

# RENÉ DESCARTES

## Animals Are Machines

I

I had explained all these matters in some detail in the Treatise which I formerly intended to publish. And afterwards I had shown there, what must be the fabric of the nerves and muscles of the human body in order that the animal spirits therein contained should have the power to move the members, just as the heads of animals, a little while after decapitation, are still observed to move and bite the earth, notwithstanding that they are no longer animate; what changes are necessary in the brain to cause wakefulness, sleep and dreams; how light, sounds, smells, tastes, heat, and all other qualities pertaining to external objects are able to imprint on it various ideas by the intervention of the senses; how hunger, thirst and other internal affections can also convey their impressions upon it; what should be regarded as the "common sense" by which these ideas are received, and

René Descartes (1596–1650), sometimes called "the father of modern philosophy," is one of philosophy's most original and influential thinkers. His *Meditations* remains a philosophical classic.

Selection I is from Descartes, *Discourse on Method*, in *Philosophical Works of Descartes*, trans. E. S. Haldane and G. R. T. Ross (London: Cambridge University Press), vol. 1, pp. 115–18. Selections II and III are from two letters by Descartes, to the Marquess of Newcastle (November 23, 1646) and to Henry More (February 5, 1649), in *Descartes: Philosophical Letters*, trans. and ed. Anthony Kenny. © 1970, Oxford University Press. Reprinted by permission of The Clarendon Press, Oxford.

what is meant by the memory which retains them, by the fancy which can change them in diverse ways and out of them constitute new ideas, and which, by the same means, distributing the animal spirits through the muscles, can cause the members of such a body to move in as many diverse ways, and in a manner as suitable to the objects which present themselves to its senses and to its internal passions, as can happen in our own case apart from the direction of our free will. And this will not seem strange to those, who, knowing how many different *automata* or moving machines can be made by the industry of man, without employing in so doing more than a very few parts in comparison with the great multitude of bones, muscles, nerves, arteries, veins, or other parts that are found in the body of each animal. From this aspect the body is regarded as a machine which, having been made by the hands of God, is incomparably better arranged, and possesses in itself movements which are much more admirable, than any of those which can be invented by man. Here I specially stopped to show that if there had been such machines, possessing the organs and outward form of a monkey or some other animal without reason, we should not have had any means of ascertaining that they were not of the same nature as those animals. On the other hand, if there were machines which bore a resemblance to our body and imitated our actions as far as it was morally possible to do so, we should always have two very certain tests by which to recognise that, for all that, they were not real men. The first is, that they could never use speech or other signs as we do when placing our thoughts on record for the benefit of others. For we can easily understand a machine's being constituted so that it can utter words, and even emit some responses to action on it of a corporeal kind, which brings about a change in its organs; for instance, if it is touched in a particular part it may ask what we wish to say to it; if in another part it may exclaim that it is being hurt, and so on. But it never happens that it arranges its speech in various ways, in order to reply appropriately to everything that may be said in its presence, as even the lowest type of man can do. And the second difference is, that although machines can perform certain things as well as or perhaps better than any of us can do, they infallibly fall short in others, by the which means we may discover that they did not act from knowledge, but only from the disposition of their organs. For while reason is a universal instrument which can serve for all contingencies, these organs have need of some special adaptation for every particular action. From this it follows that it is morally impossible that there should be sufficient diversity in any machine to allow it to act in all the events of life in the same way as our reason causes us to act.

By these two methods we may also recognise the difference that exists between men and brutes. For it is a very remarkable fact that there are none so depraved and stupid, without even excepting idiots, that they cannot arrange different words together, forming of them a statement by

which they make known their thoughts; while, on the other hand, there is no other animal, however perfect and fortunately circumstanced it may be, which can do the same. It is not the want of organs that brings this to pass, for it is evident that magpies and parrots are able to utter words just like ourselves, and yet they cannot speak as we do, that is, so as to give evidence that they think of what they say. On the other hand, men who, being born deaf and dumb, are in the same degree, or even more than the brutes, destitute of the organs which serve the others for talking, are in the habit of themselves inventing certain signs by which they make themselves understood by those who, being usually in their company, have leisure to learn their language. And this does not merely show that the brutes have less reason than men, but that they have none at all, since it is clear that very little is required in order to be able to talk. And when we notice the inequality that exists between animals of the same species, as well as between men, and observe that some are more capable of receiving instruction than others, it is not credible that a monkey or a parrot, selected as the most perfect of its species, should not in these matters equal the stupidest child to be found, or at least a child whose mind is clouded, unless in the case of the brute the soul were of an entirely different nature from ours. And we ought not to confound speech with natural movements which betray passions and may be imitated by machines as well as be manifested by animals; nor must we think, as did some of the ancients, that brutes talk, although we do not understand their language. For if this were true, since they have many organs which are allied to our own, they could communicate their thoughts to us just as easily as to those of their own race. It is also a very remarkable fact that although there are many animals which exhibit more dexterity than we do in some of their actions, we at the same time observe that they do not manifest any dexterity at all in many others. Hence the fact that they do better than we do, does not prove that they are endowed with mind, for in this case they would have more reason than any of us, and would surpass us in all other things. It rather shows that they have no reason at all, and that it is nature which acts in them according to the disposition of their organs, just as a clock, which is only composed of wheels and weights is able to tell the hours and measure the time more correctly than we can do with all our wisdom.

I had described after this the rational soul and shown that it could not be in any way derived from the power of matter, like the other things of which I had spoken, but that it must be expressly created. I showed, too, that it is not sufficient that it should be lodged in the human body like a pilot in his ship, unless perhaps for the moving of its members, but that it is necessary that it should also be joined and united more closely to the body in order to have sensations and appetites similar to our own, and thus to form a true man. In conclusion, I have here enlarged a little on the subject of the soul, because it is one of the greatest importance. For next to

the error of those who deny God, which I think I have already sufficiently refuted, there is none which is more effectual in leading feeble spirits from the straight path of virtue, than to imagine that the soul of the brute is of the same nature as our own, and that in consequence, after this life we have nothing to fear or to hope for, any more than the flies and ants. As a matter of fact, when one comes to know how greatly they differ, we understand much better the reasons which go to prove that our soul is in its nature entirely independent of body, and in consequence that it is not liable to die with it. And then, inasmuch as we observe no other causes capable of destroying it, we are naturally inclined to judge that it is immortal.

## II

I cannot share the opinion of Montaigne and others who attribute understanding or thought to animals. I am not worried that people say that men have an absolute empire over all the other animals; because I agree that some of them are stronger than us, and believe that there may also be some who have an instinctive cunning capable of deceiving the shrewdest human beings. But I observe that they only imitate or surpass us in those of our actions which are not guided by our thoughts. It often happens that we walk or eat without thinking at all about what we are doing; and similarly, without using our reason, we reject things which are harmful for us, and parry the blows aimed at us. Indeed, even if we expressly willed not to put our hands in front of our head when we fall, we could not prevent ourselves. I think also that if we had no thought we would eat, as the animals do, without having to learn to; and it is said that those who walk in their sleep sometimes swim across streams in which they would drown if they were awake. As for the movements of our passions, even though in us they are accompanied with thought because we have the faculty of thinking, it is nonetheless very clear that they do not depend on thought, because they often occur in spite of us. Consequently they can also occur in animals, even more violently than they do in human beings, without our being able to conclude from that that they have thoughts.

In fact, none of our external actions can show anyone who examines them that our body is not just a self-moving machine but contains a soul with thoughts, with the exception of words, or other signs that are relevant to particular topics without expressing any passion. I say words or other signs, because deaf-mutes use signs as we use spoken words; and I say that these signs must be relevant, to exclude the speech of parrots, without excluding the speech of madmen, which is relevant to particular topics even though it does not follow reason. I add also that these words or signs must not express any passion, to rule out not only cries of joy or sadness and the like, but also whatever can be taught by training to animals. If you

teach a magpie to say good-day to its mistress, when it sees her approach, this can only be by making the utterance of this word the expression of one of its passions. For instance it will be an expression of the hope of eating, if it has always been given a titbit when it says it. Similarly, all the things which dogs, horses, and monkeys are taught to perform are only expressions of their fear, their hope, or their joy; and consequently they can be performed without any thought. Now it seems to me very striking that the use of words, so defined, is something peculiar to human beings. Montaigne and Charron may have said that there is more difference between one human being and another than between a human being and an animal; but there has never been known an animal so perfect as to use a sign to make other animals understand something which expressed no passion; and there is no human being so imperfect as not to do so, since even deaf-mutes invent special signs to express their thoughts. This seems to me a very strong argument to prove that the reason why animals do not speak as we do is not that they lack the organs but that they have no thoughts. It cannot be said that they speak to each other and that we cannot understand them; because since dogs and some other animals express their passions to us, they would express their thoughts also if they had any.

I know that animals do many things better than we do, but this does not surprise me. It can even be used to prove they act naturally and mechanically, like a clock which tells the time better than our judgement does. Doubtless when the swallows come in spring, they operate like clocks. The actions of honeybees are of the same nature, and the discipline of cranes in flight, and of apes in fighting, if it is true that they keep discipline. Their instinct to bury their dead is no stranger than that of dogs and cats who scratch the earth for the purpose of burying their excrement; they hardly ever actually bury it, which shows that they act only by instinct and without thinking. The most that one can say is that though the animals do not perform any action which shows us that they think, still, since the organs of their body are not very different from ours, it may be conjectured that there is attached to those organs some thoughts such as we experience in ourselves, but of a very much less perfect kind. To which I have nothing to reply except that if they thought as we do, they would have an immortal soul like us. This is unlikely, because there is no reason to believe it of some animals without believing it of all, and many of them such as oysters and sponges are too imperfect for this to be credible. But I am afraid of boring you with this discussion, and my only desire is to show you that I am, etc.

## III

But there is no prejudice to which we are all more accustomed from our earliest years than the belief that dumb animals think. Our only reason for

this belief is the fact that we see that many of the organs of animals are not very different from ours in shape and movement. Since we believe that there is a single principle within us which causes these motions—namely the soul, which both moves the body and thinks—we do not doubt that some such soul is to be found in animals also. I came to realize, however, that there are two different principles causing our motions: one is purely mechanical and corporeal and depends solely on the force of the spirits and the construction of our organs, and can be called the corporeal soul; the other is the incorporeal mind, the soul which I have defined as a thinking substance. Thereupon I investigated more carefully whether the motions of animals originated from both these principles or from one only. I soon saw clearly that they could all originate from the corporeal and mechanical principle, and I thenceforward regarded it as certain and established that we cannot at all prove the presence of a thinking soul in animals. I am not disturbed by the astuteness and cunning of dogs and foxes, or all the things which animals do for the sake of food, sex, and fear; I claim that I can easily explain the origin of all of them from the constitution of their organs.

But though I regard it as established that we cannot prove there is any thought in animals, I do not think it is thereby proved that there is not, since the human mind does not reach into their hearts. But when I investigate what is most probable in this matter, I see no argument for animals having thoughts except the fact that since they have eyes, ears, tongues, and other sense-organs like ours, it seems likely that they have sensation like us; and since thought is included in our mode of sensation, similar thought seems to be attributable to them. This argument, which is very obvious, has taken possession of the minds of all men from their earliest age. But there are other arguments, stronger and more numerous, but not so obvious to everyone, which strongly urge the opposite. One is that it is more probable that worms and flies and caterpillars move mechanically than that they all have immortal souls.

It is certain that in the bodies of animals, as in ours, there are bones, nerves, muscles, animal spirits, and other organs so disposed that they can by themselves, without any thought, give rise to all animals the motions we observe. This is very clear in convulsive movements when the machine of the body moves despite the soul, and sometimes more violently and in a more varied manner than when it is moved by the will.

Second, it seems reasonable, since art copies nature, and men can make various automata which move without thought, that nature should produce its own automata, much more splendid than artificial ones. These natural automata are the animals. This is especially likely since we have no reason to believe that thought always accompanies the disposition of organs which we find in animals. It is much more wonderful that a mind should be found in every human body than that one should be lacking in every animal.

But in my opinion the main reason which suggests that the beasts lack thought is the following. Within a single species some of them are more perfect than others, as men are too. This can be seen in horses and dogs, some of whom learn what they are taught much better than others. Yet, although all animals easily communicate to us, by voice or bodily movement, their natural impulses of anger, fear, hunger, and so on, it has never yet been observed that any brute animal reached the stage of using real speech, that is to say, of indicating by word or sign something pertaining to pure thought and not to natural impulse. Such speech is the only certain sign of thought hidden in a body. All men use it, however stupid and insane they may be, and though they may lack tongue and organs of voice; but no animals do. Consequently it can be taken as a real specific difference between men and dumb animals.

For brevity's sake I here omit the other reasons for denying thought to animals. Please note that I am speaking of thought, and not of life or sensation. I do not deny life to animals, since I regard it as consisting simply in the heat of the heart; and I do not deny sensation, in so far as it depends on a bodily organ. Thus my opinion is not so much cruel to animals as indulgent to men—at least to those who are not given to the superstitions of Pythagoras—since it absolves them from the suspicion of crime when they eat or kill animals.

Perhaps I have written at too great length for the sharpness of your intelligence; but I wished to show you that very few people have yet sent me objections which were as agreeable as yours. Your kindness and candour has made you a friend of that most respectful admirer of all who seek true wisdom, etc.

## IMMANUEL KANT

### Duties in Regard to Animals

Baumgarten speaks of duties towards beings which are beneath us and beings which are above us. But so far as animals are concerned, we have no direct duties. Animals are not self-conscious and are there merely as a means to an end. That end is man. We can ask, "Why do animals exist?" But to ask, "Why does man exist?" is a meaningless question. Our duties towards animals are merely indirect duties towards humanity. Animal nature has analogies to human nature, and by doing our duties to animals in respect of manifestations of human nature, we indirectly do our duty towards humanity. Thus, if a dog has served his master long and faithfully, his service, on the analogy of human service, deserves reward, and when the dog has grown too old to serve, his master ought to keep him until he dies. Such action helps to support us in our duties towards human beings, where they are bounden duties. If then any acts of animals are analogous to human acts and spring from the same principles, we have duties towards the animals because thus we cultivate the corresponding duties towards

Immanuel Kant (1724–1804) was a German philosopher of great brilliance and originality. His important works in ethics include *Groundwork for the Metaphysic of Morals* and *Lectures on Ethics*.

From Immanuel Kant, "Duties to Animals and Spirits," in *Lectures on Ethics*, trans. Louis Infield (New York: Harper and Row, 1963), pp. 239–41.

human beings. If a man shoots his dog because the animal is no longer capable of service, he does not fail in his duty to the dog, for the dog cannot judge, but his act is inhuman and damages in himself that humanity which it is his duty to show towards mankind. If he is not to stifle his human feelings, he must practice kindness towards animals, for he who is cruel to animals becomes hard also in his dealing with men. We can judge the heart of a man by his treatment of animals. Hogarth depicts this in his engravings. He shows how cruelty grows and develops. He shows the child's cruelty to animals, pinch the tail of a dog or a cat; he then depicts the grown man in his cart running over a child; and lastly, the culmination of cruelty in murder. He thus brings home to us in a terrible fashion the rewards of cruelty, and this should be an impressive lesson to children. The more we come in contact with animals and observe their behavior, the more we love them, for we see how great is their care for their young. It is then difficult for us to be cruel in thought even to a wolf. Leibnitz used a tiny worm for purposes of observation, and then carefully replaced it with its leaf on the tree so that it should not come to harm through any act of his. He would have been sorry—a natural feeling for a humane man—to destroy such a creature for no reason. Tender feelings towards dumb animals develop humane feelings towards mankind. In England butchers and doctors do not sit on a jury because they are accustomed to the sight of death and hardened. Vivisectionists, who use living animals for their experiments, certainly act cruelly, although their aim is praiseworthy, and they can justify their cruelty, since animals must be regarded as man's instruments; but any such cruelty for sport cannot be justified. A master who turns out his ass or his dog because the animal can no longer earn its keep manifests a small mind. The Greeks' ideas in this respect were highminded, as can be seen from the fable of the ass and the bell of ingratitude. Our duties towards animals, then, are indirect duties towards mankind.

R. G. FREY

The Case  
against Animal Rights

Regan is convinced that animals have *rights*. Of his rights view, he says that 'of course, if it were possible to show that only human beings are included within its scope, then a person like myself, who believes in animal rights, would be obliged to look elsewhere'.<sup>1</sup> Presumably, Regan so believes in animal *rights* that any theory whatever that failed to accord them *rights* would, even if it condemned all the practices he condemned and found wrong the maltreatment of animals, be unsatisfactory. It is difficult to know, therefore, how arguments stand that try to weaken his faith in the *rights* of animals. Are they as it were, bound to go awry, *a priori*? I am unsure exactly how Regan would respond to such questions; that is, I do not know what counts as, indeed, whether anything at all counts as, a challenge to his intuitions on this score. In any event, nothing that follows turns upon Regan's intuition that animals have *rights*, that they are rights-holders; *this* intuition, though I do not share it, is not here at issue.

What *is* at issue is Regan's reliance upon variants of the argument from marginal cases to *support* his claims. In each case, I do not believe these variants do support his claims, do not believe, that is, that appeal to the cases of defective humans does the work on behalf of animals that Regan supposes it does.

First, then, there is Regan's claim of the equal inherent worth of human and animal life:

Frey:

Some human lives are more valuable than others

Well, perhaps some will say that animals have some inherent value, only less than we have. Once again, however, attempts to defend this view can be shown to lack rational justification. What could be the basis of our having more inherent value than animals? Their lack of reason, or autonomy, or intellect? Only if we are willing to make the same judgment in the case of humans who are similarly deficient. But it is not true that such humans—the retarded child, for example, or the mentally deranged—have less inherent value than you or I.<sup>2</sup>

This affirmation turns entirely upon our agreeing that all human life, however deficient, has the same value; and I, as the reader will know, do not agree. For me, the value of life is a function of its quality, its quality a function of its richness, and its richness a function of its scope or potentiality for enrichment; and the fact is that many humans lead lives of a very much lower quality than ordinary normal lives, lives which lack enrichment and where the potentialities for enrichment are severely truncated or absent. If, then, we confront the fact that not all human life has, not merely the same enrichment, but also the same scope for enrichment, then it follows that not all human life has the same value. (Anyone who thinks that we do not use this argument in order to trade off lives of very low quality would do well to read some of the contributions by health care professionals to many of the contemporary debates in medical ethics over death and dying.) If not all human life has the same value, then Regan's claim of the equal inherent worth of animals collapses; for we do judge some human lives of less value than others.

Second, there is Regan's claim, not of equal inherent worth, but of inherent worth in the first place:

Frey: humans don't have I in inherent worth

Some there are who resist the idea that animals have inherent value. "Only humans have such value", they profess. How might this narrow view be defended? Shall we say that only humans have the requisite intelligence, or autonomy, or reason? But there are many, many humans who fail to meet these standards and yet are reasonably viewed as having value above and beyond their usefulness to others.<sup>3</sup>

Again, the case of deficient humans is being appealed to, this time to cede animal life inherent value at all. But I do not regard all human life as of equal value; I do not accept that a very severely mentally-enfeebled human or an elderly human fully in the grip of senile dementia or an infant born with only half a brain has a life whose value is equal to that of normal, adult humans. The quality of human life can plummet, to a point where we would not wish that life on even our worst enemies; and I see no reason to pretend that a life I would not wish upon even my worst enemies is

valuable to who?

moral consideration

not the worth of one's life

nevertheless as valuable as the life of any normal, adult human. As the quality of human life falls, trade-offs between it and other things we value become possible; and if this is what one is going to mean by the phrase 'usefulness to others', then I see no reason to deny that that label can be applied to me and my views. (But so, too, can it be applied to countless other people. Regan's book is littered with warnings against utilitarianism; but any of the numerous textbooks on medical ethics now on offer will show in, e.g., their sections on death and dying that all kinds of people, utilitarians and non-utilitarians alike, are no longer prepared to concede all human life, irrespective of quality, equal value.) Accordingly, Regan's claim of the inherent worth of animals is compromised; for there are good reasons not to judge deficient human life either of equal value to normal, adult human life or, in extreme cases, even of much value at all.

By lives of not much value at all, I have in mind lives whose quality is so low that they are no longer worth living. I concede the difficulty of determining in many cases when a life is no longer worth living; but in other cases, including cases quite apart from those involving the irreversibly comatose, the matter seems far less problematic. Work recently done in Oxford by Ronald Dworkin on some of the policy implications of the prevalence of Alzheimer's disease leaves me in little doubt that a life wholly and irreversibly in the grip of senile dementia is a life not worth living; and the case of infants born without any brain whatever seems an even clearer instance.

But still morally considerable

Third, there is Regan's claim that attempts to limit the scope of his rights view to humans come unstuck:

Frey:

Animals, it is true, lack many of the abilities humans possess. They can't read, do higher mathematics, build a bookcase or make *baba ghanoush*. Neither can many human beings, however, and yet we don't (and shouldn't) say that they (these humans) therefore have less inherent value, less of a right to be treated with respect, than do others.<sup>4</sup>

Perhaps Regan is right, that a human who cannot build a bookcase does not *per se* have a less valuable life than other humans; but what about very severely mentally-enfeebled humans or elderly people fully in the grip of senile dementia or infants born without a brain? I think *these* lives have less value than ordinary human life. What is the difference between these cases and the bookcase example? It is that the inability to build a bookcase is unlikely, bizarre circumstances apart, drastically to affect the quality of one's life, whereas severe mental-enfeebledness, senile dementia, and the absence of a brain quite obviously have a seriously negative effect on the quality of life. But one need not go so far afield to find such negative effects: some of the patients in the final stages of AIDS come to the view, I gather, that life is no longer worth living, as first one illness and then another ravages their bodies.

but still have moral consideration for them

still have a moral claim on us. value moral worth equivocation?



A word on Regan's point about treating deficient humans with respect is necessary. He ties talk of respect in the passage above to some right to respect, without explaining what justifies this linkage; but the real problem is that the use of some right to respect in the present context begs the question. A doctor friend recently described to me the case of a very severely handicapped child who managed to be kept alive to the age of four through a series of eleven operations; the doctor's wife described the case as one of 'keeping the child alive long enough for nature to kill it', which nature duly did. How exactly does one show respect to this child? By yet another operation, to extend its life a few weeks longer? It is all well and good to advocate treating deficient humans with respect; in the absence of some statement in a particular case about what constitutes respect, however, such talk does not come to much. How, for example, does one show respect for an individual with AIDS, who has thought long and hard about suicide and decided to kill himself? By intervening and stopping him? Or by not intervening and permitting him to carry on?

Right without a right

NOTES

1. Tom Regan, "The Case for Animal Rights," in P. Singer (ed.), *In Defence of Animal Rights* (Oxford: Blackwell, 1985), p. 22.
2. *Ibid.*, p. 23.
3. *Ibid.*, p. 22.
4. *Ibid.*, p. 22; italics in original.

Animal worth doesn't mean keep life @ all costs - despite quality - moral worth in humans - we can sustain suffering - we can sustain life in factory farming but that's not respect.

## ALAN WHITE

### Why Animals Cannot Have Rights

Most discussions about the kinds of things which can possess rights centre on the kinds of capacities either necessary or sufficient for their possible possession, whether it be interests, rationality, sentience, the ability to claim, etc. Advocates of the various capabilities are usually torn between making them so strong, for example rationality or the ability to sue, that they exclude subjects to which they wish to allow rights, whether they be children, the feeble-minded, unborn generations, etc., and making them so weak that they include almost anything, whether they be inanimate objects, artefacts, abstract conceptions etc.

I have tried to show that no criterion couched in terms of substantive characteristics is logically either sufficient or necessary in itself for the possible—or, indeed, the actual—possession of a right. What I would suggest is that such characteristics are at most a mark of a certain type of subject of which the question is whether that type of subject is logically capable of having a right. And the answer to that question depends on whether it is the sort of subject of which it makes sense to use what may be called "the full language of rights."

Alan White is Fereus Professor of Philosophy in the University of Hull. Among his books are *Truth* (Macmillan, 1970) and *Modal Thinking* (Blackwells, 1975).

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A right is something which can be said to be exercised, earned, enjoyed, or given, which can be claimed,<sup>1</sup> demanded, asserted, insisted on, secured, waived, or surrendered; there can be a right to do so and so or have such and such done for one, to be in a certain state, to have a certain feeling or adopt a certain attitude. A right is related to and contrasted with a duty, an obligation, a privilege, a power, a liability. A possible possessor of a right is, therefore, whatever can properly be spoken of in such language; that is, whatever can intelligibly, whether truly or falsely, be said to exercise, earn, etc. a right, to have a right to such logically varied things, to have duties, privileges, etc. Furthermore, . . . a necessary condition of something's being capable of having a right to V is that it should be something which logically can V.

In the full language of "a right" only a person can logically have a right because only a person can be the subject of such predications. Rights are not the sorts of things of which non-persons can be the subjects, however right it may be to treat them in certain ways. Nor does this, as some contend, exclude infants, children, the feeble-minded, the comatose, the dead, or generations yet unborn.<sup>2</sup> Any of these may be for various reasons empirically unable to fulfil the full role of a right-holder. But so long as they are persons—and it is significant that we think and speak of them as young, feeble-minded, incapacitated, dead, unborn *persons*—they are logically possible subjects of rights to whom the full language of rights can significantly, however falsely, be used. It is a misfortune, not a tautology, that these persons cannot exercise or enjoy, claim, or waive, their rights or do their duty or fulfil their obligations. The law has always linked together the notions of a person and of the bearer of rights, duties, privileges, powers, liberties, liabilities, immunities, etc., so that a change in application of one notion has accompanied a parallel change in application of the other.<sup>3</sup> Thus, at various times in the law, gods, idols, unborn and dead human beings, animals, inanimate things, corporations, and governments, have been treated as persons because they were conceived as possible subjects of such jural relations as rights, duties, etc. who can commit or be the victims of torts and crimes. In Roman law slaves were things, not persons, and, hence, had no rights. The attitudes of various legal systems to the possible rights of an unborn child depend on how far they are regarded as legal persons.<sup>4</sup>

What this legal practice brings out is the importance of using a set of concepts, for example rights, duties, privileges, obligations, etc. together and not isolating one of them, for example rights, so that, as Wittgenstein might put it, the lone concept is only "idling." The concept of a right can, of course, be stretched—as when Trollope, for example talks of a house with certain grandiose features as having "the right" to be called a castle—and debates about the rights of fetuses, animals, works of art, or of nature can become merely terminological. What is important is to ask

what job, if any, is being done in such contexts by the notion of "a right" as contrasted with that of "right" when it is isolated from such normal companions as the notions of duty, obligation, power, etc.

Something capable only of sentience or of suffering would not necessarily be capable of exercising, owning, or enjoying a right, much less of claiming, asserting, insisting on, or fighting for its rights or of waiving or relinquishing them. Nor of having obligations, duties, privileges, etc. And though it would be capable of having something done for it or of being in a certain state, it would not necessarily be capable of performing tasks, assuming attitudes, or having emotions. Hence, its possible rights, if any, would be confined to the right to have something done for it, such as to be well treated or protected, or to be in a certain state, such as to be happy or free or to remain alive. Moreover, though sentience or capacity to suffer would be necessary for the possible possession of a right to anything relevant to these, such as a right to protection from suffering—because a right to V implies being logically able to V—they would not be sufficient. The fact that an animal can suffer from growing pains or a man suffer from doubt does not in itself prove that it or he is capable of a right to protection from these.

It is a misunderstanding to object to this distinction between the kinds of things which can have rights and those which cannot on the ground that it constitutes a sort of speciesism.<sup>5</sup> For it is not being argued that it is right to treat one species less considerately than another, but only that one species, that is, a person, can sensibly be said to exercise or waive a right, be under an obligation, have a duty, etc., whereas another cannot, however unable particular members of the former species may be to do so.

#### NOTES

1. The fact that a right can be claimed is no evidence for the mistaken thesis (e.g., Joel Feinberg, "Duties, rights and claims." *American Philosophical Quarterly* 64 [1966], pp. 137–44) that a right is a claim.
2. E.g., W. D. Lamont, *The Principles of Moral Judgement* (Oxford, 1946), pp. 83–85.
3. R. Pound, *Jurisprudence* (St. Paul, MN, 1959), IV. ch. 25 and references on p. 191, n. 1.
4. P.D. Lasok, "The rights of the unborn" in *Fundamental Rights*, ed. J. W. Bridge, D. Lasok, et al. (London, 1973), pp. 18–30; and D. W. Louisell, "Abortion, the practice of medicine and the due process of law." *U.C.L.A. Law Review* 16 (1969), 233–54. M. Tooley goes too far in making "is a person" and "has a moral right to life" synonymous. See his "Abortion and infanticide." *Philosophy and Public Affairs* 2 (1972), pp. 37–65.
5. E.g., Peter Singer, "All animals are equal," in this volume.

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**Edited by**

**TOM REGAN**

*North Carolina State University*

**PETER SINGER**

*Monash University*



PRENTICE HALL, Englewood Cliffs, New Jersey 07632