Cows, crickets, and clams – must vegans really eat meat?[[1]](#footnote-1)

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Vegans do not eat meat. This statement seems so obvious that one might be tempted to claim that it is analytically true. Yet several authors argue that the underlying logic of veganism warrants – perhaps even demands – eating meat. I begin by considering an important principle that has been important in motivating vegan meat-eating, related to an obligation to reduce or minimise harm. I offer an alternative, rights-based view, and suggest that while this might support an obligation to eat meat in some cases, it fundamentally changes how we should view the arguments on offer.

I consider such arguments with respect to three categories of animals: cows, crickets and clams. Rather than assigning importance to the particular choice of animal, readers should take each of these to stand for particular categorisations of non-human animals: animals who certainly have some capacities that we regard as morally relevant in humans, such as sentience, or the capacity for desires (‘cows’); animals who *might* have one or more of these capacities, but where current research is inconclusive (‘crickets’); and animals that are, according to our current knowledge, extremely unlikely to have any of these capacities (‘clams’).

Section 1 considers an initial argument for the claim that vegans should eat (some) meat, based on the claim that veganism is, or should be, motivated by a desire to minimise harm (the ‘Least Harm Principle’). I argue that this principle is implausible, and probably does not support veganism. Instead, I suggest that vegans should be motivated by the idea of animal rights. Section 2 considers the application of animal rights as a theoretical tool to Steven Davis’ (2003) claim that we should eat beef, since plant agriculture actually results in the killing of more animals through harvest. I reject this argument on the grounds that rights violations are not necessarily additive; avoiding one rights violation does not always warrant imposing a second rights violation, even if the latter is somewhat less serious or widespread. However, I acknowledge that there is a moral problem here, and that vegans face a challenge in deciding how to combat it. Section 3 then engages with the problem of moral risk with animals for whom we face uncertainty over their moral status (crickets). I critically engage with an argument by Bob Fischer (2016) to the effect that we are obligated to eat such animals. I suggest that Fischer’s argument, while raising important challenges, overly simplifies the moral issue. I acknowledge in Section 4 that there must come a point at which creatures, though classified as animals, cannot reasonably be said to have moral status. Such animals, I conclude, are permissible to eat. However, I finish by raising doubts about the claim that eating such animals is obligatory.

1. Vegan meat-eating

I will call meat-eating that is either permissible or obligatory according to vegan standards, ‘vegan meat-eating’ (VM). The motivation for VM in all forms is the fact that plant agriculture involves the death of animals. Some arguments (e.g. Davis, 2003) have been criticised on the basis of their estimates of the harm caused by plant agriculture (see e.g. Matheney, 2003; Lamey, 2007). But there is no doubting that animals are killed in the course of plant agriculture, just as they are killed as a result of most aspects of modern human life.

As well as claims about harm caused to animals, arguments for VM seem to depend on a further moral principle. Davis (ibid.) motivates this principle by relating an exchange with animal rights proponent Tom Regan. In brief, Davis asked Regan what moral difference there is between animals killed intentionally as part of animal agriculture, and those killed unintentionally as a result of plant agriculture. Regan’s reply was that “we must choose the method of food production that causes the least harm to animals”.

This gives rise to what Davis calls the Least Harm Principle (LHP), though Regan calls it the ‘minimize harm principle’. But LHP is utterly implausible, and it is even questionable whether it supports veganism. One obvious problem is the problem of aggregate effect. When a vegan chooses the lentil surprise instead of the chicken Kiev, they are not choosing the option that *results* in the least total harm. Assuming they would prefer the chicken, apart from their moral repugnance, they might be doing the opposite, since their individual choice makes no difference (see, e.g. Frey, 1983; Hudson, 1993; Budolfson, 2016; Davies, 2016; but also Singer, 1980; Norcross, 2004; Kagan, 2011 for responses). So, at the very least, LHM only supports veganism if we say that we should choose the option that is *implicated in* the least harm.

Both traditional veganism and VM both involve the suffering and deaths of many animals in order to sustain a single, human life. The Least Harm Principle, rather than advocating either of these options, may support starving ourselves to death. It is certainly true that suffering would be involved in this choice. We would suffer, and our loved ones would suffer. If the practice were widely adopted, many domestic animals would suffer as they would not be cared for. It is certainly possible that the extinction of the human race would not on balance be good for the rest of animal life, on the whole. But if, according to my reformulated principle, we face a choice each time between vegan, omnivorous, or nothing, the LHP will at each stage command us to eat nothing. If multiple animals died to provide my dinner, my suffering (even in the final stages of starvation) may not outweigh that suffering. Perhaps some people can get away with eating, if we assume that LHP is intended as a guide to life, and not just to diet. Perhaps the more persuasive members of the starvation movement would be exempt if their staying alive might persuade others to go ‘starvegan’. But that is not most of us.

Let us consider LHP in slightly more explicit form. Regan expresses it thus: “Whenever we find ourselves in a situation where all the options at hand will produce some harm to those who are innocent, we must choose that option that will result in the least total sum of harm.” (1983: 302)

While a deontological stance does not formally rule out such claims, this would be a surprising thing for a deontologist to endorse. For this will result in many of same problems that deontologists raise against utilitarianism. Consider, for instance, the decision of a surgeon with three patients waiting for different organs, and a healthy stranger with no relatives who has just entered her office. According to LHP, all else being equal the surgeon ought to kill the stranger and redistribute his organs. The harm to the innocent stranger, after all, is outweighed by the harm avoided for the three (also innocent) wait-listers.

Things become rather less surprising when we look at the quoted passage in context. For Regan is in fact outlining a principle that he immediately *rejects*, on precisely the grounds that I have just suggested. Regan goes on to suggest two importantly different principles, the implications of which I will discuss in the next section. They are:

*The Miniride principle* (305):Special considerations aside, when we must choose between overriding the rights of many who are innocent or the rights of few who are innocent, and when each individual will be harmed in a *prima facie* comparable way, then we ought to choose to override the rights of the few.

*The Worse-Off principle:* When individuals involved are not harmed in a comparable way given a certain course of action, we should mitigate the situation of those who would be worse-off.

The Worse-Off and Miniride principles *might* still support VM. If we specify rights purely in terms of the type of harm, then the right not to be killed is the same whether that killing is deliberate or not, and no matter what the surrounding circumstances. In that case, only the Miniride principle would apply to the question of whether we should deliberately kill animals, or allow them to be killed accidentally. If the relevant empirical claims are correct, this would mean that we should prefer to eat meat if that will result in fewer deaths overall.

1. Cows

However, the shift from a pure harm approach to one that centralises the idea of rights suggests an important issue for arguments for VM. While many vegans are motivated by consequentialist arguments, many are not. This latter group is diverse, but includes individuals who consider non-human animals to be rights-holders in a way analogous to humans. While rights can be understood in a variety of ways, it is important to note that most believers in rights would not accept anything like Regan’s worse-off/miniride combination. For this combination, applied to humans, would again seem to endorse some implications that are typically raised as particularly problematic for consequentialist views. For instance, Regan’s principles seem to imply that our surgeon, considered in the previous section, should kill the innocent stranger. The harms suffered by the stranger and patients seem equivalent, and there are more patients than strangers.

Regan’s approach seems to involve maximising rights-respecting (or, perhaps, minimising violating). But we can understand rights in a different way, as “trumps” (Dworkin, 1984), where this implies ‘shielding’ certain central interests from utilitarian calculations (Yowell, 2007). For Dworkin, the interests so shielded are specifically *human*; but this seems inconsequential to the central idea of rights as trumps. To understand rights in this way is to rule out straightforward trade-offs, and to mark certain kinds of action as prohibited even if it would increase the satisfaction of pleasure, or indeed of rights themselves.[[2]](#footnote-2)

It is debatable precisely what this means for cases where rights of equal importance conflict. But it is hardly inevitable that the correct conclusion will be one that appeals to maximising logic. This is not (at least, not always) how we resolve such conflicts for human beings. Even if Davis is correct to suggest that beef farming would reduce the total number of animal deaths, or the total amount of suffering, it does not follow that we should continue with or promote beef farming.

On this view, to think of animals as rights-bearers is to think of them as holders of a special kind of status that rules out doing certain things to them, such as intentional, non-consensual killing. Of particular importance in this regard is the fact that even if the undesired killing of wild animals through plant agriculture is wrong – and I think we should agree, with Davis, that vegan logic should object strongly – that does not mean that we are therefore permitted, let alone obligated, to commit a different but no less fundamental wrong. This view thus extends what McMahan (1995) calls the “morality of respect” to animals. McMahan himself argues that animals should be covered by a “morality of interests” where the wrong of killing varies directly with the harm caused. A morality of respect, on the other hand, judges all killings to be equally wrong. It is true that, on McMahan’s view, respect judges killing many to be worse than killing one. But it is also true that this comparison of moral wrongness does not translate directly to the claim that we may permissibly avoid the deaths of the many by killing the one.

One might suggest that there is an important difference between the hospital case considered above, and the choice faced by vegans. In the hospital case, we face a choice between killingsomeone, and allowing others to die. In the vegan case, however, the choice is between killing one and killing many. It would be a serious misrepresentation to suggest that animals killed in the course of plant agriculture are merely ‘allowed to die’.

Taylor suggests that there may be a moral difference between intentional harms, and harms that are not intended but merely foreseen. One way of understanding this is as equivalent to the doctrine of double effect (e.g. Anscombe, 1982). This would make it vulnerable to equivalent objections. Thompson (1991), for instance, wonders how my mere intentions could make a moral difference, while Glover (1977, 86-91) raises the worry that the suggested distinction is overly vague, which may lead us to simply categorising as intended results that we intuitively believe to be wrong, and as foreseen those that we are prepared to tolerate. For instance, a butcher might claim that they would happily spare animals’ lives if they could get the meat some other way (e.g. by taking cell samples and growing the meat in a lab); what they want is not the animals’ death, but the meat that comes as a result.

Davis raises a blunter objection, that “the harm done to the animal is the same – dead is dead”. That is certainly true, but cannot be all there is to our moral theory. One example that shows why this approach is too simple is the use of motor vehicles. If people use cars, lorries and other vehicles, it is nearly inevitable that some people will die in traffic accidents every year, and from the concomitant pollution. We can try to reduce the number of deaths, but we are currently unable to eliminate these deaths altogether. Yet most people do not take travelling by car to be morally prohibited.

Three explanations might be suggested to explain why such deaths do not morally prohibit road travel, taken as an entire system rather than individual journeys. The first is that everyone who is involved in car travel gives their consent, and thus waives their right against being subjected to risk. This is a non-starter: many individuals killed in car accidents have not consented, and could not, including children, people with serious intellectual disabilities and – by far the largest group – animals.

The second explanation would be that the risk is what we may call ‘directly’ reciprocal. When two people get in a car accident – whether as driver – each took on the same balance of risks and benefits. Again, this will not work. Some victims of accidents are pedestrians who do not drive, and cannot (again, animals are by far the largest group).

But a third explanation, which expands this kind of thinking, is more plausible: risks are reciprocal in a more indirect way. Even pedestrians who do not drive (and even those who are not passengers) nonetheless *benefit* from a system of road travel as a whole. What matters, according to this view, is that the balance of benefits and burdens is reasonable. The existence of cars puts us all at some risk; but it also confers significant benefits.

As Donaldson and Kymlicka (2011, 201) point out, however, this is clearly not true of many animals. Animals (particularly wild animals) are over-represented as victims of road traffic accidents compared with the benefits conferred. Indeed, while many domesticated and liminal (their term for animals who live in human populations, but are not domesticated) animals certainly benefit, most wild animals probably do not.

Does this mean we should abandon road travel to minimise harm? Given the preponderance of animal death and harm from road traffic, the Least Harm Principle could tell us that this is the right option. Donaldson and Kymlicka suggest not. Rather, we need to add a third value, which is protection against harm for those particularly at risk of it, and who are less likely to benefit from any particular system. As with animal agriculture, this does not mean that we will eliminate unjustified harms. But if we place significant protections, and keep working to improve those protections, the system overall seems to be justified. Of particular importance is here is the view that the (serious) *imperfection* of road travel calls not for abandonment, but improvement.

Plant agriculture is akin to road travel in this regard. It is deeply imperfect, since almost no effort is made currently to try to protect animals living in fields; but improvements could be made. For instance, farmers could do significantly more to encourage animals to leave fields before harvesting, while we might collectively employ a threefold approach of actively discouraging animals from nesting in agricultural fields; protecting and improving non-agricultural sites as areas that animals might be attracted to nest in; and resisting the temptation to turn any more of the latter kind of area into the former (Donaldson and Kymlicka, ibid.: 168-9; 192-6). Again, this would almost certainly not eliminate animal deaths. But when we move from a harm minimisation view to a rights-respecting view, we can recognise that if reasonable measures have been taken to both warn someone of a possible harm, and reduce harm beyond reasonable levels, then while harm is still deeply regrettable, it may not be a violation of rights. Animals are, after all, agents and not merely passive victims.[[3]](#footnote-3) This cannot be true of animal slaughter.

As consumers, vegans are not making these decisions. The question arises, then, whether veganism demands that we react, as consumers, to ultimately redeemablepractices in precisely the same way as we react to practices that cannot be reformed, such as the intentional and direct killing of animals to eat. I do not think that the answer is entirely obvious; it might be that participating in a practice that is deeply morally flawed but redeemable in principle is morally just as bad to participating in a practice that is deeply morally flawed, but not at all capable of reform. As Davis says, the victims of these acts are hardly benefitted by such a distinction. Should vegans refuse to drive cars or have goods delivered by road until we have made roads as safe as we can for animals (and, indeed, humans)? Or should we be morally permitted to agitate for change while acknowledging that participating, even at a fairly basic level, in contemporary society sometimes circumscribes the options one has for morally reasonable behaviour? One point to note is that if we take the view that *any* avoidable violation of rights renders a practice impermissible, we will need to change far more than the way we produce food.

Here, I think that understanding Taylor’s distinction as an appeal to double effect may reach its limits; at least, it will do if we understand it as telling us that many animal deaths as a result of plant agriculture are *morally neutral*.[[4]](#footnote-4) I have already argued that harms and even deaths may be permissible if they are part of an overall scheme that is sufficiently beneficial in a just way. But plant agriculture is not like this. Does that, then, make it directly equivalent to animal agriculture?

Animals in agriculture face far more rights violations than wild animals. This includes various ways in which their right to bodily self-determination is violated; families typically being broken up; the right to autonomy (even if it is limited in many animals); and the right to association with loved ones. So, it is not clear that attempting to minimise *rights violations* would lead us towards meat-eating, even if minimisation of harm did.

More importantly, there is an alternative understanding of Taylor’s claim about the distinction between the intended and merely foreseen. Lamey (2007) suggests that the deaths of field animals are “accidental”, as opposed to the “deliberate” killings of farmed animals. Lamey correctly notes that Davis’ ‘dead is dead’ response ignores a distinction between accidental and deliberate killings that is central to both deontological moral thought and our legal system. As Lamey puts it “surely we recognize a distinction between accidentally hitting an animal while driving on the highway and intentionally backing over it with the express aim of ending its life”.

But while this is the beginning of a reasonable response to Davis, it is incomplete. To describe something as accidental is often to regard it as excused. But what Davis and others get right is the fact that there is a moral wrong being committed here, according to the logic of veganism. We can meet this observation without calling for a return to the serious rights violation of deliberate killing, by noting that if field animal deaths are accidental, they are a particular kind of accident; namely, they are an accident that is the result of *gross negligence.*

To say that something is, beyond being accidental, *negligent* is to say that the perpetrator had an obligation of care that they failed. As I have suggested, if wild animals have a right to life, there is an obligation on those harvesting crops – and the rest of us, indirectly – to take due care to ensure that animals are encouraged out of harm’s way. I call the harms involved in plant agriculture ‘grossly’ negligent because they are not a one-off slip, but the product of a repeated failure to give animals’ rights their due. What the description of these deaths as ‘accidental’ misses is the fact that a serious wrong is still committed.

On the other hand, the wrong of negligence is not the wrong of deliberate killing. *If* the deaths of field animals are aimed at neither as ends, nor as means, they are not as seriousa wrong. If we couple this with a principle that says that all individuals have the obligation to adopt only reasonable burdens in the pursuit of securing others’ rights – which means that simply starving is not an obligatory option – this suggests that vegans can permissibly eat the products of a practice that kills animals. But, crucially, because the deaths involved are negligible rather than ‘merely’ accidental, we have an obligation to campaign and place pressure on relevant institutions to reform farming practices.

The picture is complicated, however, by the fact that many animals *are* intentionally killed during plant agriculture.[[5]](#footnote-5) Animals are killed as part of ‘pest control’ to protect crops, for instance. This is a serious difficulty for my argument, to which I have four (all too) brief responses. The first is to note that, in terms of pure numbers of rights violations, even if some animals are deliberately killed, the fact that many others are accidentally killed does complicate the empirical case for VM. If there is a moral difference between these different wrongs, we cannot *simply* point to numbers to make our case.

Secondly, it is worth noting that even if both plant agriculture and animal agriculture currently involve deliberate killings, the appeal to reformability may still present a contrast between the two practices. To be sure, the distinction is rather less clear that it would be if all animal deaths in plant agriculture were negligent rather than deliberate. But while it is important to note that the deliberate targeting of animals as ‘pests’ may be just as wrong as their deliberate killing as ‘food’, the place of the *consumer* in all of this is affected by the potential for reform. Negligent killings are still killings, and deliberate killings are among the worst rights violations of which we can conceive. But the potential for discouraging animals from eating (an excess of) crops in non-lethal ways suggests a moral difference. What’s more, the moral pressure on this position (and there is genuine moral pressure here) comes not from Davis’s proposed solution of switching to meat, but from a very different route of changing our consumption patterns; this is an idea I will explore in Section 4.

Third, it is still true that there are many additional rights violations involved in keeping many animals as domestic sources of food that do not exist in the context of field animals. This response is not, of course, one that will extend to all animals. As Meyers (2013) notes, insects do not suffer in the same way as mammals from living in the conditions that, according to vegans, constitute animal cruelty. Indeed, insects actively seek out “crowded, hot and filthy conditions”.

Finally, and far more speculatively, it may be that there is an additional wrong (perhaps taking the form of a rights-violation, perhaps not) in breeding an animal for food. After all, in breeding animals for food, and indeed in eating them or engaging in other forms of consumption with relation to them, we are *objectifying* or *commodifying* them (see e.g. Adams, 2010; Clipsham and Fulfer, 2016). This is one potential issue with the common argument that, since the animal is already dead, one does no harm by eating it. For in eating it, one erases the animal that was there. In contrast, while there is still a serious wrong in violating the rights of a field animal by killing it, one does not (necessarily) objectify it. In seeing the animal as a potential ‘pest’ or threat, one sees it as an agent.

This final point is speculative, and I do not have the space to develop it further. It is also presumably open to the worry that *for all we know* farmers do objectify the animals they kill as pests. But there may still be a difference in what is required of the consumer in eating meat on the one hand, and eating plants that one knows are implicated in innocent death on the other.

I have suggested that there are important differences between the deaths involved in meat and plant agriculture, but that these differences do not entail that the latter do not count as rights violations. However, even if Davis is correct in his assessment of the various harms done, benefitting from a harm of negligence is not the same level of moral wrong as benefitting from a deliberate harm. Vegans are not free of obligations to wild animals killed during harvest; but the answer to these rights violations is not to commit more egregious violations of others’ rights.

1. Crickets

I turn now to a second category of animals, represented by crickets. These are animals whose moral status is a genuine question. Although the questionability of insects’ moral status usually depends on uncertainty about their sentience, which is open for debate (see e.g. Klein et al., 2016), I do not intend this category to cover only animals whose moral status is open to question due to scientific uncertainty about their sentience. Perhaps, for instance, insects have desires despite not being conscious (Carruthers, 2007), and one might argue (though Carruthers does not) that this is sufficient to ground rights to have those desires respected, even if not being respected is not painful.

Assuming a rights-based view, the best we can say of crickets is that they *might* have rights that place restrictions on how we can treat them, or that there are no impermissible ways that we can treat them. Since we do not know which of these is true, we are involved in a case of *moral risk*.

Fischer (2016) notes that there are several reasons a committed vegan might offer to think either that (some) insects are sentient, or to cast doubt on our ability to tell whether they are. In such a case, says ‘the strict vegan’, we ought to avoid a possible “moral tragedy”. If we routinely started to farm and eat insects, and they are in fact rights holders, we would be committing a serious (set of) moral wrong(s). Better, then, to play it safe, and stick to strict veganism.

But Fischer is sceptical about this line of reasoning, offering a line of argument that parallels Davis’ reasoning. In brief, Fischer’s argument borrows the empirical premise of Davis’ argument which stresses that there are severe harms to animals caused by plant agriculture. It also replicates the idea that veganism is predominantly based on the Least Harm Principle. However, the argument is now a little different.

Fischer does not offer an opinion as to whether we ought to farm insects if we a) knew that they were sentient, but b) knew that farming insects would reduce the overall number of sentient beings killed. Rather, he appeals to the claim that “if our choice is between, on the one hand, harming beings that we know to be sentient and, on the other, harming beings that we don’t know to be sentient, we should go with the latter option”.

Fischer considers two responses from the vegan, one of which appeals to the Least Harm Principle. The vegan might suggest that even if we are uncertain about whether insects are morally relevant, the *expected disutility* of eating insects – taking the probability of them mattering multiplied by the harm caused if they do matter morally – is higher than the alternative refusal to eat insects. Fischer cites Meyers’ (op cit.) convincing case that this is an even less plausible argument than when applied to cows: as I mentioned in the previous section, insects do not suffer from (and indeed prefer) living in cramped conditions; as Fischer adds, plant agriculture also kills a great many insects through the use of pesticides.

As I have said, I think that an appeal to expected utility is the wrong way to justify veganism. Instead, we should think of insects as potential rights bearers. This aligns more neatly – though imperfectly, with the other response that Fischer considers on behalf of the vegan, which is an appeal to some form of precautionary principle, which would say that even if we are not sure whether insects are (say) sentient, we should err on the side of caution given the moral risk.

On this view, says Fischer, the vegan wants us to accept that, when faced with the choice between “harming beings we know to be sentient and…harming beings we *don’t* know to be sentient”, we ought to pick the former. But, says Fischer, this seems bizarre. In such a choice, we surely ought to avoid harms to the beings that we know are sentient.

To support this claim, Fischer offers a variation on the Trolley Problem. An apparently empty trolley is hurtling toward a person. You can divert it so that it will plummet over a canyon. If there is anyone inside, they will be killed. But, says Fischer, we clearly ought to divert the trolley, because this only *might* harm someone who matters morally; failure to divert will definitely harm someone who matters morally. Precaution about avoiding harm to the possible trolley-inhabitant is surely unjustified.

Before considering exactly what a plausible precautionary principle might look like, we need to take a step back and consider this analogy. Fischer wants us to accept that the risk involved in his trolley case is morally equivalent to the risk involved in the insect case. But is it?

There are at least four kinds of risk that may be morally relevant:

**Principle risk**: You know empirically what will happen, but you aren’t sure what the correct moral principles are. Consider a doctor who is considering whether to kill an innocent patient to save five, unsure whether utilitarian or Kantian principles (or something else) are correct. (e.g. Bostrom, 2009).[[6]](#footnote-6)

**Subject risk**: You know that your act would be wrong if anyone were affected, but aren’t sure if anyone will be. Consider, for instance, the farmer mentioned above who has tried to drive animals out of her field before harvesting.

**Outcome risk**: You know that your act would be wrong if someone were affected, and know that people *might* be affected, but don’t know if people *will* be affected. For instance, someone who gets behind the wheel of a car while drunk.

**Status risk**: You know what will happen, and that it would be wrong if the entity had status. But you are not sure if it has status.

Clearly, the case of insects is a case of status risk. Some individuals are affected by our actions; we are just not sure whether they are individuals we need to care about. Fischer’s trolley case is a case of subject risk; if an individual were affected by our choice to switch, that might be wrong. But we are not sure whether any individual exists to be affected. To be clear (since some might think that it is a case of outcome risk), I distinguish outcome and subject risk in the sense that the former involves definitely existing individuals who could be affected by your actions. In cases of subject risk, it is not even clear whether there are any individuals who *risk* being affected.

What should decide how we should approach a case of risk? I will suggest against Fischer’s implicit argument that different kinds of risk may call for different kinds and levels of precaution.

Fischer argues that, in the trolley case, we should clearly err against definite harm. In cases of subject risk, the moral status of our action surely depends, though, on more than the expected harm and benefit. For one thing, it might depend on how carefully we have checked (and hence how reasonable our expectations are), and how hard we have tried to ensure that there will be no subject harmed. In the trolley case, of course, we do not have time to do either of these things. But that does not mean that we can transfer that reasoning to more complex cases; think of a farmer who makes a half-hearted effort to clear animals from her field, for instance. In addition, the moral status of our act may depend on the overall benefit of risks, benefits and harms. If the same group is consistently exposed to harms or risks, with no benefits, it may be unjustified to expose them to further harm, even if that minimises overall harm.

What about cases of status risk? In status risk, we know exactly what will happen. We also, let’s assume, have reason to be confident about moral rules that would condemn our action if the individual(s) had status. What we aren’t sure about is whether they do.

A more promising (though still imperfect) analogy than Fischer’s trolley case is the question of how we should regard the moral value of people who have apparently entered permanent vegetative states. The analogy is imperfect for at least two reasons. First, people in ‘permanent’ vegetative states have recovered some degree of consciousness (Childs and Mercer, 1996). Secondly, people in permanent vegetative states were once undeniably moral subjects.

Nonetheless, this presents a clear case of status risk. When we deliberate whether to switch off life support so that a hospital bed can be cleared for other patients, we are debating a case of status risk. We might even wonder whether we could use patients in this state as ‘living’ organ donors, to save other lives.

Again, these are imperfect analogies with the case of insects, where killing one group is recommended to avoid *killing* others, not simply saving their lives. Nonetheless, I suggest that such cases recommend against using a simple probabilistic calculation to decide on status risk. We should not kill PVS patients when that would involve saving others’ lives, even when the probabilities are equivalent to those involved in Fischer’s trolley case.

This is tentative, to be sure. Some ways of expressing what is going on in subject risk seem equally applicable to status risk, e.g. ‘we are not sure whether there is an ethical subject there’. ‘There’ might equally refer to the apparently empty trolley, or the apparently ‘empty’ body of a PVS patient. One factor that may make a difference is that our epistemic abilities are being challenged in very different ways. Trying to spot whether there is a particular kind of (human) object in a trolley is a very different epistemic challenge that trying to work out whether this undeniably present object is an ethical subject. That we risk violating the possible rights of this individual is a reason to resist a straight-forward cost-benefit analysis. The move to rights from harm minimisation here again provides the rationale for this. The (even possible) violation of rights is not a simple cost to be weighed against other kinds of harm (in the trolley case), or even other rights violations (in the case of insects and field animals).

Fischer (personal communication) suggests that there is a third potential disanalogy, which is that opportunities to use people in permanent vegetative states (e.g. for their organs) is far *rarer* than opportunities to eat insects. He suggests that if a far greater proportion of people fell into such states, we would be far less inclined to object to killing them given the excessive burden it would place on more obviously conscious patients.

This argument has some problems, however. After all, although the moral burden of refusing medical services to conscious patients would be large if most of us entered permanent vegetative states, so too would the moral burden of allowing a great many people to die. So I am not sure that the ‘moral burden’, as Fischer puts it, would actually be any greater. If we are not prepared to allow one apparently vegetative patient to die, so that we can give their bed to a conscious patient, why should we allow thousands of such patients to die to give their beds to thousands of conscious patients?

Of course, one might accept the analogy, and insist that we *should* allow patients in apparently vegetative states to die because of their unclear moral status. But even if this is true, the analogy needs to be treated with caution. If ending the life of a patient in a permanent vegetative state, with no prospect of recovery, involved not simply removing life support but actively killing them (not impossible since one can be in a vegetative state by virtue of lacking awareness, but nonetheless capable of functions such as swallowing and breathing), things may look rather different.

A further issue with Fischer’s analogy is that the example concerns a single event, whereas the recommended conclusion of the argument would be wholesale, widespread killing of insects. In the trolley case, if there does turn out to be a person hiding there, we might justify ourselves by noting that she could just as easily have been the person on the track, while they were in the trolley. In the case of insects, no such claim can be made.

Why, exactly, should this matter? In cases of outcome risk, one reason to resist a simple cost-benefit analysis of a particular case is when a pattern emerges in harms, risks and benefits (Donaldson and Kymlicka, ibid: 198). If the same groups or individuals are consistently bearing costs, at either no benefit to themselves, this is unfair even if sanctioned by a strict analysis.

Admittedly, things are different in the case of insect killing. Here, we would have a case where the same group *might* be consistently burdened with costs (their own deaths), at no benefit to themselves, but where there might be no costs at all (if insects’ deaths are not bad for them). Nonetheless, I suggest that we have some reason to avoid risking the injustice of repeated burdens. To be reiterate an earlier point, the burdens placed on insects are not as broad as those placed on other farmed animals, since insects generally do not mind cramped, dirty conditions. The burden in question here is death.

It is true, of course, that farmed insects will receive benefits from participation in insect agriculture. They are protected from predators, given access to conditions that they prefer to live in, and well fed. One might also object that the purpose of eating insects is to avoid repeatedly burdening, and not benefitting, a different group: field animals.

As well as determining whether a system imposes greater burdens than benefits, then, we also need to compare it to other alternative systems. These responses entirely ignore the argument from the previous section. It is only in the context of benefitting ourselves that we regard our choice as being between killing possible moral subjects, and killing definite moral subjects. We could take on more burdens ourselves, through taking more care over animal deaths in plant agriculture. In the context of a plant agriculture system that doesn’t do this, it’s not obvious that the answer is to risk violating the rights of a different group. As well as calculating the balance of benefits, burdens and risks, we must also consider on what terms they are being imposed.

So, I have suggested that the case of status risk may resist probabilistic calculus in a way that subject or outcome risks do not. In endorsing this stance, though, vegan opponents of insect-eating face a further question, proposed by Fischer. What, exactly, is the nature of the precautionary principle that opposes eating insects as too risky?

Fischer considers several options: a ‘strong’ principle that he suggests might lead to a bizarre obligation not to ‘harm’ clearly inanimate objects, and two middling options, where our obligations change once we are ‘sure enough’ that an individual is not morally relevant. But all these potential moves are motivated by Fischer’s claim that vegans clearly cannot endorse what he calls a ‘weak’ precautionary principle, and hold that eating insects is wrong. On that, we disagree.

A weak precautionary principle would tell us that if we are not certain that an individual has no moral status, we should act as if it does *unless* that prevents us from fulfilling obligations to individuals that clearly have moral status. Clearly, says Fisher, this will not rule out eating insects, if doing so is a way to cut deaths of field animals.

I am not so sure. The weak precautionary principle tells us that we may treat animals of uncertain status as morally valuable unless this ‘would’ prevent us from fulfilling our obligations to animals of certain status. Fischer clearly regards the ‘would’ clause as satisfied in the case of eating insects, because for every pound of insect food that I eat, a pound of plant-based food is not eaten.

The first thing to note is that, for many of us, there is clearly an alternative to pound-for-pound replacement of food, which is to cut our food consumption. Many people eat more than they need to. So while it might be true that refusing to eat insects would prevent us from sparing the lives of animals *given a refusal to cut consumption* (what we might call the ‘actualist’ would), it does not follow that it would prevent us from doing so in a broader sense (the ‘possibilist’ would). Whether we should take our own predictable moral imperfection as given when deciding what to do is a contentious issue (e.g. Goldman, 1976; Jackson and Pargetter, 1986; Portmore, 2011), but there are at least issues with including moral flaws so readily (see e.g., Cohen and Timmerman, 2016).

Relatedly, Fischer’s notion of our obligations to wild animals seems to be fairly simple; we have an obligation not to perform actions that we know will likely harm them. Simplicity in itself is hardly a flaw, but as I suggested in the previous section, our notion of obligation when it comes to our fellow humans is far more complex; if the basic vegan claim is that we should, absent special justification, regard our obligations to (some) animals as we do our obligations to humans, then this simplicity requires justification.

As I suggested previously, we may meet our obligations to animals *even if* some of our actions result in their deaths. We could collectively ensure that more care was taken to keep fields clear of individuals who might be harmed by harvesting, temporarily or more permanently, and to supplement this obligation with a commitment to providing alternative wild areas to live. As with my previous suggest, there might then be a tension between two different understandings of ‘would’. One might think that these suggestions are all very well, but unrealistic in the current climate, and that vegans should aim to reduce harm in the current climate. In that case, the ‘would’ in use would be an actualist use, and Fischer’s argument might well go through.

But if we think that while vegans must take account of reality, we should not allow our principles to crumble under just any kind of pressure, it might be (as I have suggested above) that fighting for a better way of doing things is compatible with imperfection in our practices. According to this view, it might be untrue that refusing to eat insects ‘would prevent’ us from fulfilling our obligations to other animals, even if refusing to eat insects led to some animal deaths that would otherwise not have occurred.

Of course, even if we endorse Fischer’s weak principle, we face a further issue, which flips Fischer’s objection to the *strong* principle. While Fischer worries that this will lead to an implausible requirement to respect inanimate objects (though see Nadasdy, 2016, for an outline of various moral systems among First Nations peoples in Canada that would regard that as rather less implausible in the case of natural inanimate objects, albeit with a corresponding relaxation of the obligation not to harm, as Fischer conceives it), we might worry that a weak principle will lead us to being prepared to sacrifice the (potential) interests of individuals who are *probably* morally relevant, but where we are not *certain*, whenever they conflict with the equal interests of those who are certainly morally relevant.

This, it seems to me, will lead to troubling cases. Remember that there are various types of risk, which derive from various types of certainty. Imagine, for instance, that we believe that the ability to feel pain is sufficient for full moral concern. There are people who think that feeling pain is not sufficient for being morally relevant, and that individuals require more complex forms of consciousness for moral relevance (e.g. Kant, 2015). Even if we reject such arguments, can we really claim to be *certain* that they are wrong? If not, the weak principle seems to suggest that if killing a creature that is ‘merely’ capable of pain and pleasure is the only way to save the life of someone who is both sentient and capable of more complex consciousness, we should do so.

One possibility is to say that it is not enough that ‘we’ are ‘uncertain’ about an individual’s moral status, and to insist that we must be *reasonably* uncertain. Perhaps we think that arguments purporting to show the above claim are simply unreasonable; that we feel uncertainty when confronted with them does not make our uncertainty reasonable.

The second issue is that Fischer might still complain that this gives excessive concern to objects which we are *almost* certain are not morally relevant, but where we are not quite certain. The problem with both issues, I think, is that certainty (even ‘reasonable’ certainty) is an impossibly high bar to set for moral principles. As Fischer suggests, then, it seems more plausible to lower the bar, and to adopt a precautionary principle that grants provisional rights-status to individuals who clear a certain threshold of confidence. The reason for this is not, as Fischer suggests, that the weak principle endorses the eating of insects, but that certainty is simply an implausible requirement for moral theory.

That, of course, leaves the question of where the threshold should be set. Fischer considers both a probabilistic and ‘rough estimates’ version of this idea. On the probabilistic version, he suggests that we might fix a threshold of confidence (e.g. 0.5), above which you are entitled to equal consideration, and below which you receive no consideration. But, he says, this is implausible, for it means that individuals who are just shy of the threshold (e.g. 0.49) are treated the same as creatures that are very far below it (e.g. 0.01).

That leaves the rough estimates principle. On Fischer’s view, the rough estimates principle says that we should apply something like the weak principle, but between categories such as ‘definitely conscious’, ‘probably conscious’ and ‘perhaps conscious’. So, for instance, we would say that we ought to treat the ‘perhaps’ conscious as if they *are* conscious, except when that conflicts with our obligations to the ‘definitely’ or ‘probably’ conscious. Again, we can substitute ‘conscious’ for ‘relevant’ if we want to consider the possibility that features other than sentience might have moral relevance. While this is more plausible, says Fischer, it once again concludes that we ought to eat insects, since they fall into the ‘perhaps’ category.

Both arguments have problems. First, while I agree with Fischer that if we set the threshold as high as .5, it seems implausible to think that there is no moral difference between those who are just shy of that threshold, and those who are far below it. But Fischer offers no rationale for placing the threshold that high. If we set the threshold lower, it may become less counter-intuitive to treat individuals who fall below it in the same way. Is it really implausible, for instance, to say that we need be no more careful to preserve the simplest bacteria than we are to ‘care’ for inanimate man-made objects? Perhaps I am simply unaware of relevant scientific facts, but I am *somewhat* less confident that bacteria lack all plausible features that qualify an individual for moral relevance than I am in making the same claim about my bedside table.

On the rough categories front, I agree with Fischer’s claim that insects fall into the ‘perhaps’ rather than ‘probable’ category. But for one thing, as I have noted, it is at least not obvious that refusing to kill insects prevents us from fulfilling our obligations to other animals, once those have been spelled out. For another, the relationship between ‘probable’ and ‘certain’ that Fischer suggests is still problematic for the reason outlined above: individuals who are of somewhat less certain moral status seem to fall victim to trade-offs whenever they could be useful to individuals with (more) certain status.

That might suggest that we should categorise the ‘probable’ and the ‘certain’ together, refusing trade-offs between them. But this at least opens the possibility of also (morally) re-categorising some members of ‘perhaps’. I say some members because this latter category can itself be subdivided. As Fischer says, given the possibility that panpsychism is true, there is a sense in both insects and my office chair are ‘perhaps’ conscious. Yet while the insect seems to fit comfortably into that category, we could say that my chair is ‘probably not’, or even ‘almost certainly not’ conscious. Again, the broad approach of a category-based precautionary principle does not require that we draw the lines exactly as Fischer suggests.

1. Clams

However, to end this on a concessionary note, I think that vegans must accept that there may be some animals, and hence some forms of meat, that will fall below any plausible threshold, whether it is probabilistic or categorical. To speak briefly on the category that I have symbolically named ‘clams’ (which, as Fischer (personal correspondence) points out, may include some insects such as mealworms) it does then seem plausible that vegans should be prepared to eat some meat, when we can say – not with certainty but with sufficient confidence – that the animal from which it comes lacks all features that have moral relevance. Since my category of clams stands in for animals that it is reasonable to believe are ‘very unlikely’ to be morally relevant, and since I agree with Fischer that asking for *certainty* is unreasonable, it follows that vegans are permitted to eat some meat. Vegans are, and ought to be, concerned about violating animals’ rights. If we can be very confident that an animal has no rights to violate, we should not be concerned about eating it.

What about Fischer’s stronger claim that, given the costs to other animals of farming, we may have some obligation to eat animals of this latter category? As I have suggested, it may be a little premature to insist that eating shellfish must be our first port of call. If, as Fischer suggests, it would be permissible to keep our consumption levels the same, but to replace *some* plant food with clams, I do not see why it would be impermissible to offset the same amount of food by (safely) reducing one’s consumption, or shifting consumption to foods whose growth and harvest causes less harm to animals.

If, on the other hand, Fischer would claim that once we reduced our caloric intake we would still have an obligation to replace some plant calories with clam calories, I am not sure how it can be obligatory only to replace *some* plant calories in a diet that was not as efficient as it could be. If even the most harm-efficient eaters ought to replace some plants with clams, how can it be permissible for less efficient consumers (almost all of us) to replace the *same number* of calories, while retaining our inefficient ways?

In other words, Fischer must advocate *either* that eating shellfish is merely permissible (as one way of reducing our indirect harm of animals), or that it is obligatory, but so is achieving maximal efficiency in our calorie to harm ratio. This latter option might be motivated by the Least Harm Principle, which I have suggested is both an implausible view for vegans to take, and may in many cases lead to the conclusion that we should starve rather than eat. Perhaps Fischer could appeal to a ‘restricted’ Least Harm Principle, which says that we ought to reduce our harm of animals, but that this obligation is restricted by certain claims on our part. At that point, it is open to debate whether those claims are only the very basic (our right to life, for instance) or might include more frivolous claims, such as the ability to have some leeway in choice of diet.

1. Conclusion

I have considered two arguments that claim that, according to the underlying logic of veganism, vegans have an obligation to eat meat. As I have suggested, both arguments rely to some extent on the Least Harm Principle, which is both implausibly demanding, and which may not in any case lead to veganism. I replaced the Least Harm Principle with an appeal to basic rights. Such an appeal shows why, when it comes to animals who probably have moral relevance (‘cows’, there is no permission, let alone an obligation, to eat meat.

I also argued that approaching meat-eating through a rights-based view complicates the case, made by Fischer, for eating animals whose status is rather less clear (‘crickets’). However, I agreed with Fischer that an absolute prohibition on eating meat may be unrealistic; at least one category, those animals who are almost certainly not morally relevant (‘clams’), we are at least permitted to eat them. However, I suggested that the claim that we are *obligated* to eat them relies once again on the Least Harm Principle. If we reject that principle, as I suggested we should, it turns out that eating ‘clams’ may be just one of many ways that we can permissibly reduce our indirect harm of other animals.

As I have said several times, the animals who represent my categories are placeholders only. Particularly with regard to crickets and clams, I make no claim to be able to identify exactly where the threshold lies, or exactly which animals lie on either side of it. The latter question is a scientific one; here, vegans can only pay attention to the best available evidence. The former question is a moral one; but it is uncertain whether we can with any precision or generality identify a clear principle for sorting animals (given knowledge about their likely capacities) into groups. For instance, perhaps there can be genuine and reasonable disagreement about whether the facts mean that an animal is ‘perhaps’ or ‘probably not’ conscious. In that case, we may have to make up our own minds.

Finally, because the arguments seem to me sufficiently distinct, and involve a host of other considerations that space would not permit, I have not considered a potential fourth category of vegan meat-eating, which (to preserve alliteration) we may call ‘corpses’ (see e.g. Bruckner, 2015). This involves the eating of animals who have died of natural causes, been killed permissibly (e.g. having been euthanised due to considerable pain), or been killed excusably (e.g. in traffic accidents). Such cases will, I think, be rare, since many animals who die in such ways will either be inedible (e.g. because they have diseases), open to obvious objections (e.g. if they are of a species that might mourn its dead, and are sufficiently close to be capable of being mourned), or unattractive to eat (e.g. because they are too old). Nonetheless, this is clearly a category that requires its own consideration.

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1. Thanks to Bob Fischer for extensive comments on an earlier draft. [↑](#footnote-ref-1)
2. This idea is briefly mentioned in Taylor (1999, 87). But Taylor does not expand on what exactly a rights-based view implies, or consider potential justifications. [↑](#footnote-ref-2)
3. This is another important difference between wild animal deaths and those of domesticated animals; the latter have had their agency severely restricted, so that they are entirely at our mercy; in this regard, it is arguable that any deaths at our hands would count as ‘too many’. Wild animals that possess agency can bear some of the responsibility for avoiding harm, even if the bulk of that responsibility falls on us. [↑](#footnote-ref-3)
4. An advocate of double effect might resist this claim by noting that the doctrine also demands that benefits are *proportionate* to the harm. Perhaps the number of animal deaths means that this caveat is not met. [↑](#footnote-ref-4)
5. Thanks to Bob Fischer for pressing me on this point. [↑](#footnote-ref-5)
6. I will not discuss this type of risk, though it might have some bearing; for instance, if my arguments are successful, we will have disagreement between utilitarian and deontological vegans. Even as someone who endorses the latter, I cannot deny that the former *might* be true. [↑](#footnote-ref-6)