

Rights and Interests

The central attack on animal experimentation comes from those who contend that animals have rights. Whether animals do have rights is a question of very great importance, because if they do, as these critics claim, those rights must be respected—and they must be respected (as we noted earlier) even if doing so imposes great costs or burdens on human beings. Rights count; they are dispositive; they cannot be ignored. The meaning of *right* is therefore absolutely critical in this debate; it deserves the most careful reflection at the outset.

A *right* is a valid claim, or potential claim, that may be made by a moral agent, under principles that govern both the claimant and the target of the claim.¹ Every genuine right has some *possessor* and must have some *target* and some *content*.

You, the reader, possess many rights, of course. The *content* of your rights may vary greatly: You may have a right to the repayment of a loan or deposit, a right to nondiscrimination by an employer on account of race, a right to noninterference by the state in some protected activity like political speech, and so on. The *target* against whom some rights claim of yours may be registered may also vary greatly. It can be a single person (say, your landlord), or a group (say, some profit-making corporation), or a community (say, the city in which you live). You may, conceivably, have a right against all humankind. To comprehend any genuine right fully, therefore, we must know *who* holds the right, *to what* it is a right, and *against whom* it is held.

Rights are very different from *interests*, and this distinction is of profound importance in moral reasoning. It may be much in my interest for you to employ me or promote me—and yet I may have a right to neither. I may have a very strong interest in the passage of some legislation or in having a particular

decision reached by a judge or jury—and yet have no right to those outcomes. I may have an interest in admission to some school or participation in some deliberative body, but have no rights to either. Some of my interests are of the very greatest importance to me, and some of your rights may be of little concern to you. But your rights, being valid claims, must be respected, while my interests, even when important, do not always command respect. Rights cannot be justly disregarded; interests may deserve to be disregarded in some contexts, and very often they will go unsatisfied.

If you have a right that conflicts with my interest, there can be no serious doubt how that conflict is to be resolved. Interests are for the most part transient and subjective. Rights are objective and commonly endure; they are legitimate demands made within a moral system. *Rights trump interests*. This is a point of the most fundamental importance. The animal rights movement takes rights very seriously, and so should we all.

Some illustrations of this common conflict may prove useful. You have a right to the return of the money you lent me, today if this be the date of repayment to which I had earlier committed myself. We both understand this. I may have a continuing urgent need for the money owed to you, and it may be very much in my interest to hold on to it. You may have little current need for it at all. But my convenience and your affluence are not to the point. You now have a *right* to the money you lent. Laws in a civil society are framed, and a system for their enforcement devised, partly to ensure that certain moral rights will receive the respect to which they are entitled. A body politic having legitimate authority may on occasion create rights by statute. But the true merit of any community's system of justice depends on the relation between the laws and the moral rights that ought to underlie them.

Many rights cannot be written into law. If I give you an earnest promise—say, to maintain complete confidentiality on some sensitive matter—you have a moral right to my keeping that promise even though there may be no court in which your claim could be enforced. It may be very much in my interest to break the promise I gave you, but my interests and the silence of the law do not override the obligation created by that promise freely given—a promise whose binding force we both well understood.

Those holding power in the state also often have important interests for the sake of which they might gladly override your rights—your right to travel freely, perhaps, or your right to publish sharp criticism. Their interests need not be nefarious; your rights may interfere with their genuinely benevolent intentions. But the protection of fundamental rights is one central function of a good constitution and is one reason, perhaps the chief reason, that we prize respect for our Constitution so highly. In a decent society (which we like to think ours is) the interests of the powerful are not allowed to trample rights, even the rights of the humble. Rights always trump interests.

Nazi doctors under Hitler, partly to support what they thought to be great national interests, were determined to learn all that they could about hypothermia, human freezing. Too many German soldiers were freezing to death on the eastern front; grave military needs impelled their inquiry. To advance these interests, they conducted scientific studies; they soaked Jews in cold water and put them in refrigerators, the better to learn how hypothermia develops and can be treated. Such experiments are outrageous, horrible, utterly repugnant on moral grounds. The scientific results obtained from these investigations will not even be referred to by many who think such uses of human beings to be unconscionable. Those Nazi doctors did in fact learn a good deal about hypothermia—but we have no difficulty in seeing that all scientists, no matter the importance of the interests they pursue, are forbidden to advance medicine in that way. The Jews who were the innocent victims of those atrocious experiments had rights, rights demanding respect. Those rights were cruelly violated, ignored; medical investigators who use humans with a callous disregard for their rights deserve to be the object of our moral loathing.

In that same spirit, all decent human beings condemn torture. Even criminals ought not be treated as though they were mere things. Felons convicted of the most heinous crimes, we will agree, ought not have their bodily organs forcibly harvested for transplanting. Every human being, we think, is the bearer of some rights, natural human rights. Some philosophers have contended that such natural rights are really no more than fictions, that what are commonly called rights are nothing but advantages to be gained or lost by one group relative to some other group.² But even those whose writings may deprecate rights will act with mighty determination in defense of their own rights when push comes to shove.

In all morality the key concept is that of *right*. In the life of the community what is most precious to its members are its rights. We have a weighty interest in protecting our rights, of course—but we certainly do not have a right to have all our interests satisfied. An interest, even if it is weighty, does not for that reason become a right. Rights have a commanding place in moral relations that interests cannot usurp. Rights, but not interests, are valid moral claims that other moral agents have the obligation to recognize and to respect.

Notes

1. This account of right expresses what most philosophers agree is essential to it. Some may argue with the formulation, but Professor Tom Regan, who fairly represents the animal rights movement, is not likely to quarrel with it; his account of rights is very similar. He writes, "To have a right is to be in a position to claim, or to have

claimed on one's behalf, that something is due or owed, and the claim that is made is a claim made against somebody, to do or forbear what is claimed as due" (*Case*, 271). Regan's views will be sharply criticized in what follows, but in holding that a right is at bottom a valid moral claim, there is no conflict between us.

2. Jeremy Bentham, the great utilitarian philosopher, in *Introduction to the Principles of Morals and Legislation* (London: Wickersing, 1823) wrote, "Natural rights? Natural and imprescriptable rights? Nonsense. Nonsense upon stilts."