CHAPTER V
PASSMORE ON ANIMAL RIGHTS

Traditional discussions on 'rights' have usually been confined to the rights of humans but an area that has gained considerable momentum in recent years in the field of ethics is the 'animal rights' debate or simply the debate about human beings' treatment of animals. Rights or deontological theory is a non-consequentialist moral theory, which holds that whether an act is right or wrong, is inherent in the act itself. Supporters of this view believe that individuals can never be treated as means - they are ends in themselves. Most of the participants in the animal rights debate agree that it is wrong to treat animals cruelly, to inflict needless pain and suffering, and to kill for no good reason. They also agree that pain and suffering should be eliminated from the process of rearing and killing animals for food as far as possible. They agree that some people do treat animals cruelly, and many animals do suffer a great deal, sometimes needlessly, in meeting the demands for human beings for food and as subjects to experiment on. Many argue that what makes the human practice wrong is the fact that animals' right is violated.

Animal rights refers specifically to the extension of rights-based theories to non-human animals and generally to a political movement
with the philosophical foundations in both the Utilitarian and rights-based traditions in ethical theory. A great many philosophers, scientists and laymen alike are now championing the cause of animal rights by examining the claims of sentience, interests, desires, consciousness, etc. The questions often raised range from whether or not the animals have moral standing to whether or not humans have an obligation to animals and sometimes to whether or not humans owe respect for them.

People who support animal rights believe that animals are not ours to use for food, clothing, entertainment, experimentation, or any other purpose and that animals deserve consideration of their best interests regardless of whether they are cute, useful to humans, or endangered and regardless of whether any human cares about them at all. They argue animals should have the right to equal consideration of their interests.

Tom Regan in his *The Case for Animal Rights*\(^1\) most eloquently articulated the view that 'animals have rights'. He believes that there is no moral justification for denying moral consideration to beings that cannot bear moral responsibility. Moral agents, he says, have direct duties to other individuals who are not moral agents - they are called

moral patients. Moral agents have a responsibility to treat moral patients with respect by refraining from harming them. He explicitly rejects rationality as the basis for the right to life and argues that the right to life is based upon inherent value. For Regan, only beings with inherent values have rights. He says ‘if we postulate inherent value in the case of moral agents, then we cannot nonarbitrarily deny it of moral patients’.

Inherent value is the value that individuals have independent of their goodness or usefulness to others. Rights are the things that protect this value. In order to possess moral rights, he argues, an individual must not be merely sentient but also a “subject-of-a-life”. Only self-conscious beings capable of having beliefs and desires, which can conceive of a future and entertain goals, are subjects-of-a-life. He believes that basically all mentally normal mammals of a year or more are subjects-of-a-life and thus have inherent value, which allows them to have rights.

Another rights theorist who advocates the extension of moral consideration beyond the human community is Gary Francione, who rose to prominence in the animals rights debate since the publication of his groundbreaking work, *Introduction to Animal Rights: Your child or the*

\[^2\text{Ibid. p.240}\]
\[^3\text{Ibid. p. 243}\]
He argues that we have a moral intuition that "it is wrong to inflict unnecessary suffering on animals", yet our actions fall well short of our moral wisdom. The routine suffering we inflict on animals is unnecessary in every sense of the word. The reason he gives for the disparity between our intuitions and our actions is that animals are considered property. Francione argues that there is no moral justification for attributing to all humans, from infants to the severely retarded, the basic right not to be treated as property whilst simultaneously denying the same right to animals. He believes that the only requirement for entry into the moral community is sentience.

Peter Singer’s Animal Liberation: A New Ethics for our Treatment of Animals challenged the attitude that animals are ours to use in whatever way we see fit and offered a ‘new ethic’ for our treatment of animals. This book also provided the moral foundation for animal liberation movement, and at the same time paved a way for philosophers to begin addressing the moral status of animals. He says:

My aim is to advocate that we make this ‘mental switch in respect of our attitudes and practices towards a very large group of beings: members of species other than our own- or, as we

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5 Ibid., xxii, xxiv
6 Peter Singer, Animal Liberation: A New Ethics for our Treatment of Animals, New York Review, 1975
popularly though misleadingly call them, animals. In other words, I am urging that we extend to other species the basic principle of equality that most of us recognize should be extended to all members of our own species. 7

Singer argues that the principle of equal consideration applies not only to humans but also to all sentient beings (beings capable of experiencing pain and pleasure). He illustrates this with Jeremy Bentham's famous testimony of animal’s rightful place in the moral community.

"A full grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month, old. But suppose they were otherwise, what would avail? The question is not, Can they reason? Nor can they talk? but, can they suffer?" 8

Singer holds that without the capacity to suffer or to experience pleasure, without sentience, a being has no interests. He says there is no moral reason for denying moral consideration to a being that suffers. Equal consideration, he adds, demands that the suffering of one being be counted equally with the like suffering of another being. 9 To deny equal consideration to a being on the basis of species alone is guilty of

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7 Peter Singer, All Animals Are Equal, in Hugh La Follette (ed), Ethics in Practice, Blackwell Publishers 1997, p116
8 Bentham in Singer, Ibid 119-120
9 Ibid, p120
speciesism. For Singer, speciesists violate the principle of equal consideration by giving greater weightage to the interests of their own species than the interests of other species and that just as someone who discriminates on the basis of race is racist; someone who discriminates on the basis of species is speciesist. 10

For Singer Utilitarianism in its classic form, aims at minimizing pain and maximizing pleasure. Many non-human animals can experience pain and pleasure. They are morally significant entities, therefore having moral standing.11 The only right he attributes to animals is the right to equal consideration of interests, and anything that is expressed by talking of such a right could equally well be expressed by the assertion that animals' interest ought to be given equal consideration with the like interest of humans12- the equal consideration of interest being the avoidance of suffering. He says, "If a being suffers, there can be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle of equality requires that its suffering be counted equally with the like suffering- in so far as rough comparisons can be made- of any other beings.

10 Ibid.,
11 Singer, Utilitarianism & vegetarianism, Philosophy and Public Affairs, 1980 vol 9,no.4, p307)
12 Singer, The Fable of the Fox, Ethics, vol88, 1978,p112
One enormously influential position on this issue is that which links the possession of rights to the possession of interests. Leonard Nelson is among the first to propound the view that all and only beings which have interests can have rights.\(^{13}\) He is emphatic that animals as well as humans are carriers of interests. Following Nelson, Mc Closkey embraced this view that the beings having interests have rights but denied that animals have interests.\(^{14}\) For him, a being needs two requirements in order to possess rights. Firstly a being should be able to possess things\(^{15}\) Secondly, a being should have interests. Animals have neither of these so they cannot be possible possessors of rights. He explains thus-

"The concept of interests which is so important here is an obscure and an elusive one. Interests are distinct from welfare, and are more inclusive in certain respects- usually what is dictated by a man's welfare is in his interests. However, interests suggest much more than that which is indicated by a person's welfare. They suggest that which is or ought to be or which would be of concern to the person/being. It is partly for this reason-because the concept of interest has this evaluative-prescriptive overtone- that we


\(^{14}\) Mc Closkey, Rights, 1965 115-27

\(^{15}\) Ibid
decline to speak of the interest of animals, and speak rather than of their welfare.¹⁶

Feinberg links the possession of rights to the possession of interests by affirming that animals have interests. He reaches this conclusion for two reasons. Firstly, a holder of rights must be capable of either claiming his rights or having its rights represented; secondly, a rights holder must be capable of being a beneficiary in its own person. But a being or thing cannot be represented and cannot be a beneficiary if it has no interest because (a) a being without interest has no ‘behalf’ on which others might act and (b) a being that is incapable of being benefited or harmed, since it has no good or ‘sake’ of its own. Interests presuppose awareness, expectation, belief, desire, aim and purpose. Without them a being can have no rights; without interest, it cannot be benefited; without the capacity to be a beneficiary it can have no rights.¹⁷ The only part of non-human world, he says, that can be said to have rights is the animal world. Animals especially the higher animals have appetites, needs, sentience, awareness and the capacity to feel pain, frustration, or deprivation. They have interests, the rights which can be represented by human beings; they can be beneficiaries of rights. He does not fully say that all animals have rights but he does hold that

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¹⁶ ibid.
¹⁷ Feinberg, reprint 1991, p.264
"animals are among the sorts of beings of whom rights can meaningfully be predicated or denied."\(^{18}\) Kenneth E. Goodpaster backs Feinberg by arguing that plants and even bio-systems have genuine interests, too, and thus should be accorded rights.\(^{19}\)

Passmore also holds that only the beings capable of having interests can have rights but denies at the same time, like McCloskey, that animal can have rights. But I am convinced, he says, that it is appropriate to speak of animals as having ‘interests’ unless ‘interests’ are identified with needs- and to have needs, as a plant, too, has needs, is by no means the same thing as to have rights. It is one thing to say that it is wrong to treat plants and animals in a certain manner, quite another thing to say that they have a right to be treated differently.\(^{20}\) For him, ‘the idea of ‘rights’ is simply not applicable to what is non-human’.\(^{21}\) He echoes D.G.Ritchie by saying that animals cannot have rights, by not being members of the human society. Animals are viewed, thus, as means to our ends, as instruments for our development, our interests, our quality of life.

\(^{18}\) Ibid 264
\(^{19}\) Kenneth E Goodpaster, On Being Morally Considerable, The Journal of Philosophy, Vol.75, No. 6 (June, 1978), p308-325
\(^{20}\) Passmore, Attitudes, 1975,p 262).
\(^{21}\) Passmore1974,116
Passmore's attitude conforms to the views of many natural rights theorists, who no doubt recognize that there is an environmental crisis but claim that to solve it we need only reform current practices. No radical shift in our moral or metaphysical self-conception is needed. For example, we need to pay more heed to the rights of people than to clean air and water. Industries that infringe on such rights must be encouraged and if necessary, forced to clean up wastes. According to this humanistic viewpoint, it is morally acceptable to kill off millions of species, drastically alter the biosphere, and treat animals and plants like machines, so long as these activities do not interfere with human 'rights. To those who regard such treatment of non-humans as callous and even immoral, natural rights theorists reply that we can do moral evil only to beings that have rights against us as moral agents. And non-humans allegedly have no such rights.

Following the same vein, for Passmore, the core concept of morality, such as the concept of rights, does not apply to something called nature. Animals and plants either individually or collectively, do not recognize mutual obligation, do not participate in moral community. Nature should be respected not because it has rights, or has inherent worth, interests or a good of its own, but because such an attitude of respect is consistent with living a rational, moral, and humane life. By destroying aspects of nature we risk our health and the health of our
future generations, and also debase ourselves by being destructive, cruel or simply insensitive. He argues at length the attitudes that have influenced man's relationship with nature, to be concluded with the same and simple view that 'animals do not have rights'.

Sometimes we are met with the suggestion that animals form with men a single community and so can be said to have rights. Aldo Leopold includes 'soils, waters plants and animals' in his community of ethical beneficiaries, i.e., in his 'land ethic'. Yet nothing is to be gained, in Passmore's view, in holding that human beings share a moral community with the rest of nature. It is because human beings differ from the rest of nature in the following ways- different mutual obligations, different interests and different community. He however admits:

"....ecologically men form a community with plants, animals, soil in the sense that a particular life-cycle will involve all four of them. But if it is essential to a community that the members of it have common interests and recognize mutual obligation, then men, plants, animals and soil do not form a community"\(^{22}\)

Men, plants, animals, the biosphere form parts of a single community only in the ecological sense of the word, each dependent

\(^{22}\) Passmore 1974 p 116
upon the others for its continued existence. But this is not the sense of community, which generates rights, duties, and obligations. Men and animals, he argues, are not involved in a network of responsibilities or a network of mutual concessions. He further writes

Bacteria and human beings do not recognize mutual obligation, nor do they have common interest. In the only sense in which belonging to a community generates ethical obligation, they do not belong to the same community."²³

Michael Allen Fox also argues that the question of rights and obligations arise only on the context of moral community.²⁴ What characterizes beings to belong to moral community, he says, are critical self-awareness; the ability to manipulate complex concepts and to use a sophisticated language and the capacity to reflect, plan, deliberate, choose and accept responsibility for acting. These characteristics are possessed by autonomous beings, persons or moral agents who are said to have 'basic moral rights'. He claims that the attributes of humans that explain why they have developed the concepts of rights and obligations and the institutions associated with them are human's possession of a particular kind of reflexive consciousness, unique cognitive and linguistic abilities, and the capacity to comprehend, undertake, and carry

²³ Ibid
²⁴ Fox 1997, p.129
out obligations and to expect the same of similarly constituted beings. He further gives two reasons to show that only autonomous beings have rights. Firstly, autonomous beings are capable of free (self-determining, voluntary), deliberative, responsible action and have the sort of awareness necessary to seek this kind of action as essential to nature, well-being and development as individuals. Secondly, autonomous beings are capable of recognizing autonomy in others and of full participation in the moral community. Fox’s conclusion is that animals cannot be qualified for having rights as they fail to meet the conditions specified for full membership in the moral community. He also adds that animals fail to function as equals in a society of autonomous beings and cannot be counted within the bond of association that makes morality and its institutions viable. Animals are therefore denied full and equal moral status (and hence full membership in the moral community) for reasons that are morally relevant, namely their lack of autonomy and moral agency. Richard Watson argues that possessing rights presupposes that one had duties as well. Since non-humans cannot perform duties, non-humans lack rights.25

Passmore’s view that rights cannot be applied to what is not human speaks for itself that it makes sense to speak of rights only on the

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context of human beings or human society. This argument that the concept of rights derive exclusively from human society presumably rests on a social contract account of rights. Passmore's account of animal rights fits well into the "Social contract theory" or "contractualism", a theory, which has been "unfriendly towards animals". Under contractualism, morality consists of a set of rules that individuals voluntarily agree to abide by, as we do when we sign a contract. Those who understand and accept the terms of the contract are covered directly; they have rights created and recognised by and protected in the contract.

Let me refer here to John Rawls, who in his "A Theory of Justice," sets forth a version of contractualism. According to Rawls, we are to think of morality as a set of principles or rules for establishing social arrangements that would be devised by rational agents from behind a veil of ignorance. While the agents or contractors are supposed to have knowledge of all general truths of psychology, economics and so on, they are to be ignorant of their own particular qualities like their intelligence, physical strength, projects and desires as well as the position they will occupy in the resulting society. Their choice of moral principles are to be made in the light of broadly self-interested desires.

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26 Val Routley, 1975, p 175
27 Mark Bernstein, 1997, p 49
28 John Rawls, 1971
(such as those of happiness, freedom, power, etc.) and that the agents know they will possess whatever particular desires and interests they subsequently come to have.\textsuperscript{29}

Morality is here pictured as a system of rules to govern the interaction of rational agents within society. It therefore seems inevitable, prima facie, that only rational agents will be assigned direct rights on this approach. Since it is rational agents who are to choose the system of rules, and choose self-interestedly, it is only rational agents who will have their position protected under the rules. There seems no reason why rights should be assigned to non-rational agents. Animals will, therefore, have no moral standing under Rawlsian contractualism, in so far as they do not count as rational agents.

In his article, "The Treatment of Animals,"\textsuperscript{30} Passmore provides a well researched and eye opening study of the historical ideas about the moral status of animals in western thought. Throughout his discussion of man's treatment of animals, he dwells on that attitude of man, which does not allow animals into the morality parameters. Passmore however admits a change of attitude over the last century and a half, where man

\textsuperscript{29} Carruthers 1992, p98

has begun to recognize that he ought not unnecessarily to inflict pain on animals. This means that man recognize at least one point at which the relationships with nature are governed by moral principles. But in his attempt to show that man's attitude has changed in his 'treatment of animals', his emphasis is on the reluctance of the western man to accept any restriction on his supposed right to deal as he pleases in nature and on what pattern changes in his moral outlook has come about. This change, he says, has been a movement based on the growing recognition that not only positive delight in suffering but even callousness, an indifference is a moral defect in human beings. Here too Passmore falls back to the western traditions to search for grounds for a more radical assessment of man's relationship for nature.

He points out that the Stoic teaching..., that the Universe exists only for the sake of its rational members carried with it the conclusion that between man and animals —to say nothing of the plants— there was no sort of legal tie.

Christianity, like Stoicism, he says, has not thought of man as being bound by moral consideration in his dealings with animals. To strengthen this position, he mentions Augustine's understanding that God 'is quite unconcerned about man's treatment of nature; all God

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31 Passmore, 1974, p111
32 Ibid
33 Passmore, 1974, p111

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cares about is man’s relation to God and his Church’. Christ himself, Augustine writes, shows that to refrain from killing of animals and the destruction of plants is the height of superstition for, judging that there are no common rights between us and the beasts and trees, he sent the devils into a herd of swine and with a curse withered the tree on which he found no fruit.” Augustine continues, “Surely the swine had not sinned, nor had the tree”. Animals, that is, have no rights. Christ, who might simply have destroyed the possessing devils, chose rather to transfer them to swine in order to make that fact perfectly clear to men. At another point, Passmore shows Augustine as saying that animal suffering means little or nothing to human beings. “We can perceive by their cries”, he writes, “that animals die in pain although we make little of this since the beast lacking of rational soul is not related to us by a common nature.” Passmore sums up Augustine’s view by saying that we need not concern ourselves with the suffering of the animals since they lack reason and because they have no rights. He finds the source of Augustine’s teaching in the stoics who thought it obvious that animals are devoid of reason. He says that the stoics, like Augustine, were ready to conclude that animals lack reason and thus lacking rights. He parallels Christianity with stoicism saying that it has not thought of man as being bound by moral considerations in its dealings with animals.

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35 Passmore, 1995 p191
In order to show that the rational creatures have the right to govern the irrational, Passmore quotes Aquinas thus: 'If any passages of Holy Scripture seem to forbid us to be cruel to brute animals, for instance to kill a bird with its young, that is either to remove men's thoughts from being cruel to other men, or lest through being cruel to animals one becomes cruel to other human beings, or because injury of an animal leads to the temporal hurt of man, either of the doer of the deed, or of another; or because of some signification...’

Passmore also shows Kant as denying any duties both towards animals and landscapes. For Kant, animals are not self-conscious and are there merely as a means to an end, the end being man. Considerate treatment of animals was nothing but man's indirect duty to humanity. According to Kant, a legal relationship including direct mutual obligations could exist only between rational beings. Anyone who is cruel or callous in regard to animal suffering was regarded as being callous in his dealings with mankind. Inversely, 'tender feelings towards dumb animals develop humane feelings towards animals'. Kant cannot see how man can be said to have a duty to animals as distinct from a duty relating 'to or concerning' animals. What he talks about is our duty

36 Passmore 1995 p201
37 Ibid 202
towards other men or a duty towards ourselves. Passmore concludes the
discussion on Kant's view by saying that it is a matter of common
observation that kindness to animals is often substituted for kindness to
human beings.

Passmore's intention here is to show that behind this attitude to
animals lays a theology that insists that there is an absolute barrier
between man and beast. He brings in an instance to show that man owes
his duties to his fellowmen, but not to the animal kingdom. Passmore
takes side with Aquinas and Kant, in arguing that 'in so far as cruelty to
animals was wrong, this was only because it might induce a callousness
toward human suffering. There was nothing wrong with cruelty to
animals in itself.' What Passmore emphasizes, following the Stoics is
on the fact that animals cannot reason and therefore have no rights.

Passmore shows Descartes and Malebranche as having held the
view that 'it is impossible to be cruel to animals, since animals are
incapable of feeling'. In his "Attitudes to Nature," Passmore informs us of
Descartes denying, 'that animals can so much as feel, let alone exercise
intelligence'. In other words animals not only cannot reason but also

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38 Passmore 1974 p113
39 Passmore John, 'Attitudes to Nature', in R.S.Peters (ed), Nature and Conduct, Royal Institute of
Philosophy Lectures, Vol. 8 (London and Basing stoke 1975), p255
cannot feel. Malbranche’s view was such that all suffering is the result of Adam’s sin: animals, as not implicated in that sin, cannot suffer.

Andreas-Holger Maehle has a point to make in regard to the view that ‘animal cannot feel’. He points out that the crucial point in the Cartesian ‘beast-machine’ theory was the question of pain. But, he argues, Descartes himself had not held the view that animals were absolutely insensitive to pain but it was some of his followers who had propogated this view. Maehle informs us that, on the French writer Bernard La Borier de Fontenelle’s visit to Malebranche, the later kicked a pregnant bitch that had rolled at his feet and had coolly responded to Fontenelle’s cry of compassion with the laconic words: “so what? Don’t you know that it has no feeling at all?”

John Cottingham has also denied Descartes to holding the thesis that animals are without feeling. He says that the strongest evidence comes from the letters written by Descartes himself where he denies speech to animals. In his writing to More, Descartes says that the sounds made by horses, dogs etc... are not genuine language, but are ways of communicating to us ...their natural impulses of anger, fear, hunger and

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41 Ibid
so on'. Cottingham also shows another letter of Descartes written to Newcastle thus:

"If you teach a magpie to say good-day to its mistress when it sees her coming, all you can possibly have done is to make the emitting of this word the expression of one of its feelings. For instance it will be an expression of the hope of eating, if you have habitually given it a tit-bit when it says the word. Similarly, all the things which dogs, horses, and monkeys are made to do are merely expressions of their fear, their hope, or their joy; and consequently, they can do these things without any thought...."\(^{42}\)

Cottingham further points out that that the phrases like 'impulses or anger, fear, hunger'; 'expression of one of these feelings'; 'expression of fear, hope and joy' are quite extraordinary phrases to use for a man who is supposed to believe animals are 'without feeling or awareness of any kind'. This instances gives us the pointer that Descartes did not actually hold the view that animals have no feelings in the way Passmore has spelled out.

These teachings, says Passmore, were more than 'metaphysical speculations'. 'They had a direct effect on seventeenth century behavior

\(^{42}\) Cottingham, John, "'A Brute to the Brutes?': Descartes’ Treatment of Animals" Philosophy 53, 1978, p556
as manifested, for example, in the popularity of public vivisections, not as an aid to scientific discovery but simply as technological display'.

Plutarch attacked the sharp contrast between man and animals, which has been typical of stoics, in order to show ‘that animals were quite capable of reasoning’. To the stoic view “we shall be living the life of beasts once we give up the use of beasts” or the view that ‘civilized men simply cannot afford to allow that animals are rational’, Plutarch suggests a reply. He presents in the form of a reply, that there is no injustice in punishing and slaying such animals as are vicious, “anti-social and merely injurious”. Nor is there any injustice in taming those animals which lend themselves to domestication, “making them our helpers in the tasks for which they are fitted by nature”, training dogs as sentinels, or keeping herds of goat and sheep to be milked and shorn. For men, too are punished or put to death if they are vicious and men too are trained for particular tasks for which they are by conduct suited. If men are to deal justly to animals, they need to alter their conduct by giving up slaughtering them for the table and give up such sports involving cruelty to or the death of animals. His argument that sport should be joyful and between playmates who are merry on both sides reconciles being just to animals while sustaining civilization at the same time. For

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43 Passmore, treatment, p204
civilization does not depend, Plutarch is confident, either on the eating of the meat or on blood sports. Porphyry agrees with Plutarch in saying that animals 'are not entirely alienated from our nature' but went further by writing:

He who does not confine harmless conduct to men alone but extends it to other animals, most closely approaches to divinity and if it were possible to extend it to plants, he would preserve this image in a still greater value degree.\(^44\)

Passmore shows that the view that animals have rights came to the forefront in the eighteenth and nineteenth century as a result of that same reforming zeal which led to the abolition of slavery and underlay the Reform Bills. Skeptics attacked the Stoic presumption and that man and man alone, is endowed with a rational soul, and, along with this, the Stoic conclusion that men had no duties to animals. Montaign, in his Apology for Raimond Sebond states that it is absurdly presumptuous of men to set themselves above animals as its absolute ruler or to suppose that animals lack rationality. In his 'Essay on Cruelty' he ended up saying that we have a general duty to be humane, not only to animals as possess life and feeling but even to trees and plants. David Hume devoted a chapter of his 'Enquiry' to the reasoning of animals, arguing

\(^{44}\) as quoted in Passmore, 1975, p207
that in respect of everyday reasoning, the minds of men and animals work in exactly the same way. But he admitted that men are not restrained in his dealings with nature by “the cautious, jealous virtue of justice.” He argued that “we should be bound by the laws of humanity to give gentle usage to these creatures.”

Poets and novelists, as well as moral philosophers are shown to have prepared their way for a new attitude to animals, as indeed to Nature as a whole. This has been, Passmore admits, a characteristic of a moral change. But he insists that “what has happened over the last century and a half in the West is not that animals have been given more power, more freedom, or anything else which might be accounted as a right”. Rather what has happened, in his opinion, is that men have lost rights: they no longer have the same power over animals, they no longer treat them as they choose. He further adds, “but that men have lost rights over them does nothing to convert animals into bearers of rights, any more than we give rights to a river by withdrawing somebody’s right to pollute it.”

By tracing the process by which Western men have divested themselves of certain rights to treat animals as they pleased, Passmore

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45 Passmore, Treatment of Animals, 209
46 Passmore, Treatment, 1975, 212
has tried to show that throughout the intellectual history of the Western world there have been occasional philosophers or theologians who have condemned such cruelty as intrinsically wrong. Other moralists, however have sought to show that it is wrong only indirectly, in so far as cruelty to animals encourages cruelty to man. In arguing so, Passmore comes up with two points- one, the history we have been tracing is at once discouraging, in so far as it took two thousand years for western man to agree that it is wrong to treat animals and, two, that man’s opinion on such matters can change with considerable rapidity. The change in moral attitude, he says, is a restriction of rights rather than an extension of them.

I conclude with some observations Passmore made in regard to the change of attitude in man’s treatment of animals. These observations, he says, were ‘in passing’, ‘straws in the wind’, ‘personal reactions of unusual sensibility.’ Yet it would not be appropriate to interpret them as mere expressions of individual over-sensibility. In the seventeenth and eighteenth centuries the ground was evidently prepared for the rise of the humane movement of the nineteenth century. In the 1820s and 1830s, the first important animal protection societies were founded. In 1824 the society for the Prevention of Cruelty to Animals was

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47 Passmore, 1975, p209
established in London, known since 1940 as the Royal SPCA. In Germany the pioneer animal protection societies were those of Stuttgart, founded in 1837, Dresden and Nuremberg, both founded in 1839. The programmes of these societies included enforcement of the animal protection laws and education of the general public.⁴⁸ As a consequence of the latter aim, a new genre of literature emerged in the first decades of the 19th century comprising rather popularly written, sometimes inflammatory treatises against cruelty to animals. The successes of the humane movement in Britain are well known: after the Act of 1822 to "prevent cruel and improper treatment of cattle", in 1835 a Cruelty to Animals Act established the illegality of blood sport involving the baiting of animals, the keeping of cock-pits and of places for dog-fights. Cock-fighting as such was prohibited by an Act of 1849 'for the more effectual Prevention of Cruelty to Animals'.⁴⁹ In 1876 Britain enacted the world's first law regulating experiments on living animals.⁵⁰

Modern historians of the animal protection and anti-vivisection movements in the 19th century convincingly argued that the former was also directed against elements of social disorder, particularly disorder

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⁴⁸ Harrison 1982, Ritvo1987, Troler and Maehle 1990
⁴⁹ Malcolmson 1973; Ritvo1987
⁵⁰ French 1975
associated with blood sports and that the latter actually fought against a scientocratic and materialistic view of the world. Yet the continuity of the modern humane movement with 17th and 18th century thought in the ethics of humane relationships with animals should not be forgotten. Henry S. Salt, for example, who in 1891 founded the Humanitarian League in London where he explicitly took up again the late 18th century concept of animal rights, quoting directly from the writings of Primatt, Bentham and Lawrence. Primatt argued that the suffering of animals was worse than that of human beings, because animals had no hope for future life. Moreover, as speechless creatures they were unable to accuse their tormentors, and as irrational beings, they could not act morally and therefore could not endure pain as punishment. For animals, Primatt concluded, present pain was the only evil and present happiness the only good. Because of this an animal, as long as it lived, had a 'right to happiness'.

There are already some hints in Primatt's thoughts indicating that the faculty to suffer pain was to become the new criterion for the concession of rights. He attacked indeed the old criterion of rationality. Primatt regarded the mental powers of a being as God-given just as its

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51 Malcolmson 1973; Turner 1980; Ritvo 1987
52 French 1975; Rupke 1990
53 Hendrick 1977
54 Salt, 1894
55 Primatt, 1779, p39-40
physical characteristics were. Just as the white man had no right to treat the black man as a slave and in a tyrannical way because of the God-given color of his skin, so an intelligent man was not allowed to oppress a fool. This meant, in Primatt’s view, that man did not have a natural right to abuse or torture an animal, just because it did not possess mental powers of a human being. The qualities of both human beings and animals come from God.\(^55\)

Jeremy Bentham’s often quoted statement on animals ‘the question is not, can they reason? Nor can they talk? But, can they suffer?’ not only included the same essential message, but was formulated in a very similar context. He compared the status of animals in England with that of human slaves in other countries and argued for the existence of animal rights just as for the abolition of slavery. He pointed to the French Code Noir of 1685, which regulated the status of slaves in the West Indies, forbidding the killing of slaves by their masters and entitling the royal authorities to protect slaves from maltreatment. According to Bentham ‘the French had already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may come one day to be recognized that the number of legs, the villosity of the

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\(^{55}\) Primatt, 1778
skin or the termination of the os sacrum are reasons equally insufficient for abandoning a sensitive being to the same plight’. Bentham’s utilitarianism looks not to the rationality of the agent or the patient. If all pain is evil, as Bentham thought, then the pain of animals ought not to be ignored in man’s moral decisions. For Bentham it is irrelevant whether or not they are rational and to what degree. It is enough that they are capable of suffering.

As discussed in the beginning of this chapter, even in current philosophical debates on the treatment of animals a remarkable revival of historical concepts can be observed. Peter Singer and Tom Regan have followed in Primag’s and Bentham’s footsteps by making sentience the criterion which gives a moral status to animals. On this ground they condemn animal experimentation as well as ‘factory farming’ as an expression of unwarranted ‘speciesism’ and a violation of animal rights respectively. Both Singer and Regan assert that animal’s painful and pleasurable experiences are qualitatively and quantitatively the same as those of humans and that, hence, animals have a capacity to enjoy life equal to that of humans. While Singer is the pioneer of ‘animal liberation movement’ the latter is of ‘animal right movement’. Singer asserts in so far as animals can suffer equally with humans, they have

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Michael Fox, Ethics, 1978 p107
equal claim to relief, since pain is pain to whomever it is inflicted. Regan contends that animals have a natural right to life, in addition to the right to equal consideration of interests with humans in the matter of treatment, which cannot be overridden except by the most stringent utilitarian considerations. He maintains that just as no amount of human pleasure equal to or greater than a given amount of non-trivial animal suffering caused by man can even neutralize the moral condemnation engendered by the infliction of that suffering, so too, the death of animal cannot, in general be justified by the amount of human pleasure which is consequent upon it. His reason for saying this is that any argument which purports to show that animals have a right not to be maltreated or unjustly caused to suffer to a degree equal to or greater than the level of someone else’s gain in pleasure, or that human beings have a right to life, will also hold in the case of animals (at least higher sentient beings).

Following Singer and Regan, a number of professional philosophers began devoting serious attention to the ethics of the treatment of nonhuman animals. The new animal rights groups, such as People for the Ethical Treatment of Animals (PETA), The Fund For

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58 Regan, 1975, Canadian Jl of Philo, p198)
Animals, and the Farm Animal Reform Movement (FARM), Animal Legal Defense Fund (ALDF), Animal Liberation Fund (ALF) etc. emerged in the forefront. They not only used ideas that emerged from the philosophical debate to question the very use of animals, especially in agriculture and science but also emphasized direct action by devoting to illegal actions such as stealing ('liberation') lab animals in order to prevent the animals from the hands of experimenters. The International Vegetarian Union (IVU) was founded in 1908 when the first World Vegetarian Congress was held in Dresden, Germany with the aim to promote vegetarianism throughout the world. The knowledge that other creatures other than humans have feelings, and that their feelings are similar to ours encourages one to extend personal awareness to encompass the suffering of others. More and more people are now opting for vegetarianism that understand that to contribute towards a more peaceful society we must first solve the problem of violence in our own hearts. In a thousand ways, the revolution is gaining ground. From the near nation-wide ban on cockfighting to making animal abuse a felony crime in 37 states, from eliminating the use of animals to train doctors in two thirds of U.S. medical schools to teaching animal rights and the law seminars at over two dozen universities, from increasing media coverage of animal welfare/rights issues to a 2003 Gallup Poll finding that 96% of Americans say that animals deserve some protection from abuse and 25%
say that animals deserve "the exact same rights as people to be free from harm and exploitation" it is clear that human beings are beginning to change their views about other species.