

Introduction

Animals: What We Say and What We Do

THERE IS A PROFOUND disparity between what we say we believe about animals, and how we actually treat them. On one hand, we claim to take animal interests seriously. Two-thirds of Americans polled by the Associated Press agree with the following statement: "An animal's right to live free of suffering should be just as important as a person's right to live free of suffering." More than 50 percent of Americans believe that it is wrong to kill animals to make fur coats or to hunt them for sport.¹ Almost 50 percent regard animals to be "just like humans in all important ways."² Over 50 percent live with cats or dogs, and approximately 90 percent of those people regard their pets as members of their families³ and would risk injury or death to save the life of their pet.⁴ Americans spend approximately \$7 billion annually on veterinary care for dogs and cats⁵ and over \$20 billion on food and accessories for those and other pets.⁶

These attitudes are reflected in other nations as well. For example, 94 percent of Britons⁷ and 88 percent of Spaniards⁸ think that animals should be protected from acts of cruelty, and only 14 percent of Europeans support the use of genetic engineering that results in animal suffering, even if the purpose is to create drugs that would save human lives.⁹ And every day we read news stories about remarkable efforts by humans to save animals. For example, in 1988, the rescue of three whales trapped under the ice in Alaska necessitated a

significant volunteer effort, lasted several weeks, cost approximately \$800,000, drew international media attention, and even brought the United States and the Soviet Union together in an effort to save the animals.¹⁰

On the other hand, our actual treatment of animals stands in stark contrast to our proclamations about our regard for their moral status. We subject billions of animals annually to enormous amounts of pain, suffering, and distress. According to the U.S. Department of Agriculture, we kill more than 8 billion animals a year for food, including approximately 37 million cows and calves, 102 million hogs, almost 4 million sheep and lambs, 7.9 billion chickens, 290 million turkeys, and 22 million ducks.¹¹ We slaughter more than 100,000 horses per year.¹² Every day, we slaughter approximately 23 million animals, or over 950,000 per hour, or almost 16,000 per minute, or over 260 every second. This is to say nothing of the billions more killed worldwide. These animals are raised under horrendous conditions, mutilated in various ways without pain relief, transported long distances in cramped, filthy containers, and finally slaughtered amid the stench, noise, and squalor of the abattoir. We kill billions of fish and other sea animals annually. We catch them with hooks and allow them to suffocate in nets. We buy lobsters at the supermarket, where they are kept for weeks in crowded tanks with their claws closed by rubber bands and without receiving any food, and we cook them alive in boiling water.

Hunters kill approximately 200 million animals in the United States annually; this figure includes 50 million mourning doves, 25 million squirrels and rabbits, 25 million quail, 20 million pheasants, 10 million ducks, 4 million deer, 2 million geese, 150,000 elk, and 21,000 bears.¹³ In addition, hunters kill hundreds and thousands of antelope, swans, cougars, turkeys, raccoons, skunk, wolves, foxes, coyotes, bobcats, boars, and other animals. These numbers do not include animals killed on commercial game ranches or at events such as pigeon shoots. Moreover, hunters often cripple animals without killing or retrieving them. It is estimated, for example, that bow hunters do not retrieve 50 percent of the animals hit with their arrows.¹⁴ This increases the true death toll from hunting by at least tens of millions of uncounted animals. The animals who are wounded often die slowly, over a period of hours or even days, from blood loss, punctured intestines and stomachs, and severe infections. Many animals have been hunted to the point of extinction.

In the United States alone, we use millions of animals annually for biomedical experiments, product testing, and education. These animals are used to measure the effects of toxins, diseases, drugs, radiation, bullets, and all forms of physical and psychological deprivations. Animals are burned, poisoned, irradiated, blinded, starved, given electric shocks and diseases (such as cancer) and infections (such as pneumonia), deprived of sleep, kept in solitary confinement, subjected to the removal of limbs and eyes, addicted to drugs, forced to withdraw from drug addiction, and caged for the duration of their lives. The animals who do not die during experimental procedures are almost always killed immediately afterward or are recycled for other experiments or tests until they are finally killed. And all of this, we are told, is for the purpose of improving human health and curing human disease.

Millions of animals are used for the sole purpose of providing entertainment. Animal "actors" are used in film and television. There are thousands of zoos, circuses, carnivals, horse and dog race tracks, marine mammal shows, and rodeos in the United States, and these and similar activities, such as bullfighting, also take place in other countries. Animals used in entertainment are often forced to endure lifelong incarceration and confinement, poor living conditions, extreme physical danger and hardship, and brutal treatment. Most animals used for entertainment purposes are killed when no longer useful, or sold into research or as targets for shooting on commercial hunting preserves.

And we kill millions of animals annually simply for fashion. Approximately 40 million animals worldwide are trapped, snared, or raised in intensive confinement on fur farms, where they are electrocuted or gassed or have their necks broken. In the United States, 8 to 10 million mink, rabbits, foxes, coyotes, chinchillas, beavers, sables, racoons, and other animals are killed every year for fur.

In short, we may be said to suffer from a sort of "moral schizophrenia" when it comes to our thinking about animals. We claim to regard animals as having morally significant interests, but we treat them in ways that belie our claims.

Our Conventional Wisdom: We Can Prefer Humans But Only When "Necessary"

In this book, we are going to explore the matter of the moral status of animals in an effort to try to understand the disparity that exists between what we say about animals and how we actually treat them. A good start-

ing point is to ask whether there is any conventional wisdom on the subject—any generally accepted intuitions or positions on the moral status of animals that can serve as a focus for our inquiry.

I think that most of us would agree that our moral thinking about animals is informed by two intuitions, both of which involve the concept of *necessity*.

Intuition 1: We Can Prefer Humans in Situations of "Necessity"

We do not think of animals as being "the same" as we are. Most of us share the view that in situations of true conflict between human and animal interests, or in some emergency that requires us to make a choice between a human and an animal—that is, when it is *necessary* to do so—we ought to prefer the interests of a human over the interests of an animal.

Imagine the following situation: you arrive home and find your house burning. There are two occupants alive inside the burning structure, your child and your dog. You are the only person in the vicinity of the burning house. The fire is burning so furiously that you have time to rescue either your child or your dog but not both. Which do you choose? The answer is simple. You save your child. But this is an unfair hypothetical. After all, most of us would save our own child even if the other being in the burning house were someone else's child, or Mother Teresa, or some other human whom we valued. Indeed, if we are willing to be honest about it, most of us would choose to save our own child over a dozen other people's children.

Let us vary the hypothetical somewhat. Imagine that the two occupants of the burning house are a dog and a human being, neither of whom is known to you. Which do you save? Again, the answer is simple: your moral intuition would tell you that you ought to prefer the human over the animal. If, however, the dog is a member of your family, a being with whom you have a relationship, and the human is unknown to you, the pull of this moral intuition may be weaker. And it may be weaker still, whether you know the dog or not, if the human in question is Adolf Hitler or Charles Manson. In any event, in most emergency situations—at least in the abstract—we regard it as morally preferable to choose the human over the animal.

Intuition 2: It Is Wrong to Inflict "Unnecessary" Suffering on Animals

Although we may prefer humans to animals in situations of true emergency or conflict, we also recognize that like us, and unlike plants and stones, animals (or at least many of them) are *sentient*—they are the sorts

of beings who are conscious and can have subjective experiences of pain and suffering.¹⁵ Like us, sentient nonhumans have an *interest* in not experiencing pain and suffering; that is, they are the sorts of beings who prefer, or desire, or want not to suffer pain. Animals may have other interests as well, but as long as they are sentient, we know that at the very least they have an interest in avoiding pain and suffering. We regard such an interest as morally significant and we accept that we ought not to inflict any *unnecessary* suffering on animals.

The Humane Treatment Principle: A Prohibition against “Unnecessary” Animal Suffering

These two intuitions that encompass our conventional wisdom about animals are represented in the *humane treatment principle*, which has been an entrenched and uncontroversial part of our culture since the nineteenth century. The humane treatment principle holds that we may prefer human interests over animal interests, but that we may do so only when it is necessary and that we therefore ought not to inflict unnecessary suffering on animals. The humane treatment principle is not only a moral rule but a legal rule as well: *animal welfare laws* purport to prohibit us from inflicting unnecessary suffering on animals. Moreover, our reason for prohibiting unnecessary animal suffering is not only that inflicting such suffering will make us act less kindly toward each other, but that we believe that it is a wrong to the animals themselves.

In order to determine whether a particular animal use or treatment is necessary under the humane treatment principle, we must balance animal interests and human interests. If the balance tips in favor of humans—if human interests in inflicting harm on an animal are stronger than the animal’s interests in not being made to suffer—we consider that the use or treatment is morally justified because it is necessary. If the balance tips in favor of animals, then the infliction of harm is not morally justified because it is considered unnecessary. This balancing of interests is certainly not a precise operation, and we may very well disagree in our assessments of the relative weight of competing human and animal interests in particular cases, as well as about what constitutes necessary suffering. But whatever differences we may otherwise have, we *must* agree that if the prohibition against unnecessary suffering is to have any meaning at all, it is morally and legally wrong to inflict suffering on animals merely for our amusement or pleasure. We must agree that there are some meaningful limits on our use and treatment of animals.

The Problem: We Do Not Practice What We Preach

Although we claim that we may prefer humans to animals when necessary but that it is wrong to impose unnecessary suffering on them, the fact is that the overwhelming portion of our animal use can be justified *only* by habit, convention, amusement, convenience, or pleasure. To put the matter another way, most of the suffering that we impose on animals is completely unnecessary *however* we interpret that notion.

For example, the uses of animals in entertainment, such as in films, circuses, rodeos, and for sport hunting, cannot, by definition, be considered necessary. Nevertheless, these activities are all protected by laws that supposedly prohibit the infliction of unnecessary suffering on animals. It is certainly not necessary for us to wear fur coats, or to use animals to test duplicative household products, or to have yet another brand of lipstick or aftershave lotion. More important in terms of numbers of animals used, however, is the animal agriculture industry, in which more than 8 billion animals are killed for food annually in the United States alone. As we will see in Chapter 1, it is not necessary in any sense to eat meat or animal products: indeed, an increasing number of health care professionals maintain that animal products may be detrimental to human health. Moreover, respected environmental scientists have pointed out the tremendous costs to our planet of meat-based agriculture. In any event, our best justification for the enormous pain, suffering, and death inflicted on these billions of farm animals is that we enjoy the taste of their flesh. And although many of us regard the use of animals in experiments, product testing, and science education as presenting the classic "burning house" choice of us vs. them, the necessity of animal use for these purposes is open to serious question as well.

Animals as Property: An Unbalanced Balance

The reason for the profound inconsistency between what we say about animals and how we actually treat them is the status of animals as our *property*.¹⁶ Animals are commodities that we own and that have no value other than that which we as property owners choose to give them. The property status of animals renders completely meaningless any balancing that is supposedly required under the humane treatment principle or animal welfare laws, because what we really balance are the interests of property owners against the interests of their animal property. It does

not take much knowledge of property law or economics to recognize that such a balance will rarely, if ever, tip in the animal's favor. If someone suggested that you balance your interests against those of your automobile or your wristwatch, you would quite correctly regard the suggestion as absurd. Your automobile and your watch are your property. They have no morally significant interests; they are merely *things* that have no value except that which you, the owner, accord to them. Because animals are merely property, we are generally permitted to ignore their interests and to inflict the most horrendous pain and suffering or death on them when it is economically beneficial to us.

We say that we can prefer animal interests over human interests but only when necessary to do so, but it is *always* necessary to decide against animals in order to protect human property rights in animals. We are allowed to interpret necessary suffering as *any* suffering needed to use our animal property for a particular purpose—even if that purpose is our mere convenience or pleasure. We treat *every* human/animal interaction as analogous to the burning house conflict. The human property interest will almost always prevail. The animal in question is always a “pet” or a “laboratory” animal, or a “game” animal, or a “food” animal, or a “rodeo” animal, or some other form of animal property that exists solely for our use and has no value except as a means to *our* ends. There is really no choice to be made between the human and the animal interest because the choice has already been predetermined by the property status of the animal.

The Solution: Taking Animal Interests Seriously

If we want to take animal interests seriously and give content to our professed rejection of the infliction of unnecessary suffering on them, we can do so in only one way: by applying *the principle of equal consideration*, or the rule that we must treat likes alike, to animals. There is nothing exotic or particularly complicated about the principle of equal consideration. Indeed, this principle is part of every moral theory and, like the humane treatment principle, is one that most of us already accept in our everyday thinking about moral issues. Applying the principle of equal consideration to animals does not mean that we are committed to the view that animals are the “same” as humans (whatever that means), or that animals are our “equals” in all respects. It means only that if humans and animals do have a similar interest, we must treat that interest

in the same way unless there is a good reason for not doing so. Our conventional wisdom about animals is that they *are* similar to us in at least one way: they are sentient and they are the sorts of beings who, like us, have an interest in not suffering. In this sense, we are similar to each other and dissimilar to *everything* else in the universe that is not sentient.

We do not and cannot protect humans from all suffering, but we at least claim to protect all humans—whether young or old, brilliant or dull, rich or poor—from suffering *at all* as the result of being used exclusively as the resource of another. Although we may tolerate varying degrees and types of human exploitation, we draw a line. We do not regard it as morally permissible to treat any humans as the property of other humans; we do not regard it as morally permissible to treat any humans exclusively as means to the ends of other humans. Indeed, we protect the interest of humans in not being the property of others with a mechanism called a *right*. In particular, we regard every human as the holder of what we call a *basic right* not to be the property of another. Animals and humans are similar in that they are sentient. If animal interests in not suffering are to be morally significant, then we must apply the principle of equal consideration and extend to animals a basic right not to be treated as things, as our property, unless there is a morally sound reason to do otherwise. We must recognize that animals, like humans, have a morally significant interest in not suffering *at all* from being used as resources.

Since this is a book about animal rights, we may do well to take a brief digression at this point to explore the concept of rights as a general matter, the concept of a basic right, and what we mean by saying that the principle of equal consideration requires that we recognize that animals have a right not to be treated exclusively as human resources.

The Concept of Rights

There is a great deal of confusion surrounding the concept of rights. For our purposes, we need focus on only one aspect of the concept of a right that is common to virtually all theories about rights: a right is a particular way of protecting interests. To say that an interest is protected by a right is to say that the interest is protected against being ignored or violated simply because this will benefit someone else. We can think of a right of any sort as a fence or a wall that surrounds an interest and upon which hangs a “no trespass” sign that forbids entry, even if it would be beneficial to the person seeking that entry. As one writer describes it,

rights are “moral notions that grow out of respect for the individual. They build protective fences around the individual. They establish areas where the individual is entitled to be protected against the state and the majority *even where a price is paid by the general welfare.*”¹⁷

For example, our right of free speech protects our interest in self-expression even if other people do not value that expression and would stifle our expression merely because it would benefit them. Rights, however, are not absolute in the sense that their protection has no exception. For example, my right of free speech does not protect my falsely shouting “fire” in a crowded movie theater or my making false and defamatory statements about another. In those cases, my interest in speech is not protected, but in neither case is any attempt made to censor the content of my speech merely because others disagree with me.

Just so, a right of liberty protects our interest in our freedom regardless of the value that others attach to that interest. If other people think I should be imprisoned for no other reason than that my imprisonment will benefit them, my right will prevent such treatment. Again, however, my right is not absolute. If I am convicted by a jury of my peers of committing a crime, then I can be made to forfeit my liberty. But my interest in my liberty will be protected against being taken away from me because other people value my interest in a different way.

Similarly, a right to own property protects our interest in owning things—our interest in using, selling, disposing of, and valuing those things—even if others would benefit from a disregard of that interest. Property rights, like other rights, again are not absolute; we cannot use our property in a way that injures or harms others. And sometimes the state may take property, though in such cases it is generally required to provide compensation to the owner.

The Basic Right Not to Be Treated as a Thing

We recognize that among humans there is a wide range of interests in that almost no two humans prefer or want or desire exactly the same things. Some humans prefer *La Boheme*; others prefer Pink Floyd. Some humans have an interest in obtaining a university education; others prefer to learn a trade; still others have no interest in either. But all humans who are not brain dead or otherwise nonsentient have an interest in avoiding pain and suffering.

Although we do not protect humans from all suffering, and although we may not even agree about which human interests should be pro-

tected by rights, we generally agree that *all* humans should be protected from suffering that results from being used as the property or commodity of another human. We do not regard it as legitimate to treat *any* humans, irrespective of their particular characteristics, as the property of other humans. Indeed, in a world deeply divided on many moral issues, one of the few norms endorsed by the international community is the prohibition of human slavery. Nor is it a matter of whether the particular form of slavery is "humane" or not; we condemn all human slavery. It would, of course, be incorrect to say that human slavery has been eliminated entirely from the planet, but the institution is universally regarded as morally odious and is legally prohibited. We protect the interest of a human in not being the property of others with a right, which is to say that we do not allow this interest to be ignored or abrogated simply because it will benefit someone else to do so. The right not to be treated as the property of others is *basic* in that it is different from any other rights we might have because it is the grounding for those other rights; it is a precondition for the possession of morally significant interests. If we do not recognize that a human has the right not to be treated exclusively as a means to the end of another, then any other right that we may grant her, such as a right of free speech, or of liberty, or to vote or own property, is completely meaningless.¹⁸ To put the matter more simply, if I can enslave you and kill you at will, then any other right you may have will not be of much use to you. We may not agree about what other rights humans have, but in order for humans to have any rights at all, they must have the basic right not to be treated as things.

Animal Rights

The principle of equal consideration requires that we treat similar interests in a similar way unless there is a morally sound reason for not doing so. Is there a morally sound reason that justifies our giving all humans a basic right not to be the property of others while denying this same right to all animals and treating them merely as our resources?

The usual response is to claim that some empirical difference between humans and animals justifies this dissimilar treatment. For example, we maintain that animals cannot think rationally or abstractly, so it is acceptable for us to treat them as our property. In the first place, it is as difficult to deny that many animals are capable of rational or abstract thought as it is to deny that dogs have tails. But even if it is true that animals are not rational or cannot think in abstract ways, what pos-

sible difference could that make as a moral matter? Many humans, such as young children or severely retarded humans, cannot think rationally or in abstract terms, and we would never think of using such humans as subjects in painful biomedical experiments, or as sources of food or clothing. Despite what we say, we treat similar animal interests in a dissimilar way and thus deprive animal interests of moral significance.

There is no characteristic that serves to distinguish humans from all other animals. Whatever attribute we may think makes all humans "special" and thereby different from other animals is shared by some group of nonhumans. Whatever "defect" we may think makes animals inferior to us is shared by some group of us. In the end, the only difference between them and us is species, and species alone is not a morally relevant criterion for excluding animals from the moral community any more than is race a justification for human slavery or sex a justification for making women the property of their husbands. The use of species to justify the property status of animals is *speciesism* just as the use of race or sex to justify the property status of humans is racism or sexism.¹⁹ If we want animal interests to have moral significance, then we have to treat like cases alike, and we cannot treat animals in ways in which we would not be willing to treat any human.

If we apply the principle of equal consideration to animals, then we must extend to animals the one basic right that we extend to all human beings: the right not to be treated as things. But just as our recognition that no humans should be the property of others required that we *abolish* slavery and not merely *regulate* it to be more "humane," our recognition that animals have this one basic right would mean that we could no longer justify our institutional exploitation of animals for food, clothing, amusement, or experiments. If we mean what we say and regard animals as having morally significant interests, then we really have no choice: we are similarly committed to the abolition of animal exploitation, and not merely to its regulation.

The position that I am proposing in this book is radical in the sense that it would force us to stop using animals in many of the ways that we now take for granted. In another sense, however, my argument is quite conservative in that it follows from a moral principle that we already claim to accept—that it is wrong to impose unnecessary suffering on animals. If the interest of animals in not suffering is truly a morally significant interest, and if animals are not merely things that are morally indistinguishable from inanimate objects, then we *must* interpret the

prohibition against unnecessary animal suffering in a way similar to the way that we interpret the prohibition against unnecessary human suffering. In both cases, suffering cannot be justified because it facilitates the amusement, convenience, or pleasure of others. Humans and animals ought to be protected from suffering at all as the result of their use as the property or resources of others.

What about the Burning House?

Even if we would prefer the life of the human over the life of the animal in situations of true emergency or conflict, this tells us little about the majority of real-world situations in which we must assess our moral obligations to animals. In an overwhelming number of such instances, there is no true conflict or emergency. We manufacture those conflicts and emergencies by begging the question from the outset and treating animals as our property.

If we take animal interests seriously, this does not mean that we cannot prefer humans over animals in situations of true emergencies or conflicts. It does mean that we can no longer create those conflicts by ignoring the principle of equal consideration and by interpreting "unnecessary suffering" in a different way for animals than we do for humans. There may, of course, be situations in which we are confronted with a true emergency, such as the burning house that contains the dog and the child, where we have time to save only one. Even if we would always choose to save the human over the dog in such situations, that does not mean that animals are nothing but resources that we may use for our purposes. That would not be the conclusion we would draw if we made a choice between two humans. Imagine that two humans are in the burning house. One human is a young child; the other is a very old adult, who, barring the present conflagration, will soon die of natural causes anyway. You decide to save the young person for the simple reason that she has not yet lived her life. Would you then conclude that it is morally acceptable to enslave very old people? Or use them as forced organ donors or as unconsenting subjects in biomedical experiments? Surely not.

Similarly, assume that a wild animal is just about to attack my friend Fred. My choice to kill the animal in order to save Fred's life does not mean that it is morally acceptable to kill animals for food, any more than my moral justification in killing a deranged human who threatened to kill Fred would serve to justify my using deranged humans as unconsenting subjects in biomedical experiments.

In short, we may decide to choose the human over the animal in cases of true emergency—when it is necessary to do so—but that does not mean that we are justified in treating animals as resources for human use. And if the treatment of animals as resources cannot be justified, then the institutionalized exploitation of animals must be abolished.

Confusion about Animal Ethics

There is a great deal of confusion surrounding the public discourse on the moral status of animals. This confusion stems from two sources. First, it is thought by some that the animal rights position advocates that we accord to animals the same rights enjoyed by human beings. This is a misunderstanding of the animal rights position. I am not arguing that our recognition of the moral status of animals means that we are committed to treating animals and humans the same for all purposes, or that we must give animals a right to vote, or a right to own property, or a right to an education. My position is simple: we are obligated to extend to animals only *one* right—the right not to be treated as the property of humans.

Second, animal protection organizations, particularly in the United States, use the expression “animal rights” indiscriminately to describe any position, including purely regulatory or animal welfare measures, that is thought to reduce animal suffering. For example, a proposal to increase the size of cages used to hold laying hens assumes the legitimacy of treating animals as property; it is aimed at regulating our ownership of animals. A proposal that we abolish the egg industry altogether as a violation of the basic right of animals not to be used as our resources is an animal rights position. Yet animal protection organizations label both positions as advancing animal rights. Some animal advocates support such regulatory measures as means of eventually achieving the abolition of particular animal uses. There is, however, no empirical evidence that the regulation of animal exploitation leads to the abolition of exploitation.²⁰

Earlier Approaches

In the past twenty-five years, much has been written about the moral status of nonhuman animals and the nature and extent of human obligations to animals.²¹ There are, however, two approaches that have become prominent: the position advocated by Australian philosopher

Peter Singer in *Animal Liberation*²² and that of American philosopher Tom Regan in *The Case for Animal Rights*.²³ The argument that I present in this book is significantly different from either of these earlier approaches.

In *Animal Liberation*, Singer rejects speciesism and purports to endorse the view that we ought to apply the principle of equal consideration to the interests of all sentient animals. But Singer does not believe that the moral significance of animal interests requires that we abolish the property status of animals or the institutions of animal exploitation that assume that animals are our resources. He maintains that we may continue to use animals for human purposes, but that we must give greater consideration to animal interests than is presently accorded to them. I will discuss Singer's views in greater detail in Chapter 6. For the moment, it is important to understand that the position argued for in this book is that applying the principle of equal consideration to animals (which is imperative if animal interests are to have moral significance) requires that we abolish the property status of animals. A fundamental tenet of the principle of equal consideration is "each to count for one and none for more than one." We have recognized that human slavery is morally impermissible precisely because it deprives humans of the benefit of the principle of equal consideration—the interests of slave owners will never be judged as similar to those of slaves. Slaves will always count for *less* than one. The same is true for animals: as long as animals are property, their interests will always count for *less* than one because the interests of property will never be judged as similar to the interests of property owners.

In *The Case for Animal Rights*, Tom Regan argues that animals have moral rights and that irrespective of consequences we ought to abolish and not merely regulate animal exploitation. Regan's theory does not extend to all sentient creatures but only to those he regards as being "subjects-of-a-life," who "have beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference- and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else's interests."²⁴ Regan argues that all normal mammals, aged one year or more, qualify as subjects-of-a-life.²⁵

Although I accept Regan's conclusion that animals possess rights and that our recognition of their status as right holders requires that we abolish and not merely regulate our institutional exploitation of them, the argument that I present differs from Regan's in at least four ways. First, I see no reason to restrict the class of protected animals to those that Regan describes as "subjects-of-a-life." Some animals and some humans may lack "the ability to initiate action in pursuit of their desires and goals" and they may have a most elementary "sense of the future" or "psychophysical identity over time," but if they are sentient, they nevertheless have an interest in not suffering or experiencing pain, and therefore they can be said to possess an "experiential life [that] fares well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else's interests." Although it is easier to identify the constellation of qualities that Regan describes as present in normally developed mammals of a particular age, there is no doubt that chickens and other birds are intelligent, sentient beings with an experiential life. And although most of us do not even think of fish as conscious of pain, researchers have concluded that fish "have subjective experiences and so are liable to suffer."²⁶

Second, Regan argues that all "subjects-of-a-life" are equal in that they all have the same level of moral value despite any other characteristics they may have. So, for example, if a human and a dog both qualify as "subjects-of-a-life," it is morally impermissible to use either exclusively as a means to an end. However, Regan seems also to assume as a fact that animals are cognitively inferior to humans and that death is therefore a greater harm to humans than it is to animals. This leads Regan to the conclusion that in a situation involving true emergency, we are not only obligated to save the human over the animal but that we are obligated to choose to save one human over a million dogs.²⁷ In addition to my view that sentience alone and not the other qualities of a subject-of-a-life suffices for moral significance, I do not share Regan's position that it is some sort of empirical fact that death is a greater harm to humans than to animals, or that we are obligated to save one human over a million dogs. In situations of true emergency, we may be justified in saving the human over the animal, but we also may be justified in saving the animal over the human.²⁸

Third, my argument, unlike Regan's, focuses on the legal status of animals as property. I argue that as long as animals are regarded as prop-

erty, they will be treated as things without moral status and without morally significant interests. I argue that animals have only one right—a right not to be treated as property or resources.

Fourth, and most important, I argue that the basic right not to be treated as property may be derived directly from the principle of equal consideration and does not require the complicated rights theory upon which Regan relies. Indeed, it is my view that the requirement that we abolish animal exploitation must be part of *any* theory that purports to accord moral significance to animals. If we really believe that animals are not merely things and that they have morally significant interests, then whether we otherwise endorse rights theory or not, we are committed to the view that we can no longer treat animals as our resources. That does not mean that we cannot favor humans in situations of true emergency or conflict, but we cannot manufacture these situations of conflict through a moral structure that assumes that animals are nothing but resources for humans.

In sum, I argue that Regan and Singer ought to come to the same conclusion—that the moral status of animals necessarily precludes their use as human property—and that this conclusion relies only on our application of the principle of equal consideration to animal interests in avoiding pain and suffering.

A Word about “Proving” Moral Matters

Human treatment of animals is first and foremost a moral issue; it concerns how humans *ought* to behave toward animals. The relevant question is whether there are any moral limits on how we use and treat other animals and, if so, what those limits are and how we should ascertain them.

As a general matter, we cannot prove moral matters in the same way that we can, say, prove that two plus two equals four. The proposition “two plus two equals four” is self-evident—it is true by virtue of the very meaning of the terms that are used. Anyone who understands the meaning of the word “two” and the concept of addition must conclude that “two plus two equals four” is true and that “two plus two equals five” is false.

Most moral matters do not lend themselves to the certainty that we can have about mathematics. We cannot have mathematical certainty about our moral views—whatever they may be—concerning capital punishment, affirmative action, abortion, or animal rights. We may have compelling arguments that support our moral views, but we can-

not say that those views are indisputably true and certain in the way that “two plus two equals four” is indisputably true and certain.

The fact that matters of morality are different from matters of mathematics leads some people to believe that moral views are no different from our opinions about what flowers or paintings, baseball team or musical group we like, and that no moral view can claim to be preferable to another. These beliefs are reflected by those who maintain that racist or sexist attitudes or language are simply matters of “political correctness.” That is, they maintain that whether racism and sexism are morally wrong or right depends on shifting political and social conceptions and are ultimately subjective matters of convention, and that there is no absolute, objective moral “truth” about racism or sexism.

Such a view does not follow from the fact that we cannot achieve certainty in morality in the same way that we can in mathematics. Moral judgments may not be certain in the same way that mathematical statements are, but moral judgments do not require such certainty in order to be persuasive and compelling. If one moral view is supported by better reasons than others, then that moral view is presumably the one we should adopt—until some other moral position with even better reasons in its support comes along. If an argument in favor of a moral position is valid—that is, the conclusion of the argument follows from the premises in such a way that if the premises were true, the conclusion must also be true—then any such argument should be accepted over an argument in which there is no such relationship between the premises and conclusion. If a moral position “fits” more comfortably with other considered moral positions that we hold, then we ought to accept that moral position over another that does not so fit. For example, we may not be able to prove moral propositions in the way that we can prove that two plus two equals four, but we can offer many compelling reasons why we ought to condemn the Holocaust as a blatantly immoral event, and we can offer no reasons to regard such an event as morally justifiable. Moral condemnation of the Holocaust also fits with our considered judgment that intentionally killing innocent humans is morally wrong. But could we “prove” that the Holocaust was immoral to, say, a Nazi or some other brand of white supremacist who believes that Jews (or any other group) are inferior and may be treated solely as means to the end of whatever group serves as the “master” class? No, we could not. That does not mean, however, that the immorality of the Holocaust is a matter of opinion.

In this book, I will argue that the animal rights position, which maintains that we ought to abolish and not merely regulate animal use, is supported by sound reasons and valid arguments. And although I do not purport to be able to prove that the animal rights position is true in the same way that a mathematical proposition is true, I will argue that the position I defend fits comfortably with the two intuitions that reflect our conventional wisdom about the moral status of animals: that we may prefer humans over animals in situations of true emergency or necessity and that we ought not to inflict unnecessary suffering on animals. That is, the animal rights position can explain both of those intuitions and can unify them, thus achieving a "reflective equilibrium" between a theory about the moral status of animals and our common sense or conventional wisdom about the moral status of animals.²⁹ That is the best that we can hope to achieve when we are talking about moral matters and not mathematics.

Animal Minds

One issue that I am not going to explore in detail in this book is whether animals possess minds or are capable of cognitive activity. For many years now, philosophers have been debating whether animals have minds at all and, if so, whether we can know anything about what goes in their minds. Although this theoretical debate may be of interest to some, we will not dwell on it to any considerable degree except when we come to consider the view, held by some in the seventeenth century and retained by a few diehards today, that animals have no minds or interests at all. We must consider this position because if it is true, then animals would be no different from stones or car engines and we would not need to be concerned, as a moral matter, about their use and treatment. We will also consider differences between human and animal minds that have been offered as justifications for excluding animals from the moral community. But apart from these inquiries, I will assume that all sentient animals, all animals that are conscious of pain, have minds and are capable of cognitive activity.

To deny that animals are conscious of pain, or to assert that we cannot know whether animals feel pain, is as absurd as to deny that other humans are conscious of pain or to assert that we cannot know whether other humans feel pain. The neurological and physiological similarities between humans and nonhumans renders the fact of animal sentience noncontroversial. Even mainstream science accepts that animals are sentient. For example, the U.S. Public Health Service states that "[u]nless

the contrary is established, investigators should consider that procedures that cause pain or distress in human beings may cause pain or distress in other animals.³⁰ And scientists use animals in pain experiments, which would, of course, be useless if animals did not experience pain, and in a way that is substantially similar to the way that we feel pain. Indeed, in 1992, the National Research Council published a book entitled *Recognition and Alleviation of Pain and Distress in Laboratory Animals*, in which it acknowledged that animals used in experiments “will be subjected to conditions that cause them pain and distress.”³¹ In short, virtually *no one* any longer questions whether animals feel pain and distress.³²

Although the matter may befuddle some academic philosophers, the rest of us accept that many animals, such as dogs, cats, primates, cows, pigs, rodents, chickens, fish, and so forth are sentient; that is precisely why we all accept a moral rule that it is wrong to impose unnecessary suffering on animals. If animals were indifferent to pain, we would not have a humane treatment principle in the first place. To be sentient *means* to be the sort of being who has subjective experiences of pain (and pleasure) and to have interests in not experiencing that pain (or in experiencing pleasure). Most of the animals that we use for food, experiments, entertainment, and clothing unquestionably have such subjective experiences. And it is those subjective experiences that distinguish animals—human and nonhuman—from rocks and plants, and that make nonhuman animals a subject of our moral concern in the first place.

But then the observation that animals possess minds is not exactly new. For example, the French essayist Michel E. de Montaigne wrote in 1592 “that there is no reason to image that the beasts do, through a natural and enforced instinct, the same things that we do by choice and skill. From like results we must infer like faculties (and from more abundant results, more abundant faculties); and we must consequently confess that the same reason, the same methods, that we employ in working are also employed by the animals (if not some other and better ones).”³³ The existence of animal minds is recognized explicitly in the evolutionary theory of Charles Darwin and in the writings of particular scientists and philosophers stretching back to ancient Greece.³⁴

An Outline of the Book

In Chapters 1 and 2, we will explore what I call our “moral schizophrenia” about animals. We all claim to accept the humane treatment principle and

to agree that inflicting unnecessary suffering on animals is morally wrong. Nevertheless, the overwhelming portion of our animal use cannot be described as necessary in any coherent or meaningful sense.

In Chapter 3, we will see that the reason for our schizophrenia is related to the status of animals as property. As long as we regard animals as things that we own and they have only that value which we accord them, animal suffering will almost always be considered necessary as long as it provides some benefit for us as property owners.

In Chapter 4, we will explore the cure for our moral schizophrenia: the application of the principle of equal consideration, which requires that we extend to animals the basic right not to be treated as human property and that we abolish animal exploitation. In Chapter 5, we will consider whether there are any sound moral reasons that would justify our not extending this basic right to animals.

In Chapter 6, we will consider as a historical matter how the humane treatment principle went wrong and why we thought that we could treat animals as having moral status while at the same time we continued to use them as our resources.

In Chapter 7, we will discuss whether we can preserve our intuition that we may prefer humans in situations of true emergency or conflict while at the same time we accept the position that all sentient nonhumans possess a basic right not to be treated as things and that we may not use animals as our resources.

In the Appendix, I will discuss twenty commonly asked questions about animal rights, and I will endeavor to provide answers to those questions.