



Is Species Membership Morally Relevant?

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Species membership and partiality

It is common to see those endorsing an animal liberationist position argue that species membership is not a relevant moral consideration (cf. Singer 1977; Regan 1984; DeGrazia 2002). Taking species into account when moral decisions are being made is ‘speciesist’ they contend, in the same way that taking race or gender into account might be. Is the case that species membership is not a relevant moral consideration really as self-evident as pro-animal liberation theorists claim? Below, I examine two potential challenges to the assumption of moral irrelevance and assess their strengths: the first concerns personal identity and meaningful relationships, and the second addresses itself to whether moral rules should be applied to categories of beings rather than individuals. Both positions are found wanting and I conclude that neither provides good reasons for accepting species membership as a morally relevant consideration.

The theorists who deny that species membership is morally relevant do so by referring to capacities and characteristics. Humans, they contend, are considered worthy of moral concern, whilst non-human animals are not, because of certain capacities held by humans as a species norm: language, rationality, moral agency, autonomy, etc. However, since these capacities are not possessed by all humans to the same degree (or at all), or are seemingly selected arbitrarily to exclude those who cannot possess them, reliance upon them must also exclude those humans not possessed of the characteristics from moral consideration. The argument that human beings are worthy of moral consideration by virtue of their humanity alone relies upon a definition of what it is to be a human. Any definition of *humanity* phrased in terms of characteristics that are shared with other species, or are not held by all and to the same degree leaves itself

open to the charge of inconsistency. Conversely, any definition of *humanity* based upon physiognomy or physiology leaves itself open to the charge of speciesism and arbitrariness. This argument from marginal cases (AMC) has been advanced by utilitarians, contractarians, and deontologists alike (Singer 1977, pp.21–44; Regan 2004, pp.77–78; McMahan 2002, pp.203–228; Rowlands 2002, pp.44–47).

Below, I consider the two main arguments for believing that species membership is morally relevant. The first of these, which I shall call the *Inherent Value* argument, is a set of perspectives placing relevance on species membership along two significant and interwoven strands: (a) is that species membership is inherently good because it is an essential component of personal identity, and in the case of humanity that identity is the source of morality and thus inherently valuable for an additional reason. And (b) is that species membership constitutes a form of relationship, and relationships are both inherently valuable and determinants of moral duties. The second perspective, which I will refer to as the *Epistemic Argument*, makes ethical judgements based upon a principle that it is epistemically correct to make judgements about moral standing at the species-based category level, i.e. that judgements about how to treat an individual of a species should be derived from general facts about that individual's species rather than from facts about the specific individual. I will consider each of these two types of argument for speciesism in turn, beginning with the arguments of Cora Diamond, Elizabeth Anderson, and Eva Kittay along strands (a) and (b) of the *Inherent Value* position.

Before doing so however, I should say something about environmentalism because it

can offer a position superficially similar to that of the *Epistemic Argument*. A significant branch of environmental ethics places value in biological collectives (species, herd, ecosystem, 'biotic community') rather than in the individual members of that collective (though there are some, such as Callicot who have revised this position in order to try to assign value to both) (Callicot 1999, pp.59–76). Whilst this might at first glance look like speciesism, in reality it makes no claims about the respective values of different species (or other biotic communities) and thus would require additional reasons to be given for privileging one species over another.¹ In its basic form there are instances when it might be right under ecological principles to do this: such as when one species threatens a wider ecosystem (as with invasive or destructive species like mink, cane toads or locusts), but these reasons are contingent rather than necessary facts about a species. For these reasons I do not believe that an environmental ethic is readily compatible with speciesism² of the kind that Regan and Singer argue against and will not address it further. However, what has become apparent from this brief consideration of environmental ethics is that when we talk about whether species membership is morally relevant we can mean one of a number of things. We might be asking if species membership is relevant when choosing between the interests one or more individuals of differing species; or when choosing between species *qua* species. Alternatively, we might be asking whether species are finally valuable in ways which are not reducible to the final value of their individual members. The latter two questions are the ones to which environmental ethics addresses itself, but it is the former question that is my true

1 It should be noted whilst I will be arguing that species membership is not morally relevant throughout, this should not be taken as an argument for the moral equality of species. That the former implies the latter is a straw man argument used by Cohen against animal liberationists – my position makes no such claims, being as it is rooted in moral individualism.

2 The same would be true, I presume, of other types of holism, such as a utilitarian holism.

subject.

Relationships and species

Cora Diamond argues that humanity is defined both by the otherness of non-humanity and by the significance of certain social and cultural practices which mark points of difference with non-human animals (Diamond 2004, p.98). This perspective is important to draw out because it marks the key zone of conflict with those who deny the relevance of species membership through comparisons of certain capacities between individuals of different species. So, for the likes of Cora Diamond, Eva Kittay, and Elizabeth Anderson, that which makes us human and tells us what we owe to each other is not necessarily vested in anything biological (Diamond 2004, p.102), but comes from the kind of relationships and identities we can and do have - identities and relationships that are dependent upon our humanity (Kittay 2008, pp.144–145; Diamond 2004, pp.97–102).³ Diamond, Kittay, and Anderson all contend that using the AMC to make capacities the foundation of moral standing either misses the point of what is important in morality (Anderson 2004, p.280; Kittay 2008, pp.151–152), or worse still, constitutes an attack on what it is to be human (Diamond 2004, p.95; Kittay 2008, p.152), Morality, Anderson reminds us, is not just about principles of justice derived from intrinsic capacities, it is also about how we regard and treat others; its interpersonal content is important (Anderson 2004, p.280). By comparing capacities, they say, we downplay difference in our search for similarity, and we ignore the meaning and significance of relationships and identities. By raising the standing of non-human animals in this way

3 I should add that Anderson offers a more nuanced position that the kinds and significance of relationships we have supervene upon our normal species life, a life that for us includes language, rationality, autonomy and so forth (Anderson 2004, pp.281–282).

we unavoidably lower the standing of so-called marginal humans: children, those with severe cognitive impairments etc. (Diamond 2004, pp.95–98; Kittay 2008, pp.152 and 155). In any case, Kittay argues, the choice of which capacities to hang moral standing from is arbitrary because 'whether or not an individual possesses any one set of intrinsic properties is not sufficient to determine whether or not this individual can have a moral life and be part of a moral community' (Kittay 2008, p.123). At the same time, these authors point to contingent social, cultural, and historical circumstances as the source of morality. In this way Kittay sees social relationships, such as the family,⁴ as providing moral reasons to privilege some beings over others (Kittay 2008, pp.151–152), and she defines a social relationship as 'a place in a matrix of relationships embedded in social practices through which the relationships acquire meanings' (Kittay 2008, p.144), before further suggesting that non-human animals cannot be placed within her kind of social relationship (Kittay 2008, p.155). Like Kittay, Diamond also thinks moral status is conferred by identity and the practices which construct it, illustrating her point by arguing that there is a moral difference between eating a pet and eating a wild animal not because of their respective capacities, which might be identical, but because of the nature of our relationship with the two creatures. Anderson makes a similar argument, illustrating how the importance of the concept of *human dignity* gives us reasons to behave differently towards an Alzheimer's patient than toward a dog with the same cognitive capacity; reasons that have everything to do with conceptions of humanity and social practice, and little to do with biological capabilities (Anderson 2004, p.282).

That there is something in these arguments is hard to deny. Anderson, for example, is

4 Note that Kittay sees family membership as a social relationship supervening upon biological relationships, but not necessarily dependent upon them.

quite correct to write that many of the rights we confer upon people are unintelligible outside of their social and cultural context (Anderson 2004, pp.280–282); we would not, as Bertrand Russell famously quipped, demand 'Votes for Oysters!' (Russell 1961, p.753). And Kittay is correct in pointing out that harms or goods brought into the world are not necessarily dependent upon the properties that Singer, McMahan or Regan use to determine moral standing. A rational and autonomous being can bring great harm into the world, whilst a non-autonomous being can create good and be both the recipient of love and a bringer of joy. A morality that privileges capacities may indeed miss the importance of other values: love, joy, solicitude etc., but that is not to say that it needs to or will do so.

However, one might respond that capacities such as autonomy are far from arbitrarily selected as Kittay contends. Rather, autonomy is good for its own sake or valuable regardless of the amount of additional goodness it brings into the world through its exercise. Should it be possible for a person to have increased welfare, or lead a more valuable life, but at the expense of his or her autonomy, we do not then conclude that it would be better if they lacked autonomy altogether. Furthermore, the exercise of autonomy is every bit as fundamental, if not more so, to the practice of morality as the need for relationships. Without moral autonomy there is no morality; it is through the exercise of choice that morality acquires meaning as a concept.

Similar points can be made of sentience. Sentience has value to the sentient being regardless of the other possibilities it allows – sacrificing sentience in order to increase welfare does not seem a good trade. If a cat could live a longer life, free from pain, if it

were magically transformed into a tree we would not think that a good deal for the cat. And importantly, sentience is of particular relevance because those who lack sentience cannot be wronged: to be sentient is to be capable of being harmed.

The view that equal respect and consideration stem from social relationships irrespective of facts about a being's capacities is also problematic in more ways than arise from downplaying the importance of autonomy and sentience. If moral equality, or at the very least moral standing, is contingent upon a place within a social relationship then no underlying argument for inherent worth can be made. As Scanlon points out, relationships such as those of friendship and family, which are commonly and plausibly held to be valuable, have 'a built-in sensitivity to the demands of right and wrong' (Scanlon 1998, p.166) because they require us to recognise that those we have relationships with are persons with moral standing independent of our relationship with them (Scanlon 1998, p.165) and this moral standing constrains our behaviour in ways which can override or add to our relational duties. Anderson places too much normative emphasis on the different kinds of relationships that we can have in determining degrees of moral consideration owed. The nature and strength of our duties towards one another is dependent to some degree upon our relationships, but whether a being has a place in a relationship is not a necessary condition for moral standing. Moral standing can exist quite independently of contingent facts. However those contingent facts may inform our moral obligations. We do not, for example, think that prohibitions on killing apply only to our friends. Therefore, in order for us to value social relationships for reasons beyond our own contingent facts of affection, or utilitarian calculations of their value, we must seek underlying moral principles. Lacking a commitment to inherent worth, we have no

reason to value non-instrumentally those with whom we have no relationship. And that inherent worth must come from something other than contingent facts: the capacity to suffer, the possession of interests, the experience of life as a continuum all present themselves as plausible possibilities.

Even if we appealed to others to value us on grounds that they value their relationships as we do ours, we would still struggle to justify relationships unfettered by other considerations of morality. As Scanlon points out:

There would, for example, be something unnerving about a “friend” who would steal a kidney for you if you needed one. This is not just because you would feel guilty toward the person whose kidney was stolen, but because of what it implies about the “friend's” view of your right to your own body parts: he wouldn't steal them, but that is only because he happens to like you (Scanlon 1998, p.165).

There are special relationships of love, obligation, friendship, and family which can place moral obligations upon us, but those obligations are not unlimited or unbounded, They must also be at least minimally constrained by a commitment to fundamental moral equality.

Whilst it is right to highlight that acting morally is not exhausted by treating like cases alike, it would be wrong to conclude that we should pay no heed to like capacities or capabilities as a result. A socially constructed identity in which the concept of *personhood* is enmeshed might lead us to privilege those with whom we relate, but

nothing in this fact tells us that it is right to do so. Yes, social relationships may give life meaning and significance, but these things can be found in both morally wrong and morally right acts. It would indeed be a strange world where morality stopped at fair treatment and went nowhere toward good treatment, and a barren morality that required us to give consideration only to need whilst ignoring emotional ties and relationships of love, dependence, or obligation. But at the same time, a world where social relationships took the place of an underlying principle of moral equality would be a frightening and undesirable one.

Nevertheless, it may be that there are some arguments which I have not considered that could take account of my objections. Perhaps it can be shown that relationships that humans and animals have are of a different quality or kind? If this were true then the capacities possessed by humans might not matter so much as their place within a relationship. Supposing this were proved to be true (or that some other argument has been advanced which defeats my objections); to make species membership a relevant consideration would still require some work because so far only difference and not normative significance has been established. Kittay, for instance, has claimed that species membership is morally analogous to family membership; that ‘as humans we are indeed a family’ (Kittay 2008, p.152),⁵ and that this therefore gives us reasons to privilege humans over animals irrespective of their comparative capacities (Kittay 2008, p.152). Kittay’s characterisation of a family is of a social relationship grouping conditional not upon intrinsic properties, but rather upon birth, adoption and marriage, which provides critical support in times of need. Whilst it is true that humans are born into their species, in the same way as they are born into a family, there is as yet no way

5 Kittay does not offer an argument to justify this statement, or at least if she does I cannot see where.

to become human through marriage or adoption. Nor is it obvious that human beings are sufficiently entwined in a global relationship for the kinds of moral duties and moral status conferred by family membership, as Kittay describes it, to exist. Distant strangers are not dependent upon me as children, nor in old age; I have no bonds of kinship with them and would not expect them to have the same duties toward me as a close family member. Indeed, for the most part I know nothing about them – not even a name.

Kittay might respond that, whilst it is not factually analogous to family membership, species membership is *morally* analogous to family membership. Humanity, like the family, represents a set of interdependencies, and human beings rely upon each other to meet their needs. To be sure, much of the world's population is reciprocally interdependent to some degree – but not all of it is, and in most cases levels of interdependence are extremely low. A stronger case might be made for communities of interest, nationalities, or local communities, but even then I doubt many people would consider that their obligations to someone on their street are the same – either in strength or in kind - as those they owe to a family member. And if such a case were to be made it also could be pointed out that we have similar interdependencies with non-human animals: guide dogs, farm animals, pets and so forth. In this sense human beings depend upon non-human animals to meet their daily needs (and visa versa), and have formed complex and meaningful relationships with them.

Neither is family membership necessarily akin to an interdependent grouping of moral peers as Kittay argues (Kittay 2008, p.124); family membership may be a supportive and nurturing environment of equals in many, if not most cases, but it can as easily be

composed of relationships of cruelty, exploitation and domination. And although we do indeed have *prima facie* reasons to privilege family members *ceteris paribus*, when we expose principles of partiality to extreme or marginal cases – such as the requirement to choose between the trivial need of a relative (perhaps a particularly cruel and morally dubious relative) and the desperate and immediate need of a nearby⁶ stranger – then the weakness of using family membership unqualified as a reason to privilege becomes clear.

When Kittay writes 'no gorilla and no dog, however attached I may become to it, can be my daughter – with all the emotional, social, and moral resonance that has'^(Kittay 2008, p.155) rather than showing that we cannot have strong and meaningful relationships with non-human animals, she is instead displaying a lack of imagination. Is it really so hard to believe that a society might currently exist, have existed, or will exist in the future that creates meaningful social relationships with its companion animals – certainly more meaningful relationships than it does with some distant humans of which it knows nothing?

The analogy of species membership with family is mistaken. The circumstances by which one becomes part of a family are not analogous to those by which one is born a human. In this, species membership therefore seems to me to be a more arbitrary a selection criteria for moral standing than any capacities based approach.⁷ In this respect, it is very hard indeed to see how species membership is at all like a family beyond the bare facts of sharing genetic data to some degree. Indeed, it is unclear to me how we get

6 Nearby because it helps us determine that we are best place to assist in this case.

7 Indeed, it could be said that what species we are born into is a matter of luck.

from the very special, non-general associative relationships of parents and spouses to the very general relation of species membership. These familial relationships are distinctive in part precisely because they are *not* universal. But, even if the analogy were sound, it would not provide convincing reasons to automatically privilege humans over animals, nor to grant moral equality to all members of that family irrespective of their capacities. The manner in which I treat families other than my own is not a matter of personal preference; they are not fair game in the pursuit of my own family's interests.

I have addressed the contention that species membership is akin to a social relationship and that this gives us reasons to privilege species members over non-members, and I have touched very briefly upon arguments that difference has a role in conceptualising humanity, and that morality is located in a contingently formed identity. However, I have not properly defended the capacities approach from the charge that it somehow, by linking moral standing with the possession of capacities shared across species and not held by all humans (or held to the same degree), lessens the standing of humans and constitutes an attack on the very notion of the human. One might ask how finding that I can suffer in ways not dissimilar to the apparent experience of a deer or a dolphin somehow makes me less of a human. The answer certainly does not seem apparent to me, nor is it apparent in the work of Diamond, Kittay or Anderson. The suggestion found in Diamond's argument; that the 'significance' of what it is to be human rests upon and requires a morality that implicitly privileges species membership (Diamond 2004) is question begging because it is premised upon the assumption that species membership is morally relevant. I can only reply by saying that I do not see how this can be proved, nor any compelling reason to accept her particular concept of the human

as desirable or convincing. Given that it is not at all obvious how the conceptualisation of being human is weakened by the AMC, or indeed how it might be argued that the notion of being human is an inherently valuable one in the same way that one might show how personhood is valuable, it does not seem necessary to respond in depth to Diamond's critique – it is up to her and those who agree with her to provide convincing reasons.

Humans and non-humans: differences of kind

However, the *Inherent Value* arguments developed by Diamond, Anderson and Kittay are not the only ones used to defend the moral relevance of species membership. Carl Cohen and Tibor Machan each argue for the moral relevance of species membership along very different lines to the aforementioned authors. Cohen and Machan adopt what appears to be an ethical naturalist account of natural rights, although Machan's position is more fleshed out than Cohen's in this respect. Each contends that the essential nature of human beings as moral agents shows that they have natural rights which non-human animals, not being moral creatures, cannot possess (Machan 2007, p.50; Regan & Cohen 2001, p.37). However, whilst the positions of Cohen and Machan are rooted in ethical naturalism, their arguments can be shown to be problematic by tackling them at the methodological rather than meta-ethical level. Cohen sets humans as a species above non-human animals by arguing that the difference between the two is one of kind:

The capacity for moral judgement that distinguishes humans from animals is not a test to be administered to human beings one by one... The critical distinction is one of kind. Humans are of such a kind that rights pertain to them *as humans*; humans

live lives that will be, or have been, or remain *essentially* moral (Regan & Cohen 2001, p.37).

Machan expresses a very similar view, contending that natural rights are derived from the 'type of mentality' possessed by humans, a mentality that makes them moral agents (Machan 2007, p.50).

It is not so much the underlying assumption that the prescriptive can be derived from the descriptive that is troublesome here, but rather the views that we should deduce facts about individual things by reference only to their paradigmatic instances (Machan 2007, p.50), which for humans Machan states are 'normal' mature humans (Machan 2007, pp.50 and 53), and that we should apply moral rules derived from natural facts to classes of beings rather than individual beings (Machan 2007, p.56). In essence, Machan and Cohen think we should make moral judgements according to definitions derived from understandings of the nature of human and non-human animals which come from paradigmatic cases of those beings. Machan goes on to contend that the argument for deriving moral rules from marginal cases, as Singer and Regan do, is 'epistemologically flawed' (Machan 2007, p.50), in that the AMC mistakenly tries to discover logically necessary truths from what is more properly a matter for discovery through scientific method (Machan 2007, p.53). However, his own methodology is flawed enough in itself that his other conclusions must be doubted. It is not at all the case that:

[w]hen one defines a class of beings, one focuses on what they are normally, and in the case of living things, what they are at the state of their maturity. So infants and

those who are impaired will not (yet or wholly) fit the correct definition of the concept ‘human being’ fully, but it is clearly understood – in biology, botany and other life sciences – that a certain definition is the most apt way to classify them (Machan 2007, p.53).

It might be true that for the purposes of shorthand scientists will use the term ‘human’ to classify all those sharing the necessary genetic material, but when it comes to applying knowledge in specific cases pertinent facts about an individual human often have to be taken into account: their age, gender, health, weight etc. In many sciences frequent use of outliers and abnormal cases is made to gain knowledge of a thing and the category of things that it exists within. A good example of this is found in psychology, where the focus upon the abnormal has been a common method of learning more about the so-called ‘normal’ functioning of the mind. Furthermore, the observed regularities amongst ‘normal’ mature humans cannot be contextualised without reference to the irregularities that set the parameters of normality. The mistakes that Machan makes are first; to set a question-begging methodology from which to derive ethical facts, and second; to inexplicably take facts about *persons* and apply them to the category of *humans* rather than the more rational and obviously appropriate category of *persons*. It is a mistake shared by Cohen. The error in this segue from persons to humans is made apparent by reference to Machan’s work not on animal rights, but on epistemology and moral knowledge. He writes:

the concept of “human being” need not involve some necessary truth in the formalist sense. This means that it is not necessarily ruled out that some heretofore nonrational

animals will join the category of beings properly designated as human or that such an animal will join that category in some significant respect and thus possibly acquire rights (Machan 2007, pp.43–44).

If a non-human animal can be included within the classification of the human (and thus the moral community) by virtue of its moral agency/rationality, then it is contradictory to assert elsewhere that species membership as defined in biological terms is the morally relevant determinant of who has rights and who does not. Machan cannot have it both ways.

Cohen and Machan, having tried to assign moral rules according to classification of beings by their species, offer additional reasons to believe species membership is morally relevant. Both argue that humans are justified in treating other species as having lower moral standing because the use of non-human animals brings instrumental benefits to humans through their use in medical experimentation (Machan 2007, p.58; Regan & Cohen 2001, p.65). Again, it is hard to see that this amounts to any kind of argument at all that species membership is a morally relevant consideration; benefits to humans through the use of non-human animals might provide utilitarian justifications for carrying out such experiments but it tells us nothing about why species is relevant in that calculation. An assertion that X is useful is not an assertion that X is right, and even if it were, it would not be the same as an assertion that because the category to which X belongs is useful to the category that Y belongs therefore the category to which X belongs has a lower moral standing than the category to which Y belongs. Such arguments are simply invalid. The utilitarian gains that are to be had by humans from

non-human animal experimentation bear upon their respective statuses as individual creatures rather than their membership of this or that particular species.

At this juncture, and before concluding, I want to pause to bring in the arguments of Peter Carruthers, who attempts to rebut the conclusions of the AMC from a contractualist standpoint. His arguments and conclusions seem quite similar to those of Cohen, but his reasoning is quite different. Carruthers too sees enhanced moral standing in those with rational agency, and his concern is to accommodate those humans lacking rational agency within the moral realm of the social contract. Carruthers makes the claim that, for contractualists, species membership must be a relevant moral consideration (Carruthers 1992, pp.54–55). He concedes that by imagining the social contract as an agreement between rational actors, and conceiving of morality as 'a system of rules to govern the interaction of rational agents within society' (Carruthers 1992, p.98), it therefore follows that those without rationality would have a lower moral standing. Nevertheless, Carruthers maintains that, notwithstanding this problem, species membership is a relevant consideration because of the unwanted negative consequences brought about by accepting the conclusion of the AMC. These he says are the risk of social instability brought about by not granting full standing to the loved ones of rational actors (Carruthers 1992, p.117), and to the slippery slope problem arising from the difficulty of determining agency where the boundaries between humans at different life stages and with different capacities are not sharp or fixed and determinate (Carruthers 1992, p.115). Once again, these are not directly facts about the moral relevance of species membership *qua* species membership: they depend upon distinct arguments which place a relevance upon species membership derivative of its

usefulness in achieving some goal. If the goal is valuable, according to this view, then the steps taken to achieve it are instrumentally valuable. Species membership is thus only morally relevant in cases where we are either willing to accept that the ends justify the means and where the ends are judged to be good or worthy by some standard, or where we can show that the means are themselves good or worthy. What cannot be shown is that species membership is morally relevant independent of such facts.

What does this then mean for species membership as a moral consideration? If the moral relevance of species membership depends upon the goodness of the consequences for humans in taking it into account, then the question has already been begged. As the AMC demonstrates: there is no single defining characteristic, or combination of characteristics, that all humans possess to the same degree, or to some minimum threshold, and at all times of their lives beyond the bare facts of genetics that marks them as humans. Neither are there contingent social, historical or cultural facts that create moral relationships linking all humans to each other and that might give provide partialists with moral reasons for privileging humans over non-human animals. The most plausible reasons for accounting species membership as morally relevant have come from the relationship account of morality. Whilst this is ultimately unsuccessful it is nevertheless surely not wrong, and entirely understandable, to be motivated by feelings of greater sympathy for one's own species. That such sentiments equate to moral reasons is however another matter entirely. Species membership can thus be a relevant consideration, but only by derivation from some other moral principle. Attempts to make species membership an independently moral consideration cannot succeed. The arguments above of course refer, as I discussed earlier, to cases where

interests of individuals of differing species are being weighed up; it might still be argued, by environmental ethicists, that species *qua* species have an final value separate from the value of their individual members and that there are thus circumstances where species are morally relevant. However, this is an unrelated question from whether species *membership* is morally relevant.

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