

*A Basis for (Interspecies) Equality**

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I would like to think that - to a considerable extent due to the works of some of the contributors to this book - few educated people would be inclined to dispute that things can be good or bad for nonhuman animals. At least with respect to the species with which we are here primarily concerned, chimpanzees, gorillas and orang-utans, such a denial would be especially bizarre. For the close physiological and behavioural parallels between human beings and these nonhumans constitute overwhelming evidence for ascribing consciousness and desires or interests to the latter, and it is plausible to claim that, in general, what satisfies a subject's desire is good for it, while what frustrates it is bad for it.

Of course, there is the problem of how far down the phylogenetic ladder it is correct to attribute consciousness and conative states to animals. For my own part, I am strongly tempted to attribute them not only to apes, but (at least) to all vertebrates. But this is an issue on which I need not here take a stand, it being sufficient for present purposes that the point be conceded with respect to the great apes.

There is also the difficulty that there are desires - chiefly those based on erroneous beliefs - the fulfilment of which may not be of value to the subject. But again this is a difficulty that need not concern us here, since it is hardly controversial that the satisfaction of the more basic desires which humans might share with nonhumans - desires for the elementary comforts of life, food, drink, absence of pain, etc. - is of value to the subject.

So, I take it to be perfectly safe to proceed on the assumption that life can be good or bad for at least some nonhuman beings, such as chimpanzees, gorillas and orang-utans. There are, however, many who would agree with this assumption and grant that we have some moral obligation to see to it that the lives of these beings are for the good rather than for the bad, but would balk at the suggestion that justice demands that these nonhumans lead lives that are of *equal* value to those of humans. In other words, they would deny that justice requires any form of interspecies equality. None the less, this is the proposal I shall now attempt to vindicate.

A well-known obstacle to attempts to establish that human beings are in some sense equals is the range of natural inequalities so conspicuous among them: people differ in respect of virtually every capacity or talent, mental and physical. In view of these striking differences and variations, is it reasonable to claim that all humans are equal? On the other hand, if one succeeds in overcoming this obstacle and arrives at a principle of equality according to which humans are equal, perhaps it will be found that the manifest differences between humans and non-human animals, such as the other great apes, do not preclude a wider applicability of this principle. Thus, the considerations that justify equality among humans might also justify interspecies equality between *Homo sapiens* and other species. Such is, in outline, the argument of this chapter.

The Equal Consideration of Interests

In his treatment of the topic in *Practical Ethics*, Peter Singer argues that, because of the differences alluded to, a principle of human equality cannot be based on any empirical facts about humans. 'Equality is a basic ethical principle, not an assertion of fact', he declares.¹ This basic ethical principle is 'the principle of equal consideration of interests' which lays down that

* In PAOLA CAVALIERI & PETER SINGER (eds.), *The Great Ape Project* (New York: St. Martin's Griffin, 1993), pp. 183-193.

¹ P. Singer, *Practical Ethics* (Cambridge University Press, Cambridge, 1979), p. 18.

'we give equal weight in our moral deliberations to the like interests of all those affected by our actions'.² As Singer explains, this principle derives from his utilitarianism which states, roughly, that we should act so as to maximise the fulfilment of the interests or preferences of all beings affected. Clearly, if we are to attain this utilitarian goal, we must fulfil interests or preferences in accordance with their strength, giving priority to the stronger interests and treating equally strong preferences equally. Since not only humans, but also nonhuman animals have interests, Singer contends, this principle puts the latter within the domain of equality.

However, as Singer himself points out, there are situations in which distribution in compliance with his principle of equality will 'widen rather than narrow the gap between two people at different levels of welfare'.³ Singer gives a case where we face two injured beings, but have sufficient medical supplies to take care of only one of them.⁴ One being, A has already lost a leg and is about to lose a toe on the remaining leg, while the other, B, is in danger of losing a leg. On the reasonable assumption that it is worse to lose a leg than a toe, the principle of equal consideration of interests recommends that in this situation we use the supplies on B, thereby increasing the difference in health status between A and B, rather than equalising them in this respect by using the resources on A.

This decision may not be ethically objectionable, but we should reflect that in *every* situation in which one can aid only one of two beings, A and B, and the increment of A's satisfaction is ever so slightly greater than that of B would be, then the principle of equal consideration of interests exhorts us to help A, *irrespective* of how much better off A might be to start with than is B. It strikes me as going against the grain to think that a principle of equality should harbour such an implication.

To be sure, this type of situation may rarely obtain in actual fact, for the more a being has, the more fulfilled it is, the harder it is to increase its fulfilment. For instance, a quantity of food that will be received with indifference by the well-fed may significantly boost the well-being of the starving. This mechanism is commonly referred to as the principle of declining marginal utility. Due to its operation, distribution according to Singer's principle of equality will as a rule bestow more on those worse off because it will generate more satisfaction there — and so it will tend to narrow rather than widen gaps in levels of welfare. This is precisely what one intuitively thinks a principle of equal distribution should do. Still, the principle of equal consideration of interests may be criticised for not guaranteeing this outcome on its own.

Moreover, Singer would not deny that the natural inequalities in the human species mean that some humans are more valuable than others as 'means' to the utilitarian end. Some possess talents and gifts that enable them to make a greater positive contribution to the good overall, by making scientific discoveries, inventions, works of art, acts of charity, etc. It may be that some of these people need to be encouraged by rewards if they are to use their talents to the full. In other words, it may be that one can justify giving these people special favours which enhance their quality of life by appealing to the fact that such treatment promotes the maximisation of satisfaction all around. On the other hand, there appear to be some who are inclined to make a negative contribution to the utilitarian goal by perpetrating crimes. From a utilitarian point of view, one can justify discouraging these by threatening them with punishments that would lower their quality of life. All in all, the natural inequalities of human beings make their value to others differ, and this seemingly provides a utilitarian justification for treating them differently, giving some better lives than others.

In general, Singer seems inclined to downplay the importance of external rewards as an incentive, declaring his sympathy with the Marxist slogan that distribution should be on the

² Ibid., p. 19.

³ Ibid., p. 23.

⁴ Ibid., p. 22.

basis of need, and not at all on the basis of ability or achievement.⁵ However, when he comes to discussing economy, he has to concede that so long as there is no 'decline in acquisitive and self-centred desires' of humans,⁶ we shall probably have to allow private enterprise, even though it is a system which benefits the business-minded. I conjecture that had he discussed the institution of punishment, he would have had to grant that, on pain of jeopardising the maximisation of utility, it cannot be abolished, though of course it makes the lot of criminals worse.

None of this questions a rationale behind the principle of equal consideration of interests, that the prospect of fulfilling desires or interests is the sole basis of distribution of goods; it queries whether a distribution which is aimed at maximising the total quantity of fulfilment would perforce coincide with what we intuitively would regard as equality. In summary, the considerations put forward have been two. Some are healthier and stronger and will tend to live lives that *to themselves* are of greater value, and Singer's principle of equality does not always tell us to compensate those worse off (it does so only when assisted by the principle of declining marginal utility). People are also equipped with traits that make their value *to others* vary, and this leads to the principle of equal consideration of interests justifying unequal treatment of them in order not to produce a drop in the level of future fulfilment.

However, could not the last reasoning be broadened into an argument that attempts to undercut the very backbone of the principle of equal consideration of interests: namely, that satisfaction of interests is the only legitimate basis of distribution? Suppose it is argued as follows: those who make a greater contribution to the utilitarian goal *deserve* better treatment, that is, rewards, by virtue of making this contribution, while those who detract from the common good — e.g. by perpetrating crimes — *deserve* worse treatment, namely punishment. Now, the notion of desert is linked to that of *justice*: what an agent deserves is something that is of such value to the agent itself that it is *just* to provide the agent with it because it is in some sense proportionate to the value to others of what the agent has accomplished. So, in view of their different assets, justice demands that people be treated unequally.

If this argument cannot be met, it would appear that there is no hope of rectifying the results of Singer's utilitarian principle of equality, if these are found to be too inegalitarian for one's taste. For surely, if the remedy is to come from anywhere, it must come from considerations of justice. Moreover, as long as this argument stands intact, the prospects for laying a ground for interspecies equality would appear to be gloomy, since it could reasonably be argued that, by virtue of their superior assets and achievements, many humans deserve better treatment than all nonhumans.

Equality as a Principle of Justice

Fortunately, there is a reply to the last argument, and Singer himself produces the germ of it when he objects to the ideal of equal opportunity by pointing out that it rewards those who have been lucky in having inherited dispositions to behave in ways that are socially useful and penalises those who have had the bad luck of not having received such genes.⁷ This brings out the salient point that no one deserves to be treated better or worse than any other because, ultimately, all our contributions to the state of the world spring from factors beyond our control and responsibility.

One cannot reasonably be thought to deserve *moral* credit or blame in proportion to the value of an event or state for which one of the following two conditions is true:

⁵ *Ibid.*, p. 36.

⁶ *Ibid.*, p. 39.

⁷ *Ibid.*, p. 35.

1 through action or inaction, one made no causal contribution to it *or*

2 if one made such a contribution, one either (a) could not have foreseen one's making this contribution or (b) could not have avoided making this contribution (even if one had had the requisite foresight).

One is typically ascribed moral desert for what one intentionally brings about, for this is something to which one has made a causal contribution which is foreseen and (barring rare cases of overdetermination) avoidable. The reason for these presuppositions of desert-ascription is the connection we have found between desert and justice. Clearly, if a subject makes no contribution to a state of affairs which is good/bad to others, justice cannot require that it be rewarded/punished in proportion to the value to others of this state of affairs, since it does not at all flow from the subject. Analogously, if a subject had contributed to this state of affairs, but had done so unavoidably or without being able to foresee the outcome, justice could not demand that it prosper/suffer in proportion to the value of this contribution. For then the source of this state of affairs lies partially in conditions that the subject did not handle or manipulate, but which, luckily or unluckily, made an independent impact.

However, *every* intentional action is ultimately the result of conditions to which the agent could not have made any causal contribution whatsoever. An intentional action arises out of a certain motivational state - certain desires, decisions or intentions - and certain capacities or skills. To some extent, these may have been shaped by earlier intentional actions of the agent, but- on the realistic proviso that we are not dealing with an intentional agent who has existed forever as such - we will eventually reach properties of the agent to which it could not have made *any* causal contribution, let alone one of which neither (a) nor (b) in condition 2 is true, say, properties that are determined either by early environmental influences or genetic factors. It follows that the basis of attributions of moral desert has been undermined: justice cannot require that we treat some better because their contribution to the world is beneficial and some worse because their contribution is harmful, when in the end these contributions turn out not to be theirs.

In this argument, I have presupposed determinism, but it changes little if we suppose that intentional actions are occasioned by some condition - say, a decision - that lacks a sufficient cause. For, to the extent that this decision is causally determined, it is ultimately due to causes to which one has not contributed, and to the extent that it is undetermined, it is, definitionally, out of reach of all (causal) contributing. Also, I have talked about *moral* desert specifically, but I believe the argument can easily be generalised to other types of desert, for example the beauty by virtue of which a woman is said to deserve to win a beauty contest or the high score on an IQ-test by virtue of which somebody is held to deserve a well-paid job. One's beauty or intelligence is a state of affairs to which one's contribution is slight, if not non-existent: therefore, it cannot be just to reward on the ground of it.

So, regardless of whether the world is completely determined or partially undetermined, the concept of desert lacks application: nobody deserves anything. But then what justice demands seems to be that benefits and burdens be so distributed that all end up leading lives that to them are as like in respect of quantity of value as possible. For if the different contributions people make to the good of other beings could not render it just to put some contributors in better positions than others, what could? Perhaps some thinkers are tempted to hold that it could be just that some individuals are better off than others because, according to some institutions or conventions - for example, the current institution of property - they are *entitled to* larger resources. However, this would be just only if the institutions themselves are just, and the latter appears to throw us back on the notion of desert: for instance, the relevant institution of property seems to be just only if everyone *deserves* the fruits of their labour and has a right to dispose of them as they see fit.

Since I can discern no ground for a just discrimination that is independent of desert, I conclude that, when the bases for desert-attributions have been removed, our sense of justice dictates that things be so distributed that the outcome of distribution be that all come to live lives the value of which to them are as equal as possible. The argument, then, is this:

(a) It is just that everyone (for whom there can be value) be so treated that their lives be as equal in respect of value to them as possible, *unless* they deserve to lead lives differing in value.

(b) Nobody deserves to lead a life differing in value from that of any other (since the concept of desert is inapplicable).

(c) Therefore, it is just that everyone be so treated that their lives be as equal in respect of value to them as possible.

Of course, this reasoning is not airtight since I have not *proved* - nor can I see how it possibly could be proved - that (a) is true: that is, that in default of desert, no other circumstances could make it just to let some lead better lives than others. (Note that I am not claiming that nothing could make this unequal situation the *morally better* one, because, as will soon transpire, I do not want to rule out the possibility of there being some other ethical principle that might occasionally override that of justice.) Still, as long as nobody brings such a circumstance to light, the argument stands and provides a rationale for a principle of equality or equal treatment formulated in (c). Thus, although Singer believes that 'a more through-going egalitarian principle' than his principle of equality would be 'difficult to justify',⁸ some remarks of his might be read as unwittingly supplying the foundation for such a principle. Naturally, if he were to follow me in my elaboration of these remarks of his, he would have to countenance an ethical principle which has a source independent of utilitarianism.

The new principle says, it should be emphasised, how things should be from the point of view of *justice*. But considerations of justice, in this sense, could surely not be the only ethical considerations, and the new principle of equality could not be the only ethical principle. The utilitarian principle that one should maximise fulfilment has been mentioned, and to generate an acceptable morality, we most certainly need some principle of that kind - some principle which introduces considerations of *benevolence* and exhorts one to make the lives of individual beings better rather than worse. For were the principle of equality to stand alone, it would be morally indifferent whether we equalise the value of lives by raising the value of some or lowering the value of others. But, needless to say, the first strategy is morally preferable, and appeal to considerations of benevolence is needed to yield this result. (Because of these absurd consequences of a principle of pure equality, some who profess themselves to be egalitarians advocate the view that we should give *priority to the worse off*, that the increased well-being of the worse off has a comparatively greater moral weight. Even if distinct in theoretical content, the practical implications of this view seem indistinguishable from ones which can be derived from a mixture of what I have called considerations of justice and benevolence.)

Now the actual world may be such that a strict compliance with the principle of justice will bring one into conflict with this supplementary principle of beneficence or utility. One way of reasoning to this effect has been gone through above: if we do not reward those who add to the good overall, and punish those who detract from it, it is likely that the net balance of positive value will decrease in the future and that there will be less of it to go around. We might dream of a world in which everyone makes equally beneficial contributions to goodness overall, and so can be equally rewarded, but we do not live in such a world. Perhaps we can create this world - if we develop and apply (controversial) techniques of environmental and genetic manipulation. But until such a world has been attained, we must to all appearances put

⁸ *Ibid.*, p. 23.

up with the unequal treatment of beings whom justice requires should be treated equally, unless we allow a marked drop in the production of fulfilment overall. Thus, the natural inequalities have popped up once again, but now it should be evident that they do not threaten to undermine equality of treatment as an ideal (of justice). However, they do make our ethical deliberation more complex by forcing us to weigh considerations of benevolence or utility, on the one hand, and those of justice, on the other, against each other.

Interspecies Equality

So far I have talked about (intraspecies) equality between humans, but it should be plain that the type of considerations adduced could be used to vindicate interspecies equality as well. An individual's belonging to a certain species is obviously not a result of his or her own doings; it is -given the customary criterion of species membership - something genetically fixed. Hence, a 'speciesism' that proposes to treat, for example, chimpanzees, gorillas and orang-utans worse than humans simply because they are chimpanzees, gorillas and orang-utans would be unjust.

But probably, when all is said and done, this is not what speciesism would come down to – just as racism and sexism do not simply amount to the doctrine that certain beings be discriminated against just because of their race or gender. A more intelligible speciesism (racism, sexism) proposes that beings belonging to some species (race, sex) be favoured at the expense of beings belonging to other species (races, sexes) due to characteristics *typical* of these species (races, sexes): for instance, that humans should be better catered for than all nonhuman animals because they alone are rational, have the capacity to speak a language, etc. In other words, the real basis for discrimination is not species-membership, but the possession of rationality or some other mental faculty.

Against this sort of speciesism the so-called argument from marginal cases has been marshalled: it is pointed out that if it is the absence of rationality, linguistic ability, etc., that justifies discrimination against nonhuman animals, discrimination against some humans - in particular, those who are severely mentally handicapped – is also justifiable, since they, too, lack the precious qualities. Apparently, normal chimpanzees, gorillas and orang-utans are at least as intelligent as some mentally impaired humans. It does not help the human speciesist that these humans belong to a species that *normally* is equipped with the mental assets in question, because it is surely more reasonable to treat a being according to the properties it *in fact* possesses than according to those that make up the norm for some group to which it belongs, regardless of whether or not the individual in question has them.

For the champion of animal welfare, the drawback of the argument from marginal cases is that it is powerless against theorists who are prepared to tolerate discrimination against intellectually disabled humans. However, this way out is rendered even more unpalatable by the considerations advanced in the foregoing section: it certainly cannot be just to let the mentally impaired suffer because of their disability, for this is something beyond their responsibility and control. But, plainly, the same considerations tell against treating nonhumans badly on account of their more modest mental endowments: they are of course as little responsible for their shortcomings. The proper conclusion to draw is that justice lays down that both groups be so treated that the value of their lives to them becomes as equal as possible to the value to others of their lives.

Obviously, the claim that justice demands that humans and non-humans be so treated that the value of their lives (to them) be as equal as possible does not imply that, for example, apes (or intellectually disabled humans) should be treated in precisely the same way as normal humans – for instance, offering apes the same opportunities of higher education would not boost the value of their lives by making them more fulfilled, since their mental faculties are not suited to this kind of training. It has not here been proposed that a just treatment consists in treating

beings equally in the sense that they should receive the same quantities of the same goods, but in the sense that goods be so distributed that the outcome approximates as nearly as possible to a state in which all beings enjoy lives that are equally valuable or satisfying to them. And given the different endowments of different beings, this will mean supplying them with different amounts of different commodities.

Remember also that this principle is not the sole ethical principle; as has been remarked, we must also pay heed to some principle of benevolence or utility. This must be borne in mind, lest patently absurd consequences might be thought to follow from the position here advocated. Suppose that, due to the intelligence or expected life span of apes not being on a par with that of humans, their lives in their natural habitat do not contain as much value or satisfaction as that of average humans. Then it does not follow that, all things considered, we are morally obliged to do all we can to raise the value of the life of an average ape to the level of that of a normal human being. For this policy might detract unacceptably from the *total* quantity of value achievable. (Notice, however, that the same argument tells against the proposal that we should do *everything* within our power to improve the quality of life of handicapped humans, if this should also detract unacceptably from the total quantity of value achievable.)

Moreover, considering the vast number of nonhuman species of animals which may possess consciousness and desires, some of these animals differing enormously from humans, trying to establish equality is of course an impracticable policy. I have heard it suggested that the notion of justice is not applicable to creatures with very simple minds, say, reptiles and fish, that it makes no sense to claim that it is unjust, for example, that one fish leads a better life than another. The reason offered for this is that the experiences of these beings at different times in their lives are insufficiently unified due to the absence of any articulated memory in these beings. If correct, this proposal would hope to keep the implications of equality more manageable.

But I am not convinced of its correctness: so far as I can tell, the fact that it can seem plausible may be a mere symptom of how deeply ingrained our speciesism is. If one is not guilty of the confusion of thinking that treating somebody unjustly presupposes that this being has the capacity of recognising the injustice, I do not see why beings cannot be victims of injustice unless they are equipped with the power of holding together their stream of consciousness by looking back (and perhaps forth). However, I can afford to leave this issue open, since the animals of primary interest here, chimpanzees, gorillas and orang-utans, are mentally on a level with some humans whom we emphatically take to be within the scope of ideas of equality.

The general point to bear in mind when dealing with the 'impracticability' type of objection to the principle of equality propounded here is this: in contrast to Singer's principle, it has a grounding independent of utilitarianism, therefore it must be tempered by considerations that are utilitarian in spirit to generate a sound morality. On the other hand, such a morality cannot consist solely of a utilitarian principle if the argument set out earlier is correct (namely, the argument to the effect that a distribution which widens the gap between the better and the worse off can be morally objectionable even though it maximises the total quantity of satisfaction). If there is an objection to that sort of distribution, it would seem to have to do with it issuing in a state of unjust inequality; thus, a satisfactory moral system must include a principle of equality independent of utilitarianism.

The main ethical conclusion of this chapter is that this objection could still hold good when the worse off are nonhumans, such as chimpanzees, gorillas and orang-utans - although our strong speciesist prejudices may efface this fact. So, in order to have the hope of convincing people other than those already converted, I have employed the strategy of approaching interspecies equality via intraspecies human equality, of first establishing my principle of equality for the

human case and then extending it across species barriers.

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