

Tony Yengeni's Ritual Slaughter: Animal Anti-Cruelty vs. Culture¹

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Abstract

I address the question: 'Are acts of the ritual slaughter of animals, of the kind recently engaged in by the Yengeni family, morally justifiable?' Using the Yengeni incident as a springboard for my discussion, I focus on the *moral* question of the relative weight of two competing ethical claims. I weigh the claim that we have an obligation not to cause animals pain without good reason against the claim by cultures that traditional practices, such as the one under discussion, are morally justifiable on the basis of the moral goods obtained through cultural identification and participation. I attempt to show that claims justifying practices on the basis of culture are not strong enough to outweigh the *prima facie* wrong of causing non-human animals unnecessary pain.

1. Introduction

The ritual slaughter of a bull as a traditional cleansing ceremony for the family of Tony Yengeni after his release from prison occasioned much public and media debate. Animal rights and anti-cruelty proponents raised concerns about how the animal was killed, claiming that the action constituted cruelty, and transgressed anti-cruelty laws. In response, others claimed that such practices are a fundamental part of the culture of some groups in South Africa, essential to their sense of identity, and as such should not be interfered with.

This incident highlights two contentious trends in current normative ethical debate. On the one hand, there have been growing calls for more ethical treatment of animals, for some animals, at least, to be accorded some value as objects of moral consideration, and even for animals to be understood as possessing rights. On the other hand, in an increasingly multicultural context, many call for stronger measures to ensure the protection of minority or disadvantaged cultures against the encroachment of more dominant cultures. Appeals are made for special protective measures and legislation, and again, some even claim the existence of cultural rights. On a popular level, fre-

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quent appeals are made to culture as providing moral justification for particular practices.

The extent of the public debate over the Yengeni ritual slaughter indicates that these areas of ethical contention are pertinent in the South African context. What makes this incident particularly interesting is that it pits claims of moral concern for animals against claims for the moral defence of a traditional practice on (human) cultural grounds. Since both kinds of claim are contentious, calculating the relative moral weight of the claims against each other is no easy task. In this paper I shall attempt to do just that.

The question I address is the following: 'Are acts of the ritual slaughter of animals, of the kind recently engaged in by the Yengeni family, morally justifiable?'

I only invoke the Yengeni incident as an instance of a particular kind of moral issue based in a cultural ritual involving animal sacrifice that arguably causes animals suffering. The specific details of the Yengeni incident are only pertinent inasmuch as they highlight the moral questions implicit in similar situations. Whilst I will devote some attention to the specifics of this case, my intention is merely to use this case as a basis for discussing the moral justifiability of ritual slaughters of this kind. Clearly this discussion could have implications for similar practises such as *kosher* or *halal* slaughter, but I do not intend specifically to consider these. Further, I shall focus on the issues raised by the method of slaughter, and of causing pain to animals, and not on the distinct question of the permissibility of killing animals. My interest is in whether it is justified to cause an animal pain or distress in the process of a ritual slaughter, and not whether taking the lives of animals is itself morally justified.

It might be useful also to distinguish at the outset between this kind of slaughter and the routine slaughter of animals in abattoirs that takes place in order to provide meat as food for human consumption. Slaughter of this kind is rigorously controlled by law, and includes prescriptions regarding the methods used to kill animals. The use of pre-stunning equipment (rendering the animal unconscious prior to slaughter) is legislated and enforced, presumably reducing the pain caused to animals to the minimum possible level.

A disproportionate degree of the media discussion about the Yengeni slaughter was centred on the legality or illegality of the act. By contrast, I intend to address the *moral* questions underlying this debate. This excludes from my scope specific attention to the question of what the appropriate role of the law or public policy should be in cases such as this. My question focuses on the moral justifiability of such acts, not on whether they should be legal or whether they should be tolerated by society. I take these to be distinct issues. It is possible to hold that an act is immoral without necessarily claiming that legal or social strictures should be employed to prevent it. For example, many people hold the view that adultery is wrong, but would not necessarily want to see it criminalised.

The central thesis I wish to defend is that ritual animal sacrifice of this kind is a *prima facie* wrong, since it causes animals unnecessary suffering. By '*prima facie* wrong' I mean the kind of act which is normally wrong but the wrongness of which could, in certain circumstances, possibly be outweighed by other moral considerations which would render the act justified. My position is that in rituals of this kind, claims based on the moral value of cultural identification or participation are, at best, relatively weak moral claims, which are *not* able to outweigh the *prima facie* wrong of causing animals harm.

2. The Specific Case: Yengeni's Ritual Slaughter

I turn now to the specific incident which provides the basis for my project, the Yengeni ritual slaughter. I have already stated that I use this case merely to highlight the moral issues involved in ritual slaughters of this kind. The specific details of the case are, therefore, not that pertinent to my discussion. Nonetheless, I will provide a brief overview of the media debate resulting from this incident, in order to identify some relevant underlying moral issues which I will consider further.

There are two general points about my use of this specific case that I need to make before proceeding. Firstly, it is clear that rituals of this nature are a fairly common occurrence in South Africa. It is obvious that the media attention given to this case was at least, in part, due to the high profile of Tony Yengeni, and his controversial recent past. My intention is not to add to what may be argued to be unfair attention given to this specific case, given that most rituals of this type occur without public debate.

Secondly, it is not germane to my argument whether or not actual pain was caused to the animal during the particular instantiation of this practice which provides the springboard for my discussion – the Yengeni ritual. Indeed, some claimed that Yengeni merely prodded the bull with a traditional spear, and that it emitted a belching sound, so no cruelty was involved. (*IOL*, “SPCA Invited to Ceremonial Slaughter”, 28 January 2007). My interest is not in whether this one specific instance of ritual slaughter caused pain to the sacrificed animal. My concern is with typical practices of this kind. In rituals of this nature, the normal practice is that the animal needs to be wounded first, and cry out in some way, for the ritual to be performed correctly. (See Welsch, 2007). Hilton Rudnick describes the general practice as follows:

...when such a ritual is to be performed, the head of the household... spends some time loudly praising the ancestors. He selects a beast and tells the ancestors which animal is to be sacrificed. The types of animals used are those that make the most noise whilst dying, generally cattle or goats, as the crying animal indicates the ancestors' approval.... The slaughter is done with a sacrificial spear, and homage is paid to the ancestor whilst the beast lies bellowing on the ground. Once dead it is skinned, and some sections are separated so that the ancestors may take of their share first. Some of this is burned. (Rudnick, 2003: 57).

Whether or not this procedure was followed in this specific case is not relevant, as it seems that in typical rituals of this nature pain would be caused to the animal: Slaughter performed with a sacrificial spear, resulting in an animal bellowing until it dies, can hardly be construed as being as humane as slaughter performed using pre-stunning equipment that arguably frees the animal from prolonged pain or suffering. The type of moral conflict I am intending to highlight is grounded in typical slaughters of this kind, which cannot easily escape the challenge that they cause suffering to the animals being sacrificed.

In January 2007, shortly after the release of Tony Yengeni from prison, the South African media began reporting that he and his family had participated in a cultural cleansing ceremony which involved the ritual slaughter of a bull. One of the early articles, in the *Cape Argus*, reported:

A bull and two sheep were slaughtered on Friday as scores of Tony Yengeni's friends, relatives and comrades gathered... to welcome him home following his

release from prison.... [T]he slaughter [was] completed by a group of young men after Yengeni had first stabbed the bull with his family's traditional spear.... (Gophe, 2007).

Shortly thereafter, it was reported that the SPCA was considering taking legal action against Yengeni, on the grounds that the slaughter contravened the Animal Protection Act (Williams & Prince, 2007). On January 24th Allan Perris of the SPCA was reported as saying:

The SPCA's concern is the manner in which the animals are handled and treated before the slaughter. The circumstances under which this animal was slaughtered, and not the practice of animal slaughter, is the focus of our investigation. (Ka Nzapheza, 2007).

This occasioned feverish public debate in the media. Many claims were made that this is a traditional cultural practice, and that it should be allowed to continue without interference. A spokesperson for the Arts and Culture Minister was quoted as saying:

This is definitely not an SPCA matter, because it is not about cruelty to animals. Instead, it is about man's search for meaning, purpose and the redefinition of the relationship with the cosmos, God and his ancestry.... It is the constitutional right of all indigenous families and communities to perform rituals that reconnect them to their ancestors. That promotes peace of mind in their lives.... The department upholds this right...to practise their own cultural rituals.... [I]n the Yengeni family case, we observe what could easily pass for selective racism that condemns the practice of African rituals.... [T]he criticism is based on ignorance, contempt and lack of respect for African culture. (*IOL*: "Yengeni Ritual Spearheads Cultural Row", 2007).

ANC provincial secretary Mcebisi Skwatsha was quoted as saying:

The SPCA is very, very insensitive to the culture of African people. It's very, very important. It's fundamental to your being.... We African people will practise our culture and no one under the sun will ever stop us. This is part of our being human. (*IOL*: "Yengeni Ritual Spearheads Cultural Row", 2007).

The South African Human Rights Commission also defended Yengeni:

Allegations of animal cruelty against... Yengeni can not be dealt with simply using criminal law.... The Commission's perspective is that one cannot take a simplistic approach to matters like this. It goes to the very heart of how people define themselves and how we construct our identity.... Rather than simply using criminal law, we would urge the SPCA to engage in a public debate around the issue relating to culture and cultural liberty and... the SPCA's mandate to prevent cruelty to animals.... [T]he slaughter of animals by cultures in South Africa [is] an issue that need[s] to be dealt with in context.... Cultural liberty is an important right as well as recognised in South Africa... and internationally. (*IOL*, "Yengeni Animal Slaughter Not Criminal – SAHRC", 2007).

The vehemence of the reaction to the SPCA's intention possibly to prosecute Yengeni brought to the fore the deep sensitivities of some South Africans regarding freedom to practice their culture. Emotive claims of racism and disrespect for African culture (though hardly substantiated), and claims that such cultural practices enjoy the protection of the Constitution, and should not be dealt with using criminal law, highlighted how strongly some elements of society felt with regard to their freedom to participate in a traditional cultural practice.

The media also reported the views of other animal rights activists, who argued that culture should not be used as a defence of cruelty to animals. Michelle Pickover was quoted as saying:

Cannibalism, infanticide, female circumcision, slavery, suppression of women, exploitation of children, ritual slaughter, bull fighting, bear baiting, fox hunting... are among so-called 'cultural traditions' practised by some groups - the loss of which should not be mourned.... There is an epidemic of violence against other animals and as individuals and a society, degrading practices and exploitative traditions need to be challenged. (*IOL*, "Tradition No Excuse for Cruelty", 2007).

This brief overview of the media debate surrounding this incident shows that much of the public discussion centred around the question of the legality of the act. Anti-cruelty champions argued that the act contravened existing legislation; their opponents claimed that rituals of this kind should either be lawful, or fall outside of the scope of the law. Even if not explicitly stated, though, both sides of the debate implicitly make moral claims. It is reasonable to assume that friends of anti-cruelty suppose that this practice should be unlawful because they believe it to be immoral. On the other side, appeals for tolerance of these practices, based on contentions that such rituals are exceptionally meaningful to those who practice them and go to the very root how people define and identify themselves and find meaning and purpose in their lives, point to a claim that participation in these rituals has a moral value of its own. I have already stated that I wish to exclude questions of legality from my discussion. My position differs from that of the SPCA. I am not interested in whether or not ritual slaughter is legal; I am interested in whether it can be morally justified. I am also not interested in whether or not cultural practices of this nature should be legally protected, or socially tolerated. Rather, I wish to question whether moral value can be located in the practice of cultural rituals themselves, and if so, whether this moral value is significant enough to outweigh the competing claim that animals should not be hurt without good reason. So, my focus will be on considering the moral claims implicit in the arguments from both sides of the debate, and on weighing them up against each other.

3. The Case for Animals

If there is nothing wrong in harming animals, then my argument fails to get off the ground at all. So, I now turn my attention to the issue of human moral obligations towards animals. As stated earlier, my concern in this paper is not with whether killing animals is justified, but, rather, on the distinct issue of whether causing them to suffer is justified.

The issue of moral obligations towards animals has been the subject of much debate in recent decades. From those who claim that other animals have no moral status, to animal rights activists who seem to see almost no difference between the moral status of humans and animals, an enormous variety of positions has been expressed. For the sake of my argument, all I need to show is that, minimally, humans have a moral obligation not to cause animals to suffer without good reason.

The main issues in this debate concern the moral status of animals, (for instance, since animals are not moral agents, can they deserve moral consideration?) as well as whether, if humans do have duties to animals, these are direct duties (i.e. we can wrong animals themselves) or indirect duties (we somehow wrong other humans by

mistreating animals). I do not propose to deal with these issues in any detail. Rather, I hope to show that some degree of consensus exists, and that even those philosophers who have argued strongly against animals having rights or humans having direct duties towards animals, generally assert that gratuitous or unnecessary cruelty towards animals is morally impermissible.

Of the philosophers who adopt a strong position in favour of animals having moral status, Peter Singer is one of the most well-known. He argues that traditional views on how animals should be treated constitute speciesism, which, like racism and sexism, is indefensible. For Singer, species membership *alone* does not provide adequate grounds for treating the moral interests of other beings any differently from those of human beings. From a preference utilitarian position, he contends that animals have a preference not to suffer, and even to remain alive. Not only does he assert that we have a duty not to cause animals unnecessary pain, he argues that we have a duty not to take the lives of animals without good reason. (Singer, 1993). He writes:

If a being suffers, there can be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle of equality requires that its suffering be counted equally with the like suffering – in so far as rough comparisons can be made – of any other being. (Singer 1979: 50).

Tom Regan strongly defends the position that animals have rights, and that humans have corresponding obligations towards animals. He argues from a deontological position, and asserts that animals have intrinsic value since they are what he calls the ‘subject of a life’. He suggests that the similarities, and not the differences, between humans and many classes of animals are what really count.

The basic similarity is simply this: we are each of us the experiencing subject of a life, a conscious creature having an individual welfare that has importance to us whatever our usefulness to others. We want and prefer things, believe and feel things, recall and expect things. And all these dimensions of our life, including our pleasure and pain, our enjoyment and suffering, our satisfaction and frustration, our continued existence and our untimely death – all make a difference to our quality of our life as lived, as experienced, by us as individuals. (Regan 1989: 111-112).

These things constitute being a subject of a life, and qualify those who possess them as having intrinsic value and rights. Clearly, his position supports the claim that animals should not be caused unnecessary pain.

T.M. Scanlon, in his book *What We Owe to Each Other* adopts a form of contractualism to provide grounds for what he believes our moral obligations are to one another. Broadly, contractualist moral theories rely on the idea of some kind of social contract ‘agreed’ between reasonable parties which establishes regulations for how people should behave towards one another. Accepting that contractualism typically struggles to account for moral obligations to those who do not possess the rational capacity to participate in negotiating a social contract (such as animals and mentally defective human beings), Scanlon suggests a possible solution. He proposes that animals could be represented by ‘trustees’ in the negotiation of a contract. This device would allow for his contractualist theory to account for the intuition that animals deserve moral consideration (Scanlon 1998: 183-187). I am unable to discuss the merits of his

position here, but he, too, from a deontological perspective in the contractarian tradition states:

Given the plausible assumption that responding appropriately to the value of other creatures is part of morality in the broad sense, this accounts for the intuition that it is a serious moral failure to be indifferent to the suffering of nonhuman animals, and hence morally wrong in the broad sense of that term to cause them pain without moral justification. (Scanlon 1998: 181)

Thus, Scanlon too, asserts that animals should not be hurt without good reason.

In discussing the historical development of the trend to accord moral status to animals, led largely by Singer and Regan, Lori Gruen writes:

The ensuing discussion led to a general agreement that animals are not mere automata, that they are capable of suffering, and are due some moral consideration. The burden of proof shifted from those who want to protect animals from harm to those who believe that animals do not matter at all. The latter are now forced to defend their view against the widely accepted position that, at least, gratuitous animal suffering and death is not morally acceptable. (Gruen 1993: 343).

Even if it is true that the ‘burden of proof’ now lies on the side of those who seek to deny animals moral status, this alternative position needs to be considered. So I turn my attention now to some of the detractors who question those who argue strongly in support of the moral status of animals.

Michael A. Fox has famously argued against the notion that animals have rights, directly challenging the views of Singer and Regan. In his paper “Animal Liberation: A Critique” he states his position thus: ‘I shall argue... that the concept of moral rights cannot be extended to include animals, and that the question of animals’ rights is therefore a bogus issue’ (Fox 1978: 107). He argues that only

...those beings which are members of a species of which it is true in general (i.e. typically the case at maturity, assuming normal development) that members of the species in question can be considered autonomous agents are beings endowed with moral rights. (Fox 1978: 112)

For Fox, this implies that only human beings can have rights. He further states that this is so because only autonomous beings of the kind he describes can be part of a moral community in which the ideas of rights and duties can develop and make sense (Fox 1978: 112). Fox later recanted this position (Gruen 1993: 345). But, even from his early position he writes: ‘We may and ought to be concerned about the welfare of animals and their present exploitation by man because they are sentient beings’ (Fox 1978: 107), and ‘Undoubtedly animals should not be maltreated. They should not be made to suffer needlessly or excessively’ (Fox 1978: 113).

R.G. Frey tackles the question of animal rights and interests with the intention of refuting moral arguments for vegetarianism. He argues strongly that animals cannot be said to have either interests or moral rights (Frey 1980: 166-167). But, even from this seemingly radical position he is able to state in his postscript to *Interests and Rights*:

I have allowed that the ‘higher’ animals can suffer unpleasant sensations and so, in respect of the distinction between harm and hurt, can be hurt; and wan-

tonly hurting them, just as wantonly hurting human beings, demands justification, if it is not to be condemned. (Frey 1980: 170)

Perhaps one of the strongest positions against according moral status to animals is that of Michael P.T. Leahy. Arguing that animals lack the capacity for language, moral agency and self-consciousness and are thus not subjects of moral responsibility, he asserts,

The key is the ability to use language; its importance in the equation has been spectacularly underestimated. Without it there can be no recognition of entitlements, of give-and-take (this encapsulates moral agency), nor awareness of oneself *as oneself*. Animals... are conscious... but *self-consciousness*... comes only with the capability of speech. (Leahy 1994: 255)

These concepts form the basis of what amounts to a scathing attack on animal liberation positions in his book *Against Liberation: Putting Animals into Perspective* (Leahy 1994: 255). Nonetheless, even Leahy states: 'All of this is perfectly compatible with our treating other creatures humanely and with respect and it is a sign of perverted human nature not to do so' (Leahy 1994: 253). Even more surprisingly he states:

This must not be seen as condoning the random killing of animals; far from it... our instinctive impulses to avoid cruelty will normally extend to their needlessly being killed. (That some people lack these impulses is normally grounds for criticism; we call them sadists, cruel, or, if it is by way of business, then merely hardened). (Leahy 1994: 199)

I have not tried to present a comprehensive philosophical defence of the position that the minimum moral obligation that humans owe to animals is that we should not cause them avoidable pain, without good reason. Rather, I have pointed out that considerable agreement already exists among philosophers on this question, even among those who are generally perceived to be in opposition to animal rights/liberation views, or positions that hold that animals have intrinsic value. If, on the basis of this consensus, we do have a moral obligation not to cause animal suffering without good reason, then, on the face of it, animal ritual slaughter of the kind under discussion appears morally wrong, unless good reasons can be advanced showing that more weighty moral considerations are able to overcome this *prima facie* wrong.

It needs to be pointed out that, as far I am aware, nowhere in the media debate around the Yengeni incident did any of those who sought to defend the practice of the ritual slaughter attempt to do so by claiming that animals do not have a moral claim on human beings, or that it is not a *prima facie* wrong to cause animals suffering. The defences launched all relied on some kind of counter-claim based on culture. So, it is possible that they, too, would not dispute the contention that we have an obligation not to cause animals unnecessary suffering. I must still, however, give attention to the counter-claims based on culture and specifically the challenges posed to my position by the moral goods/values located in cultural participation and identification.

4. The Case from Cultural Identification

Before considering the case from cultural identification, I need to deal with the potential challenge of what is usually referred to as cultural relativism. Moral relativism is a clear candidate for a position which could provide a defence for the claim that ritual animal sacrifice, even if involving suffering for animals, is morally justified. In its

most blatant form, this position claims that what is right or wrong is relative to the culture of the person/s performing the act, or that there is no objective basis for making moral judgements across cultures. On this view, then, the fact that an act is a standard part of a culture is enough to justify the act morally, within that culture (Chris Gowans 2004: Section 2). The ritual slaughter under discussion would, thus, be morally justified within the culture of the Yengeni family.

This is an entire debate on its own, and I am unable to deal with it in any detail here. Suffice it to say that few ethicists support moral relativism. Gowans writes: 'Moral relativism has the unusual distinction – both within philosophy and outside it – of being attributed to others, almost always as a criticism, far more often than it is explicitly professed by anyone' (Gowans 2004: Section 1). Since this is not a position held by many ethicists, I will not attempt to mount a comprehensive defense against it here. I will only add that, since on this view, certain acts which intuitively seem very wrong, indeed, might appear to be morally 'justifiable', the position seems fatally flawed. Few of us would be comfortable with the idea that ritual human sacrifice could be said to be morally justified on the grounds that it is part of the cultural practice of a particular people. James Rachels suggests that violent anti-semitism and apartheid could be justified on these grounds – something that I take it few of us would easily settle with (Rachels 2003: 21-22).

Another area of thought which might be a candidate for morally justifying acts based on culture is located in a recent trend to assert that certain groups such as cultural minorities, gays and lesbians, women and others may need special consideration, as individual human rights might not be enough to protect their interests. Sometimes dubbed the 'politics of recognition' or the 'politics of difference', the issues are most often located in the public realm, with a focus on how the special interests of groups might be promoted and recognised legally and structurally in society. In terms of cultural groups, it is often claimed that minority cultural groups are vulnerable to injustice, as they are expected to conform to the values and beliefs of a more dominant culture. Regarding cultures that were once colonised, it is often suggested that their way of life was denigrated in the past, and that action needs to be taken to ensure that their traditions are now nurtured and protected (Heyes 2007: Section 2).

This is a large area of debate, with many nuances of opinion. Some even go so far as to speak of cultural 'rights', and the need for legal and constitutional guarantees to protect and promote disadvantaged cultures. Once again, much of the debate concerns issues of a political and legal nature: issues around tolerance and accommodation. Since this is not the focus of my question, what is important to me are any underlying moral claims based on culture which this debate could bring to the fore.

Charles Taylor's seminal essay "Multiculturalism: Examining the Politics of Recognition" argues for the need, in multicultural societies, to go beyond what he calls the 'politics of equal dignity', protected by individual human rights, and to move towards the 'politics of difference', where the shared identities of members of cultures are nurtured, respected and protected. This argument is based on the idea that the sense of identity which persons have is significantly grounded in their sense of belonging to a culture which has been instrumental in the formation of who they perceive themselves to be (Taylor 1994: 30-36).

With the politics of equal dignity, what is established is meant to be universally the same, an identical basket of rights and immunities; with the politics of dif-

ference, what we are asked to recognise is the unique identity of this individual or group, their distinctiveness from everyone else. The idea is that it is precisely this distinctness that has been ignored, glossed over, assimilated to a dominant majority identity. And this assimilation is a cardinal sin against the ideal of authenticity. (Taylor, 1994: 38)

For Taylor, authenticity is an ideal that needs protection, and this cannot be achieved unless the distinctiveness of the identity of persons and their cultural identification is recognised.

Underlying a claim that the 'politics of difference' must recognise the uniqueness of members of a specific group, as a group, is a belief that there are social goods important to the members of the group which cannot be obtained unless their distinct identity is recognised. I take it that these social goods are located in the perceived value of belonging to a cultural group, of being able to identify oneself as part of the group, participate in its practices, etc. For Taylor, the primary good underlying all of these other social goods is authenticity. Some conceive of these social goods in communitarian terms: there is value in simply belonging and identifying culturally. Alternatively, others who argue for what may broadly be called the 'politics of difference' do so from a more liberal perspective. The social goods to be protected are located in individual self-respect, self-worth, authentic selfhood, etc. that are derived from cultural identification and participation. Will Kymlicka, a proponent of the liberal view, suggests that cultural identity grounds people's individual sense of identity and provides the security obtained from a sense of safe 'belonging'. He continues, 'But this in turn means that people's self-respect is bound up with the esteem in which their national group is held. If a culture is not generally respected, then the dignity and self-respect of its members will also be threatened' (Kymlicka 1995: 7).

The legal/political safeguards sought by those who argue for the 'politics of difference' arise out of an underlying perception that there are morally significant values inherent in cultural belonging and identification which require protection. Whether these are understood in communitarian terms or more individualistically is not relevant to my argument. Those who argue in favour of ritual slaughter on the grounds of culture may wish to claim that the moral values identified as lying beneath the political claims of the friends of the 'politics of difference' are significant enough to outweigh the *prima facie* wrong of ritual slaughter. Members of those cultures who practice these rituals derive morally significant value in terms of their cultural identification, sense of belonging, their expression of authenticity, or their self-esteem, dignity, and so forth, from being able to participate in their culture generally, and in their cultural practices in particular.

Obviously there are many who contest the view that cultures or other groups require any exceptional treatment, and believe that individual human rights are enough to ensure a fair society. Many more would resist using the language of rights with respect to cultures. However, the broad thrust of this position seems plausible enough. In South Africa, with its colonial past, it is understandable that those whose culture was once denigrated, treated as inferior and 'primitive', would believe that for their dignity to be restored, their sense of cultural identification now needs to be affirmed and recognised. It is understandable that they feel their sense of common identity within their culture to be an important interest and moral value. Broadly, I have sympathy with such claims. When one's culture is treated as inferior, one is bound to feel this as

a personal affront. And it is unsurprising that with political liberty, African people have re-asserted their unique identity, and the values and practices of their cultures. This makes the vehemence of the reaction against the SPCA in the Yengeni case understandable.

It needs to be added that in the debate regarding the Yengeni ritual slaughter, appeals were often made to the South African Constitution as a defence of the practice. I need, then, briefly to consider the grounds for these appeals. The South African Constitution does provide for limited rights for cultural groups. Under the heading “Cultural, Linguistic and Religious Communities” Paragraph 31 of the Bill of Rights states:

1. Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community
 - a. to enjoy their culture, practise their religion and use their language; and
 - b. to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
2. The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights. (*Constitution of the Republic of South Africa*, 1996)

It should be noted that subsection (2) of this paragraph limits these cultural ‘rights’, where they conflict with any other provisions of the Bill of Rights. Since animals are not covered by the Bill, however, this provision does not provide any guidance on how to deal with the case of ritual slaughter under consideration. However, as with the claims made for the ‘politics of difference’, underlying this Constitutional provision is an assumption that cultural identification and participation is a moral good.

Notwithstanding all of the above, the fact that people may derive social goods such as identification, authenticity, self-esteem, self-respect etc. from practicing their culture does not automatically grant moral legitimacy to any particular cultural practice. It may provide some grounds for arguing that a practice is morally justified, but not exhaustive or sufficient grounds. My discussion of the claims made by proponents of the ‘politics of difference’ has identified some of the possible moral claims which could be advanced on behalf of culture. People’s sense of identification as part of their culture is an important interest. I have particular sympathy with indigenous cultural groups in South Africa, who endured long periods where their cultures were treated with disrespect, who now seek the restoration of their communal dignity, self-esteem, and shared identity in the ability to practice their culture.

If this is so, I now need to consider whether my contention that ritual slaughter of animals is a *prima facie* wrong can be morally outweighed by the competing claim that there is moral value in human participation in cultural practices and in identification with one’s culture.

5. Weighing Up the Competing Claims

If I am right that we have a moral obligation not to cause unnecessary pain to other sentient creatures, and that most reasonable moral perspectives would agree that there is such an obligation, and if it is reasonable to accept a moral claim by cultural groups that cultural identification and participation can produce social goods which provide some justificatory grounds for their cultural traditions and norms, how can these conflicting claims be weighed up against each other morally?

I shall proceed by considering an analogous case where claims based on culture come into conflict with other moral claims. Elizabeth Zechenter, in her article "In the Name of Culture: Cultural Relativism and the Abuse of the Individual", considers situations in which established and generally accepted individual human rights come into conflict with the demands of culture. In particular, she focuses on cultures which demand the 'right' to treat women in ways which universal human rights would forbid. She looks at two particular examples. The first deals with a young woman, encouraged by her late husband's family, who committed Sati, once common in parts of India, in which widows were expected to throw themselves onto the burning funeral pyres of their late husbands, taking their own lives. The second involves two Algerian girls who were raped and killed in front of their village, because they had disobeyed their Islamic leader who had decreed that no girls were to be educated. Zechenter offers a detailed and compelling argument that in cases of this nature, claims to a right to cultural practices simply cannot outweigh the competing established individual human rights of the women concerned (Zechenter 1997: 327-332). She writes:

There exist genuine differences among cultures, and not all such differences can easily be reconciled. The universal human rights law represents an attempt to strike a proper balance between the rights of each individual culture to create its own moral and ethical norms and the needs of individuals to be protected against arbitrary and brutal customs and cultural practices. (Zechenter 1997: 342)

My focus is not on rights, but on competing moral claims. But, surely, it can be no more moral to rape and murder a woman because she has sought to be educated in one cultural context than it is in another. Nor can culture or tradition morally justify encouraging women to commit suicide after the deaths of their husbands. That an act is an established cultural practice, or tradition, intrinsic to a culture, cannot, on its own, provide sufficient grounds for its moral permissibility. More compelling arguments need to be advanced. If we were to believe that the moral values inherent in cultural identification provide sufficient grounds for all cultural practices, we would have to regard human sacrifice, female genital mutilation, the killing of female babies and slavery, amongst others, as morally justified, within certain cultures. Even if there is moral value in cultural identification and participation, it is hard to see how this can outweigh our obligation not to harm, abuse, torture, maim or kill others. It is extremely counter-intuitive to claim that people's culturally-grounded interest in self-esteem, belonging, identification, authenticity, etc. can be more morally significant than other people's interests in not being killed, physically harmed or abused. The one kind of interest seems intrinsically more morally weighty than the other. If there is any moral claim grounded in the practice of culture it can only be a relatively weak claim compared to claims that we are obliged not to cause physical harm to others.

I am thus asserting that the moral contest here is between two very different kinds of interests. And while both are valid, intuitively it seems that interests relating to safety, bodily integrity, survival, etc. are more morally significant than those relating to identification, authenticity, self-respect, etc. But can this intuition be rationally supported? If one were to imagine a situation in which a deeply emotionally damaged person would somehow be able to make great gains in her sense of self-esteem, and find some relief for her deep-set anger if she were able to participate in a therapy involving her physically assaulting another person, would the moral value of her progress towards

emotional healing outweigh the *prima facie* wrong of harming another? Unless the other person were a willing participant, it does not seem to me that this could be justifiable. Interests may be morally significant, but not all interests carry the same moral weight. That is the reason we intuitively think that a claim to the goods resulting from cultural identification cannot make it right to abuse or kill women in the name of culture.

This point may be generally accepted with respect to the competing claims of women's physical welfare and cultural identification. But, can it be applied analogously when weighing the *prima facie* wrong of causing animals unnecessary pain in ritual slaughter against the social goods that a particular cultural group might derive from practising this cultural ceremony? Can the interests of sentient animals in not being harmed or caused pain outweigh human interests in self-esteem, belonging, identification, authenticity, etc. derived from cultural practice? I submit that the same principle holds when it comes to our treatment of other sentient animals. The essential wrongness of causing them pain deliberately is in no way rendered less immoral because it is based in an established cultural or traditional practice.

To justify this position, I shall attempt to counter some of the most likely objections to applying this principle analogously in this way.

Some might claim that my analogy fails because of the species divide between the competing claims in this situation. My example pits one kind of moral obligation towards human beings against another. Some might argue that when an obligation towards humans conflicts with an obligation towards other animals, the claim for humans will always trump the animals' claim. Broadly, I agree with those who argue that we owe more to other adult, normal human beings, morally, than we owe to most other animals. Since defending this is not intrinsic to my project, I quote here just one defence of such a position, based on a concept of relative degrees of intrinsic worth: Thaddeus Metz writes:

...if one must choose between driving over a cat or an innocent person, one should surely run over the cat. I presume one should run over the cat not merely because one could go to jail, get sued, cause more pain, or make an uglier scene by striking the intelligent human. Part of the explanation is that people are intrinsically worth more than cats. Similar remarks apply, I believe, to a version of this thought experiment applied to cats and stones. If one must choose between running over a cat and a pebble, one should choose the pebble. To be sure, part of the initial explanation here is the pain one might cause the cat, but factoring this element out (imagine the cat will die instantly), one still finds grounds for saving the cat; ordinary cats are worth more than ordinary stones. (Metz, 2002: 289)

Granting this, then, do human interests always trump those of animals?

Consider a case where a relatively trivial human interest conflicts with the interests of animals not to be hurt or tortured. An example of this might be the 'sport' of dog fighting. I take it that the primary human interest in this activity is recreational. The participants claim that they derive enjoyment from watching this sport, and perhaps from the gambling that often accompanies it. Is this human recreational interest sufficiently morally significant to outweigh the harm done to the dogs involved? These animals are deliberately bred to encourage violent traits, and are then forced to fight other dogs, often leading to vicious, violent encounters, and to obvious pain, suffering and

even death for the dogs involved. It would be difficult for any philosopher to defend such a practice morally on the grounds that human interests always trump those of animals. On such grounds it could be argued that no amount of animal suffering can outweigh even a small and relatively unimportant human interest. For example, massive cruelty to animals for the sake of human vanity would be 'legitimised' on such a position. Our moral intuitions seem to balk at this conception, and these intuitions are probably at the root of the banning of dog fighting as a 'sport' in many parts of the world.

However, even if we grant that human interests are not *always* more weighty than those of animals, surely a case can be made that they *sometimes* are. Perhaps there are times when animals may need to be harmed for the sake of more weighty human interests. This is not to say that human interests always outweigh those of animals, but that some human interests can possibly carry more moral weight. In such cases, pain caused to animals could be understood to be necessary, even if regrettable.

Some kinds of vivisection, particularly for the testing of medicines, are often justified on these sorts of grounds. Many would regard suffering caused to animals for this purpose as lamentable, but justified. Since I have taken the position that we may owe more to humans morally than to animals, this could seem plausible. Whilst I do not wish to launch a defence of animal experimentation here, in cases where the health and, indeed, lives of large numbers of people could be preserved as a result of medical trials involving animal subjects, a case could be made that some animal suffering for this end might be morally justifiable. To my mind, this would require the further condition that there would be no other means to perform this testing that would be as effective or cause less harm. The important point though, is that what is at stake here is the *health and lives* of people. These sorts of human interests are clearly morally much more weighty than an interest in, say, recreation. They might be construed to provide good enough reasons for justifying some animal suffering on behalf of people.

If such non-trivial human interests can sometimes outweigh the *prima facie* wrong of harming animals deliberately, can a similar case not be made that the continued participation of cultures in the practice of ritual slaughter of the type under discussion provides social goods of significant enough moral importance to justify the harm caused to animals in these rituals? To answer this I need to consider again the moral values inherent in cultural identification I identified in the previous section. It might be argued that if people were to negatively judge the practices of other cultures (even without advocating their social restriction) they could cause harm to the members of those cultures. Taking a negative stance towards a cultural practice could deny members of a culture some of the social goods which might be obtained through their identification with and participation in their culture, and their expression of authenticity. If someone says that what one does in one's culture is wrong, she could challenge a fundamental part of one's perceived identity, and possibly also one's self-esteem, dignity, etc. I have already stated that I have sympathy with the claim of previously disparaged cultures that they have a morally significant claim that their interests in identification and the recovery of their group self-esteem be acknowledged. But are the social goods or interests that could be denied to such cultures by morally questioning an aspect of their cultural practice significant enough to outweigh the interests of animals not to be harmed?

I return to the thought experiment I considered a little earlier. Imagine again a situation in which a person with deep psychological problems could be greatly assisted by

a therapeutic intervention involving her physically assaulting, in this case, not another human being, but say, a household pet. Would the possible psychological healing that might result outweigh the *prima facie* wrong of harming an animal? Intuitively, I think most people would find this difficult to accept. At the very least we would wonder whether similar therapeutic results could not be achieved using other less cruel methods, such as employing perhaps a stuffed toy animal, to represent a pet.

'Soft' human interests such as psychological welfare, esteem, authenticity, etc. do not as easily pass the muster of being obviously more moral weighty than animal interests in not being harmed, in quite the same way as more basic human interests in life, health and bodily integrity seem to do. That notwithstanding, this thought experiment deals with the psychological well-being of an individual human being. A further objection to my position could be that with cultural interests or social goods, there is a collective benefit to be taken into account, too. For people who have suffered generations of repression and cultural denigration, is the free practice of their culture now not a vitally important component of re-discovering their worth and meaning as a whole group? The sense of recovery of dignity of such peoples can hardly be thought of as a trivial human interest. Indeed, it might be argued that such concerns could be weighty enough to argue that the pain caused to animals in ritual slaughter might be considered necessary.

My first line of defence against this position is that taking a moral position against a single cultural practice, and more specifically only to one aspect of this practice (namely the method of slaughter used in rituals) cannot be construed as significantly denying members of a culture the possibility of increased dignity and group esteem to be gained from cultural participation. Cultures are characterised by many different values, norms, practices, rites, and behaviours. To acknowledge and respect the interests of others derived from their cultural identification does not necessarily require that every one of the elements that contribute to that culture must necessarily be regarded as outside of the scope of moral judgement or criticism. One can plausibly, broadly respect the interests based in cultural identification of many indigenous South Africans, without granting that cultural practices involving animal suffering are morally justified. The dignity and esteem of a cultural group is not denied by questioning the morality of a specific traditional practice, and nor would such questioning necessarily significantly deprive them of the moral values derived from cultural identification.

As an example, in Zulu culture there are many traditional practices against which one would have no moral objections. Many, if not most, of the elements that comprise a cultural identity have no moral implications, at all. Traditional dances, music, art, and even many ceremonies and rites of passage are without any moral import. A Zulu wedding ceremony may be very different from a Church wedding, and the form of marriage may be traditional and not covered by the Marriage Act, but this in no way renders it inferior or unacceptable. To judge such a wedding as morally wrong purely because it is different, would not be acceptable. Other cultural practices may have elements which are morally significant, and there is bound to be disagreement on whether these are acceptable or not. The practice of *lobola*, or the paying of a bride price before marriage, is a case in point. Some might be offended by the possible implication that the bride is being treated as a possession that can be sold. On the other hand, some believe the practice both affirms the value of the bride, as well as cements the bond between the two families involved. Now, it is possible to broadly affirm traditional Zulu marriage, and yet take exception to the practice of *lobola*. Or, one can broadly af-

firm the annual reed dance, even if the spectacle of bare-breasted women in public would normally be seen to offend ideas of public decency within one's own culture. However, one might still take moral exception to the practice of virginity testing that often precedes the ceremony.

Since so many elements make up a culture, it is possible to acknowledge the importance of the moral goods derived from cultural identification for members of a culture, and still question the moral acceptability of some particular practices. I am not denying the value of these moral goods, or disrespecting the people whose cultural practices differ from mine, if, in general, I affirm that I have no moral objection to most of the culture's norms and practices, but judge the method of slaughter used in rituals as a *prima facie* wrong.

Even if my argument above is accepted, it could still be countered that I have overlooked just how critically important a component of cultural identification this kind of ritual is to those who practice it. What stands to be lost by members of these cultures is so fundamental to their culture, that any restriction of the practice or questioning of its morality would significantly hamper their recovery of a sense of dignity deprived to them by the colonialist attitudes of the past. It is reasonable to claim that this kind of ritual has an intrinsic meaning, which is not solely about the values or social goods inherent in cultural identification. Claims of this nature were made in the media debate over the Yengeni incident:

[This] is about man's search for meaning, purpose and the redefinition of the relationship with the cosmos, God and his ancestry... It is the... right of... communities to perform rituals that reconnect them to their ancestors. That promotes peace of mind in their lives..." (*IOL*: "Yengeni Ritual Spearheads Cultural Row", 2007).

Those who practice this kind of sacrifice do so in the belief that it somehow brings healing and restores their spiritual standing with their ancestors. The community experiences a sense of deep relief that all has been made well in their world because of this practice.

I need to respond that the whole tenor of my argument has been that it is only the method of slaughter that I am questioning morally. At no point have I tried to claim more than a moral objection to the method of killing which arguably causes pain and distress to animals. This moral problem can be avoided if those who practice such rituals would be prepared to adjust their practice to include pre-stunning before stabbing the animal with a knife or spear. Such accommodations have already been offered by members of other religious communities in other parts of the world, whose traditional slaughtering practices did not initially allow for pre-stunning. Perhaps for those who are able to look beyond the dogmatism of perceived spiritual or religious 'obligations', practices such as that under discussion could be understood as essentially symbolic. There is no reason then to believe that the practice could not be modified to exclude the maltreatment of animals, and still provide the community with all of the perceived value of healing and spiritual restoration derived from the current ritual practice.

Of course, there could still be those who insist that the method of slaughter, the killing of an animal by means of a knife or spear, and even its crying out in pain, is an essential requirement for the act to be acceptable as an offering to the ancestors. Clearly such claims leave the philosopher in an invidious position, as they seem almost impossible to counter without seeming disrespect to the spiritual beliefs of others. Such religious or metaphysical claims are difficult to counter on the grounds of reason alone –

and reason is the currency of philosophy. My only answer is that such reasoning is essentially not rational, and can only make sense to those who accept the underlying religious or metaphysical claims in the first place. Since such arguments have been used to justify forced polygamous marriages of minor girls to members of some extreme sects of the Mormons, the denial of possibly life-saving blood transfusions to children of Jehovah's Witnesses, witch burnings, female genital mutilation and sati, the philosopher has little choice but to regard such metaphysical claims as insufficient grounds for morally defending practices, unless further reasonable grounds are offered.

Finally, it could be objected that my basic approach of weighing up the competing ethical claims for animals and culture is itself flawed. A possible argument in favour of the moral justifiability of ritual slaughter is that the very nature and meaning of the act itself is changed because it is embedded within a significant cultural ritual. Slaughter involving suffering outside of this context would be wrong, but the fact that this act takes place within this cultural practice, changes the meaning of the act, and renders it morally justified. One can easily see how this concept applies to sports and games. There are board games in which part of the goal or strategy is to deceive your opponents successfully to your advantage. Normally such deception would be morally wrong, but embedded within the context of playing a game, the meaning of such deception is radically altered. What we ordinarily regard as deception is now merely a clever strategy or part of a game plan. In this example, the reason for the difference in meaning between the two kinds of 'deception' is easy to explain. The context is a game. The players all understand how the game works, and agree to the rules. The 'deception' which takes place is not real, because the agreed rules are different. In this example of the board game what is at work is something of a mini social contract between those involved, in which it is agreed that the meaning of an act, embedded within a specific narrowly defined context (the game), is different from the meaning of similar acts, outside of this narrow context. It is not possible to enter into such a contract with animals, agreeing that an act of ritual slaughter is not intended to cause them pain, but rather to promote healing or restoration of dignity for the human performers of this act. Without an agreement between two parties to understand the meaning of the act differently within a specific context it does not seem possible to argue that the embeddedness of an act which causes animals pain as part of a cultural ritual can be understood as acceptably different from other similar kinds of acts which cause animals pain.

At the beginning of this section I argued that the interests of women in their physical safety, bodily integrity and continued life are relatively more morally weighty than the interests of cultures in the goods of collective self-esteem, dignity, authenticity etc. which might be obtained through traditional, culturally-sanctioned practices. I have attempted to defend the analogous position that the same principle applies when weighing the interests of sentient animals in not being caused pain or suffering against the interests of cultures in the social goods derived from cultural participation and identification. This I have done by attempting to rule out possible objections to my principle. My concern has been to weigh conflicting moral claims against each other, without proposing any kind of legal or social strictures. On the basis of my arguments above, I conclude that the social goods obtained from cultural participation in acts of ritual slaughter involving suffering for animals do not outweigh the *prima facie* wrong of causing animals unnecessary pain in the course of performing such acts.

6. Conclusion

Since animal suffering is very likely to occur in ritual slaughters of the kind performed by the Yengeni family, it does not seem to me that this kind of act can be morally justified on the grounds that it is a traditional or religiously required practice, central to the culture of the people involved. At best, culture provides weak grounds for defending practices morally. The interests of sentient beings not to be hurt must carry more moral weight than the interests of humans in the social goods or moral values derived from cultural identification and participation. Furthermore, taking moral exception to a particular cultural practice and especially merely to one aspect of the practice cannot be construed as significantly denying those who perform this practice of the social goods or values derived from their cultural participation.

The moral value or social goods derived from cultural practice are not significant enough to outweigh the *prima facie* wrong of harming animals in ritual sacrifices. On these grounds I conclude that acts of the ritual slaughter of animals, of the kind recently engaged in by the Yengeni family are not morally justifiable, although they could be, if the method of slaughter were modified to include pre-stunning.

I have, thus far, excluded issues of the role of the law in situations such as this. In my concluding remarks, however, I wish to consider this angle. I am not at all convinced that the best way to deal with this moral conflict is by means of legislation. It is not always necessary to manage moral conflicts by means of legal proscription. Perhaps the best way forward is for those on both sides of this moral debate to enter into discussion with one another. Perhaps a way can be found to accommodate the interests of cultures to experience the benefits of cultural identification and authenticity, as well as those of healing and restoration, without needing to cause animals unnecessary suffering. Perhaps those who seek some kind of relief from their own painful experiences by means of ritual practices could find even more meaningful relief by modifying their cultural practices in a way which demonstrates their empathy with the suffering of other sentient beings.

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