
Closer kinships: Rortyan resources for animal rights

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Abstract This article considers the extent to which the debate about animal rights can be enriched by Richard Rorty's theory of rights. Although Rorty's work has enjoyed a lot of scholarly attention, commentators have not considered the implications of his arguments for animals. Nor have theorists of animal rights engaged his approach to rights. This article argues that Rorty's thinking holds a number of attractions for proponents of animal rights. It also considers some of its drawbacks. It is further argued that Rorty's thinking about rights avoids many of the problems that animal ethic-of-care theorists have found in rights discourse being applied to animals. Rorty's work thus provides a valuable resource for bringing these two major strands within the animal ethics literature into closer theoretical kinship. *Contemporary Political Theory* (2017) **16**, 1–18. doi:10.1057/cpt.2016.10; advance online publication 22 March 2016

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The ideal limit of this process of enlargement is ... an ideal self to whom the hunger and suffering of any human being (and even, perhaps, that of any other animal) is intensely painful. (Rorty, 1999, p. 79)

Since the publication in 1983 of Tom Regan's pioneering work, *The Case for Animal Rights*, a number of philosophers and political theorists within the Anglo-American tradition have advocated the extension of some human rights to animals.¹ In *The Animal Question: Why Nonhuman Animals Deserve Human Rights* (2001), Cavalieri argues that species membership has no bearing on who deserves rights. She conceives of rights as negative, deontological and institutionalized. In their recent major work, *Zoopolis: A Political Theory of Animal Rights*, Donaldson and Kymlicka (2001) apply Kymlicka's group-differentiated approach to rights to animals. They criticize previous animal rights theory for, among other things, being too focused on negative rights. Cochrane (2013) supports the idea of animal rights but rejects Donaldson and Kymlicka's group-differentiated version. In *A Theory of*

Justice for Animals: Animal Rights in a Nonideal World, Garner (2013) adduces ‘an enhanced sentience position’ (p. 3), which defends rights for animals without endorsing the moral egalitarianism of some other animal rights positions (p. 15). As even this cursory overview illustrates, there is a variety of positions among those who advance the idea of animal rights.

This article examines the extent to which another strand within contemporary human rights theory – the approach outlined by Richard Rorty – can enrich and develop the already lively debate about animal rights. Rorty’s distinctive outlook was articulated in his Oxford Amnesty Lecture, ‘Human Rights, Rationality and Sentimentality’, published in 1993.² Toward the end of his Amnesty Lecture he declares that when it comes to rights attribution and recognition, ‘the question at issue [is] whether mere species membership is, in fact, a sufficient surrogate for closer kinship’ (Rorty, 1993, p. 133). Although Rorty’s primary purpose here is to insist that simply asserting universal human capacities will not suffice for rights attribution and recognition, his question also provokes us to consider the relationship between species membership and rights, which is central to the animal rights debate. Although Rorty’s work has received a great deal of scholarly attention,³ his commentators have not considered his remarks about animals nor the implications of his arguments for animal rights.⁴ Nor have theorists of animal rights engaged his approach in any sustained way.⁵ This article addresses both gaps: it contributes to the literature on Rorty by reading his rights theory through an animal ethics lens just as it interrogates what resources this major figure in twentieth century Anglo-American political philosophy provides for the debate on animal rights. I enumerate several major attractions that Rorty’s work offers those who advocate a rights-based approach to animal issues, while also considering some of its limitations.

Enthusiastic about human rights, Rorty celebrates their development and encourages their dissemination. His argument targets those who already believe in the value of human rights and who share his desire to see them more widely attributed and respected. The ostensible purpose of his Oxford Amnesty Lecture is to persuade his fellow defenders of human rights to stop trying to ground them in some ahistorical conception of a universally shared human nature (HRRS, pp. 113, 116, 117). This traditional method of justification is, he repeatedly insists, ‘outmoded’ (HRRS, pp. 120, 121, 122, 128, 132).⁶

On the face of it, Rorty’s attempt to move away from a conception of universal human nature as the grounds for rights attribution is promising for theorists of animal rights, because seeking uniquely human properties to justify rights militates against any idea of animals as rights-bearers. Whenever Rorty suggests that the boundary between humans and animals is permeable, his work becomes of interest to animal rights theorists.⁷ Its appeal is heightened when he puts empathy for the suffering of others at the center of rights attribution and dissemination. Rorty’s approach should also appeal to defenders of animal rights because its focus falls on the ability of rights-donors to feel for the suffering of rights recipients and to accord rights in order to end or diminish that suffering.⁸



However, not all aspects of Rorty's analysis are so promising for proponents of animal rights. On a number of occasions, Rorty simply continues the time-honored Western preoccupation with what distinguishes humans from animals. Whether this be the depth of capacity to feel for others, the creation of solidarity, the ability to shape our own evolution, or the potential for self-making, all of his answers underscore a separation between humans and animals that could be used to justify the granting of rights to the former but not the latter. So rather than propose that Rorty's position on rights be adopted in its entirety by advocates of animal rights, particular components that could serve that cause are identified here, along with components that do not. This selective, pragmatic appropriation of Rorty's ideas is, moreover, in keeping with Milligan's (2015) recent claim, when reviewing the current state of the literature on animal rights, that what is needed now is not 'the dominance of any single master theory or new orthodoxy ... [but] a workable orientation and an open climate of debate'.

The promotion of rights for animals has, however, not been without its critics, even from within the field of animal ethics. Influenced by Carol Gilligan and the ethic of care, one group of scholars is skeptical of rights attribution to animals, for reasons outlined below.⁹ Whatever its shortcomings, one major advantage of Rortyan thinking about rights is its avoidance of many of the problems that these critics identify. Rorty's work thus provides a valuable resource for bringing these two major strands within the animal ethics literature into closer theoretical kinship.

New Wine in Old Bottles?

Rorty begins his Oxford Amnesty lecture by observing that violators of human rights typically define their victims as sub- or pseudo-human (HRRS, pp. 112–113, 124, 126), which means that membership in the class of humans is not automatically afforded to all *homo sapiens*. He identifies this same tendency to dehumanize one's opponents in those who criticize human rights violators, asserting that such critics liken the violators to animals. 'We in the safe, rich democracies feel about the Serbian torturers and rapists as they feel about their Muslim victims: they are more like animals than like us' (HRRS, p. 113; cf. Rorty, 1989, pp. 59–60). This is not, on the face of it, a promising way of proceeding toward a defense of animal rights, because in the discourse of both human rights violators and their critics, at least as recounted by Rorty, the term 'animal' is pejorative and functions to exclude some humans from the class of those deserving rights.¹⁰

The traditional response to this tendency to exclude some *homo sapiens* from the category of the human has been to assert that all and only humans possess reason or dignity or some other crucial quality entitling them to rights. Rorty eschews this route, however, rejecting any attempt to identify a uniquely human essence. He declares instead that 'nothing relevant to moral choices separates human beings from

animals except historically contingent facts of the world, cultural facts' (HRRS, p. 116). This remark is highly encouraging for defenders of animal rights, for whom the challenge becomes creating new social and cultural and, I would add, political and legal, facts.¹¹

However, what Rorty offers proponents of animal rights with one hand he retracts with the other. At one point he writes, for example, that rather than abandon the question of what makes humans different from animals, we should keep the question but change the answer. Traditionally the answer to the question 'What makes us different from other animals?' has been that humans are rational whereas animals are only sentient. A better answer, Rorty proposes, is that humans 'can feel for each other to a much greater extent than they [animals] can' (HRRS, p. 122, emphasis in original).¹² At moments like this in the text, and there are several, Rorty seems less interested in radically re-thinking the terms of debate about rights and more inclined to give old questions about the human distinction new answers. New answers to such old questions are not, of course, necessarily inimical to the cause of animal rights: much depends on what those new answers are and how they position animals *vis-à-vis* humans either explicitly or by implication. As we shall see, some of Rorty's new answers are highly promising in this regard.

According to Rorty, people are moved to extend rights to other humans, not by recognizing their essential rationality, but by being affected by sympathy for their suffering. He therefore promotes Hume over Kant for the former's recognition of sympathy rather than reason as 'the fundamental moral capacity' (HRRS, p. 129). But this identification of a fundamental moral capacity, and the belief that humans possess it more than animals do, testifies to Rorty's continuing reliance on some notion of a universal human distinction, with sympathy supplanting reason's previous role in this. Rorty's recourse to some idea of human uniqueness reappears when he says 'We are now in a good position to put aside the last vestiges of the idea that human beings are distinguished by the capacity to know rather than by capacities for friendship and inter-marriage, distinguished by rigorous rationality rather than by flexible sentimentality' (HRRS, p. 132). Again Rorty is posing the time-old question – what distinguishes humans from other animals – but offering new answers: in this latest case, the correct answer is the capacities for sympathy, sentimentality and sociality.

But this strand of Rorty's argument which distinguishes humans from animals on the basis of a greater capacity for empathy and solidarity is at odds with another in his essay, where he is critical of traditional human rights foundationalism precisely because of its aim to identify an invariant human nature (HRRS, pp. 114, 116, 118, 122, 124, 125, 134). When writing in this vein, Rorty prefers to jettison any quest for the enduring, essential human self, advocating instead an esthetic approach. He wants to replace the question about what humans are really like by nature with the question about what humans can make of ourselves (HRRS, pp. 115, 121). But on closer inspection, it seems that Rorty is not so much critical of the appeal to human nature as believing, once again, that the wrong content has been assigned to this nature. He is



pleased that 'We are coming to think of ourselves as the flexible, protean, self-shaping animal rather than as the rational animal or the cruel animal' (HRRS, p. 115). Rorty's preference for an esthetic model of the self still betrays a commitment to a model of the self, it is still trading in the question – what are human beings really like? So once again, and despite some of his own claims, there seems to be less a departure from traditional modes of thinking and more an attempt to answer old questions differently.

When first pronouncing the traditional way of justifying rights by appealing to some universally shared and invariant human nature to be 'outmoded', Rorty identifies Darwin as a turning point in the transition to a newer style of thinking, for Darwin emphasized humans' continuity with other animals. 'Exceptionally talented ... [and] clever enough to take charge of our own future evolution' (HRRS, p. 120), humans are animals nonetheless. Once again, the porous boundary he traces between human and animal could be hopeful for animal rights theorists. Rorty's gloss on this idea of taking charge of one's own evolution says that humans now see themselves as able to work together to build brighter futures. They need no sense of a shared human nature beyond their ability to be 'clever and courageous enough' to envisage a better future for themselves and their descendants (HRRS, pp. 121–122). Yet, this again relies on some faith in a human distinction, for no one would claim that animals possess this capacity for social imagination and the hope it can foster. So the point about the continuity between humans and animals that Darwin is said to have pioneered is blurred by Rorty's emphasis once again on the distinctively human endowment.

In *Contingency, Irony, and Solidarity*, Rorty lays out what his new approach to philosophy entails. This includes trying

to ignore the apparently futile traditional questions by substituting ... new and possibly interesting questions. It does not pretend to have a better candidate for doing the same old things which we did when we spoke in the old way. Rather, it suggests that we might want to stop doing those things and do something else. (1989, p. 7, cf. HRRS, p. 134)

Yet, such proclamations of theoretical innovation notwithstanding, several of his claims in HRRS represent less a departure from traditional modes of thinking and more an attempt to answer old questions differently. It is new wine in old bottles.¹³

It could be objected that I am the one pouring Rorty's new wine into Western philosophy's old bottles, and that homing in on his remarks about animals and the shifting views about the human distinction they evince is the wrong interpretive strategy. Instead, every time the human–animal comparison or contrast is evoked, we should keep in mind Rorty's larger pragmatist position and ask what strategic purpose it serves. The strategic purpose behind Rorty's writing about rights is to widen the population of human rights bearers and respecters. Such a reading would not enmesh him within a traditional philosophical framework and would be more faithful to the pragmatism that has marked his philosophy from its inception.



This critical response is a powerful one, but it can have the tables turned on it. That is, if one reads Rorty's work through an animal ethics lens, probing what resources it provides when one's strategic purpose is to defend rights for animals, this double movement becomes very visible. On the one hand, Rorty rejects any idea of the human distinction, but on the other he repeatedly reinstalls it, albeit on different grounds each time.¹⁴

This is not to suggest that proponents of animal rights must insist that humans and animals are identical in all ways and therefore eligible for all the same rights. Proponents of animal rights differ among themselves about what rights animals should be awarded, just as proponents of human rights differ among themselves about what rights humans should be awarded. And no animal rights theorist says that all animals should enjoy all the same rights that humans should. Indeed, given that the human extension of rights to animals can never be reciprocal, recognizing some salient ways in which humans differ from animals is inevitable. So pointing out things that distinguish humans from animals is not in itself anathema to an argument for animal rights. My point is simply that there are many occasions on which Rorty seems to retreat unthinkingly into an assertion of the human distinction that could be employed to limit the extension of rights to animals.

So even if we grant, for example, Rorty's assertion that humans can feel for each other more than animals can, the important issue from an animal rights standpoint is whether the empathy and solidarity humans are said to feel for one another can be extended to animals. If Rorty's assertion about the human capacity for empathy and solidarity is taken in the direction of embracing humans' ability to feel for animals rather than just for their human counterparts, then it could be very attractive to animal rights proponents. This article's epigraph suggests that such enlargement lies within Rorty's purview and the next section examines this in more detail.

Security+Sympathy = Solidarity

Rorty's repeated depiction of the traditional rationalist foundationalist approach to rights as outmoded implies that it was once valuable. However, he also declares that this approach was never helpful in defending or extending human rights. The salutary rise in human rights culture has been fueled by emotion rather than reason: 'the emergence of the human rights culture seems to owe nothing to increased moral knowledge, and everything to hearing sad and sentimental stories' (HRRS, pp. 118–119). Toward the end of the essay he repeats this causal claim, invoking 'long, sad, sentimental' stories that foster empathy with the suffering of others. 'Such stories, repeated and varied *over the centuries*, have induced us, the rich, safe, powerful people, to tolerate, and even to cherish, powerless people ...' (HRRS, pp. 133–134, emphasis in original).¹⁵ He repeats this causal claim in the penultimate paragraph of his lecture: 'These last two centuries are ... [not] a period of deepening



understanding of the nature of rationality or of morality, but ... one in which there occurred an astonishingly rapid progress of sentiments' (HRRS, p. 134).¹⁶ Here Rorty is offering a different causal story about the origins and spread of human rights culture that makes sentiment or sympathy, rather than reason, its driver.

Just as sympathy or sentiment is held to be responsible for the spread of human rights over the past two centuries in Western societies, so what is needed for their wider dissemination is not more philosophical reasoning about who is a rights bearer and why, but a more enveloping sympathy for the suffering of others (HRRS, p. 124). Rights are extended through 'an increasing ability to see the similarities between ourselves and people very unlike us as outweighing the differences' (HRRS, p. 129).¹⁷ This intensification of solidarity and diminution of the tendency to dehumanize some *homo sapiens* should be achievable, because, as we have seen, Rorty evinces great faith in the human capacity for empathy.¹⁸ Yet, even though humans are held to possess this capacity in greater amounts than animals, it still needs to be much more actively cultivated.

Rorty proposes that the extension of sympathy to others be done not by seeing that they share a common humanity with us, but on the basis of 'such little, superficial, similarities as cherishing our parents and our children' (HRRS, p. 129). But the sense in which cherishing parents and children constitutes small and superficial similarities among humans is very unclear: these capacities seem, on the contrary, to be large and deep. Specifying them as the bases for connection and solidarity also establishes a different set of possible exclusions. What about people who don't cherish their parents? What about people who don't have or want children?¹⁹ But, for present purposes, one striking aspect of Rorty's argument is that these supposedly small and superficial similarities do not 'distinguish us from many nonhuman animals' (HRRS, p. 129). This clearly implies that the sort of sentimental education Rorty advocates as a basis for the extension of rights could embrace animals as warranting our sympathy and compassion. If we could come to see animals as caring for their family members just as humans do, we could include them as part of the moral community and, as such, as candidates for certain rights that recognize and preserve those capacities.²⁰ Few of Rorty's interpreters have, however, picked up on this possibility of trans-species solidarity: the vast majority take him to be confining himself to opportunities for extending human solidarity.²¹

The sort of 'long sad sentimental story' that Rorty puts forward as fostering rights on this basis has as its moral, 'Because her mother would grieve for her' (HRRS, p. 133). As if to vindicate Rorty's point that this is something humans share with animals, the animal rights organization People for the Ethical Treatment of Animals (PETA) has a campaign against the use of animals in circuses. It is spearheaded by the American actor Edie Falco who urges human mothers

... to consider the bond between mother elephants and their babies and never to support circuses that use animals. The agony that mother elephants endure

when their babies are stolen from them is undeniable and can be heard in their cries of distress. They are helpless as their babies are bound by all four legs, beaten with bullhooks, and electro-shocked in violent training sessions in order to teach them to obey.

A companion poster quotes Falco as appealing: ‘Mother elephants in the circus cannot help their babies, but we can. Never take your child to the circus’. Rather than depict the use of animals in circuses as a rights violation, PETA is clearly encouraging human mothers to identify with the suffering of elephant mothers and to take action against their use in circuses.

But simply enhancing empathy will not suffice to explain or increase the spread of human rights culture. Rorty also proffers another explanation for the rise of the modern Western human rights culture, one that grounds this achievement in political economy. The ‘extraordinary increase in wealth, literacy, and leisure’ (HRRS, p. 121) witnessed in the nineteenth and twentieth centuries imbued contemporaneous intellectuals with the confidence that moral progress and social improvement were feasible. The quest for essential and uniquely human qualities fell by the wayside as the prospects for progress generated by this wealth became apparent. And today human rights, in Rorty’s estimation, are more widely supported in affluent societies where people feel ‘relatively safe and secure’ (HRRS, p. 125) than in conditions of economic hardship or scarcity. Rorty thus posits a close connection between security and sympathy, maintaining that those who feel economically and socially secure are more likely to adopt a capacious approach to moral community (HRRS, pp. 128, cf. 113, 133; cf. Rorty, 2001b, pp. 171–172, 174; cf. Erez, 2011, pp. 60–62). Indeed, he advances the strong claim that ‘Producing generations of nice, tolerant, well-off, secure, other-respecting students ... in all parts of the world is ... *all* that is needed – to achieve an Enlightenment utopia’ (HRRS, p. 127, emphasis in original).

However accurate his claim about the sufficient conditions for promoting human rights is, one noteworthy aspect from the standpoint of animal rights is Rorty’s concession that young people like this might even be persuaded ‘to stop eating animals’ (HRRS, p. 127) because of their expanded conception of the moral community acquired through identification with the suffering of others. They ‘imagine themselves in the shoes [*sic*] of the despised and oppressed’ (HRRS, p. 127). Rorty is suggesting here that the sort of people who are secure and sympathetic enough to respect the human rights of others might also be the sort of people who do not wish to harm animals by eating them. Of course vegetarianism is not co-extensive with animal rights: it is possible to be vegetarian for reasons other than animal rights, just as a commitment to animal rights requires more than vegetarianism. It is, nonetheless, striking that this is another point at which Rorty’s discussion of rights veers toward the inclusion of animals.²²

In later remarks when Rorty reiterates his point that the moral community is more likely to expand when people feel secure and safe, and to contract when they feel



threatened, the issue of animal rights comes up again. He opines that ‘Most of us today are at least half-convinced that the vegetarians have a point, and that animals do have some sort of rights’ (Rorty, 2001c, pp. 223–224). He speculates about what would happen if animals were found to carry a virus that proved fatal to humans. Rorty is confident that the human response would be to deny animal rights and to kill the animal vectors in the interests of human self-preservation. ‘The idea of justice between species will suddenly become irrelevant, because things have gotten very tough indeed, and our loyalty to our own species must come first’ (Rorty, 2001c, p. 224). While this is a peculiarly abstract and counterfactual way for a thinker like Rorty to engage the issue of animal rights (as well as mistaken again in conflating vegetarianism with animal rights), it certainly suggests that while the lives of humans in Western societies are not endangered by lethal animal viruses, the possibility of ‘justice between species’ has a place. So in this case, Rorty’s point about safety and security can be read to sustain the extension of rights to animals.

One consequence of the causal relationship between feeling safe and secure and respecting rights is evident in Rorty’s claim that rights are granted by the powerful, rather than demanded and won by the weak. Any extension and enhancement of rights relies ‘on those who have the power to change things’ being moved to promote improvements in the situation of the less powerful rather than responding directly to their claims (HRRS, pp. 133–134). Rorty concedes that this is not a particularly palatable entailment of his argument, but he believes it is correct (HRRS, pp. 129–130).²³ This top–down account of rights dissemination is obviously relevant to animal rights, because, unlike many other claimants, animals can never seek rights on their own behalf. They always depend on human advocates to persuade other humans to respect animal rights. In this sense animals are unlike most other groups who have attained rights in the twentieth century (cf. Pinker, 2011, p. 456). Their closest analog is children, and especially young children, who cannot agitate for their own rights but must rely on adults to articulate and defend their rights. But all adults have been children once, and childhood is a transient stage, so the gulf between the rights-bearers and the rights-advocates is less in this case than that between humans and animals.²⁴

Cruelty

Rorty’s analysis of rights grows out of his long-standing critique of foundationalism, which dates back to *Philosophy and the Mirror of Nature* (Rorty, 1979). It is also connected to his depiction of liberalism in *Contingency, Irony, and Solidarity* (Rorty, 1989),²⁵ where he contends that cruelty should be deemed the greatest vice. He suggests that ‘the effort to make our institutions and practices more just and less cruel’ (CIS, p. xiv) has been a key motive for many modern Western philosophers. The fact that he includes Marx in this list, and later numbers Engels’s *The Conditions of the Working Class in England* as one of the books that has made us less cruel

(*CIS*, p. 141), suggests that he does not award the monopoly on reducing cruelty to liberal thinkers. Nonetheless, following Judith Shklar, he goes on to equate the commitment to reducing cruelty with liberalism (*CIS*, pp. xv, 65–66, 74, 88, 146, 192, 197).²⁶

Even though Rorty did not write about cruelty with animals in mind, his commitment to raising awareness, and promoting avoidance, of it is, *prima facie*, highly promising for animal rights advocates. A focus on cruelty provides an immediate and readily understood avenue for recognizing and criticizing animal suffering, just as it connects with the way many animal advocates talk about humans' mistreatment of animals. In many liberal societies cruelty also forms a part of the public discourse about animal mistreatment: obvious examples are the Society for the Prevention of Cruelty to Animals²⁷ and anti-cruelty laws that penalize animal abuse.

Rorty's picture of liberal society becomes more attractive to animal ethicists when he portrays it as host to 'a heightened awareness of the possibility of suffering ... [the liberal ironist] notices suffering when it occurs' (*CIS*, p. 93). Although animals appear here only to be effaced when the category 'victims of cruelty' becomes synonymous with 'people', what Rorty says in the following passage is poignantly applicable to animals. Rorty presents pain as

... nonlinguistic: It is what we human beings have that ties us to the non-language-using beasts. So victims of cruelty, people [*sic*] who are suffering, do not have much in the way of a language. That is why there is no such thing as the 'voice of the oppressed' or the 'language of the victims'. The language the victims once used is not working anymore, and they are suffering too much to put new words together. So the job of putting their situation into language is going to have to be done for them by somebody else (*CIS*, p. 94).

If Rorty is correct that suffering silences, then suffering animals are doubly silenced, never having possessed a human language to lose and unable to rebuild a replacement. Unable to convey, let alone protest their suffering, in human language – although they do convey and protest it in other ways – they need some humans to translate their suffering into terms that others can understand, be moved by, and take action to relieve.

Solidarity is not, according to Rorty, 'something that exists antecedently of our recognition of it' (*CIS*, p. 196, cf. 94). Feelings of solidarity 'are necessarily a matter of which similarities and dissimilarities strike us as salient, and ... such salience is a function of an historically contingent final vocabulary' (*CIS*, p. 192). His clear message is that solidarity is created, and in creating solidarity we create and re-create ourselves. He urges members of liberal societies to develop their sympathies and feelings of solidarity by being ever vigilant about forms of suffering and cruelty hitherto unnoticed, including those which have become so routinized as to be invisible (*CIS*, pp. 141, 173, 196). From these considerations it is not such a surprise to find Rorty, a decade later, imagining, in the words that open this article, a form of solidarity capacious enough to include animals.



Rorty's insistence on the seminal role that sad and sentimental stories have played and should continue to play in the spread of human rights culture also reaches back to *CIS*, where he underscores the role that narratives – both truthful and fictional – play in provoking awareness about, and intolerance for, cruelty. He includes plays, poems, movies, TV programs, ethnography and journalism as vehicles for this kind of moral and social progress (*CIS*, pp. xvi, 93, 94, 192), but dedicates a chapter each to the fiction of Nabakov and Orwell to illustrate how novels can furnish insights into cruelty. Just as above he depicts pain as tying us to the nonlanguage-using beasts, so the chapter on Orwell acknowledges that the ability to feel pain is not unique to humans. For a moment there, Rorty entertains the possibility that this shared capacity for pain indicates that 'our moral vocabulary should be extended to cover animals as well as people' (*CIS*, p. 177). But he rapidly dismisses this in favor of 'a better way [which] ... isolate[s] something that distinguishes human pain from animal pain' (*CIS*, p. 177). That something is the ability to be humiliated (*CIS*, p. 192). Humiliation is a particularly cruel form of pain 'which the brutes do not share with the humans' (*CIS*, p. 92). In these comments on humiliation we witness once again Rorty's tendency to recur to a notion of human distinction tracked above in *HRRS*, even though what it is that distinguishes humans from animals has changed.

Rorty provides no detailed account of why animals are not susceptible to humiliation, whereas all humans are, but if we concede this point, it places significant limitations on the value of his critique of cruelty for animal ethics. Erez (2011) interprets Rorty to mean that cruelty humiliates because it destroys a person's self-description and in so doing 'denies the victim the ability to overcome the pain, to make it meaningful' (p. 36). If correct, this could explain why animals cannot be humiliated because they do not, to our knowledge, have self-descriptions. (But nor, of course, do all humans.) If correct, this distinguishes humiliation quite sharply from suffering which, as Rorty stipulates above, is non-linguistic but can be palliated by others speaking on one's behalf. However, it remains unclear whether humiliation and cruelty are co-extensive or whether humiliation is a particularly egregious form of cruelty. But the more Rorty's position tends toward the conflation of cruelty and humiliation, the less applicable it becomes to animal ethics because of his claim that animals are not humiliable. The promise of including attention to the cruelty animals suffer in Rorty's liberal utopia is, therefore, blunted by *CIS*'s emphasis on humiliation and its claim that 'recognition of a common susceptibility to humiliation is the *only* social bond that is needed' (*CIS*, p. 91, emphasis in original).

Closer Kinship

Whatever its specific attractions and shortcomings for theorists of animal rights, Rorty's work can enable a closer kinship between two dominant camps within the animal ethics literature – the rights theorists on the one hand and the ethic-of-care

theorists on the other.²⁸ The latter reject the preponderant rationalism of animal rights approaches and strive to rehabilitate what they believe is the practical role of emotion in humans' responses to animals by accentuating affective identification with animal suffering (Engster, 2006, pp. 526, 533; Adams, 2007; Donovan, 2007a, b; Gruen and Weil, 2012, p. 483). Luke (2007), for example, argues that the justice school of animal ethics, which includes animal rights positions, crucially misses what motivates people to protest the mistreatment of animals. It is not an exercise in logical reasoning that compares the inconsistency of animal treatment to that of humans but compassion for the suffering of animals itself (cf. Adams, 2007, p. 202). Hence Luke's insistence that

... rather than focusing exclusively on logic and considerations of formal consistency, we might better remember our feeling connections to animals, while challenging ourselves and others to overthrow the unnatural obstacles to the further development of these feelings. This process of reconnecting with animals is essentially concrete, involving relations with healthy, free animals, as well as direct perceptions of the abuses suffered by animals on farms and in laboratories. (1995, p. 312)

In a similar vein, Donovan and Adams observe that animal rights theories are abstract, formal and universalist, whereas many judgments concerning animals and their proper treatment need to be concrete, particular and sensitive to context (cf. Curtin, 2007, p. 91). In addition to criticizing the rights-approach for devaluing the emotions and particulars, they enumerate other mutually reinforcing concerns about rights for animals (Curtin, 2007, pp. 5–6). They charge that this approach betrays its rationalist, Enlightenment roots by assimilating animals to human rights-bearers as 'autonomous individuals with an intelligence that corresponds to human reason' (Curtin, 2007, p. 5). They object that animal rights theory exaggerates the similarities and downplays the differences between human and animals (cf. Curtin, 2007, pp. 90–91; Gruen and Weil, 2012, p. 480). Rights discourse presupposes eventual equality among rights-bearers, whereas animals will never be equal to humans.

Rorty's approach to rights remains innocent of most of these charges. It seeks, as we have seen, to replace Enlightenment rationalism with a more affective (and effective) approach. The style of thinking that Rorty takes to underpin human rights culture is not abstract or formalist and with its emphasis on sad stories begins, at least, by paying attention to concrete individuals in their particular contexts. With its attention to top-down rights attribution, it does not presuppose equality between groups. Rorty does, to some extent, emphasize the similarity between rights-donor and rights-recipient (be the latter group humans or animals) by requiring the rights-donors to identify with the suffering of those without rights. This necessitates the perception of some similarities although, as we have seen, Rorty dubs these 'little and superficial', which suggests that a wholesale assimilation of other to self is not required. But on the whole a Rortyan-inspired



approach to animal rights does not deserve most of the criticisms Donovan and Adams level at other approaches.²⁹

One explanation for the points of convergence between Rorty's thought and that of animal ethics-of-care theorists is that both are trying to find a path beyond the Kantian and utilitarian alternatives that have dominated recent political and ethical theory in the Anglo-American tradition (HRRS, p. 125; Donovan, 2007a, b; Gheaus, 2012, p. 584). The Kantian and utilitarian counterparts in animal ethics are Tom Regan and Peter Singer, respectively. Rorty, as we have seen, invokes Hume as a progenitor of a different style of thinking from the Kantian and utilitarian options (HRRS, pp. 128–129), and Hume is also appealed to by some of the theorists of animal care (Donovan, 2007b, pp. 175, 181–182, Gruen, 2007, p. 334). The more proximate sources of this Humean style of thinking seems, however, to be Annette Baier in Rorty's case (HRRS, pp. 128–129, 133–134) and Gilligan in the field of animal ethics, both of whom advocate an ethic of care.³⁰

Conclusion

There is much in Rorty's discussion of rights to recommend it to proponents of animal rights. He attempts to move away from a conception of human nature as the grounds for rights attribution. Part of Darwin's legacy, as Rorty conveys it, is to point out the difficulty of drawing any strict boundary between human and animal, and Rorty often presents these categories as reflecting not fixed ontological distinctions but political and rhetorical strategies of inclusion and exclusion. He rejects the preponderant rationalism of rights theory and strives to rehabilitate the role of emotion and recognition of suffering. The small and superficial similarities that can extend sympathy do not 'distinguish us from many nonhuman animals' (HRRS, p. 129). But being small and superficial, they can obviate a wholesale 'saming' of animals to humans. With his view of rights being granted from the top-down, Rorty's approach does not presuppose equality between groups. The young people he upholds as exemplary of contemporary rights culture incline, by his own account, toward concern for animals.

When himself a young man, Rorty harbored a commitment to social justice alongside a fascination with the wild orchids that grew in the mountains behind his home. He recounts much of his development as a philosopher as being spurred by the attempt to reconcile these divergent passions, but gradually concludes that they cannot, and need not, be synthesized. He installs instead a public/private separation within in his political and social theory that allows a commitment to social justice to co-exist with more eccentric, idiosyncratic and possibly even illiberal, interests (Rorty, 1999, pp. 3–22). As he says, 'My "poeticized" culture is one which has given up the attempt to unite one's private ways of dealing with one's finitude and one's sense of obligation to other human beings' (CIS, p. 68).³¹ Rorty expresses this key

distinction variously as ‘Trotsky and the Wild Orchids’ (Rorty, 1999, pp. 3–22), or ‘private irony and liberal hope’ (*CIS*, pp. 73–95), or autonomy and solidarity, or duties to self and duties to others (*CIS*, pp. 65, 67, 83–85, 141–144).³² Later in life, Rorty became an avid bird-watcher (Ryerson, 2000–2001), which probably also falls onto the ‘private’ side of this divide. Yet this article has suggested that Rorty might have deployed his liberalism in general and his theory of rights in particular to bring his personal interest in birds and his political commitments into closer kinship. Although Rorty’s work is ambiguous when read through the prism of animal ethics, many of its elements provide theoretical and ethical resources for extending the parameters of the moral community, and the category of rights-bearers, beyond humans.

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Notes

- 1 Pinker (2011, p. 380) sees animal rights as one of the revolutions that took place in the second half of the twentieth century, along with women’s rights, civil rights, children’s rights, and gay and lesbian rights.
- 2 Referred to hereinafter as HRRS.
- 3 Books about Rorty include Geras (1995), Malachowski (2002), Voparil (2006), Bacon (2007), Gascoigne (2008) and Kuipers (2013). Edited collections include Guignon and Hiley (eds.) (2003) and Festein and Thompson (eds.) (2001). Book chapters and articles are too numerous to mention.
- 4 Kuipers (2013, pp. 123–124), for example, discusses Rorty’s anthropocentrism but means it in the sense of denying any transcendent reality rather than considering the place of animals *vis-à-vis* humans.
- 5 Cavalieri (2001, p. 70) discusses Rorty’s work in the context of animal rights but finds no positive implications. The only positive engagement I have found is Raffael (2013), but even this author concludes that Rorty is wrong and that rights do need a philosophical justification in order to fulfill their critical function.
- 6 This provides one example of the wider belief Bacon (2011) attributes to Rorty that ‘liberal institutions might be defended even while Enlightenment philosophy is set aside’ (p. 201).
- 7 A later writing clarifies that ‘I have never wished to deny that human beings share a lot of traits with the other animals. I only want to deny that they possess something distinctively “human”, an extra added



ingredient, a description of which can be used to explain, for example, why they have dignity rather than mere value. My view is that the only extra added ingredient they have is the extra neurons which make them capable of becoming language-users, and thus of changing themselves by changing the way they talk' (2001a, p. 130). But given the immense importance Rorty attributes to descriptions, redescription and self-making, this difference seems more significant than he suggests here.

- 8 As Conway (2001) describes Rorty's position on human rights, 'If we can learn to see ever more others as fellow sufferers, then we can more readily accommodate an expanded feeling of solidarity' (p. 65, cf. p. 68).
- 9 There are, of course, other critiques of animal rights but for reasons of space, I do not survey them here (see, for example, Abbey, 2007).
- 10 In a later writing Rorty (2001b) evokes a socialist utopia 'in which no one is ever starved or degraded into animality' (p. 171). This displays the same double movement – the animal as a debased category, but also the fluidity of the human–animal divide. See Rorty (2001b, p. 172) for another manifestation of this double movement.
- 11 On the long slow trek to promote animal rights by creating new legal facts, see Siebert (2014), which recounts the sedulous labors of animal law scholar, Steven Wise, to change the status of animals from that of property.
- 12 Rorty provides no evidence for this claim, and the growing literature on animal empathy and their sense of community could suggest that the difference is not as great as declares (see, for example, de Waal, 2009; Andrews and Gruen, 2014).
- 13 Geras (1995, pp. 45–70) maintains that Rorty retains an idea of human nature, despite his protestations to the contrary.
- 14 I am grateful to an expert anonymous reviewer for forcing me to entertain this objection.
- 15 Cf. his claim that 'by invoking a higher power than sentiment, the power of reason, Plato got moral philosophy off on the wrong foot' (HRRS, p. 123), which suggests that the rationalist approach was flawed from the beginning.
- 16 This differs from his earlier view that 'the vocabulary of Enlightenment rationalism, although it was essential to the beginnings of liberal democracy, has become an impediment to the preservation and progress of democratic societies' (*CIS*, p. 44, cf. p. 195). It is also interesting to note that Hume plays a negligible role in that work. Perhaps as Rorty re-evaluates Hume, under the guidance of Baier, he thinks differently about the early stages of liberal democracy, too.
- 17 Hayden (1999) argues that while sympathy for the suffering of others might generate and complement respect for human rights, it is neither a necessary nor sufficient condition of this.
- 18 For an enthusiastic account of the 'global moral warming' that Rorty envisages (see Barreto, 2011).
- 19 A better way of conveying what I take is the same point appears in his claim that 'Solidarity has to be constructed out of little pieces' (*CIS*, p. 94).
- 20 www.peta.org/features/edie-falco-animal-circuses-kids/#ixzz32CpFS349, I use this as a ready-to-hand example without implying endorsement of PETA.
- 21 Conway (2001) allows that Rorty's emphasis on concern for the other's suffering as a basis of solidarity could expand to include 'animals, plants, artifacts and machines' while overlooking some human beings (p. 68). How one identifies with the suffering of an artifact or machine escapes me, but for now what matters is that because he interprets Rorty as trying to augment specifically human solidarity, Conway is critical of animals' inclusion. Erez (2011) permits that animals could perhaps be included in Rorty's moral community but this demands a more difficult stretch of the imagination than including human beings from one's nation (p. 57).
- 22 His claim about security as a basis for rights extension is also borne out by Lowe and Ginsberg's (2002) study of members of the animal rights movement, for they find them to be well educated and affluent.
- 23 A later writing offers a more muted statement on the dynamics of desirable social change, permitting that it can emerge from the bottom-up, or from the top-down, or from some combination of these directions. Again Rorty (2001b) acknowledges that many people prefer to see it rising from the grass roots, but that preference 'should not behave people nearer the top ... to wait, deferentially, for those



- nearer the bottom to make their move' (p. 174). One example of desirable change emanating from an elite is the abolition of the death penalty (Rorty, 2001b, p. 174).
- 24 Another analog might be the profoundly disabled. But many disabled people agitate for rights for themselves and for those whose disability precludes their agitation. A good illustration of this is the American disabled rights group 'Not Dead Yet' who protest euthanasia for people with disabilities.
 - 25 Hereinafter *CIS*.
 - 26 Shklar (1984, pp. 3, 5, 7–44). Kekes (1996) is highly critical of this association.
 - 27 I use this as a ready-to-hand example without implying automatic endorsement of all American Society for the Prevention of Cruelty to Animals.
 - 28 Lekan (2004) also discusses ways in which the care and justice approaches can be harmonized, although he does not draw upon Rorty. His position about moral deliberation closely parallels what Hayden (1999) says about reason and sentiment as complementary forces in human rights attribution.
 - 29 Although it could be vulnerable to other criticisms. Kheel (2007), for example, argues against the rationalism of much environmental ethics but rather than replace this with emotion, she prefers to deconstruct any rigid reason/emotion distinction (cf. Adams, 2007, pp. 201–202; Bailey, 2007; Luke, 2007, p. 127; Gruen and Weil, 2012, p. 479). Rorty, by contrast, repeatedly affirms this distinction.
 - 30 Baier's work is directly influenced by Hume in the way that Gilligan's, however, is not.
 - 31 A minority might achieve integration: 'Christians (and others) for whom the search for private perfection coincides with the project of living for others' (*CIS*, p. 143).
 - 32 Herdt (1992) is just one of the commentators who finds this separation inherently unstable.

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