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Putting Humans First?

David Graham and Nathan Nobis

Putting Humans First: Why We Are Nature's Favorite

Tibor R. Machan

Lanham, Maryland: Rowman & Littlefield, 2004

135 pp., index

1. Introduction

Philosophers and other theorists from a surprisingly wide range of ethical perspectives have argued that harming animals in agribusiness, in the fashion industry, in research labs, and in other arenas—that is, causing animals to experience pain, suffering, and death for these purposes—is seriously morally wrong and that we individually and collectively ought not to support these practices. The range of ethical perspectives includes utilitarianism and other consequentialisms, rights-based deontologies, ideal contractarianisms, virtue ethics, common-sense moralities, religious moralities, feminist ethics, and more, indeed almost every major theoretical perspective in ethics.¹

While there is a river of moral thinking in defense of animals, defenses of common beliefs and attitudes regarding animal use are but a trickle. Therefore, Tibor R. Machan's book, *Putting Humans First: Why We Are Nature's Favorite*, an attempt to justify the status quo regarding animal use and show why its critics are mistaken, is a welcome contribution to the discussion.* Machan deserves credit for

* Tibor Machan responds to the criticisms of Nathan Nobis and others in an essay entitled "Rights, Liberation and Interests: Is there a Sound Case for Animal Rights or Liberation," which appears in *New Essays in Applied Ethics: Animal Rights, Personhood, and the Ethics of Killing*, edited by Hon-Lam Li and Anthony Yeung (New York: Palgrave & Macmillan, 2006). Given the publication of this recent response, Professor Machan has decided not to publish yet another such reply in *The Journal of Ayn Rand Studies*. —Ed.

addressing these issues and going where too few philosophers and other intellectuals have gone before, but we argue that his book is a serious philosophical disappointment. Regrettably, it will not become “the” case against moral perspectives that take animals seriously.

We offer our criticisms, however, in a friendly, constructive spirit. This is because, based on some of what Machan writes, it seems that he should be regarded as a philosophical friend of animals. While he does not seem to intend this, his position seems to morally condemn over 99% of the practices that cause animals to experience pain, suffering, and death. We say “seems” because we argue that a careful reader cannot tell exactly what Machan thinks are acceptable and unacceptable uses of animals. Nevertheless, it seems that any informed and consistent advocates of Machan’s views should conclude that, in nearly all cases, animals should not be raised and killed to be eaten, worn, and even experimented on: they should agree with animal rights advocates on nearly all points of practice about how animals ought to be treated. They might disagree about some points of “theory,” but those disagreements might be merely academic in the most trivial sense.

2. Staying on Target: Why “Rights” Can Be a Distraction

We trust that readers are familiar with the methods of husbandry, use and killing routinely employed in agribusiness, the fur industry and animal experimentation. Machan unfortunately does not provide readers with such information, so we encourage readers to seek it out so they might make more fully informed judgments and choices about these matters.² Understanding these factual conditions gives rise to concrete and practical ethical questions, such as these: Is it morally permissible to treat animals these ways or not? If so, why? If not, what ways of treating animals would be morally permissible? Should we support those who treat animals these ways or not?

Answering these questions can take us into moral theory to think about the basic nature of the difference between right and wrong and what general moral principles are true. In thinking about theory, however, we must remember that for any conclusions about theory we come to, we always need to ask what implications they have for practice, in terms of the answers they suggest to the concrete

questions asked immediately above.

Just as Machan avoids the empirical conditions of how animals are raised and killed, much of his discussion of moral theory avoids direct contact with these concrete questions about the rightness or wrongness of actions that result in harms for animals. Machan's focus on "theory" might explain why much of his discussion is irrelevant to the concrete question of whether such treatment of animals is right or wrong. As an example of this avoidance, in his introduction and first chapter (and throughout the book), he focuses on arguing that animals do not have moral "rights." Below we argue that his arguments for this claim are unsuccessful, but what's important to remember is that even if they were sound and showed that no animals have any moral rights, this would not yield answers to our concrete, practical questions about how animals ought to be treated. This is because, even if animals don't have moral rights, there might be other, non-rights-based reasons that would make it obligatory that we not eat, wear or experiment on them. As Machan himself admits, "the issue of rights does not exhaust the field of morality" (2004a, 21).

Because not all moral obligations depend on moral rights, showing that animals have no moral rights has no immediate implications for the concrete questions of whether they should be raised and killed to be eaten, worn and experimented on. Talk of moral rights, then, can be a huge red herring, a distraction from whether an action or policy is morally permissible or not. Of course, keeping our focus on the evaluations of actions in terms of whether they are morally permissible or not, morally obligatory or not, does not preclude our careful evaluation of Machan's moral-theoretical discussion, and to this we now turn.

3. Beating Strawmen? Avoiding Serious Philosophy

Machan's first chapter, "A Case for Animal Rights?" begins by asking us to consider the story of a boy whose arm was bitten off by a seven-foot, two-hundred-pound shark. After the shark was wrestled ashore and shot dead, a lifeguard retrieved the boy's arm from the gullet of the shark, and doctors reattached it.

Machan reports that although any sane person would agree that it was right to kill the shark to retrieve Jessie's arm, "there are thousands of animal rights advocates around the world, including

sundry Hollywood celebrities and high-profile academics with easy access to the media,” who disagree because they believe “that human beings are no more important than non-human beings” (3). And he wonders why, after the shark was killed, “not one rabid radical environmentalist galloped to the nearest media outlet to bray about how wrong it is to slay a fish merely to smooth the life path of a hegemonic human.”

This passage is an attack on a strawman. Few animal advocates, philosophers, or activists would deny that a human is morally entitled to use deadly force against an animal to fend off an attack or to retrieve a limb that the animal has bitten off. (It’s telling that Machan does not name any philosophers whose views entail that it would be wrong to engage in self-defense in such a bizarre circumstance.) This is because this issue is, plausibly, one of self-defense, not whether “human beings are no more important than non-human beings.” Defenders of animal rights, like defenders of human rights, believe in the right to self-defense and rights to bodily protection (and even restoration, as in this case), whether the aggressor is an animal or a human.

But to keep our discussion directed towards the relevant issues we must ask: If Machan thinks that it’s morally permissible to defend ourselves from sharks in this way, does this entail that standard practices in farms, slaughterhouses, and labs are also morally permissible? This would be a remarkable inference; if it was intended, it surely needs defense. Thus, it seems that Machan introduces the issues to readers with an example that is irrelevant to the important questions.

The simplistic view that Machan is interested in attacking—that animals are simply “more important” than humans and so their interests should always be placed above those of humans, even in a violent conflict between a shark and a boy—is one that no serious philosopher holds. On the contrary, as we will see below, most philosophers arguing for animal rights are merely calling for the recognition of a negative right: the right to be left alone and not harmed. Animal advocates who do not rest their case on “rights” defend similar claims.³

4. Taking On Cases In Defense of Animals

In a variety of places in his book, Machan gives reasons to think that no animals have “moral rights.” To understand the exact claim for which he is arguing, we must understand what he means by moral rights, since this term can be used in a variety of ways. What are these moral rights that, Machan argues, no animals have? We need to understand what moral rights are before we might understand why no animals have them.

Machan’s explanation of what moral rights are is not entirely clear. He claims that “To have a right means to be justified in preventing those who have the choice from intruding on one within a given sphere of jurisdiction” (5), and that “A right specifies a sphere of liberty wherein the agent has full authority to act” (10). On this view about rights, what might it mean to say that animals have no moral rights? Apparently, this is to say that nobody is justified in preventing someone from intruding on any animals’ “sphere of jurisdiction.” This is rather cryptic and not what people typically seem to be saying when they claim that animals have no moral rights, and we will later see that Machan, surprisingly, affirms that animals have rights in this sense.

Since Machan does not adequately explain what moral rights are (or even note the wide variety of possible more specific moral rights, e.g., a moral right not to be tortured, a right to respectful treatment, a right not to suffer for trivial reasons, or a right not to be killed for no good reason, etc.), we need to supplement the discussion. We can pretend and suppose that rights are the only thing that would make routine harms against animals wrong; on this (false) view, to say that animals have no rights is just to say that these routine harms are justified, not wrong. This suggestion at least helps us make Machan’s discussion relevant to the concrete issues, since we are taken directly to reasons that might justify harmful uses of animals.

So, on this view, why is the claim that some animals possess moral rights, as Machan puts it, “a fiction” and “a trick”? Why are people who think it’s wrong to harm animals for food and fashion, among other uses, mistaken? This is because, on his view, a being has moral rights, the properties that presumably would make it wrong to harm it for pleasure or even serious benefits, only if that being has a “moral nature,” that is, a “capacity” to see the difference between

right and wrong and choose accordingly (xv, 10). Machan claims, “It is this moral capacity that establishes a basis for rights, not the fact that animals, like us, have interests or can feel pain.” Machan says humans are of the “kind” of being that have such a moral nature and animals are not and so concludes that humans have rights and animals have none.

So, according to Machan, why is harmful treatments of animals permissible, e.g., why is it okay to cause them pain and suffering for the pleasures of eating them? Because animals have no “moral nature.” Why would it be wrong to treat any humans in such a way? Because they have such a “moral nature,” i.e., the capacity to make moral decisions.

Those who have suffered greatly at the hands of others, or can vividly imagine such an experience, might deny Machan’s hypothesis. On his view, why would it be wrong to torture and kill you, the reader, for no good reason? Not because of anything like this: it would hurt, your serious interests would be set back greatly, doing so would be disrespectful to you, and so on. It would be wrong because you are able to make moral decisions. Those who have been victimized might easily think that Machan is simply wrong about why what their tormenters were doing was wrong. If so, they would think that Machan’s argument for why humans have rights has a false premise. We don’t have rights because we are moral agents, so his argument against animal rights is unsound also, as it shares that false premise.

Setting this aside, we must note that the premises of Machan’s argument against animal rights and for human rights are imprecise: true, we might agree that *only* humans have this capacity for discerning right and wrong, but only *some* humans, not *all*. It’s not the case that all humans who, intuitively, should not be treated as animals are treated have this “moral nature” that Machan describes. They don’t make moral decisions and so are not moral agents. Thus, Machan’s theory of rights seems to provide no protection for vulnerable humans—human babies, severely mentally challenged individuals, and others (regrettably they are often called “marginal cases” or “marginal humans”)—who are not moral agents and so lack the moral nature he describes. So, if such humans have rights, this shows that Machan’s

argument against animal rights is unsound because he has a mistaken view of what is necessary for having any moral rights.⁴

Predictably, Machan disagrees with this evaluation of his argument. He claims that, contrary to appearances, human babies and severely mentally challenged individuals do not “lack moral agency altogether” (16) and thus they have rights on his theory. But how can this be? Machan explains that it’s not “the particular level of intelligence or mental capacity of individual human agents but rather on their particular type of consciousness, namely, what Ayn Rand has called ‘volitional consciousness’ that makes humans moral agents” (16). For this reason, only a human “completely stripped of conscious faculty—for example, an irremediably brain-dead accident victim—might be said to lack moral agency altogether” (16).

So, on Machan’s view, even though these beings do not make any moral decisions (since, perhaps, they don’t make any decisions), they are still moral agents and so have rights. This is simply because they are humans, all human consciousness is “volitional,” having volitional consciousness is sufficient (and necessary?) for having rights, and therefore all humans who have any degree of consciousness—that is, those who are not “vegetables” lacking any consciousness—have rights. So, for example, even though a newborn baby makes no moral decisions, Machan thinks this being is a moral agent now—not a potential moral agent, or a being who will become a moral agent, but an actual moral agent.

This response is arbitrary. Machan defines *any* level of consciousness found in a human being as “volitional” but defines any level of consciousness found in animals as not volitional. But if “volitional” has any meaning at all, it means having free will or having the ability to make moral decisions. As Machan himself says, any human who has the tiniest degree of consciousness does not lack moral agency altogether; this proves that for Machan and for Objectivists, the crucial aspect of “volitional consciousness”—assuming it’s not just a mere synonym for moral agency—is that it includes some quality of moral agency.

But clearly we can point to flesh-and-blood individuals who, despite being conscious, can’t engage in moral reasoning—individuals who’ve had lobotomies, have suffered severe brain damage, are severely retarded, and so on. To insist that, despite this fact, these

humans actually do have “volitional consciousness” simply because no matter what their apparent incapacities are, they are human and therefore all of their consciousness is always “volitional,” is to drain the word “volitional” of any weight or meaning. It becomes an empty term whose only role is to beg the question in favor of human consciousness and to smuggle in the notion that merely being a human with even the slightest degree of consciousness is sufficient to be a moral agent. “Moral agency” or “volitional consciousness” then becomes a capacity that depends, not on a being’s possession of specific mental capacities, but merely on having human DNA and the slightest degree of sentience. Thus, Machan’s response to this objection fails.

In addition to his claim that having any degree of human consciousness is enough to give you volitional consciousness or moral agency, Machan thinks that it is illegitimate to draw any ethical conclusions about animals by examining our ethical beliefs about sentient humans who are not moral agents, and even lack the potential to be moral agents. This is because he insists that we must consider these kinds of humans as they would exist “normally, not abnormally” and focus on the “healthy cases, not the special or exceptional ones” (16; *cf.* 38, 40). Apparently, since these humans would “normally” be moral agents, this is why they have moral rights, even though they are not moral agents.

This response fails also. First, infants and children, at least, are not “abnormal” cases: all human, adult moral agents were once infants and children. They are normal stages in a normal life. Second, why must we, as Machan insists, judge individual cases, some of which are abnormal, as if they were “normal” ones? Machan simply states this guideline without offering a reason for it. At first glance, it seems that making ethical judgments about individuals based not on their own traits but on the traits of normal members of their species is faulty. After all, normal humans are not serial killers; does that mean when deciding how to regard an exceptional, abnormal human like Ted Bundy, we should consider only normal humans? To do so would ignore this individual’s special, and morally relevant, features. It seems that we have to judge people’s moral status by their individual traits, not by what is normal for their species. Machan reports:

A Martian would learn little about human beings beyond the strictly biological if he were instructed only about fetuses, infants, and the mentally ill. Nor can earthlings discover much about how to live their lives by contemplating such cases.

And:

We do need to deal with borderline cases. But we can do so only by applying and adapting the knowledge we acquire from the normal case. We can't start with the exception and infer the rule. (16–17)

These responses do not help Machan's position. It's true that a Martian would learn little about babies, and the mentally challenged, and the senile, if he only examined healthy, normal adults. Likewise, if a doctor studied only humans who had normal, healthy pancreases, she would learn little about how to treat humans who have diabetes. And if she studied only humans who have good vision, she would learn little about treating the causes of blindness in humans.

It would seem, then, that whether we're talking about medicine or morality, to learn how to deal with normal cases, we have to look at individual normal cases, and to learn how to deal with marginal cases, we have to look at individual marginal cases. In other words, we have to look at individuals. We treat beings according to their own characteristics, not the features of other beings who are in some ways similar to them but in other ways different, sometimes importantly so. Thus, in absence of reasons to the contrary, the fact that normal humans are moral agents does not make abnormal humans moral agents. Thus, they do not meet Machan's explicitly stated logically necessary condition for rights, his defense of the rights of vulnerable humans fails, and thereby so does his argument that animals have no moral rights.⁴

To further argue that animals have no rights, Machan claims that, "If nonhuman animals had rights derived from their mere interests, they would have obligations to other (interest-bearing) beings" (14). He suggests that since animals have no obligations to anyone, they have no rights either. But this does not follow: human babies

presumably have the moral right not to be tortured, but they have no duties or obligations to anyone. Machan fails to justify his assumption to the contrary, even though it is part of the bedrock of his claim that no animals can have any moral rights. Machan's refutation of an implausible and, as far as we know, undefended, theory of moral rights—that if someone merely has an *interest* in something, then he or she has a moral *right* to that thing—does little to defend his position either.

While philosophers like Tom Regan, Peter Singer, and many others, have spent decades developing ethical positions on the treatment of animals, Machan's presentation of their positions is very brief, at most only a few pages in a very short book with very large print. A careful reader would not get an accurate sense for what their views are or what their arguments in favor of them are. Machan wishes to criticize these views, but he only provides a caricature.

It seems, then, that this chapter provides no good reason to think that animals cannot have moral rights. It also seems to provide an either false explanation for why any humans have rights, or an inferior one. Machan offers more remarks in later chapters to try to show why animals have no moral rights, and we will address those below. We will argue that these further remarks are equally unsuccessful in providing good reasons to think that routine harms to animals are morally justified.

5. Humans are of “the Highest Value in the Known Universe”?

In his next chapter, “The Case for Speciesism,” Machan attempts to explain why, by gaining an “objective understanding of nature,” we can justify the view that “human beings are more important or valuable than other aspects of nature, including plants and animals” (29). He explains that, “Something is important or valuable when it makes a positive or advantageous difference to something or someone—as when we say that the sun is important for the plant or that his home is a value to John” (30). By this standard, he thinks, humans are “of the highest value in the known universe” (30).

A problem for this theory of value or importance is that since nearly everything, and everyone, makes some positive “difference” to something or someone, everything is important or valuable on this

theory. Some might thus suspect this theory makes value too cheap. While Machan provides no details about what determines what might be of highest value, there is no *a priori* reason that any, and especially all, humans would come out at the top of the scale. Machan notices that the sun makes a big difference to plants (and everyone, for that matter) but doesn't conclude that it is of highest value, even though his theory perhaps implies it is. So his theory of value seems to provide little support for his sense that all humans are of highest value.

In this chapter, Machan returns to his explanation for why humans who are not moral agents nevertheless have rights, but in a slightly different way. The following two passages are representative. First:

The fact of occasional borderline cases is simply irrelevant to the normal case—what is crucial is the generalization that human beings are basically different from other animals by virtue of a crucial threshold in a continuum of degrees. (40)

And, second:

To be sure, some people—infants and certain invalids—cannot be characterized as fully responsible moral agents. There are some who have become so ill or incapacitated that we excuse their conduct even when they act in ways we would normally consider reprehensible. But these are exceptions, explained by reference to the special conditions of debilitation or disease. (38)

It is not clear why Machan states that these cases are “explained by reference to the special conditions of debilitation or disease.” Yes, these humans are different from normal humans, but the moral question is, why these individuals have moral rights even though they lack the qualities that are necessary to have rights, according to Machan's theory.

One way to interpret Machan's answer is this: he is asserting that even though these human marginal cases lack moral agency and volitional consciousness as individuals, these humans still have rights

because they are members of a *species* for whom moral agency and volitional consciousness are the norm. In general, his principle seems to be this: to determine whether an individual has rights, we look not at the individual's capacities, but at what capacities are normal for members of the being's species.

But, again, this is a false principle. For example, normal human adults have the basic hand-eye coordination that is necessary to drive a car; we might plausibly think that this kind of hand-eye coordination is a norm for the species. However, a blind human adult lacks this hand-eye coordination. But so what? As Machan insists, when deciding what rights an individual has, "The fact of occasional borderline cases is simply irrelevant to the normal case . . ." It follows then, on Machan's reasoning, that blind people have a right to drive a car (or just they should be allowed to do so) since the abilities necessary for doing so are ones that normal humans have. But since they don't have this right, again we see that how individuals should be treated is determined by what they are like as individuals, not by what groups they are part of, or what is normal for others, or even what is normal for their species.

As Machan repeatedly reminds us, normal humans don't just have rights: they also have obligations to others. Another consequence of a species-based norm principle seems to be this: if a woman afflicted with paranoid schizophrenia kills an innocent man because she honestly believes that he is trying to kill her with deadly telepathic thought-rays, we must hold her responsible for murder because she failed in her obligations to not murder others. Why? Because being a responsible agent is *normal* for her species and schizophrenia is *abnormal*. However, Machan claims in several passages that animals and humans who lack moral agency cannot be held responsible for these kinds of actions. Unfortunately, before we can accept his theory of "individualist anthropocentrism" and the rejection of animal rights on which it rests, we need answers to these concerns about Machan's repeated appeals to the moral relevance of normalcy.

In a published reply to an earlier, shorter version of this review posted on Nathan Nobis's web site, Machan (2004b) tries to answer the argument from marginal cases by accusing it of falling prey to what he describes as the nitpicking "geometrical" reasoning popular among logicians and analytic philosophers. In this case, this amounts

to observing that if one says that something is a logically necessary condition for having some property (e.g. having moral rights) then, if that claim is true, things that do not meet that condition will lack that property. He says this error results from treating humans like some Platonic entity T, such as a triangle, that always must have certain traits A, B, and C, or else it can't correctly be characterized as a T. Machan says we must accept that in the real world of biological entities,

when something is properly defined, it will have the characteristics that are included in the definition in typical cases, normally, mainly. So, for example, if being a human beings [sic] means, in part, being a moral agent, the bulk of human beings in the bulk of cases, typically, will be moral agents. However, when they are asleep or in a coma or suffer from serious mental impediments they will lack such moral agency. . . . Nonetheless, human beings are moral agents, generally, as a matter of their nature, over the long haul, normally.⁵

But, as have discussed above, the humans who lack Machan's stated logically necessary condition for having moral rights are not limited to those who are deprived of moral agency only while asleep or in a coma. These humans include those who have the potential to become moral agents, such as infants and children, and even those who will never be moral agents because they lack the biological potential, such as the severely brain-damaged, the congenitally disabled, the senile, the permanently insane, and so on. So Machan's appeal to these examples is unhelpful. Surprisingly, Machan (2004b) then goes on to unravel his own response to such an objection:

The law treats us as [moral agents], for example, as do fellow human beings as we go about our lives—we are evaluated for whether we act morally or not, routinely, although in special circumstances such evaluations would be misguided. So, for example, sometimes people accused of a crime are excused because they had some mental impediment that rendered it impossible for them to act as moral agents. The same is true when we judge others morally—if we are informed that they

suffered from certain malfunctions, such as severe traumas, we withdraw our moral judgments.

In other words, we are morally justified in treating human marginal cases differently than normal humans because of special, individual traits, when it comes to attributing duties to them. But in the case of deciding whether these marginal humans have rights, Machan's whole argument is that we should treat marginal cases not differently but the same as normal cases.

Thus, Machan blows hot and cold: he wants to say that when deciding which humans should be held morally responsible, we should happily embrace the "geometrical" reasoning he rejects above. In these cases, we should accept that marginal cases are different from normal cases in ways that have crucial moral implications; that is, we should treat them differently than normal cases. But when deciding which humans have rights, we should reject "geometrical" reasoning and treat marginal humans the same as normal cases.

He can't have it both ways. Either "geometrical" reasoning is faulty when handling marginal cases or it's not faulty when handling marginal cases. What's more, this charge of "geometrical" reasoning fails to defuse all the reductios mentioned above, such as the blind person's alleged "right" to drive based on the normal vision of others, and so on. If we must reject "geometrical" reasoning as Machan defines it, then a blind human has a right to drive a car, and the marginal moral agents in our earlier thought experiments lack moral rights. This again shows that Machan's premises, when made precise, have false implications.

6. Environmentalism and "Altruism"

In the third chapter, "A Sound Environmentalism," Machan calls for the privatization of public lands. The current state, he urges, unjustly restricts individual liberty and, importantly, yields poor environmental management since individuals lack the motivation to properly care for the land and its inhabitants. Machan details some of the positive environmental consequences he thinks would follow from his humans-first environmentalism. For example, he argues that individuals have a right to avoid pollution, and so potential polluters have a legal duty to address the problem or be held financially liable

for damages. These suggestions might provide points of agreement, and a basis for constructive dialogue, between the individualist and the more traditional, non-humanistic environmentalist: despite their philosophical differences, they might be able to agree on more points of practice than either suspected.

In the final chapter, “Putting Humans First,” he compares some radical environmentalists to central planners, determining what is best for everyone from afar without considering differing individual needs and preferences. To illustrate the problem, he relates being criticized for driving an SUV, even though that vehicle works best for him, and tells other amusing anecdotes about his personal life and upbringing. Most importantly, he objects to those who argue that, in our relations with animals, humans often should not be put first. Rather, on their view, animals’ interests in avoiding harms like pain, suffering and death should come before our interests in eating, wearing and experimenting on them. Machan (2004a, 116) responds that “Humans are more important, even better, than animals, and we deserve the benefits that exploiting animals can provide.”

He calls views that deny this principle “altruistic” and calls this kind of altruism “insidious and perverse” (118). We need to take a close look at Machan’s suggestion that not exploiting animals amounts to “altruism” because self-sacrifice, or “altruism,” carries negative philosophical baggage for his Objectivist readers. Reacting to an essay by Peter Singer in the *New York Review of Books*, Machan writes:

Singer [and other animal advocates] could not promise that “we will become healthier, or enjoy life more, if we cease exploiting animals. Animal Liberation will require greater altruism on the part of mankind than any other liberation movement, since animals are incapable of demanding it for themselves, or of protesting against their exploitation by votes, demonstrations, or bombs.” . . . Singer goes on to ask, rhetorically one may assume, whether “man is capable of such genuine altruism? Who knows? If this book does have a significant effect, however, it will be a vindication of all those who have believed that man has within himself the potential for more than cruelty and selfishness.” (115)

But then Machan adds, “So what is called for, if we believe Singer, is not merely humane treatment of members of the nonhuman animal world but, literally, human self-sacrifice. . . . For Singer, altruism requires that we take other animals as our priority as we conduct ourselves in our lives. We’re supposed to sacrifice our well-being for the sake of the guppies and lizards” (116).

We need to keep two things in mind here. First, even Singer does not claim that animals come first. He has stated in many places that by his utilitarian calculus, humans will often count for more than animals. This is because, on his view, many humans can experience pleasure and pain at a more rich and complex level than animals. As Mill, another famous utilitarian said, “It is better to be a human being dissatisfied than a pig satisfied.” So, by suggesting that Singer is putting animals’ interests above those of humans, Machan is either attacking another strawman or revealing his misunderstanding of what Singer’s views actually are. Furthermore, Singer is probably using the term in such a way that relinquishing any “selfish” interest-seeking amounts to “altruism.”

If this is the case, Objectivist readers must be careful not to assume that Singer is calling for “altruism” in the Randian sense. The fact is, if it’s morally wrong to treat animals in certain ways, as a wide range of ethicists have argued (successfully, in our view), then to refrain from treating animals in those ways is not genuinely “altruistic” in any meaningful sense of the word, even if refraining results in some (real or perceived) loss to the people who used to exploit them. If slave-owners in the late nineteenth century lost some (real or perceived) economic value because they stopped using slave labor, it doesn’t follow that refraining from exploiting slaves amounts to “altruism” or self-sacrifice in the sense that Rand and other Objectivists define that term. No matter what Singer or Machan says, simply observing our moral duties or respecting the rights of others is not genuine self-sacrifice in the Randian sense. Refraining from exploiting animals is altruism only if it is morally permissible to harm animals in ways they so often are harmed, but that’s the very point at issue. So, to object to animal rights by saying it’s “altruistic” is to beg the question by merely assuming that routine harms to animals, such as those mentioned above, are morally permissible.

7. Conclusion: A Friend of Animals in Disguise?

What implications does Machan's book have for our treatment of animals? A common concession from critics of animal rights, especially those in the libertarian and Objectivist camp, is to say, "Sure, exploiting animals might be immoral, but that's not the same thing as saying animals have rights. Likewise, it may be immoral to cheat on your boyfriend or girlfriend, but it doesn't follow that you have a right not to be cheated on." Then they suggest that the distinguishing feature between violating a right and merely committing an immoral act is that you can use force to protect a right but not to prevent an immoral act. Therefore, whether to exploit animals is an important personal choice, but no person or group, such as government, can force anyone else to refrain from exploiting animals as if they had a right not to be exploited.

Machan appears to be going down this road when he says, "Is it wrong to use animals for certain nonvital purposes? Quite likely, ethically, but this is not the same conclusion as holding that animals have rights" (21). But on the next page he takes a most surprising turn:

Should there, nevertheless, be laws against certain kinds of cruelty to animals? This is not something I am willing to address fully here. Suffice it to say that, for my part, I would not necessarily take exception if someone were to rescue an animal being treated with cruelty, even if this amounted to invading someone's private property. If one spotted a neighbor torturing his cat, albeit on his own private property, one could well be morally remiss in failing to invade the place and rescue the animal. (22)

This is a remarkable statement in a book that claims to "put humans first" and argues that no animals have rights. For if humans have a duty not to treat cats in a "cruel" way (whatever behavior that includes), and if a moral agent is not only permitted, but obligated, to override the property rights of a person who treats a cat in this way to forcibly prevent the abuse, what does this cat have if not a right not to be treated cruelly?

Furthermore, this admission surprisingly entails that some animals have rights, on Machan's conception of rights. Recall his statement above that "To have a right means to be justified in preventing those who have the choice from intruding on one within a given sphere of jurisdiction" (5). The cat case seems to be one where Machan admits that such intrusion would be justified; that, on his view, entails that the cat has some moral rights, perhaps the right not to be harmed needlessly. And if such a cat has rights, then surely chickens, cows, pigs, and the other animals who humans routinely exploit have such rights too. That would seem to justify the view that, at least, much (if not all) animal agribusiness and the fur industry is morally wrong and ought to be eliminated because they violate these animals' rights. Indeed, it should be even easier to establish that using animals for food and clothing is "needless" than to establish that torturing the cat is needless: we can easily find clothing and food (including some very realistic meat analogues) in today's free market.

Machan concedes that most uses of animals are not for necessity but merely for convenience and sport, that is, for entertainment, presumably including culinary entertainment (19). And even though he thinks animals don't have strictly speaking moral rights, it is still quite likely wrong to use them for certain "nonvital" purposes (21). Again these insights seem to justify the conclusion that the vast majority of uses of animals in the food and fashion industries, being "nonvital," are quite likely wrong, especially in light of the direct harms for human health and indirect harms through environmental contamination. On the other hand, Machan claims that developing some human potentials may justify inflicting suffering on animals, as might other "rational" purposes (20, 118). What sort of purposes and potentials might justify such harms? Unfortunately, we aren't given any guidance.

One thing is clear: whichever ethical terms we use to describe it, Machan's statement about the cruelly treated cat, if correct, entails that as moral agents, we have a duty to forcibly prevent the vast majority of factory farming, dubious animal experiments, fur production, and dozens of other practices that can only be described as cruel and nonvital, to use Machan's own terms. Thus, it would seem that Machan does not believe that humans should always come first, and the Animal and Earth Liberation Fronts, as well as more moderate

animal and environmental advocates, have found an ally in a most surprising place.

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Notes

1. For an overview of the recent literature on ethical issues pertaining to animals, see Taylor 2003. For arguments from utilitarianism, see, among other sources, Singer 1993, which does not meet strict utilitarian qualifications, and Singer 2001, which does; from rights-based deontology, see Regan 2004a, as well as the more accessible Regan 2004b; from Rawlsian-style ideal contractarianism, see Rowlands 2002; from virtue ethics, see Hursthouse 2000; from common-sense morality, see Bernstein 2004 and DeGrazia 2002; from religious moralities, see Scully 2003; from feminism, see Adams and Donavan 1996.

2. For sources and additional information, see Regan 2004b, and Singer 2001. Also see, for example, the investigative films produced by *Compassionate Consumers* (WegmansCruelty.com), *Compassion over Killing* (COK.net), *Farm Sanctuary* (FarmSanctuary.org), *People for the Ethical Treatment of Animals* (PETATV.com), *Tribe of Heart* (TribeofHeart.org), among other sources. Animal use industries generally do not produce films showing the details of their practices. For interesting exceptions, however, see “Veal Farm Tour” at <<http://www.vealfarm.com/veal-farm-tour/>> and the *Fur Commission*’s “Excellence Through Humane Care,” “What Can I Say?” and “Chow Time” at <<http://www.furcommission.com/video>>. For a list of animal-use industry webpages, see the references in Regan 2004b.

3. For further discussion of the notion of “negative rights” and why Machan’s (earlier) arguments failed to show that no animals have them, see Graham 2004.

4. For further elaboration on these objections below, see Hadley 2004.

5. For further discussion of moral mistakes in appealing to what’s “normal,” see Nobis 2004. Nobis writes:

Tibor Machan claims, for Cohen-esque reasons, that humans’ use of animals is permissible because doing so makes “the best use of nature for our success in living our lives” (see Machan 2002, 11). He notes that we also might benefit from using (marginal) humans, but does not explain why that would be wrong. He merely states that “as far as infants or the significantly impaired among human beings are concerned, they cannot be the basis for a general account of human morality, of what rights human beings have. Borderline cases matter in making difficult decisions but not in forging a general theory.” That might be true, but these remarks provide no reason to think that marginal humans have rights and animals don’t, so Machan’s views remain incomplete and undefended. (Nobis 2004, 59 n. 32)

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