

# Justification of Animal Rights Claim

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**Abstract:** The objective of the paper is to justify the claim for animals' rights. For years, it is one of the most debated questions in the field of applied ethics whether animals' have rights or not. There are a number of philosophers who hold that animals are neither moral agent nor rational being and hence animals have no rights because the concept of rights is applicable only to the rational beings. On the other hand the proponents of animals' rights contend that the standard for having rights is not active rationality but sentience and animals have sentience as they feel pain. So they are also subject to have rights. The main questions to be justified in this essay are, what is it to say that animals have rights? Can animals have any rights at all, if yes, how far? Is it the moral obligation of the human being to ensure animals rights? Considering the questions, in this essay, it will be shown that animals have limited rights and not all animals are subject to having the same rights. It depends on the proportion of their having capacity and capability for the same. It will be tried to make a consensus between the two groups by the way that there are some aspects where we are to acknowledge the rights of animal. It will be shown that not all animals are subject to equal rights.

## Introduction

The discussion on animal rights or our duties towards animals is not a new one. Thomas Aquinas of 13<sup>th</sup> century talks about human concern regarding animals. Many philosophers including Bentham and Kant, scientists, ethicists pay their rational attention on the issue. The main issues in the field of animals' rights are whether we have moral duties towards animals, and that it is their rights to receive reasonable behavior from human being. Admitting the notion that animals have rights, a movement called 'animal rights movement' is introduced and due to the continuous pressure from

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this group some countries formulated laws to preserve animals' rights. In this paper it will be tried to justify that firstly, animal may have rights though not equal to human being; secondly that not all animals are subject to rights, only few animals are subject to rights and though animals' have rights, it is not their direct rights but indirect. Here 'rights' means not legal rights but moral rights. Whenever someone tells that 'A' has moral rights, he has to admit that this 'A' has moral status. The concept of moral status, moral agency and moral rights are interconnected. In this paper, it will be argued that some animals deserve moral rights to human beings. In the succeeding sections the arguments against animals' rights claim and the arguments for animals' rights claim will be discussed and then the main hypothesis of the paper will be analyzed with proper argumentation.

### **Arguments against Animals' Rights Claim**

A number of arguments have been presented by philosophers arguing that animals do not have either moral or legal rights. Most of the arguments are based on the assumption that as animals are not moral agent hence they can't have moral status. And without having moral status animals cannot claim for moral rights. The major arguments supporting the statements have been discussed below.

Some philosophers say that animals have no rights such as David S Oderbrg. He says that having rights depends upon the way the creature itself is, not on what kind of relationship it enters into. ... it is a necessary consequence of having rights that a being has linguistic capacity as well as self-consciousness, but again having rights is not grounded in linguistic capacity (2004). He maintains that to have rights is to possess knowledge and freedom. But no animal has these two qualities. Animals are not governed by their own knowledge as they are not rational. Animals are governed purely by instinct; neither by knowledge i.e. knowledge of itself nor by freedom i.e. no animal is free to live in one way or another. Therefore animals have no rights.

There are also a group of thinkers who are skeptic about animals' rights. They say that animals cannot have rights because they lack the rational capacity to enter into reciprocal relations with other rational animals. Basically the contractualists propagate this view in objection form. They say that moral rights stand on some agreement that will ensure the interest of the both sides. Since human beings are rational animals it can be expected that they can ensure welfare to the animals, if they wish. But in respect of animals we cannot have the guarantee that animals will certainly behave for the interest of human being. In this connection Elizabeth Anderson presents an analogical argument (2004). She states from 'argument from marginal cases' and shows that some animals have the capacities like the marginal human beings, hence at least those animals must have the same rights as marginal human beings. She also contends that there are also some animals who have the sense of reciprocity e.g. trained horse and dogs. So it is not the fact that animals (not all) don't possess the sense of reciprocity in them.

It is sometimes claimed that animals should have equal rights to human beings. But the opponents of animals' rights claim refuted this demand. They hold that human beings are superior to animals. It is because human beings possess the features (qualities/characteristics) necessary for having moral status. Moreover human beings have rationality, sociability, flourishing capacity, capacity of understanding good and bad, of decision making, of reciprocity and so. But animals don't have such quality. Therefore the claim that animals and human beings have equal rights is not plausible. Robert Garner (2005) in respond to the objection of equal rights of animal says, 'what moral equality does mean in this context is that we have to treat morally relevant animal and human interests in the same way, so that, for instance we should not entertain the idea of inflicting pain on an animal if we are not prepared to consider inflicting the same degree of pain on a human (P-44). So the demand of equal rights for animal in proportion to human beings is not analogical to the equal rights between two human beings. It is a matter of human outlook towards animals. It means someone may not treat a street dog in the same way as he does to his pet. In the same line someone may treat his pet like his family member (in respect of responsibility and love

towards the pet). But there are people who may not treat their pet in the same way. And they don't think it as an offence.

There is interconnectedness among the concepts of moral agency, moral status and moral rights. *Moral agency is the pre-condition for moral status and moral status is the pre-condition for moral rights.* Some philosophers hold personhood as a necessary condition for a moral agent to have full moral status. As Kant says that personhood consists in rational moral agency. He divided moral status into two groups; simple moral status and full moral status. In order to be considered for simple moral status something/someone should be moral agent and it's the necessary condition for a being in order to be considered for moral status. He also contends moral agency as both necessary and sufficient condition for the consideration of moral status of a being. Personhood is necessarily important for moral agency. Now animals do not possess personhood in themselves, so they are not moral agent and hence they are not subject of moral rights. The term person is a problematic term in philosophy because in philosophy the concept 'personhood' has cognitive, metaphysical and also moral content. It is safe, I think, to consider the personhood, in this respect from the moral point of view. Tooley accepted this position. He (1972) characterized the term personhood as having ethical content, denoting full moral status, not descriptive content. A creature is a moral person i.e. has moral content if a) it is capable of making moral judgments about the rightness and wrongness of an action and b) it has motives that can be judged morally. According to Warren (2005), the claim that something is a person implies that it has a strong moral status, but not that it has any empirically observable property, such as life, sentience, or rationality. Warren also says that moral agency is the sufficient not necessary condition for moral status but Regan Tom, on the other hand, holds a totally different view. He says that subjects-of-a-life have moral status, and that all of them have the same moral status, thus have the same moral rights; both humans and others. Pluhar also tries to show that not all animals lack personhood. It is because zoologists assume that some animals like great apes, dolphins, and other animal like pets have some degree of capability and rationality. The basic point is that if it is possible to show that

animals are persons then they have moral rights otherwise they do not. But before that from the point of logic it is to be confirmed that personhood is the necessary and sufficient condition for moral status. As moral rights concerns, I may cite the view of Carl Cohen. He says, a right is a claim that one party can validly exercise against another and that claiming occurs only within a community. He argues that “rights are necessarily human; their possessors are person” with the ability to make moral judgments and exercise moral claims. Animal cannot have rights because they lack these abilities (1986). From this Beauchamp concludes that they (animals) lack moral personhood. As there is a long debate over the issue I think until it is not settled whether animals have full moral status, we can hold that some animals have minimum moral status which is enough for them to have minimum moral rights.

### **Main Arguments for Animals’ Rights Claim**

Several arguments are also propagated to show that animals are subject to moral rights. Most of the arguments have minimum rational basis though not widely accepted. The major arguments are discussed below.

*Some philosophers say that since animals have sentience, they are moral agent.* Sentience is one of the most important criteria for claiming to have moral status. It makes animals different from material object and takes nearer to human beings. It is the condition of feeling pain or pleasure. Now a days it is uncontroversial that animals feel pain. As animal feel pain they have sentience. Therefore, they have moral status necessary for having moral rights. Peter Singer, the great proponent of animals rights claim says that sentience is not only a necessary condition for having any moral status but is also a sufficient condition for having a moral status nearly equivalent to that possessed by humans (1975). Therefore as animals have sentience they are considerable for moral status.

Animals also possess the other qualities necessary for moral status. The Nuffield council for Bioethics formulates well acceptable criteria for the moral status of animals. The criteria are

sentience, higher cognitive capacities; the capacities to flourish; sociability and the possession of life. There are many animals which possess these qualities e.g. Apes, Chimpanzee. There are also some animals which possess two or three of these qualities. Therefore, one can deduce that animals have moral status which is a pre-condition to have moral rights. So animals cannot but have moral rights.

Some animal rights claimers argue that if non rational human beings can have rights, both moral and legal, then the animals must have rights. There are so many human beings who are not rational in original sense. The infants, mentally disordered people are of this category. Although these people cannot exercise rationality, their moral rights is acknowledged. There are also human beings who don't have sentience e.g. those who are suffering from Parkinson's disease but their moral status and rights is committed. *If these human beings are subject to moral rights then for the same reasons animals may also have moral status and rights. It is called argument from marginal cases.*

Most of the time, it is commonly argued that animals are inferior to human beings. But the proponents of animals' rights respond that to tell that animals are inferior to human being and therefore they don't have rights is to do speciesism. Speciesism like racism or sexism is the concept to favour a specific species. Peter Singer mentions in his *Practical Ethics* that human beings practice the concept of speciesism when they fail to uphold the rights of animals. Because he believes human beings use animals for their food, clothing, medical experiment and so due to a feeling of superiority over the animals (1993). But being conscious being we have to refrain ourselves from doing so.

It is argued that animals have inherent values, and therefore they are subject to rights. Paul W Taylor (1986) in his *Respect for Nature- A Theory of Environmental Ethics*, tries to show that animals and other elements including plants have inherent values and inherent worth. As a member of earth's ecosystem animals have inherent worth. From his analysis it may also be considered that animals have both intrinsic and inherent values as well as worth

as they are important elements of world ecosystem. According to Taylor, 'The assertion that an entity has inherent worth is here to be understood as entailing two moral judgments: 1) that the entity deserves moral concern and consideration or, in other words, that it is to be regarded as a moral subject, and 2) all moral agents have prima facie duty to promote or preserve the entity's good as an end in itself and for the sake of the entity whose good is it.' (P-75) from Taylor's version it can be concluded that as animals have inherent worth they are the moral subjects and hence human beings have the duty to promote the good of animals and remove the pain persisting in them.

Great apes are subject to rights. It is proved by some scientific observations that the great apes are by nature and quality very much nearer to human being. It is also asserted that if they are trained, they would behave like the human beings. On basis of such similarities with human beings it is claimed that the great apes must have moral rights.

There is also another argument to establish the claim that animals have rights and it is called relationship argument for animal' rights. Sometimes it is hold that relationship determines the claim for rights. Animals are not directly related to human beings so they cannot claim rights. The view that animals are not related to human beings is not fully correct. Though not directly, they are related to us indirectly. We are in many ways dependent on animals. This dependence has made a close relation of animals with the human beings. Moreover there are some animals e.g. dogs, cats and domestic animals which are in some way the member of our community. Therefore from the relationship point of view they are subject to have rights.

### **Critical analysis of the above discussion**

In this section a critical analysis of the arguments given both for and against the claim for animals' rights will take place.

From the above discussion regarding animal rights, it cannot be avoided that animals' have rights. It is because they feel pain which indicates that they are sentient being. But the question is whether they have the equal rights as that of adult human being or human infant or non-rational human being (those who are adult but mentally disabled). There is also another aspect of the discussion that whether animals in general are subject to rights or only few types of animals are subject of rights and if it can be established that animals have rights then, the question arise how much rights can be claimed for them, are human being obliged to ensure that rights directly or indirectly. I think though animals have rights, it is not as much as human being, they have limited rights depending on the degree of capabilities. And not all animals are subject to rights, only those that are sentient, and so are subject to rights that are directly related to human community. In this respect, I would like to respect Warren's Multi-Criterial approach (1997, 2004).

But it is assumed that animals, in general, are not subject to having rights as human beings are. It is argued that there are many animals that don't feel pain e.g. bloodless animals. Therefore, if it generally held that animals have rights then it will make puzzle whether the harming bacteria also has rights? Nuffield council for bioethics encompasses some criteria mentioned earlier to characterize animal as subject to moral agent. If any animal possesses these qualities then it should be considered as moral agent. And if it is moral agent then they are subject to having rights. Suppose the rights of cat and rat. Rats and cats cannot have the same rights. The first is not directly related to human being but the later is. Therefore the later has more rights that the rat. On the other hand dogs and Apes though both are sentient beings, both have mental capacities, the capacity to flourish, possesses life, and may be social; still they cannot claim the same rights. It is due to the degree of the qualities that they possess.

Animals are used in scientific experimentation in plenty. It is thought that human being due to having supreme physical power use animals as much as they can. But a simple question arises, are animals used only for the human interest? I think not. It is because some experiments are also conducted to discover drugs for the

animals. Therefore, those experiments are for the wellbeing of the animals.

Another point to which I want to focus is that human beings are superior to animals in all respects. Human being means adult rational human beings. Animals cannot claim for themselves. It is the duty of the human beings to be kind to them. Because, they are the members of our community, though inferior, and we, the human beings, are dependent on them for many of our needs. Therefore, it is our moral duty to be benevolent towards them.

Animals have rights but not as like as human being or human infant. I believe it because human infant has a possibility to become a sound rational being. By 'sound rational being' I mean being having the capacity to think, to judge, to analyse and to make decision. But animal whether it is the great apes or any other don't have that potentiality. Decision procedure capability, though not present equally to every human being primarily, but if nursed carefully the capacity can be flourished. But in respect of the animals it can hardly be expected. In respect of the objection regarding equal rights for the mentally disabled persons I want to cite the argument of Warren where she says that human being should acknowledge it from the feelings of empathy and self-interest. Self-interest means both the interest of the individual and the community. As human beings have vulnerability to become mentally disabled, it is the duty of the community to support the mentally disabled so that both the disabled and potential to be disabled may have same nursing in the same circumstance.

There is also a factor of reciprocity. Though human being can think of the rights of animals, animals cannot do so towards human beings. As Warren (1997) says, "... we cannot hope that they in turn will respect our rights, making possible the peaceful resolution of any conflicts that arise between their needs and important human or ecological needs." (P-225) The proponents of animals' rights hold that there is an act of reciprocity between animals and human beings. As animals supply human beings their meat, and so, it is the moral responsibility of the human beings to acknowledge their rights and to ensure that. In this case I think it is not the fact in real

sense. It is because, it is a kind of unequal reciprocity. Because human beings can help them, save them from danger, think for their better shelter and treat them in better way but can the animal do these for the human being? There is a qualitative difference. And where there is a qualitative difference, there must be difference in output.

Some animals' rights proponents suggest avoiding eating animals, not to use them in unnecessary scientific experimentation. In this respect I want to say, when they say 'unnecessary experimentation', they don't make clear what they mean by unnecessary experimentation. Whether it is necessary or not, can only be determined by the experimenter. And suppose an experimenter fails to discover his targeted result. Shall we tell that it is an unnecessary experimentation? We should say, certainly not. Because if it can be judged previously that the experiment cannot but be successful, then there need not be any experiment at all. Experiment means the possibility of success and failure. Moreover, for the acute result sometimes it becomes difficult to save the animal from plenty of experiment. In case of refraining from eating meat, suppose every one becomes vegetarian. What will happen? The rate of production of animal is several times higher than human beings. So the world will become the kingdom of animals. So it is not, as I think, fair to leave eating animal meat. What human being can do towards animals is that they should let the animal to have the least sufferings when they kill them.

I think that animals may have indirect rights towards human beings. I think it because right is determined by relationship and this relationship may be either direct or indirect. For example I have two neighbours of whom one is my son and the other is someone else. If both of them become sick, it becomes my direct responsibility to help my son because he is directly related to me. Though animals are the members of our ecology they are not directly connected to human being as one human being is connected with other. Animals and human beings are interconnected and the range of rights can be formulated on basis of the degree of interconnectedness between these two species. Human beings are connected with animal by way of dependence. They are dependent

for their food, clothing and so but they cannot exchange their view, their thought, their feelings, etc with the animal. Therefore, animals may have indirect rights towards human being such as to be kind to them, to be conscious of their sufferings and so on. For Kant,

Our duties towards animals are merely indirect duties to humanity; animal nature has analogies to human nature, and by doing our duties to animals in respect of manifestation of human nature we indirectly do our duties to humanity.<sup>2</sup>

I think it is human instinct to help other animals. I can cite a real example in this regard. One day in rainy season, it was raining in the outside with thunder. A bull was kept in the outside and it was getting frightened. A boy named Ali who did not like the bull and got frightened every time he saw the bull, observed the situation and went out of the house and kept the bull in the farm. This is the attitude of human being that can be called the rights of the animal, the indirect rights, indirect in the sense that human beings are not bound to do it. I think the animal in the example deserves the attitude that has been done by Ali.

All animals do not have the same capability as that of human beings. Some philosophers, namely Peter Singer, want to tell about the equality of the animal with human beings. For this he says about the pain that they get. That pain is equal. How can pain be equal? The structure of human skin and that of an animal is not same but obviously they get pain. It is tried to show that pain and sentience are causally connected. But it is not clear whether sentience is the cause of pain or pain is the cause of sentience. If any instance is found where it can be shown that pain and sentience are not necessarily connected, then the argument will be outweighed. Up to that we can

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<sup>2</sup> See Robert Garner. 2005. *Animal Ethics*, P-41 for a more considerable view.

accept the hypothesis as per theory of corroboration of K. Popper<sup>3</sup>. I don't think that both human being and animal have the same degree of pain that they perceive. Human being may suffer from physical, mental etc. pain. Although there are exceptions, it is generally held that animals can experience only physical pain. It is because they don't possess mind. Moreover the quality of pain is also different. From Singer's hypothesis, if pain is the determiner of rights then the difference in getting pain will also create difference in respect of rights. But the antecedent of the argument i.e. the getting of equal pain of both human and animal does not stand, therefore, their equal rights claim also does not stand. Let alone difference between human beings and animals, in respect of between two human beings, there is a difference of feelings of pain. Therefore, pains experienced by animals and humans are not equal. So the concept of equal rights cannot be deduced from the concept of not-equal pain.

One thing should be considered that in this world there is an eco-system i.e. a system of dependence upon one another. But it becomes problematic when we override the limit. I may have the rights to use the animal but how far and in what way- these are the questions. If the human beings become conscious of it then animals' rights can be established naturally. Warren considers that some animals have additional status derived from the inter-specific, ecological and transitivity of respect principle. On the first principle we have stronger moral obligations towards animals that are members of our mixed social communities; on the second principle, we have social obligations towards animals of species that are endangered by human activities and important for the eco-system; and on the third principle, we are obliged to respect the animals to that extent what is feasible and consistent with the sound moral principles.

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<sup>3</sup> **K. Popper** (1963) in his *The Logic of Scientific Discovery* explains this theory. According to this theory we can continue our support to the existing hypothesis until and unless we discover the better hypothesis. He exemplified the idea by uttering 'all swans are white'. He means we should acknowledge and support this assertion until we find any statement as true evidently either contrary or contradictory to the existing statement.

## **Conclusion**

From the above discussion it can be told that some animals may have moral rights as they have moral status of a certain extent. Not all animals have the same rights. It is determined as per capacity as they have. There is a degree of moral status among these animals. And this degree determines how much right do they have. Moreover, the rights that the animals can enjoy are not necessary but contingent. The contingency depends on the social and ecological circumstances. Strong moral rights can be accorded to those nonhuman animals that explore exceptional sensitivity and intelligence or whose species is endangered by the human activities while declining to ascribe the moral rights to all sentient animals or all animals that are subjects to lives.

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