

BETWEEN THE SPECIES

Animal Rights and Incredulous Stares

ABSTRACT

Based on the claim that animals have rights, Tom Regan ultimately endorses some radical conclusions: we ought to be vegans; it's wrong to wear leather; we shouldn't care about conserving species, but about respecting the rights of individual animals; etc. For many, these conclusions are unbelievable, and incredulous stares abound. Incredulous stares are not arguments, but they do force us to consider whether it might be reasonable for some people to reject Regan's conclusions based on their considered beliefs. My aim here is to argue that it is. The argument is based on an analogy between Regan's defense of animal rights and David Lewis's defense of modal realism. In short, if it's reasonable to reject modal realism based on its incredible implications, then it's probably reasonable to reject the thesis that animals have rights, and to instead accept a moral theory that, while much less elegant, doesn't require abandoning any of our Moorean beliefs.

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Introduction

In *The Case for Animal Rights*, Tom Regan says that we ought to assess ethical theories based on how well they systematize our “considered beliefs.” We’re supposed to arrive at our considered beliefs in the following way:

We are to begin by considering our pre-reflective intuitions—those beliefs about right and wrong we happen to have. We then make a conscientious effort to make the best review of these judgments we can, and we do this by striving to purge our thought of inconsistency and unquestioned partiality, and by thinking as rationally and coolly as we can, with maximum conceptual clarity and on the basis of the best relevant information we can muster. Those moral beliefs we hold after we had made an honest effort to meet these requirements are our considered beliefs, our reflective intuitions. (2004, 148; emphasis in original)

Then, we are supposed to identify the various theories that purport to explain the truth of those beliefs, evaluating them using five criteria: consistency, adequacy of scope, precision, simplicity, and conformity with our reflective intuitions. Or, since that last criterion specifies the data that theories are supposed to accommodate, we can put the point like this:

[That theory is best, all things considered,] that (1) systematizes the maximum number of our considered beliefs, thereby having maximum scope; (2) systematizes them in a coherent fashion, thereby achieving consistency; (3) does this without compromising the degree of precision it is reasonable to expect and require of any moral principle(s); and (4) satisfies the

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other criteria of evaluation on making the fewest possible assumptions necessary to do so, thereby meeting the criterion of simplicity. (2004, 149)

Thus far, Regan seems quite conventional. But as you surely know, he ultimately endorses some radical conclusions: we ought to be vegans; it's wrong to wear leather; we shouldn't care about conserving species, but only about respecting the rights of individual animals; the vast majority of animal experimentation is morally abhorrent; zoos should be abolished. And for many, these conclusions are unbelievable. How could our reflective intuitions have led us to these claims? How could a theory with such implications be the one that best systematizes our considered beliefs? How could animals have rights? Incredulous stares abound.

Incredulous stares are not arguments. However, they do force us to consider whether it might be reasonable for some people to reject Regan's conclusions based on their considered beliefs. My aim here is to argue—much to my chagrin—that it is.

Speciesism as Ersatzism

The argument begins with an analogy. Regan is hardly the only philosopher to propose that we ought to choose between philosophical theories based on a range of theoretical virtues. Famously, David Lewis also proposed to defend his metaphysical framework based on its theoretical utility. And his modal realism fares well by that standard: with just two primitives—namely, sets and (concrete) individuals—it promises analyses of modality, propositions, properties, causation, personal identity, and much else besides. Hence, the view scores very high on (qualitative) simplicity, since it only postulates two kinds,

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and it scores very high on generality, given the sheer range of phenomena it promises to explain. When Lewis describes his worlds as a philosopher's paradise, he isn't exaggerating.

Nevertheless, many philosophers find the view unbelievable. In some cases, of course, this is because they deny that modal realism can deliver what Lewis claims it can. But others grant that modal realism provides all the benefits that Lewis details, and they simply don't think that the theoretical gains are worth the ontological costs. As Lewis himself acknowledges:

Modal realism does disagree, to an extreme extent, with firm common sense opinion about what there is. [...] When modal realism tells you—as it does—that there are uncountable infinities of donkeys and protons and puddles and stars, and of planets very like Earth, and of cities very like Melbourne, and of people very like yourself [...] small wonder if you are reluctant to believe it. And if entry into philosophers' paradise requires that you do believe it, small wonder if you find the price too high. (1986, 133)

So Lewis acknowledges—indeed, argues—that modal realism is at odds with common sense. And he recognizes that, for that reason, many philosophers will be willing to accept many more primitives, or curious accounts of representation, or arbitrary distinctions where modal realism offers principled ones. That is, they're willing to be ersatzists—they're willing to postulate a wide range of abstract objects (among other things) to do the work of Lewis's concrete worlds.

The thesis that animals have rights is akin to modal realism. It's an elegant moral theory: it postulates a simple account of moral status; it makes no seemingly-arbitrary distinctions

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between individuals; it offers neat, clean analyses of cases in which interests conflict. It too is a philosopher's paradise.

Nevertheless, many people find the view unbelievable. Unlike the critics of modal realism, this is rarely because they deny that animal rights can deliver what its defenders claim it can. Rather, they reject it because it so deeply disagrees with common sense—they don't think that the theoretical gains are worth the moral costs. To rework what Lewis says:

A commitment to animal rights does disagree, to an extreme extent, with firm common sense opinion about what we should do. When the right view tells you—as it does—that there are cases where you should sacrifice human lives to save animal lives... small wonder if you are reluctant to believe it. And if entry into philosophers' paradise requires that you do believe it, small wonder if you find the price too high.

The various ways to resist Regan's conclusion—contractualism (Carruthers 1992), "person-rearing" accounts (Jaworska and Julie Tannenbaum 2014), natural law (Hsiao 2015), and modal personism (Kagan 2016), among others—are like ersatzism. They aren't as elegant: they require more primitives, they involve accepting more arbitrariness, and they are imprecise where a commitment to animal rights isn't (i.e., in explaining just how much more important humans are than nonhumans). Still, they are all a great deal closer to common sense than the alternative. And for many people, that's enough.

It isn't quite fair to refer to these sorts of views as "speciesist," full stop. As Evelyn Pluhar notes, speciesism is "the attitude or practice of giving greater weight to the interests of certain individuals than to the interests of otherwise morally

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relevantly similar individuals, on the grounds of species membership alone” (2006, 276). That isn’t what these views encourage us to do. Instead, they postulate some property that’s supposed to ground a difference in the moral status or relative moral importance of humans and other animals—that is, one that generally tracks species membership. And, of course, it’s no secret that these are attempts to preserve the very intuitions that the speciesist reports, albeit without making bald appeals to species membership as the moral-difference-making characteristic: that’s the explicit aim of each such project. So we won’t call them speciesist, full stop. We’ll call them instances of the new speciesism.

With that terminological issue behind us, we can now ask whether it’s reasonable for proponents of the new speciesism to accept these views based on their ability to save common sense? Or are we dealing with sheer bias? Again, I think Lewis is helpful here.

In an essay defending his contextualist epistemology, Lewis writes this:

We have all sorts of everyday knowledge, and we have it in abundance. To doubt that would be absurd. At any rate, to doubt it in any serious and lasting way would be absurd; and even philosophical and temporary doubt, under the influence of argument, is more than a little peculiar. It is a Moorean fact that we know a lot. It is one of those things that we know better than we know the premises of any philosophical argument to the contrary. (1996, 549)

If Lewis explicitly discusses the relationship between Moorean facts and common sense, I’m not aware of it. Still,

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we can piece together this much. Philosophy answers to common sense (among other things), but it can still revise parts of it. This, of course, is precisely what Lewis recommends in the case of claims like, “There are no talking donkeys.” Lewis doesn’t deny that such claims are true when spoken in the ordinary business of life, but he reinterprets them so that they’re compatible with his modal realism. The Moorean facts, however, are the claims that are especially secure within common sense—hence the honorific, “facts.” These claims might be revisable too, but not by philosophical argument. Lewis isn’t entirely clear about what it means to know one thing better than another, but perhaps we can run with the idea that our degree of confidence in any Moorean claim is significantly higher than any rival philosophical thesis.¹ Given this distinction—between the more and less secure claims of common sense—the question is where to place claims such as, “The rights of an infant outweigh those of an adult pig.” Presumably, proponents of animal rights and speciesists agree that such claims are part of common sense. They disagree, however, over whether they’re Moorean.

The upshot is this. Insofar as it’s rational to take certain moral claims to be Moorean, it’s rational to reject philosophical theses that would lead you to deny them. So, if it’s rational to reject the claim that “There are cases where you should sacrifice human lives to save animal lives,” then it’s rational to reject animal rights. And if the only alternative to animal rights is some form of the new speciesism, then it’s rational to be a new speciesist—albeit tentatively, given that there may be

¹“Reason” is intentionally singular—there may be only one reason, such as a principle of conservatism, that’s doing the work. However, I don’t mean to imply that there could *only* be one reason. Perhaps we have independent reasons in favor of thinking that each Moorean fact is indeed a fact.

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more elegant ways to underwrite the same Moorean claims. Lewis was willing to make massive sacrifices in terms of intuitiveness to get an elegant metaphysical theory; most of us weren't. Likewise, proponents of animal rights are willing to make massive sacrifices in terms of intuitiveness to get an elegant moral theory; most people aren't. And since most people can reasonably say that the relevant claims are Moorean, they can reasonably be new speciesists. By their lights, if there is ever a time to sacrifice theoretical virtues, this is it.

Understandably, proponents of animal rights will resist the idea that their view is akin to Lewis's modal realism. However, I think this is because we've acclimated to incredulous stares. We no longer flinch when people find our views absurd, which means that we no longer see the costs of our moral commitments. As a result, we fail to appreciate why someone might be a new speciesist, as well as what it would take to criticize them for holding it. The new speciesism is strongest when it follows Lewis's methodology, and then sides with the most stable parts of common sense.

Of course, someone might think that the problem here is giving so much weight to common sense. Crucially, Regan thinks that moral theories aren't obliged to accommodate all our pre-theoretic intuitions: rather, as I said at the outset, they are only obliged to accommodate as many of our considered beliefs as possible. In the process of moving from an assortment of pre-theoretic intuitions to our considered beliefs, we might think that we would weed out a great many moral judgments that conflict with a commitment to animal rights. And that, of course, is exactly what Regan maintains. His case for animal rights doesn't begin with a direct argument for such rights. Instead, it essentially begins with a case for the principle

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of equal consideration of interests, followed by an argument to the effect that consequentialists build on this principle in the wrong way. But if we already accept the principle of equal consideration of interests, then our considered beliefs aren't all that far from those implied by the rights view.

By contrast, Lewis doesn't say anything about a pre-theory-selection move from an assortment of pre-theoretic intuitions to a more consistent set of considered beliefs. Instead, he thinks that theory selection answers to our pre-theoretic intuitions. Of course, he also thinks that those intuitions can be revised; Lewis is no slave to common sense. Given this methodological difference, though, it seems that Lewis gives more weight to common sense than Regan does, and perhaps more weight than anyone should—at least in ethics.

However, I don't think that this objection carries the day. Granted, there are methodological differences here that are worth exploring. But at bottom, the argument I'm making just depends on Lewis's observation about the stability of certain beliefs—the ones we call, for that reason, Moorean—and the pressure on any philosophical theory to accommodate them. If we find ourselves unable to abandon certain claims—and it's plain that many people do find themselves unable to abandon certain claims about the relative importance of humans and animals—then our theory has to account for them. It doesn't have to say that they are true in all circumstances, as Lewis himself demonstrates. You can accommodate by showing why those claims are true enough for practical purposes, as Lewis does when discussing the existence of talking donkeys. Sure, there aren't any talking donkeys in the actual world, and that's why people speak truly when they say, "There aren't any talking donkeys"—we can treat that statement as having a restricted

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quantifier, even though, when there are no restrictions on the quantifier, the statement is false (at least according to modal realism).

Unfortunately for proponents of animal rights, however, such practical accommodation is impossible. The payoff of the view is that so many of our practical judgments are mistaken: if we think that it's morally permissible to sacrifice important animal interest for relatively insignificant human interests—and nearly everyone does, many readers of this journal aside—then we are mistaken. So the problem of Moorean moral beliefs is much harder to address than the threat of commonsense judgments about what there is, and that's why it can be reasonable for people to be new speciesists.

The Standoff

All forms of the new speciesism are less elegant than their egalitarian rival. By the lights of their defenders, however, they fit with the Moorean facts, and that's reason enough to accept the complications that they bring with them. Where does this leave us?

I suspect that we're left with a standoff, one with little hope of resolution. This is because I'm sympathetic to something else Lewis says:

I acknowledge that [by affirming modal realism] my denial of common sense opinion is severe, and I think it is entirely right and proper to count that as a serious cost. How serious is serious enough to be decisive?—That is our central question, yet I don't see how anything can be said about it. (Lewis 1986, 133; emphasis added)

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He puts the point here in terms of disagreement with common sense, but you can easily imagine the ersatzist insisting that the relevant common sense claims are Moorean. In any case, I take Lewis's point to be that we won't be able to find a mutually-agreeable method for resolving disputes about how costly the costs are and how beneficial the benefits are. This seems right to me: when our arguments turn on claims that some regard as non-negotiable, any method we propose to resolve the dispute is likely to be seen as begging the question in one way or another. Some disagreements aren't tractable.

But let's try to remain optimistic. If we can resolve the dispute between egalitarians and modal personists, it won't be by teasing out further implications of the latest version of the new speciesism. Rather, our best bet is to attack the Moorean claims directly.

A Moorean argument alleges that a philosophical claim is false based on its incompatibility with a common sense claim that the person takes to be Moorean. We're most familiar with Moorean arguments in epistemology, where they're marshalled against the Cartesian skeptic:

1. I know that I have hands.
2. If certainty is required for knowledge, then I don't know that I have hands.
3. So, certainty isn't required for knowledge.

Let's suppose that this is a good argument. Given this, we might ask why it's a good argument. Tristram McPherson takes up this question, suggesting that there are five indicators that are relevant to the merits of a Moorean argument:

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1. Your relative confidence in the Moorean and revisionary theses.
2. The prevalence of philosophically naïve proponents of the conflicting theses.
3. The extent and nature of the change to our beliefs required by the revision.
4. The relative fit of the conflicting theses with our epistemic paradigms.
5. The relative vulnerability of the conflicting theses to debunking explanations (McPherson 2015, 126).

By his lights, the anti-skeptical argument fares fairly well. First, we're highly confident in the Moorean thesis—i.e., that I know I have hands. Second, there are virtually no philosophically naïve proponents of the skeptical thesis. Third, the doxastic changes required by the skeptical thesis would be massive, whereas no changes would be required by the claim that I know that I have hands. Fourth, the skeptical thesis would entirely undermine our epistemic paradigms, whereas the claim that I know that I have hands would not. Neither the skeptical nor the non-skeptical theses seem vulnerable to a debunking explanation, so they're on a par with respect to the fifth indicator. However, if McPherson is right, then four out of five indicators support the anti-skeptical Moorean argument; the last is a draw. That's a pretty good case in favor of the anti-skeptical Moorean argument.

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Interestingly, McPherson goes on to use these five indicators to criticize a Moorean defense of eating omnivorously in response to various arguments for vegetarianism:

1. It's permissible to eat meat.
2. If [animals have rights, or utility won't be maximized unless we abstain from animal products, or compassion requires not benefitting from the suffering of others, etc.], then it wouldn't be permissible to eat meat.
3. So, it isn't the case that [animals have rights, or utility won't be maximized unless we abstain from animal products, or compassion requires not benefitting from the suffering of others, etc.].

McPherson argues that this pro-omnivory argument isn't nearly as good as the anti-skeptical one. First, as confident as many people are that it's permissible to eat meat, we aren't nearly as confident in that claim as we are in the thesis, say, that we have hands—contra the Cartesian skeptic. Second, although most people believe that it's permissible to eat meat, there are plenty of non-philosophers who don't, so the claim doesn't enjoy near-universal acceptance. Third, and again compared with skepticism, changing our minds about the permissibility of eating meat wouldn't require radical belief revision. Fourth, although rejecting the permissibility of eating meat does require trusting common sense less than we might otherwise, it doesn't otherwise threaten our ability to form moral judgments. Finally, the claim that it's permissible to eat meat is subject to a powerful debunking argument—namely, that it stems from status quo rationalization.

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McPherson's argument against the omnivore is quite compelling. By my lights, if proponents of animal rights are going to criticize the new speciesists, they'll need to argue similarly against claims like "There are cases where you should sacrifice human lives to save animal lives."

How optimistic should we be about this strategy? Is it likely to help us resolve the debate between defenders of animal rights and the new speciesists? I'm not sure. Here, I think, confidence levels are much higher.² Moreover, because there are few non-philosophers who reject the moral intuitions that the new speciesists have, extensive moral belief revision would be required by a commitment to animal rights. Plainly, it's also the case that the thesis that animals have rights is tantamount to a significant challenge to our reliance on moral intuition—or, at least, pre-theoretic intuition. The last two points are linked. If animals have rights, then much of modern life is morally problematic, and the stable intuitions that suggest otherwise are all mistaken. And the problem isn't just that we need to stop doing various things that are widely regarded as permissible, such as killing animals for food. It's also that we need to start doing things that almost no one regards as being morally required. Animal rights may well imply that we have extensive obligations that we currently don't see ourselves as having—e.g., duties to feed starving animals, or to try to end predation, or to return land to animals that have some claim to it. Hence, it's hard to see how we can regard moral intuition as reliable if animals do indeed have rights.

²I once had a philosopher tell me that we should doubt whether someone understands what's being said if she denies that human interests outweigh those of chickens.

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Of course, the same debunking argument seems to be available—on the face of it, it's reasonable to complain that people are engaging in status quo rationalization when they reject animal rights—and perhaps other debunking arguments are in the offing. So it may well be that the real debate should be over the merits of these debunking arguments. Unfortunately, they are notoriously tricky to develop without having them generalize in unwanted ways: if some of our most stable intuitions are vulnerable to debunking arguments, it would be surprising if others could it be explained away via similar methods.

It seems to me, therefore, that if the analogy between speciesism and ersatzism is any good, then it's probably reasonable to reject the thesis that animals have rights, and to instead accept a moral theory that—while much less elegant—doesn't require abandoning any Moorean beliefs. I take no pleasure in this conclusion, and I hope it's mistaken. And, of course, it's hardly a criticism of Regan's impressive legacy that his arguments don't rationally compel everyone to accept their conclusions: that's the norm in philosophy, not the exception. But given the increasing prominence of rights-based approaches to animal ethics, it's worth having a clear appreciation of the epistemic grounds on which you might resist them.

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