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What Rights have Animals? *

THE dispute about the rights of animals is partly a dispute about the meaning of words. Many casuists deny that animals can have any rights at all, and this view has been carried into effect in French law; in France cruelty to animals is not punishable unless it is performed in public so that it might offend the feelings of a kind-hearted human onlooker. In Britain, on the other hand, animals have legal rights of their own, the infringement of which entails fines or imprisonment whether or not any human rights have been infringed at the same time. The punishment is imposed for the offence against the animal, not for offending any human being.

The theory that animals have no rights descends from the Roman jurisprudence of pre-Christian days. In Roman law only a person, *persona*, could have legal rights, and in early pagan Rome only a citizen who was father of a family could be a person; a slave was not a person, nor was a foreigner, and a paterfamilias had the right to sell or kill his children, who had no rights against him. In the course of time the privilege of personality was extended more and more widely, but this purely legal meaning of the word 'person' eventually gave place, in the minds of the casuists, to a metaphysical meaning which is quite different. They say that every *intellectual* nature, with one important exception, is a person. Thus the word 'person' now means something quite different from what it meant when it connoted simply the possession of legal rights, and there is no logical connection between rights and this changed meaning of the word 'person'. Yet the association between the two words has persisted and has been defended *ex post facto* by fine-spun dialectics.

The great Cardinal Newman had little use for verbal gymnastics of this kind. Although his Catholic soul was near to Heaven, his English feet were firmly planted on the ground. In the *Grammar of Assent* he wrote: 'I am suspicious of scientific demonstrations in a question of concrete fact.'¹ The starting-point of his own philosophy of religion

* A Paper read to the Cambridge University Circle of the Newman Society, 27 November 1961.

¹ Cardinal J. H. Newman, *The Grammar of Assent*, p. 405 (Burns, Oates & Co., 1870).

was conscience, and by conscience he meant not only consciousness of the moral law but also a gestalt perception of the Lawgiver implied in that experience.¹

Now conscience implies a sense of duty, and duties are correlative with rights. You can start with rights and deduce duties from them, as the pagan jurists did, but you can also start with the dictates of conscience and thence deduce rights, and this surely is the more Christian way. Let us see how the Christian conscience at its best works when it is brought to bear on man's relations with animals. Fr Jean Gautier in *Un Prêtre se Penche sur la Vie Animale* has a chapter entitled 'Does the Church love Animals?'² He is qualified to know the answer, being a doctor of canon law, an authority on Catholic spirituality, and Superior of the Provincial House of the Great Seminary of St Sulpice in Paris. The conclusion he comes to is this: 'The Church does love animals and has not ceased to show it. But there are in the Church ecclesiastics who do not love them.'

The Church loves animals. For the first thousand years and more of Christian history the lives of the saints are full of legends of neighbourly relations with them. Some of these stories ring true: the stories of St Giles being crippled through defending his tame hind, of St Columba with his horse, of the wild ungulates that frequented the cell of St Theonas, for instance. There are other cases in which legends seem to have been drawn from a common stock and attached to individual saints because friendship with animals was felt to be a natural expression of the humility and charity which mark a saint. In our own day Fr Aloysius Roche has written: 'Man's attitude to the brutes is elevated or degraded in strict accordance with the clearness or dimness of his spiritual vision, in strict accordance with the strength or febleness of

¹ Newman anticipated the gestalt psychology when, in illustration of this point, he wrote: 'This instinct of the mind recognizing an external Master in the dictate of conscience, and imagining the thought of Him in the definite impressions which conscience creates, is parallel to that other law of not only human but brute nature, by which the presence of unseen individual beings is discerned under the shifting shapes and colours of the visible world. . . . The new-dropped lamb recognizes each of his fellow lambkins as a whole, consisting of many parts bound up in one, and, before he is an hour old, makes experience of his and their rival personalities. And much more distinctly do the horse and dog recognize even the personality of their masters' (*The Grammar of Assent*, p. 405, Burns, Oates & Co., 1870).

² Jean Gautier, *Un Prêtre se Penche sur la vie Animale*, p. 107 (Flammarion, 1959).

his spiritual capacity,'¹ and Cardinal Newman wrote: 'Cruelty to animals is as if a man did not love God.'²

The present Pope is a friend of animals, and the late Pope refused the present of a luxuriously bejewelled bullfighter's cape which the Spanish bullfighting industry had offered him. Bullfighting was condemned, with severe penalties, in the papal bull *De Salute Gregis* of 1567, and this condemnation has been sustained in the Code of Canon Law of 1917.³ But the subject has been so well discussed by Fr Jean Gautier⁴ and in Dom Ambrose Agius's tract published by the Catholic Truth Society,⁵ that I need not labour the point beyond citing this fact. The Holy Office has officially pronounced that animals do have some rights as against their masters or owners; that it is sinful to torture dumb animals; and that such sins are degrading to the soul and disposition of the tormentor.⁶ Admittedly, as is often pointed out, the New Testament does not contain any such command as 'Thou shalt be kind to animals'. But what is often overlooked is that it also does not contain any such command as 'Thou shalt not tolerate slavery'. The gospel does not work in that way. It works by generating humility and charity in the minds of men who obey it, and the natural consequence of such a state of mind is consideration for inferiors.

Thus the Church loves animals. How then are we to account for the fact that Roman Catholic countries are notorious for indifference to their feelings, and that in those countries any protest against cruelty is likely to be met with the retort that 'animals have no souls and so don't matter'? There can be no doubt of the fact, and it is a scandal in the literal sense of that word: it is a stumbling-block in the path of humane people whose approach to Christianity is hindered by it. It is a potent weapon in the hands of the Church's enemies. But what is the reason for it? I think it is that parishioners get their view of animals from the parish priest, who gets his from the casuists, who get theirs from St Thomas Aquinas, who got his from the pagan philosopher Aristotle.

Aquinas earned the well-deserved honour of being decreed a Doctor of the Church. That means that a Catholic must treat his opinions with

¹ Fr Aloysius Roche: *These Animals of Ours* p. viii (Burns, Oats and Washbourne, 1939).

² Cardinal J. H. Newman, *op. cit.* Quoted by Dom Ambrose Agius, see n. 1, p. 38.

³ Dom Ambrose Agius, 'Cruelty to Animals', p. 14 (Catholic Truth Society, 1958).

⁴ Jean Gautier, *op. cit.*, p. 39.

⁵ Dom Ambrose Agius, *op. cit.*

⁶ *Ibid.*

respect, but it does not mean that those opinions are binding on the Catholic conscience. According to the *Catholic Encyclopaedia*: 'The decree is not in any way an *ex cathedra* decision, nor does it even amount to a declaration that no error is to be found in the teaching of the Doctor.'¹ Moreover Aquinas carefully states his reasons, thereby inviting us to apply to them our own reasoning powers, to which he constantly appeals. It is not presumptuous, therefore, to scrutinise his views carefully, especially in those cases in which they are admittedly drawn from a pagan source.

Why does Aquinas so frequently appeal to the authority of the pagan philosopher Aristotle? One reason seems to be this. Europe had been flooded with a novel and heretical philosophy based on Aristotle's writings in combination with neoplatonism, and derived from Aristotle's Mohammedan and Jewish commentators such as Averroës and Avicenna and Avicbron. It swept the schools and gravely imperilled the Christian religion. It was by the mighty intellect of Aquinas that the flood was stemmed, and because he had to argue with people who staked their faith on Aristotle he had to quote Aristotle against them. Moreover he was appealing to reason, and in those days reason and Aristotle meant much the same thing.

Aquinas took so little interest in animals that, so far as I can find, apart from a few brief and ambiguous sentences, he discussed their status only thrice in the whole of the *Summa Theologica*² and twice, covering the same ground, in the *Summa contra Gentes*.³ In two of these passages Aquinas admits that animals have souls but agrees with Aristotle that they have neither intelligence nor reason—'*non enim intelligunt neque ratiocinantur*'—and accepts his inference that they are incapable of immortality; for Aristotle had said that the mind (*nous*) with its intelligence (*theoretikes dunamis*) seems to be a species of soul, distinct from the vegetative and sensory souls postulated by him, and that it 'alone admits of being separated' from the body 'as the immortal from the perishable'.⁴ His Arabian commentators expanded this notion and Averroës inferred that the intellect is the only part of a man which is capable of immortality.⁵ Aquinas rebutted the inference as to man while

¹ 'Doctors of the Church', in *Catholic Encyclopaedia*.

² St Thomas Aquinas, *Summa Theologica*, prima 76 (3), secunda secundae 25(3) and 102(6, reply to objection 8).

³ St Thomas Aquinas, *Summa contra Gentes*, II 82 and III 112.

⁴ Aristotle, *De Anima*, II 2.

⁵ *Ibid.* II 58-61.

adopting the inference as to animals, but he really cannot have it both ways.

However, this subject need not detain us, partly because Aquinas's animal psychology is untenable in the light of modern knowledge,¹ and still more because, if it is true that there is no future life for animals, that fact will strengthen the moral obligation to consider their welfare in the only life they are to have.

In the other three passages Aquinas denies that animals can have any intrinsic claims upon man's compassion, and he tries to explain away any scriptural injunctions to the contrary. Again quoting Aristotle, he bases this opinion on the ground that animals are 'irrational'. It is interesting to note that although the Koran enjoins kindness to animals the Arabs treat them as things, whereas the Turks, who do not inherit an Aristotelian tradition, have indigenous animal-welfare societies.

But Aquinas was not interested in animals, and his treatment of the subject was so superficial that he failed even to make the fundamental distinction between killing and hurting. Neither he nor Aristotle had any understanding of an animal's mind, which they supposed to be purely sensory. Neither of them could know that in the present century electro-encephalograms of animals would turn out to be closely analogous to those of human beings, or that several thousand scientific papers would be devoted to the psychology of the rat alone, or that the study of learning in rats would throw a great deal of light on learning in human beings.²

This negative teaching, which bottoms upon the pagan philosophy of Aristotle, has been adopted whole-heartedly by some at least of the casuists, that is, the thinkers whose responsibility it is to apply moral principles to particular cases. Three factors seem to have favoured this result. One is the glorification of the intellect, and particularly of the ability to do geometry, which came into Western thought from the pagan Greek philosophers. Animals cannot do geometry, and though their intelligence is much more extensive than was formerly realised it is much inferior to normal human intelligence. But this glorification of the intellect is pagan, not Christian. Our Lord pronounced beatitudes³ on the meek, on those who hunger and thirst after justice, on the merciful, on the peacemakers, but not on the contemptuously in-

¹ C. W. Hume, *The Status of Animals in the Christian Religion*, chap. 6 (UFAW, 1957).

² Norman L. Munn, *Handbook of Psychological Research on the Rat* (Houghton Mifflin Co., 1950).

³ St Matthew, *Gospel*, v. 5-9 (Douai version).

tellectual. He even said: 'I bless thee, O Father, Lord of heaven and earth, because thou has hidden these things from the wise and prudent, and hast revealed them to little ones.'¹

Secondly, two centuries after Aquinas this glorification of the human intellect was reinforced by the humanism of the Renaissance, which tended to flatter man and almost put him in the place of God. And finally, in our own days a prejudice against animal welfare has been created by the sentimentality of all too many animal-lovers who, indeed, are more often sentimental than humane. But all good causes have their fanatics, including Christianity itself, and you would not abandon the Christian religion because there have been Donatists and Jansenists and Anabaptists. The behaviour of animal-loving cranks is a cause of, but not a justification for, a contemptuous attitude towards animals themselves. It affords no excuse for complacent interspecific snobbery.

A particularly strong example of this contemptuousness is afforded by the late Fr Joseph Rickaby.² He did indeed disapprove of cruelty practised for its own sake, but only for the self-centred reason that it is bad for one's own soul. As to cruelty which is incidental to some other purpose he wrote that 'Brute beasts, not having understanding and therefore not being persons, cannot have any rights. . . . They are of the number of things, which are another's; they are chattels, or cattle. We have no duties to them.' And again: 'Charity is the extension of love of ourselves to beings like ourselves, in view of our common nature. . . . Our nature is not common to brute beasts but immeasurably above theirs. . . . We have then no duties of charity, nor duties of any kind, to the lower animals, as neither to stocks nor stones.'

This position is based on two assumptions. First, the assumption that charity is a form of selfishness: 'charity', he says, 'is the extension of love of ourselves to beings like ourselves, in view of our common nature.' Contrast this principle with our Lord's command: 'If any man will come after me let him deny *himself*.'³ Indeed, it would not be difficult to show that selfishness, far from being the basis of charity or any other virtue, is at the bottom of every one of the mortal sins.

Fr Rickaby's second assumption is this, that because our nature is considered to be 'immeasurably above' that of the animals, this superiority entitles us to deny them any rights, and to disclaim any moral

¹ Ibid. xi. 25.

² Fr Joseph Rickaby, *Moral Philosophy*, pp. 248-257 (Longmans Green and Co., 1892).

³ St Matthew, *Gospel*, xx. 25 (Douai version).

obligation towards them. This, surely, is the mortal sin of pride in all its evil ugliness. If superiority entitles me to disclaim duties, I am at liberty to cheat or insult or maltreat anybody whose education or intellect is inferior to my own. If the lack of understanding is a bar to the possession of rights, then a new-born baby is devoid of rights, and anybody who pleases is free to maltreat it or kill it. This is the logical consequence of substituting intellectual pride for the Christian virtue of humility.

Much has been made of the statement in the book of Genesis that man is to have dominion over the animals, and dominion has been taken to justify irresponsible tyranny. But Jesus Christ revolutionised the concept of dominion, making it imply responsibility instead of tyranny. 'You know,' he said, 'that the princes of the Gentiles lord it over them, and they that are the greater exercise power upon them. It shall not be so among you; but whosoever will be the greater among you, let him be your minister.'¹ Much has been made, likewise, of the statement that man is made in the image of God. But man cannot create matter or souls, his existence and immortality are not independent of any other agent, nor is he omniscient or omnipresent or particularly holy. His best hope of justifying a claim to be like God is to imitate as closely as possible the incarnate Son of God.

Now if Christianity means anything it surely means this, that one who was highest in the scale of being humbled himself for the advantage of those whom he was 'immeasurably above'; *qui propter nos homines et propter nostram salutem descendit de caelis*. Christians are exhorted to follow this example² which must, therefore, *mutatis mutandis*, govern their behaviour towards creatures which are inferior to them. This is obvious, but it raises difficult questions of casuistry. What are the *mutanda*, and how are we to balance the conflicting claims of man and beast? I shall return to that subject in a moment, but first let us notice that pride is not the only mortal sin that affects the issue. The main cause of cruelty today is the mortal sin of avarice. Much capital is invested in it. The most striking instances are the fur-trapping industry and the whaling industry, in both of which great wealth is won by perpetrating extreme cruelty on a vast scale, but many other examples could be given. I well remember the violent opposition which the Meat Traders' Federation offered to the introduction of humane slaughter thirty and more years ago, because of the loss of profit which

¹ *Ibid.* xvi. 24.

² St Paul, *Epistle to the Philippians*, ii. 5-8.

they expected it to entail, and only recently the same battle has had to be fought in the United States. But it would be easy to give many other instances of cruelty arising from avarice.

I now come back to this difficult question: Christians, in their behaviour towards creatures which are inferior to man, are bound to imitate, *mutatis mutandis*, the example set by their Master by his condescension towards beings who were so much inferior to him. But what are the *mutanda*, and how are we to balance the conflicting claims of man and beast?

The early church was faced with a similar problem in respect of slavery. It would have been impracticable to abolish slavery overnight, though St Paul in his Epistle to Philemon started a train of thought which eventually led to the modern reprobation of it. As to the treatment of animals, casuistry is still in a backward state owing partly to the subject having been so much neglected by theologians and partly to the wide range of technical knowledge which it calls for. It presents such a large and difficult problem that here I can only discuss, by way of example, how it has been worked out in one particular field which I happen to be familiar with, namely the use of animals in the laboratory.

Two extreme views have been held. On one side the antivivisectionists, of whom Cardinal Manning was one, condemn all experiments on animals. At the other extreme Fr Rickaby wrote that 'there is no shadow of evil resting on the practice of causing pain' provided that this is not done for the sake of causing pain but as an incidental concomitant of something else, and he instances the pursuit of science. He adds 'nor are we bound to any anxious care to make this pain as little as may be. Brutes are *things* in our regard: so far as they are useful to us, they exist for us, and not for themselves; we do right in using them unsparingly for our need and convenience, though not for wantonness.'¹ I am glad to say that these truly horrifying views are not shared by British scientists who use animals, though unfortunately they are acted upon by many in Latin and Asiatic countries, and in some laboratories in the United States and Eastern Canada.

Between these two extremes the truth must lie, but it is an unfortunate fact that Britain is the only nation to have made a systematic attempt to work out the problem, which is one of the most difficult that the discipline of casuistry has to solve.

A number of human beings have volunteered to be laboratory animals on occasion. For instance, Mellanby's work on scabies was carried out

¹ Fr Joseph Rickaby, *op. cit.*, p. 43.

on a sample of conscientious objectors who volunteered for this service in wartime. Such clinical research on human beings raises ethical questions which have been discussed in a recent symposium by Dr T. F. Fox, Editor of the *Lancet*,¹ and some of his conclusions are applicable to experiments on animals, as I have shown elsewhere.² But animals cannot volunteer, and so somebody else must take the decision for them, thereby incurring a grave moral responsibility.

In Britain two Royal Commissions on Vivisection have laid down general principles, and the Home Office, with its Inspectors and Advisory Committee, has the duty of interpreting those principles, including what is called the 'Pain Rule'; this sets a limit to the amount of suffering that may be imposed and is attached to every Home Office certificate. One may not always agree with the decisions of the Home Office—I personally do not always do so—but they are taken with the greatest care and sincerity. Moreover we know from various sources, including a questionnaire issued by UFAW to all the biological Fellows of the Royal Society,³ that this control by the Home Office of experiments on animals has the almost unanimous support of British scientists, among whom a humane tradition has been built up.

Finally, as an illustration of the sort of conclusion that an amateur casuist may come to, I venture to repeat an opinion which I have published elsewhere.⁴ In the first place I distinguish between killing and hurting. There is no harm in killing an animal, provided you do it painlessly, whereas in clinical research on human beings you are bound to avoid any procedure which entails a risk of death. Again, in the case of animals permanent disablement, as by hypophysectomy, can be dealt with by killing the animal painlessly at the end of the experiment, but this cannot be done with a human subject. With these reservations I suggest the following rule: The experimenter or inspector must put himself in imagination in the place of the animal. He must leave out of account any risk of death or permanent disablement (which alone can justify him in choosing a victim other than himself) and focus his attention on the individual experience of pain or other stress involved; and

¹ Dr T. F. Fox, 'The Ethics of Clinical Trials', in *Quantitative Methods in Human Pharmacology and Therapeutics* (Pergamon Press, 1959).

² C. W. Hume, 'Avoidance of Pain in the Laboratory', in *The Assessment of Pain in Man and Animals* (UFAW, in the press).

³ C. W. Hume, *Opinions of British Scientists on Home Office Control of Experiments on Animals* (UFAW, 1961).

⁴ C. W. Hume, *How to Befriend Laboratory Animals*, p. 13 (UFAW, 1958).

he must now ask himself 'Should I myself be willing to endure that degree of pain or other stress in order to attain the object in view?' If not, his decision must be negative, and no experimenter has a right to make an animal suffer what he would not wish to suffer himself, but for any permanent disablement or risk of death that might be involved, in order to provide the knowledge sought.

If anybody finds my rule unacceptable I hope he will try to devise a better one, but if this is to be compatible with Christian ethics it must satisfy two conditions. First it must conform to humility, as opposed to the contemptuous arrogance which repudiates moral obligations towards inferiors. Secondly it must conform to charity as opposed to selfishness, whether simple selfishness or that extension of it which would begrudge beneficence to species other than our own.

In designing an experimental test a scientist tries to simplify the conditions as much as possible by eliminating irrelevant factors that might affect the phenomena to be observed. For testing the sincerity of a Christian's profession animals offer just such a simplified situation. Being devoid of wealth, of prestige, in many species of popularity, and of various other accidents which may furnish non-altruistic motives for being beneficent to human beings, they afford material for a critical test of a Christian's humility and charity.