

On Replaceability

Peter Singer has shown how the principle of utility, which enjoins us (roughly) to maximize to balance of nonmoral good over nonmoral evil, justifies 'humane' treatment of animals.¹ An excellent case against factory farming, blood sports, and current methods of animal laboratory experimentation has been made on utilitarian grounds. However, must a utilitarian be opposed to *all* exploitation of animals' lives for human pleasure or profit? Not according to the 'replacement argument,' which tells us that:

1. We ought to maximize utility (i.e., to maximize the balance of nonmoral good over nonmoral evil).
2. Utility would be maximized if one were to use an animal and kill it (for food or research or anything else) provided that the following conditions are met:
 - (a) the life of the animal is on balance a life worth living,
 - (b) the animal otherwise would have no life at all (would not exist),
 - (c) the suffering of the animal and those close to it as a result of such use and disposal is eliminated or minimized, and
 - (d) the animal will be replaced, at or after death, by another animal for whom conditions (a), (b), (c), and (d) hold.
3. Therefore, we ought to use and kill animals provided that conditions (a) - (d) are met.²

Classical utilitarianism is committed to this argument. As Singer says, it . . . regards sentient beings as valuable only in so far as

they make possible the existence of intrinsically valuable experiences like pleasure. It is as if sentient beings are receptacles of something valuable and it does not matter if a receptacle gets broken, so long as there is another receptacle to which the contents can be transferred without any getting spilt.³

While it is clear that captive animals would be vastly better off under such an arrangement than they are now, is it really the case that 'humane' farms and labs are morally justifiable? Moreover, what are the implications of this argument for the treatment of humans?⁴ How can one determine whether a normative ethical theory has gone too far? Some brief remarks about the nature of ethical justification must be made before these questions can be answered.

The major metaethical theories have different implications about the precise kind of justification normative ethical claims can have. According to naturalistic and nonnaturalistic metaethical theories, ethical claims are factual assertions which can in principle be shown true or false. (Naturalism implies that ethical language users believe there are natural ethical property instances; nonnaturalism implies that ethical language users believe there are nonnatural ethical property instances.) Noncognitivist metaethical theories, on the other hand, imply that ethical claims are not (at all or merely, depending on the type of noncognitivism) factual and thus are neither true nor false. Some of these major theories are much more plausible than others, of course, but it would go beyond the scope of this paper to discuss their respective merits.⁵ Suffice it to say that it is far from

obvious that ethical claims can be given a straightforward justification.

This does not mean, however, that it is doubtful that they can be justified at all. Ethical claims can be rationally accepted or rejected even if noncognitivism is true. Ethical claims are standardly discounted if they fail to be clearly thought out, fully informed, and impartial. (It is crucial to note that empathy [vividly imagining oneself in another's position] is necessary for a fully informed judgment about matters that concern sentient beings. It is a way of gaining highly relevant information about the effects of actions on such beings. One must of course empathize equally vividly with all sentient beings which an action significantly concerns if one is to be impartial.) All the major metaethical theories are compatible with these facts, as of course they must be in order to have a chance of being correct. Even if ethical claims are not assertions about the instantiation of natural or nonnatural properties in acts, entities, or states of affairs, they are made *about* acts, entities, or states of affairs. If one's thinking is muddled, or if one is ignorant of relevant facts, or if one is biased and thus selectively aware of only some of the relevant facts, one's claim is unjustified: one does not know what one's claim is *about*. Thus, even if there are no ethical facts, one's ethical judgments can be justified if they are shown to be *qualified* by being clear, fully informed, and impartial. This also applies to sets of ethical claims. They too must be clear, coherent, informed, and impartial. If an ethical claim or a set of ethical claims is not qualified in these respects, it is discounted.

This method of justification, which I will follow R. B. Brandt in calling 'the qualified attitude method,'⁶ gives us a way of rationally arguing about ethical claims. It also explains why

qualified ethical 'intuitions' are the touchstones of normative ethical theories. Without them, such theories could neither be formulated nor tested. The qualified attitude method does, however, have one difficulty. It is theoretically possible that individuals with equally qualified ethical attitudes will disagree. Were this to occur, ethical argumentation must cease. Nevertheless, I would agree with W. K. Frankena that such a disagreement is no more than a theoretical possibility.⁷ It is extraordinarily difficult to come up with an ethical disagreement in which both sides are equally qualified. Frankena's assertion will, however, be tested later in this paper. With this background in mind, let us now return to the replacement argument and the implications by which it will be tested.

We will begin by considering a very serious implication of the replacement argument: if animals are replaceable, so are human beings with comparable characteristics in like circumstances. I will not here repeat the extensive argumentation by philosophers for the conclusion that preferential treatment for humans who differ in no relevant respects from animals cannot be justified and is in fact speciesist (hence not impartial). Many attempts have been made to justify such preferential treatment, but in my judgment none has succeeded.⁸ If conditions (a) - (d) can be satisfied by morons, stocking and using them for food or experimentation is no more or less reprehensible than doing so with animals. Thus, if the ethical belief "Morons should not be raised, made into stew or used as lab subjects, then replaced, but it is permissible to treat animals in this way so long as utility is maximized" is shown to be unjustified (unqualified), one is left to discard half of this conjunction.

Most individuals facing this choice

would revise their beliefs about the treatment of animals rather than opt for moron stocking. I believe such a choice to be very reasonable. If one fully considers the moron stocking scenario in a clear, empathetic, impartial way, I find it hard to see how one can accept it. Unfortunately, some philosophers do not find it so hard to see and appear to be willing to accept such a scenario. Peter Singer has (courageously or outrageously, depending on one's viewpoint) taken this position. He suggests that if the replacement argument cannot be defeated "it is our attitudes to mentally defective human beings that are in need of reconsideration:"⁹

This involves holding that mental defectives do not have a right to life, and therefore might be killed for food--if we should develop a taste for human flesh--or (and this really might appeal to some people) for the purpose of scientific experimentation.¹⁰

Singer seems in no way horrified by this prospect. Elsewhere he says that even *nondefective* human infants "are as replaceable as merely conscious animals."¹¹ What can one say to a philosopher like Singer who is willing to make his ethical beliefs consistent and impartial by applying the replaceability principle in this nonspeciesist way?

One could try to argue that Singer's position, though apparently impartial, is not sufficiently clear or well informed. Such a response to Singer would be very difficult to make out and I am loathe to try it here. I prefer to develop *another* objection to the replacement argument which I do not think Singer can successfully counter, an objection which will have the indirect result of rejecting the replacement argument for defective humans. Before proceeding with this new objection, however, let it be

noted that those who, unlike Singer, do *not* accept the replaceability of defective humans must reject the replacement argument.

The next objection is this. The replacement argument as it stands has an implication which *would* horrify Singer. It applies to *any* sentient creature for whom conditions (a) - (d) are satisfied. It follows that *even normal humans are replaceable*, so long as utility is maximized. As Singer says, "Situations in which the argument would apply to humans might not be common, but they could occur."¹² Even those who are willing to accept the raising, eating, etc., and replacement of defective humans, balk at the notion that normal nondefective humans are in the same boat. One who is disturbed by this implication must either reject the replacement argument wholly, i.e., for animals and defective humans as well as normal humans, or opt to restrict the replacement argument in such a way that it cannot apply to normal humans. Since classical utilitarianism leads to the replacement argument, either choice implies its rejection as well.

Singer chooses to replace classical utilitarianism with another version of utilitarianism which he believes allows him to restrict the replacement argument. He first rejects a tempting nonclassical-utilitarianism solution to the problem, 'the prior existence view,' according to which the principle of utility applies only to beings already in existence.¹³ Although on such a view utility could obviously never be maximized by replacement of sentient beings, it is impossible to avoid the conclusion that the solution is arbitrary as well as contrary to the spirit of utilitarianism. To say that the principle of utility does not even apply to those unborn is to open a hornets' nest of difficulties. The difficulty which troubles Singer is the

implication that it would *not* be wrong knowingly to conceive a child whose physical defects would condemn it to a brief life of wretched suffering.¹⁴ I would put the criticism more generally. A view which implies that future generations simply do not count in their own right (i.e., that we should consider them only insofar as they would affect those now existing) clashes with our qualified ethical intuitions. Classical utilitarianism, which bids us maximize the balance of *total* utility over disutility, quite properly does extend the principle of utility to those who do not yet exist. Instead of accepting the prior existence view, Singer chooses to adopt a utilitarianism which, like classical utilitarianism, does not restrict the principle of utility to those who already exist. This view is 'preference utilitarianism.' According to it, utility is directly assigned to the preferences of beings affected by actions, not merely to their states of consciousness. Killing a being which has a preference to continue living creates, other things being equal, more disutility than killing a being which has no such preference.

It follows, Singer believes, that on preference utilitarianism a living being who prefers to live will be favored over its merely potential replacement, which can have no preference for life since it does not yet exist.¹⁵ This is so even if the being is painlessly killed all unsuspecting in its sleep: even in that case, a preference has been extinguished. The *total* amount of happiness or satisfaction, etc., *including* that which a replacement would have, is still taken into account: it is the existing being's preference to live which tips the scales in its favor. However, if an existing being has no preference for continued life, its demise will not create *extra* disutility. If it would not otherwise have been alive, has lived a pleasant life, has had its suffering

and what suffering others undergo on its account minimized, and will be replaced by another being who would live and die under the same conditions, no preference utilitarian objection would, believes Singer, be made. What beings, according to Singer, can have pleasant lives yet not prefer to live? Beings who have no concept of self: 'merely conscious' beings. Those who can have a preference for continued life must be *self-conscious*. Indeed, Singer apparently takes self-consciousness to be sufficient as well as necessary for such a preference. He draws the following implication for preference utilitarianism:

Self-conscious beings therefore are not mere receptacles for containing a certain quantity of pleasure, and are not replaceable . . . nonself-conscious beings are replaceable.¹⁶

The replacement argument is accordingly restricted to beings who are not self-conscious, a class which excludes normal humans. In this way Singer believes he has avoided an unacceptable consequence of the original replacement argument.

However, serious problems afflict this attempt simultaneously to save and restrict the replacement argument. First, let us for the moment not question the assumption that self-conscious beings are irreplaceable on preference utilitarianism. Now let us ask if there *are* any conscious beings who are 'merely' conscious, with no concept *whatever* of self. Certainly many severely defective humans show signs of self-consciousness. They perform actions, have goals, show no tendency to confuse themselves with table-legs, etc. Monkeys, apes, dogs, cats, horses, pigs, sheep, etc., likewise exhibit behavior which would be hard to explain without the postulation of self-consciousness. Even chickens seem to be, however dimly, aware of themselves. They too have *no tendency to confuse*

themselves with the rest of the world. Furthermore, even the infant members of these species exhibit such signs. Though Singer is predictably not at all disturbed by the exclusion of adult monkeys, apes, and other 'higher' animals from the class to which the replacement argument applies, he continues to think that many sentient beings will not be excluded (e.g., normal as well as defective human infants, probably chickens, and certainly animals lower on the evolutionary scale than chickens).¹⁷ It is highly doubtful that all these beings can be made out to lack self-consciousness of *any kind*. Clams and oysters may not be self-conscious, but the replacement argument would lose most of its point if it were restricted to them. (Although tasty, they make poor experimental subjects.)

Perhaps Singer would reply that although babies and chickens could be said to be self-conscious, they are not self-conscious *enough* to have a preference for continued life. (He would then have to take self-consciousness as such to be merely necessary for the preference for continued life.) But on what grounds are we to declare that a baby or chicken has no preference for continued life? What is 'life' but a series of experiences and what is a preference for continued life but the desire for more experiences? Is not the seeking of pleasure and the avoidance of pain, clearly exhibited by the beings in question, sufficient evidence for the desire to continue living? If Singer wishes to claim that such behavior is instinctive only he would find himself at odds with many current theorists about animal behavior. Why insist that a baby or kitten who seeks warmth, food, and companionship, *cannot* prefer to continue living?

The answer is that Singer appears to be thinking that an animal or human who prefers to live must have

a very sophisticated conception of itself. It must conceive of itself as "a distinct entity with a possible future existence."¹⁸ If it has a more impoverished conception of itself it "cannot," as he puts it, "have a preference about its own future existence."¹⁹ But to demand this degree of sophistication is surely unwarranted. I suspect that this demand has its origin in Singer's uncritical acceptance of a faulty inference by Michael Tooley, a philosopher whose views on self-consciousness Singer uses to support preference utilitarianism.²⁰ Tooley argues that

1. One can have a right to life only if one is capable of desiring life.
2. One can be capable of desiring life only if one has a concept of life.
3. The kind of life in question is being a continuing subject of experiences and other mental states.
4. Therefore one can have a right to life only if one has a concept of being a continuing subject of experiences and other mental states.²¹

The inference to (3), as W. S. Pluhar has pointed out,²² commits the intentional fallacy. One can desire life without thinking of it in these highly sophisticated terms just as one can desire to meet Archibald Cox without thinking of him as a Harvard law professor. There is therefore no reason to deny that sentient beings who behave as if they prefer to live *do* prefer to live. The replacement argument as restricted by Singer appears to be *vastly* more restricted than he believes and thus loses its point.

Now, however, an even more serious objection can be raised. The first objection to the preference utilitarian version of the replacement argument, just spelled out above, did not

challenge the assumption that preference utilitarianism would imply that self-conscious beings are irreplaceable. We saw that the argument, given this assumption, applies to very few sentient creatures. A much more serious problem arises for Singer when we examine this assumption. It turns out to be simply false that preference utilitarianism implies the irreplaceability of self-conscious beings.

The problem is this. The replacement for the painlessly, fearlessly dispatched self-conscious being *also* has a preference for continued life. It is not different in this respect from its predecessor. If the new preference and the old preference are equal in strength, they must be assigned the same utility; therefore, preference utilitarianism does not favor the replacee over the replacer regardless of whether the former is self-conscious.

Perhaps Singer would try to avoid this (for his purposes, disastrous) implication by arguing that a being which does not yet exist (the replacer) cannot have any preferences. All such preferences, he might say, are potential only. There is evidence that Singer would reply in that way. He argues that normal infants are replaceable because they as yet have no preference to continue living:

Potential self-consciousness is not enough, for a potentially self-conscious being has never desired to go on living.²³

Similarly, an as yet nonexistent being has no actual preference for continued life. Thus, Singer could reply, preference utilitarianism does indeed favor the existent being with a preference to continue living over any nonexistent replacement.

However, this line of reply is actually closed to Singer, because it presupposes an amalgam of preference

utilitarianism with a view he rejects: the prior existence view. The reader will recall that in seeking to render the replacement argument inapplicable to normal, self-conscious humans he rejected the prior existence view (which does not assign utility to the states of mind, etc., of nonexistent beings) in favor of preference utilitarianism.²⁴ The prior existence view was rejected because it did not imply the wrongness of deliberately conceiving an incurably and painfully deformed child who would die before his second birthday. Suppose that the child's mind is unimpaired. We would then think it probable that he would develop a preference for nonexistence. Yet such a preference would simply not count if Singer were to try to escape the disastrous implication in the way I have suggested. Thus, his view would be subject to the same objection as the view he has rejected.

If Singer were to reply that he would take the misery of the child into account and thus condemn its deliberate conception, then he ought to take its potential preferences into account as well. Its misery is also merely potential, after all. And in that case the preferences which *any* nonexistent being will have ought to be taken into account. Thus, the original objection reemerges: preference utilitarianism does not favor the self-conscious replacee over its self-conscious replacer if we can expect the replacer's preference to live to be at least as strong as the replacee's.²⁵ I see no way in which Singer can consistently avoid this objection.

We have seen that when the assumption that preference utilitarianism implies the irreplaceability of self-conscious beings is *not* questioned, the replacement argument applies to hardly any beings at all. When the assumption *is* questioned, the argument applies to all sentient beings. Both alternatives are

unacceptable to Singer. Therefore, his attempt to restrict the replacement argument to nonself-conscious animals and humans has thoroughly defeated itself.

In the absence of any other plausible new utilitarian version of the replacement argument which would avoid the above entanglements, one is entitled to conclude that the replacement argument does indeed apply even to normal humans. Therefore either the replacement argument, and utilitarianism, must be rejected, or the implication must be accepted. It is now time to press the argument from moral consistency on proponents of the replacement argument. Anyone who, on careful, clear, impartial reflection, believes that it is wrong to create, 'humanely' use, then replace normal humans, will have to reject the replacement argument for other sentient beings as well. The principle of utility must then be rejected as the only basic moral principle.

Suppose, on the other hand, that some utilitarians decide not to agree with Singer's claim that

If we think of a living creature as a self-conscious individual, leading its own life and with a desire to go on living, the replaceability argument holds little appeal.²⁶

It is entirely possible that some would prefer to accept the replaceability of normal humans rather than to reject the replacement argument and utilitarianism. They would probably argue that they are not impressed by an appeal to ethical intuitions, that just as they do not shy from the thesis that defective humans are replaceable, they are willing to accept the replaceability of humans like themselves. "Why," they might say, "should we abandon utilitarianism rather than abandon an ethical intuition?" Can one reasonably counter such a draconian moral consistency?

I believe one can, by appealing to a pragmatic version of the argument from moral consistency. The principle of utility is itself arrived at by appeal to ethical intuitions. Various versions of utilitarianism are likewise accepted or rejected by utilitarians by such appeals. For example, Singer rejects the prior existence view because it has an implication "we would think . . . wrong;"²⁷ similarly, he raises doubts about classical utilitarianism on the grounds that "all this is, again, very much at odds with our ordinary moral convictions."²⁸ Moreover, utilitarians have devoted a good deal of effort to the task of showing some version of utilitarianism consistent with standard intuitions about lying, promise keeping, and punishment of the innocent. My point here is not merely to charge any utilitarians who accept the implications of the replacement argument with inconsistency. I believe they are entirely right to appeal to ethical intuitions at these crucial points. They are also right to insist that the intuitions appealed to be qualified. As mentioned earlier, without such appeals ethical theories can neither be formulated nor tested. These reflections do however suggest that a utilitarian who relies on clear, informed, impartial ethical intuitions in trying to formulate his theory but who rejects them when they run counter to his theory is guilty of a pragmatic, if not formal, inconsistency. (If a utilitarian can show that the ethical intuition that it is wrong to create, use, and replace a normal human being is not qualified in the above respects, he is not guilty of this charge. However, no such thing has been shown.)

If then the principle of utility is, after careful moral reflection, not taken to be the only basic moral principle, we must look for an additional principle (and thus to a deontological theory) which does square with qualified ethical intuitions concerning replaceability. To formulate and then

defend such a principle is no easy task. I will here confine myself to some brief remarks on this subject. Tom Regan has been trying to formulate such a principle in his recent writings, and the results are very suggestive. Briefly, he argues that *if* sentient (or nonsentient) beings have basic rights, they have those rights because they are *inherently valuable*. He spells out the "most noteworthy features" of inherent value as follows:

1. If any given being (x) has inherent value, then x's having value of this kind is logically independent of any other being's happening to take an interest in or otherwise valuing x.
2. X's having inherent value makes it improper (a sign of disrespect) to treat x as though it had value only as a means (i.e., only if and only so long as it answers another's needs, etc.).
3. Because x's having inherent value underlies the obligation to treat x with respect, and since something's being good-of-its-kind is not a plausible basis on which to found this obligation, x's being good-of-its-kind is logically distinct from x's having inherent value.²⁹

Regan's 'criterion of inherent value' does seem to capture the conviction that stocking, eating or experimenting on, and then replacing a sentient creature with another just like it and with the same fate, is to treat it as instrumentally valuable. If the being is in fact inherently valua-

ble, such use seems wrong, even if precautions have been taken to make the being as happy as possible. However, I do believe Regan errs in stipulating that it is treatment of an inherently valuable being as *a means only* that is improper. Under the conditions of the replacement argument, sentient beings are not treated as *means only*: their well-being is taken into account in the attempt to maximize the balance of inherent non-moral value over disvalue. (Current treatment of animals, by contrast, comes very close to treatment of them as means only.) On the other hand, it is clear that stocking, using, disposing of, and replacing sentient creatures, however benevolently this is done, is to treat them *primarily* as means. Therefore I would suggest amending Regan's feature (2) as follows:

2. X's having inherent value makes it improper (a sign of disrespect) to treat x as though it had value primarily as a means.

Much work remains to be done on the criterion of inherent value, as Regan is the first to say.³⁰ However, if the reasoning in the earlier part of my paper is correct, and the replacement argument must indeed be rejected for humans and animals, the formulation and testing of this or some other principle as part of a deontological theory is the next order of business.

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NOTES

¹ Peter Singer, *Animal Liberation* (New York: Avon Books), 1975.

² The statement of the second premise of this argument is taken from *Ethics & Animals*, 3 (1), March 1982, p. 2, with one alteration: condition (c) has been added in order to meet the requirement that utility be maximized by animal exploitation.

³ Peter Singer, "Killing Humans and Killing Animals," *Inquiry*, 22, nos. 1-2, Summer 1979, p. 149. See also his essay, "Animals and the Value of Life," in Tom Regan, ed., *Matters of Life and Death* (New York: Random House), 1980, p. 249.

⁴ I am following the convenient practice of abbreviating 'human animal' as 'human' and 'nonhuman animal' as 'animal.' This terminology is not meant to beg any questions about the moral status of animals.

⁵ For excellent discussion of the pros and cons of important metaethical theories see R.B. Brandt, *Ethical Theory* (Englewood Cliffs: Prentice-Hall), 1959, W. K. Frankena, *Ethics* (Englewood Cliffs: Prentice-Hall), 1973, and J. L. Mackie, *Ethics* (London: Cox and Wyman Ltd.), 1977.

⁶ R. B. Brandt, op. cit., Chapter 10.

⁷ W. K. Frankena, *Ethics*, op. cit., p. 111.

⁸ See my "Must an Opponent of Animal Rights also be an Opponent of Human Rights?", *Inquiry*, 24, 1981, pp. 229-41.

⁹ Singer, "Animals and the Value of Life," op. cit., p. 251.

¹⁰ Ibid., p. 245.

¹¹ Singer, "Killing Humans and Killing Animals," op. cit., p. 153.

¹² Singer, "Animals and the Value of Life," op. cit., p. 250. Although he is thinking primarily of defective humans here, the same applies to those who are normal.

¹³ Singer, "Killing Humans and Killing Animals," op. cit., pp. 148-150.

¹⁴ Ibid., p. 148.

¹⁵ Ibid., p. 152.

¹⁶ Ibid.

¹⁷ Ibid., p. 153.

¹⁸ Singer, "Animals and the Value of Life," op. cit., p. 238.

¹⁹ Ibid.

²⁰ Ibid., pp. 239-240, and "Killing Humans and Killing Animals," op. cit., p. 151.

²¹ Michael Tooley, "Abortion and Infanticide," in M. Cohen, T. Nagel, and T. Scanlon, eds., *The Rights and Wrongs of Abortion* (Princeton: Princeton U. Press), 1974, pp. 60-62.

²² Werner S. Pluhar, "Abortion and Simple Consciousness," *Journal of Philosophy*, LXXIV (3), March 1977, p. 162.

²³ See his "Killing Humans and Killing Animals," op. cit., p. 153.

²⁴ See above, pp. 98-99.

²⁵ Michael Lockwood makes this point in his "Singer on Killing and the Preference for Life," *Inquiry*, 22 (1-2), Summer 1979, p. 159, when he argues that preference utilitarianism

cannot be used to decide the issue between a pregnant woman and the child who would live only at the cost of her death.

²⁶ Singer, "Killing Humans and Killing Animals," op. cit., p. 151.

²⁷ Ibid., p. 148.

²⁸ Singer, "Animals and the Value of Life," op. cit., p. 249.

²⁹ Tom Regan, "An Examination and

Defense of one Argument Concerning Animal Rights," *Inquiry*, 22 (1-2), Summer 1979, p. 206. See also his "The Nature and Possibility of an Environmental Ethic," *Environmental Ethics*, 3, Spring 1981, pp. 30-32.

³⁰ I explore the problems facing this criterion and the type of justification it can and cannot be given in my "The Justification of an Environmental Ethic," forthcoming in *Environmental Ethics*.