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TOM REGAN ON INNOCENTS

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In The Case for Animal Rights (NY: Routledge, 1984), Tom Regan explains his philosophical defense of animal rights, commonly termed “The Rights View.” The implications of his treatment of “innocent threats” and “loss of innocence” require closer scrutiny than previous scholars authors provided.

Regan defines “innocent threats” as dangerous moral patients (293); he defines moral patients as inherently innocent (294). He asserts, “Those who forge, as well as those who perpetuate injustice are not on the same moral footing as their innocent victims” (323). Morality requires us to take into consideration “past injustices some have had to bear” (323). “Those who are parties to such injustice lose the protection of the miniride and worse-off principles provide and have no just grounds to complain if we overfide their right not to be harmed and spare the victims of their past injustice” (323). This assertion has counter-intuitive implications.

The “miniride principle” (from “minimize overriding principle”) asserts that the rights of the *few* may be overridden for the rights of the *many*, all things being equal.

For instance, if one miner is trapped in a shaft and will be killed if explosives are used to free fifty other miners (who are also trapped), the one ought to be killed if necessary to save the other fifty. *Morality requires that we override a minimum of rights* (Case 307); it is preferable to override only one individual’s right not to be harmed than to override the same right for fifty.

The “worse-off principle” allows the rights of the many to be overridden for the rights of the few if “the harm faced by the few would make them worse-off than any of the many” (Case 328).

It is morally preferable to *cause many subjects-of-a-life to suffer lesser harms than to severely harm one subject-of-a-life* (Case 308-09). For instance, in the above mining scenario, if blasting out the single miner could be avoided by digging a tunnel to access the other fifty—but they would have to go without food for several days—one ought to dig. The harm of prolonged hunger is a lesser harm for each of the fifty people than killing would be for the single individual in the adjacent shaft.

Regan defines a small child flinging poisonous darts randomly into a crowd constitutes an “innocent threat.” When an innocent threat endangers others it may be necessary to harm the innocent individual in order to avoid harm to others. Regan uses the example of a rabid dog and a rabid fox, indicating that in either case one might “harm” these dangerous yet innocent non-human animals in order to nullify imminent threat (Case 296, 353). Regan writes, if rabid foxes have “bitten some children and are known to be in the neighboring woods... and if the circumstances of their lives assure future attacks if nothing is done, then the Rights View sanctions nullifying the threat posed by these animals” (Case 353). Regan does not explain “nullify,” but generally to nullify the threat of a rabid fox is to *kill* the fox. The Rights View permits innocent threats to be eliminated to protect human life (Case 353).

While the basic principle (allowing self-defense against innocent threats) seems reasonable, Regan fails to define the borders of this aggressive protective measure. Without limitations on what constitutes a “legitimate” threat, and in the absence of limits on what one may do in the name of self-defense against innocent threats, Regan’s Rights View opens the door to some morally repugnant possibilities.

For example, moose roam backyards, city streets, and recreational areas in Anchorage, Alaska. Every year moose stomp people to death in fenced yards, on ski-trails, and sometimes on the university campus. Everyone knows that dangerous encounters with moose *will* occur in the future, and that some such encounters *will* result in the death of human beings. On the basis of likely future endangerment as outlined by Regan (with regard to rabid fox), killing potentially dangerous moose in Anchorage is acceptable because moose constitute an “innocent threat.” Similarly, grizzly bears sometimes attack and kill hikers on trails around Anchorage. The only way to prevent such incidents is to eliminate bears. (In most of the world, that is exactly what people

have done, whether by design or simply through persistence.) Therefore, according to Regan's "Rights View" bears and moose around Anchorage ought to be eliminated as a necessary precaution.

If we extrapolate from Regan's rabid fox example, taking this idea to its logical extreme, *all* moose and bear might justifiably be killed because they are always and everywhere innocent threats. The farther back into the wild country human beings venture, the more likely it becomes that people will encounter "dangerous" animals, and the more likely it becomes that human lives will be lost. Ultimately, if taken to its extreme, any wild animal that is potentially dangerous to human beings might be eradicated, including rattlesnakes, polar bear, black widow spiders, cougar, ticks—and many others.

If we are impartial and consistent, as the Western philosophic tradition requires, Regan's allowance for innocent threats not only risks the demise of carnivorous and poisonous species, but also places the lives of many *people* in jeopardy. Regan's discussion of "innocent threats" deals with situations where moral patients harm moral agents, but he offers no indication that dangerous but innocent moral agents might not also be killed to protect moral agents and moral patients. People are often ignorant of the damage they do, but humans, more than any other animal, endanger life. To eliminate every *other* species when they pose an innocent threat, but *not* to eliminate humans in comparable situations, would be inconsistent and speciesist.

The vast majority of Western hunters kill for recreation. They kill because they consider hunting a worthwhile and enjoyable way to spend time and because they choose to eat dead animals. Few acknowledge (or even consider) that killing animals for food is completely unnecessary for their survival, and that such "sport" causes tremendous hardship and harm to other living beings. (In fact, hunters usually assert that they do their victims a *favor* by preventing starvation!) Thus hunters needlessly endanger and destroy thousands of animals every year, and may be said to do so innocently (out of ignorance). Regan's "innocent threats" clause justifies the killing of rabid fox that *might* bite (out of fear or in self-defense). Consistency requires that his theory also permit the killing of ignorant—and therefore "innocent"—human beings that slaughter innocent animals.

There are yet other intriguing outcomes from Regan's discussion of innocence. Regan asserts that one who has lost their innocence through unjust actions "have no grounds to complain if we override their right not to be harmed and spare the victims of their past injustice" (Case 323). Injustices borne by some grant these beleaguered individuals privileges above those who perpetrate such injustices.

In The Case for Animal Rights, Regan posits a lifeboat with four humans and one dog vying for space. If one being must go overboard, Regan concludes that the dog ought always and perpetually to go overboard (for reasons which are not relevant to my point). But this assertion is not consistent with Regan's Rights View with regard to loss of innocence.

If consistently applied, how would Regan's view on "loss of innocence" affect these hapless sea-bound citizens? Regan notes that "animal agriculture, as we know it, is unjust" (Case 394). He notes, "Those who support current animal agriculture by purchasing meat have a moral obligation to stop doing so" (Case 394). He also notes that any hardship the animal industries suffer due to a lack of economic support from conscientious objectors is irrelevant because "their voluntary participation in that business signals that they waive the right not to be made worse-off if the business fails" (Case 394). In other words, the injustice of their acts toward cattle and pigs, chickens and turkeys, removes them from equal moral footing with others. Similarly, those who continue to buy the bodies of slaughtered animals in preference to eating rice with vegetables lose their equal moral footing by willfully choosing to exploit and destroy others. It is reasonable to assume that Regan would make a similar assertion about any common yet unnecessary human exploitation of nonhuman animals, from attending circuses to buying cosmetics tested on animals. All human beings who engage in these practices, who support these markets, are harming the innocent victims exploited by these markets. People engaging in such acts have a moral obligation to change behavior that does not respect these subjects-of-a-life. Such consumers jeopardized their innocence.

Determining "loss of innocence" in Regan's Rights view requires that human beings be scrutinized to discover whether or not they have willfully exploited others and gained through their choice. Those who capitalize on animal agriculture have, according to Regan (Case 394). Those who support these industries, and perpetuate such injustices

must also be included. Flesh and dairy-eaters, leather and fur-wearers, and those who have used other subjects-of-a-life for science projects—as well as any and all individuals who support these actions—have jeopardized their otherwise equal right not to be harmed. If even *one* of the humans on the lifeboat has been eating bits of bodies, bodes that once shared equal inherent value and the equal right not to be harmed in Regan’s Rights View, then the dog will certainly *not* be first overboard. On the contrary: loss of innocence for at least one of the four life-boat-clinging humans is almost certain. As it turns out, the dog is the *least* likely to be thrown overboard.

Furthermore, Regan clearly asserts that nonhuman animals are *always innocent moral patients*. Consequently, dogs (birds, cats, snakes, and *any* other nonhuman animal) *cannot ever* jeopardize their chance for a spot on the lifeboat by loss of innocence. They are always innocent. Meanwhile, humans are almost always guilty of treating other animals as if they did not have equal inherent value—thereby forfeiting their place on the raft to their innocent victims—other animals. In any and all scenarios, humans are likely to have jeopardized their innocence in relation to—and with regard to—other species, while other-than-human animals always remain inherently innocent. Contrary to Regan’s conclusion, if those on a lifeboat are chucked overboard one by one preserving those who have not suffered a “loss of innocence,” *the survivor will almost surely be the dog*.

Regan’s allowances for “innocent threats” and “loss of innocence” are minor parts of an overall impressive work, but they raise interesting, and as yet unresolved conundrums.