

Joint Rights

Human Beings, Corporations and Animals

Seumas Miller

Charles Sturt University, Delft University of Technology and the University of Oxford

Abstract

In this paper I, firstly (section 1), distinguish between human rights, natural rights and institutional rights and argue that some so-called human rights, such as the right to life, are natural rights and others, such as the right to vote, are institutional rights. Secondly (section 2), I sketch my account of joint rights (developed in more detail elsewhere¹) and apply it to two kinds of entities that are importantly different from one another and from individual human beings, namely, business corporations (section 3) and non-human animals (section 4). I do so to test the scope of joint rights in the context of the ascription of joint rights to human beings being uncontroversial (although the analysis of joint rights is far from being a settled matter). I argue that neither corporations nor animals have joint moral rights, since in neither case do they have moral rights, but that they do have, or at least they ought to have, legal rights, and some of these legal rights arguably ought to be joint legal rights. In doing so, I introduce a significant theoretical innovation to the literature on joint rights, namely, that of a layered structure of joint rights.

Keywords: joint rights, joint obligations, joint actions, rights of corporations, animal rights

1. Human Rights: Natural Rights and Institutional Rights

Some moral rights, such as the right to life, right not to be tortured, right to (clean) air and water, and the right to freedom of movement, are evidently logically prior to social institutions. These moral rights depend on properties that we have qua human beings: the capacity to suffer physical pain, to freely move around and so on. Let us, therefore, refer to these moral rights as natural rights. By contrast, some moral rights, such as the right to vote, the right to a fair trial, and the rights to buy/sell land/labour, are logically dependent on social institutions. These moral rights presuppose institutions: democratic governments, courts of law, institutions of property, markets and so on. Therefore, let us refer to these rights as institutional rights; so they are both

moral rights and institutional rights. Moreover, an important species of institutional rights are legal rights. Accordingly, the set of rights referred to as “human rights” in, for example, United Nations documents include both natural and institutional rights in my senses of those terms.

Natural rights bring with them concomitant moral obligations². For example, the right not to be killed has a concomitant obligation not to kill. Moreover, natural rights are such that discharging their concomitant obligations is always possible, at least in principle if not in practice. Thus murderers could refrain from killing innocents and torturers could refrain from engaging in torture. The obligations in relation to some positive natural rights, such as the right to (clean) air and water, and to basic foodstuffs and shelter might seem more problematic, given various economic and (especially)

1 See, for instance, Seumas Miller ‘Collective Rights’ *Public Affairs Quarterly* vol. 13 no. 4 1999, and *Social Action: A Teleological Account* (New York: Cambridge University Press, 2001), Chapter 7.

2 Some institutional rights bring with them concomitant moral obligations. The right to vote, for instance, brings with it the obligation not to prevent that person from voting by, say, confining them on election day.

political obstacles³. However, I suggest that discharging these obligations is, at least in principle, possible, given the abundance of the earth's resources, the possibility of redesigning relevant institutions and so on. Further natural rights generate enforcement obligations, such as the obligation on the part of third parties to prevent attackers from killing innocent persons. Again, I suggest that enforcement of natural rights is always in principle possible, even if not in practice on some occasions, e.g. by the removal of natural rights-violating government at some point (even if not immediately).

Natural moral rights are often institutionalised, e.g. legalised. However, the fact that a natural moral right is institutionalised does not make it an institutional right in my above sense, i.e. a moral right which presupposes an institution. Of course, it is trivially true that all institutional rights are institutional rights. However, natural moral rights that are institutionalised do not *qua moral rights* presuppose institutions and are not, therefore, institutional moral rights in the required sense.

With respect to moral rights that are also institutional rights (in the sense of presupposing institutions) there is an important distinction germane to our purposes here between *general* institutional moral rights and *special* institutional moral rights. General institutional moral rights—and, for that matter, general institutional duties—attach to all members of a nation-state (or like polity).⁴ General institutional moral rights depend in part on properties that we possess as human beings and in part on membership of a community with social institutions of the relevant kind. General institutional moral rights/duties attach to all or most members of a nation-state because they are logically dependent on institutions in which all or most members participate, e.g. right to vote, right to equality under the law, the obligation to obey the law. I note that some general institutional moral rights and duties transcend the nation-state by virtue of transnational social institutions, e.g. the right to buy and sell in international markets. I also note that many general institutional moral rights are among *so-called* human rights, e.g. the right to vote.

Special institutional moral rights and duties are constitutive of institutional roles. As such, they are not right or duties that are possessed by all members of a polity; rather they attach to (and are in part constitutive of) particular institutional roles, such as those of police officers. For instance, police officers have an institutional duty—which is typically also a moral duty—to arrest law breakers.

3 Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2008).

4 Or at least to all members who are adults, or perhaps rational adults or some such category.

I have argued elsewhere⁵ that special (institutional) moral rights and duties derive in part from the collective good that is the *telos* and, as such, constitutive of the institution in question. According to this normative teleological theory, social institutions have as their *raison d'être* the provision of some collective good(s), such as national security (military), law and order (police), knowledge acquisition and dissemination (universities), food (agribusinesses), and so on. Being derived (in large part) from the collective good produced or maintained by an institution, these rights and duties are not natural rights and duties, albeit they are moral rights and duties (as well as being institutional rights and duties). Moreover, special (institutional) moral rights do not feature in the lists of human rights proffered by the UN and other like institutions; special rights are not human rights in one widely accepted sense of that term.

According to my normative teleological account of social institutions the precise content, strength and context of application (e.g. jurisdiction) of the institutional rights and duties of institutional role occupants is determined in large part by reference to the purposes of those institutions and, in particular, by the relevant collective goods of those institutions, e.g. security, knowledge. Of course, some institutional rights are not also moral rights, e.g. the right to move one's pawn one space forward in chess, the right of full professors to free parking at a university. Moreover, in the case of some institutional rights that are also moral rights the collective goods from which they are derived themselves consist in part in aggregated natural rights.

2. Joint Rights

Roughly speaking, two or more agents have a joint moral right to some good, if they each have an individual moral right to that good, if no-one else has a moral right to that good, and if the individual right of each is dependent on the individual rights of the others. Thus the right of moral agent A to some good, G, (jointly held with moral agent, B) brings with it an essential reference to the right of B to G (jointly held with A), and does so via the good, G. Moreover, being a joint right, neither A nor B can unilaterally extinguish it. Let us assume that political participation in Canada is a good. Let us further assume that each Canadian citizen has a moral right to political participation in Canada, notably by virtue of their legal right to vote in Canada, non-Canadians do not have a right to political participation in Canada (e.g. they do not possess the right to vote in Canada), and the right to political participation of each Canadian

5 Seumas Miller, *Moral Foundations of Social Institutions* (New York: Cambridge University Press, 2010).

is dependent on the possession of the right to political participation in Canada of all the other Canadians. In that case Canadians have a joint moral right of political participation in Canada, including the joint moral right to vote in Canadian elections⁶. Note that the right to vote is a general institutional (joint) right. Other instances of joint moral rights are special institutional (joint) rights. For instance, the right of the members of the Canadian legislature to vote on legislation that comes before them is a *special* joint institutional right; it is a right that legislators have by virtue of their particular institutional role as members of the legislature and, as such, is not a right possessed by all Canadian citizens.

Joint rights need to be distinguished from universal individual rights. Take the right to life as an example of a universal individual right. Each human being has an individual right to life. However, since my possession of the right to life is wholly dependent on properties I possess as an individual, it is not the case that my possession of the right to life is dependent on your possession of that right. Joint rights also need to be distinguished from conditional individual rights. By mutual consent I might have a right to fish in your river on condition that you have a right to hunt in my woods. However, neither I nor you have a joint right; rather we each have a conditional individual right. For one thing, the content of my right brings with it no essential reference to the content of yours via a good, such as political participation, in relation to which the joint right exists. For another, I can unilaterally extinguish your right, as you can mine.

However, notice that joint rights can be based in part on properties individuals possess as individuals. The right to political participation is based in part on membership of a political community, and in part on possession of the property or right of autonomy. This also raises the question whether or not joint rights are necessarily possessed in part on the basis of membership of a social group. Elsewhere I have argued that they are not, and that therefore the way is open to define group rights as joint rights possessed in part on the basis of membership of a social group.⁷

Joint rights can arise in a variety of ways. Joint rights can arise by way of promises. The owner of a house might confer joint ownership rights of the house on

his two sons, for example. These joint rights might be joint moral rights and joint legal rights, if the promise in question was legally binding. However, arguably, the most important moral basis for joint moral rights is joint action; specifically, joint action which produces a good, i.e. a good to which there is a joint right. Consider, for instance, two business partners or the co-authors of a book. Again, these joint moral rights might also be joint legal rights, depending on the nature of the laws in the jurisdiction in question. But what is a joint action?

Roughly speaking, a joint action can be understood thus: two or more individuals perform a joint action if each of them intentionally performs an individual action but does so with the (true) belief that in so doing each will do their part and they will jointly realise an end which each of them has and which each has interdependently with the others (a collective end, in my parlance⁸). Here an individual action, x, performed by A is interdependent with individual action, y, performed by B since x would not be performed by A unless A believed B is (or was or will be) performing y (and vice versa for B). Moreover, the reason for this interdependence is the means/end relation between these actions and the collective end, E; E can only be realized if actions x and y are performed. Note that an outcome of a joint action might not be aimed at and, if so, it is not a constitutive element of a successful joint action, i.e. it is not the realized collective end of the joint action.

3. Corporations and Joint Rights

Do corporations per se have joint rights? Obviously, the human occupants of particular institutional roles in corporations have joint institutional rights, e.g. the joint right to vote of members of a boards of director of a corporation. However, our concern here is not with special institutional rights that attach to individual role occupants but rather with (joint) rights that might attach to collective entities per se – and to corporations in particular. To answer this question we need to get clear on the nature and normative purpose – specified in terms of collective goods⁹ - of corporations. Here we need to distinguish between goods and, in particular, collective goods that are produced *directly* by a corporation and those that are produced *indirectly*. Consider Toyota Corporation.

Toyota directly produces cars and cars, by virtue of meeting the transport needs of Toyota's customers,

6 The *right* to vote (as opposed to the act of voting) is a joint right. What of the act of voting? Of course, under one description, e.g. filling in a voting slip and putting it in the ballot box, it is not a joint action. However, under other descriptions, e.g. voting for Obama (i.e. with the aim of doing one's part to get Obama elected) or voting as a means of political participation, it is a contribution to a joint action.

7 Thus the distinction between joint and collective rights is important. See my *Social Action* op. cit. Chapter 7.

8 The collective end theory of joint action was first elaborated in Seumas Miller "Joint Action" *Philosophical Papers* vol. 21 no. 3: 275-297. See also *Social Action* op. cit. Chapter 2.

9 Miller, *Moral Foundations of Social Institutions* op. cit. Chapters 2 and 10.

are a good (at least, other things being equal¹⁰), or so I will assume. This good – a quantum of Toyota cars – is jointly produced by the activity of Toyota’s shareholders (who provide the capital), its managers and its workers. Accordingly, this quantum of cars is a collective good, i.e. a jointly produced good.

What of the above-mentioned indirectly produced collective good? The collective good in the case of market-based industries is a sustainable supply of a product of reasonable quality and sold at a reasonable price¹¹. The collective goods produced by market-based industries are jointly produced by a set of firms competing in a market; we have moved up from the level of the individual firm (comprised of shareholders, managers and workers) to the level of the industry (comprised of a set of firms competing in a market). Toyota is a producer competing in the market-based car industry and, as such, is one of a number of contributors – others might include Ford and General Motors – to the collective good in question, namely, a sustainable supply of cars of reasonable quality and sold at a reasonable price.

As we saw above in section 2, participants in a joint action the successful realization of which results in a collective good have a joint moral right to that good (other things being equal). Accordingly, shareholders, managers and workers have a joint right to the product they jointly produce and, therefore, to the rewards resulting from its sale (e.g. to dividends, salaries and wages, respectively). Morally speaking, their relative rewards ought to reflect their relative contribution to the production of the collective good. For instance, the earnings from Toyota’s sale of cars morally ought to be distributed among shareholders, managers and workers in accordance with their relative contribution to the quantum of cars in question. Naturally, the individual *legal* rights of shareholders, managers, workers might or might not reflect these joint moral rights. For instance, those in positions of authority might unfairly remunerate themselves, e.g. there is unfair executive remuneration in the USA where on average CEOs earn 250 times the wage of the average worker in their firms.

Let us now consider the corporations considered as market actors in a competitive market-based industry. Individual producers in a market-based industry have a joint right to compete under conditions of free and fair competition, e.g. collusive price-setting among a few large producers to drive out small producers morally ought to be prohibited. However, in the case of industries composed of firms, as opposed to one-person businesses,

each individual producer is a joint enterprise, e.g. a single corporation. Corporations per se have legal rights but the question is whether or not they have moral rights. I have argued elsewhere that they do not¹². Here I will simply assume this. So while corporations per se do not have moral rights, corporations morally ought to have the legal right to compete under conditions of free and fair competition. That is, each morally ought to have this legal right interdependently with the others; which is to say that corporations in a given market based industry ought to have a joint legal right to compete under conditions of free and fair competition. What is the moral basis of this joint legal right of corporations?

I suggest that the moral basis of the joint legal right of corporations to compete under conditions of free and fair competition is a joint moral right of *the members of sets* of shareholders, managers and workers. Consider the market-based car industry again. One such set is Toyota’s shareholders, managers and workers; a second set is Ford’s shareholders, managers and workers, and so on for General Motors and others in the car manufacturing industry.

Here I need to introduce two related notions; the notion of a layered structure of joint actions and the corresponding notion of a layered structure of joint rights¹³. A layered structure of joint actions consists in a (level 2) joint action, the component actions of which are themselves (level 1) joint actions. So the car industry consists, let us assume, of the level 2 joint action of Toyota, Ford and other car manufacturers generating a sustainable quantum of cars (of reasonable quality and at a reasonable price). However, this level 2 joint action consists of a number of level 1 joint actions, e.g. the level 1 joint action of the shareholders, managers and workers of Toyota producing a quantum of Toyota cars.

Now let us consider the layered structures of joint rights. In doing so we need to keep in mind our assumption that corporations, in particular, are not per se the bearers of moral rights and, therefore, of joint moral rights (although the individual shareholders, managers, employees etc. who comprise they are). Given that corporations are not per se the bearers of moral rights, the notion of a layered structure of joint rights needs to invoke apparent or prima facie moral rights and, in particular, apparent or prima facie joint moral rights. For instance, in ordinary discourse we can speak of the moral (as well as legal) right of one corporation to acquire another corporation. However, this apparent or prima facie moral right (a ‘moral right’) turns out to be analysable in terms of the moral rights of the individuals who comprise corporations, specifically, shareholder,

10 Things might not be equal if, for instance, car pollution is at unacceptable levels in the context of climate change.

11 Miller *Moral Foundations of Social Institutions* op. cit. Chapter 10.

12 *ibid* and *Social Action* op. cit. Chapter 5.

13 Miller *Social Action* op. cit. pp. 173-5 and *Moral Foundations of Social Institutions* op. cit. pp. 47-50.

managers, workers etc. Thus in the final analysis or, if you like, ontologically speaking, there are no individual or joint moral rights of corporations. The notion of a layered structure of joint rights reveals how this analysis works. A layered structure of joint rights is comprised of level (1) and level (2) joint rights. A level (1) joint (moral or legal) right is a joint right to perform a joint action comprised of *individual* actions, e.g. the above-mentioned joint right to vote. A level (2) joint (moral or legal) right is a joint right to perform a *joint* action comprised of joint actions. I suggest that the ‘moral’ (and legal) right of Toyota, Ford and other car manufacturers to compete under conditions of free and fair competition is a level (2) joint right. However, ex hypothesi, Toyota, Ford etc. do not per se have moral rights, individual or joint, so their level (2) joint rights are either joint *legal* rights or joint ‘moral’ rights – joint ‘moral’ rights being only apparent or prima facie moral rights. Nevertheless, there are level (2) joint moral rights (as opposed to level (2) joint ‘moral’ rights). However, the bearers of the level (2) joint moral rights in question are the shareholders, managers, workers etc. of Toyota, Ford and the other car manufacturers. Let me explain.

In the case of the car manufacturing industry, there is not only a layered structure of joint actions, there is also a corresponding layered structure of joint moral rights. This layered structure of joint moral rights is as follows. Level 1: Toyota’s shareholders, managers and workers have a (level 1) joint moral right to jointly produce Toyota cars; likewise, Ford’s shareholders, managers and workers have a (level 1) joint moral right to jointly produce Ford cars. Level 2: The members of Toyota (i.e. Toyota’s shareholders, managers and workers) and of Ford (i.e. Ford’s shareholders, managers and workers) – together with the members of the other car manufacturers - have a (level 2) joint moral right to compete in the car industry under conditions of free and fair competition. Notice that the ‘individual’ bearers of this *level 2* joint moral right are multiplicities, e.g. the members of Toyota, and not single entities, e.g. Toyota corporation. Accordingly, the ‘moral’ right of Toyota to compete in the car industry under conditions of free and fair competition – a right jointly held with other manufacturers – is actually a joint moral right of the members of Toyota.

Please note the following points. First, the (level 2) joint ‘moral’ right of Toyota and Ford to produce cars under conditions of free and fair competition presupposes the ‘individual’ (‘moral’) right of each firm to produce cars.¹⁴ Second, the ‘individual’ (‘moral’) right of Toyota

to produce cars is itself (appropriately analysed) a joint moral right of Toyota’s shareholders, managers and workers; similarly for Ford. Third, the (level 2) joint ‘moral’ right of Toyota and Ford to produce cars under conditions of free and fair competition is itself (appropriately analysed) a (level 2) joint moral right of the members of Toyota and the members of Ford to do so. Fourth, notwithstanding the first three points, Toyota and Ford per se (i.e. qua collective entities) each have individual *legal* rights to produce cars and a joint *legal* right to produce cars under conditions of free and fair competition. However, the moral basis of these legal rights is the afore-mentioned layered structure of joint moral rights.

4. Animals and Joint Rights

Thus far I have argued that joint legal rights (but not joint moral rights) can attach to corporations. Let me now turn to the issue of non-human, higher animals and joint rights. In doing so I make two general assumptions: (1) Non-human animals, e.g. dogs, chimpanzees etc., are not moral agents and do not have moral rights; (2) Human beings have moral obligations to non-human animals, e.g. humans morally ought not to torture animals. Of these assumptions, the first is controversial¹⁵, the second is not. However, I do not have space here to enter into the complex arguments made on the question of the moral rights of animals beyond making the following three points.

Firstly, there is a popular argument that if non-human animals do not have moral rights then human babies cannot have moral rights since animals and babies share important properties, e.g. the ability to suffer pain and pleasure, and since, unlike adult humans, neither are moral agents. However, there is an important difference between animals and babies in this regard. Arguably, babies but not animals, have moral rights (in part) by virtue of their *capacity* to become moral agents (as opposed to the ability to act morally having become moral agents) – a capacity as yet unrealized in moral action and in the ability to perform moral action.

Secondly, at least some of the moral rights in question (e.g. the right to life) are, arguably, what I referred to in section 1 as *natural* rights, i.e. rights possessed (at least in part) by virtue of possession of natural properties, including natural capacities. So the rights in question are

correct as far as it goes. However, the interdependent right in question is that of Toyota to compete under conditions of free and fair competition and that of Ford to do likewise; and ditto for the other car manufacturers.

15 See, for instance, Tom Regan *The Case for Animal Rights* (Berkeley: University of California Press, 1983).

14 Moreover, the (level 1) joint moral right of Toyota’s shareholders, managers and workers to produce cars might not be interdependent with the (level 1) joint right of Ford’s shareholders, managers and workers to produce cars. This is

not what I referred to in section 1 as *institutional* rights, i.e. not rights such as the right to be the President of the United States. Institutional rights depend (at least in part) on properties other than natural capacities. For instance, the right to be President of the United States depends on being elected by a majority of votes in the electoral college.

Thirdly, natural capacities depend (at least in part) on possession of physical properties, e.g. the capacity of humans to reason depends on the possession of a (well-formed, healthy) brain. Accordingly, an embryo does not have a capacity to reason (let alone an ability to do so) and, therefore, does not have any rights that depend on a capacity to reason (indeed, arguably, has no moral rights).

Human beings have moral obligations to animals and in many jurisdictions these moral obligations are enshrined in the law; that is, humans have both moral and legal obligations to animals. As is the case with children, and (as discussed above) corporations, an entity does not have to be a moral agent per se in order to be ascribed legal rights. Accordingly, legal rights can, at least in principle, be ascribed to animals, as they can to children and, as argued above, corporations. For instance, legal rights could be ascribed to animals on an instrumental moral basis. Human beings have moral obligations to animals and therefore, it might be argued, animals should be ascribed legal rights in order to ensure that these moral obligations are discharged. If so, the legal rights in question might need to be exercised by human beings on behalf of the animals possessed of these legal rights; as is the case with corporations, for instance, and children. In the former case they might be exercised by a corporation's CEO and, in the latter, by the child's legal guardian. Moreover, if legal rights can reasonably be ascribed to animals the way seems clear to ascribe *joint* – as opposed to merely individual – legal rights to animals. But why would one want to do so?

As we saw in section 2 above, one moral basis for possession of a joint moral right is joint action that is productive of a good. As it happens, humans and animals engage in joint actions of sorts. Consider the following putative joint actions involving humans and animals. A farmer and his horse plough a field; a guide dog assists a blind person to walk on busy streets; sniffer dogs find drugs or explosives under the direction of their human handlers. Here we need to be mindful of the distinction between joint actions and assisted individual action. We also need to keep in mind the distinction between joint action and an individual action performed by one agent under the direction of a second agent, e.g. as in a principal/agent relationship. But let us assume that at least some of the above kinds of case, e.g. the guide dog example, are sufficiently collaborative to warrant the status of being instances of human-animal joint action.

At this point it might be argued that apparent instances of human-animal joint action are not really joint actions, since animals do not perform actions in the required sense. They do not do so for the reason that animals are not, properly speaking, agents. However, animals do have (non-propositional) intentions and beliefs; accordingly, they perform (unreflective) actions in some sense, i.e. they are not simply machines without a mental life. On the other hand, presumably animals do not freely, much less autonomously, choose to perform their actions. Accordingly, let us assume that the higher order (non-human) animals do perform actions, even if not, so to speak, full-blooded, freely performed actions of the kind human beings perform. Let us refer to the actions performed by higher order animals as “brute” actions. Moreover, animals, such as dogs, lions and elephants, not only perform individual (brute) actions, they also at times perform joint (brute) actions, e.g. when two sheep dogs cooperate in mustering sheep. Further, as the guide dog example illustrates, humans and animals can cooperate and perform joint actions. (Let us refer to human-animal joint actions by means of an asterisk*, e.g. the blind person and the guide dog performed a joint action*.) However, the joint actions* in question: (a) will consist of individual contributory human actions and individual contributory brute actions, and; (b) these individual actions will be directed toward a collective end consisting of two different kinds of individual (interdependently held) ends, namely, a human end and a brute end (so to speak). Thus both the guide dog and the blind person have as a collective end to cross the road safely, i.e. each has as an individual end to cross the road safely, and these two individual ends are interdependent. However, the guide dog, unlike the blind person, does not represent its end in a propositional form.

Some joint actions* are morally significant by virtue of the collective end that they realise. Our guide dog example is a case in point. However, animal participants in joint actions* do not have moral obligations (or moral rights) since they are not moral agents and have no moral sense. Accordingly, joint actions* are morally significant only for their human participants (and, of course, third parties who are humans, such as bystanders).

What other moral obligations are in play in relation to joint actions*? Human owners of animals who participate in joint actions* have individual and joint moral obligations to these animals. Thus human owners have positive moral obligations to provide food, water, medical attention, shelter and so on for animals that they have caused to participate in morally significant joint actions*. Moreover, in some instances these individual and joint moral obligations might also be institutional duties and, indeed, special institutional duties. For instance, the members of the police dog squad might have special individual and joint institutional duties of

care to the dogs they train and task – individual and joint institutional duties underpinned by individual and joint moral obligations (respectively).

In the light of the existence of such institutional duties to animals underpinned by moral obligations, it is possible to ascribe morally justified legal rights to these animals to be exercised on their behalf by human agencies. For instance, guide dogs and sniffer dogs might have legal rights against their owners to be exercised on their behalf by (say) the Royal Society for the Prevention of Cruelty to Animals.

What of higher (non-human) animals that do not engage in joint action* or which are not otherwise domesticated? Many animal species, such as elephants and whales, have non-trivial, inherent and instrumental value, albeit their value is qualitatively less than that of human beings by virtue of, let us assume, the fact that they are not moral agents.

Such animals clearly have instrumental value, e.g. as key elements of the bio-system supporting human beings. But they also surely have inherent value. Hence, our repugnance, for instance, to the shooting dead of even a single elephant for sport. That said, it might be morally impermissible to shoot dead a human elephant poacher in order to save the life of the elephant he is about to kill. Human lives are regarded as more valuable than animal lives, even those of the higher animals. On the other hand, it is evidently morally permissible to shoot dead a single (culpable) human being, or even multiple (culpable) human beings, in order to protect the elephant species.

It follows from that there is a joint moral obligation on part of relevant humans not to allow the extinction of elephants and like higher non-human animals. Moreover, this obligation is based not simply on instrumental grounds, but also because of the inherent value of these animals. So once again it is possible to ascribe morally justified legal rights to animals to be exercised on their behalf by members of human agencies, e.g. wildlife protection agencies. In such cases members of wildlife protection agencies have a joint moral obligation – and associated special joint institutional duties - to the animals in question and these animals have corresponding joint legal rights.

Conclusion

In this paper I have distinguished between human rights, natural rights and institutional rights and argued that some so-called human rights are natural rights and others, are institutional rights. Of these institutional rights, some are general rights and others special rights. Moreover, I have elaborated my account of joint rights and applied it to corporations and non-human, higher animals. I have concluded that neither corporations nor animals have joint moral rights, but that they do have, or at least they ought to have, legal rights, and some of these legal rights are joint legal rights. In the course of these arguments I introduced the notion of layered structures of joint rights and that of a joint legal right derived from a joint moral obligation.