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*Society and Animals* 15 (2007) 191-201

Society  
& Animals Journal of  
Humanimal Studies  
www.brill.nl/soan

## The Welfare-based Defense of Zoos

**Tzachi Zamir**

Lecturer, Department of English, The Hebrew University, Jerusalem, 91905, Israel.

E-mail: [tzachizamir@mscc.huji.ac.il](mailto:tzachizamir@mscc.huji.ac.il)

Sent 20 January 2006, Accepted 27 June 2006

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### Abstract

A “welfare-based defense” of a practice involving nonhuman animals presents the examined practice as promoting the animal’s own interests. Such justifications surface in relation to various interactions between human and nonhuman animals. Sometimes such arguments appear persuasive. Sometimes they form self-serving rationalizations. This paper attempts to clarify and specify the distinction between plausible and dubious applications of such arguments. It then examines (and rejects) a detailed welfare-based defense of zoos.

### Keywords

use/exploitation, moral veganism, morally acceptable, moral status, moderate animal liberationists, choice, respect, paternalism

### Introduction

The distinction between use and exploitation is a cardinal one for any comprehensive, moral outlook on our relationships with nonhuman animals. It is possible to map on to the use/exploitation opposition of the three diverging perspectives in debates over animals reveal:

1. Animals are never exploited—merely used;
2. Animals are never used—always exploited; and
3. Some animals are used by humans while others are exploited by them.

According to the first position, by virtue of who they are, nonhuman animals can never be exploited; or, what boils down to the same, they can be exploited, but such exploitation is not morally problematic. The second position perceives any self-serving relationship with animals as exploitative, even when it significantly promotes the interests of animals in such relationships. This view prescribes moral veganism and opposes maintaining companion animals. The

third standpoint does not rule out all animal-related practices, yet is willing to abrogate some of them if they constitute exploitation.

I belong to the third group. I find its outlook attractive, because it accommodates the possibility that some human-animal relationships are, or can be, non-exploitative and morally blameless. Such relationships can benefit both humans and nonhumans and can potentially be vindicated when generalized into large-scale practices. The other advantage of (3) is that it also facilitates the recognition that nonhuman animals may be exploited and that animal-related practices can be morally wrong, even if they do not involve palpable cruelty and suffering. For both these reasons, should it prevail, (3) will substantially improve the overall lot of animals. The (3) group is also a less radical stance than the one adopted by the (2) group, making it strategically more feasible by appealing to a larger consensus.

The problem for endorsers of (3)—call them “moderate liberationists”—is how to avoid a programmatic stance that lacks substantial coordinates that can successfully differentiate exploitation from use. The challenge relates,

1. to clarifying the conceptual distinction between use and exploitation as such;
2. to showing how this distinction (potentially relevant to human and to nonhuman animals) relates to nonhuman animals; and
3. to applying this distinction to actual animal-related practices, respecting their particular nature and what they involve and, in particular, how these institutionalized practices might be advancing the interests of some animals.

The implications of such clarification are far reaching, relating to what we eat, wear, or regard as entertainment. These implications are taken up in Zamir (2007). I have elsewhere evaluated the practice of using animals on the farm and the practice of using animals for therapeutic means.<sup>1</sup> In this essay, I consider the welfare-based defense of zoos, according to which the interests of animals kept in land or aquatic zoos are promoted by good zoos. I follow the stages above: explicating the use/exploitation distinction, applying it to animals, and turning finally to the variant of the argument that harnesses this distinction in order to mobilize a moral defense of zoos.

Give-and-take relationships among humans are morally acceptable under various restrictions. This means that mutual use need not constitute exploitation. Given informed consent; given the existence of actual choice among genuine, available alternatives; and given that the transaction does not itself involve some deep violation of life's meaning and value (most cases of agreeing to become another person's slave constitute such a violation, even when cho-

sen among alternatives), there is nothing immoral in such exchanges. Consent, choice, and respect are derived from more overarching considerations pertaining to moral status: Human beings are entities who “possess moral status,” meaning that there are some actions that may not be done to them. Restrictions on what may be done to humans is not itself a moral outcropping issuing out of elements external to them (their value to other human beings). It is implied by something they themselves possess. Theories would here differ as to whether that something is interests, or the capacity to suffer, or rights, or the ability to generate value judgments, or some irreducible intrinsic value.

Sometimes, we ignore the desires of human beings and disregard the inability to obtain their consent, yet feel that doing so is morally legitimate. Children or variously incapacitated individuals may be treated in such ways. The justification for ignoring their autonomy appeals to the action performed as being beneficial to them. Paternalism is thus morally exonerated by acknowledging the extent to which paternal relationships can increase overall welfare and/or eliminate impending harms that the person, either because of age or ailment, cannot yet (or ever) fathom. Paternalism to children involves the expectation that they eventually grow out of such relationships and become autonomous.

Many times, our relationships with nonhuman animals are modeled on a paternalistic framework along these lines. Companion animals are the most obvious example. Being vaccinated, spayed or neutered, limited in movement, and trained are actions that are done, not through obtaining their consent but through calling the shots for them, deciding what is in their (and our) best interest.

Such relationships are paternalistic, and—unlike with children—they remain paternalistic. Most liberationists—those who, notwithstanding the numerous differences among them, share the core belief that the current moral status of nonhuman animals should be thoroughly rethought and revised—consider such relationships to be non-exploitative. When questioned, the source of the moral legitimacy of such relationships is that companion animals gain substantially from such lives, that they do not lose very much, and that such living is not some deep violation of what they are (by deep violation I am thinking of actions such as caging a bird). Remaining within this consensus (I will not discuss anti-pet liberationism), it appears that paternalistic relations in regard to nonhuman animals can be vindicated if predicated on the animal’s projected welfare.

### Permission for Paternalism

So far, I have claimed that if keeping companion animals is justified, our best defense for this practice (and it does require a defense once we abandon the belief that we are simply entitled to do so by virtue of what we and they are) underscores the promoting of welfare of those animals: They get to live and to lead comfortable and safe lives. A pet-less world is undesirable when considering the interests of cats and dogs. This claim obviously demands various qualifications, and I do so elsewhere in relation to companion animals.<sup>2</sup> However, if it is roughly correct, such reasoning encapsulates the recognition that some forms of paternalistic, questionable conduct in relation to animals are permissible when, and only when, they significantly upgrade the interests of animals. By questionable, I refer to actions such as limiting freedom or invasive non-consensual actions performed for the animal's projected well being. Such reasoning, when applied to an animal-related practice, constitutes "a welfare-based defense."

The question to ask now is how broad this permission for paternalism actually is. The question of scope relates both to species' types and to specific actions done to particular animals. Can paternalism to pets be legitimately extended to animals on the farm and in the zoo? To all? To some? And which particular actions does such paternalism justify? (Spaying? Vaccinating? Isolating? Training? De-beaking?)

In my analysis of the moral viability of extending pet-like paternalistic conceptualizations to animals on the farm, I claimed that given reform, the relationships between humans and farm animals can be maintained to the mutual benefit of both. Humans will be using such animals. However, such use need not constitute exploitation as long as the animal's welfare is being substantially raised. If the lives of such animals are qualitatively satisfying (in a way that will have to be well-defined), such relationships are morally vindicated. Aside from various qualifications of this general claim, I argued that the most important gain that farm animals obtain is that their forced cooperation with human interests begets them their existence.<sup>3</sup> Billions of qualitatively good lives can be lived through this forced exchange, whereas the alternative is a world in which these creatures would hardly exist at all. Feral populations of cows, hens, and pigs can be imagined and perhaps actualized in some parts of the world. Yet, if many more such creatures can live qualitatively good lives among humans, legitimating such human-non human relationships is an overall good for these beings. Given reform, paternalism in regard to farm animals can be justified. Can zoos be likewise vindicated?

**Bostock and the Right to Freedom**

The most elaborate and substantial presentation of a welfare-based defense of zoos is Bostock (1993).<sup>4</sup> Bostock's case on behalf of zoos intriguingly attempts to forge a link between an animal-rightist perspective and a welfare-based argument for the existence of (good) zoos. In sum: Good zoos prop up the overall welfare of most of the animals they keep. Although, in Bostock's view, animals have a right to freedom, this need not mean that violating this right is immoral. For Bostock, as long as the welfare needs of a particular zoo animal are accommodated, we are justified in holding that life in captivity is in that animal's best interest (p. 46). Bostock underscores the vagueness of the term "wild." He questions the assumptions that zoos keep animals in the wild (wild animals); in modern zoos, almost all animals are born in captivity. He then broaches a detailed and informed examination as to whether wild animals are better off in the wild. He points out that zoos provide animals with a longer life, one that benefits from veterinary care. He qualifies this evaluation by pointing out various ailments and diseases that zoos may be inducing in their under-exercised inmates. Bostock maintains that on the whole, the rule should be that a wild animal is better off left in the wild (p. 75). His conclusion is mild: Sometimes, this latter rule does not apply; for some animals, the benefits of captivity make for a beneficial tradeoff.

Because everything turns on what "promotion" of welfare could plausibly mean, Bostock (1993) focuses on various competing criteria that could substantiate assumptions as to what counts as advancing (or demoting) an animal's welfare. For him, the most defensible criteria are an amalgam of several considerations. The main ones are health (longevity, physical and mental well being); breeding; and preserving natural behavior (along with a corresponding lack of abnormal behavior).

Bostock (1993) believes in animal rights. It is therefore fair to pressurize his position through counter examples invoking the analogy to other right-possessing entities, namely, human beings. Reasonable as Bostock's welfare criteria are, humans incarcerated in prisons may comply with all of them—exhibiting longevity, lacking signs of abnormal behavior, and preserving of reproductive capacity. Yet, these signs emphatically do not prove that a life in a prison is not a severe compromise of one's welfare. Even if zoos could be shown to improve, rather than merely maintain, the animal's welfare, this boon will not manage to dissipate a sense of moral dubiousness brought out when one mulls over the viability of using this excuse for other right-possessing beings. The high child mortality rates in some parts of the world justify no one in transporting these children to captivity compensated by longevity and medical treatment.

Bostock (1993) is obliged to back up his contention that furthering interests morally validates the trumping of freedom. He does this in a surprising manner, undermining the assumption that captivity is a form of cruelty. He argues for this conclusion by distinguishing between various forms of cruelty, refusing to regard captivity as constituting any of them. This intriguing result is achieved through limiting the relevant forms of cruelty either to unjustifiably causing suffering or to taking pleasure in doing so (p. 56). For Bostock, captivity does not fall under gratuitous or sadistic creation of pain; *ergo*, it does not constitute cruelty.

Yet, why restrict the scope of cruelty in this way? How about actions such as a systematic thwarting of an entity's potential or a frustration of its broader instincts? In human contexts, we readily acknowledge that cruelty need not necessarily relate to the creation of pain. Consider coma. Some eventualities are envisioned as a horrifying prospect while, if occurring, they might not be experienced as painful at all. Creating such a state in another is surely cruel. A gruesome example would be inducing a human baby into permanent coma. Setting aside the suffering of those related to the baby or those hearing of the horrifying deed (for the sake of the argument, assume that the baby is unrelated to anyone and that no one will learn of the infant's fate), such could constitute an innocuous act according to Bostock's (1993) stipulations, merely because it does not generate suffering.

### **Limited Movement, Cruelty, and Paternalism**

Analogies such as these are precarious. Notwithstanding the overlap between abusing humans and mistreating animals, the important dissimilarities between humans and nonhumans call for a species-sensitive understanding of cruelty. Can Bostock (1993) plausibly dismiss the above counter example to his claim, based on an alleged disanalogy between humans and nonhumans?

Although we need to develop a refined, species-sensitive understanding of cruelty, I cannot envision a defensible rendering of it that would help Bostock (1993). His understanding of cruelty is much too narrow. Inducing coma in a young giraffe or a buffalo is an instance of painless cruelty because it is a severe form of deprivation. Like the human baby, the lack of awareness or experience of this deprivation does not purge the act. The severe limiting of movement that zoos rely on is arguably a worse form of deprivation because, for many animals, it is experienced as such (behavioral problems and the disinclination to breed in captivity suggest this). To begin with, Bostock would accordingly have to broaden his definition of cruelty so that it would include severe forms of deprivation. Fine-tuning "deprivation" so that it would be a species-

sensitive moral operator is surely important: Caging a bird differs from caging a snake. Yet for our purposes, we may leave it vague: Deprivation would minimally include action such as severe restriction of movement. This stipulation alone would rule out many of the animal-exhibits that we see in our zoos. For although a species-sensitive unpacking of “severe restriction of movement” would not entail that nonhuman animals require unlimited freedom of movement (human beings do not possess unlimited freedom of movement either), animals such as primates, the larger predators; birds; and many others are “severely” restricted in movement in our zoos. They are being severely deprived. We are being cruel.

Can Bostock (1993) modify his claims so that his defense of zoos would pertain only to those animals who are mildly deprived by their captivity? He cannot. This is due to a difference between farm/companion animals and zoo animals, a difference that underlies a broader and more comprehensive rejection of zoos that does not relate to cruelty as such (a rejection that, incidentally, makes it unnecessary to introduce a finer distinction between severe versus mild restriction of movement). The relevant difference relates to paternalism and to the very act of placing animals in captivity. Zoos are to be rejected not merely because they involve cruelty. As suggested earlier, permanent, paternalistic relationships among healthy human beings are by definition immoral. In the case of some nonhuman animals, paternalism is accepted as justified by most liberationists.

This difference accounts for our predilection to regard imprisoning humans for their own good as sophistry and, at the same time, allowing this very same argument to carry considerable weight when it comes to limiting movement of nonhuman animals. The moral justification for such favoritism of paternalism appeals to the overall good of these animals: Farm animals and numerous companion animals owe their existence to human beings who decided to place them in such permanent, paternalistic relationships, and this can be done without abusing or exploiting them. Yet unlike cows, pigs, hens, or sheep, zoo animals—tigers, elephants, snakes, penguins, zebras, parrots, and other crowd pullers—all live outside human supervision and do so successfully. They might, as Bostock says, live longer in a zoo and lead overall healthier lives. However, unlike farm animals, the existence of such animals does not depend on human action. If we avoid hunting them down or destroying their ecosystems, they can survive. Placing them inside cages is accordingly not in their interests. In the rare cases in which it is (wounded animals or an endangered species), captivity can be considered a good only if it is conceived as a temporary stage, preparatory for the eventual release of the animal.

To conclude: A welfare-based paternalism in regard to zoo animals is ill-founded. Bostock’s defense of zoos—which is predicated on such paternalism—

is to be rejected. Zoos usually induce suffering and severe deprivation. Even if they did not, they manifest an immoral form of paternalism.

### **Objections and a Reply**

Here are two objections to what I have just said: First, paternalism in regard to animals is always wrong, whether it relates to companion animals, to farm animals, or to animals in the zoo. My attempt to set a meaningful difference between justified and unjustified paternalism is questionable and self-serving: Animals are better off the more freedom they have.

I will not address this objection (I do so elsewhere when my concern is to vindicate some animal-related practices) because, in the context of zoos, this argument involves dismissing the moral legitimacy of zoos and does not oppose my general conclusion.<sup>5</sup>

Second, if I am granting that some version of paternalism is credible with regard to farm animals, I cannot bar plausible extensions of such justifications to zoo animals.

In detail, the counter-argument is this: When justifying the keeping of farm animals, I allowed that bringing an animal into a qualitatively good existence is an overall good for the animal. This, in turn, legitimated practices in which the animal is to be used (though not exploited). I claimed that wild animals could easily live outside the interaction with humans, whereas domestic animals would most probably die. Yet this claim is probably false as a categorical claim about species as such (small numbers of domesticated animals may well survive in feral populations, perhaps in specially formed reserves). When considering individual animals (rather than species) it is plausible to assume that zoos have the capacity to keep animals safe and within reach of medical intervention, thus saving the lives and promoting the welfare of many animals. In that case, it is accordingly justified. A decision to banish zoos will also lead to problems with the animals who are already kept and were born in them. For those numerous individual animals, a decision to release them in the wild would be dangerous or fatal. Abrogating zoos is detrimental to the welfare of these individual animals. In conclusion, if we accept some version of the idea that elevating welfare excuses a restricting of freedom, we have to concede that in many individual cases, keeping wild animals in zoos is a justified practice.

The reply to this is that a negative evaluation of a practice does not stand or fall on individual success stories. Objectionable practices—prostitution or child labor—can sometimes give rise to examples of individual victims who, surprisingly, have gained something through such practices; yet this does not modify the moral status of the practice as such. If one grants that zoos are

involved in the *prima facie* wrong of depriving an animal of its freedom, the fact that some individual animals might benefit from zoos is no more of a justification of zoos than implausibly defending the above practices by pointing out exceptional cases. Moreover, banishing zoos cannot mean that the animals who are already in zoos and who cannot be released will be killed. Alternatives to this are not hard to imagine.

Companion and farm animals are also deprived of their freedom. Why does curtailing freedom seem harsher in the case of zoos? The reply relates to alternatives: Although too many companion animals are abused and although most zoos are morally superior to modern factory farming, domestic animals can be brought into a life of interaction with humans that is also morally acceptable. When such animals are kept in spacious quarters; when they lead comfortable, safe, and long lives; when they are not isolated, they can be maintained in paternalistic, give and take relationships with humans that improve their overall welfare. Billions of such qualitatively good lives will not be lived if these animal-related practices are abolished. Dogs, cats, horses, cows, sheep, hens—all appear to require some space for grazing and/or exercise; however, given such space, their lives with humans appear to be good ones (caged birds or reptiles kept as domestic animals are on the same moral footing as zoo animals). The same cannot be said for most wild animals held in zoos. A laying hen can be kept by humans in a morally acceptable way. A lion, a bear, a chimpanzee or an antelope cannot—at least not in a zoo.

The previous argument obviously does not apply to reserves in which humans may watch wild animals from their cars or on foot. How about drive-through theme parks that typically allow wild animals much of what they need and also satisfy the educational objectives of zoos? Or the very rare zoos that manage to create rich, natural enclosures that duplicate the natural surroundings for the animals? Size matters. If a pack of chimps is kept in a fenced park that is large enough, such a life does not involve deprivation.<sup>6</sup> I claimed that the further argument against such enclosures is not that they create deprivation but that they rely on the wrong kind of paternalism. The animals kept in such parks can survive without being initially captured in the wild and reintroduced into these new surroundings. This last claim is obviously amenable to change: Species become endangered and, without human intervention, may become extinct. If reintroducing such animals into a safer environment becomes mandatory, drive-through parks are the lesser of two evils. Such parks would include only those endangered animals. Allowing visitors to watch them as a form of education or amusement and thus obtaining partial funding for these enterprises is morally permissible, because the paternalism on which these institutions are predicated is of the right kind.

One way through which educational needs could be met without compromising the moral claims of nonhuman animals is through exhibits of embalmed animals. My model here is the wonderful and detailed exhibit maintained by the Chicago-based Field museum. A liberationist would have to insist that the animals used in such a way were not hunted down first. However, given this proviso, such exhibits involve no suffering and enable studying the animals. In a cultural analysis of zoos Malamud (1998) and Mullan and Marvin (1987) often note how zoos are institutionally placed between the circus and the museum. Presenting dead rather than living animals surely makes for an entirely different institution and experience from the one offered by zoos. Yet natural history museums can meet the need to know or educate (that zoos claim that they are advancing) without the cruelty that zoos create or the dubious paternalism on which they are predicated.

### Conclusions

To conclude: Zoos present a tough case for moderate liberationists. If paternalism with regard to nonhuman animals is sometimes permissible, zoos, which often present themselves as a new kind of Ark—there to preserve and salvage endangered animals—appear to be worthy examples of such paternalism. I argued that such a position is to be rejected: Numerous, actual zoo exhibits involve deprivation that is experienced as such. A significant number induce deprivation without its being experienced as such; yet it is still morally wrong. Zoos are predicated on the wrong kind of paternalism, one that unjustifiably intervenes in the lives of animals who can survive without human assistance. I have given some examples of cases in which temporary captivity of wild animals can be morally vindicated. Yet, on the whole, even moderate liberationists should oppose zoos.

### Notes

1. See Zamir, T. (2004) and Zamir, T. (2006) in which I present a more detailed distinction between use and exploitation.
2. See Zamir (2004, September).
3. I have also defended the metaphysical plausibility of arguing from projected benefit to a non-existent entity. I will not enter this subtlety here. As for the moral status of raising these animals so as to slaughter them later, see Zamir (2004, June).
4. Relevant too are some of the papers in Norton, Hutchins, Maple, and Stevens (1996).
5. For the same reason, I avoid discussing other objections to zoos (rights-based criticisms or the rejection of zoos on symbolic grounds: zoos epitomizing instrumental control and objectification of animals and nature parading under the banners of entertainment or education).

6. Bostock (1993) is very helpful on types of exhibits and what may constitute a “duplication” of natural surroundings for an animal. I permit myself to remain programmatic: The argument advanced here opposed all of the zoos I have visited, including ones that invest much in the welfare of the animals kept in them. But I cannot rule out the possibility that some other zoo or a future one will manage to recreate a habitat for its animals which does not constitute a deprivation.

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