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Book Section:

Milburn, J. orcid.org/0000-0003-0638-8555 (2016) *Animal rights and food : beyond Regan, beyond vegan*. In: Rawlinson, M. and Ward, C., (eds.) *The Routledge Handbook of Food Ethics*. Routledge . ISBN 9781138809130

<https://doi.org/10.4324/9781315745503>

This is an Accepted Manuscript of a book chapter published by Routledge in *The Routledge Handbook of Food Ethics* on 1st July 2016, available online:
<https://www.routledge.com/The-Routledge-Handbook-of-Food-Ethics/Rawlinson-Ward/p/book/9781138809130>

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Animal Rights and Food: Beyond Regan, Beyond Vegan

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This is a draft version of a paper appearing in *The Routledge Handbook of Food Ethics*, edited by Mary C. Rawlinson and Caleb Ward. For the final version of the article, please see the published volume.

Ethical questions about the status of nonhuman animals (NHAs) entered mainstream philosophical dialogue in the latter half of the 20th century with the publication of works such as the edited collection *Animals, Men, and Morals* (1972) and especially Peter Singer's *Animal Liberation* (1975). Animal rights (AR) philosophy, though there were earlier proponents, gained prominence after the publication of Tom Regan's *The Case for Animal Rights* in 1983. This work offered a deontological alternative to Singer's utilitarian account of the moral status of NHAs, and, excluding *Animal Liberation*, is probably the most important 20th century work of animal ethics. As it is through food (including meat, eggs and milk) that many people primarily "interact" with NHAs, animal ethics has long engaged with issues related to food, especially food ethics and food policy. Today, if we accept AR, it should be uncontroversial to say that we have a duty to adopt a vegan diet. However, it is my contention that this is not, or should not be, all that that an AR approach to food will say. As the philosophy of food becomes more developed, so must AR approaches to food.

In the first part of this chapter, I will indicate that AR philosophy has moved "beyond Regan," in that a prominent strand of AR theory now addresses AR-related questions from a recognizably political standpoint. Specifically, I argue that there has been a political turn in AR philosophy, and that this is a positive development. In the second part of the chapter, I

will show that this political turn allows us to move “beyond vegan” when we talk of the intersection of food ethics (and, more broadly, the philosophy of food) and AR. By this, I do not mean that AR philosophers should stop endorsing veganism—far from it. I mean that we can begin to conceptualize an animal rights philosophy of food. AR perspectives, especially AR perspectives after the political turn, can offer much more to food issues than merely a demand for veganism. In the third part of the chapter, I will demonstrate that a suitably subtle AR account may actually allow for certain non-vegan food practices to continue, but that, contrary to what might be expected, this should offer little consolation for those who continue to consume NHA-derived foodstuffs today. Political approaches to AR may offer us a way to conceptualize strong and genuine rights for NHAs while, in theory, allowing certain non-vegan foods. This demonstrates a second way that AR theory can go “beyond vegan,” and one that is of paramount interest for the burgeoning field of food ethics.

Beyond Regan

In his 1983 *The Case for Animals Rights* (hereafter, “The Case”), Tom Regan advances a theory of rights grounded in the notion of inherent value. All subjects-of-a-life (including, though not limited to, mammals of a year old or more) have inherent value, this inherent value is equal, and this inherent value grounds rights not to be treated in certain ways. Regan argues that though NHA subjects-of-a-life are not moral agents, they are nonetheless moral patients, and there is no non-arbitrary way to ground the rights of moral agents which would not also ground the rights of moral patients; accordingly, the rights of moral agents and moral patients are equally as strong. It is important to remember that though *The Case* was written, and read, as a treatise of moral philosophy—some of its finest contributions come in the form of its critique of Singer’s moral vision—it is also a work of political philosophy. It is difficult

to avoid political philosophy when discussing rights or justice, and *The Case* is replete with references to both. As such, it would be unfair to dismiss Regan as a “merely” moral thinker, and it is likely, especially within the context of the political turn in animal ethics, that Regan will more and more be read as a political thinker. Nonetheless, Regan was and is thought of as a moral thinker first, and his work is the epitome of AR philosophy in the 20th century. The “Regan” which we must move beyond is the 20th century tendency to consider AR, and animal ethics more broadly, a solely moral issue, and not Regan’s work in particular.

We must move beyond this—and by “moving beyond,” I mean supplementing, and neither ignoring nor dismissing—for at least three reasons. First, there is dissatisfaction with the failure of moral thinking to push change sufficiently strongly. 40 years on from *Animal Liberation*, and over 30 on from *The Case*, over 50 billion “land animals” are slaughtered for consumption worldwide per year. This number does not include fish and other NHAs who live in water, and does not include those NHAs killed in pursuit of foodstuffs, such as male chicks from hatcheries killed within hours of birth. Further, though numbers are growing, vegetarians, and especially vegans, represent only a small percentage of the population. Second, there is recognition that there are certain problems that cannot be fixed by individual choice. Take, as a simple example, tax-funded subsidies given to so-called “pastoral farmers.” A rise in the number of vegans would not necessarily have any particular impact on such subsidies, which would require political change. Indeed, if a government aims to keep their farmers afloat, it is conceivable that a rise in veganism could result in greater subsidies. Third, we must recognize that our obligations to NHAs are not “merely” a moral matter. Liberals recognize the importance of tolerance and pluralism—and thus permitting people to live in accordance with their own moral ideas—but our obligations to NHAs, argue political AR theorists, are not a part of this. Just as we condemn those who eschew their obligations

towards children, so we must condemn those who fail to treat NHAs with the respect they warrant.

We might disagree about which texts do or do not belong as a part of this political turn, or about which characteristics best differentiate those thinkers in the turn from those who are not. One way of thinking about the turn is simply that it consists in a shift of focus; while animal ethics has always been political, the turn is characterized by a move away from questions about individual behavior and moral status, and towards questions about the inclusion of NHAs in political structures and top-down changes—legal, institutional, educational, and so on (cf. Milligan 2015; Wissenburg and Schlosberg 2014). The majority of work on political theory and NHAs, as is typical with contemporary political theory, has taken place within a liberal paradigm, whether this is relatively “pure” liberalism (Cochrane 2012; Garner 2013), group-differentiated, relational liberalism (Donaldson and Kymlicka 2013; Valentini 2014), perfectionist liberalism (Nussbaum 2006), cosmopolitan liberalism (Cochrane 2013; Cooke 2014) or even, though these discussions are more skeptical, contractarian/contractualist liberalism (Rowlands 2009; Smith 2012; cf. Garner 2012a; Garner 2012b). Though this chapter takes a more-or-less liberal perspective, it is worth noting that liberal approaches do not have a complete monopoly over the literature (cf. Cochrane 2010). For example, there have also been anarcho-Marxist analyses of the use of NHAs (Torres 2007) and the progressive use of right libertarian concepts for thinking about animal ethics (Ebert and Machan 2012; Milburn 2014).

Ultimately, though the political turn has probably only been occurring for around a decade, there are an array of approaches utilized, and a multitude of debates between authors within it. In this sense, the political turn should not be viewed as a unified tradition. Instead, the

political turn should be viewed by animal ethicists as a particular way of doing animal ethics, alongside, for example, legal approaches, moral approaches and theological approaches, but one that is sorely needed. Equally, it should be viewed by political theorists as a particular way of doing political theory, alongside the likes of feminist political theory. Though these approaches to political theory start with a particular issue, it would be to do thinkers within them a disservice to claim that such thought ends with claims about said issue. So it must be with AR and food; while AR approaches to food will begin with the relatively simple claim that we must adopt veganism, they cannot simply stop there.

Beyond Vegan

Having indicated that a political turn in animal ethics has taken place, I will now outline three ways in which an AR approach to food and food policy, especially a political AR approach to food, must move “beyond vegan.” By this, I mean three ways in which merely stating that veganism is a moral imperative or demand of justice does not reflect all that AR approaches to food can, and must, say. First, the political face of AR is particularly well situated to talk about the inclusion of NHAs within systems of distribution. This is something that has been marginalized in traditional AR philosophy. Second, we have to ask about the extent to which our food-related practices indirectly impact upon NHAs; though this debate has been had within traditional animal ethics, a move to political theory gives us tools to demand the kinds of changes that this line of thought may entail. Third, we must ask what AR approaches might say about, or could offer to, existing discussions in the normative food literature. It is in this final question that an AR philosophy of food is most sharply distinguished from merely AR philosophy about food.

The first way we can move “beyond vegan” is to think about the distribution of food to NHAs. If NHAs are to be recognized as co-citizens, or at least as members of a political community, then it is natural that they be included in questions about the distribution of food. Sue Donaldson and Will Kymlicka develop an account of political rights for NHAs by conceptualizing NHAs variously as citizens of a mixed human/NHA community, denizens of a mixed community, or sovereign over their own communities. The authors claim unambiguously that “[r]ecognizing domesticated animals as members of the community includes accepting their equal right to communal resources and the social bases of well-being” (2013: 142), which would include food distribution. It would be difficult to challenge this conclusion on the grounds that NHA members of a mixed community have less interest in access to distributive institutions than humans, as it is far from obvious that they do. Given the relative vulnerability of NHAs to the whims of their guardians, we might draw a parallel with children; while guardians have primary responsibility for ensuring the appropriate feeding of a given individual, the state has the responsibility to ensure that the guardian is satisfactorily carrying out their duty, and to provide an alternative should the guardian fail. One need not accept the somewhat statist paradigm in which Donaldson and Kymlicka operate to recognize these kinds of obligations. Alasdair Cochrane, who takes a more cosmopolitan approach, accuses the pair of unjustifiably privileging the rights of “domestic” NHAs (2013), and a number of authors already stress the duty humans have to assist free-living NHAs in need (e.g., Hadley 2006; Horta 2013). In certain environments or on certain occasions, it may be that the most valuable assistance that humans can offer free-living NHAs is the provision of food, similar to how it is already recognized by a wide variety of normative thinkers that we have an obligation to help starving humans, even if they live on the other side of the world. Of course, it may be that a particular AR approach does not support the provision of food aid to some or all NHAs. The *laissez faire* intuition—the idea

that we have a duty not to (or at least no duty to) intervene in nature—may continue to be defended by political AR thinkers (cf. Palmer 2010). Alternatively, a focus upon non-ideal theory might stress that the priority should be in ensuring that NHAs' negative, rather than positive, rights be respected. The point is not so much that an AR approach to food necessarily endorses the provision of food aid to NHAs, but that this is the kind of question that should be given thought.

The second way we can move “beyond vegan” is to think about the indirect effects of our food practices on NHAs. If all humans were to adopt vegan diets tomorrow, this would hugely limit, though not eliminate, NHA suffering caused by our food-related practices. In order to eliminate this suffering, we would also have to ask about the indirect impact of the practices. While vegan diets are certainly far less environmentally damaging than typical high- or even low-meat diets, a debate about NHA deaths in the harvesting process has arisen in the academic and popular literature (cf. Davis 2003; Lamey 2007). While this is by no means a vindication of current meat-eating practices or much of a challenge to veganism, it does raise questions for AR thinkers wishing to examine human diets. Given our causal (and moral?) responsibility for these deaths, it is arguably a more pressing concern than other suffering of free-living NHAs. While acknowledgement of this problem is relatively easy, offering practical solutions is somewhat harder. It seems likely, however, that this would require top-down change, such as legislation on appropriate food-production methods to limit (or, preferably, eliminate) accidental negative impact on free-living NHAs; it is hard to imagine individual moral choices of consumers or farmers being able to resolve the problem, even if we could imagine individual moral choices leading to widespread veganism. As such, this is a good example of the kind of food policy issue with which AR theorists should be concerned above and beyond mere veganism, and, indeed, may be a food policy concern that

non-AR food theorists have overlooked. Furthermore, it is a good example of the kind of problem with which political approaches to AR are better equipped to deal than the traditional moral approaches to AR.

The third way we can move “beyond vegan” is to ask what an AR approach to food can say about non-AR issues. If there is to be an AR approach to food, we must also ask what this perspective can offer to, or say about, existing issues in the literature on the philosophy of food, even (or especially) those not obviously related to AR issues. For instance, questions about the metaphysics of food should not be considered independently of the AR approach, or, minimally, the AR approach has something to offer to these debates. David Kaplan (2012: 3-4) offers a non-exhaustive list of seven metaphysics of food: food as nutrition; food as nature; food as culture; food as social good; food as spirituality; food as desideratum; and food as aesthetic object. Each of these approaches could be seen to have advantages and disadvantages from the perspective of an AR approach to food. For example, a focus on food as a cultural practice may serve to obscure or downplay issues of justice related to food choices, and thus risk legitimizing (or at least failing to challenge) unjust food practices. In this sense, food as culture might be considered a dangerous metaphysic for AR approaches to food. On the other hand, framing food in cultural terms stresses that there is nothing necessary about current food practices—inherent to the idea of culture is difference and change. As AR approaches to food will challenge many existing food systems, an acceptance that there is nothing necessary about current practices and an acknowledgement that these practices can change is necessary. This example should show that AR approaches to food and the metaphysics of food should not be considered independently, and I hope more work in this area will be forthcoming. If AR is to be a philosophy of food, rather than just philosophy about food, these are the kinds of questions which proponents must examine.

A final point to consider is that an AR approach to food must nonetheless be required to accommodate issues not directly related to the rights of NHAs; it cannot, to put it another way, exist in a vacuum. This is particularly true of the potential human consequences of realizing an AR vision of food production. Allow me to offer three examples. First, there are potential public health consequences. Certain major health problems—such as cardiovascular disease, obesity, high blood pressure, some cancers, and diabetes—are much less associated with veganism than “normal” diets, but some nutrients, including vitamin D and vitamin B12, can be lacking in badly-planned vegan diets (Craig 2009; Craig and Mangels 2009). The extent to which these kinds of deficiencies could be a problem, as well as possible solutions, should be explored by bioethicists and other health experts. Second, there are economic questions worth considering. The end of animal agriculture would result in an economic shift, potentially leaving large numbers of people out of work. The likelihood of and solutions to this issue need to be explored by political theorists and economists. Third, the environmental impact of adopting an AR approach to food policy could be very large. The environmental merits of veganism are well-known (Scarborough et al. 2014; Singer and Mason 2006: 231-40), and include concerns about land use, water use, localized pollution and greenhouse gas emissions. That said, a shift from pastoral to arable farming, as well as the end of hunting and fishing, would have a dramatic effect on landscapes and ecosystems, and perhaps even the biosphere. Consideration of the extent to which this would or could be a positive (or, at least, unproblematic) change would be valuable.

Animal Rights Without Veganism?

I have illustrated how an AR approach to food could and should extend beyond mere veganism, especially when one considers AR from a political perspective. However, I now wish to suggest that veganism, as normally understood, may not be the only option for an AR-respecting diet, and thus illustrate a particularly surprising way that AR philosophy can step “beyond vegan.” First, however, it is worth saying that Gary Francione (2012) is right, given currently existing food structures, in saying that veganism must be endorsed as a moral baseline. AR without veganism, like human rights without the abolition of slavery, is not worthy of the name. Even if one favors (say) Cochrane’s interest-based rights approach (2012) over Francione’s abolitionist approach (2010), one must still recognize that the real-world practices of farming, hunting, fishing or “harvesting” NHAs for flesh, eggs or milk involve the infliction of horrific suffering (including physical pain and mental anguish) and death, and so must recognize that respecting NHAs’ rights requires abstention—economically, politically, socially—from support of these industries. Given the horrific suffering and early, gruesome deaths inflicted upon NHAs as a matter of course in the pursuit of NHA-derived foods, anyone who holds that sensitive NHAs have a right not to have suffering or death inflicted upon them (that is, anyone who endorses AR) displays a baffling dissonance between their professed beliefs and their actions if they do not practice and endorse dietary veganism.

Despite this, questions may be raised about NHA-derived foods concerning certain unusual cases or plausible practices, and, if AR theory is going to engage with food theory, these issues are central. This is because if food theorists who do not endorse an AR framework are going to challenge veganism in AR theory, it is on these kinds of grounds that they are most likely to succeed. To that end, I now offer six kinds of issues that could challenge the claim that the abstention from all food products derived from NHAs is necessary given an AR

approach to food. I do not claim that this list is exhaustive, and constraints of space mean that the issues these questions involve can only be sketched. Nonetheless, I hope that the topic can be explored more fully in the coming years.

(1) Non-sentient animals. AR theorists, to borrow a phrase from Francione (2008: 129-47), now “take sentience seriously,” meaning that sentience (the capacity for pleasure and pain) is seen as a sufficient condition for the attribution of rights. If it is also a necessary condition, then it follows that any non-sentient animal (NSA) could be utilized for food purposes. For example, imagine we could say with certainty that oysters were NSAs. This would mean that we would do no wrong to an oyster in eating “it.” AR, though, may nonetheless seek to restrict the exploitation of NSAs; perhaps there is some reason to endorse a moral line between animals and non-animals—a kind of thought more commonly used against AR thinkers. Contrarily, it may be plausible to say that AR advocates not only may eat NSAs, but should. Chris Meyers (2013) argues that, given insect non-sentience and given the environmental impact of certain forms of arable agriculture, vegans may have an obligation to adopt entomophagy. Though Meyers’s premises are questionable (insect non-sentience is not as clear-cut as he argues, and a greater defense is needed of entomophagy’s environmental merits), this kind of thought does warrant attention from AR theorists. AR approaches to food, then, may well be non-vegan insofar as they could permit (or endorse) the consumption of NSAs.

(2) Plausibly sentient animals. Between the NSAs and obviously sentient NHAs are plausibly sentient animals (PSAs). The most obvious way to address this question is with a kind of precautionary principle: as we do not know for sure whether these animals are sentient, and thus whether they have rights, it is better to treat them as if they are, and so do. This means that we should not eat them. However, I have

elsewhere (forthcoming) argued that simply endorsing a principle prohibiting the killing of PSAs might be to oversimplify. Instead, I argued that we might plausibly endorse the killing of PSAs for food if sufficiently important ends were furthered. Specifically, I argued that mere gustatory pleasure could not justify the killing of PSAs, but feeding carnivorous members of a mixed human/NHA society might. A similar line of argument might be applicable in other cases. Say a whole cultural identity revolved around flesh-eating. While an AR position could never endorse allowing members of that culture to continue to kill (say) cows, chickens or fish, perhaps it could allow that members of these cultures could continue to eat PSAs. This is worth exploring, and is a possible way that AR theory might accommodate claims about the value of particular food practices (cf. Barnhill et al. 2014; Lomasky 2013) without compromising its central principles.

(3) Technological solutions. One key issue at the intersection of food ethics/policy and AR philosophy is the possibility of technological solutions to “animal agriculture.” In vitro flesh has been shown to be technologically (if not yet economically) viable, and so offers us a vision of a non-vegan food that nonetheless respects the rights of NHAs. Milk produced without cows (Pandya 2014), too, is on the scientific horizon. A number of ethical challenges to lab-grown flesh from outside of AR philosophy are conceivable but unconvincing (for reviews and responses, see Hopkins and Dacey 2008; Schaefer and Savulescu 2014), but questions may be raised from within AR philosophy. These include, but are likely not limited to, the extent to which NHAs would have to remain a part of the “food industry” (for the harvesting of genetic material) and their treatment, as well as questions of respect. This latter point is raised by Donaldson and Kymlicka; perhaps producing NHA, but not human, flesh in this way would reaffirm false ideas about human superiority, by extending to humans a

respect that we do not extend to NHAs (2013: 152). Similar concerns could be raised about other technological sources of meat. It is conceivable that we could genetically engineer some NHAs to be non-sentient (Shriver 2009), but the genetic engineering of NHAs raises a host of other ethical problems (cf. Cochrane 2012: ch. 5), which require consideration by AR theorists. Though they require further scrutiny, the various plausible technological solutions give hope for a non-vegan AR approach to food policy.

- (4) Scavenging. The question of to what extent it may be ethically permissible to eat “scavenged” flesh is a point of contention within vegan discourse. “Freeganism,” at least partially, grew out of veganism, and is mostly associated with “dumpster-diving,” or living off food (including NHA-derived products) taken from supermarket bins (Singer and Mason 2006: 267-8). Even if supermarkets stopped selling NHA-derived foodstuffs, freegans might still eat scavenged flesh, such as “roadkill.” Leaving aside that we have an obligation to start designing our roadways to minimize NHA deaths (Donaldson and Kymlicka 2013: 201), it remains an open question whether AR philosophy might permit the scavenging of corpses.
- (5) Genuinely *ethical “farming”*. Donaldson and Kymlicka (2013: 138) sketch a picture of genuinely ethical egg production. Chicken citizens could be left to incubate some eggs, but some excess eggs could be taken for human consumption. The process could not be commercialized (as this would exacerbate the chance of abuse) and the abusive practices standard in egg production (forced starvation, chick-culling, beak-trimming, slaughter, etc.) would not be permitted. Though rights-respecting dairy production seems somewhat more difficult, Cochrane offers the idea of farming NHAs for their corpses, indicating that a meat industry without slaughterhouses is possible (2012: 87); the extent to which such an industry could be consistent with AR positions is

worth exploration. Francione objects to these kinds of ideas in principle, as, for him, recognition of AR requires the rejection of all use of NHAs (Francione 2008: 1-66; Francione 2010). There have been a variety of challenges to Francione's position, but perhaps most interesting is the claim that his approach has unacceptable consequences concerning the treatment of the disabled. Katherine Wayne (2013), who endorses a conception of AR similar to Donaldson and Kymlicka's, argues that the relationship between some disabled humans and caregivers is similar to a conceivable relationship between dependent NHAs and human caregivers. Wayne shows that certain modes of interaction between disabled humans and their guardians which are consistent with a full respect of the former party's rights involve the "use" of the dependent party by the caregiver. As such, unless Francione wishes to make some deeply questionable claims about the relationships people might have with certain disabled humans, he would have to concede that there are some ways in which NHAs can be "used" which are consistent with full respect. It should be made clear, though, that these debates are theoretical, and do not absolve the meat, dairy and egg industries of wrongdoing. "Happy" meat and "free range" eggs are produced using processes inimical to the goals of AR. To repeat: even if an AR-consistent farm can be imagined in theory, abstention from NHA-derived foodstuffs would remain an obligation today for those who endorse AR.

- (6) Subsistence hunting. AR approaches to food can expect criticism due to what may be perceived as support for an imperialistic imposition of a particular (Western?) norm of justice on those who do not recognize that norm. Specifically, AR approaches demand that the food practices of almost all cultures, including the most oppressed cultures, change drastically. AR theorists should not and do not try to hide this aspect of their thought. Very few people hold that the most fundamental rights of humans can be

ignored in the name of cultural autonomy or tradition, and, equally, we should not hold that the most fundamental rights of NHAs can be. Cultures change and adapt, and part of this evolution involves the acceptance of moral truths that were unthinkable, unclear or neglected before. If some hypothetical culture is so connected to the killing of NHAs that acceptance of AR amounts to the end of the culture in a recognizable form, then, while this may be regrettable, one has to ask how valuable that culture was to start with (Cochrane 2012: 192; Horta 2013: 377). A more difficult question arises in the case of subsistence hunting. AR theorists generally do not say that engaging in subsistence hunting is wrong (e.g., Cochrane 2012: 191; Donaldson and Kymlicka 2013: 41; Linzey 2009: 134). Alternatively, it is conceivable that, if subsistence hunting is wrong, it is an excusable wrong. Similarly, it may be the case that AR theory is open to humans eating NHAs in the ubiquitous desert island scenario; this does not tell us much of interest, as we might equally be open to the killing and eating of humans in these cases (Charlton and Francione 2013: 50-4; Francione 2007: ch. 7). Importantly, though, AR approaches to food should not simply accept subsistence hunting as unproblematic. We can ask to what extent particular practices are genuinely instances of subsistence hunting—Andrew Linzey, for example, refutes the claim that Canadian coastal communities rely on seal hunting (2009: 134-6)—and ask what can be done to bring genuine subsistence hunters out of their current situation.

The above list is indicative of how AR approaches may move beyond veganism. Here, and contrary to my prior use, I mean that as we explore the issues at the intersection of AR—especially political conceptions of AR—and food theory, we see that there are ways in which

dietary veganism, understood simply as abstention from all NHA-derived food products, may theoretically be unnecessary.

Conclusion

Animal ethics has recently seen a political turn—a shift away from the traditional moral focus and towards political theory. In this sense, animal ethics has moved “beyond Regan.” Animal rights philosophy, whether in its traditional moral or newer political form, has always had much to say about food, especially with regard to food ethics and food policy. However, and especially with the emergence of much normative work on food, it must be realized that there is more to AR and food than simply an endorsement of veganism, and the time is now right for a distinctive animal rights philosophy of food. This perspective will move beyond veganism in a number of ways. Importantly, it will recognize that our food-related obligations to NHAs extend beyond merely not eating them and it will address issues that are not obviously related to NHAs. Perhaps most interestingly of all, an AR approach to food will address the question of whether NHA-derived foods might be acquired in a just way at some point in the future. While further research on this issue is required, this is precisely what an AR approach to food will be best situated to offer. Despite this, whatever promise developments in AR theory hold, and even if an AR approach to food must move beyond this claim, the central demand remains constant. We must go vegan, and we must encourage those around us to do the same. To do anything less is to fail to respect the rights of nonhuman animals.

Related Topics

Ethical consumerism and food politics; Ethics of animal agriculture; Confinement agriculture from a moral perspective; Animal welfare; Food, welfare and agriculture; Veganism as a moral imperative.

Acknowledgements

I would like to thank David Archard, Jeremy Watkins, Matteo Bonotti and Simon Jenkins for reading drafts of this chapter. I would also like to thank Matteo Bonotti and Emanuela Ceva for including an animal ethics panel in their section on food and political theory at the ECPR Annual Conference, University of Glasgow, 2014, and Mary Rawlinson for inviting me to contribute this chapter. Finally, I would like to thank my supervisors, David Archard and Jeremy Watkins, and funder, the Department for Employment and Learning, Northern Ireland, for their support of my PhD research.

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