

DISCUSSION ARTICLE

Cohen and Kinds: A Response to Nathan Nobis

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And in this seat of peace tumultuous wars
Shall kin with kin and kind with kind confound.
— *Shakespeare*.

In a recent article in the *Journal of Applied Philosophy*, Nathan Nobis outlines an argument against Carl Cohen's influential defence of speciesism which, if successful, would be devastating [1]. This debate is of more than parochial interest, because the strategy Cohen employs to demarcate the class of beings with moral rights is widely utilized by opponents of abortion as well; it is not only our attitudes to non-human animals which are at stake, but also the morality of our treatment of the biologically human. I suspect that, as it stands at least, Nobis's argument does not succeed: those who want to elevate the biologically human over the non-human have available plausible replies to his arguments. This is an exercise in devil's advocacy: I am myself a supporter of fairly free access to abortions, and better treatment of non-human animals. However, just *because* I am committed to these views, I want to ensure that the arguments for them are the strongest they can possibly be. I offer this in that spirit, as a step toward strengthening these views by testing them against objections.

The Kind Argument

Cohen argues that non-human animals do not have moral rights because they do not belong to the right *kind*:

They are not beings of a kind capable of exercising or responding to moral claims. Animals therefore have no rights, and they can have none [2].

We ought, he argues, to distinguish among organisms on the basis of the kind to which they belong, not their individual capacities. Exactly the same point is frequently made by opponents of abortion, who claim that the killing of human fetuses is murder because the fetus belongs to the kind 'human being' [3].

Why this emphasis upon kind membership, rather than a moral individualism (as James Rachels calls it [4]) that grants or withholds rights purely on the basis of the non-relational characteristics and intrinsic capacities of individual organisms? The problem with moral individualism is that it seems to have some counterintuitive implications: it commits us to withholding rights from significant numbers of human beings who lack the relevant capacities (whatever these might be). Suppose we held that all and

only rational creatures have moral rights, as a Kantian might. Depending upon how we understand 'rational', this gives us the result that most or all non-human animals are excluded from the moral realm, but so are many human beings: the very young, sufferers from Alzheimer's disease, the mentally disabled, and so forth. Most people share the intuition that experimentation on human beings is worse than experiments on non-human animals, even if the humans possess the same (or even a lesser) degree of cognitive capacity as the animal. As Cohen puts it,

Persons who are unable, because of some disability, to perform the full moral functions natural to human beings are certainly not for that reason ejected from the moral community. The issue is one of kind. Humans are of such a kind that they may be the subject of experiments only with their voluntary consent. The choices they make freely must be respected. Animals are of such a kind that it is impossible for them, in principle, to give or withhold voluntary consent or to make a moral choice. What humans retain when disabled, animals have never had [5].

Emphasis on kinds helps us to delineate the class of beings with moral rights in a way that accords with the untutored intuitions most of us share. If you belong to a kind that is morally significant, then you are yourself morally significant, regardless of your actual capacities [6].

As Nobis points out, the argument for moral rights on the basis of species-membership seems to rest upon an implicit principle. Nobis formulates the principle as follows:

If (1) an individual A is a member of some kind K and (2) some, most or all of the other members of that kind K have some property C and (3), on the basis of having property C, they have property R, then individual A has property R as well, even though A lacks property C [7].

Call this principle DP (Derived Properties). On the basis of DP, all human beings possess moral rights, whether or not they possess the capacities which (in the absence of kind membership) would alone entitle them to such rights. More generally, the members of a kind possess *derived properties* on the basis of kind membership alone, whether or not they possess the *actual* (that is, non-relational) properties from which such properties would otherwise derive.

Nobis has two central objections to the kind argument. First he argues that there is no non-arbitrary way in which to classify things into kinds; second he challenges us to demonstrate a link between kind membership and moral rights. Let us examine and reply to these arguments in turn.

What Kind of Kind?

Nobis points out that any entity can be classified into indefinitely many kinds. I am a member of the kind 'human being', 'philosopher', 'physical object', and the kind 'object quite far from the sun', among many others. Moreover, non-human animals belong to many kinds to which human beings also belong: 'sentient being', 'subject of a life', and so on. Now, suppose DP is true. In that case, the derived properties of an animal,

human or non-human, depend upon the kind to which it belongs rather than its actual properties. But each of us belongs to indefinitely many kinds. Worse, these kinds have different, and often opposing, actual and (therefore) derived properties. So if DP is true, we have conflicting properties. This, Nobis plausibly claims, is a *reductio* of DP.

So long as kind membership cannot be assigned non-arbitrarily, DP cannot be used to show that all and only human beings have moral rights. However, it is far from clear that Nobis is right in holding that kind membership is always arbitrary. In fact, there is good reason to think that animals, including human beings, can be classified into kinds in ways that ‘cut nature at its joints’.

Nowhere in his paper does Nobis refer to *natural* kinds. This is a surprising omission, since designating a kind ‘natural’ carries the clear implication that the category is not arbitrary. Of course, we can divide entities up in indefinitely many ways, but there are significant differences in the naturalness of various classificatory systems. Entities could be classified on the basis of some gruesome or gerrymandered property, such as being a member of the set consisting of my nose and the Eiffel Tower, or the set of green objects created on a Tuesday that answer to the name ‘Wendel’. Clearly such categories are less natural than the species *Pan Troglodyte* or the element hydrogen. It is therefore worth exploring whether reference to natural kinds might rescue Cohen’s kind argument.

What is a natural kind? There is some controversy and confusion over this question among philosophers. For our purposes, I shall simply adopt LaPorte’s suggestion, that a natural kind is a ‘kind with explanatory value[8]’. Natural kind terms are therefore apt to figure in natural laws which provide significant explanations for everyday and scientific purposes. As LaPorte sees, this definition entails that naturalness comes in degrees and is context-sensitive, depending upon the kinds of explanations we are interested in and the purposes we have. This vagueness need not worry us, however; we are still left with clear grounds upon which to distinguish between more and less natural kinds (depending upon the number and significance of the explanations in which the kind can figure).

I therefore suggest that we classify organisms into *natural* kinds for the purposes of DP. However, this suggestion is vulnerable to a successor to Nobis’s arbitrariness argument: each organism can be classified into more than one natural kind [9]. Biologists classify organisms into a number of taxa: species, genus, phylum, and so on. Which of these is the relevant category? I suggest the relevant kind is *the narrowest natural kind*: the species. I shall defend the choice of this kind in the following section; for now I simply note that the species is indisputably a natural kind if there are any in biology.

I therefore suggest the following revision of DP (which is now explicitly held to be a *moral* principle [10]):

If (1) an individual A is a member of some species S and (2) some, most or all of the other members of that species have some property C and (3), on the basis of having property C, they have moral property R, then individual A has moral property R as well, even though A lacks property C.

Classifying organisms into species is not arbitrary. Natural kinds are plausibly taken to be just that: natural. Moreover, it is quite possible to maintain that some kinds are more natural than others, and that ‘species’ is more natural than ‘genus’ or ‘phylum’. In this context, it is worth noting that ‘species’ is a much more salient property for

normal human beings than are other biological classifications, which must often be discovered by science.

The Moral Relevance of Natural Kind Membership

We can therefore meet Nobis's first objection: it is possible to classify organisms into kinds non-arbitrarily. However, this still leaves us with his second, harder, challenge: demonstrating that natural kind membership is morally relevant.

Species membership is obviously quite different from the kinds of properties usually thought to underlie moral considerability, like sentience and reason. It is far more difficult to make a case for moral rights of an entity on the basis of the capacities *other* entities of its kind possess, rather than on the basis of its *own* (non-relational) capacities. However, there are a couple of reasons for thinking that species membership is morally relevant.

First, there is the fact that our moral intuitions seem to track species membership quite closely. Most of us, pretheoretically at least, are prepared to grant rights to organisms that possess the right non-relational properties (whatever these turn out to be) but not to withhold rights from members of our own species (at least those who have already come into the world; intuitions about the unborn are much less stable and much more mixed) no matter what their non-relational properties. Now, as many philosophers have pointed out, moral intuitions can mislead. Many people in the past have had the intuition that, say, racism or sexism were morally required. We therefore must not be complacent about our intuitions. Nevertheless, our moral intuitions must be accorded some *prima facie* weight, at least if we subscribe to the Rawlsian view of normative theory, according to which the correct moral theory is the one that best systematizes our intuitions [11]. Of course, in the process of reaching reflective equilibrium many intuitions will be modified and some will be rejected. Intuitions are defeasible, but in the absence of defeaters they must be taken seriously.

Appreciating the second reason why species membership might be morally significant requires us to engage in some reflection on the origin and function of morality. An ever-growing body of evidence makes an overwhelming case for the view that human morality, or perhaps more accurately proto-morality, is the product of our evolutionary history [12]. Our moral emotions and our sense of justice evolved, the better to promote the interests of our 'selfish genes [13]'. Now, there is every reason to believe that a crude sociobiological explanation of morality is false. Morality is not *simply* disguised selfishness; though its precursors evolved to serve our (genetic) interests, the final product is, at its best and at least in significant part, just the universalistic and even altruistic system of thought, feeling and action that moralists hope to find in it [14]. Nevertheless, the rootedness of morality in our evolutionary history might give us reason to extend the highest form of moral considerability to members of our own species, whatever their non-relational properties. It may be that our moral emotions, the building blocks of all moral response, are inevitably triggered by conspecifics. This is not a call for recognition of an irrational element in morality; it is a call for us to recognize the best rational systematization of morality. The moral circle expands under rational pressure, but the intuitions which motivate it, and which serve as the constant reference points in achieving reflective equilibrium, are never entirely left behind.

I have no wish to defend our current practices with regard to non-human animals, which seem to me to involve (at minimum) a great deal of unnecessary suffering. However, it is far from clear to me that justice to animals requires granting them rights. I see no reason why the moral landscape might not be a lot more uneven than defenders of rights believe. Animals may be much more morally considerable than Cohen seems to think, without however possessing the inherent value and therefore the moral rights that Regan, for instance imputes to them [15]. Rights might turn out to track species membership, *as well as* non-relational properties. Whether we are entitled to eat animals, or use them in research, would then be a further question, and the answer to it may be no less uncomfortable for animal exploiters than the one that Nobis seems to hope for.

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NOTES

- [1] N. NOBIS (2004) Carl Cohen's 'kind' arguments *FOR* animal rights and *AGAINST* human rights, *Journal of Applied Philosophy* 21,1, pp. 43–59.
- [2] C. COHEN (1986) The case for the use of animals in biomedical research, *The New England Journal of Medicine* 315, 14, p. 866.
- [3] PETER SINGER calls this '[t]he central argument against abortion.' PETER SINGER (1993) *Practical Ethics* (2nd Ed.) (Cambridge, Cambridge University Press), p. 138.
- [4] J. RACHELS (1991) *Created from Animals: The Moral Implications of Darwinism* (Oxford, Oxford University Press), p. 173.
- [5] COHEN, *op. cit.*, p. 866.
- [6] RACHELS objects that kind membership cannot be what matters here, since this would exclude a being that possesses all the capacities of a human being, but fails to belong to a kind in which these capacities are usual (RACHELS, *op. cit.*, p. 187). It is easy enough to meet this objection, however: if kind membership is a sufficient condition, but not a necessary condition, of moral rights, than RACHELS' gifted chimpanzee can qualify.
- [7] NOBIS, *op. cit.*, p. 53.
- [8] J. LAPORTE (2004) *Natural Kinds and Conceptual Change* (Cambridge, Cambridge University Press), p. 19.
- [9] It is worth remarking that, contrary to the common Kripke-Putnam view of biological kinds, biologists do not divide organisms into kinds on the basis of shared genes, but instead on the basis of descent. Species and other taxa are *historical* kinds, but no less natural for that.
- [10] Understanding DP as a moral principle allows us to avoid a range of counterexamples to DP advanced by Nobis which do not require explicit attention here. In addition, DP should be understood as applying only in cases in which A is a living and intact member of the relevant species, not a corpse or a skin cell (for instance).
- [11] J. RAWLS (1971) *A Theory of Justice* (Oxford: Oxford University Press, 1971), pp. 54ff.
- [12] For a review of the evidence, see (for instance) M. RIDLEY (1996) *The Origins of Virtue* (London, Viking) and M. RUSE (1998), *Taking Darwin Seriously: A Naturalistic Approach to Philosophy* (2nd ed.) (Amherst, Prometheus Books).
- [13] The term 'selfish gene' is from Dawkins. See RICHARD DAWKINS (1989) *The Selfish Gene* (2nd Edition) (Oxford University Press).
- [14] See P. KITCHER (1985) *Vaulting Ambition: Sociobiology and the Quest for Human Nature* (Cambridge, Mass., The MIT Press), and more recently E. SOBER and D. S. WILSON (1998) *Unto Others: The Evolution and Psychology of Unselfish Behavior* (Cambridge, Mass., Harvard University Press).
- [15] See T. REGAN (1983) *The Case for Animal Rights* (Berkeley, University of California Press).