The Case for Animal Rights
Tom Regan


In this essay, Tom Regan offers an alternative approach to Peter Singer’s. Like Singer he opposes speciesism. Unlike Singer he does not offer a utilitarian moral theory. He argues that the focus of our moral concern should not be to minimize suffering and maximize pleasure but to avoid treating individual animals (human and nonhuman alike) in certain ways regardless of the consequences.

All animals that are the experiencing subjects of their own lives, he says, have inherent value. They, like humans, deserve what we called in Part 1 Kantian respect. They are not to be treated as mere things, even if we can maximize happiness by doing so. What makes eating meat or experimenting on animals wrong, then, is not that the human benefit does not outweigh the animal suffering, but that such practices deny the inherent value of the animals involved.

In defending his position, Regan criticizes contractarian views of morality, which deny that nonhuman animals can have rights. He also disagrees with Singers view that some lives of creatures with the right to We are more valuable than others. All lives that have inherent value, he says, are equal.

I regard myself as an advocate of animal rights - as a part of the animal rights movement. That movement, as I conceive it, is committed to a number of goals, including:

- the total abolition of the use of animals in science;
- the total dissolution of commercial animal agriculture;
- the total elimination of commercial and sport hunting and trapping.

There are, I know people who profess to believe in animal rights but do not avow these goals. Factory farming, they say is wrong-it violates animals’ rights-but traditional animal agriculture is all right. Toxicity tests of cosmetics on animals violates their rights, but important medical research - cancer research, for example-do not. The clubbing of baby seals is abhorrent, but not the harvesting of adult seals. I used to think I understood this reasoning. Not any more. You don’t change unjust institutions by tidying them up.

What’s wrong-fundamentally wrong - with the way animals are treated isn’t the details that vary from case to case. It’s the whole system. The forlornness of the veal calf is pathetic, heart wrenching; the pulsing pain of the chimp with electrodes planted deep in her brain is repulsive; the slow torturous death of the raccoon caught in the leg-hold trap is agonizing. But what is wrong isn’t the pain, isn’t the suffering, isn’t the deprivation. These compound what’s wrong. Sometimes – often - they make it much, much worse. But they are not the fundamental wrong.

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. Once we accept this view of animals - as our resources - the rest is as predictable as it is regrettable. Why worry about their loneliness, their pain, their death? Since animals exist for us, to benefit us in one way or another, what harms them really doesn’t matter - or matters only if it starts to bother us, makes us feel a trifle uneasy when we eat our veal escalope, for example. So, yes, let us get veal calves out of solitary confinement, give them more space, a little straw a few companions. But let us keep our veal escalope.

But a little straw more space and a few companions won’t eliminate - won’t even touch - the basic wrong that attaches to our viewing and treating these animals as our resources. A veal calf killed to be eaten after living in close confinement is viewed and treated in this way: but so, too, is another who is raised (as they say) ‘more humanely’ To right the wrong of our treatment of farm animals requires more than making rearing methods ‘more humane’; it requires the total dissolution of commercial animal agriculture.

How do we this, whether we do it or, as in the case of animals in science, whether and how we abolish their use-these are to a large extent political questions. People must change their beliefs before they change their habits. Enough people, especially those elected to public office, must believe in change - must want it - before we will have laws that protect the rights of animals. This process of change is very complicated, very demanding, very exhausting, calling for the efforts of many hands in education, publicity political organization and activity down to the licking of envelopes and stamps. As a trained and practicing philosopher, the sort of contribution I can make is limited but, I like to think, important. The currency of philosophy is ideas-their meaning and rational foundation - not the nuts and bolts of the legislative process, say or the mechanics of community organization. That’s what I have been exploring over the past ten years or so in my essays and talks and, most recently in my book, The Case for Animal Rights. I believe the major conclusions I reach in the book are true because they are supported by the weight of the best arguments. I believe the idea of animal rights has reason, not just emotion, on its side.

In the space I have at my disposal here I can only sketch, in the barest outline, some of the main features of the book. Its main themes - and we should not be surprised by this - involve asking and answering deep, foundational moral questions about what morality is, how it should be understood and what is the best moral theory all considered. I hope I can convey something of the shape I think this theory takes. The attempt to do this will be (to use a word a friendly critic once used to describe my work) cerebral, perhaps too cerebral. But this is misleading. My feelings about how animals are sometimes treated run just as deep and just as strong as those of my more volatile compatriots. Philosophers do-to use the jargon of the day-have a contribution I can make is limited but, I like to think, important. The currency of philosophy is ideas-their meaning and rational foundation - not the nuts and bolts of the legislative process, say or the mechanics of community organization. That’s what I have been exploring over the past ten years or so in my essays and talks and, most recently in my book, The Case for Animal Rights. I believe the major conclusions I reach in the book are true because they are supported by the weight of the best arguments. I believe the idea of animal rights has reason, not just emotion, on its side.

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How to proceed? We begin by asking how the moral status of animals has been understood by thinkers who deny that animals have rights. Then we test the mettle of their ideas by seeing how well they stand up under the heat of fair criticism. If we start our thinking in this way we soon find that some people believe that we have no duties directly to animals, that we owe nothing to them, that we can do nothing that wrongs them. Rather, we can do wrong acts that involve animals, and so we have duties regarding them, though none to them. Such views may be called indirect duty
views. By way of illustration: suppose your neighbor kicks your dog. Then your neighbor has done something wrong. But not to your dog. The wrong that has been done is a wrong to you. After all, it is wrong to upset people, and your neighbor’s kicking your dog upsets you. So you are the one who is wronged, not your dog. Or again: by kicking your dog your neighbor damages your property. And since it is wrong to damage another person’s property your neighbor has done something wrong - to you, of course, not to your dog. Your neighbor no more wrongs your dog than your car would be wronged if the windshield were smashed. Your neighbor’s duties involving your dog are indirect duties to you. More generally all of our duties regarding animals are indirect duties to one another-to humanity.

How could someone try to justify such a view? Someone might say that your dog doesn’t feel anything and so isn’t hurt by your neighbor’s kick, doesn’t care about the pain since none is felt, is as unaware of anything as is your windshield. Someone might say this, but no rational person will, since, among other considerations, such a view will commit anyone who holds it to the position that no human being feels pain either—that human beings also don’t care about what happens to them. A second possibility is that though both humans and your dog are hurt when kicked, it is only human pain that matters. But, again, no rational person can believe this. Pain is pain wherever it occurs. If your neighbor’s causing you pain is wrong because of the pain that is caused, we cannot rationally ignore or dismiss the moral relevance of the pain that your dog feels.

Philosophers who hold indirect duty views - and many still do - have come to understand that they must avoid the two defects just noted: that is, both the view that animals don’t feel anything as well as the idea that only human pain can be morally relevant. Among such thinkers the sort of view now favored is one or other form of what is called contractarianism. 

Here, very crudely is the root idea: morality consists of a set of rules that individuals voluntarily agree to abide by as we do when we sign a contract (hence the name contractarianism). Those who understand and accept the terms of the contract are covered directly; they have rights created and recognized by and protected in, the contract. And these contractors can also have protection spelled out for others who, though they lack the ability to understand morality and so cannot sign the contract themselves, are loved or cherished by those who can. Thus young children, for example, are unable to sign contracts and lack rights. But they are protected by the contract none the less because of the sentimental interests of others, most notably their parents. So we have, then, duties involving these children, duties regarding them, but no duties to them. Our duties in their case are indirect duties to other human beings, usually their parents.

As for animals, since they cannot understand contracts, they obviously cannot sign; and since they cannot sign, they have no rights. Like children, however, some animals are the objects of the sentimental interest of others. You, for example, love your dog or cat. So those animals that enough people care about (companion animals, whales, baby seals, the American bald eagle), though they lack rights themselves, will be protected because of the sentimental interests of people. I have, then, according to contractarianism, no duty directly to your dog or any other animal, not even the duty not to cause them pain or suffering; my duty not to ‘hurt them is a duty I have to those people who care about what happens to them. As for other animals, where no or little sentimental interest is present—in the case of farm animals, for example, or laboratory rats—what duties we have grow weaker and weaker, perhaps to vanishing point. The pain and death they endure, though real, are not wrong if no one cares about them.

When it comes to the moral status of animals, contractarianism could be a hard view to refute if it were an adequate theoretical approach to the moral status of human beings. It is not adequate in this latter respect, however, which makes the question of its adequacy in the former case, regarding animals, utterly moot. For consider: morality according to the (crude) contractarian position before us, consists of rules that people agree to abide by. What people? Well, enough to make a difference-enough, that is, collectively to have the power to enforce the rules that are drawn up in the contract. That is very well and good for the signatories but not so good for anyone who is not asked to sign. And there is nothing in contractarianism of the sort we are discussing that guarantees or requires that everyone will have a chance to participate equally in framing the rules of morality. The result is that this approach to ethics could sanction the most blatant forms of social, economic, moral and political injustice, ranging from a repressive caste system to systematic racial or sexual discrimination. Might, according to this theory does make right. Let those who are the victims of injustice suffer as they will. It matters not so long as no one else-no contractor, or too few of them-cares about it. Such a theory takes one’s moral breath away … as if, for example, there would be nothing wrong with apartheid in South Africa if few white South Africans were upset by it. A theory with so little to recommend it at the level of the ethics of our treatment of our fellow humans cannot have anything more to recommend it when it comes to the ethics of how we treat our fellow animals.

The version of contractarianism just examined is, as I have noted, a crude variety and in fairness to those of a contractarian persuasion it must be noted that much more refined, subtle and ingenious varieties are possible. For example, John Rawls, in his A Theory of Justice, sets forth a version of contractarianism that forces contractors to ignore the accidental features of being a human being - for example, whether one is white or black, male or female, a genius or of modest intellect. Only by ignoring such features, Rawls believes, can we ensure that the principles of justice that contractors would agree upon are not based on bias or prejudice. Despite the improvement a view such as Rawl’s represents over the cruder forms of contractarianism, it remains deficient: it systematically denies that we have direct duties to those human beings who do not have a sense of justice - young children, for instance, and many mentally retarded humans. And yet it seems reasonably certain that, were we to torture a young child or a retarded elder, we would be doing something that wronged him or her, not something that would be wrong if (and only if) other humans with a sense of justice were upset. And since this is true in the case of these humans, we cannot rationally deny the same in the case of animals. 

Indirect duty views, then, including the best among them, fail to command our rational assent. Whatever ethical theory we should accept rationally therefore, it must
at least recognize that we have some duties directly to animals, just as we have some duties directly to each other. The next two theories I’ll sketch attempt to meet this requirement.

The first I call the cruelty-kindness view. Simply stated, this says that we have a direct duty to be kind to animals and a direct duty not to be cruel to them. Despite the familiar, reassuring ring of these ideas, I do not believe that this view offers an adequate theory. To make this clearer, consider kindness. A kind person acts from a certain kind of motive-compassion or concern, for example. And that is a virtue. But there is no guarantee that a kind act is a right act. If I am a generous racist, for example, I will be inclined to act kindly towards members of my own race, favoring their interests above those of others. My kindness would be real and, so far as it goes, good. But I trust it is too obvious to require argument that my kind acts may not be above moral reproach - may in fact, be positively wrong because rooted in injustice. So kindness, notwithstanding its status as a virtue to be encouraged, simply will not carry the weight of a theory of right action.

Cruelty fares no better. People or their acts are cruel if they display either a lack of sympathy for or, worse, the presence of enjoyment in another’s suffering. Cruelty in all its guises is a bad thing, a tragic human failing. But just as a person’s being motivated by kindness does not guarantee that he or she does what is right, so the absence of cruelty does not ensure that he or she avoids doing what is wrong. Many people who perform abortions, for example, are not cruel, sadistic people. But that fact alone does not settle the terribly difficult question of the morality of abortion. The case is no different when we examine the ethics of our treatment of animals. So, yes, let us be for kindness and against cruelty, but let us not suppose that being for the one and against the other answers questions about moral right and wrong.

Some people think that the theory we are looking for is utilitarianism. A utilitarian accepts two moral principles. The first is that of equality: everyone’s interests count, and similar interests must be counted as having similar weight or importance. White or black, American or Iranian, human or animal-everyone’s pain or frustration matters, and matters just as much as the equivalent pain or frustration of anyone else. The second principle a utilitarian accepts is that of utility: do the act that will bring about the best balance between satisfaction and frustration for everyone affected by the outcome.

As a utilitarian, then, here is how I am to approach the task of deciding what I morally ought to do: I must ask who will be affected if I choose to do one thing rather than another, how much each individual will be affected, and where the best results are most likely to lie—which option, in other words, is most likely to bring about the best results, the best balance between satisfaction and frustration. That option, whatever it may be, is the one I ought to choose. That is where my moral duty lies.

The great appeal of utilitarianism rests with its uncompromising egalitarianism: everyone’s interests count and count as much as the like interests of everyone else. The kind of odious discrimination that some forms of contractarianism can justify-discrimination based on race or sex, for example-seems disallowed in principle by utilitarianism, as is speciesism, systematic discrimination based on species membership.

The equality we find in utilitarianism, however, is not the sort an advocate of animal or human rights should have in mind. Utilitarianism has no room for the equal moral rights of different individuals because it has no room for their equal inherent value or worth. What has value for the utilitarian is the satisfaction of an individual’s interests, not the individual whose interests they are. A universe in which you satisfy your desire for water, food and warmth is, other things being equal, better than a universe in which these desires are frustrated. And the same is true in the case of an animal with similar desires. But neither you nor the animal has any value in your own right. Only your feelings do.

Here is an analogy to help make the philosophical point clearer: a cup contains different liquids, sometimes sweet, sometimes bitter, sometimes a mix of the two. What has value are the liquids: the sweeter the better, the bitterer the worse. The cup, the container, has no value. It is what goes into it, not what they go into, that has value. For the utilitarian you and I are like the cup; we have no value as individuals and thus no equal value. What has value is what goes into us, what we serve as receptacles for; our feelings of satisfaction have positive value, our feelings of frustration negative value.

Serious problems arise for utilitarianism when we remind ourselves that it enjoins us to bring about the best consequences. What does this mean? It doesn’t mean the best consequences for me alone, or for my family or friends, or any other person taken individually. No, what we must do is, roughly as follows: we must add up (somehow!) the separate satisfactions and frustrations of everyone likely to be affected by our choice, the satisfactions in one column, the frustrations in the other. We must total each column for each of the options before us. That is what it means to say the theory is aggregative. And then we must choose that option which is most likely to bring about the best balance of totaled satisfactions over totaled frustrations. Whatever act would lead to this outcome is the one we ought morally to perform - it is where our moral duty lies. And that act quite clearly might not be the same one that would bring about the best results for me personally or for my family or friends, or for a lab animal. The best aggregated consequences for everyone concerned are not necessarily the best for each individual.

That utilitarianism is an aggregative theory - different individuals’ satisfactions or frustrations are added, or summed, or totaled-is the key objection to this theory. My Aunt Bea is old, inactive, a cranky sour person, though not physically ill. She prefers to go on living. She is also rather rich. I could make a fortune if I could get my hands on her money, money she intends to give me in any event, after she dies, but which she refuses to give me now. In order to avoid a huge tax bite, I plan to donate a handsome sum of my profits to a local children’s hospital. Many, many children will benefit from my generosity and much joy will be brought to their parents, relatives and friends. If I don’t get the money rather soon, all these ambitions will come to naught. The once-in-a-lifetime opportunity to make a real killing will be gone. Why then, not kill my Aunt Bea? Of course I might get caught. But I’m no fool and, besides, her doctor can be counted on to cooperate (he has an
eye for the same investment and I happen to know a good deal about his shady past). The deed can be done . . . professionally shall we say There is very little chance of getting caught. And as for my conscience being guilt-ridden, I am a resourceful sort of fellow and will take more than sufficient comfort as I lie on the beach at Acapulco - in contemplating the joy and health I have brought to so many others.

Suppose Aunt Bea is killed and the rest of the story comes out as told. Would I have done anything wrong? Anything immoral? One would have thought that I had. Not according to utilitarianism. Since what I have done has brought about the best balance between totaled satisfaction and frustration for all those affected by the outcome, my action is not wrong. Indeed, in killing Aunt Bea the physician and I did what duty required.

This same kind of argument can be repeated in all sorts of cases, illustrating, time after time, how the utilitarian's position leads to results that impartial people find morally callous. It is wrong to kill my Aunt Bea in the name of bringing about the best results for others. A good end does not justify an evil means. Any adequate moral theory will have to explain why this is so. Utilitarianism fails in this respect and so cannot be the theory we seek.

What to do? Where to begin anew? The place to begin, I think, is with the utilitarian's view of the value of the individual - or, rather, lack of value. In its place, suppose we consider that you and I, for example, do have value as individuals - what we'll call inherent value. To say we have such value is to say that we are something more than, something different from mere receptacles. Moreover, to ensure that we do not pave the way for such injustices as slavery or sexual discrimination, we must believe that all who have inherent value have it equally regardless of their sex, race, religion, birthplace and so on. Similarly to be discarded as irrelevant are one's talents or skills, intelligence and wealth, personality or pathology whether one is loved and admired or despised and loathed. The genius and the retarded child, the prince and the pauper, the brain surgeon and the fruit vendor, Mother Teresa and the most unscrupulous used-car salesman - all have inherent value, all possess it equally and all have an equal right to be treated with respect, to be heated in ways that do not reduce the pauper, the brain surgeon and the fruit vendor, Mother Teresa and the most admired or despised and loathed.

As a consequence of this, a view known as the rights view develops. This view is usually expressed in the form of the categorical imperative, which states that a person should act only in accordance with that maxim whereby he would be willing that the maxim should become a universal law. In other words, my action is not wrong. Indeed, in killing Aunt Bea the physician and I did what duty required.

The rights view I believe, is rationally the most satisfactory moral theory. It surpasses all other theories in the degree to which it illuminates and explains the foundation of our duties to one another - the domain of human morality. On this score it has the best reasons, the best arguments, on its side. Of course, if it were possible to show that only human beings are included within its scope, then a person like myself, who believes in animal rights, would be obliged to look elsewhere.

But attempts to limit its scope to humans only can be shown to be rationally defective. Animals, it is true, lack many of the abilities humans possess. They can't read, do higher mathematics, build a bookcase or make baba ghanoush. Neither can many human beings, however, and yet we don't (and shouldn't) say that they (these humans) therefore have less inherent value, less of a right to be treated with respect, than do others. It is the similarities between those human beings who most clearly most non-controversially have such value (the people reading this, for example), not our differences, that matter most. And the really crucial, the basic similarity is simply this: we are each of us the experiencing subject of a life, a conscious creature having an individual welfare that has importance to us whatever our usefulness to others. We want and prefer things, believe and feel things, recall and expect things. And all these dimensions of our life, including our pleasure and pain, our enjoyment and suffering, our satisfaction and frustration, our continued existence or our untimely death - all make a difference to the quality of our life as lived, as experienced, by us as individuals. As the same is true of those animals that concern us (the ones that are eaten and trapped, for example), they too must be viewed as the experiencing subjects of a life, with inherent value of their own.

Some there are who resist the idea that animals have inherent value. "Only humans have such value," they profess. How might this narrow view be defended? Shall we say that only humans have the requisite intelligence, or autonomy, or reason? But there are many, many humans who fail to meet these standards and yet are reasonably viewed as having value above and beyond their usefulness to others. Shall we claim that only humans belong to the right species, the species Homo sapiens? But this is blatant speciesism. Will it be said, then, that all - and only - humans have immortal souls? Then our opponents have their work cut out for them. I am myself not ill-disposed to the proposition that there are immortal souls. Personally I profoundly hope I have one. But I would not want to rest my position on a controversial ethical issue on the even more controversial question about who or what has an immortal soul. That is to dig one's hole deeper, not to climb out. Rationally it is better to resolve moral issues without making more controversial assumptions than are needed. The question of who has inherent value is such a question, one that is resolved more rationally without the introduction of the idea of immortal souls than by its use.

Well, perhaps some will say that animals have some inherent value, only less than we have. Once again, however, 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 judgment in the case of humans who are similarly deficient. But it is not true that such humans - the retarded child, for example, or the mentally deranged - have less inherent value than you or I. Neither, then, can we rationally sustain the view that animals like them in being the experiencing subjects of a life...
have less inherent value. All who have inherent value have it equally, whether they
be human animals or not.

Inherent value, then, belongs equally to those who are the experiencing subjects
of a life. Whether it belongs to others—to rocks and rivers, trees and glaciers, for
example—we do not know and may never know. But neither do we need to know if
we are to make the case for animal rights. We do not need to know for example, how
many people are eligible to vote in the next presidential election before we can know
whether I am. Similarly we do not need to know how many individuals have inherent
value before we can know that some do. When it comes to the case for animal rights,
then, what we need to know is whether the animals that, in our culture, are routinely
eaten, hunted and used in our laboratories, for example, are like us in being subjects
of a life. And we do know this. We do know that many—literally billions and billions—
of these animals are the subjects of a life in the sense explained and so have inherent
value if we do. And since, in order to arrive at the best theory of our duties to one
another, we must recognize our equal inherent value as individuals, reason—not
sentiment, not emotion—reason compels us to recognize the equal inherent value of
these animals and, with this, their equal right to be treated with respect.