

# Obligations to Animals Are Based on Rights

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**Abstract** *Some feminist philosophers criticize the idea of human rights because, they allege, it encapsulates male bias; it is therefore misguided, in their view, to extend moral rights to non-human animals. I argue that the feminist criticism is misguided. Ideas are not biased in favour of men simply because they originate with men, nor are ideas themselves biased in favour of men because men have used them prejudicially. As for the position that women should abandon theories of rights and embrace an ethic that emphasizes care: women who made this choice would not so much liberate themselves from "the patriarchy" as they would conform to its representation of women as emotional, subjective and irrational. There is, then, no good reason to withhold ascribing rights to non-human animals, based on the criticisms of rights made by some feminists.*

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The idea of "the rights of the individual," so central to our everyday moral vocabulary and a cornerstone of much of our contemporary moral theorizing, actually is of comparatively recent vintage. The Greeks managed to conduct their moral business without it. The same is true of our medieval predecessors. It is not until we reach the period of the Enlightenment that the idea finds a respected place in the currency of ethical discourse, and it is at this same time, not surprisingly, that "individual rights" begins to occupy an important role in ethical theory.

John Locke's position is an instructive example of the changes ushered in by the idea of "the rights of the individual." In Locke's view, human persons have a variety of rights, including the rights to liberty, life and property, simply in virtue of being the kind of being they are. Universal, equal and inalienable, these rights are viewed as natural possessions of humans owing to their nature as rational, autonomous persons, and it is their status as *natural* rights that separates them in fundamental ways from anything that might be ceded (however grudgingly) by those in authority or by the law. Put another way, humans have these rights independently of what

any sovereign (England's King George III in particular) or worldly government might say or do. It is, in fact, the central role of government to protect its citizens in the possession of their rights, not to confer these rights upon them.

Many are the problems that arise for proponents of natural rights. For example, Locke believed both in the universality of natural rights and in the justice of capital punishment. At first, this seems a contradiction. If everyone has an equal right to life, then "everyone" presumably would include convicted murderers. Do we not, then, violate their right to life when we execute them? Locke endeavoured to address this problem in an ingenious fashion: though rights are inalienable (thus cannot be taken away), they can be forfeited (and thus can be lost). Murderers, because they have forfeited their right to life, may therefore be executed without violating a right which, in their case, they no longer have. Unfortunately, Locke never managed to make it clear how a natural right, once forfeited (for example, in the case of an arsonist or embezzler) could be regained. For, if neither the government nor the law can confer these rights upon people in the first place, murky are the logical processes by which they might restore them once they have been allegedly lost.

The details of Locke's or any other natural rights theorist's position to one side, the initial point to be made is this simple one: A moral position that proclaims (in Locke's words) "the rights of Man" not only must face a rich variety of powerful objections, it must also come to terms with a no less rich variety of coherent, influential moral positions that dispense with this idea. Plato's, Aristotle's, St. Augustine's, St. Thomas Aquinas's and, for that matter, Jesus Christ's idea about the moral life may turn out to be the true ones, despite the fact that their ideas do not involve the doctrine of natural rights.

The same is true of the principal alternative to theories of human rights during the past hundred years. I refer to utilitarianism. Those moral philosophers who have followed in Jeremy Bentham's footsteps have joined him in championing the principle of utility—the promotion of "the greatest good for the greatest number." Morally considered, talk of "the rights of the individual" is so much nonsense for Benthamite utilitarians, "nonsense upon stilts" in Bentham's own immortal words. For Bentham and his followers, not only is the idea of natural rights unnecessary for enlightened moral thinking, reliance on the idea can be morally dangerous. Rights theorists place severe limits on what may be done to the individual in pursuit of the general welfare (for example, those known to be innocent may not be executed even though this would deter others from committing capital crimes, thereby promoting the general welfare). Thus, a willingness to act on the belief that individuals have natural rights could thwart the goal of achieving the greatest good for the greatest number. Worse than plain nonsense, therefore, belief in "the rights of Man" can be inimical to the pursuit of the larger good of society.

### **The Feminist Indictment**

The utilitarian challenge to human rights is by now a familiar one, as are the challenges stemming from, say, Aristotle's virtue ethic and the natural law ethic of St. Thomas Aquinas. Such are the resources of moral philosophy, however, that new

channels of thought are constantly being explored, so it is no surprise to discover a new and significantly different line of criticism of "the rights of the individual." Here I refer to the criticism being voiced by some feminist philosophers. This new criticism can be summarized by saying that the very idea of the rights of the individual is patriarchal, meaning: this idea (or so it is alleged) encapsulates and perpetuates biases that favour men.

Before moving on to explore this criticism (which for brevity's sake I shall term "the Feminist Indictment"), three preliminary points merit mention. First, not all those philosophers who consider themselves feminists would accept this criticism; indeed, some feminists (so-called liberal feminists) would strenuously deny it. Second, whether accepted or rejected, the indictment is perfectly general in scope. It is not merely *some* views about individual rights – Locke's views, for example – that are alleged to be patriarchal; *all* views about the natural rights of the individual are allegedly tainted by male bias. To express this same point in different words, what is wrong with theories of individual rights, when viewed from the perspective of the Feminist Indictment, has nothing to do with the details of one theory of such rights when compared with others; rather, it has everything to do with the allegedly prejudicial character of the very idea of individual moral rights itself.

The final preliminary point is this. Clearly, ideas or practices, customs or institutions that arbitrarily favour men over women not only are patriarchal, they are wrong and should be changed. As we near the end of the 20th century, this is hardly a revolutionary position to take. The same is not true of those people who, centuries before us, dared to think this (at the time) unthinkable thought. In any event, the issue we are exploring is not whether patriarchy, understood as various forms of male domination that arbitrarily favour men (or their interests) over women (or theirs), is a good thing. I assume that all parties to the discussion are agreed that it is not. The issue concerns the credibility of the Feminist Indictment of the idea of individual rights – the accusation, again, that this idea itself is patriarchal.

### **The Geneology Defence**

How might one attempt to defend this view? One possibility concerns the geneology of the idea of individual rights. For it was men, after all, who first formulated this idea – the Lockes and Rousseaus of the world, not the Xanthippes and Hildegards. The Geneology Defence (to give this line of reasoning a name) would have us infer that an idea is patriarchal if it was originated by men.

This is an implausible defence. If we were to accept it, we would be obliged to say that our current understanding of the circulation of blood is patriarchal because it was Harvey and his male contemporaries who were the first to discover how blood actually circulates. No less absurd consequences would follow in every other similar context (for example, Euclidean geometry must be patriarchal because Euclid was a man). But surely it is absurd to imagine that Euclid's definition of a right triangle is a symptom of male domination or that it arbitrarily favours or favours in any way whatsoever, the interests of men over those of women. Logically, the fact

that a man discovers, creates, or simply says something does not entail that what is discovered, created or said is tainted by male prejudice.

### **The Implementation Defence**

A second possible defence of the Feminist Indictment (the Implementation Defence) takes a different route. Even a cursory view of social history, from Greek civilization up to this very day, confirms that men routinely have received advantages, as a matter of their rights, that routinely have been denied to women. No less clearly, it has been men who routinely have decided who is and who is not to be the beneficiary of these advantages. Thus, because reliance on the idea of individual rights can be shown to have these patriarchal results, should we not conclude that the very idea of individual rights is patriarchal?

It seems not. Ideas are not shown to be patriarchal simply because they have been used in a patriarchal fashion; if anything, the patriarchal use of ideas shows that those who use them are patriarchal, not that the ideas themselves are. To make this point clearer, consider an example from another quarter. Various people over time have used the idea of genetic inheritance as a basis for classifying the members of some race "superior," others "inferior." Does this show that the idea of genetic inheritance is a racist idea? Clearly not. What it shows is something very different — namely, that some people have used the idea of genetic inheritance in a racist fashion. The same is true of the idea of individual rights. One cannot logically infer that this idea is tainted with male bias because biased men have used it in arbitrarily forwarding the interests of men or in their domination of women.

### **The Male-Mind Defence**

Another, more subtle and, for this occasion, a final defence of the Feminist Indictment takes the following form. Owing to a variety of cultural forces, it is alleged, men in general tend to think in certain ways, women in others. In the case of men, so this defence avers, they tend to think in dualistic, hierarchical terms. For example, men tend to view reason as standing over against emotion (a dualism), and also tend to think that reason is the superior of the two (a hierarchy). This same pattern emerges in the case of objectivity and subjectivity, impartiality and partiality, justice and care, culture and nature, and individualism and communitarianism; in each of these and many other cases, the world tends to be carved up by men in dualistic terms, and, in each such case, one of the two terms is ranked higher, as being of greater importance or value, than its opposite.

What we might term "male mind," then, is characterized by the dualistic, hierarchical rankings men tend to make, or so it is alleged, a summary of which would read as follows: Men tend to believe that reason, objectivity, impartiality, justice, culture, and individualism are of greater importance or value than emotion, subjectivity, partiality, care, nature, and community. Moreover, men also tend to think that men are characterized by the higher ranked pair in each of the dualisms, and

women by the lower. Thus, women are supposed (by men) to be less rational and more emotional, less objective and more subjective, and so on.

With the preceding serving as logical backdrop, the Male Mind Defence of the Feminist Indictment comes to this: The idea of "the rights of the individual" is a product of male mind and, with this, of male bias. It is a product of male-mind because, for example, it grows out of a conception of the world that places greater value on the separateness of the individual (the rights, after all, are the rights of the *individual*) over against familial and communitarian relationships; and it places greater importance on evaluating moral choices in terms of impartial considerations, such as justice or utility, in contrast to evaluations carried out in terms of our responsibility to care for (to nurture and sustain) close interpersonal relationships, such relationships as those that obtain between parents and their children. The moral significance of these latter relationships is denigrated by male mind; they are, as it were, "women's work" and thus of less importance than the acts or policies that honour the universal, equal, inalienable "rights of the individual." Against this judgment, partisans of the Male Mind Defence celebrate the qualities (emotion, subjectivity, and an ethic of care, for example) traditionally associated with the feminine.

Now there is, I think, much that is unclear in the preceding. The concepts used to describe male mind are at once so general and so vague that it seems the better part of wisdom to withhold one's judgment of the idea's validity until a much fuller, more precise story has been told. I shall have more (but hardly enough) to say on this matter below. However, even before turning to something by way of fuller explanation, it is worth noting that the Male Mind Defence has a degree of psychological resonance the others lack. Any man who has been acculturated in the ways of the Western world (and possibly any other part of contemporary civilization) "knows" that such emotions as pity and empathy are not something he is encouraged to feel, let alone to display publicly. Indeed, men who are openly sensitive and caring often risk raising doubts about their "masculinity."

But psychological resonance is not philosophical truth. How might we respond to the Male Mind Defence? Any number of possibilities merit consideration. I shall consider only three on this occasion.

### **The Patriarchal Character of the Male Mind Defence**

First, and fundamentally, the Male Mind Defence, notwithstanding its purported attack on patriarchy, arguably bears the symptoms of the very prejudice it seeks first to expose, then to supplant. Partisans of this defence not only denounce the valorization of those qualities traditionally associated with the masculine; they also celebrate those qualities (emotion, subjectivity, an ethic of care) traditionally associated with the feminine. And yet the implied claim to superiority on behalf of the traditional portrait of the feminine must strike us as logically paradoxical. After all, this portrait, like every other portrait in the patriarchy, has been drawn not by women but by men. How odd, then, that in the name of their liberation from the crippling vestiges of patriarchy women would choose to define the female in the very terms in which they have been defined by the patriarchal traditions they seek to

overthrow. Is this not like (in some ways only, of course; in other ways there are important differences) the victims of chattel slavery declaring that, yes, they *are* chattels (as the tradition of slavery has insisted all along) but that, contrary to this tradition, chattels are superior to those who own them? Ought one rather to say that there is something fundamentally wrong with the master/slave relationship in the first place?

These questions go to the very heart of what, to my mind at least, is the fundamental defect of the Male Mind Defence of the Feminine Indictment—namely, that this defence is not radical enough. It accepts too much and challenges too little. It is as if women are being asked to declare that the low hand in poker wins, rather than (as men traditionally have insisted) the high hand, when what they should be challenging is whether poker is to be played at all. As important as this line of inquiry is, a fuller exploration of a more radical response to patriarchy is beyond the limits of the present essay.

### Reason and Emotion

A second issue meriting attention concerns the alleged dualism/hierarchy of reason and emotion. It is unquestionably true, I think, that the capacity to reason has been (in some sense) ranked above the capacity to feel emotions by most men, including most male philosophers. In this respect, Locke is the rule, not the exception. Recall how, in his view, it is because human persons are rational and autonomous, not because we can feel pity or sorrow, that we have the natural rights we do. It is also true, if we consider the broad sweep of Western customs and attitudes, that women in general have been viewed as lacking in reason when compared with men, and as being more emotional.

But these facts, assuming them to be so, do not establish that patriarchal prejudice is implicit when reason is placed above emotion. For rationality *just might be* a more important feature of being human than are the capacities to feel sad or angry. That question remains open. And to suppose that it is closed because *men* have tended to rank reason above emotion is again mistakenly to infer something about the content of an idea from facts about its genealogy (like inferring that the concept of a right triangle is patriarchal because men were the first to define it). Notice, too, that it would also be a mistake to infer that the traditional ranking of reason over emotion must be patriarchal because men, in claiming greater rational capacity for themselves, have claimed rights on their behalf that have been denied to women. This latter fact (assuming it to be so) does not support the view that it is patriarchal to base the possession of rights on the capacity to reason; at most it supports the very different view that men have acted in patriarchal ways in implementing respect for women's rights because of their mistaken beliefs about the lack of reason in women—a truly lamentable legacy, let it be granted, but one that does not offer evidence of patriarchal bias in the very idea of the rights of the individual.

But why, it may be asked, suppose that the capacity to reason *should* be ranked "higher" than the capacity to feel emotions? A thorough discussion of this question would be obliged to explain and assess carefully the assumption that the two capaci-

ties really are as distinct as the question assumes. Possibly they are; possibly they are not. On this occasion I can offer only some tentative, impressionistic reasons for thinking that they actually are. Similarly, my discussion of why and in what sense the capacity to reason might be ranked "above" the capacity to feel emotions is quite limited, consisting only of the following observations concerning the role reason often plays in "checking" the appropriateness of our emotions.

Experience teaches that our feelings sometimes are inappropriate because they are based on mistaken beliefs. I well remember, for example, hearing a young man sing the Star Spangled Banner on the radio at the start of a Durham Bull's baseball game. Musically, it was a disaster. It was only after the song ended and the announcer explained that the young singer suffered from serious physical and mental disabilities that what I initially had found hysterically funny no longer was so. An aura of courage now surrounded the performance. My feelings changed because what I believed changed. What I had felt emerged as inappropriate to what actually had taken place, something I came to understand, not by feeling my way through the world, as it were, but by using my rational powers to understand it.

All of us have had similar experiences, and most of us have had them not rarely but fairly often. Moreover, most of us also are familiar with the process by which we come to recognize that our feelings (for example, about members of religions or races other than our own) are grounded in beliefs which we have accepted uncritically (for example, the belief that Native Americans are lazy and shiftless). Once we see through the prejudicial character of such beliefs, the feelings we have towards others (for example, how gentiles feel about Jews, or how Caucasians feel about African Americans) can and often do change. Throughout this process our capacity to reason is called upon to play a role which our capacity to feel cannot perform.

More generally, emotions without reason can be blind. The task of checking the factual and inferential basis of the emotions we feel exceeds both the reach and the grasp of our power to feel them. In a very real sense, this is part of the human condition. How, then, can it plausibly be judged to be patriarchal to recognize the limits of emotion or the role of reason in this regard? Without denigrating the importance of emotions in human life, it does seem to me that there is a clear, non-patriarchal sense in which our capacities to reason and to feel should be distinguished, and where, in some sense, it makes sense to rank reason "above" emotion. For my part, then, I am not convinced that recognizing a dualism/hierarchy between reason and emotion is a bad thing in general or a symptom of male domination in particular.

## Justice and Care

A third and, on this occasion, final dualistic hierarchy cited in the Male Mind Defence concerns the distinction between justice and care. Justice we understand as giving everyone her or his due—or, alternatively, as treating others as they deserve to be treated. Understood in this sense, justice and individual rights are companion concepts: If people have a *right* to be treated in certain ways, they *deserve* to be treated in those ways; such treatment is something to which they are entitled, something they can claim as their due, *as a matter of justice*. The concept of care, on the other

hand, differs. Care is something that is freely given as an expression of love or friendship or compassion, for example, not extracted from another as something that is due, after the fashion of a debt owed. To care for others is to be disposed to act to forward their interests independently of considerations of whether they deserve such concern. The most important, the most intimate of human relations—for example, those between parents and their children, between friends, between lovers—are expressions of the human capacity to care, not responses to the impersonal demands of abstract justice.

The Male Mind Defence posits that men in general are inclined to understand morality in terms of justice, women in terms of care. Because, as just noted, the ethic of justice is inextricably connected with the idea of the rights of the individual, the latter idea, it is claimed, bears the imprint of male mind and thus patriarchy. How strong, or how weak, is this defence of the Feminist Indictment?

To begin with, it is difficult to understand how anyone can doubt that there is a real difference between the concepts of justice and care. Justice is something which we can demand as our right; care is not. Indeed, if things were otherwise—if care was something we could demand as our individual right—then, contrary to the Male Mind Defence, the ethic of care would also be patriarchal, since it, too, would be built on and incorporate the idea of the rights of the individual. Both partisans and critics of the Male Mind Defence, then, should agree that the justice and care, and their respective moral directives, differ in the crucial respects we have noted.

Empirically considered, the situation is far less clear. Certainly it is possible that men are inclined to think about moral responsibility in terms of justice and individual rights, women in terms of care. Some psychological studies seem to support this finding. However, the number of relevant studies conducted to date is few and those that have been done are less than conclusive. To the extent that the Male Mind Defence stands or falls, depending on the relevant empirical data at hand, those who are not already committed to the Feminist Indictment are well advised to withhold their informed assent.

There is an alternative way to regard the apparent conflict between interpreting moral responsibility in ways that emphasize justice or in those that emphasize care. This is to view the apparent conflict as normative in character rather than empirical—as a conflict, that is, not between how men and women as a matter of fact tend to understand moral responsibility, but between two conflicting interpretations of how all of us, men and women alike, ought to understand this. When viewed in this way, the relative scarcity of empirical data concerning typical male and typical female moral development becomes moot. For the issue, given this normative perspective, concerns which type of ethic is superior, as an ethic, whatever may be psychologically true of current patterns of male and female moral thinking.

Now, it seems to me that any fully credible ethic will have to find a place for both justice and care. Concerning care first: While it is doubtless true that parents have duties to their children, and that many fail miserably in discharging the duties they have, it is no less true that parental character is the better the more parents are motivated by their care for their flesh-and-blood children, rather than by choosing to conform their wills to abstract principles of justice. Immanuel Kant, it is true,



teaches that the moral worth of an agent is contingent upon one's capacity to do one's duty for duty's sake, especially when tempted to act otherwise. But on this matter Aristotle seems closer to the truth: The best parent is one who does good by her or his child, out of love and concern for the child, in the absence of any desire to do less. In this respect, as well as in others, the importance, indeed the centrality of care in a fully developed moral life seems too obvious to require further support.

The same is no less true, however, of the role of justice. Morally speaking, care is not enough. And it is not enough because it is morally too restrictive. The plain fact is most people care too little about too few people. Some family members. Friends. A few neighbours. Maybe some business associates. The list isn't long by any means. If the boundaries of moral responsibility are fixed by those relationships of care people have as a matter of fact, then people will be free to deny any sense of responsibility to those (and this is overwhelmingly the greater part of humanity) who stand outside the circle of their caring relationships. Do white racists have any moral responsibilities to Asians and Chicanos? Given the present interpretation of the ethic of care, it seems not; after all, they fail to care for them. The absence of care, it seems, means the absence of responsibility in most cases. This does not bode well for an ethic of care, as interpreted here.

A possible response is that people *should* care for others – indeed, that we should care for *everyone* – even if they happen not to do so. In particular, we should care for all those who are the victims of oppression: children, members of racial minorities, homosexuals, the poor, women certainly, possibly even non-human animals. Understood in this way, the ethic of care can hardly be faulted for being morally conservative. There are, however, very serious questions about its internal consistency. For if the ethic bids us to act in caring ways towards everyone, not just family members and friends, then this ethic's guiding principle ("Act caringly towards everyone") looks very much like the sort of patriarchal ethic allegedly associated with male mind – a principle that is at once abstract, universal, objective and impartial.

Thus it is that proponents of an ethic of care face what is to my mind an insuperable dilemma: *Either* the ethic is grounded in the limited, partial care people as a matter of fact have for others, in which case its implications are friendly to the worst forms of moral prejudices (including prejudices against women), *or* the ethic is grounded in an unlimited, impartial care for everyone, in which case it takes its place alongside other ethics that advocate universal, abstract principles (and by implication embodies some of the very attributes of patriarchal ethics it seeks to expose and overcome). The choice is between a morally inadequate ethic or a logically inconsistent one.

I may, of course, be mistaken in my understanding and critical diagnosis of the issues before us. But whether correct or not, I conclude by noting both the importance and relevance of the feminist critique of those traditions that have dominated recent Western moral thinking and theory, including in particular the idea of the "rights of the individual."

**Notes**

- \* Some of the material in the discussion of the feminist critique of rights originally appeared in my "The Case for Animal Rights: A Decade's Passing" in *A Quarter Century of Value Inquiry: Presidential Addresses of the American Society of Value Inquiry*, edited by Richard T. Hull, pp. 451–455. Amsterdam and Atlanta, GA: Rodopi, 1994. These passages are reprinted with the permission of the editor and publisher, whose thoughtful co-operation is gratefully acknowledged.