



Speciesism and Moral Standing in Australian Animal Welfare

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Introduction

Regarding animals, do they all have moral status? How does a society decide? And once moral status is granted, is it absolute, or do human interests make a difference?

When someone has moral status their interests, including suffering and wellbeing are deemed as important enough to warrant consideration.

Speciesism is the prejudice favouring the interests of those of the one species. *Or put another way, the deeming the interests of other species as of inferior importance.* This is entrenched within the Western legal systems. The Welfare Legislation reflects the existence of certain special relationships between moral agents and those who may be subject to moral consideration.–Legislation is constructed in a way that gives better protection and welfare laws to those animals such as certain dogs, whom are viewed as close human companions as opposed to farmed animals who are seen to be born to serve human economic interests.

Unfortunately, many the obvious serious animal welfare issues in farming conflict with the economic goals. Any moral status of farmed animals also known as “livestock animals” seem to be largely overlooked in the law in Australia with wording in the Acts indicating that to be deemed cruel, the action must be considered “unreasonable” or “unnecessary”¹. This is an example of speciesism. Any consideration of the suffering of these sentient beings is deemed as of less importance than human economic interests.

¹ Prevention of Cruelty to Animals Act 1979 s3 [Australia].



Development

*“Since Darwin, scientists have agreed that there is no ‘magical’ essential difference between human and other animals, biologically-speaking. Why then do we make an almost total distinction morally? If all organisms are on one physical continuum, then we should also be on the same moral continuum.”*²

This statement appeared on the original leaflets handed around Oxford in 1970 by Richard Ryder bringing the attention to the plight of animals while coining the term Speciesism.

“Speciesism” is defined as *“the unjustified disadvantageous consideration or treatment of those who are not classified as belonging to one or more particular species”*³. With this term, Ryder drew attention to the discrimination against nonhuman animals at the end of the 1960s when social justice movements such as those against sexism and racism were on the rise. As a hospital scientist, Ryder focused on the laboratory animals and their right not to be subjected to suffering just as Jeremy Bentham had done a century before him. Ryder argued that suffering was a function of the nervous system and as such it was not reasonable to believe that some animals including humans suffer while others such as nonhuman animals don’t (Ryder, 2010).

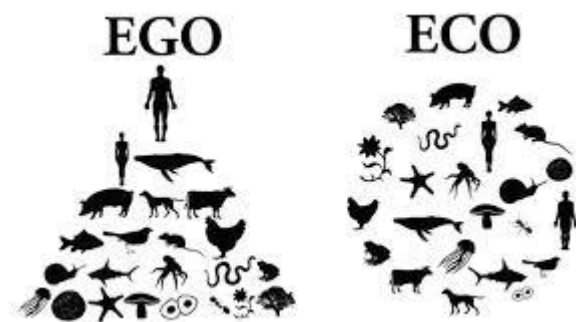
In Peter Singer’s Animal Liberation work (Singer, 1975; Singer 2009) Ryder’s views are reinforced by Singer’s argument that we must take all sentient beings’ interests into account and consider their interests of equal weight with human interests. This is the principle of equal consideration of interests (Singer 2009) and according to Singer, should apply to both humans and nonhuman animals which consequentially will elevate animals to the moral status of humans (Singer, 2009).

² Ryder, R. D, 2010. Speciesism Again: the original leaflet. *Critical Society*, 2, 1-2.

³ Horta, O, 2010. What is speciesism? *Journal of Agricultural and Environmental Ethics*, 23 (3), 243-266.

A being is said to have moral status if his/ her interests morally matter to some degree for his or her own sake. Suffering is usually the sensation associated with moral status. The ability to suffer is usually considered as the primary prerequisite for moral status. For example, philosophically, an animal would have moral status if their suffering is at least morally bad on account of this animal itself and regardless of the consequences for other beings such as humans (Singer, 2009).

Some philosophers defend the killing and eating of animals, if they have been treated well during their lives; e.g. not factory farmed. These are examples of “humane omnivores” according to Jeff McMahan’s definition (Jeff McMahan, 2017). These philosophers argue that the killing is not wrong, as the life of an animal cut short is not of value since they have no achievements and accomplishments to look forward to for the future such as what humans would, which therefore make a human life cut short a tragedy (Jeff McMahan, 2017). Is this however a valid argument? What about some tribes in Africa concerned in everyday survival, acquiring food and procreating? Is the claim of “future accomplishments and achievements” just a modern western world issue? And what about terminating lives of certain disabled children that cannot have achievements or plans? Peter Singer argues that the lack of language or reason is not a valid excuse for ignoring others interests in suffering or enjoyment in life (Singer, 2009).



The human claim to be morally above all animals is based on legislation and philosophy entrenched in religious bias. It is easy to perceive from historical accounts that early views have defined homo-sapiens as the centre of all beings, or at the apex under god, with the lowest tier being animals and plants. However, should these views matter in a nonreligious society? And should they be the basis of law and policy in a secular country⁴?

⁴ Singer, P, 2009. Speciesism and Moral Status. *Metaphilosophy*, 40(3-4), 567-582

The view that animals are so different from human beings and their lack of moral consideration is mostly attributed to Descartes in what was mostly a religious society in which animals were viewed as machines or “automatons” (Phelps, 2007, p.68). Descartes distinguished animals as objects with no soul, which meant that they consequently could not have consciousness or feelings, opening the doors for the allowance of cruel treatment such as vivisection. Other theorists such as Kant, in his “indirect duties” theorem, accepted that nonhuman animals suffer harms, yet rejected that humans had to regard them as morally considerable (Phelps, 2007).

We only have to look at the Western legal systems that categorise humans as “legal persons” and animals as “objects” to get a sense of the depth of Speciesism. In the Australian Animal Welfare Legislation, nonhuman animals are not considered as sentient beings, but as objects. Welfare laws exist to protect the interests of the owners of the animals rather than the animals themselves. This implies that Animal Welfare Legislation does not serve to protect animals against abuse and animals lack legal protection.

Animal welfare legislation in Australia is the only Australian legislation which has a criminal component, yet it is not driven by the State or Territory police. Instead, the RSPCA (Royal Society for the Prevention of Cruelty to Animals) enforces the cruelty Acts. The RSPCA is named in the Prevention of Cruelty to Animals Act 1979⁵ as a charitable organisation, which may be approved for law enforcement purposes by its officers.

The law is vague on many matters and definitions such as “humane” or “welfare”. If an incident of animal cruelty is brought to court by enforcement officers, then it becomes the task of the Judicial officer to decide based on evidence put to them whether the cruelty was ‘necessary’, ‘justifiable’ or ‘reasonable’⁶. There seems to be no clear line established between legitimate “justified” harm or animal abuse, especially considering factory farmed animals and those who fall under the economic interests of humans. Morally, nonhuman animal abuse may be physical such as vivisection or live export; psychological such confinement of animals in small spaces; or emotional such as separation of dairy calves from their mothers. Abuse can also be a form of direct mistreatment such as circus animals, or neglect such as animals in zoos.

⁵ Prevention of Cruelty to Animals Act 1979

⁶ Prevention of Cruelty to Animals Act 1979 s3

Unfortunately, the serious animal welfare issues conflict with the economic goals of farming. So far in Australia, there has been no humane legislative response. In the State of NSW, for example, there is a code of practice for the welfare of rabbits in intensive farms⁷, but this has not been adopted into legislation. The other potential protection for rabbits is in the Animal Cruelty Acts and Regulations. This is, however weak in that meat rabbits are exempt from many of the welfare rules in those Acts, as they are considered “livestock animals”. One of their welfare concerns for example, is the wording in the Acts which indicate that to be deemed cruel, the action must be considered “unreasonable” or “unnecessary”, effectively giving them no meaningful protection.

Some authors such as Ragnhild Sollund (Sollund, 2011) suggests that speciesism should be removed from the ethical and philosophical debates and examined in critical criminology. She suggests that some criminologists have already called for speciesism to be researched with a status in society like movements that have been formed to confront sexism and racism. Sollund argues that animals should have legal protection, because abuse implies pain and suffering, violation of rights and is a serious form of oppression⁸.

According to Sollund (Sollund, 2011), differentiating “victims” as “others”⁹ is what gives rise to superiority and legitimises exploitation. For example, victims of wars become known or are described as “others” based on their physical traits, race or culture and were dehumanised. Legalising animals as objects means that they are totally dehumanised. Viewing animals as more different than they are creates mental distance to them as sentient beings and legitimises their use for different purposes (Sollund, 2011). This legitimacy is reflected not only by law, but by the way society is structured. Society and traditions allows strong emotional attachment to companion animals such as dogs and indifference to the suffering of farm animals.

Animal welfare laws are very controversial. Although, they define animals as objects, they appear to be discriminatory on the basis of financial interests and assumed nonhuman animal intellectual and emotional capacity (Giuffre, 2015). A dog, for example, a human’s most popular companion, can be seen to invoke strong reactions

⁷ Primary Industries Standing Committee, 2003. Intensive Husbandry of Rabbits (SCARM Report 33). Model Code of Practice for the Welfare of Animals. 1-11.

⁸ Sollund, 2011, p. 3

⁹ Sollund, 2011, p. 9

and is believed to have moral status, therefore is protected with the highest welfare laws as a companion. However, a dog as a human financial interest in the role of a breeding dog or racing greyhound does not hold similar welfare laws as the economic interests of the “owner” trump the moral status of the animal. In a similar way, the right to have pigs locked up in sow stalls unable to move is defended based on financial interests and protected by the detachment of humans from farmed animals. If a companion animal was treated in a similar way to a farm animal, it would cause an outrage by society and would be considered unacceptable and unlawful (Giuffre, 2015). We can now see this emerging with situations such as “Oscar’s Law” which is mounting pressure for regulatory reform towards the welfare of the dog not to be bred in inhumane conditions (Graham, 2017).



Conclusion

Animal Welfare Legislative concepts such as ‘necessary suffering’ gives legal backing to animal harm or abuse. Speciesism can be seen as the cornerstone of animal abuse, whether by ignorance or an intentional interest giving humans the legitimate right to do as they please with their animals, also known as human property under the law.

Legislation supports humans in their distinctions between “production” farmed animals and companions while economic interests give justification for depriving animals of our moral considerations.

Even though some species may not be as intellectually advanced as humans, it is not a valid justification to deprive them of their interests. Just as with racism and sexism, and the demand for human equality which rely on the capacity of all humans to suffer. Peter Singer argues strongly that the demand for equality should not be based on intelligence or reason, but sentience.

A first goal in animal welfare would be to establish an independent office of welfare law, one which would not have affiliations with agricultural business interests. This would be to accord animals equal moral consideration and give nonhuman animal abuse a criminal component based on violence inflicted on them.

As Peter Singer writes (Singer, 1975, as cited in Sullond 2011): *'Pain and suffering are bad and should be prevented or minimized, irrespective of the race, sex or species of the being that suffers'*.

A Final Note – It is not realistic to stop all suffering in the world. It however must be a fundamental goal of human civilization to foster a more compassionate and fair society where suffering and oppression inflicted deliberately or inadvertently on others is eliminated.

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