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**Do Animals Have an Interest in Liberty?** (Forthcoming *Political Studies* 2008)

The Animal Welfare Act, which came into effect in England and Wales in April 2007, has imposed upon the owners and keepers of animals a 'duty of care' to ensure that the interests of their animals are met. Thus it is no longer sufficient that individuals in England and Wales refrain from beating their animals, or refrain from acting in other intentionally cruel ways towards them. Rather, owners must also take certain positive steps to ensure the well-being of their animals: to provide suitable housing; to provide adequate food; to offer protection from pain; and to offer the opportunity of expressing normal behaviour. The focus of the Act is thus animals and their interests, rather than humans and their cruel behaviour. As such, the Act encapsulates the idea that we have obligations to sentient animals in their own right, based on their own interests, and not simply because we disapprove of humans who act maliciously towards them. Of course, if legislation concerning animals is to be based on the interests of animals themselves, it is crucial that we have a good understanding of what those interests are. The purpose of this paper is to contribute to this task by asking whether animals have an interest in liberty. This question is particularly important because many thinkers and campaigners take the view that animals possess an *intrinsic* interest in liberty.<sup>1</sup> In other words, it is argued that liberty is good for animals in itself, irrespective of its contribution to and facilitation of other goods. Hence, those writing and campaigning for justice for animals often argue that the practices of zoos, circuses, animal experiments, animal agriculture and even pet-keeping *necessarily* harm animals. So in their view, these practices should not simply be regulated, say to help alleviate suffering as seems to be the goal of the Animal Welfare Act. Instead, such practices must be abolished, and the animals involved *liberated*. In this sense then, using and keeping animals might be considered analogous to human slavery (Francione, 1996, p. 127). For human slavery causes harm not just because of the pain and suffering it inflicts, but because it violates the intrinsic human interest in liberty. Thus, the problems of slavery could not be legislated away by ensuring that slave-owners acted with a 'duty of care'; rather, slavery as an institution had to be abolished.

In my view, it is reasonably easy to see why some people hold the belief that animals possess an intrinsic interest in liberty. After all, many of us, when we are confronted with animals in confinement, have an intuitive reaction of distaste. For example, seeing animals locked up in zoos, performing tricks in circuses, or constrained in

research laboratories and battery cages makes many of us feel uneasy. Isn't it better that animals live their lives freely in the wild as nature intended? If you are an individual with these types of intuitions, the notion that animals have an intrinsic interest in liberty will be appealing. However, relying solely on our feelings like this is not good enough to decide the matter. For one thing, and as we see around us, different people have quite different reactions to such practices. Furthermore, while we might feel uneasy by the confinement of animals, that does not mean that the animals themselves are averse to their situation; and surely the feelings of the animals themselves must have *some* bearing as to what can be said to be in their interests or not. Finally, those of us who have this negative reaction to seeing animals in zoos, circuses, laboratories and battery cages, must ask whether it is based on the fact that the animals are confined, or on the fact that the animals in these situations are suffering. That fewer of us have a negative reaction to *other* confined animals who do not usually suffer, such as pets and those in wildlife parks, at least suggests that our responses might turn on whether an animal is suffering or not, rather than liberty itself.

In this paper I argue that most animals do not have an intrinsic interest in liberty. Instead, I claim that most animals only have an instrumental interest in liberty; that is, it is dependent on its facilitation of other goods, such as the avoidance of suffering. To support this argument, the paper is divided into five sections. In the first two sections of the paper, I briefly spell out what it means for an entity to have an interest, and then what it means to have an interest in liberty. In this latter section, I argue that most adult humans possess an intrinsic interest in liberty because they have the capacity to be 'autonomous agents'. That is, they possess the ability to frame, revise and pursue their own conceptions of the good. In the third section, I evaluate whether non-human animals might also be said to be autonomous and draw upon Tom Regan's notion of 'preference autonomy'. I claim that even if we grant preference autonomy to animals, it does not ground in them an intrinsic interest in liberty. In the fourth section, I examine the argument that animals have an intrinsic interest in liberty because exercising their species-specific 'natural functionings' is crucial to their well-being. I refute this claim, arguing that it unjustifiably takes a perfectionist view of animals and their lives. In the final section, I outline the important implications of this argument for our moral and political obligations to non-human animals. Here I claim that while our obligations to animals might well be pressing – and certainly more pressing than any state currently legislates for – they do not necessarily include the *liberation* of animals.

## What Does 'Having an Interest' Mean?

Joel Feinberg has famously argued that to have an interest in x is to have some kind of *stake* in x; and to have a stake in x is to stand to gain or lose depending on the condition of x (Feinberg, 1984, pp. 33-34). Of course, this raises the question as to what 'to gain or lose' means. For Feinberg, it means that one's *well-being* is affected by x's condition. That is to say, an individual's life goes better or worse as a result of the state of x. As Feinberg himself puts it:

These interests...are distinguishable components of a person's well-being: he flourishes or languishes as they flourish or languish. What promotes them is to his advantage or *in his interest*; what thwarts them is to his detriment or *against his interest* (Feinberg, 1984, p. 34).

Under this conception then, an interest is a component of an individual's well-being. If we accept this view - and it certainly seems perfectly plausible - in order to determine whether animals have an interest in liberty, we must ask whether liberty makes life go well for them. This, of course, leads us to the question of what well-being is.

It is crucial to note at the outset that well-being is what is often called a *prudential value* (Crisp, 2003; Sumner, 1996, p. 20). That is to say, well-being relates to how well things are going for *the individual whose life it is*. Prudential values can thus be distinguished from aesthetic, perfectionist and ethical values (Sumner, 1996, pp. 20-25). For example, it might be said that something is beautiful (of aesthetic value), a good specimen of its kind (of perfectionist value), or even the right thing to do (of ethical value), but in making such judgments we need make no reference to how things are for the relevant entities themselves. Well-being, on the other hand, is a prudential value because something can only promote an entity's well-being if it is beneficial *for that entity itself*. Put another way, I may lead a life that is devoted to looking beautiful, being a perfect example of a member of the species *Homo sapiens*, or doing the morally upstanding thing in every situation, but it is an open question whether any of these states of affair are valuable *for me*. For while these lives may be of some value, it not evident that they are of *prudential value*.

I should point out that none of this assumes that well-being can only ever be assessed by the individual him or herself, or that the individual is always right in such assessments. It is perfectly possible for an objective account of well-being to recognise that well-being is a prudential value, but maintain that it is best measured in relation to certain definitive goods. For example, it might perhaps be claimed that individuals in extreme poverty can be duped or conditioned into thinking that their lives are going well, when not even their basic needs are being met. Here, it might be argued, is a case where an assessment of well-being can be made in relation to

objective criteria such as need-satisfaction, but that is nevertheless concerned with how life is going for individuals themselves.

### **What is an Interest in Liberty?**

Now that we have established a very basic idea of what it means for an individual to have an interest, we next need to consider what it means to have an interest in liberty. Liberty, or freedom (and I use the terms interchangeably), is a concept that is used differently by different thinkers. Nevertheless, I want to outline three of the most well-known understandings of the term and what it means to have an interest in each.

Isaiah Berlin famously distinguished between negative and positive conceptions of liberty (Berlin, 1967). Negative liberty usually refers to being free from interference and constraints. Thus in order to have an interest in negative liberty, one's life must go better when one is not interfered with. Positive liberty, on the other hand, is not about the absence of constraints, but the presence of control (Taylor, 1991). In other words, positive liberty usually refers to an individual's ability to control his or her own life: to self-govern and to self-rule. Thus in order to have an interest in positive liberty, one's life must go better for being in control of it. Finally, republican liberty refers to the absence of domination (Pettit, 1997). To explain this type of freedom, consider a benevolent slave-owner who does not interfere in the life of his slave. Under a purely negative conception, this slave would be considered to be free. However, because the master has the *ability* to interfere in the life of the slave whenever and however he wishes, but simply chooses not to, republican thinkers argue that the slave is *dominated* and is unfree as such. To have an interest in republican liberty, one's life must go better when one is not dominated by the threat of arbitrary interference by another.

Whichever conception is adopted, most people consider freedom to be an absolutely fundamental interest of human beings; but on what basis? While various arguments can be put forward endorsing the centrality of liberty to human well-being, there are two different types of account which have the most plausibility (Rachels, 1976). The first type sees liberty purely as an instrumental good, valuable only insofar as it contributes to a separate intrinsic good such as pleasure or the pursuit and satisfaction of preferences. The other type, which I will claim is the more plausible account, sees liberty as having intrinsic value in its own right. In this section, I briefly examine and refute two different instrumental accounts, before outlining and defending the view that most humans have an intrinsic interest in liberty.

First of all then, one can claim that liberty is crucial to human well-being because it makes their lives more enjoyable. For example, human beings often get annoyed and

frustrated when they are interfered with, receive considerable satisfaction from being the authors of their own lives, and take pleasure from the fact that they are not dominated by another individual or group. This explanation of the human interest in liberty is in keeping with hedonistic classical utilitarianism, which accounts for well-being solely in terms of the absence of suffering and the presence of pleasure. Under this account, liberty is an instrumental interest of human beings, valuable only insofar as it promotes pleasure and alleviates suffering. However, as many critics have pointed out, this explanation of the human interest in liberty is far from satisfactory. In particular, it has been argued that by making the interest contingent on pleasure, insufficient weight is given to the value of liberty itself for human lives. For example, consider the case of Truman Burbank in the film *The Truman Show*. Truman has a very pleasurable life with good friends and a loving wife. However, little does he know that his life is being filmed for a television show, and that his friends and wife are actors. Truman's life is pleasurable, but he lacks liberty. Truman lacks liberty in all three senses of the term outlined: he is interfered with; he lacks control of his own life; and he faces the threat of arbitrary interference from others. Importantly for our purposes, most of us would consider that Truman's life is not a good life for him, precisely because he lacks such liberty. While there is a very strong possibility that revealing the truth to Truman would make his life less pleasurable, we still believe that it is in his interests to be enlightened. This is because most of us consider that there is something harmful about others controlling and manipulating an individual's life in this way, even if it results in more overall pleasure. Such an example suggests that liberty is valuable not merely in terms of its facilitation of pleasure, but is a more fundamental good for human beings.

Perhaps the importance of liberty is better reflected by the preference-based explanation of the human interest in liberty. This argument claims that liberty is valuable to humans because it enables them to pursue and satisfy their desires. This account has a great deal of intuitive appeal on the basis that being able to pursue desires is usually considered to be a good thing for humans, and freedom usually facilitates this. For example, non-interference provides us space to pursue and satisfy our preferences; what seems to appeal about self-mastery is the ability to achieve what we want; and part of the problem with domination is the threat of having our preferences limited and quashed arbitrarily. On this account, liberty is valuable insofar as it facilitates the pursuit and realisation of our preferences. However, when we dig just a little bit deeper, we see that this preference-based account of the human interest in liberty is unconvincing. Once again, it is clear that by making the interest in liberty contingent upon the pursuit and satisfaction of preferences, such an account

grants insufficient weight to the value of liberty itself for human lives. For example, consider an individual who is raised as a slave. Imagine further that the individual is brought up so that she thinks of her life as being of less worth than that of her master, and overwhelmingly desires to serve him. Clearly, the slave is able to pursue and satisfy her desires, despite the fact that she lacks liberty. But even though liberating the slave would be against her wishes, most of us consider that it is nevertheless in her interests to be free. This is because we consider the value of liberty for a human life to trump simple preference satisfaction in this case. Once again, this suggests that the interest we have in liberty is not simply dependent on its promotion of preference satisfaction, but is a more fundamental good.

At this point, some might argue that it is possible to alter these instrumental accounts to deal with such problems. For example, we might say that humans have an interest in liberty only insofar as liberty promotes the pleasure of a *self-governing* subject (Sumner, 1996), or only insofar as it facilitates the satisfaction of *freely-chosen* preferences (Brandt, 1979; Griffin, 1986; Harsanyi, 1982). Such changes would allow us to deal more satisfactorily with the examples of *The Truman Show* and the slave. For we could say that Truman should have the truth revealed to him, because although he is happy he is not self-governing; and that the slave should be liberated, because although she is satisfying her preferences, they were not freely chosen. However, by making such amendments, these accounts make an important concession. That is to say, after each account is altered, the relevant intrinsic good is no longer *mere* pleasure or *mere* preference satisfaction; instead, liberty itself is recognised to be of intrinsic value. In other words, these accounts only become plausible when they are altered to acknowledge the central importance of liberty itself for the lives of human beings. Given this, it seems that the instrumental explanations of the human interest in liberty cannot tell us the whole story; at least part of the human interest in liberty must be explained by the fact that it is of intrinsic value to human beings. But what arguments can be given to show that the human interest in liberty is intrinsic?

I wish to argue that liberty itself is of intrinsic value to most human beings, because most human beings are 'autonomous agents'. Now although autonomy is a somewhat contested concept, autonomy usually relates to the following: the capacity to frame, revise and pursue one's own conception of the good. Autonomy thus relates to something more than the mere ability to pursue and satisfy desires. It refers to the capacity to reason and reflect on those desires, and change them in relation to one's values and conception of the good (Dworkin, 1988, p. 108). In other words, autonomy refers to a 'second-order' capacity pertaining to the choice and pursuit of one's own

conception of the good. My claim is that it is this capacity for autonomy which explains why most human beings possess an intrinsic interest in liberty. To explain, let us return once again to the examples which undermined the argument that liberty is only of instrumental value. In his life, Truman lacked liberty. However, the problem with this was not that it made him unhappy or stood in the way of his preferences; after all, he was happy and could satisfy his desires. Rather, the problem was that he was unable to frame and pursue *his own* life plans. His ambitions and opportunities were limited and determined by the television programme of which he was unwittingly a part. Similarly, the contented slave who was brought up to serve her master lacked liberty. While she could follow her desires and satisfy them, she was dominated and lacked control of her own life. Once again, the problem with this lack of liberty was not that it made her unhappy or frustrated her desires; for plainly, it did not. The problem was that the slave lacked the freedom to frame and pursue *her own* conception of the good. Her choices and ambitions were limited and determined by her master. In both cases, it was in these individuals' interests to have the freedom to frame, revise and pursue *their own* ends because they are autonomous agents. On this basis, it is my claim that freedom is of intrinsic importance to the well-being of all those with the capacity for autonomy.

Of course, liberty may be an intrinsic good of most humans, but that does not mean that in order to live well human beings must live radically free lives, with no constraints on, and full control over, every option in life. For one thing, the extent of an individual's freedom must certainly be limited so that it does not impinge on the freedom of others. Moreover, one can think of many examples where it is better to interfere with humans and act paternalistically towards them: addicts, children and the mentally disabled being good cases in point. But such examples are easily explained by the simple fact that such individuals lack the capacity for autonomy: they are not in full command of the options in their life. For humans who do possess the capacity for autonomy, on the other hand, there is surely always a presumption *against* paternalism when their freedom does not impinge on others. And even though some people will want to choose lives involving interference and will want to devolve authority over certain options in that life, this does not count against recognising the value of liberty for individuals. For the value of liberty for human beings is not perfectionist; that is, it does not require us all to lead the same type of radically free lives. Instead, its value is prudential, simply noting that it is up to individuals themselves whether to choose interference or devolve authority over options in their lives. In sum, my claim is that autonomous individuals have an intrinsic interest in being unconstrained, self-governing, and non-dominated agents.

So much for the interest in liberty concerning human beings. What the next two sections of the paper are concerned with is whether animals share this intrinsic interest in liberty.

### **Animals and the Argument from Autonomy**

I have claimed that the intrinsic interest in liberty that humans possess is founded upon their autonomous agency. Now we need to consider whether the argument from autonomy can be applied to animals. To do this, we need to ask whether any animals are autonomous agents in the way that I have defined the term. You will recall that I defined autonomy as the capacity to frame, revise and pursue a conception of the good. Do any non-human animals possess such a capacity?

In the first place, it will be useful to rule out as possessors of autonomous agency those animals that lack any conscious experience at all. For in order to be able to have goals and pursue them, let alone reflect on them, some conscious experience will undoubtedly be necessary. While it is hard to be certain exactly which kinds of entity have conscious experience and which do not, most writers on the topic – and many animal welfare laws - agree that a significant line can be drawn between vertebrates who possess complex central nervous systems, and invertebrates who do not (DeGrazia, 1996, p. 111; Rowlands, 2002, p. 22; Garner, 2005, p. 29). Thus the physiological structure of animals such as mammals, birds, reptiles, amphibians and fish strongly suggests that they have the capacity for conscious experience, whereas that of insects, molluscs, crustaceans, arachnids and so on, suggests that they do not. Given this, let us concentrate on vertebrates. These animals are very likely to possess the capacity for conscious experience, which is often taken to be synonymous with ‘sentience’, the capacity to feel pleasure and pain. Can such animals be said to have the capacity to frame, revise and pursue their own conception of the good?

At the very least, I believe that we are on reasonably safe ground to attribute to sentient animals the ability to possess and pursue desires. David DeGrazia puts forward the case for this view rather well:

If sentience were only the capacity to detect certain stimuli that threatened harm..., responses to those stimuli would be automatic and unconscious. But sentient creatures have pleasant and unpleasant feelings, which would have no advantage absent an ability *to do something in response to those feelings*. Now surely goal-directed behaviour in response to pleasant and unpleasant feelings involves desires (say, to escape the source of pain) (DeGrazia, 1996, p. 136).

However, while it seems perfectly reasonable to suppose that sentient animals possess and pursue desires, as we have seen, this is not quite the same things as autonomy. For autonomy refers to the capacity to reflect on those desires, and modify them in relation to one's own conception of the good. Importantly, such a capacity requires a level of consciousness above mere sentience. Indeed, one might claim that to be an autonomous agent one needs to possess 'higher-order thought consciousness'; that is, to be able to have thoughts about thoughts (Carruthers, 1992). Is there any evidence to suggest that the members of any species of animal aside from *Homo sapiens* possess such capacities?

For most species of animal, there is no evidence to suggest that they possess such 'second-order' or 'higher-order' capacities. Fish, frogs, rats and cats may all have the capacity for conscious experience and may also possess desires, but there is little in their physiology or behaviour to suggest that they have the ability to reflect on their own thoughts and pursue their own considered goals. I think then that we are on reasonably safe ground when we say that the vast majority of sentient animals are not autonomous agents, as I define the term. However, some philosophers and scientists have maintained that there is evidence to suggest that some types of animal – in particular, the great apes (chimpanzees, bonobos and gorillas) and cetaceans (whales and dolphins) - do have such capacities. The reason for attributing such capacities to these animals has usually been based on their apparent ability to master sign language or other forms of communication (Singer, 1993, p. 111). Indeed, there is ample evidence of these types of animal learning and using various symbols to communicate information and their desires. However, a note of caution is necessary at this point. For although the ability to use signs and symbols to communicate in this way is remarkable, it does not necessarily reveal the presence of higher-order thought consciousness. After all, it seems plausible that an animal might be able to use signs to communicate desires or feelings, without necessarily being able to ruminate on those desires and feelings. Having said that, using such signs to express *particular types* of feeling, could well be suggestive of such abilities. Take the communication of a feeling of regret, for example. This seems to convey a reflective capability, involving deliberation over past events and actions, and even critical judgement based on certain values. Interestingly, some anecdotal evidence is present indicating the expression of regret in gorillas (DeGrazia, 1996, p. 208). However, such evidence is by no means conclusive. Moreover, some scientists have noted evidence from experiments which suggest that even the great apes lack the ability to inhibit and modify their first-order desires (Hauser, 2001, pp. 309-314). As it stands then, I simply do not know whether the great apes and cetaceans are autonomous. More

and better evidence is certainly needed. Nevertheless, there is certainly a reasonable *possibility* that the great apes and cetaceans are autonomous agents, and possess an intrinsic interest in liberty as such. As I will note later in the paper, this possibility may well give us a good reason to adopt a precautionary principle when outlining our obligations to such animals. That is to say, perhaps we should assume that confining and using such animals against their will is necessarily harmful, as it ordinarily is with autonomous human beings.

However, the great apes and cetaceans make up only a fraction of the animal kingdom, and we are on safe ground in assuming that the vast majority of animals are not autonomous agents in the sense I describe. Most animals cannot frame, revise and pursue their own conceptions of the good. This is not to say that sentient animals do not have different characters, nor is it to deny that they can make choices. It is simply to make the point that most animals cannot forge their own life plans and goals. Given this, restricting the freedom of these animals does not seem to cause harm in the same way that it does for humans. To explain, let us take two examples, both of which involve a straightforward restriction of liberty. In the first, let us imagine breeding, raising, training, keeping and using an animal for a certain sporting activity. For example, we do this routinely in the case of horses used in show-jumping. In the second, let us imagine breeding, raising, training, keeping and using a human being for a certain sporting activity. For example, it might be plausible to do this to produce excellent gymnasts. Now, in the case of the human gymnasts, such actions seem to be obviously harmful. As autonomous agents, most human beings have a fundamental interest in being free to pursue their *own* life plans, forge their *own* conception of a good life, and not to have a particular way of life forced upon them. However, in the case of the horse used in show-jumping, the restriction of freedom seems less obviously harmful. Since they lack autonomy, horses are not able to forge and pursue their *own* conceptions of the good. In which case, it is unclear why restricting the freedom of the horse and imposing a way of life on the animal is necessarily harmful. This, of course, is not to say that interfering with horses or preventing them from having control over their lives *never* causes harm. Obviously, if we were to train the horse using violence, if we failed to keep the horse in a suitable environment, or if we were to make the horse perform dangerous tasks, then harm would be done. However, the harm in such cases is caused by the suffering to the horse, not the lack of liberty itself. For this reason, it seems initially plausible to propose that for non-autonomous animals, their interest in liberty is only instrumental; whereas for autonomous humans it is intrinsic.

This plausibility, however, might be undermined by the work of Tom Regan, who has questioned the presumption that animals are not autonomous agents. Regan differentiates between two types of autonomy. Regan calls the type of autonomy that I have been referring to as the 'Kantian' sense of autonomy. However, Regan claims that this Kantian notion is not the only type of autonomy: 'An alternative view is that individuals are autonomous if they have preferences and have the ability to initiate action with a view to satisfying them (Regan, 2004, p. 80).'<sup>ii</sup> Regan labels this type of autonomy 'preference autonomy', and claims that while it is highly unlikely that any animal possesses Kantian autonomy, many animals can be viewed as possessing preference autonomy. Here, I think, Regan is quite right: for as was discussed above, it is perfectly reasonable to recognise that sentient animals have desires, but also to acknowledge that the majority of them lack the capacity for higher-order thought consciousness. However, if we accept that sentient animals are autonomous in this preference-based sense, does that ground an intrinsic interest in liberty?

A positive answer to this question might be fleshed out in the following way. While animals do not have the capacity to reflect on and pursue their own life goals, they do have desires and are able to pursue their desires with a view to satisfying them. In light of this, it might be claimed that just as being free to exercise their autonomous capacities is good for humans, so too is it good for animals. Thus, being able to pursue their desires with a view to satisfying them, so the argument might go, is necessarily good for animals. In this way, it might be argued that animals possess an intrinsic interest in liberty.<sup>iii</sup>

Unfortunately, this reworked autonomy argument does not justify an intrinsic animal interest in liberty. First of all, we might question whether pursuing their desires is necessarily good for animals. For example, many of us are familiar with dogs who desire to eat as much as possible; a desire that when satisfied can lead to obesity and severe health problems. However, the more important point is that *even if* pursuing their desires with a view to satisfying them is necessarily good for animals, it is possible for them to exercise such capacities even when they lack freedom. Thus, the case of animals is quite different to that of humans, who cannot exercise their autonomous capacities when they lack freedom. Consider for example two individuals: a pet dog who is treated well by his loving owner, and a human slave who is treated well by a kindly master. In both cases, the individuals lack freedom: they are interfered with (actually or potentially) and are not in control of their own lives. Now, in the former case, the dog is able to pursue his desires for food, comfort, shelter, companionship, exercise and so on with a view to satisfying them. Straightforwardly then, the pet dog is quite capable of exercising his autonomous

capacities. In the case of the slave, however, the situation is very different. The slave simply cannot frame, revise and pursue her own conception of the good. Quite clearly she is prevented from choosing and leading *her own* life. In other words then, the capacity for autonomy has an intrinsic link to liberty in the case of humans; but because it is reconceived in terms of preferences, has no such link in the case of animals.

If animals are to be shown to possess an intrinsic interest in liberty we need a stronger argument than that pertaining to preference autonomy. It needs to be shown that being free from interference and being in control of their lives are in themselves good for animals. The fact that animals are 'preference autonomous' is insufficient to prove the case; it is possible for animals to pursue their desires even when they lack liberty. Perhaps then, animals possess an intrinsic interest in liberty in order that they might properly exercise their natural functionings. This is the argument I examine in the next section.

### **The Natural Functionings Argument**

Several philosophers have claimed that the animal interest in freedom is not founded on their capacities for autonomous agency, but on the fact that it is good for animals to be able to exercise their 'natural functionings'. Natural functionings refer to the normal 'beings' and 'doings' of a species of animal in the wild. So, for example, acting as kangaroos have naturally evolved to act – say by residing, roaming, eating, mating and rearing young within the Australian bush - is argued to be *good for* kangaroos. Martha C. Nussbaum's recent application of her capabilities approach to animals is certainly in this spirit. She writes, '...if we feel wonder looking at a complex organism, that wonder at least suggests the idea that it is good for that being to flourish as the kind of thing it is (Nussbaum, 2004, p. 306)'.

However, it is Paul W. Taylor who has most explicitly linked this idea of natural functionings with a conception of *freedom*. Taylor outlines four different types of freedom and argues that three of them - free will, autonomy and social freedom - relate only to human beings (Taylor, 1986, pp. 105-106). However, there is, he claims, a fourth sense of freedom, and this fourth sense applies to both human and nonhuman entities:

To be free in this sense is to be able to pursue one's ends because no restrictions, obstacles or forces frustrate one's attempt (absence of positive constraints) and because one has the necessary abilities, opportunities, and means to gain one's ends (absence of negative constraints). Now it is this

general idea of freedom that applies to nonhuman living things as well as to persons (Taylor, 1986, p. 108).

So, Taylor construes this type of freedom both negatively and positively. However, to be free in this sense is not just to be free from interference *in general*, nor is it freedom to control one's life *in general*; instead, it is to lack interference and to possess control in order to *pursue one's ends*. But it is important to realise that here one's ends are not simply one's desires, nor are they one's own chosen conception of the good. Rather, Taylor conceptualises freedom as the ability to pursue one's natural functionings or *biological ends* (Taylor, 1986, p. 109). Not only does this conception of freedom *apply* to animals, however, but it is also, according to Taylor, valuable for them (Taylor, 1986, p. 106). So, in short, the claim is that it is good for animals to be free, where freedom is construed as the ability to exercise one's natural functionings.

Of course, the conception of freedom that Taylor presents here relates to many other creatures than just animals. In fact, since all living things possess biological ends or functionings, it relates to every single living organism. Taylor is well aware of this, and argues unequivocally that all living things have an interest in this type of freedom. Other philosophers such as Nussbaum disagree and confine their claims as being relevant only to sentient animals (Nussbaum, 2006, pp. 361-362). However, the relative merits of either side of this debate are not my concern. For I want to claim that *all* of these functioning arguments have a fundamental flaw.

One objection to the functioning argument that we need to consider is similar to that which defeated the preference autonomy argument. Just as animals can adequately pursue their desires when denied freedom, perhaps they are also able to pursue their biological ends when they are constrained or lack control of their lives. After all, isn't it possible for a dog to act like a dog even when a pet, or for a horse to act like a horse even when trained to show-jump, or even a penguin to act like a penguin when kept in a zoo? Well, perhaps not. For if one construes 'biological ends' or 'natural functionings' to mean existing naturally in the wild, then it would seem that these uses and constraints are *necessarily* restrictive. If this is correct, animals cannot pursue their true biological ends when they lack freedom.

Let us concede then, that denying animals their freedom prevents them from pursuing their biological ends and natural functionings. Does such prevention necessarily make their lives worse? I wish to claim that it does not. For while the ability to exercise natural capacities and pursue what is natural is of course often a benefit, by facilitating other goods such as pleasure and the absence of frustration, such an ability is not *in itself* good for animals. To explain this position, I should

remind you of two claims that I made in the earlier discussion of what it means to have an interest: first, interests are components of well-being; and second, well-being is a prudential value. As a reminder then, interests concern those things that make life go well *for the individual whose life it is*. However, to say that the life of an animal (or other organism) is better when it acts in accordance with its natural functionings is to impose a *perfectionist* value on that individual.<sup>iv</sup> To make perfectionist valuations is to talk about what makes an individual a better or worse example of its kind. But while animals (and other organisms) might be better examples of their species when they exercise their natural functionings, this does not in itself tell us whether their lives are better *for them*. Thus the fundamental mistake that proponents of these functioning arguments make is to conflate an entity's biological functionings with an entity's own good.

Of course, at this point, we need to consider whether this conflation is justified; perhaps it *does* always make life better for an individual to be a more perfect example of its kind. However, such a claim is rather odd, and can quickly be dismissed with some examples. I may be a purer example of the human species if I were to hunt animals, kill them, cook them and eat their flesh. These, after all, are 'natural functionings' of human beings. However, I have no desire to do these things, and would rather not eat animals, let alone go out and kill them. Moreover, I can lead a perfectly healthy life without hunting and without eating meat. What makes me a more perfect example of my kind is a separate question from what makes my life go well. And this is true for all sentient animals. A stag may be a better example of a stag if he engages in fights over territory and mates. But exercising such capacities does not *always* benefit stags. It seems nonsensical to suppose that the losers of such fights who often suffer painful and life-threatening injuries have lives that go well for themselves. So while it is true that animals will often get great satisfaction from being good examples of their kind and being able to exercise their natural functionings, such freedom does not *in itself* make their lives better for them.

In sum then, we must be wary of slipping into perfectionist valuations when making judgements about the interests of individuals. Animals might be better examples of their kind when they exercise their natural functionings. However, this does not tell us whether life always goes better *for them* when they exercise such functionings. In fact, upon reflection we can see that life does not necessarily go better for individuals when they exercise their natural functionings. So even when freedom is conceptualised as the ability to pursue one's natural biological ends, animals still possess no intrinsic interest in freedom.

## **Implications for our Obligations to Animals**

I have argued that the two arguments in support of an intrinsic animal interest in liberty – that from preference autonomy, and that from natural functionings - both fail. This, I believe, comes down to the fact that most animals are not autonomous in the Kantian sense. Only autonomous beings have an interest in governing their own lives without interference from others. This is because only autonomous creatures can choose, reflect on and pursue *their own ends*. So while animals can desire things, can act intentionally towards satisfying their desires and can pursue their biological ends, they cannot reflect upon and choose their own life goals. Without such capacities for reflection, animals are ‘locked into’ their ends and desires in a way that most adult humans are not. Interfering with an animal or preventing her from controlling her own life does not necessarily harm that animal, quite simply because animals are not autonomous in the relevant sense. To deny an animal freedom does not in itself setback that animal’s interests.

So what does all this mean for how we should treat animals? First of all, I should note that a substantive account of our obligations to animals does not make itself readily available from the sole claim that animals have no intrinsic interest in liberty. For one thing, the production of such an account requires much more work than there is room for in this paper. Furthermore, the content of such an account will also depend on the particular normative framework that one uses. Thus, the following discussion of the implications of the claim that animals have no intrinsic interest in liberty can only be a preliminary one – much more work needs to be done. Having said all of this, many normative theories, including those concerning animals, place great importance on the interests of individuals. For example, utilitarians often talk about maximising interest-satisfaction, while deontologists often want to protect interests through assigning rights. Thus, the contention that most animals have no intrinsic interest in liberty has concrete implications from the standpoints of quite different theories. In this section then, I tentatively attempt to consider some of these implications.

Firstly, it is important to point out what does *not* necessarily follow from the fact that most animals lack an intrinsic interest in liberty. Some philosophers have argued that because animals are not autonomous agents, we have no direct obligations to them whatsoever (Cohen, 1986; Fox, 1978). I have not argued this. In fact, the paper assumes, in keeping with the Animal Welfare Act, that we do have direct obligations to them, and thus that we must take great care in determining what the interests of animals are. Others have argued that because animals are not autonomous agents awarding full rights to them makes no sense (Leahy, 1991, pp. 187-188). But I have

not argued this. Indeed, if one regards the essential feature of rights to be the protection of interests, it seems reasonable to recognise that animals can and do possess certain rights (Feinberg, 1974). Still others have claimed that because animals lack autonomy their lives are less valuable than those of human beings (Frey, 1987; Steinbock, 1978). Once again, I have not argued this. For it is at least plausible to endorse equality between humans and sentient animals while also acknowledging that the two possess different interests (Singer, 1990). In sum then, the claim that many animals possess no intrinsic interest in liberty does not undermine the pursuit of justice for animals. It is perfectly possible to acknowledge that most animals have no intrinsic interest in liberty, while recognising that our obligations to them are various and pressing.

The second thing to note is that I have *not* argued that animals have no interest in liberty whatsoever. As I pointed out above, it may well be the case that some types of animal - such as the great apes and cetaceans - are autonomous agents and so do possess an intrinsic interest in liberty. Given this possibility, I believe that it would be wise for states to adopt a precautionary principle when legislating in respect of these animals. That is to say, because keeping and using animals such as chimpanzees and dolphins may well be harmful in and of themselves, states should legislate so as to outlaw such practices involving these animals. This, of course, would have important and significant implications with regards to using and keeping such animals in zoos, sea-life parks, circuses, research laboratories and so on.

Moreover, even those animals that are clearly non-autonomous, and thus possess no intrinsic interest in liberty, will often have an *instrumental* interest in liberty. And just because this interest is instrumental rather than intrinsic does not mean that it is of any less importance. Consider, for example, farm animals crowded into cramped cages, zoo animals held in bland environments lacking stimulation, and laboratory animals forcibly injected with toxins. All of these animals have a strong interest in being free; and one whose strength is not weakened by the fact that it is founded on an intrinsic interest in not suffering. Furthermore, many species of animal will necessarily be harmed by certain types of restriction on their liberty. For instance, animals such as horses, cats, dogs and so on require social interaction to avoid boredom and depression, and will necessarily suffer from being held in isolation. Similarly, some species such as polar bears and elephants require large habitats to avoid frustration, and keeping them in very confined enclosures will necessarily cause harm. Once again, these animals' interest in liberty is instrumental, but it is real, pressing, and should be recognised in our moral and political obligations. As such, the argument of this paper does not provide justification for the suffering inflicted on

animals in intensive farming, experimentation, zoos, circuses and so on. To this extent then, the implications of this argument do not contradict the goals of those campaigners for animals whose primary aim is to put an end to the suffering that animals endure at the hands of human beings.

Nevertheless, the claim that most animals have no intrinsic interest in liberty does make *some* infringements upon the liberty of animals harmless, implying that such infringements are permissible. This leads us to the third implication of the conclusion of this paper: that it is sometimes permissible to *use* and *keep* animals for certain purposes. To put it plainly, keeping and using most animals in zoos, circuses, research laboratories, as pets and so on are not harmful in and of themselves. Of course, and as I have pointed out above, it is clear that a good many of such uses are harmful because they cause suffering. However, the conclusion of this paper is that we can end the harm of such practices through regulation and reform to end the suffering; we do not need to abolish each and every incident of animal use. In this sense then, the Animal Welfare Act is in the right spirit: regulation of animal use is the way forward, rather than abolition and liberation. Of course, given the animal suffering that the Act does not address, it is reasonable to claim that its regulation goes nowhere near far enough.

Importantly, the argument for regulation rather than abolition stands in opposition to the views of other proponents of and campaigners for justice for animals. These individuals argue that using animals for certain purposes, even when such use is painless and non-lethal, is necessarily harmful. According to them, using animals in farming, entertainment, sport, laboratories, and so on, necessarily treats those animals as the equivalent of slaves; they are simply resources to be exploited (Francione, 1996, p. 2). I hope to have shown in the paper that the use of some animals for certain purposes is not analogous to the institution of human slavery. For while human slavery and human well-being are mutually exclusive, the same is not true of animal use and animal well-being. This difference is based on the way we as humans differ as a species: humans have an intrinsic interest in being free based on their capacity to frame, revise and pursue their own conceptions of the good. Most other species of animal lack this capacity and thus lack the corresponding interest. None of this implies that we as humans are innately superior to other animals, or even that our interests must always take priority over those of other species. It is simply to recognise that different species have different capacities, and thus do not share identical sets of interests.

Of course, the conclusion that it is not necessarily harmful to infringe on the liberty of animals does not only make it sometimes permissible to keep and use them, it also

makes it sometimes permissible to *interfere* with them; and this is the final implication of the conclusion of this paper. This implication has particular significance for how we treat animals in the wild. For instance, it is thought by some proponents of animal rights, as well as environmentalists, that we should adopt a policy of 'benign neglect' towards animals in the wild (Pluhar, 1995, p. 276; Regan, 2004, p. 357). That is to say, non-interference is argued to be the best thing we can do for such animals. However, if interference is not in itself harmful to animals, then perhaps it is legitimate for us to interfere with them when we have good reason. In fact, if we are concerned about the real harms that befall animals, such as suffering, then perhaps we have an *obligation* to interfere when we can reasonably alleviate such harm. So perhaps policies of 'benign neglect' towards wild animals should be overturned in favour of policies of 'benign interference'!

However, we must be extremely cautious here. If interference in the lives of wild animals is to be recommended in order to alleviate harm, we must be absolutely certain that our interferences will have this intended effect. For example, a predator undoubtedly causes harm to its prey, simply by chasing, catching and killing it. Nevertheless, it is unclear how it would be possible to interfere with this process in order to alleviate overall harm. For if we were somehow able to remove the prey from that environment, wouldn't the predators who feed on it suffer? And if we were able to remove the predators, wouldn't the prey species become abundant and out compete members of other species, who themselves would then suffer? It is certainly clear to see from this example how interfering with wild animals to prevent harm might, as a matter of fact, cause more overall harm in the long run. However, none of this rules out the *very idea* of benign interference. Indeed, given the conclusion of this paper, when there is compelling evidence that harm will in fact be alleviated, benign interference might well be permissible.

Before summing up, it is necessary to examine a possible problem with the line of argument that I have taken in the paper. If animals do not possess an intrinsic interest in liberty because they are not autonomous in the relevant sense, then *human beings* who are not autonomous in the relevant sense must also lack such an interest. Furthermore, if it is sometimes permissible to *keep, use and interfere* with animals because they do not have this interest, then surely the same must be true for these non-autonomous human beings. Put simply, the logic of my argument seems to imply that it is permissible to interfere with, keep and use non-autonomous humans such as infants and the severely mentally disabled. For some, this might be too counterintuitive to be plausible, and render the whole argument ineffective.

However, to challenge this type of intuition I wish to make three points. First of all, and as was the case with non-human animals, while I do deny that non-autonomous humans possess an intrinsic interest in liberty, I *do not* deny their other interests. Human infants and the severely mentally disabled without doubt have important interests in such things as avoiding suffering and continued life, and my argument provides no justification whatsoever for violating these. Secondly, interfering in the lives of non-autonomous humans is not only currently routine and uncontroversial, but is also often a moral obligation on our part. For example, paternalistic practices such as imposing education and the appropriate nutrition on human infants and the mentally disabled, are surely praiseworthy rather than harmful. Indeed, it would be absurd to claim that we violate the intrinsic interests of a baby by putting her in a nappy! Finally, while the idea of *keeping* and *using* non-autonomous humans for certain purposes might at first make us feel uneasy, we should be extremely clear about what kinds of practices would be permissible. For clearly, keeping and using such humans in ways that causes harm immediately or in the future, such as using non-autonomous humans in painful experiments or using them as slaves, can categorically be ruled out. And quite obviously, ordinarily no use of a non-autonomous human would be permissible if against the wishes and interests of the particular individual's parents or guardians. So simply because it is sometimes permissible to use infants for certain purposes - say in scientific studies, or to act in plays - does not open the door for child-slavery, or anything like it. In light of all this, we can see that the conclusions of this paper do not lead to grossly counterintuitive implications for our relations with non-autonomous humans.

## **Conclusion**

I have argued that most animals have no intrinsic interest in liberty. This is based on the claim that these animals, unlike humans, lack the capacity to frame, revise and pursue their own conception of the good. The two prominent arguments in favour of animals having an intrinsic interest in liberty both fail. Neither the argument from preference autonomy, nor the argument from natural functionings does the work that their advocates propose. This conclusion directly impacts on our moral and political obligations to animals. Importantly, for most animals our obligations do not consist of liberating them, and we can use and interfere with non-human animals more often than some proponents of justice for animals have claimed. Furthermore, using non-autonomous animals for certain purposes is not analogous to human slavery. We do not need to abolish all of the ways in which we keep and use animals; reforming those practices so that they guarantee animal welfare is sufficient. Clearly, of course, more

work needs to be done in terms of fleshing out our precise obligations to animals than there has been room for here. However, such work must be informed by a precise understanding of just what is, and what is not, in the interests of animals. It is all too easy to accord animals the same interests as those that are accorded to human beings. While human and non-human animals are similar in many important respects, the autonomous capacities of each are clearly different. Because of this important difference, we can conclude that most non-human animals have no intrinsic interest in liberty.

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<sup>i</sup> Taylor, 1986, pp. 106-108; Rollin, 1989a, pp. 173 and 203; Rollin, 1992b, p. 90; Pluhar, 1995, pp. 248-249; Cavalieri, 2001, pp. 88 and 138; Jamieson, 2002, pp. 167 and 179-180; Regan, 2004, pp. 92 and 97-8; Anderson, 2006, pp. 283-284; Nussbaum, 2006, p. 345.

<sup>ii</sup> Steven M. Wise's account of 'practical autonomy' in animals is extremely similar to Tom Regan's 'preference autonomy'. Wise, 2002, p. 32.

<sup>iii</sup> Similar but not identical arguments to this are put forward by Paola Cavalieri and Evelyn B. Pluhar who see the notions of agency and intentionality as central to the good of freedom for animals. Pluhar, 1995, pp. 248-249; Cavalieri, 2001, pp. 137-138.

<sup>iv</sup> This argument is influenced by Sumner's similar argument in relation to the good of trees. Sumner, 1996, p. 78.