

Chapter 4

Liberal Neutrality and Consumption: The Dispute Over Fur

Markku Oksanen

1. Introduction

Once it was rather popular to declare, as a response to ecological problems, that those forms of behaviour responsible should simply be banned and regulated effectively. But such an authoritarian view is undeniably out-dated today (see Taylor 1996; De-Shalit 1997:83; cf. Westra 1998). One reason for this turn is that liberal thinking emphasises that, as far as possible, the state should remain neutral, or agnostic, with regard to people's preferences and their fulfilment. This is the case unless the actions of one person are harmful to another, in which case state intervention is appropriate. The same view is directly applicable to people's patterns of consumption.

The assumption is that the commodities people choose to consume must not be subjected to censure by the government. Consumers are free to choose (in the same way they are free to form their own conception of the good life). This liberty can be called consumer sovereignty, and its counterpart — the right to supply commodities and services — producer sovereignty. However, these freedoms can cause many problems. An individual commuting in a car may not cause harm, but when most people do, it brings about undesirable consequences. So what can be done if some people do not regard their modes of behaviour and patterns of consumption as ecologically unsustainable (contrary to the evidence exposed to them)? Or, even if people realise this, they still decline to change their behaviour. This raises the question of coercion again, providing that external interference with consumer or producer sovereignty is conceived of as a form of coercion.¹

For a political system that emphasises the plurality of values and deems coercion something to be avoided if possible, it is quite inevitable, but not necessary, that people will have profound disagreements over appropriate forms of, and reasons for, coercive action. Consumption can be a target of moral criticism, but is there a place in liberal theory to

¹Of course, it is difficult to find a general agreement on what precisely counts as coercion. Consumption is already regulated in various ways. If the law forbids me to use unleaded petrol, does it illegitimately restrict the scope of free choice? If the government merely levies a larger tax on leaded petrol, does it force me to choose the unleaded alternative, or is it just trying to persuade me to make more environmentally responsible choices? Should different kinds of environmental taxation policies be regarded as forms of coercion, or are they nothing more than a politically neutral setting where action takes place? The view on interference taken here is a very broad one. A deeper discussion of this issue lies beyond the scope of this chapter.

make a shift from mere moralising about certain modes of consumption to regulation by legal means? In the spirit of this problem Mark Sagoff (1988) asks, "Can environmentalists be liberals?" Following Sagoff's view I shall answer positively. It is not my aim, however, to present a case for liberalism (or animal rights), but simply to state that there is some compatibility between liberal principles and environmental protection and to show that this compatibility depends on our understanding of liberalism and environmental objectives. By doing so I shall show that an appeal to liberal neutrality cannot justify — in a sense of giving permission to — environmental degradation and cruelty to animals.

I shall consider whether it is up to consumers what kind of things can be consumed or whether the government can legitimately act to control supply and demand. Of particular interest here is work by John Rawls (1993) in *Political Liberalism*. As a case study I shall focus on the dispute over the moral rightness of fox farming and the right to consume fur-products. How should the conflict between pro- and anti-fur groups be understood? How can it be solved within the confines of liberal-democratic society and the market economy, or can it? However, unlike much of the criticism targeted at consumption, the thrust of the animal issue relates to the quality, not the quantity, of consumption. In other words, the problem is not excessive consumption, but that the form of consumption is wrong. For the defender of animal rights, there is no need to refer to statistical figures to establish immorality.

I begin by examining how the idea of neutrality has been defined in liberal political theory. In the third section, I focus on anthropocentric elements in liberalism, and then, in the fourth section, on what are the limits and conditions of formation of environmental ethics within liberal doctrines. The fifth section is an analysis of the case of fox farming and fur wearing and how to decide about controversial issues. In the end, I summarise the results of my discussion and briefly describe the applicability of it to other cases of disputed modes of consumption.

2. The Idea of Liberal Neutrality

In modern liberal-democratic societies one of the most heated on-going discussions focuses on environmental degradation and the treatment of non-human animals. The debate stems from questioning whether liberal society allows, or even encourages, modes of behaviour that actually should be outlawed because they threaten the physical basis of life. Consumption, in its relentless form, is often given as a manifestation of human arrogance and negligence of the natural world and as a form of organised cruelty to animals. As a solution many green thinkers have advocated what is known as "post-materialism" (Inglehart 1977; cf. Goodin 1992:55). In the same way, when we pay attention to our treatment of animals, the defenders of animal rights claim "the ultimate objective of the rights view is the total dissolution of the animal industry as we know it" (Regan 1988:348); this includes banning fur farming. But if consumers have a morally justified sovereignty regarding their consumption patterns, does this requirement then undermine the legitimacy of external interference in individual consumption? Such questions are topical and get at the issue of whether people can be compelled not to buy and use furs. Or, can people be enjoined to follow a vegetarian diet instead of a carnivorous one? Such requirements are

not today considered categorically commanding and so do not receive full legal and political recognition. They are things that cannot be discussed within the bounds of liberal society. It may even be the case that these are challenges that should be answered mainly by individuals themselves. The reason for this assessment can be found in principles that are constitutive to the liberal society.

A paramount doctrine in liberal thinking is the idea of the neutral state (Dworkin 1978:127; Coglianese 1998:44), and one of the most important applications of this principle resides in the idea of consumer sovereignty. Advocates of liberalism who hold to this idea — libertarians and egalitarian liberals particularly (Raz 1988:110) — typically regard neutrality as the only possible understanding of the state that is compatible with the idea of individual autonomy. Although there is virtually no consensus on every detail of neutrality in practice, how neutrality should be defined, or even on whether this is the ideal term to capture the idea it stands for, there is an intuitive shared notion. This approximate consensus seems to suggest that the state should allow individuals to constitute their own plans of life. This includes a conception of the good life based on their values, wants and beliefs that they have a *prima facie* right to seek to realise (Rawls 1993:191–93; Dworkin 1978:127).

The idea of a neutral state can also be understood so that ideally the state exists to safeguard the individual's sphere of autonomous decision-making. The decisions made within this sphere are *prima facie* legitimate and final and therefore individuals can be authors of their own lives. In a liberal society, it is then up to individuals on their own to decide what religion to follow, what to wear, what form of transportation to use, and what to eat. Wissenburg (1998:7) has argued "liberal democracy is totally incompatible with attempts to dictate peoples' tastes and preference". However, alternatives are possible. John Rawls has called the ethical and political view that rejects the ideal of the neutral state perfectionism. According to perfectionism, following Rawls' definition, what the state should do is promote a certain view of the good life and discourage people from following other views (Rawls 1972:325). In recent discussions of political theory, perfectionism has usually been seen as a part of communitarian thinking (see Mulhall and Swift 1990; Baxter 1999).

Although liberals do not think that the state should give people a model of the good life, the state apparatus is not unnecessary. In fact, they are likely to endorse a perspective that is quite the opposite. In spite of different views on the legitimate tasks of the state among liberals, there is consensus at least on one thing, namely that the state is to protect the rights of individuals. Thus the power of government is limited (Raz 1988:107). The fundamental basis for legitimate external interference is found where a person's actions would violate the harm principle (the classical presentation of this view is Mill (1910:73)). As Joel Feinberg (1984:11) has put it, "the need to prevent harm is always an appropriate *reason* for coercion." But the harm principle is inaccurate and dependent on supplementary principles that specify how to solve a situation where interests are in conflict (Feinberg 1984:187). The state can thus be understood to have quite a large set of social responsibilities. These obligations may include the fostering of policies that help to maintain liberal society. For Rawls it is legitimate that the state promotes "the virtues of toleration and mutual trust, say by discouraging various kinds of religious and racial discrimination" (Rawls 1993:195; cf. Raz 1988:136; O'Neill 1998:92–6). In practice,

therefore, the harm principle can be interpreted in numerous ways. Just consider the diversity of the responses of actual liberal-democratic societies and how they have defended themselves against those forces that aim to demolish them.

Individuals live in societies that are nation-states. A state has a public sphere, in which matters of common interest are decided. Nevertheless, it is inherent to the liberal society — especially if it has been as deeply divided by religious, philosophical and moral doctrines as Rawls (1993:1–2) assumes — that the members of society will be in constant debate about the limits of the public sphere. The purpose of these debates is to determine in which cases external interference into individual behaviour is legitimate and what form it will take. But still, despite all these controversies, in a pluralistic, liberal society, deeply conflicting philosophical, moral and religious beliefs and modes of behaviour can coexist. How this can happen is the puzzle that Rawls (1993) examines in *Political Liberalism*.

The key idea in Rawls' account is that in a liberal society there is a political consensus, or "overlapping consensus", and this consensus concerns "the basic structure of a constitutional democratic regime." Rawls claims that the consensus can be achieved without accepting any "comprehensive religious, philosophical, or moral doctrine" as a constitutional basis of a society. Because this kind of consensus does not extend to all aspects of human life, it allows individuals to follow their own personal inclinations. Accordingly, Rawls (1993:175) specifies that his theory of political liberalism is a presentation of "the main institutions of political and social life," not of "the whole of life". For him a comprehensive conception of justice also includes "nonpolitical values and virtues."² A society that has reached an overlapping consensus on constitutional essentials without expelling any reasonable view has thus reached a stable state of neutrality. At first sight it is easy to say that as far as the state does not try to suppress, say, any religious group or promote one at the cost of others, it acts impartially and sustains neutrality.

There are, nevertheless, many difficulties in formulating a consensus that would be truly neutral. I will discuss these problems in the remainder of this chapter. The first difficulty in Rawls' analysis is that the constitution is not wholly independent of people's actual beliefs, but it reflects them. The second issue is how to separate the political from the non-political or social and to determine what precisely is the scope of overlapping consensus. A third problem, because of its vastness, lies beyond the scope of this chapter, but is enmeshed with the question of whether the neutral state is in itself a contested idea that requires a justification, and there might not be a consensus that it is a worthwhile goal (O'Neill 1998:27; Raz 1988:118). Concern about the environment and animal welfare seems in this respect to put liberal neutrality into a wholly new light. This is so because for some liberal thinkers (e.g., Wissenburg 1998:98) these matters, and their related requirements, are examples of a perfectionist attitude. By extension, they do not deserve full legal and political recognition, and may even be something that cannot be discussed within the bounds of liberal society. As we shall see in the next two sections, reasons for holding such views can be found both in the actual moral beliefs of liberal thinkers and in liberal

²Formally, Rawls (1993:15) defines overlapping consensus as follows: "Such a consensus consists of all the reasonable opposing religious, philosophical, and moral doctrines likely to persist over generations and to gain a sizeable body of adherents in a more or less just constitutional regime, a regime in which the criterion of justice is that political conception itself".

ideology itself. In other words, liberal theorists subscribe to anthropocentric ideas that are regarded by environmentalists and animal rights activists as the main cause of existing problems.

3. Anthropocentrism in Liberalism

In this section I shall describe liberal views of environmental ethics generally, and try to relate them to the Western tradition. The subsequent section is devoted to a more detailed study of them with particular attention being given to Rawls' views.

Fundamental liberal ideas conform to the larger anthropocentric tradition in Western philosophy.³ This is so because liberalism has strongly emphasised the notion of human exceptionality and denied the idea that the natural world, or any non-human living being, in itself is intrinsically valuable. Consider a few examples. In his *Two Treatises of Government* John Locke (II §43) thought that the value of natural objects is primarily attributable to human labour, and there are many others who have followed this labour theory of value. Immanuel Kant (1996a:564) in turn said that we have direct duties merely to other persons, not to animals or inanimate objects. Moreover, Kant (1996b:84–5) made a sharp distinction between the concepts of worth (dignity) and price. He claimed that human beings, as moral persons, are to be regarded as bearers of dignity, whereas in regard to non-human beings the value standard is that of price or market value, which is related to human desires and inclinations. Generally speaking, with respect to the valuation of non-human things, modern-liberal thinking follows a robust subjectivism. This means the value of non-human entities is something that humans attribute to them. Moreover, it is something that humans may, and even should, do as individuals and not as a collective body. So “value is in the eyes of the beholder,” and nature as such is devoid of value (Wissenburg 1998:97).

Consider also the idea of the social contract. It is hard to imagine contracts with animals or plants, since the making of a contract requires an explicit mutual recognition of each other's interests. (This is the standard view and both advocates and opponents of animals rights tend to subscribe to it although it has been questioned (see, for example Rowlands 1997) Therefore, Thomas Hobbes (1962:152) claimed that “to make covenants with brute beasts, is impossible” because, for instance, they do not recognise other beings' rights and “without mutual acceptation, there is no covenant.” Others have followed Hobbes's route. For instance, John Rawls in his *Theory of Justice* (1972:512) says “it does not seem possible to extend the contract doctrine so as to include them [animals] in a natural way.” In *Political Liberalism* Rawls (1993:246) is explicitly anthropocentric when he claims “the status of the natural world and our proper relation to it is not a constitutional essential or a basic question of justice” (see also Wissenburg

³This is the case particularly with respect to those forms of liberalism that do not rest on utilitarian thinking. For utilitarians from Jeremy Bentham to Peter Singer, the criterion of moral considerability has been sentience — those beings that are capable of feeling pleasure and pain have interests that matter morally. It seems plausible that there are sentient beings other than humans. Certainly, one may deny the moral considerability of animals by denying that they are sentient, but it is rather difficult to defend this position (see Singer 1990).

1998:102).⁴ As we shall see in the next section, both the historical aspects — what liberal thinkers have actually said and what people have thought — and ideological commitments are merged in Rawls' account of the reasons for, and the implications of, the exclusion of non-human forms of life from the moral community.

The institutional status of different environmental goods has, of course, varied in time and place, and so have the norms of appropriate treatment. Considering privately-owned tracts of land, trees or animals, it is a personal matter, to a great extent, what people may do with them. The approximate meaning of ownership is that there are no restrictions in so far as the owner does not harm other people. Richard Routley (1973) has called this liberal conception of the human-nature relationship *human chauvinism*, describing the view that considers non-human nature as inferior to humanity and regards it primarily as something that can be dominated by humans to meet their needs and desires. Not questioning Routley's view wholly, there are, however, some difficulties when we focus on animals and the kind of restrictions we can place on their treatment. History is more blurred and generalisations are often half-truths at best. To assert that animals are not moral persons, and therefore can be treated in any way one pleases, is to present an untrue statement from the mainstream liberal point of view. Although we may not have direct duties to animals, concern for their well-being and condemnation of ruthless treatment can still be fully justified. Locke, Kant and Rawls, to mention a few, plainly disapproved of cruelty to animals, and from this we can derive the moral doubtfulness of fox farming. Why they did so, and how the requirements they present can be understood, I shall return to later on. For the time being let us conceive of liberal theory as anthropocentric.

4. Liberalism and the Possibility of an Environmental Ethic

The purpose of this section is to scrutinise more closely the relationship between liberal principles and the formation of an environmental ethic and to explain why liberal theorists are reluctant to expand the moral community to cover animals. Consider the following questions: if we deny the justifiability of anthropocentric-ethical theory, and replace it with some form of biocentrism,⁵ are we also rejecting liberalism? In what sense can the defenders of animal rights be liberals? There seems to be a deep divide between these opposing views because most defenders of animal rights do not assume they are rejecting liberalism when they defend their view; their objective is somewhat different. What is of relevance here is to address why some liberal theorists have answered the first question

⁴History is, of course, not without exceptions. See, for example Nozick (1974:35–42). Although Regan (1988, see in particular p. 341) does not directly address larger political issues, he does not seem to be antagonistic to certain fundamental liberal ideas.

⁵In environmental ethics it is a commonplace to distinguish between different positions according to what are morally considerable beings. For my purposes here it is enough to make a rough distinction between anthropocentrism and biocentrism (non-anthropocentrism). Presumably, all kinds of non-anthropocentrists are critical of fox farming as far as it prevents foxes from living a satisfactory life. For a review of different positions in environmental ethics see Oksanen (1997).

positively, and claimed that animal rights, as realised throughout the whole of society, and liberalism, cannot go hand in hand.

Ethics and Human Reciprocity

Marcel Wissenburg (1998:65) has suggested that the most likely environmental ethic of liberal democracy is anthropocentric egalitarianism, the view that only human beings have moral standing and this is equal by its nature. One reason why liberals are reluctant to acknowledge the moral status of non-humans as full members of the moral community is embodied in Rawls' views on society and the constitution of public morality. He argued morality results from human reciprocity and it basically covers common affairs. As Simon Hailwood (1999:271) puts it, Rawls' liberal political theory is above all an "account of *political* morality, specifically justice, not of morality as such." Hailwood (1999:272) further states that the common understanding of Rawls' theory of justice, and this includes what Rawls explicitly says himself, is such that it can accept aims like species preservation and other forms of environmental protection on the basis of concern for human well-being, but to go beyond these limits of prudentiality would imply the adoption of an "attitude of natural religion" (Rawls 1993:245–6; cf. also Rawls 1972:267–8). In the case of Rawls, the rationale for this position stems from his understanding of society "as a fair system of social co-operation between free and equal persons viewed as fully co-operating members of society over a complete life" (Rawls 1993:9). This view is intuitively appealing and it is rather difficult to see how non-human animals can participate in the construction of such a thing as society that consists of abstract entities, such as institutions. To say this is to make, in the first place, an ontological statement on the existence of society, not an ethical statement on the appropriate treatment of excluded beings, but it seems to have some ethical implications.

It is clear that like any other form of government that is not fully arbitrary, a liberal democracy is explicitly constructed upon certain common values and commitments, and the content of political consensus reflects these values. Rawls says that the construction of systematic views of what is just and unjust involves as its starting point what people actually think is just and unjust. He writes that:

We start, then, by looking to the public culture itself as the shared fund of implicitly recognized basic ideas and principles. We hope to formulate these ideas and principles clearly enough to be combined into a political conception of justice congenial to our most firmly held convictions (Rawls 1993:8).

If the answer to this question is in actual moral beliefs, then we have to find out what these beliefs are and have been. In fact, the first question in environmental philosophy to be systematically studied is whether we can find ethical ideas to respond to the ecological crisis from within Western intellectual traditions or whether we need to create a fully new ethical system.⁶ Opinions are, naturally, rather divided. One of the most considered positions has

⁶Although Aldo Leopold noted the lack of ecological ethics in Western morality in his *Sand County Almanac* (1949) a major stimulus in this debate was the article by Lynn White (1967).

been developed by the British philosopher Robin Attfield. Although defending a version of biocentrism, Attfield finds the Western (Judaean-Christian) tradition as capable of reacting to environmental problems. Moreover, Attfield argues that the total rejection of actual morality would not work and actually is not even desirable: "the most that is possible is a revised normative theory accommodating and enlarging upon accepted judgements" (Attfield 1983:225). Rawls (1993:175) thinks in much the same way about the significance of actual moral values: "Political liberalism ... must have the kind of content we associate with liberalism historically". It does, then, leave some room for environmental concern, but this is contingent, of course, on our understanding of past morality.

In sum, for Rawls the idea of what are morally considerable beings results from the system of social cooperation. But the content of public morality, that is the ethical norms and prescriptions, should also depend on shared moral beliefs. For theoretical and historical reasons, this morality governs directly the relations between the individuals who are members of the system and indirectly their relationship with the natural world. As far as animals are merely parts of the external world, our duties to them can be indirect. So liberalism in this form is essentially bound to be anthropocentric at the most fundamental theoretical level, but the endorsement of this does not by logical necessity imply the acceptance of cruelty to animals.

Reasonability and Tolerance

As Attfield suggests, reliance on historical interpretations does not exclude the possibility of change. Rawls also, although defending moral conservatism, entertains the possibility of revising common moral standards. If morality and publicly-shared conceptions of right and wrong ultimately rest on the way people think, then it is rather difficult to see why liberalism has to be necessarily anthropocentric and why it could not adopt the idea that animals, alongside humans, are morally considerable beings (cf. Hailwood 1999). For example, if non-human animals are regarded by the majority of the people as having moral standing, and if this view is compatible with the constitutive principles of a society, or at least tolerable, then there is room for general recognition of the rules that govern the treatment of animals as parallels with those rules that govern interhuman relationships. These rules would then have a firm, politically relevant philosophical basis in people's moral beliefs. This is a challenge to liberalism that is perhaps best put forward by those environmental ethicists who subscribe to biocentric individualism. Both are individualist positions and attempt to establish the value of non-humans by using as an analogue the concept of human dignity and its defence; these philosophers include Paul W. Taylor (1986) and Tom Regan (1988). The moral principles employed to defend animals are the conventional ones, such as utilitarianism and Kantianism. In this respect these reasons for animal rights are similar to the reasons presented in support of the rights of humans.

Can these claims about animals really be put into practice in a liberal society? The answer seems to be negative for the following reason. For sure, on the one hand, it is unreasonable to suggest that biocentric views are irrational, logically unsound and fully

unreasonable. They are, to use Rawls' (1993:114) expression, "universally communicable"⁷ and the idea of animal rights can be explained to other people so that it makes sense to them. But, on the other hand, it may be too much if a biocentric ethic was among the basic ethical standpoints of a society and eating meat and wearing fur were legally-forbidden practices. The reasonability of this is further stressed when it is remembered that for some people there really is no alternative to a carnivorous diet or furs. In certain cases natural conditions reduce individual autonomy to a bare minimum of survival. Let us ignore these cases in which there are no real choices and focus on the situation in affluent liberal democracies.

It seems to be so that those who refute the rights of animals can live with the fact that there are people defending animal rights and not eating meat. However, it is not so that the defenders of animal rights can always tolerate the habits and inclinations of those who eat meat and dress in fur, because to them such habits and inclinations are immoral. Whether or not this is the case in reality, it is useful, if not necessary, to also distinguish between liberal and non-liberal conceptions of animal rights. The distinctive mark is the attitude of the advocates of these conceptions to anthropocentrism — whether or not they hold the views of those people who deny the claim that animals have rights. Consequently, non-liberals would require that the principle of animal rights and all the secondary norms are legally recognised and implemented. There are rules to be followed by a society as a whole, without exception. Contrary to this, according to liberal conception — and this is a view that Rawls might think of as compatible with political liberalism — the recognition of animal rights, and of the normative implications of it, are matters of individual choice as far as these views are *reasonable*. In other words, the espousal of the philosophy of animal rights is voluntary and no-one should be compelled to not use animal products if they want to. This is because "[i]t is unreasonable for us to use political power ... to repress comprehensive views that are not unreasonable" (Rawls 1993:61).

The inability of animal-rights defenders to tolerate the views of their opponents can also be understood in terms of neutrality — the legal recognition of rights of animals or plants is perfectionism. As these liberals see it, the neutral state should not rank different conceptions of the good and the right or, therefore, what kind of nature is valuable and what kind of use of it can fulfil an individual's ideals and wants. Accordingly, they claim that doctrines like the intrinsic value of nature or animal rights inescapably lead to a certain conception of the good and may restrict "access to resources for those individuals with alternative visions of the good life" (Coglianese 1998:54). For this reason, non-anthropocentric ideas cannot be part of the value basis of a society.⁸ Therefore, a person is to be permitted to wear a mink coat if he thinks it will satisfy his preferences optimally.

⁷Rawls (1993:127) also says that, "Political constructivism does not criticize, then, religious, philosophical, or metaphysical accounts of the truth of moral judgments and of their validity. Reasonableness is its standard of correctness, and given its political aims, it need not go beyond that" and that "Political liberalism does not question that many political and moral judgments of certain specified kinds are correct and it views many of them as reasonable." (Rawls, 1993:63) (cf. Raz 1988:108).

⁸Consider for example the comprehensiveness of deep ecology. As formulated by Bill Devall and George Sessions (1985:65) it "attempts to articulate a comprehensive religious and philosophical worldview." However, in his well-known ecophilosophical theory Arne Naess does not attempt to suppress diverse religions and views of the world. Rather he says that his aim is to create a theory in which the principles of action ("the deep ecology platform") can rest on different ultimate premises — Christian, Buddhist or philosophical for example. So there could be more in common between deep ecology and Rawlsian liberalism than may appear at first sight.

The appeal to neutrality is closely related to the claim that acceptable modes of environmental valuation are generally private matters. To be acceptable it is enough that the view is reasonable and consistent with constitutional essentials (Rawls 1993:127, 153). In practice the denial of the compatibility of liberalism and non-anthropocentrism means that at the level of individuals a non-anthropocentric valuation of nature is appropriate. These are matters of personal moral choices. But at the level of the overall political and economic system the liberal state holds to anthropocentrism (Wissenburg 1998:98–9; cf. Sagoff 1988:165). The reasons for this can be found in liberal views on the formation of public morality in general.

Providing that this analysis holds, it does not seem to be an open question what kind of environmental-ethical commitments a democratic state can logically and politically adopt, but the commitment to neutrality sets certain limits. These limits cannot be transcended without rejecting the principle of liberal neutrality. It is equally true that for the majority of people certain modes of treatment of non-humans can appear morally intolerable even if society does not regard animals as moral persons or subjects. Liberal societies have criminalised (some forms of) cruelty to animals and these societies can regard some forms of exploitation as too brutal to be tolerated. The actual moral beliefs seem then to be rather complicated. Which set of rules in regard to animals should be adopted?

5. Neutrality in Practice

It is inevitable that a liberal-democratic society, like any other decent society, has to decide what kind of things or states of affairs are to be secured by the fundamental laws of the state. This means that it has to adopt some kind of environmental ethic, with or without a direct concern for other living beings. Often there is, however, no consensus. Despite this fact, it is clear that no society, including a liberal democratic one, necessarily petrifies into a state of indecisiveness or drifts into a violent conflict. It can in practice follow a certain policy, either formally or informally. A liberal-democratic society has manifold methods to accommodate views. These include referenda, decisions in a legislative assembly, governmental decisions and decisions made by state officials. The decisions can also be such that no universal decision is made and this means, in many cases, that they are left to the market.

Theoretically, the basic divide is between approaches that emphasise either politics or economics. Accordingly, liberals may claim that the neutrality requirement gives us two basic options — either to leave these things open, unresolved, or to make statutes that are the outcome of democratic deliberation, often being in practice some kind of compromise. John O'Neill argues that these alternatives stem from different understandings of neutrality — the former follows from a non-dialogical, and the latter from a dialogical, conception of neutrality. According to a dialogical conception of neutrality it is possible to reach a rational solution in matters of moral disputes by means of open debate. The defenders of non-dialogical neutrality say this is not possible. For a dialogical conception, the public forum is the site where debate takes place, whereas for non-dialogical conception of public life controversial moral issues can be decided upon in the market (O'Neill 1998:18). Let us take a closer look at how these two distinct understandings of neutrality lead to different policy models with regard to fox farming.

The Case of Fox Farming

It is a hot moral issue at the moment whether fox farming and the fur industry in general are morally acceptable or whether they represent a form of organised cruelty to animals that must be outlawed. The views are seriously conflicting and incompatible, and they seem to be, independent of whether one is a committed liberal or something else. This example is topical (this chapter was written in the winter of 2000) because of the British Labour government decision to ban fox farming as a cruel form of industry. Animals live their lives in small cages where they have little opportunity to fulfil their natural inclinations and needs. The decision, as well as widespread speculation over its possible implications for European Union policymaking, has upset representatives of the fur industry in Finland. The production of fur, particularly fox fur, is an important source of livelihood in some rural parts of Finland. It employs directly about 6–7,000 persons in small family firms, and indirectly a few thousand more individuals. Most of the pelts are exported, the total value being approximately 250 million Euros. There are altogether about five million animals living in cages, and the species include fox, mink and polecat.⁹

The Finnish government will make an official appeal to the European Commission arguing that the British decision should be understood as an illegitimate intervention into the freedom of industry.¹⁰ What it tries to claim is that if consumers demand fur, the production of them should be allowed, otherwise it interferes with the market mechanism and prevents people from meeting their lawful wants. In other words, the argumentative strategy is to allege that there is no significant difference between the following two statements:

(S1) It is as acceptable to run a fox farm as it is to oppose the idea that there is a right to farm and breed foxes.

(S2) It is as acceptable to wear fur clothes as it is to refrain from wearing them.

The statement (S2) expresses something that is related to a person's private life. Everyone is free to choose his or her own mode of dressing, whether to wear a fur or an anorak or something else. And if the demand for fur products is legitimate, the production has to be also. The non-dialogical form of neutrality says that there is no politically relevant difference between these two statements. We should leave it up to consumers to decide whether fox can be farmed and bred and doing otherwise is to coerce them to act against their own will. The fox farmers might say to the opponents of their industry that, privately, you may make consumptive choices that do not support fox farming, but as a form of industry fox farming is legitimate and, therefore, you have no right to otherwise interfere in our businesses. In other words, they require that opponents of fox farming tolerate the actual preferences of consumers and the right to produce furs. Defenders of the dialogical form of neutrality have a different opinion. They suggest when we conceive of

⁹For statistics see the web-site of the Finnish fur breeders association at: <http://www.stkl-fpf.fi>.

¹⁰See *Helsingin Sanomat* from 13 February 2000. The debate in the Finnish *Eduskunta* (Parliament) echoed much of the debate in the UK Parliament. For an account see the web-site: <http://www.parliament.the-stationery-office.co.uk/pa/cm199900/cmhansrd/cm000628/debtext/0062833.htm>.

fox farming as a form of industry — something the statement (S1) refers to — we are not speaking about a purely private matter, or one that should be left to the market to decide. Rather it is a matter that has general moral significance.¹¹

The fundamental questions concerning fox farming then become:

(Q1) Is it in the first place morally acceptable to produce and to consume fur-products?¹²

(Q2) Providing that it is permissible to wear fur, how may they be produced?

Let us consider each of these in turn. Is it morally acceptable to produce and to consume fur-products? The moral acceptability of producing and wearing fur is at issue in Western societies. There are people who think of furs as an expression of human arrogance towards the rest of nature, and there are those who regard it as just one category of garments among others. In every society, there must be some decision about this matter because even no decision is a decision in effect as it allows the continuation of the practice of wearing furs. Meta-theoretical views on neutrality give different answers about the possibility of reaching a solution that would satisfy everyone. The dialogical view defends the possibility of a rational decision, whereas the non-dialogical view is sceptical about the possibility of consensus. The non-dialogical view requires that the decision be left to the market because it is the only possible way to settle the controversy given that there is no rational and socially acceptable solution.

Let us assume that the members of society are feeling increasingly dissatisfied with fox farming and want to see a radical change. Growing numbers of people in Western Europe and elsewhere may have such anti-fur sentiments. To express this change of attitude in economic terms, we might say that the actual preferences of people have transformed. Typically, the market is thought of as having a feedback mechanism such that if there is a change in preferences and, consequently, in demand, this information will be conveyed to producers. If the demand for furs collapses, sooner or later the same will occur to the supply. Therefore, it might be said, there is no need to ban this form of industry. Furthermore, were it so that governmental neutrality as an ideal regulates the relations between the citizens and the state in an adequate way, only this kind of protection policy — the one that consumer behaviour produces — would be regarded as acceptable. But it is plausible that the minority that is deeply attracted to furs is able to keep this industry alive, although the majority would look down on it. So, according to the dialogical concept, although the two statements (S1) and (S2) are often confused, they should be kept separate. The dialogical view requires that if people feel fox farming is morally repulsive, there should be an

¹¹There are many examples of objects and services of which production, use and/or even possession is more or less under strict governmental control or totally banned. Just consider the following examples: drugs, guns, child pornography and prostitution.

¹²To be precise, the regulation of consumption and production are different things. While regulation always serves some societal aim, it is debatable what part of the whole process should be targeted for realising the aim. For example, Sweden has outlawed the use of prostitutes' services in spite of the fact that traditionally it is the supply of these services that has been outlawed. However, as I see it, it is not necessary for my purposes here to keep them distinct, because they both are constituents of the problem.

open debate on the acceptability of this industry. Such public deliberation would then lead to the most satisfactory solution.

As I see it, the non-dialogical conception of neutrality fails to settle the dispute, simply because the conflict over fur stems, at least in part, from the claim that the market model is in this case inadequate and, worse still, immoral. Fox-farming opponents claim that what is at issue is the moral acceptability of fox farming *per se* and the patterns of consumption on which it depends. For them the core of the problem does not rest with (inappropriate) individual choices. According to the opponents, it is this kind of treatment of animals, and the related industry, that is a public affair calling for a public decision on its acceptability. Furthermore, they regard a ban on fox farming as the only acceptable alternative because it is evident that a lifestyle based on exploiting other forms of life in such a cruel way is not a good life. By implication, the worldview on which it is based cannot be reasonable, in the sense of being tolerable.

The defenders of animal rights are also critical of the use of the market mechanism as a compromise because it leads to monetary valuation of animals and, finally, to the idea that the value of morally considerable beings is reducible to how they have actually been evaluated. Animals are, then, a mere category of commodity. Thus, it still sticks to anthropocentrism and cannot be, in this respect, neutral for an animal-rights advocate. To express Regan's view of the moral standing of animals in other terms, what he opposes is the commodification of animals. When something is commodified, it becomes a marketable object, the value of which is determined in the marketplace and expressed in monetary terms (see Radin 1996). For Regan (1988:343–44) animals have inherent value and they have this value independent of their use value and how people actually value them. Inherent value is something that animals either have or have not; it is categorical. For Elizabeth Anderson (1993:193) the market is in this respect defective, because "markets are responsive only to given wants, without evaluating the reasons people have for wanting the goods in question, which may be based on ideals or principles."

The reason underpinning this objection to universal commodification is the fact that we are accustomed to classifying things and to evaluating them by means of various different standards. Consider for example Kant's distinction between the notions of worth and price, and the assertion that human beings are bearers of dignity, whereas for non-human entities the value standard is that of price or market value. To be able to use the market as a compromise in a way that accords with the idea of neutrality, there should be a consensus on the applicability of this method. However, the case concerning the moral justifiability of fox farming is not closed. Even if money was generally regarded as an appropriate form of valuing commodities, that is, in determining their price, there would be a problem since not all things that are of value are merely commodities, as something that can be consumed as we see best.

But if the government forbids one way of using animal resources, does it then violate the principle of neutrality? It seems unavoidable that the precise content of the practice of neutrality finally depends on the shared views of right and wrong and on our conception of neutrality. Moral views can alter, and the more people who resist fox farming as a form of industry the more pressure there is to change government policy and to bring the practice under governmental control. If liberals hold rigidly to the idea that banning fox farming violates the principle of state neutrality and the liberal idea of the right to establish

a firm freely, we seem to encounter two incompatible options. Either the liberal model of government should be rejected or fox farming as an industry should be allowed. To put the problem so is, however, to present it in a pointed way. My intent here is that there are other possible positions, like that of the dialogical conception of neutrality, according to which the norms that govern our relations to other animals are an outcome of democratic deliberation.

Providing that it is Permissible to Wear Furs, How May They Be Produced?

The tradition of wearing fur clothes can remain alive, even if the production of fur is regulated. Directives condition how, where, by whom and which animal species can be farmed for these particular purposes. Finding such a compromise to a disagreement might actually be something that Rawls would applaud as he says that "A constitutional regime does not require an agreement on a comprehensive doctrine: the basis of its social unity lies elsewhere" (Rawls 1993:63). But what is the proper role for the state in realising and implementing the agreement?

The non-dialogical conception of neutrality emphasises the private nature of environmental decision-making and, as a result, the continuity of ecologically unsound forms of consumption depends on individual preferences and related patterns of behaviour. So it is not fully clear that even the production of fur needs to be regulated; after all the market can take care of it. Just consider how many different kinds of eggs are available in an ordinary supermarket: organic, free-range, low-cholesterol and "normal" eggs, to mention a few. Consumers may express their concern about the well-being of chickens, or the lack of it, through their choices. In the same way, fur farmers could attach a label to their pelts that would give relevant information to the consumer, for example, a description of the life and killing of the animal(s). This would allow consumers to decide what kind of animal treatment constitutes cruelty and what is acceptable. The alternatives might be numerous: ordinary fur, "animal-friendly" fur, free-range fur or wild fur.¹³ Moreover, if people want to refrain from using any furs at all, they have all the possibilities to do so by expressing that preference in the marketplace. But does either of these two options leave it open to ban fox farming? My claim is that there are cases where it is not in conflict with the principle of neutrality to ban a form of industry if it appears to us as immoral. To ban fox farming we do not even have to appeal to the radical doctrines of the rights of animals.

Even though Rawls denies the possibility of a non-anthropocentric ethic, there is a place for critique with respect to human behaviour and the natural world and animals. Typically, this evaluation employs as a standard of criticism the question of whether action is harmful or is believed to be harmful to other people (Coglianese 1998:47). This is an important reason why many eminent philosophers, including many liberals, have taken a disapproving stance on cruelty to animals. Perhaps the most famous of all, Kant, condemned it as leading to cruelty toward other persons. We may also think that being cruel to others

¹³In practice, there are many problems associated with eco-labeling, particularly with regard to the reconciliation of the interests of various actors. However, these matters are not germane to the current discussion.

somehow degrades or corrupts our sense of the value of life (Raz 1988:210–3). However, the main reason for many other liberals, like Locke and Rawls, for disapproving of cruelty is not instrumental, at least not in such a direct manner. Rather, as they see it, cruelty is wrong because animals are conceived of as suffering from callous treatment. As Rawls (1972:512) expresses his “considered belief” that “[t]he capacity for feelings of pleasure and pain and for the forms of life of which animals are capable clearly impose duties of compassion and humanity in their case.” Theoretically the duties we owe to animals can thus be understood as duties of charity, not as duties of justice (Clark 1987).

So a liberal can admit that it is our duty to minimise cruelty to animals — even though they are not recognised as full members of the moral community. And this can be of significance regarding our practical relationship to animals; as Wissenburg (1998:112) puts it, the exclusion of animals “does not imply that *all* human interests necessarily take precedence over *all* animal interests.” The problem with the market compromise is that it tolerates too much, too much from the perspective of mainstream liberal advocates. So if fox farming is a particularly cruel form of fur production, it is not justifiable by appealing to the non-dialogical principle of neutrality. In other words, the liberal position is a kind of compromise. It will not silence the advocates and the opponents of animals’ rights from criticising it, but it can still avoid a kind of moral nihilism that allows people to behave in any way they like and to disregard the pain of others.

6. Concluding Remarks

My primary purpose in this chapter has been to examine why the idea of consumer sovereignty is so deeply embedded in liberal thinking and why it is difficult to impose rigid rules with respect to consumption. If the state promotes a vegan lifestyle it privileges one mode of living over others. This may mean that people are being treated in unequal ways according to their “tastes”. It would be perfectionism. At first sight, liberalism does not necessarily give any definitive answer to the question of what kind of beings are morally considerable. It is therefore fully feasible to imagine “a vegan state” that would rely on liberal doctrines. However, such a state accords with the Rawlsian ideal state only if this philosophy of life is accepted by a clear majority of the people in their considered moral beliefs, and if the views are based on traditional beliefs. And even in this context it is difficult to marry a biocentric view on ethics with a Rawlsian view, because according to the latter morality emerges from interpersonal relationships in a society and thus must be anthropocentric. But this does not fully undermine the possibility of environmental and animal-welfare policies, and these policies may include forbidding certain forms of behaviour.

The most plausible case for state-based, or collective, environmental protection is the one that aims at the protection of public goods. Even though Rawls denies the possibility of a non-anthropocentric ethic, there is room for criticism of human behaviour with respect to the natural world and animals. Environmental protection that is prudentially motivated may justify coercion when it is regarded as the protection of public goods. As Rawls (1972:267–68) says, “Assuming that the public good is to everyone’s advantage, and one that all would agree to arrange for, the use of coercion is perfectly rational from

each man's point of view". This principle can be even more significant for environmental protection when extended to future generations (see Wissenburg 1998:127–36). This is one way to solve the free-rider problem, where a person does not pay for his or her use of public goods, and other liberals deem it applicable to cases in which there is a risk of harm (Coglianese 1998:47). But it is common to all these cases that environmental regulation is derived from the harm principle. In other words, an external intervention into individual behaviour is acceptable if it serves the interests of the larger community. The reason for recognising animals was argued to be different as animals themselves matter.

Should we leave the decision on what is right and wrong in our relationship to animals to the market? I assume that it is a widely-shared opinion that cruelty to sentient beings is always a public affair and has to be examined according to the standards of public morality. Certain issues are simply too important, regarding the whole of society, to be left open. When we leave it to the market to govern the treatment of animals it opens up the legitimate possibility to subject them to all kinds of cruelties. The situation would be intolerable to anyone who cares for animals. If the production of fur by means of farming (of wild animals) is a truly cruel form of treatment, then it should not be allowed. A more moderate version of this claim requires the fulfilment of certain humane conditions where these animals are raised.

To provide a solution to the controversy over fox farming we should pay attention to the ethical points of departure of animal-welfare protection. It is questionable in what sense the concern for animal welfare constitutes a "comprehensive" moral theory. Imagine a society in which the respect for animals is firmly based on religious doctrines and it is one instance of religious correctness to show this respect in one's own behaviour. Should we think in this case that everyone should follow these religious rules? I think many of the defenders of animals I characterised earlier as non-liberal would also give a negative answer to this question and would argue for pluralism. This is so because the freedom of religion has at least since Locke's influential writings on toleration been regarded as a major dimension of liberal pluralism. Therefore, it is important to emphasise that the actual ethical basis of the modern animal-rights movement is not religious in kind, but correlates with the fundamental ethical commitments of liberal-democratic society as it is.

If fox farming is thought of as a cruel form of treatment of animals, it can be banned without transgressing the principle of neutrality and it is not an unbearable violation of consumer and producer sovereignties. When it comes to finding a solution to a controversy, if the "leave-it-to-the-market" position is unsatisfying, we should find alternative methods. One such method is discussion that takes place in public. Then we can evaluate in the best possible way whether fox farming accords with our moral thinking; neutrality and pluralism are not and should not be excuses for cruelty to innocent living beings.

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