

Animal Rights

ROGER SCRUTON

ABSTRACT: The strangest cultural shift within the liberal worldview, one that promises to sow even more confusion than liberalism inherently requires: the growing advocacy of "animal rights." Properly understood, the concept of a right—and the attendant ideas of duty, responsibility, law, and obedience—enshrines what is distinctive in the human condition. To spread the concept beyond our species is to jeopardize our dignity as moral beings, who live in judgment of one another and of themselves.

KEYWORDS: Politics; Law; Social Order; Anthropology.

ARTICLE HISTORY: Received: 10–July–2018 | Accepted: 25–July–2018

The U.S. Constitution specifies our rights but is silent about our obligations. The Founders took for granted that people knew what their duties were. After all, they were brought up on the Bible and the Ten Commandments, and it was no business of the state to remind them that they should live godly, sober, and righteous lives. The role of the state was to broker their disagreements, to make the space required for social peace, to ensure that no central power could oppress the individual citizen, and to prevent any body of citizens from ganging up against others or depriving them of their elementary freedoms.

Admirable though this conception is, it assumes a condition of society that is no longer with us. The continuing emphasis on rights, in a world that has lost sight of its duties, is as much a fragmenting as a cohesive social force. This, surely, is the real meaning of the conservative complaint that an activist judiciary undermines the "moral majority." By constantly extending and amplifying the list of rights, the Supreme Court also depletes the reservoir of duties. Striking in this respect was the decision in *Roe v. Wade*, which



Roger Scruton (✉)
University of Oxford, UK
rogerscruton@mac.com

ANALYSIS | Vol. 21, N° 3 (2018), pp. 1–13
DOI: 10.5281/zenodo.2558706

ARTICULO

deprived the unborn fetus of all rights under the Constitution, while discovering (conservatives would say, inventing) a "right of privacy" nowhere mentioned in the Constitution but strong enough nevertheless to override the primary duty of a mother toward her unborn child. What more vivid example could there be of the use of rights to cancel duties and at the same time to privilege the desires of present generations over the long-term interests of society? And what clearer example of the liberal attempt to "discover" constitutional rights whenever the cause requires them and regardless of what the Constitution says?

This is not to say that traditionalist views on abortion are right and the views of liberals wrong. It is simply to point to the far-reaching social effect of a legal process that puts rights at the top of the agenda, and that encourages everyone, regardless of his social and moral standing, to sue for them. The long-term consequence will be to reduce majority values and life-styles to mere "options" among a range of socially valid alternatives, all of which will deserve equal respect from the law and equal subsidy from the exchequer. This is already happening with homosexual "marriage"; it will extend, in time, to many other forms of relationship, in obedience to the urgent desire of this or that section of society to free itself from "outmoded" burdens or to enjoy some previously forbidden pleasure. Euthanasia is currently a crime. It will soon be a right —a right for which relatives can sue, and which they will use with a clear conscience to put their old parents out of their misery.

Still, there are limits. Rights may have taken precedence over duties, but American jurisprudence has always been clear that rights cannot be had for free. Every legal privilege creates a burden on the one who does not possess it: your right may be my duty, and people who claim rights are also in the business of respecting them. Rights cannot be invented without also inventing the social and legal relations that enable us to uphold them, and the shopping list of rights will therefore be severely limited by social custom and human nature. The conservative hope is that, at a certain point, common sense will prevail. "If you invent any more rights," people then will say, "you will find yourself in a society where nobody respects them. In other words, you will have destroyed the very benefit that you sought to extend." And it

seems to me that the birth of "communitarianism" as a posture within the American liberal tradition is really a recognition of this possibility, and of the underlying truth that a society cannot be based in rights alone but must also inculcate a strong sense of duty in its members, if rights are to be anything more than useless bits of paper. Rights ought not to be given but purchased, and the price is duty. You can have many things on the cheap; but the moral life isn't one of them.

But this brings us face-to-face with what is, to my mind, the strangest cultural shift within the liberal worldview, one that promises to sow even more confusion than liberalism inherently requires: the growing advocacy of "animal rights." Properly understood, the concept of a right —and the attendant ideas of duty, responsibility, law, and obedience— enshrines what is distinctive in the human condition. To spread the concept beyond our species is to jeopardize our dignity as moral beings, who live in judgment of one another and of themselves.

In 1991, a group of animal-rights activists sued on behalf of Kama, a dolphin trained at great expense by the U.S. Navy and transferred to the Naval Ocean Systems Center in Hawaii from his previous home in a Boston aquarium. The suit held that Kama's life would be in jeopardy in his new environment, and that his rights were therefore violated by his forcible transfer. The court threw out the case on the grounds that Kama, being a dolphin, could not sue, either in Hawaii or in Massachusetts.

Now, a decade later, the lawyer who represented Kama, Steven M. Wise, has published a book, *Rattling the Cage*, which advocates the rights of animals and argues that a law granting rights to people but not to animals is no more tenable than a law granting rights to freemen but not to slaves. Jane Goodall, the gorilla ethologist, calls the book "the animals' Magna Carta," and Harvard has appointed its author to teach "animal-rights law" —by no means the first example of a professor appointed to teach a non-existent subject. Wise is also founder and president of Harvard's "Center for the Expansion of Fundamental Rights" —or "Center for Moral Inflation," as conservatives might prefer to call it.

Meanwhile, Princeton University's Center for the Study of Human Values has appointed the Australian philosopher Peter Singer, author of the seminal *Animal Liberation* (1975), to a prestigious chair, causing widespread disgust on account of Singer's vociferous support for euthanasia. (Defenders of animal rights not infrequently also advocate the killing of useless humans.) Singer's works, remarkably for a philosophy professor, contain little or no philosophical argument. They derive their radical moral conclusions from a vacuous utilitarianism that counts the pain and pleasure of all living things as equally significant and that ignores just about everything that has been said in our philosophical tradition about the real distinction between persons and animals. Although Steven Wise surprisingly makes no mention of Singer, their simultaneous prominence in the American academic establishment only further confirms the suspicion that animals are next on the agenda.

Nor is this great cultural shift confined to America. The English have always been sentimental about animals; the Royal Society for the Prevention of Cruelty to Animals came into existence almost two centuries ago. Yet until recently Englishmen have managed to combine this sentimentality toward pets with a love of hunting, shooting, and fishing, and with a robust attitude to the farming of livestock. Now, though, advocates are relentlessly pressuring the government to abolish fox hunting, and a bill to criminalize the raising of animals for their pelts is well on its way to becoming law —the first legislative success of a worldwide campaign, in which celebrity after celebrity has displayed her virtue by casting off her furs.

At a time of agricultural crisis, what sense does it make to outlaw a legitimate and profitable species of farming? Nevertheless, vociferous Labourites have set their hearts against fur, or at any rate against the people who wear it, and they are determined to force their views on the rest of us. It helps, too, that the Political Animal Lobby, which has long campaigned against the fur trade, gave the party a donation of a million pounds at the last election.

The question of fur offers a window into the emotions that cloud the issue of animal welfare. It first came to our attention in Britain some five years ago, when a campaigning group placed ads all over the railway stations showing a

woman in hoity-toity attitudes partially wrapped in the fur of a vixen. The caption read: TWO SPOILED BITCHES. Although I have never much liked fur clothing, associating it with the more light-hearted forms of sexual perversion celebrated by Sacher-Masoch in *Venus in Furs*, I had never imagined it to be a sin, still less a crime, to dress up in it. The ad shocked me, not only because of the weirdness of the moral views it conveyed, but because it was manifestly calculated to fan hatred toward people purely on account of their way of dressing. The law of sedition, forbidding the stirring up of disaffection toward any group of Her Majesty's subjects, holds such things to be crimes, and in due course the Fur Farmers' Association was able to bring a successful civil suit leading to the removal of the ads.

Now the woman in the hateful poster was wearing a fox fur, and one reason for objecting to this is that foxes are wild animals, whose fur can be obtained in a usable condition only if they are trapped. Indeed, the campaign against the fur trade began as a campaign against trapping, and its partial success in Canada has led to the destruction of the Eskimo communities that depended upon trapping for their livelihood. My own view is that human communities should not be sacrificed for the sake of wild animals, unless there is a real ecological emergency, such as that caused by the incessant burning of the Indonesian forests. But if people choose to sacrifice the Eskimos to the arctic fox, in today's culture it is hard (though right) to accuse them of deficient sympathies.

If you really want to bring trapping to an end, fur farming is the answer; after all, the wives and mistresses of the Russian mafia will never dress in anything except fur, and here is the humane way to keep them supplied with it. But, the Labour Party argues, it is a matter of "public morality" that we should put a stop to this appalling industry. Some crusaders have been so incensed as to release mink from the fur farms into the wild, causing enormous suffering to our native wildlife and to the mink themselves, who often try to find their way back to the comforts that they knew on the farm, once they have tasted the alternative.

So why is it okay to raise animals for their meat but not for the fur that covers it? What matter of principle is involved? Or is the reference to "public

morality" just sanctimonious claptrap? The answer is to be found in that ad at the railway stations. Suppose that the vixen had died a natural death. How many spoiled bitches does that leave? One surely. And it is against her that the legislation is aimed. Maria Eagle, the Member of Parliament who has led the move to ban fur farming, put the point succinctly. She wished to end "the cruel exploitation of essentially wild animals for what is an inessential luxury item." The fur farm need not be cruel, and mink are no more and no less "essentially wild" than deer or ostriches, both of which are raised in England for their meat. The one truth in this loaded utterance is that fur is a luxury. But to imagine that we have the right to outlaw luxuries, merely because they offend our class-conscious sensibilities, is to base our legislation not on public morality but on private snobberies.

The spectacle of a Parliament, most of whose members behave as though elected to represent animals, is troubling enough. But beyond the legislature, England has countless animal-rights groups devoted to abolishing this or that traditional sport involving animals —from hare coursing to horse racing. Champions of the rights of calves, who have intimidated truck drivers and blockaded ports, have virtually ended the export of live veal to the continent. Since only there is veal a regular part of the diet, it is no longer possible for dairy farmers to keep their calves. Most are now slaughtered at birth —not much of a gain for the calves.

Nor does the law deter animal-rights activists. One of the most dangerous terrorist groups in Britain is the Animal Liberation Front, which sends parcel bombs to scientists engaged in animal experiments and to other alleged "animal abusers." Activists have surrounded a farm that bred cats for medical experiments, forced it to close, brought ruin on the farmer, assaulted his wife, terrorized his family, and ensured, as a result, that cats are now imported from places where they are reared less kindly, in order that the experiments should continue. Having destroyed the cat farm, the activists then turned their attention to one of the scientists who made use of it. Oxford professor Colin Blakemore experiments on cats in order to find a cure for blindness in children. His experiments involve sewing up the eyes of kittens and studying their development when deprived of stimulation. The eyes are eventually

unsewn, and the kittens thereafter lead normal, privileged lives as pets. Professor Blakemore has had to contend with a hostile crowd picketing his house. Leading the crowd is a screaming woman who accuses the professor of having stolen her cat, whose vivisected remains lie, she asserts, on a shelf in the professor's icebox. Her followers spray paint remover on Blakemore's car, causing severe burns to the only cat that has in fact passed the professor's garden gate—the one belonging to his children. Threats, abuse, and violence follow Blakemore wherever he goes, and no amount of evidence to show that the cats used in his experiments graduate in time to the world of pets will deter his tormentors.

What are we to make of all this? Steven Wise's book contains a generous measure of legal and constitutional history, but no philosophy other than a few second-hand snippets. His authority is not philosophy but science—and in particular the studies in primatology that have told us how very like the apes we are, and how very like us are the apes. The movement in favor of animal rights is not merely the latest example of the "rights inflation" that liberals have always promoted. It is part of a larger movement of ideas away from the other-worldly dogmas of religion to the this-worldly theories of science. Science now stands at the apex of our beliefs, and a morality derived from any other source is apt to appear quaint and outmoded. And when science is in charge, duties sink still further into the background, since only God can give commands, and God is in retirement.

Of course, when science is used in this way, as the major premise in a revisionist morality, it is abused. Properly understood, science is silent about our duties; but it is also silent about our rights. It is not an alternative source of moral judgments, since it has no moral authority at all. The aim of science is to explain, not to justify. Good and evil, right and wrong, duty and freedom, are concepts that play no part in its theories and cannot be derived from them. Those who rely on science for their moral outlook depend heavily on popularizers like Stephen Jay Gould and Richard Dawkins, who make science seem relevant to our moral choices only by dressing its neutral theories in the borrowed clothes of judgment. No more influential book has appeared in recent decades than Dawkins's *The Selfish Gene*, the very title of which reveals

how far the author is from true scientific thinking. To describe the gene as selfish is to think of it as a moral being, capable of generous and ungenerous actions. It is to re-assume the anthropomorphic and magical ways of thinking that science is supposed to dispel.

Still, given enough science to be struck by our resemblance to the apes, but not so much as to be reminded of the difference, you can easily fall into the new habits of mind exemplified by Wise and Singer. Instead of seeing man as the summit of creation, the vehicle of God's purpose on earth, and the sovereign over all other species, science tells us, according to Wise, that the human species is merely one branch of the great tree of evolution, with no privileged place in the scheme of things. And it is true that this is what modern science says.

However, the scientific truth about *homo sapiens* is not the whole truth about mankind. We are members of the human species. But we are also persons and, as such, animated through and through by an ideal of what that species might achieve. The concept of the person has no place in biological science, for "person" is not a biological category. Nevertheless it is fundamental to all our legal and moral thinking. The Judeo-Christian tradition would explain the idea of the person in theological terms. But the concept is taken from Roman law (which in turn borrowed it from the theater: *persona* means mask), and it implies no theological commitment. A person is a potential member of a free community—a community in which members can lead lives of their own. Although other animals are individuals, with thoughts, desires, and characters that distinguish them, human beings are individuals in another and stronger sense, in that they are self-created beings. They realize themselves, through freely chosen projects and through an understanding of what they are and ought to be.

Negotiation, compromise, and agreement form the basis of all successful human communities. And this is the true ground of the moral distinction that we make, and ought to make, between our own and other species. The concepts of right, duty, justice, personality, responsibility, and so on have a sense for us largely because we deploy them in our negotiations and can invoke by their means the ground rules of social order. They define strategies

with which we coordinate our social life, but which we can only use when dealing with others who also use them.

To use these strategies on animals is to misuse them; for if animals have rights, then they have duties too. Some of them —foxes, wolves, cats, and killer whales— would be inveterate murderers and should be permanently locked up. Almost all would be habitual law-breakers. All would deserve punishments from time to time, though maybe they could hire lawyers like Steven Wise to argue that they could not possibly be blamed, since only humans are blameworthy.

As I suggested, science provides authority for this weird morality only when clothed in moral doctrine. The sleight of hand that gave us the "selfish" gene gives us the rights of baboons. By disguising anthropomorphic (in other words, pre-scientific) ways of thinking as science, Wise rediscovers the enchanted world of childhood, in which animals live as Beatrix Potter describes them, in an Eden where "every prospect pleases, and only man is vile." By abusing evolutionary biology in this way, we are able to read back the sophisticated conduct of people into the animal behavior that prefigures it.

But this means that the apes appeal to animal-rights activists for precisely the wrong reason —namely, that they look like people and behave like people, while making no moral demands. The apes are re-made as versions of ourselves, purged of the guilt that comes from the attempt to lead the life to which we, as moral beings, are condemned: the life of judgment. Nothing impedes our sympathy for the chimpanzee and the bonobo, since their lives are blameless. It is not that they do no wrong, but that "right" and "wrong" here make no sense.

And that explains, in part, the appeal of the animal-rights movement. It shifts the focus away from moral beings toward creatures in every respect less demanding —creatures like dogs, which return our affection regardless of our merits, or cats, which maintain an amiable pretense of affection while caring for no one at all (a fact always vehemently and fruitlessly denied by their keepers). The world of animals is a world without judgment, where embarrassment, remorse, guilt, and penitence are unknown, and where

human beings can escape from the burden of moral emotions. In another way, therefore, those who tell us that we have no special place in the scheme of things create a place for us that is just as special. By focusing our human attitudes on animals, we are playing at God, standing always apart from and above our victims, smiling down on their innocent ways, removed from the possibility of judgment ourselves, and, in our exaltation, imagining that we confer the greatest benefit on those whom we patronize.

A case in point is the rabbit, an attractive animal, celebrated and humanized in children's literature. Alone in its cage, utterly dependent on the child who feeds it, bright-eyed and impassive as it is stroked and cuddled, the rabbit seems to be in its element: made for human companionship and basking in human love. It is the quintessence of the pet, mutely reflecting its owner's utterly fallacious view of himself as the kindly provider and justified guardian of this precious piece of life. A particularly syrupy by-product of this attitude—a children's book picturing rabbits in unctuous poses and entitled *Guess How Much I Love You*—is currently doing the rounds, having the same effect on human software as the I Love You virus on the computer.

As a matter of fact, however, rabbits are gregarious animals, for whom there is only one mental torture greater than solitary confinement, which is that of being cuddled by a member of a large rabbit-eating species. The pet rabbit learns to adapt to its conditions, much as human beings learned to adapt to Stalin's gulag. Being unable to shift its eyes, the rabbit maintains its generous stare even when held by a smelly omnivore emitting vile drooling noises and smiling down on it with a mouth full of teeth. Correct behavior is rewarded, after all, with a piece of lettuce. In this way the rabbit teeters from terror to terror and from day to day.

In the wild, however, in the teeming burrow where he mates promiscuously with his kind, where the only smell is the smell of rabbit, and where every intruder is regarded with abhorrence, the rabbit takes his revenge: eating crops, destroying saplings, and undermining paths and fields. Anybody who has had to contend with rabbits will know that these creatures, which by their nature are available in the wild only in large supplies, are far from lovable.

It is at this point that the advocate of animal rights steps in. Like the child, he imagines the rabbit still dressed in its Beatrix Potter trousers, enjoying a quiet domestic life below ground. For him the warren is just like a human community —founded by negotiation and agreement, structured by rights, and entitled to protection from the law. To shoot such defenseless animals seems to him like a crime, and he campaigns vigorously for a law that will make it so.

Of course, he is selective in his passions: foxes, rabbits, and badgers can count on his support; rats and mice don't get a look in. But this only enhances the damage done to the historical equilibrium that has enabled humans and animals to live together on realistic terms. It is this equilibrium that is maintained by the old arts of hunting. And in those old arts you glimpse another, more ancient and more healthy relation between man and beast — the relation between Homer's Odysseus and the old hound Argus, first to recognize his master on his return to Ithaca, or the relation between Alexander and Bucephalus, which caused the conqueror to found a city in memory of his heroic horse. The unsentimental love between man and beast that comes about when they are engaged together in some act of war or predation is, indeed, the nearest that animals attain to equality with the human species —and it is a love that is deeply horrible to the defenders of animal rights for that very reason. For it is a love founded in the aspect of animals that they put out of mind —the relentless life-and-death struggle that is the normal condition of life in the wild.

This love exists, too, among the sworn enemies of rabbits —the keepers of ferrets, who solve the rabbit problem in nature's way. The ferret is as furry and appealing to the sight as a rabbit, and would feature in children's books, in some toothless version, were it not for the fact that nobody knows anything about it except those who know everything, and who love the ferret with the severe military love that attaches the falconer to his bird and the huntsman to his hounds. Our local ferreter lifts his precious animal from its box as though handling a newborn baby and coos to it quietly in a private language far richer in syllables than the sparse dialect that he keeps for human use. And when he slips the ferret into the warren and watches it slide into the darkness, his face

is full of a tender anxiety, like the face of a father whose son is leaving for the wars.

Such "working" relations with animals are not only good for the animals: they are also good for us. For they are a strong reminder of the fact that, whatever we do, it is we who are in charge. Why is this? This question brings us full circle to the American Constitution and the vision on which it is founded —the vision of human beings as a distinct order of creation, the guardians of the natural order, answerable for their lives and duty bound to make the best of them. That is the vision that justifies our belief in rights as the necessary conditions of human fulfillment. Take away the moral life and its goal of human excellence, and the talk of rights becomes meaningless.

The lover of baboons who goes to live with his tribe knows full well that he can regain civilization at any time; he goes armed with medicines and books and cameras —perhaps even with a mobile telephone. He respects and even loves the creatures with whom he lives, and is in his turn respected, after a fashion. But he knows that, when it comes to any real decision for the future, it is he alone who can make it. Indeed, there is no greater reminder of the distinctiveness of our condition than the emotions that overwhelm us in the presence of a tribe of apes. People like Jane Goodall, who take with them into the wild a spirit of creative compassion, exemplify Dante's words:

*Considerate la vostra semenza:
Fatti non foste a viver come bruti,
Ma per segue virtute e conoscenza.*

"You were not made to live as brutes but to follow virtue and knowledge."

If the apes survive, it will be because we decide (spurred on by Jane Goodall) to save their habitats. And the same will be true, in time, of virtually all the larger animals. And if domestic animals are bred and cared for, it is because we have an interest in their products. In all our dealings with the animals, the

inherent mastership of the human race displays itself. And this only goes to show that we alone have the duty to look after the animals, because we alone have duties. The corollary is inescapable: we alone have rights.*

ROGER SCRUTON
Faculty of Philosophy
University of Oxford
Wellington Square
Oxford, OX1 2JD
rogerscruton@mac.com

* El presente trabajo fue originalmente publicado en *City Journal*, edición de verano de 2000 (<https://www.city-journal.org/html/animal-rights-11955.html>). Se reproduce aquí con autorización del autor y por invitación de los editores de *Analysis*.