

RIGHTS AND DUTIES UNDER THE LAW OF NATURE: Contractarianism and the Moral Status of Animals

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Abstract

This is a philosophical inquiry into the moral status of animals, focusing on which ethical principle should guide us in our relationship with animals. The author examines the case for applying contractarian theory to animals other than human beings by looking in particular at the issues of rationality and trusteeship. From the law of nature and by way of a contractarian approach the author arrives at the principle of humility, which he advances as the ideal basis for our behaviour in respect of animals. He then tests certain prevailing philosophical positions in this area, including those of Singer and Regan, exploring utilitarian and rights conceptions. Finally, the author considers the significance of the principle of humility in practical terms in order to evaluate its utility as a moral judgment.

Key words: Animal Ethics, Singer, Regan, Contractarianism

For a given moral principle to be reasonably supported as a valid one, it is essential for its supporters to have an idea of how any such principle should be judged to be so. In other words, in an ideal moral judgment, ‘What is needed are criteria for rationally evaluating and choosing between competing ethical principles.’¹ In turn, therefore, the quality of a particular judgment depends on the reasonableness of the criteria on which it is assessed. To be sure, certain terms of reference may be more readily acceptable than other terms. For example, it is reasonable to require that a valid moral principle be consistent because its very purpose is to act as an authoritative basis on which actions may rationally be deemed right or wrong. So it is clear that if a principle implied that the very same action could be both right and wrong, it would have failed in this regard. However, even if a given ethical principle were consistent, it would still have to be sufficiently precise for the same reason. Thus, it is equally legitimate to expect a principle to provide specific direction in a significant range of instances, as this eliminates the possibility of uncertainty surrounding its requirements. Thirdly, any such principle should also be *conceptually* clear, meaning any determination as to its validity necessarily requires explanation of the concepts with which it is concerned.

Conversely, other criteria may be more controversial and, as such, less readily acceptable. Consider, for instance, the criterion according to which ethical principles must conform with our moral intuitions. For the very purpose of conceptual clarity, moral intuitions are defined here as our considered beliefs rather than our unexamined convictions. Since the initial reaction of human beings to moral cases denotes a degree of irrationality, the specific appeal to *considered* beliefs is made to enhance the reasonableness of this criterion. The question is therefore whether appeals to such ‘reflective’ moral

intuitions constitute a reasonable basis on which competing ethical principles should be evaluated. Of course, to deny the reasonableness of this basis is to insist that moral theories can be developed without the need for such appeals. Therefore, since some appeals to reflective intuitions will be made for the purpose of the moral inquiry in hand, the possibility that this test may be a reasonable one in certain cases must be accepted here. Nevertheless, it is true that not everyone has the same reflective intuitions, although it must also be conceded that the degree of consensus varies according to the moral case in question. For example, many advocates of the argument that animals are conscious beings take this position because they hold a considered belief that animal behaviour is consistent with this view. In other words, the initial reaction of most humans to the visible behaviour of animals (coupled with a fair reflection on that reaction) leads them to hold the belief that many animals should be understood as being aware of both external and *internal* forces (such as pleasure and pain). Some, however, have denied the attribution of consciousness to such animals (Descartes being an important example). Yet the fact that not everyone would share this belief has not prevented Regan from describing it as ‘...the commonsense view of the world.’²

Still, there may exist far greater divergence among the beliefs of individuals in harder moral cases. Thus, as far as the slaughter of or experimentation on animals is concerned, for example, it would be much more difficult to assert that a common-sense view exists at all. At least in such instances, then, it seems reasonable to argue that to employ intuition as a test of validity *viz.* moral principles is to prevent validity being rationally accorded to those principles from the outset. In other words, the principles arrived at could only ever fit our individual as opposed to collective intuitions because the latter do not exist, meaning the principles could never be applicable to all persons. This objection constitutes a fundamental criticism because it wholly denies the possibility that intuition could serve as a useful test for determining the validity of moral principles in so-called ‘hard’ cases. On the other hand, the same objection does not preclude the possibility of justifying the belief that a given principle is binding on all persons without demonstrating that all persons share that belief. In other words, it is not actually necessary to appeal to the existence of a collective consensus for a principle to be advanced as an ideal moral judgment, but in certain specific instances it may be of use to do so. Indeed, it is for this very reason that we can now move on to the moral inquiry in hand, the aim of which is precisely to derive a valid principle that could serve as a guide to human conduct in relation to animals. Its validity will be determined by reference not only to its source but also to the extent of its conformity with the aforementioned criteria (including, in certain cases, our ‘reflective intuitions’).

At this point, the need for conceptual clarity requires us to offer a definition of the concept of an ‘animal’ before its moral status can be determined in any meaningful way. In brief, an animal may be defined as ‘a living organism that feeds on organic matter, usually one with specialised sense organs and nervous system.’³ We can draw a couple of important observations from this simplistic description. Firstly, human beings clearly fall within this definition of animals. Thus, it should not be inferred from the use of the term ‘human beings’ so far in this inquiry that any inherent or fundamental differences between

human beings and animals have been presumed or even accepted. On the contrary, the term ‘animals’ (at least in the manner in which it is employed below) is to be taken to comprise human beings, save where specific reference is made to the human race as distinct from other species in the animal world (and vice-versa). Nonetheless, the nature of such differences (that is, the existence of possible grounds for distinction) and, in turn, the issue as to whether such differences could constitute justificatory grounds on which *moral* distinctions may be drawn, remains to be considered. Secondly, the nature of the differences between these other species also remains to be identified, as this equally forms part of the issue as to whether the principle advanced below should apply to animality in its entirety.⁴

1 - Humility and the Law of Nature

‘A “law of Nature”, *lex naturalis*, is a precept or general rule found out by reason by which a man is forbidden to do that which is destructive of his life or taketh away the means of preserving the same, and to omit that by which he thinketh it may be best preserved.’⁵

In essence, as the singular term ‘man’ suggests, this notion of self-preservation (Hobbes’ fundamental law of nature) is clearly individualistic, not to mention its being confined to human beings. Consequently, according to Hobbes, ‘...of the voluntary acts of every man the object is some good to himself.’⁶ In more recent times, however, certain biological thinkers have sought to challenge this traditional position. For example, it has been claimed that ‘...the human mind contains numerous instincts for building social co-operation and seeking a reputation for niceness.’⁷ Yet the notion of self-preservation as expounded by Hobbes does not dismiss this view, but rather explains it in terms of itself. Indeed the fifth law of nature, derived from the fundamental rule of self-preservation, provides that every man must strive to accommodate himself to his fellow men. The purposes of this law are the achievement of peace and, in turn, self-preservation, hence its derivation from the latter. This distinction between the mechanism which produces the natural desire and the content of the desire itself is important as it emphasises the point that, on this view, the actions of a man must ultimately be *driven* not towards the preservation of mankind but towards that of his own self. On the other hand, as Hobbes’ acknowledged, the possibility that the preservation of the self may necessitate the preservation of others is not precluded altogether. So it would be rational for a person to protect the lives of close relations because their continued existence could increase the chances of that person’s own preservation.⁸ Note, however, that such protection clearly could not extend as far as to violate the fundamental law of nature.

In fact, Hobbes derived many other laws from this fundamental rule, one of which is of particular pertinence to this inquiry. It prescribes that every man should acknowledge another for his equal by nature. Given that Hobbes describes the breach of this precept as ‘pride’, it is fair to label it the ‘principle of humility’. Moreover, it is clear that the humbleness concerned must be of a uniform nature. In other words, it must not be confused with the deference that is manifested by some due to the dominant position of others. Rather, it amounts to the duty on the part of all humans to recognise that

each and every one of them is of equal importance. How, then, is this principle derived from the law of self-preservation? It is argued that self-glorification causes human beings to become complacent with respect to (and therefore more prone to) future conflicts, thereby decreasing their chances of survival in the ‘state of nature’. By way of clarification, it must be borne in mind that Hobbes was no more referring to the position of modern society than he was to that of a past one. Rather, the ‘state of nature’ to which the laws are said to apply merely corresponds to a hypothetical situation made up of self-interested and rational individuals.⁹

The question of relevance here is whether the fundamental law of nature could be extended so as to apply to all animals.¹⁰ As such, this issue depends on the inclusion of all animals in the hypothetical situation to which the law applies and, therefore, on the plausibility of making the assumptions held to constitute this situation in respect of all animals. In regard to the first, it does make sense to assume that all animals are self-interested creatures. On the other hand, the assumption of rationality cannot reasonably be made with respect to nonhuman animals. At any rate, for our purposes (and for reasons yet to be identified), the assumption of rationality can be discarded altogether as an unnecessary (though still a possible) feature of animals in the ‘state of nature’. In turn, the rationality condition could be replaced by a less stringent requirement of consciousness. In short, Hobbes’ ‘state of nature’ is transformed for present purposes into a hypothetical situation consisting of conscious and self-interested beings. Hence, applied to this modified situation, the law of self-preservation is here extended so as to include not just human beings but also all other animals.

2 - Contractarianism

The state of nature situation in its original sense constitutes an essential element of the contractualist approach adopted by Hobbes. We can comprehend the relevance of the contractualist approach for the present inquiry upon consideration of the point that ‘the attempt to establish an ethical ‘ought’ from a natural ‘is’ deserves its old title, “the naturalistic fallacy.”¹¹ In other words, ‘...the way we do behave or have behaved gives us no guidance about the way we ought to behave.’¹² In this sense, it would not be possible to draw a valid ethical principle directly from a rule such as the ‘law of self-preservation’ because the reasonableness of this law depends precisely on how far it can be said to be natural. In other words, to support the law of nature is to assert that it constitutes a natural ‘is’. The issue therefore becomes whether the laws of nature as noted above could be employed in argument concerning moral rights and duties at all. The ‘naturalistic fallacy’ would appear to prevent them from acting as a direct source, but the traditional concept of a ‘covenant’, *made in accordance with such laws in the state of nature*, could be utilised to overcome this obstacle. This possibility means that the fundamental law of nature (albeit extended so as to apply to all animals) could yet serve to demonstrate the justifiability of the ‘principle of humility’ in all cases.

In these terms, the premise would be that since all animals are included in the (modified) ‘state

of nature', they are under a duty to act entirely in accordance with the fundamental law of self-preservation in the making of a covenant. As such, this duty would necessarily entail the acceptance and (in turn) justifiability of the principle that all animals are to be recognised as beings of equal importance. Yet this more traditional contractualist approach clearly could not work, for the conclusion of a contract is possible only as between those animals endowed with the cognitive prerequisites for a reciprocal relationship of this kind. Thus, the only animals (potentially) capable of entering into agreements are *Homo sapiens*; hence the apparent need for the rationality condition. In other words, the 'covenant' device (as espoused by Hobbes) could not be made to apply to animals '...since a contract requires parties who are able to make agreements and who are each able to offer the others some benefit in return for their co-operation.'¹³ So, on this view, animals other than human beings are incapable of assuming rights or duties insofar as they cannot do what is right or wrong. In short, it would seem there is little point in altering the state of nature scenario so as to include all animals. However, contractarianism has assumed a plurality of differing forms, one of which will now be identified as it may prove to be of considerable use in discounting the need for the rationality criterion.

On one contractualist view, thinking about right and wrong is thinking about what we do in terms that could be justified to others and that they could not reasonably reject. '[This] is not a judgment about what would be most likely to advance their interests or to produce agreement in their actual circumstances or in any more idealised situation, but rather a judgment about the suitability of certain principles to serve as a basis of mutual recognition and accommodation.'¹⁴ The issue would therefore become whether such a judgment, as opposed to the traditional device of covenant, could be formed in the ideal situation, rather than the actual circumstance, that is the (modified) state of nature. Still, it must be noted that, even on this view, the lack of cognitive prerequisites of nonhuman animals entails that they could not understand any given principle and, therefore, that they could not reasonably reject such a principle. In other words, not only are nonhuman animals incapable of contracting but, moreover, they are equally incapable of assessing moral principles *per se*. Nevertheless, 'A contractualist view can accommodate this [objection] if it holds that in deciding which principles could not reasonably be rejected we must take into account ... trustees representing creatures in this group who themselves lack the capacity to assess reasons.'¹⁵ In short, the extended law of nature could be advanced as the ground upon which humans and trustees of other animals *should* reasonably support the principle of humility in the redefined 'state of nature'.¹⁶

There remains, however, a possible objection to the idea of employing the 'trustee' approach in these circumstances. In the words of Scanlon, '...the scope of the morality of right and wrong will [only] include those beings to whom we have good reason to want our actions to be justifiable.'¹⁷ In other words, to be able to employ Scanlon's counterfactual approach we must show that it would be rational for those who do have the capacity to assess reasons in the modified state of nature to want their actions to be justifiable to those animals that lack the same capacity. Incidentally, the important intuition of animal consciousness must be recalled in this respect. For, intuitively speaking, one cannot

wrong non-conscious beings (hence the aforementioned distinction regarding the moral status of plants). Thus, ‘...in order for the idea of justification *to* a being to make sense it must at least be the kind of thing that can be conscious.’¹⁸ Nevertheless, as suggested above, the notion of consciousness does not constitute the only arguable ground for distinguishing between human beings and nonhuman living things. At this point, therefore, we must examine another potential ground for distinction in order to determine whether rational beings in the state of nature would have ‘good reason’ to want their actions to be justifiable to other animals (as they would when it comes to themselves). For it is a principle of justice ‘...not to treat individuals differently in the absence of relevant dissimilarity.’¹⁹

3 - Rationality

The principal difference between humans and other animals corresponds to the notion of ‘rationality’. So far in this inquiry rationality has only been considered in relation to the ‘prerequisites’ for the covenant device. By way of a reminder, it has been asserted that the concept of rationality need not constitute such a prerequisite for present purposes. However, we must now determine the wider significance of this concept. In general terms, rational beings may be defined as those beings endowed with the capacity to organise their natural desires. In other words, they are conscious beings who are capable of critically assessing things as ‘better’ or ‘worse’. In these terms, the issue becomes whether the capacity to reason constitutes an acceptable basis on which rational beings could distinguish themselves from other species of animal in a moral way. If so, this distinction would allow the former to deny the reasonableness of the desire to justify their actions to the latter in the modified state of nature.

‘One view holds that...we do not have the reason that we have in the case of rational creatures to accept the general requirement that our conduct be justifiable to them. The other view holds that we do have reason to accept this requirement, and that we can wrong nonrational sentient creatures in exactly the same sense in which we can wrong humans.’²⁰

The question, then, is which view of the concept of rationality is to be reasonably accepted? The existence of strong arguments on both sides cannot be denied. So-called ‘indirect duty views’, such as Kant’s position, hold that rationality does constitute an acceptable basis for moral distinction because it entails the possession of the capacity to make and abide by moral judgments, that is, to have a moral will. Given this premise it follows that such ‘moral agents’ have inherent value and (in turn) the right to be treated as ends and never as means only. On the other hand, ‘...beings who exist but are nonrational have ‘only a relative value’ and thus fail to be ends in themselves.’²¹ However, other philosophers vehemently deny the legitimacy of this position. According to Regan, for example, ‘...attempts to defend this view can be shown to lack rational justification. What could be the basis of our having more inherent value than animals? Their lack of reason, or autonomy or intellect? Only if we are willing to

make the same judgement in the case of humans who are similarly deficient.²² This stance is particularly forceful in intuitive terms, for it asserts that to sustain the belief that nonrational beings have less value than rational beings is to argue that those humans with the capacity to reason are more important than those who lack that same capacity. In other words, in order to be consistent this belief must hold that any morally sanctioned actions towards nonhuman animals would also be justified in the case of mentally deficient humans or even infants.

In order to address this difficulty it has been argued that ‘the mere fact that a being is “of human born” provides a strong reason for according it the same status as other humans.’²³ Indeed, the notion of a distinctive human worth is well documented. Yet a belief of this kind has been characterised as being of a ‘speciesist’ nature. In other words, it constitutes an arbitrary and prejudiced basis on which fair moral distinction cannot be drawn. ‘The racist violates the principle of equality by giving greater weight to the interests of members of his own race... Similarly the speciesist allows the interests of his own species to override the greater interests of members of other species.’²⁴ In this sense, ‘... talk of intrinsic dignity or moral worth only takes the problem back one step, because any satisfactory defence of the claim that all and only humans have intrinsic dignity would need to refer to some relevant capacities or characteristics that all and only humans possess.’²⁵ This brings us back to the notion of rationality and, in particular, the issue as to whether it would provide rational beings in the state of nature with a *good* reason for not wanting their actions to be justifiable to non-rational animals in the same situation. Incidentally, the concept of rationality may well be a cause of speciesism, particularly given that to accord our own species a higher degree of worth is to lower the relative status of all other species. In other words, it is possible to contend that the reason why most rational beings would accept the attribution of ‘intrinsic worth’ to themselves is that they are the only beings capable of rejecting such attribution. Conversely, those species incapable of objecting are not accorded equal value for that very same reason. In any case, this observation has no bearing on the issue at hand, namely whether the concept of rationality constitutes a form of *justification for* (rather than cause of) the attribution of greater intrinsic worth.

Regan argues further that, ‘...since, in order to arrive at the best theory of our duties to one another, we must recognise our equal inherent value as individuals... reason *compels* us to recognise the equal inherent value of these animals...’²⁶ The importance of this argument should not be underestimated. For if it can be said that animals possess ‘equal inherent value’, regardless of whether they are rational or nonrational, it then becomes reasonable to contend that we would have as much reason to want to justify our actions to nonrational animals as we would to ‘moral agents’. Moreover, even if we choose not to accept the *equal* inherent value of animals but rather to centre on the middle ground between the two opposing positions noted above, it could still be argued that we would have ‘good reason’ to justify our actions to nonrational beings. In other words, given the acceptance on both sides of the claim that nonrational beings do possess a *minimum* inherent value, this may be deemed a sufficient basis for ‘good reason’ to exist.

Thus, rationality provides us with no good reason for *not* wanting to justify our actions to nonrational animals (including infants and the mentally deficient), although it may provide us with greater reason for wanting to do so in the case of moral agents.²⁷ This proposition entails that all rational beings in the modified state of nature should accept the requirement of finding a principle to serve as a basis of mutual recognition and accommodation not only as between themselves but also with respect to nonrational animals. It follows that the ‘trustee approach’ can be adopted in the case of nonrational animals. Therefore, the validity of the *source* of the humility principle is asserted here. In other words, the principle is justified because rational animals and trustees acting on behalf of nonrational animals in the revised hypothetical situation to which the extended law of nature applies would choose it over any other as a basis of mutual recognition in accordance with that law. In the case of rational animals, it would be reasonable for them to want to justify their actions to nonrational animals and, therefore, to seek the establishment of a principle of this kind in the first place. Now it becomes useful to examine the writings in the abstract field of animal philosophy more closely in the light of this conception. We must then move to consider the guidance offered by the same conception in specific cases in order to evaluate the validity of the humility principle *itself* according to the criteria noted above.

4 - Existing Conceptions

What, then, of the well-subscribed schools of thought in this area? More importantly, does the principle of humility conflict with these conceptions? Admittedly, conflict may vary in degree depending on the particular conception against which the principle is contrasted. Moreover, in the case of the conception proposed by Regan, the conflict is almost, though not quite, non-existent. So it will be argued that this particular conception is the most reconcilable with the laws of nature, but also that its requirements go further than those prescribed by such laws. However, at this point it is necessary to offer an account of some of the other established conceptions in this area and the way in which they conflict with the notion of humility.

To follow the order from the most to the least conflicting, Kant’s ‘indirect duty’ position must now receive greater attention. As mentioned above, on Kant’s view only rational beings (or ‘moral agents’) constitute ‘ends in themselves’, meaning they possess *independent* (as opposed to relative) value. On this basis, Kant draws a (general) moral distinction between rational and non-rational beings. As a consequence, animals may be treated as mere means to human ends but humans (or ‘moral agents’) may not. ‘[That] is to say that we must never impose our will, by force. . . on any moral agent to do what we want them to do *just* because we stand to benefit as a result.’²⁸ On the other hand, the only duties owed by humans to animals arise from a general duty not to act inhumanely towards them. In Kant’s words, ‘Our duties to animals are merely indirect duties to mankind.’²⁹ More specifically, man is under a duty not to treat nonhuman animals as if they had no value whatsoever. Nevertheless, the subsidiary importance of nonhuman animals entails the permissibility of certain human actions towards

them, whilst such actions would not be permissible towards humans themselves. Hence this approach directly conflicts with the principle of humility for, as it will be recalled, that principle requires that the equal importance of all animals be recognised. It is apparent, then, that the principle of humility could not be any more inconsistent with other schools of thought in this area. Rather, as will be seen, the humility principle conflicts with other viewpoints on the moral status of animals to a lesser extent.

A prime example of a 'direct duty' view is that of Singer, according to whom '... animals' interests ought to be given equal consideration with the like interests of humans.'³⁰ That is to say, 'The good of any one individual is of no more importance, from the point of view... of the Universe, than the good of any other.'³¹ In short, the latter directly owes the duty of 'equal consideration of interests' to the former. Moreover, Singer's approach is utilitarian insofar as it is based on the further principle that such 'consideration' should be undertaken to ensure the best consequences for all those affected by a given action. Yet, in this same sense, 'It differs from classical utilitarianism in that 'best consequences is understood as meaning what, on balance, furthers the interests of those affected, rather than merely what increases pleasure and pain.'³² In fact, the capacity to enjoy or to suffer constitutes the *basis* for Singer's assertion that human beings owe a duty of equal consideration of interests to certain animals. Indeed, Singer maintains that without this capacity an animal would be incapable of having interests at all.

Given that Singer's utilitarian conception is in itself based on a form of equality principle similar to the principle of humility, it would appear that there should not exist any real conflict between the two. In other words, 'On its face, utilitarianism seems to be the fairest, least prejudicial view around. Everyone's interests count, and no-one's interests count for any more than the like interests of anyone else. The trouble is... there is no necessary connection... between everybody's abiding by [Singer's] equality principle and everybody's having their interests forwarded equally.'³³ This is because the duty proposed for the achievement of optimal utility extends only as far as requiring that the interests of individuals be given equal *consideration*. Yet it does not follow from this requirement that the interests of all those affected will be furthered. 'On the contrary, reliance on the principle of *utility* could sanction acting in ways where some individuals have their interests affected in significantly adverse ways...'³⁴ The reason behind this possibility is that the interests themselves may be viewed as relevantly different and, as such, may be accorded varying weight despite being considered on an equal footing. As such, this view does not deny that good aggregate results may be justified in principle even if this means evil being done to particular individuals. 'Thus while equal consideration, on any plausible interpretation, largely condemns current animal-harming practices, this principle is logically compatible with the recognition of some significant moral differences. These differences may be conveniently expressed in the language of (unequal) moral status.'³⁵ In other words, despite formally recognising the need to consider the interests of animals equally, the potential remains for utilitarianism to morally sanction an action that would be inconsistent with the recognition of the equal importance of animals themselves (that is, the principle of humility). Thus, 'Singer must allow that making animals suffer, or killing them, to serve our purposes, though

frequently wrong, may, like anything else, sometimes be right; depending on the consequences.³⁶

Finally, the conception advanced by Regan must now be examined more generally. Regan's position may be labelled a 'rights view' in that it (essentially) corresponds to the claim that animals have equal rights to human beings. More specifically, as suggested above, both human and nonhuman animals have the right to be recognised as beings of equal worth. In other words, all animals have (in Regan's terminology) the 'right to respectful treatment'. It may therefore be seen that, on its face, such a right is not dissimilar to that prescribed by the principle of humility, since that principle also demands recognition of the equal importance of animals. Thus, there does not appear to be any inconsistency as between these conceptions. In this sense, both may ultimately be categorised as 'rights views', despite the fact that the principle of humility is derived from a contractualist approach. However, in order to determine whether these conceptions conflict, it is not sufficient to confront them in the abstract. Thus, it is also necessary to examine their particular requirements in detail. So we must now turn to consider various specific instances or paradigmatic cases in which moral theory in this area must provide specific direction and, in turn, the direction provided in such cases by the 'rights views' identified in this inquiry. Note that not all uses of animals are considered here. Nevertheless, what the principle of humility would prescribe in the unexamined cases should become apparent after having seen its implications for the most important ones.

5 - Slaughter/Experimentation

What is meant by the principle that all animals should recognise they are beings of equal importance? The fact that nonrational animals exist in the modified state of nature means that such recognition must manifest itself in the form of physical treatment rather than mental acknowledgement. In other words, all animals must respect the principle of humility by omitting certain *actions* (as opposed to attitudes) that the principle prohibits.³⁷ Moreover, this principle must also be interpreted consistently with the fundamental law of nature from which it is derived. Thus, the principle of humility should not be taken to signify that the destruction of an animal is prohibited in *all* cases on the ground that the action of killing *necessarily* constitutes an example of one animal failing to recognise the equal importance of another. Rather, the overriding duty on all animals to do those actions by which their individual lives may be best preserved can provide exceptions to this prohibition. So if the killing of an animal may be properly called a means of preserving the life of the killer, it could not be said to violate the humility principle (and vice-versa). This possibility means we cannot distinguish the action from its purpose. Moreover, in order for an animal to be *properly* deemed a 'means' in this regard the killer's need must be sufficiently immediate. In other words, the term 'means' is here interpreted as requiring a *direct* link between the destruction of an animal and the preservation of the destroyer. Therefore, we must determine which animal necessities are sufficiently immediate to establish the existence of such a link (see below).

In some cases, such as the destruction of animals purely for sport, a violation of the principle of

humility is relatively patent. There may be a purpose behind, say, hunting purely for sport that could be connected with the hunter for sport's self-preservation, such as healthy exercise. However, this purpose plainly does not convey the idea of a sufficiently immediate necessity to ensure preservation and would therefore amount to an indirect link. At the same time, other cases provide us with clear examples of purposes that would render the killing of an animal by another 'proper means' to that other's end of self-preservation. Take, for instance, the case of the human hunter outside civilisation (like the Eskimo). By killing a seal the Eskimo seeks to attain necessities (such as food, clothing etc.) both for himself and his close relations. The need is sufficiently immediate and, therefore, the link between the destruction of the seal and the preservation of the Eskimo is a direct one. As far as the Eskimo's relatives are concerned, we have seen that the duty to self-preserve allows him to perform actions designed to ensure their preservation. Indeed, the same interpretation would apply to subsistence farmers outside civilisation (such as nomadic peoples). Equally, this interpretation would also apply in the case of nonhuman animal hunters, meaning they *would* comply with the humility principle. What, then, of the killing of animals for goods by humans within civilisation?

In the case of commercial animal agriculture, we can see that the farmer would violate the principle of humility. The farmer's purpose is to earn money and, in that sense, it is also connected to his self-preservation. Again, however, this purpose is not *directly* linked to the preservation of the farmer insofar as the necessity to kill is not sufficiently immediate. Moreover, the implication is that consumers of animal products attained through this system would also be in violation of the principle of humility. In other words, the mere action of eating an animal killed against the requirements of this principle would constitute a violation of that principle. It may be contended that the need for protein would, according to the law of self-preservation, justify the eating of meat in the case of those who are unable to hunt within civilisation. Nevertheless, as Singer asserts, 'there can be no defence of eating flesh in terms of satisfying nutritional needs, since it has been established beyond doubt that we could satisfy our need for protein and other essential nutrients... with a diet that replaced animal flesh by soy beans... and other high-protein vegetable products.'³⁸ Note, however, that Singer is referring to consumers of goods and, therefore, this assertion should not be taken to extend to those who hunt or rear animals for subsistence within civilisation.³⁹ Indeed, the principle of humility would permit these actions provided such nutritional needs were sufficiently immediate and could not be satisfied more efficiently through other means.

So it appears that the hunter for sport's act of destruction would not constitute a violation of the humility principle provided its purpose was (among other things) to acquire goods such as protein which could not be acquired any more efficiently elsewhere. Yet, even if this was the case (and, therefore, a 'direct link' was deemed to exist), the manner in which the act was performed would also have to conform to the principle of humility in order for the action as a whole to be morally sanctioned by that principle. In this sense, the question whether a particular act of killing violates the humility principle depends not only on the purpose behind it but also on the manner in which it is executed. Thus, practices

of hunting and trapping deployed by any animal in order to kill another should not cause greater suffering than necessary to that other. So for example, given that the foxhunter's practices (unlike, say, the lion's) do cause greater suffering than necessary the principle of humility would be violated even if the purpose behind the killing were legitimate. Incidentally, an example of one such purpose could be the elimination of the lethal threat posed by disease-ridden foxes. Indeed, the need for an animal to defend itself may well be sufficiently immediate to justify the killing of another animal as a 'proper means' to ensure self-preservation.

What, then, of the destruction of live animals for scientific purposes? Firstly, animals may be killed for the purpose of research into the treatment of various diseases affecting humans or the potential harmful effects of new drugs created for such treatment. Thus, such research is aimed at the preservation of the human race as a species. However, it will be recalled that the exceptions to the rule against destruction are based on the *individualistic* law of self-preservation. On this basis, it could still be argued that the killing of animals for research may be justified if it is connected to the researcher's own preservation. Yet the researcher's need for treatment could not be sufficiently immediate and, as such, could not be directly linked to his preservation. So the action of killing an animal purely for research would be contrary to the humility principle. Further, this interpretation would also apply to the purpose of xenotransplantation. Of course, such practices may be permitted by the principle of humility if they did not necessitate the destruction of an animal. However, it is equally clear that the treatment of animals in experimentation practices that did not require such destruction would also have to comply with the humility principle in the sense described above. On the other hand, the requirement that animals should not be made to suffer to a greater extent than is necessary could not sanction euthanasia, as the destruction of an animal in these terms would be prohibited by the humility principle in the first place. In other words, this would not constitute a legitimate purpose as it would not be correlated to the killer's own preservation at all. As for rational beings, to consent to their own destruction would be to violate the fundamental law of nature, meaning destruction in these circumstances could not be sanctioned by the humility principle either.

We must now return to consider certain differences between nonrational animals in order to determine whether the principle of humility should be interpreted so as to apply to animality as a whole. On its face, the humility principle clearly does not attach any importance to the differences between wild and domesticated animals, or even between species themselves. In this sense, a pet mammalian is regarded as being of the same importance as a wild reptile. However, one difference between nonrational animal species is that some do not pose a (potentially) lethal threat to rational animals. Thus, given the fact that rational animals are aware of the (potential) capabilities of other animals, it would appear to be unnecessary for rational animals to respect the principle of humility with regard to such non-threatening species in order to adhere to the law of self-preservation. So, on this view, a rational animal need not be humble towards an ant or even an infant because its very ability to reason tells it that the ant or infant's (potential) capabilities do not extend as far as to include the ability to cause it some life-threatening

harm. Yet if the acceptance and, in turn, applicability of the principle of humility is taken to depend on *complete* compliance with the law of self-preservation, it could be argued that this line of argument is a misleading one. In other words, the principle of humility should be adhered to in all cases since, unlike complacency, it would always be *possible* that it would increase one's chances of self-preservation, whilst the reverse could not be true. Of course, to reject this interpretation would be to assert that the principle should not be respected in the case of infants or the mentally deficient. Moreover, even if we did not accept this interpretation the point would remain that the capabilities of most nonrational animal species do extend so far as to constitute a (potentially) lethal threat to rational animals. Thus, the principle of humility would still have to be respected by rational animals in relation to most of the animal kingdom. Nevertheless, we shall proceed on the basis that the above interpretation should be accepted, meaning the principle would apply to the whole kingdom.

Having considered the most important instances of animal treatment to which the principle of humility should be applicable, it now becomes necessary to recall the issue as to how the principle differs from Regan's conception. In many respects, the implications of the principle of humility and the rights view as espoused by Regan are the same. Thus, Regan judges hunting for sport, commercial animal agriculture and the unrestricted use of animals in research to be wrongful activities. 'The fundamental wrong is the system that allows us to view animals as *our resources*, here for *us* – to be eaten, or surgically manipulated, or exploited for sport or money.'⁴¹ Yet Regan goes as far as to hold that vegetarianism is morally obligatory. In other words, on his view the only valid justification that could be advanced by a rational animal for the destruction of a nonrational animal would be the need of the former to defend itself against the (innocent) threat posed by the latter.

The principle of humility differs from and is more satisfactory than Regan's view in many respects. First, it allows for a plurality of potential justifications for the destruction of animals and (therefore) does not impose a blanket requirement of vegetarianism. Secondly, Regan is forced to concede that since nonrational animals are not moral agents they cannot have the same duties as moral agents (including the duty to recognise the equal importance of other animals). Conversely, given that nonrational animals would fulfil the same duties imposed on moral agents by the principle of humility (and, therefore, that they would not violate that principle), we are able to claim that the same duties can be imposed on nonrational animals too. Finally, Regan's position is derived in the main from the single notion of (equal) inherent value, which arguably renders it more susceptible to criticism. By contrast, the humility principle is based on a wider contractualist approach of which the notion of inherent value only forms a part. In turn, the idea of *equal* value is not required for the validation of the contractualist approach, although it may be invoked to strengthen it.

The principle of humility is intended to serve as a valid guide to human conduct in relation to animals. We have already seen how the principle appeals (and therefore conforms) to certain reflective human intuitions. What, then, of the other criteria noted above? Firstly, we have advanced explanations of the concepts with which the principle is concerned. Hence the principle satisfies the requirement of

conceptual clarity. Secondly, we have also considered the direction provided by the principle in a range of instances. Thus, if we accept that the direction provided in such instances is sufficiently precise, there does not exist any uncertainty surrounding the principle's requirements. Finally, the principle does not imply that the *very same* action could be both right and wrong in such instances, meaning it is not an inconsistent moral judgment. So the principle does serve as an authoritative basis on which actions may be rationally deemed right or wrong. In short, the principle of humility is supported as an *ideal* moral judgment on the moral status of animals.

Notas

¹Regan, *The Case for Animal Rights* (1984), p. 130.

²T. Regan, *ibid.*, p. 28. The attribution of consciousness to animals is accepted for the purpose of this inquiry.

³*The Oxford Compact English Dictionary* (OUP, 1996).

⁴Of course, given that plants are also living organisms, another distinction could be drawn between the animal kingdom and the 'kingdom Plantae'. The common-sense view suggests that plants are not conscious beings and, moreover, that this serves to render them morally distinguishable from animals. Suffice to say that the moral status of plants is of no direct relevance to the present inquiry.

⁵T. Hobbes, *Leviathan* (1651), p. 83

⁶T. Hobbes, *ibid.*, p. 85.

⁷M. Ridley, *The Origins of Virtue* (1996), p. 262.

⁸Familial relations would be the prime, though not necessarily the only example.

⁹Hobbes' state of nature is also founded on the assumption that such individuals are equal. However, this assumption is not made here. Rather, the issue of equality is examined below.

¹⁰Significantly, it is argued here that the behaviour of nonrational animals suggests they would necessarily comply with this law. In other words, the actions of such animals *are* driven to their own preservation.

¹¹PR Ehrlich, *Human Natures* (2000), p. 309.

¹²PR Ehrlich, *ibid.*, p. 309.

¹³TM Scanlon, *What We Owe to Each Other* (1998), p.177.

¹⁴TM Scanlon, *ibid.*, p. 194.

¹⁵TM Scanlon, *ibid.*, p.183. The inheritance by certain animals of their legal owners' estates may be cited as anecdotal evidence in this regard, for such arrangements clearly require the presence of trustees to act on behalf of the animals concerned.

¹⁶It would be irrational for them to suppose that they could best preserve themselves by rejecting the principle.

¹⁷TM Scanlon, *op.cit.*, Ref.13, p. 179.

¹⁸TM Scanlon, *ibid.*, p.179.

¹⁹. Regan, *op.cit.*, Ref.1, p. 274.

²⁰T. Regan, *ibid.*, p. 184.

²¹T. Regan, *ibid.*, p. 177. Kant's theory is recalled below.

²²T. Regan, 'The Case for Animal Rights', in P. Singer (ed.), *In Defence of Animals* (1986), p.23.

²³TM Scanlon, *op.cit.*, Ref.13, p. 185.

²⁴P. Singer, 'All Animals are Equal', in P. Singer (ed.), *Applied Ethics* (1986), p. 222.

²⁵P. Singer, *ibid.*, p. 228.

²⁶T. Regan, *op.cit.*, Ref.22, p.23-4. (Italics added).

²⁷This is so because, on this interpretation, such moral agents (in contrast to nonrational beings) would have to be viewed as possessing a degree of inherent value that encompasses not only a minimum worth, but also the dignity arising from their moral capacity.

²⁸T. Regan, *op.cit.*, Ref.1, p. 175.

²⁹I. Kant, *The Groundwork of the Metaphysics of Morals* (1964), p.96.

³⁰P. Singer, 'The Parable of the Fox and the Unliberated Animals', *Ethics* 88 (1978), p. 122.

³¹H. Sidgwick, *The Methods of Ethics*, 7th ed., p. 382.

³²P. Singer, *Practical Ethics*, 2nd ed. (1993), p. 13.

³³T. Regan, *op.cit.*, Ref.1, p. 226.

³⁴T. Regan, *op.cit.*, Ref.1, p. 227 (Italics added).

³⁵D. DeGrazia, 'Equal Consideration and Unequal Moral Status', in SJ Armstrong & R.G. Botzler (ed.), *The Animal Ethics Reader* (2003), p. 58.

³⁶R. Hursthouse, 'The Rights-based Defence of Animals', in R. Hursthouse, *Ethics, Humans and Other Animals: an introduction with readings* (2000), p. 98.

³⁷It is argued that nonhuman animals do (and therefore would) respect the principle of humility, meaning they do not act with pride towards each other, or towards human animals.

³⁸P. Singer, *op.cit.*, Ref.24, p. 222.

³⁹A prime example would be that of subsistence farmers in the Third World.

⁴⁰T. Regan, *op.cit.*, Ref.22, p. 14.