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## David DeGrazia on Animal Rights: A Critical Analysis

The present advancement of studies and research on the legal and moral status of animals does not inspire much optimism. Great hopes triggered by the publication, first in 1975, of Peter Singer's book on *Animal Liberation*<sup>2</sup> are still awaiting fulfilment. This book by the Australian philosopher was certainly a pioneering work, since it was probably for the first time in the 20th century that societies of the Western (and not only the Western) countries came to know the great scale of animal suffering and exploitation. One may, however, ask: was it indeed a break-through book? To some extent, the answer to this question should be affirmative as Singer's views found profound resonance in scientific and journalistic circles. Many subsequent books and articles have thenceforth taken up, on a large scale and with a great insight and subtlety, the matter of suffering and anguish inflicted by humans upon animals. Regrettably, in spite of this across-the-board response from thinkers, philosophers and social activists, animal fate is not significantly better than it was before the publication of *Animal Liberation*. Animals continue to be killed on a large scale for food, tormented in research laboratories for the sake of 'advancement of humankind' and kept in circuses and zoos for fun and entertainment of onlookers.

However, social practices that are so hostile to animals do not prevent those dedicated to improving their fate from taking recurrent efforts aimed at convincing the wider public and individuals to change their attitudes and approach towards non-Homo Sapiens species. Although the voice of those who reveal the profound injustice in animal treatment by humans is still not loud enough, one may nurture hope that any attempt at making this voice stronger and recognizable is worth taking. Observations and reflections of David DeGrazia, American social philosopher and bioethicist, are one of such endeavours at a new approach to animal status. Presentation of DeGrazia's views is the subject of this article which aims at examining both the strengths and weaknesses of his theory. The first part of this article contains a recapitulation of DeGrazia's approach, while in the second part, his concept is subjected to critical analysis, including a brief outline of polemical remarks and observations that any theory that promotes animal protection based on the endowment of rights must be confronted with. I would like

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<sup>2</sup> P. Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals*, New York 1975.

to express my hope that by capturing flaws in the approach of animal rights advocates, DeGrazia being one of them, can contribute to eliminating these deficiencies and thus making the arguments in favour of improving animal fate more convincing as well as more widely accepted.

## 1. Presentation of DeGrazia's approach

Certain key ideas of the ethical and legal system proposed by David DeGrazia that form the main axis of all his deliberations can be distinguished. These are: 1) the concept of the moral status of animals, including its most vital component elements, that is a) the coherence model of ethical justification, b) the theory of non-human person, and c) the principle of equal consideration; 2) deliberations on animal minds, and 3) practical guidelines for an immediate reform of human behaviour towards animals.

### 1.1. Animal minds (criterion of sentience)

As regards the philosophy of the mind of representatives of the animal kingdom, David DeGrazia conducts detailed and insightful analyses in this field which lead to quite an unambiguous conclusion that, despite significant differences between various species, the great majority of animals which humans ever encounter are sentient beings, that is to say they have a capacity to feel, and thus have interests. This finding is of immense importance for the author's ethical system because having interests is the basis for being included into a moral community.

Why do only sentient beings have interests? It is because the prudential theory of value applies above all to beings who can be better or worse off and whose welfare can be established. Sentient animals have, for example, an interest in avoiding unpleasant feelings. The inclusion of sentient animals only in a moral community is more coherent with other principles of the reflective equilibrium than the assertion that non-sentient beings also have interests<sup>3</sup>.

The assertion that only sentient animals have interests is also very much based on the common sense. Those animals can experience unpleasant conditions such as pain, discomfort, danger, fear, anxiety and suffering, although some sentient animals may be unable to experience all such states. These states are unpleasant because they are neither preferred, anticipated nor desired. Quite the contrary, animals are motivated to avoid those conditions that cause them<sup>4</sup>. Meanwhile, non-sentient animals such as amoebas, oysters and insects cannot by definition feel anything nor can they experience any unpleasant states. Hence, non-sentient animals do not have interests, and where there are no interests, there is nothing moral to be protected. Then again, all sentient

<sup>3</sup> D. DeGrazia, *Taking Animals Seriously. Mental Life and Moral Status*, Cambridge 1996, p. 226.

<sup>4</sup> The ability to feel pain as a criterion for being a part of the moral community is also mentioned by James Rachels who observed that every animal that has the ability to feel pain has the right not to be tortured, and the rationale for this view is derived from the fact that experiencing pain is intrinsically bad. Likewise, if we grant people the right to freedom because we consider freedom to be good in itself, and they are capable of enjoying it, then we must also grant the right to freedom to any other animal that is capable of wanting to act in one way or another. J. Rachels, *Why Animals Have a Right to Liberty*, in: T. Regan, P. Singer (eds.), *Animals Rights and Human Obligations*, New Jersey 1989, p. 126. According to different approach, the ability to suffer is a sufficient condition to have a moral status. See: Ch. Hoff, *Kilka refleksji moralnych o eksperymentowaniu na zwierzętach* [Eng. *A Few Moral Reflections on Experimentation on Animals*], „Etyka” 1980/18, p. 65.

beings have interests and a moral status<sup>5</sup>. Dorota Probučka shares this view and emphasizes that to have interest is to have needs, the realization of which is of particular importance for survival and development, what is significant is that these needs should be susceptible to expression in some way which simultaneously must not necessarily take the form of verbal articulation or manifestation<sup>6</sup>.

It is quite natural and convincing to talk about a harm inflicted to a plant, yet not about its well-being. If the requirement of sentience is apt, then although reference to what is right or wrong, beneficial or harmful to plants and non-sentient animals is not necessarily erroneous, yet these terms are not properly applied to these beings in the moral sense.

Many of our ethical intuitions are quite well explained by the requirement of sentience. Kicking dogs, beating horses and other forms of harming animals are clearly *prima facie* wrong. Justification of any such behaviour requires special reasons, such as protecting a child from being bitten by an angry dog. On the other hand, removing weeds, trampling grass by soccer players, crushing stones for fun or killing indisputably non-sentient animals such as amoebas or insects does not generally seem wrong, not even *prima facie*, just as long as these actions do not affect the interests of sentient beings. It would seem neurotic to be concerned about trampled grass while jogging through a park.

It follows from these deliberations that ethics and law *should* deal with animals because they have interests. Naturally, not all animals have interests, since in line with the above considerations, this criterion is fulfilled by sentient animals only. In other words, it is the animals that have their desires, preferences, worries and fears and are capable of suffering and feeling joy that have interests. This group certainly includes mammals and birds<sup>7</sup>.

There does not seem to be any need for a thorough elaboration to defend the view that animals can think and feel. This can be taken for granted. Anyone who comes into contact with common pets such as a dog or hamster, or farm animals such as a calf or piglet, will be inclined to confirm that these animals can reason, express joy, fear suffering, or show resistance when pain is inflicted<sup>8</sup>. As emphasized by Jan Woleński, the Cartesian argument, i.e., the thesis that animals feel nothing, is completely false<sup>9</sup>. Richard D. Ryder is of a similar opinion and accentuates that regardless of the number of limbs or fluffiness of the fur, we all are capable of suffering<sup>10</sup>. Andrzej Majewski expressed this view even more profoundly by asserting that it is true that all animals feel pain<sup>11</sup>.

<sup>5</sup> On different meanings of the notion of sentience see: R.G. Frey, *Interests and Rights. The Case Against Animals*, Oxford 1980, p. 34ff. According to this author, sentience may be understood as 1) reaction to any stimuli, 2) reaction to sensory stimuli, 3) capacity for feeling pain, and 4) having a nervous system essentially similar to that of humans. In his view, none of these approaches is convincing or unproblematic because they do not provide the necessary and sufficient conditions for their application.

<sup>6</sup> D. Probučka, *Prawa zwierząt* [Eng. *Animal Rights*], Kraków 2015, p. 209.

<sup>7</sup> D. DeGrazia, *Taking...*, p. 40.

<sup>8</sup> K. Smykowski, *Eksperymenty medyczne z wykorzystaniem zwierząt. Studium teologicznomoralne* [Eng. *Medical Experiments with the Use of Animals: Theological and Moral Study*], Lublin 2017, p. 148.

<sup>9</sup> J. Woleński, *Podmiotowość zwierząt w aspekcie filozoficznym* [Eng. *Animal Subjectivity in the Philosophical Aspect*], in: T. Gardocka, A. Gruszczyńska (eds.), *Status zwierzęcia. Zagadnienia filozoficzne i prawne* [Eng. *Animal Status: Philosophical and Legal Issues*], Toruń 2012, p. 22.

<sup>10</sup> R.D. Ryder, *Szowinizm gatunkowy, czyli etyka wiwisekcji* [Eng. *Species Chauvinism, or Vivisection Ethics*], „Etyka” 1980/18, p. 40.

<sup>11</sup> A. Majewski, *Aksjologiczne podstawy prawnej ochrony zwierząt w aspekcie humanitarnym* [Eng. *Axiological Foundations for the Legal Protection of Animals in a Humanitarian Aspect*], „Gdańskie Studia Prawnicze” 2000/7, p. 376. While admitting this, it must be added that not all animals feel pain to the same degree, thus not with the same moral weight.

Furthermore, one can say without a high risk of error that David DeGrazia would agree with Hans-Johann Glock's canon in that animals are rational in an external sense, i.e., they maximize their biological fitness or utility, but also in an internal one, as they can act for reasons in several senses. Thus, their behaviour is subject to intentional explanations, i.e., they can act in the light of reasons and they can deliberate<sup>12</sup> while the ability to think can be ascribed to them based on their behaviour, without the need to reduce them to behavioural disposition, as logical behaviourism demands<sup>13</sup>.

## 1.2. Methodology (coherence model)

The coherence model of justifying the accepted convictions is the methodology that David DeGrazia advocated for deliberation on the moral status of animals. Forming of a correct coherence theory begins with the adoption of a set of judgements that for valid reasons can be considered reliable and at the same time discarding judgements formed in circumstances known to generate unreliable ones. Thus, any erratic judgements formed in anger and irritation, either purely insentiently or subject to a risk of being distorted by self-interest, should be rejected. Quite the contrary, judgements that are well-reflected upon and prudent, i.e., judgements that we have confidence in after reflecting on them, that is after their careful consideration, examining counter-arguments and testing for bias or prejudices, should be the starting point.

Considered judgements can be further revised or rejected. Starting with a set of well-considered judgments, we then attempt to formulate principles that explain at least the majority of them. It is possible that some tested, considered judgments will become principles. Where there is a conflict between considered judgements, one should strive to eliminate them by applying the same criterion of coherence as when selecting the first, initial set of considered judgements, rejecting those that are less coherent with the whole set<sup>14</sup>.

It is assumed in the coherence theory that our considered judgments are initially reliable. Some examples that can be mentioned here are as follows: killing a human being for no reason is wrong, unreasonable torture is unjustified, rape is an immoral act. DeGrazia rightly goes beyond citing these examples and some general judgments that are practically certain and for this reason rightly regarded to be considered judgments. DeGrazia attempts to present moral judgments that are less than obvious and initially also have the nature of reliable ones. The theory of moral status of animals should offer more than merely saying that it is *prima facie* wrong to inflict suffering on animals. To justify judgements that are less general, but at the same time highly reliable, one must expand the set and consider acceptable judgements. On the one hand it provides more material to build a theory, yet on the other hand it leads to a great risk of bias and sidedness. For example, most people are probably convinced that causing harm to animals used for a good purpose is in principle non-problematic, and any complexities

<sup>12</sup> H.-J. Glock, *Can Animals Act For Reasons*, „Inquiry” 2009/3, p. 232.

<sup>13</sup> H.-J. Glock, *Wittgenstein and Davidson on Animal Minds*, in: C. Verheggen (ed.), *Wittgenstein and Davidson on Language, Thought, and Action*, New York 2017, p. 161.

<sup>14</sup> D. DeGrazia, *Taking...*, p. 20.

that may appear would apply to the manner of use, intensity as well as conditions and circumstances. However, what is very likely to occur here is a bias in favour of humans<sup>15</sup>.

### 1.3. Equal consideration principle

Once the methodological principle has been outlined, the innovative idea of David DeGrazia which involves the introduction of the equal consideration principle to be widely used in the area of morality can be presented. This principle in its positive aspect means that equal moral weight is to be given to relevantly similar interests of other human or animal beings. In its negative aspect, it excludes a general disregard for the interests of animals, however, this disregard should not be understood as being a total denial, as this would be too weak a position, but as devaluing, without exception, their interests as compared to human interests<sup>16</sup>. Treatment of animals as less than equals is an assertion that their interests mean less than human ones simply because it is animals that have these interests. For example, under such an approach, the interest of a chimpanzee in avoiding suffering of a certain intensity matters intrinsically less than the interest of a human being in avoiding suffering of the same intensity.

On a practical level, equal consideration precludes a routine overruling of animal interests in favour of human benefit and opposes the view that animals are a resource to be exploited by humans. It is not against a *certain* use of animals for human purposes. To the contrary, unequal consideration entails a conviction that humans and animals have a fundamentally different moral position, and thus a hierarchy exists between them in which those at the top can treat those below them as resources to be used for improvement of their lives. For those in favour of equal consideration, unequal consideration is a form of feudalism and aristocracy that has survived in the contemporary liberal democracy<sup>17</sup>. If equal consideration is to be extended to animals, then every animal interest must be taken into account in an equal way.

Different humans and different animals have differing interests. Women have an interest to have a competent gynaecological health care in a way that no men have. Children have an interest in acquiring reading and writing skills, and dogs do not have it. Competent adult human individuals have an interest in making decisions concerning their own medical care, while mice have no such interest. On the other hand, if a man and a rat endure suffering which is equal in terms of its duration and intensity, then their suffering has the same moral weight and importance.

Equal consideration means giving equal moral weight to substantially similar interests, which is a key concept here. We tend to think that what is acceptable to one person in avoiding pain, which is simply regarded as distress, is similar for another person. Likewise, avoiding pain of similar properties in the case of a dog has the same moral weight as for a human being. Thus, sentient animals, including humans, possess substantially similar interests in avoiding pain<sup>18</sup>.

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<sup>15</sup> It is noteworthy that the likelihood of bias does not entail that a judgement is wrong. A judgement on special duties to one's own children is subject to a high risk of bias due to the natural feelings and positive emotions for one's own offspring, yet this judgement is very likely to be correct.

<sup>16</sup> D. DeGrazia, *Taking...*, p. 46.

<sup>17</sup> D. DeGrazia, *Taking...*, p. 47.

<sup>18</sup> This is admitted even by Gerald H. Paske, an opponent to granting animals the right to life, who agrees with the view that there are small differences between the rational and physical abilities of some people and some animals.

The undisputed advantage of animal rights theory of David DeGrazia is the state of equilibrium, that is the absence of exaggerations and excessive promotion in favour of one of the conflicting parties. The said conflict is a controversy around the issue how to develop a convincing concept that falls between the traditional perception of animals as having insignificant or no moral status and meant to be exploited freely by humans and a newer predisposition to reject any moral difference between animals and humans<sup>19</sup>. The issue of animal liberation can therefore be approached from two different angles, which leads to the recognition of two approaches: the animal welfare movement and the animal rights movement<sup>20</sup>. Animal welfare organizations focus on improving living conditions of animals guided by the conviction that they need to be accorded compassion and care, yet do not oppose the exploitation of animals by humans in various forms of human activities. Animal rights activists, both individuals and institutions, emphasize the need to utterly forsake animal exploitation. In their opinion, animals should enjoy an unrestricted right to live, develop and be free from any form of exploitation by humans<sup>21</sup>. Important questions arise, such as who is right in this battle, how should the moral status and animal rights be understood, and which of the obvious differences between humans and animals are morally significant?

#### 1.4. The meaning of the 'animal rights' concept and its consequences

DeGrazia deliberates over the sense in which animals have personal rights. The matter is a complex one because the concept of 'personal rights' is ambiguous. The American bioethicist distinguishes different meanings of this concept, as presented below.

Firstly, to say that a being has rights means that it has a moral status and exists other than solely for the purposes of being used by another being. This type of rights is referred to as moral status rights<sup>22</sup>. To have rights in this sense, it is sufficient to have a degree of moral status. This is an understanding which is quite remote from radicalism, since it is assumed that animal interests have moral significance in themselves and should not be overruled without a valid reason. Nonetheless, given the broad understanding of the 'right' reasons, a company testing cosmetics on animals to protect its financial interests could be justified, which seems quite unsatisfactory.

Secondly, the assertion that someone has rights may mean an acknowledgment that they deserve equal respect for their interests. If so, their interests count as much as comparable interests of another being. If, therefore, we were to assume that interests of animals deserve equal respect as interests of humans, then, for example, their interest

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G.H. Paske, *Why Animals Have No Right to Life: A Response to Regan*, „Australasian Journal of Philosophy” 1988/4, p. 510.

<sup>19</sup> Urszula Zarosa is therefore right in pointing out that there is a strong tendency of dichotomy, that is taking one of the two positions, i.e., animals are either machines or subjects. U. Zarosa, *Status moralny zwierząt* [Eng. *Moral Status of Animals*], Warszawa 2016, p. 90.

<sup>20</sup> T. Pietrzykowski, *Etyczne problemy prawa. Zarys wykładu* [Eng. *Ethical Legal Problems: Framework Lecture*], Katowice 2005, p. 361; T. Pietrzykowski, *Spór o prawa zwierząt* [Eng. *Dispute on Animal Rights*], Katowice 2007, p. 79.

<sup>21</sup> K. Smykowski, *Eksperymenty...*, p. 47.

<sup>22</sup> The term 'status' means a position or (legal) status. Therefore, it means a position of something in relation to something else or on account of a certain criterion. In this sense, for instance the social status is the position of a given person or a group of persons examined in relation to other people. Philosophical status can thus be defined as the place in the logical structure of reality. See: J. Lejman, *Ewolucja ludzkiej samowiedzy gatunkowej. Dzieje prób zdefiniowania relacji człowiek-zwierzę* [Eng. *The Evolution of Self-Knowledge of Human Species: History of Attempts at Defining the Human-Animal Relationship*], Lublin 2008, p. 59.

in avoiding suffering is just as important from a moral perspective as that of humans. The suffering of an animal is thus just as important as the suffering of people.

In the third sense, granting rights means that important interest protected by the said rights in principle takes precedence over social objectives, where their attainment is hindered or blocked by it. This interest thus prevails over utility, even if its protection could be detrimental to a society as a whole<sup>23</sup>.

DeGrazia is in favour of the second meaning, which is associated with his two innovative ideas, so far non-existent in philosophical and legal considerations: unequal status and the concept of non-human person. The first is based on the recognition that equal consideration must be distinguished from equal treatment. DeGrazia relies on intuition to assert that while the majority of humans would acknowledge that animals are subject to the principle of equal consideration, yet typical paradigmatic humans and animals are different in a morally significant way. In his view, the mere possibility of this intuition being true suggests the need for a concept that allows degrees of a moral status<sup>24</sup>.

Equal consideration is coherent with a justified inflicting of harm in certain cases. DeGrazia enumerates three situations of acceptable inflicting of suffering to animals. Firstly, medical tests on animals are morally acceptable if the expected benefits are significant and highly likely to be achieved. Secondly, an animal may be killed in a situation of a threat of starvation, if its death is quick and painless. Last but not least, thirdly, it is admissible to restrict a dog's freedom, if its behaviour obstructs neighbour's daughter from playing freely; the legitimacy of this limitation is based on the conviction that a restricted freedom of a dog is a lesser loss to it than a similar restriction of a child's freedom. According to DeGrazia, all these three examples reflect significant moral differences between animals and humans. Beings which are privileged in these circumstances, i.e., human individuals, have a higher moral status. The unequal moral status constitutes the grounds for justified harming of animals in certain situations<sup>25</sup>.

With regard to the second idea, that is the concept of non-human person, it should be raised that in the past any considerations regarding personality (being a person) usually referred to humans only. It has been relatively recent that questions began to appear whether only human ways of existence, that is embryos, newborns, adults, or patients in coma have a life that can be considered valuable. The scope of analysis was expanded to include a question why a single-cell embryo is considered to be of greater value than a young calf reared on an industrial farm<sup>26</sup>.

### 1.5. Border persons

DeGrazia begins his deliberations on the notion of person by analysing a number of cognitive suggestions. He criticizes the concept of Harry Frankfurt that persons are beings who are capable of autonomy, that is they possess the ability to critically analyse motivations for action and then either approve those motivations or reject them and seek change. DeGrazia considers this concept too demanding in view of the necessary cognitive development and proceeds to discuss Singer's approach to consider rational

<sup>23</sup> D. DeGrazia, *Prawa zwierząt. Bardzo krótkie wprowadzenie* [Eng. *Animal Rights: A Very Short Introduction*], Kraków 2014, pp. 27–30.

<sup>24</sup> D. DeGrazia, *Equal Consideration and Unequal Moral Status*, „The Southern Journal of Philosophy” 1993/1, p. 26.

<sup>25</sup> D. DeGrazia, *Equal...*, p. 27.

<sup>26</sup> J.W. Walters, *What is Person. An Ethical Exploration*, Urbana–Chicago 1997, p. 78.

and self-aware beings as persons. DeGrazia again emphasizes that there are degrees of rationality and self-consciousness<sup>27</sup>. As a result, DeGrazia acknowledges that the concept of person has blurred boundaries and is not definable in terms of the set of necessary and sufficient conditions<sup>28</sup>. In fact, it cannot be unambiguously, precisely and definitely identified with any of the abilities usually associated with it, such as autonomy, rationality, self-consciousness, linguistic competence, sociability and the ability to act intentionally and morally. On the one hand, it is commonly believed that being a person is not dependent on possessing all the above qualities at the same time. On the other hand, it is also not sufficient for a person to have just one of these qualities only. The author thus proposes to accord the name of a person to a being that retains a sufficient number of these abilities relevant for the status of personhood. Since it is not possible to draw a non-arbitrary line to determine how many of those abilities are sufficient, this entails the assumption that there is no precise denotation of personhood. In practice, it will only be possible to identify 'model' persons and the relationship of a sufficient similarity to them, and thus to establish a blurred-edge set of 'persons'<sup>29</sup>.

DeGrazia coined the term 'border persons' for the category of beings sufficiently similar to the *Homo Sapiens* species. Border persons include those beings that fall in the category between the model persons and beings that are certainly not persons. Border persons include above all the Great Apes, i.e., chimpanzees, pygmy chimpanzees (bonobos), gorillas and orangutans, but not gibbons and siamangs. All whales, dolphins and porpoises should also be included in the category of border persons. Border persons fall within this category because they are sufficiently advanced in terms of their cognitive, emotional and social abilities and in their behaviour display the sense of purpose, reasoning and planning skills<sup>30</sup>.

## 1.6. Practical guidelines

In terms of practical guidelines, in addition to condemning industrial farms, extensive and ill-considered medical experiments and majority of zoos, DeGrazia encourages us to ponder on a certain analogy, namely that reasonable people would agree that kicking a hamster for mere whimsy is an exemplification of unnecessary harm being inflicted. However, how should we assess a case when someone does not directly cause harm, but strongly supports it, thus making it more likely? It is reasonable to claim that the spirit of the principle of non-harm and other moral considerations endorse a moral judgment of such behaviour. If, for instance, you have not kicked anybody yourself, but you have paid a friend a modest sum of money to kick a hamster for a mere whim, then, assuming no force is implied in this request, it is right to claim that you have not caused the harm which your friend did inflict. Nonetheless, it must be said that you have both behaved wrongly, both your friend who caused unnecessary harm and you as the person who encouraged and commissioned this harm to be inflicted. Not inflicting harm in a direct way does not release you from your moral liability for its occurrence<sup>31</sup>.

<sup>27</sup> D. DeGrazia, *O byciu osobą poza gatunkiem Homo sapiens* [Eng. *On the Question of Personhood beyond Homo sapiens*], in: P. Singer (ed.), *W obronie zwierząt* [Eng. *In Defense of Animals*], Warszawa 2011, p. 65ff.

<sup>28</sup> D. DeGrazia, *Great Apes, Dolphins, and the Concept of Personhood*, „The Southern Journal of Philosophy” 1997/35, p. 301.

<sup>29</sup> D. DeGrazia, *O byciu...*, p. 67.

<sup>30</sup> D. DeGrazia, *O byciu...*, p. 69.

<sup>31</sup> D. DeGrazia, *Taking...*, p. 260.



The essence of thus outlined problem lies in the formulation of principle of non-harm, which, without exaggeration, lends sense to the idea that we often bear moral responsibility for the conduct we support (also financially). Hence the maxim advocated by the author of *Taking Animals Seriously*: make every reasonable effort not to provide financial support for institutions that cause or support unnecessary harm. And while the concept of 'reasonable effort' is quite a general one, it is not useless<sup>32</sup>. As follows, DeGrazia encourages us not to buy or eat meat, and thus not to support companies killing animals for food.

DeGrazia would probably agree with the statement that, at this phase of development, it is not possible to entirely give up experimenting on animals. However, the volume and nature of experiments should be greatly reduced. As emphasized by Krzysztof Smykowski, experimenting and testing on animals with a view to test substances other than those that serve important human interest, i.e., protection of values such as life and health, must be considered unacceptable. Stress and pain inflicted upon living beings on whom products aimed at giving pleasure to people rather than the basic necessities are tested, such as cosmetics or tobacco products, is not balanced by human interest. The above-named author adds an important remark that people with at least a minimum degree of sensitivity would lose their joy and satisfaction that comes with the use of goods obtained through animal suffering, had they known the price animals pay for satisfying their pleasure. Not every improvement in human well-being is a justification enough for causing harm and inflicting suffering to other living organisms<sup>33</sup>. Social boycott of those drugs and products whose manufacturing process violates moral principles seems to be one of the right methods of animal protection<sup>34</sup>.

## 2. Dilemmas associated with DeGrazia's proposal

Merits of the DeGrazia's theory include the initiation of the principle of equal consideration into a broader intellectual discussion and the creation of the 'border person' concept and the general deontological dimension of this message. Nonetheless, despite being attractive, this theory is not devoid of drawbacks. Let us discuss some of them.

### 2.1. Shortcomings of the rights based conception: the problem of scope of animal rights and positive obligations

The theoretical system developed by DeGrazia fails to resolve an important question, namely whether humans should interfere at all in the life of naturally living animals, and if so, what should the degree of this interference be and what direction could it follow? Would the implementation of the postulate to leave animals in peace mean a full veto on interference with their lives, including a ban on feeding them, or rescuing, or treating when injured? There is no denying of shrewdness in Janusz Majcherek's remark that leaving animals alone to live in harmony with nature entails seeing them to be links of the food chain, since the category of respect for individual life does not exist in nature, not even within the same species. Janusz Majcherek cites a number of examples to support this assertion: birds throw their own chicks out of their nests if they

<sup>32</sup> D. DeGrazia, *Taking...*, p. 262.

<sup>33</sup> K. Smykowski, *Eksperymenty...*, p. 158.

<sup>34</sup> K. Smykowski, *Eksperymenty...*, p. 167.

are unable to feed all; a pride male will kill cubs of other rival adult lions; male seals rape penguins and then devour them; dolphins happen to masturbate using fish; orcas play deadly games with captured seals or penguins; wolf pups are allowed to bite to death the prey previously hunted down by mother wolf; parasitoids lay eggs in a living body of their prey and the larvae then feed on it, yet without killing the host<sup>35</sup>.

It would indeed be quite inconsistent to recognize that a hare has the right to a life, physical integrity and freedom, all while accepting that wolves need not respect these rights, since they are not aware of the rights of their prey. The content of the animal rights concept with regard to those living in the wild entails leaving them alone, that is allowing them to live free and unrestrained, and thus without any human interference. This, however, implicates acceptance of young chicks being devoured by predators, frogs being caught by storks, wolves hunting for roe deer and otters catching fish<sup>36</sup>. Thus, the right to live free in the wild provides no protection against the risk of being attacked and devoured by other animals. We must comprehend the problems in the realization of the principle of moral protection of life and its quality and acknowledge that killing is a natural process in nature. Consequently, we cannot prevent a lion from hunting or reproach it for killing and eating a gazelle. We simply must accept it or else, according equal rights to all living beings, we face a challenge of differentiating predation from murder, and thus a dilemma whether to charge lions with murdering gazelles or to force them to live as vegetarians instead<sup>37</sup>.

Majcherek raises important problem for animal rights advocates that concerns the subjective scope of these rights. Are they to be granted to individual beings, communities, populations or species? For the sake of exemplification, are these laws intended to protect individual ants, anthills, populations of ants, species of ants or perhaps the whole ecosystems, or the entire biosphere, of which ants are part?<sup>38</sup>

It is also noteworthy that the granting of subjective rights to animals should be associated with a concept of their responsibility, although it is extremely difficult to pinpoint the grounds for this responsibility. It is so because amongst animals, particularly amongst the highly evolved species, there may be, just like among humans, individuals who consciously, and thus culpably, would attack and harm other individuals, whether belonging to the same species or not. An acceptable concept of animal rights must handle this problem in a resolute way.

Another related topic, which DeGrazia fails to explain, is the issue of positive obligations towards animals. The philosopher's deliberations focus mostly on negative obligations such as refraining from killing the innocent, inflicting needless suffering or enslaving animals. Meanwhile, a full ethical theory of animal rights should lucidly define and rationalize the scope of positive actions by humans with regard to animals, which are needed for their behaviour to be considered to fall within acceptable limits.

Joel Feinberg believes that due to the complications that its enforcement would entail, animals' claim to a life would be so weak that it would have to succumb to almost every relatively decent human endeavour, if it were to be in conflict with it<sup>39</sup>. Hence, the

<sup>35</sup> J. Majcherek, *Człowiek. Przyroda. Moralność* [Eng. *Man. Nature. Morality*], Kraków 2018, pp. 125–126.

<sup>36</sup> J. Majcherek, *Człowiek...*, p. 124.

<sup>37</sup> J. Lejman, *Ozmysłności zwierząt. Rozważania wokół etyki zróżnicowanych natur* [Eng. *On Animal Resourcefulness: Reflections on the Ethics of Diversified Natures*], in: D. Dzwonkowska, M. Latawiec, D. Gzyra, J. Lejman, J. Tymieniecka-Suchanek, M. Twardowski, *Filozofia wobec świata zwierząt* [Eng. *Philosophy Versus the Animal Kingdom*], Warszawa 2015, p. 47.

<sup>38</sup> J. Majcherek, *Człowiek...*, pp. 135–136.

<sup>39</sup> J. Feinberg, *Obowiązki człowieka i prawa zwierząt* [Eng. *Human Duties and Animal Rights*], „Etyka” 1980/18, p. 31.

acknowledgement that animals have a claim to a life is illusory. Therefore, as rightly asserted by Grzegorz Francuz, the egalitarianism of species postulated by Singer and Tom Regan is purely theoretical, and it is suspended in practice. In difficult situations, where there is a need to resolve a conflict of interest, these authors formulate additional principles that are definitely anthropocentric, and thus anti-egalitarian<sup>40</sup>. The approach of the author of *Taking Animals Seriously* is dangerously close to their views.

It is further noteworthy that clear-cut criteria are needed to accord rights. Meanwhile, efforts of thinkers and philosophers to reasonably substantiate the postulated conditions by anchoring them, for example, to the ability to reason or suffer, fail to bring the expected results. On the one hand, these conditions are not met by all the representatives of the Homo Sapiens species, while on the other hand, not only Homo Sapiens but also many other animals meet them<sup>41</sup>.

Furthermore, DeGrazia's system fails to provide a sufficient explanation for the issue of regulating the population, i.e., the acceptability of killing animals for the reasons of ecology, for example to maintain a balance in nature. For the purpose of taking protective measures, a dilemma arises which species or beings should have to be sacrificed to save other species. Accordingly, to protect the common gull, American mink that occupies the same habitat would have to be killed. Should we want to protect foxes, we must then bear in mind that they will be killing small rodents and birds<sup>42</sup>.

## 2.2. Flaws of the coherence model

The coherence model for justifying the moral status of animals is not free of flaws. In accordance with this theory, no set of ethical norms is guaranteed epistemic privilege, so that any justification would ultimately have to be based on these norms. Alternative approaches, such as deductive reasoning, treat the supreme principle as the fundamental principle, while inductive reasoning in turn considers specific ethical judgments on instances, behaviours and persons as fundamental, while all the more general norms are formed on the basis of these specific judgments.

An important feature of most versions of the coherence ethical reasoning model is that its norms are never considered final. One must always be open to the possibility that our ethical convictions will require modification in the light of further considerations. Thus, while we strive for a state of equilibrium in our total set of ethical convictions upon due reflection (hence the term *reflexive equilibrium*), we are never finished with moral inquiry. New problems arise. Fresh information and moral intuition make us question old judgments. Moral reasoning is viewed as dynamic and is not expected to produce a final, rationally necessary theory. Coherence cannot simply be a logical consistency, since almost every theory passes or can be reformulated enough to pass this test by offering makeshift distinctions to avoid direct conflicts. Coherence theories must not only be consistent, but must also be supported by arguments.

Any possible acceptance of coherence theory raises important questions, including how do we know which judgements or norms to revise in a conflict and how

<sup>40</sup> G. Francuz, *Strategie przypisywania statusu moralnego istotom żywym* [Eng. *Strategies of According Moral Status to Living Beings*], Opole 2011, p. 57.

<sup>41</sup> Ch. Hoff, *Kilka refleksji...*, p. 66. Also see: S. Clark, *Prawa zwierząt* [Eng. *Animal Rights*], „Etyka” 1980/18, p. 86.

<sup>42</sup> M. Latawiec, *Próby uzasadnienia idei ochrony zwierząt* [Eng. *Attempts at Justifying the Idea of Animal Protection*], in: D. Dzwonkowska, M. Latawiec, D. Gzyra, J. Lejman, J. Tymieniecka-Suchanek, M. Twardowski, *Filozofia...*, p. 23.

to substantiate the resolution of the conflict. It is far from sufficient to say that conflicts are to be settled by making revisions that increase coherence in one's system of ethical convictions<sup>43</sup>. Such an approach inevitably leads to a vicious circle.

### 2.3. Flaws of the equal consideration principle

Important objection can be raised against one of the fundamental aspects of DeGrazia theory, i.e., the principle of equal consideration which is closely related to the generalization principle that equals should be treated equally. This principle is formal in nature, since it does not provide a precise basis for equal treatment or the criteria of substantial similarity. It implies that equal moral weight or significance should be accorded to substantially similar interests as long as there is no significant difference between the beings in question. A question therefore arises whether the principle of equal consideration should be extended to animals. Anti-egalitarianists will certainly respond that we should not do so and argue that there are significant differences between humans and animals that defend less than equal consideration being accorded to animals. If a proponent of the principle of equal consideration claims that it is possible to harm animals or humans only if necessary and that it requires adequate substantiation, it can be argued that flexibility of the understanding this 'necessity' deprives this norm of any content, since they may be someone who can claim that every harm is necessary and needed. What's more, a nihilist can confer the same moral weight upon all substantially similar interests by not conferring any weight upon them. This puts into question the viability of formulating precise conditions under which harm is not necessary and establishing whether our judgements on clear cases of unnecessary suffering will have far-reaching consequences for animal treatment by humans. As current practice demonstrates, one may doubt whether the effects of a plausible reform would indeed be satisfactory, if the principle of equal consideration was to be adopted and consistently applied.

### 2.4. Flaws of the idea of unequal moral status

The idea of unequal moral status seems quite perilous. The concept of moral status was created to confer real strength upon beings to whom it applies. Yet, if unequal moral status was to be allowed, it carries the risk of according values to different beings on the basis of relatively vague and arbitrary criteria. Some stronger external reason is needed to justifiably condemn butchers or poachers' actions. Regrettably, the principle of DeGrazia is too weak and the philosopher himself has admitted that, based on his theory, it would have been acceptable to eradicate rats that encroached upon his property, invading his garage or yard<sup>44</sup>. This breakthrough in the structure of the theory challenges its stability, as it may cause excessive and uncontrolled extension of the prima facie excusable exceptions.

### 2.5. Proposed cultural revolution for the benefit of animals

To summarize, the approach of DeGrazia position is not realistic enough in the sense that it does not accurately recognize the factors that can contribute to changing human thinking of animals. Arguments for the moral status of animals are part of an evolving ethical

<sup>43</sup> D. DeGrazia, *Taking...*, p. 14.

<sup>44</sup> D. DeGrazia, *Moral Status As a Matter of Degree?*, „The Southern Journal of Philosophy” 2008/46, p. 194.

consciousness that sentient beings must not continue to be viewed through a narrow lens of human perspective. As James W. Walters has aptly noted, a new consciousness is rising, but the inertia of human history is great and the development of new thinking is slow<sup>45</sup>.

In my opinion, instead of postulating the granting of rights to animals, a more effective and efficient solution would be to initiate a cultural revolution in favour of animals. It should be understood to mean a large-scale series of coordinated actions by artists, above all by actors, singers, as well as television and film producers with an aim to condemn and even ridicule the practice of meat consumption. Advertisements and culinary programs in which meat eating is approved or even encouraged should disappear and be replaced by shows promoting the consumption of plant foods. Furthermore, dissemination in social media of videos showing how animals are treated on industrial farms and in slaughterhouses, as well as when transported to slaughterhouses, could be an element of such a strategy. Inasmuch as the latter activities are already conducted, although regrettably in a scanty form and scale, a rebellion of artists and people from the art industry is virtually negligible and infinitesimal. This is a cause for regret, as people of culture exert an extremely strong impact on the public opinion, yet fail to make a proper and best possible use of their potential. Actresses, actors and singers should, in this social rebellion, also be joined by prominent and famous sportsmen. They have a very powerful influence over their fans and could greatly contribute to a change of practice and even the paradigm of thinking about animals. Representatives of these professions should clearly and conclusively condemn cruel forms of entertainment such as hunting, circus, animal fights and corrida. The right time has come to take action because as long as eating meat is not perceived to be humiliating and stigmatizing and does not disappear from advertisements, and no advertisements ridiculing meat consumption appear, animals' fate will not improve quickly enough. Therefore, time has come to throw a cultural revolution for the benefit of animals.

One should fully agree with Dominika Dzwonkowska that what can be done immediately is to show the connection between the process of manufacturing animal products and the hidden costs of the products purchased, as people are usually oblivious to it. As the author emphasized, no person who consumes animal produce locks a hen in a narrow battery cage, as we are all buying a ready-made, nicely packaged, sterile end-product of the manufacturing process which is free of any trace of animal suffering. Even the product names are invented to hide their actual origin. The same is true for cosmetics, cleaning agents and medicines which are tested on animals. People too rarely ask what actions and processes led to their creation. To improve the fate of animals, it is essential that when buying a product, the customer is thoroughly and dependably informed how it was manufactured<sup>46</sup>.

It is further worthy of note that improving the treatment of animals may bring down the level of aggression in social life, as it will contribute to mitigating forms of ecological radicalism. Improving the treatment of animals or their empowerment may bring benefits or at least protect against damage those who have been exploiting them so far by protecting these enterprises from sabotage campaigns against them<sup>47</sup>.

<sup>45</sup> J.W. Walters, *What is Person...*, p. 78.

<sup>46</sup> D. Dzwonkowska, *Znaczenie empatii i współczucia w trosce o jakość życia zwierząt* [Eng. *The Importance of Empathy and Compassion for the Quality of Animal Life*], in: D. Dzwonkowska, M. Latawiec, D. Gzyra, J. Lejman, J. Tymieniecka-Suchanek, M. Twardowski, *Filozofia...*, pp. 95–96.

<sup>47</sup> E. Posłuszna, *Ekstremizm ekologiczny. Źródła, przejawy, perspektywy* [Eng. *Ecological Extremism: Sources, Manifestations, Perspectives*], Warszawa 2012, pp. 78, 100ff.

### David DeGrazia on Animal Rights: A Critical Analysis

**Abstract:** The article aims to critically discuss the theory of animal rights developed by American social philosopher David DeGrazia. It consists of two parts. The first one describes the main elements of DeGrazia's approach, namely his views on animal minds, the principle of equal consideration, the idea of unequal moral status, the concept of border persons, and practical remarks concerning improving the treatment of animals by humans. The second part presents remarks about the points where DeGrazia's proposals should be supplemented and corrected so as to make them more convincing and widely accepted. The conclusion of the essay is the proposal of a cultural revolution for the benefit of animals, which should be initiated by famous people, like actresses, actors, sportswomen and sportsmen, because of their influential position in contemporary societies.

**Keywords:** border persons, animal rights, cultural revolution, moral status, equal consideration principle, David DeGrazia

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