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Animal rights and self-defense theory

Through his recent discussion of rights-based approaches to the morality of abortion Jeff McMahan sheds light on the implications for extending self-defense theory to nonpersons that are afforded full moral status.¹ McMahan's principal target is Judith Thompson who argues that a woman has a right to procure an abortion on the grounds of self-defense even if the fetus is afforded maximum moral status.² Central to Thompson's argument is her claim that people should not be obliged to help others at great cost to themselves. She says: "[N]obody is morally *required* to make large sacrifices, of health, of all other interests and concerns, of all other duties and commitments, for nine years, or even for nine months, in order to keep another person alive."³ According to Thompson, while it is reasonable to expect people to provide so-called minimal aid and assistance to those in need, it is asking too much of women to demand they carry an unwanted pregnancy to term given the significant personal costs involved.

While broadly sympathetic to her pro-abortion position, McMahan believes that Thompson fails to notice a decisive implication of her thoroughly rights-based theory. His focus is not her key claim that the duty to assist others only goes so far but rather her treating the fetus as a person with full moral rights. For the purposes of *reductio ad absurdum* McMahan lays bare that if fetuses are accorded utility-trumping rights or personhood-type moral status they will qualify for a right of third-party defense. A right of third-party defense is a right to have third-parties intervene on the rights-bearers behalf against unjustified threat or attack. In line with self-defense theory, the exercise of the third-party defense right is governed by principles of justice that underpin rights-based approaches to the morality of self-defense.

In line with rights-based self-defense theory, self-defense cases are to be adjudicated in

accordance with a principle for resolving situations of forced choice among harms or lives.⁴ An ethical resolution of forced choice situations requires determining a moral reason for preferring that one party and not the other suffers harm. In most abortion cases, McMahan argues, the mother's ultimate responsibility for falling pregnant is the decisive moral reason for preferring that she and not the fetus suffers harm. Even in cases when a woman mitigates her responsibility to some degree by taking reasonable steps to avoid getting pregnant, the mere fact that she engaged in sexual activity knowing there was a small risk of pregnancy is sufficient to break what would otherwise be an intractable deadlock. Without the attribution of responsibility to the mother a forced choice deadlock would persist between two innocent rights-bearers each with maximum moral status. McMahan says:

The degree of her responsibility is admittedly quite weak. She is certainly not culpable; indeed, she is presumably not at fault in any way—that is, she presumably acted entirely permissibly in doing what brought about the forced choice. Nevertheless, she is to a degree morally responsible for the situation of forced choice, whereas the fetus bears no responsibility whatever. And that is a morally critical asymmetry between them.

When the pregnant woman is thus morally responsible for the forced choice between her being harmed by the presence of the fetus and the fetus's being harmed by an abortion, considerations of justice favor the fetus.⁵

As McMahan shows, extending personhood-type moral status to fetuses and thereby reasoning in accordance with rights-based approaches to self-defense leads to an intolerable conclusion, namely, that except in cases of pregnancy due to rape, when coercion is a sufficiently

mitigating excuse for the mother, it would be permissible for people to defend a fetus by violently attacking an abortion doctor, even in cases when the pregnancy endangers the mother's life.⁶ McMahan believes that this implication seriously undermines Thompson's rights-based approach to the morality of abortion and ought to give pause to any theorist that places persons and non-persons on a morally equal footing. He concludes that no exclusively rights-based theory of justice can guarantee a woman's right to abortion on grounds of self-defense if persons and non-persons are given equal moral status. His key point is that the fetus's right to third-party defense will always be an obstacle in the overwhelming majority of abortion cases. McMahan argues that his two-tiered theory of moral status is more consistent with commonsense intuitions about killing and the value of different lives. According to McMahan only persons ought to be afforded maximum moral status and to reflect this they are owed utility-trumping rights. In contrast, non-persons, such as fetuses and nonhuman animals, should have a lesser moral status and by corollary should be eligible only for having their interests given equal consideration in a utility calculus. As fetuses do not, according to McMahan, have an interest, in the relevant sense of the term, in continuing to live, killing them will almost always be permissible on utilitarian grounds. Only the onset of sentience, the capacity to feel pleasure and pain, entails that the interests of fetuses will even appear in utility calculations.

McMahan appears to offer a clear pro-abortion alternative to Thompson but without the counter-intuitive specter of anti-abortion violence. As he does not afford maximum moral status to non-persons, there are no fundamental obstacles ring-fencing fetuses from abortion because they do not have a right to third-party defense concomitant of a utility-trumping right to life. However, McMahan overlooks how the extension of personhood-type rights to nonpersons also catches species-egalitarians, like him, on the horns of a dilemma. After all, from the perspective

of species-egalitarians, middle and late-term fetuses and many nonhuman animals are ostensibly like cases, morally speaking, in virtue of their comparable moral status grounded in their psychological capacities. For some species-egalitarians such as Peter Singer and Gary Francione mere sentience is sufficient for equal consideration of interests and utility-trumping rights respectively.⁷ For other theorists such as Tom Regan sentience is sufficient for moral status but the requisite level of psychological capacity that is needed for rights possession is higher than merely the capacity to feel pleasure and pain. For Regan, normal mammals of one year or more are entitled to utility-trumping rights.⁸ According to species-egalitarians, bare species membership, like race or gender, has no intrinsic or direct moral significance; instead, moral status and any attendant moral goods, such rights or interest protection, are conferred upon individuals on the basis of their psychological capacities alone. On this view, sentient creatures are entitled to either utility trumping rights (rights theory) or equal consideration of interests (utilitarianism), be they *Homo sapiens* or animals from other species.

Extending self-defense theory across the species barrier entails that cases in which people pose a threat to animals will also be resolved in accordance with the principle for adjudicating forced choice situations. In comparison to abortion cases, however, from the perspective of species-egalitarians the moral difference between the two parties in cases when persons harm animals is clear. Recall that in abortion cases, women are liable for the threat they pose fetuses in virtue of their responsibility for actions which are not in themselves impermissible, namely, having sex and getting pregnant. The moral difference between attacker and victim is discernible but not obvious. But, in most cases of harming animals, the attackers are moral agents that, from the species-egalitarian perspective, will be culpable for an unjustified harm to victims that pose no threat to them whatsoever. In the absence of any mitigating excuse, this is an obvious reason

to consider them responsible for the creation of the forced choice and thereby liable to third-party defensive violence on behalf of the animal. Indeed, from the perspective of species-egalitarians, most cases of violence towards animals will be akin to paradigm cases of self-defense in which a culpable attacker poses an unjustified threat to an innocent victim.⁹

However, extending self-defense theory to nonhuman animals poses a serious theoretical problem for species-egalitarians. The problem, which can be cast in the form of a dilemma, is like the *reductio ad absurdum* McMahan lays at the feet Thompson and other rights-theorists that extend personhood-type moral status to fetuses. The dilemma is acute for deontological supporters of animal rights but it is also a serious problem for many utilitarian species-egalitarians, and species-egalitarian hybrid theorists such as McMahan, who affords a normative theory that combines Kantianism with utilitarianism. The first horn of the dilemma is the multiple inappropriate targets problem: if people that are harming animals are liable to third-party defense then tens of thousands, possibly millions, of well-intentioned, law-abiding, good-natured, talented and otherwise reasonable people will be legitimate targets for violence. Presumably, this would mean that many farmers who raise animals for food, scientists who use animals in biomedical research, people from varying occupations who employ animals in entertainment and recreational pursuits, and doctors who abort sentient fetuses, would be liable to third-party defensive violence on behalf of the animals. Indeed, depending upon how broadly contributory causation is interpreted, even philosophers who sympathize with species-egalitarians but nonetheless continue to consume animal products produced in so-called factory farms may be liable to violence. Intuitively, many would consider the multiple inappropriate targets problem a *reductio ad absurdum* of species-egalitarianism.

The standard response from species-egalitarians would be that such intuitions are not

reliable and ought to be discarded because they are invariably infected with species prejudices. But, the fact that intuitions may be informed by species-bias ought not, in itself, be reason enough to discard them. After all, given the longstanding and almost omnipresent exploitation of animals and the strong social and institutional sanction for exploitative practices, it is arguable that most commonsense intuitions are informed by speciesism to some extent. What matters is if they are informed by speciesism to an extent that they are sufficiently discredited. But, if a particular intuition can be explained without recourse to species prejudice then it is reasonable to assume that it is at least as reliable as any other intuition. Accordingly, the intuitions that underpin commonsense judgments about the multiple inappropriate targets problem can be explained with reference to abhorrence at the prospect of society becoming even more violent than it is already. It is a reflection of the idea that it is inappropriate to visit violence upon individuals many people identify with, admire, tolerate, love and respect. One does not have to be a speciesist to realize that giving the green light to a kind of civil war is an absurd idea. A similar process of thought underpins opposition to Christian fundamentalist fanatics attacking abortion doctors in defense of fetuses. Arguably, judgments about the value of different lives don't play any decisive role. More relevant is people's identification with doctors and expectant mothers. They empathize with them; know some of them intimately; perhaps, even want to be like them. The thought of them being subjected to violent assault or harassment is intuitively repugnant.

Theorists willing to embrace the first horn need to bear in mind that is not just people engaged in isolated cases of gratuitous animal abuse that will qualify as legitimate targets for third-party defense. From the perspective of species-egalitarians, most socially acceptable uses of animals in agriculture, entertainment and biomedical research, practices that go largely

unquestioned by society at large, constitute unjustified harms to rights bearers. This entails, consistent with self-defense theory that people responsible for such harms are eligible to have violence used against them in accordance with principles governing the exercise of third-party defense. It may well be that such violence is restricted to forcible restraint, threats, or damaging property, but these are serious acts in themselves, to say nothing of the foreseeable risk of them escalating into more serious forms of violence. To claim that an intuition traceable to abhorrence at licensing widespread violence is suspect and ought to be discarded is to place too much weight upon abstract theorizing.

The second horn of the dilemma is that if people that harm animals are not liable in terms of being responsible for unjustified harms without an acceptable excuse, then moral agents that buy and sell, confine, mutilate without anesthetic, infect with disease, kill for pleasure, and otherwise use rights-bearers as tools will not be legitimate targets for proportionate third-party defensive violence. Such a conclusion would be radically at odds with common sense if the rights-bearers concerned were human animals of comparable capacities, fetuses aside, and makes the claim that animals have valuable lives worthy of protection ring hollow. In other words, on this horn of the dilemma, species-egalitarians would be open to the charge of speciesism.

A response from supporters of animal rights is that to hold animals have valuable lives worthy of utility-trumping rights does not entail the extension of a right of third-party defense. Presumably, supporters of extending a right to life to fetuses would also raise this kind of defense in response to the *reductio ad absurdum* laid bare by McMahan, outline above. But, the same argument that applies to non-egalitarians who absolutely dismiss extending self-defense theory to animals can also be run against egalitarians that may reject extending third-party defense to rights-bearers. It runs counter to the spirit of moral inclusion to pick and choose which

rights animals enjoy when clearly they are in a position to benefit from a right to third-party defense. Denying animals a right that may spare them severe pain and a premature death is radically at odds with any claim that they are owed rights that may prohibit using them in medical experiments that potentially may save the lives of persons. Such a position is also at odds with species-egalitarian ideals when we consider that the cruelty and institutionalized violence that a third-party defense right would serve to check is the very injustice which gives rise to the call for animal rights in the first place. Accordingly, if animals are important enough to warrant rights not to be harmed or killed, then surely they matter enough to allow others to intervene on their behalf to prevent them being unjustifiably harmed or killed.

Tom Regan may seek to address the dilemma by drawing a distinction between *prima facie* legitimate targets and legitimate targets all things considered. By admitting consequences into his rights-based theory of justice Regan is in a position to claim that when the likely outcomes of violence are factored into deliberations about responsibility for harming animals, very few people will actually qualify as legitimate targets all things considered. But, giving the distinction decisive moral weight in this context is akin to holding that a person that is owed money does not qualify as a creditor just because the bankrupt has no money to pay. As a staunch anti-utilitarian, Regan is well aware the distinction between '*prima facie*' and 'all things considered' still renders many thousands, if not millions, of people, as, in principle, legitimate targets for violence on behalf of animals. This is likely to be unacceptable for most people that hold commonsense intuitions because the distinction has little purchase when at issue is violence against fellow citizens, colleagues, friends and family members. People are unlikely to find the extension of third-party defense to animals any more palatable simply because, in theory, a neighbor or colleague involved in farming or biomedical research escapes legitimate target status

via a technical distinction invoked at a reflective, rather than intuitive, level of moral reasoning. For his part, Regan's willingness to embrace the first horn of the dilemma is betrayed by the grounds of his steadfast opposition to violence in the name of animal rights. His condemnation is not centered upon inappropriate targeting but rather upon animal rights extremists failing to meet the so-called last resort condition. He says: "Until extremists have done the demanding nonviolent work that needs to be done, the use of violence, in my judgment, is not morally justified."¹⁰

Mark Rowlands, like Regan, grounds the morality of violence on behalf of animals in permissibility conditions ultimately gleaned from just-war theory, namely, efficacy, necessity and proportionality. Echoing Rawls, the centerpiece of Rowlands' theory of justice is a species-blind application of the so-called impartial position, a thought experiment that is a feature of the social contract tradition. According to Rowlands, species, no less than gender, race, socio-economic status and intellectual endowment ought to be excluded as a consideration in moral decision-making. Accordingly, Rowlands argues, an act of violence on behalf of animals will be permissible if it is rational for us to choose to live, as a human and as a nonhuman animal, in a world where such acts occur. Rowlands's application of the social contract decision procedure is muddied by a distinction he draws between "acts of rescue" and "attempts to change society."¹¹ He categorizes activists that conduct illegal, yet non-violent raids on farms and research laboratories with the intention of removing animals from harm's way as engaging in acts of rescue. He classes activists that engage in property destruction, vandalism and making threats with the intention of shutting down the operations concerned as engaging in attempts to change society. Rowlands's commitment to just-war principles comes to the fore in his assessment of the morality of each form of activism. He says: "If they are acts of rescue then the use of necessary

and proportionate violence may be justified. If, however, they are attempts to change society, then the use of violence is not justified.”¹² Rowlands also signals a willingness to embrace the first horn of the dilemma in his discussion of so-called animal rights terrorism. He rejects serious violence on behalf of animals, not because it involves inappropriate targets but rather because it is likely to be ineffective, disproportionate and unnecessary. He says:

Such terrorism is not necessary for achieving the goals that provide its *raison d’etre*. If you turn out to be an animal, you will in all probability, not be helped by terrorist action. And if you turn out to be a human, you may be harmed by it. And, any suffering that you thereby endure is gratuitous and unnecessary. Therefore in the impartial position, it would be irrational to choose a world that contains such terrorism. Therefore, in the real world, it is immoral to endorse such terrorism. And that, I think, is why animal rights terrorism is not morally acceptable.¹³

Egalitarian utilitarians, who eschew rights-based or social contract approaches to moral problems, cannot avoid the dilemma by judging the morality of third-party defense on a case by case basis in accordance with standard act-utilitarian decision procedure. Commonsense would consider judging the morality of third-party defense on behalf of animals that are harmed during socially acceptable practices on a case by case basis as just as much a *reductio ad absurdum* as doing so on nonconsequentialist grounds. After all, when egalitarians employ equal consideration of interests the vast majority of people who presently harm animals in the course of their daily lives will be acting without adequate justification. According to egalitarian utilitarians, only by underestimating the value of vital animal preferences and overestimating the

value of comparatively weaker human preferences can mainstream animal agriculture and most animal research be justified on utilitarian grounds.¹⁴ Moreover, as is well-known, utilitarians need secondary principles to overcome the familiar epistemic difficulties associated with gauging the consequences of actions.¹⁵ But, if they employ indirect means of promoting utility, such as principles afforded by rights-based approaches to self-defense, they will be in no better position to avoid the dilemma than nonconsequentialists.

A utilitarian may respond given that animals have until now been excluded from self-defense theory, self-defense theory would not be a fruitful source for secondary principles for utility promotion. On this view, utilitarians are in a position to avail themselves of any principles suitable for the task of indirectly promoting the good and a prohibition on violence on behalf of animals is the best guide to maximizing preference satisfaction. But, a prohibition on violence on behalf of animals would effectively amount to a pacifist response to violence against them and this is likely to do nothing to alter the status quo. It is difficult to see how maintaining the status quo amounts to maximizing preference satisfaction, impartially considered. A pacifist response is also at odds with commonsense intuitions about the appropriateness of proportionate and otherwise justifiable violence on behalf of animals that are being harmed during gratuitous cruelty. Proponents of pacifism overlook how proportionate and otherwise justifiable, strategically targeted violence could be instrumentally useful as a moral corrective at those times when animals are being harmed during practices that occur at the margins of gratuitous cruelty and socially accepted instances of animal harm. Forcibly restraining somebody who is tormenting an injured mouse caught in a lethal trap, for example, would be an act of violence that reflects community concern to minimize cruelty, but without contravening prevailing norms about the appropriateness of swiftly killing mice in the interests of household health and hygiene.

Having a secondary principle that is consistent with the status quo is at odds with the traditional view of utilitarianism as a progressive theory. One would expect utilitarians to avail themselves of the option of resorting to violence on behalf of animals in at least some circumstances.

However, insofar as adopting an intermediate position between pacifism and act-utilitarianism allows them to avoid the case by case *reductio ad absurdum* and the charge of speciesism, then utilitarians have indeed escaped the animal defense dilemma posed here.

Are species-egalitarian hybrid theorists such as McMahan, who combines deontological and utilitarian principles, well-placed to avoid the dilemma? McMahan says his view is of a piece with a position he attributes to Nozick - utilitarianism for animals, Kantianism for people.¹⁶ It is reasonable, however, when we consider McMahan's many recent writings attacking speciesism and defending his so-called convergent assimilation thesis to interpret his mature view as ostensibly Kantianism for persons, utilitarianism for nonpersons. McMahan explains his convergent assimilation thesis thus: "We must accept that animals have higher moral status than we have previously supposed, while also accepting that the moral status of severely retarded human beings is lower than we have assumed. The constraints on our treatment of animals are more stringent than we have supposed, while those on our treatment of the severely retarded are more relaxed."¹⁷ Paraphrasing Nozick's original explication of the hybrid position, the central tenet of McMahan's view can thus be read as nonpersons may be sacrificed for persons and other nonpersons but persons may never be sacrificed for nonpersons. But, surely such a principle is not an obstacle to proportionate and otherwise justifiable intervention on behalf of animals. In third-party defense cases, the relevant sense of "sacrifice" that is reflected in the hybrid principle is just not in play. When someone defends a victim against an attacker it is counter-intuitive to say that the treatment meted-out to the attacker amounts to them being sacrificed in the relevant

sense of the term employed by Nozick. Thwarting the rationally conceived project of an agent in such cases does not violate their sanctity or amount to using them as a means. If this is true in cases when persons harm other persons, why think our understanding of the concept “sacrifice” should be any different in cases when a person harms a nonperson?

The hybrid position, as Nozick’s original explication attests, is an intermediate position.¹⁸ As far as third-party intervention on behalf of animals is concerned this means, at bottom, that intervention will be ruled out in some cases when other species-egalitarians allow it, and permitted in some cases when the common sense Kantian prohibits it; either way, from the perspective of the common sense morality that spawned the original *reductio ad absurdum*, a perspective McMahan appropriates for his attack on those who extend utility-trumping rights to fetuses, his view is suspect. Moreover, while he may be on safer ground to point out that killing a Culpable Attacker is a disproportionate response to a lethal threat to an animal¹⁹; his focus only on killing leaves many important questions unanswered. What is at issue in the real world as far as animal rights extremism is concerned is whether making threats and damaging property is a disproportionate response to what is being done to animals. Assuming McMahan also wants to avoid any charge of speciesism, then it is reasonable to suggest that even from a species-egalitarian perspective that is informed by a healthy vein of commonsense morality it will be an open question whether forcible restraint, making threats, or even some degree of violence, is going too far. Again, from the perspective of the commonsense morality that McMahan appropriates for his own purposes, this judgment too is likely to be considered unacceptable.

One way that McMahan may attempt to avoid the dilemma is to argue that the above analysis overlooks an important feature of the conceptual connection between liability to violence and proportionality. He could argue that efficacy is a constitutive condition of

proportionality and a person cannot be liable to third-party defensive violence if any violence employed against them is likely to be ineffective in stopping the harm or wrong that gives rise to the defensive action. Thus, people who harm animals during socially acceptable practices are not liable to third-party defensive violence because such violence stands little chance of successfully defending the animal[s] concerned. Two responses can be made to this objection. The first is that tying liability to efficacy threatens to divorce liability from considerations that reflect what is most compelling about cases of unjustified threat or attack, namely, the culpability of the attacker. What matters in cases of unjustified threat or attack is that the attacker has failed to consider the moral status of the victim as a constraint upon the achievement of their ends. Culpable attackers think their ends are more important than the pain and suffering, or death, they impose upon the victim; this is to get the ethical order of priority the wrong way around. Consider cases such as the World War Two Nazi hypothermia experiments.²⁰ Intuitively, the scientists responsible for immersing prisoners in ice water until they lost consciousness in order to develop techniques for reviving downed Luftwaffe pilots are liable to third-party violence on behalf of the victims, irrespective of whether the violence is likely to be successful. Indeed, any violent attempts to prevent the subjects from being used in the experiments or to free them from captivity would almost certainly have been unsuccessful, yet this would not alter our judgment about the liability of the scientists. A second reply is that even if efficacy is a condition of proportionality and a person cannot be considered liable to defensive violence unless it is proportional, this would not allow species-egalitarians to escape the dilemma. This is because it is reasonable to suggest that third-party defensive violence on behalf of animals is likely to be effective in many instances, at least on too many occasions for egalitarians to successfully avoid an absurd conclusion. A campaign of threats and intimidation by animal rights activists recently

forced the closure of a research-animal breeding business and successfully dissuaded financial institutions and building contractors from supporting a major new animal research facility.²¹ Tying efficacy to proportionality and, in turn, liability may allow egalitarians to successfully navigate between the horns on more occasions than if efficacy was not tied to proportionality; but, if utilitarians that judge the morality of defending animals on a case by case basis cannot avoid the *reductio ad absurdum*, then it is implausible to suggest that those who tie liability to efficacy can avoid it.

A further relevant consideration is whether in the process of defending an animal, a person acquires ongoing positive obligations. As was the case with tying liability to proportionality, the claim that third-party defense entails positive obligations towards the victim affords inadequate moral weight to the central moral considerations involved in adjudicating cases of unjustified threat or attack. If the fulfillment of ongoing positive obligations is a constitutive condition of proportionality and, by corollary, liability, then attackers will be afforded an escape route allowing them to avoid defensive action by third-parties, essentially on the grounds of moral luck. No one is responsible for the fact that a would-be third party defender, given their own circumstances and the way the world is organized, is not in a position to adequately provide for a victim they have just saved. It is true that defenders need to bear in mind the foreseeable consequences of their actions for all the parties concerned, but such considerations ought to be relevant to judgments about the proportionality or otherwise of the defender's action, rather than the culpability of the attacker and their liability. Given that a person who defends an animal against an unjustified violent attack or threat is likely to do so at considerable risk to their own safety, it is asking a great deal to expect them to endure the added burden of caring for the victim once they are out of danger.

It might be argued that the dilemma is a product of rights-based approaches to self-defense rather than species-egalitarianism. Consistent with this view, species-egalitarians can avoid the dilemma by dispensing with, or amending, self-defense theory rather than by abandoning their egalitarianism. But, even species-egalitarians that do not adopt principles of justice from rights-based self-defense theory and instead adopt utilitarian interest-based reasoning are vulnerable to the multiple inappropriate targets problem. This suggests that, at bottom, existing ethical theory does not offer a better way for dealing with cases of persons harming animals than by weighing the perpetrators reasons for action against the moral status of the victim.

Theorists who afford non-persons lesser moral status to persons will still fall foul of commonsense intuitions if they nonetheless attribute non-persons with significant moral status and include animals from other species in the relevant class of non-persons. The above dilemma, however, is only a serious problem for species-egalitarians if commonsense intuitions are regarded as indicative of the soundness of an ethical theory.²² If intuitions are not a reliable guide to theory, then philosophers that extend rights or significant moral status to animals are no more compromised theoretically by self-defense theory than those that afford such moral protection to fetuses.²³

Notes

1. Jeff McMahan, *The Ethics of Killing* (London: Oxford University Press, 2002), pp.398-421.
2. Judith Jarvis Thompson, "A Defense of Abortion," *Philosophy and Public Affairs*, 1 (1971).
3. *Ibid.*, p. 61

4. McMahan, op. cit., pp. 403-415.
5. Ibid., p. 419.
6. Ibid, pp. 418-421.
7. See Peter Singer, *Animal Liberation* (London: Pimlico, 1995) and Gary Francione, *Introduction to Animal Rights: Your Child or the Dog* (Philadelphia: Temple University Press, 2000).
8. See Tom Regan, *The Case for Animal Rights* (Berkeley: University of California Press, 1983), p.81.
9. See McMahan, op. cit., p. 401.
10. See Tom Regan, *Empty Cages: Facing the Challenge of Animal Rights* (Lanham: Rowman and Littlefield, 2004), p. 191.
11. See Mark Rowlands, *Animals Like Us* (London: Verso, 2002), pp. 184-193.
12. Ibid., p. 191.
13. Ibid., p. 193.
14. Gaverick Matheny, "Utilitarianism and Animals," in Peter Singer, ed., *In Defense of Animals: The Second Wave* (Oxford: Oxford University Press, 2006), p. 24.
15. See Tim Mulgan, *Utilitarianism* (Stocksfield: Acumen, 2007), p. 161 and John Stuart Mill, "Utilitarianism," *The Basic Writings of John Stuart Mill* (New York: The Modern Library, 2002), p. 258.
16. See McMahan, op.cit., p. 511, n.41, and Robert Nozick, *Anarchy, State and Utopia* (New York: Blackwell, 2001), p. 39.
17. McMahan, Ibid., p. 228.
18. See Nozick, op. cit., p. 40.

19. See McMahan, *op. cit.*, p. 420.

20. See R. J. Lifton, *The Nazi Doctors* (New York: Basic Books, 1986).

21. See Lee Hall, *Capers in the Churchyard: Animal Rights Advocacy in the Age of Terror* (Nectar Bat Press, 2006).

22. See Dale Jamieson, "Method and Moral Theory," in Peter Singer, ed., *A Companion to Ethics*, (Oxford: Blackwell, 1993), p. 483.

23. I would like to thank Jeff McMahan and four anonymous referees for comments on an earlier draft of this paper.