

## Facing Animals at Harvard

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April 24, 2007

A few years ago, I had an idea for a project which I called The Initiative for Ethics and Animals at Harvard. I was envisioning the establishment of an interdisciplinary center aimed at broadening and deepening our understanding of the ethical relation between people and animals. I actually got quite far with this idea, and enlisted a considerable amount of support for it within the Harvard community. But after a while I concluded that the time was not yet ripe. I was able to get only so far before I ran into a couple of important barriers which I will tell you about in a moment. First, however, I want to say something more about the vision for the initiative itself.

My idea was to bring together students, scholars, practitioners and professionals to explore the ways in which animals are or have been thought to be in ethical relation to human beings. A guiding tenet was to be that the ethical consideration of animals is as much about people as it is about the animals, that reflection on the moral standing of animals is inseparable from the moral self-reflection of human beings.

My proposed Ethics and Animals Initiative was not to be a disguised form of animal advocacy. Rather, it would endeavor to promote sustained, rigorous and engaged inquiry into one of the most complex and vexing issues of our time. It would aim for inclusiveness and comprehensiveness, inviting all points of view, creating new avenues of dialogue and discussion in an open spirit of exploration and exchange.

A decade or so ago concern for the ethical treatment of animals was, with notable exceptions, the province of activists bound together in common cause by strongly held beliefs. By and large, these people were regarded as a fringe element in society seeking to disrupt the *status quo* through protests and demonstrations, some of which were, and still are, violent. The beliefs held by these individuals were rarely subjected to self-scrutiny, and exchanges with differently-minded people, to the extent that they took place, were largely a

matter of defending firmly-held positions. The ethical treatment of animals conceived in terms of an animal rights *debate*, was more of a matter of taking sides than of open-minded questioning.

Over the past decade or so, exploration of the ethical treatment of animals has become increasingly important—thanks in no small measure to the individuals you have just heard from. We are coming to see that who we are as moral beings and how animals ought to be treated are really two sides of the same ethical coin. And not only ethical. The question of how animals ought to be treated is part of a much larger question of the representation of animals in human culture, of what we think animals are and how we view ourselves in relation to them.

This question can be, and indeed has been, addressed from many different perspectives: religious, anthropological, psychological, historical, scientific, legal, philosophical, artistic. Yet it is seldom addressed in concert. Imagine what it would be like if these and other disciplines regularly spoke with one another, making common exploratory cause in the endeavor to broaden and deepen our understanding. The interdisciplinary nature of such an endeavor would have far-reaching consequences for teaching, research, policy and practice. It would educate and engage, inform and reform.

Whereas ethics programs currently exist at most major universities, including Harvard, their focus is essentially on human ethical concerns, e.g. biomedical ethics or human rights. In addition, at a smattering of other universities, programs exist in which the ethical treatment of animals is central, e.g. the Center for Animals and Public Policy at Tufts, but these programs are housed in schools of veterinary medicine where their scope and impact are necessarily limited. In the scope and sweep of its concern, the initiative I was proposing for Harvard was to be a significant departure from these models. It was to span virtually every area of the University—from business to basic science--incorporating disparate voices into a lively and ongoing conversation.

Well, that was my vision. I was pretty sure it would attract widespread student support and in this I was not mistaken. The bigger question for me in trying to get my

project to take hold was whether the faculty would support it as well. In this I was pleasantly surprised. Almost everyone I spoke with said that it would be a good thing if there were an ethics and animals initiative at Harvard, that they could see themselves participating in some fashion, even if it meant only coming to events, and that they saw the benefit of such an initiative to their students. In fact, the proposal I put together had an advisory board consisting of some very prominent faculty—names you would recognize instantly. They came from all corners of the campus, and from other universities as well. So, there was plenty of faculty interest and support. And, if I may say so myself, there was administrative know-how. How many philosophers start their own business? There I was, rarin' to go. It wouldn't have hurt, of course, if I had had a pot of gold. But I knew where the money was, and also how much excitement on the part of moneyed interests the prospect of a Harvard initiative could generate. Again, I was rarin' to go. All I lacked, or so I thought, was the official seal of approval, the Harvard *imprimatur*.

What I didn't reckon is that faculty *leadership* was needed in addition to faculty support. My project required someone who would not only attend events but who would sign on to the project and take responsibility for its success, devoting lots of time and energy to it, as I was prepared to do myself. I searched high and low for that person, and at one point I was pretty sure I had found her, but in the end no one stepped up and the project foundered. Perhaps I set my sights too high. But, then, the idea of a truly interdisciplinary seemed to require that kind of effort.

If I were going about this today as a Harvard student, I would promote events like the one here tonight, in the hopes of generating the kind of excitement and interest that could lead to something more permanent. And, in putting together these events, I would invite participation of the broadest sort—from faculty in divergent disciplines, and from practitioners, artists and educators. I would avoid debates, however, as I said before. Efforts on behalf of animals need to move off that space. A spirit of genuine openness and inquiry, in which we strive to learn from one another, must prevail. If I were a Harvard student today, I would also invite classroom discussion, wherever relevant, and seriously

consider taking up the subject of ethics and animals as a research project, whether an independent study, or senior thesis or graduate dissertation. Indeed, I wish I had done so myself, when I was a graduate student here a number of years ago.

A lack of faculty leadership was the first barrier that I encountered in trying to make a go of my idea for a Harvard initiative. The second barrier that I encountered was deeper and more intransigent. It is one thing to talk about live animals in far-off lands, or animals as Wiccan totems and Hindu deities, or about Bugs Bunny and Roger Rabbit. It is another thing altogether to talk about the caged animals in our own backyard. If a Harvard initiative for ethics and animals is to be real and robust, then those who conduct animal research on this campus must be fully engaged in the conversation. If the project of facing animals is really to take hold, then we must face ourselves as well.

I myself have been engaged of late in thinking about animal research. More specifically, I have been thinking about a certain class of experiments in which animals experience significant pain and distress that is not relieved. In thinking about these experiments, I have found it useful to consult the *United Nations Convention Against Torture* (1987). At this point, I would like to switch gears for a few minutes and tell you a little about my thinking.

The *United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The *Convention* goes on to state that the prohibition against torture is absolute. “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal

political instability or any other public emergency, may be invoked as a justification of torture.”

The U.N. Convention is quite explicit in defining “torture” as acts by which severe pain and suffering are inflicted on *people*. Does it matter that we are talking about people and not animals? While some forms of torture are specific to human beings—recent examples being the sexual and religious degradation and humiliation of Iraqi prisoners at Abu Ghraib—other forms of torture are commonly applied to humans and animals alike. These include the so-called stress-and-distress techniques of sensory deprivation, sleep deprivation, starvation, shackling, and the sudden withdrawal from highly addictive drugs. Lately, we have been hearing a lot about a form of torture called “waterboarding” in which a person is bound and flooded with water to induce a sensation of drowning. Considered illegal at the time of the Vietnam War, waterboarding has been widely used against suspected terrorists in Iraq, Guantanamo, and in the no-longer-secret C.I.A. prisons. Senator John McCain, who was himself tortured during the Vietnam War, has been outspoken in his condemnation of waterboarding as torture.

Waterboarding is a technique that is used in animal experimentation as well. And the technique works in just the same way. It leads the animal to think it is dying—a kind of fake execution, if you will—but without causing any lasting physiological harm. The purpose of employing the waterboarding technique in animals is to study the physiological concomitants and behavioral effects of extreme states of stress.

The US Department of Agriculture is charged with enforcing the regulations of the Animal Welfare Act. In discharging its responsibility, the agency requires that every animal experiment be assigned to one of three “pain and distress” categories. Category C experiments cause animals minimal, momentary or no pain and distress, Category D experiments cause them pain and distress that are relieved by anesthetics, tranquilizers or analgesics, and Category E experiments cause pain and distress that are both significant and unrelieved. The USDA requires that a yearly report be filed in the case of Category E

experiments only, describing each procedure and stating a reason why the pain and distress cannot be relieved.

Pain and distress regulations allow for great latitude in interpretation. A 1992 report which breaks down category E statistics by states shows that the reporting is wildly discrepant, with Kansas (45.5%), Washington (30.4%) and Colorado (26%) reporting substantially more than 25 percent of animals in category E, and Arkansas (0.0%), Delaware (0.7%), Florida (0.7%), Maryland (0.8%), Massachusetts (1.0%), Nebraska (0.1%) and Texas (0.7%) reporting one percent or less. In addition to being wildly discrepant, these figures are seriously misleading in that studies involving rats, mice and birds, which constitute the overwhelming majority of animal experiments, are *exempt* from the reporting requirement. A 2004 report lists a total of approximately 87,000 animals in Category E experiments, but the exclusion of rats and mice makes this figure meaningless. Clearly, no one really knows how many animals are used in experiments that cause significant and unrelieved pain and distress.

There can be no question that Category E experiments are, in the words of the U.N. Convention, acts “by which severe pain or suffering, whether physical or mental, [are] intentionally inflicted.” Is there any reason to doubt, therefore, that Category E experiments are acts of torture? Does it matter that we are talking about animals and not human beings? I think it does not. If human beings are capable of being tortured by the very same techniques used to bring about severe pain and suffering in animals, it is because humans, too, are animals. If torture achieves its desired effects, it is because humans and animals alike are mortal and vulnerable to, in Hamlet’s words: “the heart-ache and thousand natural shocks that flesh is heir to.” It matters not whether the torturer’s aim is to extract state’s secrets from human beings or nature’s secrets from animals, to exact revenge for crimes against humanity or give vent to sadistic impulses. (By the way, I say “if” torture achieves its desired effects because it has been shown that animals, whether human or nonhuman, who are in great pain and distress, tend to produce misleading information.)

After defining torture, the *U.N. Convention* goes on to state that torture is prohibited absolutely, with no exception whatsoever. Does the *Convention's* absolute prohibition against torture, like its definition of torture, likewise apply to animals? I think it does not. Whether we agree with the U.N. Convention that the prohibition against human torture is absolute or regard the human prohibition only as a very strong presumption that can be overridden in highly exceptional circumstances, the prohibition against animal torture does not have equal force. The right against torture does not protect animals as much as it protects human beings.

Consider the classic “ticking bomb” scenario, where we have good reason to believe that a person in our custody knows the whereabouts of a bomb that will go off in a very short period of time, killing hundreds of thousands of people. Do we or do we not torture the person? If the prohibition against torture is absolute, we do not. If it is not absolute, and we can reasonably suppose that torturing the person will lead the person to disclose the bomb’s location, then we do. Now consider a variant of this scenario where there is good reason to believe that the person will disclose the bomb’s location if, instead of torturing the person herself, we torture her prized racehorse. Do we or do we not torture the horse? In this scenario, I think our intuitions provide clear direction. We ought to torture the horse. Indeed, we ought to torture the horse even if, as in the classic scenario, we believe that we are absolutely prohibited from torturing the person.

Having said all this, I hasten to add that the weaker prohibition against animal torture must not be taken to mean that we can torture animals for reasons that are less than necessary or that the standard of necessity is lower in the case of animals than in the human case. In other words, the weaker prohibition against animal torture does not mean that we are permitted to torture animals when it is merely useful whereas we may torture human beings only when it is necessary. An action does not become necessary when we can substitute an animal for a person. Rather, an action is necessary if, as in the examples above, the consequences of not performing the action are utterly disastrous. Because we may torture an animal instead of a person, animals and people do not have equal rights with

regard to the prohibition against torture. But the substitution of an animal for a person is morally permissible only on the independently-determined condition that the action itself is necessary.

In *The Lesser Evil: Political Ethics in an Age of Terror*, Michael Ignatieff describes the safeguards needed to secure dignity and liberty when a situation of great danger calls for the abrogation of human rights. In order not to weaken the rule of law protecting human rights, the situation must be a genuine emergency that does not evolve into something permanent, the decision to abrogate must remain open to public and adversarial scrutiny, and emergencies “must not be proclaimed on grounds that involve bad faith, manipulation of evidence, exaggeration of risk, or prospect of political advantage.”<sup>1</sup> Ignatieff persuasively argues that the rule of law is compromised not “by emergencies *per se*, but by the politicized construal of risk to justify emergency measures that are not actually necessary to meet the threat at hand.”<sup>2</sup>

In filing Category E reports, researchers must show that their experiments are well-designed, not duplicative, that less harmful alternatives to the experiments do not currently exist, and finally that the unrelieved pain and distress, no matter how significant, is necessary in the sense of being *integral* to experimental design. Notably, the experiment itself needn't be shown to be necessary. Instead, it must pass the test of having merely “potential value to society.”

On almost every point, Category E experiments fail to justify the abrogation of a right, whether human or animal, not to be tortured. The test of potential value is so weak that virtually anything could pass it. The determination of necessity is internal to the experiment and has no independent ground. The situation of danger or risk is not a genuine emergency. And, finally, Category E experiments are a permanent and in some cases prominent feature of animal experimentation.

As things stand, Category E experiments are not only legal—as is, for example, in certain states, the cruel sport of cock fighting. They are institutionally-sanctioned and

professionally-rewarded as well. In this lamentable state of affairs, torture is not at all a fringe phenomenon. It is normal; indeed, it is *ennobled* as part of the calling of science.

How do we safeguard the right against torture? We do it the way we safeguard other rights—through, in Ignatieff’s words, “open and adversarial scrutiny.” There are many routes to the open and adversarial scrutiny of the animal right against torture, including sitting on committees that oversee the care and use of animals in experimental settings—the so-called IACUC’s which parallel the Institutional Review Boards (IRB’s) that regulate the ethics of human experimentation. The most important one, in my view, is urging the press, as the paramount instrument of open and adversarial scrutiny, to report on animal experiments in a way that informs the public of the costs in animal suffering as well as the benefits to human beings. I have much more to say on this subject but there is not time to go into it here.

In raising the question of animal torture within the walls of the academy, I have touched on a difficult subject of conversation. Nevertheless, if a Harvard initiative for ethics and animals is to be real and robust, we must find a way of having conversations like this one, of facing animals *and* ourselves. In the words of John Rawls, who was a professor here at Harvard and is by most lights the greatest moral philosopher of the 20<sup>th</sup> century, the ethical treatment of animals is a subject of “the first importance.” If we truly believe this, then we must summon the courage to act accordingly.

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<sup>1</sup> Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton University Press, 2004) p. 37. Ignatieff himself regards certain rights, including the right not to be tortured, as absolute and inviolable (nonderogable) under any circumstance whatsoever.

<sup>2</sup> Ignatieff, pp. 52-3.