Animals Have No Rights And Are Not The Equal of Humans

Joseph Margolis
Temple University

Follow this and additional works at: https://digitalcommons.brockport.edu/phil_ex

Part of the Philosophy Commons

Repository Citation
Available at: https://digitalcommons.brockport.edu/phil_ex/vol5/iss1/5
Margolis: Animals Have No Rights And Are Not The Equal of Humans

JOSEPH MARCOLIS
Professor of Philosophy
Temple University

Published by Digital Commons @Brockport, 1974
ANIMALS HAVE NO RIGHTS AND ARE NOT THE EQUAL OF HUMANS

by

Joseph Margolis

Peter Singer's thesis is uncomfortable. I for one am a meat eater—also, a fish eater, a shellfish eater, a chicken and turkey eater, even a pheasant eater—and I wouldn't care to be persuaded that I'm inhumane in so behaving, though I have no doubt that I could learn to behave better with regard to other creatures (and human beings, and have no wish to resist or avoid such instruction). I do believe that the point of Singer's argument is that, if one concedes his conclusion, then one's own conduct is on the line: we must, in any case, act (rationally) in accord with our beliefs. I find, however, that Singer's argument is, where compelling, trivial; and where not trivial, not compelling.

First of all, Singer has changed his position somewhat. The version for this Conference ("All Animals are Equal") is apparently intended not to be equivalent to or to entail his earlier claims about animal rights—though, as in his citing, favorably, Bentham's view about extending rights to animals, and in other of his remarks, one might well be led to think that he had not (even provisionally) abandoned the argument about animal rights. For the sake of scope—since Singer has supported animal rights, since others might, and since he might return to the argument—I should like to say some things about the theory of animal rights; but, for the sake of fairness—since Singer has put aside that claim and turned rather to hold that animals other than man are in some sense the moral equals of man—I should like to say some things about the theory of equality.

The argument about the rights of animals pretty well comes down to this:

Beings can only have rights proportionate to their capabilities, and this is all that the extension of the argument for equality to non-humans would imply. . . If we accepted the idea that non-humans have rights proportionate to their capabilities, and if we then resolved to withdraw our support from any practice which denied non-humans these rights, we would find that to carry out this resolution would, for a start, require a complete change in our diet.2

When I first read Singer's papers, I must confess I thought it was all part of a serious joke (trying to find a striking way of urging human beings to be more humane to one another) or that it must be mad (trying to show that we cannot be moral, if rational, if we are not at the very least vegetarians, or, say, trying to show that it's impossible to "defend the idea that a human infant has a right to life which an adult pig does not have").3 But now I think it's simply right and wrong in parts, in the respects already suggested.

One thing to consider is that, in the passage cited, Singer appears to believe that the thesis about equality itself implies that animals have rights "propor-
ANIMALS HAVE NO RIGHTS AND ARE NOT THE EQUAL OF HUMANS

tionate to their capabilities”. If so, then, contrary to his present intention, the doctrine of animal equality may not be independent of the doctrine about animal rights; and if that’s so, then a defeat of the argument about animal rights would count as a defeat for, or a substantial blow to, the argument about animal equality. Secondly, it’s difficult to be clear (from the various sources) whether Singer means that capabilities provide a necessary or sufficient condition for the ascription of rights: the view that the condition is sufficient is preposterous, since we would not acknowledge that any creature had a right to do whatever accorded with his capabilities; and the view that the condition is merely necessary is, on the face of it, utterly inadequate as a basis for concluding that we must be vegetarians or anything else. Thirdly, construing the condition as a necessary condition for animal (or human) rights does not as yet say anything about whether any creature actually has rights; in fact, Singer nowhere shows that any creature does. The argument so far forth seems to be a conditional argument: if human beings have rights, then, on the thesis of equality, non-human animals must have them as well. That we have yet to consider; but even if it were granted, we would lack a basis on which to argue that human and non-human animals were entitled to rights. Finally, it may reasonably be maintained that human or natural rights—rights accorded to human beings merely because they are human beings—are entirely vacuous. Take for instance the right to life. No moral or related policy makes any sense at all except for living creatures; life is a necessary condition for the relevance of any policy at all. On the other hand, there is no determinate policy regarding the treatment of human beings that is incompatible with the putative right to life—for example, even in the practice of capital punishment, it will be argued (one way or another) that anyone executed has forfeited his civil or legal right to have his life preserved, that this does not bear at all on his natural or inalienable right to life. We have the example of the French Revolution before us. The point is that so-called natural rights are all determinable rather than determinate and all, as determinable, no more than the minimal conditions on which any alternative moral or related policies could be pursued. In that sense, their ascription is redundant and vacuous. Whatever else is interesting about rights is, I think, captured by the notion of equality.

It seems, however, plausible to argue that human beings and human beings alone can make claims about their alleged rights and, since rights entail obligations (admitting the rights of A entails that B is obliged to respect A’s rights), human beings alone can acknowledge their obligations respecting others’ rights, rights cannot extend to non-human animals. In this sense, animals cannot be the equal of human beings: the condition provided may be counted a necessary (not a sufficient) condition for the ascription of rights. It may well be that infants, fetuses, the senile, the mentally defective lack these capacities; in that case, it’s entirely consistent to deny that they actually do have rights—which, of course, is not at all to say that it would not be right or wrong to treat them in one way or another. ‘Rights’ and (the adjective) ‘right’ function in decidedly different ways. Now, it’s not necessary to show that this is the best theory of human rights; it’s enough to show that it’s a strong contender.
Dialectically, anyone (Singer, in the earlier articles at least) who holds that if human beings have rights, then, by equality, animals do as well, would have to show that the countermove was defective. Singer doesn't claim it is, and I myself find it rather compelling.

Turn, now, to equality.

It looks as if Singer's central claim concerns the "right to equal consideration". In one of the earlier papers, Singer argues that if "the principle of equal consideration of interests [is] a basic moral principle", then "if a being has interests, they must be taken into account and considered equally with the like interests of any other being". And, following Bentham, Singer regards "the capacity to suffer as the vital characteristic that gives a being the right to equal considerations ... or more strictly [the capacity] for suffering and/or enjoyment or happiness"—since it makes possible the ascription of having interests. Reference to the right to equal consideration—which appears in the Conference paper—proves to be redundant (Singer admits this), since it comes to no more that our being rationally bound to be consistent with the principle of equality. The Conference paper and the earlier papers seem to be pretty well equivalent here (if we drop reference to any substantive rights).

But Singer equivocates on the concept of equality. There is a sense of equality; tantamount to the so-called principle of universalizability, in which "similar things must be similarly treated in similar respects". This, obviously, is a principle of consistency—call it a logical or conceptual (or even, linguistic) principle: it is not a moral principle, though deliberate breaches of the principle (for advantage) are clearly immoral. If the capacity to suffer is a relevant moral consideration, then non-human animals capable of suffering are, in that regard, the (moral) equals of men; they may, equally, be capable of suffering even if they are not capable of equal suffering. (Incidentally, this is a point not fully met by Singer, in his remarks about infants, the defective, and the like: human beings are, equally, human, though they may not be equal human beings, beings with equal endowments. This bears on his claim that there is no set of characteristics "which covers all humans [that] will ... be possessed only by humans"). On the other hand, there is a sense of equality, which is a substantive moral sense, tantamount to what is sometimes called the principle of generalizability, in which this or that attribute is claimed to be the relevant respect in which moral judgments are made (and treated universalizably). That is, we generalize in holding that things are relevantly similar in this respect; and we universalize in holding that anything similar in this respect must be similarly judged.

Now, Singer appears to conflate these two senses of equality. For, if he means to speak only in the sense of universalizability, then his argument is only conditional. If, say, the capacity to suffer is morally relevant, then, since animals are capable of suffering, they must be "equally" treated, in that regard, with humans. But how we ought to treat them cannot possibly follow from the admission of this argument; the argument itself concerns consistency, not moral commitments of any sort. This was the sense in which I said, at the very start, that where Singer was right, his thesis was trivial. No one could rationally
reject the principle of equality—in the sense of universalizability. So it's entirely neutral to whether we're mistreating animals in eating them and using them experimentally. On the other hand, even if the capacity to suffer is a relevant consideration for moral review, it can—on the basis of foregoing remarks—be no more than a consideration necessary to moral judgment. That is, we cannot neglect the suffering of any creature in arriving at a moral judgment or moral commitment; but what judgment or commitment we ought to make, all things considered, can't be decided merely from this consideration (or, from it alone, without some supporting argument). Sometimes, Singer seems to think that it is sufficient to enjoin us to be vegetarians. But I don't find the argument for that anywhere. So, treating equality in the sense of generalizability, Singer must be wrong in drawing the conclusion that we must be vegetarians or must commit ourselves in any other particular way. All that's required is that our conduct be consistent with our judgments. Singer may have confused questions about what's relevant to a moral judgment with questions about what are the sufficient conditions for drawing particular moral judgments.

There is one further, extremely interesting consideration to develop here, bearing on the seemingly paradoxical claim that egalitarianism and inegalitarianism are not, always, exclusive alternatives. If 'equality' is construed in terms of universalizability, then consistent inegalitarianism must be defined in an "egalitarian" way. Simply put, if we wish to make moral judgments depend on differences of IQ (or race or sex), then all creatures similarly endowed will be similarly treated and all others, not. Symptomatically, Singer has some trouble with this, since he merely tries to advise opponents of racism, sexism, speciesism how to avoid what appear to him to be forms of favoritism and prejudice. He cannot, in terms of universalizability, show that these alternative positions are indefensible; and he has not shown, in terms of generalizability and the need to provide sufficient conditions for moral judgment, that the position of the racist, sexist, or the like actually is untenable. All he's shown is that, perhaps, the capacity to suffer provides for the widest scope or moral judgment—an altogether different matter from what's morally decisive in this or that context.

In fact, the argument can be turned against Singer. He may be said—facetiously— to be a clever "speciesist". Unsofar as they are capable of suffering, we may hold that animals are the moral equals of men (equally entitled to moral consideration); but since men are capable of doing all sorts of things impossible for animals and since these capacities are higher capacities than those of animals, wherever a conflict of interests involving such capacities arises (which may be practically always), we may, in good conscience, favor human policies over animal interests. For instance, we may advocate the humane slaughter of beef animals but go on eating beef or, animal experimentation under responsible arrangements. Relevant facts may count against certain policies but it's difficult to see how—without some ulterior moral principle fleshed out with favored criteria (Singer's interpretation of utilitarianism, say)—they could force us to any such policy as vegetarianism. On the facetious reading of the argument, Singer may very well have traded the vegetarian concession (unnecessary in itself) for other values favoring the speciesist interests of human beings. How
could it be otherwise? In what conceivable sense could the interests of animals (supposing that we're really quite clear about these) count equally with the interests of humans—in the sense bearing on what we choose to generalize over? There seems to be no way to make the case. In fact, coming full circle, it's pretty clear that the argument regarding equality (not in the sense of universalizability) is simply the analogue of the argument regarding rights. It's hopeless to ascribe certain rights to animals (whether any rights are ascribed to animals) if they don't have human intelligence and interests; correspondingly, it's arbitrary to ascribe a certain substantive equality to animals (whether some equality of consideration follows from their capacity to suffer) if they don't share typically human interests.

I say again, then, that where Singer's argument is compelling, it's trivial; and where it's not trivial, it's not compelling.

FOOTNOTES

1 "Animal Liberation", as far as I know, is the only piece that has yet appeared in print—as a review of Animals, Men and Morals, ed. Stanley and Roslund Godlovitch and John Harris (London: Taplinger, 1973), in The New York Review of Books, 20, No. 5 (April 5, 1973), 17-21. This is plainly concerned with animal rights. I've also read two other papers of Singer's, "The Rights of Animals" and "Speciesism and Racism", that carry the same argument forward. In the review, Singer is persuaded that the argument "requires us to become vegetarians"; this seems to be the upshot of the other papers as well and of the paper in the Conference.

2 This is from "Speciesism and Racism", which provides the most systematic argument.

3 From "The Rights of Animals".

4 From "Speciesism and Racism".

5 Ibid.