

Can Animals have preference-interests?

JULIA TANNER
(Durham University)

Abstract

It has been argued that only moral agents can have preference-interests and this therefore excludes animals. I will present two objections to this argument. The first will show that moral agency is not necessary to have preference-interests. The second will assert that the argument that animals cannot have preference-interests has unwelcome consequences.

I.

In this paper I will defend the claim that animals can have preference-interests. I will examine the argument that only moral agents can have preference-interests. It is argued that only moral agents can have preference-interests because preference-interests have evaluative-prescriptive overtones and only moral agents are in a position to respond to these. It is important to be clear about which type of interests are in question so I will start by distinguishing between two different types: preference and welfare. It is usually accepted that animals have welfare-interests, what is at issue here is whether animals can have preference-interests. I will offer two considerations which show the argument that only moral agents can have preference-interests does not go through. Firstly, the extent to which preference-interests are evaluative or prescriptive is exaggerated and thus this consideration does not show that animals cannot have preference-interests. Secondly, I will argue that those who think only moral agents can have preference-interests are also committed to the undesirable inference that marginal humans cannot have preference-interests.

II.

In his article “Rights” H. J. McCloskey argues that interests have an evaluative-prescriptive overtone and therefore only those beings who ought to do things (i.e. moral agents) can have interests.¹ On McCloskey’s view talk about interests has both an evaluative and a prescriptive meaning.²

He says:

The concept of interests which is so important here is an obscure and elusive one. Interests

are distinct from welfare, and more inclusive in certain respects – usually what is dictated by concern for a man’s welfare is in his interests. However, interests suggest much more than that which is indicated by the person’s welfare. They suggest that which is or ought to be or which would be of *concern* to the person/being. It is partly for this reason – because the concept of interests has this evaluative-prescriptive overtone – that we decline to speak of interests of animals, and speak rather of their welfare.³

What McCloskey is doing here, though not very clearly, is distinguishing between two different types of interests: preference and welfare. These two types of interests have been clearly defined by Tom Regan.⁴ Preference-interests are “those things that an individual is *interested in*, those things he likes, desires, wants or, in a word prefers having, or contrariwise, those things he dislikes, wants to avoid or, in a word prefers not having”.⁵ Or to put it another way having a preference-interest means that “A is interested in X”.⁶ Welfare-interests are when “X is in A’s interest”.⁷ Something is a welfare-interest if “having or doing X would (or we think it would) benefit A, that having or doing X would make a contribution to A’s well-being”. The basic difference between preference and welfare-interests is that preference-interests rely on the subject’s desires whereas welfare-interests depend on the subject’s needs. The two types of interests do not necessarily coincide. For instance, I can have a preference-interest in eating chocolate but this can be contrary to my welfare-interests insofar as it is bad for my health. Preference and welfare-interests may coincide. For instance, I may have a preference-interest in being healthy, which is also a welfare-interest. McCloskey is willing to ascribe welfare-interests to animals. The claim he is making in that animals cannot have preference-interests. McCloskey argues that preference-interests have evaluative-prescriptive overtones. What does this mean? McCloskey does not give us much to go on, he does not elaborate on what he means by “evaluative-prescriptive overtones” nor does he say what implications this has. Tom Regan provides an interpretation of what McCloskey means by this and what precisely McCloskey’s objection is in his article “McCloskey On Why Animals Cannot Have Rights”.⁸ Regan interprets what McCloskey says about the evaluative element thus: That it has an evaluative meaning has already been noted. For in saying that A has an [welfare] interest in X we mean to convey that X will (or that we think X will) benefit from A.⁹

With regard to the “prescriptive overtones” that McCloskey speaks about it is rather unclear what he means. The clearest thing he says is that interests “suggest that which is or ought to be or which would be of concern to the person/being”.¹⁰ Referring to this quote Regan interprets the prescriptive element as follows:

The operative words here seem to be ‘ought’ and ‘concern’, since the rest of what McCloskey says does not seem to provide any possible grounds for imputing a prescriptive

overtone to speaking of a being's interests. So what McCloskey seems to be saying is that when we speak of what is in a being's interests, what we mean is (a) that X will (or we think it will) contribute to A's good – the “evaluative overtone” – and (b) that X ought to be of concern to A, and that A ought to care about it – hence the “prescriptive overtone.”¹¹

Thus according to Regan McCloskey argues that talk of interests has an action-guiding, prescriptive function. McCloskey's view that animals (and other sentient beings) cannot have preference-interests must rest on this idea.¹² As Regan puts it, what McCloskey seems to be assuming is that “part of the meaning of ‘X is in A's interests’ is ‘You (A) ought to do X’”.¹³ Thus what McCloskey seems to be arguing is that animals cannot have interests because animals are not beings that “ought” to do anything.

III.

Regan tries to counter this argument by saying that the ought is addressed to some competent person.¹⁴ However, I wish to advance a different line of argument. I think that Regan is conceding too much when he allows that when we say something is in A's interest A *ought* to care about it. Imagine I have a preference-interest in eating a kiwi fruit rather than an orange; I like kiwi fruits and I hate oranges. By definition I already care about eating kiwi fruits rather than oranges, so to say that I ought to care is simply unnecessary; I just do care because I prefer kiwis to oranges.

The case of welfare-interests is less straightforward. McCloskey appears to be willing to ascribe welfare-interests to animals. So he must think that welfare-interests do not have evaluative-prescriptive overtones. As McCloskey does not distinguish between welfare and preference-interests I will for the sake of argument assume that it is plausible that welfare-interests do have evaluative-prescriptive overtones. Saying that something ought to care about its welfare-interests is, I think, to put the case too strongly. We certainly think that if, for example, A has a welfare-interest in not drinking alcohol then A should be motivated to some extent by that interest. So if interests are prescriptive they are prescriptive in this much weaker sense. For we do not think that if A stops caring about this particular welfare-interest they have done something wrong in the strong sense implied if they *ought* to care about it. They are unwise or foolish but they are not wrong.

IV.

Even if this argument is not accepted another can be advanced; namely, that in excluding

animals marginal humans are also excluded. Marginal humans are those humans who are not moral agents. There are three types of marginal humans: pre-rational, post-rational and non-rational. By pre-rational is meant those who are not yet fully rational but if allowed to develop normally will become so. This category is comprised of children. Post-rational humans are those who once were rational but due to illness, accident, or old age are no longer rational. Non-rational humans are those who due to illness or accident are not, never have been and never will be rational.

Marginal humans, like animals are excluded, because like animals they are not beings that *ought* to do anything and so, if McCloskey's arguments are accepted, cannot have preference-interests. McCloskey responds to this argument thus:

[W]e do attribute rights and interests to infants, lunatics and even incurable lunatics. Part of the reason for this is the thought that such beings, unlike congenital idiots etc., are possibly potential possessors of interests. Hence, until it is clear that they can never really be said to have interests, we treat them as if they do.¹⁵

He says that infants, lunatics and incurable lunatics are possibly potential possessors of interests (though it is not clear whether he means welfare or preference-interests). This may be true. But strong arguments need to be given why potential should make a difference. McCloskey gives no such argument. But even if such an argument can be provided the argument does not rest there. For he says that congenital idiots (and this implies all non-rational humans) have no preference-interests. He says nothing about post-rational humans, but as they have no potential it is reasonable to suppose he excludes them too. Saying this is highly counterintuitive. Most would, I think, be unwilling to say such humans do not have preference-interests.

It may be objected that McCloskey can include marginal humans using the argument from kinds; namely, that human beings (including marginal humans) are the kind of things that generally have preference-interests. But, I think, this argument is a weak argument from analogy. The argument is that if marginal humans share other properties with normal humans such as appearance and DNA then they also share the property of having preference-interests. We can see the weakness of this argument if we take another example. Imagine a chair with only one leg and lots of nails sticking out of it. If the argument from kinds is to be accepted then because this is the kind of thing that is usually a chair it shares all the properties of chairs like being comfortable to sit on. But to say that a one legged chair with nails sticking out of it is comfortable to sit on is ridiculous; it is exactly the opposite of comfortable. Just because it shares some features with other chairs that one can sit on comfortably does not make this particular chair comfortable. The same applies to marginal humans. Just because marginal humans share some features with normal humans does not mean they share all their features. If being the sort of thing that ought to do things is what makes normal humans

have preference-interests and marginal humans are not the sort of things that ought to do anything then marginal humans do not have preference-interests. Thus, at least for those who would want to say that marginal humans have preference-interests, being the kind of being that ought to do things cannot be necessary for having preference-interests.

V.

In this paper I have defended the claim that animals can have preference-interests against the charge that only moral agents can have preference-interests. I argued that the degree to which interests are evaluative or prescriptive is overstated. Saying that something has an interest is not to say that it *ought* to be interested in it; this is too strong. To say that something has a welfare or preference-interest is merely to say that it has some motivation towards that interest. I argued that those who think that animals cannot have preference-interests are committed to the disagreeable implication that marginal humans cannot have preference-interests either. Those who would wish to insist marginal humans can have preference-interests must, if they are to be consistent, also accept that animals have preference-interests.¹⁶

Notes

¹ *The Philosophical Quarterly*, 15 (1965), pp. 115-27.

² McCloskey argues that interests are linked to rights and only those who possess interests can have rights. I do not wish to enter into the debate about whether rights and interests are so linked. What interests me here is whether animals can have preference-interests.

³ *The Philosophical Quarterly*, 15 (1965), p. 126.

⁴ Tom Regan, *The Case For Animal Rights*. Berkeley: University of California Press, 1983 and Tom Regan, "McCloskey On Why Animals Cannot Have Rights" *The Philosophical Quarterly*, 26 (1976), pp. 251-57. Also see R. G. Frey. *Interests and Rights*. Clarendon Press Oxford, 1980, pp. 78-9.

⁵ Tom Regan, *The Case For Animal Rights*. Berkeley: University of California Press, 1983, p. 87.

⁶ *Ibid.*, p. 87.

⁷ *Ibid.*, p. 87.

⁸ Tom Regan, "McCloskey On Why Animals Cannot Have Rights" *The Philosophical Quarterly*, 26 (1976), pp. 251-257.

⁹ *Ibid.*, p. 255.

¹⁰ *The Philosophical Quarterly*, 15 (1965), p. 126.

¹¹ Tom Regan, "McCloskey On Why Animals Cannot Have Rights" *The Philosophical Quarterly*, 26 (1976), p. 255.

¹² McCloskey accepts that animals have a welfare and therefore presumably welfare-interests.

¹³ Tom Regan, "McCloskey On Why Animals Cannot Have Rights" *The Philosophical Quarterly*, 26 (1976), p. 256.

¹⁴ *Ibid.*

¹⁵ *The Philosophical Quarterly*, 15 (1965), p. 127.

¹⁶ I wish to thank C. S. Reader and G. K. Harrison for their comments on earlier drafts of this paper.