

Text (ohne Fußnoten) aus:

R. G. Frey, *Rights, Killing, and Suffering. Moral Vegetarianism and Applied Ethics*,  
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I do not believe we gain anything in clarity, precision, and understanding by trying to discuss moral issues in terms of rights, and this applies as much to the important issue of the rightness and justification of our treatment of animals as to any other. Indeed, I think obfuscation is nearly always the result of the invocation of moral rights. What inevitably ensues is that we turn away from the immediate and important problems of whether, say, our present treatment of animals is right and can be justified and away from the necessary task of thrashing out principles of rightness and justification of treatment. Instead, we come to focus upon the much less immediate, important, and easily resolvable because wholly speculative questions of whether there really is this or that moral right which some people, but not others, allege that there is, and of what the criteria are, and of how we are to decide what the criteria are, for the possession of this or that right. Speculative questions invite speculative answers, and a vast industry has arisen as a result, both as to the nature and/or type of moral rights we and others are alleged to possess, and as to the grounds in virtue of which we and others are alleged to possess them. So far as I can see, there is no internal limit to this exercise, except that of human ingenuity in being able to conjure up still different conceptions of moral rights and still further arguments in support of this or that criterion of right-possession.

There are a number of reasons why talk of rights does not shed light on important ethical questions, but I shall here concentrate upon a single one, namely, the obvious difficulty we all experience whenever we try to argue with each other about moral rights. This difficulty has (at least) three sources.

### **Rights and the Moral Concepts**

It is not obvious how we are to move back and forth between talk of rights and talk in terms of the moral concepts of right, wrong, and ought. [...] The result is clear: if we cannot link up the moral concepts and rights, then it is difficult to see not only how we could ever argue about moral rights, but also quite how we would analyse the concept of a moral right.

Consider an example: Cathy loves fried eggs for breakfast, and her husband, Heathcliff, knows this; but though Heathcliff makes scrambled eggs, poached eggs, boiled eggs, and omelettes, he never makes fried eggs for breakfast. Heathcliff and Cathy are married, there are duties on both sides, and marriage is, we say, a matter of mutual accommodation; yet, though he knows Cathy's desires and preferences perfectly, Heathcliff never makes fried eggs for breakfast.

Now I can imagine a third party saying that it is wrong of Heathcliff not to make fried eggs occasionally or that he ought to or even that, given that he is married, knows Cathy's desires, and finds making fried eggs no more trouble than making any other sort of eggs, he has a duty to make fried eggs occasionally; but does anyone really think we can move from saying these things to the view that Cathy has a moral right to fried eggs for breakfast? And if you think we *can* make this move, then how are you going to prevent the complete trivialization of the notion of a moral right, since there appears no end to the possible development of similar examples? Of course, you might say that Cathy's right to fried eggs is not a moral but an institutional right, a right arising within the confines of marriage; but many, if not most, people regard this and many other social institutions in a moral light and so regard the institutional rights which arise within them as moral rights as well. I shall not labour the point; but from the fact that you think it wrong of Heathcliff not to make fried eggs occasionally for breakfast, nothing obviously follows about Cathy's having a moral right to fried eggs.

Even if we cannot move in this direction, however, can we not move in the other, from talk of rights to talk of what is wrong? That is, if we assume or concede that Cathy has a moral right to fried eggs for

breakfast, can we not conclude that, *ceteris paribus*, it is wrong of Heathcliff not to make fried eggs occasionally? But this way of approaching the matter brings out its own shortcoming; for what if you are not allowed the assumption or concession that Cathy has such a right? Then, you will have to show how you reach this right, on the basis of what is right and wrong or ought to be done in respect of Cathy's breakfast, and the previous argument applies. Likewise, if you assume that squirrels have a moral right to chestnuts on the ground, then doubtless you will conclude that it is wrong of me to deprive them of these nuts; but if you are not granted your assumption of such a right, how are you going to reach it merely from your view that it is wrong for me to roast chestnuts in such quantities as to deprive squirrels of this food source? For unless by fiat you simply turn whatever you judge to be wrong into a right on the part of some creature not to have that thing done, you are constantly going to run up against the fact that it does not follow from its being judged wrong, e.g., to deprive squirrels of chestnuts on the ground that they have a moral right to these nuts. In short, to tie moral rights and the concepts of right, wrong, and ought together, requires more than the merely one-way transaction which the present line of argument envisages.

One might try to argue from 'Cathy wants fried eggs for breakfast' to 'It is wrong of Heathcliff, *ceteris paribus*, to frustrate this want' to 'Cathy has a moral right not to have her wants, including this one, frustrated' or to 'Cathy has a moral right to have her wants, including this one, satisfied'. The problem is how we are supposed to get from the fact that it is wrong, *ceteris paribus*, to frustrate Cathy's wants to the conclusion that Cathy has a *moral right* to the satisfaction of her wants and so of her want for fried eggs. I can see no entailment or analytic connection here, and anything less would seem compatible with acknowledging the wrong but denying the right. One can, of course, manufacture such a connection, for example, by laying down as a conceptual truth or otherwise stipulating that merely having wants entitles one to their satisfaction. In this case, the frustration of one's wants by others will be the violation of one's entitlements or rights, which in turn, it will be maintained, is, *ceteris paribus*, wrong. A good deal of work requires to be done on the grounds of this stipulation, however, before it can be accepted. Among other things, this view looks far less a conceptual truth and much more a substantive moral judgment, one which reflects some view, for instance, about the rightness of our interference in the lives of others, as they seek to pursue and satisfy their wants.

### Wrongs, Rights, and Protection

The problem of how we get from wrongs to rights is, in any event, an unnecessary one. For, [...] what makes wrong acts wrong is not that they violate some alleged moral right or other. What is wrong with torturing and killing someone is not the violation of some right of his, but the sheer agony and suffering he undergoes, the snuffing out of his hopes, desires, and wishes, and so on. What is wrong with depriving someone of a decent wage is not that it infringes some alleged right of his to this or that income but that it ruins his life and the lives of those who depend upon him. What is wrong with depriving someone of his liberty is that it thwarts his hopes and plans, circumscribes his future and what he can make of it, and so impoverishes his life. In short, there is no need to postulate moral rights as intermediaries between pain and agony, or thwarted hopes, desires, and plans, or ruined lives and the wrongness of what was done. Even in a world without moral rights, even in the kind of world I sketched in *Interests and Rights*, however, acts can still be right and wrong and principles of rightness and justification of treatment can still be presented and argued. In *Animal Liberation* and *Practical Ethics*, not only does Singer not prosecute his case in terms of moral rights but also he does not appeal to such rights in order to reach substantive moral conclusions about our treatment of animals. He thinks that animals can feel pain, and on that basis alone, that they have interests to be weighed by us in deciding upon our treatment of them; and he plainly thinks he has a case for morally condemning

some intensive farming practices for ignoring or undervaluing those interests, without in any way grounding his condemnation of these practices upon their violation of putative rights. Nevertheless, it is fashionable today to say of moral rights that they are the last refuge of the weak and defenceless, the implication being that, in a world, probably utilitarian in character, in which there are no moral rights, the weak and defenceless will go to the wall. Three central worries are, I think, encapsulated by this refuge plea, namely, that without moral rights animals (a) will be entirely at our self-serving, self-interested mercy, (b) will, as we pursue our own advantage, cease to be regarded by us as objects of moral concern, and (c) will, perhaps, as a result of (b), cease to be regarded by us as creatures whose treatment should be of moment to us or at least of sufficient moment to make us pause in the pursuit of our own advantage. Importantly, however, the weak and defenceless do not go to the wall in Singer's work, though Singer studiously avoids appeal to moral rights; and Singer is an (act-) utilitarian. Indeed, far from taking advantage of animals in the above ways, he staunchly defends them, but without recourse to rights. The same is true of Stephen Clark's *The Moral Status of Animals*. Although Clark himself is no utilitarian, as he makes plain in his book's opening pages, his positive theses can all be raised and discussed outside the trappings of moral rights, and his plea for regarding animals as objects of moral concern owes nothing to some antecedent case for moral rights and for their possession by animals. Likewise, even in the kind of (utilitarian) world sketched in *Interests and Rights*, there is no suggestion that animals are or should be at our mercy, or that we should not concern ourselves with them morally, or that their treatment by us is not something with which we have morally to occupy ourselves. In fine, it is simply not true that, in the absence of moral rights, the weak and defenceless are at the mercy of our advantage and, therefore, that their protection *requires* moral rights.

### Principles and the Superfluity of Rights

A second source of difficulty in arguing about rights [...] is that what passes for such argument is in fact nearly always argument about the acceptance of the moral principle(s) which is said to be the ground of the alleged right in question. Thus, when someone maintains that women have a moral right to an abortion on demand, and when we dispute this claim, what we in the end find ourselves arguing about is the acceptability (and interpretation) of the moral principle which is alleged to confer this right upon women. The acceptability of this principle is crucial, since one only accepts that women have such a right if one accepts the principle which confers this right upon them.

In this context, however, three facts about arguments over the acceptability of moral principles are especially germane.

- (1) We do not agree on moral principles, as anyone will know who has, for example, followed contemporary discussions on sexual morality, abortion, euthanasia, infanticide, suicide, capital punishment, etc. One may not, therefore, merely presume common agreement on this or that principle.
- (2) We do not agree on the criteria of acceptability in moral principles. Are these criteria formal or material? Do they involve reference to 'ordinary moral convictions' and the views of the 'plain man' (or, perhaps, to some special subset of these convictions and views)? Or does such a reference simply amount to letting our intuitions in ethics have a wholly unwarranted decisiveness in the matter? Must our principles 'fit' our pretheoretical intuitions? If so, why? Are the criteria of acceptability in principles bound up with the mutual accommodation of principles and judgments, that is, with the achievement of a condition of reflective equilibrium between our considered moral judgements and some set of principles which brings order, system, and harmony to those of our judgments which we do not wish to discard in the light of (the application of) those principles? Or is this type of criterion merely a sophisticated intuitionistic one, and so objectionable on grounds similar to those urged against W. D. Ross? Is there any restriction on the content of moral principles? Or is the acceptability of such principles a purely formal affair, with nothing whatever to do with content? In short, in order

to ground a moral right, you may not presume either the acceptability of some moral principles, or, when you turn your attention to this principle and begin to consider whether it is acceptable, agreed criteria of acceptability in principles.

(3) We can [...] argue about the acceptability of moral principles even if no moral rights are alleged to be grounded upon them and even if there are no moral rights whatever. Thus, we can argue about the acceptability of a moral principle enjoining respect for life, whether or not we think foetuses or animals have a moral right to life; and we *have to argue* about its acceptability, if you maintain that foetuses and animals have a right to life on the basis of it.

In the light of these facts, I think an argument can be produced which shows that moral rights are superfluous. If we cannot reach agreement on the criteria of acceptability in moral principles, and if we cannot, therefore, reach agreement on our moral principles, then we are not going to agree on whether there is this or that right, conferred by this or that principle. If, however, we do reach agreement on the criteria of acceptability in moral principles, and if we do then reach agreement in moral principles, then there is no longer any need to posit the existence of a right. For if we take morality seriously and so try to live up to our principles, we shall behave in the way the right's proponent wants us to, without his having to postulate the right's existence. In other words, if moral rights are put forward on the basis of unagreed moral principles, we will not agree on whether there are such rights, whereas if they are put forward on the basis of agreed moral principles, they appear unnecessary, since our principles will now lead us to behave in the way the rights' proponents want us to behave.

Notice the effect this argument has on the earlier rights-as-refuge claim. If rights are put forward on the basis of unagreed moral principles, with the result that we do not agree as to whether there are such rights, then they will not serve to protect the weak and defenceless; whereas, if they are advanced on the basis of agreed moral principles, then they appear unnecessary to the protection of the weak and defenceless, since our principles will already be leading us to behave in what the rights' proponents see as the desired way.

It could be argued that postulating moral rights on the basis of agreed moral principles serves the function of an insurance policy, in the event that people do not take morality seriously or fail to live up to their principles or succumb to temptation. Perhaps this is so; but it is important to realize that this line of defence can no longer sustain a view of moral rights as the central concern, the very heart and soul of a theory of morality. They become mere appendages, and often not even that, to agreed moral principles.