

## UTILITARIANISM, CONTRACTUALISM AND DEMANDINGNESS

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*One familiar criticism of utilitarianism is that it is too demanding. It requires us to promote the happiness of others, even at the expense of our own projects, our integrity, or the welfare of our friends and family. Recently Ashford has defended utilitarianism, arguing that it provides compelling reasons for demanding duties to help the needy, and that other moral theories, notably contractualism, are committed to comparably stringent duties. In response, I argue that utilitarianism is even more demanding than is commonly realized: both act- and rule-utilitarianism are committed to extremely stringent duties to wild animals. In this regard, utilitarianism is more demanding (and more counter-intuitive) than contractualism.*

### I. THE DEMANDINGNESS OBJECTION

One of the familiar criticisms of utilitarianism is that it is too demanding. It requires us to promote the happiness of others, even at the expense of our own projects or the welfare of our friends and family. Since in the current state of the world there are millions who are so poor that their basic needs for food and medical attention are not met, and since many of us are in a position to help, utilitarianism requires a great deal from us.

Why is it supposed to be an objection to utilitarianism that it demands that we help the needy? In the first place, many people simply do not believe that they are under such obligations: they think that it might be admirable if they were to help, but it is certainly not morally wrong for them to fail to do so. In this respect, utilitarianism is counter-intuitive, and anyone who takes moral intuitions at all seriously as a method of justifying moral theories must regard this as a problem.

Bernard Williams has pressed a related issue. Utilitarianism requires agents to abandon our projects whenever doing so maximizes utility, even our most important 'ground' projects (which bring together agents' narrative identity and provide us with a sense of coherence across time). Not only are we called on to give up these projects on occasion, but we must at all

times be prepared to do so. According to Williams, this is damaging to our integrity.<sup>1</sup>

Williams' integrity objection, and the demandingness problem generally, have led some philosophers to devise alternative versions of utilitarianism which are less burdensome.<sup>2</sup> But in a couple of important papers, Liz Ashford has mounted a defence of the theory.<sup>3</sup> She concedes that utilitarianism is extremely demanding in the current state of the world, and that it does conflict with agents' pursuit of their personal projects. There is, therefore, a conflict between utilitarianism and integrity. But, she argues, this is not a defect of the theory after all. This is because any reasonable theory of moral obligation, including that suggested by utilitarianism's major rival, Kantian contractualism (and indeed that put forward by Williams himself), endorses comparably stringent obligations to help the needy, and equally conflicts with agents' integrity, given the current state of the world. Moreover, utilitarianism gives a particularly compelling justification for our having demanding duties to help the needy. In this regard, utilitarianism is not worse off than its rivals with regard to the demandingness of its moral obligations. In another respect, Ashford argues that it is more appealing.

She claims that there is a practically realizable state of the world in which utilitarianism is not hugely demanding. We might make political reforms so that there is no longer any widespread easily preventable suffering: the physical needs of persons 'would generally be taken care of at the political level, which would remove the continual onus on individual agents to help such interests' (UI, p. 438). In these circumstances, utilitarianism would no longer be excessively burdensome.

In contrast, she claims (DC, pp. 298–301) that contractualism would be extremely demanding in any practically realizable state of the world, because it refuses to license certain kinds of trade-offs of welfare: it condemns any practice that might harm severely some people who could not expect to have benefited from the practice, even if the probability of such a fate for any particular person is very small and the benefits to others very great (for example, it is likely to condemn air travel on these grounds). So in any practically realizable state of affairs, contractualism is likely to remain extremely demanding.

I shall not dispute most of Ashford's defence of utilitarianism here. In particular, I do not deny that in some respects contractualism may be at

<sup>1</sup> B. Williams, *Utilitarianism: For and Against* (Cambridge UP, 1973), pp. 108–18.

<sup>2</sup> For example, T. Mulgan, *The Demands of Consequentialism* (Oxford UP, 2001); S. Scheffler, *The Rejection of Consequentialism* (Oxford: Clarendon Press, 1982).

<sup>3</sup> E. Ashford, 'Utilitarianism, Integrity and Impartiality', henceforward UI, *Journal of Philosophy*, 97 (2000), pp. 421–39, and 'The Demandingness of Scanlon's Contractualism', henceforward DC, *Ethics*, 113 (2003), pp. 273–302.

least as demanding as utilitarianism. But I shall argue that there is a large class of demanding obligations which utilitarianism implies that we owe to others in all practically realizable states of the world, but contractualism does not. Moreover, many people find it particularly hard to believe that we have obligations of this kind. So in spite of Ashford's defence, the demandingness of utilitarianism is still a significant problem for the theory.

## II. OBLIGATIONS TO ANIMALS

Ashford (UI, p. 430) first presents the demandingness problem as follows:

... the source of the extreme demandingness of morality is that the current state of the world is a constant emergency situation; there are continually persons whose vital interests are threatened, and, given modern communications, the relatively well-off are continually able to help them. Because of the scale of the emergency, the moral requirement to help others' vital interests is so demanding as to threaten agents' personal projects.... The term 'emergency' emphasizes the immediacy of the threat to persons' vital interests.

People's vital interests include our continued survival and the survival of our children (UI, p. 434). In emergency situations our personal commitments to our own projects and our own lives clash with our moral commitments to help others with their more urgent projects to protect their vital interests.

Ashford's second discussion of demandingness (DC, p. 274) characterizes the problem in similar terms:

The reason [why] emergencies tend to be so demanding is that the most morally salient feature of an emergency is that persons' basic interests are at stake, which means that whatever an agent who is in a position to help does or fails to do has a drastic and irrevocable impact on others' interests.... this feature of emergency situations is also a constant feature of the current state of the world: persons' basic interests are constantly at stake for easily preventable reasons.

Ashford defines an emergency situation in terms of a preventable threat to the basic interests of *persons*. I take it that she is using 'persons' in its standard philosophical sense, to mean individuals who are self-conscious or self-aware. According to this standard use of the term, most (and perhaps all) non-human animals are not persons.

This is not an idiosyncratic presentation of the problem. Mulgan's version (p. 3) is the same: 'There are very many very needy people in the world ... faced with such urgent needs ... how should I as an individual act?'. Shelly Kagan actually refers explicitly to humans: 'When I go to the movies I may spend a few dollars and enjoy myself for an hour or two. The pleasure I get

is genuine, and it seems absurd to say that I have done anything wrong. Yet this is exactly what the claim entails ... for even a few dollars is sufficient to enable another human being to survive a temporary food shortage.<sup>4</sup>

But utilitarianism is the theory that we are morally required to maximize happiness, regardless of whose it is. Most utilitarians believe that sentient animals who are capable of feeling pain and pleasure have moral status and that their interests should count equally with those of humans: equal suffering in humans and animals has the same moral significance. It is often taken to be one of the major strengths of the theory that it is able to acknowledge the moral status of animals and to condemn their mistreatment.

According to utilitarianism, when we consider whom we morally ought to assist, there is no reason why we should restrict our concern to persons. We live in a world in which there are many animals whose lives are much worse than they need to be, whose very survival is threatened, as is the survival of their offspring. Some of those animals are under our control and care in farms, laboratories and households. Utilitarians have argued that we are required to treat these animals much better than we currently do: we must give up factory farming and much of our scientific research on animals, because the cost to the animals is greater than the benefits to ourselves.<sup>5</sup> Farmers, scientists, and maybe others too, will have to give up their personal projects and perhaps even their ground projects to ensure that they do not cause animals to suffer.

Utilitarianism implies that we have quite demanding obligations not to do harm to animals. But according to this theory, there is no interesting difference between doing harm and allowing it to happen: it is as bad to stand by and allow an animal to starve to death as it is deliberately to poison it or infect it with disease. There are millions of wild animals not directly under our care which lack sufficient food and are at risk from disease. The vital interests of these animals are at stake. This surely constitutes an emergency situation for these creatures.

There are many things that we can do to help these animals: we can bring them food; we may be able to some extent to protect them from disease; and at the very least we may be able to ease their pain. At least some of the widespread suffering of animals in the wild is preventable. Of course, assisting animals is likely to interfere with some of our personal projects, perhaps even our most important ground projects, including our concern for our friends and family. But nevertheless, according to utilitarianism, we are under a moral obligation to assist, provided that the benefit to them outweighs the cost to us.

<sup>4</sup> S. Kagan, *The Limits of Morality* (Oxford UP, 1989), p. 1.

<sup>5</sup> P. Singer, *Animal Liberation* (New York: Random House, 1975).

To get a clearer sense of what utilitarianism may demand from us with respect to wild animals, I shall set out as accurately as possible two case studies dealing with animals living in the UK.

### 1. *Sewer rats*

Common or brown rats are usually found in urban areas.<sup>6</sup> They can live away from human habitation but are most often associated with rubbish tips, sewers and warehouses. They live in colonies made up of 'clans', usually a male with his mate or mates. They can breed all year round, but typically do so in summer and autumn. Rats are sensitive creatures with particularly acute hearing and sense of smell, and they often have an excellent knowledge of their environment.

It is estimated that the mortality rate of the young can be up to 99% per annum, and the adult rate may be over 90% per annum. Few rats in the wild live for over a year. There are undoubtedly a variety of reasons for these high rates of death, including predation, disease and the low temperatures of winter. But the availability of food is one factor.

Rats will eat almost anything, and since many of them live near urban areas, it is relatively easy to locate them. It would not be difficult to find a clan and make sure that they had an adequate supply of food that they were willing to eat. If you devoted your life to visiting refuse tips and sewers and feeding the animals you found there, it is likely that you could save the lives of hundreds if not thousands of rats.

Would saving rats maximize welfare in the long-run? Perhaps if you fed the rats and more survived into adulthood, the rat population would increase enormously, the rats would run out of food and huge numbers of them would starve slowly and painfully to death. What this shows, however, is not that it is wrong for you to intervene to feed the rats, but that you have an on-going obligation to intervene further, to provide more food to future generations, to monitor them for disease and if necessary to perform a cull to reduce the numbers of rats as painlessly as possible.

### 2. *Red deer*

It is estimated that 12,500 wild red deer live in England and Wales, and some 300,000 in Scotland.<sup>7</sup> Deer live in moorland and forest, the males

<sup>6</sup> The information on rats of this section is taken from G.B. Corbet and S. Harris (eds), *Handbook of British Mammals*, 3rd edn (Oxford: Blackwell, 1991), pp. 248–53.

<sup>7</sup> The information on deer in this section is taken from Corbet and Harris (eds), *Handbook of British Mammals*, pp. 492–504; Lord Burns *et al.*, *The Final Report of the Committee of Inquiry into Hunting with Dogs in England and Wales* (2000), available at <http://www.huntinginquiry.gov.uk/mainsections/huntingframe.htm>; and the UN report on endangered species, at <http://www.un.org/works/environment/animalplanet/deer.html>.

and females usually in separate groups, breeding seasonally. They no longer have any natural predators in the UK, and their population has increased rapidly in the last decades. As their numbers increase, their sources of food can no longer sustain them, and many starve to death, particularly during the winter. In some areas, red deer cause considerable damage to forest and woodland by eating the shoots from young trees, stripping bark and browsing the forest floor, adversely affecting the habitat of many other species. It is generally agreed that there is a need to carry out substantial culling to control the deer population, both for the sake of the deer themselves, many of which would otherwise starve slowly and painfully to death, and for the sake of the animals whose habitat the deer destroy.

The best method of culling deer in terms of welfare seems to be stalking and shooting (with dogs finding any wounded deer that escape), provided that the stalker is well trained, skilful and careful. If you trained to be a highly competent deerstalker (or, if your skills were inadequate, if you financed the training of the more able) you could kill an appropriate number of deer each year, manage their population and reduce the suffering of animals in the wild considerably.

Utilitarians may be accustomed to others' finding the implications of their theory counter-intuitive. But if they were to explain that we may be morally required to give up our friends, family, money, career and hobbies to spend our lives in the sewers feeding rats, or learning how to use a gun so that we can shoot at red deer, the response from most people would be a genuinely incredulous stare.

Many of us accept that if a person is drowning in a river, and there is some easy way to save him which does not endanger our own lives, for example, by throwing him a lifebelt, it is morally incumbent on us to do so. Similarly, if we saw that people in front of us were plainly starving to death, we would be morally required to get some food for them. It is reasonable to interpret these as cases in which common sense morality supports the claim that we have obligations to help the needy. Of course, most people do not think that we have the kind of demanding obligations which utilitarianism implies. But nevertheless, utilitarians can make the case that the demandingness problem for persons is in reality a tension between two strands of common sense morality, one denying that we have obligations to assist others, one accepting that we do. They can therefore present utilitarianism as requiring only a refinement of common sense morality, not an outright renunciation of it. Similarly, many people believe that it is morally wrong to cause an animal unnecessary suffering, and they have at least some sympathy with utilitarian criticisms of factory farming and scientific experimentation where the costs to the animals exceed the benefits to us. Once

again utilitarian demands not to harm animals can be seen as refinements of common sense morality.

But most people would find absurd the suggestion that they might be morally required to go out of their way to save a drowning rat, even if they could do so very easily with very little cost to themselves. It is much less plausible for utilitarians to present the demandingness problem with regard to animals as a tension within common sense morality. Utilitarians who claim that we have demanding obligations to help animals must acknowledge that they are committing themselves to rejecting common sense morality, at least on this matter.

Previous discussions of the demandingness objection have tended to focus on our obligations to people, neglecting the fact that according to utilitarianism we have obligations to animals too. As a consequence, utilitarians have severely underestimated both how demanding their theory is, and how counter-intuitive. The demandingness objection is much more damaging when we take animals seriously.

### III. THE ENVIRONMENTALISTS' COMPLAINTS

It is important to distinguish the demandingness problem for utilitarianism from a different set of concerns raised by many environmentalists against the theory.

Some environmentalist criticize utilitarianism on the grounds that it may license (and may even require) the destruction of all members of a species. For example, predators tend to reduce welfare by killing their prey and causing it to suffer. If the predator itself died, this would reduce its welfare, but would be likely to improve the welfare of its prey. In utilitarian terms, it might be better overall if certain kinds of predator died out, even though this would mean the loss of an entire species and a reduction of biological diversity. Of course it may be instrumentally valuable that there remain living examples of a variety of species (we may gain valuable genetic information from them; they may be useful in other ways).<sup>8</sup> But in utilitarian terms, a reduction in biological diversity is not necessarily bad. In contrast, some environmentalists believe that species must be protected for their own sake: 'In an evolutionary ecosystem, it is not mere individuality that counts, but the species is also significant'.<sup>9</sup>

<sup>8</sup> Diversity may increase stability in the biotic community, though it is very uncertain whether this is so; see, e.g., E. Sober, 'Philosophical Problems for Environmentalism', in R. Elliott (ed.), *Environmental Ethics* (Oxford UP, 1995), pp. 226–47, at p. 230.

<sup>9</sup> Holmes Rolston III, 'Duties to Endangered Species', in Elliott (ed.), *Environmental Ethics*, pp. 60–75, at p. 67.

Secondly, utilitarianism requires considerable intervention in the natural world in order to improve animal welfare. Some environmentalists object, because they believe that the value of the natural world is partly based on the fact that it has not been touched by human hand. For example, Jamieson describes ‘classical environmentalists’ as believing ‘that wilderness is wild nature untrammelled by humans, and that wild animals are those who live lives that are completely independent of humans.... The ultimate goal of the environmental movement is to protect nature from human beings.’<sup>10</sup> Elliott expresses a similar view: ‘I shall take it that “natural” means something like “unmodified by human activity”.... the naturalness of a landscape is a reason for preserving it, a determinant of its value.’<sup>11</sup>

Thirdly, some environmentalists have argued that utilitarians are wrong to try to reduce pain, since pain is a natural part of the natural world: ‘Pain and pleasure seem to have nothing at all to do with good and evil if our appraisal is taken from the vantage point of ecological biology.... The doctrine that life is happier the freer it is from pain and that the happiest life conceivable is one in which there is continuous pleasure uninterrupted by pain is biologically preposterous.’<sup>12</sup>

I shall not assess the legitimacy of these complaints here. The important point is that the demandingness objection does not depend on the environmentalists’ being correct about any of them. Biological diversity may not be valuable for its own sake. The value of nature may not depend at all on its being untouched by humans. It may be true that a life is happier if it is free of pain. But the obligations to assist animals which utilitarianism posits may nevertheless be too onerous and may interfere too much with our personal concerns and our ground projects: utilitarianism may be too demanding to be a plausible ethical theory.

#### IV. THE UTILITARIAN RESPONSE

It might be denied that utilitarianism really implies that we have demanding obligations to assist animals. I shall consider three kinds of response.

##### (i) *The vital needs of animals do not count*

Whereas most of us accept that if people were dying in front of us, we would be required to act to help them if we could, we are less inclined to think that

<sup>10</sup> D. Jamieson, *Morality’s Progress* (Oxford UP, 2002), p. 191.

<sup>11</sup> R. Elliott, ‘Faking Nature’, in Elliott (ed.), *Environmental Ethics*, pp. 76–88, at pp. 79–80, 82.

<sup>12</sup> J.B. Callicott, ‘Animal Liberation: a Triangular Affair’, in Elliott (ed.), *Environmental Ethics*, pp. 29–59, at pp. 52–3; further, ‘if nature as a whole is good, then pain and death are also good’ (p. 54).

we have to act to save a rat. Perhaps there is good reason for us to draw this distinction, because the vital interests of persons are very important but the vital interests of animals are not.

There may be some differences between the suffering of humans and of animals that are starving to death. We anticipate the imminent deaths of ourselves, our friends and our children, whereas at least some animals may not be aware of exactly what is happening to them and their offspring. As a consequence, they may be less frightened and may suffer less in mourning the dead.

On at least some accounts, the death of a human is typically worse than the death of an animal. Peter Singer (p. 20) puts the matter in this way: 'rejection of speciesism does not mean that all lives are of equal worth. It is not arbitrary to hold that the life of a self-aware being, capable of abstract thought, of planning for the future, or complex acts of communication, and so on, is more valuable than the life of a being without these capacities.' We might argue, for example, that a creature that is self aware and capable of planning for the future typically has more projects of greater complexity that it would like to carry out, and is capable of appreciating a wider range of goods than a creature without those characteristics. If both had lived longer, the former would have enjoyed a more full and happy life. If both their lives are cut short, the former is deprived of more than the latter. It is in this sense that its life is worth more, and for it to die is worse. The life of a normal human would typically be more valuable than the life of a rat or a deer, therefore, because the human would typically be deprived by premature death of more than the other creatures would be.

Whether this argument is correct depends on how we ought to compare the value of different lives, and on exactly why death is bad. I shall not try to settle these very difficult issues here. I shall simply concede that utilitarians could claim that the basic interests of animals count for less than those of humans and that we have a more demanding obligation to assist humans who are dying than animals. These utilitarians could legitimately conclude that if we could feed ten starving humans or ten starving rats, we should save the humans.

But this is very different from saying that we have no obligation at all to assist animals, or none that ever requires us to sacrifice our own projects. Utilitarians could make this claim only by refusing to accord animals moral status, or by claiming that the harm of their starving to death is usually outweighed by the benefits to us of pursuing our personal projects.

It is open to utilitarians to deny that animals have moral status, for example, by claiming that only the pains and pleasures enjoyed by the kinds of creatures that are self-aware and capable of abstract thought are of moral

significance. It would follow that we would have absolutely no obligations to assist animals at all.

Alternatively, they might claim that the pains and pleasures of any sentient creature do matter morally, but those of creatures capable of abstract thought are lexically prior to the rest. It would follow that we might have obligations to animals, but none could come into conflict with our own projects: our projects would always have priority.

Finally, the pleasures and pains of all sentient creatures might count, but those of creatures capable of abstract thought might be weighed much more heavily than the rest. In that case, we would rarely be subject to demanding obligations to assist animals.

The problem for a utilitarian with these moves (apart from the fact that they are designed solely to avoid the counter-intuitive implications of the theory) is that they would have a profound effect on our duties not to harm animals. Utilitarians are generally pleased to be able to condemn the treatment of animals in factory farming and in at least some scientific experimentation. But if animals have no moral status, or if their interests are much less significant than ours, these practices are likely to be permissible (and perhaps even morally required of us). In order to criticize our practices of causing harm to animals, utilitarians must acknowledge that rats, deer and other sentient animals have a moral status and that their vital interests are of considerable moral significance. It follows that if we have a choice between saving the same number of humans or rats, we should save the humans; but if we have a choice between saving the lives of rats and our own personal projects, we may be morally required to save the rats.

(ii) *We do not know how to intervene in the natural world*

Many of us currently know very little about animal welfare. We do not know how much a rat suffers when it starves to death, or how we might compare its suffering with that of a starving deer or a starving human child. We are not even certain which animals suffer. Do fish feel pain? What about molluscs?

Many of us have no idea how we might assist starving creatures. We do not know what food to give them, or how to present it in ways in which they will accept. Interventions made with the best of intentions can have very damaging effects. When researchers first tried to monitor the welfare of bats, for example, they seem to have caused many of them to die.<sup>13</sup>

Our treatment of animals has wide ranging consequences which we often cannot predict. We simply cannot always be sure what the effect will be of

<sup>13</sup> See Corbet and Harris (eds), p. 86. In part this seems to have been due to the method of ringing bats which the researchers used, in part simply due to their presence in the bats' caves.

helping some animals to survive when their food stocks are low, or inoculating them against a common disease. It may have an adverse effect on their species at a later time, or on other species that are competing with them. Utilitarians might argue that since we have no idea how to prevent suffering and premature death amongst animals, we cannot be morally required to do so.

But even if we do not now know how to prevent animal suffering, it does not follow that we have no obligations to animals, according to utilitarianism. Just as we may have to give a large proportion of our income to charities that assist very poor humans, we may be required to give another large sum to animal charities, both those that already know how to help animals and those that are now finding out what to do; we may be required to spend our time and money campaigning and raising funds on their behalf. We may be under an obligation to consult with these charities and with other experts about what we can do directly for wild animals. In some cases, it may be widely known how best to help, and then utilitarianism implies that we are required to act, for the interests of animals matter and we are obliged to take them into account; our lack of knowledge is no excuse for our failure to do so, nor is it a reason to think that non-intervention is the best policy open to us.<sup>14</sup>

(iii) *Our interventions in the natural world are likely to be ineffective*

Instead of insisting that we know too little about the natural world, however, a utilitarian might argue that what we do know suggests that there is no point in intervening. Our attempts to help are often counter-productive; instead of making life better for animals, we make it worse. So we should leave wild animals alone.

For example, suppose that we were to prevent many rats from starving to death over one winter. The numbers of rats would increase. But unless we made sure to do the same again, it is likely that very many rats would die the following winter. Whilst the extra rats were alive, the animals on which they prey and those with which they compete for food would do worse, whilst those that prey on them might do better, with knock-on effects to other creatures.<sup>15</sup> Moreover, rats carry several diseases transmissible to humans,

<sup>14</sup> It is a serious problem for utilitarianism that we do not know the consequences of our actions or the value of those consequences, and hence it is very difficult for us to know what we morally ought to do. But this is not particularly a problem with regard to animals; it applies just as much to our obligations to other persons. See J. Lenman, 'Consequentialism and Cluelessness', *Philosophy and Public Affairs*, 29 (2000), pp. 342–70.

<sup>15</sup> In fact, rats do not prey on many animals, and few prey on them, so the impact of an increase in rat numbers might not be as significant as an increase in the numbers of other species would be.

including leptospirosis (symptoms can include high fever, severe headache, jaundice and kidney damage), and they can carry plague and typhus. An increase in rat numbers would raise the chances of an outbreak of these diseases amongst ourselves.

We might conclude from this that animals in the wild would suffer whatever we chose to do. According to utilitarianism, we would not have pressing obligations to assist them, because it would either make no difference whether or not we did, or our intervention would make things worse.

Though it is not always the case, it is sometimes true that when one animal in the wild does better, another does worse.<sup>16</sup> This means that it is sometimes not worth while for us to intervene to save the life of an animal, since another will simply die in its stead. But in other circumstances, we may be able to save the lives of some animals without dooming others. It may be that a substantial increase in the rat population would not in fact harm other animals, in which case we would be morally required to feed them, and not just over one winter but every time their food stocks ran low.

But even if it is rarely worthwhile saving an animal from death, we may be able to save it from excessive suffering. Deer are culled in the UK so that they can be dispatched quickly and painlessly rather than enduring the prolonged agony of starving to death. It should be possible to arrange the cull so that approximately the same numbers of creatures are killed as would have died from lack of food or other 'natural causes', so that the 'natural balance' is not affected and overall there is little or no impact on the numbers of other animals. In these cases, utilitarianism demands that we intervene not to save animals but to help them die with less pain.

Our interventions in the natural world are not always a success, partly because we do not understand it sufficiently well, partly because we are not always committed to promoting animal welfare. But it would be unduly pessimistic to conclude that we can never successfully improve the welfare of wild animals. Moreover, exactly similar worries could be raised about our duties towards persons. Utilitarians (for example, Mulgan, pp. 31–7) have convincingly argued that even though we do not always know how to help others and our assistance can be counter-productive, we nevertheless have duties to help as best we can. It is difficult to believe that we can overcome these problems only when we help other persons, not when we intervene for the sake of other species. So it is hard to see how a utilitarian who believes that we have stringent obligations to help other persons could deny that we have similar duties to animals. Of course, doing so is a challenge for us and

<sup>16</sup> 'The natural world, as actually constituted, is one in which one being lives at the expense of others': Callicott, p. 53.

is likely to be very demanding on our time, energy, and money. But according to utilitarianism, these are demands we are morally required to meet.

## V. A PERMANENT EMERGENCY SITUATION?

In her papers on the demandingness of utilitarianism, Ashford claims that we can envisage (at least in principle) political solutions to the current problems which we face, whereby political structures and institutions are introduced to take care of every person's basic needs, at least under standard conditions (so that threats to their basic interests would occur only rarely). In these circumstances, she says (UI, p. 438), 'emergency situations and the corresponding obligation to give help would arise occasionally; but they would not occur on such a scale as to interfere seriously with agents' engagement in their intimate relationships'.

It may be optimistic to think that we can solve the standard day-to-day problems of human life by means of political institutions (though we certainly might be able to improve many people's lives considerably). But in any case the problems of animals are much worse. In all practically realizable circumstances, animals stand in the relation of predator to prey. Birds of prey attack and kill smaller birds and small mammals; foxes kill chickens and rabbits; cats kill small rodents and birds; and so on. The existence of predators is a constant threat to the vital interests of their prey; but protecting the interests of the prey is a threat to the vital needs of the predators. The basic needs of these animals are in permanent conflict, and they are constantly suffering and dying. It is likely that this will result in a constant emergency situation, in which we shall constantly be required to save animals from disease and starvation or, where that is not possible, from excessive suffering. It is difficult, and probably impossible, to devise any kind of political system or institution to solve the problems of animals without our constant supervision and intervention. Our duties to animals are more demanding, not in the sense that they are more urgent than our obligations to humans (they are not), but in the sense that it is even more difficult to discharge them. The impact on our life will be almost as great, and, realistically, will never be over. Our personal projects will be in constant conflict with these demands: our integrity will be permanently compromised.

## VI. HOOKER'S RULE-CONSEQUENTIALISM

Simple act-utilitarianism has a problem when animals are taken into account. But perhaps other versions of consequentialism do better. Brad

Hooker has devised a version of rule-consequentialism which he claims avoids the demandingness problem. According to his theory,

An act is wrong if it is forbidden by the code of rules whose internalization by the overwhelming majority of everyone everywhere in each new generation has maximum expected value in terms of well-being (with some priority to the worst off). The calculation of a code's expected value includes all costs of getting the code internalized. If in terms of expected value two or more codes are better than the rest but equal to one another, the one closest to conventional morality determines what acts are wrong.<sup>17</sup>

As I have shown, act-consequentialism demands that we give a great deal to the poor, at considerable cost to ourselves. In general, it requires us to bear a cost whenever doing so would maximize the good. Hooker claims that in both these respects, act-consequentialism is unreasonably demanding.

Rule-consequentialism in contrast requires us to do what is required by those rules which, if internalized by all, we expect would have good consequences. According to Hooker, the relevant rules would oblige us to give a relatively small percentage of our income to charity, perhaps between 1% and 10%.

There are very good reasons why rule-consequentialism only obliges us to help others a little, according to Hooker. The psychological costs of internalizing more demanding rules would be very great, and would be repeated with each new generation. Since rule-consequentialism takes into account these costs, it will never be very demanding, though it might support a rule which required extreme self-sacrifice in extreme circumstances (for example, to save the world).

It may seem unlikely that the costs of internalizing rules will outweigh the benefits to the poor if there are only a few rich and very many poor. But Hooker claims that we have to take into account not just the costs of the very rich internalizing the rules, but the costs of the poor doing so too. Of course, the costs of internalization may be less for the poor than the relatively affluent, since they are likely to benefit more from the rules. Why should these costs of internalization by the poor count, since they may never act on the rule? Hooker favours a single moral rule for all, and he argues that the poor may sometimes act on the rules. Self-sacrifice may still be demanded from them, and so the costs of internalization will still be relatively high.

Hooker, like Ashford, thinks of demandingness only in terms of obligations to humans. But according to Hooker's theory, the interests of animals count too. He should also have considered our responsibilities towards animals when assessing the demandingness of rule-consequentialism.

<sup>17</sup> B. Hooker, *Ideal Code, Real World* (Oxford UP, 2000), p. 32.

But once animals are taken into account, his defence against the demandingness objection collapses. There are very many animals that we could help. The potential benefits to them are considerable. Of course, internalizing obligations to help animals may be very difficult and costly for us, perhaps even more costly than internalizing duties to help the poor. But there is a crucial difference between the two situations. Poor people have to internalize the rules too, and it is precisely this cost that Hooker relies on to explain why rule-consequentialism will not be too demanding. But obviously no animals will have to internalize any rules at all – it is impossible for them to do this. So we have to weigh the benefits we could give to animals against the costs to us of internalizing the rules. There is a very large cost associated with rules to help people which has no equivalent with regard to rules to help animals. So though rule-consequentialism may not justify demanding obligations to other people, it is likely to support demanding duties to help animals. In this regard, it may be nearly as unreasonable as act-utilitarianism.

## VII. A COMPARISON WITH SCANLON'S CONTRACTUALISM

In her defence of the demandingness of utilitarianism, Ashford (DC, p. 301) particularly emphasizes the comparison with Scanlon's contractualism: 'utilitarianism's main impartial rival, Kantian contractualism, also imposes extremely demanding obligations to help those in need, obligations that are not substantially less demanding than those of utilitarianism'. In fact, as I have noted, she claims that contractualism is more demanding, since it refuses to countenance interpersonal trade-offs of welfare. But Ashford's discussion of the demandingness of these two theories includes only obligations to help needy persons, and as I have pointed out, this by no means exhausts the extent of our obligations according to utilitarianism. Once we take animals into account, is it still true that contractualism is no less demanding?

In *What We Owe to Each Other* (Harvard UP, 1998), Scanlon discusses our obligations to animals only briefly. He says (p. 184) that 'although it is morally objectionable in the broad sense, to fail to take account of the pain and distress of non-rational creatures, we do not have the reason that we have in the case of rational creatures to accept the general requirement that our conduct be justifiable to them'.

The whole point of contractualism is that we should act in ways we can justify to those who are affected by what we do. According to Scanlon's version of the theory, we are morally required to treat others in accordance

with principles which they could not reasonably reject. We must consider whether individuals could object to a principle on their own behalf, and also whether anyone else has a better reason to reject an alternative principle. In Scanlon's view, individuals are entitled to complain only on their own behalf: by taking proper account of their complaint we can justify what we do to them.

It is not possible for us to justify what we do to any animal that is incapable of understanding our putative justification and accepting or rejecting it. Most if not all animals are incapable of complaining on their own behalf about their treatment. Since they cannot understand any principles and they cannot assess the reasons for and against acting on them, they cannot reasonably reject any principle. Whereas needy persons could reasonably object to a principle that the rich should give them no aid at all, needy animals could not. We can be under no contractualist obligation to assist animals.

Scanlon does note (p. 184) that it is possible for contractualists to insist that we do have obligations towards animals, if we take it that we *want* to be able to justify our actions to them, and we understand 'trustees' to be speaking on behalf of the animals' interests. He does not favour such a move, however, and the modification to contractualism does seem to be objectionably *ad hoc*. It is apparently added simply to avoid an unwanted implication, rather than following from the core of the theory, the idea of justifying what we do to others who can *themselves* accept or reasonably reject the principles on which we act.

In terms of 'morality in the narrow sense', that is, in terms of the contractualist part of his theory, Scanlon is clear that we are *not* required to help animals: we are entitled to pursue our personal projects to our hearts' content, no matter what happens to them. But he thinks that there may be moral reasons of some kind to take account of the basic interests of sentient creatures, which are not based on a contractualist duty to treat them in accordance with principles which they could not reasonably reject. He calls this non-contractualist part of his theory 'morality in the broad sense'.

Scanlon (p. 181) describes pain as something that 'we have *prima facie* reason to prevent, and stronger reason not to cause'. He claims that it is a serious moral failing to be indifferent to animal suffering, and that there are serious moral objections to torturing animals for fun and to causing animals severe pain, in order to test cosmetics, for example. But he does not discuss 'morality in the broad sense' in any detail in *What We Owe to Each Other*. From the few remarks he does make, it is unclear what he thinks about how reasons to protect the basic interests of animals should be weighed against our other reasons for action. It is therefore difficult to assess

the demandingness of our broad moral duties to assist animals. He does, however, accept a distinction between inflicting and allowing pain, claiming that we have stronger reason not to cause pain than to prevent it. So even if our broad moral reasons not to do harm to animals were comparable to those which a utilitarian would endorse, we would not be under such demanding obligations to prevent suffering in the wild.

Because of the lack of detail in this part of his theory, it is difficult to say overall how Scanlon's theory compares with utilitarianism with regard to our duties to animals. Morality in the narrow sense, contractualism itself, is clearly much less demanding: we owe no contractualist duties to animals at all. According to morality in the broad sense, we do have moral reasons not to harm animals, but our duties to help them seem to be less stringent. So it is reasonable to conclude that Scanlon's overall theory is considerably less demanding with regard to animals than utilitarianism.

Scanlon has other difficulties, however. His theory is not unified: he has to accept 'morality in the broad sense' as well as contractualist 'morality in the narrow sense'. More importantly, he seems to allow trustees to speak for some non-rational creatures, namely, those who are human (for example, human babies), but not for other non-human ones. His defence is that we want to justify ourselves to all humans, whether or not they are capable of accepting or rejecting the justification.<sup>18</sup> It is doubtful that he can justify differential treatment on the basis of species. He may ultimately be forced to accept either that we have more demanding obligations to animals than he now accepts, or less demanding obligations to non-rational humans.

These problems strongly suggest that it is very hard to devise an appealing ethical theory which takes proper account of the interests of animals. Whilst utilitarianism errs on the side of allocating to us extremely demanding obligations to animals, contractualism tends to downplay too much the interests of the non-rational, including non-rational humans, or else is guilty of pro-human chauvinism.

Ashford tried to defend utilitarianism by showing that contractualism is at least equally burdensome. But by restricting her attention to obligations to persons, she unfairly biased the contest against contractualism: instead of comparing the total demands of each theory, she weighed *all* of our contractualist duties to others against only *a fraction* of our utilitarian duties to assist. The demandingness objection to utilitarianism is much more damaging when our obligations to all sentient creatures are taken into account. The problem is not resolved by rejecting act-utilitarianism in favour of

<sup>18</sup> 'The mere fact that a being is "of human born" provides a strong reason for according it the same status as other humans.... It is not prejudice to hold that our relations to these beings give us reason to accept the requirement that our actions should be justifiable to them' (p. 185).

rule-consequentialism, for this too is likely to endorse demanding obligations to animals. In so far as they take moral intuitions at all seriously as a method of justifying a moral theory, utilitarians ought to be very concerned about these consequences of their theory. The onerous duties which utilitarianism claims we have to other people are bad enough, but our putative obligations to feed sewer rats and to shoot deer are even more implausible in the eyes of most people. It is to utilitarians' credit that they take the welfare of animals seriously; but as a consequence they are forced to take the demandingness objection to their theory very seriously too.<sup>19</sup>

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