

## SIX

# Do All Subjects of a Life Have an Equal Right to Life?

## *The Challenge of the Comparative Value of Life*

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I begin with what I believe to be one of the most important ethical questions concerning our treatment of animals: is it ethical to kill animals for purposes like food or medical research if we cause them little or no pain? Some people believe that painlessly killing animals is ethical because animals do not have a moral right to life. Animals have no right to life, it is argued, because they cannot value their own lives or have long-range plans in life. But there is another important challenge to the idea that it is wrong to painlessly kill animals as our resources. Some people hold that although animals may have some right to life, it is only a *weak* right to life. Mary Anne Warren, for example, suggests that animals' right to life is weak enough to justify killing animals when necessary to obtain "vital goods" such as food, clothing, or medical knowledge.<sup>1</sup> One of the main justifications for this view consists in the thought that although life may have some value for animals, it has less value for them than humans. In contrast to the weak animal rights view, Tom Regan argues that many animals—all subjects of a life—have a *strong* right to life. On these grounds, Regan adopts an abolitionist position which holds that killing animals for food or research is wrong even if done painlessly. In this chapter, the central question I consider is whether it is reasonable to hold that all subjects of a life have a strong right to life in light of the challenge that life has less value for animals than humans.

## 1. REGAN AND THE EQUAL RIGHT TO LIFE

Perhaps the most basic premise of Regan's case for animal rights is that *all subjects of a life have inherent value*. Some critics have argued that Regan's concept of inherent value is mysterious.<sup>2</sup> However, the concept of inherent value merely articulates the widely shared intuition that certain individuals are worthy of a basic moral respect independent of their usefulness to others or to the greater good. Regan further argues that all who have inherent value must have it *equally* in order to avoid the unacceptable implications of a "perfectionist" morality which justifies the subordination of some beings to others on the grounds that those beings have lesser inherent value. The remaining question is what kinds of entities possess equal inherent value. Regan's view is that all beings who are *subjects of a life* have equal inherent value. Regan defines "subjects of a life" as beings who have an experiential life or welfare that can fare well or ill for them. He suggests that subjects of a life have beliefs and desires, perception, memory, a sense of one's own future, an emotional life, the ability to initiate action in pursuit of goals, and a psychophysical identity over time. Regan argues that many animals qualify as subjects of a life.

Critics have argued that Regan's view arbitrarily denies inherent value to beings which are sentient but not subjects of a life. However, Regan allows that entities which are not subjects of a life may still have inherent value. The subject of a life criterion is intended to emphasize the psychological similarities between humans and many animals. It is put forth only as a sufficient condition for possessing inherent value.<sup>3</sup> Moreover, it is not clear whether there are beings which are sentient but not subjects of a life. All sentient beings have an experiential life or welfare, which is the essence of being the subject of a life. It is also unclear whether it is possible for an organism to be sentient but completely lack all of the other psychological qualities which Regan ties to being the subject of a life. Arguably, any being which can feel pleasure will also possess basic conscious capacities for desires and beliefs, a sense of one's future, emotions, and so on.

Regan next argues that *all beings having inherent value have an equal prima facie right not to be caused harm*.<sup>4</sup> This claim is supported by two basic moral principles: the Respect Principle and the Harm Principle. According to the Respect Principle, "we are to treat those individuals who have inherent value in ways that respect their inherent value" (Regan 1983, 248). To respect others' inherent value requires that we should not cause them harm. The second principle is the Harm Principle. According to this principle, we have a *prima facie* duty not to harm those individuals who have an experiential welfare.<sup>5</sup> In other words, those who have inherent value have a *prima facie* right not to be harmed. And since all subjects of a life have inherent value equally, it follows that all subjects of a life have an equal right not to be harmed.

According to Regan, *one way in which subjects of a life can be harmed is from death*. Even if animals are incapable of valuing their own lives, Regan explains that, even when killed painlessly, many animals are harmed from an untimely death because they are permanently deprived of all their opportunities for satisfaction.<sup>6</sup> If all subjects of a life have an equal right not to be harmed, then it might seem to follow from this that all subjects of a life have an equal or strong right not to be killed. Regan himself suggests that all subjects of a life have a strong enough right to life to prohibit the painless killing of subjects of a life for purposes of food or medical research.

## 2. THE COMPARATIVE VALUE OF LIFE CHALLENGE

One of the most serious challenges to the idea that animals have an equal right to life is the thought that life has less value for animals than humans. That is, humans are capable of leading richer lives than animals. If life has less value for animals, how then can it be reasonable to think that animals have an equal right to life or, in other words, that their lives are deserving of equal respect?

In *The Case for Animal Rights*, Regan aims to address concerns over the comparative value of life. He suggests that in a lifeboat scenario in which one must choose between throwing either a dog or a normal adult human overboard to keep the lifeboat from sinking, one should throw the dog overboard because the death of the human is a greater harm than the death of the dog.<sup>7</sup> Regan argues that this judgment is consistent with the dog having an equal right not to be harmed because that equal right requires that we count individuals' equal harms equally, not their unequal harms equally. One must wonder though whether Regan's response also would justify killing animals as part of medical research to prolong human lives. Regan replies that it is only in extreme, exceptional cases that the differential value of lives justifies taking animals' lives to save human lives. The lifeboat scenario is an exceptional case, but medical research is not because it is an ongoing practice in which thousands of animals are killed annually.<sup>8</sup>

Regan's reply is not entirely convincing though. In both the lifeboat scenario and the case of animal research, the principle seems to be the same. Assuming that animal research can sometimes be an effective means of developing treatments for human illnesses, we must decide between either saving human lives at the expense of animal lives or protecting animal lives at the potential expense of human lives. If it is right to kill an animal to save human lives in the lifeboat scenario—on the grounds that life has greater value for normal adult humans than animals—then it would seem to be right, on the same grounds, to kill ani-

mals to save normal adult human lives in the context of medical research.<sup>9</sup>

### 3. DOES LIFE HAVE LESS VALUE FOR ANIMALS?

Two questions need to be answered here: (1) is it true that life has less value for animals than humans and (2) if it is true, does this fact justify the belief that animals do not have an equal right to life? Regarding the first question, it is plausible to think that life has greater value for most humans than animals—and this is because most humans are capable of experiencing greater quantities and qualities of pleasure in their lives than animals are capable of experiencing. Most humans, in virtue of their high level of self-awareness and creative intelligence, are capable of having certain pleasures which other, less aware, less intelligent beings are not. These pleasures include intellectual, creative, aesthetic, and moral pleasures. Humans can enjoy things such as writing, reading and contemplating books, making or contemplating art, scientific inquiry, philosophical contemplation, and striving to be a morally good person. All of these pleasures are characterized by a high level of intelligence, reflection, and creativity or imagination. They have great mental depth to them. Arguably, humans are also capable of enjoying deeper personal relationships than animals. To be clear, many animals are capable of enjoying a variety of different activities, including eating, sex, playing, exploring, and social relationships. Moreover, some of these activities (e.g., playing, exploring, and relationships) may involve some degree of creativity, imagination, and depth. However, despite this fact, it still seems that most humans are capable of experiencing deeper, more reflective and creative pleasures than animals and they can experience a greater range of deep pleasures.

The point I am making here can also be understood in terms of the kinds of desires that most humans are uniquely capable of having. Most humans are uniquely capable of having deeper, more creative, more profound desires in life. A desire to express one's ideas through writing, music, or art or to have an intimate friendship has a deeper, more reflective, more profound quality than, say, a simple desire for the gratification of sex or food. Humans are capable of having creative aspirations or dreams in their lives, aspirations to do certain things with their lives or to become certain things in their lives. Sometimes when a young person becomes a young adult, we speak sadly of those things that the person wanted to do or become in her life, as if this is a significant part of what makes that person's death so tragic.

My suggestion is that these more creative and intellectual pleasures tend to be both quantitatively and qualitatively superior to other pleasures. They tend to be quantitatively superior (i.e., producing more pleas-

ure) primarily because these pleasures generally are much more enduring than simpler animal pleasures. The pleasure that people derive from reading a great book, philosophical contemplation, being a morally good person, and deep, meaningful social relationships can last a long time. Simpler pleasures like those derived from food, drink, sex, or other physical activities tend to be shorter-lived. It could also be argued that humans, because of their creative and intellectual nature, are capable of a greater variety of pleasures than animals. Consider, for example, all the different forms of creative self-expression that one can appreciate or partake in, the variety of activities that one can enjoy with one's friends, or the diversity of topics available for philosophical contemplation.

More importantly, the creative, intellectual pleasures unique to human life are also *higher in quality* than the pleasures of which animals are capable. A life which is capable of having these pleasures is "richer" than one which is not. John Stuart Mill's well-known claim that intellectual pleasures are qualitatively superior to animalistic pleasures is controversial. Mill argued that almost all persons who have experienced both types of pleasure have a marked preference for the intellectual pleasures, even if those pleasures are lesser in quantity.<sup>10</sup> This preference, Mill believes, proves that the intellectual pleasures are superior in quality. Mill's argument faces the objection that there are cases of people who are experienced in intellectual pleasures but prefer more animalistic or less intellectual pleasures.<sup>11</sup> Indeed, many people sometimes prefer simpler pleasures to more intellectual ones. In defense of Mill, a stronger case can be made that nearly all people experienced in the creative, intellectual pleasures of a human life would not choose to live the life of an animal over a life which combines *both* the creative, intellectual pleasures and the animalistic pleasures, even if the animal's life had a greater quantity of pleasure. This preference is based on the fact that a life which includes creative, intellectual pleasures contains greater mental, imaginative, contemplative depth. This mental depth—this ability to contemplate and reflect on things—makes the life of a person preferable, even if it contains less quantity of pleasure than an animal's life.

Some have objected that it is not even possible for a person to be experienced in the pleasures of an animal's life since none of us can ever actually live the life of a nonhuman animal.<sup>12</sup> However, this objection is unconvincing. First, we can make educated judgments about what kinds of pleasures animals are capable of, based on our knowledge of their physiology and our observations of their behaviors. Second, we are familiar with many of the kinds of pleasures that animals experience, such as food, sex, other sensory pleasures (e.g., being in water, the feeling of warmth), and other physical activities like playing or exploring. We know what creative, intellectual pleasures are like and we know what simpler, more animalistic pleasures are like. This knowledge is sufficient to form a judgment of which kind of life seems preferable: one which

includes both kinds of pleasure or one which contains only the simpler pleasures. The judgment that it is preferable to live a life including both kinds of pleasure is based on the fact that the higher pleasures have a creative, reflective, and intellectual quality to them. We may not know exactly what it is like to be an animal, but we have good reason to think animals are not capable of having these kinds of creative, intellectual pleasures to the extent that we are. We are, then, justified in thinking that most humans are capable of experiencing greater qualities of pleasure in their lives than animals.

#### 4. DO ANIMALS HAVE AN EQUAL RIGHT TO LIFE?

Although it makes sense to think that life has greater value for most humans than animals, it does not automatically follow from this that animals do not have an equal right to life. To reach that conclusion, we must accept another assumption, namely, that two beings have an equal right to life only if the value of life for them is equal. Let us call this assumption the *equal value requirement*. I believe there are good reasons to reject the equal value requirement. For one, it would force us to conclude that many humans do not have an equal right to life since, on any plausible analysis of the value of life, life does not have the same value for all humans. This is true, first of all, of so-called "marginal humans," such as infants, the severely mentally disabled, and the severely senile. Their psychological complexity is equal to or less than that of many animals. Therefore, they are no more capable of experiencing creative, intellectual pleasures than many animals. But even among normal, adult humans, there is reason to think that some humans are harmed more from death than others, for some normal, adult humans seem to have greater capacities for reflective, creative, and intellectual activity than others. Indeed, we see that some people lead quite shallow and superficial lives, while others strive for various creative, intellectual accomplishments. Given that life has less value for some humans than others, the logic behind the equal value requirement suggests that some humans have less of a right to life than others. In this case, it could be ethical to kill some non-threatening humans, against their will, in order to satisfy the vital needs of other humans, just as Warren argues that we may do to animals due to their weaker right to life. If we find this result unacceptable, we are forced to reject the equal value requirement.

Instead of the equal value requirement, it is more reasonable to think that having an equal right to life requires *that the value of life for a being meets a certain threshold of value*. The question is, where should the threshold be drawn and does it include any animals? If we think that the threshold includes the value of life for all marginal humans who are subjects of a life, then it must also include the value of life for all animals

who are subjects of a life. For any animal which is the subject of a life, there is potentially some human who is the subject of a life and possesses a similar level of psychological complexity.

There is a second, more basic consideration which favors extending an equal right to life to beings for whom life has less value than it has for us: *it is consistent with the virtues of compassion and humility*. To be compassionate entails feeling sympathy or concern for others' interests and wanting to help them or protect them from harm. The virtue of compassion can provide us with guidance as to when it is wrong to kill sentient animals to serve human interests. In many cases it is possible to meet human needs without intentionally causing harm to animals. For example, we can meet our needs for nourishment through a vegetarian or vegan diet, without hindering our ability to live a long, healthy life. In cases like this, compassion clearly directs us to adopt the behavior which meets our needs without causing others harm.

Other cases are less clear though. Suppose that we can develop treatments for human diseases by doing medical experiments on animals that require inflicting suffering and death on the animals. Suppose also that abstaining from animal experiments would significantly hinder the development of these medical treatments. What is the compassionate thing to do in this case? It seems ambiguous since one can be compassionate to humans by promoting their interests in health or one can be compassionate to animals by promoting their interests in continued life. I contend, however, that to refrain from killing animals, even at the potential cost of failing to benefit human health, is *the more fully compassionate thing to do*. To kill animals in order to save human lives entails offensively (i.e., aggressively) and intentionally causing harm to others without their consent. Indeed, it is an act of aggression, violence, and domination, even if done to help others. It is *offensively* causing harm because the scientist who kills animals for research is directly responsible for creating the harm of death to the animals, and it is not justified by self-defense—the animals are not attacking the scientist. The harm is *intentional* insofar as the scientist wanted and intended her action to inflict harm on another being. I contend that *to intentionally, offensively inflict harm on another shows, to some degree, a lack of concern for the other's welfare*. Even if the scientist minimizes the animals' pain, she is still harming the animals by killing them.

On the other hand, to refrain from killing animals, at the potential cost of not saving human lives, need not show any lack of concern for human welfare. It is not offensively causing harm to humans; it is merely failing to help them. The harm that humans suffer from their diseases is caused by the diseases, not the scientist. Now, failing to help others can sometimes show a lack of concern when it is the product of indifference, but in this case it is the product not of indifference but rather not wanting to harm some beings in the process of helping others. It is also not intending

harm. The scientist who refrains from killing animals for research does not want humans to die from illnesses. Indeed, the fully compassionate scientist can and should look for other ways to benefit human health without inflicting harm on others. A fully compassionate person aims to prevent harm to individuals but will not offensively, intentionally inflict harm on others in the process of doing so.

Consider an analogous case in which a scientist can kill a few unwilling, innocent people for medical research that would significantly benefit many people's health. What is the most compassionate thing to do here? A utilitarian might argue that the most compassionate thing is to benefit the many, even at the cost of harming an innocent few. However, I contend that this is not the more compassionate choice because, although more good is being produced (i.e., more lives prolonged), the act of offensively, intentionally killing a few innocent, unwilling people demonstrates a clear lack of concern for their welfare (even if their interests were taken into consideration by the utilitarian). On the other hand, to refrain from killing humans in this case does not necessarily reflect a lack of compassion or concern for the many people whose health is at stake. The harms those people suffer are not the doings of the scientist and the scientist can still want to help them, just not at the cost of inflicting harm on others. This option, I contend, is more consistent with a more fully compassionate perspective that exhibits compassion for the welfare of everyone involved.

The virtue of humility also gives us reason to extend a strong right to life to beings who may not be capable of living lives as rich as ours. According to one common definition, humility involves having an accurate, unexaggerated sense of one's own worth or importance, not thinking too highly of oneself.<sup>13</sup> By contrast, to have an inflated sense of one's worth is a form of arrogance. Do we lack humility in this sense if we regard animals' lives as not deserving strong respect, such that they are expendable for purposes of satisfying human interests? Is this arrogant on our part?

To sacrifice a sentient animal's life simply to satisfy one's desire to eat meat is clearly arrogant since it exaggerates the importance of one's enjoyment of eating meat and underestimates the value of life for sentient animals. Even when eating animals is a central part of one's cultural practices, it is difficult to see how this cultural interest, when considered impartially, could have more value for a person than the value of life for a conscious animal capable of experiencing a variety of enjoyments in its life. However, what if we can save people's lives by taking animal lives for purposes of medical research? It might be thought that it is not arrogant to kill animals in this case because doing so would not involve exaggerating and misunderstanding our own importance in relation to animals. After all, I've argued that it makes sense to think that life has less richness and value for animals than persons. Assuming this is true, if

either an animal or a person must die, isn't it within the bounds of humility (i.e., having an accurate sense of one's own worth) to kill animals to save people's lives?

Even if it is accurate to hold that life has less value for animals than persons, humility still gives us reason to think that we should not kill animals for research to benefit people's lives and health. So far I have focused on the idea that humility involves having an accurate, unexaggerated sense of one's worth. But humility also concerns how one behaves with respect to one's actual accomplishments or merits, including the ways in which one is superior to others. A humble person is not boastful about the ways in which she is superior to others. Additionally, a humble person does not think that, or act as if, her superiority entitles her to dominate over the inferior, make them subservient, or harm them for purposes of advancing her own interests. In this sense, there is something deeply humble and respectful about allowing another non-threatening being to continue to have and enjoy its life, even if its life is less rich than ours and even if we stand to benefit significantly from ending its life. It involves knowing that our lives have superior worth but also believing that our lives are not so great that other "lesser beings" must give up their lives to promote ours. This seems especially true when we consider killing very intelligent animals like chimps and other primates for medical research (though I believe it is also true when we consider killing any sentient animal for research). In effect, this humble person says, "Even though my life is worth more and more of intrinsic worth would be lost if I die than if you die, I would rather die than take your life from you."

If we take these arguments from compassion and humility seriously, they would seem to give us reason not only for rejecting the equal value requirement but to extend a strong right to life to any being for whom life has some value. Animals' lives are deserving of strong respect even though life has less value for animals than most humans. This implies that our duty not to kill animals who are subjects of a life is similar in strength to our duty not to kill persons and, therefore, that it would be wrong to kill such animals for purposes of eating them or medical research that could save human lives. On the other hand, it does not require us to regard the death of an animal as equal in badness to the death of a person. Moreover, if the equal right to life pertains specifically to the right not to be killed, this position does not require us to think that we have an equal duty to save the lives of animals and people.

## 5. CONCLUSION

Much of the significance of Tom Regan's *The Case for Animal Rights* lies in the rigorous and systematic way in which Regan constructs a foundation

for the view that all subjects of a life deserve not only moral consideration in our actions but a stronger rights-worthy form of respect which would absolutely prohibit raising and killing animals for food or experimenting on animals for science, even if animal suffering is minimized and they are killed painlessly. Regan's position is that all subjects of a life have an equal right not to be harmed and among the harms we must refrain from causing animals is the harm of death. As I've discussed, Regan's strong rights position faces a serious challenge from the common belief that life has greater value for humans than animals. In response to this challenge, I have tried to explain why it makes sense to think that life ordinarily has greater value for humans than animals, but I have sought to preserve Regan's strong animal rights position in light of this challenge.

## NOTES

1. See Warren 1992 and Warren 1997.
2. See Warren 2011.
3. See Regan 1983, 245-46.
4. Regan 1983, 279, 286-87.
5. Regan 1983, 187, 262. A prima facie duty is a duty that one should perform unless it conflicts with another, stronger prima facie duty.
6. Regan 1983, 100.
7. Regan 1983, 324.
8. Regan 1983, 325. See also the New Preface in Regan 2004, xxx-xxxi.
9. One difference between these scenarios is that in the lifeboat scenario, both the humans and the animal are at risk of death and all will die if no one is thrown overboard and killed, whereas in the medical research scenario, the animals are not at risk of death if nothing is done. Evelyn Pluhar makes this point in her book, *Beyond Prejudice* (1995). However, the basic challenge to Regan's view remains: why should we think that animals' lives deserve strong respect if their lives have less intrinsic value than ours?
10. Mill 1957.
11. Mill suggests that those who have experienced intellectual pleasures but prefer animalistic pleasures have often lost their capacity to appreciate intellectual pleasures and they choose the animalistic ones only because it is a better alternative than an otherwise unhappy existence.
12. For example, Steve Sapontzis makes this argument. See Sapontzis 1987, 218-22.
13. See Richards 1992.

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