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Do Moral Principles Permit Experimenting on Nonconsenting Beings?

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I WAS TRAINED AS a veterinarian. In addition to practice and teaching, I spent many years in the laboratory as principal investigator in projects that involved using nonhuman animals in ways to which I now object.¹ My years of exploiting animals culminated in my developing consistent ethical principles that I applied in my personal and professional life. As a result of the latter, I was treated as a pariah among my colleagues, even by those at my university, where there was supposed to be open debate and a search for “truth.” Even after I had received tenure, the administration continued to make life difficult, sometimes in onerous ways, rampantly violating my right to free speech and academic freedom. The situation finally resulted in an attempt to terminate my employment when I tried to institute alternatives to the fatal use of dogs in surgical-instruction laboratories, despite my having science and pedagogy on my side. As a result, I filed a lawsuit in US federal court.² Fortunately, for the issue of protected speech in general and for me in particular, I prevailed. From that point on, there was a relatively rapid move to eliminate the fatal use of animals in instructional exercises. I have to give credit here to several brave students who insisted—despite being threatened with expulsion—on obtaining an education without resorting to purposefully killing animals.

Although I originally had considered what we do to animals in the name of science to be necessary, this was because I believed we could do it “humanely.” It

had not immediately occurred to me why what was done to the animals would never be considered humane if done to human beings. Such a duplicitous—and morally inconsistent—view eventually plagued me to the point of reexamining the issue honestly and by avoiding preconceptions. When people consider the issue of using animals in research, there is essentially always the tacit assumption that human concerns tower above those of others. This was a formidable obstacle when debating my colleagues. When I completely rejected this notion, it became clear to me that *human beings do not have a moral right to use other animals if human beings are unwilling to apply the same treatment to fellow human beings*. Human animals, particularly when they claim to be acting as moral agents, do not have a right to use other animals in ways they would not permit themselves or, especially, human moral patients to be used.³

A major argument used to denounce using animals for delving into human issues is lack of scientific validity as a result of species differences, the effects of artificial conditions in captivity, and a myriad of other factors that confound the results. Whereas there is unquestionable truth to this argument, I am not going to deal with this complex subject in this discussion; I have prepared critiques previously.⁴ My concern about using the validity argument, at least if it is used exclusively, is that it is not insurmountable if one is advocating an end to animal experimentation. What happens when validity is mitigated, for

example, by using animals genetically engineered to express human disease? Furthermore, what about when the species used experimentally is the same as the “target” species, such as when cats are used to develop vaccines for other cats? For those whose goal is to end all animal research and who use the validity argument exclusively or even as one of many, these situations diminish the strength of their arguments. The situation is analogous to holding the opinion that eating animals is morally wrong but urging people to discontinue this because of health issues. The industry simply modifies the “product” to be more healthful—as witnessed, for example, by feeding omega-3 fatty acids to animals being raised for human consumption.⁵

The major defense put forth for our destructive use of animals is that human beings—or other animals—derive benefits from this use. This notion, that the “end justifies the means,” is something we reject when it comes to our interactions with each other.⁶ We do not condone harming or killing other human beings—even just a few—regardless of how beneficial it might be to the majority. When we do this to other animals, we need to ask ourselves if we are behaving in a manner that is consistent with the essence of our own code of conduct or consistent with the best we could be as a species.

Furthermore, when we try to justify this conduct by claiming that we are helping other animals, we need to admit that such claims are specious at best and dishonest at worst. Almost always, the “other animals” are those from whom human beings will be deriving a benefit; if we are providing treatment to a cow who is lame, we are hardly looking out for her best interests given that we plan to kill and eat her at some point.

Even if the animal is not going to be consumed—for example, when the animal is someone’s companion dog—what we are really concerned about in almost all instances is the person to whom the dog is attached. Otherwise, how could we justify killing a *different* dog in a surgical-training laboratory for veterinary medical students, or why would there be concern about veterinary medical students doing something for the first time on a client’s dog? There are no morally relevant differences between one dog and another. Any argument supporting the destruc-

tion of one dog to “help” or “save” another is necessarily incoherent and morally bankrupt.

There is little question that the primary issue with respect to using animals in research, particularly for the benefit of human beings, is one of morality. If it was not, then we would be compelled on a purely scientific or practical basis to use human beings for all research aimed at understanding human diseases or tests of drugs for toxicity, even if it meant harming or killing them. An appeal to utilitarian principles would demand this. It is irrefutable that this would provide human beings, as a whole, with far greater benefits and safety—and far more quickly—because a human being is the perfect and only reliable “model” of another human being. When people say that we could not have done certain things without the use of animals or that we could not continue doing these things, that is not strictly true; anything we have done using other animals could also have been done using human beings. But to subject human beings to most of the things to which nonhuman beings have been—and *continue to be*—subjected would be immoral. I do not advocate such treatment of human beings regardless of whether we might derive benefits. It is, however, *precisely* for the same reasons that such treatment must be considered immoral if applied to other animals.

When it comes to human beings, we do not accept the notion of a master race. We do not believe that there is an inferior race of people that could be practiced on or used for the benefit of others. Nor do we believe that having the strength or other ability to overpower someone gives us the right to exploit that person. We do not allow the prospect of benefits to the human species as a whole—*no matter how monumental they might be*—to guide our conduct toward each other. Further, we refrain from harming each other not just out of fear of retaliation. These restraints are part of our moral code. This is, of course, the ideal. I realize that not all people treat each other with respect or hold to the highest moral principles. It would be inappropriate and self-defeating, however, to consider a moral principle invalid simply because not all adhere to it.

In the case of animals other than human beings, the vast majority of human beings disregard this moral code. In the name of science and other activities as

well, we do to other animals things we would consider abhorrent if done to each other—or to our companion animals, even if they are of the same species we are exploiting. We do not even do these things to people who are guilty of vile transgressions against society—people who have committed the most heinous of crimes and have forfeited their right to freedom, pursuit of their interests, and sometimes even their lives. We are nevertheless willing to do these things to other beings who are “guilty” only of being alive on this earth. No one, however, has ever put forth a coherent, *non-self-serving* argument demonstrating that other animals are not deserving of the same degree of moral concern we have for members of our own species or for those animals we consider our companions.

Our sense of morality in dealing with each other stems from our highest capacity for benevolent action. This is not simply because we call ourselves human beings. If I labeled a chair a “human being,” that would not make the chair an object of moral concern. Cutting off one of its legs would not matter to the chair. But it would matter to a human being, even if an anesthetic or analgesic was used and regardless of whether this was done for her or his benefit, for the benefit of others, or gratuitously.

The reason it is wrong to harm another human being, therefore, is not simply because he or she is called a human being. Nor is it only because pain or suffering might result. It is wrong to harm human beings because it is possible to harm them. That is, there is no question in our minds that we *can* cause harm to each other. A person has certain qualities that are important to consider and protect. A person is an individual who has a life that fares better or worse depending on what happens to that life; no such claim can be made for inanimate objects. A person has value that is independent of his or her utility to another; the value of an inanimate object is negotiable. A person has interests whose pursuit is an important component of her or his life; such a notion does not appear to make sense in the case of inanimate objects.⁷ These traits are fundamental to the so-called inalienable rights we confer on each other. Even people who have no concept of what is right or wrong and who have no obligations to others—moral patients—are granted these minimal rights.

Unlike chairs, nonhuman animals are just like human beings in these important ways, certainly infinitely more so than they are like inanimate objects. In fact, we use these individuals in research because we recognize their similarities to us. Unfortunately, we stop short of anything other than physical similarities in governing our behavior toward them. We cannot, however, rationally deny that at least other mammals share with us more than just anatomical or physiological features. We are learning more and more that these individuals share emotions, intelligence, self-will, and other traits that we value in ourselves. Moreover, it is unquestionable that these animals can experience more than just physical pain; we recognize, for example, that they also demonstrate anxiety, fear, and depression, which we exploit in studies on these phenomena while, sadly, failing to allow this to affect our willingness to continue this subjugation.⁸

We cannot provide an adequate defense against changing our treatment of animals in the light of their overwhelming similarities to us. Animals *can* be harmed. They have lives that fare better or worse depending on what happens to those lives. Their lives can be enriched or impoverished, especially at our hands. What happens to them *does matter* to them. Like human beings, other animals have interests, although they may be difficult to define and may be different from those of human beings. Other animals can experience pain and pleasure, and most can probably suffer in the general way in which human beings do. When we examine the issue without prejudice—and with humility rather than arrogance—there do not appear to be any *morally relevant* differences between humans and other animals that justify denying other animals similar consideration, respect, or treatment, based upon their interests or whether what we propose to do *matters* to the individual. There are no morally compelling differences between human beings and other animals that justify treating other animals so markedly differently from the manner in which we treat human beings or even our companion animals.

Physical or intellectual equality is not mandatory in order to propose equal consideration. Human beings want inalienable rights not because all people are created equal. Quite the opposite, such rights are a

means of protecting disadvantaged or other individuals from subjugation by some people. The differences between various people—for example, differences in intelligence or physical strength or differences in gender or race—are *biological* and are irrelevant from a moral perspective. In the case of other animals, the major differences from human beings also are biological and are usually a difference in degree—not in kind. But more to the point, every characteristic stated to be important and uniquely human is shared to some degree with many other animals and does not even exist in some human beings. Language—in a broad sense, not just the artificially narrow human construct—thinking, intelligence, and other characteristics that people try to use to separate human beings from others exist in many other animals.⁹ For example, experiments have shown that animals can seriate and that they use at least some of the important information-management processes exploited by human beings.¹⁰ Some other animals have memory similar to that of human beings.¹¹ Other arguments put forth by some—for example, that other animals do not have political systems or do not compose symphonies—are nonsensical, vacuous, or morally irrelevant.

People who defend the harming and killing of animals in research argue that the individuals are “protected” by review committees and laws and are treated “humanely.”¹² This is patent nonsense, especially when the animals are deprived of a normal life or are purposefully harmed or killed. One has to wonder whether people who believe they are being “humane” or that the animals are “protected” have critically evaluated these issues or whether they are in deep denial. Would they consider it “protection” if someone was legally allowed to subject them to surgery unnecessary for their health or to kill them as long as it was in the name of science? When a committee reviewing animal subjects determines that a particular project is “reasonable,” the obvious question begged is, reasonable to whom? Certainly, no animal, human or other, would knowingly submit to experiments—even if they were nonpainful—if they knew that death was the end point. My many years of experience on such committees or similar bodies have shown me that even if a person who is an advocate for animals is on such a committee, it is a token gesture

because the control of the vote is made up of people who in some way have a vested interest in having the projects done.

To be humane is to have sympathy for another, to be merciful and compassionate. If you provide pain relief after you have done surgery on a dog or a rat as part of an experimental study, in what way can this be considered humane? If it were not for you, there would have been no pain in the first place. It is particularly disingenuous—and repugnant—to take credit for helping victims you have created. Considering yourself to be acting humanely in this instance is a little like breaking someone’s leg and then offering her analgesics and a crutch to use. Even if you support the use of animals in ways that are harmful to them or result in their destruction—even if painlessly—considering the situation to be “humane” is deplorable and dishonest. If you do not believe this, take any paragraph that describes a use of animals that is acceptable to you and that you believe to be “humane.” Then substitute the words “human child” or similar for each reference to an animal. Read it back to yourself and see if you still think this constitutes humane treatment. For example, consider the following taken from the “Experimental Procedures” section of a 2015 paper reporting a UK study using rhesus macaques, approved by the UK Home Office and Oxford’s Committee on Animal Care and Ethical Review:¹³

The monkeys were . . . sedated . . . and anesthetized throughout surgery. . . . A bone flap was raised over the . . . cortex, the dura mater was cut and reflected, and the craniotomy was extended . . . to provide access to make the lesion. All cortex anterior to the limit of the lesion . . . was removed. . . . The operated animals rested for 2 wk after surgery before . . . testing. . . . At the conclusion of the experiments, the . . . animals were deeply anesthetized . . . perfused through the heart with . . . formol-saline. . . . Their brains were . . . removed from the skull.¹⁴

Now consider this description with the substituted words:

The [children] were . . . sedated . . . and anesthetized throughout surgery. . . . A bone flap was raised over the . . . cortex, the dura mater was cut and reflected, and the craniotomy was extended . . . to provide access to make the lesion. All cortex

anterior to the limit of the lesion . . . was removed. . . . The operated [children] rested for 2 wk after surgery before . . . testing. . . . At the conclusion of the experiments, the . . . [children] were deeply anesthetized . . . perfused through the heart with . . . formol-saline. . . . Their brains were . . . removed from the skull.

Does this still sound “humane”? Can you honestly say this is an ethical way to treat someone? Bear in mind that “humane” and “ethical” logically have nothing to do with the purported purpose of the study.

Those who support research on nonconsenting beings usually point out that people are suffering, often using highly emotive scenarios of children with birth defects or cancer. There is, of course, no incontrovertible proof that using animals as human surrogates will ameliorate human suffering. When a claim is made to the contrary, a good scientist would want to know whether a controlled study comparing advances with and without the use of animals had been done to support this.¹⁵ Nevertheless, appealing to the suffering of some to justify causing even more suffering in others is surely not only contrary to our own moral principles; it also begs the question of why one group of individuals is morally superior to another. These same people often ask questions such as, “Who would you save in a situation where your mother and your dog were in mortal danger?” Such questions, although stimulating, do not bear on the question of whether human or nonhuman life is more valuable. Rather, they deal with the question of which *individual* is more valuable to *another individual*. Suppose that the situation were a life-or-death scenario between two human beings in which a person had to choose between saving her or his daughter or someone else’s daughter. I believe that most people would choose their own child over another. This does not mean that they are callous or that they do not value other human life. They simply have a closer, more familiar, and more compelling relationship with their own child. Furthermore, such situations are exceptional, and we do not base our standards of behavior on them.

If other animals are so similar to us, if they clearly have moral value based on our own definition of morality, if what we do to them matters to them, what is absent that renders them unworthy of serious

moral concern that should provide them with true protection from harm by us? I submit that there is nothing absent; we are simply blinded by our self-centeredness, fear, greed, arrogance, and self-deception. When we critically and honestly evaluate the situation, it becomes clear that we do to other animals what we do not out of some moral imperative and not because it is right or “humane.” Instead, we do these things because it is believed that we—or someone we care about—will benefit in some way *and because we have the power to dominate those animals*. We tacitly act on the morally repugnant principle that might makes right: we *can* do it, so that makes it right.

Most of us even delude ourselves into thinking that we are acting morally under these circumstances. If we consider ourselves to be acting morally, however, we should not be basing our decisions on whether we might derive benefits from exploiting other animals. Nor is it relevant whether there are adequate alternatives to situations in which we currently use animals. The questions we should be asking ourselves are these:

- Is our domineering behavior appropriate for such a highly developed, intelligent, and potentially compassionate species as ours?
- Is our behavior consistent with the best we could be as a species, intellectually and spiritually?
- Is our subjugation of animals consistent with the reasons we care about each other?

If we consider ourselves to be so much better than others, we behave in a most despicable—and self-degrading—manner by subjugating and destroying those we consider to be below us. We set standards of behavior for ourselves, based on compassion, fairness, and kindness—the best of human qualities—and then we systematically deny others the benefit of these standards because those “others” appear to be different from us or because they are not our cherished companions. To consider other animals the moral equivalent of human beings in no way demeans human beings.

I accept that there are certain forms of research that might be permissible to do on nonconsenting beings but only when this research has the potential for direct benefits to them as individuals, does not result in appreciable harm, and importantly, allows

them to continue living their lives with dignity and freedom after the research has ended. Unless these or similar criteria can be assured, my answer to the question of whether human moral principles permit experimenting on nonconsenting beings, whether human or other, is an unequivocal and resounding no.

Notes

1. Purely for the sake of convenience, I will primarily refer to animals other than human beings as “animals,” recognizing that all are animals of one kind or another; there is no intention to imply that any animal, even a human being, is morally superior to or intrinsically more valuable than another.

2. *Nedim C. Buyukmihci v. Regents of the University of California et al.*, CIVS-89-0067-LKK-PAN, US District Court, Eastern District of California (1989).

3. By “moral agents,” I mean individuals who can develop, articulate, and apply principles of right and wrong. By “moral patients,” I mean individuals, regardless of species, who cannot logically be expected to understand and live by the principles developed by moral agents, nor can they necessarily give their consent to be research subjects. There are, of course, ways in which such individuals show their lack of consent, including hiding, biting, or other behavior. A. P. Silverman, “Rodents’ Defence against Cigarette Smoke,” *Animal Behaviour* 26, no. 4 (1978): 1279–81.

4. Nedim C. Buyukmihci, “The Draize Eye Irritancy Test,” November 20, 2016, accessed March 24, 2017, <http://escholarship.org/uc/item/5ds7v9tj>; Nedim C. Buyukmihci, “Safety Testing of Products for Human Use: Irrefutable Necessity or Morally Indefensible False Sense of Security?” November 19, 2016, accessed March 24, 2017, <http://escholarship.org/uc/item/0kw5q9s5>; Nedim C. Buyukmihci, “Amblyopia and Non-Human Animal Research,” October 26, 2016, accessed March 24, 2017, <http://escholarship.org/uc/item/3fx028nz>; Nedim C. Buyukmihci, “Experimenting on Individuals without Their Consent,” November 12, 2016, accessed March 24, 2017, <http://escholarship.org/uc/item/1kp253b7>.

5. Lauren Milligan Newmark, “Getting More Omega-3 Fatty Acids from Milk,” *Splash! Milk Science Update*, April 2014, accessed March 24, 2017, <http://milkgenomics.org/article/getting-omega-3-fatty-acids-milk/>.

6. I realize that there are legitimate situations in which the end does justify the means. For example, in order to expedite the healing process in the case of a fractured femur or severe laceration, you may have to subject the patient to restraint, anesthesia, and medications. A human child or dog so injured may be terrified at such treatment, and the postoperative recovery phase may be very unpleasant. The intent in situations such as this, however, is to help the individual directly. No one is being used as a means to another’s ends.

7. The pursuit of interests, of course, must be balanced against the impact on others.

8. Yan Liu, Liu Yang, Jin Yu, and Yu-Qiu Zhang, “Persistent, Comorbid Pain and Anxiety Can Be Uncoupled in a Mouse Model,” *Physiology and Behavior* 151 (2015): 55–63; Klaus A. Miczek, Aki Takahashi, Kyle L. Gobrogge, Lara S. Hwa, and Rosa M. M. de Almeida, “Escalated Aggression in Animal Models: Shedding New Light on Mesocorticolimbic Circuits,” *Current Opinion in Behavioral Sciences* 3 (2015): 90–95; Stephanie L. Willard and Carol A. Shively, “Modeling Depression in Adult Female Cynomolgus Monkeys (*Macaca fascicularis*),” *American Journal of Primatology* 74, no. 6 (2012): 528–42.

9. David Barner, Justin Wood, Marc Hauser, and Susan Carey, “Evidence for a Non-Linguistic Distinction between Singular and Plural Sets in Rhesus Monkeys,” *Cognition* 107, no. 2 (2008): 603–22; Marc Bekoff, “Do Dogs Ape?” or “Do Apes Dog?” and Does It Matter? Broadening and Deepening Cognitive Ethology,” *Animal Law* 3 (1997): 13–23; Elizabeth M. Brannon and Herbert S. Terrace, “Ordering of the Numerosities 1 to 9 by Monkeys,” *Science* 282, no. 5389 (1998): 746–49; A. S. Chamove, “Cage Design Reduces Emotionality in Mice,” *Laboratory Animals* 23, no. 3 (1989): 215–19; Lars Chittka and Jeremy Niven, “Are Bigger Brains Better?” *Current Biology: CB* 19, no. 21 (2009): R995–1008; Graziano Fiorito and Pietro Scotto, “Observational Learning in *Octopus vulgaris*,” *Science* 256, no. 5056 (1992): 545–47; Ashley J. Frost, Alexandria Winrow-Giffen, Paul J. Ashley, and Lynne U. Sneddon, “Plasticity in Animal Personality Traits: Does Prior Experience Alter the Degree of Boldness?” *Proceedings of the Royal Society B: Biological Sciences* 274, no. 1608 (2007): 333–39; Marc D. Hauser, David Glynn, and Justin Wood, “Rhesus Monkeys Correctly Read the Goal-Relevant Gestures of a Human Agent,” *Proceedings of the Royal Society B: Biological Sciences* 274, no. 1620 (2007): 1913–18; Tetsuro Matsuzawa, “Form Perception and Visual Acuity in a Chimpanzee,” *Folia Primatologica: International Journal of Primatology* 55, no. 1 (1990): 24–32; John C. Mitani, Toshikazu Hasegawa, Julie Gros-Louis, Peter Marler, and Richard Byrne, “Dialects in Wild Chimpanzees?” *American Journal of Primatology* 27, no. 4 (1992): 233–43; Francesco Natale, Patrizia Poti, and Giovanna Spinozzi, “Development of Tool Use in a Macaque and a Gorilla,” *Primates: Journal of Primatology* 29, no. 3 (1988): 413–16; Sue Savage-Rumbaugh and Roger Lewin, *Kanzi: The Ape at the Brink of the Human Mind* (New York: Wiley, 1994); Justin N. Wood, Marc D. Hauser, David D. Glynn, and David Barner, “Free-Ranging Rhesus Monkeys Spontaneously Individuate and Enumerate Small Numbers of Non-solid Portions,” *Cognition* 106, no. 1 (2008): 207–21.

10. Brendan Oliver McGonigle, “Cognitive Psychology: Non-verbal Thinking by Animals?” *Nature* 325, no. 6100 (1987): 110–12.

11. Gema Martin-Ordas, Dorte Berntsen, and Josep Call, “Memory for Distant Past Events in Chimpanzees and Orangutans,” *Current Biology: CB* 23, no. 15 (2013): 1438–41.

12. The relief of pain is an integral part of “humane” treatment. However, we often cannot be certain when an individual is in pain. John F. Bradfield, Todd R. Schachtman, Ron M. McLaughlin, and Earl K. Steffen, “Behavioral and Physiologic

Effects of Inapparent Wound Infection in Rats," *Laboratory Animal Science* 42, no. 6 (1992): 572–78.

13. Although the following is taken verbatim from the report, I have arranged the wording to make my point, without in any way altering the truth of what was done.

14. Erica A. Boschín, Carinne Piekema, and Mark J. Buckley, "Essential Functions of Primate Frontopolar Cortex in Cognition," *Proceedings of the National Academy of Sciences of the United States of America* 112, no. 9 (2015): E1020–27.

15. This would be virtually impossible at this point in our history, but without this, claims that medical discoveries depend (or depended) on or could not occur without the use of animals are pure speculation.

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THE ETHICAL CASE

AGAINST ANIMAL EXPERIMENTS

Edited by

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