



Philosophy and the Human Situation

Pro- and Anti-Regan Debate

Rosalind Hursthouse

Some people find it easier to follow the details of a philosophical argument back and forth when they can understand it as a debate between two people. Indeed, the oldest philosophy we have in the western tradition, Plato's, was all written in the form of dialogues. So, given that the argument gets pretty complicated, some of you might find it useful to have it as a debate. Derek's going to speak pro-Regan and I'm going to speak anti-Regan. So Derek, you start us off.

Derek Matravers

Well, my position is really very simple. I argue that all the animals that we exploit for food, in experiments, for sport and so on, have a right not to be treated in that way, just as we do. We have a right not to be used as a mere resource for others because we are experiencing subjects of a life. But they are all experiencing subjects of a life too, so they have the same general right.

Rosalind Hursthouse

And I think that this is just an incoherent use of the concept of a right. You can no more say that animals have rights than that works of art do. Anything that has a right has to be the kind of thing that can understand contracts and agreements and what having a right involves. For instance, you have to be able to understand how rights can be acquired, and that they can be waived and transferred; you have to be able to understand that wherever there is a right, there is a corresponding duty. But animals can't understand any of that; it's no use saying to an animal 'This is your food, because I've just given it to you but this is my food; you have a right to yours but a duty not to take mine.'

Derek Matravers

So you want to say that only creatures that can understand what is involved in having rights can have them?

Rosalind Hursthouse

Yeah.

Derek Matravers

Oh surely not, you're far too nice a person. That's an absolutely scandalous position! Are you really going to say that babies and the mentally deranged don't have the right to life, or the right not to be used in scientific experiments? I don't just call that an 'absurd consequence' I think it's a horrible consequence – you're as bad as Singer. If there's one thing I'm certain about, it is that we have an absolute duty not to just kill off babies and the mentally deranged, nor to use them in experiments.

Rosalind Hursthouse

No no, I'm not saying anything like Singer. Of course I think we have a duty not to kill them or use them.

Derek Matravers

But you're just contradicting yourself; you just said they have no rights; now you're saying we have duties to them.

Rosalind Hursthouse

But that's not a contradiction on the contractarian position, or indeed on any view of rights except the so-called 'American' one. You're assuming that if I - say a baby, say - doesn't have any rights, then I can do anything to it I like, that I have no duties to it. But on the

contractarian position, we can have duties where there are no corresponding rights. Just because a baby doesn't have the right to life doesn't mean I can do anything to it I like. Of course I mustn't kill it.

Derek Matravers

So you want to say that animals and babies and so on don't have any rights, but that nevertheless we have certain duties to them.

Rosalind Hursthouse

That's right. After all, lots of people don't think that animals have rights, but nearly everyone thinks we have a duty not to torture animals. So that's a duty without a corresponding right. All I'm saying is that I think there are lots more duties without corresponding rights than most people suppose. For example, there's a duty not to kill babies or use them in experiments, but there's no corresponding right.

Derek Matravers

Do you think that's an important duty – a really stringent one?

Rosalind Hursthouse

Yes of course.

Derek Matravers

Why?

Rosalind Hursthouse

Um, um. Well it's a duty.

Derek Matravers

But are all duties equally stringent?

Rosalind Hursthouse

Um, um, well...

Derek Matravers

Do you agree that wherever there is a right there is a corresponding duty?

Rosalind Hursthouse

Of course, everyone accepts that.

Derek Matravers

Well, you know that I have a right to be called Dr Matravers don't you.?

Rosalind Hursthouse

Yes sir! Doctor!

Derek Matravers

So you have a duty to call me Dr Matravers if I want you to.

Rosalind Hursthouse

Well, yes, I suppose so.

Derek Matravers

Is that a stringent duty. Suppose I insist on it right now?

Rosalind Hursthouse

Oh come off it Derek. It just doesn't matter.

Derek Matravers

I agree – I don't think it matters. But that's exactly what I think is so trivialising about your contractarian position on animal rights. I know we sometimes talk about rights in that trivial

way – that’s all to do with contracts and agreements and conventions and so on – our right to be called Doctor, your right to that silly coffee cup that you make such a fuss when anybody uses it, but that’s not the way we talk when we’re talking about serious stuff like not killing people or using them in experiments. We think that rights are really important; they go with really stringent duties. And that’s why I want to insist that animals have rights, and why I think it’s scandalous of you to say that babies and the mentally incapacitated don’t. If you want to say that we have a really stringent duty not to kill them or use them, you shouldn’t say they don’t have rights.

Rosalind Hursthouse

Well, I agree it does sound pretty extreme.

Derek Matravers

So you have to give up your contractarian position and agree with me that animals have rights too. You said that only creatures that can understand what is involved in having rights can have them. And you’ve just admitted that ain’t so. Babies can’t understand what is involved, but they do have rights. So if babies, why not animals too?

Rosalind Hursthouse

Well I think what I need to do is state the contractarian position more carefully. What I should have said is that only creatures which are capable of understanding contracts and so on can have rights. You have to be the kind of thing that can understand them, that’s all. And animals do not have that capacity, they’re not the kind of thing.

Derek Matravers

I don’t see that that’s any improvement on what you had before. You and I are capable of understanding contracts and so on, so we have rights; babies and the mentally deranged, like animals, aren’t capable so they don’t have rights; we’re back where we were before.

Rosalind Hursthouse

No no, you didn’t notice the subtle difference in what I said. You and I are not only logically capable of understanding contracts, we are also practically capable – we can actually do it. But I’m not saying that you have to be practically capable; it’s enough to be logically capable – to be the kind of thing that could, even if circumstances make it practically impossible.

Derek Matravers

So what’s this kind of thing that could understand contracts – that is logically capable of it? You mean something rational?

Rosalind Hursthouse

No, I accept that babies and the mentally deranged aren’t rational. I mean human beings.

Derek Matravers (laughing in disbelief).

You mean what?

Rosalind Hursthouse

I mean human beings. Human beings are a rational, contract-making species, and even though babies and the mentally deranged are not themselves rational or able to make contracts, they belong to the human species. That’s what I mean by saying they are the kind of thing – namely human beings – that is capable of making contracts.

Derek Matravers

Well, that’s the most shameless speciesism I’ve ever heard. There you are, making all this song and dance about the importance of understanding contracts for having rights, and how animals can’t do it, and then it turns out that actually understanding contracts is irrelevant. Why don’t you just go back to saying ‘only human beings have rights because we’re the only species that have any degree of rationality because we’re the only ones who have speech and be done with it. Can’t you do any better than that?’

Rosalind Hursthouse

Oh well, yes I could follow Scruton and draw a distinction between ordinary babies and other cases. You and I are actually capable of understanding contracts because we have certain sorts of brains. Most babies are not, yet, actually capable, but they are potentially capable, because they have the same sort of brain.

Derek Matravers

You mean the human sort I suppose – that's just speciesism again.

Rosalind Hursthouse

No I don't mean particularly the human sort. I mean they've got the relevant sort of DNA or whatever. Of course, I've no idea myself how to specify or describe it, but the point is that the ordinary infant human brain has a capacity for development that no animal brain has and that's a real difference between human babies and the other animals which isn't based on species, so its not speciesist; it's based on brain capacity. So babies have rights, because they have the potential to understand contracts, but no animals do, because they don't have that potential.

Derek Matravers

Hm, it sounds a bit too convenient to be true, but I think I'll have to concede that point. So you've avoided speciesism, but also kept us with stringent duties to babies; it's very neat. But hold on, did you say all babies have rights?

Rosalind Hursthouse

Well, in fact I left it vague, but what I should have said, given my argument, is that most babies, but not all, do. Babies born with some forms of severe brain damage, according to my argument, do not have the potential to understand contracts, so they don't have rights.

Derek Matravers

And what about the very senile and brain damaged adults? Do they have the sorts of brains to have rights?

Rosalind Hursthouse

Well.. no, I can't say they do without falling back into speciesism and saying that they have human brains.

Derek Matravers

Oh good grief. So we don't have any particularly stringent duties to them! I've got you on the absurd consequences move again.

Rosalind Hursthouse

No you haven't! No you haven't. I've got a new move against it.

Derek Matravers

Oh really?

Rosalind Hursthouse

Yes. When we went through this before, I said we had a stringent duty to human beings without rights not to kill them or use them in experiments.

Derek Matravers

Yes, and I said, 'Why was it stringent? And you didn't have any answer at all.'

Rosalind Hursthouse

Yes, but now I've got an answer. Virtue and piety require that we acknowledge human life as sacrosanct.

Derek Matravers

Come again?

Rosalind Hursthouse

Well, look, of course that's only the beginning of my answer. I know I've got to explain what virtue is and what piety is but...

Derek Matravers (interrupting)

No, no, I don't mind about virtue and piety; I've got a fair idea of what's involved in both of them. But just tell me this. Don't virtue and piety take any account of anything but human beings?

Rosalind Hursthouse

Yes of course they do. In fact, Scruton's going to say explicitly that it is piety that forbids factory farming.

Derek Matravers

Ah yes, that's what I thought. So would you like to explain to me, very briefly, why virtue and piety require that we acknowledge that just human life is sacrosanct? What about animal life (animals that are the experiencing subjects of a life anyhow)?. If you'll admit that virtue and piety require acknowledging that their lives are sacrosanct too, we've really only got a verbal disagreement; I say they have rights; you're still being a bit legalistic about rights and don't want to put it that way, but we agree we have this very stringent duty to the mentally incapacitated and to them. So what do you want to do – agree with me, or explain why virtue and piety are so especially concerned with human life.

Rosalind Hursthouse

Well, of course I don't want to agree with you. What I want to say is that human life is special, but I know what you're going to say.

Derek Matravers

Yup, speciesism again.

Rosalind Hursthouse

Yeah, so, the pro-Regan side wins unless we can find some argument to justify speciesism and show that it's not as bad as racism and sexism.

Derek Matravers

Just a quick final note. Remember I'm arguing on Regan's side, but I'm not pretending to be Regan. I said that experimenting on babies or the mentally incapacitated would be a horrible consequence, and that's what I think, but you don't want to ascribe that view to Regan – like Singer, he uses it as a move to block anyone's trying to say that only rational creatures have rights, but remains a bit cagey about whether he himself thinks it would be OK.