BOOK REVIEW

LIVE FREE OR DIE: *ON THEIR OWN TERMS: BRINGING ANIMAL-RIGHTS PHILOSOPHY DOWN TO EARTH* BY LEE HALL

Reviewed by
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This book review examines Lee Hall's new book, which presents an innovative animal rights theory: wild animals, due to their autonomous nature, are endowed with rights, but domesticated animals lack rights because they are not autonomous. With that theory in mind, Hall outlines ideas about how humans are obligated to treat both wild and domestic animals. Hall first argues that the rights of wild animals require that humans let them alone. Yet, despite the fact that domestic animals lack rights under Hall's theory, Hall argues that humans are required to care for them because it is humans who brought them into existence. While the reviewer believes that Hall's theory is indeed innovative and appealing, he ultimately concludes that it cannot explain why domestic animals completely lack rights and that the implications of the theory for how they are to be treated are unsatisfactory.

Lee Hall's book has a simple thesis: Humanity should let other animals live on their own terms. The implications of this simple thesis are, however, far-reaching and profound. Hall devotes the book to filling in the details. It is an exercise in consciousness-raising that both troubles and inspires.

On Their Own Terms[1] is the spelling out of a vision that Hall adumbrated in a previous book, *Capers in the Churchyard: Animal*

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[1] Lee Hall, *On Their Own Terms: Bringing Animal Rights Philosophy Down to Earth* (Nectar Bat Press 2010) [hereinafter Hall, *On Their Own Terms*].

Rights Advocacy in the Age of Terror.[2] What was intriguing about that book was its espousing of an uncompromising view of animal liberation on the one hand and, on the other, abjuring the intimidating tactics of some animal rights activists.[3] This pairing of positions is perhaps the natural outcome of Hall's position as legal director of Friends of Animals, a Connecticut-based advocacy organization,[4] for this group is to be found on the extreme rights end of the welfare-rights continuum[5] (although Hall does not spurn welfare—more on this below), but, as an attorney, Hall would be circumspect about methods for pushing an agenda. In *Capers*, however, Hall offered a more penetrating rationale for forceful yet lawful activism, namely, that the means must reflect the end, and that the end is a world of respect for all sentient beings, humans included.[6] Focusing as it did on the shenanigans of some activists,[7] that book left the reader curious to know in more detail what a world of proper human-animal relations would be like. *On Their Own Terms* satisfies that desire.

In Hall's ideal conception there is a sharp division between the human world and the nonhuman-animal (from now on, "animal" for short) world. All animals will be wild animals, living in their natural habitats with no dependence for survival on human beings other than to be let alone.[8] Our letting them alone is not just a passive act, however. The one thing human beings must actively do in order to help assure that animals can indeed go about their lives unmolested by us is to preserve their habitats.[9] Thus, environmentalism comes to the fore. So it's not just a matter of our not eating animals (or animal products, such as milk and eggs), not hunting or "culling" animals, not experimenting on animals, not wearing animals, etc. ad inf. . . . , but we must also curb our own human population, which inevitably en-

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[2] Lee Hall, *Capers in the Churchyard: Animal Rights Advocacy in the Age of Terror* (Nectar Bat Press 2006) [hereinafter Hall, *Capers in the Churchyard*].

[3] *Id.* at 20.

[4] Friends of Animals, *About Friends of Animals*, http://www.friendsofanimals.org/about/index.html (accessed Nov. 20, 2010).

[5] *See* Friends of Animals, *What is meant by animal rights?*, http://www.friendsofanimals.org/programs/animal-rights/index.html (accessed Nov. 21, 2010).

[6] *See* Hall, *Capers in the Churchyard*, *supra* n. 2, at 19 (stating that "[this book] doesn't throw away its moral standards in the short term and claim that doing so will result in some later moral pay-off"); *see id.* at 61 (stating that "[a]nimal rights is the development of respect for the interest of conscious beings").

[7] *See e.g. id.* at 47–48 (recounting vandalism and threats by the Animal Liberation Front to a flower-nursery owner who planned to store laboratory-bound monkeys).

[8] *See* Hall, *On Their Own Terms*, *supra* n. 1, at 32 (arguing that "precisely the right other animals need [is] to be permitted to live on their own terms, free of human interference and control").

[9] *See id.* at 205 (stating that "[w]hat other members of Earth's biocommunity *need* from us is a robust movement to defend what natural places remain, before the entire planet turns into housing developments, office parks, malls, and farms") (emphasis in original).

croaches on animals' living space.[10] We must cut back on our consumption, on our suburbs, on our malls, on our pollution, and so forth.[11]

Veganism plays a major role in all of this. In fact, "veganism" is a name for the philosophy that Hall is promoting, since Hall means it to extend far beyond simply not eating any animal products.[12] Hall's veganism—and in this Hall is certainly not alone among vegans—is the abstention from *using* animals in any way.[13] Thus, it encompasses abstention from all of the uses mentioned above. Furthermore, even limiting the focus to a vegan diet, there would be many significant *indirect* effects on animal well-being. For example, since animal agriculture uses far more land to produce human food than it takes to maintain a strictly plant agriculture, more habitat for wild animals would be preserved by humanity's switching to veganism.[14]

Thus is Hall's vision. I personally find it attractive and compelling. In one swoop it solves or resolves several major problems in the world. Most obviously, it eliminates the cruel use of animals by human beings in its countless guises. It also has beneficial effects on the environment we share with animals; for example, animal agriculture has been recognized as a major contributor to global warming.[15] Hall's vision would also betoken a changed attitude on behalf of humanity toward life itself, which might be expected to have a benign influence on how humans treat one another.

There is, however, at least one major stumbling block to implementing this master plan, it seems to me (I am speaking of a theoretical stumbling block. Obviously, there would be major practical stumbling blocks as well). As noted, there would be only wild animals in Hall's ideal world. So how do we get from here to there? The obvious answer is that we would stop breeding domestic animals.[16] But that would not be enough, of course; we would also have to prevent the ones that are already in existence from reproducing. Hall certainly recognizes all of that and is a staunch advocate of neutering.[17]

Hall is not, just as certainly, recommending the extermination of all domestic animals—that is to say, of all, or any, of the currently

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[10] *See id.* at 206 (asserting that "we can ask people to make this outsized population an issue, to talk about limiting our numbers").

[11] *Id.* at 205.

[12] *Id.* at 26.

[13] *Id.*

[14] Hall, *On Their Own Terms*, *supra* n. 1, at 40, 97–98. Hall observes that "The animals displaced by deforestation—undomesticated animals—are living right now as though the animal-rights principles, involving respect for non-human dignity and . . . autonomy, were accepted by human culture; and yet, ironically, the continual disappearance of these animals' communities is ignored by the animal-protection advocates who concentrate on influencing the husbandry standards for farm animals." *Id.* at 235.

[15] Sierra Club: Atlantic Chapter, *Don't Eat A Cow, Man! How Animal Agriculture Contributes to Global Warming*, http://newyork.sierraclub.org/conservation/biodiversity/GlobalWarming.html (updated Mar. 2009) (accessed Nov. 20, 2010).

[16] Hall, *On Their Own Terms*, *supra* n. 1, at 186.

[17] *Id.* at 33.

existing individual ones.[18] Since we brought them into existence, and they are by definition incapable of fending for themselves, we have a responsibility to care for them by enabling them to live out their lives to a ripe old age in comfort and peace and love, and to die a natural death.[19] I'm not clear on whether Hall would condone euthanasia in the case of some painful terminal condition, but off-hand I can't see why not, provided it were truly for the animal's benefit and not human convenience.[20]

How does Hall justify all of this? The most straightforward justification is that animal suffering and usually premature death attend domestication as night follows day. Hall (as so many others) makes this case in painful detail. It is especially to be noted that this applies to our beloved pets as much as to farm and lab animals.[21] But an obvious objection would be that to therefore call for the elimination of all domestic animals is throwing the baby out with the bathwater. After all, the case could be made—and indeed has been made in David Benatar's *Better Never to Have Been:* The Harm of Coming into Existence—that human life on this planet has been more painful than pleasurable.[22] But does it follow therefrom that humanity should cease to propagate altogether?

Hall's argument, however, is not based on the suffering of other animals at human hands but rather on their "dignity," "rights," and "autonomy."[23] This alludes to what is perhaps the noblest conception of ethics going: respect for living beings.[24] And Hall's application of it to the animal case is ingenious. Hall argues that the notion of moral rights only makes sense for beings who are capable of living on their own terms.[25] Since domestic animals by their very nature are incapable of doing so, given their dependence on humans to feed and otherwise take care of them—because human beings have deliberately stripped these unfortunate creatures of the capacity to fend for themselves in a natural habitat—they have no rights. Rights, therefore, are reserved for wild animals.

Furthermore, wild animals have only one right: to be let alone (although, as noted above, Hall intends this also to imply the provision of ample habitats).[26] They specifically do not have the right to be protected from natural harms, such as predation, illness, etc. ad inf.[27] So Hall is quite emphatic in a nonutilitarian stance, in contradistinction

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[18] *Id.* at 35.

[19] *Id.* at 181.

[20] *Id.* at 182.

[21] *Id.* at 189–90.

[22] David Benatar, *Better Never to have Been: The Harm of Coming into Existence* 28–29 (Oxford U. Press 2006).

[23] Hall, *On Their Own Terms*, *supra* n. 1, at 194, 260.

[24] *Id.* at 26.

[25] *Id.* at 31.

[26] *Id.* at 14.

[27] *Id.* at 172.

to Peter Singer's approach to animal ethics.[28] There are utilitarians who would call for active intervention by human beings in the elimination of predators in the wild, if we could be assured that this would not upset the overall ecological balance to the net detriment of sentient beings.[29] But Hall will have none of that. (It is an interesting question—not not clearly answered by this book—whether Hall's adamancy on this point is due to a conviction that the animals or nature "knows" what is in fact best for them, in which case Hall's own intuition would itself be utilitarian.)

So how stands it with domestic animals? Since they have no rights, they have no right to be let alone. And how could they? If we let them alone, they would die! So we must take care of them. So the ethics of care or welfare is suitable to domestic animals, while the ethics of rights is suitable to wild animals. But it seems to me that this does not quite make sense. Is not Hall implicitly claiming that domestic animals do have at least one right, namely, to be cared for by the beings who brought them into existence and made them dependent? I think this must be so.

Of greater significance is how the elimination—extinction, really—of all domestic animal species is to be justified. In Hall's view of the ethical landscape, autonomy, as noted, is paramount.[30] Since domestic animals do not have that precious quality, they simply do not belong in the realm of the living. For when such beings exist, it is an affront to their dignity to be forced to depend on others for their existence; and they are inevitably forever at the mercy of those others.

The analogy of human slavery is clearly on Hall's mind, as it is for all of the self-styled animal "abolitionists." This kind of relationship is a bad business from start to finish, no matter how many individual acts of kindness and love may arise in the context. For they are all eclipsed by the atrocities that inevitably take place in the relation of extreme power imbalances, as well as tainted by the intrinsic indignity of perpetual dependency. Furthermore, even the beings who are in control are harmed and tainted, just as surely as were the owners of human slaves, no matter how kindly they may have been.

Yet for all its power, this argument hardly works without further articulation. For one thing, the slavery analogy will not explain why domestic animals should be eliminated since the slave abolitionists were certainly not, as such, committed to opposing the existence of future generations of African-Americans! Rather, it was the condition of their enslavement that was to be eliminated. The disanalogy with animals is that their "slavery" has actually been genetically embedded in them by breeding. (Whether a particular domestic breed could survive in a feral state creates a further complication. Of course feral animals could then prove a hazard to the rest of the wild environment, but

[28] *Id.* at 70.
[29] Hall, *On Their Own Terms*, *supra* n. 1, at 172.
[30] *Id.* at 194.

that's a different issue. Also, even that presumes a human-conceived notion of environmental hazard. Was the asteroid that destroyed the dinosaurs, and paved the way for us, an environmental hazard?)

An even more telling demur to the slavery analogy, it seems to me, is that every being, human or nonhuman, is dependent in some way, and significantly so throughout their life. It is especially odd that Hall, who has consistently forged a link between animal liberation and feminism,[31] should overlook this point, for an enduring theme of feminism is that relationships are essential to thriving or even surviving, in part because of our mutual dependency.[32] This fact does not undercut the condemnation of slavery, of course (and for feminism, the condition of female domestic slavery in particular). So the general moral issue becomes: What degree or quality of dependency is proper, that is, compatible with autonomy, and what improper?

The specific issue about domestic animals then becomes: Is their inbred dependency on human beings of the proper or improper sort? It cannot be ruled improper just because it involves dependency on a different species. After all, isn't the entire ecology movement based on the tenet that all species are interdependent? Perhaps it will turn out that there are different assessments for different domestic animals. For example, the chicken that would grow so large if not slaughtered in its youth that its legs could not even support it, would be a slave inherently; while the dog who can seldom go outside except at the end of a leash but enjoys the love of a human family would not. Personally I'm with Hall on this one: I think they are all slaves. But I don't have an argument to clinch the case, and I don't find it in Hall's book.

One reason for this impasse may be that there is a more general issue at stake. Hall has put forward a vision or ideal of (human and other) animal life on this planet. On its face Hall's ideal is a so-called biocentric one, as opposed to an anthropocentric one. But can we forget the source of this ideal? It is still a human ideal in the sense of being conceptualized by a human being (Hall in this case) and of necessity imposed or implemented by human beings (given our near-absolute power over other animals). Thus, from the animal's point of view, is there really a difference between, say, a wild animal being abducted for breeding in a zoo and a domestic animal being neutered in order to extinguish her species? I am skeptical. Yet on Hall's view, the former is illicit, while the latter is mandatory.[33] However great a divide in intent within the human mind, it is a distinction that could well be lost on the individual animal.

Curiously, I see a recapitulation in Hall's theorizing of the kind of Kantian theorizing that Hall adamantly rejects. Immanuel Kant's er-

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[31] *See e.g.* Hall, *Capers in the Churchyard*, *supra* n. 2, at 74.

[32] *See e.g*. Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* at 127 (Harvard U. Press 1982) (stating that "life, however valuable in itself, can only be sustained by care in relationships.").

[33] Hall, *On Their Own Terms*, *supra* n. 1, at 33.

ror was to restrict moral rights to moral agents. But, even putting aside the recent work on animals themselves as moral agents—comprehensively reviewed by Marc Bekoff and Jessica Pierce in their book, *Wild Justice: The Moral Lives of Animals*[34]—it has seemed to the animal rights folk that even beings who were incapable of being morally responsible could be worthy of moral consideration.[35] But does not Hall replicate Kant's error when constructing a rights/caring hierarchy between wild and domestic animals? Furthermore, Hall's argument seems the same as Kant's, for both rely on autonomy as the decisive factor in who counts as a moral agent. It is simply that they define autonomy differently, so that, for Kant, all animals lack it, while for Hall, only domestic ones do.

Hall intends for caring to pick up the slack. (Kant too had his argument for extending solicitous care to animals, namely, the adverse effect of insensitivity to their suffering on the human being's ability to be a proper moral agent towards other human beings). Thus, domestic animals are like human children, whose reduced autonomy places them under our adult care. This is also reminiscent of the "dominion" that the Bible gives us humans over animals[36]—again, now limited by Hall to domestic animals and not all animals.

But in the end, as I suggested above, might this not be a human mind game? The one who controls the concepts controls the world. What reason is there to think that Hall is "cleaving reality" more accurately than Kant or anybody else? Perhaps we all build our philosophy to suit our preferences. But, of course, there are very real consequences. And one of them in this case is that, on Hall's account, domestic animals would become, be made, extinct. Again, I fully understand the impulse because I share Hall's preferences; we are both enchanted by the vision of a world that contains only human and wild animals, each type fending for itself and only dimly aware of the other from afar and chance encounters. But I am also made uneasy by visions of the company we would thereby be keeping if we tried to carry out such a scheme.

Thus, in writing that "animals should have the right to be—the genuine opportunity to live on their terms,"[37] Hall seems to be as self-contradictory as the slave-owning Founding Fathers when they wrote that "all men are created equal."[38] The trick is again in defining the concepts. For them "men" meant not only white but also literally male. For Hall, "animals" in the quoted passage refers to the wild variety, since, in Hall's view, only wild animals are *capable* of living on their

[34] Marc Bekoff & Jessica Pierce, *Wild Justice: The Moral Lives of Animals* 143–45 (U. of Chi. Press 2009).

[35] *See* Tom Regan, *The Case for Animal Rights* 151–56 (U. of Cal. Press 2004) (animals are "moral patients" who cannot do what is right or wrong, but this "does not mean there are no moral constraints on what we may do to animals").

[36] *Genesis* 1:26 (King James).

[37] Hall, *On Their Own Terms*, *supra* n. 1, at 124.

[38] *Declaration of Independence* [¶] 2 (1776).

own terms. (So "some animals are more equal than others," to quote Squealer in *Animal Farm*.)[39] But isn't this exactly the sort of move that the Animal Welfare Act makes in *defining* "animals" explicitly to *exclude* rodents et al.,[40]—to suit the purposes of those who are in power and constructing the definitions? And again, when Hall speaks of a "caring" ethic, which for Hall involves castrating animals, is Hall using language any more straightforwardly than animal experimenters when they speak of a "humane" ethic that implies different invasive procedures?

These are heavy matters. I take them not as an indictment of Hall's project but as an indication of the importance, and the difficulty, of theorizing. Hall encourages the reader to develop his or her own theory in a "Workshop" Appendix to the book.[41] I commend Hall for unflagging efforts over an impressive career to refine, and implement, a coherent set of ideas about both the goal and the methods of animal activism. In my experience, Hall's is the most sustained and explicit effort to date to articulate the sought-for ideal and bring advocacy in line with it.

My own conclusion is that Hall's rights/caring innovation, although an elegant division of ethical labor in the animal realm, which furthermore has the advantage of rescuing the notion of welfare from its cynical appropriation by animal-users while yet championing rights, simply does not work. But even though a clear justification of the blanket denial to domestic animals of a right to reproduce is therefore lacking (and all the more Hall's denial to them of any moral rights at all), there are certainly enough considerations presented between the covers of Hall's book to motivate a push for an end to animal breeding by humans (not to mention putting a brake on human breeding!) as well as for rights of the legal sort for all animals. All domestic animals should, at a minimum, have the right to be cared for and allowed to live out their days (or be euthanized when for their own individual good), and all wild animals should have the right to be provided sufficient habitats to live on their own terms and then be let alone.

[39] George Orwell, *Animal Farm* 118 (Harcourt Brace Jovanovich 1946).

[40] 7 U.S.C. § 2132(g) (2006).

[41] Hall, *On Their Own Terms*, *supra* n. 1, at 262–74.