

ISSUE 18



Is the Use of Animals in Research Justified?

YES: Josie Appleton, from "Speciesism: A Beastly Concept: Why It Is Morally Right to Use Animals to Our Ends," *Spiked-Online* (February 23, 2006)

NO: Tom Regan, from "The Rights of Humans and Other Animals," *Ethics & Behavior* (vol. 7, no. 2, 1997)

ISSUE SUMMARY

YES: Journalist Josie Appleton contends that a proper relationship to animals means using them for human ends, for humans are the measure of all things.

NO: Philosopher Tom Regan argues that any attempt to define what it is about being human that gives all humans moral rights must also give animals moral rights, and that therefore we have no more right to use animals as research subjects than we have to use other humans.

Modern biologists and physicians know a great deal about how the human body works. Some of that knowledge has been gained by studying human cadavers and tissue samples acquired during surgery and through "experiments of nature" (strokes, for example, have taught a great deal about what the various parts of the brain do; extensive injuries from car accidents and wars have also been edifying). Some knowledge of human biology has also been gained from experiments on humans, such as when patients agree to let their surgeons and doctors try experimental treatments.

The key word here is *agree*. Today it is widely accepted that people have the right to consent or not to consent to whatever is done to them in the name of research or treatment. In fact, society has determined that research done on humans without their free and informed consent is a form of scientific misconduct. However, this standard does not apply to animals, experimentation on which has produced the most knowledge of the human body.

Although animals have been used in research for at least the last 2,000 years, during most of that time, physicians who thought they had a workable

treatment for some illness commonly tried it on their patients before they had any idea whether or not it worked or was even safe. Many patients, of course, died during these untested treatments. In the mid-nineteenth century, the French physiologist Claude Bernard argued that it was sensible to try such treatments first on animals to avoid some human suffering and death. No one then questioned whether or not human lives were more valuable than animal lives. In the twentieth century, Elizabeth Baldwin, in "The Case for Animal Research in Psychology," *Journal of Social Issues* (vol. 49, no. 1, 1993), argued that animals are of immense value in medical, veterinary, and psychological research, and they do not have the same moral rights as humans. Our obligation, she maintains, is to treat them humanely.

Today geneticists generally study fruit flies, roundworms, and zebra fish. Physiologists study mammals, mostly mice and rats but also rabbits, cats, dogs, pigs, sheep, goats, monkeys, and chimpanzees. Experimental animals are often kept in confined quarters, cut open, infected with disease organisms, fed unhealthy diets, and injected with assorted chemicals. Sometimes the animals suffer. Sometimes the animals die. And sometimes they are healed, albeit often of diseases or injuries induced by the researchers in the first place.

Not surprisingly, some observers have reacted with extreme sympathy and have called for better treatment of animals used in research. This "animal welfare" movement has, in turn, spawned the more extreme "animal rights" movement, which asserts that animals—especially mammals—have rights as important and as deserving of regard as those of humans. Thus, to kill an animal, whether for research, food, or fur, is the moral equivalent of murder. See Steven M. Wise and Jane Golmoodall, *Rattling the Cage: Toward Legal Rights for Animals* (Perseus, 2000) and Roger Scruton and Andrew Tayler, "Do Animals Have Rights?" *The Ecologist* (March 2001).

This attitude has led to important reforms in the treatment of animals, to the development of several alternatives to using animals in research, and to a considerable reduction in the number of animals used in research. See Alan M. Goldberg and John M. Frazier, "Alternatives to Animals in Toxicity Testing," *Scientific American* (August 1989); Wade Roush, "Hunting for Animal Alternatives," *Science* (October 11, 1996); and Erik Stokstad, "Humane Science Finds Sharper and Kinder Tools," *Science* (November 5, 1999). However, it has also led to hysterical objections to in-class animal dissections, terrorist attacks on laboratories, the destruction of research records, and the theft of research materials (including animals).

In the following selections, journalist Josie Appleton contends that the development of human civilization has been marked by increasing separation from animals. Humans come first, and it is entirely moral to use animals for our own ends. Torturing animals is wrong, but mostly because it reflects badly upon the torturer. Writing in a special issue of the journal *Ethics & Behavior*, philosopher Tom Regan argues that any attempt to define what it is about being human that gives all humans moral rights must also give animals moral rights, and that therefore we have no more right to use animals as research subjects than we have to use other humans.

Speciesism: A Beastly Concept: Why It Is Morally Right to Use Animals to Our Ends

In recent years, the animal rights camp has claimed the moral high ground, asserting that it is mere "speciesism" to prioritise human ends over those of mice, cats or primates.

Animal rights activist Peter Singer defines speciesism as "a prejudice or attitude of bias towards the interests of members of one's own species and against those of members of other species." Advocates argue that fighting speciesism is an extension of struggles for human equality: just as we once dehumanised others on the basis of their race or sex, so apparently we now think animals are below us. The argument goes that speciesism, racism and sexism are all examples of "exclusionary attitudes." In *The Political Animal: The Conquest of Speciesism*, Richard Ryder notes that Aristotle thought that animals "exist for the sake of men" while also looking down on slaves and women. No coincidence, says Ryder. According to Ryder, either you are a caring person who recognises the value of other beings, or you are selfish and care only for yourself. He cites "evidence of a link between caring for humans and caring for animals": one study found that opponents of animal rights tended to be male, anti-abortion, have "prejudice against homosexuals" and "exhibited racial prejudice"; another study of US students concluded that "those students who favour animal experimentation tend to be male, masculine in outlook, conservative and less empathetic."

When this argument was first made in the early 1970s it was considered crackpot and insulting. America had recently allowed black citizens the vote; national liberation struggles were setting the world alight; women were burning their bras. Human equality was the priority: nobody was much concerned with improving the conditions of gorillas in the West African jungle. Now the notion of speciesism has gained respectability and kudos, filtering into a variety of professions.

One social worker, David B. Wolf, argues that his colleagues need to reflect on their speciesist attitudes: he notes that the current aim of social work is "to enhance human well-being and help meet the basic human needs of all people," and suggests instead that "the issue of speciesism should be

incorporated as a basic element of the profession." An article by a Swedish educationalist critiqued the "oppressive human-animal domination structures" in schools, and deconstructed the speciesism implicit in school textbooks and choices of school trips—she calls for these prejudices to be replaced by "compassion and respect for the other, in the broadest sense of the word." A cultural studies professor suggests a "non-speciesist vision" for reading literature and the arts. Just as historians might read history from the point of the oppressed, he suggests that "The visual arts must be viewed so as to interpret the role of the animals which crouch in the corners of the frame or stare from the owners' lap."

The term *speciesism* hasn't yet entered the popular vocabulary, perhaps partly because it is such a mouthful. But the assumption behind the term—that it is wrong to prioritise humans over animals—has become mainstream. Animal experimentation today has few defenders: at the new Oxford animal lab contractors hide their faces behind balaclavas, and few from the government or scientific community will speak out in its defence. The government backs the lab with funding and security but not with political or moral arguments. Indeed the UK government's draft Animal Welfare Bill sends the opposite political message: the new regulations require pet owners to respect their pets' rights to privacy and provide them with adequate "stimulation," and ban animal "mutilation" such as tail-docking and fish-dyeing. Our everyday relationships with animals are being called into question. The US Association for the Study of Animal Behaviour (ASAB) advises schools against keeping pets because this apparently places children's educational needs above the welfare of animals—if they must, "animal handling should be supervised and kept to a minimum, the animals' needs must remain paramount."

Of course, in practice most of us are speciesist: we eat animals but not humans; we buy pets and keep them locked up in cages; we support animal experimentation in order to save human lives. But increasingly these distinctions lack moral justification. It's time we developed a more human-centred morality, to provide our practical judgements with intellectual support.

Human and Animal Equality

Animal rights activists get the relationship between human and animal equality completely skewed. In actual fact, the idea of the brotherhood of mankind was founded on the basis of uniquely human features. In the Enlightenment, when the notion of human equality was hammered out, it was argued that we should treat one another as equals because we were all rational, self-conscious beings. The German philosopher Immanuel Kant argued that we have to respect other human beings because they are *self-willing*: they are conscious of their existence, so you cannot merely treat them as a means to your end. By contrast, says Kant, "Animals are not self-conscious and are there merely as a means to an end. That end is man." It is because animals are not ends for themselves that humans can treat them as a means to our ends.

The flowering of human consciousness went hand-in-hand with a growing distinction from animals. It is when humans lived in cramped and degraded

circumstances that they have felt the most commonality with the beasts. In ancient Egypt, cats and dogs were mummified because they were believed to have an afterlife, and Egyptian Gods had animal heads. Premodern societies often had animal totems, and they saw animals and humans as intertwined through reincarnation. Animals were attributed with agency: some societies tied animals in court, and prayed to fish to return to the rivers. The sense of fellowship with animals corresponded to societies subject to the whims of nature. These circumstances didn't foster brotherly love. Some tribes called themselves "the humans," the implication being that outsiders were not fully human and could be killed with impunity (though it might be forbidden to kill a pig for food).

With ancient Greece, when humanity began to develop a fuller sense of itself and its abilities, animals began to be cast out of the picture. Greek Gods are all human—though they sometimes disguise themselves as animals, as in the myth of Leda and the swan. Human-animal hybrids remained in the form of satyrs and mermaids, but crucially these had human heads and arms and so retained the locus of personality. Theorists of ethics and the good life, such as Aristotle, generally argued that animals lacked reason and so could not be granted justice.

Christianity developed a broader notion of human equality, and a clearer distinction between humans and animals. We are all made in the image of God, says the Bible, even women and slaves, and we are all deserving of equal respect. Christianity respected no holy animals, a point made in the Bible where Jesus casts the swine into the sea. But Christianity understood humanity's distinctness from nature as a *gift* from God. "I have given you all things," says God: "Every moving thing that liveth shall be meat for you."

The Enlightenment philosophers increasingly located the source of human distinction in mankind itself, writing excited essays about the innate "dignity of man" and humanity's capacity for self-development. While fish worshipping corresponded to a feeble control over nature, so this notion of human uniqueness corresponded to a society that was developing science, technology and industry. Our "dominion" over nature came to be seen not as a gift from God but as the product of our own hands.

Defining Humans Down

Those who argue that human beings and animals are equal, devalue humanity. As animal rights academic Paola Cavalieri notes, new notions of animal rights are the result of changing definitions of humans, with a shift from "high-sounding claims about our rationality and moral capacity" to "work on a much more accessible level." The ability to feel pain is the definition of moral worth suggested by Peter Singer (who calls it sentience) and Richard Ryder (who calls it painience). Human beings' superior mental abilities are apparently of no moral consequence: Singer talks about humans' "self-awareness, and the ability to plan for the future and have meaningful relationships with others," but argues that they are "not relevant to the question of inflicting pain—since pain is pain." Here commonality with other human beings (and

animals) is based on our central nervous systems. We are all part of a "community of pain," says Ryder. Singer suggests that a human life is worth (a bit) more than an animal's, because we have a slightly higher level of sentience. We should therefore treat sentient animals as we would a mentally handicapped human being.

Others take a behavioural psychological approach. Primate studies have found that they form relationships among members of the group, that they have some kind of memory of events; that they can use twigs and rocks as tools and have different "tool cultures" for different groups; that they can communicate with one another and can learn basic signs to communicate with humans. Here the question of moral value is decided in a laboratory or in field tests, weighed on the basis of cognitive and awareness skills. Humans come out better than chimps, but it is a quantitative rather than qualitative difference. "[Chimpanzees] clearly have some kind of self-concept," writes primatologist Jane Goodall. "The line dividing 'man' from 'beast' has become increasingly blurred."

Finally, others take DNA as their measure of moral value. Studies have shown that we share some 98.4 per cent of our DNA with chimpanzees, and an even greater proportion of our genes. When recent research showed that humans shared a closer evolutionary relationship with chimps than previously thought, calls started for chimps to be removed from the *pan* genus and welcomed into *homo*. Many drew the assumption that shared DNA made chimpanzees into moral agents. "Could a chimp ever be charged with murder?," asked the *UK Daily Mail*.

It seems that we no longer know what it means to be a member of the human club, but have a feeling that it cannot be much. These different definitions of moral worth are entirely arbitrary. Why should a shared gene mean that people are of equal value or that we should respect them? If some historically isolated groups had a notably different DNA should we treat them differently? Why does the possession of basic memory mean that we should respect chimps? The drive behind these arguments is not their logical coherence, but the desire to knock humans off their pedestal. Observations on the sophistication of primate behaviour are punctuated with pokes at human beings: "Who are we to say that the suffering of a human being is more terrible than the suffering of a nonhuman being, or that it matters more?" asks Jane Goodall in a piece about chimp behaviour. "Why is human arrogance so pervasive and where does it come from?" asked Roger and Deborah Fouts in a chapter on primate language use.

The notion of humanity here is based on humility. For Richard Ryder this is a generic capacity for caring, the feminine antithesis to dominating machismo. Surely the jains would be the most humane of us all, as they walk around apologising to ants and plants if they step on them? But what kind of model of man is that? This is the compassion of subservience: we regret causing other beings pain because we feel that we are not worthy. Genuine compassion, by contrast, is based on a fellowship of feeling: "Any man's death diminishes me, because I am involved in mankind," wrote the sixteenth-century poet John Donne. Humility is no basis on which to build commonality between human beings, who properly face each other eye to eye as upright equals.

How Humans Are Different

Human beings are not just a variation on chimps. What is at question is not *awareness* of our world, but *consciousness*. Humans are the only beings that are an object for themselves: that not only exist but know that they exist; that don't just act, but reflect on their activity. "Man makes himself," is the title of a book on human history by archaeologist V. Gordon Childe. He notes that biological evolution selects characteristics that will be useful for a particular environment—a tough hide for protection, fast running to escape predators, or sharp claws with which to kill. Human beings have virtually no useful biological adaptations: we are slow, naked and thin-skinned. Instead we consciously fashion our own adaptations, from clothes to cars to weapons. Rather than being a product of evolutionary improvement, we improve ourselves.

This is not a question of degree: it is a question of kind. Over time evolution has produced increasingly complex species, which have a greater control over and awareness of their environment—from bacteria to plants to reptiles to primates. Evolution is the equivalent of a plane speeding up on a runway, and then with the emergence of humans it takes off and operates according to completely different laws. Whatever chimps' and gorillas' genetic similarity to humans, they are primarily creatures of evolution. A chimp community from two million years ago would be completely indistinguishable to one today.

The human line separated from chimpanzees around seven million years ago, but it was only with the emergence of modern humans some 50,000 years ago that we notice a qualitative leap. In the intervening period there was a host of different hominid species, many of which died out. Our evolutionary line was marked by an increasingly upright stance, a growth in brain size, and a reduction in robustness of the jaw and teeth. Our hominid ancestors had developed basic tools—mainly hand-held "choppers"—and they probably knew how to use fire and buried their dead, but they were sluggish. With anatomically modern humans there is an explosion in the sophistication of tools, including fish hooks, specialised cutters, spears, bows and arrows, lamps. There is also complex culture such as art, jewellery and religious rituals, which suggest humans trying to explain their world to themselves and to exert control over it. Within a few thousand years, humans had spread from Africa to Siberia, Australia and the Americas, showing that they were the universal animal that could adapt itself to each and every climate.

Who knows what the key ingredient was that allowed human beings to take off. Some scientists suggest that it was a refinement in the vocal tract, allowing a greater range of sounds for speech. Certainly consciousness is intrinsically social: we only become aware of ourselves as individuals by seeing ourselves in the eyes of others; we only have inner thoughts through the common symbols of language. As Kenan Malik has argued, if we were mere individuals "we would possess sensations and experiences, but we could never interpret those sensations or experiences, or make them meaningful."

In the development of humans, there was a weakening of biological adaptation and an increasing reliance on culture. We became upright, leaving our hands free; our hands lost their adaptations for swinging (chimps) or bounding

(gorillas) and became primarily for manipulation of tools; our mouths lost their adaptations for tearing food (such as tough tongues and lips, heavy jaws, large teeth) and became sensitive and versatile for speech. The hand and the mouth are the key human organs. Aristotle called the hand the "organ of organs" because of its versatility. Thomas Aquinas looked down on the "horns and claws" and "toughness of hide and quantity of hair or feathers" in animals: "Such things do not suit the nature of man. . . . Instead of these, he has reason and hands whereby he can make himself arms and clothes, and other necessities of life, of infinite variety." Reason, Aquinas said, was "capable of conceiving of an infinite number of things" so it was fitting that the hand had the "power of devising for itself an infinite number of instruments."

Some suggest that we have been in denial about the moral implications of Darwinism for the past 150 years. Richard Ryder argues: "Thanks to Darwin, many of the huge and self-proclaimed differences between humans and animals were revealed to be no more than arrogant delusions. Surely, if we are all related through evolution we should also be related morally." In fact, the opposite is true. First, knowledge of Darwinism shows just how much we have managed to break free of the process of natural selection that holds every other living creature in its yoke. Second, in finding that we evolved rather than were created by God, perhaps we truly became our own gods. After all, what kind of species manages to find out the secret of its own origins?

Crossing the Species Barrier

In purely practical terms, modern society is more distinguished from animals than ever before: we live more than ever in conditions of our own creation, immune from natural pressures of hunger and cold. Yet there is a curious dissonance between practical reality and consciousness. Whereas in the past human beings' practical mastery went hand-in-hand with an expanding consciousness, now the two have come apart. While practical mastery continues apace, it lacks the moral foundations to justify it. As a result, we are effectively living in two worlds: one composed of the things we do, and one of the things we can justify. Behind this lies doubt about the point to human existence. E.O. Wilson's 1978 book *On Human Nature* argued: "We have no particular place to go. The species lacks any goal external to its own biological nature." Wilson perceptively noted how such "evolutionary ethics" were a fill-in for "the seemingly fatal deterioration of the myths of traditional religion and its secular equivalents." It was a loss of faith in our ability to make our own history that encouraged the view that we are just a bundle of nerves and DNA.

Some humans are now trying to cross the species barrier, seeking again a kinship with animals. Indeed such is the real content of many of the primate experiments with chimps and gorillas. Jane Goodall in Gombe National Park was less observing chimps from outside than trying to become one with them, empathising with their courtships and fights and injuries. She writes: "She was too tired after their long, hot journey to set to on the delicious food, as her daughters did. . . . The leader of the patrol, hearing the sudden sound,

stopped and stared ahead." Goodall's manuscripts are peppered with "as ifs" and "as thoughts," as she projects human dramas and tragedies on to her subjects. Other primate researchers took chimps into their homes and treated them like human children. Two couples—Roger and Deborah Fouts and Beatrix and Allan Gardener—lived with chimps and taught them to use basic sign language. They gave them presents on their birthday and "candy trees" at Christmas, behaving more as parents and kids than researcher and subject.

This blurring of the boundaries between animals and humans means a loss of moral sense, and a disgust at humanity. We can see this dramatically in *Grizzly Man*, a new film about a man who went to live with grizzly bears in the far reaches of Alaska. Tim Treadwell filmed his life with the bears for 13 years, less observing or admiring them than wanting to be like them. "I love these animals!" he repeatedly cried (they all had names like "Mr Chocolate"). He sought to face up to them on their terms, earning their "respect" and refusing to carry weapons. One of his friends observed: "He wanted to become like a bear, to mutate into a wild animal, connect so deeply that he was no longer human." Behind this lay his contempt for the human world. The narrator noted: "Treadwell speaks of the human world as something foreign. Wild primordial nature is where he felt truly at home." Treadwell was able to feel compassion for a bee ("I love that bee!") but saw human visitors to the area as foreign intruders. Of course, Treadwell's is an extreme example—but perhaps he was only living out the theory of human-animal equality. By turning theory into practical reality we can see its depravity.

We are in a paradoxical situation today, of using our capacity for consciousness and creativity to devalue that consciousness and creativity. Scientists use their ability to analyse DNA to prove that we are little more than chimps. Philosophers use their reasoning powers and the accumulated knowledge of human history to try to prove that humans have no special ethical value. Artists use their creativity to represent human experience as akin to that of animals—with British artist Damien Hirst using flies or animals in formaldehyde to explore human experiences of love and death.

There are severe consequences of holding human life so cheap. For a start, it is demoralising, drumming home the notion that our lives are futile. There are practical implications too. Animal research has produced key medical breakthroughs, from insulin to heart transplants to vaccines. Many of us would now be dead were it not for these discoveries. Now that animal rights concerns hold back research, this will mean needless human deaths in the future. Meanwhile, in wildlife sanctuaries in the developing world the welfare of chimps or tigers is placed above that of local villagers. The biologist Jonathan Marks sums up the crude calculations he heard from a colleague: "A British professor thinks there are too many Asians and not enough orangutans."

Towards a Human-Centred Morality

It is only a human-centred morality that can provide for fertile and equal relationships among human beings. We should relate to each other and respect one another as conscious, rational beings, rather than as DNA databases or

collections of nerve endings. Attempts to find equality between humans and animals are founded in a loss of moral compass, and a disgust at humanity. As such, they are antithetical to historic attempts to fight for human equality. Moreover, it is our sense of humans as a common family that means that we can treat those who lack full agency and rationality—such as disabled people and children—with love and respect. These humans live in a network of relationships, and are loved and valued by those around them.

None of this means that we should be nasty to or disinterested in animals. Wanton torture is wrong, though less because of the pain it causes to the animal than because it reflects badly upon the torturer. The same level of animal pain, existing for a clear purpose in a slaughterhouse or a science lab, would be entirely justified. A proper relationship to animals consists in using them in a controlled, conscious manner—for the varied ends of the butcher, the nature photographer, the poet, the scientist, or the pet-owner. These relationships with animals are founded on our different aims and values, and as such are moral. A human-centred approach could mean spending hours in the wild studying animals, or painting and admiring them—but seeing them through a human eye rather than trying to escape our humanity.

What is at question is the position from which we see the world. Taking a bear-centred perspective makes no more sense than a DNA-centred perspective. Humans are the measure of all things: morality starts with us.



Tom Regan



The Rights of Humans and Other Animals

Because the theme of this issue lends itself to emphasizing the differences that exist between the participating philosophers, it seems especially important to make a few observations about some fundamental points on which we are all agreed. As will be clear momentarily, our unanimity concerns what we all think is false rather than what we think is true.

Points of Agreement

We all agree that moral judgments—judgments about what is right and wrong, good and bad, just and unjust—are not simply and solely expressions of individual feeling or attitude. Some of the things we say are simply and solely of this sort. For example, if I say “I like coffee,” and you say “I like tea,” each of us has expressed our personal preference regarding what we like to drink. And about such matters there is, of course, no right or wrong, no true or false, and no thought of justifying or supporting or validating what is said. About matters of taste, things just are the way they are, with different people liking different things.

Moral judgments are not like this. When two people make conflicting judgments about a controversial moral issue—about the morality of abortion, for example—they are not simply and solely saying what they like or dislike, as a matter of personal preference. They are saying something *about abortion*, not something *about their individual response* to abortion. And the person who says that abortion is always wrong is saying something about abortion that contradicts what is said by someone who says that abortion is sometimes morally permissible. As such, and unlike the situation in which different people simply and solely express their feelings or preferences, moral judgments do need to be defended, do need to be justified, do need to be validated. *How* to do this is a question whose possible answer divides the philosophers taking part in this discussion. But *that* this needs to be done—that moral judgments need to be justified, defended, validated—is common ground between all of us.

A second important agreement concerns a second falsehood. Just as some people think (mistakenly, in our view) that moral judgments are simply and solely expressions of personal feelings or attitudes, others think they are

statements about a culture's mores. On this view, moral right and wrong are defined by the dominant customs of a culture, at any given period of its history; and because different cultures have different customs, this view, which usually is referred to as *cultural relativism*, concludes that there is no universal right and wrong; rather, there are as many rights and wrongs as there are different cultures with different customs.

The philosophers here, without exception, reject cultural relativism. When Frey denies that human beings have moral rights, he does not think he can be shown to be mistaken if we point out that most Americans disagree with him, any more than the rest of us are inclined to agree that slavery was not wrong among White citizens of the antebellum South, given the prevailing customs of that time and place. Even if it is an exaggeration to say, as Henrik Ibsen is said to have observed, that “the minority is always right,” it is too obvious to need argument that the majority sometimes is wrong. We do not defend, justify, or validate a moral judgment by doing cultural anthropology.

Neither do we do this—and here I come to the third and final point of agreement among all of us—by consulting some holy book or by taking instruction from God's will. In saying this, I am not saying that no books are holy or that there is no God. I am only saying that, among the philosophers writing here, we all agree that judgments about moral right and wrong, good or bad, the just and the unjust must be defended, justified, or validated independently of what any God says or wills.

The Nature and Importance of Human Rights

As for our disagreements, it is important to realize that it is not only our respective views about animal rights that divide us. We also are divided when it comes to human rights. Cohen, Beauchamp, and I seem to be of one mind concerning the nature of human rights. (Let me add parenthetically that when I speak of human rights this is shorthand for human *moral* rights; and the same is true when I speak of animal rights: I am referring to their moral rights. Questions involving human or animal legal rights are an entirely separate matter.) Here, briefly, are those points on which I think the three of us agree.

Human rights place justified limits on what people are free to do to one another. For example, the right to bodily integrity disallows physically assaulting another person's body simply on the grounds that others might benefit as a result. To use Cohen's example, one cannot justify the Nazi hypothermia research because what was learned might help other people who suffer from exposure. . . .

There are some things that *morally cannot be done* to the individual even if others stand to benefit as a result of doing it. As Ronald Dworkin said, the rights of the individual “trump” the collective interest. In the moral game, the rights card is the trump card.

Even with these very few comments about rights on the table, I think we should be able to see why Cohen is correct when he says that the idea of animal rights is a very important idea, one fraught with massive potential practical significance. Because if animals have rights—including, for example, the right

Some people believe there is nothing wrong with capital punishment in principle, even as they acknowledge there certainly have been some things wrong with it in practice. It was not too long ago that convicted criminals were hanged in public, burnt to death, or drowned for offenses that included such crimes as (here I cite North Carolina law) breaking a fish pond, stealing apples, dueling if death ensued, and (most remarkable of all) growing tobacco plants. Over the years, reformers of the death penalty sought to make the setting of the punishment more dignified and the method of execution more humane. Death by lethal injection, carried out in a sterile, hospital-like setting, would seem to represent as far as we might be able to go in the direction of such reforms.

This is not far enough for death penalty abolitionists. Think what one might of their arguments, these critics of capital punishment believe that it is wrong in principle, not merely sometimes grotesquely immoral in practice, and they therefore call for its complete abolition, not merely various "humane" reforms.

Thus does the logic of the animal rights-animal welfare debate mirror the logic of other important, divisive, and enduring social controversies. Other examples include the debates over reforming or abolishing slavery, child labor, and legal access to abortion. That all these controversies differ in important ways from the animal rights-animal welfare debate is too obvious to be denied. My point is not that this debate is like these other controversies in each and every way; mine is the far more modest point that they share a common logic.

Animal Rights

But *do* animals have rights? And if they do, what rights do they have? My answers to these questions are explained in my book, *The Case for Animal Rights* (1983), and it is this work that I recommend to anyone who is interested seriously in what my answers are and why I answer as I do. Concerning the latter point, let me remind you that all the philosophers writing in this issue agree that we do not offer answers to moral questions just by saying how we happen to feel or what we happen to like, or by making reference to the dominant customs in America today, or by citing selected passages in the Bible or some other sacred book. Our moral thinking needs to move in a different direction than those these paths open up to us.

But if not in these ways, how? No easy question, this; certainly not for the philosophically faint of heart. But here is *a* way, although certainly not the only way, to proceed.

Suppose we begin by assuming that humans have rights and ask how we might be able to illuminate or explain why we do. Of course, Frey will protest. You will recall that he denies *both* animal *and* human rights. But you also will recall where, in my opinion, his utilitarianism-without-rights lands him. So, although beginning with the assumption that humans have rights is certainly not noncontroversial, it is a place we can defend using on this occasion—one that, by the way, Beauchamp and Cohen can be counted on as approving, given their agreement that humans do indeed have rights.

If humans have rights, there must be something about being human that helps explain or illuminates why we have them. Put another way, there must be some characteristic or set of characteristics (for brevity's sake, I refer to these possibilities as C) that makes the attribution of rights plausible in our case and implausible in the case of, for example, clouds, negative afterimages, and microfungi. The question is: What could this C be?

Possible answers are many. Some, although possibly widely believed, will not pass muster with my fellow philosophers. The idea that C is the soul, and that God endowed us with rights when he endowed us with a soul, rests on a religious basis that we agree is unsatisfactory. A more promising, nonreligious candidate is rational autonomy. It is because humans are rational autonomous agents, and because clouds, negative afterimages, and microfungi are not, that we have rights and they do not.

Suppose we grant this candidate for C for the moment; then we can ask how nonhuman animals would fare. In other words, we can ask, Are any nonhuman animals rational and autonomous? Because if some are, it would smack of prejudice to deny that they have rights but to affirm that we do.

Whether any nonhuman animals are rational and autonomous is a very difficult empirical question, one that we are unlikely to settle on this occasion. My own view, for what it is worth, is that there are many species of animals whose members satisfy these conditions. Nonhuman primates are the most obvious example. Next are the great whales and other mammals. Obviously, where we draw the line that separates those animals who are rational and autonomous from those who are not will be neither easy nor free of controversy. Indeed, it may be that there is no clearly defined line we can draw with confidence, given the abundance of our individual and collective ignorance. However, it is enough for our purposes to recognize that *some* nonhuman animals are like humans in being rational and autonomous. So if rational autonomy explains or illuminates why we have rights, consistency requires that we make the same judgment in the case of these other animals: They, too, would have rights.

There is, however, a problem. Not all human beings are rational, autonomous agents. Infants are not, although most of them some day will be, and older people who suffer from serious mental deterioration are not, although most of them once were. Plus there are those many thousands of humans who, like the young woman raped by the four teenage boys, are seriously mentally retarded throughout their entire lives. In any or all of these cases we have individuals who *are* human beings but who are *not* rational and autonomous. So if C is rational autonomy, it appears that billions of human beings lack rights and, in lacking them, lack the most important card in the moral game. In their case, we cannot say that it would be wrong to harm them in the hope of benefiting others because their rights trump the collective interest. In the nature of the case, they have no rights.

This problem can be avoided by putting forth a different candidate for C. Instead of using what Beauchamp refers to as "cognitive criteria," . . . criteria such as rationality, we might instead rely on noncognitive criteria, criteria such as sentience (the capacity to be able to experience pain and pleasure) or

emotion. And this does seem to be a more promising way to think about C, especially because all those humans who were denied rights, given the criterion of rational autonomy, seem to satisfy these noncognitive criteria.

Noncognitive criteria do more than increase the number of human beings who qualify as rights holders. These same criteria also increase the number of nonhuman animals who qualify. Line drawing problems doubtless will persist, but, wherever one reasonably draws the line, it seems evident that there are many more nonhuman animals who are sentient or who feel emotions than there are nonhuman animals who are rational and autonomous.

Although much more needs to be said to complete the argument for animal rights, some features of the central plot emerge from the little that has been said here. We face a choice: *Either* we can set the criteria of rights possession (C) rather high, so to speak, requiring capacities such as rationality and autonomy, *or* we can set the criteria of rights possession lower, requiring noncognitive capacities such as sentience. If we choose the former, some (but not a great many) nonhuman animals arguably will qualify as possessors of rights; but many human beings also will fail to qualify. If we choose the latter alternative, these humans will be enfranchised within the class of rights holders; but so will many nonhuman animals. Rationally, we cannot have it both ways—cannot, that is, rationally defend the view that all and only human beings have rights. Cohen may think he can do this. But for reasons I hope to explain in the future, I believe he is seriously confused and mistaken.

Which choice should we make? Informed people of good will can answer this question differently. I favor a view of rights that enfranchises the most vulnerable humans among us. Infants and young children, the elderly who suffer from degenerative diseases of the brain, the seriously mentally retarded of all ages are the most obvious examples. I do not think those of us who are more fortunate should be free to utilize these human beings—in biomedical research, for example—in the hope that we might learn something that will benefit us or others. Frey's utilitarianism certainly could allow this, which in my opinion is all the more reason not to accept his moral philosophy. If we recognize the rights of these humans, however, we recognize that they hold trump cards that have greater ethical force than what is in the general interest. And that certainly is the position I hold and recommend in their case.

I also recognize, however, that any plausible criterion that would enfranchise these humans within the class of rights holders will spill over the species boundary, so to speak, and enfranchise many hundreds, possibly many thousands of species of animals. That being the case, these animals also must be viewed as holding the trump card in the moral game. And because the rights they have should not be overridden in the name of seeking benefits for ourselves or others, it follows that none of these animals should be in any laboratory for that purpose. From an animal rights perspective, as noted earlier, it is not larger cages, it is empty cages that recognition of animal rights requires.

POSTSCRIPT



Is the Use of Animals in Research Justified?

Much debate about the lethal experiments that were conducted on non-consenting human subjects by the Nazis during World War II, as well as the ensuing trials of the Nazi physicians in Nuremberg, Germany, has established a consensus that no scientist can treat people the way the Nazis did. Informed consent is essential, and research on humans must aim to benefit those same humans.

As these ideas have gained currency, some people have tried to extend them to say that, just as scientists cannot do whatever they wish to humans, they cannot do whatever they wish to animals. Harriet Ritvo, in "Toward a More Peaceable Kingdom," *Technology Review* (April 1992), says that the animal rights movement "challenges the ideology of science itself . . . forcing experimenters to recognize that they are not necessarily carrying out an independent exercise in the pursuit of truth—that their enterprise, in its intellectual as well as its social and financial dimensions, is circumscribed and defined by the culture of which it is an integral part." The result is a continuing debate, driven by the periodic discovery of researchers who seem quite callous (at least to the layperson's eye) in their treatment of animals (see Kathy Snow Guillermo, *Monkey Business: The Disturbing Case That Launched the Animal Rights Movement* [National Press, 1993]), by the charge that animal rights advocates just do not understand nature or research, and by the counter-charge that animal research is irrelevant (see Peter Tatchell, "Why Animal Research Is Bad Science," *New Statesman* (August 9, 2004).

In the February 1997 issue of *Scientific American*, Andrew N. Rowan presents a debate entitled "The Benefits and Ethics of Animal Research." The opposing articles are Neal D. Barnard and Stephen R. Kaufman, "Animal Research Is Wasteful and Misleading" and Jack H. Botting and Adrian R. Morrison, "Animal Research Is Vital to Medicine." Among books that are pertinent to this issue are F. Barbara Orlans, *In the Name of Science: Issues in Responsible Animal Experimentation* (Oxford University Press, 1993); Rod Strand and Patti Strand, *The Hijacking of the Humane Movement* (Doral, 1993); Deborah Blum, *The Monkey Wars* (Oxford University Press, 1994), and Tom Regan, *Empty Cages: Facing the Challenge of Animal Rights* (Rowman and Littlefield, 2005). Adrian R. Morrison provides a guide to responsible animal use in "Ethical Principles Guiding the Use of Animals in Research," *American Biology Teacher* (February 2003). Barry Yeoman, "Can We Trust Research Done with Lab Mice," *Discover* (July 2003), notes that the conditions in which animals are kept can make a huge difference in their behavior and in their responses to experimental treatments.

Reviewing recent developments in the animal rights movement, Damon Linker, in "Rights for Rodents," *Commentary* (April 2001), concludes, "Can anyone really doubt that, were the misanthropic agenda of the animal-rights movement actually to succeed, the result would be an increase in man's inhumanity, to man and animal alike? In the end, fostering our age-old 'prejudice' in favor of human dignity may be the best thing we can do for animals, not to mention for ourselves." An editorial in *Lancet* (September 4, 2004), "Animal Research Is a Source of Human Compassion, Not Shame," insists that the use of animals in biomedical research is both an essentially humanistic endeavor and necessary. Assistant professor of anesthesiology and radiology at the University of Pittsburgh Stuart Derbyshire writes in "Vivisection: Put Human Welfare First," *Spiked-Online* (June 1, 2004), that the use of animals in research is justified by the search for knowledge, not just the search for medical treatments, and reflects a moral choice to put humans first. John J. Miller, "In the Name of the Animals," *National Review* (July 3, 2006), equates prevent medical progress and disrupt the nation's economy. This view has resulted in legislation designed to fight "animal activist extremism by closing loopholes and increasing penalties in federal law dealing with criminal acts against animal enterprises [including] animal research organizations, farms, zoos and pet stores"; see "Anti-Terrorism Bill Passes," *DVM: The Newsmagazine of Veterinary Medicine* (January 2007).

Charles Colson and Anne Morse agree that the animal rights movement assaults human dignity in "Taming Beasts," *Christianity Today* (April 2003). Yet the idea that animals have rights too continues to gain ground. Steven M. Wise finds in *Drawing the Line: Science and the Case for Animal Rights* (Perseus, 2002) that there is a spectrum of mental capacities for different species, which supports the argument for rights. Niall Shanks, in "Animal Rights in the Light of Animal Cognition," *Social Alternatives* (Summer 2003) considers the moral/philosophical justifications for animal rights and stresses the question of consciousness. Jim Motavalli, in "Rights from Wrongs," *E Magazine* (March/April 2003), describes with approval the movement toward giving animals legal rights (though not necessarily human rights). Erin E. Williams and Margo Demello, *Why Animals Matter: The Case for Animal Protection* (Prometheus, 2007), link the mistreatment of animals in labs, slaughterhouses, and other venues with the mistreatment of immigrants and workers.

You can find the benefits of the use of animals discussed on a number of Web sites. Begin with Americans for Medical Progress (<http://www.amprogress.org>). For lists of specific benefits, visit Michigan State University at http://www.msu.edu/unit/lab/medbiomed_index.htm and the Pennsylvania Society for Biomedical Research at <http://www.psbir.org/society/ABOUT.htm>.

ISSUE 19

Is It Ethically Permissible to Clone Human Cells?



YES: Julian Savulescu, from "Should We Clone Human Beings? Cloning as a Source of Tissue for Transplantation," *Journal of Medical Ethics* (April 1, 1999)

NO: David van Gend, from "Prometheus, Pandora, and the Myths of Cloning," *Human Life Review* (Summer/Fall 2006)

ISSUE SUMMARY

YES: Julian Savulescu, director of the Ethics Program of the Murdoch Institute at the Royal Children's Hospital in Melbourne, Australia, argues that it is not only permissible but morally required to use human cloning to create embryos as a source of tissue for transplantation.

NO: Physician David van Gend argues that not only is the cloning of embryonic stem cells morally indefensible, but recent progress with adult stem cells makes it unnecessary as well.

In February 1997 Ian Wilmut and Keith H. S. Campbell of the Roslin Institute in Edinburgh, Scotland, announced that they had cloned a sheep by transferring the gene-containing nucleus from a single cell of an adult sheep's mammary gland into an egg cell whose own nucleus had been removed and discarded. The resulting combination cell then developed into an embryo and eventually a lamb in the same way a normal egg cell does after being fertilized with a sperm cell. That lamb, named Dolly, was a genetic duplicate of the ewe from which the udder cell's nucleus was taken. Similar feats had been accomplished years before with fish and frogs, and mammal embryos had previously been split to produce artificial twins. It was not long before researchers successfully cloned monkeys and other animals. But the reactions of the media, politicians, ethicists, and lay-people have been largely negative. Dr. Donald Bruce, director of the Church of Scotland's Society, Religion and Technology Project, for example, has argued at some length about how "nature is not ours to do exactly what we like with."