

## **Animals and Human Rights – Responses**

In this fascinating set of responses to my guest post on the relationship between sentient animals and human rights, three key issues have emerged: the nature of sentience, the question of which rights different animals are owed, and the possible problems of conflating animal rights with human rights.

In this response, I will tackle each of these issues in turn.

### **Drawing Lines Around Sentience**

Sentience is important to my argument, because I argue that interests are the sufficient condition for possessing rights, and that sentience is the sufficient condition for possessing interests. Hence I claim that all sentient creatures possess some basic rights.

However, several respondents want to know more about sentience. Specifically, they want to know where the line around sentience can be drawn.

For example, Paul Bernal asks whether insects might have it, or even bacteria?

It is hard for me to improve much on the excellent comments made by Richard Buck in this regard. I am not an expert on these matters - I am no zoologist or neuroscientist - but from what I have read on the issue two things are clear.

Firstly, a significant line is usually drawn (both in scientific literature and in the law) between vertebrates who possess complex central nervous systems, and invertebrates who do not. The physiological structure and behaviour of animals such as mammals, birds, reptiles, amphibians and fish strongly suggest that they have the capacity for conscious experience, whereas those of insects, molluscs, crustaceans, arachnids and so on, suggest that they do not.

Secondly, the evidence with regard to which animals are sentient and which are not is changing all the time. Importantly, the evidence is changing in a more inclusive direction: to slowly recognise more and more species as possessing conscious experience.

Given the nature of such changes, where there is uncertainty over the sentience of a creature, I think we have good reason to give them the benefit of the doubt.

### **Delineating the Rights of Animals**

A number of respondents also point out that the notion of animal rights cannot mean that all sentient animals possess the same rights.

For example, Holly Bontoft points out that a fish needs a fair and public hearing like it needs a bicycle. Lee asks which rights I would give to an elephant foetus, to a mentally incapacitated dolphin, or to frogspawn.

These are extremely difficult issues – and demand a far fuller account of animal rights that can be given here. But Anthony Langlois seems to me to be correct when he says that animals probably have differentiated rights, just like humans do.

After all, the types of question that Holly and Lee ask of animal rights can also be asked of human rights. Small babies need a right to a fair and public hearing like they need a bicycle. And debate over the rights of *human* foetuses, embryos, and the mentally disabled is hotly contested.

Under the type of interest-based scheme that I propose, rights are determined by the nature of our basic interests. Not all of our interests can legitimately be translated into rights – but those that can be shown to be sufficiently important to enable us to lead minimally decent lives, certainly can.

Since fish, elephant foetuses, human foetuses, dolphins, human adults, human babies and so on all have different basic interests, they thus also have different rights.

But just which rights? For example, does the fact that sentient animals have some rights mean that they all also necessarily have a right to life and thus must never be eaten? This is certainly a concern for Lily Megaw and Paul Bernal!

Again, I think that Richard Buck is excellent on this. It is in fact possible to argue – along the lines of Singer - that all sentient animals have rights, but that not all of them have a right to life. This is based on the idea that not all sentient creatures have future-oriented preferences. I have my doubts over such arguments, I'll admit, but they are certainly not ridiculous.

But whatever the answer to the difficult question of the right to life – what is clear enough is that all sentient creatures have a right not to be made to lead lives of absolute misery by us. Rousseau (unfortunately not a respondent to my post!) said it much more eloquently than I ever could in his *Discourse On the Origin of Inequality*:

“Indeed, it would seem that if I am obligated not to harm another being like myself, this is so less because it is a rational being than because it is a sentient being; a quality which, since it is common to beast and man, must at least give the beast the right not to be needlessly maltreated by man.”

And on the basis of this animal right, we ought to fight for the abolition of factory farming.

### Is the Interest-Based Account Imperialist?

But if rights are based on interests as described above, this raises the important question of how we determine the interests of other individuals.

Anthony Langlois, for example, worries that this method might lead to a situation where, “...one group of people end up being able to determine the futures of another based on what the first group thinks are the second group's interests.”

This is a legitimate worry. But it is not a worry that should lead us to abandon the interest-based account of rights. Rather, it is a worry that must be built into the way we account for the interests of humans and other sentient creatures.

After all, in any modern political community, some group will need their interests represented by some other group. What we need then is good procedures for interest identification and representation. Anthony Langlois is quite right – a good democratic culture as well as transparent and open institutions seems like a good start to achieving this.

Of course, animals raise a particular problem for this approach in that we necessarily have to represent their interests – they cannot speak for themselves, or fight for their interests themselves.

But this problem should not be taken as an excuse for inaction. After all, the behavior and physiology of animals gives some pretty obvious clues as to their most basic of interests – especially when it comes to avoiding pain!

### Conflating Animal Rights and Human Rights

I found it extremely refreshing to see that almost all of the respondents were so open to the very idea of animal rights. I think it is fair to say that everyone agreed that animals are owed better treatment, and as a matter of their just entitlements. This, I think, shows how far many of the arguments of animal ethics and environmental ethics have come.

What was far more controversial – quite rightly - was my claim that animals are a human rights concern.

Craig Valters questioned my conflation of animal and human rights, and wondered whether it may actually undermine the animal protection movement. Lee agreed and claimed that all human rights have an ingredient that animal rights do not possess.

I have to say, I found these points particularly interesting. Not least because I once shared them.

There is a good deal of intuitive appeal to the idea that human rights and animal rights – while both important goals worth fighting for – are nevertheless separate things.

But I do wonder what the basis of that intuition is.

I increasingly believe that it is simply down to the fact that we have become used to and limited by the name of our subject: *human* rights.

But of course, the very point of these posts is to question that name. Is it legitimate to limit basic universal entitlements to one species? Or should the term ‘human rights’ be radically reconceptualised – as the terms, ‘rights of man’ and the ‘rights of citizen’ once were in the past?

The most convincing reason *not* to embark on such a reconceptualisation – and to keep animal rights and human rights as separate notions – came from Anthony Langlois. For him, human rights protect something about our moral agency: our ability to pursue lives of our own choosing. Because this is something that animal rights do not do – since (most) nonhuman animals are unable to be moral

agents as far as we know – we have a good case for keeping animal rights and human rights as separate ideas.

This, of course, is the classic liberal justification for human rights – and one that has been discussed frequently in previous tracks on this blog, and responses to them.

Personally, however, I am sceptical of the liberal justification for human rights.

For are human rights really all about protecting our moral agency? Is that what the right not to be tortured is all about, or the right to security of the person, or the right to adequate nutrition, and so on?

Some will say yes – arguing that all of these rights allow us to exist as autonomous agents. But for me – these rights simply protect what allows us to lead minimally decent lives, whether connected to moral agency or not. Not all of our most important interests are related to our capacities for moral agency.

That is why I think human beings who are not moral agents – babies and the severely mentally disabled, for example – possess human rights. And that is why I think that the plight of sentient animals is a pressing human rights concern.