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Rabbits, stoats and the predator problem: Why a strong animal rights position need not call for human intervention to protect prey from predators

There is an issue which must be overcome with any theoretical framework which calls for the widespread protection of nonhuman animals, particularly those animal rights positions which mandate that humans adopt veg(etari)an diets as a duty of justice. This is the fact that nature, red in tooth and claw, involves countless relationships of predation not involving human agents. We must therefore confront the question of what is to be done about these relationships, and the individual actions of violence which necessarily follow from them. The problem is put starkly by environmental ethicist Mark Sagoff:

If people have basic rights—and I have no doubt they do—then society has a positive obligation to satisfy those rights. It is not enough for society simply to refrain from violating them. This, surely, is true of the basic rights of animals as well, if we are to give the conception of “right” the same meaning for both people and animals. For example, to allow animals to be killed for food ... when it is within human power to prevent it, does not seem to balance fairly the interests of animals with those of human beings. To speak of the rights of animals, of treating them as equals, of liberating them, and at the same time to let nearly all of them perish unnecessarily in the most brutal and horrible ways is not to display humanity but hypocrisy in the extreme. (Sagoff 1984, p. 302)

The issue is not unique to environmentalism, and a similar critique is applied to animal rights by anti-environmentalist Tibor Machan (2004, pp. 11-2). The issue is this: from the perspective of a strong animal rights position, nonhuman animals should be protected by legally enforced rights. If they are, they have a claim to protection from aggression, meaning that the state has a duty to intervene to protect them from those humans who would violate their rights, such as recreational hunters and pastoral farmers. However, this position also seems to demand that the state protect nonhuman animals from their nonhuman predators, which is counterintuitive. The argument is presented as an informal *reductio ad absurdum*, challenging animal rights philosophy altogether (Gruen 2011, pp. 179-80; Simmons 2009, p. 18). This leads us to our question: Can we consistently endorse an animal rights framework and simultaneously hold on to our intuition that the state has no duty to intervene in predator-prey relations? The question is made more difficult by the fact that it is under-theorised in

animal rights literature (Donaldson and Kymlicka 2013, p. 157). The majority of theorists work to justify (or simply assume) the intuition, endorsing a hands-off approach. Martha Nussbaum, by contrast, has cautiously suggested that her approach demands ‘the gradual supplanting of the natural by the just’ (Nussbaum 2006, pp. 399-400); however, her position is somewhat ambiguous, as she considers ‘morally repugnant’ a kind of ‘benevolent despotism’ of humans over nonhumans (Nussbaum 2006, p. 373).

Contrary to the possibility of any kind of benevolent despotism, I suggest that the intuition against managing nature to limit the rights-violation of prey animals is not undermined by a strong animal rights position, but that previous thinkers have defended this intuition for poor reasons. This is not to say that notions of animal rights would have to be abandoned were the intuition inconsistent with animal rights philosophy. It is possible that it is our intuition that should be abandoned. As I will argue, however, we do not need to abandon our intuition or animal rights philosophy. In this paper, I will consider three problematic responses to the predator problem. First, Peter Singer argues that we should not intervene to protect prey from predators because such intervention in leads to negative outcomes. Second, Sue Donaldson and Will Kymlicka argue that respecting ‘sovereign’ groups of nonhuman animals entails allowing them power to decide how to live, which may include living in ways that we consider mistaken. Third, Alasdair Cochrane argues that certain predators are only able to survive by killing prey, and that this can be used to justify a policy of non-interference. Having rejected these possible conceptualisations, I shall revisit the classic animal rights answer that nonhuman predators, as they are not moral agents, cannot violate rights. I shall argue that, when understood in an appropriately nuanced way, this answer can actually overcome the predator problem, and is not defeated by the counterarguments sometimes offered.

In order to explore this question, I am going to make reference to the fictitious ‘Rabbit Isle’. This island, we shall assume, was once the end of a peninsula, but changing tidal patterns and erosion separated it from the mainland. The island takes its name from the population of rabbits who had lived on the peninsula and now inhabit the island. So characterful are they that local humans are concerned for their welfare and camp on the island to watch them and spend time around them; respectfully, they are careful not to interfere in the rabbits’ lives on

a day-to-day basis. It quickly becomes apparent, however, that the rabbits are not alone. Another group of former peninsula inhabitants also now live on the island; a family of stoats, who feast upon the many rabbits. The populations are well balanced, ecologically. There is enough grass for the rabbits to eat, but not so many rabbits that the grass will be completely depleted. Further, there are enough rabbits for the stoats to eat, but not so many stoats that the rabbits will be exterminated. The problem is this: given that the stoats inflict pain upon and kill the rabbits, and given that the enlightened local community of humans recognises that the rabbits possess rights, the community would seemingly have an obligation to intervene to protect the rabbits from the stoats. This, however, is counterintuitive.

Peter Singer and consequentialism

One objection to the possibility of intervention is the simply that our calculations are fallible, meaning we may cause more harm than good when we intervene. When asked, it is this kind of answer that Peter Singer gives (Singer 2006), though he has written little about the topic. This approach, which I shall label consequentialist non-interventionism, clearly has some merit, and cases of mismanagement are not hard to come by; Donaldson and Kymlicka cite a case of mass-culling, supposedly in the interests of conservation, when the choice to cull was based upon an inaccurate model of static populations, not taking into account natural patterns of population growth and decline (Donaldson and Kymlicka 2013, p. 163). Any kind of human intervention in natural ecosystems is going to be fraught with difficulty, and there are going to be many variables which must be considered if the intervention is to be responsible. But this conclusion does not prove that we should never intervene in natural ecosystems. Let us look to Rabbit Isle. Two possible kinds of intervention follow. The first anticipates horrific storms in the next few months; local campaigning groups fear for both the rabbit and stoat populations of Rabbit Isle, and so petition local government for the creation of a wave-breaker on Rabbit Isle's coast. Without it, they say, exposed rabbits and stoats will be washed away, and those in burrows will be flushed out or drowned due to the volume of water which will be thrown over the island. The campaigners argue that this intervention is required; any other approach would show a callous disregard for the lives of the mammals on Rabbit Isle. However, the campaigners do not get the last word. It is easy to imagine that a rival campaign group, concerned with the marine life in the waters surrounding Rabbit Isle, would oppose the introduction of wave-breakers, as they will disrupt and kill sea creatures, in turn

disrupting those seabirds who feed upon them. There may also be unforeseen consequences; imagine a fragile coastal ecosystem local to Rabbit Isle which houses rare toads. The wave-breaker could affect tidal patterns or push seabirds towards the coastal ecosystem, either of which could adversely affect the toads. This kind of large-scale intervention could have adverse consequences, and could easily be opposed on the grounds of human fallibility, despite its initial plausibility and attractiveness.

The second intervention is proposed during an extremely hot summer. Rabbit Isle, let us assume, is actually a hostile habitat for mammals because of the lack of fresh water. After weeks of hot weather, locals are deeply concerned about the lack of fresh water on Rabbit Isle; the people who run the campsite have confirmed that the areas often filled with puddles have dried up, and the only fresh water on the island can be found in a small pool at the centre. Further, it seems that no inhabitant of the island, stoat or rabbit, knows of any further supply, as all are routinely travelling to the remaining pond to drink; this fact, combined with the warm, dry weather, is causing the pond to rapidly deplete. In response to the concern, the local council proposes the following modest measure: a small amount of water shall be taken from an abundant source (say, a local reservoir) and transferred to Rabbit Isle, where most shall be deposited in the central pond, and the remainder shall be sprayed in key rabbit feeding areas to promote plant growth. However, measures shall be taken to avoid side-effects; first, local conservationist groups have already studied the occurrence of microscopic and near-microscopic organisms in Rabbit Isle's central pond, and so care can be taken to ensure that there shall be no inadvertent introductions which could affect the local ecosystem. Second, the water can easily be collected and carried by vehicles which routinely travel in the area; no large boats or lorries will have to be used. Third, the presence of humans on the island will provide no shock to the local ecosystem, as, already, conscientious humans habituate the island. A group of experts conclude that they are able to provide water to Rabbit Isle with near-certainty that this will not affect the ecosystem in any way beyond preventing it from breaking down due to lack of water.

Consequentialist non-interventionists are here faced with a stark choice. We can say with moderate certainty that, unless this small and carefully managed intervention is made, all the rabbits and stoats on Rabbit Isle will die. In this case, Singer would surely support

intervention; it is particular interventions which are problematic, not interventions per se. Before continuing, it is worth considering and rejecting two possible reasons why a consequentialist non-interventionist may nonetheless insist against intervention in the case of the hot summer. Singer would make neither of these arguments, but a consequentialist non-interventionist need not be a consequentialist in the broader sense; more deontological theorist, too, could be worried about ‘clumsy human manipulation of complex natural relations’ (Svård 2013, p. 199), while a feminist theorist might warn against ‘epistemic hubris’ (Gruen 2011, p. 183). First, the consequentialist non-interventionist may appeal to a certain aesthetic value in allowing the rabbits and stoats to die of thirst, and thus to destroy the current faunal ecosystem of Rabbit Isle. This is intuitively deeply problematic; surely, any aesthetic value offered by Rabbit Isle’s fauna exists in their relationship and survival, not in their complete destruction. Further, we would not be equally ready to appreciate the aesthetics or fascinating inevitability of the death of Rabbit Isle’s inhabitants were they simple-living retirees. Were the water tanks of a small community of pensioners on the island to have run dry, anybody opposed to providing water would be looked upon as unjustifiably callous. This response, then, would be a good example of Sagoff’s observation about the different ways that human and nonhuman rights are respected (Sagoff 1984, p. 302). The second argument to the consequentialist non-interventionist would be an appeal to scepticism; no matter how many studies are completed and meetings held concerning transporting reservoir water to Rabbit Isle, we still cannot be certain of the consequences of intervention. There are too many possible variables, and too many reasons why it may not result in what was expected. This objection, too, is deeply problematic, as it seems that the same objection could apply equally to intervention in anything. For example, a doctor cannot know with certainty that putting a broken leg in a cast will alleviate suffering; perhaps the patient will come to feel invincible, and so engage in injurious activities which she would not have otherwise. Whenever we consider intervening in anything, there is a possibility that our intervention will not have the intended effect, as there are always going to be variables that we have not fully considered. To claim that, therefore, we should never intervene is ludicrous. I conclude that the consequentialist non-interventionist could not reasonably oppose taking water to Rabbit Isle.

If the consequentialist non-interventionist argument applies only to certain interventions which would, or could, result in greater loss of life or greater suffering than non-intervention, then in principle there must be cases, such as transporting water, in which intervention will be

favoured. However, once this kind of smaller-scale intervention is permitted, there is no reason that larger interventions may not also be permitted, in principle. These larger interventions would require intricately careful planning, but, with successful planning, such interventionist strategies could be implemented. There is no reason that this could not include, eventually, a complete restructuring of nature, abolishing predator-prey relations. Aaron Simmons, who defends consequentialist non-interventionism, is willing to bite this bullet. He writes that if anyone ‘can show that there are ways to save wild animals from predators on a large scale without causing ecological catastrophe, then this would suggest that we do have a duty to save wild animals from predators’ (Simmons 2009, p. 25). This conclusion feels weak, and, seemingly, misses the point (Donaldson and Kymlicka 2013, p. 164), at least insofar as it does not vindicate animal rights philosophy (or animal ethics more broadly) from the *reductio*. The argument will gradually fall away; as we learn more about ecosystems, we are going to find ourselves closer to a situation in which we can predict the outcomes of interventions with more and more certainty. In the case of a relatively small and self-contained ecosystem, such as Rabbit Isle, it is not implausible that close and careful study by a variety of scientists could teach us enough that large-scale intervention might be possible with near-certainty of the results. Indeed, we may be able to approach this kind of intervention equal or greater certainty as with interventions in, for example, education or public health – interventions governments make regularly.

There is a further issue with this approach, particularly for those thinkers who are consequentialists more broadly. It is a given that predation causes horrific suffering for the prey, and so this sort of predation must be a concern for the consequentialist, who cannot simply choose to ignore certain kinds of suffering. I have shown that the consequentialist opposes interventions in predator-prey relationships only because of our insufficient knowledge of ecology. These two facts would seemingly implore the consequentialist to demand immediate funding into the study of ecosystems precisely so we might one day intervene successfully (Donaldson and Kymlicka 2013, p. 164; Horta 2013, p. 121); at the very least (perhaps there are most cost-effective methods of reducing suffering), this should be an option given ample consideration. For the consequentialist, if we are able, we must work towards minimising all suffering. Perhaps we could start small, with intensive studies of the likes of Rabbit Isle, before building up to more complex and isolated ecosystems. Oscar Horta (2013) endorses this kind of approach, though his examples of small-scale interventions do not include protecting predators from prey; presumably, however, this is

something he could support in the long term. I conclude that consequentialist non-interventionism cannot justify our intuition that intervention in predator-prey relationships is not necessary, and so cannot be used to defend animal rights philosophy from the challenge of the predator problem.

Zoopolis and sovereignty

Sue Donaldson and Will Kymlicka offer a distinctive account of our relationship to nonhuman animals, and, in so doing, offer a distinctive answer to the question of human intervention in predator-prey relationships. They argue that those nonhuman animals who live free from human dependency (whether in the sense that companions are dependent or the sense that city-dwelling pigeons are dependent) should be granted sovereignty, in the same way that autonomous groups of humans should be. Drawing upon the words of Jo-Anne Pemberton (2009), the authors explain that

Like stateless human communities, [nonhuman animal communities] may lack the concept of sovereignty and may lack the sort of institutional differentiation that separates “state” from “society”. But, like human communities, they cannot be “seen, in good faith, as mere numerical quantities, bereft of social organisation and recognisable interests”. They too have an “independent existence” and have demonstrated the value they attach to it by resisting alien rule. Like human communities, their “communal flourishing” depends on securing their lands and autonomy. (Indeed, the extent to which their well-being depends on maintaining specific traditional habitats is arguably greater for most wild animals than for humans.) Hence they, too, should be seen as being “entitled to be left alone”. (Donaldson and Kymlicka 2013, p. 174)

The authors certainly do not take an absolutist position. They expand upon situations in which human intervention in nonhuman communities is necessary as a matter of justice. However, they argue that concerning ‘the day-to-day management’ of how nonhumans live and survive, they should be viewed as competent and capable, and so humans should not intervene (Donaldson and Kymlicka 2013, p. 176). This includes allowing them ‘the right to make mistakes, and to follow paths that outsiders might see as misguided’ (Donaldson and Kymlicka 2013, p. 171). As such, the authors would conceptualise Rabbit Isle as an independent state, and argue that we have a moral duty to leave the rabbits and the stoats to their own devices, even if we consider their actions to be misguided or morally problematic. To do otherwise would be to violate the animals’ right to sovereignty over their own community.

An immediate problem becomes clear. As the authors accept, among humans, we do recognise the possibility of ‘legitimate external intervention in the case of failed states or gross ... rights violations’ (Donaldson and Kymlicka 2013, p. 168). Horta correctly notes that, if Donaldson and Kymlicka are right to call free-living animal communities states, ‘most animals in the wild are living in irretrievably failed states incapable of ever being transformed into sovereign communities that respect their members’ interests’ (Horta 2013, p. 119, emphasis Horta’s). A human analogue of Rabbit Isle would be a state, let us call it Husbandria, in which a large population of farmers (the rabbits) live peacefully but in constant fear of marauders (the stoats). The marauders would survive solely from raiding farming communities, where they would freely kill the farmers. The marauders survive in virtue of the farmers’ inability to fight back and the fact that Husbandria never runs out of farmers, though nearly all are violently killed. The international community would rightly be appalled at such a state; there is no central authority, or, if there is, it is powerless to stop widespread and systematic violence against citizens. Such a state would be declared failed, and the international community would be morally (and perhaps politically or legally) obligated to step in to protect the farmers. If we are obligated to protect the farmers of Husbandria, it is unclear why we are not obligated to protect the rabbits of Rabbit Isle. Donaldson and Kymlicka have a rather unsatisfactory answer. Anticipating this objection, they write that

If a human community failed [to protect its citizens], we would likely view it as a “failed state”, or in any event one that requires some degree of external intervention. But in the context of ecosystems, food cycles and predator-prey relationships are not indicators of “failure”. Rather, they are defining features of the context within which wild animal communities exist; they frame the challenges to which wild animals must respond both individually and collectively, and the evidence suggests that they respond competently. (Donaldson and Kymlicka 2013, p. 176)

This is similar to an earlier argument offered, in a slightly different context, by Jennifer Everett. She writes that respectful treatment ‘requires that each subject-of-a-life be treated in a manner that is respectful of that creature’s nature, where this includes both characteristic facts about members of its kind and the traits it possesses as a unique individual’. As such,

‘moral agents have prima facie duties to assist them only insofar as such assistance is necessary as a matter of course for those creatures to flourish according to their nature’ (Everett 2001, p. 54). This view is rightly criticised by Rainer Ebert and Tibor Machan as ‘both cynical and speciesist. It is cynical, and implausible, to suggest that being ripped to pieces by a lion is compatible with the wildebeest’s flourishing, while being saved by a moral agent is not.’ (Ebert and Machan 2012, p. 149; see further Hadley 2006, pp. 448-9) Similarly, the response of Donaldson and Kymlicka is unsatisfying. Returning to Husbandria, the marauders might understand their relationship with the farmers as a ‘defining feature’ of life in the nation. The farmers may even shrug their shoulders philosophically and agree. Furthermore, Husbandria’s farmers survive generation to generation, even if most are eventually murdered, and so ‘respond competently’ to the constant threat, in the same way that the rabbits of Rabbit Isle ‘respond competently’ to stoat attacks. None of this would mean that we have no obligation to intervene in Husbandria, and so it is difficult to see how it could mean that we have no obligation in the case of Rabbit Isle. A second argument that Donaldson and Kymlicka offer is that nonhuman animals have ‘voted with their feet’ in choosing to live away from humans (Donaldson and Kymlicka 2013, p. 177). Given the history of human/nonhuman interactions, this is hardly surprising. Perhaps something similar is true with Husbandria’s farmers; perhaps they fled from the surrounding states because they faced persecution in the past, being allowed no space to farm, and being treated as second-class citizens. This would not justify the surrounding states choosing to leave them to suffer at the hands of the marauders. Indeed, quite the opposite. I conclude that even treating Rabbit Isle as a separate sovereign state would not justify refusal to protect the rabbits from the stoats.

There exists a further problem with the response from Donaldson and Kymlicka. This is the fact that they understand sovereignty as closely tied to territory, conceiving of nonhuman animal states as ‘multi-species animal ecologies’ (Donaldson and Kymlicka 2013, pp. 190-1). It is not clear why we should conceptualise the stoats and the rabbits as belonging to the same nation, unless we begin with the assumption that we should not be interfering in ecosystems, which is to beg the question. It seems it would make just as much sense to conceptualise the rabbits of Rabbit Isle as one state and the stoats of Rabbit Isle as another; if we did this, then, clearly, we would have a situation in which one small and aggressive state was inflicting violence upon a peaceful state, with no sign of an end. Were these human states, we would

have a clear responsibility to protect the peaceful state from the smaller state. The situation is inherently stacked against the rabbits when we assume that they are part of the same state as the stoats. Certainly, it is difficult to see how the stoats and the rabbits form a single community; Donaldson and Kymlicka partially justify the claim of nonhuman animal sovereignty by making reference to the, often interspecies, collaborative efforts of free-living animals (Donaldson and Kymlicka 2013, pp. 175-6). There is no such peaceful and meaningful interaction between the rabbits and the stoats of Rabbit Isle (see further Horta 2013). I conclude, therefore, that the hands-off approach cannot be justified by an appeal to sovereignty, and it is unclear why we should consider the stoats and rabbits to be a part of the same community in the first place.

Cochrane and killing for survival

Alasdair Cochrane offers an alternative response to the predator problem. He suggests that ‘[i]t is possible to deny prey animals a right not to be killed by predators, when it is noted that predator animals need to kill for survival’ (Cochrane 2012, p. 94). He is concerned with differentiating, for instance, human/chicken relations from rabbit/stoat relations. The difference, he claims, is that humans are able to survive without killing chickens (or any other animal) to eat their flesh, but that predators are unable to survive without killing their prey; as such, we must choose between the life of the predator and the life of the prey. Given that, on the whole, it is going to be more ‘burdensome’ for us to intervene than not intervene, we should ‘adopt a general policy of noninterference’ (Cochrane 2012, p. 94).¹ I challenge Cochrane’s argument on two grounds. First, he holds that stoats (agents, but not moral agents) are able to violate rights. I do not accept this claim; if I pick up a baby, and she proceeds to bite me, we would not say that she had violated my rights. The same if I picked up a stoat, and she bit me. By extension, a baby or stoat who killed a rabbit would not violate the rabbit’s rights. Cochrane’s reasons for rejecting my position will be discussed shortly. Second, Cochrane’s argument rests upon a questionable empirical claim. The issue is this: can predatory nonhuman animals survive on diets that do not entail them killing any rights-

¹ This presumably means that Cochrane would hold that, in those cases where it was not more ‘burdensome’ for us to intervene than to not intervene, we would have a duty of intervention. He does not expand upon this point, but it would likely mean that, for instance, we could intervene to spare a child the unhappiness of seeing a rabbit killed by a stoat. This does not seem unreasonable, provided the stoat could be interfered with in a way that respected her rights.

bearing animal? In one sense, the answer is obviously yes. If I were to care for a ferret companion (a close relative of a stoat) then, even if I were to feed her an entirely animal-based diet, she could live a flourishing, healthy life having never killed another animal. This response takes Cochrane's words too literally. What is of concern is whether any animals are killed so that my companion may eat, not specifically whether she killed them. There are two approaches we could take to ensure that no rights-bearing animals are killed for the ferret to eat. First, we could seek a way that my companion could survive without ingesting animal protein; could my ferret be a vegan? It is well-documented that dogs can thrive on appropriate vegan diets, and it is possible that cats can (Donaldson and Kymlicka 2013, p. 149), but ferrets, it seems, cannot (PETA [undated]). It is perhaps not impossible that further research into the question will find otherwise, but I shall assume for the purposes of this argument that both companion ferrets and Rabbit Isle's stoats are unable to survive on vegan diets.

I shall instead turn to the second approach. This is to find a way that wholly carnivorous animals could, in principle, live upon an animal-based diet which do not necessitate the killing of any rights-bearing animals. There are several ways that this could be possible: 'scavenged' corpses, 'frankenmeat' produced from stem cells and genuinely ethical eggs are considered by Donaldson and Kymlicka (2013, p. 150). A fourth possibility is that meat could be produced from non-sentient animals; technological solutions include 'knockout livestock' (Garner 2013, p. 136; see further Shriver 2009) or genetically engineered anencephalic animals (McMahan 2002, pp. 450-5). However, we could also harvest animal protein from animals which are already non-sentient. Perhaps certain bivalves, arthropods or echinoderms, for instance, are non-sentient, and thus could be harvested (or farmed) for the production of animal protein to feed carnivores, such as ferret companions. On Rabbit Isle, local enthusiasts could acquire these foodstuffs, scattering them around the homes of the stoats. These possibilities demonstrate that, at least in principle, the stoats of Rabbit Isle could be fed without rights violations. This means that the decision does not come down to the choice between violating the rights of predators and violating the rights of prey, as Cochrane suggests. There may be a third choice, in which the rights of no party are violated. While it does seem reasonable that Cochrane endorse the less burdensome of intervention and non-intervention, given that both (within his framework) involve rights violations, it is less clear that he could appeal to the weight of the burden when he can choose between three

courses of action, one of which involves no rights violations at all. This is especially true given the fact that he (rightly) already demands that we begin to make burdensome changes to our societies and lifestyles in order to protect the rights of nonhuman animals. The dichotomy that Cochrane has drawn, based upon the claim that predators need to kill for their survival, seems to be a false one, and so I conclude that his argument in favour of non-intervention fails.

Moral agency revisited

The classic animal rights response to the predator problem comes from Tom Regan, who argues that nonhuman predators are not moral agents, and so they cannot violate the rights of another being, whether a moral agent or a moral patient (Regan 1984, p. 285; see further Linzey 2009, p. 84). This means that, as the rights of the prey animals are not being violated, no appeal to their rights can justify intervention. While this is broadly the account I endorse, I suggest that it is dissatisfying un-nuanced. The question of moral agency in relation to the predator problem was recently developed further by Ebert and Machan.² The authors explicate worries with apparent inconsistencies in Regan's account and with the troubling conclusion that we have no duties to save other humans from innocent threats. They instead propose a 'libertarianization' of animal rights theory, explaining that

Libertarian justice does not require us to assist others whose rights are being violated. Therefore, it is *prima facie* not morally wrong not to do what will harm the lion in scenarios A and B, in which a lion is preying on a small child and a wildebeest, respectively. However, there is room for special duties to the child generated by his or her special relationship to moral agents. These people with special duties might be the child's parents or the members of the human society he or she lives in or a part of this society like his or her school or church or state. In scenario A, there hence might well be moral agents who have the special duty to assist the child against the attack of the lion, but no duty to assist the wildebeest in scenario B. Note that this is not speciesist and [is] consistent with the claim that the child and the wildebeest possess equal moral rights. In fact, if the wildebeest was, say, somebody's animal companion, there might be special duties directed towards the wildebeest, too. (Ebert and Machan 2012, p. 155)

² Like Cochrane, however, the authors hold that agents, as opposed to moral agents, can violate rights.

This account begins to look plausible, but remains problematic. First, while we as individuals may not possess a duty to protect the rights of others, the state surely has a duty to protect the rights of those within its borders. (This protection may include passing laws to mandate intervention from citizens.) Second, the inference that we have a duty to protect children from lions only because of our relationship with the child is questionable. If we came across a child with whom we had no relationship, protecting them from a lion would surely remain a necessity if it cost us little; unless the authors are prepared to endorse a claim that we have a significant relationship and association with all humans, a claim that looks suspiciously speciesist, then they would have to allow that watching some children be mauled by lions is completely just, even if we could prevent the attack without any harm to ourselves or the lion. Third, while there is clearly something right about an obligation to protect young children and companions, this need not come from a relationship we have with them.

Contra Ebert and Machan, I suggest that we need not reject the necessity of intervention in rights-violations to overcome the predator problem. Instead, we can develop Regan's account in a new way, giving it a degree of nuance lacking in the original exposition. I suggest that a wolf is not a moral agent, and so a wolf's killing of a deer in isolated woodland does not violate the rights of the deer, any more than the rights of the deer would be violated were she instead crushed by a tree. Crucially, however, the question of whether something is the responsibility of a moral agent is a matter of degree.³ Were the wolf's killing of the deer to take place in a zoo, then the deer's rights would have been violated, but the human zookeepers who placed her in the wolf's enclosure would be responsible, rather than the wolf herself. Consider a second example. While a wildcat's killing of a mouse does not violate the mouse's rights, a companion cat's killing of a mouse is, to a certain extent, the responsibility of the humans who have permitted the killing; we should be considered guilty for violating the rights of a mouse when she is killed, as the cat is part of our society, and is (successfully) hunting because of our actions. So, in response to Sagoff – and assuming he is talking about a companion cat – we do indeed have an obligation 'to prevent a cat from killing a mouse' (Sagoff 1984, p. 301). In this case, it is true that careless cat-keeping humans (or societies)

³ It is true, and worth remembering, that moral agents sometimes cause things for which they are not responsible. Neither drivers nor the state are responsible for accidental deaths on the road, provided drivers are cautious, and the state takes necessary precautions to prevent them. Provided a certain precautions are taken, no one is responsible for deaths on the road, and it is wrong to say that such accidental deaths involve rights-violations. If they nonetheless remain issues of justice, it is not because of the rights of victims.

are less morally responsible for the death of the mouse than if they were to kill her themselves. Despite this, the rights of the mouse are still being violated, and the mouse has a claim to have her rights protected by society. To take Ebert and Machan's example, the rights of a wildebeest are not normally violated when she is hunted by a lion. However, when we see a human child being hunted by a lion, the rights of the human child have been violated by the person or persons who have left her in or forced her (perhaps through negligence) into this environment. The child, therefore, has a claim to protection from society in a way that the wildebeest normally would not, even if the two beings' rights are otherwise equivalent.

This more nuanced understanding of moral responsibility overcomes the objection raised by Cochrane to this defence of a hands-off approach to intervention. Following Peter Alward (2000, p. 83; see further Everett 2001, p. 51 and Jamieson 1990), Cochrane uses the thought experiment of a toddler who has come upon a knife and, not realising what he is doing, is about to slit his sleeping father's throat. The child is not a moral agent, and so could not be blamed for his action (Cochrane 2012, p. 92); consequently, the child would not violate the rights of his father in his actions if we follow Regan's account. Despite this, Cochrane wants to say that the child's mother,⁴ were she watching, would be obliged to step in to prevent the child from slitting his father's throat, due to the rights of the father. While this may be a plausible criticism of Regan, I suggest that we can allow a rights-based duty of intervention in this case while also denying the suggestion that the baby can violate the father's rights. Importantly, there is some moral agent who is blameworthy in this situation; whoever is responsible for the child acquiring a knife. Whether or not she is to blame, the watching mother has a duty to protect the rights of the sleeping father, assuming it is not too onerous for her.⁵ As such, I suggest that my account is able to take Regan's approach of denying that moral patients can violate rights while avoiding the conclusion that the mother has no duty to intervene. I accept that, under this developed account, intervention would not be necessary in

⁴ If we are troubled by the idea that the mother has a duty to intervene to prevent rights violations, she can be replaced for the purposes of the thought experiment with a police officer or other agent of the state tasked with preventing rights violations. Even if the mother need not protect the rights of others, the state must.

⁵ There is perhaps one exception to this; a person cannot violate their own rights. As such, were the father responsible for the child's having the knife, the mother would not have a duty to intervene to protect the father's rights. She would, as it happens, still have a duty to intervene as placing a child in a situation in which he can pick up a sharp knife quite clearly violates his rights; the child, deeply dependent on his carers, has a right not to be put in an unsafe environment. Further, we may wish to allow some other duty (through, say, an appeal to virtue) to encourage her to intervene on behalf of the father. This would not, however, be a duty mandated by the rights of the father, and so is unimportant for the purposes of this argument

a case in which a man brazenly marches towards a very deep pit, or, if it was, it would not be due to any rights of the man. Assuming that society has not violated any right he may have to be informed about potential threats, no one would have a compulsion to protect his rights by preventing him from entering the hole, as no rights would be violated. We may wish to say that it is a callous person who does not prevent him from entering the pit, but, importantly, there is no duty of justice grounded in the man's rights to intervene. I do not feel that this is a difficult bullet to bite, especially as my account is able to overcome the more problematic challenge presented by Cochrane.

Dale Jamieson would likely object to this more careful account of moral responsibility, claiming that while it may provide somewhat intuitive answers in the case of protecting prey from their predators, it still encounters problems with putative rights violations caused by phenomena or entities which are neither moral agents nor moral patients. He constructs an argument against Regan involving five cases in which a boulder rolls towards an unsuspecting male walker from the location of a female walker. The male can be saved only by the reader's shout. The difference in each case is only the cause of the boulder's motion.

In Case 1 the woman intentionally pushes the boulder down the mountain toward the man. In Case 2 the woman takes a step, inadvertently causing the boulder to roll. In Case 3 the woman sneezes, and the boulder rolls toward the man as a result. In Case 4 there is a wolf on the trail above instead of the woman. While stalking her prey, the wolf causes a boulder to roll down the mountain toward the man. In Case 5 the boulder is set in motion by a landslide. (Jamieson 1990, p. 351)

Why, Jamieson asks, should we intervene in the first case but not in the others? I suggest that there are two ways we could look at this issue while retaining an animal rights position. First, it is possible that, even in the latter cases, the man is a victim of injustice; he may have been misled about the dangers of loose boulders, or been ignored by someone who has a duty to warn potential walkers. Perhaps the best we could say is that the subject of the thought experiment is in no position to know whether the man is a victim of a rights violation, and so has a weak duty of justice to intervene based on the possibility. (This duty of justice would be greater were the man a child or companion; both of them would likely have a legitimate claim against whoever placed them in, or allowed them to enter, such a dangerous environment, as

both have a right not to be neglected in this way.) The duty of justice to intervene because of the possibility of a rights violation would be vanishingly small were it a free-living animal in the boulder's path, as the likelihood that a moral agent is in some way morally responsible for her predicament is minute. Therefore, the subject could have a small duty of justice to intervene in the case of a man in a boulder's path, but not in the case of a goat in a boulder's path.

This answer, while supporting our intuitions, is unsatisfactory. While plausible in some situations, it seems strange to suggest that we must intervene in every scenario like this just in case a right has not been respected somewhere in the series of events which has led to this boulder crashing towards an unsuspecting rights-bearer. It is plausible that no right has been violated to put the walker in the position he is, and the potential intervener knows this with near-certainty. What is interesting about the possibility of intervention is that it does not involve any interference with a rights-bearing being. As such, and this is the second possible response to Jamieson, while there is no rights-based duty for the subject to intervene, there is no rights-based duty for the subject not to intervene, either. Intervention in this case could be left as a matter of conscience, meaning the state would have no business in enforcing intervention or non-intervention (at least, no business specifically due to the walker's rights). By comparison, intervening in a single case of a wolf catching a goat might violate the rights of the wolf, and so we have a case, *pro tanto*, not to intervene.⁶ It is therefore plausible to hold that an individual has a duty of justice to protect a goat from a boulder while not having the same duty to protect her from a predator. Whether this conclusion belongs in any particular animal rights position is down to whether the account can accommodate duties of justice which are not grounded in rights, but, even if a given account cannot, no state would have any business in preventing intervention in the boulder cases, while any state respecting animal rights would retain a plausible reason to prevent intervention in the case of predator-prey interactions. This illustrates a fundamental difference between intervention in the case of predator, and intervention in the boulder case.

⁶ This violation of the wolf's right is the equivalent to the way that we as a society violate the rights of criminals when we intervene to protect their victims, potential or actual. While this violation of the predator's rights does not necessarily make intervention unjust, it does give us reason to pause.

We can now apply this developed position to Rabbit Isle. Recall that the island was created when the tip of a peninsula already populated by rabbits and stoats was separated from the mainland by a process of erosion. The rabbits and stoats continued in relationships established by their ancestors (who were not moral agents) in a different environment created by forces that can be considered neither morally responsible themselves, nor the product of morally responsible entities. The rabbits, then, have no claim that their rights are being violated, and, if humans have an obligation to intervene to protect them from the stoats, it is not because of the rights they possess. We can see, therefore, that our intuitions concerning non-intervention are justified in a philosophically robust way, and we can retain those intuitions while maintaining a strong animal rights position. The matter would be different were the relationships of violence on Rabbit Isle established in a different way. If things had worked out differently and no family of stoats had been on the tip of the peninsula when it was separated from the mainland, but locals had introduced stoats to the island, then the blood of the rabbits could be on the hands of the locals. The pertinent question would be the extent to which the locals were morally responsible for the violence inflicted on the rabbits; clearly, there is a difference between violating someone's right, and placing them in a situation which is bad for them. If the locals introduced the stoats with the intention of killing the rabbits, then they would be wholly (or, at least, highly) morally responsible for their deaths. In this case, the rabbits would possess a claim against the locals, and we as a society would be responsible for protecting their rights. It is plausible, however, that locals could deliberately introduce stoats to the island without violating the rights of the rabbits. For instance, if some stoats were rescued from a local sadist who had captured them from the peninsula, they would have a legitimate claim against society. If keeping them captive would violate their rights, or, at least, releasing them would not violate their rights, then where better to release them than what their home has become, given as it remains a stoat-friendly environment? In this case, stoats could be released on Rabbit Isle without the rabbits having any claim against those who release them, as it is only through the violation of the stoats' rights in the first place⁷ that Rabbit Isle remains stoat-free. There is not space here to elucidate the full range of possible actions and degrees of moral responsibility, but these examples demonstrate that there both exist cases in which introduced stoats violate the rights of the rabbits and cases in which they do not.

⁷ Even if capturing a stoat does not violate her rights, capturing her with the intention of subjecting her to torture surely does.

In closing, I will briefly deal with two potential objections to my proposed framework. One may object to my account because of its focus on moral responsibility, and neglect of remedial responsibility. This latter concept, in the words of David Miller, ‘has to do with agents having a duty or obligation to put a bad situation right’ (Miller 2007, p. 84). Such an objector may accept that humans have no degree of moral responsibility for the death of the rabbits, but say that this does not preclude humans having remedial responsibility. Given that remedial responsibility can be assigned on the basis of those with the capacity to help and those who share a community with the victims (Miller 2007, pp. 100-4), local humans may well have a degree of remedial responsibility to help Rabbit Isle’s inhabitants. Miller’s account of remedial responsibility, however, begins with ‘a state of affairs in need of remedy’ (Miller 2007, p. 98). Thus, to apply it to this case begs the question. Remedial responsibility is a useful concept only once we have established that something needs to be fixed. Under a pure animal rights approach, which I have defended in this paper, there is only ‘a state of affairs in need of remedy’ if rights are being violated. In the case of Rabbit Isle, there are no rights being violated, and so questions of remedial responsibility do not arise. The second potential objection is related. It may be claimed that my focus upon whether rights have been violated in the case of predation have hidden the real question at stake – namely, whether we have some kind of obligation to intervene regardless of whether rights are being violated. On this issue, I have remained deliberately quiet. It is not my purpose in this paper to offer a complete account of our positive duties to rights-bearers, or even a complete account of our positive duties to nonhuman animals. Instead, my aim has been to show that animal rights positions can consistently reject the suggestion that we are obliged to protect prey from predators. As a challenge to animal rights, then, the predator problem fails.

Conclusion

Ultimately, our intuition that we should not intervene in the predator-prey relationship between the rabbits and the stoats of Rabbit Isle can be supported within a political framework which recognises the rights of nonhuman animals, and so animal rights philosophy is vindicated of the predator problem. This is because of the old argument that predators are not moral agents, but the old argument has to be understood in a new and more

nuanced way, allowing it to overcome key challenges. This new approach does maintain that, at times, intervention is morally mandated by nonhuman rights, but it is mandated only in those cases in which morally responsible agents can be found, and only to the degree that they can be found. As the vast majority of predator-prey interactions are not linked to moral agents in an important way, the rights of prey do not necessitate intervention. This new understanding has distinct advantages over the alternative approaches I have considered, and offers a realistic and morally viable account of how political communities should conceptualise the suffering of free-living animals.

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