Existence, Breeding, and Rights:

The Use of Animals in Sports

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Standardly, philosophical arguments about the quality of treatment human beings owe nonhuman animals¹ rest on two bases. Peter Singer is famous for arguing from the capacity of animals to feel pain to the conclusion that since almost none of the pain human beings cause animals is necessary, almost none of it is morally justifiable (Singer, 1989, pp. 78-79). Singer rests his case on the premise that *who* suffers pain does not affect the badness of the suffering, so that, without strong justification, the infliction of pain is universally wrong (*Ibid.*, pp. 77-78). Tom Regan is equally famous for his argument that the beliefs and desires which normal one year-old mammals clearly have give those animals rights to life and humane treatment (Regan, 1983, pp. 81, 84-86; also, Chapter 9, esp. p. 351). Human beings who regularly thwart animal desires merely for their own pleasure clearly violate those rights. It will be a simple corollary of Singer's and Regan's arguments that most uses of animals in sports are wrong. Pain is intrinsic to the life of animals raised for fighting each other; death is an intended statistical regularity in hunting and trapping; and most animals bred for racing are killed at the conclusion of their racing days.

Against these lines of argument one frequently encounters a certain objection. It is argued that since the animals for fighting, hunting and racing exist only because they have been bred for such human uses, human beings are justified in so treating them. The purpose of this paper is to evaluate this line of objection, or to speak more precisely, to evaluate the two distinct objections implicit in this line. For the objection may be either that

- (1) the present uses of the animals are justified because they are better for the animals than the alternative, namely non-existence, or that
- (2) breeding an animal for a purpose gives the breeders (transferable) rights over what they have bred.

I shall pursue these alternatives sequentially.

The Value of Existence

The strength of the first form of the objection rests on a common intuition comparing the values of existence and non-existence. It is frequently urged that an existence which includes many chronic miseries is better than non-existence (McMahan, 1981, pp. 126-127; and Kavka, 1981, pp. 109-122). The fact that most persons facing

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such miseries do not commit suicide is often cited as corroborating evidence for this intuition.

For two reasons, however, this intuition seems a problematic basis for the objection. First, some persons facing such miseries do commit suicide. And indeed one characteristic of miseries which lead many persons to suicide is the persons' conviction that their situation will not improve (Brandt, 1980, pp. 121-122). This is true not only of the psychological miseries which lead to many traditional suicides but also of disease debilitations. Persons in the final stages of Lou Gehrig's disease, e.g., are much more likely to commit suicide than are diseased persons whose prognosis is more favorable in any terms: the control of pain, the retention of faculties or the prospect of recovery. It is thus not obvious that a life of *unattenuated* misery is better than non-existence.

But this dialectic line reaches no clear conclusion, one way or the other, inasmuch as the lives of animals used in fighting, hunting and racing are typically not lives of unattenuated misery. I therefore press ahead to the second line of response to arguing that since the lives of these animals are (arguably) worth living despite what misery human beings inflict, human beings are entitled to treat these animals, within that limit, as they please, since they would not exist at all save for human beings bringing about their existence.

This second line of response does not challenge the premise that the lives of animals used in sport are better than non-existence. Rather it challenges the inference from this premise to the conclusion that, so long as the premise remains true, humans may treat animals as they please. Suppose that a human being who had neglected, harmed or abused another human were to offer this defense: however miserable I may have made the life of this fellow creature, (s)he was clearly left with a life better than death. Obviously this defense, which could be offered for almost every crime except homicide and the most brutal and irreversible of maimings, fails. One's behavior is not acceptable merely because it leaves others with a life better than death.

Thus pro-animal lines of reasoning are not defeated by the objection that human uses of animals in sport are acceptable since a certain kind of life lived by animals is better than non-existence. Even if (and when) the premise is maintainable, the conclusion does not follow.

Some, however, will think that the line of reasoning is stronger than my statement of it. For people will note this difference between animals used

in sports and human victims of crime: at least to a large extent, the animals owe their existence to the human beings who bred them for human sporting purposes. But people are not bred for the criminal purposes of other humans.

The Rights of the Breeder

I therefore turn to the second objection, that breeding an animal for a purpose gives the breeders (transferable) rights over what they have bred. The argument in support of this second objection is analogical. If an artificer creates an artifact from materials (s)he owns, the artificer becomes the owner of the newly-created artifact. The artifact, being property, has no rights of its own. Rather, the owner can use it as (s)he pleases, subject only to limitations owing to the possible infringement of the rights of other human beings (Mill, p. 111). And as artifacts are the products of artifice, so animals used in sport are the products of breeding. As artifacts are property, so bred animals are property. As artifacts are made for the purpose of the artificer, so animals used in sport are bred for the purposes of the breeders, which are to have the animals used in the usual sporting ways. And rights over both will be similarly transferable.

Clearly, the central question about this analogical objection to pro-animal views is the strength of the analogy on which it rests. Before directly examining that strength, however, I note the extension the objection appears to have. Obviously, the analogy applies, as intended, to animals bred for sporting uses. It also applies to animals bred for traditional factory farming. For instance, the resistance of heifers and chickens to the close quarters of factory farms creates an undesirable cost for factory farmers which breeders have worked to eliminate.

The argument, however, has other extensions which might be less sanguine:

- (1) Where some might object to the analogy between making artifacts and breeding animals on the grounds that traditional breeding does not involve the degree of material alteration of traditional artifact making, genetic engineering clearly reduces that gap. For example, one extension of the analogy is to the projected salmon farms of Puget Sound. The salmon projected for this farming will be genetically engineered. Beyond the terms of traditional

animal husbandry, these fish will be bred for quick growth by the insertion of non-salmon genes into their genetic material (MacKenzie, 1989, p. 54). Thus it is unclear that the degree of material alteration will continue to mark a clear distinction between traditional artifact making and the breeding of animals.

- (2) A second extension of the analogy is to animals in national parks, which are not often bred. Yet, from an evolutionary viewpoint, neither are the parks the preserves they are popularly thought to be. The animals live to a significant extent in the presence of tourists and other humans. Animals who have initiated aggression against human beings have been killed. By their elimination, the gene pool is selected for non-aggression against humans. Similarly, whenever contact with human beings or the managed environment of the park affects the reproductive success of individuals, that effect is functionally equivalent to breeding. Certainly the national parks are full of animals amenable to picture taking by humans.
- (3) Perhaps most disturbing is the import of the analogy for a recent controversy. Recall the suggestion that the imputed superiority of America's black athletes derives from the selective breeding of slaves (Wiggins, 1989, pp. 180-185). For the sake of discussion, let us postulate that the control of slave-owners over the reproductive success of slaves has produced a present population in which variously athletically valuable traits are especially prominent. Even if this is granted, clearly the application of the analogy yields an untoward result. Contrary to any egalitarian conception of human rights, contrary to any principle of anti-slavery, the application of the analogy is that
1. the breeders have rights over what they have bred, in such a way that
 2. what they have bred is indeed their property, with the further implication that
 3. as the breeder of the mare has rights over the foal, so the breeder of the slave has rights over the child (and the child's child) of the slave.

Here we reach an important conclusion, which I shall first state as follows: If a group of human beings is enslaved and bred, the breeding of the slaves does not give the breeders rights over the offspring.

The importance of this conclusion, however, is not really about slavery, as we can see from the following: imagine that slavery is illegal in the strong sense that persons do not have the right to make themselves the slaves of another. Even in those circumstances, it is possible that one party will convince two other parties to reproduce. Or, more simply, two parties may convince themselves that they should reproduce. We may also imagine that the parties who do the convincing also take pains to control which sperm and ovum unite. Such a taking of pains will, I suppose, make the pain taker(s) the breeder(s) of the resulting infant.²

But no matter how carefully a union of human sperm and ovum is controlled, the implication will not follow that since the offspring would not exist save for the breeding, therefore the breeder has strong rights of control over the offspring. Granted, there have been eras in which parental rights have been *de facto* strong over children (even grown children with children of their own). Yet the argument we would make is that the growing capacities of a child to manage its own life make the continued, undiminishing authority of the parent over the child unjustifiable.

The Use of Animals in Sport

Having explored this analogical argument from breeding and the objection to it, based on the imagined breeding of humans, I return to the issue of this paper, the use of animals in sport. Should we accept the analogical argument from artificers to animal breeders or, contrarily, should we accept the objection from the human case to the conclusion that breeders do not have the rights of artificers?

To answer this question, I propose to consider what organisms are like. For animals used in sport are organisms, whereas the artifacts which the artificer analogy brings to mind are not organisms.³ Thus the

analogy of artificers to breeders requires a strong analogy between artifacts and organisms. The other reason for thinking that we should consider what organisms are like focuses on my argument that, even if human beings were bred, their being bred would not give their breeders rights over them. Any force of that argument also rests on an analogy, an analogy between any bred human beings and any animals bred for sporting purposes. The analogy is at least that all such bred creatures are organisms.

What then is an organism? We may at least say that an organism is always an entity with parts, for it is the way in which a thing's parts relate that make a thing an organism. The parts (or organs, we might say) of an organism interact in an interdependent way. That is, the non-functioning of a given part would impair or make impossible the functioning of the other parts, the extreme result being the death of the organism. Moreover, because the functioning of the parts of organisms is interdependent, it is not at all surprising that the parts of organisms react in coordinated, self-regulative ways, through sensing and response devices. Indeed, recuperative powers of organisms harmed through disease or injury exemplify this coordinative, self-regulatory power in threatening environments.

Now if self-regulation is characteristic of organisms in general, nevertheless organisms differ in the mechanisms of self-regulation.⁴ Evolutionary biologists note the possibility of predicting a species' genetic endowment from the constancy of the organisms' environment (in terms of food supply, possibilities for reproduction, and lethal forces). The more constant an organism's environment is, the more successful will be a genetic endowment which *hardwires* sensory capacities (for discriminating food, reproductive opportunities, and danger) to response capacities. Contrarily, if the organism's environment varies because the food, the reproductive opportunities or the dangers vary (perhaps in response to the organism), then hardwired response capacities become disadvantageous. In other words, hardwired responses maximize efficiency, but their effectiveness will be inversely proportional to environmental variability.

Now if we think about the hardwiring of response to sensory capacities, we may note that, for sexual animals, eating, reproducing and avoiding dangers in the environment all involve interaction with other organisms. Moreover, these other organisms will have at least diverse, if not contrary, desiderata. Therefore,

evolution will tend to advantage those other organisms who do not passively fit into the activities of the other. Similarly, evolution will tend to favor active organisms who can sense and respond to the responses of others.

Internally to an animal, such adaptation means that the wiring is not so full or not so fixed. Environmentally, such adaptation means that the animal's behavior will be a product of learning how to sense and respond in nuanced ways. Accordingly, many of the successful organisms in variable environments turn out to be organisms that learn. And in species living in variable environments and relying on learning, the young spend a period of immaturity not only being nourished and growing, but also learning. By developing a repertoire of nuanced responses, the young become more suited to living successfully within their environment, even without the aid of progenitors.

Thus an organism is a whole whose parts interact in interdependent ways through which the organism is more able to succeed in its environment.⁵ For many birds and most mammals, successful interdependent interaction of parts requires considerable learning.

Now various are the roles of such evolutionary adaptation, when animals are used in sport. In hunting the focus is confused. One emphasis is on a competition between hunter and hunted, but the other emphasis is on the bravado of success in the hunt. Here learning plays many roles. (1) The hunted animals learn to sense and avoid dangers. The hunters can in turn learn how to make their presence hard to sense. Here we have a classic evolutionary competition, a zero-sum game, which, played over time, improves the skills of both the hunted and the hunter (Dawkins, 1986, pp. 180-181). (2) But the human hunter need not merely compete. The human hunter may set the terms of the competition. The hunter chooses the weapons of the hunt. The hunter decides whether to destroy the competition, e.g., by blinding the deer with floodlights. The technology of the hunter is thus ample to disdain the classic evolutionary competition for the bravado of the successful hunt. But evolutionarily this is simply a hunter's trick, and the hunter is tricked. If I am equally thrilled by the successful hunt no matter how I kill the animal, so are my taste buds fooled by the sweetness of saccharine to a gratification reenforced by the nutritive value of fructose. The ability of the human being to set the terms of its own pleasure is a double-edged sword insofar as it allows us to divorce our

pleasures from the evolutionary causes for their gratifying us.⁶

In animal fights, two problems arise. The environment of the fight is manipulated to guarantee a victor and vanquished. And, either inside or outside of the fight, death is the fate of the vanquished. This factor mirrors the possible manipulation of the hunting environment. The anthropocentric problem at this point is with the desirability of promoting a certain human vantage point and its correlative sentiment. For the spectator may easily identify with the perspective of the environment creator, a manipulative perspective from which deaths of others can be controlled while one remains an aloof, spectating non-participant.

The second problem arises because, as one controls a lethal environment, one also controls an evolution. The animals who survive such an environment are genotypes bred for a vicious competition. Again I sense an anthropocentric problem: what place should we give to the human sentiments stirred by the model of viciousness the fighting animals present?

In racing, the focus is on a non-fatal competition among animals. Activities of rooting and practices of betting extend the competition, vicariously, to human beings. Compulsive gamblers aside, human beings, through racing, create environments in which to experience the thrills of competition without its dangers. This creation of an environment, however, does not, to my knowledge, impinge on the racing animals in the way the flood lights trap the buck, nor in the way the fighting selects animals for their viciousness. Rather, the difficulties about racing occur when, through injury or age, a racing animal is no longer competitive. The analogy of bred animals to artifacts is that a useless artifact may be destroyed.

Can we, then, accept this analogy? Does a thing's being an artifact imply the sovereignty of the artificer over the artifact? or does a thing's being an organism imply the rights of the thing against its progenitor? The argument from the bred human infant is that what the human being becomes as it matures makes it unjustifiable to exercise an artificer's rights over it. This argument focuses the issue of older racing animals on the fact that, although animals are legally the property of their owners, unlike other properties, these animals mature not only by growing but also by learning. Their genetic stock is adapted for environments in which their behaving as they have learned will benefit them. In this regard they are like human beings, not like typical artifacts.

Clearly, the use of animals in sports raises a number of anthropocentric issues about the desirability of promoting certain traits and values among human beings. Having surveyed these anthropocentric issues, I return to my central question of whether *bred* animals are justifiably treated as artifacts. Here the ethical terrain is tricky.

Traditional anti-factory farm arguments, which emphasize either the pain or the frustrations and anxieties animals experience under actual conditions, seem to play into the hands of agriculturalists who, for reasons of cost and profit, would aim to breed farm animals so as not to experience pain, frustration or anxiety. That is, for the agriculturalist, a farm animal is valuable insofar as it is a source of protein. The more efficiently that protein can be developed, the better for the farmer. Bones and sinews, aggression against each other and the biochemical accompaniments of manifest anxiety are all agricultural costs the farmer would be pleased to eliminate for the right price. Thus, the pro-animal advocate must be prepared to face the response that any objection to causing animals pain or frustration can be rendered moot without changing either factory farming practice or consumer dietary habits: one can simply breed the capacities to feel pain and frustration out of our favorite growing blobs of protein.

Now my point is that the argument I have mustered against the analogy between breeders and artificers rests on the disanalogy between the learning capacities of bred animals which traditional artifacts do not share. But a food animal which had the capacities for pain, frustration and anxiety bred out of it might well lack the learning capacities which seem to differentiate the appropriate treatment of bred animals and traditional artifacts.

When we use animals in sport, however, our interest is not in the efficient creation of consumable protein. Animals typically need learning capacities in order to perform optimally in the sport. In other words, optimal animal performance relies on a disanalogy between bred animals and artifacts⁷ at just the point which compromises the argument that animal breeders have rights over what they have bred comparable to the rights of artificers over their artifacts. The learning capacities of animals, which are so vital to their involvement in human sports, are the very basis for the conclusion that the ethical strictures appropriate to any bred human children, which arise from their capacities for learning and increasing self-direction, apply to animals used in sports.

Notes

¹ From this point on, when I refer to animals, I mean nonhuman animals.

² In England, for example, *in vitro* fertilization is available to prospective parents only if they meet a large array of conditions. Thus the resulting infants are (extensionally) bred for in whatever ways that array of conditions correlates with genetic traits.

³ Once I provide a definition of an organism (below), it will be clear that being an organism does not imply whether an entity is materially made up of genetic material. Accordingly, it is on my definition a contingent question whether a human could create an artifact that was an organism (regardless of whether it was composed of genetic material).

⁴ My definition of organism correctly leaves open what kind of organizational relationship exists between sensory and (re)active capacities of the organism in the light of which the coordinated self-regulative action occurs and the recuperative powers operate.

⁵ I do not advertise this statement as a full definition of an organism. Rather, I hold that an organism is fundamentally an entity such that the interdependent interaction of its parts maintains a disentropic state (Scherer, 1988). That fundamental point, however, seems unnecessary to the argument here.

⁶ Cf. J. Baird Callicott, (1980, 311-38) for the seminal discussion of the evolutionary evaluation of pleasure and pain.

⁷ And a corresponding analogy between bred animals and my imagined bred humans.

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