

# The Universality of Human Rights: A Reflection on Human and Non-Human Animal Similarities

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**The Universality of Human Rights: A Reflection on Human and Non-Human Animal Similarities.** While natural rights are typically understood as applying only to humans, there are in fact no suitable criteria which justify such an assumption. Indeed, arguments from marginal cases show that characteristics which are considered innately human are not in fact shared by all humans and can even be identified in some non-human animals. However, if we try to dismiss the issue by implying that the fact of being human is itself a sufficient criterion, the problem of evolutionary theory then arises, with the gradual evolution of the human species suggesting that several different human species coexisted at some point in the past. In order to ensure the universality of human rights, we must draw the line not only in the present but also in the past, and in this context it would seem logical to extend natural rights to non-human animals. However, regardless of the criteria which we apply to this issue, it remains problematic to justify why the ones we have chosen are relevant to the existence of natural rights.

**Keywords:** human rights, animal rights, universality, non-human animals, natural rights, argument from marginal cases, speciesism

## Introduction

People have a tendency to take the superiority of our species for granted and show little inclination to consider the matter further. In line with contemporary thinking on human rights, they may acknowledge that we as humans possess some natural rights, but generally we do not see these rights as applying to the other creatures inhabiting our planet. Increasingly, however, this conventional wisdom is being challenged, and many are advocating for a greater sense of compassion for other living creatures. Recent decades have also seen some quite fundamental debates in moral philosophy that have helped to transform how we as humans relate to non-human animals, and these discussions have also contributed to changes in our perception of the concept of human rights in its moral sense. On the basis of these considerations, we may reach the conclusion that it seems logically inconsistent to accept the existence of the natural rights of humans but to refuse to extend these rights to non-human animals.

## Law and Morality

The issue of the justification of universal human rights can be seen largely as an applied problem of the justification of moral values. We can, of course, accept human

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rights not because they are morally right but because they are enshrined in legal orders, but this approach renders these rights as positive rights, thereby negating their universality.<sup>1</sup>

In my opinion, there is no reason to discuss the content of human rights unless we can identify a firm basis on which to justify their existence.<sup>2</sup> Without these grounds, our reasoning on the wider issue would be similar to that of theologians attempting to interpret God's will despite the fact that the very existence of God himself is still open to question. The universality of human rights means that their justification must be extra-legal, for the declaration of their existence in a legally binding regulation is not dispositive in this regard. I take the same approach to the question of animal rights; I do not intend to discuss which specific natural rights non-human animals possess, because that is an afterthought. The first step, in my opinion, is the actual justification for why they should have any natural rights at all.

I am aware of the potential inconsistency between the content of certain human rights; for example, some see sexual freedom as a human right, while others believe that this is incompatible with their right for the protection of Christian values. For this reason, the criticism of the concept of human rights offered here is not based on ideological positions. The main focus is on the justification of the concept of human rights, with the topic of their actual content remaining a corollary concern.

At the same time, I am also conscious that even the concept of human rights itself has many different interpretations. Therefore, when I talk about human rights, I am not referring to "positivised" human rights but to human rights in a moral sense – the universal rights that all people possess (according to their proponents) by virtue of being human.<sup>3</sup> In the article I term *human rights proponents* as those who believe in the existence of those very rights, but this does not include the proponents of a pragmatic approach to human rights, such as Daniel Dennett<sup>4</sup> or Tomas Sobek,<sup>5</sup> who, while

<sup>1</sup> Hans Kelsen claims that in the event that positive law itself delegates certain meta-legal norms (ethical norms, the principle of justice, etc.), the transformation of these norms into positive legal norms would occur. KELSEN, H.: *Pure Theory of Law*. Berkeley: University of California Press, 1978, p. 354.

<sup>2</sup> I realise that there are different views on whether we can have rational normative-ethical debates if we take a non-cognitivist stance in metaethics.

<sup>3</sup> "However, it seems to me that the key characteristics of these rights are their universality and the proposition that a person has them (in some seemingly quite mysterious way) by virtue of being a person. The two are closely related, since it is that thesis which is capable of establishing their universal dimension." HAPLA, M.: *Lidská práva bez metafyziky: Legitimita v (post)moderní době*. Brno: Právnická fakulta Masarykovy univerzity, 2016, pp. 41-42.

<sup>4</sup> "Bentham once rudely dismissed the doctrine of 'natural and imprescriptible rights' as 'nonsense upon stilts' and we might now reply that perhaps he was right; perhaps talk of rights is nonsense upon stilts, but good nonsense — and good only because it is on stilts, only because it happens to have the 'political' power to keep rising above the meta-reflections, not indefinitely, but usually 'high enough,' to reassert itself as a compelling — that is, conversation-stopping—"first principle.'" DENNETT, D. C.: *The Moral First Aid Manual: The Tanner Lectures on Human Values*. University of Michigan, Ann Arbor, 1988, p. 142.

<sup>5</sup> "It can be very tempting to scoff at the naivety of contemporary human rights proponents who regard their personal sentiments [...] as objective truths of universal validity. But we should not forget that without such a belief, the concept of human rights could not function well. Justificatory references to the 'metaphysically solid foundation' of human rights may hardly satisfy the analytically perceptive skeptic, but in practical terms

acknowledging that a belief in human rights can be useful in some respects, still do not believe in their existence.

Before entering into the main argument, I would also like to clarify two more concepts which will be discussed in the article. The first is that of the *non-human animal*, which will be understood as all animals except humans. The second term is natural rights, which includes the universal rights of all creatures; the moral considerations of these rights are dependent on whether they are extended to humans (*human rights*), non-human animals (*animal rights*) or other entities.

## Pain as a Decisive Criterion

### Consideration and Treatment

We should perhaps start by determining the criteria which are to be considered crucial for inclusion in moral considerations. Two approaches could be distinguished here. Firstly, the capacity to feel pain is typically seen as a guiding principle. If a being can feel pain, then it can be included in moral considerations. This line of thinking can be termed hedonistic,<sup>6</sup> and the utilitarian philosopher Jeremy Bentham was an important proponent of the approach. Bentham argued that it was not important whether a being can think or speak; what is important is whether it can suffer.<sup>7</sup> Bentham saw a clear equivalence between the suffering of animals and humans because all creatures can experience pain. However, the second approach to the issue suggests that other criteria must be fulfilled. The libertarian thinker Murray Rothbard, who famously said that he would recognise the rights of animals as soon as they claimed them, can be considered as a proponent of this approach.<sup>8</sup>

The French philosopher René Descartes came up with the idea of the animal as a machine (*bête machine*) that lacks the capacity for language and cannot think.<sup>9</sup> According to some interpretations of Descartes' philosophy, Descartes concluded that non-human animals were not self-aware and did not feel anything.<sup>10</sup> Although some contemporary scholars have questioned this interpretation of Descartes' thought,<sup>11</sup> the content of the so-called "monstrous thesis" remains a matter of debate.

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they are a proven crutch for the fragile psychology of human [...].” SOBEK, T.: *Právní rozum a morální cit: hodnotové základy právního myšlení*. Praha: Ústav státu a práva AV ČR, 2016, pp. 77-78.

<sup>6</sup> “According to hedonistic theories, a life goes well or badly depending on the extent to which it is characterized by positive or negative mental states—pleasure and pain (broadly construed).” BENATAR, D.: *Better Never to Have Been: The Harm of Coming into Existence*. Oxford: Oxford University Press, 2006, p. 69.

<sup>7</sup> BENTHAM, J.: *An Introduction to the Principles of Morals and Legislation*. Oxford: The Clarendon Press, 1907, p. 311.

<sup>8</sup> ROTHBARD, M. N.: *The Ethics of Liberty*. New York: New York University Press, 1998, p. 155.

<sup>9</sup> COTTINGHAM, J.: ‘A Brute to the Brutes?’: Descartes’ Treatment of Animals. *Philosophy*. 1978, vol. 53, no. 206, p. 556.

<sup>10</sup> “Animals are without feeling or awareness of any kind.” SENCERZ, S.: Descartes on Sensations and Animal Minds. *Philosophical Papers*. 1990, vol. 19, no. 2, p. 119.

<sup>11</sup> COTTINGHAM, J.: ‘A Brute to the Brutes?’: *Descartes’ Treatment of Animals*, p. 556.

The Australian moral philosopher Peter Singer notes that if we examine the issue consistently, we cannot be sure of the capacity to feel pain, even in humans.<sup>12</sup> This thinking is based on the fact that the only pain we can realistically feel is our own, not that of others.<sup>13</sup> Nonetheless, we can infer that other people feel pain, too; they share the same nervous system as our own which presumably produces similar feelings under similar stimuli.<sup>14</sup> According to Singer, this same approach can be extended to determine whether or non-human animals can feel pain,<sup>15</sup> given the likelihood that their nervous systems react similarly to ours when they are in situations that would be painful for us.<sup>16</sup> At the same time, we are aware that animals are not mere automata taught to react artificially to specific stimuli but rather living beings who have been endowed by nature with these qualities.<sup>17</sup>

Singer's philosophy is based on utilitarianism which advocates, among other aspects, the idea that everyone<sup>18</sup> is equally valued.<sup>19</sup> Like Bentham, Singer recognises that non-human animals also count, but this validity has its limits; for example, Singer is not concerned with non-human animals having the right to vote in parliament. He differentiations between extending *consideration* and *treatment* to non-human animals. Every being is different, and non-human animals cannot be granted the right to vote, for example, because they are incapable of doing so.<sup>20</sup> It is, therefore, impossible to give non-human animals equal *treatment*. However, this does not prevent us from granting them equal *consideration* in that we validate the suffering of one being the same as that of another.<sup>21</sup> Singer refers to the prejudicial attitude of preferring members of one's own species over others as speciesism, drawing parallels between this line of thinking and that of racism.<sup>22</sup> He notes that the objections that people may have to racism can also be applied to discrimination on the basis of species.<sup>23</sup>

## No Consideration for Invertebrates

Even if we accept pain as the main criterion, there is still no scientific consensus over which animals can feel pain and which cannot. Perhaps the greatest ambiguity is found in the case of invertebrates. The ability of some flies to continue their normal activities after suffering multiple injuries is difficult to comprehend from the point of view of our

<sup>12</sup> SINGER, P.: *Animal Liberation*. New York: Ecco, 2002, p. 10.

<sup>13</sup> Ibidem.

<sup>14</sup> Ibidem, pp. 10-11.

<sup>15</sup> Ibidem, p. 11.

<sup>16</sup> Ibidem.

<sup>17</sup> Ibidem.

<sup>18</sup> Anyone who we include for certain reasons in moral considerations.

<sup>19</sup> MILL, J. S.: *Utilitarianism*. Chicago: The University of Chicago Press, 1906, p. 93.

<sup>20</sup> SINGER, P.: *Animal Liberation*, p. 2.

<sup>21</sup> Ibidem, p. 8.

<sup>22</sup> "Speciesism is a prejudice or attitude of bias in favor of the interests of members of one's own species and against those of members of other species." Ibidem, p. 6.

<sup>23</sup> Ibidem.

perception of pain.<sup>24</sup> As a result, many scientists who study insects concede that we do not yet know whether insects are capable of feeling pain.<sup>25</sup>

Animals used for scientific purposes are protected by Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 “on the protection of animals used for scientific purposes”. The adoption of this Directive is justified, *inter alia*, by the fact that “new scientific knowledge is available in respect of factors influencing animal welfare as well as the capacity of animals to sense and express pain, suffering, distress and lasting harm”.<sup>26</sup> Vertebrate animals, including mammalian fetuses from the last third of their normal development, self-feeding larval forms and crustaceans all fall within the scope of this Directive.<sup>27</sup> However, cephalopods are also included as “there is scientific evidence of their ability to experience pain, suffering, distress and lasting harm”.<sup>28</sup> Other categories of animals are not protected under this Directive. Non-human primates then have an advantage over other vertebrates due to their genetic similarity to humans and their highly developed social skills.<sup>29</sup> Another piece of legislation protecting non-human animals is Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes, but invertebrates are also excluded from the scope.<sup>30</sup>

Singer accepts that it is very difficult to draw a dividing line between different species, but he considers the ability to experience pain and pleasure to be the most important.<sup>31</sup> If a being is demonstrably incapable of perceiving either of these, then they should not be considered morally relevant to us.<sup>32</sup> Singer makes an exception in the case of beings whose capacity to suffer is questionable – here, he is more inclined to assume the likelihood of their pain for the sake of argument.<sup>33</sup>

However, if we adopt a more consistent approach, we might suggest that the capacity to experience pain is in fact questionable for all animals. We judge pain from an anthropocentric perspective, assuming that similarities in the processes that take place in the bodies of humans and non-human animals can indicate which animals feel pain and which do not. However, might it not be the case that pain is manifested in some non-human animals through an entirely different mechanism than that found in our own bodies? In such a case, we will not be able to make a valid comparison. Ultimately, the issue will depend upon the nature of our default state – that is, whether we want to prove or disprove the ability to feel pain.

<sup>24</sup> EISEMANN, C. H. et al.: Do insects feel pain? — A biological view. *Experientia*. 1984, vol. 40, no. 2, p. 166.

<sup>25</sup> ADAMO, S. A.: Do insects feel pain? A question at the intersection of animal behaviour, philosophy and robotics. *Animal Behaviour*. 2016, vol. 118, p. 78.

<sup>26</sup> Paragraph 6 of the Preamble to Directive 2010/63/EU.

<sup>27</sup> Paragraph 8 of the Preamble and Article 1(3)(a) of Directive 2010/63/EU.

<sup>28</sup> Paragraph 8 of the Preamble and Article 1(3)(b) of Directive 2010/63/EU.

<sup>29</sup> Paragraph 17 of the Preamble and Article 8 of Directive 2010/63/EU.

<sup>30</sup> Article 1(2)(d) of Directive 98/58/EC.

<sup>31</sup> SINGER, P.: *Animal Liberation*, p. 171.

<sup>32</sup> *Ibidem*.

<sup>33</sup> *Ibidem*, p. 174.

## The Rights of Cats and Dogs

The distinction between animals capable and incapable of feeling pain is not the only criterion which has been considered in this issue. The most common pets across the world are cats and dogs, and we can therefore assume that people will display a greater degree of empathy for these two species.<sup>34</sup>

The different perception which humans have towards cats and dogs in comparison to other species is also reflected in Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur and products containing such fur. The regulation is defended on the grounds that European Union citizens consider cats and dogs to be *pet animals* and that the use of their fur or products derived from it is deemed unacceptable.<sup>35</sup>

It is also interesting to note that the lawmakers sought to ensure that only fur from *domestic* cat and dog species would fall within the scope of this regulation. However, according to the preamble to the regulation, it is not scientifically possible to distinguish the fur of the domestic cat from the fur of the European Wildcat, *Felis silvestris*, and therefore the definition of the cat given in the legislation also encompasses *Felis silvestris* and non-domestic cat subspecies.<sup>36</sup>

Many Westerners are critical of some Eastern countries in which certain breeds of dogs are considered as livestock, with their meat forming part of the dietary culture of the local population.<sup>37</sup> As a consequence of the popularity of dogs and cats, large-scale investments are also made in the operation of shelters that strive to ensure the well-being of such privileged animal species.

However, meat consumption is relatively stable throughout the world, and eating habits have not been shaken by the growing trend of alternative diets.<sup>38</sup> This is indicative of a specific kind of speciesism<sup>39</sup> present in society, in which the killing of one kind of animal is condemned while the killing of others is tolerated, even if it takes place in far greater numbers. However, this differential treatment is unrelated to our scientific knowledge of the differing capacities of pain perception or cognitive abilities among different species. Instead, the only basis for this speciesism is the fact that humans have been accustomed to using these animal species as a food source for countless generations.

<sup>34</sup> TAGORE, P.: Man's best friend: global pet ownership and feeding trends. In: *GfK Global* [online]. 22. 11. 2016 [accessed 14. 4. 2018]. Available at: <<https://www.gfk.com/insights/mans-best-friend-global-pet-ownership-and-feeding-trends>>

<sup>35</sup> Paragraph 1 of the Preamble to Regulation No 1523/2007.

<sup>36</sup> Paragraph 2 of the Preamble to Regulation No 1523/2007.

<sup>37</sup> BBC: The countries where people still eat cats and dogs for dinner. *BBC News* [online]. 2017 [accessed 2018-04-14]. Available at: <<https://www.bbc.com/news/newsbeat-39577557>>

<sup>38</sup> OECD: Meat consumption. In: *OECD Data* [online]. 2018 [accessed 14. 4. 2018]. Available at: <<http://data.oecd.org/agroutput/meat-consumption.htm>>

<sup>39</sup> The question here is whether it is really speciesism in the traditional (Singerian) sense if we favour one kind of animal over another kind of animal (i.e., not humans over non-human animals). But I do not think we have a better term for it.

## Better Not to Be Born at All

Some advocates of meat eating have suggested that it is acceptable to eat meat as long as it comes from non-human animals that are raised in good conditions until they die. Advocates of this approach believe that only suffering matters, not lives, and that it is therefore permissible to eat animals that enjoyed humane conditions during their lives;<sup>40</sup> in this approach, the killing of farm animals can be justified since existing is better than not existing at all.<sup>41</sup> If animals exist and are well looked after because of these practices, then this could be seen as a win-win scenario for them, as their lives (and deaths) can be said to benefit not only themselves but ultimately humans as well.<sup>42</sup>

The moral philosopher Jeff McMahan refers to this argument as *benign carnivorism* and highlights several problems with the line of thinking.<sup>43</sup> Firstly, he questions whether existence as such can actually be considered as better than non-existence. While he grants that we can say that it is not wrong to bring animals into the world,<sup>44</sup> the suggestion that existence is *better* for them requires a comparison to be made, and this is not possible in the case of a being that does not exist.<sup>45</sup> No one, McMahan argues, has an interest in existing since interests can only arise in existing.<sup>46</sup>

The moral philosopher David Benatar goes even further, objecting to the assertion that existence is a good in and of itself. Benatar is a proponent of antinatalism, a line of thinking that posits that sentient<sup>47</sup> beings are invariably harmed by being brought into the world.<sup>48</sup> Benatar makes this assertion both empirically, by pointing out the horrors that exist in the world, and through his eponymous “asymmetry argument” which he developed to demonstrate how a scenario in which entity X does not exist has an advantage over a scenario in which X does exist.

Benatar’s asymmetry argument rests on the following four assumptions:<sup>49</sup>

1. The presence of pain is bad.
2. The presence of pleasure is good.
3. The absence of pain is good (even if that good is not enjoyed by anyone).
4. The absence of pleasure is not bad (unless there is somebody for whom this absence is a deprivation).

These assumptions are illustrated in Figure 1.

<sup>40</sup> MCMAHAN, J.: Eating animals the nice way. *Daedalus*. 2008, vol. 137, no. 1, p. 66.

<sup>41</sup> NOZICK, R.: *Anarchy, State, and Utopia*. New York City: Basic Books, 2013, p. 38.

<sup>42</sup> MCMAHAN, J.: *Eating animals the nice way*, p. 67.

<sup>43</sup> *Ibidem*, p. 66.

<sup>44</sup> *Ibidem*, p. 67.

<sup>45</sup> *Ibidem*, pp. 67–68.

<sup>46</sup> *Ibidem*, p. 71.

<sup>47</sup> For Benatar, a sentient being is one that not only exists but is also aware of its existence, including the accompanying suffering. BENATAR, D.: *Better Never to Have Been: The Harm of Coming into Existence*, p. 2.

<sup>48</sup> *Ibidem*.

<sup>49</sup> *Ibidem*, p. 30.



	Scenario A (X exists)	Scenario B (X never exists)	
-	(1) Presence of pain (Bad)	(3) Absence of pain (Good)	+
+	(2) Presence of pleasure (Good)	(4) Absence of pleasure (Not bad)	0

**Figure 1: Graphical representation of Benatar's asymmetry argument<sup>50</sup>**

In scenario A, entity X exists and feels both pleasure and pain. In scenario B, entity X does not exist and thus feels neither pleasure nor pain. While Benatar considers the presence of pain to be bad and its absence to be good, the case of pleasure is somewhat different, for while its presence is good, its absence is merely not bad (i.e., it is neutral). Thus, in scenario A, there is both a positive and a negative value, whereas in scenario B, there is no negative value – there is only a positive value and a neutral value. In effect, then, scenario B in which where X does not exist works out better for X than scenario A in which X exists. It therefore follows that existing is worse for entity X than not existing.

David Černý attempted to refute Benatar's argument by reiterating McMahan's argument on the impossibility of comparing the existent with the non-existent. As Černý notes, the statement "The presence of pain (i.e., harm) is bad" can be rewritten as "There is a subject X such that it suffers harm, and suffering harm is bad".<sup>51</sup> In scenario A, there is no problem, but in scenario B, there is. Indeed, the statement "The absence of pain

<sup>50</sup> Ibidem, p. 46.

<sup>51</sup> ČERNÝ, D.: Axiologická asymetrie a antinatalismus. In: *Zdravotnické právo a bioetika* [online]. 1. 12. 2016 [accessed 14. 4. 2018]. Available at: <<https://zdravotnickepravo.info/axiologicka-asymetrie-a-antinatalismus/>>



(i.e., harm) is good” cannot, Černý argues, be understood as analogous to “There is a subject X such that it does not suffer harm, and not suffering harm (harm does not currently occur) is good”.<sup>52</sup> It should instead be understood as “There is no subject X, and given this, no harm can actualise in it, which is good”.<sup>53</sup> The predicates “good” and “bad” are personal variables in the case where X exists – i.e., the adjectives represent the good or bad of some particular entity.<sup>54</sup> In the case where X does not exist, however, they are predicated in an impersonal sense – in the sense of the absence of pain in the world.<sup>55</sup> Černý concludes that these predicates have a different meaning in each scenario, and this would render Benatar’s argument as invalid.

Benatar responded to Černý’s criticisms by arguing that he had made the mistake of taking the predicates “good” and “bad” in Scenario B to be impersonal.<sup>56</sup> The purpose of the argument is to determine whether or not it is right to bring X into the world, and Benatar posits that we must evaluate the absence of pain and pleasure in relation to X even though X exists only in the alternative scenario.<sup>57</sup> This does not mean that we are asking whether the absence of X’s pain is good for the world – we are still concerned with whether it is good for X.<sup>58</sup> According to Benatar, this is a personal assessment, not an impersonal one.<sup>59</sup>

However, Benatar is not necessarily arguing that those who never existed are better off; rather, he believes that coming into the world is always bad for those involved.<sup>60</sup> Thus, although we may not be able to say that non-existence is good for non-existent beings, we can say that existence is bad for existing beings.<sup>61</sup> This assertion, Benatar argues, can be applied to all sentient beings – including non-human animals that humans raise for the purpose of producing meat and other goods.<sup>62</sup>

These are the grounds on which Benatar disagrees with benign carnivorousism, suggesting that this approach, if taken to its logical conclusion, could also justify the birth of human children for the purpose of eating them.<sup>63</sup> McMahan takes a similar view – we would certainly find it absurd to advocate killing a fifty-year-old man in order to furnish ourselves with his fifty-year-old organs.<sup>64</sup> Benatar also posits the afore-mentioned asymmetry argument in support of his view, the idea that being brought to life is always a serious harm, regardless of how much any given being suffers.<sup>65</sup> Even if we care about

<sup>52</sup> Ibidem.

<sup>53</sup> Ibidem.

<sup>54</sup> Ibidem.

<sup>55</sup> Ibidem.

<sup>56</sup> ČERNÝ, D.: Rozhovor s Davidem Benatarem. In: *Zdravotnické právo a bioetika* [online]. 8. 3. 2018 [accessed 14. 4. 2018]. Available at: <<https://zdravotnickepravo.info/rozhovor-s-davidem-benatarem/>>

<sup>57</sup> Ibidem.

<sup>58</sup> Ibidem.

<sup>59</sup> Ibidem.

<sup>60</sup> BENATAR, D.: *Better Never to Have Been: The Harm of Coming into Existence*, p. 4.

<sup>61</sup> Ibidem.

<sup>62</sup> Ibidem, p. 2.

<sup>63</sup> Ibidem, p. 3.

<sup>64</sup> MCMAHAN, J.: *Eating animals the nice way*, p. 69.

<sup>65</sup> BENATAR, D.: *Better Never to Have Been: The Harm of Coming into Existence*, p. 3.

the wellbeing of animals, it is still better, according to Benatar, if their life as such had never come to be. Although McMahan and Benatar disagree about whether existence as such is better or worse, they reach similar conclusions about bringing farm animals into the world, with both rejecting the idea of benign carnivorousism.

## Human Versus Animal Nature

### Animal Rights Should Be Recognised When Animals Petition for Them

The afore-mentioned libertarian Murray Rothbard also voiced his opposition to the concept of animal rights. He saw human nature, from which natural rights derive, as reflecting the ability of human beings to make conscious choices, to consciously pursue goals and values, to find out information about the world, to pursue their ends in order to survive and prosper, to communicate and interact with other human beings and to participate in the division of labour.<sup>66</sup> Rothbard denied that any animal was endowed with these qualities and therefore concluded that natural rights applied only to humans.<sup>67</sup> He also stated, as was mentioned above, that he would recognise the rights of animals only if they petitioned for them.<sup>68</sup> When confronted with the objection that human infants are also unable to petition for their rights, Rothbard replied that human infants are future adults who will, unlike animals, eventually acquire this ability.<sup>69</sup>

However, this stance is problematic – why should the potential to acquire a future skill be in any way relevant? Going a step further, what would be the consequences for an individual who had once possessed all of the afore-mentioned human faculties before irretrievably losing them due to illness? Given that such an individual no longer meets Rothbard's criteria for the granting of natural rights, do they retain their rights? This question is also relevant in discussions of euthanasia – what is the moral status of a person trapped in a permanently vegetative state who can no longer make decisions for themselves?<sup>70</sup> And what about those who have in such a condition since birth and who have never possessed the capacity to make decisions for themselves?

Alan Gewirth, an American human rights advocate, attempted to answer this question by arguing that individuals who cannot make decisions can be represented by someone who can.<sup>71</sup> While this would theoretically grant them full rights that others must take into account, we might question what would representability would involve.<sup>72</sup> How can we insist that a person can be represented but not, say, a robot, a non-human animal or a mountain? Would it not be the recognition that they are morally relevant to us? Yet that

<sup>66</sup> ROTHBARD, M. N.: *The Ethics of Liberty*, p. 155.

<sup>67</sup> *Ibidem*.

<sup>68</sup> *Ibidem*, p. 156.

<sup>69</sup> *Ibidem*, p. 157.

<sup>70</sup> SOIFER, E.: Euthanasia and Persistent Vegetative State Individuals: The Role and Moral Status of Autonomy. *Journal of Social Issues*. 1996, vol. 52, no. 2, p. 34.

<sup>71</sup> CORRADETTI, C.: *Relativism and Human Rights: A Theory of Pluralistic Universalism*. Dordrecht: Springer, 2009, p. 81.

<sup>72</sup> *Ibidem*.

is what we are still trying to justify. On these grounds, the substitutability argument would include circular reasoning because we are already assuming the validity of the thesis that we are trying to prove.

## Argument From Marginal Cases

The fact that it is impossible to identify specific characteristics that belongs exclusively to all humans is one of the most important arguments of animal rights proponents. The approach is called the *argument from marginal cases*, and one of its forms is presented by Singer: “In most ways, human beings are not equal; and if we seek some characteristic that all of them possess, then this characteristic must be a kind of lowest common denominator, pitched so low that no human being lacks it. The catch is that any such characteristic that is possessed by all human beings will not be possessed only by human beings. For example, all human beings, but not only human beings, are capable of feeling pain; and while only human beings are capable of solving complex mathematical problems, not all humans can do this.”<sup>73</sup>

Tibor Machan is an opponent of animal rights who objects to the argument from marginal cases, arguing that we should focus on healthy and normal individuals rather than those with special abilities.<sup>74</sup> Machan believes that when we judge or evaluate individuals, the fact that they lack a specific trait is irrelevant as long as other members of their species possess that trait. However, David Graham and Nathan Nobis criticised Machan for his failure to explain why the abilities of a normal individual should be relevant in judging abnormal individuals.<sup>75</sup> Tony Milligan suggests that it would be a matter of prejudice if we decided in advance to privilege the life of a cognitively impaired human over that of a cognitively comparable non-human animal without taking external factors into account.<sup>76</sup> I would add that it would also be a matter of prejudice if we decided in advance to privilege the life of a cognitively impaired human over that of a cognitively able non-human animal just because “normal” humans are cognitively more capable than normal animals.

## The Problem of Consciousness

Another problem with Rothbard’s argument lies in the question of whether normal non-human animals actually lack the characteristics which he describes as being intrinsically human. According to current scientific knowledge, Rothbard is at least partly wrong, and some non-human animals are in fact capable of fulfilling some of the categories Rothbard mentions.

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<sup>73</sup> SINGER, P.: *Animal Liberation*, p. 237.

<sup>74</sup> GRAHAM, D., NOBIS, N.: Putting Human First? *The Journal of Ayn Rand Studies*. 2006, vol. 8, no. 1, p. 92.

<sup>75</sup> Ibidem.

<sup>76</sup> MILLIGAN, T.: Speciesism as a Variety of Anthropocentrism. In: BODDICE, R. (ed.): *Anthropocentrism: Humans, Animals, Environments*. Leiden: Brill, 2011, p. 227.

We can no longer reliably state that humans are the only species with the ability to make conscientious choices or to consciously fulfil values. The evolutionary biologist Charles Darwin believed that consciousness represented one of the most important differences between humans and animals, but he did concede that animals could theoretically acquire consciousness if they were to attain a similar level of intellectual ability to humans.<sup>77</sup> However, we can only have access to our own consciousness, not that of other beings, regardless of whether they are animal or human; while we can observe how a being behaves outwardly, we cannot determine whether or not it possesses consciousness, and thus Darwin's claim remains purely speculative.

Perhaps a far wider issue is that of the origins of consciousness. Does it lie in our bodies or does it exist independently of our corporeal being? The *mind-body problem* has been addressed by philosophers for hundreds of years, and the issue continues to vex contemporary philosophers of the mind. If we take the presence of consciousness as a criterion for including someone in our moral reasoning, we are skating on very thin ice.

## Division of Labour

Rothbard's other arguments can be examined through the prism of natural science. One of the criteria he mentions is the division of labour, but this is a term which can be interpreted in many different ways. It can refer to, for example, the division of labour in eusocial behaviour, the highest form of organization of animal communities. Eusociality has three defining features: reproductive division of labour, overlap of at least two generations and cooperative care of the young.<sup>78</sup> A community of eusocial animals is then seen as a superorganism. Eusociality is common in various insects and several crustacean species, but such behaviour is not inherent in humans; indeed, in the mammalian world, it is only found in the naked mole-rat (*Heterocephalus glaber*) and the Damaraland mole-rat (*Fukamys damarensis*).<sup>79</sup>

But there is no need to go all the way to eusociality. Basic intra-species relations could also be considered as an example of the division of labour. One such example might be the separation of roles in prides of lions, where the female goes out hunting while the male guards the prey she has caught.<sup>80</sup> In general, even symbiosis, i.e. interspecies cooperation, whether in its mutualistic or parasitic form, could be termed a division of labour.

However, the division of labour should not be understood only in terms of social cooperation between different individuals but also as the processes of multicellular

<sup>77</sup> DARWIN, C.: *The Descent of Man and Selection in Relation to Sex*. Cambridge: Cambridge University Press, 2009, pp. 70–72.

<sup>78</sup> JARVIS, J. U. M., BENNETT, N. C.: Eusociality has evolved independently in two genera of bathyergid mole-rats — but occurs in no other subterranean mammal. *Behavioral Ecology and Sociobiology*. 1993, vol. 33, no. 4, p. 253.

<sup>79</sup> *Ibidem*.

<sup>80</sup> BENNETT, D.: Difference Between Male & Female Lions. In: *Sciencing* [online]. 5. 4. 2018 [accessed 14. 4. 2018]. Available at: <<https://sciencing.com/difference-between-male-female-lions-8639894.html>>

organisms. Cellular differentiation, an evolutionary path which results in the specialization of cells for certain tasks allows groups of these cells to form a functional multicellular organism.<sup>81</sup> From this perspective, all multicellular organisms are capable of the division of labour since the very maintenance of their existence is based on the division of labour.

Therefore, if we take the division of labour as a criterion, it is difficult to discern any fundamental difference not only between humans and non-human animals but also between humans and multicellular plants or fungi.

### **Information Gathering, Survival Efforts and Communication**

If Rothbard cites the ability to communicate with others as an advantage which humans possess over animals, then he is limiting himself to an anthropocentric view in the sense of communication through speech acts, for it is abundantly clear that non-human animals are also capable of communication. The social biologist Edward Osborne Wilson defines communication as the process whereby the action of one or more organisms is perceived by another organism, with the second organism therefore being able to adapt its behavioural patterns on the basis of that action.<sup>82</sup> Communication between non-human animals is then a perfectly standard phenomenon as the ability to communicate effectively with other individuals plays an important role in the lives of all animals.<sup>83</sup>

Of course, humans are not the only species that strives to ensure its own survival. There are many ways in which animals strive to survive, from trying to avoid the effects of climate change to escaping from predators.<sup>84</sup> In humans, the survival instinct has aspects which are cultural, such as, for example, parents teaching their young children not to jump in front of cars, but the survival instinct as such has an evolutionary basis.<sup>85</sup>

The ability to acquire information about the world which Rothbard mentioned, is then related to the ability to do everything which has been discussed above. And while we could make a number of similar arguments, they all come to the same conclusion; either these are properties that are exclusive to humans or they are properties that only some humans possess. It would therefore be problematic to accept any of these criteria as authoritative arguments.

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<sup>81</sup> ADAMS, J. U.: Tissues Are Organized Communities of Different Cell Types. In: O'CONNOR, C., ADAMS, J. U.: *Essentials of Cell Biology* [online]. Cambridge: NPG Education, 2010. Available at: <<https://www.nature.com/scitable/ebooks/essentials-of-cell-biology-14749010/118241827/>>

<sup>82</sup> GILLAM, E.: An Introduction to Animal Communication. In: *Nature Education Knowledge* [online]. 2011 [accessed 14. 4. 2018]. Available at: <<https://www.nature.com/scitable/knowledge/library/an-introduction-to-animal-communication-23648715/>>

<sup>83</sup> Ibidem.

<sup>84</sup> BBC NATURE: Animal and plant adaptations and behaviours. In: *BBC Nature* [online]. 2018 [accessed 4. 12. 2018]. Available at: <<https://www.bbc.co.uk/nature/adaptations>>

<sup>85</sup> DE CATANZARO, D.: Evolutionary limits to self-preservation. *Ethology and Sociobiology*. 1991, vol. 12, no. 1, p. 14.

## Common Characteristics

The American philosopher Tom Regan also disagrees with the attempt to identify some unique characteristics that would allow us to discriminate between non-human animals and humans, and he proposes instead the adoption of a criterion he calls *subject-of-a-life*. He argues that “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, logically independently of their utility for others and logically independently of their being the object of anyone else’s interests”.<sup>86</sup>

Whoever meets this criterion of the subject of life is said to have *inherent value*, i.e., a value in and of itself, independent of anything else.<sup>87</sup> In this way, he also takes issue with utilitarians, whom he accuses of an insistence on maximizing aggregate utility; for Regan, this approach can ultimately lead to the racism and speciesism denounced by Singer.<sup>88</sup> Regan considers intrinsic value to be the same and unmeasurable in every subject of life.<sup>89</sup> While utilitarians usually only try to justify why someone should or should not be included in moral considerations, Regan adds to this by defining a series of universal rights that he believes is possessed by all subjects of life, including animals.<sup>90</sup>

Regan’s natural law theory, however, falls into the same trap as the line of thinking formulated by Rothbard. Why should the characteristics mentioned by either of these approaches be deemed relevant?<sup>91</sup> We are all capable of engaging our creativity and drawing up lists of criteria that either segregate a large fraction of animals from a large fraction of humans or emphasise their shared characteristics. The question is why we should care about these criteria, and why rights or obligations should arise from such a basis.

## Taking Evolutionary Theory Seriously

As we have seen, the determination of the decisive criteria is by no means a simple task. If we wish to segregate non-human animals from humans at all costs, it might seem that the problem could be put to one side by taking humanity itself as the primary criterion.<sup>92</sup> Rather than attempting to identify a common denominator that all humans possess, it might be simpler to assert that some beings are human while others simply are

<sup>86</sup> REGAN, T.: *The Case for Animal Rights*. Berkeley: University of California Press, 2004, p. 243.

<sup>87</sup> *Ibidem*, p. 235.

<sup>88</sup> *Ibidem*, pp. 227-228.

<sup>89</sup> *Ibidem*, p. 236.

<sup>90</sup> *Ibidem*, p. 327.

<sup>91</sup> This is also related to the aforementioned *Is-Ought* problem, which examines the non-derivability of the prescriptive from the descriptive.

<sup>92</sup> The question remains, however, of why the fact of being human should establish rights and duties.

not. But does such an argument hold water in the present age, when the generally accepted theory of the development of life is the theory of evolution?

In his 1859 publication *On the Origin of Species*, Darwin declared that all organisms have a universal common ancestor. This concept, often referred to as LUCA (*last universal common ancestor*), is also used in contemporary science.<sup>93</sup> However, we do not have to go this far back into the mists of evolutionary time; our difficulties arise with the existence of the closest ancestors and relatives of the modern human, the animals of the genus *Homo*.

The evolutionary biologist Richard Dawkins criticises the double standard of those who reject human abortion but have no objection to the killing of chimpanzees. He believes that this contradiction is deemed acceptable because all of the intermediate evolutionary links between humans and chimpanzees are extinct.<sup>94</sup> However, the dividing line between survival and extinction is often highly random; as Dawkins notes, only a minor change in the past would have been enough to render the difference between chimps and humans less significant.<sup>95</sup> The discovery of a single surviving member of the genus *Australopithecus*, he argues, would be enough to shatter the boundaries by which we segregate our world.<sup>96</sup>

The Canadian philosopher David N. Stamos recognises that the coexistence of several species of animals of the genus *Homo*, such as *Homo neanderthalensis* (Neanderthal) and *Homo floresiensis* (Flores Man), was an important element of human evolution.<sup>97</sup>

However, if we believe that some natural rights are exclusive to man, where do we draw the line? Do human rights apply only to the specific species *Homo sapiens* or to all members of the genus *Homo*? Or do we perhaps go further and extend them to some members of the genus *Paranthropus*, another evolutionary line which also existed alongside members of the genus *Homo*? Or further still to the aforementioned members of the genus *Australopithecus* who predated these genera?

Stamos in particular has addressed this issue of how far back into the evolutionary past we can extend human rights.<sup>98</sup> Since human rights theories cannot bear the weight of evolutionary theory, he rejects the validity or justifiability of any theory of human rights.<sup>99</sup> His line of thinking suggests that there can be no exclusively human rights if we adhere to the theory of evolution.<sup>100</sup>

While Stamos's argument should obviously not be accepted as a definitive argument for the absence of natural rights, it does offer a highly persuasive case against the exclusivity

<sup>93</sup> JEREMY, B.: Origin of Life. In: SELLEY, R. C. (ed.): *Encyclopedia of Geology. Vol. 4: N - Se*. Amsterdam: Elsevier, 2005, p. 124.

<sup>94</sup> STAMOS, D. N.: *The Myth of Universal Human Rights: Its Origin, History, and Explanation, Along with a More Humane Way*. Boulder, CO: Paradigm Publishers, 2013, p. 39.

<sup>95</sup> *Ibidem*, p. 38.

<sup>96</sup> *Ibidem*.

<sup>97</sup> *Ibidem*.

<sup>98</sup> *Ibidem*.

<sup>99</sup> *Ibidem*, p. 263.

<sup>100</sup> *Ibidem*, p. 37.



of natural rights to humans. If we want to defend the thesis that non-human animals have no natural rights, then I see the least problematic solution as recognizing that no species can possess natural rights. Indeed, there is not a great difference between humans and many non-human animals in the characteristics that we can perceive as morally relevant.

## How Do We Get Out of This?

*“Many orthodox people speak as though it were the business of sceptics to disprove received dogmas rather than of dogmatists to prove them. This is, of course, a mistake. If I were to suggest that between the Earth and Mars there is a china teapot revolving about the sun in an elliptical orbit, nobody would be able to disprove my assertion provided I were careful to add that the teapot is too small to be revealed even by our most powerful telescopes. But if I were to go on to say that, since my assertion cannot be disproved, it is intolerable presumption on the part of human reason to doubt it, I should rightly be thought to be talking nonsense. If, however, the existence of such a teapot were affirmed in ancient books, taught as the sacred truth every Sunday, and instilled into the minds of children at school, hesitation to believe in its existence would become a mark of eccentricity and entitle the doubter to the attentions of the psychiatrist in an enlightened age or of the Inquisitor in an earlier time.”<sup>101</sup>*

– Bertrand Russell

I believe that we must subject every theory to constant critical evaluation, regardless of how highly they are esteemed. Efforts to silence critical voices on the grounds that relativism<sup>102</sup> is dangerous to Western liberal democracy should not be resisted. I acknowledge that a belief in natural rights can be useful, for example, by providing us with justifications for spreading many of the values typical of Western liberal democracy around the world. However, as the Scandinavian legal realist Axel Hägerström says, legal scholarship should not be subservient to morality.<sup>103</sup>

Just as the belief in the existence of human rights can be useful in many ways, so too can belief in God. But just because they are useful does not mean they are real. Efforts to formulate a criterion by which we can say that humans (or animals in general) have natural rights strike me more as an attempt to rationalise pre-determined moral positions, and such a path will inevitably lead to unjustifiable axioms.

In practical terms, moral argumentation comes down to the question of how convincingly one can defend one’s views and persuade others that the vision of the world which you offer is the right one.<sup>104</sup> Beyond this, moral stances will be translated by

<sup>101</sup> RUSSELL, B.: Is There a God? In: RUSSELL, B., SLATER, J. G., KÖLLNER, P.: *The Collected Papers of Bertrand Russell: Volume II, the Last Philosophical Testament, 1943-68*. London: Routledge, 1997, pp. 547–548.

<sup>102</sup> Let us now set aside the fact that the word “relativism” is used with several different meanings.

<sup>103</sup> See COLOTKA, P., KÁČER, M., BERDISOVÁ, L.: *Právna filozofia dvadsiateho storočia*. Prague: Leges, 2016, pp. 98–99.

<sup>104</sup> Tomáš Sobek also mentions this kind of moral persuasion: “I am sitting at a conference, and the speaker is talking about some aspect of constitutional law. [...] The listener is supposed to imagine what our politics

lawmakers into positive law, a process which, of course, removes the element of natural law. I think that in the case of the supposed natural rights of humans, the vision of the world offered can be considered persuasive. In the case of the supposed natural rights of non-human animals, it is not – certainly not to the extent that humans are able to restrain themselves for the sake of such a vision. Unless that is, we are talking about *pet animals*, i.e., non-human animals which inspire particular affection among humans for various (mainly cultural) reasons.

In the 1950s, Bertrand Russell formulated the china teapot parallel quoted above, which he used to criticise religion by demonstrating the absolute absurdities which can be defended on the grounds that they cannot be proven *not* to exist. A contemporary version of this is the phenomenon of the Flying Spaghetti Monster, a figure of the fictional religion of Pastafarianism,<sup>105</sup> or the earlier Invisible Pink Unicorn, the goddess of a fictional parody religion.<sup>106</sup> All of these examples point out that the burden of proof should always lie on those who claim the existence of such a thing, not on the sceptic.

Russell's example has drawn criticism from Eric Reitan who points out a fundamental inaccuracy in the metaphor – the teapot, unlike God, comes from the empirical world, and thus any claim made about it can be verified.<sup>107</sup> In both cases, however, these are strong claims that, in my opinion, should be better substantiated. As the astronomer Carl Sagan says, extraordinary claims require extraordinary evidence.<sup>108</sup> A similar standard is called Hitchens' Razor and was formulated by Christopher Hitchens, a key figure in the movement known as the New Atheism. It states: "That which is asserted without evidence may also be rejected without evidence".<sup>109</sup>

I like both Sagan's standard and Hitchens' Razor. Nonetheless, they are both axioms, i.e., statements that cannot be refuted or confirmed, and this is one of the reasons why it is difficult to hold with absolute certainty the position called *academic moral scepticism* which says that it is impossible to achieve cognition in the realm of morality.<sup>110</sup> If I wish to refute

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would look like if we used a certain solution. [...] He then concludes his explanation by expressing his personal opinion, namely, that he quite likes a certain idea of how things might be. [...] He does not pretend that he has discovered objective and universal truths of value by his reason, but by the way he conducts his interpretation he makes it clear that he has only expressed his personal attitude to the matter. [...] The listener is observing non-cognitivism in its purest form." SOBEK, T.: *Právní rozum a morální cit: hodnotové základy právního myšlení*, p. 75.

<sup>105</sup> Regarding Pastafarianism, see SERENA, K.: The Church Of The Flying Spaghetti Monster Might Be The World's Best Fake Religion. In: *All That's Interesting* [online]. 12. 11. 2021 [accessed 23. 9. 2023]. Available at: <<https://allthatsinteresting.com/pastafarianism>>

<sup>106</sup> See LAASH: The Holy Invisible Pink Unicorn: Rainbows Be Upon Her. In: *LAASH* [online]. 2017 [accessed 24. 3. 2019]. Available at: <<https://www.laash.uk/theonetruegod/>>

<sup>107</sup> REITAN, E.: *Is God a Delusion? A Reply to Religion's Cultured Despisers*. Malden, Mass: Wiley-Blackwell, 2009, p. 79.

<sup>108</sup> DEMING, D.: Do Extraordinary Claims Require Extraordinary Evidence? *Philosophia*. 2016, vol. 44, no. 4, p. 1319.

<sup>109</sup> HITCHENS, C.: *God is not Great: How Religion Poisons Everything*. New York Boston: Twelve, 2009, p. 150.

<sup>110</sup> See SINNOTT-ARMSTRONG, W.: *Moral Scepticisms*. Oxford: Oxford University Press, 2006, pp. 10-11.

the existence of natural rights and am forced to justify it, my argumentation will ultimately come to an end and I will have to make use of an axiom. In this case, on the axiom that the default state (the state in which we have no evidence to support the contrary) is non-existence.

In recent decades, Russell's parallel with the teapot has been revived by the aforementioned Richard Dawkins, another representative of the New Atheism. Dawkins mentions, however, that even if we cannot prove the non-existence of such a teapot, we would still declare that it does not exist if we were pressed to make a final decision.<sup>111</sup> I take a similar approach to the issue of natural rights. I cannot say with absolute certainty that these rights do not exist, as is also the case with the Invisible Pink Unicorn, the Flying Spaghetti Monster or God. If I am to address them from an analytical perspective, then I am a "natural rights agnostic". But if I have to decide, then I become an "a-iusnaturalist".<sup>112</sup>

This is not to say that I am neutral on the issues that are associated with natural rights. I care about freedom of speech, sexual freedom and equality before the law. I am also in favour of human society taking greater account of the suffering which is imposed upon animals. These are my personal political positions which I can advocate, for example, through the institution of democratic elections.<sup>113</sup> However, I realise that I am unable to speak of the universal and objective validity of the values I hold.

I do not know if natural rights exist. Nor do I know whether we would recognise them if they exist. All I know is that I do not have sufficient reason to think they exist. But if I were forced to choose between the answers "yes" and "no", it would be easier for me to choose the latter. As with unicorns, I would be happy if they actually existed.

## Conclusion

This text is not intended to advocate for a change in positive law, either for or against animals; it is merely an attempt to point out that it is problematic to accept the existence of natural rights of humans on the one hand but to reject the existence of natural rights of non-human animals on the other.

If we are asking for a justification for why humans should have natural rights and non-human animals should not, we must instead address the question of decisive criteria. But in the search for criteria, we run into a problem. If we try to identify a characteristic that is demonstrably unique to humans, we will find that there is always an individual who does not possess that characteristic, and it is then clear that the given characteristic is not exclusive to humans. As soon as we resign ourselves to looking for the common denominator of all humans or take humanity itself as the basic criterion, evolutionary theory steps in and complicates the issue further. The fundamental problem of human rights is the question of where to draw a line and to justify why it should not apply to the ancestors of humans.

<sup>111</sup> DAWKINS, R.: *The God Delusion*. London: Black Swan, 2007, p. 52.

<sup>112</sup> The terms "natural-law agnostic" and "a-iusnaturalism" are analogous to Dawkins' terms "teapot agnostics" and "a-teapotism".

<sup>113</sup> "In a democratic election, we do not vote on what is 'really' morally right. A democratic vote decides which of the diverse moral views in society will have political legitimacy when the enforcement power of public authority is used." SOBEK, T.: *Právní myšlení: kritika moralismu*. 2011, p. 22.

We therefore conclude by proposing two solutions. The first is to show consistency and recognise that animals too have natural rights, although this would require us to justify why the criterion we have chosen for claiming the existence of natural rights is relevant to the existence of such rights. The second solution, and the one which seems more acceptable in my opinion, is to concede that there are no natural rights, whether human or animal. Ultimately, the disagreement about the content and scope of natural rights is not a disagreement in empirical facts but a disagreement in morality, a domain in which no cognizable truths exist.

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