

FREEDOM: ANIMAL RIGHTS, HUMAN RIGHTS, AND
SUPERHUMAN RIGHTS

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It is typical (even among many of the most zealous advocates of humane treatment of animals) for people to assume that the only moral issue regarding our treatment of animals lies in our needlessly slaughtering them or causing them pain. Thus, people rightly complain about our causing the extinction of a certain species or of those who cruelly beat their pets. We, however, have come to think that this common attitude is too restrictive and that there is another fundamental moral issue raised by our treatment of other animals. Namely, do we have the right--and if so, to what extent--to restrict the liberty of other animals? This paper represents our attempt, first, to show that this is a genuine moral issue and, second, to give a preliminary indication of the problems facing us if we presume a general license to restrict animals' freedom.

In order to accomplish this, we have constructed an imaginary dialogue between two fairly rational human beings: Amos who presumes that we do have such a general license and Andy who argues that we do not. Since the particular moral questions which may arise under the rubric of animals' rights to freedom are complex and varied (e.g., consider the difference between restricting the liberty of domestic, as opposed to wild, animals), there is a need, for the purposes of clarity and simplicity, to restrict the scope of the questions covered. In this way, we may better focus our attention on the general issues raised by our treatment of animals. Consequently, the dialogue concentrates primarily on the question: Do we have the right to place animals, especially wild animals, in zoos?

It is presumed that the usual justification for our restricting animals' freedom lies in our attitude about the differences between humans and animals, i.e., that there is such a radical or significant difference between ourselves and animals that we have no reason to concern ourselves with their liberty or the lack of it. The basis for this attitude is relected in theology,

as well as in the writing of such philosophers as Aristotle and Descartes. Much of our dialogue is devoted to an examination of this alleged "type difference" between humans and animals. Our purpose is, first, to discover whether there is such a difference and, second, to evaluate what significance such differences have for the moral question before us. The concept of "super-human" beings, i.e., here extraterrestrials who are far superior to us in various ways, is introduced in order to shed light on the warrant for our attitudes about other animals. Among other questions raised, one stands out: Can we fairly or non-arbitrarily justify our restricting animals' freedom such that our justification would not also justify superhumans restricting our freedom in similar ways?

(Setting: Two friends, Amos and Andy, meandering through a local zoo.)

Amos: Andy, look at that lion cowering in the back of his cage. He doesn't look so terrifying to me. And to think they call him "the king of the jungle!"

Andy: You wouldn't be so brave if he were not caged in this way.

Amos: Quite so, Andy. That is precisely why he belongs in that cage.

Andy (indignantly): Yes, I supposed you would say something like that. I, however, couldn't disagree more. He should be running free in the wilds of his natural habitat. What right do we have to place him in captivity?

Amos: Oh, come now, Andy!

Andy: Yes, and what's more, I suppose my point applies to all the animals we lock up in our zoos.

Amos: Well, leave it to you to be urging outrageous points of view! What harm do we do these dumb animals by putting them in zoos? Surely, you don't want to say that animals have the same rights as human beings, or that they are entitled to the freedom which we afford ourselves?

Andy: No, not the same rights, but I do think it is wrong for them to be put in zoos and cages. After all, suppose some beings much more advanced than humans came to Earth and treated us the way we treat animals. Can you imagine the consequences?

Amos: I'm not sure I follow you here. Your conjuring up Martians has taken me by surprise. Of course, there would be the obvious consequence that humans would be treated as we treat animals. Surely, you hope to draw

my attention to more than this!

Andy: Indeed, my friend. We are unduly unkind to animals in a host of ways. We hunt them for sport and for restricting their population growth; we force them to do menial labor; we keep them as housepets. In extreme cases, we kill them simply because they annoy us.

Amos: You mean like drowning a litter of kittens?

Andy: Exactly.

Amos: Perhaps I begin to see your point. I would be the last to deny that we sometimes treat animals wrongly, though I don't agree with you about all the cases you cite as abuses. Why, for example, is it wrong for us to put animals in zoos?

Andy: Well, this is why I mentioned the case of extraterrestrials visiting the Earth. Suppose they put us in zoos. Even if they, then, treated us very kindly, it would still be wrong. If we can justify our treatment of animals by virtue of our superiority over them, the extraterrestrials could justify their treatment of us by virtue of their superiority over us.

Amos: I see. So you imagine that the case of your little green men is on all fours with the ways we typically treat animals. This, however, does not seem true. I grant you that it would be wrong for your Martians to make us their pets, put us in zoos, hunt us for sport, etc. Neither do I think it would be right for them to treat us so because they are far more intelligent or technologically advanced than we. Similarly, I would not say that we are justified in treating animals as we do on the basis that we are more intelligent than they. We are not involved here with a matter of degree, but of quality or type. It is because humans are the sorts of things they are that they cannot be treated as housepets, encaged in zoos, etc. Because animals are not the sort of creatures which we are, they do not have the same rights as we. Similarly, it is because humans are this sort of creature that Martians would not be entitled to treat us as we treat dumb animals.

Andy: You correctly understand my analogy between the way humans treat animals and the way the extraterrestrials might treat humans. However, the force of the analogy may be preserved without my saying that the two superiorities, i.e., of humans over animals and of extraterrestrials over humans, are merely a matter of degree and not a sharp difference in kind. Evidently, you want to hold that the superiority of humans over animals is not a matter of degree at all. Apparently, you assume that there are characteristics which all humans have and which animals do not, e.g., characteristics of intelligence and emotion. Therefore, to preserve the strength of my analogy, let us imagine that my

extraterrestrials have not only all the intellectual and emotional characteristics of humans (and then some), but also have an extra-added ingredient--let's call it 'fluoristan'--which makes them ultra-superior to humans. The superiority is, then, a superiority of kind, not merely of degree. So, by your own reasoning, it seems the extraterrestrials would have the right to lord it over us after all.

Amos: I suppose I did suggest, though I don't want to now that I think about it, that the difference between humans and animals is not a matter of degree. Doubtless, there are many ways in which animals may be compared with us according to the degree we possess some characteristic. For example, humans may be more versatile communicators than other animals, or animals may be less inhibited than we are. The point is not that there aren't differences of degree between humans and animals, but that there is a type difference which is crucial. Furthermore, it is not the mere fact that there is some or another type difference between us that makes a difference here. Even if it is true that humans have a certain "kind" of chromosome structure which animals do not, this is of no significance to the point I am making. Similarly, the mere fact that your Martians have the added ingredient "fluoristan" does not give them special privileges from a moral point of view. It is the particular kind of qualitative difference which is crucial. Unless "fluoristan" is a morally relevant characteristic, your Martians would have no special rights. Human beings are self-conscious creatures with a desire for their freedom and dignity. Presumably, this would also be true of your little green men. As such creatures, let us call them "persons," they deserve certain considerations which animals do not. For example, it is not appropriate to hunt persons for sport, force them into slave-like labor, put them in zoos, or keep them as housepets.

Andy: Evidently, you grant that fluoristan might be a morally relevant ingredient. Aren't you thereby granting that the extraterrestrials might indeed have something about them which would entitle them to lord it over us? I don't mean to entangle us in theological disputes, but on your view, if God existed, he would presumably have something about him which entitled him to lord it over us--even to the extent, say, of restricting our freedom or controlling our population growth for our own good. Thus, his perspective on our situation, sub specie aeternitatis, might put him in a better position to solve our problems than we are in. The extraterrestrials we have hypothesized are not gods, but perhaps their superhuman perspective would justify their taking a very paternalistic stance towards humans (if our human perspective justifies us in being paternalistic towards animals).

Amos: True, the mysterious feature "fluoristan" might be a morally relevant characteristic. Without knowing anything about it, save that it is a "super-added ingredient," I am unable to judge whether it would, in fact, be of moral salience. Unless it does something more for your Martians than make their teeth sparkle, I rather doubt that we should take it seriously. Now, it is doubtless true that God, if God exists, would be entitled to certain things which neither we nor your Martians would be entitled (e.g., our undying reverence or awe). God would, however, be bound by moral restrictions as much--indeed, far more so--as any other person. Just because God is a Being who is all-knowing and all-mighty does not mean that God, thereby, has the right to deny people their dignity or liberty. If God has rights which we do not, it is primarily because God is perfectly good and for no other reason. Thus, if God ever has the right to solve our problems for us (as He sees fit), it is because He knows with certainty what is the right thing to do and not because He has some or another "super-added ingredient," e.g., omnipotence. Paternalism on anyone's part requires justification, and so far as I can see, you have given no reason why your little green men's having fluoristan provides them with such justification.

Andy: But God's greater power, insight, and mobility would make him better at being good than any human. If fluoristan made the extraterrestrials better at being good than any human, it would seem to follow on your view that the extraterrestrials would be justified in lording it over us humans.

Amos: No, not at all. That someone is "better at being good," as you put it, than another does not entitle him (with the exception of God, in virtue of His perfection) to restrict the liberty of those he is better than. If I were far wiser than you in every respect, this would not entitle me to force you to avoid making what I was certain was a mistake on your part, e.g., marrying a certain woman. Neither would your Martians be entitled to place us in zoos, make us pets, etc. simply because they were convinced we would be better off in such circumstances.

Andy: I sympathize with your anti-paternalistic attitude. It seems to me, however, suspiciously selective. That is, you accept human paternalism over animals, don't you?

Amos: Well, I do think paternalism towards animals is often justified. This, however, is not my main point. The point is that we have certain features, e.g., self-consciousness and a sense of dignity, which afford us rights of liberty that neither God nor Martians would be entitled to infringe upon. Presumably, these rights

would also extend to Martians qua persons. On the other hand, animals do not have these features and, hence, are not entitled to remain free from being put in zoos.

Andy: Are you suggesting that because animals have no self-awareness or sense of dignity, it follows that humans are entitled to place animals in zoos?

Amos: Indeed I am, though I do not, of course, mean to imply that we are entitled to treat animals in any old fashion while they are in zoos.

Andy: What if placing animals in zoos made humans miserable, quite independently of its effect on animals? Would you still infer that humans have the right to place animals in zoos?

Amos: I'm not quite sure about this odd case. I suppose I would say that, at least, where most humans were deeply hurt or offended by this, we would not have the right to put animals in zoos.

Andy: Then, the supposition that animals lack self-consciousness and dignity does not, by itself, suffice to give humans the right to place animals in zoos. After all, it would also have to be supposed that most humans were not thereby made miserable. Is this not so?

Amos: Yes, I suppose it is. But tell me, what does this show about our right, in general, to restrict the liberty of animals, as well as what your Martians might have the right to do to us? As far as I can see, this point sheds little light on these matters and does little, if anything, to show that we are not entitled under present circumstances to place animals in zoos.

Andy: I shall try to explain. Since the supposition that animals lack self-consciousness and a sense of dignity needs to be supplemented by the further assumption that humans are not deeply hurt by putting animals into zoos, haven't we realized that factors of human welfare may deprive us of the right to place animals in zoos?

Amos: Yes.

Andy: Since human welfare is just an instance of the general welfare (after all, the needs and interests of the extraterrestrials we have hypothesized would, qua being personal needs and interests, need to be considered as part of the general welfare), may we not generalize on this point and say that humans have no right to place animals in zoos without the assurance that the general welfare will not thereby be diminished? Or is there something vicious in assuming that it is the general welfare which is crucial to moral concerns and that the general welfare is, at least, not necessarily the same as the general human welfare?

Amos: No, though your point strikes me as peculiar, I see nothing vicious in your generalization. Now, once again, will you please tell me where this is leading us. I have granted you that where the general welfare would be harmed by our restricting the liberty of animals, we should not so restrict their freedom. But, how is it that we harm, in realistic terms, the general welfare by placing animals in zoos? Surely, you don't imagine that we do any grievous harm to animals by treating them thusly! After all, it is only self-conscious creatures who possess a sense of dignity that are entitled to remain free from such confinement and, in general, from suffering like indignities. Because of this, you Martians would do us serious harm by subjecting us to such treatment. Yet, it seems, since animals have no such rights, we do them no similar harm by treating them in such ways.

Andy: But I do imagine that we harm animals by placing them in zoos. Animals do not desire to be placed in such captivity, as is clear from the universal efforts of wild animals to resist being captured. Why do you think zoos occasionally have such great difficulty in getting their animals to mate? Zoo keepers are often keenly aware of the upsetting and disorienting effect suffered by animals in captivity. Clearly, insofar as we have the ability to make animals suffer, we have the ability to affect their welfare. You try to escape from taking this seriously by insisting that since animals lack self-consciousness and a sense of dignity, they have no right to remain out of zoos. But consider this. Is it only self-consciousness and a sense of dignity which entitles us, or any other creature, to be not held captive in a zoo? Or, are there other circumstances which yield such rights?

Amos: I believe I have already answered you on this point.

Andy: Well, I am not sure you have answered this so much as you have simply affirmed the view that having such features is a necessary condition of a creature's having such a right. Consider this. Suppose, for the sake of argument, that the mere fact that a being were placed in a zoo caused it continual and excruciating agony. Furthermore, suppose that this creature had done nothing immoral and were in no way a threat to the well-being of other creatures. Would it not be wrong to place such a creature in a zoo, and is not this just one way of saying that, under such circumstances, the creature would have the right to remain out of the zoo?

Amos: Yes, I suppose so, but this case is too bizarre to have bearing on the bone of contention between us.

Andy: Be patient with me. Though this case is unusual, I assure you it is relevant to our discussion. If what

we have granted about this case is correct, then it is correct whether or not the creature is self-conscious or has a sense of dignity. And if this is so, then, there are other circumstances than a being's having self-awareness or sense of dignity which can give it the right not to be placed in a zoo. Consequently, we see, do we not, that self-consciousness and a sense of dignity are not essential to a creature's having the right to liberties usually associated only with humans or persons?

Amos: Well, this would seem to be so. Still, something about this reasoning troubles me.

Andy: Since you are not firmly convinced on this point, let us approach this general issue from a somewhat different direction. Let us grant, for the sake of argument, that animals do not have exactly the same right as humans to remain free from such confinement. Indeed, let us suppose that they have no such right at all (in the full-blooded sense of "rights" normally associated with human affairs). Nevertheless, this does not mean that we have the right to put animals in zoos. After all, we may be very poor zoo keepers. Likewise, I may not have the right to remain unimprisoned, but this does not mean that anyone else whatsoever has the right to imprison me.

Amos: What! This "subtlety" sounds unintelligible to me.

Andy: Then consider the following as an example of my meaning. Suppose I have committed some crime which merits my serving some time in jail. This does not imply that the Marquis de Sade has the right to put me in jail. Aside from the obvious hypocrisy of his doing so, he would be unsuited on both moral and other grounds to do this to me. Even if one needs to be self-aware and "dignified" to have the right to certain liberties, this example shows that this prerequisite does not imply that others are entitled to deprive one of those liberties (on the basis that one lacks the necessary features). And, after all, having self-awareness and a sense of dignity does not, in itself, entitle one to restrict the freedom of others. Do you now see my point?

Amos: I think so.

Andy: Evidently then, we can no more pronounce holy our treatment of animals because they lack self-consciousness and a sense of dignity than extraterrestrials could lord it over us simply because we lack fluoristan while they do not.

Amos: So it would seem, though I am still convinced that we do no wrong by putting animals in zoos.

Andy: Well then, consider this. Do we ever have the

right to cause harm where we can avoid it? Or, to put matters a bit differently, is it ever right for us to allow such harm (I mean, for example, where causing such harm is not the result of something immoral having been done)?

Amos: Would you also have in mind cases where the harm caused is done in order to bring about some greater and overriding moral end?

Andy: To be sure, except I would prefer to say instead, "where the harm caused actually has, or is likely to have, the effect of bringing about some greater and overriding moral end" (begging us to recall that the road to hell can be paved with good intentions).

Amos: Then, I think you are right.

Andy: Thus, on this principle, I suppose that if extra-terrestrials, who were wiser and more powerful than we in virtue of their having fluoristan, discovered that humans had become very corrupt and cruel, and thus decided to cause each human a slow and agonizing death, they would be wrong. Do you agree?

Amos: Indeed I do.

Andy: And if, supposing that we were not corrupt or cruel, such beings were to decide to place us in zoos or make us their pets, they would almost as certainly be wrong--since in virtue of our being self-conscious beings with a sense of dignity, harm would be caused us that would not be justified by any greater moral end.

Amos: This would certainly be my view.

Andy: Now tell me this. Do we harm animals by placing them in zoos? I do not ask you to judge how grave such harm might be, but simply to consider whether animals dislike such treatment.

Amos: Well, perhaps we do cause them some discomfort and anxiety by forcing them into such confinement, but . . .

Andy (interrupting): Do not lose grip of the point before us! Rather fasten yourself upon it tightly, lest we lose sight of one matter by pursuing another. Animals resist being removed from their native habitats, often try to escape from zoos, suffer mating difficulties, and often become morose and sickly in captivity. Is this not good reason to think that we do cause animals some harm (and the degree varies) by stripping them of their natural liberties and so confining them?

Amos: Well, I suppose we do cause them harm, at least very often.

Andy: And what purpose or effect is realized by our putting animals in such captivity? Do we put them there

because they have been found to be acting immorally?

Amos: Ha, of course not. Dumb animals are neither moral nor immoral creatures.

Andy: Then, again, I ask you: What purpose is served by our putting them in zoos?

Amos: Well, people are amused, especially small children, by seeing the animals.

Andy: True. Would you say that it is ever right for us to cause something harm merely for the sake of our amusement?

Amos: This certainly does not sound like a very noble thing to do. I suppose not.

Andy: Then our amusement cannot serve as a justification of this practice.

Amos: Apparently not.

Andy: What other noble purposes are served by our so confining animals?

Amos: Well, there is our own edification. For example, we may thereby gain a better appreciation of the animal kingdom, thereby benefiting animals in an indirect way.

Andy: Yes, but we have other ways of being edified about animals. May we not read about them, watch Wild Kingdom, or perhaps journey to a game preserve?

Amos: I suppose so.

Andy: Do we not have a similar choice with regard to studying animals scientifically? That is, may the scientist not study animals in their natural environment?

Amos: Yes, scientists often do this.

Andy: Then it seems that confining animals to zoos is not the only means we have of educating ourselves about the animal kingdom. Neither is it the only way we have of "appreciating" animals. But if this is so, consider closely the following question: Do we ever have the right to harm something for the purpose of attaining some end (perhaps a noble one) if we know there is another way to attain that end? For example, is a dentist entitled to extract your abscessed tooth without using novacaine if he knows he can do so by using the novacaine which he has at his disposal?

Amos: Are you kidding? Of course, the dentist should choose the less painful means where he has a choice.

Andy: So you agree to the more general point as well?

Amos: Yes, it seems sound enough.

Andy: Very well then, since we have an alternative way

to be instructed about animals, as well as to "appreciate" them, these ends do not serve to justify our confining animals to zoos. Is this not so?

Amos: Apparently.

Andy: Well then, we still have found no overriding moral end which is served by our placing wild animals in zoos. Can you think of any other purpose which is served by this practice and which is noble?

Amos: (thinking for a few moments): No, not at present.

Andy: I am not surprised that you cannot, for I think you could discover a unicorn as easily. It would appear, then, on the principle that we must not cause harm where we can avoid it, that we have no right to restrict animals' freedom by placing them in zoos. Does this not seem to you to be the natural consequence of our thinking on this subject?

Amos: So it would seem

Andy: And we have also found that animals' lack of self-consciousness and sense of dignity is not nearly as important, morally speaking, as you originally thought it was. Similarly, it seems that our possessing these (at least this is normally the case for humans in their waking moments) entitles us to much less with regard to our treatment of different sorts of creatures than it, at first, appeared. And we have found the same sort of point to apply to extraterrestrials with their added ingredient "fluoristan." Thus, we have discovered that a creature's being extraordinary when compared with other creatures--even if this extraordinariness involves superior power and wisdom--gives it less dominion over the other than you had initially thought. Is this not the upshot of our discussion?

Amos: So it seems, though I still cannot help but feel that we are not wrong to place animals in zoos and that there is a great difference between your little green men's tampering with our liberty and our confining animals to zoos. However, the proper reasons for these two beliefs seem to have eluded me.

Andy: Indeed, my friend. Perhaps another time you will succeed in discovering that which has so eluded you here.

In discussing animal rights, human rights, and superhuman rights, we have seen that it is by no means clear that if the differences between humans and other animals justify our placing animals in zoos, similar differences between ourselves and superhumans would not also justify their placing us in zoos. Yet, one cannot help but feel that it would be wrong for such extraterrestrials to treat us in this way. Consequently, it

would appear that there is prima facie reason for suspecting that we cannot justify our "enslaving" of other animals on the basis that they are very different than we (e.g., that they are inferior sorts of creatures). We have also seen that there is a difference between x having (or not) the right to and someone else y having (or not) the right to deny to x. x may not have the right to , yet it nonetheless be false that y has the right to deny to x. Thus, even if other animals do not have the right (in any full blown sense) to their liberty, it does not follow that we have the right to restrict animals' freedom. It has also been argued that having self-awareness and a sense of dignity is not a necessary condition for a creature's being entitled to its normal liberty. Thus, animals' lack of self-consciousness and sense of dignity is not sufficient reason for us to restrict their freedom.

Finally, we have considered the general circumstances which yield a creature the right to its normal liberty. In this regard, we have noted the principle that it is appropriate to cause something harm only when doing so serves (or is likely to serve) some overriding moral end. It has been argued that the right to do another harm is contingent upon the question of whether doing so will diminish the general welfare (in some suitably generous interpretation of "general welfare"). In particular, it has been argued that the welfare of animals should be considered as an instance of the general welfare and that if this is done, it would appear we have no license to restrict animals' freedom by confining them in zoos.

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