

Chapter 15

Comment: Animals in ‘Non-Ideal Ethics’ and ‘No-Deal Ethics’



Erno Eskens

Up until the seventies of the last century the idea prevailed that we should gradually improve animal welfare in husbandry systems and animal testing facilities, by focusing on a humane treatment of animals. But already in 1892 the idea emerged that more efforts were necessary. Henry Salt published *Animals' rights considered in relation to social progress*, a book in which he stated that animals needed to be seen as legal persons. In the nineteen seventies this idea caught on. Activists and ethicists embraced a more radical discourse on animal rights. They started to argue that animals should be given fundamental rights and that the exploitation of animals should be declared illegal. Abolitionist ethicists (like Francione 2000) demanded a complete stop of animal use on these grounds. The animal movement and animal ethicists have ever since been divided on this matter. This chapter is about this division, and more particularly on the dilemmas that the shift in thinking from ‘humane treatment’ to ‘animal rights’ brought about for the so called ‘non-ideal animal ethicists’; i.e. those who stuck to the idea that we can improve animal welfare gradually by appealing to standards of human decency.

15.1 Non-ideal Animal Ethics and the Meat Industry

In this part of the book we have come across multiple chapters written by philosophers who favour an incremental approach to animal welfare. Most prominent is the American philosopher Paul Thompson. He regards himself a ‘non-ideal ethicist’. The phrase is catchy. A non-ideal ethicist according to Thompson is someone who does

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B. Bovenkerk and J. Keulartz (eds.), *Animals in Our Midst: The Challenges of Co-existing with Animals in the Anthropocene*, The International Library of Environmental, Agricultural and Food Ethics 33,
https://doi.org/10.1007/978-3-030-63523-7_15

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not reach for the moon. He deplores the effort of animal rights activists and—ethicists who keep on trying to abandon the use of animals in the meat industry. It is basically a waste of time, since the strategy of the animal rights advocates is simply not working. An appeal to justice or fairness is simply too weak to actually protect animals in the ever growing animal industry. Nobody is able to beat the system that abuses animals, so, Thompson states, the best way is to accept the situation and to protect the animals as well as we can, within the abusive husbandry system. Thompson favors ‘non-ideal ethics’, that is, ethics that strives for what is attainable, not for what can be regarded as an ultimate outcome of fairness.

Non-ideal animal ethics, Thompson states, is more effective than any radical rejection of husbandry will ever be. “Many arguments for veganism, for example, hold that no form of animal agriculture is morally acceptable, but this does not logically vitiate the question of how the lives of animals living in these systems could be made better.” Thompson has a point here. Principles do harm if they lead to a neglect of the actual animals in their actual situations and conditions. If we reach for the moon we easily lose sight on the possibility of earthly progress. The risk of abolitionism is that it sets welfare standards in such a manner that no farmer, politician or consumer can ever meet them, which takes away the inclination to move in the desired direction altogether. And let’s be honest, most people will in fact ignore the call of justice. How many of them will ever become vegan?

Thompson has a point. Focusing on an incremental improvement of animal welfare will enable farmers, politicians and civilians to make small steps in the right direction. And finally, step by step we may or may not reach the bigger goal: the end of all animal abuse. Thompson adds that we do not have to sanctify the system, while making small improvements: “Inquiry into the welfare of animals aims to make morally compelling improvements in quality of life. It does not presume that improvements in welfare justify the continuation of these systems, on either animal welfare or environmental grounds.” So non-ideal ethics can reject exploitation of animals in theory, while at the same time using every opportunity for practical improvement of the lives of animals.

I question Thompsons assumption on this point. I doubt whether we can gradually improve the welfare of animals within the system without at least implicitly justifying it. For can we actually reject the system as a whole and still ask for slightly better living conditions? Let me explain this dilemma by recalling the case of the *Dierenbescherming*, the Dutch equivalent of the British RSPCA. This moderate animal advocacy movement—the biggest in the Netherlands—introduced a three-star rating system for meat in supermarkets. Stars printed on the packaging ever since indicate the animal welfare level under which the meat is produced. The introduction of the stars was advertised as a ‘major breakthrough’, since starless meat was since seen as ‘bad’. Supermarkets became hesitant to sell it, and most of them switched to one star meat, in order not be accused of animal abuse. The *Dierenbescherming* thereby succeeded in setting a new minimum requirement for meat quality in most supermarkets. Indeed a major improvement for the lives of many animals. But once introduced, the stars became a hindrance for further improvement. The *Dierenbescherming* now started saying one star meat wasn’t all that good. It advised consumers to buy meat with at least two stars. But most consumers were

satisfied with just one. They felt legitimized to buy poor quality meat, since it was obviously approved by the Dierenbescherming—it even had a star!—so why should they buy better meat? The supermarkets did not feel inclined to change their policy either. The Dierenbescherming now has a warning on its website that says the star system is meant for meat eaters who usually buy the cheapest meat. Others apparently are to ignore the stars.

Another example of stagnating progress due to non-ideal solutions, occurred when the Sophia Foundation for the Protection of Animals suggested to improve the cages of chimps that were held for animal testing in the Biomedical Primate Research Center (BPRC) facility in the Netherlands. The facility was under fire of animal rights activists who pleaded for a complete shutdown of the animal testing lab. Politicians were considering doing so, since the activists had a large following. But the small improvements the Sophia Foundation proposed to the cages, and funded, sanctioned the continuation of the testing facility.¹ It send the message to politicians that the situation just needed improvements and basically was under control. The BPRC, on the verge of bankruptcy and of being closed down, remained open (Meershoek 2005). These examples of non-ideal ethics in practice—and there are many more to be given—show the predicament we are in. On the one hand we like to applaud even the smallest welfare improvements—of course we want to better the life of chimps—yet, on the other hand in the eye of politicians and the broader public we do justify the system if are to go in that direction.

And there is a second problem. If we publicly welcome welfare improvements, yet at the same time more privately take an abolitionist approach to the system as a whole (something Thompson proposes), we can justly be called 'opportunists with a hidden agenda'. Many farmers see animal activists and non-ideal ethicists this way. Why should they consider adjusting their stables, cages, barns and machines, if they can predict that the minute they do so, animal activists and animal philosophers like Thompson will be back at their doorsteps?

The life of European chickens is a showcase example of this dilemma. Activists and ethicists have often successfully advocated better living conditions for the millions of chickens in European countries. But they kept on coming back with more demands. The minute the battery cages were improved, they asked for even bigger cages. The minute the cages were renewed, the activists demanded perches for chickens to sleep on and more room so they could spread their wings. Again the farmers were forced to make new cages. And then our non-ideal activists wanted to alter the cages again. They now needed to change into more open spaces with options for the chickens to go outside in the open air. How frustrating for all involved.

As we speak, the Dutch farmers block streets in the Netherlands with their tractors to force politicians to no longer continually change the playing field. They are sick and tired of incrementalism, which forces them to constantly reinvest in their business. Meanwhile the non-ideal ethicists are tired too. They are constantly

¹On the 17th of October 2000, one day before a joint meeting on strategy by several animal welfare organisations, the Sophia Foundation donated money to the BPRC to make alterations in the cages, thus preventing bankruptcy for the BPRC.

more or less rightfully accused of a lack of integrity, and they struggle with their conscience, since they actually do have ideals, which they constantly, for the better good, suppress during their negotiations with farmers, politicians and supermarkets. Non-ideal philosophers do the same as they write their carefully crafted papers, in which they give hints, but mainly avoid to say what they actually think. Adhering to ideals while not putting them on the foreground, turns out to be hard.

15.2 Non-ideal Animal Ethics and Disaster Management

A third problem that follows from non-ideal ethics can be found in the chapter by Andreia De Paula Vieira and Raymond Anthony. They show how to improve the situation of animals during natural and man-made disasters. “Disasters are emergencies endured by people and animals and can be induced by natural or anthropogenic agents”, they state. So it concerns a wide spectrum of events, ranging from floods and firestorms to toxicological crises, barn fires and even terrorist attacks. Next the authors delineate “six ethical stewardship caretaking aims for emergency preparedness and response.” Their recommendations fall under the following categories: “Respect and Humane Treatment, Collaboration, Information, Community Outreach and Proactive Contact, Cultural Sensitivity and Attitudes Check, and Reflection, Review and Reform.” The capitals underline the importance of these virtues, I guess, but as we shall see they are somewhat misleading.

In most cases the best way to protect animals during these emergencies, the authors state, is to focus on humans: “Framing a disaster in terms of public health emergency preparedness and response helps to highlight the adequacy of the infrastructure involved in advancing equity, inclusion, community relationships and galvanizing necessary political will.” Putting the emphasis on human decency, and appealing to people of good will, is an essential characteristic of ‘non-ideal ethics’. It often works out fine, but it has its limitations. This becomes clear if we look at a current disaster. As I am writing this, most of Europe is in a semi-lockdown due to the coronavirus. On the news we see hundreds of trucks stranded at the Polish border. Many of them transport livestock. The expectation is that most of the animals will perish in the next couple of days. A disaster, that draws a lot of attention. Non-ideal disaster ethicists encourage people and authorities to help the animals. And anyone with the slightest bit of decency hopes, of course, that their appeal will be successful. But there is a downside to this strategy of hope. It ultimately is an appeal to decency and charity. These events—animals suffering during transportation, will occur regularly if we do not fight the system as a whole. If we continue on this path we will need a lot of charity, and of course this is a scarce thing.

In ethical texts the appeal to charity is often hidden in a language of apparent deontology. Things *must* change, non-ideal authors state. Andreia De Paula Vieira and Raymond Anthony write for example: “In the event that depopulation is necessary (such as during the 2014-2015 Highly Pathogenic Avian Influenza Outbreak in the US) adherence to strong ethical standards and procedures, and state and federal

laws should take precedence as a way to ensure that as much consideration as is practicable is given to respect the welfare of the affected animals.” But notice how the deontological terminology of ‘should’ and ‘ethical standards’ is framed in a wider perspective of softening phrases like ‘as much consideration as possible’. That is, as much as is possible within the general idea of a ‘humane treatment’ of animals. By humane treatment of animals we usually mean that the way animals live should match up to human decency standards (and therefore not necessarily to the standards of the animals themselves). If they do not, man is required to help animals in distress, by helping out and showing some mercy.

Non-ideal animal ethicists regard human decency a first requirement. The idea that animals should be able to live up to their own standards and deserve that their interests are being taken seriously, comes only second. And this is worrisome, since the primary focus on human dignity and decency, ultimately steers our attention away from the main principles of justice. In the chapter by De Paula Vieira and Anthony this results in a definition of a disaster which is human, all too human. Disasters are seen as ‘emergencies’. Apparently they regard disasters as states of exception, as deviation of daily routine. What humans generally regard as decent and acceptable can therefore not be seen as a disaster. Those things belong to normality. So epidemics amongst chickens and pigs in barns are marked as disasters, while husbandry as such is not. Husbandry is normal. This normality—loads of neglected chickens and pigs in barns—is more or less taken for granted, since this is business as usual. De Paula Vieira and Anthony seem to be struggling with this point, as they note about disaster ethicists: “They are challenged to extend the humanitarian impulse directly to animals while doing so within the constraints of the human-centric world.” So they would like to question normality, and in fact they do in a sense, but at the same time one gets the impression they first accept it as a given—as fate. What are you going to do about it? And by accepting this fate, the authors ultimately divert us from the underlying question: isn’t livestock farming itself the real disaster that needs a disaster plan first?

All of the so-called animal disasters—zoonoses, problems with cattle during transportation, endangered wild life—are in the end results of a gross injustice: the discrimination of animals on irrelevant grounds and the enslavement of animals in husbandry systems, zoos and other facilities. Especially animals in husbandry are prone to lead a disastrous life: short, nasty and brutish. They spend their lives in darkened, foul-smelling, unhealthy barns and end up prematurely in the slaughterhouse. In these circumstances zoonoses, accidents, neglect and other ‘disasters’ are bound to occur. By framing these conditions as exceptions—as if they normally do not occur—and by declaring only the worst situations an emergency, these regular occurring events become framed as mere irregularities. And of course, they are not, since they are to be expected.

Why do the authors not mention the real disaster? Why do they try to manage a big disaster by focusing on its side effects? Probably, because they left philosophy and switched to a more practical and political mode of thinking. They are trying to convince farmers, consumers, politicians and everybody else involved to show some mercy, and they can only do so by pointing at the side-effects, while ignoring the fundamental rot in the system as a whole. Pointing at these facts would make

negotiations and appeals difficult. It is somewhat understandable. It is difficult to kindly request politicians, farmers and others to change their behavior, while calling them fundamentally unjust at the same time.

Thompson and the other non-idealists will of course not agree with me that husbandry (including the so called CAFO's) is the real disaster. "Unlike David DeGrazia," Thompson writes, "I believe that the lives of animals in CAFOs *are* worth living, but like the majority of animal welfare scientists contributing empirical findings for husbandry ethics, I believe that their lives could be significantly better than they currently are." It reminds me of a fur breeder I once met in the Dutch parliament building at a hearing. He told me the skins of his animals look fine, so it must be clear to anyone that they lead a more than decent life. So his fur trade was not immoral. 'They wouldn't look like this, if they weren't happy.' Of course to make animals happy, you have to do more than keeping their skins healthy. The rhetorics of Thompson's chapter is somewhat similar. He points at the fact that the animals lead a live worth living. Well, yes, but this is just like pointing at the skins in the fur trade. It simply is besides the question. Perhaps every life is worth living. The question is, however, whether it is fair to treat them this way. In non-ideal ethics we are constantly being diverted away from this question.

I recall the seventeenth-century Dutch slave trader Willem Bosman. He truly was the non-ideal ethicists of his time. Bosman (1703) wrote a short instruction guide for improving the welfare of the enslaved during their shipment to the Americas. Bosman advises us to abstain from unnecessary violence and particularly to be kind to women while branding them, 'since they usually tend to be so tender'. Reading this, we feel uncomfortable. Yet, this is non-ideal ethics in practice. It is dealing with side-effects while turning a blind eye to the real disaster. Willem Bosman tells us his slaves look healthy too. And we should acknowledge, he might say, that these slaves *do* have a worthwhile life, while we have a moral obligation to improve their situation gradually. Of course Bosman is playing a villainous rhetorical trick on us, dodging the real question whether the situation is acceptable altogether. All non-ideal ethics have this flaw.

15.3 Non-ideal Ethics and Ethnographic Animal Studies

I suspect we can also find it, somewhat hidden, in the chapter by Leonie Cornips and Louis van den Hengel. They describe research on communication by young cows in husbandry systems. Cornips and Van den Hengel basically observed young cows for several months, a method they call 'ethnographic observation'. The phrase shows they apparently used observatory techniques common in the study of indigenous people, by noting all behavior, utterances and other sounds. "We have elaborated a posthumanist conception of language as a distributed effect of multiple interacting bodies in order to foreground the fluidity through which a cow, a calf, calves, a wheelbarrow, a farmer, an iron feed fence, a lock, the clattering of bars, sounds of chewing, sounds of puffing, sounds of urinating, the smell of food, urine, feces, other

bodies in proximity or distance, movements up and down, become relationally entangled with one another and, crucially, with the anthropological machine of industrial animal production.” They describe how cows bang against the bars of their cages in certain manners. This behavior belongs to a refined communication system. The cows certainly succeeded in developing a meaningful language, Cornips and Van den Hengel conclude. They call this ‘place making’. By this they mean that animals are able to make the world *their* world by communicating with others.

Cornips and Van den Hengel state that cows turn out to be “intelligent, social, speaking beings, linguistic agents who even under poor conditions form rich and complex relationships with the world to make it a meaningful place.” I like studies like these; since many people still see animals as dumb creatures, research like this can be used to improve the situation of animals. Yet, it has something troubling too. Let us go back for a while to our comparison with slaves. Suppose Cornips and Van den Hengel were to embark on a slave ship in order to do their ethnographic study on the use of language there. What would we think when they would report back that they found the slaves to have developed a rich language in ‘poor conditions’ and that they thus succeeded in place making? We would condemn the fact that they did not pass a harsh verdict on the system as such. Calling it ‘poor conditions’ is an understatement. It suggests that the conditions can be made richer, better, by making improvements. And of course this is not the case, since animals in cages will never be able to communicate as they would like to.

Again we are diverted from the real questions. The authors should have started by saying that animals ought to live a different, *more* meaningful, *more* worthwhile life. They should have condemned husbandry in a clear manner. Only after having done this, they could report their research without the loss of moral integrity. My point is not that we should refuse research in ‘poor conditions’, nor that we shouldn’t give advice to improve the poor conditions, or to prevent further disasters; the point is we can only justify research in husbandry systems and that can only justify advising farmers to make small changes, if we undoubtedly distance ourselves from the gross injustice first. So yes, we can favor incremental progress. A small step in the right direction is a small step in the right direction. But it is simply wrong, to favor incremental progress, if we dodge the fundamental questions and forget who we are—philosophers. Justice first, politics second, if you ask me. It is much less tiring than taking thousands small steps and debating and regulating each of them while having a bad conscience.

15.4 Towards a No-Deal Animal Ethics

So what is our way out here? Well, there are no easy solutions to our problem. Either we deal with the devil, or we call the devil by his name and perhaps don’t deal at all. If this is the case, we are caught up between a really not ideal ‘non-ideal ethics’ and an idealistic ‘no deal ethics’. Having said this, we may start looking for a stance that bridges the gap between these two approaches. The first thing to do, however,

is to accept that this society brings about people who do harm to animals, since speciesism (i.e. discrimination on the ground that one belongs to a certain species) is common and stands in a long tradition. The devil here is not some evil genius, he is just a type of person that is produced by this society and we should alter society if we want to prevent devilish things. The second is to acknowledge that no-deal ethics (animal rights ethics) has its problems too. It too leads to tiring situations. Think of all the activists and ethicists who fundamentally oppose animal testing. They convene every once in a while in front of the facilities. Outside, in the cold, not achieving much, except expressing their ideas and emotions and often fruitlessly demanding the shutdown of these facilities.

And let's face this too: no-one has a clear vision of the ideal situation. All animal rights activists talk about rights, but most of them cannot explain what they entail in detail. A growing number of thinkers, including myself, plea for political representation of animals, yet no one seems to know how to organize it. How do you represent ants, snakes and lions in politics for example? Of course, some attempts have been made to clarify things. The Australian philosopher Peter Singer (1975) started in the seventies by pointed out that animals are discriminated on the mere fact that they are animals, while some animals are actually quite similar to us in many respects. The American thinker Tom Regan (2004) pointed out that animals are 'subjects of a life', and therefore deserve consideration on their own grounds. They should be not be treated as means but as goals in themselves. And from the late ninety's, philosophers started thinking about political representation of animals. (My book *Democratie voor dieren* [2009], in which I suggested we should regard animals as citizens and give them full citizenship rights, only to take away those which are not useful, is part of the search for a new animal friendly politics). The Dutch philosopher Eva Meijer (2016) later pointed out that animals do actually have a (political) voice. Most animals use symbols and are quite eloquent. They indicate what they like or dislike. Donaldson and Kymlicka (2011) meanwhile developed a social philosophy and a political system for animal groups. They ascribed different social rights to different types of animals.

So the search for the clearer picture of the ideal way to treat animals has led to the rise of multiple approaches, which often are competing with one another. The ultimate image still is a bit blurry, yet all these developments in philosophy and society (the rise of veganism and animal rights advocacy) show quite clearly the general direction we are moving in. There is a general aspiration for justice, in which interests of animals are to be taken into account. The idea that this search for justice will lead to an ideal outcome, has never left some of the philosophers. The British philosopher Robert Garner (2013) for example tries to get a clear vision of the ideal situation, by starting with the fact that all animals, human and nonhuman, have a 'sentient position' in this world. Taking this as a starting point, Garner evokes 'the veil of ignorance', a thought experiment first proposed by John Rawls (who refused to apply it to animals, unfortunately) in his 1971 book *Theory of Justice*. Imagine you will be born sentient but you do not know under which conditions you will be born. Perhaps you will be born as a baby in Washington, or, as a stray dog in Istanbul or a piglet in a barn somewhere in the Netherlands. How would you like the world,

into which you will be born, to be organized? If you place yourself in the position of others, you will be forced to take the interests of that sentient position into account, and will reach a fair judgement on how to weigh all these different interests. The veil of ignorance is of course a highly debated thought experiment. I won't go into the details here, but despite all skepticism, I think it is clear the thought experiment at least invites us to be fair and more empathic with other beings.

Empathy is something vegans usually have in abundance. Most of them share the ideal of a world without pain or discomfort for animals and humans alike. This is a strong ideal—so strong it is hard to live up to. It is practically impossible not to hurt animals. Even in your coleslaw there are small animals that won't survive dinner. Considering this, some vegans drop out and say: 'Well you have to draw a line somewhere. This is where I'll draw it.' It usually means they are not willing to proceed any further in the direction of the ideal.

The case of the vegans shows us that strong ideals can wear us down. Therefore I tend to advise new vegans to take it slowly. Take it one big step at the time, but always keep in mind the direction you are going. Keep in mind that you can and will never again accept the normality of meat eating or dairy consumption. You will not even accept that there is a tiny bug in your coleslaw. But it is ok to fail in your attempt to live up to your ideals. If you are 'a sinner' once in a while, fine, we all are in a sense, but never accept it as a normality. Never settle permanently for any non-ideal way of living. It may seem hard to do. But ignoring the real disasters in ethics and in our daily lives—meat eating, speciesism and animal enslavement—is even harder in the end, since it messes with our logic, our conscience and the moral foundations of our politics.

The answers I tend to give to vegans (and myself for that matter) is basically the answer I would suggest to ethicists. Try not to run from the real questions or from the ideal of justice. Stay on track by moving in the right direction. Be critical and alter your own behavior as much as possible, while being forgiving to those who fail once in a while. The whole aim is to keep up the spirit, to be as clear as possible that, despite the manifold roads ahead of us, we are moving in one direction, and to live up to one's conscience as much as possible. Deal with the demands of fairness. It is a doable strategy in daily live, and it may be too in ethics in general.

Perhaps this 'direction approach' can bridge the gap between incrementalistic non-ideal ethics and the no-deal ethics of the abolitionists. In contrast to non-ideal ethics it does not accept any normality, since it embraces a vision of another world, yet in contrast to animal rights idealists, it is pragmatic too, since it accepts failure as long as we make 'the biggest step forward at this point'. I guess moving forward ourselves, and demanding of others to do the same, is the best way to proceed. And, since we are philosophers, we shall never stop moving, since this is simply not what we as philosophers and ethicists do. Ethics is part of philosophy; part of a restless discourse, as it is favors continuous wonder and reaches constantly for better arguments.

As thinkers, we cannot hide behind any law, any tradition, any given situation, or any accepted standard of 'humane treatment'. Judges in our legal system may perhaps do so, since they have to deliver their verdicts within the boundaries of the

law and the legal tradition. As philosophers, our task is to dig deeper and to define what criteria have to be met in laws and traditions. We can state, for example, that the containment of animals in cages, is under most circumstances a *malum in se*, i.e. as something that is accepted by the law, but can still be seen as a crime, since it violates basic moral standards and entails a gross disregard of those involved. It may not be forbidden, but it certainly should be. And we are moving in this direction.

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