

## DISCUSSION

## FREY ON INTERESTS AND ANIMAL RIGHTS

BY TOM REGAN

In his "Interests and Animal Rights"<sup>1</sup> R. G. Frey lodges a number of objections against arguments I use in my discussion of H. J. McCloskey's position on why animals cannot have rights.<sup>2</sup> Frey's major objection is that, even if my interpretation is a correct interpretation of McCloskey, I fail to show that animals can satisfy one of the criteria for possible right-possession which McCloskey advances—the criterion, namely, that only those beings which can possess interests can possess rights (hereafter referred to as "the interest criterion"). Frey thinks that my argument "either yields an unwelcome result or else, if it is to avoid this result, demands support of a kind very different from anything Regan has provided" (p. 256). I shall try to explain why I think Frey is mistaken.

McCloskey's grounds for denying that animals can meet the interest criterion, as I understand him, are bound up with his view that talk of what is in a being's interests ("interest-talk") has both an evaluative and a prescriptive meaning. The evaluative meaning associated with saying that something (*X*) is in a being's (*A*'s) interests I characterize as "*X* will (or we think *X* will) contribute to *A*'s well-being", while the prescriptive (or action-guiding) meaning I characterize as "*X* ought to be of concern to *A*; *A* ought to care about *X*". McCloskey grants that animals can have a well-being; so, I surmise, it must be the alleged prescriptive overtone of interest-talk that makes it, in his view, inappropriate to speak of the interests of animals. In particular, if part of what it means to say that something is in a being's interests is that that being ought to do something about it; and assuming, as seems reasonable, that animals are not a sort of being which ought to do anything; then we seem to be debarred from speaking of what is in an animal's interests. So goes my interpretation of McCloskey.

Against this view, as Frey notes, I point to the situation of babies and the severely mentally-enfeebled of all ages: *they* are not sorts of beings which ought to do anything. Thus, if animals are ruled out as possible possessors of interests and, given the interest criterion, of rights, on the grounds that (1) interest-talk has a prescriptive overtone which is to be characterized in terms of what ought to be done, and (2) animals are not sorts of beings which ought to do anything, then the same would be true of babies and the severely mentally-enfeebled of all ages. But these people do have interests. Thus, either (a) we must abandon altogether the view that interest-talk has a prescriptive meaning or, (b) if we retain this view, we must try to explain this prescriptive element, when the beings whose interests are in question are babies or severely mentally-enfeebled and so are not themselves sorts of beings which ought to do anything.

<sup>1</sup>*Philosophical Quarterly*, 27 (1977), 254-9. Henceforth page references are given in the body of my paper to Frey's essay.

<sup>2</sup>See H. J. McCloskey, "Rights", *Philosophical Quarterly*, 15 (1965), 115-27 and my discussion, *Philosophical Quarterly*, 26 (1976), 251-7.

Frey is dissatisfied with the arguments I give in support of (a). These arguments, however, are not at issue here. What is at issue are his objections to my attempt to satisfy alternative (b). What I maintain in my essay is this:<sup>3</sup> if a prescription is issued when, for example, we say that a transfusion is in baby Jane's interests; and assuming, as I do, that baby Jane herself is not a being of a sort which ought to do anything; then the prescription *can* only be directed to some *other* competent person—namely, one qualified to administer the transfusion, or one competent to see that a qualified person does so. In this way, I suggest, both the evaluative and prescriptive overtones of interest-talk can be taken into account, assuming that interest-talk has a prescriptive overtone, even when we are speaking of the interests of human beings who are not themselves beings which ought to do anything.

Frey objects to this on the ground that, as it stands, it "yields an unwelcome result": it implies, he thinks, that baby Jane would not have any interests at all if she were quite alone in the world. As Frey puts it: "If there are no human beings other than the baby, if, in other words, there are no competent human beings, then [Regan's view implies that] the baby has no interests" (p. 257). And this, Frey remarks, in a nice display of understatement, "is not commonly thought".

Frey's attempt to show that my argument yields this "unwelcome result" rests on a serious misinterpretation of it. The position I set forth is not that the existence of baby Jane's interests depends on there being other competent persons. Rather, there being other competent persons about is necessary *if speaking of what is in the baby's interests is to have a prescriptive meaning*. My position is a position about the conditions under which interest-talk *has* a prescriptive meaning, when the being whose interests are in question is not a being of a sort which ought to do anything, and on the assumption, which McCloskey evidently makes, that interest-talk can be used to issue prescriptions. If there are no other competent persons around, then, on my view, we could speak of what is in baby Jane's interests, in the sense of what would contribute to her well-being; but *we could not thereby issue a prescription* concerning what someone ought to do, and this because, *ex hypothesi*, there is no "someone" who ought to do anything. I do not see how this result, which does follow from the position I set forth, is in any obvious way "unwelcome". What would be unwelcome is an analysis of interest-talk which, assuming that such talk has a prescriptive overtone, implied that things were otherwise.

Against this view, it is true, it is open to someone to object that the meaning of what we say is a "fixed something" and thus cannot vary, as my position clearly implies, depending upon to whom we are speaking, under what real or imagined circumstances, etc. But though a response of this sort is open to some, it is not open to Frey since, earlier in his essay (pp. 255-6), he attacks one of my arguments against McCloskey on the ground that there may be a prescriptive component as part of the meaning of interest-talk even if it is true that we do not *always* issue prescriptions every time we speak of what is in a being's interests (as when, for example, we say "I wonder if the trip is in John's interests?"). My position, properly understood, differs from the one Frey advances in defence of McCloskey only in that mine allows, while Frey seems to assume that it rules out, the possibility that, even assuming that interest-talk has a prescriptive meaning,

<sup>3</sup>*Op. cit.*, p. 257.

sentences of the form 'X is in A's interests' may lack it, which they will *if* A is not a being of a sort which ought to do anything *and if* there are no other competent persons about. Perhaps I am mistaken in believing this, but one does not show that I am, if I am, by declaring that my view implies that an isolated baby Jane has no interests. It doesn't, and she has.

The relevance of the preceding to the question whether animals possess rights is straightforward. Even if we assume that speaking of what is in a being's interests can have a prescriptive overtone as part of its meaning, this presents no obstacle to speaking of what is in an animal's interests. In saying, for example, "Treatment for worms is in Fido's interests", what we say will have a prescriptive meaning (assuming that such talk ever does) *if* there is some competent person about who can see to it that Fido receives the treatment. If there is no such competent person, no prescription will be issued. Frey seriously misunderstands my position, therefore, when he credits me with believing that "if there are no people, animals do not have interests" (p. 257). My position is a different one—namely, that speaking of what is in an animal's interests even if there were no people can have no prescriptive meaning (though even in these circumstances we should succeed in conveying that something will contribute (or that we think it will contribute) to the animal's well-being). If I am right, the case of the baby Janes and the Fidors of the world are, to use an expression of Frey's, "on all fours". Assuming that interest-talk has a prescriptive meaning, parallel accounts can be given of speaking of what is in the interests of each; and, given the interest criterion, both will qualify as possible possessors of rights *if* the argument of the preceding pages is sufficient to establish that the baby Janes satisfy this criterion. The argument in support of the view that the Fidors satisfy it and so, given this criterion, are possible possessors of rights, is as weak or as strong as the argument in support of the view that the baby Janes do.

*North Carolina State University*