**An argument for a species right to exist and flourish, free from untimely human extinction**

It appears to us that somewhat similar arguments can be offered on behalf of human rights (to exist and flourish) and species rights (to exist and flourish).

**Argument for Human Rights**

1. All people have intrinsic value, in virtue of:

 a.\_\_\_\_\_ d.\_\_\_\_\_

 b. \_\_\_\_\_ e.\_\_\_\_\_

 c. \_\_\_\_\_ etc.

2. As individuals, we should respect all people and treat them accordingly. (via 1)

3. Societies should create institutions (particularly legal and economic institutions) which protect and further the flourishing of all people. (via 1)

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All people should be secured the following rights:

 m. \_\_\_\_\_ o.\_\_\_\_\_

 n. \_\_\_\_\_ etc. (via 2 nd 3)

**Argument for Species Rights**

1. All species have intrinsic value, in virtue of:

 d.\_\_\_\_\_ g.\_\_\_\_\_

 e. \_\_\_\_\_ h.\_\_\_\_\_\_

 f. \_\_\_\_\_ etc.

2. As individuals, we should respect all species and treat them accordingly. (via 1)

3. Societies should create institutions (particularly legal and economic institutions) which protect and further the flourishing of all species. (via 1)

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All species should be secured the following rights:

 m. \_\_\_\_\_ n’. \_\_\_\_\_

 etc. (via 2 and 3)

The main difference in the two arguments, obviously, involves how we fill in the blanks re: the qualities that justify intrinsic value and the rights affirmed in each case.

Choosing a. - e. for human intrinsic value-making qualities and d.- h. as species intrinsic value-making qualities, clarifies that we believe both similar and different qualities may justify these intrinsic value ascriptions.

Choosing m., n. and o. as the human rights asserted and m. and n’. as the species rights asserted, clarifies that there is partial but not complete overlap. For example, we could say: m= a right to continued existence, against homicide or extinction, as the case may be; n. and n’. = rights to essential resources, which however may look somewhat different or very different in each case; and o= the right to vote, which makes no sense in the latter case.

**Comments**

\* We can, in either case, argue that rights are merely instrumental and conventional, and turn the argument into one solely about legal rights. On the other hand, in either case, we can see rights as inherent and commanded by the nature of things (“status theories” and the “natural rights” tradition get at something important).

Whether we say “all people have certain natural rights and are entitled to certain legal rights,” or “all people should be granted certain legal rights, because we thus uphold certain essential, important, or intrinsic values,” come to the same thing. The key idea is that something about people should compel us to act in certain ways and create certain kinds of societies.

\* In thinking about such claims, we should not waste time looking for intrinsic values or rights as if they were actual parts of people, like a spleen. Rather, we need to judge the plausibility of claims that people (or species) have intrinsic value, not just instrumental value; judge whether we can make sense of rights claims by people (or species); etc.

\* In making or disputing rights claims, we are simultaneously deciding community membership. To pass the 13th amendment in the US was to decisively commit to changing slaves into people, in the eyes of the law and society; to pass the 14th amendment was to commit to making those people self-governing citizens; to allow its protections to lapse for one hundred years was to let that citizenship commitment lapse; etc. Similarly, when Spain asserts that the Great Apes share certain rights with humans, or Ecuador places a right of native species to continued existence in its constitution, they make these entities a part of the community. Their continued use as resources does not necessarily end, but such use becomes secondary to their continued existence and flourishing.

To reject rights claims, contrarily, is to deny community status to an entity; to assert that it is a mere thing which we are free to use, ignore, or destroy as we will, for our own purposes.

\* Hence in making or denying rights claims, we are deciding what sort of society we will be. For example: when the laws of Saudi Arabia deny women the right to vote, they deny them full civil personhood. Similarly, when the laws of Chile deny women the right to an abortion, they deny them freedom to pursue their life-plans in their own way. Not coincidentally, such laws also uphold the perceived rights of men to use women as familial or procreative resources. Rights help determine how societies divide up resources and what (or who) will be considered a resource.

\* In making or denying rights claims, we are also sometimes deciding whether certain classes of people or kinds of entities will exist at all. In Nazi Germany, Jews, Gypsies, the severely handicapped, and other undesirables were largely wiped out. In post-civil war America, serious consideration was given to shipping all the ex-slaves “back” to Africa, which would have extinguished them as US citizens. And in many enlightened countries today, governments pursue policies that will lead to native species being driven from the landscape. In these cases, the denial of rights amounted (Nazis), could have amounted (post-bellum US), or will amount (enlightened contemporaries) to ending the existence of individuals and classes of individuals. The most fundamental right, arguably, is the right to exist; for organic beings, the right to life.

**Filling in the blanks**

\* Although the formal structure of rights assertions may be similar, the grounds for them and the rights asserted may differ for different entities. It is a common mistake among critics to assert that either the full suite of rights appropriate to adult human beings is appropriate to some entities, or none of these rights are. Philosophers rarely make this mistake these days.

However, we are more likely to make the mistake of thinking that the qualities that justify human individuals’ intrinsic value must be the same for other entities. Hence arise efforts among rights proponents to find more rationality, consciousness, subjectivity, goal-directedness, or organization among their favored entities than they actually have. Hence arise, for example, arguments about whether or not species have an interest in their own continued existence; whether a species has a welfare that can be harmed; etc.

Both those who demand such arguments and those who provide them seem to fall into the same mistake. These arguments can lead to inaccuracy in describing the entities being considered. More important from an ethical perspective, they seem to avoid the real challenge of rights extension: to know things for what they are; value things for what they are; protect things for what they are; and celebrate things for what they are. Once again, we find ourselves cutting other things down to size to fit our own preconceptions.

\* Certainly we should value apes, dolphins, cuttlefish and elephants for their impressive cognitive abilities and achievements. But we should also value ants, redwoods, cheetahs and aardvarks for their abilities and achievements, even if they are very different from the cognitively-based achievements of other organisms. We should value 4000 year-old bristlecone pine trees for their endurance, eagles for their far-sight, etc.

The progress of biological science consists in an ever greater understanding of what organisms are, and how they became what they are. This progress has shown us surprising similarities and connections between “us” and various “thems,” and also surprising differences (animals living at hundreds of times higher pressure than human beings could withstand, at the bottoms of the oceans; at much higher or lower temperatures; etc.). Why value only, or even predominantly, the similarities? Don’t we call it biodiversity for a reason?

Biological science has regularly found ways around all dogmatic assertions about how organic nature must be, and has continued to look outward and learn ever more about biodiversity. Philosophical ethics needs to move past our own dogmas—no value without a valuer; no value without consciousness, or sentience; etc.—and find ways to look outward successfully and value what needs to be valued.

\* For individual people, we would fill in the intrinsic value-making properties in our argument above in something like the following way:

a. rationality b. consciousness c. sentience

d. autonomy (free action) e. teleological activity (preserving the organism)

etc.

Realizing that these wonderful qualities will be manifested in very different ways and result in very different outcomes and achievements. It is not true that you, me, Einstein, our ancestors forty thousand years ago and our descendants forty thousand years from now, all manifest the same “consciousness” or degree of “rationality.” There is no need to chase essences here, or read people in or out of the favored category of intrinsically valuable or morally considerable.

\* For wild species, we would fill in the intrinsic value-making properties in our argument above in something like the following way:

d. autonomy (wild creativity) e. teleological activity (preserving its kind)

f. enduring persistence g. unique achievement h. complexity

etc.

\* Consider three individual organisms: a bear, a beetle, and a beech tree. We find all three pretty impressive when we look at them closely, and learn a little about how they make their ways in the world. We can focus on what all three share—perhaps teleological persistence in the face of the many forces of entropy—but perhaps it is better to value their achievements in all their diversity.

\* Similarly, consider the “autonomous” career of a wild species, persisting in creating its own kind in the face of entropy; making its way in varied environments, evolving along the way. If this is a kind of freedom (free creativity; not compelled, or completely compelled, by outside forces) it is obviously very different from human freedom in action. We aren’t talking about rationally deliberating among choices, or pursuing a fully-defined end. Yet perhaps both human freedom and wild autonomy are good things, deserving of continued existence in the world. We don’t need to reduce one to the other, or value one only to the extent it is similar to the other.

Perhaps though, none of this seems like “autonomy” to you. Even though there is an enduring lineage that continues to “give a law” (nomos) to itself (auto) and which arguably preserves the “self” in question, perhaps the whole process is just too mindless to call autonomy. In which case, you might be able to find intrinsic value in the creativity, or persistence, or uniqueness, or some other quality, of the species.

If however, on reflection, you cannot find any qualities that you believe ground an intrinsic value in other species, then perhaps you should consider yourself lucky. You can now contemplate the sixth great extinction event in Earth’s history with relative equanimity. Nothing of much value will be lost (if there is some loss of instrumental value, that might well be made up, at least in part, by all the wonderful goods, services and human experiences made possible by the economic activity that is extinguishing species).

\* Can the kind of argument we give for species rights be rationally compelling? Our guess is that it will be most compelling if we avoid trying to ground species’ intrinsic value in qualities a. – e. and instead try to ground them in qualities d. – h. At least d. – h. can be plausibly assigned to species, directly, and not by analogy.

\* If we find ourselves arguing about whether species “have interests” or whether they can be “harmed” (as opposed to “extinguished” or “wiped off the face of the earth, forever”) then we are letting our focus on the paradigm case of human individuals take us away from the case at hand. Arguments about the nature of species are interesting and important in their own right, but somewhat abstract. They should not be allowed to obscure what we know (and biologists, for all their animated discussions about the nature of species, do not let them obscure what they know), for example, about the polar bear: its varied behaviors, range of ecological interactions, rich ability to sense and respond to its environment, evolutionary history, etc. This is what will be lost, if we extinguish the species. These sorts of things, making up much of what we mean when we say the word ‘biodiversity,’ are what are being lost en masse in the sixth great extinction episode.

\* Do such rights attributions to species make sense? Yes, without a doubt. The fact that people have said that species have a right to exist, and that we have no right to extinguish them, over and over again, from Leopold and Carson to the man or woman in the street today, shows this clearly. So does the fact that the US Endangered Species Act is so easily interpreted as providing a de facto species right to exist, as discussed by Callicott and Grove-Fanning (2009); and the fact that Ecuador recently placed a species right to exist in its national constitution. Philosophers shouldn’t waste time squinting real hard at “the concept” of rights, waiting for its “logic” to become clear. ‘Rights,’ in the end, is a word, and we can use it as we choose.

In 1868, the US ratified the 14th amendment to the Constitution, section one of which read: **“**All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” Within a few decades, these words had been interpreted by the Supreme Court to mean that business corporations were entitled to some important rights usually reserved for persons, and that African-Americans were not entitled to some of the most important rights usually reserved for persons. In both cases, the Court and the wider society understood what was meant regarding rights and the distribution of power and resources. If there was any unclarity, Pinkerton thugs and lynch law cleared it up in the ensuing years.

\* In the end, rights are a tool that we can use to achieve what we want to achieve in and for our societies. They have been powerful tools in helping create societies where human beings can flourish and live freely. They can help do the same for other species. Securing species rights to continued existence and to essential resources will preserve them, and preserve human opportunities to know and appreciate them. Failing to secure these rights will lead to their permanent disappearance.

**The full argument**

We agree with Joseph Raz, who writes in “Rights and Individual Well-Being” (1992) that the great value of rights in protecting individuals from overreaching by governments and the larger society, has led people to the mistaken conclusion that that is their sole purpose. Instead, rights are useful and justified not just because they directly benefit rights holders, but also because they may indirectly benefit other members of society and/or society as a whole.

To illustrate: a well-defined right to private property in land can benefit an individual landholder, say a rancher. But it can also benefit people who interact with him, through allowing secure contracts to lease or rent the land, for example; and it can benefit society as a whole, if such a property regime increases the overall wealth of the community.

Again: the main arguments for civil rights for African-Americans and other minorities have always centered on their direct benefits to them. But establishing those rights more securely has also benefitted our society more widely. Not only has it made it harder to use second-class citizens to drive down wages for other Americans, for example. It has also improved our society by allowing more of its members to develop their talents and share those talents with the rest of us. Perhaps its greatest benefit has been to make our society as a whole more just, putting social intercourse on a better, more honest footing.

Raz draws the conclusion that particular rights are justified (when they are justified) with reference to their impacts on society as a whole; and that their scope and reach should be specified, again, with reference to impacts on society as a whole. In all this we concur, and for that reason, our full argument for establishing a species right to exist would take into account its impacts on people and other species.

Our full argument, in outline, would run somewhat as follows, with each premise needing a detailed sub-argument to support it:

(1) Species have a moral right to exist

(2) Human beings have a moral right to know and connect to wild nature

(3) Establishing a species legal right to exist would not unduly burden human beings

(4) Establishing a species legal right to exist would act as a valuable brake on economic growth, which threatens human well-being in myriad ways beyond species loss

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We should establish a species legal right to exist

**Further comments**

\* We are not so naïve as to think that asserting or enacting a species legal right to exist would preserve species, all by itself. However, along with other political and economic reforms (and helping to spur them forward) we think it could play an important role.

In fact, it already has. There are probably dozens of species that would not exist today, were it not for the protections they have received under the Endangered Species Act. It is true that few have been fully recovered; but that does not mean that the ESA has not provided crucial protections that have allowed them to swim, crawl, fly or limp into the 21st century.

\* Rights are the currency of moral and political debate in the world today. Without the ability to assert a species right to exist, advocates for other species are at a decisive disadvantage in arguing for their preservation.

In a society such a the US where landowners have a strong right to develop their lands as they see fit, only a countervailing right to existence can hope to limit development plans that could extinguish species. In poor societies such as India or Brazil, with tens of millions of poor farmers clamoring for land, only a countervailing right to exist can keep these men and women from overrunning protected lands and extinguishing species.

People are strong to demand their rights—as they should be. But in a world with 6.8 billion people, most clamoring to live fancier than their parents, the failure to extend rights to other species will doom many of them to extinction.

\* As Cass Sunstein puts it, “in practice, rights are a product of concrete historical experiences with wrongs.” Species extinction is a monstrous wrong, and it should lead us to create rights which will avert its continued occurrence.

Reading recent overviews such as the Millennium Ecosystem Assessment, we need have no doubts about where our current path is leading. The status quo—with only humans holding strong rights to continued existence and necessary resources—is leading us into a future of mass extinctions. Even if we fail, we should push for an alternative future of respect and restraint for the rest of life on Earth.