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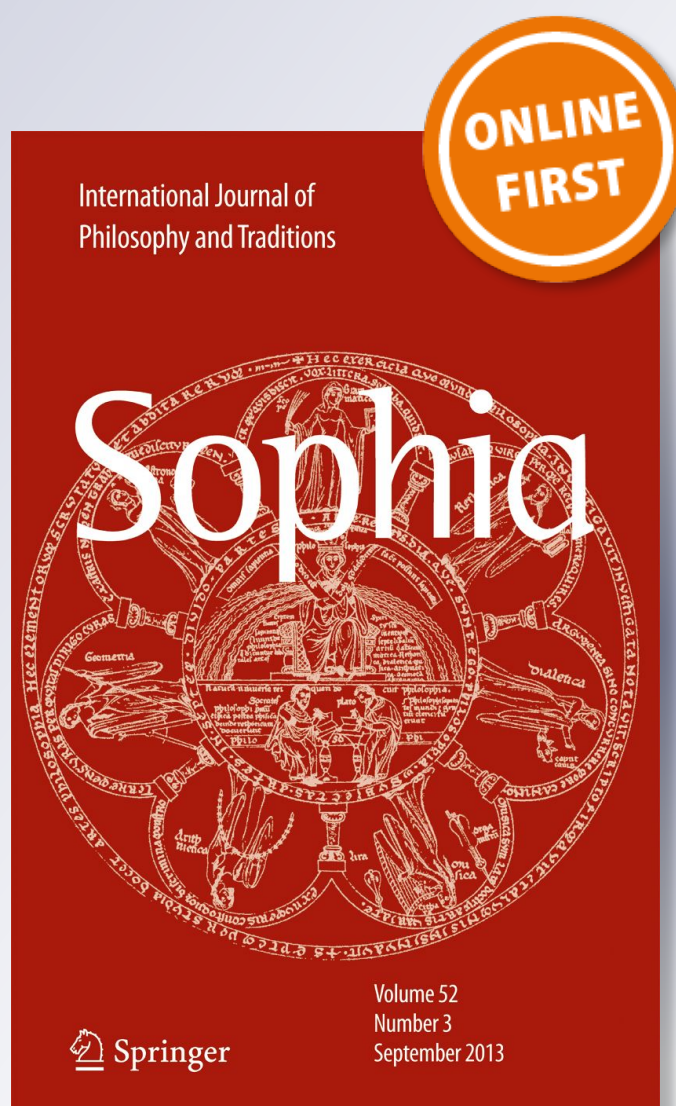
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# Against Animal Liberation? Peter Singer and His Critics

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Peter Singer's 1975 book *Animal Liberation: A New Ethics for Our Treatment of Animals* has been described as 'the Bible' of the modern animal movement.<sup>1</sup> Singer's unrhetorical and unemotional arguments radically departed from previous conceptions of animal ethics. He moved beyond the animal welfare tradition of 'kindness' and 'compassion' to articulate a non-anthropocentric utilitarian philosophy based on equality and interests. After the publication of *Animal Liberation*, an 'avalanche of animal rights literature' appeared.<sup>2</sup> A prolific amount of work focused on the moral status of animals, and the 'animal question' has been given serious consideration across a broad range of disciplines. *Animal Liberation* has never been out of print and has sold more than six hundred thousand copies in twenty languages.<sup>3</sup> The book remains a definitive classic.<sup>4</sup> In this article, I explore Singer's thesis and examine the arguments against his work, particularly from certain moral philosophers in the late 1970s and 1980s who seriously engaged with his ideas. I argue that due to the straightforward, minimalist nature of Singer's preference utilitarianism, his arguments have remained highly defensible and persuasive. By advancing sentience, above characteristics like intelligence or rationality, as a sufficient criterion for possessing interests, Singer provides a justifiable principle for morally considering animal interests equal to those of humans. Numerous moral philosophers have challenged Singer, but they have struggled to

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<sup>1</sup>Although this label is not endorsed by Singer, it is a label invented and promoted by the media. See: Peter Singer, *Animal Liberation*, 2nd ed. (London: Jonathan Cape, 1990), vii

<sup>2</sup>Charles R. Magel, *Keyguide to Information Sources in Animal Rights* (London: Mansell, 1989), ix.

<sup>3</sup>Peter Singer, 'An Intellectual Autobiography', in *Peter Singer Under Fire: The Dangerous Ethicist Faces His Critics*, ed. Jeffrey A. Schaler (Chicago: Open Court, 2009), 29.

<sup>4</sup>Gonzalo Villanueva, "'The Bible' of the Animal Movement: Peter Singer and Animal Liberation, 1970–1976", *History Australia* 13, no. 3 (2016): 399–414.

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seriously counter his core principle *and* to resolve the argument of ‘marginal cases’—that is, why do infants and intellectually disabled humans have moral status and animals do not. Ultimately, Singer broadly challenged prevailing anthropocentric views of animals and, in some instances, persuaded some of his most intransigent opponents.

## Ethics and Animals

For Singer, a universal system of ethics provides a persuasive, albeit inconclusive, reason for adopting a utilitarian position.<sup>5</sup> He argues against ethical relativism or subjectivism. He treats ethics as entirely independent of religion, for moral behaviour does not require God(s), heaven or hell.<sup>6</sup> ‘Ethics requires us to go beyond “I” and “you” to the universal law, the universalizable judgement, the standpoint of the impartial spectator or ideal observer, or whatever we choose to call it’.<sup>7</sup> Similar to Jeremy Bentham’s dictum of utility – ‘each person is to count for one and no one for more than one’ – for Singer, a utilitarian position requires us to account for every sentient being’s interests and to calculate a course of action that has the best consequences for all affected.

The foundation of Singer’s ethics is the principle of equality. However, equality is not premised on the sameness of interest-holders, for humans are inherently different. For example, some people are tall or short, some have brown or blue eyes, some are good at maths, others are not, etc. Humans differ as individuals, not because of race, sex, or gender. Crucially, equality does not rest on ‘intelligence, moral personality, rationality or similar matters of fact’. ‘Equality is a basic principle, rather than an assertion of fact’, argues Singer<sup>8</sup>:

The essence of the principle of equal consideration of interests is that we give equal weight in our moral deliberations to the like interests of all those affected by our actions ... What the principle really amounts to is: an interest is an interest, whoever’s interest it may be.<sup>9</sup>

How does the principle of equality apply to animals? In order for Singer’s principle to be applicable, it is necessary that a being have interests. The principle also prohibits interests from being arbitrarily qualified by other attributes, such as intelligence (or lack thereof). Drawing on Bentham, Singer argues that the ‘capacity for suffering and enjoyment is a *prerequisite for having interests at all*’.<sup>10</sup> In Singer’s view, suffering is not just a necessary capacity, or even the only condition, but a sufficient criterion for possessing interests. Therefore, sentience, not language or rationality, is sufficient for moral consideration. Consequently, there is no justification for not considering a sentient being.

<sup>5</sup> Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 1979), 12.

<sup>6</sup> *Ibid.*, 3–4.

<sup>7</sup> *Ibid.*, 11.

<sup>8</sup> *Ibid.*, 18.

<sup>9</sup> *Ibid.*, 19.

<sup>10</sup> Singer’s emphasis. Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (New York: The New York Review, 1975), 9.

Although Singer draws on Bentham's thinking, he also radically goes beyond Bentham's formulation. In his time, Bentham's animal ethics were ambiguous and highly anthropocentric.<sup>11</sup> He condoned vivisection and the killing and eating of animals, for 'we are the better for it, and they are never the worse'.<sup>12</sup> While he disapproved of 'torment' and 'wanton cruelty', there were several caveats in which cruelty was permissible. 'Mankind' took priority over and above animal concerns because cruelty made 'man' insensible and callous, caused mischief in the community, and, only at the bottom of the list, was harmful to the animals themselves.<sup>13</sup> Singer's *Animal Liberation* radicalises Bentham's proposition and further contributes to the 'Bentham myth'—the persistent ahistorical narrative that portrays Bentham's animal ethics as unique and revolutionary.<sup>14</sup> However, in doing so, Singer innovates the utilitarian calculus to radically include animal interests and characteristics, that is, 'sentience' and 'suffering'.<sup>15</sup> Ultimately, Singer's central ideas developed not only from the utilitarian tradition, but from the formative years he spent at Oxford University, where he was embedded in a critical community of young scholars who eagerly discussed the moral status of animals.<sup>16</sup>

Unlike Bentham, Singer's principle of equality compels us to count the interests of a suffering being 'equally' with the 'like suffering' of any other being.<sup>17</sup> Singer's principle does not require equal treatment, such as giving animals the right to vote, rather it requires equal 'consideration'. 'Pain and suffering are bad and should be prevented or minimized, irrespective of the race, sex, or species of the being that suffers. 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'.<sup>18</sup> Precision in comparing pain between members of different species is not essential. In the modern context of animal use and exploitation, such as factory farming, suffering is either self-evident or easily established and can be readily prevented without significant clashes of interests.

To ignore a being's interests violates the basic principle of equality and is tantamount to discrimination, argues Singer. Speciesism, a term coined by Richard Ryder and later popularised by Singer, is like sexism and racism; it is a form of discrimination based on species membership, which arbitrarily privileges the interests of one being over another.<sup>19</sup> Speciesism is most clearly on display when it comes to justifying the use of animals. For instance, animals are often used in experiments because they are considered less valuable creatures and because they are considered to lack self-consciousness, rationality and

<sup>11</sup> Rod Preece, *Brute Souls, Happy Beasts, and Evolution: Historical Status of Animals* (Vancouver: UBC Press, 2005), 369; Rob Boddice, *A History of Attitudes and Behaviours Toward Animals in Eighteenth-And Nineteenth-Century Britain* (Lewiston: The Edwin Mellen Press, 2008) chap. 4.

<sup>12</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, 1789.

<sup>13</sup> Boddice, *A History of Attitudes and Behaviours Toward Animals in Eighteenth-And Nineteenth-Century Britain*, 132–37.

<sup>14</sup> *Ibid.*, chap. 4; Rob Boddice, 'The Moral Status of Animals and the Historical Human Cachet', *JAC* 30, no. 3/4 (2010): 457–89.

<sup>15</sup> Singer, *Animal Liberation*, 1975, 9.

<sup>16</sup> *Ibid.*, xv.

<sup>17</sup> *Ibid.*, 9.

<sup>18</sup> Singer, *Practical Ethics*, 54.

<sup>19</sup> Singer, *Animal Liberation*, 1975, 9; Richard Ryder, *Victims of Science: The Use of Animals in Research* (London: Davis-Poynter, 1975), 5.

autonomy. However, this same argument also provides a justification for excluding 'marginal cases', that is, infants and intellectually disabled humans, from the moral community. This argument, Singer continues, would therefore place nonhuman animals and marginal cases in the same category. Distinguishing between the cases is purely indefensible speciesism, rather than any morally relevant argument.<sup>20</sup>

But would experimenters be prepared to perform their research on marginal cases? Presumably experimenters and supporters would recoil from such a proposition, which would, in turn, reveal their speciesism. Singer is not suggesting that infants ought to be used alongside primates. Instead, he hopes that by revealing such biases, animal experiments would be greatly reduced, particularly those where the benefits are highly dubious.<sup>21</sup> 'It is also important to remember that the aim of my argument is to elevate the status of animals rather than lower the status of any humans', argues Singer. He does not suggest in any way that infants and severely intellectually disabled people should be treated how animals are treated today; humans and animals should not be used as food or used for experiments.<sup>22</sup>

Ethical vegetarianism is fundamental to the idea of animal liberation. It follows logically from utilitarianism. Singer says 'I am a vegetarian because I am a utilitarian'.<sup>23</sup> 'Becoming a vegetarian', writes Singer in *Animal Liberation*, 'is the most practical and effective step one can take toward ending both the killing of nonhuman animals and the infliction of suffering upon them'.<sup>24</sup> The killing of animals, the consumption of their flesh, and causing unnecessary suffering are easily avoidable through a vegetarian diet. However, for Singer, dairy consumption raises a different set of problems. On the intensive farm, egg and milk production both cause harm, he acknowledges, either through the enclosure of egg-laying birds in cages, or the forced separation and subsequent slaughter of calves (like humans, cows will only lactate for their offspring; the separation of a calf from a cow ensures milk for human consumption). Vegans, he notes, avoid any moral complicity in these industries through their complete abstention from animal products. However, Singer argues, the adoption of veganism is a difficult step. 'A reasonable and defensible plan of action', Singer recommends, 'is to tackle the worst abuses first and move on to lesser issues when substantial progress has been made'.<sup>25</sup> Singer maintains this reasoning in the latest edition of *Animal Liberation*.<sup>26</sup> Perhaps in the 1970s veganism was practically a difficult path, but given the growth of veganism and its accessibility in recent years, it is now more than ever an ethical and practical lifestyle. Nevertheless, through this incremental approach, Singer seeks to persuade people to cease eating meat and intensively farmed eggs, believing this was easier than advocating complete abstention from animal products. He conceptualises vegetarianism as a 'permanent boycott', particularly against the most objectionable forms of animal use.<sup>27</sup>

<sup>20</sup> Singer, *Animal Liberation*, 1975, 18.

<sup>21</sup> Singer, *Practical Ethics*, 59.

<sup>22</sup> *Ibid.*, 68.

<sup>23</sup> Peter Singer, 'Utilitarianism and Vegetarianism', *Philosophy & Public Affairs* 9, no. 4 (1980): 325.

<sup>24</sup> Singer, *Animal Liberation*, 1975, 173.

<sup>25</sup> *Ibid.*, 191.

<sup>26</sup> Peter Singer, *Animal Liberation* (London: Vintage Publisher, 2015), 196–97.

<sup>27</sup> Singer, *Animal Liberation*, 1975, 175.



When the lives of interest-holders clash, Singer's principle of equal consideration is limited. Although Singer is primarily focused on minimising suffering, he does explore questions around the value of life and the wrongness (and rightness) of killing human and nonhuman animals. For Singer, the value of life depends not so much on the 'sanctity of human life', but on the value of a 'person's' life. A person is a rational, self-conscious being, who is aware of themselves as a distinct entity with a past and a future.<sup>28</sup> Other living entities, such as many animals and marginal cases, may be conscious, but they arguably lack the self-consciousness that would qualify them as a person. For Singer, there are four possible reasons for valuing a person's life above other lives. Firstly, the impact of killing on others; secondly, the frustration of the victim's desires and plans for the future; thirdly, the capacity to have desires is a necessary condition for the right to life; and, finally, respect for autonomy. Although a utilitarian, argues Singer, would most readily accept the first two propositions, none of the four can be entirely rejected. The practical questions of killing can turn on these four reasons.<sup>29</sup>

Although most intellectually unimpaired humans are persons, Singer argues that some nonhuman animals are also persons.<sup>30</sup> As Singer says, 'Whether we base the special value of the lives of human persons on preferential utilitarianism, a right to life deriving from their capacity to desire to go on living, or respect for autonomy, these arguments must apply to nonhuman persons as well'.<sup>31</sup>

In *Practical Ethics*, he refers to a number of examples where animals with well-developed mental faculties can be considered to be persons. A notable example he highlights is that of our fellow great apes. Many other animals, however, would not qualify as persons. In 1979, Singer wrote that 'Fish and reptiles would be in this category; perhaps also birds, including the much consumed chicken'.<sup>32</sup> However, in his 2011 edition of *Practical Ethics*, he has revised this position. Reflecting on emerging research, Singer broadly discusses self-awareness, learning capacities, and a sense of future in magpies, scrub jays, chickens, and certain fish. Because certain animals appear to be persons, Singer argues we should be cautious about excluding other species. Thus, he concludes: 'Twenty years ago, we could confidently attribute self-awareness only to great apes. Now, we can include not only elephants and dolphins but also some birds'. Indeed, Singer's willingness to 'confidently' argue the point relies on emerging ethological research.

Animals that do not have the faculty to see themselves as existing over time are not plausibly persons. Although the case against killing non-person animals is weaker, and amounts to a concern with the diminution of a pleasurable life, there are still several issues at hand that would lead a utilitarian like Singer to oppose killing. Indirect reasons for condemning killing include pain and the negative consequences it has on other animals, like animals who mourn the death of one another. Ultimately, a being who is not self-aware and who does not have a sense of themselves as a distinct entity, still has an interest in experiencing pleasure and avoiding suffering, therefore, they are still

<sup>28</sup> Singer, *Practical Ethics*, 78.

<sup>29</sup> Ibid., 84.

<sup>30</sup> Ibid., 94.

<sup>31</sup> Ibid., 97.

<sup>32</sup> Ibid., 99.

owed an equal consideration of their interests.<sup>33</sup> If there is doubt as to the self-consciousness of certain beings (and given the emerging research on animal cognition, there should be), Singer suggests, 'we should give that being the benefit of the doubt'.<sup>34</sup>

Singer's principle can be summarised as follows: (1) Sentience is a sufficient criterion for having interests and moral consideration; (2) Animals are sentient and have interests; (3) A being's interests ought to be equally considered, regardless of species; (4) To avoid animal suffering, we ought to be vegetarians or vegans. The value of lives can be factored alongside Singer's principle. Following the publication of *Animal Liberation*, Singer's principle was the subject of much controversy and debate.

## Against Animal Liberation?

One of the first academic philosophers to criticise Singer's thesis was Joseph Margolis, whose works focus on epistemology, metaphysics, and relativism. In 1974, Margolis made his arguments clear in the title of his paper: 'animals have no rights and are not the equal of humans'. Margolis questions what he believes are the two cornerstones of Singer's principles: rights-based ethics and equality.<sup>35</sup> Margolis argues that human beings alone possess rights, because they make claims for themselves and that only humans are able to acknowledge, and subsequently oblige, those claims. Curiously, Margolis agrees that both animals and marginal cases lack these capacities and, theoretically, 'it's consistent to deny that they actually do have rights'; however, he does not attempt to resolve this problem. Turning to Singer's principle of equal consideration of interests, Margolis is adamant that the requirement for the equal treatment of animals does not follow from the admission that animals have the capacity to suffer. Here, Margolis erroneously emphasises 'treatment', rather than 'consideration', which require markedly different courses of actions. As stated above, equal treatment would mean dogs have the right to vote. Nevertheless, according to Margolis, moral judgements cannot be decided from only the sentience criterion. 'Singer may have confused questions about what's relevant to a moral judgement with questions about what are the sufficient conditions for drawing particular moral judgements'. He goes on to state that humans have 'higher' capacities and because of this, when conflicting interests arise with animals, the case always resolves in the human's favour. For Margolis, there is no way to make sense of how animal interests could count equally with human interests.<sup>36</sup>

Since Margolis, other philosophers also opposed Singer's animal ethics. Kevin Donaghy said that 'Speciesism is, I think, a defensible position'.<sup>37</sup> Jan Narveson, while broadly sympathetic to animals and vegetarianism, questions whether the interest of consuming animals constitutes a minor or trivial pleasure, for it is 'not so obvious that major interests of lesser beings are more important than minor interests of us'.<sup>38</sup>

<sup>33</sup> Ibid., 102.

<sup>34</sup> Ibid., 98.

<sup>35</sup> Many were initially confused with Singer's views, believing he held rights-based views.

<sup>36</sup> Joseph Margolis, 'Animals Have No Rights and Are Not the Equal of Humans', *Philosophic Exchange* 5, no. 1 (1974): 119–23.

<sup>37</sup> Kevin Donaghy, 'Singer on Speciesism', *Philosophic Exchange* 5, no. 1 (1974): 125.

<sup>38</sup> Jan Narveson, 'Animal Rights', *Canadian Journal of Philosophy* 7, no. 1 (1977): 173.



Bonnie Steinbock, like Margolis, challenges Singer's notion that sentience is the only relevant attribute for equal consideration of interests and that those interests should be considered unequally. Similar to others, Steinbock argues that 'human beings have a moral worth that non-human animals do not'. For Steinbock, a certain minimal level of intelligence is required for a being to be morally considered. Valuing human life, explains Steinbock, is more acceptable because human interests count more. Steinbock admits that it is difficult to account for morally relevant differences that would justify the use and exploitation of marginal cases over animals that have greater intellectual capacities. Although 'horrified' by the proposition that humans be used in experiments, Steinbock attributes this to sentimentality and feeling an obligation to care for those less fortunate. 'I am willing to admit that my horror at the thought of experiments being performed on severely mentally incapacitated human beings in cases in which I would find it justifiable and preferable to perform the same experiments on non-human animals (capable of similar suffering) may not be a moral emotion'. Indeed, it would be a speciesist act. And Steinbock anticipates this, noting that it is not racist to provide special care to members of your own race provided that such care is not exclusive to one race.<sup>39</sup> How did Singer respond to these criticisms? I will come back to this in a moment, but firstly I want to introduce another figure.

Within the history of the debate against *Animal Liberation*, there is the curious case of Michael Fox. In contrast with the aforementioned philosophers, Fox, like some others that I will get to, seriously engaged with the 'animal question' over an extended period of time. Although Fox accepts, or rather 'concedes', that animals 'may have interests', that they are capable of experiencing pleasure and suffering, he rejects the concept that morality can be extended to include animals and that the 'question of animal rights is therefore a bogus issue'. While he readily agrees that we ought to be concerned with the welfare and exploitation of animals because they are sentient beings, this does not ipso facto equate to rights for animals. While humans have an obligation to avoid mistreating animals, it is an obligation without rights.<sup>40</sup>

Fox sees numerous flaws in Singer's arguments, as well as in those of another prominent animal ethicist, Tom Regan. In 1975, Regan articulated his deontological argument on animal ethics and would go on to argue the case alongside Singer.<sup>41</sup> Fox believes that Singer's principle of equal consideration of interests is based on 'the only [universal] capacity which counts' in assigning moral rights, that is, suffering. Other capacities, Fox agrees, such as rationality, intelligence, and symbolic communication are irrelevant in justifying equal treatment.<sup>42</sup> But Fox views Singer's position as 'highly problematic' because he falsely believes Singer defends the view that animal pleasure and suffering are 'both qualitatively and quantitatively the same as those of humans and that their capacity for enjoying life is the same'.<sup>43</sup> Furthermore, Fox condemns Singer

<sup>39</sup> Bonnie Steinbock, 'Speciesism and the Idea of Equality', *Philosophy*, 247–256, 53 (1978).

<sup>40</sup> Michael Fox, "'Animal Liberation': A Critique", *Ethics* 88, no. 2 (1978): 106–7.

<sup>41</sup> This paper does not explore the debates between Singer and Regan, but it readily makes use of Regan's criticisms, particularly those he made against the opponents of Animal Liberation. Tom Regan, 'The Moral Basis of Vegetarianism', *Canadian Journal of Philosophy* 5, no. 2 (1975): 181–214; Regan fully develops his arguments in this now classic book: Tom Regan, *The Case for Animal Rights* (Berkeley: University of California Press, 1983).

<sup>42</sup> Fox, "'Animal Liberation': A Critique", 108.

<sup>43</sup> Ibid., 113.

for having little to say on the vital matter of the nature of rights itself, particularly as Singer's normative principle strongly relies on Bentham's 1789 mantra of 'can they suffer?'.<sup>44</sup>

Fox contends that if one 'factual equality' such as suffering can be a qualifier for moral rights, then other capacities which subjects share must also be relevant to assigning moral rights.<sup>45</sup> Furthermore, he questions the universality of the capacity for pleasure and suffering (such as, conditions that make one insensitive to pain) as being the sole criteria for granting rights (consequently, an absence of pain would entail an absence of rights). Inevitably, he sees the sentience criterion as insufficient for attributing rights.

What counts, according to Fox, is a characteristic that all humans, not animals, generally share in common, virtually without exception. Fox eliminates capabilities such as emotions, reason and even communication; he argues that even if animals possessed these 'it would still not follow that these facts would qualify such animals to be recipients of moral rights'. Why this would not count is not clearly explained. As Regan argues, because if it did count, it would mean many animals would qualify as possessors of rights.<sup>46</sup> Nevertheless, Fox goes on to specifically define what he believes to be uniquely human characteristics: 'to be critically self-aware, manipulate concepts, use a sophisticated language, reflect, plan, deliberate, choose, and accept responsibility for acting'. Fox turns to one of the main arguments in the discussion of morality – autonomy. In conjunction with the aforementioned cognitive abilities, he defines autonomy as acting freely, rationally, creating, and self-making. Autonomy is a prerequisite for possessing moral rights.<sup>47</sup>

According to Fox, autonomous beings, with rights and duties, belong to a moral community. But what about those individuals who are not able to realise their autonomy, such as those marginal cases? Anticipating this conundrum, Fox quickly asserts that individuals who are 'members of a species', which can be considered autonomous, are 'beings endowed with moral rights'. In other words, any human, regardless of sentence or consciousness, by virtue of being part of the *Homo sapiens* species, would have inalienable moral rights; yet, a primate who satisfies Fox's criteria and even comparatively exceeds them when compared to an infant would not be part of a moral community. If extra-terrestrials displayed autonomous characteristics, Fox goes on, without us knowing the general characteristics of their species, then they may also be granted moral rights. Fox states that 'Singer and Regan just conveniently leave the capacities I have mentioned out of the picture'.<sup>48</sup>

In his 1986 work on *The Case for Animal Experimentation*, Fox submits the same anthropocentric arguments. Although Fox reiterates that it is desirable to avoid animal suffering, he concludes that it is 'morally permissible for humans to use animals for their own ends'. This is because humans are autonomous beings and are full members of a moral community. They are able to use 'less valuable species' which lack autonomous attributes and lack intrinsic value, 'for the simple reason that they have no obligation not to do so'. Animals, according to Fox, only possess instrumental

<sup>44</sup> Like others above, Fox believes Singer is an advocate of rights, which he is not. Ibid., 109.

<sup>45</sup> Ibid., 108–10.

<sup>46</sup> Tom Regan, 'Fox's Critique of Animal Liberation', *Ethics* 88, no. 2 (1978): 130.

<sup>47</sup> Fox, "'Animal Liberation': A Critique", 111–12.

<sup>48</sup> Ibid., 112.

value, that is, value relative to the needs and desires of human beings. However, in a concession of sorts, Fox holds that humans may not use animals ‘in any way they wish’ and states that animal capacities and interests ought to be taken into account. However, this consideration of capacities essentially takes the form of humane treatment, not a Singerian principle.<sup>49</sup>

How did Singer respond to these criticisms? Both Singer and Regan strongly repudiate Fox for misrepresenting their claims. Their replies not only address Fox and other philosophers’ objections, but also function to clarify, and arguably strengthen, their own position on animal ethics.

One distortion that Singer and Regan fiercely criticise is Fox’s claim that both authors assert that animals’ pleasurable and painful experiences are qualitatively and quantitatively the same as humans. Regan states that he had ‘never advanced any such thing’. What Singer and Regan do state is that pain is an intrinsic evil; therefore, the pain experienced by animals can be an evil equal to that of a human.<sup>50</sup> That some experiences, both pleasant and painful, are comparable to humans is not the same as Fox’s assertion that they are ‘qualitatively and quantitatively the same’.<sup>51</sup> Furthermore, as Singer has always said, there are obvious differences between humans and animals, but that it is equally wrong to inflict the same amount of pain. For example, a horse has thicker skin to that of a human infant, so a slap of equal force would be experienced differently. Conversely, there are some experiences where an animals’ suffering would be greater than that of a human’s.<sup>52</sup>

Fox’s claim that Singer adopts a principle where suffering is the only capacity that counts in assigning moral rights is challenged. Singer refutes holding this principle.<sup>53</sup> In *Animal Liberation*, Singer argues that there are important differences between humans and nonhuman animals. These differences must give rise to ‘some’ differences in the interests that each possess. Acknowledging this, however, should not prohibit ‘extending the basic principle of equality to nonhuman animals’.<sup>54</sup>

Moreover, Fox’s assertion that a universal, human capacity is a prerequisite for moral rights is the very thing that Singer seeks to challenge and overthrow. Such a capacity, as Singer points out, is speciesist by its definition, because it entails a belief that all members of the *homo sapien* species possess a special moral attribute that other nonhuman animals lack. As above, Singer does not deny that most adult humans possess capacities that entail different interests, and which animals and marginal cases would lack. His point is that ‘anyone wishing to defend our existing attitudes has to find some basis for attributing rights which does apply to all human beings but not to other animals. I claim that no such basis exists’.<sup>55</sup>

On Fox’s proposition that autonomy is a prerequisite for moral rights, both Singer and Regan have some significant criticisms. Singer does not necessarily challenge Fox’s argument, but emphasises that, in this sense, moral rights are at best only one

<sup>49</sup> Michael Allen Fox, *The Case for Animal Experimentation* (Berkeley: University of California Press, 1986), 87–88.

<sup>50</sup> Singer, *Animal Liberation*, 1975, 24; Regan, ‘The Moral Basis of Vegetarianism’, 187.

<sup>51</sup> Regan, ‘Fox’s Critique of Animal Liberation’, 127–28.

<sup>52</sup> Peter Singer, ‘The Fable of the Fox and the Unliberated Animals’, *Ethics* 88, no. 2 (1978): 120.

<sup>53</sup> Ibid.

<sup>54</sup> Singer, *Animal Liberation*, 1975, 2.

<sup>55</sup> Singer, ‘The Fable of the Fox and the Unliberated Animals’, 120–21.

aspect of morality. Referring back to Bentham, Singer does not care whether animals are capable of acting morally, but, more significantly, just as the principle of moral equality applies to human beings, such as infants and others who do not have normal intellectual faculties—those beings who are incapable of moral reasoning and responsibility—so too should nonhuman animals be included within the sphere of moral consideration.<sup>56</sup> According to Singer, there are no defensible arguments for including members of the same species if they are not autonomous and excluding other autonomous members of a different species:

If we say that because they are members of our species we shall include them as “honorary” members of our moral community, then we have to provide a justification for doing this (and thus exempting them from being experimented upon, fattened for food, and so on) while not doing the same for those dogs, pigs, and other animals who, in respect of their actual characteristics, are closer to membership in the community of autonomous moral agents than some members of our species. In looking for such a justification we shall have come around again to where we started in our search for some characteristics that marks off, in a morally relevant way, all human beings from nonhuman animals. Thus, Fox’s argument gains no ground.<sup>57</sup>

Furthermore, in the present context of factory farms and industrial-scale animal experimentation, the issue of animal self-consciousness and autonomy has no bearing on Singer’s principle of equal consideration of interests.<sup>58</sup>

Regan draws other conclusions. Regan criticises Fox’s version of moral rights as operating with an inherent inconsistency. He classifies Fox’s criteria for the possession of rights. He labels the requirement for autonomy ‘the capacity criterion’ and refers to Fox’s automatic inclusion of non-autonomous members of the human species as ‘the species criterion’. Under the capacity criterion alone, certain beings would be excluded from the moral community, even if they are members of the same species. But under the species criterion, when beings have exactly the same capacities but differ in terms of species, then only one (the human) possesses rights. Even more alarming is when certain beings are the exception rather than the rule (such as Fox’s alien example), when autonomy is not a capacity that is ‘typically’ shared ‘in general’ by a species. The problem with Fox’s criteria is that one cannot hold that autonomy is an essential prerequisite and simultaneously maintain that those beings who lack autonomy also possess rights, because the latter would mean that autonomy is not a necessary precondition. If Fox believes that all humans have inalienable rights, then he must abandon the position that autonomy is a necessary precondition. He cannot have it both ways. According to Regan, a different criterion for the attribution of rights is required. He, like Singer, argues that a moral community that attributes ‘basic moral rights to infant and severally mentally enfeebled humans also implies that many nonhuman animals have these rights’.<sup>59</sup>

<sup>56</sup> Ibid., 123.

<sup>57</sup> Ibid., 123–24.

<sup>58</sup> Singer, *Practical Ethics*, 63.

<sup>59</sup> Regan, ‘Fox’s Critique of Animal Liberation’, 130–33.

It is significant to note that a year after *The Case for Animal Experimentation* was published, Fox had a remarkable and transformative epiphany. Although he still had differences with Singer, he acknowledged that he had previously held deeply speciesist views, which, with humility, he ultimately saw as being ‘arrogant’ and ‘an embarrassment’. Provoked by a radical feminist friend, he confronted the ‘arbitrariness of the patriarchal, hierarchical, human-centred ethical theory I had adopted and defended for so long, and had lacked the courage to examine fully’. Abandoning his anthropocentric position, he argues that the utilitarian principle of non-maleficence ought to extend to nonhuman animals, for they can be harmed and they possess intrinsic value equal to that of humans—which is very similar to Singer’s principle. Fox no longer sees a justification for using animals as a means to our ends, regardless of the benefits humans may derive from using animals, such as animal experiments. As a matter of consistency, such principles, Fox argues, should also apply to one’s lifestyle, entailing the adoption of ethical vegetarianism and veganism.<sup>60</sup>

Another significant figure in debating the moral status of animals and disputing Singer’s principles was Raymond G. Frey. In his 1977 paper on animal rights, Frey considers what he believes to be the most important arguments proposed by animal ethicists—marginal cases and morality. The premise that marginal cases ‘do have rights and so fall within the class of rights-holders’ is, Frey acknowledges, not an obvious argument, but requires defence if it is to have any standing and if the same argument is to exclude animals as possessors of rights. Frey advances three propositions, two of which hinge on the rationality criterion as being a prerequisite for inclusion in a moral community. The first is the ‘potentiality argument’, that infants have the potential, once they develop, to have rationality. Secondly, the ‘similarity argument’, which is the view that marginal cases have characteristics that are similar to members of the human species. A final criterion that Frey outlines is the ‘religious argument’, whereby marginal cases possess an immortal soul and are therefore worthy of moral rights. Unless, one of these three arguments is accepted, Frey argues, there is no basis to differentiate marginal cases from animals.<sup>61</sup>

An important counter to Frey is the contention that animal ethicists hold the premise that ‘each and every criterion for the possession of rights that excludes animals from the class of rights-holders also excludes’ marginal cases. As stated above, the actual argument is that certain normative criteria for the possession of rights, if applied consistently, would exclude some humans as well as animals. This is one significant reason for challenging, rejecting, and extending the criteria to include marginal cases and animals in the moral community. Furthermore, it is unclear why the the potentiality, similarity, and religious arguments are the best and most defensible arguments. In any event, as certain animals, such as infant primates, would qualify for the potentiality and similarity arguments.<sup>62</sup>

<sup>60</sup> Michael Allen Fox, ‘Animal Experimentation: A Philosopher’s Changing Views’, *Between the Species* 3, no. 2 (1987): 55–82; For more on Fox’s position see: Michael Allen Fox, ‘Antivivisectionism’, in *Encyclopedia of Animal Rights and Animal Welfare*, ed. Marc Bekoff, 2nd ed. (Santa Barbara, CA: Greenwood Press/ABC-CLIO, 2010), 74–77; Michael Allen Fox, ‘Vegetarianism and Veganism’, in *International Encyclopedia of Ethics*, ed. Hugh La Follette (Malden, MA: Wiley-Blackwell, 2013), 5310–16.

<sup>61</sup> R. G. Frey, ‘Animal Rights’, *Analysis* 37, no. 4 (1977): 186–89.

<sup>62</sup> Dale Jamieson and Tom Regan, ‘Animal Rights: A Reply to Frey’, *Analysis* 38, no. 1 (1978): 32–36.

In his 1980 book *Interests and Rights: The Case against Animals*, Frey further challenges the moral status of animals. Frey argues that animals do not have desires. They may have needs, such as a need for food and water, but this, in his view, is insufficient to qualify as an interest. Although he accepts that animals have instinctive behaviours, Frey objects to fraught anthropomorphic explanations about animal subjectivity. Desires, argues Frey, are based on beliefs, and beliefs are linked to language. 'If what is believed is that a certain sentence is true, then no creature which lacks language can have beliefs; and without beliefs, a creature cannot have desires. Such is the case with animals'. Even primates, argues Frey, who have been taught to use sign language, cannot be said to be 'possessed of language' because they lack competency. Without language, beliefs and desires animals cannot possess interests and moral rights.<sup>63</sup>

Frey criticises what is arguably the most persuasive argument in animal ethics: that an animal's capacity to feel pain is a necessary or a sufficient condition for possessing interests. Frey challenges Singer's thesis in particular because of Singer's emphasis on the 'prerequisite' for having interests rests on pain. Frey argues that a human being's interests are typically recognised in the absence of their capacity to feel pain, such as someone with paralysis and a resulting lack of feeling. Therefore, pain alone cannot be the only factor that counts. Furthermore, Frey contests that Singer's criterion, that pain is sufficient condition for the possession of interests, is merely presumed and not argued. Frey does not deny that animals can feel pain, but he asks why should suffering/sentience be a sufficient criterion for the possession of rights? Singer's emphasis on suffering, or as Frey prefers to call it 'unpleasant sensations', has been based on the value judgement that it is an intrinsic evil. It is a line of thinking that threads across those who argue for the 'suffering criterion'. According to Frey, because of this it is riddled with the problems associated with inherent value, that is, a concept which is difficult to substantiate. Frey is sceptical of the claim that pain is an intrinsic evil, and hence considers the foundations for ethical vegetarianism to be built on shaky grounds. Both propositions, the capacity to feel pain as a prerequisite for interests and pain as an intrinsic evil, are considered wrong by Frey. Animals, Frey concludes, have no interests nor moral rights.<sup>64</sup>

Over the years, Frey's position has shifted. Although he maintains the unequal value thesis—that human life is more valuable than animal life—he considers other species' pain and suffering to count equally. Cruelty to a child and cruelty to a dog are wrong, and wrong for the same reason, Frey asserts. 'Pain is pain; it is an evil'. A lack of autonomy does not diminish the capacity to suffer.<sup>65</sup> In this regard, Singer was pleased 'to see that Frey now accepts this fundamental moral claim'.<sup>66</sup> However, Frey maintains that: 'The real problem for a utilitarian theory of animal ethics has nothing essentially to do with pain and suffering ... The real problem is to determine what, if anything, entitles us to [use animal lives]'. Frey argues 'the real problem is the comparative value of lives; this is the problem which utilitarians should be dealing'. What matters most, in Frey's view, is quality of life, regardless of species, and quality depends on richness and

<sup>63</sup> R. G. Frey, *Interests and Rights: The Case against Animals* (Oxford: Clarendon Press, 1980), 78–100.

<sup>64</sup> Ibid., 139–67.

<sup>65</sup> R. G. Frey, 'Moral Standing, The Value of Lives, and Speciesism', *Between the Species* 4, no. 3 (1988): 191–201.

<sup>66</sup> Peter Singer, 'Comment', *Between the Species* 4, no. 3 (1988): 202–3.



potential for enrichment. For Frey, a 'value-of-life' approach is non-speciesist, for when lives and interests clash, those who have the higher value win. This leads to difficult comparative analysis of quality of life and richness, which is made even more complicated when animals have inherently different capacities and concepts of a rich life. Certainly, emerging research begins to colour the richness of the animal lives. Frey concludes that 'We cannot be sure that human life will always and in every case be of a higher richness and quality than animal life'.<sup>67</sup>

How do Frey and Singer differ? Frey and Singer broadly agree that some human lives have greater value than nonhuman animals. As we have seen, they also hold that some animal lives have more value than some humans. However, on the question of animal experimentation, Frey goes the other way. Frey views it as permissible to use less valuable humans and animals for scientific use:

I remain a vivisectionist, therefore, because of the benefits medical/scientific research can bestow. Support for vivisection, however, exacts a cost: it forces us to envisage the use of defective humans in such research. Paradoxically, then, to the extent that one cannot bring oneself to envisage and consent to their use, to that extent, in my view, the case for anti-vivisectionism becomes stronger.<sup>68</sup>

Although, to be fair, this seems to be a position he has drifted away from, as he seems less convinced of the gulf in the value of lives. Whereas Frey sees lives as valuable because of quality and richness, Singer sees the crucial factors as self-awareness and knowledge that one has a future, and desires or preferences for that future. Killing is especially wrong when future preferences are extinguished. This, of course, is not a unique human capacity.<sup>69</sup>

## Conclusion

Singer's *Animal Liberation* is a classic in the history of animal ethics. As a secular utilitarian, Singer's arguments are defined by the basic principle of equality and the principle of equal consideration of interests. The strength of Singer's core thesis is that it turns on simple premise: can a being suffer? Although this may sound like a Benthamite proposition, it is important to recognise that Singer's conceptualisation is far more radical: interest-holders, regardless of species, are due equal consideration. His principle is minimalist and non-anthropocentric: sentience is the lowest common denominator for possessing interests and warrants moral consideration. Unless one is an arcane Cartesian who, against all science and reason, does not believe animals feel pain, one must accept that suffering is an evil, no matter who experiences it. Accepting this principle demands that animals are granted moral consideration. It is a principle that demands that we oppose the politics and culture of animal exploitation and that we adopt veganism. Singer's ideas have been the subject of extensive debate among moral

<sup>67</sup> R. G. Frey, 'Utilitarianism and Animals', in *The Oxford Handbook of Animal Ethics*, ed. Tom L. Beauchamp and R. G. Frey (Oxford: Oxford University Press, 2011), 177–88.

<sup>68</sup> Frey, 'Moral Standing, The Value of Lives, and Speciesism', 197.

<sup>69</sup> Singer, 'Comment'.

philosophers. While there is scope to explore the divergences between utilitarianism and deontology,<sup>70</sup> such as the debates that emerged in the 1980s between Singer and Regan, this article has primarily focused on those opponents who had sustained arguments against *Animal Liberation*. Broadly, this was a debate about the moral status of animals; or, do humans morally differ from animals? In the discussion of morality, a number of various capacities were often highlighted, such as autonomy, desires, and the value of life. Against each of these criteria, the problem of marginal cases presented itself. Ultimately, Fox and Frey changed their positions on fundamental ethical issues, particularly in regard to Singer's notion that sentience is a morally relevant capacity, which they accepted. Despite criticisms and challenges, and the proliferation of perspectives on animal ethics, Singer's argument has endured and has remained highly persuasive.

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<sup>70</sup> For contemporary debates between Singer's ideas and abolitionism see: Gary L. Francione and Robert Garner, *The Animal Rights Debate: Abolition or Regulation?* (Columbia University Press, 2010).

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