Chapter 7
Law and Nature: Human, Non-human, and Ecosystem Rights

Gary Steiner and Marc Lucht

Abstract The major exponents of the Western philosophical tradition have long maintained a conception of rights according to which only human beings can be possessors of rights. On this view, it makes little or no sense to attribute rights to sentient non-human beings, and it makes no sense whatsoever to attribute rights to non-sentient nature. A reflection on the basic commitments motivating this conception of rights reveals that it is based not on robust rational considerations but rather on the unargued anthropocentric prejudice that specifically human forms of rationality are required for full moral status. The tradition's focus on logos leads many exponents of the tradition to exclude non-human animals from the sphere of justice altogether. Recent work in philosophy and ethology, however, has shed light on the intelligence and emotional lives of many non-human animals, and has made it necessary to rethink the moral status of non-human animals. Even more radically, environmental philosophers argue that rejecting anthropocentrism opens the door to the recognition that some even non-sentient and non-living natural phenomena deserve moral consideration and bear rights that ought to be respected. The substantial conceptual differences between ecocentrism and the animal rights approach focus attention on fundamental questions about the very conditions for moral worth and highlight our need for a more satisfactory theory of the world and the proper place of humanity within it.

7.1 The Idea of Rights for Non-human Beings

As heirs to a tradition of Western thinking that dates to the ancient Greeks, we are deeply inured to a system of values according to which the notion of rights properly applies only to human beings. This way of thinking and valuing is so deeply

G. Steiner (✉)
Department of Philosophy, Bucknell University, Lewisburg, PA 17837, USA
e-mail: gsteiner@bucknell.edu

M. Lucht
Clean Valley Council, Roanoke, VA 24015, USA

B. Swartz and B. D. Mishler (eds.), *Speciesism in Biology and Culture*,
https://doi.org/10.1007/978-3-030-99031-2_7

entrenched in our understanding of ourselves and the world that it is extremely difficult to establish the critical distance necessary to take seriously the question whether it might make sense to attribute rights to non-human beings such as animals, and it is especially difficult to contemplate the proposition that non-sentient living beings such as trees or ecosystems might have rights.[1] After all, is it not the case that it would be nonsensical to attribute rights to an entity such as a tree, which seems utterly incapable of any kind of subjective awareness and hence unable to avail itself of any rights it might possess?

From the standpoint of over two thousand years of entrenched common sense, such a proposition is absurd. But for all that, it is not clear that the idea of rights for non-human beings, sentient or otherwise, is ill-conceived. In the present discussion, we set aside the question of rights for non-living beings and focus our attention on the question of rights for living beings, both sentient and non-sentient. We begin by retracing the steps of the history of thinking that has left many in our culture unable and unwilling to take seriously the idea that beings other than humans possess rights. An examination of this history reveals that the idea that rights are exclusively human is based on a fundamental, insufficiently interrogated prejudice about the place of human beings in the cosmic scheme, a prejudice that arrogates the status of divinity (or quasi-divinity) to human beings and relegates all non-human beings to the status of instrumentalities for the satisfaction of human needs and desires.

A reflection on the status of this conviction as a prejudice rather than a product of rational reflection opens up the prospect of challenging it as arbitrary and self-serving, and in turn this opens up the prospect of thinking in a more objective manner about the notion of rights, the sorts of beings to whom or which it properly applies, and the tasks that such a rethinking leaves us for finding a more authentic and morally legitimate relationship to the rest of nature. For the epic excesses and transgressions we have committed against non-human nature, both sentient and non-sentient, cannot be adequately grasped and ameliorated unless and until we arrive at a more *modest* sense of the natural world and our proper place in it.

The history of thinking that we examine here has come in recent years to be characterized as "anthropocentric" in the sense that it proclaims a sense of human centrality and supremacy in the natural order. The idea, for example, that the natural world was created expressly for the sake of human beings—an idea urged by ancient Greek and medieval Christian thinkers alike—is anthropocentric in the sense that it gives human beings license to use everything non-human in the world as resources, without any moral scruple whatsoever other than a concern for the effects our actions may have on other human beings.[2] And while one might think that we moderns are sufficiently enlightened to have shed the irrational prejudices of our ancient and

[1] One could push this line of questioning even further and raise the question whether some non-living beings, such as works of art, might be said to possess rights. See for example Lemos (1982).

[2] It may be worth considering whether the term "anthroposupremacist" better characterizes this attitude than does the more commonly used "anthropocentric."

medieval forbears, the modern scientific reduction of nature to a nexus of efficient-causal relationships operating on inert matter has actually intensified the exploitation of non-human nature to the point that, in Heidegger's words, we have reduced nature to "a gigantic gasoline station, an energy source for modern technology and industry."[3] And, as will become clear in the following discussion, Heidegger's words apply not only to our treatment of non-sentient nature but also, and with great force, to our treatment of non-human animals.

We examine the history of anthropocentric thinking as it applies to our culture's conceptualization and moral valuation of non-human animals, and then we turn to the question whether it might make sense to attribute rights to non-sentient nature. We conclude with some programmatic suggestions about how we would have to rethink the idea of the natural world and our place in it, if we are to reverse the course of an extremely long history of treating non-human beings as beings without inherent worth—a history that has left us with a global crisis we are currently ill-equipped to address, not only because of technological limitations but more importantly because of limitations on our *thinking* imposed by long-standing anthropocentric prejudice.

7.2 Animal Rights

7.2.1 The Problem of Speciesism

Let us imagine a world in which sex slavery is widespread—a world in which girls and young women are customarily and forcibly confined in squalid conditions and their bodies repeatedly violated by men with power over them, a world in which such treatment has the status of normality and few if any onlookers express the slightest misgivings about this regime of domination and submission. And let us imagine that a few self-styled crusaders came forth and insist that the rest of us acknowledge that a grievous injustice is being perpetrated. But what if, instead of maintaining that the only just solution to the problem is to abolish sex slavery altogether, these critics launch a campaign to get more comfortable beds and good medical care for the imprisoned sex slaves? What would be our reaction to such a proposal? One can only assume that a great many people would be astonished, that they would take such a proposal to be cavalier and inhuman, and that they would reply without hesitation that the only just response to such a practice would be to seek its categorical abolition.

Now imagine a world in which the flagrant exploitation of non-human animals is widespread—a world in which a wide variety of animals are customarily and forcibly confined in squalid conditions, their bodies repeatedly and constantly violated by human beings with power over them, a world in which animals are taken for granted by almost the entire human race as little more than delivery devices for food, clothing, entertainment, scientific knowledge, and labor, a world in which in almost all cases

[3] Heidegger (1966).

we end up killing the animals under our control. And let us again imagine that a few wild-haired nay-sayers come forth and decry these practices as unjust exploitation. And, as in the sex slavery case, these critics call for more comfortable living conditions for the exploited beings, rather than calling for the abolition of the regime of exploitation. It is here that the two hypothetical cases, neither of which is entirely hypothetical, diverge. For in the case of human exploitation and degradation, most if not all of us find the prospect of improved conditions for sex slaves to be an inadequate response to a tragic problem, while in the case of animal exploitation the prospect of marginally less traumatic living conditions for animals on the way to their deaths enables us to slumber peacefully—if, indeed, we were bothered by the regime of animal exploitation in the first place. Consider in this connection the passing of Proposition 2 in California in November 2008, a measure that called for marginally less deplorable living conditions for animals destined for slaughter and human consumption.

It is hard to imagine a ballot measure that would call for more comfortable beds and proper medical care for sex slaves. But Proposition 2 was passed by a two-thirds majority of the voting public. It is tempting to suppose that the passage of Proposition 2 reflects increasing concern on the part of humanity about the fortunes of the animals we kill and consume. But how much genuine concern can we be said to have for sentient beings that we are completely comfortable with confining, killing, and consuming? The fact that the same voting public that passed Proposition 2 would consider abhorrent an initiative to provide better living conditions for sex slaves reflects radically different sensibilities about the moral status of human beings and non-human animals. What are the nature of, and the basis for, our different sensibilities about animals and our fellow human beings? Even a brief reflection on the history of Western thinking about human beings and animals shows that these sensibilities reflect deep-seated prejudices about the moral superiority of human beings over animals. One of the most fascinating features of these historical prejudices is that they incorporate just enough truth to conceal the unjustifiable speciesism, the arbitrary privileging of human beings over all other species, that lies at their core.

7.2.2 The Historical Roots of Contemporary Speciesism

The origin and gathering focus of our historical sensibilities is the proclamation of Aristotle and the Stoic philosophers that only human beings possess *logos* and that all non-human animals are categorically *aloga*, lacking in reason or language.[4] For Aristotle, a being must possess rational capacity in order to qualify as a member of a political community. Possessing rational soul, human beings can "set forth the expedient and the inexpedient, and therefore likewise the just and the unjust." Rational

[4] For specific details of the views of Aristotle and the Stoics, see Steiner (2005), Chap. 3.

capacity also enables human beings to have a "sense of good and evil."[5] Beings lacking *logos* are, on the view advanced by Aristotle in his psychological, ethical, and political treatises, bereft of these capacities and thus have no place whatsoever in political community with humans. Aristotle was intimately familiar with a wide variety of forms of animal behavior, having written a number of texts on animals. And while he sometimes acknowledges in his zoological treatises that many animals exhibit intelligence and ingenuity, in his psychological, ethical, and political texts he stresses the fundamental *differences* between human beings and animals and characterizes animal behavior as being driven deterministically by bodily desires. Thus while he acknowledges that many animals live in communities, in the *Politics* Aristotle maintains that "man is more of a political animal than bees or any other gregarious animals."[6] This "more" consists in the fact that human beings can contemplate different possible courses of action, can form general principles, and, most importantly, can devote their lives to the pursuit of moral virtue. It is ultimately our capacity for deliberative choice (*proairesis*) that makes all these activities possible, and it is the fact that animals are driven entirely by bodily desire (*thymos* and *epithymia*) that renders them fundamentally incapable of moral virtue and hence of membership in anything like a moral or political community with human beings.[7] To this extent, our ethical and political obligations to animals are no different than to a "slave *qua* slave:" Slaves, like animals, are "living tools," and as such "there is nothing common [*koinon*] to" freemen and their chattel. At the same time, even though one cannot have a friendship or a justice relationship with a slave *qua* slave, it is possible to have a friendship or justice relationship with a slave *qua* man, whereas there is no more possibility of having a friendship or a justice obligation toward an animal than there is "towards lifeless things."[8]

The Stoic philosophers elevate this sense of human exceptionalism to the status of a cosmic principle, articulating a worldview according to which all sublunary non-human beings were created expressly for the sake of satisfying human needs. Like Aristotle, the Stoics appeal to certain cognitive differences between human beings and animals, and in particular the Stoics argue that animals lack the capacity for rationally-structured mental and emotional states.[9] This leaves animals incapable of "wisdom, foresight, diligence, and reflection," which "have been granted to no creature but man."[10] From this, Seneca draws the conclusion that animals are locked in an eternal present, and that "the Good…does not exist in dumb animals" because

---

[5] Aristotle, *Politics*, book 1, Chap. 2 at 1253a14-16, *The Complete Works of Aristotle*, 2 vols., ed. Jonathan Barnes, Princeton: Princeton/Bollingen, 1995, vol. 2, p. 1988.

[6] Aristotle, *Politics*, book 1, Chap. 2 at 1253a8-9, *The Complete Works of Aristotle*, vol. 2, p. 1988.

[7] Aristotle, *Nicomachean Ethics*, book 6, Chap. 2 at 1139a21-25 and 32, *The Complete Works of Aristotle*, vol. 2, p. 1798; *Eudemian Ethics*, book 2, Chap. 10 at 1225b26-7, *The Complete Works of Aristotle*, vol. 2, p. 1941; *Nicomachean Ethics*, book 3, Chap. 8 at 1116b24-1117a5, *The Complete Works of Aristotle*, vol. 2, p. 1763.

[8] Aristotle, *Nicomachean Ethics*, book 8, Chap. 11 at 1161b1-5, *The Complete Works of Aristotle*, vol. 2, p. 1835.

[9] Laertius (2000), 7.55, 7.63, and 7.111, pp. 165, 173, 217.

[10] Seneca (1928).

"it is a matter of the understanding [*intellectus*]."[11] To say that the good "does not exist" in animals does not mean that they cannot fare well or ill, but rather that the good for animals consists simply in material welfare; the good is absent in animals in the sense they cannot contemplate the good as such. Humans, on the other hand, stand in proximity to the gods in being capable of rationally contemplating the divine *logos*, the ideal order of the cosmos.[12]

On the Stoic view, all beings incapable of contemplating the *logos* exist to satisfy the material needs of human beings—the logic being that, as Aristotle had recognized, the leisure to contemplate demands that our material needs have been satisfied.[13] The capacity to engage in pure contemplation, Aristotelian *theoria*, not only distinguishes human beings from non-human animals, but also makes us most like the gods, who engage in nothing but contemplation. And while this view of the respective places of human beings and animals in the cosmic order might outwardly appear to be identical with Aristotle's view that plants exist for the sake of animals and animals for the sake of man, in fact the Stoics elevate what is a tentative statement of prevailing common sense into a cosmic principle.[14] There is an essential cosmic order, with gods at the apex, humans in relatively close proximity to the gods, and all other sublunary beings existing to satisfy the material needs of those beings capable of contemplation that stand in need of material sustenance.[15]

These commitments implicitly inform the entire subsequent history of Western thinking about the notion of rights and particularly about who properly counts as a possessor of rights. The Stoic position regarding the sphere of right finds a clear focal point in the doctrine of *oikeiosis*, a doctrine of belonging or membership. The Stoics, like Aristotle, recognize that many animals share in something approximating community; but the Stoics follow Aristotle in maintaining that there is "nothing common [*koinon*]" between human beings and animals in an ethically or politically relevant sense. The Stoics, like Aristotle, exclude animals from community with human beings on the grounds that animals are governed by impulse rather than by reason. Marcus Aurelius goes so far as to assert that community [*koinoia*] in a strict sense is not just any assemblage of living or sentient beings but specifically "the good of a rational being."[16] The Stoic conception of *oikeiosis* makes it clear how thinkers such as Marcus Aurelius arrive at the conclusion that community in the highest sense categorically excludes animals. The Stoics conceive of *oikeiosis* in terms of

[11] Seneca (1925), 124.16–18, 124.1–2, pp. 445, 437.

[12] Seneca (2000), p. 43; Cicero (1999), p. 239.

[13] Cicero (1990), 54H; see also Epictetus, *Discourses* 1.6.18, 1.16.1–5, and 2.8.6–8.

[14] Aristotle, *Politics*, book 1, Chap. 8 at 1256b14-21; Seneca (1930), 76.11, p. 153; see also White (1979): 175.

[15] Cicero, *On the Nature of the Gods* 2.133, *The Hellenistic Philosophers* 54N. It is easy to overlook the vital role played by animals in satisfying human needs, inasmuch as the Stoics classify animals along with other material things as *adiaphora* or "indifferents;" in this connection it is important to note that the Stoics qualify this classification by considering animals *proegmena* or "preferreds." See Diogenes Laertius, *Lives of the Eminent Philosophers*, 7.105, vol. 2, p. 211 and Cicero, *On Ends*, 3.15.50–51, pp. 269–71.

[16] Marcus Aurelius 5.16, *The Hellenistic Philosophers* 63 K.

ever-wider spheres or circles of belonging.[17] The first stage of *oikeiosis* is a being's sense of attachment to its own body and its affinity for those things that conduce to material welfare. The second stage of *oikeiosis* is a being's sense of attachment to members of its immediate family, particularly to its offspring. Humans and animals alike are capable of these first two stages of *oikeiosis*, whereas only human beings are capable of making the move to the third stage. At the third stage of *oikeiosis*, rational reflection facilitates "the association of the human race in communities" and makes possible the unification "of the whole human race."[18]

At this most encompassing stage of *oikeiosis*, a sense of concern for all of humanity, even for complete strangers, becomes possible. "The mere fact of their humanity requires that one man should feel another man to be akin to him."[19] This rationally-informed sense of kinship is the ground for "society and intercourse, and for a natural partnership with our fellow men. Moreover nature inspires us with the desire to benefit as many people as we can, and especially by imparting information and the principles of wisdom."[20] The Stoic sense of kinship among humans forms the historical background of the modern conception of the sphere of right, one according to which human beings are included and animals fundamentally excluded: Community in the authentic sense admits only those beings capable of reciprocal acknowledgment and the shared pursuit of moral virtue; thus nonrational beings, beings that are aloga, are categorically excluded from the sphere of right. "It is [the Stoic] doctrine that there can be no question of right [*dikaion*] as between man and the lower animals, because of their unlikeness."[21] In virtue of this lack of kinship, "men can make use of beasts for their own purposes without injustice."[22]

In antiquity, the Aristotelian-Stoic exclusion of animals from the sphere of right on the grounds that they are *aloga* finds its complement in Epicurus's contractualist approach to the notion of justice. Like Aristotle and the Stoics, Epicurus links membership in the sphere of justice to the capacity to "reflect on the things themselves."[23] Epicurus's account of justice closely follows the terms of Aristotle's association of justice with expediency; for Epicurus, justice functions "to prevent one man from being harmed by another."[24] This account of justice also closely follows the terms of the notion of justice that figures centrally in the "golden age" story told by Hesiod and retold by Ovid, a story according to which relations among human beings as well as between human beings and non-human animals were initially peaceful but

[17] For a more detailed discussion of *oikeiosis*, see Steiner, *Anthropocentrism and Its Discontents: The Moral Status of Animals in the History of Western Philosophy*, pp. 88–92.

[18] Cicero, *On Ends* 3.62–3, p. 283; Hierocles (Stobaeus 4.671.7–673.11), *The Hellenistic Philosophers* 57G.

[19] Cicero, *On Ends*, 3.63, p. 283.

[20] Cicero, *On Ends* 3.65, p. 285–6.

[21] Diogenes Laertius 7.129, p. 233 (referring to the views of Chrysippus and Posidonius).

[22] Cicero, *On Ends* 3.67, p. 287 (describing Chrysippus's view).

[23] Diogenes Laertius 10.18, p. 669.

[24] Diogenes Laertius 10.31, p. 675.

eventually devolved into violence.[25] When humanity finally became violent, Zeus had to come to earth and impose the law of justice (*dike*) on human beings as a means for preserving peace and order. Animals were excluded from the justice bond on the grounds that they could not "listen to justice," i.e., on the grounds that they were *aloga*.[26] Epicurus frames this idea in what have come to be known as "contractualist" terms: only those beings capable "of making covenants with one another, to the end that they may neither inflict nor suffer harm," can properly be said to participate in the sphere of justice.[27] Even though Epicurus at one point calls this conception of justice "natural," he denies that there is such a thing as "absolute justice" and maintains that justice consists in nothing more than "an agreement made in reciprocal intercourse…against the infliction or suffering of harm."[28]

Thus membership in the sphere of justice once again devolves upon rational and linguistic capacity, in this case the capacity to enter into mutually-binding reciprocal agreements pertaining to non-harm. Epicurus is clear that the terms "justice" and "injustice" have no application to beings that are incapable of contracting for peaceful interrelationships. Does this by itself show that animals are categorically excluded from the sphere of justice, such that nothing we do to a non-human animal can possibly be considered an injustice? Epicurus does not go so far as to proclaim that only human beings can participate in justice relations, but his remark about the importance of reflecting on the things themselves and his emphasis on the ability to enter into contracts tend strongly in this direction. Porphyry, for one, concludes that Epicurus denied animals the capacity to enter into contracts on the grounds that they "are not receptive to reason."[29]

At the same time, one can reasonably ask the question whether an Epicurean account of justice can accommodate the proposition that at least some animals should be included in it. Do some animals enter into agreements, either with one another or with human beings? The question of justice relations among animals is not of immediate concern in the present discussion, inasmuch as the central question here is whether it makes sense for human beings to recognize rights in animals that create corresponding obligations in human beings. Of more immediate relevance is the question whether it makes sense to see human-animal relations in the contractual terms sketched by Epicurus. One answer that has been given to this question is found in Lucretius: that domesticated animals, at least, "have eagerly fled from the wild beasts, they have sought peace and the generous provision gained by no labour of theirs, which we give them as the reward of their usefulness."[30] In other words, domesticated animals accept the conditions of domestication in at least quasi-contractual exchange for the protection from wild animals provided by human beings.

---

[25] See Steiner, *Anthropocentrism and Its Discontents: The Moral Status of Animals in the History of Western Philosophy*, pp. 43–5.

[26] See Hesiod, *Works and Days* 207–13, 275; see also Ovid, *Metamorphoses*, book 1, lines 90–162.

[27] Diogenes Laertius 10.32, p. 675.

[28] Diogenes Laertius 10.31, 10.33, pp. 673, 675.

[29] Porphyry (2000), 1.12, p. 36.

[30] Lucretius (1997), 5.868–70, p. 447.

Whether this line of reasoning makes sense depends not only on whether one considers animals to be sufficiently rational to enter into mutually-binding agreements, but also on whether one considers domestication to be truly beneficial to animals or instead considers it to be part of a regime of human dominance over non-human nature that ultimately benefits only humans. With regard to both considerations, it is worth bearing in mind that for the most part we treat animals exactly as our ancient predecessors had, namely, as *aloga*, so it seems peculiarly convenient to let ourselves believe that these animals possess rational capacity just enough to give their consent to be husbanded by human beings even though they lack rationality with respect to all other life contingencies. The sense that there is a self-serving inconsistency at work here is only heightened by the most elementary reflections on the ways in which animals are treated under the regime of domestication.[31] In this connection it would be productive to consider the analogous question whether it makes sense to suppose that a group of dependent human slaves might consider themselves similarly bound by an agreement with free humans to provide compulsory service in exchange for protection from "wild" threats, particularly in light of the fact that thinkers such as Aristotle have argued that those human beings who count as "natural" slaves are incapable of articulating rational principles for themselves but must depend on other, more rational human beings to do this on their behalf.[32]

Even more fundamental in this connection is the question whether the very idea of rights is properly understood as a set of reciprocal agreements of non-harm, or whether this conception of rights misses what justice means at its most foundational level. The idea of rights understood as reciprocal agreements presupposes that justice is a *quid pro quo*, that justice is ultimately a matter of extending consideration to others simply because one expects to get something in return. But justice is more than simply a matter of expediency, as should be evident from even the most elementary reflection on the fact that one can wrong another even in the absence of anything like a mutual agreement of non-harm. One thinks immediately in this connection of Kant's example of the shopkeeper who contemplates cheating a young child: The ultimate wrongness of cheating the child has nothing to do with expediency and everything to do with respecting the child's personhood.[33] Kant himself would never consider extending the principle of respect to non-human animals, inasmuch as he categorically classifies animals as "things," which are mere means, in contrast with "persons," which are the only proper objects of respect.[34]

This refusal on Kant's part brings into focus a question that neither he nor his predecessors in antiquity ever confronted, namely, why a being must necessarily

[31] For a revealing reflection on the nature and effects of domestication, see Nibert (2013).

[32] See Aristotle, *Politics*, book 1, chap. 13 at 1260a13-14, *The Complete Works of Aristotle*, vol. 2, p. 1999: "For the slave has no deliberative faculty at all."

[33] Kant (1981), p. 10 (Ak. 397). Here Kant does not specify a child but instead "an inexperienced purchaser."

[34] Kant (1997), p. 147.

possess *logos* in the specifically human sense of abstract rationality and predicatively-structured language in order to count as an object of respect.[35] There have been a few thinkers, such as Porphyry in the early Middle Ages and Schopenhauer in modernity, who have challenged this prejudice and have expressed a much greater openness to the proposition that mere sentience is sufficient for inclusion in the sphere of justice. Schopenhauer, for example, situates human or "temporal" justice within the larger framework of "eternal" or cosmic justice, just as in the twentieth century Karl Löwith would situate human politics within a more encompassing "cosmopolitics."[36] It is within this larger context that it first becomes intelligible to speak of injustices toward non-human animals.

For Aristotle, the Stoics, and Epicurus, a being must be rational and linguistic in order not only to be capable of active participation in the sphere of justice, but to *merit inclusion* in the sphere of justice. For these thinkers, as for a line of thinkers that extends through Augustine, Aquinas, Descartes, and Kant up to contemporary thinkers such as John Rawls and John Finnis, being a beneficiary of justice is an all-or-nothing affair: If a being is a moral agent and can take on duties of justice toward others, then that being is entitled to moral consideration and possesses rights. But if that being lacks the capacity to contemplate and respect rights and duties, then that being is excluded from the sphere of right altogether and nothing we do to that being can be construed as an injustice. And to the extent that animals are *aloga* and can neither contemplate nor act in observance of rights and duties, for these thinkers we have no justice relationship with animals whatsoever. Any concern we express toward animals is either a matter of personal inclination or a by-product of our concern for our fellow human beings.

This line of thinking persists virtually unmodified in the entire subsequent history of Western philosophy. Saint Augustine writes that "we can perceive by their cries that animals die in pain, although we make little of this since the beast, lacking a rational soul, is not related to us by a common nature."[37] Saint Thomas Aquinas asserts that animals are moved purely by instinct and entirely lack cognition, that animals are completely lacking in free will, and that because "by divine providence [animals] are intended for man's use according to the order of nature…it is not wrong for man to make use of [animals], either by killing or by any other way whatsoever." Aquinas's only qualification on this last statement is that we ought to avoid inflicting gratuitous harm on animals—not because we owe anything to animals, but because such infliction of harm makes us more liable to be cruel to our fellow human beings.[38]

---

[35] Christine Korsgaard has recently sought to revise Kant' views on animals on exactly this basis, although she retains Kant's commitment to the idea that human beings are distinct from animals in possessing rationality. See Korsgaard (2018) (suggesting at p. 97 that it is "likely that only human beings are rational").

[36] See Arthur Schopenhauer (1995), sec. 17, p. 152 and (1958), sec. 63 and 64, pp. 350, 357; Löwith (1981), p. 303. On the notion of cosmic justice, see also Steiner (2008), Chaps. 5 and 6.

[37] Augustine (1966), book 2, Chap. 17, sec. 59, p. 105.

[38] Saint Thomas Aquinas, *Summa Theologica* 1–2, q. 40, art. 3, repl. obj. 1, in *The "Summa Theologica" of St. Thomas Aquinas*, trans. Fathers of the English Dominican Province, 22 vols. (London: Burns Oats and Washbourne, 1920–25), 6:460; *De Veritate*, q. 24, art. 1, resp., in *Truth*, trans.

In the Enlightenment Kant retains this rather tepid qualification but he places great stress on the fact that the duty to avoid gratuitous cruelty to animals is really not a duty to animals at all but rather to humanity.[39] As already noted, for Kant, animals are mere "things," living instrumentalities with no inherent worth of their own.[40] Indeed on Kant's view, animals are ultimately more like vegetables or fertile fields than they are like human beings: "vegetables (e.g., potatoes) and domestic animals…are *made* by human beings…and may therefore be used, expended or consumed (i.e., killed)."[41] One can easily imagine Kant offering a comparable assessment of the moral status of wild animals—that even though they are not "made" by human beings, their moral status is nonetheless that of mere "things" or instrumentalities and hence we have no direct duties whatsoever toward them. In our own time, the political philosopher John Finnis argues that "those who propose that animals have rights have a deficient appreciation of the basic forms of human good," which is to say that the very idea of justice is oriented on the kind of good of which only human beings are capable. Finnis suggests that human good is different than whatever sorts of goods animals may participate in, inasmuch as human but not animal experience is "expressive of decision, choice, reflectiveness, commitment, as fruition of purpose, or of self-discipline or self-abandonment, and as the action of a responsible personality." Justice, in other words, is oriented exclusively on "respect for human good" and has no reference whatsoever to any other sort of good, regardless of anything we might claim about the supposed richness or dignity of animal experience.[42]

This view of justice remains dominant throughout the history of Western thought. Not only does it reduce the idea of injustice toward anyone or anything non-human to absurdity, but its historical emergence coincides with the Stoic proclamation that everything non-human in the natural world exists expressly for the sake of satisfying human needs and desires and the Epicurean assertion that justice is entirely a matter of reciprocal contractual arrangements. The modern formulation of this prejudice is that only human beings possess inherent moral worth, whereas all non-human natural beings possess merely instrumental value. If there is any prospect of overcoming the anthropocentric, speciesistic prejudice of the Western tradition, everything depends on rethinking the self-serving and unjustifiable exclusion of animals from the sphere of justice that lies at its core.

Robert W. Mulligan, et. al., 3 vols. (Indianapolis: Hackett, 1995), 3:138; *Summa Contra Gentiles* 3, Chap. 92, in *Basic Writings of St. Thomas Aquinas*, ed. Anton C. Pegis, 2 vols. (Indianapolis: Hackett, 1997), 2:222.

[39] Kant (1996), sec. 17, p. 193 (emphasis in original).

[40] Kant (2008), sec. 83, p. 298.

[41] Kant, *The Metaphysics of Morals*, Doctrine of Right, sec. 55, p. 115 (Ak. 6:345, translation altered).

[42] Finnis (1980), p. 194f.

7.2.3 Contemporary Defenses of Speciesism

Why is such a rethinking necessary? For unapologetically anthropocentric thinkers such as Richard Posner, there is no need for such a rethinking. Posner suggests that his sense of the absolute moral priority of human beings over non-human animals is based on "a moral intuition deeper than any reason," and he dismisses as "weird" and "insane" any theory according to which animals count anywhere near as much as human beings in the moral scheme of things. To the objection that his view commits the same kind of mistake against rational consistency that the racist or the sexist commits, Posner replies that the analogy between racism and sexism on the one hand and speciesism on the other exhibits "a sad poverty of imagination."[43] But does it? Why should we acknowledge, as Posner does, that racism and sexism are unacceptable on rational grounds, but deny that speciesism is an irrational prejudice? It is here that Posner purports to appeal to "moral intuitions that are deeper than any reason." But are these really *moral* intuitions, or do they instead exhibit the kind of "self-serving inconsistency" that Martha Nussbaum observes to be so pervasive in our judgments about the moral status of animals?[44]

Let us put this question aside for a moment and consider the relative importance that our society places on the predicament of animals—a predicament attested to by the fact that, according to the United Nations Food and Agriculture Organization, over seventy *billion* land animals (over ten times the world's human population) are killed for human consumption worldwide *every year*. The pressing exigencies that confront human beings on a day-to-day basis tend to resolve themselves into three main categories: human health and welfare problems, ecological problems, and problems of animal rights or animal welfare. In the absence of what John Rawls once called "a theory of the natural order and our place in it," these three kinds of problem sit in an uneasy tension with one another, one kind sometimes taking precedence over the others but human health and welfare concerns almost always winning out.[45] Thus, for example, even when people say that we face an imperative of responsibility to exercise stewardship over the natural world, they tend to base this imperative not on anything we owe directly to the natural world but rather on what we owe to future generations of humanity. Only on a view according to which nature and animals are essentially raw materials can we make sense of the devastation that we have visited upon the environment and non-human sentient life. For if we viewed nature or animals as having some kind of inherent worth, we would have to recognize that our actions and our entire way of life constitute an affront to the dignity of the non-human.

So what about Posner's claim that our sense of the categorical superiority of human beings is a moral intuition impervious to reason? This claim is a little too convenient, as is the suggestion, made by many anthropocentric thinkers, that the analogy between the subjection of animals and human slavery is ill-founded. What

[43] Posner (2004), pp. 65, 58.

[44] Nussbaum (review discussion of Wise 2000) (2001).

[45] Rawls (1999), p. 448.

thinkers like Posner would have us ignore is the fact that a great many non-human animals are conscious, deliberate, feeling, caring, meaning-seeking beings with a tremendous array of cognitive and affective capacities of which we are becoming increasingly aware with every passing day.[46] Posner is not really invoking a ground-floor moral intuition, as he suggests; instead he is relying on an ancient unargued assumption that certain experiential capacities render human beings morally superior to non-human animals. Thinkers who dogmatically proclaim the moral superiority of human beings over animals would have us believe that those rational and linguistic capacities that are unique to human beings just happen to be the capacities that are the most relevant to the consideration of moral status. But what is the significance of the ability to do mathematics or compose symphonies to the determination of a being's moral status? Why not base moral status instead on, say, the ability to care for one's young or the ability to recognize extremely minute differences between faces or facial expressions? More to the point, why attribute inherent moral worth only to those beings who can contemplate things like moral worth in the abstract or who can enter into reciprocally-binding contractual arrangements articulated in human language? And on what grounds do we *attribute* inherent moral worth to human beings who cannot do these things, while *denying* inherent worth to animals with experiential capacities that are more sophisticated than the capacities of some humans?

Germane here is the so-called argument from marginal cases. Whereas thinkers such as Finnis would deny rights to animals on the grounds that animals allegedly lack capacities such as "decision, choice, reflectiveness, commitment," and "self-discipline," and whereas others would deny moral personhood to animals on the grounds that animals cannot use language, use reason, or participate in social contracts, there exist human beings who lack these capacities as well. Yet very few thinkers would be willing to defend the idea that it would be permissible to treat these human beings as animals normally are treated. Many human beings, such as the insane, the senile, infants, the severely mentally retarded, and the comatose, cannot be judged to be rationally autonomous, or to be deliberative moral agents capable of freely entering into relationships of mutual respect. Nevertheless, societies such as ours do not permit the eating of these people or the subjecting of them to painful medical experiments. To claim that animals are not entitled to moral consideration on the grounds that they lack some morally salient capacity, but that senile or comatose human beings do deserve moral consideration in spite the fact that they lack that same capacity, is arbitrary and speciesist. As Daniel Dombrowski notes, absent the identification of a morally relevant difference distinguishing them, it is simply rationally inconsistent to regard "marginal" human beings as possessing moral worth while simultaneously denying that worth to non-human animals. Especially when we

[46] See, for example, see Correia (2007), Godfrey-Smith (2016), Griffin (1992), Krützen et al. (2005), Mather (2008), Pepperberg et al. (2005), Reiss and Marino (2001), Taylor et al. (2007) and de Waal (2017).

take into consideration human beings who suffer cognitive and psychological impairments, "there does not seem to be a morally relevant characteristic that distinguishes all humans from other animals."[47]

The kinds of "reasons" we offer in an attempt to justify our differential treatment of human beings and animals quickly break down, and it becomes apparent that what we appeal to as reasons are ultimately nothing more than smoke screens for irrational prejudice. We intermingle just enough truth with these prejudices to disburden ourselves of the obligation to interrogate our own deepest motivations. It is true, for example, that only human beings can articulate and endeavor to live in accordance with general principles. Even the primate researcher Frans de Waal, who has done so much to show that a variety of non-human animals exhibit proto-moral behavior, has observed that "we have moral systems and apes do not."[48] But why base moral status on the ability to think systematically, particularly in light of the fact that the record of human history has to make us wonder whether human beings actually live in accordance with systematic principles of justice? De Waal, for his own part, would have us believe that the crux of the matter is not really the ability to think systematically, but rather the fact that giving preference to human beings over animals is an evolutionary imperative. "It is not just that we are biased in favor of the innermost circles (ourselves, our family, our community, our species)," de Waal urges, "we *ought* to be. Loyalty is a moral duty." It is on these grounds that de Waal believes we ought to give moral priority to "an intellectually disabled human" over "any animal."[49] Tom Regan uses somewhat different reasoning to arrive at a very similar conclusion, arguing that it would be justifiable to kill a million dogs (and, by implication, every last non-human animal on earth) to save one human being.[50]

De Waal bases his privileging of human beings on a theory of kinship, whereas Regan bases his on the claim that a human being has greater opportunities for future

---

[47] Dombrowski (2006), cf. Dombrowski (1997).

[48] De Waal (2006).

[49] De Waal, *Primates and Philosophers*, p. 165. It is worth noting that de Waal's suggestion that we ought to be biased in favor of our "innermost circles" comes dangerously close to a legitimation of attitudes such as sexism, racism, and nationalism. If indeed one ought to be loyal and extend moral preferences to those with whom one shares a great deal in common, if one ought to prefer one's family, community, species, or any other group with which one is closely affiliated, then there would be little reason for men to refrain from preferring other men, for women to refrain from regarding other women as deserving of greater moral entitlement that men, or for Americans to resist the temptation to discount the moral claims of people from other nations. De Waal may well be correct that the pressures of natural selection have predisposed human beings to prefer those who are judged to be somehow like them. Any such predispositions, however, do not count as moral justification. And to respond by claiming that one ought to prefer one's own species over others, but that one ought not be biased towards one's own sex or race, is just arbitrary.

[50] Regan (1983). On the problematic implications of Regan's resolution of the lifeboat dilemma, see Steiner, *Anthropocentrism and Its Discontents: The Moral Status of Animals in the History of Western Philosophy*, pp. 11–12, 225; for Regan's blithe dismissal of the suggestion that his resolution of the lifeboat dilemma reflects a retreat from the proposition that all animals who count as "subjects-of-a-life" possess inherent moral worth, see his preface to the updated edition of *The Case for Animal Rights* (Berkeley/Los Angeles: University of California Press, 2004), p. xxxiii.

satisfaction than any non-human animal. But do human beings have greater opportunities for future satisfaction? We assert dogmatically and without any actual basis in fact that this is the case. For what, exactly, do most of us know about the experiential capacities of non-human animals? We look, and we see beings that do not communicate with us in terms that are meaningful to us. Does this mean that life is not meaningful for animals? Or does it mean that we humans, who for so long have arrogated to ourselves a godlike place in the scheme of things, lack the capacity to appreciate foreign forms of sentient life? For life is every bit as meaningful to non-human animals as it is to us, even though it is not meaningful in the same ways and even though animals cannot demonstrate this meaningfulness to us in terms that we would accept as dispositive.

And what about de Waal's appeal to the notion of kinship? That, too, ultimately resolves itself into a speciesistic prejudice. For is there any way of justifying the claim that those closer to us have greater moral worth than those relatively distant from us? Certainly it would be understandable if I gave preference to my own child over the child of a stranger in a situation in which I could save only one of them from grave danger. But this can hardly be made into a general moral principle according to which I am entitled in every case to give priority to my own kin, and indeed one of the greatest challenges of morality consists in suspending my desire to give preferential treatment to those closest to me so that I can do justice to those more remote from me.[51] Our relationship to animals is of precisely this nature. But there is this additional consideration: As much as anything else, morality ought to be about extending consideration to those who are most vulnerable to harm or exploitation. And even the most casual reflection makes it absolutely clear that non-human animals are the most vulnerable sentient beings on the planet.

7.2.4 How to Address the Problem of Speciesistic Prejudice

What sorts of moral obligations should we consider ourselves to have toward these vulnerable beings? Of those people who acknowledge that we have moral obligations toward non-human animals, the vast majority are what Gary Francione calls welfarists: they are people who believe that we ought to devote our energies to improving the conditions in which we maintain animals while we confine them, experiment on them, and ultimately kill them. It is in this sense that California's Proposition 2 is a classic example of welfarist thinking. But there are two serious problems with welfarist measures. First, as Francione has amply pointed out, such measures do nothing to stem the exploitation of animals, but instead simply make us feel better about exploiting them—such measures reinforce the sensibility that confinement, experimentation, killing, and the like are perfectly acceptable provided that we perform these practices "nicely." In this connection, Francione observes that

[51] Derrida goes so far as to suggest that our most profound moral obligations are actually to those most *un*like us. See Derrida (2009).

today there are more animal welfare laws on the books than ever before, and that there is more extensive and more egregious confinement and killing of animals than ever before.[52] The second and more serious problem with the welfarist approach is that it is tragically question-begging: it diverts attention from the fact that the moral baseline is one according to which *we shouldn't be confining and killing animals in the first place*, particularly in light of the fact that few if any human beings on the entire planet actually need to do things like kill and eat animals. We tell ourselves that animals don't know what is happening to them. We tell ourselves that animals kill animals, that we are animals, and that therefore it is perfectly in the order of things for us to kill animals. We tell ourselves a great many things in an attempt to rationalize the things we do to animals. But let us be clear: Ultimately we do these things not out of any genuine need, but simply because the regime of animal exploitation is habitual, convenient, and, in some perverse way, pleasurable. If we really wish to do justice to our linguistic and rational capacities, then it behooves us to articulate and strive to live in accordance with principles of nonviolence, one of whose corollaries is that we ought to grant animals the freedom to live their lives unfettered, just as we seek to live our own.

7.3 Ecosystem Rights

7.3.1 On the Possibility of Ecosystem Rights

Thinkers such as Gary Francione argue that all and only sentient creatures deserve moral consideration and therefore are included in the sphere of justice. On Francione's view, sentient beings have certain interests, such as an interest in not suffering and in continued existence, and rights are moral and legal mechanisms for protecting such interests.[53] A key function of rights is to make explicit and protect the interest that sentient beings have in self-determination, i.e., in determining the course of their own lives without interference from others. Of course, no one, not even a human being, may reasonably expect to engage in acts of self-determination without limit; fundamental to the task of living together with others is the need to accept limits on one's conduct where that conduct unduly interferes with the rights of others to self-determination. This is a proposition that we have little difficulty accepting in the case of relations among human beings; but most in our culture remain highly resistant to the idea that this proposition applies to human-animal relations as well, and particularly to the idea that animals possess rights that we must respect even at the price of our own happiness or convenience.

It is at least in part because of the arbitrary emphasis on certain, putatively uniquely human, forms of rationality through history that animals have been relegated to the

[52] Francione (1996).

[53] See Francione (2000).

status of instrumentality; the insight that vulnerable creatures with the capacity to suffer and who possess interests in their own well-being do indeed matter morally, should move us to recognize at least sentient animals as full-fledged members of the moral community and pursue the elimination of their exploitation. Francione appeals to the principle of equal consideration of interests to demonstrate that there is a fundamental logical inconsistency in extending rights to human beings while denying them to sentient non-humans, inasmuch as what is decisive for moral status is not any form of putatively sophisticated rationality but simply sentience, the ability to have subjective experiences.[54] Indeed, on Francione's view, sentience is not merely sufficient for moral status but downright *necessary*: on his view, sentient beings can be harmed in ways in which non-sentient beings cannot, and these forms of harm are qualitatively more urgent than the kinds of harms that can be inflicted on non-sentient beings.

Many environmental philosophers, however, go further, and argue that the sphere of moral considerability should be recognized to be even wider. Just as the logocentric prejudice shared by Aristotle and the Stoics (namely, their focus on *logos* as reason or language) has contributed to a cultural bias against recognizing the moral worth of non-human animals, so our having inherited that prejudice has contributed to the exclusion of the rest of non-sentient nature from the moral community. For more broad-minded environmental thinkers, it is not only human beings and non-human animals who are the proper recipients of moral concern, but even non-sentient living beings such as trees and non-living entities such as mountains, rivers, and ecosystems deserve moral consideration.

Aldo Leopold, in his 1949 *A Sand County Almanac*, offers one of the classic and most enduringly influential statements of this position. Leopold argues that through human history, as part of a process of "ecological evolution," the boundaries of the moral community have gradually enlarged to progressively include those previously excluded.[55] In Homeric times, for instance, the "ethical structure" "covered wives, but had not yet been extended to human chattels," such as Odysseus' unfortunate slave girls, "hanged all on one rope" upon his return.[56] Over time, groups of human beings excluded from the moral community have gradually been incorporated into it, and no longer is it thought permissible to regard human beings as property. Leopold claims that the earliest ethical systems governed relations among individuals, and later evolved to govern the relation between the individual and society: "The Golden Rule tries to integrate the individual to society; democracy to integrate social organization to the individual."[57] But Leopold notes that thus far we are lacking an ethic governing humanity's relation to the land. Land, he says, "like Odysseus" slave-girls, is still property. The land-relation is still strictly economic, entailing privileges but not obligations."[58] Given the magnitude of the environmental challenges humanity

[54] Ibid.

[55] Leopold (1970).

[56] Leopold, *A Sand Country Almanac*, p. 237.

[57] Leopold, *A Sand Country Almanac,* p. 238.

[58] See Footnote 57.

faces, Leopold holds that this further extension of moral considerability is an ecological necessity. As such, he proposes enlarging the moral community to include not just human beings, but "soils, waters, plants, and animals, or collectively: the land [….]. In short, a land ethic changes the role of *Homo sapiens* from conqueror of the land-community to plain member and citizen of it. It implies respect for his fellow-members, and also respect for the community as such."[59] We are called to respect members of a community including not just human beings and other animals, but also soils and waters; human beings, as "plain members" of that community, presumably would enjoy no special privileges or rights. Moral considerability extends not just to the individual members of an ecosystem, but even to the biotic community itself. Indeed, Leopold famously claims that conduct ought to be judged not merely in terms of its implications for other human beings or non-human animals, but that we should adopt a much broader perspective when assessing the morality of our choices: "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise."[60] Of paramount moral importance are not individuals, but ecosystems of which they are parts and which sustain them.

The spirit of Leopold's land ethic animates more systematically developed ecocentric philosophical positions, such as deep ecology. Deep ecologists argue for a holistic vision of human and other creatures as integrated within a natural world in which everything is interconnected. Deep ecologists Bill Devall and George Sessions write:

> Ecological consciousness and deep ecology are in sharp contrast with the dominant world-view of technocratic-industrial societies which regards humans as isolated and fundamentally separate from the rest of Nature, as superior to, and in charge of, the rest of creation […]. For deep ecology, the study of our place in the Earth household includes the study of ourselves as part of the organic whole. Going beyond a narrowly materialist scientific understanding of reality, the spiritual and the material aspects of reality fuse together.[61]

As parts of larger ecological wholes, human beings should recognize that the "earth does not belong to humans," and that natural phenomena are characterized by an inherent worth independent of their utility to humanity and independent of any recognition of their worth by conscious beings.[62] This position is deeply non-anthropocentric, for the understanding that natural phenomena possess inherent worth entails recognition that those phenomena command moral respect and are in no way subordinate to humanity's existence and interests. Human beings must learn to stop evaluating all worth merely in relation to their own interests, and must recognize that they possess "no right to reduce" the "richness and diversity" of life "except to satisfy vital needs."[63] Human rational and spiritual capacities entitle us to no special privilege or moral status. Should human beings' interests and non-vital needs "come into conflict with the vital needs of non-humans, then humans should

---

[59] Leopold, *A Sand Country Almanac,* pp. 239–40.

[60] Leopold, *A Sand Country Almanac*, p. 262.

[61] Devall and Sessions (1985).

[62] Naess (1998).

[63] Naess, "The Deep Ecological Movement: Some Philosophical Perspectives," p. 439.

defer to the latter,"[64] and therefore we are obligated to re-evaluate prevailing "modes of production and consumption […]."[65] Deep ecologist Arne Naess notes that this orientation towards the inherent worth of all of nature does not refer only to living creatures, but "refers to the biosphere, or more professionally, to the ecosphere as a whole […]. This includes individuals, species, populations, habitat, as well as human and non-human cultures. Given our current knowledge of all-pervasive intimate relationships, this implies a fundamental concern and respect."[66] Indeed, Naess says that deep ecologists employ the term "life" "in a more comprehensive, nontechnical way also to refer to what biologists classify as "non-living": rivers (watersheds), landscapes, ecosystems."[67] In other words, deep ecology adopts "an ecosystem approach rather than the consideration merely of isolated life forms or local situations,"[68] and asks us to recognize that living creatures and even non-living natural entities and systems matter morally and deserve respect.

7.3.2 Animal Rights and Ecosystem Rights

The ecocentric concern with habitats or ecosystems stands in practical and conceptual tension with many of the commitments of animal rights advocates. These tensions are exacerbated when it becomes clear that, at least for many ecocentric thinkers, our duties to ecosystems themselves may well take priority over duties to individuals.[69] Such differing commitments about the relative moral priority of ecosystems and the interests of individual human beings or animals lead to very different views about proper responses to practical challenges. For instance, Leopold's commitment to preserving the integrity and stability of an ecosystem most likely would lead him to endorse the removal (if possible) or culling of invasive species or domesticated animals who had colonized an area only to threaten existing or native flora and fauna.

---

[64] Naess, "The Deep Ecological Movement: Some Philosophical Perspectives," p. 442.

[65] Naess, "The Deep Ecological Movement: Some Philosophical Perspectives," p. 441.

[66] See Footnote 63.

[67] See Footnote 63.

[68] See Footnote 65.

[69] The environmental ethicist Paul W. Taylor is critical of the ways in which the holistic positions of thinkers such as Leopold fail to value sufficiently the worth of individual living beings, as they assign worth to the goods of individuals merely instrumentally, insofar as those goods contribute "to the well being of the system as a whole." Taylor (1986). Taylor refers to his own position as biocentric, rather than holistic or organicist, and argues that those entities deserving of respect are individual organisms recognized as teleological centers of life existing in a natural system of reciprocal interdependence; see Taylor, *Respect for Nature: A Theory of Environmental Ethics*, p. 153. However, Taylor's stance must also be distinguished from those of most advocates of animal rights, for although he argues for a non-anthropocentric outlook, his argument for respecting living nature often seems to result in ambiguity about the worth of those creatures he takes to be non-natural or non-wild, such as domesticated animals (cf. Taylor, *Respect for Nature*, pp. 9, 13, 46, 53–8, 167). Because of the nature and scale of the meat industry, the latter typically are of particular concern to animal rights advocates.

Whereas for supporters of animal rights, the culling of invasive animals might be regarded as akin to murder, for an ecocentrist such as Leopold the requirements of ecosystem functioning and robust biodiversity would override the interests of any individual animals impeding that functioning. Indeed, as Mark Sagoff notes, Leopold endorsed hunting as an important means for supporting ecosystem health given the widespread elimination of "top predators."[70] Thus Sagoff says that the "policies environmentalists recommend are informed by the concepts of population biology, not the concepts of animal equality […]. The environmentalist would sacrifice the lives of individual creatures to preserve the authenticity, integrity, and complexity of ecological systems. The [animal] liberationist […] must be willing, in principle, to sacrifice the authenticity, integrity, and complexity of ecosystems to protect the rights, or guard the lives, of animals."[71]

The animal rights and environmentalist approaches share a deep and enduring commitment to the moral dangers of anthropocentrism. Both take as starting points the crucial insight that human beings are not all that matters morally, and that many beings other than human beings deserve to be regarded and treated with respect. The traditional appeals to rationality and the capacity to participate in contractual arrangements as the conditions for moral worth unacceptably restrict the scope of the moral community. For each approach, the boundaries of the moral community ought to be enlarged to include much more than merely *Homo sapiens*. Both approaches also share the view that the anthropocentric constriction of the moral community to include only humanity provides license for people to give free reign to some of their most selfish and dangerous proclivities: by finding reason to relegate all beings other than human beings, including all non-human animals and the entirety of the natural world, to the status of mere resource, the value of which is measured entirely in relation to human needs and desires, human beings take themselves to be permitted to do basically whatever they want with respect to nature and animals (perhaps under the constraint that those practices do not unacceptably harm other human beings in some way). This license has led to tragic and dangerous instances of environmental devastation and to the making routine of horrific practices in the meat and animal experimentation industries. Leopold's urging us to regard ourselves as "plain members" or ordinary citizens of the biotic community, and the animal rights supporters' caution against speciesist bias, both amount to a rejection of the human

[70] Sagoff (2001).

[71] Sagoff, "Animal Liberation and Environmental Ethics: Bad Marriage, Quick Divorce," p. 90, p. 93. Similarly, J. Baird Callicott writes that most environmentalists are committed to the preservation of ecosystems "at all costs, even if that should mean assassinating the common herbivorous mammals [such as invading domestic cattle and feral goats], while the ethics of animal liberationists and animal rights activists would favor the mammals, even if that should mean further ecological degradation and the erosion of biodiversity." J. Baird Callicott, "Introduction" to Part One of *Environmental Philosophy: From Animal Rights to Radical Ecology*, p. 8. Elsewhere, Callicott quips that since ethical consideration of a biotic community's individual members is "preempted by concern for the integrity, stability, and beauty of the biotic community," Leopold's land ethic threatens to be "holistic with a vengeance." J. Baird Callicott, "The Conceptual Foundations of the Land Ethic," *Environmental Ethics: Divergence and Convergence*, p. 430. Callicott proceeds to offer a defense of the land ethic's capacity to afford due justice to individual human beings.

proclivity to improperly exalt ourselves above the rest of nature and life, such that we mistakenly regard the entirety of non-human creation as existing merely for our own sake and overlook the fact that non-human beings can possess inherent moral worth and deserve respect.

However, the fact that a critique of anthropocentrism lies at the heart of both environmentalist and animal rights approaches to ethics should not mislead us into overestimating the extent to which these approaches are aligned. In fact, reflecting upon the ways in which they diverge is particularly fruitful because it brings into relief some fundamental ethical questions. The main points of conceptual contention between the animal rights approach and the environmentalist approach turn on questions about whether individuals or systems are the primary recipients of respect, and whether sentience or consciousness is a necessary or sufficient condition for counting morally. The answers to both of these questions depend upon the answer to a yet more fundamental question: what are the conditions for moral worth? As Kenneth E. Goodpaster puts the point, "We need to understand better […] the scope of moral respect, the sorts of entities that can and should receive moral attention, and the nature of the "good" which morality […] is supposed to promote."[72] Where do the boundaries of the moral community really lie? Who or what qualifies as deserving of moral respect, and on what grounds?

As noted earlier, according to many thinkers arguing for animal rights, what qualifies one as deserving of moral consideration is sentience. Sentience is connected with the capacity to be aware of a situation and to be sensitive to its mattering; because we can feel pleasure and pain, we have something at stake in a situation, there are phenomena we avoid or pursue. Sentience makes it possible to have interests. Human beings may have more interests, or more complex interests, than most other animals. But all sentient creatures have at least certain basic interests, namely, an interest in not suffering, an interest in continued existence, and an interest in self-determination; and these interests require moral recognition. On this view, not all beings have interests, for not all beings have needs that matter to them. Rocks and cars do not have anything matter to them. Cars need certain things to do what cars do, but whether these needs are met does not matter to them because they have no awareness; it would make little sense to assert that they possess interests. But sentience makes it possible for needs to become interests. Accordingly, Bernard Rollin writes:

> Very simply, "interest" indicates that the need in question *matters* to the animal… [W]hat makes these needs interests is our ability to impute some conscious or mental life, however rudimentary, to the animal, wherein, to put it crudely, it seems to care when certain needs are not fulfilled. Few of us can consciously articulate all of our needs, but we can certainly know when these needs are thwarted and met. Pain and pleasure are, of course, the obvious ways these facts come to consciousness, but they are not the only ones. Frustration, anxiety, malaise, listlessness, boredom, anger are among the multitude of indicators of unmet needs, needs that become interests in virtue of these states of consciousness. Thus, to say that a living being has interests is to suggest that it has some sort of conscious awareness, however rudimentary…The presence of pain in an animal obviously would be a sufficient condition

[72] Kenneth E Goodpaster, "On Being Morally Considerable," *Environmental Philosophy: From Animal Rights to Radical Ecology*, p. 57.

> for saying it has interests, though a creature could have interests without having the ability to feel pain, as long as it had some needs that mattered to it. (Pain is, of course, only biologically useful if a creature can be aware of it and bothered by it.)[73]

Claiming that it is not only sentient beings who have needs and interests, however, Goodpaster wonders at the reluctance to "acknowledge in non-sentient living beings the presence of independent needs, capacities for benefit and harm, etc.,"[74] and says that, "Neither rationality nor the capacity to experience pleasure and pain seem to me necessary (even though they may be sufficient) conditions on moral considerability […]. Nothing short of the condition of *being alive* seems to me to be a plausible and nonarbitrary criterion."[75] For Goodpaster, living creatures as self-sustaining organized beings have needs that must be met in order to maintain their functioning, and, when they attribute the only morally relevant interests to sentient animals, animal rights advocates do not go nearly far enough. And perhaps the idea that non-sentient beings should have interests is not as surprising as one might at first think. In order to lend credibility to the idea that sentience is not a precondition for the possession of interests, Goodpaster quotes Christopher Stone:

> I am sure I can judge with more certainty and meaningfulness whether and when my lawn wants (needs) water than the Attorney General can judge whether and when the United States wants (needs) to take an appeal from an adverse judgment by a lower court. The lawn tells me that it wants water by a certain dryness of the blades and soil – immediately obvious to the touch – the appearance of bald spots, yellowing, and a lack of springiness after being walked on; how does "the United States" communicate to the Attorney General?[76]

We routinely attribute needs and interests to a range of non-sentient entities, from nations to markets to universities to companies to estates. If doing so is meaningful, then why not attribute interests to trees or ecosystems, whose functioning also is capable of being hindered or furthered? If such entities have interests, then on what grounds would we not think it important to take those interests into account in our moral deliberations? If at least some of the important interests of human beings are protected by means of the mechanism of moral and legal rights, and if the interests of non-human entities such as corporations are protected by means of the same mechanism, then why not afford such rights to non-human entities such as animals,

---

[73] Rollin (1992).

[74] Goodpaster, "On Being Morally Considerable," p. 66. He suggests that thinking that sentience is the necessary condition for moral considerability is connected with overly narrow hedonistic views of value: "if one's conception of the good is *hedonistic* in character, one's conception of a beneficiary will quite naturally be restricted to beings who are capable of pleasure and pain. If pleasure or satisfaction is the ultimate gift we have to give, morally, then it is to be expected that only those equipped to receive such a gift will enter into our moral deliberation." Goodpaster, "On Being Morally Considerable," p.66.

[75] Goodpaster, "On Being Morally Considerable," p.58. It must be noted that although all life deserves moral consideration, Goodpaster does not consider sentient life to be equal in moral significance to non-sentient life. All life has moral worth, for him, but sentient life may well count for more.

[76] Stone (1974), cited in Goodpaster, "On Being Morally Considerable," p.68.

trees, species, and ecosystems?[77] Similarly, Callicott laments the "psychocentric" and individualistic bent of standard moral theory, of which animal rights theory would be a species, for that orientation precludes moral "consideration of wholes—of threatened *populations* of animals and plants, or of endemic, rare, or endangered *species*, or of biotic *communities*, or, most expansively, of the *biosphere* in its totality – since wholes per se have no psychological experience of any kind."[78] For Callicott, the narrow focus on sentient individuals obscures the importance of a whole range of natural entities that deserve to be recognized as possessing moral worth.

7.4 Toward a Non-anthropocentric Relation to Nature

The prospect of taking seriously the notion of animal or ecosystem rights depends crucially on a critical rethinking of the ancient prejudice that human beings are the crown of creation. This prejudice has its roots in ancient Greek and Judeo-Christian thought and is evident in the shift from stewardship to dominion sketched in the first nine books of Genesis: Nature is initially a garden in which humans live peacefully with other beings and are assigned a vegetarian diet; it is only after the flood that our relationship to nature becomes transformed into one of dominion, a relationship in which animals will have "fear and dread" of us and God smiles approvingly on our use of animals as instrumentalities.[79] We have seen that medieval Christian thinkers such as Augustine and Aquinas seize upon this notion of dominion and make it a central pillar of their views about the proper place of human beings in the world. Even if by the time of the Enlightenment our culture no longer conceptualized the human prerogative to dominate nature as a divine bequest, Kant having reduced God to a postulate of pure practical reason, it remains the case that thinkers such as Kant nonetheless conceive of the human being as "the titular lord of nature" and maintain that "without human beings the whole of creation would be a mere desert, existing in vain and without a final end."[80]

Our culture's shift away from a theocentric conception of existence has led to a singularly anthropocentric one. But the same considerations that led to an abandonment of theocentric thinking might well lead us to an abandonment of anthropocentrism, or at least to a critical reevaluation of it. Such a reevaluation would require

[77] One question to be addressed in this connection is whether the analogy between corporations and non-sentient natural beings is ultimately a fruitful one: The legal doctrine of "piercing the corporate veil" was devised to dispel the notion that corporations are themselves persons, a notion that effectively shielded the actual persons operating corporations from liability. Is there a comparable "veil" to be pierced in the case of trees or ecosystems?

[78] Callicott, "The Conceptual Foundations of the Land Ethic," p. 430.

[79] See Steiner, *Anthropocentrism and Its Discontents: The Moral Status of Animals in the History of Western Philosophy*, pp. 112–3; particularly revealing in this connection is a comparison of Genesis 1 and 2 with Genesis 8 and 9.

[80] Kant, *Critique of the Power of Judgment*, sec. 83, p. 298; sec. 86, pp. 308–9.

us to rethink the anthropocentric orientation of traditional ideals such as cosmopolitanism, the ideal shared by the likes of Diogenes of Sinope and Kant that we do best by aspiring to be "citizens of the world."[81] How we give shape to this ideal depends crucially on something that Rawls rightly observed to be at the core of any robust conception of morality—"a theory of the natural order and our place in it." We have come far enough to call into question the ancient prejudice that God or the gods created nature for the sake of human beings, but we have not yet made the logical next step: to see nature as a totality of which we are but a mere part. The Christian thinkers placed a great premium on the virtues of *caritas* (love or charity) and humility in the face of a cosmic community larger than ourselves; but it would have been anathema to them to suppose that humility involves a recognition that we are in fact not superior to the rest of nature, and they would never have accepted the proposition that we might have obligations to practice charity in relation to anyone or anything other than a fellow human being.

Kant, for all his purported "enlightenment," hardly made a step beyond this thinking in his own views on the natural order and our place in it. A corollary of his person-thing distinction is his focus on charity as an obligation owed to our fellow *human* cosmopolitans.[82] Thus Kant was unable to think past the anthropocentric prejudices of the tradition, even though he had made a decisive move to "religion within the limits of reason alone." More recently, thinkers such as Karl Löwith have sought to challenge this lingering anthropocentrism by situating human political (and, by implication, moral) relations within a larger cosmic context. Löwith maintains that "human community cannot be in order when it is not in tune with the cosmos [*kosmosartig verfaßt*]." We must acknowledge that the world is not merely the human world and that there iss "a pre- and suprahuman world of sky and earth, which stands and maintains itself utterly on its own [and] infinitely eclipses the world that stands and falls with human beings…[It] does not belong to us, but rather we belong to it."[83] This call to see ourselves as inscribed within a larger cosmic whole of which we are a mere part is an extension of Löwith's teacher Heidegger's ideal of a mode of human dwelling that "lets beings be" and "ponders the abode of human beings" rather than seeking to do violence to nature by imposing anthropocentric demands on it.[84]

Whether we are prepared to take the decisive step into this kind of humility in the face of what is *not* human remains an open question. What is indisputable is the fact that the possibility of doing true justice to non-human beings, be they sentient or non-sentient, depends crucially on our willingness to do so.

---

[81] See Laertius (2000) and Kant (2001).

[82] Immanuel Kant, "The Contest of Faculties," *Political Writings*, p. 188; *The Metaphysics of Morals*, pp. 192, 215. For an argument that Kant's work nevertheless offers resources helpful for reflection upon moral obligations towards nature, see Lucht (2007).

[83] Löwith (1981).

[84] Heidegger (1998); "Letter on 'Humanism'," *Pathmarks*, p. 271.

References

Augustine S (1966) The catholic and manichaean ways of life, vol 56 (trans: Gallagher DA, Gallagher IJ, Fathers of the Church). Washington, D.C.: Catholic University of America Press
Cicero (1990) On the nature of the gods 2.37–9. The hellenistic philosophers, vols. 2 (trans: Long AA, Sedley DN). Cambridge: Cambridge University Press
Cicero (1999) On Ends 3.20, De Finibus Bonorum et Malorum (trans: Rackham H). Cambridge: Harvard University Press, p 239
Correia SPC (2007) Anthony Dickinson, and Nicola P. Clayton, Western Scrub Jays anticipate future needs independently of their current motivational state. Curr Biol 17:1–6
De Waal F (2006) Primates and philosophers: how morality evolved. Princeton/Oxford, Princeton University Press, p 54
de Waal (2017) Are we smart enough to know how smart animals are? New York: W.W. Norton & Co.
Derrida J (2009) The beast and the Sovereign, vol. 1, ed. Lisse M, et al. (trans: Bennington G). Chicago: University of Chicago Press, p 108
Devall B, Sessions G (1985) Deep ecology: living as if nature mattered. USA, Peregrine Smith Books, p 65
Dombrowski DA (1997) Babies and beasts: the argument from marginal cases. University of Illinois Press, Champaign
Dombrowski DA (2006) Is the argument from marginal cases obtuse? J Appl Philos 23(2):223–232, 224
Finnis J (1980) Natural law and natural rights. Clarendon, Oxford
Francione GL (1996) Rain without thunder: the ideology of the animal rights movement. Temple University Press, Philadelphia
Francione GL (2000) Introduction to animal rights: your child or the dog? Philadelphia: Temple University Press, pp xxvi, 4–5, 92–5
Godfrey-Smith P (2016) Other minds: the octopus, the sea, and the deep origins of consciousness. Farrar, Straus and Giroux, New York
Griffin DR (1992) Animal minds. University of Chicago Press, Chicago
Heidegger M (1966) Memorial address. Discourse on thinking (trans: Anderson JM, Hans Freund E). New York: Harper Torchbooks, p 50
Heidegger M (1998) On the essence of truth. Pathmarks (ed. McNeill W). Cambridge: Cambridge University Press, p 144
Kant I (1981) Grounding for the metaphysics of morals (trans: Ellington JW). Indianapolis: Hackett
Kant I (1996) The doctrine of virtue. In: Gregor M (ed) The metaphysics of morals. Cambridge: Cambridge University Press
Kant I (1997) Lectures on ethics (ed. Heath P, Schneewind JB). Cambridge: Cambridge University Press
Kant I (2001) Idea for a universal history with cosmopolitan purpose. In: Reiss HS (ed) Political writings. New York: Cambridge University Press, pp 41, 51
Kant I (2008) Lectures on ethics. In: Guyer P (ed) Critique of the power of judgment. Cambridge: Cambridge University Press, p 147
Korsgaard C (2018) Fellow creatures: our obligations to the other animals. Oxford University Press, Oxford
Krützen M, Mann J, Heithaus M, Connor RC, Lejder L, Sherwin WB (2005) Cultural transmission of tool use in bottlenose dolphins. Proc Nat Acad Sci 102(25):8939–8943
Laertius D (2000) Lives of eminent philosophers, vol 2 (trans: Hicks RD). Cambridge: Harvard University Press, p 65
Lemos RM (1982) The concept of natural right. In: French PA, et al (eds) Midwest studies in philosophy, volume 7: social and political philosophy. Minneapolis: University of Minnesota Press, p 146

Leopold A (1970) A sand country almanac, with essays on conservation from round river. Ballantine Books, New York, p 238
Löwith K (1981) Mensch und Menschenwelt: Beiträge zur Anthropologie, Sämtliche Schriften, vol 1. Stuttgart: Metzler, pp 295, 303
Lucht M (2007) Does Kant have anything to teach us about environmental ethics? Am J Econ Sociol 66(1):127–149
Lucretius (1997) On the nature of things (trans: Rouse WHD, Smith MF). Cambridge: Harvard University Press
Mather J (2008) Cephalod consciousness: behavioral evidence. Conscious Cogn 17(1):37–48
Naess A (1998) The deep ecological movement: some philosophical perspectives. In: Botzler RG, Armstrong SJ (eds) Environmental ethics: divergence and convergence, 2nd edn. Boston, MA: McGraw-Hill, pp 439, 442
Nibert DA (2013) Animal oppression and human violence: domesecration, capitalism, and global conflict. Columbia University Press, New York
Nussbaum MC (2001) Animal rights: the need for a theoretical basis. Harv Law Rev 114:1548
Pepperberg IM, Gordon JD (2005) Number comprehension by a grey parrot (*Psittacus erithacus*), including a zero-like concept. J Comp Psychol 119(2):197–209
Posner R (2004) Animal rights: legal, philosophical, and pragmatic perspectives. In: Sunstein CR, Nussbaum MC (eds) Animal rights: current debates and new directions. Oxford: Oxford University Press
Porphyry (2000) On abstinence from killing animals (trans: Clark G). Ithaca: Cornell University Press
Rawls J (1999) A theory of justice, revised. Belknap/Harvard University Press, Cambridge
Regan T (1983) The case for animal rights. Berkeley/Los Angeles, University of California Press, p 351
Reiss D, Marino L (2001) Mirror self-recognition in the bottlenose dolphin: a case of cognitive convergence. PNAS 98(10):5937–5942
Rollin (1992) Animal rights and human morality, revised edn. Amherst, NY: Prometheus Books, pp 77–8
Sagoff M (2001) Animal liberation and environmental ethics: bad marriage, quick divorce. In: Zimmerman ME, et al (eds) Environmental philosophy: from animal rights to radical ecology, 3rd edn. Upper Saddle River, NJ: Prentice Hall, p 90
Schopenhauer A (1958) The world as will and representation, vol 1 (trans: Payne EFJ). Indian Hills, Colorado: Falcon's Wing Press
Schopenhauer A (1995) On the basis of morality (trans: Payne EFJ). Providence: Berghahn Books
Seneca (1925) Ad Lucilium Epistulae Morales, vol 3 (trans: Gummere RM). London: Heinemann
Seneca (1928) De Ire (On Anger) 1.3.4–7. In: Moral essays, vol. 1 (trans: Basore JW). London: Heinemann
Seneca (1930) Ad Lucilium Epistulae Morales, vol 2 (trans: Gummere RM). London: Heinemann
Seneca (2000) Ad Lucilium Epistulae Morales, vol 3, 124.13–14, Epictetus, Discourses 1.6.14–17. In: The discourses as reported by Arrian, Books I–II (trans: WA Oldfather). Cambridge: Harvard University Press, pp 43, 443–4
Steiner G (2005) Anthropocentrism and Its discontents: the moral status of animals in the history of Western philosophy. University of Pittsburgh Press, Pittsburgh
Steiner G (2008) Animals and the moral community: mental life, moral status, and kinship. Columbia University Press, New York
Stone C (1974) Should trees have standing? Los Altos, CA: William Kaufmann
Taylor PW (1986) Respect for nature: a theory of environmental ethics. Princeton, Princeton University Press, p 118
Taylor AH, Hunt GR, Holzhaider JC, Gray RD (2007) Spontaneous metatool use by new caledonian crows. Curr Biol 17:1504–1507
White NP (1979) The basis of stoic ethics. Harv Stud Class Philol 83:175

Wise SM (2000) Rattling the cage: toward legal rights for animals. Perseus Books, Cambridge, Mass.

Gary Steiner is professor of philosophy *emeritus* at Bucknell University, where he taught from 1987 to 2022. He specializes in the history of modern philosophy and in moral and political philosophy. He has published four books: *Descartes as a Moral Thinker: Christianity, Technology, Nihilism* (2004); *Anthropocentrism and Its Discontents: The Moral Status of Animals in the History of Western Philosophy* (2005); *Animals and the Moral Community: Mental Life, Moral Status, and Kinship* (2008); *and Animals and the Limits of Postmodernism* (2013). His latest book is entitled *Felt Kinship: The Historical Pretensions of Reason and the Moral Status of Non-human Animals.*

Dr. Marc Lucht is Director of Programs for Clean Valley Council, an environmental education nonprofit organization. He previously served as founding School Director of The American School of Nepal, after having co-directed North Cross Shanghai, which was North Cross School's first campus in China. Before moving to Shanghai, he worked as a professor and university administrator for 18 years. Holding a PhD in Philosophy from Emory University, he has published on the philosophy of art and beauty, on moral philosophy, phenomenology, animal rights, and intercultural dialogue. He served as Director of the Undergraduate Research Institute at Virginia Tech University, and, as part of the university's response to the 2007 shootings, Lucht led the development of the Center for Peace Studies and Violence Prevention's innovative undergraduate curriculum in peace studies.