

### *Ill-gotten Gains\**

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Late in 1981, a reporter for a large metropolitan newspaper (we'll call her Karen to protect her interest in remaining anonymous) gained access to some previously classified government files. Using the Freedom of Information Act, Karen was investigating the federal government's funding of research into the short- and long-term effects of exposure to radioactive waste. It was with understandable surprise that, included in these files, she discovered the records of a series of experiments involving the induction and treatment of coronary thrombosis (heart attack). Conducted over a period of fifteen years by a renowned heart specialist (we'll call him Dr Ventricle) and financed with federal funds, the experiments in all likelihood would have remained unknown to anyone outside Dr Ventricle's sphere of power and influence had not Karen chanced upon them.

Karen's surprise soon gave way to shock and disbelief. In case after case she read how Ventricle and his associates took otherwise healthy individuals, with no previous record of heart disease, and intentionally caused their heart to fail. The methods used to occasion the 'attack' were a veritable shopping list of experimental techniques, from massive doses of stimulants (adrenaline was a favourite) to electrical damage of the coronary artery, which, in its weakened state, yielded the desired thrombosis. Members of Ventricle's team then set to work testing the efficacy of various drugs developed in the hope that they would help the heart withstand a second 'attack'. Dosages varied, and there were the usual control groups. Administering certain drugs to 'patients' proved more efficacious in some cases than did administering no medication or smaller amounts of the same drugs in other cases. The research came to an abrupt end in the autumn of 1981, but not because the project was judged unpromising or because someone raised a hue and cry about the ethics involved. Like so much else in the world at that time, Ventricle's project was a casualty of austere economic times. There simply wasn't enough federal money available to renew the grant application.

One would have to forsake all the instincts of a reporter to let the story end there. Karen persevered and, under false pretences, secured an interview with Ventricle. When she revealed that she had gained access to the file, knew in detail the largely fruitless research conducted over fifteen years, and was incensed about his work, Ventricle was dumbfounded. But not because Karen had unearthed the file. And not even because it was filed where it was (a 'clerical error', he assured her). What surprised Ventricle was that anyone would think there was a serious ethical question to be raised about what he had done. Karen's notes of their conversation include the following:

*Ventricle:* But I don't understand what you're getting at. Surely you know that heart disease is the leading cause of death. How can there be any ethical question about developing drugs which *literally* promise to be lifesaving?

*Karen:* Some people might agree that the goal - to save life - is a good, a noble end, and still question the means used to achieve it. Your 'patients', after all, had no previous history of heart disease. *They* were healthy before you got your hands on them. *Ventricle:* But medical progress simply isn't possible if we wait for people to get sick and then see what works. There are too many variables, too much beyond our control and comprehension, if we try to do our medical research in a clinical setting. The history of medicine shows how hopeless that approach is.

*Karen:* And I read, too, that upon completion of the experiment, assuming that the 'patient' didn't die in the process - it says that those who survived were 'sacrificed'. You mean killed? *Ventricle:* Yes, that's right. But always painlessly, always painlessly. And

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\* In PAOLA CAVALIERI & PETER SINGER (eds.), *The Great Ape Project* (New York: St. Martin's Griffin, 1993), pp. 194-205.

the body went immediately to the lab, where further tests were done. Nothing was wasted.

*Karen:* And it didn't bother you - I mean, you didn't ever ask yourself whether what you were doing was wrong? I mean . . . *Ventricle:* [interrupting]: My dear young lady, you make it seem as if I'm some kind of moral monster. I work for the benefit of humanity, and I have achieved some small success, I hope you will agree. Those who raise cries of wrongdoing about what I've done are well intentioned but misguided. After all, I use animals in my research - chimpanzees, to be more precise - not human beings.

### *The Point*

The story about Karen and Dr Ventricle is just that - a story, a small piece of fiction. There is no real Dr Ventricle, no real Karen, and so on. But there *is* widespread use of animals in scientific research, including research like our imaginary Dr Ventricle's. So the story, while its details are imaginary - while it is, let it be clear, a literary device, not a factual account - is a story with a point. Most people reading it would be morally outraged if there actually were a Dr Ventricle who did coronary research of the sort described on otherwise healthy human beings. Considerably fewer would raise a morally quizzical eyebrow when informed of such research done on nonhuman animals, chimpanzees, or whatever. The story has a point, or so I hope, because, catching us off guard, it brings this difference home to us, gives it life in our experience, and, in doing so, reveals something about ourselves, something about our own constellation of values. If we think what Ventricle did would be wrong if done to human beings but all right if done to chimpanzees, then we must believe that there are different moral standards that apply to how we may treat the two - human beings and chimpanzees. But to acknowledge this difference, if acknowledge it we do, is only the beginning, not the end, of our moral thinking. We can meet the challenge to think well from the moral point of view only if we are able to cite a *morally relevant difference* between humans and chimpanzees, one that illuminates in a clear, coherent, and rationally defensible way why it would be wrong to use humans, but not chimpanzees, in research like Dr Ventricle's.

An obvious difference is that chimpanzees and humans belong to different species. A difference certainly; but a morally relevant one? Suppose, for the sake of argument, that a difference in species membership *is* a morally relevant difference. If it is, and if *A* and *B* belong to two different species, then it is quite possible that killing or otherwise harming *A* is wrong, while doing the same things to *B* is not.

Let us test this idea by imagining that Steven Spielberg's E.T. and some of E.T.'s friends show up on Earth. Whatever else we may want to say of them, we do not want to say that they are members of our species, the species *Homo sapiens*. Now, if a difference in species is a morally relevant difference, we should be willing to say that it is *not* wrong to kill or otherwise harm E.T. and the other members of his biological species in sport hunting, for example, even though it *is* wrong to do this to members of our species for this reason. But no double standards are allowed. If *their* belonging to a different species makes it all right for us to kill or harm them, then *our* belonging to a different species from the one to which they belong will cancel the wrongness of their killing or harming us. 'Sorry, chum,' E.T.'s compatriots say, before taking aim at us or prior to inducing *our* heart attacks, 'but you just don't belong to the right species.' As for us, we cannot lodge a whine or a moral objection if species membership, besides being a biological difference, is a morally relevant one. Before we give our assent to this idea, therefore, we ought to consider whether, were we to come face to face with another powerful species of extraterrestrials, we would think it reasonable to try to move them by the force of moral argument and persuasion. If we do, we will reject the view that species differences, like other biological differences (e.g. race or sex), constitute a morally relevant difference of the kind we seek. But we will also need to remind ourselves that no double standards are allowed: though chimpanzees and humans do differ in terms of the species to which each belongs, that

difference by itself is not a morally relevant one. Ventricle could not, that is, defend his use of chimpanzees rather than humans in his research on the grounds that these animals belong to a different species from our own.

### *The Soul*

Many people evidently believe that theological differences separate humans from other animals. God, they say, has given us immortal souls. Our earthly life is not our only life. Beyond the grave there is eternal life - for some, heaven, for others, hell. Other animals, alas, have no soul, in this view, and therefore have no life after death either. That, it might be claimed, is the morally relevant difference between them and us, and that is why, so it might be inferred, it would be wrong to use humans in Ventricle's research but not wrong to use chimpanzees.

Only three points will be urged against this position here. First, the theology just sketched (*very crudely*) is not the only one competing for our informed assent, and some of the others (most notably, religions from the East and those of many Native American peoples) do ascribe soul and an afterlife to animals. So before one could reasonably use this alleged theological difference between humans and other animals as a morally relevant difference, one would have to defend one's theological views against theological competitors. To explore these matters is well beyond the limited reach of this chapter. It is enough for our purposes to be mindful that there is much to explore.

Second, even assuming that humans have souls, while other animals lack them, there is no obvious logical connection between these 'facts' and the judgement that it would be wrong to do some things to humans that it would not be wrong to do to chimpanzees. Having (or not having) a soul obviously makes a difference concerning the chances that one's soul will live on. If chimpanzees lack souls, their chances are nil. But why does that make it quite all right to use them *in this life* in Ventricle's research? And why does our having a soul, assuming we do, make it wrong *in this life* to use us? Many more questions are avoided than addressed by those who rely on a supposed 'theological difference' between humans and other animals as their basis for judging how each may be treated.

But third, and finally, to make a particular theology the yardstick of what is permissible and, indeed, supported by public funds in twentieth-century Western pluralistic society is itself morally objectionable, offending, minimally, the sound moral, not to mention legal, principle that church and state be kept separate. Even if it had been shown to be true, which it has not, that humans have souls and other animals do not, that should not be used as a weapon for making public policy. We will not, in short, find the morally relevant difference we seek if we look for it within the labyrinth of alternative theologies.

### *The Right to Consent*

'Human beings can give or withhold their informed consent; animals cannot. That's the morally relevant difference.' This argument is certainly mistaken on one count, and possibly mistaken on another. Concerning the latter point first, evidence steadily increases regarding the intellectual abilities of the great apes. Much of the public's attention has been focused on reports of studies involving the alleged linguistic abilities of these animals, when instructed in such languages as American Sign Language for the deaf (ASL). Washoe, Lana, Nim Chimpski: individual chimpanzees have attained international celebrity. How much these animals do and can understand is a controversial question. Do primates have the ability to understand and use language? If they do, would they have the capacity to give or withhold their informed consent? At present, no definitive answers can be given to these questions. I think it quite likely that these animals do have the necessary capacities. But it is also possible that they do not. It is not

easy to trot out a doctrinaire position in this regard.

Questions about the ability of chimpanzees to give informed consent aside, however, it should be obvious that this is not the morally relevant difference we are seeking. Suppose that, in addition to using chimpanzees, Ventricle also used some humans, but only mentally incompetent ones - those who, though they have discernable preferences, are too young or too old, too enfeebled or too confused, to give or withhold their informed consent. If the ability to give or withhold informed consent were the morally relevant difference we seek, we should be willing to say that it would not be wrong for Ventricle to do his coronary research on these humans, though it would be wrong for him to do it on competent humans - those humans, in other words, who can give or withhold their informed consent.

But though one's willingness to consent to have someone do something to oneself may be, and frequently is, a good reason to absolve the other person of moral responsibility, one's inability to give or withhold informed consent is on a totally different moral footing. When Walter Reed's colleagues gave their informed consent to take part in the yellow fever experiments, those who exposed them to the potentially fatal bite of the fever parasite carried by mosquitoes were absolved of any moral responsibility for the risks the volunteers chose to run, and those who chose to run these risks, let us agree, acted above and beyond the normal call of duty - acted, as philosophers say, *supererogatorily*. Because they did more than duty strictly requires, in the hope and with the intention of benefiting others, these pioneers deserve our esteem and applause.

The case of human incompetents is radically different. Since these humans (e.g. young children and people with mental handicaps) lack the requisite mental abilities to have duties in the first place, it is absurd to think of them as capable of acting *supererogatorily*; they cannot act 'beyond the call' of duty, when, as is true in their case, they cannot understand that 'call' to begin with. But though they cannot volunteer, in the way mentally competent humans can, they can be forced or coerced to do something against their will or contrary to their known preferences. Sometimes, no doubt, coercive intervention in their life is above moral reproach - indeed, is morally required, as when, for example, we force a young child to undergo a spinal tap to check for meningitis. But the range of cases in which we are morally permitted or obliged to use force or coercion on human incompetents in order to accomplish certain ends is not large by any means. Primarily it includes cases in which we act with the intention, and because we are motivated, *to forward the interests of that individual human being*. And that is not a licence, not a blank cheque to force or coerce human incompetents to be put at risk of serious harm so that *others* might possibly be benefited by having *their* risks established or minimised. To treat the naturally occurring heart ailment of a human incompetent *is* morally imperative, and anything we learn as a result that is beneficial to others is not evil by any means. However, to intentionally bring about the heart attack of a human incompetent, on the chance that others might benefit, is morally out of bounds. Human incompetents do not exist as 'medical resources' for the rest of us. Morally, Ventricle's research should be condemned if done on human incompetents, whatever benefits others might secure as a result. Imagine our gains to be as rich and real as you like. They would all be ill-gotten.

What is true in the case of human incompetents (those humans, once again, who, though they have known preferences, cannot give or withhold their informed consent) is true of chimpanzees (and other animals like them in the relevant respects, assuming, as we are, that chimpanzees cannot give or withhold their informed consent). Just as in the case of these humans, so also in the case of these animals, we are morally permitted and sometimes required to act in ways that coercively put them at risk of serious harm, against their known preferences, as when, for example, they are subjected to painful exploratory surgery. But the range of cases in which we are justified in using force or coercion on them is morally circumscribed. Primarily it is to promote *their* individual interests, as we perceive what is in their interests. It is *not* to promote the collective interests of *others*, including those of human

beings. Chimpanzees are not our tasters, we are not their kings. To treat them in ways that put them at risk of significant harm on the chance that we might learn something useful, something that might benefit others (including other chimpanzees!), something that just might add to our understanding of disease or its treatment or prevention – coercively to put them at risk of significant harm for any or all of these reasons is morally to be condemned.

To attempt to avoid this finding in the case of these animals, while holding on to the companion finding in the case of incompetent humans, is as rational as trying to whistle without using your mouth. It can't be done. As certain as it is that it would have been wrong for Ventricle to use human incompetents in his coronary research, it is at least as certain that it would have been wrong for him to use chimpanzees instead, despite the legality of using these animals and the illegality of using these humans. Here, surely, it is the law that must change, and afford the same protection for chimpanzees as it does now for humans.

### *The Value of the Individual*

Philosophically, there is a way to insure that our gains will not be ill-gotten. This requires that we view individuals as having a distinctive kind of value – *inherent value*, to give it a name; others have called it by other names, including the *worth* or *dignity* of the individual. This kind of value is not the same as the positive value we attach to being happy or having various skills. An unhappy person has no less inherent value (no less worth or dignity) than a happy one. Moreover, the individual's inherent value does not depend on how useful others find him or her or how well he or she is liked. A prince and a pauper, a prostitute and a nun, those who are loved and those who are forsaken, the genius and the mentally handicapped child, the artist and the Philistine, the most generous philanthropist and the most unscrupulous used-car dealer - all have inherent value, according to the philosophy recommended here, and all have it equally.

To view the value of individuals in this way is not an empty abstraction. To the question 'What difference does it make whether we view individuals as having equal inherent value?' our response must be, 'It makes all the moral difference in the world!' Morally, we are *always* required to treat those who have inherent value in ways that display proper respect for their distinctive kind of value, and though we cannot on this occasion either articulate or defend the full range of obligations tied to this fundamental duty, we can note that we fail to show proper respect for those who have such value whenever we treat them as if they were mere receptacles of value or as if their value were dependent on, or reducible to, their possible utility relative to the interests of others. In particular, therefore, Ventricle would fail to act as duty requires – would, in other words, do what is morally wrong - if he conducted his coronary research on competent human beings, without their informed consent, on the grounds that this research just might lead to the development of drugs or surgical techniques that would benefit others. That would be to treat these human beings as mere medical resources for others, and though Ventricle might be able to do this and get away with it, and though others might benefit as a result, that would not alter the nature of the grievous wrong he would have done. To ascribe inherent value to competent human beings, then, provides us with the theoretical wherewithal to ground our moral case against using competent human beings, against their will, in research like Ventricle's.

### *Who Has Inherent Value?*

If inherent value could nonarbitrarily be limited to competent humans, then we would have to look elsewhere to resolve the ethical issues involved in using other individuals (for example, chimpanzees) in medical research. But inherent value can only be limited to competent human beings by having recourse to one arbitrary manoeuvre or another. Once we recognise that

morality simply will not tolerate double standards, then we cannot, except arbitrarily, withhold ascribing inherent value, to an equal degree, to incompetent humans and other animals such as chimpanzees. All have this value, in short, and all have it equally. All considered, this is an essential part of the most adequate total vision of morality. Morally, none of those having inherent value may be used in Ventricle-like research (research that puts them at risk of significant harm in the name of securing benefits for others, whether those benefits are realised or not). And none may be used in such research because to do so is to treat them as if their value is reducible to their possible utility relative to the interests of others.

### *Hurting and Harming*

The prohibition against research like Ventricle's, when conducted on animals such as chimpanzees, cannot be avoided by the use of anaesthetics or other palliatives used to eliminate or reduce suffering. Other things being equal, to cause an animal to suffer is to harm that animal – is, that is, to diminish that individual animal's welfare. But these two notions - harming on the one hand and suffering on the other - differ in important ways. An individual's welfare can be diminished independently of causing him or her to suffer, as when, for example, a young woman is reduced to a 'vegetable' by painlessly administering a debilitating drug to her while she sleeps. We mince words if we deny that harm has been done to her, though she suffers not. More generally, harms, understood as reductions in an individual's welfare, can take the form of either *infections* (gross physical suffering is the clearest example of a harm of this type) or *deprivations* (prolonged loss of physical freedom is a clear example of a harm of this kind). Not all harms hurt, in other words, just as not all hurts harm.

Viewed against the background of these ideas, an untimely death is seen to be the ultimate harm for both humans and animals such as chimpanzees, and it is the ultimate harm for both because it is their ultimate deprivation or loss – their loss of life itself. Let the means used to kill chimpanzees be as 'humane' (a cruel word, this) as you like. That will not erase the harm that an untimely death is for these animals. True, the use of anaesthetics and other 'humane' steps lessens the wrong done to these animals, when they are 'sacrificed' in Ventricle-type research. But a lesser wrong is not a right. To do research that culminates in the 'sacrifice' of chimpanzees or that puts these and similar animals at risk of losing their life, in the hope that we might learn something that will benefit others, is morally to be condemned, however 'humane' that research may be in other respects.

### *The Criterion of Inherent Value*

It remains to be asked, before concluding, what underlies the possession of inherent value. Some are tempted by the idea that life itself is inherently valuable. This view would authorise attributing inherent value to chimpanzees, for example, and so might find favour with some people who oppose using these animals as means to our ends. But this view would also authorise attributing inherent value to anything and everything that is alive, including, for example, crabgrass, lice, bacteria and cancer cells. It is exceedingly unclear, to put the point as mildly as possible, either that we have a duty to treat these things with respect or that any clear sense can be given to the idea that we do.

More plausible by far is the view that those individuals who have inherent value are *the subjects of a life* – are, that is, the experiencing subjects of a life that fares well or ill for them over time, those who have *an individual experiential welfare*, logically independent of their utility relative to the interests or welfare of others. Competent humans are subjects of a life in this sense. But so, too, are those incompetent humans who have concerned us. Indeed, so too are many other animals: cats and dogs, hogs and sheep, dolphins and wolves, horses and cattle - and, most obviously, chimpanzees and the other nonhuman great apes. Where one

draws the line between those animals who are, and those who are not, subjects of a life is certain to be controversial. Still, there is abundant reason to believe that the members of mammalian species of animals do have a psychophysical identity over time, do have an experiential life, do have an individual welfare. Common sense is on the side of viewing these animals in this way, and ordinary language is not strained in talking of them as individuals who have an experiential welfare. The behaviour of these animals, moreover, is consistent with regarding them as subjects of a life, and evolutionary theory implies that there are many species of animals whose members are, like the members of the species *Homo sapiens*, experiencing subjects of a life of their own, with an individual welfare. On these grounds, then, we have very strong reason to believe, even if we lack conclusive proof, that these animals meet the subject-of-a-life criterion.

If, then, those who meet this criterion have inherent value, and have it equally, chimpanzees and other animals who are subjects of a life, not just human beings, have this value *and* have neither more nor less of it than we do. Moreover, if, as has been argued, having inherent value morally bars others from treating those who have it as mere resources for others, then any and all medical research like Ventricle's, done on these animals in the name of possibly benefiting others, stands morally condemned. And it is not only cases in which the benefits for others do not materialise that are condemnable; also to be condemned are cases, if indeed there are any, in which the benefits for others are genuine. In these cases, as in others, the ends do not justify the means.

This recognition of the *moral* equality of humans, chimpanzees and other animals who are subjects of a life is not something to which calls for *legal* reform can turn a deaf ear. The very notion of legal justice, as this applies to the treatment of human beings, grows out of acceptance of the worth, dignity or, as preferred here, the inherent value of the individual. Individual human beings, that is, if they are to be treated justly by the laws and the courts, must be treated with the respect they deserve, not because of their achievements or talents or wealth, for example, but simply because of the dignity or worth they possess as the individuals they are. Because chimpanzees (and the other nonhuman great apes) have no less a claim to such dignity, our system of legal justice must change in order to treat these animals with the respect they deserve.

### *Conclusion*

Such a conclusion is probably at odds with the judgement that most people would make about this issue. If we had good reason to assume that the truth always lies with what most people think, then we could look approvingly on Ventricle-like research done on animals like chimpanzees in the name of benefits for others. But we have no good reason to believe that the truth is to be measured plausibly by majority opinion, and what we know of the history of prejudice and bigotry speaks powerfully, if painfully, against this view. Only the cumulative force of informed, fair, rigorous argument can decide where the truth lies, or most likely lies, when we examine a controversial moral question.

Those who oppose the use of animals such as chimpanzees in research like Ventricle's and who accept the major themes advanced here, oppose it, then, not because they think that all such research is a waste of time and money, or because they think that it never leads to any benefits for others, or because they view those who do such research as, to use Ventricle's words, 'moral monsters'. Those of us who condemn such research do so because this research is not possible except at the grave moral price of failing to show proper respect for the value of the animals who are used.