

Ethics

Discussion

Rejoinder to John Altick, "Putting Humans First? YES!" (Spring 2007)

Animals and Rights

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We appreciate John Altick's response to our review of Tibor Machan's book, *Putting Humans First*, and are grateful to *The Journal of Ayn Rand Studies* for allowing us to respond. The more discussion of these important matters, the better. In hopes that others will join the debate and address issues and arguments that we do not, our reply will be brief.

The vast majority of Altick's discussion restates, in slightly different language, Machan's argument for the conclusion that animals don't have any "natural" moral rights. (The questions of what *legal* rights animals should have and what treatment of animals should be legally actionable are separate issues; our focus is on ethics and moral philosophy, not the law.) This argument is as follows:

1. For a being to have moral rights against being harmed and exploited for gustatory pleasures (i.e., food¹), medical and scientific experiments, entertainment, or other harmful uses (or any other moral rights), that being *must* have what Objectivists call "volitional consciousness," i.e., roughly, the ability to make reflective decisions.
2. Animals lack this "volitional consciousness."
3. Therefore, animals do not have any moral rights.

Altick devotes several pages to restating premise (2). As we clearly stated in our review, we agree with premise (2) too. Animals do not have volitional consciousness. They do not reflect on their choices,

are not moral agents, do not perceive situations in moral terms, have no moral obligations or duties, cannot enter into contracts, cannot reason in highly abstract ways, are—like young children—not morally obligated to respect the rights that normal adults are obligated to respect, cannot write symphonies and poetry, cannot engage in religious worship, cannot reflect on the meaning of existence, are not aware of their awareness, cannot publish philosophy articles, and so on.

These truths, of course, do not show that animals have no moral rights. An argument is sound only if all its premises are true and, as our review makes clear, we argue that premise (1) is false: to have moral rights against being harmed and exploited to be eaten, used in harmful experiments, and harmed for other human purposes (or to have any other kind of right), a being *need not have* volitional consciousness, moral agency, rationality, or whatever you want to call these sophisticated mental abilities that separate *most* humans from most, if not all, animals.

Our main argument against Machan's and Altick's premise (1) is the Argument from Marginal Cases (AMC). The argument, simply put, is that there are *many* human beings who, intuitively, have moral rights (or, to bypass talk of rights, would be morally wrong to raise and kill to eat, wear, experiment on and use for other exploitative purposes) even though they lack such sophisticated mental abilities that Machan claims are necessary for having rights. His premise (1) implies these vulnerable humans lack such rights and, presumably, that harming these humans in these ways would not be wrong, so his premise is false.

Machan tries to address the AMC in *Putting Humans First* using a common argument that Graham (2002) has termed the Argument from Species Normality. The argument basically claims that since "normal" human beings have volitional consciousness and the rights that come from that, so do "non-normal" human beings, even though they lack volitional consciousness. Thus, the argument from species normality relies on the principle that an individual has whatever rights are held by "normal" members of the individual's species, even when the individual lacks the traits that give rise to those rights for the normal members.

We objected to the Argument from Species Normality by

showing that its premises have a variety of absurd, false consequences. We showed that a variety of attempts to make these logical leaps from characteristics associated with “normal” humans to sought characteristics for “non-normal” humans all depend on demonstrably false premises. These arguments appear throughout our review.

As far as we can see, Altick does not respond to our objections. He does not attempt to explain how “normal” adult human beings having volitional consciousness (and, for the sake of argument, the moral rights that result, and *only result*, from having such a consciousness) would result in “non-normal” human beings, who lack volitional consciousness, having such moral rights also. He did not articulate a new premise for consideration, one that he argues does not succumb to objections.

As for the AMC itself, on page 324 of his response Altick writes: “So what about infants, vegetables, and mentally retarded *individual* human beings? This is a slippery issue and one that very easily falls treacherously away from the point of Machan’s argument.” This exhausts Altick’s response to the AMC.

As we show in our review, the AMC, far from being a “slippery issue” that falls away from the “point” of Machan’s argument, is fatal to his arguments both against animal rights *and* for human rights, especially vulnerable ones. The AMC shows that these arguments have a false premise, namely (1) above. If “the point,” or *a* point, of Machan’s argument was to show that animals have no rights, our point was to show that his argument is unsound. At least one entire book has been devoted to the AMC (1997), and neither Machan nor Altick provide plausible responses to it.

In an article and resulting discussion from *Navigator* that readers of *The Journal of Ayn Rand Studies* should find interesting, Shawn Klein (2004a) argues that requiring volitional consciousness for moral rights-holding “seems to put the defender of rights in a precarious position. He can either reject the idea that marginal humans have rights and thus should be given legal protection against harm and abuse; or he must modify the basis for rights [to, e.g., sentience, consciousness, or, as Tom Regan ([1983] 2004; 2003) argues, being a subject-of-a-life] to include marginal humans—and along with them, it seems, at least some higher-order animals.”

Klein recognizes the force of the AMC. He notes that appealing

to “marginal” humans’ “potential” to be rational agents won’t adequately address the problem, since some of them lack that potential. He cautiously suggests this admittedly undeveloped argument to circumvent the AMC:

- (A) “Under normal developmental circumstances marginal human beings *would be* normally functioning rational beings.”
 (C) Therefore, marginal human beings have moral rights (even though they are not rational, lack “volitional consciousness,” etc.).

There is a logical leap from (A) to (C): a critical thinker won’t see any obvious connection. Premise (A) validly leads to conclusion (C) and we understand the basis of the inference only when a premise something like (B) is added:

- (B) *If* under normal developmental circumstances marginal human beings *would* have one kind of properties (e.g., biological or psychological ones) that give rise to another, dependent kind of properties (e.g., moral properties), *then* these marginal human beings also have these second kind of properties, even though they lack the basic, more fundamental properties that they depend on.

Unfortunately, premise (B) seems false. We can see this by considering a variety of different kinds of properties and their relations.

Consider a non-moral counter-example: under normal developmental circumstances marginal human beings *would* be able to graduate from middle school; assuming the ability to enter (and graduate from) high school *depends* on that middle-school ability, (B) seems to falsely imply that marginal humans are able to enter and graduate from high school, irrespective of what their actual cognitive abilities are. Another counterexample could be developed using IQ scores and the intellectual abilities they depend on. Thus, (B) seems false.

Consider some moral counter-examples: under normal developmental circumstances marginal human beings *would* be able to act intentionally and realize that their actions have good and bad

consequences for others. If someone has these properties, then that person has moral duties to others (or they can have such duties). Premise (B) thus seems to falsely imply that marginal humans have such moral duties. Another moral example: under normal developmental circumstances marginal human beings *would* be able to intentionally treat others in very mean and unfair ways. If someone has these properties, then, let's say, that person *could* be a big jerk. Premise (B) seems to imply that marginal humans *could* be big jerks, even when they lack the psychological and communicative abilities needed for being jerks. Similar arguments could be developed using praise-worthy moral properties and the psychological and interpersonal properties they depend on. Again, (B) seems false.

Premise (B) does not seem to accurately describe the relations among *any* sets of properties (at least, we can find none for which it is true), especially those where one kind of property depends on (or supervenes) another kind of property. (Premises attempting to derive dependent or supervenient properties from more basic properties had only in "potential," or had by "most" beings of a kind or "in general" or are typical "for the species" fare as poorly.) It appears that any attempt to reason from (A) to (C) will be *ad hoc* with nothing in general to recommend it (Wilson 2005). Like Machan's response to the AMC, Klein's response does not succeed.²

To return to Altick, although his response does not defend Machan's views against several of our specific attacks—and we probably could rest our reply at that—we would also like to address a few miscellaneous issues that Altick raises.

In several places, he makes an undefined distinction between what he calls "contingent rights" and "natural rights." He says that Machan's argument refers to "natural rights" while some of our arguments address "contingent rights," such as our reductio of Machan-ish invalid reasoning "showing" that blind people have "rights" to drive a car *because* "normal" human beings have that "right."

We are not entirely sure what the essential difference is between natural and contingent rights, much less how it would relate to the discussion at hand since, to avoid this confusion, we suggested that the relevant rights in question be *whatever* rights, moral status or whatever animals would need to lack to make routinely harming them

morally permissible. Again, talk of rights can be red herring, a distraction from the concrete issues.

But, putting that aside, the AMC makes it unnecessary to get mired in such distinctions. The AMC is very simple and direct. It contends that *whatever* rights “marginal” humans, or human moral patients, have—natural, contingent, or otherwise—*comparably-minded* animals have them also, *if* these humans’ rights depend on the sophistication of their mental lives.

Presumably Altick, like Machan, holds that marginal humans have whatever rights protect against being harmed and exploited for food, medical experiments, and other human purposes. The AMC demands a *relevant* reason for distinguishing all animals from marginal humans. It’s that simple. One reason Machan gives for distinguishing animals from human marginal cases is given in the Argument from Species Normality. We addressed that argument and showed that it is unsound in our review. Altick, as we’ve already noted, does not answer our objection or engage the real issue.

Second, on page 320, Altick says that “Graham and Nobis do not direct their attacks against Machan’s conception of rights per se; rather, they seem more interested in critiquing his application of his own conception, and of criticizing Machan more on the grounds of consistency rather than on his philosophical interpretation of natural rights as such.”

We’re not sure what Altick means here. Part of any theory, or “conception,” of rights has to do with *who* has those rights and *why* they have them, what it is about these individuals that *makes* them have these rights. Rights are not floating abstractions but protections that apply to individual beings. If a theory is logically inconsistent on these key matters, this is a fatal flaw in the theory. Logical inconsistency is a serious flaw for any theory or argument and, again, Machan’s arguments *are* ultimately inconsistent because he claims premise (1) is true for animals but that (1) is false for humans. His attempts to deny this inconsistency are unconvincing. He needs to pick a side or revise his arguments.

Third, again, that some animals eat other animals, and even torment their prey, has implications for how rational human beings should act only if this principle is true: *if animals act some way, then it is always morally permissible for rational human beings to act that way also.*

Readily available counterexamples refute this premise, showing the moral irrelevance of these kinds of claims. (However, sometimes rational humans ought to emulate animals' non-maleficence and fairness [Balcombe, 2006, 214–17]). The fact that natural forces that are not moral agents (since they are not agents at all) are not immoral is also morally irrelevant to how human moral agents ought to behave, contrary to Altick's suggestion (Altick 2007, 317).

Finally, Altick seems to assume that a moral issue is a serious one only if moral rights are involved. He writes that if a being doesn't have moral rights "there is not *absolute* reason [to treat him or her in particular ways]; it becomes merely contingent and circumstantial, advisable, rather than compulsory" (321). This is a very controversial claim, one in need of serious defense. Many, likely most, moral theorists don't appeal to rights, yet they all think that some actions are morally required, that a practical moral question can be of grave significance, even though rights aren't at issue.

To conclude, we should bring things back to the concrete issues and make things personally challenging, as the most important philosophy does. Each *hour* in the United States, *over a million* chickens, pigs, cows, and other animals are killed for the *pleasure* of eating them, over ten billion land animals a year. They are harmed greatly for these purposes (and many others).

Arguments have been developed from nearly *every* moral-theoretical perspective that has independent plausibility for human-human relations for the conclusion that *this use of animals is morally wrong and should not be supported*. We encourage people to carefully identify these arguments' exact premises and conclusions and subject the reasoning to patient, engaged, critical thinking. For some of the relevant empirical information needed to do this thinking, see TryVeg.com, VeganOutreach.org, and ChooseVeg.com, as well as the philosophical references from our review and other writings (Nobis 2008). There is also a wealth of empirically-based scholarly sources on these issues (e.g., Matheny and Chan 2005). We hope that readers will rigorously and *reasonably* pursue these issues and make informed, critically-reasoned, and ably-defended decisions about what to think, feel, and *do* about such pressing matters of life and death.

Notes

1. Animals are raised and killed to be eaten for the pleasure, convenience and custom of eating them, not nutritional or medical necessity. Readers are encouraged to consult the medical and nutritional literature on this issue, e.g., the literature review found in the *Position Statement of the American Dietetic Association* (2003); here is a selection from the review's abstract:

It is the position of the American Dietetic Association and Dietitians of Canada that appropriately planned vegetarian diets are healthful, nutritionally adequate and provide health benefits in the prevention and treatment of certain diseases. . . . Well-planned vegan and other types of vegetarian diets are appropriate for all stages of the life cycle, including during pregnancy, lactation, infancy, childhood and adolescence. Vegetarian diets offer a number of nutritional benefits, including lower levels of saturated fat, cholesterol, and animal protein as well as higher levels of carbohydrates, fiber, magnesium, potassium, folate, and antioxidants such as vitamins C and E and phytochemicals. Vegetarians have been reported to have lower body mass indices than nonvegetarians, as well as lower rates of death from ischemic heart disease; vegetarians also show lower blood cholesterol levels; lower blood pressure; and lower rates of hypertension, type 2 diabetes, and prostate and colon cancer.

2. In responding to a selection from his book that Machan submitted as a letter to the editor, Klein writes (2004b): "Machan . . . discharge[s] the objection from Singer and company [i.e., the AMC] too quickly. The point of the marginal-humans argument, I take it, is not to say we should reason from these special cases to a general rule or theory, but that these special cases *undermine* what we took to be the general rule or theory. This manner of arguing is comparable to arguing that a scientific hypothesis is in need of revision or rejection because of certain observations that the hypothesis doesn't appear to handle or predict. Singer and Regan are arguing that our general theory of rights cannot handle the special cases of marginal humans in a non-arbitrary way and is therefore in need of revision. I hope my article shows why such a revision is not necessary." Above we argued that Klein's "revision" fails.

References

- Altick, John. 2007. Putting humans first? YES! *The Journal of Ayn Rand Studies* (Spring): 317–30.
- American Dietetic Association. 2003. Position statement on vegetarian diets. *Journal of the American Dietetic Association* 103, no. 6 (June): 748–65. Online at: <http://www.eatright.org/cps/rde/xchg/ada/hs.xsl/advocacy_933_ENU_HTML.htm>.
- Balcombe, Jonathan. 2006. *Pleasurable Kingdom: Animals and the Nature of Feeling Good*. New York: Macmillan.
- Graham, David and Nathan Nobis. 2006. Putting humans first? Review of *Putting Humans First: Why We Are Nature's Favorite* by Tibor Machan. *The Journal of Ayn*

- Rand Studies* 8, no. 1 (Fall): 85–104. Online at: <<http://www.NathanNobis.com>>.
- Graham, David. 2004. A libertarian replies to Tibor Machan’s “why animal rights don’t exist.” Online at: <<http://www.strike-the-root.com/4/graham/graham1.html>>.
- Dombrowski, Daniel A. 1997. *Babies and Beasts: The Argument from Marginal Cases*. Champaign: University of Illinois Press.
- Klein, Shawn. 2004a. The problem of animal rights. *Navigator* (June). Online at: <<http://www.objectivistcenter.org/showcontent.aspx?ct=926&ch=53>>.
- _____. 2004b. Letters: Animals and the law. *Navigator* (November). Online at: <http://www.objectivistcenter.org/ct-985-Letters_Animal_Rights_Frank_Quattrone.aspx>.
- Machan, Tibor. 2004. *Putting Humans First: Why We Are Nature’s Favorite*. Lanham, Maryland: Rowman & Littlefield.
- Matheny, G. and K. M. A. Chan. 2005. Human diets and animal welfare: The illogic of the larder. *Journal of Agricultural and Environmental Ethics* 18: 579–94. Online at: <http://www.ires.ubc.ca/personal/kaichan/articles/Matheny_and_Chan_2005_JAEE.pdf>.
- Nobis, Nathan. 2008. Rational engagement, emotional response and the prospects for progress in animal use “debates.” In *Animal Research in Theory and Practice*, edited by Jeremy Garrett. Boston: MIT Basic Bioethics Series. Online at <<http://www.NathanNobis.com>>.
- Regan, Tom. [1983] 2004. *The Case for Animal Rights*. Updated edition. Berkeley: University of California Press.
- _____. 2003. *Animal Rights, Human Wrongs: An Introduction to Moral Philosophy*. Lanham, Maryland: Rowman & Littlefield Publishers.
- Wilson, Scott. 2005. The species-norm account of moral status. *Between the Species: An Electronic Journal for the Study of Philosophy and Animals*. Online at: <<http://www.cla.calpoly.edu/%7Ejlynch/wilson.html>>.