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In Defence of Backyard Chickens

Bob Fischer (Department of Philosophy, Texas State University)

and

Josh Milburn (Department of Politics, University of York)

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Abstract

Suppose that animals have rights. If so, may you go down to your local farm store, buy some chicks, raise them in your backyard, and eat their eggs? You wouldn't think so. But we argue, to the contrary, that you may. Just as there are circumstances in which it's permissible to liberate a slave, even if that means paying into a corrupt system, so there are circumstances in which it's permissible to liberate chickens by buying them. Moreover, we contend that restrictions on freedom of movement can be appropriate for chickens, but not humans, because of the obvious differences between the interests of healthy, adult humans versus those of chickens who have been bred for human use. We also argue that egg consumption is permissible based on the plausible assumption that no one's rights are violated in their consumption, and so while there may sometimes be morally preferable uses for eggs, you do nothing unjust in eating them. If we're right, then the rights view doesn't imply that veganism is obligatory; rather, it implies that the constraints on how we source animal products, though highly demanding, are not so demanding that they can't be met.

Keywords

Animal rights; veganism; chickens; eggs; property

Introduction

Marie-Thérèse Coincoin (c.1742 – 1820) was owned by the de Soto family in Louisiana. When she was 25, the family loaned her out to Claude Thomas Pierre Metoyer. Coincoin and Pierre came to live together in a kind of common-law marriage, at least until the local priest objected. Pierre's solution was to purchase and liberate Coincoin, and then later a number of their children — who, having been born prior to Coincoin's manumission, were still the property of the de Sotos. In 1786, Pierre gave in to social pressure and married a white French woman, ending his relationship with Coincoin. However, he gave her a plot of land and an annuity, making her financially independent. Over the next several years, she purchased the rest of her children, one of her son's daughters, and her own sister, freeing them all.¹

Was it wrong for Pierre to buy Coincoin, or for Coincoin to purchase her children? It seems plain that her actions were permissible: what else could she have done? And if his actions were wrong, it isn't clear that the wrongness stems from the purchasing itself. What's troubling about Pierre's behaviour is that he was willing to 'borrow' Coincoin in the first place, and that he began a relationship with her before purchasing and liberating her — not that, in an attempt to save a relationship that began under objectionable circumstances, he took the only course of action available.

The above suggests the following: even if there's something inherently objectionable about purchasing a person — and thereby providing financial support to a corrupt and harmful system — its badness can be outweighed by sufficiently strong considerations. Our aim here is to show one way in which this point is relevant to animal ethics. Suppose, for the sake of argument, that nonhuman animals² have rights. Then, some animals — such as the chicks that are for sale in local farm stores — are relevantly similar to the victims of slavery. Though it seems plausible that any proponent of animal rights is committed to saying that you shouldn't buy those chicks, we argue to the contrary: there is no tension between the thesis that animals have rights and the moral permissibility of buying those animals. What's more, we argue that it's permissible to keep them in our backyards and eat their eggs. Or, at least, it's permissible in certain circumstances.

To be clear, we don't want to draw a straight line between the ethics of purchasing humans and the ethics of purchasing animals.³ As we'll argue, there are some important differences between the cases, and we are well aware of the risks of drawing simplistic parallels between chattel slavery and the various ways in which we exploit the members of other species. Still, the analogy is a helpful one when employed carefully — as demonstrated, of course, by the way that Singer (1975) and Regan (1983) used it to help us appreciate our obligations to animals.

Obviously, the conclusions about keeping chickens and eating their eggs go beyond the resources of the analogy with which we began, so we provide independent arguments for them. In short, we contend that restrictions on freedom of movement are appropriate for chickens, but not humans, because of the obvious differences between the interests of healthy, adult humans versus those of chickens who have been bred for human use. We argue that egg consumption is permissible based on the plausible assumption that no one's rights are violated in their

consumption, and so while there may be morally preferable uses in some cases, you do no wrong in eating them.

One implication of our argument is that the view that animals have rights doesn't imply that veganism is obligatory. Rather, it implies that there are demanding constraints on how we source animal products, but not so demanding that they can't be met by many of the people who are in a position to read this essay.

In the next section, we set out a case for animal rights, and clarify why you might think that it implies that it's impermissible to buy chickens. In the one that follows, we argue for the three parts of our thesis. We then consider some objections before concluding with two caveats.

The Rights View

One of us lives just a few miles away from a Tractor Supply store, whose parent company bills itself as 'the largest operator of rural lifestyle retail stores in the United States'.⁴ At select times of the year, you can buy baby chicks there: White Leghorn hybrids, Rhode Island Reds, ISA Browns, Andalusians, Ameraucana [sic] hybrids, and more. Of course, your desire for chickens might not line up with one of the store's 'Chick Days', so you can always order online. For a mere \$34.99 USD (free shipping!), you can have ten Rhode Island Reds delivered to your local Post Office, where they need to be picked up within 24 hours.

There are a range of welfare problems associated with backyard chickens, but the associated industry is at least as worrying. When chicks are hatched to get layers rather than broilers, the male chicks are expendable: they are typically killed using large grinders. If females aren't sold to places like Tractor Supply, then they are likely to be debeaked, sent to produce eggs in intensive farming environments, and then killed after one or two years (when they become less productive). This industry is thus associated with a range of practices to which advocates of animal rights object: the killing of male chicks and less productive hens, suffering inflicted by debeaking, confinement and transport, objectification of animals, denying chickens the chance to engage in the kinds of behaviours that are valuable to them, the destruction and exploitation of social and familial bonds, and so forth.

Given all of this, it's easy to see why someone might think that, if animals have rights, it's wrong to buy chickens from your local Tractor Supply store. That is, if we suppose that many animals are entitled to respectful treatment as a matter of justice, it seems plausible that you shouldn't make yourself complicit in disrespectful treatment — which you would, it seems, were you to purchase chicks.

Consider, for instance, the most influential account of animal rights in the philosophical literature: namely, Tom Regan's 'rights view'.⁵ Regan is concerned with beings who are 'subjects-of-a-life'. In *The Case for Animal Rights*, his magnum opus, he's deliberately conservative, limiting the class of 'subjects-of-a-life' to 'mentally normal mammals of a year or more'. 'Wherever we draw the relevant line', he says, 'these animals are above it'.⁶ Nonetheless, it's fair

to say that (many) chickens meet the subject-of-a-life criterion: they possess beliefs, desires, perception, memory, a sense of the future, an emotional life, interests, and a lasting psychological identity; they can feel pleasure and pain; they can initiate action; and their life can fare well or ill for them.⁷

Regan contends that all subjects-of-a-life possess equal inherent value, and so we ought to treat them in accord with his ‘respect principle’: ‘We are to treat those individuals who have inherent value in ways that respect their moral value’.⁸ This means that they must always be treated as objects of value, and not merely as containers of value — this is one of Regan’s objections to utilitarianism, which, he claims, treats beings as mere ‘receptacles’ of value.⁹ The respect principle, in turn, grounds a right to respectful treatment.¹⁰ Derivatively, animals have rights against being killed, being made to suffer, being treated as objects that exist solely for the benefit of others, and so on. What’s more, the respect principle grounds an obligation not to support those who violate the rights of animals: we shouldn’t aid or abet rights violations, and respect for victims involves disassociating ourselves from those who victimize them.

Based on what we said above, the rights view seems to be committed to saying that the egg industry fails to respect chickens, and so is unjust. And if that’s right, then the rights view also implies that it’s wrong to support that industry. As Regan puts it:

Since [the animal-agriculture] industry routinely violates the rights of [farmed] animals, it is wrong to purchase its products. That is why, on the rights view, [veganism] is morally obligatory, and why, on that view, we should not be satisfied with anything less than the total dissolution of commercial animal agriculture as we know it, whether modern factory farms or otherwise.¹¹

In Defence of Backyard Chickens

If, however, we’ve got Regan’s view of animal agriculture, it seems reasonable to think about Tractor Supply Co. as being somewhat akin to a slave trader: both perpetuate the routine violation of fundamental rights, and both profit from these violations. And if that analogy holds, then we should re-evaluate the decision to buy chicks in light of what we said about the ethics of purchasing slaves to liberate them. To make it permissible to support the slave trade, you would need sufficiently strong reasons — e.g., the chance to rescue an innocent victim of the trade. Might there be such reasons here?

Presumably, we won’t be able to appeal to the sort of familial bonds to which we first alluded — no chick is one of your children.¹² And we’ll be the first to grant that you have strong moral reasons not to support an industry that exploits beings with inherent value. But let’s imagine that you’re motivated to liberate chickens, rather than simply to benefit at their expense.¹³ (That’s not to say that your sole motivation must be rescue,¹⁴ but if your own interest is paramount, you’re failing to treat the chickens with the respect that, on the rights view, they’re owed.) You have a strong moral reason to save any individuals you can from that industry, as the difference you can

make in the lives of each of those chickens is vastly greater than any support you're offering to a morally corrupt business.

After all, many of these chickens will go on to live rather brief lives. Members of all of the breeds mentioned earlier can live for at least five years, and some for as many as fifteen. However, within two or three years, the vast majority will be killed by predators, disease, or their owners — who have no interest in feeding chickens after they stop producing large numbers of eggs, and so slaughter them for meat. Granted, the life of a backyard chicken is, in some respects, much better than the life of a chicken raised in intensive conditions. Still, we shouldn't have too rosy a picture of their well-being. Many chicken coops aren't substantially larger than those available to chickens in enriched-cage agricultural settings, and backyard chickens often lack the benefit of regular medical care. Moreover, unlike those in enriched-cage settings, backyard chickens are vulnerable to snakes and other predators who can enter their coop. Of course, backyard chickens are often allowed to roam, but the available environment puts them at further risk. Most backyards don't provide the cover and secluded perches that would allow chickens to avoid hawks, raccoons, dogs, and other suburban wildlife. This can make the chickens highly anxious. They are the descendants of wild junglefowl, who live out their lives in the dense foliage of the forests of southeast Asia. Today's chickens have inherited a psychology that was forged in that context, as well as the high stress levels that those birds experience when their protective cover is removed. An informed and conscientious person could address many of these issues, but most purchasers won't. So, you have the power to make a significant difference for any individual you purchase.

Granted, there's a trade-off here, and we'll say more about it later: if you buy chicks, you are supporting a morally corrupt industry. However, at first glance, the trade-off seems worth it. Moreover, it's being worth it seems to follow from Regan's liberty principle:

Provided that all those involved are treated with respect, and assuming that no special considerations obtain, any innocent individual has the right to act to avoid being made worse off even if doing so harms other innocents.¹⁵

If you have this liberty for yourself, then surely you have it for others: that is, provided that all those involved are treated with respect, you have the right to act to prevent others from being made worse off, even if doing so harms other innocents — i.e., even if you're contributing to harms to other chickens as a result of your support for the corrupt business.¹⁶

But what about the provisos in that principle? Are you treating the chickens that you don't purchase with respect if you buy certain others? Given your intention — namely, to save particular individuals — and the limits imposed by the situation, it's hard to see how you might be failing to treat the chickens that you don't purchase with respect, even if others are clearly treating them with disrespect. Indeed: you are showing all the respect you can; you are acting based on the thought that each subject-of-a-life matters.

What about the other proviso? Are there any special considerations that obtain — that is, can you justly liberate the particular individuals you might want to? This is precisely what Regan

might want to deny. Nevertheless, he shouldn't. If he does — e.g., by saying that it's never permissible to support a corrupt system so that good may come — then he seems to be committed to saying the same thing about Coincoin's purchase of her children. That seems flatly wrong.

So given the rights view, it seems to be permissible to buy chicks. If so, you'll be obliged to liberate them — or come as close to that as you can. But liberating chickens is no small feat. They have few natural defences against predators; there is no wild community for them to join; and as a result of the way they are bred, there is no life for them outside human care. In such circumstances, your obligation seems to be to provide those individuals with sanctuary. And if that's right, then we come to the question of what to do with the eggs that those chickens lay. On the face of it, at least, you don't seem to violate anyone's rights if you eat them; so, it seems permissible to do so.

Someone might worry about the moves in this last paragraph. Hasn't this line of thought been tried before, with dangerous conclusions? Consider the following passage from an 1845 debate over the sinfulness of purchasing slaves, in which both parties were opposed to slavery, but disagreed over whether it was permissible to purchase a slave and benefit from her labour. Here is the centrepiece of the argument from Nathan Rice, who thought that it was permissible:

I maintain, that when by buying and holding a slave, I can materially improve his condition, the golden rule, which bids us to do to others as we would that they should do to us, requires me to do it. And although I hold slavery to be a great evil, yet, in purchasing a slave, under such circumstances, I am committing no sin, but am doing what the law of God requires. But the gentleman quoted the passage: "Love worketh no ill to his neighbor." Very true: it does not. And do I do an injury to my neighbor in the case I have just stated? ... What! Because I cannot do him all the good I would, do I injure him by doing what good I can? If I am not able, without disregarding other paramount duties, to buy him and give him his liberty; or if circumstances are such, that manumission could not improve his condition; yet, if I greatly better his condition in that relation, and do this at his own earnest request, do I violate the law of love? — What profound absurdity! ... I have never pleaded that slavery ought to have existed, or that it ought to be continued. Never. All I insist on is, that the slave-holder should not be announced at the worst of malefactors because he finds himself born in the midst of it.¹⁷

Our argument looks suspiciously close to this one, and insofar as this one strikes us as specious, that's trouble for the line that we've been pushing.

There is indeed a problem with Rice's argument, but that problem doesn't create any issues for us. Rice goes wrong in the way that he understands the phrase 'materially improve his condition', in the countervailing 'paramount duties' to which he appeals, and in his pessimism about being able to liberate the individual in question. It's implausible that 'his condition' — i.e., the slave's — would be improved to the relevant level, implausible that he has any other duties so pressing as to justify not giving this person his freedom, and implausible that there is no way to

provide that freedom. But in the case of chickens, all three points are quite plausible. It is indeed possible to provide, in a suburban backyard, chickens with about the best life available to them; there are indeed reasons to eat the eggs, such as the importance of minimizing food waste; and ‘liberation’ for a chicken is just death in the talons of predatory birds, in the jaws of foxes, or under the tires of a car. So Rice was mistaken: it would be wrong to buy and keep a human slave in the circumstances he describes. However, the differences between his circumstances and the ones that we’ve been describing are precisely those that make it permissible to buy, and benefit from, chickens. Again, the primary goal shouldn’t be to guarantee your egg supply; that motivation would, arguably, be disrespectful to the animals. But that needn’t be your sole motivation, and, if it isn’t, then buying chickens, and eating their eggs, needn’t be objectionable.

Objections and Replies

Let’s consider some objections.

Purchase chickens from a store, and that will support the trafficking of more chickens.

There are a number of strategies that we might employ to reply to this objection. The most obvious is to reject the assumption on which it’s based: namely, that purchasing makes a difference. If we go this route, we just deny that you’re supporting the trafficking of more chickens in any meaningful sense, as your purchase doesn’t affect whether any future individual is created. Given all the slack in the system, we shouldn’t expect your purchase to affect the overall number of chickens in the next generation.¹⁸

For the sake of argument, though, let’s assume that you do make a difference. Still, no one should think that you’re making much difference. It isn’t as though the purchase of a chicken result in the immediate slaughter of another chicken: any relationship between your purchase and negative effects for animals is going to be indirect, complex, and probabilistic. In the case of buying baby chicks, however, you are saving lives. So, we have to weigh that indirect, complex, and probabilistic sort of support for rights violations with your ability to prevent a particular individual from having her rights violated in the near future. It seems fairly clear that the latter is the better option.

Alternatively, we might appeal to the doctrine of double effect: it’s generally permissible to rescue a being from exploitation, and your support for the trafficking of more chickens is a foreseen but unintended consequence of your strategy. Were another strategy open to you — that is, were it possible to save those particular chickens without supporting the trafficking, that may well be what you ought to do. (More on this later.) But that often won’t be possible, and so the doctrine of double effect allows you to rescue them. Of course, this strategy relies upon the truth of the doctrine of double effect, which is hardly uncontroversial.

So from the perspective of the rights view, perhaps the most compelling response is that if chickens have rights, then they likely have a right to rescue. After all, if chickens have any rights at all, then they have the right to protection from rights violations. And what's a right to rescue other than the corollary of the right to such protection? A chicken's right to rescue might not imply that any particular individual has a duty to rescue — that duty might fall, for example, on the state — but when no one else is rescuing chickens, it certainly means that a conscientious individual is permitted to rescue them. Indeed, it may be the commendable thing to do.

Granted, if it were certain that rescuing someone would directly result in the rights of another being violated, then perhaps we ought not to intervene. But as we've said, no one should be certain about having that kind of direct effect: we may not be causally impotent, but we still can't be certain of the effects of our actions. Given that, we are merely taking a risk that, in purchasing one chicken, we will have some causal responsibility for the violation of the rights of another. And that seems a risk worth taking, given that it is the fundamental rights of the rescued chicken — to bodily integrity, to freedom from fear, etc. — that are at stake.

Purchasing chickens reinforces the idea that they are mere property.

To be clear, objection here isn't the deontological one that purchasing chickens treat them as property, and is therefore wrong. We'll consider that challenge next. This is, instead, a consequentialist objection, and so requires replies in those terms. We offer three. First of all, your impact on the broader perception of chickens is trivial relative to your impact on the lives of the chickens you save. And the latter is more important than the former. Second, there is no reason why purchasing chickens couldn't be joined with campaigning for chickens' rights, so that any negative impact of the purchasing could be offset by the positive impact of campaigning — campaigning that may even be made easier by keeping chickens of one's own. Third, and perhaps most importantly, the greatest testimony to your views about chickens will be in the way that you treat them, and your greatest impact on how people view chickens is going to result from their appreciating the sacrifices you are willing to make on their behalf. Someone willing to buy medicine for a sick chicken says volumes more about the value of that life than someone who abstains from having any relationship at all with such animals.

Purchasing chickens treats them as property.

Now on to the deontological version of the challenge. If it's contrary to animals' rights to be treated as property, and if purchasing an animal invariably involves treating her as property, then that would be a problem for our argument. Regan's position on this is unclear, but, in any case, not all proponents of animal rights would accept the assumptions behind this objection. Alasdair Cochrane, for instance, links the rights of animals to their interests, and claims that animals don't possess an interest in not being property; thus, they have no right against being property.¹⁹ However, this has been challenged by his critics. Jason Wyckoff²⁰ and Friederike Schmitz²¹ argue

that animals have an interest in not belonging to a system in which they can be owned, even if particular instances of ownership may not be harmful to them, and one might also worry about what Cochrane's arguments would mean — given his rejection of speciesism — for the prospect of owning less-autonomous humans.²² So we may have good reason to doubt that treating an animal as property is consistent with respecting the animal's rights.

We take no stand here on whether animals possess a right not to be owned.²³ However, even if Wyckoff and Schmitz are correct, there are two reasons why this isn't a serious challenge to our thesis. First, there are the harms faced by chicks who are bought by someone who gives no thought to liberating them. It's bizarre to think that a chick's putative right not to be treated as property — a right infringed upon either way — wouldn't be outweighed by the very strong interests that the chick possesses in avoiding the infliction of suffering and death. Indeed, the interest-based rights approach explicitly allows for this kind of case:²⁴ Though the chicks may possess a *prima facie* right against being treated as property, they surely don't possess a concrete (or all-things-considered) right in this case, as their interest in not being treated as property would be outweighed by their interest in avoiding other harms.

Someone might object that this reply relies too strongly upon the interest-based rights approach, arguing that a firmer rights theory — perhaps including Regan's rights view — would not permit this kind of trading-off of rights. If rights are side-constraints, then, barring 'catastrophic moral horror',²⁵ we may not violate them, and thus mustn't purchase the chicks. This leads to our second response to this challenge. It isn't clear that the 'purchasing' of chicks in this case amounts to treating the chicks as property. Rather than purchasing the chicks, we're paying for their freedom (or as close to freedom as they can achieve). In this sense, the action is more morally analogous to paying the bail of a wholly innocent victim of a corrupt justice system than it is to purchasing a slave. Once the money changes hands, whatever the legal situation (i.e., your ownership of a chick), it's appropriate for us to think of the chick as liberated. On this picture, morally speaking, at no point was the chick treated as property by you. While she may have been treated as property by another, your actions released her from being treated as property. To put this another way: providing it's carried out with the firm intention to release the chick, it makes sense to say that purchasing a chick doesn't involve treating the chick as property, even if it certainly entails the seller treating the chick as property — something she was doing either way.

Liberating chickens is permissible, but eating their eggs amounts to deriving an illegitimate benefit from a permissible action.

The claim here is that while we may permissibly derive benefit from liberating animals — we permissibly benefit in all kinds of ways from the companionship offered by rescued dogs, for example — this particular benefit is one that is illegitimate. This challenge could be grounded in a number of ways, each of which warrant its own response.

First, someone might claim that hens have an interest in and/or right to raise a family, and taking their eggs (and failing to allow them access to cockerels) can scupper their chances of doing

so. Sue Donaldson and Will Kymlicka support the idea of offering chickens a chance to raise a family if they wish to, but, as they recognize, this is perfectly compatible with taking excess eggs from chickens.²⁶ Donaldson and Kymlicka are also opposed to permitting chickens unrestricted opportunity to breed and raise a family,²⁷ as domesticated animals may lack the ability to self-regulate their reproduction; chickens living in a backyard could presumably very quickly overpopulate, thus ‘creat[ing] unsustainable burdens on the scheme of cooperation’.²⁸ Instead, they argue, we should aim for ‘socially sustainable’ populations.²⁹ In a household environment, this is often going to mean denying animals the chance to breed. If there’s room for more animals, on the other hand, it would make sense to rescue existing animals rather than bring new ones into existence.

Second, someone could insist that eggs belong to the chickens, not us.³⁰ If it matters that we rescue animals from the status of property, it would be strange to have so little respect for their property — as, the charge goes, we would if we were to take their eggs without a second thought. One way of countering this, of course, is to reject the idea of chickens owning their eggs, or more radically, of animal property rights generally. Another is to observe that the chickens generally don’t seem to mind our taking their eggs, and we might construe this as a kind of tacit consent for our taking them. But let’s assume, for the sake of argument, that chickens do own their eggs and would prefer us not to take them. Even if so, we needn’t frame our taking of them as theft, just as we needn’t frame the chickens living on our land as squatters or trespassers. In liberating chickens and choosing to live with them, we have entered into a relationship with the chickens, but the benefits of this relationship can go two ways — just as the benefits of companionship can accrue to both dogs and humans. We might even think of the eggs as a kind of rent, or the product of animal labour; in exchange for this rent or labour, we provide the chickens with a space in which to live, food and other benefits, and a chance of retirement (i.e., a place to live once no longer ‘productive’).³¹ Doing so is consistent with affirming the highest moral standing to these chickens, just as expecting human family members to contribute to the running of a household — even if that requires a sacrifice of their labour or property — is consistent with according them the highest levels of moral standing.

Third, one could claim that there’s something inherently illegitimate about the consumption of animal products. This kind of thought is sometimes seen, for instance, in discussions about in vitro meat³² or plant-based products made to seem like animal products.³³ It’s striking that these arguments are normally made in the context of the consumption of (products akin to) flesh, rather than other animal products, and it’s possible that the argument holds when it comes to flesh, but not when it comes to other animal products.³⁴ While it’s true that consuming the eggs of rescued chickens might, in some very small sense, contribute to a culture of egg consumption, or make us more open to the consumption of eggs more generally, it isn’t clear what right possessed by a liberated chicken would be violated by the consumption of her egg. Even if there were some non-rights-based moral reason that speaks against such consumption, this could presumably not outweigh the good of providing the chicken with a safe and happy home. If it could, given that there are those who are only happy to rescue chickens because they will provide

eggs, we would be forced to condemn chickens — who could otherwise be rescued — to sad, short lives so we can avoid their eggs being eaten by a potential rescuer. That's perverse.

Finally, we note that it seems plainly permissible to use the eggs for other purposes. For example, the eggs could be fed to other animals — a routine practice at some sanctuaries. Alternatively, eggs could be given to those humans who will be eating them either way. (Even if it's morally questionable to support egg-eating, if eggs are going to be eaten, better they are eggs from well-cared-for backyard hens than the product of animal agriculture.³⁵) Another possibility is selling the eggs for money that can be used to make both the chickens and their carers materially better-off. There are those who insist that no animal product is food for us,³⁶ but since some uses are permissible, it's hard to see what's morally special about eating them.

Two Caveats

Having responded to several objections to our thesis, it's now worth explicitly setting out two caveats.

Permissible Benefits

The first concerns the benefits it's permissible to enjoy as a consequence of liberating animals, chickens among them. It's emphatically not our argument that we're entitled to benefit from rescued animals once we've liberated them, nor that any benefit's fair game. It wouldn't be permissible, for example, to 'rescue' a chicken to kill her for flesh; in such a situation, it would be difficult to see how she was being rescued at all.³⁷ More importantly, on the kind of normative picture we're assuming, killing a chicken would involve violating the chicken's rights. This would be the case even were the chicken 'rescued' from a worse situation; i.e., she could live out a slightly longer life in slightly better conditions before eventually being killed. Extreme scenarios aside, seriously harming a chicken — such as by killing her or making her suffer — is impermissible, whether we have rescued her or not, even if she would be harmed more in some counterfactual scenario.

So while we're permitted to take the eggs of rescued chickens, we're not permitted to kill them for their flesh.³⁸ It's easy to imagine a parallel argument to the one we have presented that could, at least in principle, justify the use of rescued sheep and goats for wool or manure — though meat and hides would be out of the question, and milk would be extremely tricky due to the need for impregnation and removal of the lamb/kid. Equally, while rescued animals could feasibly be used as companions, guards, or grass-cutters, various forms of harmful hard labour will be impermissible, even if the kinds of uses to which the animals would otherwise have been put would have been worse. If animals have rights, we must respect these rights — even if others fail to do so.

All of this meshes comfortably with our intuitions about Coincoin. She doesn't do wrong by benefitting from the labour of those she has liberated — her family-members, naturally enough,

contributed to the running of her household and plantation — but she would do wrong were she to ‘liberate’ slaves only to use them for hard labour, inflict gratuitous suffering on them, or kill them. It makes sense to imagine an abolitionist estate utilizing the labour of former slaves, but it doesn’t make sense to imagine an abolitionist estate utilizing the physical abuse and confinement of ‘former’ slaves to encourage hard work. (We note that Coincoin, though reputedly a good owner, did purchase slaves to work her land, so it would perhaps be inaccurate to call her plantation an abolitionist estate.) Similarly, we can imagine an animal-rights-respecting household benefitting from the eggs of rescued hens, but it makes no sense to imagine an animal-rights-respecting household slaughtering ‘rescued’ hens for their flesh.

Better Not to Pay

Given that paying for chickens may involve supporting harms, we grant that it’s generally morally better if chickens are not purchased, but are instead rescued in a way that does not involve financial support for chicken-harming industries. Most obviously, this means that it’s preferable to adopt chickens from a rescue. Money can then be given to the rescue to make life materially better for other chickens (or kept, helping pay for the needs of the newly adopted chickens), and this creates space at the rescue. Rather than risking the creation of more chickens for sale, we’re thus creating an opportunity for more chickens to be saved. Alternatively, but generally less likely, we could receive chickens as a gift or inheritance, find chickens on the roadside, or what have you. When it comes to buying chickens, haggling, or even asking for ‘surplus’ chickens for free, may allow you to limit your financial contribution to chicken-harming industries and your contribution to incentivizing the breeding of many chickens.³⁹

However, its being morally better not to pay for chickens is perfectly compatible with its being permissible to pay for them. This would be true even if, to borrow a phrase from animal activism, we were to accept a defeasible obligation to ‘adopt not shop’; i.e., if we were to accept that we generally have a requirement to adopt a chicken rather than purchase one.⁴⁰ Adopting chickens isn’t always feasible, given the present institutional relationships that human societies have with chickens. It isn’t the case that every town has a chicken sanctuary, and so isn’t the case that everyone has easy access to adoptable chickens.⁴¹ At least some who don’t have easy access to adoptable chickens will have access to purchasable chickens. Presumably, such individuals would be permitted to purchase chickens to rescue them even if they have a pro tanto obligation to adopt rather than purchase.

Someone might respond that if such people have the space to rescue animals but no easy access to chickens in need of adoption, they should rescue other animals — their spaces might be suited to rabbits or guinea pigs, say. While this may be a commendable option for those who wish to take steps to avoid offering any support to hatcheries and other exploiters of chickens, some of those who are prepared to rescue chickens will not be prepared to rescue other animals. They may lack the motivation, expertise, or resources to suitably care for other animals, for instance. It’s better that these individuals rescue some animals — namely, some chickens — than no animals,

and better to rescue chickens than other animals who they will fail to care for (and/or who will end up needing a new home in the future). It's also worth noting, again, that it's possible that the particular chickens who are presently available for sale have a right to be rescued. At the very least, they are facing rights violations imminently, and perhaps currently. The fact that some other animals (chickens or otherwise) could be rescued in their place doesn't change this.

Conclusion

We have shown that it can be permissible — even assuming Regan's rights view — to purchase chickens, keep them in our backyard, and eat their eggs. Now, we haven't taken a stand on whether an ideal conception of animal rights would recognize animals as property. Our argument only makes sense in a context in which chickens who likely face serious future rights violations are for sale. We could imagine that we live in a world in which animal rights are recognized, and that treating animals as property is consistent with respecting animal rights,⁴² meaning that there could be chickens for sale in an animal-rights-respecting state. These chickens wouldn't face a future of rights violations, and nor would purchasing them contribute to the profits of rights-violating industries. Such chickens would not be in any need of rescue, and so our line of reasoning would be irrelevant: there would be no reason to worry that purchasing chickens and caring for them in our own spaces would involve wrongs. On the other hand, if treating animals as property is inconsistent with respecting animal rights,⁴³ then in an animal-rights-respecting state, all animals for sale would be in need of rescue, as the mere fact that they were being treated as property (by being put up for sale) would be violating their rights. But in such a state, there would be no need to purchase these chickens to rescue them, as you could simply notify the authorities, and the chickens could be rescued by agents of the state.

We are doing ethics for a non-ideal world. We're assuming that animals have rights, and then exploring how we should behave in a world in which those rights aren't recognized. What we've shown is that, given such assumptions, it can be permissible for individuals to purchase chickens, keep them in their backyards, and consume their eggs. As such, we've offered yet another way to decouple a commitment to animal rights from strict veganism.⁴⁴

The qualifier 'yet another' is important: we aren't the first to argue that animal rights or 'vegan' perspectives permit the limited consumption of animal products, up to and including the eggs from chickens raised in genuinely humane conditions.⁴⁵ We are, however, the first to argue that a firm endorsement of animal rights is compatible with purchasing chickens from industries that are directly involved in the infliction and perpetuation of rights violations against chickens. Our conclusion, however, certainly shouldn't be understood to be a defence of these industries, or an attempt to excuse those who support or benefit from them without good reason. It only shows that a commitment to animal rights is more complex than some might have thought. Such a commitment doesn't amount to shouting 'Forbidden!' to whatever previously seemed permissible. Instead, it involves the hard work of sorting out what sorts of actions, relationships, and political structures can, and can't, be defended given that animals are rights holders. Proponents of animal

rights can, with a bit of ingenuity, identify a range of interspecies relationships and animal products that remain available in non-ideal circumstances, and others still that would be open in ideal ones. Despite what critics envision, a commitment to animal rights isn't commitment to species apartheid, self-abnegation, or puritanism, either in the present or the future.

¹ Fiona J. L. Handley, 'Coincoin, Marie-Thérèse', in H. L. Gates Jr. and E. B. Higginbothom (eds.) *African American National Biography* (Oxford: Oxford University Press, 2013). Online version at <http://hutchinscenter.fas.harvard.edu/coincoin-marie-th%C3%A9r%C3%A8se-1742%E2%80%931820-slave-agriculturalist-and-head-dynasty> accessed 10 July 2017.

² Hereafter, we will follow the colloquial convention, and use animals to mean 'animals other than human animals'.

³ This analogy can be, and often has been, misused. For a thoughtful discussion of these issues, see Claire Jean Kim, 'Moral extensionism or racist exploitation? The use of Holocaust and slavery analogies in the animal liberation movement', *New Political Science* 33, 3 (2011), pp. 311-33, doi: 10.1080/07393148.2011.592021.

⁴ <http://ir.tractorsupply.com/CustomPage/Index?keyGenPage=1073749530>. Accessed 10 July 2017.

⁵ See especially Tom Regan, *The Case for Animal Rights* (Berkeley: University of California Press, 2004).

⁶ *Ibid.*, p. xvi. Emphasis Regan's.

⁷ On the subject-of-a-life criterion from which this list is paraphrased, see *ibid.*, p. 243. For a recent review of the evidence of chicken cognition, which leads us to confidently state that (many) chickens meet this criterion, see Lori Marino, 'Thinking chickens: A review of cognition, emotion, and behaviour in the domestic chicken', *Animal Cognition*, 20, 2 (2017), pp. 127-47, doi: 10.1007/s10071-016-1064-4.

⁸ Regan, *The Case for Animal Rights*, op. cit., p. 248.

⁹ *Ibid.*, pp. 248-9.

¹⁰ *Ibid.*, pp. 276-9.

¹¹ *Ibid.*, p. 351.

¹² What's more, we shouldn't think that the intuition in favor of the permissibility of purchasing depends on familial relations. Suppose you live in a failed state. It's guilty of a thousand injustices, but we'll just focus on one: namely, that the innocent are routinely and arbitrarily incarcerated. Presumably, you shouldn't support such a state if you can avoid it. But now imagine that you're faced with the opportunity to pay a nominal 'bail' to have an innocent prisoner released into your custody. It seems plain that it would be permissible to pay the bail: whatever your moral reasons to avoid supporting a morally broken state, they don't trump the reasons you have to spare such a person from prison. Indeed, this seems to be exactly the view of groups like Southerners on New Ground and Color of Change, which raised funds in 2017 to pay the bail of a number of incarcerated African-American mothers for Mothers' Day. Such groups are highly critical of the contemporary US justice system, and while paying bail arguably supports the system, their actions are justified by the positives that they can bring to particular incarcerated women and their families.

¹³ As some evidence that it needn't be your intention just to benefit from the chickens, notice that backyard chickens don't make for particularly efficient egg production. Someone motivated primarily by a desire for eggs has many better options available to her, and the principle of charity suggests that we shouldn't attribute an intention that makes her behavior irrational.

¹⁴ One of our peer reviewers self-identified as someone who will 'buy chicks in order to obtain eggs in a way that least compromises animal rights or animal welfare [and who cares] for those chickens even after they stop producing eggs'. We allow that this may be entirely consistent with our approach; as long as — at the point of 'purchase' — there was a motivation to give the chickens a good life and there was no motivation to support the industry/individuals profiting from the abuse of chickens, such chicken-keeping can, we argue, be consistent with respect for animal rights.

¹⁵ Regan, *The Case for Animal Rights*, op. cit., p. 331.

¹⁶ For related discussion, see Cheryl Abbate, 'How to help when it hurts: The problem of assisting victims of injustice', *Journal of Social Philosophy*, 47, 2 (2016), pp. 142-70, doi: 10.1111/josp.12146.

¹⁷ Rev. Jonathan Blanchard and Nathan Rice, *A Debate on Slavery: Held in the City of Cincinnati, on the First, Second, Third, and Sixth Days of October, 1845, Upon the Question: Is Slaveholding in Itself Sinful, and the Relation Between Master and Slave, a Sinful Relation?* (New York: WM H. Moore and Co., 1846): 196-7.

¹⁸ For a compelling statement of the causal impotence problem, see Mark Budolfson, 'Consumer ethics, harm footprints, and the empirical dimensions of food choices' in M. Halteman, T. Cuneo, and A. Chignell (eds.), *Philosophy Comes to Dinner: Arguments Over the Ethics of Eating* (New York: Routledge, 2015). For some strategies

for addressing it, see the papers by Driver, Budolfson, Littlejohn, and Bramble in Ben Bramble and Bob Fischer (eds.) *The Moral Complexities of Eating Meat* (New York: Oxford University Press, 2015).

¹⁹ See Alasdair Cochrane, *Animal Rights Without Liberation* (New York: Columbia University Press, 2012); and Alasdair Cochrane, 'Ownership and justice for animals', *Utilitas*, 21, 4 (2009), pp. 424-42, doi: 10.1017/S0953820809990203.

²⁰ Jason Wyckoff, 'Toward justice for animals', *Journal of Social Philosophy*, 45, 4 (2014), pp. 539-53, doi: 10.1111/josp.12077

²¹ Friederike Schmitz, 'Animal ethics and human institutions: Integrating animals into political theory', in R. Garner and S. O'Sullivan (eds.), *The Political Turn in Animal Ethics* (London: Rowman & Littlefield International, 2016).

²² Compare Robert Garner, 'In defence of animal sentience: A critique of Cochrane's liberty thesis', *Political Studies*, 59, 1 (2011), pp. 175-87, doi: 10.1111/j.1467-9248.2010.00848.x.

²³ Nevertheless, for some interesting reasons to think that being property isn't necessarily contrary to the interests of animals, see the work of Steven McMullen, especially his *Animals and the Economy* (New York: Palgrave Macmillan, 2016), chaps 9-11.

²⁴ Cochrane, *Animal Rights Without Liberation*, op. cit., chap. 2.

²⁵ Rights as 'side-constraints' against action and the prosaic notion of 'catastrophic moral horror' we borrow from Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

²⁶ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford: Oxford University Press: 2011), p. 138.

²⁷ Ibid. p. 146.

²⁸ Ibid., p. 147.

²⁹ Ibid. p. 147.

³⁰ For an account of animal property rights that explicitly affirms this notion, see Josh Milburn, 'Nonhuman animals as property holders: An exploration of the Lockean labour-mixing account', *Environmental Values*, 26, 5 (2017), pp. 629-48, doi: 10.3197/096327117X15002190708155. For the key text on animals as property holders, see John Hadley, *Animal Property Rights: A Theory of Habitat Rights for Wild Animals* (Lanham, MD: Lexington Books, 2015). Note that Hadley's theory as presented doesn't afford domestic chickens property rights in their eggs.

³¹ Compare Alasdair Cochrane, 'Labour rights for animals', in R. Garner and S. O'Sullivan (eds.), *The Political Turn in Animal Ethics* (London: Rowman & Littlefield International, 2016); and Kendra Coulter, *Animals, Work, and the Promise of Interspecies Solidarity* (Basingstoke, United Kingdom: Palgrave Macmillan, 2016).

³² For example, John Miller, 'In vitro meat: Power, authenticity and vegetarianism', *Journal for Critical Animal Studies*, 10, 4 (2012), pp. 41-63; and Josh Milburn, 'Chewing over in vitro meat: Animal ethics, cannibalism, and social progress', *Res Publica*, 22, 3 (2016), pp. 249-65, doi: 10.1007/s11158-016-9331-4.

³³ For example, Bob Fischer and Burky Ozturk, 'Facsimiles of flesh', *Journal of Applied Philosophy*, doi: 10.1111/japp.12223; and Susan M. Turner, 'Beyond viande: The ethics of faux flesh, fake fur and thriftshop leather', *Between the Species*, 13, 5 (2005), pp. 1-14, doi: 10.15368/bts.2005v13n5.6.

³⁴ See, e.g., Rebekah Sinclair, 'The sexual politics of meatless meat: (in)Edible others and the myth of flesh without sacrifice', in B. Donaldson and C. Carter (eds.), *The Future of Meat Without Animals* (London: Rowman & Littlefield International, 2016), pp. 229-48.

³⁵ Veg(etari)an critics of the consumption of 'fake' meat acknowledge that it's better to eat 'fake' meat than 'real' meat; see Ozturk and Fischer, 'Facsimiles of flesh', op. cit. and Turner, 'Beyond viande', op. cit.

³⁶ So-called 'ontological veganism'; see Val Plumwood, 'Integrating ethical frameworks for animals, humans, and nature: A critical feminist eco-socialist analysis', *Ethics and the Environment*, 5, 2 (2000), pp. 285-322, doi: 10.1016/S1085-6633(00)00033-4.

³⁷ A reviewer objected that, much as we might offer eggs to a neighbour who will eat them either way, we might offer a chicken to (say) a wild fox to save a wild rabbit. We presumably couldn't kill the chicken ourselves, as that would violate the chicken's rights. And if Regan's rights view tells us anything, it's that we can't disrespect subjects-of-a-life just because there would be good outcomes. Indeed, it's hard to work out a way that we could feed a chicken to a fox without treating her as if she's a mere resource, something anathema to Regan's rights view (for more on this, see Abbate, 'How to help when it hurts', op. cit.). There might be room for feeding chickens' corpses to foxes after their natural death, but we don't have space to explore this issue here. Further, we might question just how sure we are that interfering in predator-prey relationships like this would have a good outcome. But let's say we can overcome these

puzzles. There are at least two further, and related, responses that the advocate of animal rights can offer. The first is to say that foxes are not able to violate rights, as they aren't moral agents. This means that while the rabbit's rights aren't at stake, the chicken's certainly are. The second is to say that we may have important positive obligations to domesticated chickens that we don't have to wild rabbits. On predation and moral agency, see Regan, *The Case for Animal Rights*, op. cit., p. 357 and Josh Milburn, 'Rabbits, stoats and the predator problem: Why a strong animal rights position need not call for human intervention to protect prey from predators', *Res Publica*, 21, 3 (2015), pp. 273-89, doi: 10.1007/s11158-015-9281-2. For developed explanations of the differences between positive duties to wild and domesticated animals, see Donaldson and Kymlicka, *Zoopolis*, op. cit., and Clare Palmer, *Animal Ethics in Context* (New York: Columbia University Press, 2010).

³⁸ We won't here consider whether rescuers might use a chicken's body once she's died of natural causes, perhaps for flesh or feathers, as that raises separate issues that we don't have room to explore.

³⁹ The other possibility is of taking chickens without paying and without permission — this would legally be stealing, but may be ethically permissible not only as an act of rescue but as an act of civil disobedience. Again, this raises a host of issues that we don't have space to explore here, so we take no stand on either its permissibility tout court or on its acceptability relative to purchasing the chickens legally. For related discussion, see Tony Milligan, 'Animal rescue as civil disobedience', *Res Publica*, 23, 3 (2017), pp. 281-98, doi: 10.1007/s11158-017-9360-7.

⁴⁰ See Tina Rulli, 'For dog's sake, adopt!', in C. D. Overall (ed.), *Pets and People* (Oxford: Oxford University Press, 2017), pp. 172-86. It's conceivable that we have a defeasible duty to adopt animals simpliciter.

⁴¹ Interestingly, this is changing, with urban animal shelters increasingly taking in chickens. In part, this is because putatively 'ethical' small-scale egg producers will offer out their less productive hens for adoption rather than killing, with the people who take them on sometimes unaware of the difficulty of caring for chickens. There's a clear problem in these 'ethical' operations — which are still happy to exploit and kill chickens in the name of profit — benefitting from the good-will of animal lovers and animal advocates in this way.

⁴² As on Cochrane's interest-based rights approach and with Robert Garner's enhanced sentience position, both of which are presented as ideal theories. See Cochrane, *Animal Rights Without Liberation*, op. cit.; and Robert Garner, *A Theory of Justice for Animals* (Oxford: Oxford University Press, 2013).

⁴³ Though as visions of an animal-rights-respecting state they differ significantly, this is what can be seen in Donaldson and Kymlicka's zoopolitics and Gary Francione's abolitionist approach. See Donaldson and Kymlicka, *Zoopolis*, op. cit.; and Gary Francione, *An Introduction to Animal Rights* (Philadelphia: Temple University Press, 2007).

⁴⁴ We acknowledge that some would say that the consumption of eggs can be consistent with 'strict veganism', as 'strict veganism' entails consuming a diet consistent with animal rights, and the consumption of eggs can be consistent with animal rights (as we have shown). A more everyday definition of 'strict veganism' as 'the strict avoidance of animal products' would mean that eating any animal product, no matter its source, could not be consistent with strict veganism. It's not clear that much of normative or conceptual significance rests on this disagreement. The more interesting question, for us, is whether it is permissible to eat eggs in the given circumstances, not whether eggs acquired in particular ways fall into the contested category of 'vegan' foods.

⁴⁵ See, e.g., Donaldson and Kymlicka, *Zoopolis*, op. cit., pp. 138-9; Cochrane, *Animal Rights Without Liberation*, op. cit., pp. 86-9; Katherine Wayne, 'Permissible use and interdependence: Against principled veganism', *Journal of Applied Philosophy*, 30, 2 (2013), pp. 160-75, doi: 10.1111/japp.12010; and Dan Hooley and Nathan Nobis, 'A moral argument for veganism', in A. Chigness, T. Cuneo, and M. C. Halteman (eds.) *Philosophy Comes to Dinner: Arguments Over the Ethics of Eating* (New York: Routledge, 2015). Other avenues that have been explored include the consumption of roadkill along with other forms of 'scavenging', the consumption of (plausibly) non-sentient animals, and the consumption of meat (and other animal products) produced in a laboratory environment. For examples, see, respectively, Donald W. Bruckner, 'Strict vegetarianism is immoral', in B. Bramble and B. Fischer (eds.) *The Moral Complexities of Eating Meat* (Oxford: Oxford University Press: 2015); Bob Fischer, 'Bugging the strict vegan', *Journal of Agricultural and Environmental Ethics*, 29, 2 (2016), pp. 255-63, doi: 10.1007/s10806-015-9599-y; and Milburn, 'Chewing over in vitro meat', op. cit.. There are, undoubtedly, further avenues to be explored.