

Toward a Moderate Hierarchical View About the Moral Status of Animals

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Abstract:

In this essay, I develop a moderate hierarchical position about the moral status of animals that is based on two factors: on the level of mental development of a being who is affected and on the significance of the interests that are affected. I argue that this view accommodates two different sets of moral intuitions. On one hand, it explains why, in general, humans have the special moral standing that is typically attributed to us. On the other hand, it also allows us to accommodate much of our intuition about how animals ought to be treated. In addition, this view is supported also by plausible general theoretical considerations. Subsequently, I explore some implications of this view for some real-life examples of our interactions with animals, especially, for the practice of raising them for food using industrial methods. I argue that this practice is morally wrong and that the correct approach is to adopt a (nearly) plant-based lifestyle.

Keywords: animal ethics, moral standing

Preliminaries: the concept of moral standing

Let us assume, for the sake of this essay, the following:

(MS) A being has a *moral standing* (and thus is included directly in a *sphere of morality*) if and only if the moral status of our actions (i.e.,

whether or not they are obligatory, right, permissible, wrong, forbidden, and so on) *intrinsically* depends on how this being is affected.¹

(MS) has two general features. First, it is neutral with regard to theories determining who or what has a moral standing. In principle, such a theory may be spelled out in terms of someone having moral rights (cf. Regan 1983), or someone being a proper object of direct moral duties (cf. Morris, 2011), or someone being able to instantiate intrinsically valuable states of affairs such as pleasure and pain or the satisfaction and frustration of preferences (cf. Singer 1975, 1993; Sencerz 2011, 2020), or someone falling within the scope of virtuous behavior, and so on.²

¹ This way of defining “moral standing” (sometimes alternatively called “moral status” or “moral considerability”) is fairly standard among English speaking philosophers. Cf., for example, Tom Regan (1982, p. 203), DeGrazia (2008, p.183), Tom Beauchamp and James Childress (2009, p. 66), Morris (2011), p. 262, Jaworska and Tannenbaum (2018), Sencerz (2010, 2022). However, not everyone agrees that the concepts of moral status and standing are equivalent. Christopher Morris (2011) provides a convincing argument that it is best to understand the moral standing as a kind of moral status. In particular, some entities may have the moral status of a mere thing; consequently, we can do to and with them whatever we wish. Other entities may have the moral status of the full moral standing; consequently, they are fully protected by the rules of morality.

² One qualification is immediately in order. Some philosophers prefer not to formulate their views in terms of moral status or standing. For example, James Rachels (2004, p. 164) accepts the general idea of defining moral standing in terms of the scope of direct duties. He agrees, furthermore, that different theories of the moral status of animals “all assume that the answer to the question of how an individual may be treated depends on whether the individual qualifies for a general sort of status, which in turn depends on whether the individual possesses a few general characteristics” (pp. 166-67). He thinks, nevertheless, that this is the wrong way because “There is no characteristic, or set of characteristics, that sets some creatures apart from others as meriting respectful treatment. [...] Instead we have an array of characteristics and an array of treatments, with each characteristic relevant to justifying some types of treatment but not others” (p. 182). Consequently, Rachels prefers not to talk of moral standing and rather say that the fact that a certain act would cause pain to a creature is a reason not to do it. It is not clear to me, however, why exactly Rachels’ terminology is preferable. It seems to me that talking of

Second, (MS) does not imply that everyone within the sphere of morality has exactly the same moral standing. In particular, it does not imply that everyone has the same basic moral rights or is object of the same basic direct duties, or that these duties are equally stringent, or that all virtues apply to all beings in exactly the same way, or any similar thing (depending on how a particular theory is formulated). For example, Jaworska and Tannenbaum (2018) introduce the concepts of *Full Moral Status* and *Degrees of Moral Status*, the latter concept allowing for a possibility of moral hierarchy among beings within the moral sphere.³

The moral status of animals and a problem for egalitarian accounts

someone being affected in some way as a reason not to do something is, for all practical purposes, equivalent to attributing a moral standing to this being.

Similarly, Rosalind Hursthouse believes that the idea of a moral standing does not neatly fit within virtue ethics (2006, 2011). She argues, nevertheless, that some ways of treating animals would be automatically included into various forms of virtuous behavior. Rather than engaging in the terminological debates, let me simply stipulate that (MS) intends to classify views outlined by Rachels and Hursthouse as implying that animals have *some* moral standing (that may require further elucidation) and that, consequently, animals are included into the sphere of morality.

³ To illustrate this possibility, some theologians postulate that God is an absolute sovereign with absolute power and total dominion over the rest of creation. Thus, we do not have any valid claims or rights against God, and God does not have any duties to us. On the contrary, God can do to or with us whatever He wishes. Consequently, this doctrine assumes also that everything we receive from God is a matter of divine grace rather than a duty or entitlement.

This example illustrates also a possibility that a moral standing can involve some relational components that define, at least in part, the kinds of obligations that beings who occupy one level might have towards beings who occupy a different level. Robert Nozick (1975, pp. 35-49) was one of the first who considered a possibility of hierarchical views of these sorts and introduced in this context the maxim of “utilitarianism for animals, Kantianism for people” (p. 37). This is not to imply that he also endorsed this maxim. In 2022, I have discussed a few versions of hierarchical views that are based on the assumption that only human beings have immortal souls.

According to viewpoints that started to emerge in the 1970s, animals should be included in the sphere of morality and, furthermore, they should be given the same basic moral status as that of humans. For example, Peter Singer (1973, 1975, 1993) proposed that all sentient beings, including both human and non-human animals, are morally equal in the sense that similar interests should be treated similarly no matter who has those interests. Tom Regan (1983) developed an alternative to Singer's view, grounded in the idea that everyone who is an experiential subject of life has equal inherent value.⁴ But what does it mean in practice to say that "all (i.e., both human and non-human) animals are equal"? What does it entail for cases where all available alternatives involve causing (or at least allowing) some serious harm?

To consider but one example, suppose that three men and a dog are the only survivors of a shipwreck. Their lifeboat can accommodate only three of them. One of them must go overboard or else all four will die. What should they do?⁵ It seems that any plausible theory addressing these sorts of cases would be badly in need of some reasonable *weighing principles* that could help us to make choices between interests of parties involved in a conflict.

There seem to be three general ways to approach the issue. First, one could argue that interests of some beings should always trump the interests of others because these *beings* belong to different kinds such that, generally speaking, beings belonging to one of these kinds have superior mental abilities. Second, one could argue that the interests of some beings should prevail because these *interests* belong to different kinds; for example, these interests have various levels of importance to parties who have those interests. Finally, one can develop a view that combines and reconciles both of these factors. In his very interesting paper, Donald VanDeVeer (1979) attempted to develop just such a view;

⁴ An Oxford scientist Richard Ryder (1971, 1975) postulated that our prevalent attitudes toward animals, especially those adopted in animal laboratories, display an indefensible bias analogous to the errors of *racism* and *sexism*. To emphasize this analogy, he even coined the term *speciesism* which shortly thereafter became part of the philosophical and even ordinary lexicons.

⁵ On this topic see, for example, Singer (1985) and Regan and Singer (1985).

it will be introduced and examined in the next section. Subsequently, I will attempt to expand on VanDeVeer's insights and ideas.

Two factor egalitarianism

All views discussed by VanDeVeer presume a distinction between, on one hand, someone being interested (or taking interest) in something and, on the other hand, something being in someone's interest (p. 151). For example, organic food and exercise may be in someone's interest (in the sense of contributing to someone's well-being) even though he is not interested in exercising and eating organic. Similarly, being alive rather than dying may be in an animal's interest even though, consciously, she does not take interest in being alive. All discussed principles are formulated in terms of what is in someone's interest (rather than what someone is interested in).

Furthermore, VanDeVeer's principles assume the distinction between *basic* and *peripheral* interests, elucidated as follows:

in the absence of certain sorts of goods many creatures cannot function in ways common to their species; they do not function in a "minimally adequate" way, for example, in the absence of food, water, oxygen or the presence of prolonged, intense pain. We may say that it is in a creature's *basic* interest to have (not have) such things. In contrast there are goods such that in their absence it is true only that the being does not thrive and that are, then, not in its basic [but in its *peripheral*] interest (e.g., toys for my dog). The distinction is admittedly vague but not empty. Its application must, in part, depend on contextual matters (VanDeVeer (1979, p. 153).

It seems plausible to maintain that basic interests carry greater moral importance than peripheral ones. For example, intuitively speaking, it is one thing to sacrifice animals to protect something as *basic* as our lives or health, and it is a completely different thing to sacrifice animals for something as trivial as new fancy clothes, a new toy, or the pleasures of trophy-hunting. It is one thing to impose on someone a minor inconvenience, affecting only the peripheral interests of this being, and it is a quite different thing to take someone's life.

VanDeVeer considered five different weighing principles allowing to adjudicate interspecies conflicts of interests: namely, 1) *Radical Speciesism*, 2) *Extreme Speciesism*, 3) *Interest Sensitive Speciesism*, 4) *Two Factor Egalitarianism*, and 5) *Species Egalitarianism*. *Radical Speciesism (RS)* implies that animals and their interests have no moral weight at all (no matter how basic they are). RS allows animals to be treated in any way whatsoever (provided that this has no negative implications for humans). This is an obviously repugnant conclusion. Thus, the view must be rejected.

From the second principle, *Extreme Speciesism (ES)*, it follows that that, in cases of conflict, even the most peripheral interests of humans override the most basic interests of animals. This principle implies, for example, that there is nothing wrong with torturing animals for pleasure. This, too, is a repugnant conclusion. Thus, again, the view must be rejected.⁶

According to the third view, i.e., the *Interest Specific Speciesism (ISS)*:

When there is a conflict of interests between an animal and a human being, it is morally permissible, *ceteris paribus*, so to act that a basic interest of the animal is subordinated for the sake of promoting a *like* interest of a human being (or a more basic one) but one may not subordinate a basic interest of an animal for the sake of promoting a *peripheral* interest of a human being (VanDeVeer (1979, p. 153)).

This principle is more plausible than the previous two. For one thing, it imposes some limitations upon how we can treat animals; for example, we cannot sacrifice their basic interests for anything trivial. Still, this view encounters some serious problems. Namely, it takes into account only one factor (namely, how basic someone's interests are). It completely ignores, however, the vast differences in mental abilities of various beings whose interests are at stake. In effect, it groups together beings as different as humans, chimpanzees, whales, dogs, kittens, birds, fish, snakes, oysters or ants (assuming that oysters and ants are sentient and have interests).

⁶ I criticize and reject all views of these sorts in Sencerz, 2020.

This lumping together has highly counterintuitive implications. For there seems to be a moral disparity between, say, (1) fulfilling or sacrificing interests of someone whose mental abilities are at the level of a normal human adult, (2) fulfilling or sacrificing interests of those whose mental life is at the level of big apes, (3) fulfilling or sacrificing interests of dogs or kittens, and (4) doing it to an oyster or an ant.

Consider, for instance, the following “trolley” problem: if I veer right, I will run over a normal human adult; if I veer left, I will run over a kitten; there is nothing else I can do. It seems obvious that I should veer left and spare the human adult. This seems to imply that, other things being equal, a life and basic interests of adult humans are more valuable than a life and basic interests of kittens. But it is just as obvious that I should spare a life of a chimpanzee rather than the life of a kitten, and that I should spare a life of a kitten rather than a life of a snake or an ant or an oyster. The levels of the mental capacities of affected beings seem morally relevant. Yet *Interest Specific Speciesism* completely ignores this factor. This is why this principle is implausible and must be rejected.

Let us move directly to the fifth principle, leaving the fourth principle undiscussed for a moment. *Species (or Radical) Egalitarianism* implies that “it is morally permissible... to subordinate the more peripheral to the more basic interest and not otherwise” (VanDeVeer (1979), p. 155). Like *Interest Specific Speciesism*, this view gives no weight at all to the levels of someone’s mental abilities. Therefore, this view must be rejected, too.

VanDeVeer’s favorite view, *Two Factor Egalitarianism* (TFE), assumes the relevance of both already discussed factors: namely, (1) the importance of interests that are at stake; and (2) the levels of psychological capacities of the parties whose interests are in conflict. It also uses the additional theoretical concept of *serious interests*, defined as interests that are neither basic nor peripheral. VanDeVeer elucidates this concept in the following manner:

A rough criterion for serious interests would be that something is in a being’s serious interest if and only if, though it can survive without it, it is difficult or costly (to its well-being) to do. Hence, it may be in the serious interest of a lonely child to have a pet or in the serious interest of an eagle to be able to fly. (VanDeVeer (1979), p. 154)

Using these ideas, the principle for adjudicating conflicts of interests for beings belonging to different species is stated as follows:

Two Factor Egalitarianism: When there is an interspecies conflict of interests between A and B (e.g., an animal and a human being), it is morally permissible, *ceteris paribus*,

- (1) to sacrifice the interest of A to promote a like interest of B if A lacks significant psychological capacities possessed by B,
- (2) to sacrifice a basic interest of A to promote a serious interest of B if A substantially lacks significant psychological capacities possessed by B,
- (3) to sacrifice the peripheral interest to promote the more basic interest if the beings are similar with respect to psychological capacity (regardless of who possesses the interests). (VanDeVeer (1979), p. 154)

Let us consider first a few reasonably uncontroversial examples illustrating how this principle is supposed to work (cf. VanDeVeer, pp. 154-5), starting with the already mentioned example of some people and a dog stranded on a safety raft. One of them has to be sacrificed or else all of them will die. Clearly, it is a conflict between the basic interests of humans and the basic interests of animals. In this case, however, human mental abilities are significantly more developed than the abilities of animals. A natural thing to say is that, in this case, the interests of humans should prevail.

Radical egalitarian position based on rights, like the one developed by Tom Regan (1983), seems to have difficulties with incorporating this intuition. In contrast, because typical human beings tend to have mental capacities substantially higher than dogs, TFE incorporates this intuition with considerable ease. Thus, in this respect, TFE seems to have an advantage over more radical egalitarian positions.

The second kind of conflict involves serious interests of a typical human and peripheral interests of an animal. For example, suppose that my dogs would be happier if I lived on the ocean shore, taking them, each morning, on an extended roam on the beach. Unfortunately, in order to live on the shore, I would have to radically change my career, seriously affecting my

(at least) serious interests. The principle would allow me to continue on the current course even when my dogs end up being slightly worse off than they would have been otherwise. (In some cases, basic interests may be at stake, too, for example when moving would lead to losing my job and the means of supporting the entire family, including our dogs.)

The third kind of conflict involves the peripheral interests of a human and the basic interests of an animal. For example, in order to obtain a fly-swatter, I must kill a wildebeest for its tail. The principle would not allow this sort of trade off. This is plausible as there are other ways to obtain a fully functional (and/or good-looking) swatter.

The fourth kind of conflict involves my peripheral interests and also the peripheral interests of an animal. For example, suppose I can spend money on a new wallet for myself or on new toys for my dogs. In this case, the principle would allow me to buy a new wallet.

To explore TFE further, consider now a case involving building a new hospital when it is inevitable that, in the process, we will destroy an ant colony. This seems morally permissible because the basic and serious interests of persons (e.g., interests in being alive and healthy) trump the basic and serious interests of ants. The situation would be, however, quite different if we had to kill a pack of wolves who live on the grounds where the hospital is to be built. Yes, our basic and serious interests are still at stake. But wolves are much more sophisticated than ants. Furthermore, there is no real necessity to sacrifice their lives as it is reasonably easy to find a new home for them. Thus, the wolves' relocation is morally preferable over killing them. Yes, it imposes upon them some inconvenience and perhaps even hardship during relocation. But these are compensated by saving many human lives and protecting our health. On the other hand, it would be yet another thing to destroy an ant colony simply because someone is too lazy to walk around it or simply because one feels like doing it. By the standards of TFE, such actions would be morally wrong.

Sometimes, imaginary and highly unusual cases, as well as our intuitions about such cases, are all we have to test our moral principles. It seems, however, that TFE could be supported by arguments based on more systematic theoretical considerations. I will attempt such a defense in the next section.

Towards a Defense of Two Factor Egalitarianism

My defense relies on a consequentialist (broadly utilitarian) theory developed by an Oxford philosopher R.M. Hare (1976 and 1981), further endorsed and explored, among others, by Peter Singer (1993) and, in its applications to animals, by John and Sebo (2020).⁷ This defense is based on the distinction between two levels of moral thinking: the intuitive level suitable for everyday purposes and the more reflective, critical level, which allows us to assess and determine what our intuitively held rules should be.⁸

The *intuitive level* of moral reasoning includes our everyday, common-sense dispositions, attitudes, and emotions, as well as general rules that we apply in most of our ordinary circumstances. We rely on these intuitive rules when we do not have enough time for critical thinking, careful consideration of all alternatives and their consequences, or when there are other reasons not to trust our critical skills. Hare brought to our attention several constraints that such rules must satisfy. For example, ordinary people tend to be biased towards their own interests and the interests of their loved ones; e.g., parents making decisions about organ transplants tend to overestimate benefits for their children and also tend to favor the interests of their children in comparison with the interests of other children. So, if they were to make their moral decisions solely on the principle of utility, it would be very likely that they might overestimate the value of their actions for themselves and their loved ones, and underestimate the value of their actions for others. Consequently, it is likely that they might make unfair decisions. To counteract this potential bias, it may be safer to act on more simple intuitive rules requiring that all humans ought to be treated equally and

⁷ I introduce, defend, and explore some implications of this sort of theory for questions about animal ethics in Sencerz, 2011.

⁸ In addition to two levels of *normative* thinking, Hare also proposes a meta level that allows us to define moral concepts and elucidate moral language, develop ways of arguing about normative issues, and so on. I will put all metaethical considerations of these sorts to one side.

that people who have conflicts of interests should recuse themselves from making final decisions.

In addition, humans tend to show weakness of will (i.e., we do not always do what we think is right). For this reason, it seems as though very complex rules allowing for multiple exceptions would be hard to internalize and follow. Thus, intuitive rules need to be relatively simple and easy to internalize and apply. Furthermore, our knowledge is limited and we do not have indefinite time to make our moral decisions. Again, this provides a reason for not using the principle of utility as the one and only rule of one's conduct and instead adopting rules which are relatively simple and easy to follow. To use a bit of technical jargon, internalizing and acting on reasonably simple rules seems to have higher expected utility than using the utilitarian principle directly.

How do we decide, however, which intuitive rules are the correct ones? We do this at the critical level, which assumes that an agent has perfect knowledge, is not a victim of weakness of will, is not biased towards his or her own interests, and has enough time to think about all relevant matters. Thus, the critical level has several functions. First, we use it when we decide how to design our intuitive-level rules. Second, we use it when we discover that those principles are in conflict, so we need to adjudicate between them. (For example, we encounter an example analogous to Kant's case of an innocent person chased by bandits, and we realize that we cannot save his life without lying. So, we realize that we must break one of the intuitive rules, and the only relevant question is which rule to break.) Third, we use the critical level when we encounter an unusual case for which those rules are not designed. Finally, we use it when it is clear beyond a reasonable doubt that there are conclusive reasons to depart from intuitive-level rules. According to Hare, at the critical level, and only at that level, we ought to use straightforward utilitarian considerations and base our reasoning on the idea of bringing about the best possible balance of utility.

A case can be made that TFE is exactly the sort of general principle that we should adopt for our intuitive thinking to guide our choices in cases where it is inevitable that we will harm someone. For TFE is reasonably simple, easy to internalize, and allows us to adjudicate correctly the conflicts of interests in a vast array of ordinary life cases.

We have already seen some formal reasons supporting TFE. For example, it does not hinge on the obviously irrelevant factors such as someone's DNA or someone's belonging to this or that species. TFE is not biased towards or against some beings simply because they belong to some biological kind. To wit, it is not a form of speciesism. This is a good thing.

Another good thing about this principle is that it is grounded in factors that clearly seem morally relevant. In particular, it takes into consideration how basic the interests at stake are. The distinction between various kinds of interests is admittedly vague but not vacuous. We use this principle when we decide issues of intra-species justice: e.g., choosing between policies determining distribution that affect various groups of humans to various degrees. The fact that a policy affects someone's interests minimally, while significantly supporting the basic interests of others, is frequently treated as a reason to adopt it. (Thus, for example, someone may favor raising taxes on the very rich for the sake of providing healthcare to all.)

Furthermore, based on my experience of teaching numerous courses in environmental and animal ethics, the distinction between basic, serious, and peripheral interests is reasonably easy to grasp and use; in fact, we already frequently use just this distinction while making decisions about ordinary life cases. To illustrate this point with an example, sometimes my students are initially apprehensive about the full incorporation of animals into the sphere of morality. This is the case because they worry that this would entail extending to animals the full moral protection that is as rigid and relatively exceptionless as the protection we currently extend to humans. In practical terms, they know that hunting humans is morally wrong while, at the same time, they are unwilling to admit (at least initially) that, say, hunting or fishing would also be wrong. This is the case, I suspect, because many of them grew up in rural parts of Texas and, being less than affluent, they frequently rely on hunting and fishing to get a reasonably balanced diet (or, in some cases, to eat at all).

They very quickly grasp an intuitive difference between, on one hand, the Inuit hunting seals because their lives depend on it as they have no other way of getting food and, on the other hand, trophy hunting. The former seems to them clearly justified because of the fact that the basic interests of humans are at stake. Apparently, students think that this suffices to

trump the basic interests of animals. The trophy hunting seems to the same students quite questionable, to put things mildly. Apparently, what bothers them is the fact that only trivial interests of humans are at stake and that the endeavor is wasteful and causes serious environmental damage. Interestingly enough, once they see the situation in those terms, they stop thinking about animal ethics in rigid and absolutistic terms and are willing to approach other situations with more flexibility, too (or, we might say, more open-mindedly). Only then do we revisit their own upbringing, background, and activities. Many of them report that, without hunting, their lives would be miserable. Some of them admit that they prefer to hunt non-indigenous wild hogs (that constitute an environmental hazard) rather than other animals. And they emphasize that they do not waste any part of hunted animals. Bottom line, most of my students perceive what they do as much closer to what the Inuit do than to trophy hunting. Apparently, at the intuitive level, they see their interests as serious (and in some cases even basic) rather than trivial, and they feel that these interests suffice to sacrifice animal interests. By contrast, they perceive the interests of trophy hunters as relatively insignificant (or, we might say, peripheral) and thus insufficient to justify killing animals merely for trophies and fun.

Similar considerations arise when we discuss some cases emerging in the ethics of animal research. Generally, my students see problems with using animals for testing something so trivial as the development of a new fancy cosmetic or for determining the LD-50 to develop, say, a new detergent or an additive to food. They see such tests quite differently, however, than the studies leading to the development of vaccines and medications that may save many human and animal lives. Again, they tend to have a good intuitive grasp of the difference between basic and trivial interests of someone and of the different moral importance of those interests. They also agree that, just as TFE requires, we should use alternatives that do not involve animals (when such alternatives are available), that we should use animals who are as simple as possible (say, reptiles or amphibians rather than rats, and rats rather than apes), and that we should hurt animals as little as possible, sparing them unnecessary suffering, discomfort, and so on.

There is one remaining difficulty: namely, why and to what degree the levels of someone's mental abilities should morally matter, too. Presumably, what philosophers traditionally characterized as *persons* would occupy the top level in the moral hierarchy. The concept of a person is typically characterized in terms of a cluster of attributes involving intellect and rationality: the ability to form beliefs that some situations are actual while other are only possible; the ability to think through counterfactual and probabilistic situations; the desire that actual situations become non-actual and vice-versa; the awareness of logical and causal connections between states of affairs; the assigning of comparative values to various states of affairs; remembering the past and devising plans for the future; using language to issue statements, commands, and questions; recognizing that other beings have the same abilities and forming desires to communicate with them; as well as autonomy and self-consciousness, etc.⁹ But why should we believe that such beings occupy a privileged position in the sphere of morality? A sophisticated consequentialist could use at least three complementary strategies to answer this question.

The first strategy involves adopting a broadly Benthamian hedonic calculus. Persons would likely feel a greater amount and greater variety of pleasures. In particular, being interconnected with others (including connections to geographically and historically distant people), humans might participate in others' successes and tragedies and feel pleasures in vicarious ways. Having a memory of the past and ability to think about the future, they would take pleasure (or pain) in their own past and future. In particular, they would very likely feel fear when confronted by the possibility of facing disagreeable things and, especially, possibility of premature death. And furthermore, humans might relive their past harms, adding new harms on top of the already experienced ones. To illustrate this with an example, child abuse or rape may provide scars that last one's entire lifetime. By contrast, animals seem to live much

⁹ On this topic see, for example, Mary Ann Warren's (1973) characterization of persons as well as Peter Van Inwagen's characterization of what it means to be fully rational (van Inwagen (2015), pp. 183ff).

more in the “now.” To simplify matters, we might say that persons are the best conduits of utility measured in broadly Benthamian terms.

The second strategy involves modifying the classical Benthamian hedonic calculus along the lines sketched by J.S. Mill in his *Utilitarianism*. As he noticed, critics frequently challenged his theory on the grounds that it is a doctrine worthy only of swine. He replied to this challenge noticing that:

[A] beast’s pleasures do not satisfy a human being’s conceptions of happiness. Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification. [...] It is quite compatible with the principle of utility to recognize the fact, that some kinds of pleasures are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.¹⁰

The distinction between *qualitatively* different pleasures allowed Mill to maintain that

It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides.

The third strategy could be adopted to support the same conclusion and would involve going beyond the typical hedonic calculi. Defending his ideal utilitarianism, G.E. Moore (1993, chapter 6:113) argued that the experience of beauty and friendship may be reasonably treated as intrinsically good. Similarly, Robert Nozick argued that there is something else than experiences that is valuable by means of the thought

¹⁰ John Stewart Mill, *Utilitarianism* 2004 (1863), Project Gutenberg (October 2004), <http://www.gutenberg.org/ebooks/11224>. All quotations are from the 2nd chapter of this book.

experiment involving his famous “experience machine” (able to simulate any experience we may choose). When given an opportunity to be hooked up to such a machine, we tend to refuse the offer and prefer to continue with our real lives, finding value in experiencing the contact with reality rather than in experiencing the states of consciousness simulating such contact.¹¹ Finally, to use one more example, Bernard Gert (1998, pp. 48-50, 104-105) argued that one of the things on the list of final valuable goals is freedom. Each of these conceptions of value would favor attributing to persons a special privileged position within the sphere of morality.

To wit, we might say that persons are the best conduits of utility measured in both broadly Benthamian quantitative terms, in Mill’s qualitative terms, and in terms outlined by pluralistic approaches to intrinsic value like those proposed by Moore, Nozick, and Gert. This is why persons should occupy the paramount position in the sphere of morality.

This conclusion is consistent with more traditional views about the moral status of persons and animals like those put forth by, for example, Aquinas and Kant who argued that reason, intellect, and rationality have paramount value and exist as ends in themselves.¹² The two philosophers inferred from this claim that interests of those who lack

¹¹ Nozick (1974, pp. 42-45). Furthermore, there may be some experiences that no machine can simulate and that are available only to persons; for example, some kinds of religious experiences (specifically mystical) may be in this group. Interestingly enough, according to Hindu and Buddhist sources, only humans may reach spiritual awakening leading to full liberation (*moksha*, *nirvana*). Presumably, no machine could simulate awakening with all it entails.

¹² Aquinas’s and Kant’s positions are almost identical in their applications to animals. In essence, they both endorse the so-called “indirect duties” view implying that animals are mere things and thus we can treat them as we wish, provided we do not negatively affect humans. This is not to deny that their positions are quite different at the level of justification for the most basic principles. Nearly all relevant fragments from Aquinas and Kant are gathered in Reagan and Singer (1976) and quoted in Sencerz (2020) where I analyze and refute their views.

reason and autonomy do not matter at all and that we can do whatever we want to animals. But this conclusion is neither plausible nor implied by the basic tenets of their theories. Suppose that I encounter yet another trolley problem where my choice is to run over a kitten or to run over nobody. It is obvious that I should spare the life of a kitten. So, it is obvious that the life and other interests of a kitten have some value, even if they are not quite as valuable as the interests of fully autonomous beings. To wit, a much more plausible interpretation of such views seems to be that rational beings can use animals in ways that further their intellectual nature (as opposed to in any way whatsoever).¹³

The distinction has serious practical implications. It may justify using animals when our lives, or better our existence as rational beings, depend on it. For example, it would justify using them in the conditions of subsistence because, in such circumstances, there is nothing else we can do to survive. This implication is consistent with TFE. But it does not justify eating them for pleasure, performing trivial experiments on animals, or hunting them for trophies. For none of these activities is necessary to further our intellectual nature. So, more generally, what kind of positions within morality would be occupied by less than fully rational beings?

David DeGrazia provided a very useful point of departure: treating personhood as a cluster concept encompassing several different features such as moral agency, autonomy, the capacity for intentional action, rationality, self-awareness, sociability, linguistic ability, and so on and so forth, we should notice that these properties come in degrees and many of them are found to some degree in many nonhuman animals (DeGrazia (2008), p. 193). In fact, each of them is exemplified by some animals to higher degrees than by some humans.¹⁴

¹³ Christine Korsgaard (2004, 2012) offers a much more robust defense of this interpretation of basic tenets of Kantian (even if not Kant's) approach to animals.

¹⁴ Contrary to what DeGrazia says at one point, this is true even for such features as autonomy or linguistic abilities. In a brilliant exchange with Steve Paulson (2020), a leading contemporary primatologist Frans de Waal takes issue with human exceptionalism and argues that big apes have morality, community, linguistic abilities and culture (or, in fact, a variety of cultures with unique customs and tool-making technologies that vary from one group to another), display grief for those who pass,

Autonomy, reason, and other features depending on intellect are non-binary either; we gradually grow into becoming fully autonomous beings blessed with a sophisticated ability to use reason and intellect and to base our actions on principles. Not all humans have this ability fully developed. We tend to respect children's choices about the color-schemes for their clothes, games they want to play, and food they want to eat. But the mental abilities of big apes and many other animals exceed those of a small child. So, perhaps we should respect their choices, too. Many other mammals are well more sophisticated than someone might suppose. Elephants recognize themselves in a mirror. Pigs read our moods, have high emotional intelligence, recognize themselves in a mirror, and are skillful at playing video games (see Estabrook (2015) and Davies (2015)). Arguably, they may have some rudimentary ability to make choices, too. Even though their skills are far from Kantian full-fledged autonomy, I would argue that their preferences and will should also be given some weight.

Furthermore, to return to Mill's distinction, presumably only the most mentally sophisticated beings can fully enjoy most of the higher quality pleasures related to intellectual pursuits, aesthetic enjoyment, the appreciation of justice, and so on. Still, big apes can enjoy some of the qualitatively high pleasures, too. We know, for example, that they like to paint for fun and that their art is reminiscent of arts produced by 7-9 years old children. So, perhaps it is not too farfetched to think that they may have some sense of beauty, too and, in effect, are better conduits of utility than, say, pigs, cows, or kittens.

In a similar vein, wolves, dogs, and rodents show solidarity to other beings belonging to their species and even a sense of proto justice. Wolves make sure that everyone in a pack has something to eat. Dogs refuse to perform the tricks when they are not rewarded in the same way as their partners performing analogous tricks. Rats are willing to liberate other confined rats and share food with them. If these properties are

show forms of superstition, react with compassion to weaker ones, and show deep remorse (reminiscent of standard human remorse) for their past misdeeds. On this issue, see also Gregory F. Tague, *An Ape Ethic and the Question of Personhood*, Lanham: Lexington Books, 2020.

morally relevant and exemplified to various degrees by beings belonging to various species, it seems plausible to think that the moral status based on these properties also comes in degrees. This supports the sliding-scale model of moral status according to which “Persons have the highest moral status, Great Apes and dolphins a bit less, elephants and monkeys somewhat less than apes and dolphins, middling mammals still less, rodents less, and so on down through the phylogenetic scale” (DeGrazia (2008), p. 192).¹⁵

Two factor egalitarianism and the meat industry

There is no doubt that the meat and dairy industry, in its current form, imposes an enormous amount of harm on animals, the environment, and humans (including our social and personal health). In the industrial world, a great majority of animals are raised on factory farms under conditions causing them excruciating suffering, typically throughout their lives.¹⁶ Animals raised in these circumstances cannot fulfill their most basic instinctual needs such as nursing, stretching, moving around, rooting, grooming, establishing their social order, selecting mates, procreating, or rearing their offspring. This leads to extreme boredom and depression, which induce stress and the suppression of the animals’ immune systems.

The meat industry is an inefficient and environmentally damaging way of producing food, using about 10-11 times more energy when compared to

¹⁵ It is good to recognize immediately that this sliding-scale model may be combined with treating the full-fledged (fully developed) persons as being protected by moral considerations constructed in a neo-Kantian instead of consequentialist way. But, in this essay, I will not explore this possibility any further.

¹⁶ Singer (1975, Chapter 3) and Mason and Singer (1990) still provide some of the best descriptions of what happens on factory farms. See also a more than 2-hour long documentary, “Earthlings”, produced by Shaun Monson and available free of charge at numerous sites on the internet. PETA produced a short documentary “Meet Your Meat” documenting the same facts (available for free on the PETA website).

a plant-based diet.¹⁷ It is also inefficient in its water usage (consuming about 87% of the world's freshwater resources)¹⁸ and providing food.¹⁹ It causes soil erosion,²⁰ and creates an enormous amount of hazardous waste. And it contributes to greenhouse gas emissions that are bigger than the total emission from ships, planes, trucks, cars, and all other means of transport put together.²¹

Animal industry causes also problems concerning matters of public health. For example, pollutants released by factory farms constitute a serious health risk, as shown by significantly higher numbers of the incidents of pneumonia, respiratory diseases, and cancer.²² Furthermore, the livestock industry relies heavily on antibiotics contributing to the problem of antibiotic resistance²³ and contributes to numerous zoonotic diseases that remain harmless when carried by

¹⁷ Cf. Pimentel (1997), pp. 16, 20; Pimentel and Pimentel (1996), p. 93) and Engel (2000), pp. 870-872.

¹⁸ Pimentel, Houser, at all (1997), p. 100.

¹⁹ As John Robbins (2012, p. 325) observed, "By cycling our grain through livestock, we not only waste 90 percent of its protein; in addition, we sadly waste 96 percent of its calories, 100 percent of its fiber, and 100 percent of its carbohydrates."

²⁰ As Pimentel, Harvey et al (1995, p. 1117) observed, "During the last 40 years, nearly one-third of the world's arable land has been lost by erosion and continues to be lost at a rate of more than 10 million hectares per year."

²¹ Cf. Matthews (2006) and Froggatt, Wellesley, and Baile (2014).

²² See, for example, Horrigan, Lawrence, and Walker (2002, p. 445).

²³ According to the European Centre for Disease Prevention and Control, "Antimicrobial-resistant infections currently claim at least 50,000 lives each year across Europe and the US alone, with many hundreds of thousands more dying in other areas of the world". Quoted in "Antimicrobial Resistance: Tackling a crisis for the health and wealth of nations" (The Review on Antimicrobial Resistance, Chaired by Jim O'Neill), December 2014, p. 3. The same paper estimates the global problem at the level of about 700,000 premature deaths, p. 5.

animals but become deadly after being transmitted to humans.²⁴ And the industry has a devastating impact on workers who make the production of meat possible. As one of the slaughterhouse workers noticed:

Every sticker [slaughterhouse killer] I know carries a gun, and every one of them would shoot you. Most stickers I know have been arrested for assault. A lot of them have problems with alcohol. They have to drink, they have no other way of dealing with killing life, killing animals all day long. If you stop to think about it, you're killing several thousand beings a day. (Eisnitz (1997, p. 87)

Regarding personal health, there are literally hundreds of scientific studies demonstrating that vegan and/or low-fat vegetarian diets leads to lower rates of coronary heart diseases, significantly lower rates of heart attacks, cancers, diabetes, hypertension, strokes, and other degenerative diseases (typically between 10-20% of rates for meat eaters), and generally live longer.²⁵ On the flip side, there are numerous world class athletes who are vegan or vegetarians.²⁶

To sum up, eating meat seems unnecessary for our flourishing and athletic excellence. Vegan and low-fat vegetarian diets are not only healthier than meat counterparts but are also more environmentally

²⁴ For example, H1N1 influenza (“Spanish Flu”) killed about 50 million people beginning in 1918; in 2018 only, HIV/AIDS caused about 770,00 people deaths, H1N1 influenza (again), this time known as the “Swine Flu” killed about a quarter million people in 2009-2010, and COVID-19 that has already killed more than 1.5 million people globally.

²⁵ “100 Scientific Reasons Not to Eat Meat” is a sample of such studies providing a link to, and a brief summary, of each; retrieved from: <https://honeyforsweetnes.wordpress.com/2015/10/06/100-scientific-reasons-to-not-eat-meat/>.

²⁶ A partial list includes Dave Scott (six-time winner of Hawaii’s Ironman Triathlon), Sixto Linares (world record holder for the 24-hour triathlon), Edwin Moses (400 meters hurdler undefeated in international competition for eight straight years), Paavo Nurmi (held twenty world records and nine Olympic medals), Andreas Cahling (1980 “Mr. International” title in body building), and Scott Jurek (arguably, the greatest ultramarathon runner of all time).

sound. Taking it all into account, TFE implies that we ought to adopt a vegan lifestyle as a basic point of departure and depart from it only when we can establish a fully symbiotic relation with animals.

Some remaining difficulties: the “logic of larder” and the importance of rules

Consequentialist arguments like the one just developed sometimes encounter the following rejoinder. Suppose that an animal is treated humanely and so, on balance, has an enjoyable life. Suppose, furthermore, that we can painlessly kill this animal and replace it with another that has an equally enjoyable life. If we do this, the total amount of utility in the world will remain constant. So, it seems that consequentialism implies that there is nothing wrong in painlessly killing animals and replacing them with others (provided that they have equally enjoyable lives). Suppose now that the killed animal is used by a third party in ways that bring some extra pleasure to the world and this pleasure could not have been obtained in any other way. Again, it would seem that consequentialism implies that we ought to bring animals into existence, use them in ways that generate surplus of pleasure, and then kill them painlessly and replace them with other “happy” animals. So, is there a convincing reason to disallow this type of killing as a general exception to TFE and similar principles? In the remainder of this paper, I will respond to this argument.²⁷

Let us realize, first, that this proposal does not apply to the current state of animal industry that routinely imposes on animals prolonged and excruciating suffering. Given the current conditions, animal lives are, on balance, not worth living.

Second, it is not completely clear what the proponents of this rejoinder would count as the treatment of animals that is *humane* enough to make

²⁷ R.M. Hare (1993) proposed just this sort of argument. Lisa Kemmerer (2007) challenged Singer’s utilitarianism, and its implications for animals, in a similar way. I replied to this challenge in Sencerz (2011). I would like to acknowledge here that the arguments in this section rely heavily on John and Sebo (2020), especially in the section on “Farmed animals and the logic of the larder”, pp. 570-579.

the practice of producing meat morally defensible. The proponents of this argument hardly ever lay down clear and verifiable conditions that would make the practice morally acceptable. The evolutionary psychologist Diana Santos Fleischman encountered this problem when, not wanting to go fully vegan, she spent about a year researching animal products to try to find those that met some specific standards so she could be a “humaneivore” (i.e., someone who only eats humane animal products). She summarizes the acceptable standards in five points:

1. The animals must be able to actualize all of their basic desires (e.g., dust bathing, rooting, forming bonds with conspecifics, etc.).
2. The animals must have no idea they are about to be slaughtered or are transported to slaughter.
3. Animals must be killed painlessly.
4. Animals must not be altered in any way without anesthetic (this includes tail docking, debeaking, and castration that are usually done without anesthetic).
5. Animals must receive adequate veterinary care so they do not suffer physically for very long (e.g., hens who have uterine prolapse most often die of it without any respite from what must be horrible suffering).²⁸

Clearly, these conditions are never satisfied by the dominant forms of animal industry and one can doubt that smaller (so called, “self-sustainable”) farms fulfill them either. Fleischman provides three evolutionary reasons why it is unlikely that we will ever treat animals “humanely” for as long as we raise them for meat and other commercial purposes.

First, nonhuman animals give off few, if any, kinship cues. We do not perceive them as belonging to the same broad “family” of sentient beings to which we should relate with respect and benevolence. Consequently, we do not naturally feel or develop compassion for them. Second, with

²⁸ Cf. Diana Santos Fleischman, Ph.D., “Understanding Evolution Made Me Vegan”, posted on her blog, <https://dianaverse.com/2020/04/07/evolutionmademevegan/>

the possible exception of pets (whom we tend to treat as members of our families), animals do not establish reciprocal relations with humans. Specifically, there is nothing they can do in the future that could benefit (or harm) us in a way that would make up for the loss of benefits we derive from our current treatment of animals. Thus, reciprocity does not provide a reason for treating animals kindly. Finally, most interactions with nonhuman animals have no reputational consequences. Animals cannot tell anyone that they are being neglected or abused. On the contrary, the standard methods used by the animal industry are legally and culturally sanctioned as a “proper” and “acceptable” way of producing food. In effect, the only constraints applicable to animals are the considerations of economic efficiency with all the suffering that they entail.

But let us suppose, contrary to fact, that animals are raised in ways that fulfill all five conditions for “humane farming,” as laid down by Fleischman. Perhaps this could be done if we completely abandoned the industrial methods of producing meat and produced it exclusively on small self-sustainable farms. Is it true that happy animals raised in this way and replaced by other happy animals (in ways suggested at the beginning of this section) would generate some surplus utility? I doubt this is the case for mammals and birds. The self-consciousness and the ability to form relations with others, which most animals raised for food possess, make it impossible. Let me explain why.

First, self-conscious (and not merely conscious) beings have some understanding and anticipation of their future. For example, our dogs tend to wait near the door when they expect (one of) us to return home. Arguably, self-conscious animals also have some preferences regarding their future. In particular, other things being equal, such beings would desire to continue their existence, would desire not to be killed, would want to be free now from worries about the future, and so on. Any act of killing would thwart all such future-oriented preferences and desires. Slaughterhouse killing could also cause suffering resulting from the anticipation of premature death.

In addition, animals form relations with each other such that their fulfillment adds pleasure to their lives while their frustration hurts them. One of our dogs went into a period of extensive mourning and depression

when her partner passed away. None of our (currently three) dogs likes when we take only one of them for a walk, or to a vet. They wait for their partner and give her a healthy and joyful “rubbing” when she returns to the pack. Many desires and preferences of this kind are frustrated when we kill animals, even painlessly. Animals having future-oriented desires as well as desires concerning each other (like for example our dogs) are not replaceable even in principle. But this is also true about most farm animals. Consequently, other things being equal, it would be wrong to kill them. Replacing them with other completely happy animals does not quite restore the balance of utility.

None of these considerations would apply, however, to very simple merely sentient beings that are unable to form relations with others and cannot anticipate the future. So, assuming they are raised painlessly, should we grant a general exception to TFE and allow raising them for food?

I doubt it is the case. I worry that granting these sorts of exceptions undermines our moral principles, our understanding of nonhuman animals as beings who deserve our respect, and the ways our society and culture functions; in the end, it erodes our characters. A pioneer of *Animal Liberation* movement, Peter Singer, made the point in the passage emphasizing that, from a purely practical point of view:

it would be better to reject altogether the killing of animals for food, unless one must do so to survive. Killing animals for food makes us think of them as objects that we can use as we please... To foster the right attitudes of consideration for animals... it may be best to make it a simple principle to avoid killing them for food. (Singer (1993, p. 134))

A similar point was made by the philosopher and animal rights activist Lori Gruen in her brilliant book *Ethics and Animals* (2011, p. 103):

So, we might say that what is wrong with eating animals who live good lives and then die naturally (or accidentally) is that, in doing so, we don't respect them in the right way, as “fellow creatures,” who, like us, do not belong in the category of the edible. Another way of putting this point is to say that in turning other animals from living subjects with lives of their own into commodities or consumable objects we have erased their

subjectivity and reduced them to things. To do this is morally problematic, because it miscategorizes them and perpetuates our own misperceptions. It also forecloses another way of seeing animals, as beings with whom we can empathize and learn to understand and respond to differences. When we identify no-human animals as worthy of our moral attention because they are beings with whom we can empathize, they can no longer be seen merely as food.

To use one more similar argument:

meat-eating offers the grounds for subjugating animals: if we can kill, butcher, and consume them—in other words, completely annihilate them—we may as well experiment upon them, trap and hunt them, exploit them, and raise them in environments that imprison them, such as factory and fur-bearing animal farms. (Carol Adams (2015), p. 100)

John and Sebo (on whose work I heavily rely in this section) buttress these arguments by several empirical studies of the so-called “meat paradox” that demonstrate connections between, on the one hand, seeing nonhuman animals as food and, on the other hand, seeing them as having diminished mental lives and moral value which excuses hurting them. For example, as they summarize one such study (by Jonas Kunst and Sigrid Hohle (2016)):

[It demonstrated] that processing meat, beheading a whole roasted pig, watching a meat advertisement without a live animal versus one with a live animal, describing meat production as “harvesting” versus “killing” or “slaughtering,” and describing meat as “beef/pork” rather than “cow/pig” all decreased empathy for the animal in question and, in several cases, significantly increased willingness to eat meat rather than an alternative vegetarian dish.

Psychologists involved in these and several other studies believe that these phenomena occur because people recognize an incongruity between eating animals and seeing them as beings with mental life and moral status, so they are motivated to resolve this cognitive dissonance by lowering their estimation of animal sentience and moral status. Since these affective attitudes influence the decisions we make, eating meat

and embracing the idea of animals as food negatively influences our individual and social treatment of nonhuman animals (John and Sebo (2020), p. 574).

In another study, Rothgerber (2015) showed that “conscious omnivores” were less likely than vegetarians to perceive their diet as something they should follow; they departed from their diet more and felt less guilty about it, were less disgusted by factory farmed meat, and believed less strongly in the idea of animal rights.

Similar considerations apply at the social level. The very fact that society and culture ethically and legally sanction raising non-human animals for consumption leads to a tendency of ruling them out from the sphere of moral (and legal concern). In effect, it creates conceptual, legal, and moral room for perpetuating current forms of abuse.

When I took an earlier stab at the issue of whether or not animals are replaceable (Sencerz, 2011), I thought a reasonably clear line of demarcation could perhaps be drawn at the level of fish and other aquatic life. Animals such as shrimp or mollusks or fish have both very simple mental lives and are easily distinguishable from mammals and birds. There are many people who, rather than practicing pure vegetarianism, eat fish and seafood or even gain pleasure from the practice of catching fish. These people do not develop bad habits like those who work in the meat industry and do not end up abusing birds, mammals, and humans. On the contrary, many of them stick with their pesco-vegetarian diet and are as respectful of other forms of life as they should be. These sorts of animals seem to be replaceable. So, assuming they are raised and killed painlessly, we should perhaps grant a general exception to TFE and allow raising them for food (Sencerz, 2011).

I am much less sure these days. For I also know people who, after initially granting only one exception to vegan or vegetarian lifestyle (namely, the exception for eating seafood) soon slid completely into a full-fledged carnivorous diet involving animal atrocities. Thus, so far as I am concerned, I do not accept using the bodies of fish and other aquatic life in any form or way (except when basic human interests are at stake; e.g., it is a matter of life or health).

As far as animal products such as milk or eggs go, consuming them may be justified in cases when we have established fully symbiotic relations with animals (e.g., hens or cows or goats are treated in ways analogous to pets). In such circumstances, neither their basic nor serious interests would be sacrificed. And I do not see how such practices would open the door to animal abuse. I do not believe that these ways of interactions with non-human animals would be morally questionable.

Summary and conclusions

In this essay, I attempted to develop a hierarchical view about the moral status of animals that attempted to take into consideration two factors: the level of someone's mental development and the importance of interests to this being. I have shown that this view has plausible implications for a broad array of cases involving our interactions with non-human animals. Also, it is defensible on the grounds of more general theoretical considerations. Next, I explored the consequences of this view for current forms of animal industry and the practice of eating meat. I argued that they are morally indefensible. Finally, I considered a possible exception to this view for the situations where non-human animals have happy lives and are killed painlessly. I argued that granting such exceptions is way too risky from a moral point of view. If my arguments are correct, animals can be used only to protect our basic interests (such as life or health), and animal products can be used only when we establish fully symbiotic relations with non-human animals ensuring favorable conditions for the full satisfaction of their basic and serious interests.

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read papers by Peter Singer, Tom Regan, R.M. Hare, and others. This led to my contributions to the volume 18 of “Etyka”, published in 1980 and, eventually, also to this paper. I am deeply grateful for his encouragements, guidance, and help. An earlier version of this paper was presented for the South Texas Philosophy Group. My friends Ana Andrei, Emil Badici, Don Berkich, Jeff Glick, Ryk McIntyre, Margo Michel, Andy Piker, Susan Swan, Glenn Tiller, and Jeremy D. Wells were very generous with their time, criticisms, and suggestions leading to clarifying my thoughts. I appreciate this help.

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