

# Is There a Moral Obligation to Stop Someone Torturing a Kitten?

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*A Brief Examination of two Theories of Animals and Morality and a  
Particular Implication of Moral Policing*

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## 1. Introduction

The subject of animals<sup>1</sup> and how they are treated is a subject that can easily stir up emotions. In the 2012 United States presidential elections former Governor Mitt Romney was revealed to, during a vacation decades prior, have kept his dog in a cage on the top of his car during a drive lasting several hours. There are many reasons why some might consider Romney morally blamable for his actions. It could be said that it reveals him to be void of empathy and a cruel man. After all—the thinking might go—if he can treat his dog that way, then imagine what other atrocities he might be capable of! Another possible way to think of it is that the distress Seamus—the dog in question—might have felt as a consequence of this treatment is intrinsically wrong and that it does not matter whether or not this would make Romney more likely to treat humans wrongly. According to this way of looking at it, it could be irrelevant if he is, in every other regard, the most moral, virtuous man in the history of the world or if the dog's presence on the roof of his car by some magic spell alleviated poverty in Burundi. There are two rough ways in which the moral relevance of animals can be characterized: their being direct objects or indirect objects of morality (or, of course, that they are of no moral consequence whatever). Even though I believe that we can find much interesting to discuss concerning both popular approaches, I will focus on the idea if animals are direct moral objects rather than the indirect approach, and a particular subset of these approaches: “moral equality theories”. More specifically, I will consider how two of these moral equality theories would consider a particular kind of acts involving animals.

One formidable case for the relatively high moral standing<sup>2</sup> of animals is the utilitarian theory proposed by Peter Singer and its implication for how animals should be

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<sup>1</sup> Even though it is common to use the word nonhuman animal, I have chosen the terms “human” and “animal” without implying any disbelief in biology, simply because I believe the distinction “nonhuman animal” versus “human animal” to be superfluous and counter to the common understanding of the meaning of the words.

<sup>2</sup> I use “rights” here despite Peter Singer’s utilitarian view of morality for practical considerations only. I do not intend to imply that Singer’s view follows the general concept of rights and my decision to use this loaded term boils down to the fact that it is the term that is most closely associated with the legal and ethical concepts of being protected from certain actions and guaranteed some consideration. I do not intend to misrepresent Singer’s theory, either with regards to animals or to humans, and he too

considered in the application of ethics. I will refer to the theory as Singerian utilitarianism which is by no means a desperate, underhanded attempt to undermine his case, but simply a quick way to point out that the reference is made specifically to the case Singer presents throughout his writings concerning animals rather than any other utilitarian theory or utilitarianism in general. The reader might be able to notice the author's tendency to likewise adjectivize philosophers similarly, and I must emphasize that this is nothing more than an attempt to provide some clarity while navigating the issue at hand. Rawlsian, Singerian, Reganite, and so forth seem to be better clarifications than to use the terminology that they might themselves prefer when referring specifically to their approaches.

Singer has most directly developed thoughts of how his utilitarianism works in relation to animals in the classic *Animal Liberation* (first published in 1975) and I will briefly explain the burdens that this would place on the moral community in the specific cases I will present in this paper.

Similarly, I will look at Tom Regan's deontological approach, as outlined in detail in *The Case for Animal Rights* (first published in 1983). Regan's approach to animal rights is very different from the utilitarian approach, whether it be that of Peter Singer, Jeremy Bentham, or any other utilitarian who has mentioned animals quite specifically as capable of bearers of moral value.

Because this is such a wide-ranging topic, I cannot adequately present all the different arguments that have been made with regards to the moral status of animals and that continue to be made. Therefore, I will keep to a bare minimum and only discuss the implication of obligations that the two theories have in common and the problem this may cause.

The question in the title of this paper will be of relevance for both approaches but to different degrees. I will attempt to show how Singer and Regan should be able to answer this question and whether or not this may expose some problem to how the theories treat animals and what implications that may be a consequence if any of these

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admits that "right" is a good shorthand description for what the consideration he, as a utilitarian, believes humans and animals deserve.

theories were adopted in practice. Therefore, I will accept all their premises and only touch on them when it is appropriate in relation to the matter of moral policing. By moral policing I am referring to the assumption—which both Singer and Regan makes—that there is a requirement to police morality, whether it be imagined as functions of laws, actions of moral agents, or some other agency. That is, unless the theories are made in a moral vacuum without any bearing on the world, the moral “laws,” for a lack of a better word, will need to somehow be enforced. After all, if there is no “moral policing,” then the theory seems to have no prescriptive point if there is no entity that is meant to put morality into action. It is this policing of morality which I will focus on and where it may become troublesome for the two examined theories when facing difficult situations which they, in my opinion, decline to address.

## 2. Singerian Utilitarianism

Peter Singer has presented what he considers to be the consequences of utilitarianism, and I will briefly present his justifications for invoking the right of animals to have their interests considered and what implications that might have on the moral obligation alluded to in the title of this paper.

### 2.1 Equal Consideration of Interests

One of the centerpieces of Singerian utilitarianism is the concept of equal consideration of interests which are grounded in an ability to feel pain and thus have preferences. The basic idea is that we can extract the totality of all involved interests and make a moral judgment after giving due weight to *all* interests, and that conflicting interests are weighed as part of the utilitarian calculus and only considering the consequential suffering, satisfied preferences, and the weight of those preferences that are denied. There is no difference between the qualities of the interests and Singer remains unprejudiced as to whether he would consider an interest qualitatively superior to another or not, and is therefore not forced into arguing for why particular interests are superior to others with other justifications than the intensity of the interests involved and which weight they deserved based solely on that basic criterion. I therefore do not find it at odds with his theory that the interests of animals deserve the same

consideration as that of humans<sup>3</sup> since he is concerned primarily with weighing interests and secondarily with considering the suffering of pain as the only moral considerations involved in determining what is the morally right action to make. In that sense it is a theory without very many moving metaphysical parts that run the risk of malfunctioning when put under scrutiny unlike a more complex theory.

In *Practical Ethics* (henceforth Singer, 1993), Singer writes: “I shall now contend that while this principle [of equal consideration of interests] does provide an adequate basis for human equality, it provides a basis that cannot be limited to humans.” (Singer 1993: p. 55). The gist of Singer’s argument for equality for animals is that according to utilitarian ethics animals, and humans, are evaluated equally depending on their individual ability to feel pain and hold preferences. Singer argues that to not treat the interests of animals with equal consideration as humans is speciesism, or the undue weight to human interests just because they are humans, and he draws an explicit parallel to racism: “Racists violate the principle of equality by giving greater weight to the interests of members of their own race when there is a clash between their interests and the interests of those of another race.” (Singer 1993: p. 58).

## 2.2. Inference of Suffering

In setting up his argument in favor of considering the interests of animals as deserving of consideration, Singer makes an analogy (Singer, 2009: pp. 10-11) by suggesting that it could be that other people might just be expertly-made robots and that the appearance of pain is just a mechanical reaction rather than any actual pain. Because we would reject this, he posits that we likewise should reject the Cartesian view (Singer, 2009: p. 10) of animals as automata. His argument is that we can assume from how animals react to pain that they can feel pain. He continues to make the case that the ability to feel pain is corroborated by science. Singer’s argument from inference (my terminology) given in the first chapter of *Animal Liberation* can be summarized:

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<sup>3</sup> Although this should not be taken to mean that the interests are of the same interchangeable strength. Singer does not demand that when faced between saving the life of two dogs or a human—given that they are all of normal intelligence and mental competency for their species—that the interests of the two dogs to keep living should count for twice the utility of a single human’s interest to live on. While Singer does not attempt to “grade” the general utility of the interests of different species, he clearly gives human interests a much greater intensity than that of animals, given their more advanced mental faculties, familiar relationships, their importance to their community, and so forth.

- (1) We know that we can experience pain and have preferences.
- (2) We recognize that other humans can experience pain and have preferences from their behavior.
- (3) We recognize that animals can experience pain and have preferences as well from their behavior.
- (4) We feel discomfort from experiencing pain or not having our preferences satisfied.
- (5) We can infer from the reactions of animals to pain and unsatisfied preferences that they feel discomfort.
- (6) We consider it wrong for others to inflict discomfort.
- (7) It is (all things being equal) wrong to cause animals pain or deny them the satisfying of preferences.

### 2.3. The Argument from Marginal Cases

The argument from marginal cases is essential to the case against speciesism and I will here use Singer's version as presented by the Internet Encyclopedia of Philosophy:

1. In order to conclude that all and only human beings deserve a full and equal moral status (and therefore that no animals deserve a full and equal moral status), there must be some property *P* that all and only human beings have that can ground such a claim.
2. Any *P* that only human beings have is a property that (some) human beings lack (e.g., the marginal cases).
3. Any *P* that all human beings have is a property that (most) animals have as well.
4. Therefore, there is no way to defend the claim that all and only human beings deserve a full and equal moral status." (IEP: "Animals and Ethics" 3, a, i.)

Because there is no morally relevant difference between animals and humans, their interests should be treated equally, although that does of course not mean a simple one pig's life equal one human's life but rather that the interests are, in moral terms, of the same kind and only different by degree (Singer, 2009: p. 21). It is from this equal consideration Singer draws his conclusions of how this consideration of interests would require humans to profoundly change their behavior.

## 2.4. Point of Order

While it is possible to raise objections thus far to Singer's arguments, this paper is, as stated, focused solely on the implications that this will have on one aspect of policing morality, and so we will accept his arguments without any objection thus far and now move on to a couple of practical applications of his arguments.

## 2.5. A Kitten Tortured I

Let us now, to apply Singerian utilitarianism, imagine a kitten that is being tortured. By tortured here I mean that it will suffer pain and injury that will result in its death rather than to imply any sadism or similar function to the act in question. I have chosen to call the hypothetical moral value of the interests Intensity of Interest, or II, which is the net of the utilitarian value of the kitten's suffering (by the totality of the relevant utilitarian calculus). The kitten's II deserves equal consideration to any other group of IIs, regardless of who has that other interest or for whatever reason. Thus we have a simple XII versus YII model of moral consideration where X is suffering and Y has some interest in the consequences of the suffering (I admit that this is a very crude model). The following scenarios will all assume that the kitten's suffering is exactly the same, which, under Singerian utilitarianism would mean that it is unaffected by any "negative" interests of another entity. That is, the interest of a sadist is to be considered equally to that of a philanthropist with only the Intensity of Interests mattering to determine the morality of an action. "Kitten" here is to be understood as a generic mammal rather than necessarily a fuzzy little feline.

Scenario A: Kitten is being tortured by a chef who is preparing it to cook a meal in a restaurant. He has only just found it outside, and thus he has not kept it confined in a cage or in any way interacted with it before gently lifting it off the ground and carrying it into the kitchen. The interests of the kitten here, XII, would be weighed against everyone who has an interest in it being killed—I suppose here that it is necessary that it be killed under painful circumstances—such as the chef and the other employees of the restaurant that will sustain their welfare from its suffering and death as well as the patrons who will take delight in consuming it. If the calculus here outweighs the

suffering of the kitten, then accepting it is the utilitarian thing to do, and we, as an impartial observer, can make no utilitarian claim on behalf of the kitten.

Scenario A is not meant to reflect the actual treatment of animals in the acquisition of meats, nor an attempt to “disprove” utilitarianism, but instead an illustration of the acute difference between the utilitarian and deontological approach. Singer certainly accepts that if the suffering of one party is less than the gain of another then that is the utilitarian thing to do. I do not intend this as a scenario that shows Singer and his supporters to be murderous cat-eating monsters as a deontologist might be tempted to think.

Scenario B: An impartial, moral observer sees a human—Doctor Jekyll-Hyde—torturing a kitten for sport. His interest in being permitted to do the torturing is presumably not as intense as that of a creature facing the threat of annihilation, and I assume that the II of the Doctor here is lesser than the II of the kitten to not be tortured. If there is a moral obligation to act to further the strongest interests in aggregation and the interests here are just that of the kitten and its torturer, then we might assume that the interest of the torturer to torture is lesser than that of the kitten to be tortured. Let us assume that the Doctor cannot be convinced to do otherwise and that the only way to prevent the kitten from being tortured is to physically prevent the torturer from coming near the kitten. Even if we imagine that the intensity of the torturer’s II could be greater than that of the single kitten, we will here assume that he has every intent to proceed to torture another one, and another after that, and so on until he has accumulated enough kittens to well exceed the intensity of his interest in torturing them. Do we have an obligation to stop him?

It seems that the answer is yes, if we are obliged to look to the utilitarian calculus and include the interests of kittens. I do not believe that Singer would disagree, but let us propose an additional scenario to make things slightly more complicated.

Scenario C: An impartial observer watches as a kitten is being tortured by a wolf. The II of the kitten is exactly the same as that in the previous example, yet the II of the wolf is surely no greater than the II of a human that believes himself to be in need to torture

kittens by what to him seems a necessary urge. Is the observer forced to act? If the interests of animals such as kittens deserve to be taken into consideration, then does this not force us to police animals the way we would have a moral obligation to police humans?

## 2.6. The Vexing Strain of Equal Consideration of Interests

While one can always launch an attack on utilitarianism in general with thought experiments that are intended to either force the utilitarian to seemingly give up his utilitarian principles or to condone pedophilia, murder, or some other activity intuitively thought to be wrong, I do not intend here to evaluate utilitarianism in general but to simply consider what Singerian utilitarianism really demands as it is expressed by Singer with regards to “animal on animal violence”. From what Singer writes on how we ought to treat animals, it seems that we have good reasons to think that the impartial observer in Scenario B—the one with the human torturer—ought to act to restrain the torturer to protect the kitten and future kittens that may fall prey to his urge to torture them. However, Scenario C with the wolf torturing a kitten similarly we are left to ask ourselves how Singer can act as if the two scenarios are different in some moral sense. The human torturer, as I mentioned, has an urge to torture the cat, and he cannot be enlightened to change his mind. Suppose, for simplicity’s sake, that he is somehow deficient in some part of his brain. The only difference in Doctor Jekyll-Hyde’s general interests from another human being is his urge to kill kittens. There is no spillover or anything like that; it is just this simple urge that will only result in the suffering and death of kittens. Likewise, we cannot expect to talk the wolf into having a carrot instead of mauling the kitten. It seems that there is one apparent avenue of escape that will enable the impartial observer to intervene in the case of the human but abstain from intervention in the case of the wolf: Speciesism. However, this cannot be an acceptable answer since Singer himself strongly lays the foundation for why it is impermissible to refer to an entity as belonging to one species or another as morally relevant.

One possible answer, which Singer alludes to when he defends his conclusion that vegetarianism is a moral obligation, is the *need* for a creature to eat meat to survive. However, utilitarianism does not present us with rights, but only the consideration of

our interests in the scheme of total utility (which may of course result in practical rights based in this utility, depending on the utilitarian). Singer rejects the idea that there is any right to life, other than what we can derive from utilitarian principles. That is, just because the wolf will die if it does not eat meat (assuming that this is indeed the case) still does not provide a utilitarian with a failsafe defense of the wolf. We may admit that the wolf has a greater interest, but in the practical arguments against animal husbandry, Singer points out that there is an inefficient transmission of energy from the consumption of meat (Singer, 2009: p. 167). That means that in order for a meat-eater to receive sufficient energy from its food, it must eat a number of prey significantly larger, by weight, than itself. Thus this is not just letting *one* kitten die so that one wolf lives, but allowing many kittens to die so that a single wolf lives.

The existence of predators can hardly be questioned, nor would anyone suggest that predators in the wild are capable of reflection of the principle of equal consideration of interests and conclude that they must not kill prey. One way of solving this problem is if predators, wolves in this example, should be thought of as humans incapable of reason and whatever higher faculties enable us to act morally, then they ought to be treated similarly. A deranged human with rudimentary intelligence who may hurt other creatures will not be allowed to “torture” humans and animals unmolested. If we establish a society according to the rough sketches Singer provides us with, it seems impossible to not act to restrain someone who does not act with moral restraint and who hurts and kills animals—which in this society is much more serious than in ours—but would somehow need to be stopped. But how then should the problem of animal suffering caused by animals be addressed?

Here, two fairly impractical though not impossible solutions seem to present themselves, and neither of which seems to be seriously addressed by Singer. If we gather up all the predators—that is, all animals that cause there to be a negative result of utility by the pursuit of their interests—and place them in internment camps where they are allowed to live and breed. But keeping predators fed and protected would certainly lead to overpopulation. That leads us to the second possibility. In the most humane manner possible, these interned predators might be sterilized so there will be no more

unjustified killing. I admit that these two rough solutions to the utilitarian world that strives to maximize utility may not be altogether appealing. However, the fact remains that without speciesism it seems impossible for a utilitarian to truly include animals' interests without radical solutions that will involve restricting not only the freedom of humans to make animals suffer, but also restrict animals from making other animals suffer. While the existence of predators is not a problem which Singer focuses on, it seems that if he hypothetically reaches all the goals that he has set out to reach, it would be impossible to not consider the problem of predatory animals.

At this time, I admit, the phrase "the problem of predatory animals" may seem like an exaggeration. After all, since when are animal rights concerned with how animals treat each other? However, to ignore this problem would require us to accept that speciesism—which Singer considers indefensible in the same way as racism—is not unjustifiable. There can be no inherent value in keeping a particular species of animal from extinction since a species does not have any morally relevant interests as a whole. But if the Singerian utilitarian chooses to ignore the issue of predators—who are surely only less murderous by degree compared to the meat industry—then the utilitarian must surrender the case of speciesism as a foundational argument in favor of animal rights. Therefore, a Singerian utilitarian should have to explain in what way suffering caused by predators and humans differ without making speciesist rationalizations.

The most likely explanatory candidate is the argument from helplessness, that is, a predatory animal cannot choose not to kill and that this interest is very different from how a human would be able to act. A wolf simply does not have the capability to change its preferences the way a human can. The dangerous aspect of answering this question of why animals should not be regulated while humans should is that it risks providing the argument for there being a substantive, morally relevant difference<sup>4</sup>. If we say for example that humans have a free will while animals do not, then can this not infer that there is really a significant enough difference that sets humans apart from animals, one which Singer maintains does not exist? A child, similarly unable to reason,

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<sup>4</sup> That is, if humans have a potentiality for being radically different in their actions, one could argue that this is relevant in the evaluation of moral standing. Of course, not if we follow Singer's method of grounding our moral relevancy in pain.

might torture and kill animals, yet is this then a perfectly fine thing to allow because the child cannot make the moral judgments that an adult can? That would seem to run counter to the spirit of utilitarianism's stress on consequential utility rather than the motivation of individual actors.

One difficulty of assessing utilitarianism is that it is something of a wet soap that cannot be easily caught and evaluated. The simplest answer to the question should perhaps not be that wolves have to kill, but that any effort to "play God" would have such a terrible impact that it would have consequences that would seriously lower overall utility. This utilitarian backdoor makes it difficult for a non-utilitarian to make the case against utilitarianism, which I assume some might see as a convincing argument in its favor. However, to say that wolves must be allowed to hurt other animals because it is, though singularly horrific, positive on the whole, does present us with some difficulty in making utilitarian assessments. For example, was Stalin—overall—a "bad" man in utilitarian terms? It becomes a matter for historians to post fact examine the utility of his decisions and how they impacted the Soviet Union and the world. Indeed, people can have very different interpretations on Stalin<sup>5</sup> which shows the difficulty in how we are practically able to examine decisions and events decades later. If the answer to the problem of the wolves killing other animals is that we have to accept it in the great scheme of total utility, then that too can certainly be used in almost any setting. If we imagine for a moment that the Third Reich would have survived and become an Aryan paradise, then perhaps we would be discussing the Holocaust the way people today can rationalize Stalin's reign as perhaps "decadent" or nasty, but not really that bad since it somehow helped pave the way for some kind of Nazi wonderland where preferences are satisfied to a much, much greater extent than they are in this timeline.

I am of course not claiming that utilitarians are Nazis, but I believe that this absurd example at least points to the problem of defending animal violence with potential greater diminishes in utility<sup>6</sup>. After all, if we imagine there to be a "goddess of utility"

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<sup>5</sup> See for example the Bloomberg story on the curiously different opinions held by Dmitry Medvedev and Vladimir Putin: <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aKSSZY3Kl7fl>

<sup>6</sup> I suspect that a utilitarian could quite readily defend his opposition to Nazism, but that is not my point. My point is that it is not unreasonable to suggest that in 1939, 1940, and so on, it would be difficult to

which keeps track of the total utility in the world, then surely humans cannot expect to know the complete measure of utility she is required to keep track of.

While I certainly do not expect Singer to demand that animals are competent to be expected to police morality, that still does not mean that a utilitarian can let them snuff out the lives of other creatures if all interests are intended to be considered equally. The same reasoning for demanding vegetarianism for humans could be used for concluding that predators ought to be (humanely) exterminated. Despite not being capable of telling right from wrong, we would still have a duty<sup>7</sup> to protect the interests of potential victims<sup>8</sup> that will suffer, and the number of required prey would outweigh the number of predators. So even if the singular predator's interests may outweigh a singular prey, the accumulated interests of prey would surely amount to a more sizeable total intensity of interests than those of the predators. Singer briefly touches on the subject of policing predators and answers that (2009: p. 226): "The short and simple answer is that once we give up our claim to 'dominion' over the other species we should stop interfering with them at all. We should leave them alone as much as we possibly can. Having given up the role of tyrant, we should not try to play God either." In addition to this curious call for non-intervention to protect the interests of animals, he adds "We do *enough* if we eliminate our own unnecessary killing and cruelty towards animals." (Emphasis added. Singer, 2009: p. 226) Here it seems that Singer may not be a utilitarian but rather more concerned with on whose conscience those deaths fall, or in some other way capable of saying that animal suffering is wrong only when there is a particular "torturer" as my scenarios involving Doctor Jekyll-Hyde and the wolf show.

If the wolf torturing the kitten is not a moral problem, then someone like Doctor Jekyll-Hyde ought not appear morally problematic, *unless* we adopt a speciesist attitude (or a

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explain how opposing Hitler could be a safe thing to do, given that total utility is a very difficult thing to even begin to calculate. And in some way, it is impossible since we do not have access to the alternative world where Hitlerite Germany prevails and perhaps conquers the world. The ignorance could certainly be a problem, particularly for determining the morality of future actions.

<sup>7</sup> After all, if no one has a duty to uphold normative morality, then what point is there in having such a code in the first place?

<sup>8</sup> Potential here in that to deny that a predator will kill prey if it lives in the future would be a banal thing to claim. It is not hypothetical to presume that carnivores will eat meat if they keep living, and thus help work up the total suffering in the world, which is counter to the goal of a utilitarian.

non-utilitarian system of ethics), such as one which holds moral virtues as a mark of humans and only applicable to them, but then it seems that the wrongness of suffering has been replaced by a system of ethics that focuses on the motivation of the agent of the deed (i.e., the good doctor) rather than the suffering of the object (the kitten), which is not what Singer (or a conventional utilitarian) is arguing for.

Another possible argument—that human interference in the animal kingdom—has had adverse effects to ecosystems seems to be one that risks destroy the kind of application of utilitarianism which Singer calls for. After all, we cannot foresee the consequences of humanitarian action with regards to people, nor military intervention such as that to contain and ultimately contribute to destroy Hitlerism in Germany (a utilitarian case against stopping Hitler would certainly not have seemed entirely inconceivable at the time). Singer's appeal to utilitarian ignorance in the case of animals in the wild seems quite contrary to his general reasoning in *Practical Ethics* and could easily be used to conclude that utilitarianism overall favors an attitude of laissez-faire since we are too ignorant to actually know the possible side effects of acting. Even though this does not validate the human exploitation of animals, it seems that to escape the policing of the morality of Singerian utilitarianism becomes rather arbitrary with regards to when animal suffering is a moral problem if the wild is kept un-policed. While Singer would have no trouble to accept that a potential killer on his way to kill ten other people can justifiably be killed if that is the only way to stop him, he does not seem to accept the same conclusion with regards to wolves. Even if wolves require meat to sustain themselves, then by what right is this requirement used to validate the suffering of many other animals to sustain them? Is it not speciesism to favor the lives of predators over their prey? I doubt many kittens would—if indeed we could have such a conversation—approve of this defense of a wolf's right to kill and consume them, and I suspect that we cannot, unless we accept speciesism, which Singer uses to validate his strong claims of the rights of animals to equal consideration without prejudice<sup>9</sup>. This is

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<sup>9</sup> After all, Singer cannot claim that conservationist efforts to protect animals such as wolves from being extinct is justified by any other concern than suffering, yet we can easily defend the eradication—not necessarily through killing—of wolves as a species and other natural Doctor Jekyll-Hydes with his idea of equal consideration of interests. We are merely acting in solidarity with their prey, just as someone might fight a murderous human regime on humanitarian grounds by killing the agents of that regime.

a serious problem that requires serious attention and cannot be treated flippantly and dismissed as a malignant objection. Are not wolves eating kittens simply—by degree—just as problematic as humans eating other animals? And if so, I cannot see how this cannot have serious implications in moral obligations, given that the moral obligation is to consider total world utility and act to promote it.

### **2.7. A Brief Summary of Singer's Problem of Policing**

Singer's argument is the difficulty in which allowing animals to violate the interests of other animals would demand radical action to protect some animals from those who cannot and will not respect their interests. We cannot be asked to accept a creature's destruction based on reasons that we have established are not defensible. If speciesism is wrong, then it is wrong to let animals kill animals simply because they are animals. It would be ironic if the theory would at first empty the world's cages of farm animals only to replace them with gargantuan concentration camps for interning the predators of the world and turning the world into a great system of zoological concentration camps where animals are kept from whatever murder, rape, theft, and other violations of each other they may attempt to commit if not kept under watch.

## **3. Reganite Deontology**

Tom Regan's *The Case for Animal Rights* (first published in 1983) is a carefully written suggestion made on behalf of extending rights to include not only humans but animals as holding certain inherent rights of existence. In Regan's case, he presents a deontological case grounded in Kantian reasoning, but without autonomy as the defining property for bearing intrinsic moral value. While Immanuel Kant rejected the moral value of animals, Tom Regan insists on it. I will call this theory Reganite deontology.

### **3.1 The Subject-of-a-life**

Regan's case as laid out particularly in *The Case for Animal Rights* is that because animals can feel pain and are conscious, they have inherent moral value. He makes the case that while we do not have access to the mental states of animals, what we can infer

leads us to assume that they have consciousness and desires. I believe the gist of his argument can be summarized as follows:

1. All humans have certain inalienable rights because they are conscious, have desires, can experience pain, have memories, have perception of the world, they see themselves as existing over time, and so forth<sup>10</sup>.
2. Because many animals have the same kind of mental states that all humans have, they too have inalienable rights.

In addition to this, Regan claims the high ground as his theory seems to be more in line with how people reason. That is, we talk and act as if we admit that animals have interests and that this is the common sense position that needs to face a rigorous case to give way to an alternative.

So far, Regan and Singer are superficially not that different. In Regan's case, the animals have rights, and in Singer's case the animals have a "right" to have their interests taken into consideration. Regan provides a more detailed case against the opponent that denies this morally meaningful similarity between humans and animals. In fact, his *The Case for Animal Rights* (hereafter Regan, 2004) considers many different possible theories of morality and show with some detail how he believes any moral theory has to come together and how his does the job while for example the theories of Rawls, Kant, and Singer are wrong. While Singer offers a brief rebuttal to Descartes<sup>11</sup>, Regan examines the Cartesian case before he reaches the conclusion that unless a simple and explanatory theory can prove that animals differ in a morally significant way from humans, it should be assumed that animals have the same kind of mental states and that the difference in cognition and the experience of the world is a difference in degrees only. Let us now look at the fundamental argument underlying Regan's claim that (some) animals have moral rights.

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<sup>10</sup> I do not wish to go into too much detail here as to how and why these properties count towards making a creature a moral patient.

<sup>11</sup> That is not to say that Singer is a bad philosopher, but Regan carefully presents his "homework" and explains why he believes that ideas such as "animals as automata" should be rejected rather than reject the argument seemingly in passing.

### 3.2. The Cumulative Argument

Let me start by quoting the cumulative argument Regan presents:

1. The attribution of consciousness to certain animals is part of the commonsense [*sic*] view of the world; attempts to discredit this belief, if Descartes's attempt is taken as illustrative, have proven to lack adequate justification.
2. The attribution of consciousness to certain animals is in harmony with the ordinary use of language; attempts to reform or replace this way of speaking, as the experiment of Hebb and his associates illustrates, also have proven to lack adequate justification.
3. The attribution of consciousness to animals does not imply or assume that animals have immortal (immaterial) souls and thus can be made and defended independently of religious convictions about life after death.
4. How animals behave is consistent with viewing them as conscious.
5. An evolutionary understanding of consciousness provides a theoretical basis for attributing awareness to animals other than human beings. (Regan, 2004: p. 28)

What this means is essentially that the burden of proof, i.e., the one claiming that animals are not conscious, self-aware, or otherwise worthy of consideration while all humans are, needs to provide evidence why we are wrong in assigning consciousness in animals. He posits that this is the simplest explanation that is in line with what we know about animals and that it is therefore natural that it be assumed. He goes into some detail defending this argument, but I do not think it is necessary to provide more detailed reasoning here. The point I want to bring out here is that the way we talk about animals as having interests and desires beyond simple Cartesian mechanics seems to be reasonable, their behavior can be complex and similar to humans in that they can at least make some sequential plans, and our evolutionary kinship makes it probable that our cognitive, emotional, and sensory abilities are different by degree rather than kind.

Again, I will here accept all his reasoning for the purpose of this paper and consider the cumulative argument as a sound argument.

Regan holds consciousness to be important to understanding the concept of rights. If he does not stop at some basic criterion for being a subject-of-a-life then he cannot distinguish between having a duty not to kill pigs while we have no similar obligation to treat insects and bugs as if they had rights and again his reasoning on "drawing the line"

is not that different from Singer's. He summarizes the subject-of-a-life (which is the bearer of moral rights) as:

“To be the subject-of-a-life is to be an individual whose life is characterized by those features explored in the opening chapters of the present work: that is, individuals are subjects-of-a-life if they have beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference- and welfare-interests, the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them...” (Regan, 2004: 243).

These have what he calls “inherent value” and from a number of principles he presents throughout his case, he shows some of the implications and deals with potential conflicts of the rights derived from this subjecthood.

### **3.3. Moral Patients and Moral Agents**

After establishing that the moral theories at disposal are speciesist in their determination of which creatures are given direct moral rights, he presents a detailed account of how a moral patient—that is, a creature that is the subject-of-a-life yet is amoral in its behavior—has certain rights that are absolute. In Kantian manner, he rejects that they ever be considered as means but rather that all animals—given that they have a sense of self, a sense of future existence, etc.—are ends in themselves which is derived from what Regan calls preference autonomy (Regan, 2004: p. 85). These are the moral patients, yet there are moral agents too. These, Regan explains, are those who are autonomous in the Kantian sense and thus have a duty to act according to moral principle, and he considers the criterion for being a moral agent to be the ability of considering impartial, moral principles (Regan, 2004: 3.1.).

With the concept of the moral patient—a mammal, a very young child, a mentally challenged human, and so forth—and a moral agent—one who is capable of thinking in impartial terms—we can now consider Regan's approach to our kitten and its torturers.

### **3.4. A Kitten Tortured II**

Recall the scenarios presented above. Regan would dismiss the restaurant example regardless of the utility while Singer would—presumably—agree that that isolated

event cannot be as easily said to be wrong. According to Regan, the kitten has a right to life that is absolute and can only be trumped if it would be in a direct conflict with another being's right to life (Tom Regan, 2004: 8.7) or is otherwise in the kitten's interest in its capacity as an end (Tom Regan, 2004: 3.7). Regan's answer to the restaurant example is thus that it is wrong, because to kill the kitten and eat it is to use it as a means to someone else's end.

Let us now look at the kitten and Doctor Jekyll-Hyde and compare it to the case with the wolf. If the kitten is taken to be a subject-of-a-life<sup>12</sup>, then it seems quite cruel to say that it's all fine and dandy if it gets torn to bits and eaten by a wolf while it is a crime against its most fundamental right when Doctor Jekyll-Hyde does it. While we may not judge the wolf immoral<sup>13</sup>, the same right, by the same ferocious disregard for the poor kitten, has been taken by another actor.

Regan does go into detail to describe that rights are not just universal (Regan, 2004: 8.1.) but he also considers the principle of respect to mean that the interests of a subject-of-a-life is an important duty to all moral agents. As such, contrary to Kant, all are owed the direct duty to be treated with respect; and as such, again contrary to Kant, all have an equal right to such treatment (Regan 2003: p. 82). The defense Regan does seem to offer is that rights are closely linked to duty, since someone else must have a duty to respect a right for there to be a right in the first place. A moral patient thus only has rights to the extent that there are moral agents to have a duty to respect those rights. However, this opens up a troubling possibility for Regan which I will illustrate with a slightly different scenario:

Ms. Weiner is out walking with her young child when suddenly—out of nowhere—a frenzied chimp jumps out and attacks the child. Now, remember, children and animals are moral patients, which means that their actions are neither right nor wrong in a moral sense. However, keeping her composure and reason in command, Ms. Weiner—a moral and thoughtful person—who happens to carry a mallet in her free hand deduces that the only way to save the child's life is by a swift, accurate blow to the chimp's head with

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<sup>12</sup> Which it is, since "kitten" here is just a generic mammal that fulfills Regan's criteria as presented in 3.2. above.

<sup>13</sup> If we assume that wolves are not to be considered moral agents.

said mallet. After a moment's consideration, she bashes the chimp's skull swiftly and efficiently. Has she done anything wrong? She intervened to save one moral patient from another, yet is she—considered by Reganite deontology—guilty of wrongdoing? The possible defense here is to claim that intervention would be fine under the worse-off principle (Regan, 2004: 8.10) as well as the exceptions to the no harm principle (Regan, 2004: 8.7) yet how can he effectively claim that this example would in any way be different from the example with the wolf—another moral patient—killing another moral patient—the kitten? And better still, suppose that Ms. Weiner's child is not even the subject-of-a-life but a toddler—that is, perhaps not even a moral patient<sup>14</sup>. A utilitarian like Singer would probably not have to reflect all that much over the example in question, yet in Regan's case it seems hard to claim that we have a right to kill one moral patient to save another from harm in one case, but not in one that overall seems very similar, if not to say *entirely* similar in every morally significant respect.

Here, Regan's worse-off principle<sup>15</sup> might perhaps be interpreted as the wolf needing to eat the kitten or else it will die, but suppose the same wolf would be the moral patient that attempts to eat Ms. Weiner's child. Should she then be asked by morality to just keep on walking rather than to do what is needed—to kill the wolf—in order to save the child from harm? Just as the wolf does not have to use Ms. Weiner's child to satisfy its hunger, it does not need to torture the individual kitten out in the wild either. Thus both kitten and child are essentially just as necessary to eat from the wolf's side of looking at things. If it *must* kill, then how can we justify it killing one moral patient but not another? After all, Regan explicitly forbids the use of side effects (Regan, 2004: 8.11) to justify the actions of moral agents, and so it seems that he will either have to say that it is *wrong* for Ms. Weiner to save her child, or that it is right for us to stop wolves from killing other subjects-of-a-life as well.

I am not sure that Regan can provide a satisfying answer to point to the distinct difference between the scenario with the wolf attacking the kitten and the scenario with

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<sup>14</sup> As described above in 3.2.

<sup>15</sup> The worse-off principle is Regan's way of getting past situations where the same rights collide. For example, if we are forced to choose between saving the life of a single human or a single dog, the human has a stronger claim. However, this principle is very restrictive and should not be confused as utilitarian. It simply explains why we should save  $X + 1$  lives (everything being equal) rather than  $X$  lives.

the same wolf—with the same motivation—attacking Ms. Weiner’s child without somehow invoking principles which his theory attempts to forbid. While Singerian utilitarians can say that the horror of the family and society can be aggregated and provide a moral justification for Ms. Weiner’s actions while denying any similar interests in the case of the kitten, Regan explicitly bans these kinds of justifications (Regan, 2004: 8.11) and demands that we consider all moral objects as not only means, but ends (Regan, 2004: 7.6). One possible objection here is that Ms. Weiner has a special obligation towards her child, but then we could easily consider a scenario with a wolf attacking the lone child of a stranger. Surely, we can consider Ms. Weiner to be equally right to intervene there as well. If not, then it seems that Regan’s reliance on intuitions after careful consideration (Regan, 2004: 4.3) leaves him with a significant question mark. As much as I try, I cannot find that the justified infringements of rights he has presented could not be interpreted into becoming an obligation to protect the interests of animals out in the wild, or at least make hunting predators completely legitimate in moral terms.

If we should allow then for Ms. Weiner to be considered to have a duty to protect human moral patients from harm from other moral patients, then how can we draw the line between “society” and the “wild” or some other arbitrary border of the moral realm without using defenses such as speciesism or side-effects? Regan here stands, as far as I interpret his writings, at an impasse, as long as he does not accept some tenets of speciesism or adds some other principle that could otherwise justify this division between a moral realm where we are obliged to protect the interests of moral patients and one where moral patients may freely slaughter one another without any implication that moral agents need to prevent this denial of rights.

One possible way of looking at the problem of these rights is to look at what rights are supposed to entail. Overall, Regan is concerned with negative rights, rights that are meant to defend bodily integrity rather than rights that promote welfare. However, Regan clearly does not accept rights to be grounded solely on the negative side. He supposes (Regan, 2004: 3.3) that there are certain positive rights tied to a creature’s welfare. For example education (for humans) which might be reasonable, but I cannot

help but think that the formulation of positive rights leads to possible obstacles in our dealings with animals. If there is a moral duty of a human being to actively contribute to human welfare, such as by paying taxes that fund education, healthcare, and may require him to restrict his own preferences because of these rights of others, then can this duty not reasonably be suspected to also make demands with regards to animals? I am not trying to suggest that Regan claims that cats ought to be sent to schools or that deer be eligible to apply for college grants, but if there is a duty to further the basic welfare interests of moral patients, then as fundamental an interest as survival seems to be a very basic requirement.

Just as the kitten suffers when it is tortured by a human, so it suffers if it is tortured by an animal. The animal may not have a moral obligation to not be cruel, true, but then what does the right mean? Regan touches on moral policing in the wild:

“The wolves who eat the caribou do no moral wrong, though the harm they cause is real enough. So it is that, according to the rights view, the overarching goal of wildlife management should not be to insure [sic] maximum sustainable yield; it should be to protect wild animals from those who would violate their rights—namely, sport hunters and trappers, commercial developers who destroy or despoil their natural habitat in the name of economic interest and the like. *It is, in short, human wrongs that need managing, not the ‘crop’ of animals [...]* wildlife managers should be principally concerned with *letting animals be.*”(Emphasis in original. Regan, 2004: p. 357).

Like Singer’s suggestion that the moral problem is that human interference with animals is problematic while animal interference is not, this curious case deserves some attention. It should be remembered here that Regan’s theory to a large extent relies on intuitions. That is, the reason why animals are moral patients in the first place is based on the commonsense intuition that they have moral value. Here, however, we are presented with a quandary. According to Regan, it is of no moral import that an animal suffers and is killed, as long as it is the work of another animal. While I did accept both Regan’s and Singer’s arguments at the outset, I am here forced to ask whether Regan can propose that rights can only be violated by someone who is competent to know that he is violating them. If we accept that animals have rights, then what is it that we accept? That adult, morally competent humans cannot hurt them? In effect, this is

similar to saying that the suffering in the Holocaust<sup>16</sup> was bad, not because of the gas chambers and shootings but because of who engineered it, and that if instead of Nazis they had been a species of intelligent animals, there would be absolutely no moral dimension to that suffering.

There is an inverse suggestion to the radical utilitarian solution to predators I mentioned above. Regan points out that animals have interests, among these being the interest to live (Regan, 2004: 3.2) and that sometimes we are forced to overrule one interest to satisfy another, such as by holding an animal down to remove a thorn in its paw since that slight discomfort is in its best interest. However, what if we then, to protect the fundamental interest of our kittens to live, ought to place them in confinement to protect them from predators. The ends being that we protect them from the hungry wolves (and doctors) who may try to kill them. Even if the confinement would lead to some inconvenience, we are acting in their interests. Indeed, if they had the right knowledge about the world, they might beg to be kept safely away from the predators out in the wild.

The difficulty for Regan is that the rights that he suggests are not solely rights *from* interference. Like human children can be forced to go to school against their will (indeed, it may even be the duty of moral agents to do so), animals thus might have similar claims on the moral community which they simply just do not know about (such as protection from predators). Though I try, I cannot see the sharp line that allows Regan to separate animals into just having negative rights without hinting that there is a greater division between “society” and the “wild” than which he describes. If we have an obligation to satisfy basic needs of human moral patients, then why is there not an analogous obligation towards animal moral patients? Again, I do not try to equate the two completely, yet the interest of a human child is—according to Regan—of the same *kind* as that of an animal moral patient. And so, if there is a moral obligation to give the slightest aid to the welfare of an orphaned, mentally-handicapped baby, then it would be strange to suggest that there is absolutely no obligation whatsoever towards the welfare

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<sup>16</sup> I apologize for the Nazi reference, but it is a well-known example and, I believe illustrates my point. I am not implying that Regan would not care if animals were slaughtering people, only that his theory seems to be in danger of violating the intuition that the suffering is an integral part of the wrongness.

an animal moral patient. Regan seems to qualify violations of rights primarily depending on *who* is violating them rather than what right is being violated.

#### 4. Final Discussion and Concluding Remarks

When it comes to policing morality, which I believe both theories to be in favor of since they assume that there is some kind of agency that is meant to protect the interests/rights of those that have them. From my brief—perhaps too brief—presentation here of parts of the reasoning behind the two theories, I attempted to extrapolate how they would justify allowing animals to kill other animals. I will admit that utilitarianism is a bit more slippery to investigate since it does not provide the same complex network of principles that a deontological theory like Regan's has. Regan accounts for plenty of moving parts, and, just as in any machinery, I have found a possible defect in his treatment of how he may justify the violation of rights in one case but not in another, even though both seem to be morally equivalent. From my understanding of his theory, it is hard to find a justification for one of the cases and not the other.

Singer's suggestion that humans not "play God" does not strike me as particularly good since this generic objection seems to be just as easily applied to just about any moral philosopher who proposes that people should act or think radically different, including him.

The results of this brief look at the two theories is perhaps not optimal because it is a question that I suspect both Regan and Singer would not think is particularly central to their reasoning about animals and morality. Maybe that is a fair point. However, if animals are supposed to be measured as humans with regards to rights/interests, it would seem that there is an important question to consider. Regan provides a much more complete examination of the implications of his theory and it is, I believe, much more vulnerable, given that it is a deontological theory and so carefully presented with plenty of potential soft spots.

While both theories attempt to present a case that is meant to treat the interests/rights of animals as being of the same kind as those of humans, I am not sure that Singer does so effectively. If it is the case that animals fall under the scope of morality, then removing

human obligations from treating animals somewhere far off in the wild as if they were of no moral concern seems rather speciesist, particularly if we have some kind of moral obligation to humans in, say, Ethiopia. After all, saving children from starvation might not be all that different from playing God and could have just as many unforeseeable consequences.

I never presumed that I would refute any of the two theories, nor can I say that that was my intention. I was curious as to how the two theories, if in any way, differentiated between violence between animals and violence between humans and animals. I believe that if Regan cannot explain why a human is right to kill the wolf that is about to kill a human child while the impartial observer should not do the same to save the kitten, which I am not sure he can do without allowing utilitarian aggregation, then I believe his theory has a serious problem of being speciesist. As to Singer's theory, I suppose he could provide some vague justification that the damage to the ecosystem might be worse than the benefit to the animals, but it seems that if he refuses to at least admit that this is a problem—by which I do not mean that on the basis of this pickle he should admit that his utilitarianism should be completely discarded—I think he may risk to admit some kind of speciesist attitude towards when suffering matters.

I do not think that the question of whether we should stop a wolf from torturing a kitten is a significant problem for a utilitarian. Rather, I believe the problem is his answer. If he answers, as I have suggested he may, that it is necessary to allow predators to exist because of the dangers of radically altering the wildlife, then that appeal to the greater scheme of things could be used against the utilitarian when he proposes X, Y, and Z. After all, if we cannot see some of the risks of exterminating predators, then is this not a problem for many of the programs that a utilitarian may suggest? Suffering and starvation in Burundi might—on a whole—be better to utility than their being helped. This could, plausibly, make utilitarianism simply a retroactive mode of evaluating decisions and events when sufficient data about alternative outcomes and the real outcome can be sufficiently determined. Thus the actions of world leaders with regards to the genocide in Rwanda could perhaps not be morally judged when it “mattered” but only much later once historians and social scientists can begin to piece together the total

utility involved and consider how alternative actions might have impacted that suffering. With regards to animals, the safest way to know how the extermination of wolves would impact the world and utility would thus be to first destroy them and then wait for the results to come in and allow for future generations to see if it was the moral thing to do or not. The implication of the answer to the question of whether there is a moral obligation to destroy animals to save other animals can thus be of great import to the whole utilitarian model for how we are meant to determine the total utilitarian calculus.

I believe that this kind of utilitarian “backdoors” might just force the utilitarian to give his opponents similar backdoors if he would ever attempt to use utilitarian principles to demand action and has the potential of not destroying utilitarianism, but turning it into a theory that can determine (almost) nothing without waiting for the empirical grounds to make a decision of moral evaluation. The theory thus could not answer “*is* it right to do/not do X?” but almost exclusively “*was* it right to do/not do X?” So the question might be “*did* the observer have an obligation to stop the wolf?” which may not be a very good way of providing a system of applied ethics.

In short, I believe that this is a problem for both theories, not an epic theory-decapitating impasse, but a thought that deserves some attention. Though both Regan and Singer prohibit arguments along those lines, they cannot easily defend slaughter of animals at the paws and fangs of other animals without some kind of moral speciesist apartheid or, in Regan’s case, arguments that force us to abandon some intuitive moral positions or, in Singer’s case, arguments that severely weaken the usefulness of utilitarianism as a guide to moral actions.

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