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Singer and Regan take me to task for allegedly misrepresenting their positions and claim that I have falsely attributed to them a number of views which I then go on to criticize. I cannot hope to deal with all of the charges they raise, but I will attempt to reply briefly to a few. To commence, I shall deal with two points brought up by both authors and then address some raised by each, separately.

First, there are the issues of (1) the quantitative and qualitative equivalence of animal and human suffering and (2) whether animals and humans share an equivalent capacity to enjoy life. So far as (1) is concerned, both Singer and Regan provide the reader with evidence that would naturally lead him to form the kinds of conclusions I drew. (Indeed, they must argue for at least the quantitative equivalence of pains in order to make the notion of equal consideration of interests logically compelling.) Singer writes: "How bad a pain is depends on how intense it is and how long it lasts, but pains of the same intensity and duration are equally bad, whether felt by humans or animals."[1] Indeed, he maintains on page 17 that "there *must* be some kind of blow . . . that would cause [a] horse as much pain as we cause a baby by slapping it with our hand" (my italics). This plainly pronounces on the quantitative dimension of animal and human pain, though other remarks of his (such as on p. 18), I concede, cast doubt on my attribution to him of the qualitative claim.

Regan, for his part, cites Joel Feinberg, with evident approval, in the context of substantiating his own view. Part of one such reference reads: " 'A skeptic might deny that a toothache hurts a lion as much as it does a human being, but once one does concede that lion pain and human pain are equally pain—*pain in the same sense and the same degree*—then there can be no reason for denying that they are equally evil in themselves.' "[2] Regan makes no effort to qualify his endorsement of this claim, to the effect that animal

1. Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (New York: New York Review, 1975), p. 19.

2. Tom Regan, "The Moral Basis of Vegetarianism," *Canadian Journal of Philosophy* 5, no. 2 (October 1975); 181–214; quote from p. 187, my italics.

and human pain are (in certain cases) comparable, both quantitatively and qualitatively. (Indeed, he has just finished, prior to this quotation, referring to a type of animal pain for which there is a "comparable experience of a human being.") In addition, in trying to show on utilitarian grounds why it is immoral to raise animals for slaughter in the manner of "modern" intensive farming methods,[3] Regan argues that if we would not subject severely mentally retarded humans to this process, then we should also constrain ourselves from doing it to animals. It is unjustifiable to rear retardates under atrocious conditions, even if the amount of pleasure enjoyed by the rest of society is, as a result, equal to or slightly greater than the undeserved suffering to which the former are subjected. It is exactly the same with animals Regan asserts: It is immoral to cause them suffering even if by doing so an amount of pleasure equal to or slightly greater than the amount of pain can be produced for humans. But notice that this argument can have plausibility only if it rests on the assumption that at least in some cases—and Regan is not overly careful to state which—animals' pain is the same as that of humans.

With regard to 2 above, it seems clear that Regan does not espouse the view which I ascribed to him. However, Singer writes: "But what is this capacity to enjoy the good life which all humans have but other animals do not? Surely every sentient being is capable of leading a life that is happier or less miserable than some other possible life, and therefore has a claim to be taken into account. In this respect the distinction between humans and other animals is not a sharp division but rather a continuum along which we move gradually and with overlaps between the species, from simple capacities for enjoyment and satisfaction to more complex ones."[4] This area of "overlap" certainly suggests very strongly that some animals at least are on a par with many—even most—humans with respect to their capacity to enjoy life.

Perhaps I was incautious in speaking of animals per se rather than some animals—though Singer and Regan are often equally unspecific. Clearly, anyone discussing these issues should hasten to qualify any assertions he makes, since the kingdom of fauna is so obviously anything but an undifferentiated muchness. So it can be inferred that I never intended to saddle Singer and Regan with claims like "*all* animals have the capacity to suffer and enjoy that humans generally do." Thus, I do not think I treated the claims that they do make unfairly.

The second issue concerns the claim that the only capacity that counts in assigning moral rights is the capacity to suffer. The reason why I attributed this view to Singer and Regan is quite straightforward: Both endorse Bentham's claim that "the morally relevant question about animals is not 'Can they *reason*? or Can they *talk*? but, Can they *suffer*?' "(Bentham's italics).[5] On page 8 Singer adds, "In this passage Bentham points to the capacity for suffering as the vital characteristic that gives a being the right to equal

3. Ibid., pp. 189–90.
4. Singer, p. 266.
5. Ibid., pp. 8, 222; Regan, p. 186.

consideration." And later on page 24 he states, "in any case, the conclusions that are argued for in this book flow from the principle of minimizing suffering alone."

Turning now to Singer alone, he says in his reply that he wishes us to disassociate his position in *Animal Liberation* from talk about rights, claiming that his argument in the book is a purely utilitarian one. I have not failed to discern that Singer's defense of the moral status of animals is utilitarian through and through (which is precisely why I object to it); but I also reaffirm that his general discussion in chapter 1, which lays the philosophical groundwork for the rest of the book, is replete with rights-talk. There is, first of all, the reference to rights cited above, in connection with Bentham. (And note that Singer speaks here of a right, not a "right," as in his reply to my commentary.[6] Unfortunately, I am not enough of a seer to have foretold that Singer would later disown this talk of rights "with the benefit of hindsight.") In addition, Singer examines the connection between equal consideration of interests and the granting of rights;[7] and he also states that "to avoid speciesism we must allow that beings which are similar in all relevant respects have a similar right to life. . . ."[8] It may be that with respect to talk about rights, Singer "could have dispensed with it altogether," as he asserts.[9] However, even if this is the case, he did not do so and has conveyed the impression to other readers than myself that the discussion of rights plays a larger role in *Animal Liberation* than he would now ascribe to it. (Whether he could dispense with it altogether is a moot point, but I shall not comment on it here.)

I wish to take up one more issue that Singer raises. He seems to have missed the point of my emphasis on membership in a moral community as the *sine qua non* of rights-possession. He writes: "Perhaps [Fox's] most important substantive claim is that only autonomous beings can and do belong to a moral community within which rights and duties are meaningful. . . . It may be that Fox intends to suggest by this argument no more than that animals cannot possess moral rights. If so, I would not wish to challenge his conclusion; but I would wish to emphasize that moral rights, in this sense, are at best one aspect of morality. Fox's point is one I already considered in *Animal Liberation*. . . ."[10] He then goes on to cite a passage from his book in which he reasserts that "the moral principle of equal consideration applies to [animals] as it applies to humans."[11] But this does not answer my criticism at all; for my argument was that this principle only applies in a context in which rights and duties can be assigned and mutually recognized, that is, within a moral community. Hence, one might say that equal consideration is contingent upon the possession of rights. Since (I argue) animals lack the capacities that would convey such membership upon them,

6. Peter Singer, "The Fable of the Fox and the Unliberated Animals," *Ethics*, this issue, p. 122.
7. Singer, *Animal Liberation*, pp. 2–3.
8. Ibid., p. 21.
9. Singer, "Fable of the Fox," p. 122.
10. Ibid., p. 123.
11. Singer, *Animal Liberation*, p. 251.

they cannot have rights and, thus, cannot be entitled to equal consideration of interests. So it appears that Singer has merely reiterated his own position here, rather than offering a counterargument. In my view, he has put the cart before the horse as well.

On page 128 of his reply, Regan states five propositions which he says I ascribe to him.[12] He then disclaims all but the first, on the grounds that "The Moral Basis of Vegetarianism" is tentative and exploratory only—that is, that it concerns "arguments about arguments."[13] This makes it possible for him to state on page 129, "Fox represents me as maintaining that animals do have rights, while I am careful not to maintain this; and he also represents me as maintaining that their having rights is entailed by . . . their having the capacity to suffer and enjoy, a position which, again, I am careful not to maintain." Regan does not deny, however, that the propositions in question are inherent in the views he discusses but only that he actually advocates them. He repeatedly cites his own disavowals of any positive position which might entail one or more of the disputed propositions. Consequently, it appears that what is in need of support here is my attribution of these five propositions to Regan himself.

Briefly, I think it can be shown that Regan credits himself with having scored philosophical points in favor of vegetarianism, while at the same time disowning the very arguments that enable him to do so. He wants us to accept that he has only tried to show that if certain arguments in support of granting equal basic moral rights to humans succeed (or fail), then they likewise succeed (or fail) in the case of animals. However, the central thesis of "The Moral Basis of Vegetarianism," in which the five propositions are embedded, is not nearly so tentatively advanced as this. For example, Regan speaks of "the grounds on which I endeavor to rest the obligation to be a vegetarian,"[14] and on the next page he writes, "My belief is that a vegetarian way of life can be seen, from the moral point of view, to have a rational foundation. This is what I shall try to show in what follows." Regan adds that he hopes to change readers' minds "in a quite fundamental way" and that therefore the thrust of the article is "practical, not theoretical." Clearly, then, Regan is interested in advocating substantive positions, not just in metaphilosophical fence-sitting. And, indeed, though he disavows having arrived at any firm conclusions concerning the matters in contention, his remarks repeatedly suggest the reverse, as when he states on page 201: "Now the preceding does, I think, contribute to our understanding of the obligation to be a vegetarian." No one reading page 203, to cite another example, could possibly refrain from concluding that the views being put forward are to be taken as Regan's own, as when he refers to what the vegetarian "can maintain" or "can aver" and to opposing positions which he can reject "if my preceding argument is sound" and if they endorse practices that "violate the rights of the animals in question." How is one supposed to square the foregoing with those passages in which Regan "cannot say" whether an argument "that all human beings

12. Tom Regan, "Fox's Critique of Animal Liberation," *Ethics*, this issue.
13. Ibid., p. 129.
14. Regan, "Vegetarianism," p. 181, n. 1.

have an equal right to be spared undeserved pain" would withstand criticism;[15] or claims he has eschewed drawing conclusions about the existence of human and animal rights; or that his article contains only "arguments about arguments"?

Supposing that he has dealt with the foregoing "misunderstanding" on my part, Regan then proceeds to misconstrue one of my central contentions. He writes: "It is interesting to note that Fox never explicitly contests the view that the having of this capacity [to suffer and enjoy] is a logically sufficient condition of having basic moral rights, a noteworthy omission, . . . since this is all that anyone wanting to establish that many animals do have rights would have to show."[16] Now it ought to be evident that I "explicitly contest" this view, since I argue that other capacities are also prerequisites for the granting of moral rights.[17] Indeed, this is the overall emphasis of my position. While acknowledging that possessing the capacity to suffer and enjoy is a necessary condition for a being's having rights, I argue that it is not sufficient. I also state quite explicitly on page 112 what I think the (necessary and) sufficient condition for the having of rights is: "Autonomy, which thus entails certain cognitive capacities, is necessary (and, together with the capacity to enjoy and suffer, sufficient) for the possession of moral rights." I was concerned here to reject the view, which I ascribed—not without reason, as I have shown above—to both Singer and Regan, that having the capacity to suffer and experience pleasure is both necessary and sufficient for the possession of certain basic moral rights (i.e., "the sole morally relevant fact"). Since I never denied that the possession of this capacity is a necessary condition (a prerequisite) for the having of rights, Regan's charge of inconsistency here goes by the board.

Finally, Regan presents, in the latter half of his critique, a penetrating and persuasive analysis of what he considers an inconsistency in my exposition of the criterion of rights-possession. According to Regan, I must opt for either (1) the possession of certain capacities by a being or (2) membership in a given species the members of which typically possess such capacities. Regan is, I believe, correct to point out both that there is an inconsistency in my argument here and that, if one of the two conflicting criteria is to be jettisoned, it must be the species criterion. The individual autonomy/capacity to suffer and enjoy criterion is surely paramount: it could not reasonably be held that no nonhumans could, even in principle, qualify as members of our moral community, and hence, as beings to which rights should be ascribed. Regan's examples indicate the folly in making such a claim. Note, however, that it does not follow that animals have rights, for many complex issues remain to be discussed concerning the grounds for ascribing rights, how far such rights-ascriptions extend (e.g., whether to fetuses or to humans with marginal capacities), and so on. Further discussion of such questions as these will, I believe, show even more clearly why animals do not have rights.

15. Ibid., p. 194.
16. Regan, "Fox's Critique," p. 130.
17. Michael Fox, " 'Animal Liberation': A Critique," *Ethics*, this issue, p. 111.