comparative psychologists are much interested in the ability of animals and birds to communicate with each other. Gulls, for example, make a particular call if corn is thrown to them which attracts others but issue a variant of greater range if the offering is fish. Vervet monkeys' alarm calls similarly differentiate predators, whether big cats, eagles or snakes and elicit different responses from their fellows that hear. These are snippets of what are called natural communication systems and their variety is fascinating. That the calls and responses occur in the appropriate contexts tends not to be disputed. But the fur begins to fly when discussion moves to the value of these mutual behaviour patterns as indicators of the *intelligence* of the creatures in question or the nature of the communication with which we are here involved. Ethologists tend to agree that the behaviour involving gulls and monkeys is *instinctive* although in many cases capable of adaptation; it is present in the lowest of creatures, tends to be inflexible (which is why specific birdsong is so easily recognised) and is triggered by precise causes. Now on this view it would be misleading to talk of the gulls *telling* the others that fish is on the menu or of the listening monkeys *being warned*. Careful writers would talk of 'telling' or 'being warned' to indicate an attenuated use; and likewise they might refer to it as 'communication'. It resembles in some ways the 'communication' that takes place within a complicated machine or organic system like the body. But some comparative psychologists and certainly many animal enthusiasts would scorn the inverted commas and talk of the information imparted by one creature to others who *understand* what the first one *says*. Yet there does seem to be an important difference between understanding a sound, which has to do with the *meaning* that it might have, and merely responding to it in an instinctive way.

My own sympathies, in considering the above issue, tend firmly towards the 'instinctive' solution which emphasises the gulf between simply reacting to sounds rather than understanding them. Thus gulls and monkeys are misleadingly described as giving each other information, being warned, and understanding.

However, I would not wish my Introduction to leave a reader under the impression that I am in favour of excising such phrases from our talk about animals. This would be a silly crusade. Such talk has a purpose. Sarah Helm (1989: 24) reports a UK rabies expert as describing the virus as 'extraordinarily clever' but there is no implication of a premeditated masterplan to conquer the world. He is remarking upon its extraordinary adaptability:

> Its masterstroke is the way it replicates in nervous tissue—where the immune system is ineffective. Growing in the brain [it] causes madness—and then, with perfect timing, as the host starts to attack other animals, the virus leaves the nervous tissue and enters the saliva.
>
> (Helm 1989:24)

If this, admittedly somewhat sensationalistic, way of speaking is possible without misconstruction we ought with care and insight similarly to accept that much of our talk about more complex creatures is, as it were, hedged in by emphatic but inexplicit contextual implication. I hope that this book will go some way to providing grounds for such care and insight. Wittgenstein's seminal notion of *language-games* will be an essential methodological aid in showing that what is at issue here is not something exclusive to our talk about animals but a general feature of our understanding of the way that language works.

1
THE UTILITARIAN BEGINNINGS

Singer and utilitarianism

My Introduction plunged the reader, with few preliminaries, into some heady issues. It is now time to return to those preliminaries and examine the background to the contemporary flurry of concern for animals. It has a varied and enlightening history stretching back as far as one likes to think; primitive man farmed animals as well as hunting them and implicit in both activities is some concern for their welfare and interest in their habits. The earliest written sources usually cited are biblical ones with their obvious importance for the religious attitudes towards animals exemplified in Judaism and Christianity. But the history is not essential for an understanding of the crop of recent theories and will be found more apropos against a contemporary background. So it is to these theories that we turn.

The debate was originally fuelled by moral concerns about *equality* and, for some theorists, *rights* rather than specific discoveries about the nature of animals. The 1970s were relatively successful, some would say enormously so, in boosting reform movements geared to ameliorating the lot of certain allegedly oppressed people, notably women, blacks, and homosexuals. The reasons for the timing are the province of social historians. But what is clear is that the nature of the noisy, prolonged, and often violent debate revolved around claims for *equality* for which the goal for these groups was *liberation*. The claims on behalf of animals, pioneered by Peter Singer, followed in the wake of these advances. They are also explicitly allied. The fact that the phrase 'animal liberation' raises for many people the spectre of balaclava helmets and violence to property is unfortunate since the phrase was coined to recall the charisma and inspiration of the movements for human liberation.

Singer begins from basic considerations about the nature of ethical thinking. As he puts it, 'Ethics takes a universal point of view' (1979: 11). He derives from this a twofold theory of what an ethical judgement should encompass. Firstly, in considering the problem from everyone's viewpoint, my own likes and dislikes are to be taken account of, but they must count for no more than any other person's. These desires and aversions reflect people's *interests*. The remaining task is to select as the right course of action that which has the best consequences for all concerned. This will, of course, involve balancing interests against each other since only in the rarest cases will everyone be satisfied to the full. This second requirement clearly identifies Singer as a *utilitarian* in the late eighteenth- and nineteenth-century tradition of Jeremy Bentham and John Stuart Mill. Their guiding principle of moral action, the 'best consequences', was encapsulated in the well-known phrase 'the greatest possible happiness to the greatest possible number' (Sidgwick 1874:381).

The principle of equal consideration of interests

If the second feature of Singer's theory points to his being a utilitarian, a label he willingly admits to, the first emphasises his commitment to an uncompromising *equality*. To say that all humans are equal is to say that no one person's interests, or no group's, must take precedence over those of other persons or groups simply because they are that person or a member of that group. It seems to be a corollary of this that when we are deliberating about an outcome with moral implications we must give equal weight to similar interests notwithstanding the sex, race, class, education or abilities of the individuals or groups that have them. This sense of equality is summed up in Singer's principle of equal consideration of interests:

> The principle of equal consideration of interests acts like a pair of scales, weighing interests impartially. True scales favour the side where the interest is stronger or where several interests combine to outweigh a smaller number of similar interests; but they take no account of whose interests they are weighing.
>
> (Singer 1979:19)

It must be stressed that fairly modest claims are made for this principle. It does not tell us how the 'scales' work. How do we weigh an idler's desire to live a quiet life against that of the

professional brass player in the adjoining apartment who needs to practise for several hours each day? A court might eventually make a decision but legitimate disagreement can persist. Nor, more perplexingly, does Singer clarify whether and why all such disputes must necessarily be seen to be *moral* ones. He seems, however, to be attempting to capture what for most of us is an important yet elusive prey; how to give substance to the claim frequently made that in some sense a highly sophisticated representative of the civilised world like Albert Einstein and the most illiterate and impoverished of Ethiopian tribeswomen are nonetheless equal. Yet since Einstein and the peasant could hardly be more different from each other it would be foolish to treat them in exactly the same way. The woman would make nothing of men's clothing, or mathematical papers, and Einstein would not thrive on primitive cuisine and a few goats. But what would be preserved, despite the wildly different provisions made, is an equal respect for the different interests of both of them and it is precisely with this in mind that, it is argued, it would be foolish and uncaring to give them the same things.

Singer's principle is minimal; it enjoins equal concern for others' interests without specifying the forms that it should take nor when it should properly be taken. But it is also an *ethical* principle and by this Singer means that equality is not something for which we qualify or from which we are disqualified in virtue of any particular qualities or abilities we might have as individuals nor as members of ethnic or social groupings. That a child shows an aptitude for playing the violin or acting might well justify their being given a special education at, for example, the Yehudi Menuhin school in London, with an excellent chance of an illustrious career to follow. But this is not discriminatory; it is a response to their interests and their ability to make the most of them. Similarly, someone with aggression and the gift of prophecy ought to be allowed to earn a lot of money without fear of moral rebuke.[1] But musical aptitude or aggression are not grounds for giving *priority* to the interests of their possessors nor for providing for them at the expense of those of less gifted people. This is why the alleged genetic differences in ability or character traits between either the races or the sexes, even if sustained, is not a justification for unequal treatment.

Singer's principle is at its most persuasive when we are talking about very general and basic human interests: having a sensible amount of food, a reasonable place to live, employment within one's capabilities, some leisure for pastimes and the chance to make friends and enjoy company, and so on.

Now the fact that the principle of equal consideration applies to all human beings irrespective of the differences between them will have a crucial role in its being adapted to a defence of animals. That it does might seem to be best illustrated by my previous example of Einstein and the Ethiopian tribeswoman. Despite the differences in sex, colour, ethnic origin, cultural background and, above all, intelligence, they are both entitled to their very different interests being treated equally seriously. For someone to object that Einstein is a genius whose discoveries are of far greater value to the human race than anything that the woman might conceivably achieve and that his interests should therefore take precedence is to enter a minefield. Indeed the notion is more than ambiguous, it is ideological. Is the present President of the United States or the British Royal Family preeminently useful to society? Answers from left field will tend to contradict those from the right. Or, more blatantly, to argue that men are superior to women or whites to blacks (Einstein winning on either count) is no less partial.

Infants, permanently retarded humans, and John Rawls

Let us grant that, in the sense proposed, Einstein and the tribeswoman are equal. It is now asked if Einstein and the oak tree, under which he happens to be sitting, are similarly equal. The question would probably be met with incredulity. The oak tree, it will be said, although living and deserving of preservation is just not the sort of being capable of equality with a human being. The tribeswoman, as any anthropologist will tell us if we do not know already, is a complex individual. She will speak a language of some sophistication and will be experienced in the ways of nomadic or village life. In particular she will know what is due of her social class and that of her family. She will thus have a sense of local *justice*; of what is done and not done. These attributes she shares with Einstein, he in *his* own way, and it is this sense of justice or 'moral personality', as the philosopher John Rawls (1972) calls it, that is the necessary and sufficient condition for equality. The oak tree fails these tests despite its beauty and value.

But Rawls' proposal clearly is divisive and the liberationists are united in their opposition to anything like it. Singer's objections (1979:16–17) are typical and will serve as preliminaries to the fuller treatment in Chapter 7. He argues, firstly, that moral personality will not always be undeniable. Even within so-called

primitive peoples there are contrasts of grasp and sensitivity and it will be difficult to know where to locate the minimal qualification. Secondly, it is not 'intuitively obvious why, if moral personality is so important, we should not have grades of moral status, with rights and duties corresponding to the degree of refinement of one's sense of justice' (16–17). Thirdly, and it might seem conclusively, however low we set the minimal requirement of moral personality for equal consideration of interests, there would be large numbers of human beings who would be ruled out of court. The two groups which dominate the debate are infants and imbeciles, namely 'humans with severe and irreparable brain damage'. This strikes him as an unacceptable price to pay since the interests of the individuals in these two groups are often guarded far more intensely than those of normal adults precisely because they are unable to fend for themselves.

However, the proposal that the possession of a version of Rawls' 'moral personality' is central to the argument will not lie down that easily. It would be misleading to proceed to animals without giving some preliminary pointers as to how it might be revived and the objections met. That problems might beset the minimal qualifications for moral personality ought not to disturb us. The exigencies of life require that we must cut Gordian knots to allow for marginal cases; just as a jury's need to be sure beyond all *reasonable* doubt leaves room for genuine dissent. Singer's second criticism raises more basic difficulties at which I will only hint. Rawls' notion, exemplified in the relative sophistication of the tribeswoman, involves the recognition that social life is a matter of 'give and take'. It is the simple grasp of this need for 'give and take', and what properly follows from transgressions, that constitutes moral personality and is the basis of ethical awareness. It is important to note how this view differs from Singer's view of ethics as the 'universal point of view' (1979:11). The contractualist tends to limit one's obligations to the various groups with which one interacts: family, friends, village, and so on. One's interests will be respected not by being a member of *homo sapiens* but by being a paid-up member of the particular moral club involved. Those incapable of appreciating the importance of obeying the rules will lose moral status. In other words we meet the second objection by accepting a version of what Singer finds repugnant and attempt to justif y doing so by showing that it provides a more persuasive account of ordinary ethical thinking.

The third objection, relating to infants and imbeciles, can be answered in several ways. However the two groups do not stand or fall together; indeed they do not stand or fall alone since each

admits of significant internal variation. Rawls himself certainly wants to include them and he does so by allowing that the interests of *potential* persons are guarded as zealously as those of actual ones. But how can this be if they are outside the scope of contract and lack moral personality? It looks to be an *ad hoc* device, as Singer claims, to keep up appearances (1979:17). But a fellow liberationist, Bernard Rollin, unexpectedly comes to Rawls' rescue. He argues convincingly that the criticism ignores the scope of the moral agent's interests. The tribeswoman will be passionately concerned for the health and future of her infants. Community life, as in any society including our own, will be preoccupied with the provision of schooling that meets the needs of its children. So the appeal to the 'potentiality' of infants and other moral patients is rescued from the *ad hoc* by being seen as typical of the justifications given by adults for their own interests in them. Animals command similar respect. As Immanuel Kant, writing in the eighteenth century, puts it: 'A master who turns out his ass or his dog because the animal can no longer earn its keep manifests a small mind' (Kant 1963:241). Rollin concludes that 'nothing follows from Rawls' theory about excluding animals from the scope of moral concern' (1981:13), although the obligation will not extend to *all* animals regardless of their place in human affection.

This preliminary defence which I have proposed to meet Singer's rejection of contractualist theory has conservative implications. It provides grounds for holding that even if one makes the possession of something like moral personality a qualifying condition for being a moral agent, the interests of those who fail to qualify are not automatically excluded. David Hume argues not unlike this in *An Enquiry Concerning the Principles of Morals* (1751) invoking 'the laws of humanity' for what I have described as typical justifications employed by moral agents for respecting the interests of moral patients:

> Were there a species of creatures intermingled with men, which, though rational, were possessed of such inferior strength…that they were incapable of all resistance…the necessary consequence, I think, is that we should be bound by the laws of humanity to give gentle usage to these creatures, but should not, properly speaking, lie under any restraint of justice with regard to them…. Our intercourse with them could not be called society, which supposes a degree of equality; but absolute command on the one side, and servile obedience on the other… This is plainly the

> situation of men, with regard to animals; and how far these may be said to possess reason, I leave it to others to determine.
>
> (Hume 1902:190–1)

(Hume also puts 'barbarous Indians' and 'the female sex' on this footing. He could have added young children and imbeciles.)

Singer and the other liberationists, including Rollin, would point out in their defence that what is not automatically excluded by the defence is not automatically *included* by it. What of moral agents who show no concern for infants or animals or have interests in positively harming them? There *are* such; Hume's laws of humanity are not universal. Are they entitled to act upon these impulses? Furthermore even those agents who acknowledge the need to give consideration to the various categories of moral patients, they would argue, would almost certainly be very restrictive in what they would acknowledge was due these groups, particularly animals. These protests could be supported by appeal to the treatment of animals in contemporary western society (not forgetting the human parallels) which, even if it is perfectly legal, is regarded by the liberationists as barbaric. This point was made in the Introduction. They treat Hume's 'gentle usage', if it be taken as enjoining no more than kindness to animals, with little short of scorn: 'a Victorian concept which comes under the heading of "charitable good works"' (Hollands 1985:170).

This might be generalised as follows. On contractualist premises the interests of those people with moral personality are respected in virtue of what they are themselves as moral agents, whereas the moral patients who lack this personality are only accorded those interests which the agents think fit to confer upon them. This, Singer would argue, is not equality. For the debate to progress we must proceed to examine the sense in which, it is claimed, interests can properly be said to attach to animals and what those interests might be.

Are animals equal?

So far the universal application of Singer's principle of the equal consideration of interests has been limited to human beings although it has been implicit all along that animals were waiting in the wings for inclusion. Many people are enraged by the mere suggestion; it appears either absurdly optimistic in elevating the poodle to the status of its mistress or irritatingly pessimistic in reversing the process. Racial or sexual equality, it will be

conceded, is all very well since even the most ardently divisive supremacist will admit that the similarities between the contending groups are considerable enough to keep equality a live issue. But poodles! And what about worms? Where will it end? Now most of these comments, trivial or not, raise points of great interest. For example, if it can be justifiably claimed that trees have interests then perhaps they deserve equal consideration. (It is worth reminding ourselves that some people feel as strongly about the preservation of forests as others do about threatened wildlife such as the barn owl or the greater horseshoe bat, even to the extent of being murdered for their pains.[2])

The 'argument for enragement', if I might call it that, can be met by yet another appearance of Einstein and the Ethiopian tribeswoman. That they could plausibly be thought equal in terms of Singer's equality principle does not imply the promotion of the lady into a mathematical genius nor the diminution of Einstein's intelligence to match that of the lady's peasant husband. To think that it might is due to a confusion over the fact that equality of interests in no way implies that these interests will be the *same*; all that is at stake is that the different interests, whatever they might be, will be given equal respect. (We must not, of course, forget the problems involved in 'weighing' that this heralds.) What is here proposed by Singer, as we have seen, is an ethical principle —it is 'not a description of an alleged actual equality among humans: it is a prescription of how we should treat humans' (Regan and Singer 1976:152). However if it is possible to unearth an even more minimal characteristic which truly does unite all humans, and which is relevant to their having interests, then Singer seems prepared to accept it as a factual base for his principle which, in a not entirely clear way, supplements its ethical status (1979:50). The candidate at hand is the capacity for *suffering*. It is invariably presented in a prescient passage from Bentham's *Introduction to the Principles of Morals and Legislation,* published in 1789:

> The day *may* come when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may come one day to be recognised that the number of the legs, the villosity of the skin, or the termination of the *os sacrum,* are reasons equally insufficient for abandoning a sensitive being to the same fate.