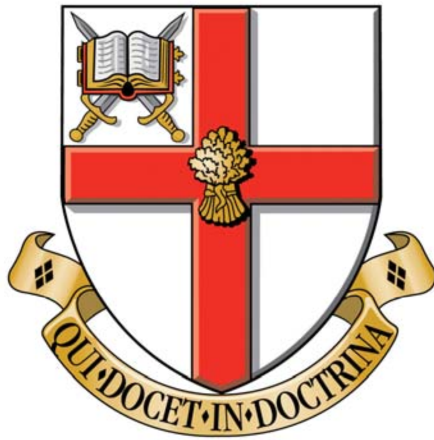
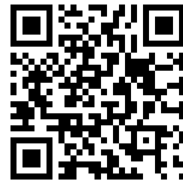
CORE
Metadata, citation and similar papers at core.ac.uk
Provided by ChesterRep



University of Chester



This work has been submitted to ChesterRep – the University of Chester's online research repository

http://chesterrep.openrepository.com

Author(s): David Clough

Title: The problem with human equality: Towards a non-exclusive account of the moral value of creatures in the company of Martha Nussbaum

Date: 2011

Originally published in: Transforming exclusion: Engaging faith perspectives

Example citation: Clough, D. (2011). The problem with human equality: Towards a non-exclusive account of the moral value of creatures in the company of Martha Nussbaum. In H. Bacon, W. Morris, & S. Knowles (Eds.), *Transforming exclusion: Engaging faith perspectives* (pp. 83-93). London, United Kingdom: T & T Clark.

Version of item: Author's post-print

Available at: http://hdl.handle.net/10034/135640

Clough, David. ' The Problem with Human Equality: Towards a Non-Exclusive Account of the Moral Value of Creatures in the Company of Martha Nussbaum' In *Transforming Exclusion: Engaging Faith Perspectives*. Edited by Hannah Bacon, Wayne Morris, and Steve Knowles. London: T & T Clark, 2011, 83-93.

[top of page 83]

The Problem with Human Equality: Towards a Non-Exclusive Account of the Moral Value of Creatures in the Company of Martha Nussbaum

David Clough

The basis of our rhetoric against exclusion of particular groups of human beings is a proclaimed belief in human equality. In fact, however, we do not believe that human beings in general are equal: not in height, weight, age, strength, speed, health, beauty, moral virtue, intelligence, wealth, power or in any other respect. In proclaiming the equality of human beings neither do we believe that human beings should be treated equally: instead we think that those who are thirsty should be given water rather than those who have just drunk, that those who are sick should receive medical care rather those who are healthy, that those who are unable to feed themselves should be fed by others rather than those who are capable of feeding themselves independently, and so on. What we mean by the claim that all human beings are equal, then, is not that they are all equal or that they should all be treated equally, but that we should not base unequal treatment on irrelevant characteristics of persons. Thus, for example, the electorate in a democracy should be defined according to those capable of voting rather than those of a particular gender, judges should reach decisions based on the merits of a case rather than on the relative privilege of the contesting parties and academic examiners should decide grades according to the quality of work assessed rather than on their personal relationship with students.

While this non-discriminatory equal regard seems non-contentious in a liberal society, if we ask about the basis for such a policy, it is surprisingly hard to give a satisfactory response. For the Stoics and a long tradition originating in their philosophy, the possession of rationality was the characteristic of human beings that was the primary reason for respecting them. This idea was influentially taken up by Kant in the formulation of the categorical imperative that rational beings — and only rational beings — should never be treated merely as a means, but always

[top of page 84]

as an end in themselves. There are at least three difficulties with this justification of equal regard, however. First, there is the plausibility of the justification. It is not clear why the possession of rationality is particularly worthy of equal moral regard: if we encountered two extra-terrestrial alien species, one of which was rational but solitary and selfish and the other of which was irrational but relational and altruistic, it is not clear that we would be right to give moral regard only to the first. The second problem is that of boundary matching. The category of rational beings cannot ground equal regard for human beings and only human beings because its boundaries do not match those of the category of human beings: whatever substantive definition of rationality we use will exclude some beings we usually think of as human — such as newborn infants or those with severe learning difficulties — and many definitions of rationality will include some non-human species — such as chimpanzees. The third difficulty with using rationality as a basis for equal regard of human beings is the problem of degree. Persons can be more or less rational and so rationality is a matter of degree, rather than an absolute property. If rationality is the basis of our respect, it is not at all clear why we should respect the most and least rational of human beings equally, rather than valuing the super-rational most highly.[1]

[1] Richard J. Arneson terms the problem of degree the 'Singer Problem', in recognition of Peter Singer's role in first noting it: Richard J. Arneson, 'What, if Anything, Renders All Humans

A second tradition, represented by Locke and given recent impetus by John Rawls, grounds equal regard in a supposed social contract, rather than rationality. Persons in society are considered to have consented to a fair set of social arrangements and they are respected as those who have contracted rights and responsibilities under such a regime. While presumed consent to a social contract avoids the third objection to the justification based on rationality, however, in that it is not a matter of degree, it is vulnerable to the two first objections to the previous scheme. In relation to the first consideration of the plausibility of justification, it is not clear why we should have moral regard only for those capable of consenting to a social contract and undertaking responsibilities under it. In relation to the second difficulty of boundary matching, clearly newborn infants and those with severe learning difficulties will not be included in the category of those deserving equal regard.

Those campaigning against exclusion of persons considered to be marginal have understandably been critical of these justifications for equal regard primarily because of the boundary matching problem. If rationality or social contract are used as the basis for equal regard, the status of those who do not fit into these categories is problematic. Kantians and Rawlsians will commonly seek to find ways to extend moral protection to human beings who do not fit the standard categories, but the fact that such a secondary strategy is necessary implies that non-rational or non-contracting human beings are marginal to the equal regard framework.

[top of page 85]

One notable attempt to circumvent the boundary matching problem is to suggest that the justification for equal regard of human beings is their possession of human DNA. On this account every human being is entitled to equal regard merely on the grounds of species membership. While attractive in its inclusivity, however, this strategy is not a justification for equal moral regard of

---

Morally Equal?', in *Singer and His Critics*, Oxford: Blackwell, 1999), 105.

human beings, but a refusal to provide such a justification. It therefore fares particularly poorly in relation to the plausibility objection, as it is difficult to see why a particular DNA structure should be the exclusive basis of equal regard. If a community of near-human ancestors were discovered living in some remote location, it is hard to judge that they should not be given moral regard simply because the DNA in their cells did not match ours exactly. Encountering a humanoid extra-terrestrial race would provoke the same issue.

Others have proposed alternative justifications for the unique moral status of human beings, such as their capacity for relationships. In some accounts the capacity of human beings to engage in reciprocal relationships receives emphasis, although this remains open to the boundary matching issue in relation to human beings that are incapable of significant interaction. It is also open to the objection concerning degree: should those most capable of relationships be valued more highly? Alternatively, the emphasis may be placed less on the capacities of the individual, and more on their place within a complex of intersecting relationships. This has the advantage of being able to give an account of the value even of unresponsive patients in a persistent vegetative state, but has the unwelcome additional implication that the moral value of those living in isolation is threatened. Other proposed justifications include intelligence or self-consciousness, though arguments very similar to those noted above can be rehearsed against them.

Some utilitarians abandon the attempt to preserve the boundary between the human and non-human with the claim that the only necessary moral guideline is to maximize utility of beings capable of suffering or satisfaction of their aims. This has the attraction of simplicity, but gives up on major features of traditional moral thought, such as the relevance of intention, virtue, character and absolute moral norms — the idea that some things, such as torturing children, would be wrong to do whatever the situation. Utilitarian schemes can also be criticized for not in fact leading to viable calculations of utility. Furthermore, the apparent simplicity is often complicated with additional norms, such privileging the satisfaction of higher order desires over lower ones.

Theologians have often been tempted to short-circuit the difficulties of justifying equal

moral regard through the invocation of some divine rationale. Foremost in these attempts has been the use of Genesis 1.26 to undergird the affirmation that all and only human beings are made in the image of God. As Gordon Wenham has noted, however, whenever an attempt is made to define the content of this image there is the suspicion that the commentator is merely reading their own values as to what is most valuable about human beings into the text[2]. For a large part of the Christian tradition,

[top of page 86]

the consensus view has been that rationality is the image of God in human beings, threatening to return us to the set of problems identified above. It is almost certainly a mistake to identify any human characteristic with the divine image: the reference to the divine image both in Genesis 1 and Genesis 9 seems to relate more closely to a human task that mirrors God's task, than to an attribute of human beings.[3] This makes the image of God a moral responsibility, rather than an indicator of moral status. The fact that Jesus Christ became incarnate as a human being to bring redemption is an alternative theological grounding for equal moral regard, suggesting that we should respect equally those for whom Christ died. As I have argued elsewhere, however, it is unnecessary and inappropriate to restrict the significance of God's work in Christ to the human realm.[4] Some theologians suggest that human relationships with God are a ground for respecting them, though this would apply to all creatures of God unless some additional strategy is employed to show why the human relationship is unique. In any case, the same plausibility challenges apply to these

---

[2] Gordon J. Wenham, *Genesis*, Word Bible Commentary (Waco: Word, 1994), 30.

[3] On Genesis 9, see Stephen Mason, 'Another Flood? Genesis 9 and Isaiah's Broken Eternal Covenant', *Journal for the Study of the Old Testament* 32:2 (2007), 193).

[4] David Clough, *On Animals: I. Systematic Theology* (London: T & T Clark/Continuum, forthcoming), chs 4–5.

proposed theological solutions as were raised in relation to philosophical strategies. In particular, if we discovered alien life with similar attributes to human beings, it seems to me that it would not be defensible to judge that we should give no moral regard to these other creatures of God because Genesis did not record them as made in the divine image.

If I am correct to suggest that it is inappropriate to reach for a quick theological fix to demarcate a field of equal moral regard co-terminus with the human species, it seems that we are hard pressed to justify the non-discriminatory equal regard for human beings that seems to be the modern liberal consensus. There several ways possible ways forward. First, we could continue to attempt to find an adequate justification for this consensus. The strength of the consensus provides strong motivation for this quest, though given the efforts that have been employed to date, this seems unlikely to succeed. Second, we could consistently accept a particular criterion of moral regard despite the arguments against them advanced above. For example, we could specify that rationality was the proper ground of moral regard, despite its implausibility, the consequence of excluding non-rational human being and the consequence that the most rational should be respected more than those less rational. Third, we could decide to become utilitarians, despite the strong reasons specified above against doing so. Fourth, we could decide that we would give equal regard to human beings and no other species without justification, despite the morally tenuous and inconsistent position we are left in as a result. This last seems to be the default option we are in fact operating.

An alternative to all these strategies is to question whether the identification of a field of equal moral regard co-terminus with the human species is the most appropriate moral framework. One motivation for such a reconsideration beyond the difficulties noted above is that the mirror image of radical inclusion of all

[top of page 87]

human beings within a magic circle of equal moral regard is the radical exclusion of every member of every non-human species from this circle. This exclusion is becoming harder to justify as we learn more of the cognitive, social and moral aspects of the lives of non-human animals. We now have reason to believe that sheep are capable of recognizing hundreds of faces;[5] crows are able to fashion tools in order to solve problems;[6] chimpanzees exhibit empathy, morality and politics;[7] dolphins are capable of processing grammar;[8] parrots can differentiate between objects in relation to abstract concepts such as colour and shape;[9] and that sperm whales and orcas have developed culturally specific modes of life and communication.[10] Particular non-human species are like human beings in particular ways. Particular species are also very unlike other non-human species, just as we are, so to think we have arrived at a useful basic categorization of species in the terms 'human' and 'animal' (where the latter is used as exclusive of the human) is bizarre. Jacques

---

[5] Keith M. Kendrick, 'Sheep Don'T Forget a Face', *Nature* 414:4860 (2001).

[6] Alex A. S. Weir, Jackie Chappell, and Alex Kacelnik, 'Shaping of Hooks in New Caledonian Crows', *Science* 297:5583 (2002).

[7] Frans de Waal, *Good Natured: The Origins of Right and Wrong in Humans and Other Animals* (Cambridge, MA: Harvard University Press, 1996); Frans de Waal, *Chimpanzee Politics: Power and Sex Among Apes* (Baltimore: Johns Hopkins University Press, 2000).

[8] Louis M. Herman, Stan A. Kuczaj, and Mark D. Holder, 'Responses to Anomalous Gestural Sequences By a Language-Trained Dolphin: Evidence for Processing of Semantic Relations and Syntactic Information', *Journal of Experimental Psychology: General* 122:2 (1993).

[9] Irene M. Pepperberg, *The Alex Studies: Cognitive and Communicative Abilities of Grey Parrots* (Cambridge, MA: Harvard University, 2000).

[10] Hal Whitehead, *Sperm Whales: Social Evolution in the Ocean* (Chicago, IL: University of Chicago, 2003); Douglas H. Chadwick, 'Investigating a Killer', *National Geographic* 207:4 (2005), 99, cited in Christopher Southgate, *The Groaning of Creation: God, Evolution, and the Problem of Evil* (Louisville; London: Westminster John Knox, 2008), ix.

Derrida has expressed the absurdity of this position most clearly:

> Confined within this catch-all concept, within this vast encampment of the animal, in this general singular, within the strict enclosure of this definite article ('the Animal' and not 'animals'), as in a virgin forest, a zoo, a hunting or fishing ground, a paddock or an abattoir, a space of domestication, are all the living things that man does not recognize as his fellows, his neighbors, or his brothers. And that is so in spite of the infinite space that separates the lizard from the dog, the protozoon from the dolphin, the shark from the lamb, the parrot from the chimpanzee, the camel from the eagle, the squirrel from the tiger or the elephant from the cat, the ant from the silkworm or the hedgehog from the echidna. I interrupt my nomenclature and call Noah to help insure that no one gets left on the ark.[11]

In short, it is increasingly obvious that to judge that protozoons, sharks, squirrels and chimpanzees belong in category of creatures without moral value, and human

[top of page 88]

beings alone belong in a different one where moral value is uniquely and equally bestowed is radically implausible. Together with the incoherence of the justifications offered for such positions, the clear injustice of this exclusion of all non-human creaturely life from moral consideration indicates the need for an alternative account.

In a theological context, the reason for caring for and attending to the well-being of another creature is that we recognize its place in God's good purposes and are thereby enabled to appreciate its value. Since, as I have argued elsewhere, it is a significant theological mistake to understand

---

[11] Jacques Derrida, and David Wills, 'The Animal That Therefore I Am (More to Follow)', *Critical Inquiry* 28:2 (2002), 402.

God's purposes in creation and redemption as limited to the human species, we are not free in a theocentric context to make the anthropocentric error of considering the purpose of non-human creation as exhausted in its utility to human beings. We cannot assume our species to be the centre of God's interest in a huge and astonishingly diverse creative project. Instead, we must recognize that God intends each creature for its own sake, for its contribution to the glorification of God and for its participation in the trinitarian divine life.[12] Such an understanding of God's purposes for creation means refusing to accept the neo-Platonic hierarchies of value that have been influential on Christian theology, picturing a 'Great Chain of Being' from God downwards.[13] This leads us to a radical theological extension of the Kantian principle: to treat not only all human persons, but all creatures, as ends in themselves. This is in one sense a call for the equality of all creatures, but only in the sense already mentioned in relation to equality of persons. Extended to non-human creation, the principle becomes: we should not base unequal treatment on irrelevant characteristics of creatures. For example, it is not a disadvantage to a mouse not to have the same access to education as human beings do: the capacity to benefit from education is a relevant characteristic by which to make decisions about how to distribute the good of education. But to decide that it is legitimate to conduct experiments on mice that cause them suffering and premature death on the grounds that they are not human is to base unequal treatment on an irrelevant characteristic: species membership.

One important recent proposal for an account of ethics that refuses to bestow moral value on the basis of the binary categories of human/non-human is the capabilities approach of Martha Nussbaum, grounded in Aristotelian moral philosophy. Nussbaum's approach begins with the discussion of the capabilities of human beings in order to provide a foundation for considering how they should be treated. She identifies ten central capacities that are required for human life with dignity: life; bodily health; bodily integrity; sense, imagination and thought; emotions; practical

---

[12] Clough, *On Animals: I. Systematic Theology*, ch. 1.

[13] See, for example, Arthur O. Lovejoy, *The Great Chain of Being: A Study of the History of an Idea* (Cambridge, MA: Harvard University Press, 1942).

reason; affiliation; other species; play; and control over one's environment.[14] These are understood by Nussbaum as a minimum account of

[top of page 89]

social justice: 'a society that does not guarantee these to all its citizens, at some appropriate threshold level, falls short of being a just society'.[15] While Nussbaum's approach is not unique as an alternative to Kantian and Rawlsian theories, and has some overlap with the lists of basic human goods in some recent accounts of natural law theory,[16] what is particularly notable about her thinking in the present context is her openness to the question of whether justice should be considered beyond the sphere of the human. She cites with approval a ruling of the Kerala High Court in India in 2000 concerning cruelty to circus animals recognizing the rights of animals to protection and argues that 'the fact that humans act in ways that deny animals a dignified existence appears to be an issue of justice, and an urgent one'.[17] Human responsibilities to other animals are not indirect, as Kantian and contractarian accounts suggest, and do not merely arise from compassion, but arise from the recognition that animals are entitled not to be treated in ways that

---

[14] These are set out in Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA; London: Belknap Press, 2006), 76–7, and were developed in earlier works such as Martha Nussbaum, and Jonathan Glover (eds.), *Women, Culture, and Development: A Study of Human Capabilities* (Oxford: Oxford University Press, 1995) and Martha Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).

[15] Nussbaum, *Frontiers of Justice*, 75.

[16] See, for example, John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980); Germain Grisez, *The Way of the Lord Jesus*, vol. I (Chicago: Franciscan Herald Press, 1983).

[17] Nussbaum, *Frontiers of Justice*, 326.

are not consistent with their dignity. Utilitarian approaches, Nussbaum argues, are similarly insufficient because they suggest that the suffering of one group can be traded off against the pleasure of another, in the case of the circus, for example.[18] Nussbaum bases her account of the good of animals on the capabilities of an individual animal, rather than a species as a whole, which means she does not consider extinction of a species as more than the injustice done to members of that species.[19] She does, however, consider that species-specific norms will be relevant to judgements about what constitutes the good of a particular creature. While she recognizes that the capabilities approach can recognize the good for an animal independent of its sentience, she sees some wisdom in utilitarian concerns about sentience, and makes the pragmatic judgement that 'we have enough on our plate if we focus for the time being on sentient creatures.'[20]

With regard to the question of whether the dignity of non-human animals should be understood as fully equal to that of human beings, Nussbaum makes a range of comments. First, she notes James Rachels' comment that less complex creatures are not subject to the same range of harms and benefits, so that 'nothing is blighted when a rabbit is deprived of the right to vote, or a worm of the free exercise of religion'.[21] Second, she recognizes that in a capabilities approach, the

[top of page 90]

question of equality is not quite so pressing as it is for utilitarians, for example, who have to sum up the interests of all creatures.[22] Beyond these two points, Nussbaum seems personally convinced of the force of the argument — 'It seems there is no respectable way to deny the equal dignity of

---

[18] Nussbaum, *Frontiers of Justice*, 343.

[19] Nussbaum, *Frontiers of Justice*, 357.

[20] Nussbaum, *Frontiers of Justice*, 361–2.

[21] Nussbaum, *Frontiers of Justice*, 361.

[22] Nussbaum, *Frontiers of Justice*, 383.

creatures across species' — but sceptical that the overlapping moral consensus on which she seeks to establish her theory could support such a radical claim.[23] For this reason, she argues for an overlapping consensus around 'the looser idea that all creatures are entitled to adequate opportunities for a flourishing life'.[24] Notably, one of the chief reasons she considers it problematic to gain a sufficient moral consensus for equality across species is the way that Judaism, Christianity and Islam, among other comprehensive doctrines 'rank the human species metaphysically above the other species and give the human secure rights to the use of animals for many purposes'.[25] It is not clear what giving all creatures adequate opportunities for a flourishing life will mean for Nussbaum: she notes that the capabilities approach disagrees with the Benthamite utilitarian view that a painless death is no harm for a creature with no interest in the future: even if a creature had no sense of the future a painless death could well be cutting short its capability to pursue its good.[26] She seems to favour norms against the killing of 'at least the more complexly sentient animals for food' but considers that progress towards the development of a consensus on this will have to be gradual, and begin with banning cruelty towards animals.[27] Nussbaum is also cautious in relation to the consequences of moving globally to switching to vegetarian sources of protein, and of the health of the world's children under these circumstances,[28] although it is very clear that not using 40% of the world's grain as feed for animals raised for meat would have a very substantial effect on releasing food resources for human use.[29]

---

[23] Nussbaum, *Frontiers of Justice*, 383.

[24] Nussbaum, *Frontiers of Justice*, 384.

[25] Nussbaum, *Frontiers of Justice*, 390.

[26] Nussbaum, *Frontiers of Justice*, 386.

[27] Nussbaum, *Frontiers of Justice*, 393.

[28] Nussbaum, *Frontiers of Justice*, 402.

[29] D. Pimental, and M. Pimental (eds.), *Food, Energy and Society* (Boulder, CO: University Press of Colorado, 1996), 74.

Nussbaum's approach has the benefits of recognizing both the injustice of excluding non-human creatures from moral consideration, of providing a framework for considering the way in which their flourishing might be respected and protected, and of being realistic about what kind of consensus might be achievable in improving human treatment of other animals. Her reliance on the achievement of moral consensus as a basis for her ethic, however, has the weakness that she is not able to advocate clearly what it would mean to respond adequately to the dignity of the lives of non-human creatures because unless she can claim a moral consensus for her position, it has no moral authority. Obviously, the task of changing attitudes towards the treatment of animals will always depend on gaining

[top of page 91]

this kind of moral consensus, but from the perspective of theological ethics, it is disorientating to find that discovering what is right would have to await the development of a moral consensus. Instead, it seems preferable to argue for a clear account of the place of non-human animals in theological ethics and then seek to gain consensus for movement towards that position. With this goal in view, it is necessary to consider what a theological account of human responsibilities towards animals might learn from Nussbaum's account.

The first and most obvious area of common ground between a theological ethic such as the one I have proposed and Nussbaum's capabilities approach is the reason it is attractive in the first place: its openness to the moral value of non-human creatures. While Nussbaum is right that Christianity, together with the other Abrahamic faiths, have often been interpreted in ways that subordinate non-human creation to human ends, this is by no means a necessary result of a theological account. Indeed, once the mistake of confusing Christianity with anthropocentrism has been recognized, theological accounts have a key advantage over modern atheistic philosophies in recognizing continuity in moral value between human beings and other animals. If we imagine a

universe without a creator, we are likely to be over-impressed by the differences between different species and especially by those characteristics of our own species that seem to make us distinctive amidst the vast mass of life that surrounds us. Once we confess God as creator of the universe, we acknowledge a single fundamental binary opposition, that between creator and creature, that relativizes all creaturely differences to points of detail. It is much easier to avoid anthropocentrism in the context of an account that recognizes a basic duty of giving honour and worship to a being beyond the human. A teleological understanding that sees a purposive unity in the flourishing of living creatures also helps avoid exaggerating the significance of the human species. This common ground between Nussbaum's Aristotelianism and Christianity may account for their similarity on this basic question of the relationship between the human and non-human parts of creation — Platonic accounts may share this feature too.[30] A second and related point of commonality between the theological approach for which I am arguing and Nussbaum's account of capabilities is the common cause they make in relation to alternative approaches to ethics, such as Kantian, Rawlsian and utilitarian ones. While neither Nussbaum nor I wish to dismiss the insights of these other approaches, their merits and demerits look similar from a theological and Aristotelian perspective. A third point that a theological ethic of human relationships with other animals can learn from in Nussbaum's account is her express intention to take seriously the particularity of the lives of other creatures. This is an important and necessary response to the Derridian critique of the totalitarian use of 'Animal' in the passage cited above. Instead of believing that we have completed the moral task in assigning a particular creature to the status of '(non-human) animal', we need to

[top of page 92]

recognize, as Nussbaum does, a responsibility to understand what constitutes a good life for this

---

[30] See, for example, Catherine Osborne, *Dumb Beasts and Dead Philosophers: Humanity and the Humane in Ancient Philosophy and Literature* (Oxford: Clarendon, 2007),

creature and how human beings may impact on the exercise of its capabilities, positively or negatively. Finally, theological ethics would do well to attend to some of the hard questions Nussbaum raises. For example, she asks whether humans 'should police the animal world, protecting vulnerable animals from predators', recognizing that this seems absurd, but confronting the implication of her capabilities approach that what matters is whether a creature's capabilities are curtailed, not whether this is done by a human or non-human agent.[31] The contrast with a standard ecological norm of non-interference with wild nature is striking and it is unrealistic to think that human beings would benefit prey animals through large-scale interventions, let alone their predators. There is something, however, in Nussbaum's question that resonates with a biblical vision that sees predatory relationships between creatures as failing to express the fulness of the creator's will.[32]

In assessing the merits of the new approaches to thinking about moral value beyond the human that Nussbaum and I are commending, it is tempting to rush to situations of conflict between humans and other animals. Examples such as the following might be used to show the necessity of the absolute moral boundary our approaches reject. If one sees a puppy and a human baby drowning, and could only save one, on what grounds can we justify preferring the human? If rabbits or other herbivores are consuming crops and thereby imperilling human life, is it permissible to kill them? If the diseases carried by mosquitoes are resulting in the deaths of many human beings, can the extermination of mosquitoes be defended? It is possible to give answers to these questions in a variety of ways. In relation to the preference for saving a human baby over a puppy, I would be inclined to say that in extreme and artificial forced choices of this kind we might appeal to species-loyalty or intra-species responsibility as a legitimate but limited moral principle. Parents are responsible for providing for their own children in a way that they are not responsible for other children, but this does not mean they have no moral responsibility for the welfare of other children

[31] Nussbaum, *Frontiers of Justice*, 379.

[32] See, for example, Gen. 1.29–30, 6.13; Isa. 11.6–9, 65.25–6.

or that the interests of other children are subordinate to those of their own. It may be that we are responsible for fellow members of our own species in a similar way. In response to the question of defending food resources for human beings from other animals, it must make sense to appeal to the legitimacy of a creature seeking to obtain the resources necessary for its survival — though there would also be a responsibility to do this without endangering other animal lives where possible, which in the case of the rabbits would prefer fences to shotguns. In the third case, the legitimacy of seeking what is necessary for survival would generate a right to defend this against aggressors, even when they are morally innocent, such as is presumably the case in relation to mosquitoes. In a theological context, a recognition of the inevitable conflict between creatures in the world as we know it can be seen in the context

[top of page 93]

of lamenting the fall of creation from the harmony intended by its creator and a longing for the new creation in which this conflict will be no more.[33]

It is natural to rush to such examples of conflict and important to be able to give answers to such challenges, but I suggest that there is a good reason to resist the temptation to pause too long over such cases. If it is the case that the flourishing of creatures other than human ones should be a part of human moral concern, we must recognize that the vast majority of killing, injury and cruelty practiced by humans towards other animals does not take place in situations where the lives of human beings are in irreconcilable conflict with the lives of other creatures. Human beings do not need to consume meat to survive, but around 56 billion animals are raised and slaughtered for human consumption annually,[34] many of which are raised in intensive conditions that cannot begin

---

[33] See Clough, *On Animals: I. Systematic Theology*, chs 6–7.

[34] Food and Agriculture Organization of the United Nations, *Livestock's Long Shadow: Environmental Issues and Options* (Geneva: Food and Agriculture Organization, 2006), 36, cited in

to be defended as enabling their flourishing. Therefore the moral issue where action seems most urgent coincides with where the moral question is simplest: where not human life but human convenience is in conflict with the lives and well-being of other creatures. We would do well, therefore, to devote our attention to the obvious and clear moral cases in this area before we take the luxury of reflecting on those at the borderline.

The proposal of moving beyond a situation where only humans are recognized as possessing moral status may provoke the concern that if the barrier between moral regard for human and non-human animals were broken down, human interests, and especially the interests of the most vulnerable human beings, would suffer. It is the case that if a position such as the one I am proposing were to be adopted, human life would have to change in some ways and would be more costly in some respects. A good comparison is the cost of ending slavery in the United States of America: labour became more costly once the moral principle that slavery was illegitimate had been conceded. We can agree, I take it, that this economic cost of redressing a moral wrong was well worth paying. We can go further, and recognize that the economic cost of righting the wrong was a measure of the unfair economic advantage white slave owners took over their black slaves. In a similar way, if we come to see it is no longer appropriate to use non-human creatures for our ends as if they were merely intended for our use we will have to find other ways to feed ourselves, conduct research, entertain ourselves and so on. In recognizing these costs, however, we should avoid exaggerating them. Beyond the inconvenience of changing our dietary habits, for example, switching to a vegetarian diet would bring human benefits: making more food and more healthy food available for human beings. There are harder questions to face, such as whether growth in human population and the

[top of page 94]

Matthew C. Halteman, *Compassionate Eating as Care of Creation* (Washington, D.C: The Humane Society of the United States, 2008), 25.

consequent destruction of habitats of other kinds of creatures is legitimate, but there are many significant changes that can be made before we reach this kind of competitive decision. Where there are costs, however, it does not seem to me that they will fall disproportionately on those sometimes considered marginal within human communities, as is sometimes feared. To gain the sense that all creatures should be respected as ends in themselves strengthens rather than weakens the recognition that all humans should be respected that way.

There are serious problems with our belief in human equality. The current array of accounts that seek to defend the case that human beings and only human beings should be respected equally fail to provide a plausible account that both supports equal regard and restricts it to human beings. If we add the consideration that the exclusion of non-human creatures from moral consideration is in itself morally problematic, it becomes very clear that we are in need of accounts of ethics that are able to see beyond the human/non-human boundary. Utilitarianism has been prophetic in raising awareness that the suffering of non-human animals is of moral consequence, but for many reasons cannot give a satisfactory account of ethics, not least its inability to explain why the welfare of some creatures may not be sacrificed in order to benefit others. Nussbaum's capability approach, grounded in an Aristotelian philosophical tradition, looks very much more promising as a dialogue partner for theological ethics in this area with interesting common ground at key points. The development of a theological ethic that makes a radical extension to Kant in affirming that every creature is intended by God as an end in itself, informed by Nussbaum's attention to the capability of particular creatures, promises to be a coherent and consistent new framework for theological ethics, with significant consequences for the ordering of human practices in relation to animals.

Bibliography

Arneson, Richard J., 'What, if Anything, Renders All Humans Morally Equal?', in *Singer and His Critics*, Oxford: Blackwell, 1999), 103–28.

Chadwick, Douglas H., ‘Investigating a Killer’, *National Geographic* 207:4 (2005), 86–105.
Clough, David, *On Animals: I. Systematic Theology* (London: T & T Clark/Continuum, forthcoming).
de Waal, Frans, *Good Natured: The Origins of Right and Wrong in Humans and Other Animals* (Cambridge, MA: Harvard University Press, 1996).
de Waal, Frans, *Chimpanzee Politics: Power and Sex Among Apes* (Baltimore: Johns Hopkins University Press, 2000).
Derrida, Jacques, and David Wills, ‘The Animal That Therefore I Am (More to Follow)’, *Critical Inquiry* 28:2 (2002), 369-418.
Finnis, John, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).
Nations, Food and Agriculture Organization of the United, *Livestock's Long Shadow: Environmental Issues and Options* (Geneva?: Food and Agriculture Organization, 2006).
Grisez, Germain, *The Way of the Lord Jesus*, vol. I (Chicago: Franciscan Herald Press, 1983).
Halteman, Matthew C., *Compassionate Eating as Care of Creation* (Washington, D.C: The Humane Society of the United States, 2008).
Herman, Louis M., Stan A. Kuczaj, and Mark D. Holder, ‘Responses to Anomalous Gestural Sequences By a Language-Trained Dolphin: Evidence for Processing of Semantic Relations and Syntactic Information’, *Journal of Experimental Psychology: General* 122:2 (1993), 184-94.
Kendrick, Keith M., ‘Sheep Don'T Forget a Face’, *Nature* 414:4860 (2001), 165–66.
Lovejoy, Arthur O., *The Great Chain of Being: A Study of the History of an Idea* (Cambridge, MA: Harvard University Press, 1942).
Mason, Stephen, ‘Another Flood? Genesis 9 and Isaiah's Broken Eternal Covenant’, *Journal for the Study of the Old Testament* 32:2 (2007), 177–98.
Nussbaum, Martha, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000).
Nussbaum, Martha, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA; London: Belknap Press, 2006).
Nussbaum, Martha, and Jonathan Glover (eds.), *Women, Culture, and Development: A Study of Human Capabilities* (Oxford: Oxford University Press, 1995).
Osborne, Catherine, *Dumb Beasts and Dead Philosophers: Humanity and the Humane in Ancient Philosophy and Literature* (Oxford: Clarendon, 2007).
Pepperberg, Irene M., *The Alex Studies: Cognitive and Communicative Abilities of Grey Parrots* (Cambridge, MA: Harvard University, 2000).
Pimental, D., and M. Pimental (eds.), *Food, Energy and Society* (Boulder, CO: University Press of Colorado, 1996).
Southgate, Christopher, *The Groaning of Creation: God, Evolution, and the Problem of Evil* (Louisville; London: Westminster John Knox, 2008).
Weir, Alex A. S., Jackie Chappell, and Alex Kacelnik, ‘Shaping of Hooks in New Caledonian Crows’, *Science* 297:5583 (2002), 981.
Wenham, Gordon J., *Genesis*, Word Bible Commentary (Waco: Word, 1994).
Whitehead, Hal, *Sperm Whales: Social Evolution in the Ocean* (Chicago, IL: University of Chicago, 2003).