

Animal liberation: Terrorism or civil disobedience?*

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1 Introduction

Common sense does not doubt that nonhuman animals (especially mammals and avian species) are centres of experience, subjects of a life that can be better or worse for them. They can flourish or languish. Like human individuals, they can be benefited as well as harmed. They are harmed by being caused stress, distress, pain, or suffering and, ultimately, by being killed. Most of us would admit that the treatment they are subjected to in research laboratories, intensive farming operations, circuses, on fur farms, during hunts, etc, raises *moral* questions, in the sense of requiring moral (as opposed to, say, economic) justification. Unless we think of animals as 'machines' and/or profit from their treatment as mere means to our ends, we are inclined to feel that there are certain things it is 'not right' to do with respect to other animals.¹ The question is: what should be done about it? How can profound structural change and improvements be brought about in the basic fabric of contemporary society with regard to the treatment of animals, and how are specific changes to be accomplished at a more basic level?

There are two ways of approaching the problem of constraints on human action regarding animals. My concern here will not be with the issue of the (im)permissible treatment of animals. I will consider, rather, what animal liberationists and animal rights activists are reasonably permitted to do in the name of our more or less distant, nonhuman relatives. In this paper, I will examine two general strategies hoped to bring about qualitative changes, strategies that are, importantly, bound up with the question of permissible counteraction of exploitation and abuse. Is it morally permissible, in a democracy, to take not only direct legal but also illegal action against animal abuse? If so, what kinds of actions: liberation of captive animals; damage to property; threats and violence

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¹See Horsthemke *The moral status and rights of animals* (2010) chs 2 and 3.

(psychological and physical)? Or do we have an overriding obligation to obey the law (peaceful demonstrations; picketing; patient lobbying)? What is the right thing to do in the South African context, where there is as yet no mention of individual animal protection in the new, democratic constitution?

Two hundred years ago, Jeremy Bentham equated talk of rights with 'terrorist language',² apparently in reaction to the anarchy and violent chaos that resulted with the French Revolution that was inspired, to a degree, by the idea of the fundamental rights of all human beings. In recent years, a new link has been forged between the idea of rights and the charge of terrorism. With the birth of the Band of Mercy, that spawned the Animal Liberation Front, and other, more or less radical animal rights activist groups and organisations (like the Hunt Saboteurs Association), and their sometimes threatening and coercive activities, the charge of terrorism arises with frequent regularity.³ Thus, Michael Leahy asks:

What is terrorism if not a tactic to use force of arms to frighten someone into submission? If so, it would accurately describe the methods of the [Animal Liberation Front], however small the incendiary device or high the explosive. ... The militants must be shown to possess mistaken views about the nature of animals and the treatment properly due to them.⁴

In a column simultaneously denouncing homosexuality and opposition to capital punishment, British journalist Paul Johnson accused the 'anti-blood sports lobby' of:

trampling on the democratic rights of ordinary, mild-mannered people ... Animal-rights campaigners release minks from fur farms, ... assault scientists, and turn meets of fox hounds into battlefields. There can come a point at which [their] policies move beyond the limits of acceptable constitutional behaviour and merge imperceptibly with downright terrorism.

Johnson acknowledged that:

[m]ost of the methods used by the pressure groups are legal. Yet, they make a mockery of democracy by turning majority power into minority power. Sooner or later, a new Edmund Burke or John Stuart Mill must devise a remedy for this weakness in our polity.⁵

At the very same time, as if he were indulging Johnson's appeal, then-British Home Secretary Michael Howard⁶ announced a crackdown on hunt saboteurs:

²Bentham 'Anarchical fallacies' in Waldron (ed) *Nonsense upon stilts: Bentham, Burke, and Marx on the rights of man* (1987) 53.

³For example, in Leahy *Against liberation: Putting animals in perspective* (1994) 250/1. See also Frankel 'Animal activists face terrorism charges, but vow to fight on' *Sunday Independent* (Johannesburg 2005-02-06) 15 at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2002/fall/from-push-to-shove>; http://articles.cnn.com/2005-05-19/us/domestic.terrorism_1_animal-rights-huntingdon-animal-cruelty-alf?_s=PM:US; and <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2005/summer/terror-from-the-right-0> (accessed 2012-02-05).

⁴Leahy (n 3).

⁵Johnson 'One step short of terror' *The Daily Telegraph* (London 1993-11-06).

⁶Quoted in Bennetto 'Howard backs hunters with new law' *Sunday Times* (London 1993-11-07).

I am not prepared to allow this sort of threatening behaviour to go unchecked ... Their intentions are quite clear. They want to stop people from pursuing a legal activity by threatening them. Wrecking other people's enjoyment of legal country sports is the very worst combination of political correctness and bullying. I intend to give the police the power to [arrest] trespassers if they have reason to believe that trespassers will seek to disrupt or prevent a lawful activity.

Those convicted of obstructing or disrupting country sports, or intimidating those involved, will be liable to up to three months' imprisonment or a fine of the then-equivalent of just under ZAR15,000.

Political studies analyst Kevin Beedy argues that the question of animal rights is no longer just an ethical but also a political issue, a question of 'who gets to control which form of ethics rules'. He contends, further, that the charge of terrorism, for example, is designed to do 'political damage' to the animal rights movement.⁷ A discussion of the political ramifications of the idea of animal rights is beyond the scope of the present inquiry. I will focus, therefore, on the philosophically and ethically relevant aspects of the charge in question.

2 The charge of terrorism

Examined carefully, the concept of terrorism characterises primarily the intentions of agents rather than the acts themselves. A terrorist act usually constitutes an incident intended to 'terrorise' (Leahy is correct here), that is, to scare (through threat or intimidation) a person, group, or governing authority into acting in a way that the person, group, or governing authority concerned would not otherwise act. The act itself is usually not the end, in other words, and this is precisely what distinguishes acts of terrorism from other violent acts. Terrorism, given this broad definition, constitutes a particular type of violent persuasion, or coercive intimidation. As I will argue, a further and crucially important consideration is that, in its use of violence, terrorism is usually characterised by a failure to discriminate between those who are innocent and/or non-threatening and those who cannot plausibly be called innocent and/or who pose a threat.

Two distinct, albeit related, ideas that characterise the concept of terrorism deserve mention: the use of violence for certain ends, and the intentional use of violence to create widespread fear and dismay. The problem of justifying terrorism is a special case of that posed by consequentialism. If all acts are in principle justifiable in terms of their consequences, then so may terrorism be justifiable. If some acts are never justifiable in terms of their consequences, then some (if not all) acts of terrorism will be among them. The difficult question here is not whether the end can ever justify the means, but which ends justify which means. It is nonetheless realistic to demand a compelling account in this regard.

On the other hand, terrorism cannot without qualification be called 'wrong'

⁷Beedy 'The politics of animal rights' (1990) *The animals' agenda* 17-21.

either. Simply to label something an act of violence or terror is not in itself a condemnation. Nor is to deny that something is an act of violence in itself a way of removing some or all grounds for due condemnation. An act cannot be judged simply on the basis of its coming under some general description, like 'act of terror'. Of course, some descriptions do carry such implications (that is, 'wrong'), but then the judgment has already been made. Imposing the value judgment of right or wrong, good or evil, on a terrorist act is, in a sense, contingent on the beliefs or convictions of whoever is using that moral label. Thus, because most acts of 'terrorism' have been perpetrated against Western nations, citizens of those countries tend to associate all terrorism with evil.⁸ It is only because the term 'terrorism' is laden with connotations of evil that it becomes politically useful to label any act that is directed against the status quo 'terrorism', associating the perpetrators with evil, and helping to eliminate public sympathy for the 'terrorist'. The key is, of course, to make the charge stick.

It is clear, therefore, that considerable doubt can be expressed about the nature of the label 'terrorism'. Recalcitrant government officials, for example, are never particularly objective in their use of political labels. They are quite prepared to call anti-government acts of violence terrorism, although their own government's interventions and military actions, objectively seen, would fall under that definition and may, on occasion, even involve greater wrongs. Depending on its own political or economic interests, certain foreign soldiers may be denounced by a particular government as 'terrorists', whereas other soldiers may carefully be labelled 'freedom fighters' worthy of diplomatic and logistical support, even though the contrary perception or judgment would be far more plausible. (Consider, for example, the former South African government's support of Renamo in Mozambique and Unita in Angola, and its simultaneous denunciations of Frelimo and the MPLA, not to mention of the ANC and SWAPO.)

Two questions arise, then. First, which acts, if any, of animal liberationists, hunt saboteurs, etc, constitute terrorism? Second, if they constitute terrorism, does this also mean that they are 'evil' or 'wrong'? Insofar as actions involve the rescue of, for example, experimental research animals, factory farm animals, neglected pets, etc, and/or are intended to raise public awareness with regard to the fact that these victims and certain abusive practices exist, they can hardly be called 'terrorist'. Other actions, designed to frighten researchers, factory farmers, furriers, or even fox-hunting philosophers and royalty like Roger Scruton and the Prince of Wales, respectively, may involve terrorist intentions, but this does not automatically make them 'wrong'. It merely assigns a value-neutral definition to the action itself.

Hence, there are two alternatives available to active defenders of animals. They may either question or challenge the charge of terrorism. Or, they may accept it but insist that the label be stripped of any inherently negative connotations. That

⁸*Ibid.*

is, they may reject the charge of terrorism and claim that they are engaged in what is more appropriately called civil disobedience. Or, they may refuse to accept that their terrorism, insofar as it is terrorism, is evil or morally wrong.

The latter response conceivably characterises the positions of three distinct types of animal rights activists. First, there are those who would take care not to harm innocent and/or non-threatening individuals (whether human or nonhuman) and who, apart from doing extensive damage to property, would target only individuals who cannot reasonably be called innocent and/or non-threatening. These activists would point out that the charge of terrorism is usually advanced by those who treat animals as mere means to their ends, which usually involves harming and/or killing them. If the exposition and direct counteraction of such harm and killing actually amounts to 'terrorism', these activists would accept it as a label they can live with quite readily. Second, there are those who would argue that the end they envisage justifies most (if not all) means, including indiscriminate use of violence. In other words, the struggle for the cessation of institutionalised abuse and exploitation would justify inflicting harm even on innocent and/or non-threatening individuals. In this regard, terrorism merely opposes indiscriminate violence with indiscriminate violence in the name of freedom from violence. Third, activists would embrace the charge made against them, emphasising that violence is contained within the structures, that is, the law and other institutions, of every enduring society. All serious political opposition must develop its own form of violence if it is to be successful. More specifically, terror is seen as the binding element in all social and political relationships.

Given the analysis of the concept of terrorism earlier, the first type of activism cannot plausibly be seen as constituting terrorism, at least not in the form of involving indiscriminate violence. Like those who reject the label, these activists hold that there are certain acts that are plainly wrong, *viz* inflicting harm on those who are innocent and/or who do not pose a threat. There are, nonetheless, substantial differences between these two groups of activists that I will discuss below, after dealing with the two latter responses to the charge of terrorism.

3 Means, ends, and structural violence

Professor of Politics at the University of Aberdeen, Paul Wilkinson's analysis of the tension between terrorism and the liberal state⁹ frequently fails to distinguish between groups such as the IRA that employ terror as one among several strategies and those like the Baader-Meinhof group whose entire *raison d'être* is terrorist and whose aim is to bring out the terror they believe is the essence even of a seemingly peaceful society or civil order.

I do not know (of) any animal rights activists who would endorse the views or policies of either one of these groups. In fact, the ALF and its various

⁹Wilkinson *Terrorism and the liberal state* (1986) and Wilkinson 'Inside the ALF' *Dispatches* Channel 4 Television (1998).

associations are committed to non-violence: they only endorse the theft (and subsequent liberation or, where necessary, euthanasia of animals, disruption, and damage to property). I will, therefore, limit myself to a caricature of each approach, and a few hesitant critical observations, before discussing views actually held and acted on by activists. My assumption in this section will be that it is logically possible for activists to subscribe to either one of the ideas mentioned above.

Both types of terrorism are indiscriminate in their use of violence. Neither distinguishes between 'combatants' and 'non-combatants' – but there is an important distinction between the two. Whereas the former aims towards particular ends and refuses to acknowledge any moral constraints *outside* means-ends considerations, the latter considers the terrorist act itself the end. There are two related reasons for this view. It usually includes in its justifications the claim that 'extreme violence is an intrinsically beneficial, regenerative, cathartic, and ennobling deed'.¹⁰ It further emphasises that terror is the binding element in all social and political relationships. Taking its intellectual cue from French philosophers and social theorists Georges Sorel and Jean-Paul Sartre, its implication is that violence can assume many forms beside that of confrontation and is often concealed within the structures of an apparently peaceful or conciliatory society. In other words, violence is not the single phenomenon usually described by that term but pervades all social order, so that there is a 'violence of principles'¹¹ exerted in the name of religion and morality, as well as various forms of 'structural violence' contained within the laws and institutions of every enduring society. This is because the 'freedoms' and 'rights' thereby protected are selectively defined so as to coincide with the existing privileges of those in power – in this case, human beings. All serious political opposition – in this case, the animal rights movement – must develop its own form of violence if it is to be successful. Confrontation, rather than conciliation, is the true political process. Without violence, the oppressed (in this case, animals) could never attain the freedoms and rights that they ought to enjoy.

If such structural violence is really contained within existing, seemingly peaceful social structures, then violent opposition to them would be more easily justified. The problem with this view is that it is at best untestable and at worst false. It is arguably false, because it *is* possible to identify certain social and political relationships and institutions plainly lacking any kind of violence and terror. Of course, this is precisely what is denied by proponents of the view under discussion: these relationships and institutions only *seem* to have a peaceable

¹⁰See Wilkinson (1986) (n 10).

¹¹Sorel *Reflections on violence*; see Scruton *A dictionary of political thought* (1983). A related question is whether violence for sustainable development or in the name of creating a sustainable society is justifiable. According to one influential perspective, the aim of green politics should be (strategically) to escalate conflict rather than to seek compromise with anti-green groups and forces, including the government, via strategies such as 'ecological modernisation' – see Martinez-Alier *The environmentalism of the poor: A study of ecological conflict and valuation* (2002).

and conciliatory character. We are deceived, we are told, because violence can assume forms other than outright confrontation. It is this sort of claim, however, that makes the theory untestable and, ultimately, vacuous. Any social and political relationship, any existing social order will be interpreted and explained in terms of its inherent, more or less concealed violence and terror. This thesis, of course, cannot be tested. There is nothing to prove it, or disprove it, for that matter. The question, 'What would count as disproof or evidence to the contrary?' is left unanswered. Therefore, far from being offered the kind of justification one should reasonably be able to expect, we are left with an account that is not only unscientific but unhelpful and hence, ultimately unconvincing.

The other view advocating indiscriminate use of violence does so within the framework of means-ends considerations. Proponents of this view are divided only over the issue of the necessity of *aiming* to violate innocent, non-threatening, or non-combatant life. Some hold that it is sometimes necessary to embark on tactics that are *intended* to harm those who have little, or nothing, to do with abusive or exploitative practices (say, the families of vivisectionists or meat industrialists). Others consider the harm incurred by the innocent *et al* merely as a *foreseeable*, if regrettable, effect of certain acts that are *intended*, however, to harm only the significantly culpable or threatening. The Unabomber, a serial bomber who was the most wanted person in the United States in the mid-1990s, presumably did not *aim* to injure or kill the 'innocent'. Nonetheless, his bombs killed three people (the last victim being a Californian timber-industry lobbyist) and injured 23 others, and these harms must have been at least foreseen by the bomber. The Unabomber employed violence as a means only. His primary concern lay with publicising his views on the threats to individual freedom and on the environmental and ecological havoc brought about by 'technophilia' and, in effect, the Industrial Revolution. He warned that, unless his 35,000 word anti-technology manifesto *Industrial society and its future* (in that he calls for a return to 'wild nature') was published, he would send another bomb 'with intent to kill'. The bomber said he would renounce violence if his manuscript was published – as it was, by two leading US newspapers. There was an extraordinary public demand for the document. Within hours of publication, Time Warner made the entire manifesto available on the Internet.

Is this a case of the end justifying the means? *The Washington Post's* Marc Fisher thought not: 'No matter how persuasive the bomber's arguments, his history of violence disqualifies him from being taken as a serious thinker for many readers'.¹² There are several reasons for condemning acts such as the Unabomber's. For one thing, his own harmful and lethal use of technology renders opaque what he criticised about technological and industrial enthusiasm, and its harms and hazards, in the first place. (Similar considerations would apply to harming innocent individuals, whether intentionally or merely foreseeably, in the name of eradicating the alleged evil of harms inflicted on innocent individuals, *viz*

¹²Fisher 'Unabomber's treatise makes hot reading' *The Mail & Guardian* (1995-09-29).

animals.) For another, it is very doubtful whether the anticipated good consequences of such tactics or strategies would outweigh the bad. The decision of the newspapers to publish was praised by a few as a courageous move to prevent further killing. Most, however, criticised it as setting a dangerous precedent: not only was or is there no guarantee that the bomber would keep his word, but his strategy could well be emulated by others, encouraged by the 'message [sent] to terrorists that the US gives in to threats'.¹³ The climate of fear, unease, and apprehension, and the threat of even greater environmental chaos and anarchy that would arise as a result of the indiscriminate use of violence constitutes a far greater certainty than the intended climate of 'oneness', or peaceful, nonviolent coexistence of human beings with animate and inanimate nature. As significantly, any such indiscriminately violent conduct is far more likely to erode any public sympathy that may exist for the respective cause and, in effect, to destroy the very basis for *rapprochement* and the discovery of solutions. All things considered, terrorism – in the form of the *indiscriminate* use of violence – not only involves deplorable acts but is also unlikely to bring about the desired or intended results.

4 Democracy, the law, and civil disobedience

In this section, I want to draw a distinction between activist groups that disavow the infliction of actual harm on any individual and those that limit their 'justifiable use of violence' to individuals who are culpable of abuse and exploitation of nonhuman animals. It is a distinction neither Johnson nor Howard made, when they labelled all animal rights activism 'undemocratic' and 'threatening', respectively. Johnson was dismayed by the rise of the 'single-issue lobby',¹⁴ like animal rights activism, homosexual militancy, and opposition to capital punishment, which he called a 'new spectre' that is haunting Western democracy.

The single-issue lobby is, almost by definition, anti-democratic. If the majority supported its objects, they would be secured by the normal workings of universal suffrage. It is precisely because the majority is hostile or indifferent that the lobby exists. So-called penal 'reforms' are a case in point. The abolition of capital punishment [in Britain] ... was secured by a well-organised progressive elite which never had majority backing: yet the views of the majority continue to be

¹³Allen-Mills 'Unabomber, America's crazed murderer, opens the media to blackmail' *The Sunday Independent* (Johannesburg 1995-10-01).

¹⁴'Single-issue' campaigns have also come under fire from within the pro-animal camp: according to Francione, they 'make no sense whatsoever': 'As long as we live in a culture that does not question the use of animals for food – ..., not just the treatment of animals but the use of animals – people are never going to generally embrace single-issue campaigns in any widespread way. Most people will see these campaigns as arbitrary. Most people will recognise that the animal uses that are the subject of single-issue campaigns are no worse than the uses that they regard as acceptable.' See Francione 'Why veganism must be the baseline' (2011) <http://www.abolitionistapproach.com/why-veganism-must-be-the-baseline/> (accessed 16-03-2011).

contemptuously brushed aside ... Despite their diverse aims, single-issue lobbies are smart enough to form ad hoc coalitions to elect pliant politicians or terrorise weak institutions.

Johnson concluded, echoing Dunning's Motion,¹⁵ by appealing to 'all sensible people [to] agree that "the power of the lobby has increased, is increasing, and ought to be diminished"'. Howard denounced all animal rights activists as threatening bullies intent on wrecking other people's enjoyment of a lawful activity. His government's Criminal Justice Bill served to crack down on 'hunt saboteurs, ... New Age travellers, trespassers, hippies, and those who disturb rural peace'.¹⁶

In an argument for animal experimentation, medical practitioner John Collee echoed Johnson and Howard, as well as Leahy:

Since the IRA ceasefire ..., the animal rights movement has become Britain's most dangerous organisation. Who are these mad bombers? What are they on about? ... And why do we listen to them? ... [T]hey are all fundamentalist lunatics ... [W]e have allowed ourselves to be bullied, by a loud and violent minority, into accepting behaviour that is frankly irrational ... That's the whole point of sending letter bombs to decent, public-spirited scientists. If it discourages one scientist or journalist from speaking out, then the campaign has succeeded. This is press control by intimidation. It has a long and ignoble history.¹⁷

Several questions arise, then. Is animal rights activism really 'irrational' (Leahy refers to activists as 'crazy' and 'misguided'¹⁸), 'anti-democratic', an example of 'unconstitutional' behaviour? Is it really unjustifiable, in a democracy, to take unlawful action against abusive practices? What is permissible in South Africa, with the democratic constitution providing inadequate protection for individual animals?

I will deal with the issue of (il)legality first. Two observations are pertinent in this regard. The fact that hunters *et al* are pursuing a 'lawful' activity does not mean that they are morally entitled to do so. The claim that they have a democratic right to hunt, maim, and kill other animals simply because the law permits this, and/or because the majority of humans are either in favour or indifferent, does not even come close to addressing the *moral* issue here. Laws often do not reflect rational, moral beliefs. (Consider, eg, laws against active euthanasia.) The fact that an activity is legal does not establish its rightness. Nor does the fact that an activity is illegal establish its wrongness, and this leads to the second observation. If what is unlawful were also (thereby) immoral, then the

¹⁵On 6 April 1780 John Dunning carried 233 votes to 215, in the face of Lord North's protests, a motion that the influence of the crown had increased, was increasing, and ought to be diminished. This was the high spot of the opposition's campaign for economical reform'. <http://www.answers.com/topic/dunning-s-motion> (accessed 4 February 2012). See Johnson (n 5).

¹⁶Bennetto (n 6).

¹⁷Collee 'A case for experiments on animals' *Observer Life* (London 1995-09-24).

¹⁸Leahy (n 3) 251.

Tiananmen Square demonstrations, the Boston Tea Party raid, Mahatma Gandhi and Martin Luther King's efforts, and of course the End Conscription Campaign and virtually all other anti-apartheid activities would have been condemnable on *moral* grounds. The point is that laws are often immoral and that what is morally right is often not included or provided for in the constitution.

The obvious reply will be that universal suffrage guarantees the inclusion or provision of requisite legislation – *if* it has majority support. British philosopher Alan Brown claims that 'in a democracy illegal tactics will be harder to justify than elsewhere since there is usually the possibility of change through elections or lobbying, for example'.¹⁹ Thus, the anti-slavery lobby, the anti-apartheid movement, Polish Solidarity, etc, reflected majority opinion – all were 'thoroughly democratic in that [they] reflected the will of the masses before they had the vote'.²⁰ The implication is that the same, however, cannot be said in the case of animals, where the majority are either hostile or indifferent to legal reforms.

I will consider only two responses here. The more controversial one is that the policy to which animal rights activists are objecting is not a genuine expression of a majority view. Even if it is true that the majority of *humans* are either hostile or indifferent to reforms, they nonetheless constitute a minority, considering the total number of all affected individuals, human and nonhuman; that is, if animals were able to see the point of voting or lobbying, and indeed were able to participate in elections and lobbies, the legal scales would weigh heavily in favour of their protection. The point is, however, that animals are unable to do so – not constitutionally, but by their very nature. Human beings, therefore, have to do it for them, have to 'speak out for the silent', as it were, and this is where the second consideration becomes salient. The mere fact that something has majority support does not make it right. A practice is not morally justified or in principle justifiable because the majority of those who can actively participate in democratic processes condone that practice or, at least, do not object to it. The majority may, quite simply, be wrong, or mistaken in their assumptions about certain things. They may also be unaware of the existence of certain abusive practices or oblivious to the 'finer details'. They may be, or have been, deceived or have allowed themselves to be deceived. Most commonly, they are merely indifferent. Now, obedience to the laws of a democratic society is certainly one of the most important duties – but it cannot be an absolute or overriding duty. Any such absolutism or rule worship would be irrational. Duties of obedience may give way to duties of correcting people's mistaken assumptions, of raising their awareness, or of counteracting their indifference. This brings me to the issue of civil disobedience.

The idea of civil disobedience was given currency by American naturalist and social theorist Henry David Thoreau, who emphasised the duty of civil disobedience to a government that permitted slavery. Most famously, civil

¹⁹Brown *Modern political philosophy* (1986).

²⁰Johnson (n 5).

disobedience became an important political strategy with Gandhi and King. Whether there is a *duty* to civil disobedience is a matter of considerable controversy (I return to this problem in the next section), as is the issue of which or whose authority to follow when considering a strategy of civil disobedience. Both Thoreau and American political philosopher Robert Paul Wolff think it ultimately a personal decision each individual has to make in consultation with their own conscience.²¹ I would suggest, however, that ultimate authority does not reside in individual conscience, or people, communities, systems, or law, but in rationality itself. A person's primary obligation is to be reasonable.²² From this it follows, *contra* Brown,²³ that civil disobedience is permissible whenever the system produces unreasonable policies. So conceived, the justification does not have to be so strong as to override the obligation to obey a democratic decision. Disobedience, as Australian philosopher Peter Singer correctly points out, is an 'attempt to restore, rather than frustrate, the process of democratic decision making'.²⁴ It is this feature that makes it *civil* disobedience: it is justified by appealing to principles that the democratic community itself accepts as the proper way of conducting its affairs.

As Michael Allen has indicated, the case of civil disobedience constitutes a special challenge to deliberative democracy.²⁵ 'Deliberative democracy', he explains,

may ... be said to constitute a distinct school of democratic thought in virtue of the commitment of its various adherents to justifying collective decisions through deliberative processes of public communication and reason-giving. This distinguishes it from a conception of democracy based on the simple aggregation of votes, and the strategic jockeying for votes, which usually goes hand in hand

²¹Wolff 'In defense of anarchism' in Minton (ed) *Philosophy: Paradox and discovery* (1976); see also Singer *Practical ethics* (1993) 293. The objection that animal rights activism is often fiercely anti-democratic (see Johnson, section 1 above) is certainly legitimate. Indeed, building on Matthew Humphrey's discussion (*Ecological politics and democratic theory: The challenge to the deliberative ideal* (2006)), one might distinguish between anarcho-liberationist forms of thinking and action that reject democracy and those normative arguments and strategies that can be used to unite animal rights politics and liberal democratic theory. Humphrey cautions against the (conservative) embrace of deliberative democracy for pursuing green political (read: animal liberation) ends.

²²Clearly, here I disagree with Humphrey (*id* 138) when he asserts, if 'green public reasons would not be the same as liberal public reasons', then it may be time for some 'unreasonable green politics' (as viewed by liberalism). Like Humphrey, John O'Neill has articulated green objections to deliberative democracy. See his 'Deliberative democracy and environmental policy' in Minter and Pepperman-Taylor (eds) *Democracy and the claims of nature* (2006) and 'The rhetoric of deliberation: Some problems in Kantian theories of deliberative democracy' (2006) *Res Publica* 8/3 249-268.

²³Brown (n 19).

²⁴Singer (n 21) 303.

²⁵Allen 'Civil disobedience and terrorism: Testing the limits of deliberative democracy' (2009) 56/118 *Theoria* 15-39.

with such a conception. To this extent, deliberative democrats seek to promote deliberation about the common good, rather than the mere expression of subjective preferences through the casting of votes, as manipulated by strategic partisan political appeals.²⁶

Many advocates of this school of democratic thought acknowledge that civil disobedience may contain certain coercive elements, threat and intimidation. They nonetheless consider it defensible insofar as it promotes public communication and deliberative activity,²⁷ and remains 'relevantly tied to the objective of communicative action'.²⁸ Allen argues that this concession, however, entails acceptance of certain kinds of terrorist activity. For example, while killing as a tactic to advance deliberation is not obviously justifiable (since 'dead people cannot deliberate'²⁹), anything that is aimed at generating disruption of deliberative inertia (as opposed to lasting, overwhelming and paralysing fear) may well be acceptable. This includes not only harm to property, but also limited and temporary harm to persons.³⁰

Before turning to the issue of permissible counteraction to the treatment of animals as renewable resources, I want to mention several preliminary doubts regarding the efficacy (albeit not the morality) of animal rights activism that targets individuals engaging in such treatment of animals. First, the use of violence against such individuals tends to obscure what is *wrong* about their behaviour in the first place. While it may be tempting to view these persons as the *real* 'terrorists' (as someone who has witnessed the frenzy of pigs arriving at an abattoir, the cowering behaviour of beagles and rhesus monkeys in a psychological research lab, or a panic-stricken stag or fox during an organised hunt may be more than ready to do), and to view hunters as the actual culprits 'disturbing rural peace', any application of *lex talionis*-type of measures requires very strong justification. Second, because such activism responds to the infliction of harm with the infliction of further (personal) harm, its potential for recruiting sympathisers is very likely to be diminished by such strategies. If anything, it is more likely to attract those with a proclivity for bullying and threatening behaviour, thus creating a kind of backlash that can negate the advances made by a strategy of civil disobedience that eschews infliction of personal harm.

²⁶ *Id* 17; see also Bohman and Rehg 'Introduction' in Bohman and Rehg (eds) *Deliberative democracy: Essays on reason and politics* (1997) ix-xxx.

²⁷ See, eg, Sabl 'Looking forward to justice: Rawlsian civil disobedience and its non-Rawlsian lessons' (2001) 9/3 *Journal of Political Philosophy* 307-330; Smith 'Democracy, deliberation and disobedience' (2004) 10/4 *Res Publica* 353-377; and Fung 'Deliberation before the revolution: Toward an ethic of deliberative democracy in an unjust world' (2005) 33/3 *Political Theory* 397-419.

²⁸ Allen (n 25) 15.

²⁹ *Ibid.*

³⁰ *Ibid.* Allen evidently fails to distinguish sufficiently between harm and damage, and between the physical and psychological violence that may well paralyse people with fear, on the one hand, and the symbolic and material violence that alerts people to the seriousness of the issues embraced in the protest, on the other.

It is ironic that Johnson³¹ should invoke ‘a new Edmund Burke or John Stuart Mill [to] devise a remedy for [the] weakness in our polity’ that allows animal rights groups to exert pressure. After all, it was Mill’s utilitarianism that formed the basis for a more enlightened attitude towards nonhuman animals. And it was Burke who said: ‘All that is necessary for the triumph of evil is for good men to do nothing’. If Burke’s dictum is correct, then counteracting ‘evil’ is not only permissible but may also be morally mandatory. This appears to be in direct contrast with pacifism, as for example expressed in the late 1960s hippie slogan in the face of the Vietnam war, ‘Fighting for peace is like fucking for virginity’. In recent years the contrasting approaches have been highlighted in what has become known as the Best-Francione debate.³² While both philosophers are practicing vegans, Steve Best is an outspoken non-pacifist and endorses ‘direct action’ beyond ‘open rescue’,³³ while Gary Francione favours a pacifist (albeit not a passivist) stance, with veganism as the baseline in the fight against animal abuse and exploitation.³⁴ Both Best and Francione advocate education. But, whereas Francione seems to be confident that education (coupled with active veganism) will bring out substantial changes, Best favours a critical pedagogy approach coupled with tactics far beyond mere education.

5 Permissible counteraction

What, then, is it permissible to do on behalf of animals? My inquiry, of course, should constitute an examination and weighing not of strategies of political warfare but of competing ethical reasons and arguments. Insofar as there appears to be a degree of overlap between these two kinds of consideration, in the present context of the defence and protection of animals, a discussion of permissible counter measures to abuse is appropriate. The view that I regard as morally defensible and which basically emphasises the inviolability of innocent and non-threatening individuals, namely, ‘open rescue’ (the freeing or rescue of

³¹ Johnson (n 5).

³² See, eg, www.indymedia.org.uk/en/2009/09/437440.html; and <http://www.greenisthenewred.com/blog/animal-liberation-front-to-vegan-death-threats/2209/>. It would appear that the direct action-versus-pacifism debate of Best and Francione has all but taken the place of the famous utilitarianism-versus-rights debate between Singer and Regan in the 1970s and ‘80s. The central issue of the acrimonious exchange is arguably the effectiveness of the respective strategies.

³³ See Best ‘The loss of a halo: Francione and the mask of Jainism’ (2010) <http://drstevebest.wordpress.com/2010/02/14/the-loss-of-a-halo-francione-and-the-mask-of-jainism/>; Best and Nocella ‘Defining terrorism’ (2004) 2/1 *Animal Liberation Philosophy and Policy Journal*: 1-18 http://www.criticalanimalstudies.org/JCAS/Journal_Articles_download/Issue_2/DefiningTerrorism.pdf (accessed 2011-11-27); Best, McLaren and Nocella ‘Revolutionary peacemaking: Using a critical pedagogy approach for peacemaking with “terrorists”’ (2007) 5/2 *Journal for Critical Education Policy Studies* 1-24 <http://www.jceps.com/index.php?articleID=110&pageID=article> (accessed 2011-11-25).

³⁴ See Francione ‘On violence’ (2010) <http://www.abolitionistapproach.com/on-violence/> (accessed 2012-02-04); Francione (n 14).

animals from research laboratories, factory farms, transport vehicles, fur ranches, etc) is permissible. The permissibility of violating the rights of the experimenters or owners, in these instances, has to do with the consideration that these individuals cannot reasonably be called 'innocent' or 'non-threatening'. They are already, significantly, responsible for the initiation of harm and the violation of interests. Of course, great care ought to be taken to avoid the spreading of disease by infected animals and to alleviate the suffering of victims, perhaps even by humanely putting nonviable animals to death. On this note, Johnson's claim that '[a]nimal-rights campaigners release minks from farms, with horrific consequences for wildlife'³⁵ receives little, if any, support from the occurrence of actual events.

The *primary* moral issue is not the violation of property rights. What is in question here is the very idea of regarding animals as 'property' that one can treat in whatever way one pleases.³⁶ Of course, with open rescue there is the issue of trespass, since the relevant laboratory or farm is legitimate property that the proprietor is, in principle, entitled to defend.³⁷ Insofar as the acts in question are examples of direct action as the primary, if not the sole, possibility of acting on behalf of animals, they might be seen as permissible violations of rights, like property rights, all things considered – in other words, as a moral reason outweighing other moral reasons or considerations. Thus, a trade-off of the rights of the proprietors is permissible in these situations, on the grounds of the morally significant culpability of these individuals.

Other acts, including examples of 'indirect' action, are somewhat more problematic. These include threats to, and attempts to frighten, human individuals involved in abusive practices. They are problematic because the causal chains pervading exploitation, as well as the appropriateness of a specific act, are not always clearly ascertainable. Similarly, other instances of indirect action, such as causing damage to property, and so forth, are not always clear-cut. One might decide on such acts as a last resort, perhaps after all reasonable negotiation has failed and the requisite causal connections and the appropriateness of the acts have been established beyond reasonable doubt. Nevertheless, I cannot list the various instances of direct and indirect, and coercive, action that might be brought on behalf of animals.

I want to reiterate at this point that while an agent is *negatively required* to do, that is, *prohibited* from doing, certain things on behalf of animals, and while he is *permitted* to do certain other things, he can be *positively required* to provide

³⁵ Johnson (n 5).

³⁶ See Francione for an in-depth treatment of this issue; Francione *Animals, property, and the law* (1995); Francione *Introduction to animal rights: Your child or your dog?* (2000); Francione 'Animals – property or persons?' in Sunstein and Nussbaum (eds) *Animal rights: Current debates and new directions* (2004) 108-142.

³⁷ See Levin 'Animal rights evaluated' (1977) 37 *The Humanist* 12-15; Levin 'Reply to Fulda on animal rights' (1993) 27 *Journal of Value Inquiry* 111-112; Fulda 'Reply to an objection to animal rights' (1992) 26 *Journal of Value Inquiry* 87-88.

assistance or to benefit animals only insofar as such assistance or beneficence do not involve any violation of any rights.³⁸ Part of the reason why an agent might prefer patient lobbying, writing letters to newspapers, companies, and relevant authorities, and other forms of non-violent protest over breaking into laboratories, smashing the windows of butcheries, and spray-damaging the fur coats of unsuspecting passers-by may be a concern with the consequences of actions. While this strategy in itself may not help presently caged and threatened animals (which is why I endorse the rescue operations of groups like the ALF), an agent may consider non-violent forms of protest to be more expedient and fruitful in the long run in that they arguably entail a gradual transformation of public awareness rather than alienate popular opinion and eliminate public sympathy virtually from the outset. This brings me to another general strategy designed to produce qualitative changes in contemporary society's attitudes towards non-human animals. Tom Regan says: 'The idea that animal liberation is human liberation is fraught with tremendous meaning because the way out of our own bondage and current predicaments is not possible without helping the animals'.³⁹ He suggests that it 'goes back to finding common ground', that it is a matter of raising 'consciousness incrementally to get people to act on what they see is right and feasible in their immediate experience'. (The protests, pickets, boycotts, and demonstrations waged by 'ordinary, mild-mannered people' against the transportation and export of veal calves from Britain to the Continent are a case in point.) Regan's point is not unrelated to Thomas Nagel's pessimism about moral theory as a form of public service ... It is certainly not enough that the injustice of a practice or the wrongness of a policy should be made glaringly evident. People have to be ready to listen, and that is not determined by argument.⁴⁰

How, then, does one get people to listen? Perhaps a promising example is set by the Humane Education movement in South Africa, especially the Humane Education pilot project in the Western Cape. Based on successful trial studies at the notorious Pollsmoor prison,⁴¹ and on an initial 'three-month pilot project on the impact of Humane Education on learner behaviour in 11 schools most affected by violence',⁴² its point of departure is the consideration that, 'despite the strong

³⁸I make the case for this conception of obligation in Horsthemke (n 1) chs 6 and 9.

³⁹*The animals' agenda* (December 1986) 5.

⁴⁰Nagel *Mortal questions* (1979) xiii.

⁴¹Mr Wikus Gresse, Chairman of the Parole Board at Pollsmoor Prison near Cape Town, recently made an impassioned plea. 'Teach people how to care', he said. As founder of one of the most successful criminal rehabilitation projects in the world today, known as The Bird Project, Gresse has seen first hand the healing power inherent in the gentle art of caring. The Bird Project enables prisoners to hand-rear Love Birds, Cockatiels and parrots for ultimate sale to avid bird-keepers. 'If these people (the prisoners), as youngsters, had been given the chance of humane education, of learning how to care[,] some of them would most probably not be here today', says Gresse. See Van der Merwe 'Do Africans dare care about animals?' (2009) *Biophile* 26 at <http://biophile.co.za/ethical-consumerism/do-africans-dare-care-about-animals> (accessed 2009-03-17).

⁴²Available online at: http://www.het.org.za/index.php?option=com_content&task=view&id=91&Itemid=188 (accessed 2009-03-17): 'Of all the benefits the learners derived from this intervention,

individual ethical leadership from some of South Africa's leading statesmen (Nelson Mandela and Desmond Tutu amongst others) and a constitution that introduces sound ethical principles', there is 'still a worrying gap in the development of sound ethical foundations for the new South African democracy'.⁴³ The National Education Department has invited the Humane Education Trust to lead the way towards the first medium-term study (to run over two years) of the value of humane education as a tool in conflict resolution in schools, in the reduction of violence and (potentially) in improved social cohesion and community upliftment. To this effect, five 'problem schools' in the notorious Eersterivier district have been targeted for implementation of the project. In the first year the humane education initiative is envisaged to focus on learners' relationships with animals (through partially placing into learners' care orphaned and/or wounded birds, stray dogs and cats, abandoned cart horses and donkeys; as well as school visits to factory farms, abattoirs and animal shelters). A second phase is envisaged to be implemented in the second year that will include a 'more holistic approach to conflict resolution interventions, that is, human-centred issues and problems like racism, ageism, sexism, disability etc, from a humane, empathy-building perspective'.⁴⁴ In addition,

As a control study, the second phase of the programme would be extended to learners in a further five schools, with similar profiles to the initial pilot study group, but who had not yet experienced humane education relating to animals. This would then enrich the evaluation to include the underlying contention that children who have been exposed to animal related humane education are more receptive to wider societal issues, including problems requiring empathy. The hypothesis is that humane attitudes engendered through humane education do in fact extend to people, as well as animals.⁴⁵

6 Conclusion

Beedy considers it unfortunate that there has to exist an animal liberation or animal rights movement at all: 'that some people must defend animals against the torturous acts of other people is an abomination, as is the fact that the others fight long and hard to preserve their ability to engage in these acts'.⁴⁶ It is odious that the latter should so ardently seek to defend their spurious right to systematically maltreat and kill innocent, non-threatening individuals simply on the grounds that they are nonhuman. As long as this is the case, however, civil disobedience and certain kinds of non-violent counteraction of such abuse and exploitation (like open rescue), albeit illegal, are morally permissible and, indeed, rationally defensible.

there was none as great as their development of self-esteem'.

⁴³Van der Merwe 'Project for conflict resolution in South African schools' (2006) document prepared for The Humane Education Trust, Somerset West, South Africa (website: <http://www.het.org.za>).

⁴⁴*Ibid.*

⁴⁵*Ibid.*

⁴⁶Beedy (n 7) 20-21.