

The ethics of animal circuses

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Animal protection advocates have been unanimous in their celebration of recently passed legislation banning the use of wild animals in circuses, and with good reason. Even if, as the media reported, only 19 wild animals were still left in circuses when the Wild Animals in Circuses (No 2) Act 2019 was given Royal Assent, this law is a symbolic culmination of decades of hard work by animal advocacy groups to bring an end to the cruelties beneath the big top.

But should we regard the law as having gone far enough? Should we push to extend the ban to the use of domestic animals as well?

The answer to these questions depends in part on animal protection advocates' reasons for supporting the ban. Broadly speaking, three primary ethical motivations for opposing animal circuses can be identified: they cause unnecessary animal suffering, they exploit animals, and they are contrary to animal dignity. Let's consider each of these reasons in turn.

Suffering

The first, and perhaps most intuitive, concern relates to the suffering inflicted on animals by using them as circus performers. The starkest illustrations of animal suffering in circuses are captured in undercover exposés documenting vicious brutality meted out by trainers to unwilling performers.¹

Whilst maybe not all circuses are responsible for these sorts of heinous cruelty, even under the best of circumstances the realities of travelling

circus life are at odds with the health and welfare needs of wild animals. Frequent travelling, limited space, restricted social interactions, maternal separation and the requirements of training and performance preclude, for all intents and purposes, the possibility of wild animals living lives conducive to their wellbeing.² Attempting to meet the welfare needs of wild animals in travelling circuses is - to borrow a phrase from Bernie Rollin - like trying to put square pegs into round holes.³

The welfarist concern with unnecessary suffering seems to provide a pretty strong basis for a ban on the use of wild animals in circuses. But what about domestic animals?

Whilst domestic animals are not susceptible to all the harms of their wild counterparts, animal protection groups have nonetheless highlighted similar concerns. For example, Animal Defenders International and OneKind both stress that domestic animals also suffer. The training methods they are subject to may involve cruelty and the tricks they perform may be detrimental to their health. For example, horses trained to stand on their hind legs and walk can risk injury.⁴ Moreover, the conditions that animals are kept in are also often unacceptable. For example, Animal Defenders International found dogs used by Jolly's Circus kept in pens that were approximately 1.5 x 1.5 meters in size.⁵

¹ See e.g. 'Circus Trainer Guilty of Cruelty to Chimpanzee' (The Guardian, 28 January 1999); 'Anne the Elephant Circus Abuse: Bobby Roberts Guilty' (BBC News, 23 November 2012).

² See e.g. Stephen Harris et al, 'A Review of the Welfare of Wild Animals in Circuses' (2006); Eurogroup for Animals, 'Wild Animals in EU Circuses: Problems, Risks, Solutions' (2015).

³ Bernard Rollin, 'An Ethicist's Commentary on Equated Productivity and Welfare' (2002).

⁴ Corrine Henn, 'Why Circuses That Use Domestic Animals are Still Abusive Attractions' (One Green Planet, 2014).

⁵ OneKind, 'Domestic Animals in Circuses' (2019).



It is clear that welfare concerns are associated with domestic circus animals too, but a welfarist framework alone does not provide a categorical reason to ban their use. If effective laws could in theory be put in place to adequately protect the welfare of domestic animal circus performers, then individuals solely concerned with the question of animal suffering would have no obvious basis to object to the practice.

Exploitation

The fact that circus animals suffer is not the only reason one might object to their use. A second type of objection is that such use is inherently exploitative. Paradigm examples of exploitation in the human context include sweatshop labour, price gouging, sex trafficking and loan-sharking. What all of the practices have in common is that they involve taking advantage of another individual's vulnerability to unfairly derive benefits from them.

To determine whether we can regard using animal circus performers as inherently exploitative

we have to consider whether (1) circus animals are vulnerable; (2) humans take advantage of that vulnerability and (3) humans unfairly derive benefits from them.

It seems undeniable that animals are vulnerable in relation to humans. Animals who are either born or abducted into captivity are entirely at the mercy of their captors, whom they depend on for food, water, medical care and shelter. Compounding this vulnerability is the very limited legal protections animals currently possess. It also seems hard to deny that circuses take advantage of animal vulnerability. It is precisely because of the animals' dependency on their human captors that they can either be compelled to perform circus tricks through threats and violence or can otherwise be coaxed to do so through more subtle methods.

Whether or not humans unfairly derive benefits from circus animals requires a little more unpacking. Clearly the circuses benefit economically from animal performers but they may claim that their animals are fairly compensated through

good quality care and decent living conditions. As discussed above, undercover investigations and animal welfare science seriously call these claims into question, but even granting that they are true in some instances, the unfairness to the animals can be argued to stem from the fact that they are being compelled to live the sorts of lives that ultimately are not in their best interests, for the sake of increasing circuses profits.

Circuses may claim that animals wilfully take part in and enjoy performing circus tricks. Again, even if true, there may be reason to think that it is still exploitative to use them in such ways. The political and legal philosopher Martha Nussbaum draws our attention to 'adaptive preferences' – preferences that an individual forms against background conditions of injustice. Nussbaum points out that animals can learn submissive or fear-induced preferences that arise out of 'diseased' relationships of exploitation with human beings.⁶ It is superfluous to spell out how the relationship between trainers and circus animals fits in to Nussbaum's schema here.

The above analysis gives us reason to think that requiring these animals to perform circus tricks is a form of exploitation, even if it does not involve any animal suffering.

Dignity

In the Indian case of *Nair v. Union of India* the Kerala High Court found that circuses subject animals to an 'undignified way of life'.⁷ What does the idea of dignity refer to here?

Invocation of dignity is widespread in ethical, political and legal debates but the precise meaning of the term is often unclear. An influential account of animal dignity comes from Martha Nussbaum. For Nussbaum the notion of dignity is related to the idea of 'flourishing'. A dignified life is the type of life that a being of a particular sort ought to lead, full of real opportunities to do and be what they value.

Nussbaum goes further than conventional welfare narratives and suggests that the good life consists of more than positive hedonic experi-

ences: 'Animals, like humans, pursue a plurality of distinct goods.'⁸ She continues:

It seems plausible to think that there may be goods (animals) pursue that are not felt as pain and frustration when they are absent: for example, free movement and physical achievement, and also altruistic sacrifice for kin and group.⁹

Depriving animals of these important goods may thus also be regarded as incompatible with their dignity.

If Nussbaum's arguments are correct they give us further reason to object to circuses: they deprive animals of the possibilities to lead flourishing lives. This is most obvious in relation to wild animals. Circus life precludes them from roaming freely, raising families, forming relationships with other animals, playing, gathering food, finding shelter and so forth. This view itself was endorsed by the Parliamentary Under-Secretary of State for DEFRA, David Rutley MP during the second reading of the Wild Animals in Circuses Bill:

Wild animals in a circus are trained for our entertainment and amusement. That sends the wrong message to audiences about the intrinsic value of those animals. We should appreciate wild animals behaving naturally, not in a comic or superficial setting.¹⁰

Nussbaum notes that even though domesticated animals cannot thrive in the wild, such creatures 'should surely not be treated as mere objects for humans' use and control: their flourishing and their own ends should be constantly held in view'.¹¹ It seems doubtful that this is possible in the artificial and exploitative setting of the circus.

Conclusion

Three different related bases for objecting to the use of animals in circuses are identified above: it

8 Nussbaum (n6) 344.

9 Ibid, 345.

10 David Rutley MP, HC Hansard, 7th May 2019, cols 501-502.

11 Nussbaum (n6) 376.

6 Martha Nussbaum, *Frontiers of Justice* (Harvard University Press 2006) 344-345.a

7 *Nair v. Union of India*, Kerala High Court, no. 155/1999, June 2000.

causes unnecessary suffering, exploits animals and is incompatible with animal dignity. Together they form the basis for a powerful overlapping consensus on the need to abolish animal circuses for both wild and domesticated animals. Of course they also provide bases for opposition to other types of animal use for entertainment as well, including zoos, aquariums and horse-racing. These are surely amongst the most frivolous forms of animal exploitation at present and animal advocates should do everything in our power to hasten their demise.