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Book Review The Moral Rights of Animals

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The Moral Rights of Animals

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Tom Regan (1938-2017) is by most accounts one of the most influential contributors to modern animal ethics. At the same time, it's fair to state that his influence on the animal rights movement as a whole may not be as strong as that of, say, Peter Singer or even Gary Francione. This is due in part to the ambitious nature of his work, especially his classic *The Case for Animal Rights* (Berkeley: The University of California Press), first published in 1983 and republished in 2004 with an important new preface responding to objections. Regan's philosophical writings often lack the accessibility, simplicity, and concision of Peter Singer's *Animal Liberation*. As a result, many animal rights advocates will claim that they have been influenced or brought into the movement after reading *Animal Liberation*, while fewer advocates, I think it is reasonable to say, would credit Regan with a comparable influence—which is ironic since the views of these advocates tend to be much more closely aligned with Regan's abolitionism than with Singer's utilitarianism (setting aside the fact that *Animal Liberation* makes no appeal to utilitarian assumptions). However, this tells us little about the importance of Regan's work and his immense influence on at least two generations of philosophers and animal studies scholars.

To my knowledge, the collection *The Moral Rights of Animals* is the first wide-ranging set of explorations of Regan's views on animal rights—their importance, their implications, their imperfections, and more generally their potential for furthering discussion of major practical issues such as animal experimentation, animal agriculture, and hunting, as well as major theoretical and underlying issues such as the respective values of human and animal lives, speciesism, or the idea of rights. The volume is divided into three parts: I. Theoretical Prospects and Challenges for Animal Rights, II. Animal Rights and the Comparative Value of Lives, and III. Animal Rights in Practice. The commonalities throughout the book are sometimes more striking than their differences, which, to me, reveals both the unity of Regan's thought and the inescapability of its central questions. The book also includes a helpful overview by editors Mylan Engel Jr. and Gary Comstock (both of whom also contribute to the volume) and an evocative "Appreciation" by Jeff McMahan.

This is an important collection that will prove to be a useful resource to both animal ethics scholars and students, who will enjoy the clarity and accessibility of many chapters. Below I briefly summarize Regan's theory of animal rights, and highlight what I take to be the most salient contributions of the book.

Regan's work on animals in *The Case for Animal Rights* as well as in prior and subsequent publications is a prolonged defense of the idea that many nonhuman animals have moral rights. Incidentally, this has entailed refutations of a range of views denying animals direct moral status, including contractarianism, Kantianism, indirect duties views, egoism,

and ecocentrism, but also a vigorous, persistent opposition to Singer’s utilitarianism. Regan is on many counts one of Singer’s staunchest critics even while they largely—though not fully—agree in practice about the implications of their respective views concerning the use of animals for food, experimentation, or entertainment.

The central tenets of Regan’s theory lie in two notions: the morally relevant criterion of being a “subject-of-a-life” and a fundamental deontological principle constraining moral deliberation and action, the Respect Principle.

To be a subject-of-a-life ... involves more than merely being alive and more than merely being conscious ... [I]ndividuals are subjects-of-a-life if they have beliefs and desires; perceptions, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference- and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them. (The Case for Animal Rights, p. 243)

By virtue of being a subject-of-a-life, a human or nonhuman animal is a moral patient with *inherent value*, which is distinct from the intrinsic value of the experiences their lives contain. Inherent value is equally possessed by all moral patients, even when they lack the rational capacities to be held responsible as moral agents. On the Respect Principle, inherent value gives rise to a fundamental right to respect which, among other things, entails a right not to be used as a mere means (e.g. as a mere receptacle of value) or to be harmed for the promotion of the overall good. The contrast between the rights-theory and its strongest and most direct rival, utilitarianism, could not be clearer. Whether one counts the rights-theory as a variant of deontology or another type of non-consequentialism, Regan’s theory is all but absolutist, which in practice yields qualified abolitionism. Rights admit of no exception. For example, no consideration of value can justify moral agents *violating* them, even if ancillary principles—Miniride and Worst-Off—allow for the resolution of conflicts between rights by causing or allowing harm to some for the sake of others in ways supposedly consistent with the Respect Principle. In practice this means the abolition of all forms of animal experimentation, animal agriculture, and use of animals in zoos and circuses.

Most rights can be derived from the Respect Principle, although it is not entirely clear whether they are independent rights or particular implications of the right not to be harmed. For instance, is the right to life just a component of the latter (death being the greatest of all harms according to Regan), or does it simply derive from the right to re-

spect such that killing moral patients wrongs them regardless of whether and to what extent it harms them? Regan's theory also focuses on *negative* rights and duties of justice, and therefore leaves it open whether moral patients also have positive rights (e.g. to assistance), on what grounds, and if negative rights could ever be trumped by our positive duties of beneficence or charity. Finally, what is the relation between the respective values of lives and the equality of rights?

Many contributions to this volume bring much welcome clarifications and sometimes even compelling answers to these questions. Most chapters also do not presuppose familiarity with Regan's views, which makes the discussions widely accessible.

An essay by Regan that summarizes his argument for the basic moral rights of all subjects-of-a-life opens Part 1. In Chapter 2, Jeremy Garrett argues that deontological libertarians, despite their historical reluctance, should welcome Regan's rights-theory as it is consistent with their view. In Chapter 3, Mylan Engel Jr. argues that, if all humans have moral rights, then many other animals also do and that rebuttals of this view presuppose either nihilism about rights or unwarranted forms of human exceptionalism. Furthermore, even if humans and animals had no rights, our current uses of animals could not be justified. In Chapter 4, Nathan Nobis sets out to offer stronger responses than Regan's to Carl Cohen's "kind" argument for human exceptionalism. In Chapter 5, Anne Baril, drawing on the concept of *eudaimonia* in virtue ethics, argues that Regan's theory is not committed to a duty to assist wild animals against predation and other natural threats, insofar as our duty of respect entails respect for the kinds of beings whose flourishing involves navigating their environment autonomously.

The main focus of Part 2 is the comparative assessment of the harm of death across species. In Chapter 6, Aaron Simmons argues animals have an equal right to life even though their life typically has less value than human life. In Chapter 7, Molly Gardner offers an "attenuated rights view" with a weighing component, which she argues is more plausible than Regan's and does not yield a categorical prohibition of all harmful animal experimentation. In Chapter 8, Evelyn Pluhar updates Regan's theory drawing on the recent literature on animal minds and behavior to include all vertebrates and some invertebrates in the scope of subjects-of-a-life with an equal right to life. In Chapter 9, Alastair Norcross develops an original combination of Singer's equal consideration view based on sentience with Regan's view, such that self-conscious creatures (i.e. subjects-of-a-life) are harmed more by death than simply sentient creatures. In Chapter 10, Gary Comstock draws on 18th century materialist philosopher La Mettrie and recent empirical work to suggest that, more often than not, human behavior is driven by automatic, non-conscious processes, and is therefore more similar to animal

behavior than we usually think. Comstock's strategy reverses the more usual approach that emphasizes animals' similarities to us.

Part 3 turns to a variety of practical topics. In Chapter 11, Ramona Ilea argues that Nussbaum's Capabilities Approach could serve as a rigorous concrete application of Regan's view in public policy contexts. In Chapter 12, Scott Wilson dissents from many other contributors and adduces a range of reasons (from culture and symbols to relationships and self-conception to convenience) for counting many people's interests in eating meat as more significant than is typically assumed. However, he shows that these interests undermine utilitarian arguments but not rights-based arguments for vegetarianism. In Chapter 13, Robert Bass makes an argument from moral caution for veganism: if there is a reasonable chance that X is seriously wrong and hardly any chance that it is morally required, then we ought not to do X. It follows that eating meat is very likely wrong. In Chapter 14, Jason Hanna offers a careful reading of Regan's view to reject Gary Varner's argument that animal rights are consistent with either welfare-based therapeutic hunting or subsistence hunting.

Some of the discussions in the volume address the scope of the subject-of-a-life criterion as well as "the benefit of the doubt" that Regan gave to animals such as birds and fish which, at the time he was composing *The Case*, were believed at best to be probably sentient but clearly not subjects-of-a-life. In fact, two revisions may be warranted today: a revision of the criterion itself and one of the empirical claims about which animals meet the relevant criteria. We now know more about animal cognition than Regan did in 1983 and so are warranted in counting positively more animals as moral patients than he did, but we may also want to have rights depend on less a demanding criterion than the one sketched above. Let me take an example from Alastair Norcross's chapter. His two-tier view of the harm of death elegantly combines Regan's egalitarian subject-of-a-life criterion with the utilitarian rationale for weighing interests depending on their strengths (or complexity) rather than whose interests they are. Merely sentient animals and subjects-of-a-life can be harmed by death differentially because death matters to the latter in a way that it does not matter to the former. But sentience is both necessary and sufficient for moral considerability. Regan's criterion explains why some actions are more harmful to some than they are to others, but a less demanding criterion—sentience—may be sufficient to account for the inherent value and right to respect of all moral patients.

This is an important collection, perhaps not so much for its contribution to Reganesque scholarship as for its independently valuable attempts to draw on Regan's insights and imperfections in support of robust animal rights-theory. While nearly all contributions

presuppose at some point the truth of at least some fundamental tenets of the rights-theory, one need not share those to find these discussions illuminating.

Exegetic contributions as well as those that rehearse well-worn debates between Regan and opponents of animal rights (esp. Cohen) or board yet another time the infamous lifeboats were to me the least engaging. It is not clear that much time needs to be spent again refuting Cohen's case against the direct moral standing of animals, or that lifeboat cases should be taken as decisive expressions of Regan's theory and its practical import—as he himself warns in the 2004 preface to *The Case*. I was more engaged, and to some extent compelled by more innovative attempts to reconcile or combine his theory with the views of others (e.g. Jeremy Garrett's "Animal rights for libertarians"; Ramona Ileá's "Rights and capabilities"), to diagnose its failure to accommodate some of our intuitions, (Molly Gardner's "The interspecies killing problem"), or to carefully articulate the verdicts of the rights-theory on practical matters such as therapeutic and subsistence hunting (Jason Hanna's "A moral license to kill?").

In decades to come, I expect that Regan's legacy will be less in the soundness of his own arguments than in their success in generating a wealth of nuanced and technical, yet practically relevant discussions of the moral rights of animals, as evidenced by this welcome companion to Regan's theory of animal rights. The range of philosophical views otherwise endorsed by the contributors is itself striking evidence of the influence of Regan on generations of philosophers across the board. And it is no disrespect, indeed it is a tribute, to his thought and legacy that his work should still generate such lively and profound disagreement.