

# *Ethics for a New Human Interaction with Elephants*

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## **Abstract**

*I propose a new ethics to guide human interaction with elephants as our relationship to elephants has changed fundamentally in the last two centuries. I present arguments that justify sentiments that judge elephants deserving of special moral consideration. I first show how the relationship between humans and elephants has changed. I then argue that elephants deserve strong moral consideration from humans as they have special and unique qualities. Next I present ethical values to guide humans in their behaviour towards elephants. Finally I argue in favour of a set of elephant rights that embodies the aforementioned ethical values in law.*

**Keywords:** elephants, culling, ethics, elephant rights, moral dilemmas

Charisma can mean “compelling attractiveness or charm that inspires devotion,” “a special magnetic charm or appeal,” or “arousing popular loyalty or enthusiasm” [COED 2004]. The epithet “charismatic mega-fauna” aptly describes African elephants, as the history of the recent debate on the possibility of culling large numbers of elephants in South Africa demonstrates.

This debate was re-opened in 2003 when officials of South African National Parks (SANParks) mooted the idea that culling in the world famous Kruger National Park in north eastern South Africa has to be resumed. The justification was that the increase in elephant numbers since a moratorium was placed on culling in 1995 will soon devastate the rich biodiversity of this magnificent African wilderness if nothing is done. In September 2005 the South African National Parks authority [SANParks] recommended that the South African minister of Environmental Affairs and Tourism approve “the usage of culling as a means of reducing elephant populations in protected areas” (Mabunda 2005: 28). They judged the overpopulation of elephants in a few South African national parks [including the world famous Kruger National Park] requires “decisive action” (Mabunda 2005: 7). The matter was so urgent for SANParks that they asked that “a decision on the use of culling as a legitimate option for management of elephants should not be delayed beyond March 2006” (Mabunda 2005: 7).

Why are the guns still silent? Why do the helicopters and light aircraft required to spot and kill the elephants remain on the ground? Why is the abattoir not yet processing elephant carcasses? Why are scientists, wildlife managers, ethicists, lawyers, elephant owners, journalists, and the general

public still engaged in dialogue about the fate of South Africa's elephants? Why has culling not been resumed despite the urgent plea of South Africa's national parks authority that culling needs to be resumed as soon as possible? Why has the South African national government become involved to the extent of a government cabinet minister holding workshops with elephant scientists? Why has the debate about elephants spread so far and wide and deepened so significantly? Why has the South African minister of Environmental Affairs and Tourism and elephant scientists agreed to a 20 year research project on elephants and biodiversity?

Perhaps South Africans hesitate so much to resume culling, we engage in so much debate about elephants, perhaps the South African government is so willing to listen to scientific debate and support long term research projects on elephants for the same reason that a recent special edition of *Africa Geographic* on elephants sold out so fast: too many of us respect elephants too much to destroy their lives without the strongest possible reasons. Also, too many of us are charmed and awed by this member of Africa's charismatic mega-fauna to allow humans to kill them without convincing evidence that no other alternative exists. The charisma of elephants really gets to us!

In this essay I want to explore and expand these strong sentiments about the moral value elephants have for many people in Africa and beyond. I want to present a series of arguments that bolsters and justifies sentiments that judge elephants deserving of special moral consideration. I am convinced we need a different ethics in the 21<sup>st</sup> century to guide human interaction with elephants. Our human situation and context have changed so much in the past two centuries that our relationship to elephants has changed fundamentally compared to the greater part of our shared human-elephant history. In this essay I will do the following: [1] show how the relationship between humans and elephants have changed in the last two centuries, [2] argue that elephants deserve strong moral consideration from humans as they have special and unique qualities, [3] set out a series of ethical values to guide humans in their behaviour towards elephants and [4] present an argument in favour of a set of elephant rights that embodies the aforementioned ethical values in law.

## I

For many centuries humans were more prey than predator and could easily be threatened and harmed by elephants; our only defences were bow and arrows, spears, stones, fire, and holes dug in the ground. When humans had only stone tools and bows and arrows, elephants might easily have had the upper hand. With the mastery of fire and the availability of metals, the power relation started shifting in our favour. Nevertheless, a more or less equal relationship with shifts to and fro between humans and elephants existed for possibly more than 95% of our shared history.

What are the main factors that converted the power relationship between humans and elephants decisively in our favour? Our ever increasing knowledge of the world and our sophisticated technologies made it possible for us to interfere with elephant lives on a scale unimaginable through most of history. We can now control elephant lives through chemicals to immobilize them and practice birth control, kill them instantly with a range of weapons, restrict their movements by using elephant-proof fences, round them up and transport them with automobiles and helicopters, and track their movements by using satellite and cellular communication. These focussed scientific technologies we use to intervene in elephant lives require various supporting and enabling technologies, like the capacity to make drugs, the sophisticated use of materials, electricity, information and computer technology, and so on.

The explosive increase of our knowledge of the world over the past couple of centuries includes the exponential growth of our knowledge about elephants. In the past 50 years humans have investigated elephants in depth and as a result our knowledge about the ecology, physiology, behaviour, social structure, communication, and mental characteristics of elephants has deepened not only our understanding of elephants, but also our ability to exercise almost absolute power over them<sup>1</sup>. Not only can we now effectively manage elephants in conservation areas according to standards we decide on, but we have also developed and refined various techniques of taming and training elephants. We can apply knowledge and techniques about the general training of animals to tame and train individual elephants to serve our needs for in depth interaction with members of other species.<sup>2</sup>

Human cultural evolution made us the best adapted, most successful, and clearly the dominant species on earth. Part of our huge evolutionary success is our conquest and population of the earth. The massive increase in the human population on earth has reduced the land available to elephants to a fraction of what was available to them for millions of years. Not only have we conquered their land, but we have also reduced their numbers tremendously through killing them for ivory by using sophisticated deadly weapons. Through conquering their land and destroying them in their thousands for their tusks we have established our supremacy as masters of the earth. We are not the hunter-gatherers of years gone by anymore, but the conquerors and masters of all the wild animals on earth. We need a different ethics that it is not premised on a hunter-gatherer existence with elephants, but one that reflects our status as the most dominant and powerful species this earth has ever had.

What is the upshot of all these changes that our species have accomplished? We now understand and thus can control various aspects of the lives of elephants: we can kill them with ease, fence

them in, lock them up in zoos, capture and translocate them, strip them of their reproductive powers, tame and train them, listen in on their communications outside the reach of our ears, decipher their language, analyse their body tissue including genetic material, track their movements through various communication technologies, heal some of their wounds and treat some of their diseases.

Thus, a fundamental power shift has occurred that puts us humans in potentially almost full control of elephants. Note the guarded formulation: “potentially almost full control” – why? In an one-on-one confrontation today between an unarmed human and an elephant in one of the elephant’s natural habitats the elephant will win almost always. Not even humans in motor vehicles can escape the wrath of an angered elephant. However, we need not engage elephants that way anymore, as we can choose at will to arm ourselves with advanced knowledge and state of the art technology to appropriately subdue, overpower, and control elephants.

## II

Humans have possibly always respected elephants for their size, superior strength, social cohesion, and intelligence. Our vastly increased knowledge of elephants is part of the continuous scientific revolution that started in modern societies approximately four centuries ago and more specifically the result of the work of dedicated elephant scientists who employ a mixture of natural and human science research methods. Our respect and appreciation for elephants have been increasing ever since in depth studies like those by Iain Douglas-Hamilton, Cynthia Moss, Joyce Poole, and Katie Payne have become widely available. A good example of our increasing awe and respect for elephants based on advanced knowledge is captured by Ian Redmond (OBE) in his article “Elephant beings,” published in Scotland’s *Sunday Post*. Redmond’s article is a reaction to a recently published scholarly article by Iain Douglas-Hamilton and his colleagues [2006]. Redmond interprets their research results as follows:

*“These images of elephants showing compassion for the sick, and grieving for the dead, speak louder than any words. They raise profound ethical questions about how we treat elephants.” “Perhaps these remarkable photographs of elephants demonstrating such human behaviour might influence the decision-makers who hold the fate of elephants... in their hands. Maybe it is time to treat them with a little more of the respect they so clearly deserve.”*

One of the consequences of our deepened understanding of elephants is our recognition of both

their similarities and differences with us. What are the characteristics of elephants that so fascinate

us and lead so many of us to judge them as belonging to a superior class of animals deserving special moral consideration, like dolphins, whales, dogs, chimpanzees, gorillas, and lions?

I want to argue that both the similarities as well as the differences between humans and elephants are reasons for the feelings of awe and appreciation we have for elephants. Note the important role of the differences in this case. If elephants were only similar to us, but had no significant differences, we would have treated them solely as beings of lesser worth than ourselves. The differences that matter in this case are dissimilar, distinct, and impressive qualities of elephants that we do not possess. Such differences thus add to our appreciation and valuation of elephants. Some of the differences between humans and elephants, like their superior physical size and strength compared to ours, are matters we find impressive and worthy of our respect. Similarly, we value their acute sense of smell, we are amazed by their communicative abilities through infrasound, and we are thrilled by their stealth in moving silently and unobtrusively through thick bush despite their massive size. The fact that such huge animals are vegetarian adds to their allure as well. Perhaps we are just too grateful they are not predators, as we would not even want to imagine such powerful animals as potential predators of ourselves!

There are many specialized characteristics of elephants that are similar to ours.<sup>3</sup> Their lifespan roughly matches ours and their young need similarly many years of upbringing before they are judged to be adults. Elephants are renowned for their intelligence and memory. Their complex social behaviour and organization impress us. We enjoy observing interaction between elephants in their natural habitat. The playfulness of younger elephants in matriarchal herds, the joy of family groups at reunions, the stand-offs between bulls of all ages, the care and protection older females display towards the young, the discussion between senior members in family herds about decisions, and the gentle but firm leadership of the matriarch are all forms of behaviour we can identify with. We are intrigued by their regionally unique languages with up to 80 different calls, commands, and other elements. Their range of emotions is fascinating, especially their acute awareness of death and the mourning of their comrades.

Thus, the impressive ways in which elephants differ from us combine with their uncanny likeness to us to produce an attitude towards elephants that believe them to be worthy of special moral standing, though less than the moral standing we assign to humans. There is no doubt that elephants are “subjects-of-a-life” as Tom Regan (1984) has argued about all living beings. Also, elephants

have complex mental lives through which they can surely experience deep suffering and utter joy and pleasure, which entitles them to serious moral consideration on the grounds defended by Peter Singer (1985).

### III

If I am correct [i] in my depiction of the unequal power relationship between humans and elephants based on the superior knowledge and technology acquired by humans and [ii] in my portrayal of the characteristics of elephants that seemingly entitle them to high moral standing close to those of humans, then it becomes possible to investigate the potential of professional ethics to be creatively adapted to apply to human interaction with elephants.

Why do I postulate an analogy between the current relationship of humans and elephants and the relationship between professionals and the clients they are supposed to serve? The analogy lies in the following aspects of the nature of a profession. A profession is defined by the role of a body of scientific knowledge with an associated set of technologies that confer powers to expert human beings with specialised training in that area of science. These powers of experts can be used to the benefit or detriment of the living beings or objects subject to their range of expertise. As a species the powerful series of impacts of a wide range of specialised scientific knowledge and associated technologies have given us almost absolute power over elephants. The ways in which our scientifically deepened understanding and technologically enhanced capacities can benefit or harm elephants have become all too clear over the past two centuries.

If this analogy holds, then it can be fruitful to investigate the relevance of professional ethics to human interaction with elephants. The question now becomes: Can professional ethics, that guide the use of knowledge and power in ways that protect those subject to experts, be applied to human behaviour towards elephants? Can professional ethics give us a new ethics for much improved human-elephant interaction? In the next section I will investigate to what extent professional ethics can apply to the relationship between a “professional” species and a living being with moral standing slightly less than that of humans.

Perhaps I should first explain what is meant by “moral standing slightly less than that of humans.” Their lesser moral standing compared to humans derives from the following factors: [i] Elephants cannot rival human intellectual powers demonstrated so powerfully in the multiple worlds we create through imagination, culture, science, and technology; [ii] Elephant behaviour does not exhibit the plasticity of human behaviour that finds expression in diverse cultures and eccentric individual lifestyles; [iii] Humans exhibit a much wider and deeper range of emotions that we express in

complex, diverse ways in human language, art forms, and media; [iv] Elephants cannot engage in sophisticated moral reasoning and be held to account for their actions in any other than a morally rudimentary way.

For these reasons humans as morally interactive accountable beings seem to legitimately deserve higher moral standing than elephants.

#### IV

If there is [i] an acceptable, workable analogy between the relationship of humans towards elephants and the relationship of professionals towards their clients and [ii] if elephants don't deserve exactly the same moral standing as human beings, which aspects of professional ethics apply to human-elephant relationships? If we assume a general, vague consensus about the scope and contents of professional ethics,<sup>4</sup> which values from this branch of ethics could be applied to human interaction with elephants? I want to explore this issue in the following section by applying my interpretation and fusion of [1] some aspects of professional ethics (Beauchamp and Childress 2001) and [2] some ideas drawn from Paul W. Taylor's ethics of respect for nature (Taylor 1986: 169 – 255) to human-elephant interaction.

Before I explore the possibilities of professional ethics to provide guidance for improved human-elephant interaction, I must briefly discuss whether humans ought to be allowed to kill elephants, as the non-killing of humans is assumed as a general prohibition in professional ethics. Could one similarly postulate that humans have a duty not to kill elephants, except in cases of legitimate self-defence?

If humans judge elephants deserving of high moral standing, this fact already suggests that elephants ought not to be killed lightly. If we add that in most cases we do not need them for food, as our capacity for food production is adequate enough to provide the global human population with enough to eat, then a further reason for killing elephants falls away. The fact that we cannot fairly distribute the outcomes of advanced agricultural food production gives us reason to work on the justice of providing for people's basic needs and not a reason to slaughter elephants. Our almost miraculous development of new materials over the past century or more also takes away another reason for killing elephants, i.e. to provide us with ivory for jewellery, billiard balls, and piano keys. Our replacement materials are more than sufficient to serve those specialised functions ivory provided us before. Thus it seems as if we have a *prima facie* case not to kill elephants. We have a moral reason not to kill them as well as an absence of economic or survival reasons to kill elephants. The tricky remaining reason for killing elephants other than legitimate self-defence rests

on conservation imperatives. Whether we have a case to kill elephants for the sake of biodiversity and for [trophy] hunting will be alluded to later in the essay.

What are the moral values that ought to guide human interaction with elephants? In keeping with a general understanding of ethics as those ideas that aim to guide human behaviour towards, and connect moral agents to what is good in life, to provide benefit to everything with moral standing, and to prevent harm and suffering to all involved, I want to start by stating we owe justice to elephants. If the concept of justice refers to the fundamental rules of society that give everyone and everything their due and ensure that the benefits and burdens of human social co-operation are appropriately distributed and shared, what do we owe elephants if we include them as beings with high moral standing that ought to be beneficiaries of human moral action?

Note that I am concerned with the obligations of justice human moral agents have towards elephants as living beings that possess moral standing. For us to be morally obligated towards elephants, they themselves need not be moral agents capable of reciprocal moral action or contractual agreements. Elephants are moral patients in relation to humans. As such the quality of their lives can be deeply affected by whether humans act morally towards them or not. Thus, elephants can either be beneficiaries of our moral actions or victims of our immorality.

The first principle drawn from professional ethics is that of non-maleficence, i.e. that we do not intend or do any harm to elephants. The biggest harm we can do to elephants is to kill them. We thus first of all owe elephants the security of their lives that we cannot take away without compelling reasons, as has been argued above. Elephants are subjects-of-a-life or agents similar to us, though of slightly lesser complexity, who make decisions and experience a wide range of emotions. We should thus also refrain from intentionally or negligently harming them. We have an obligation not to cause any unnecessary, avoidable harm to elephants. This implies that we should not thwart, defeat, or set back an elephant's interests without sufficient justification. We should intentionally watch out that our actions do not cause harm or unnecessary suffering to the interests of elephants.

A further implication of the principle of non-maleficence towards elephants is that we must be aware that our actions, or lack thereof, can place elephants in positions where they can harm themselves or be harmed by humans. A good example would be the failure to maintain fences so that elephants can easily cross into neighbouring farms and destroy farmers' crops. Conflict with humans often leads to elephant deaths. The moral obligation not to expose elephants to unnecessary

harm imposes on humans an obligation to take due care to avoid such harm. Due care means to do what is sufficient and appropriate to avoid such harm.

Not only should we refrain to do actions that can directly harm elephants, but we must also not omit actions that can lead to harm. We have a responsibility to ensure that elephants are placed in locations where they can have access to the conditions in which they can live lives according to what they judge as the good for themselves. We currently understand their 'good' to be that they live in family units [adult females] or small groups of like-minded individuals [adult males], roam freely through appropriate vegetation, have adequate food and water available, and engage in complex social behaviour with other elephants. Elephants show us that a good elephant life consists of these things when they do these things and utilise such opportunities when placed in natural habitats where they have a free choice to determine their own lives.

If we can ascribe free choice to elephants, then justice for elephants implies that we ought to give them liberty, as they have a clear and distinct inclination to live their lives in suitable habitat according to their lights. If elephants are indeed subjects-of-a-life, as Tom Regan (1984) argues, they have a compelling interest to live their lives in the light of their own best judgement of where to find food, water, shelter, and companionship. Most living beings exhibit a whole range of behavioural signs that they detest being held in captivity or resist being captured and held in human hands. Elephants are no different than any other living being that prefers [i] to settle the boundaries of its home range for itself in competition with other members of its species and [ii] determine its own life within that territory.

What does liberty for elephants imply? It means we must give them space and opportunity to live in wilderness conditions. We must also respect their autonomy to choose themselves how they want to live their lives in the wilderness, as elephants have done for millennia. Elephants present us with strong evidence that they are agents and we must respect their capacity for informed decision making. There is no doubt that elephants are competent to make their own choices and thus do not need anything more from us than to allow them to be, i.e. to live their social life on sufficiently large tracts of land with suitable habitat.

If we allow elephants liberty, it will include the liberty to determine how close they want their relationship with us to be. We owe elephants the privacy they want for living their lives. Privacy can be defined as a state or condition of limited access to a life, or zones and spheres of lives that are not to be invaded or violated. Privacy is important to allow living beings to act freely in the

absence of scrutiny and interference. Humans usually claim a right to authorise or decline access to generally agreed upon private spaces, rather than to be forced or bullied into making such areas public. I am not sure that elephants have a need to limit humans' access through observation to any

part of their lives. For example, birth, death, and sexual relations occur in public spaces visible to any living being close by. If they do not withdraw themselves into the cover of vegetation, we might assume they are not too bothered by our prying eyes.

However, elephants do seem to need lots of personal space around them. There is no doubt that they insist on enough space whenever other animals or motor vehicles get too close to them. To give elephants the privacy they require thus has an important implication for tourists and researchers, i.e. they must stay at a respectful distance from elephants. A respectful distance will be determined by elephants themselves, who can often be seen threatening either wild animals that violate their private space or motor vehicles that are driven too close to them for comfort. Nevertheless, even wild elephants often allow humans close to them and some tamed and trained ones also seemingly decide for themselves to engage in close contact with humans. Elephants must be given a choice to allow humans in their private space.

Part of treating elephants justly is that we must distribute benefits, burdens, risks and costs fairly to everyone and everything involved. Elephants in wilderness areas fight their own battles for moderately scarce resources such as food, water, and opportunities to mate. What we have to do to benefit elephants is to ensure their legitimate interests are protected. What does this require? It simply means that we must protect their habitat and allow them free range according to their lights. We do not have to interfere in their struggles within their ecosystems, unless some kind of prior human interference impacts negatively on the functioning of ecosystems.

However, some conservation areas are too small to be self-regulating ecosystems where changing circumstances and shifting balances between natural forces and living beings are kept within naturally occurring limits. If human intervention of some kind or another has a negative impact on an ecosystem's capacity for self-regulation, then humans can interfere only if their decision making leads to fair, equitable, and appropriate treatment to everyone involved in the light of what is due or owed to living beings and non-living things. For example, once excessive habitat destruction occurs in an ecosystem blame must be assigned fairly to the guilty parties without any kind of scapegoating directed unfairly at one species.

To discharge our moral obligations fittingly in response to the moral standing of elephants, we must

refrain from taking their lives or unnecessarily harming them, we must grant them liberty and the habitat required to exercise their liberty, and be fair and just in our judgements about their lives. To do so requires several moral virtues.

We, and wildlife managers especially, will have to display conscientiousness in our decision making about the lives of elephants, which means displaying not only a willingness to reach the correct decision, but also the determination to reach their decision through due diligence. This implies that they have to exert the appropriate level of effort through careful and persistent work to reach a decision and implement it. We will also have to reflect on our decision and judge whether it is fitting for everyone involved. The need to carefully adhere to the value of discernment becomes important in this context. Not only does discernment require decision making without undue influence, but also the capacities and patience to reach sensitive insight, acute judgement, and deep understanding about both ecosystem functioning and the role of each species within its ecosystem.

Humans ought to demonstrate compassion for elephants. Why? If elephants have complex intellectual functions and a range of intricate emotions that imply their lives can be better or worse, depending on circumstances and events in their lives, then humans must have some kind of regard for their welfare. Both Singer (1985) and Regan (1984), as well as contemporary mammal research results, make us aware that higher mammals experience many aspects of life through emotional responses akin to ours. The joy of matriarchal herds at mating and birth reflect something of the emotions we experience at such events.

If elephants are dependent on our awareness and care for their freedom and well-being in wilderness areas, then we must cultivate awareness of their levels of misfortune and suffering. We must also respond with sympathy and discomfort at their distress and agony which have human causes that we could have prevented. We should not take responsibility to relieve suffering and distress brought about by natural causes, as we would then be interfering in normal ecosystem processes that drive continuing evolutionary processes. However, we as culturally evolved humans should minimize our negative impacts on animals that did not evolve cultural skills that would have empowered them to face us as equals today.

Human behaviour towards elephants ought furthermore to be characterized by trustworthiness, integrity, veracity, and fidelity if we want our actions to qualify as appropriately moral. Trustworthiness means that a living being can rely on a person's moral character that guides the person to act according to the correct motives and the norms fitting a situation. Such persons will do

what they have committed themselves to and will not threaten the lives of elephants in any significant way that can be avoided. To act with integrity means that a person's words and deeds will form a coherent whole and thus such people will not compromise or sacrifice core ethical values unless no other option can be found. Fidelity implies that humans will live up to their promises and obligations they have voluntarily committed themselves to. Veracity is the moral quality of acting with habitual truthfulness and not interacting with animals through the stealth or deception of the hunter. This virtue implies that the accuracy of information needed to decide action is thoroughly checked and the information is accurately conveyed to others. When preparing for decisions affecting elephant lives, moral behaviour means implementing the virtue of veracity so that any actions affecting elephants will be based on the best available truth possible.

## V

What is the status of these proposed moral values? Are they merely ideals we wish all people would follow or could they perhaps become embodied in law? Whether such values become enforceable through law will depend on how widely they are supported by citizens and how deeply those citizens care about the fate of elephants. In other words, these values for guiding human interaction with elephants can become law if large numbers of citizens would support initiatives to embody ethical guidelines in law to safeguard elephant lives. In what follows in this section, I will discuss [i] some objections against the often proposed idea that we assign legal rights to any non-human living being and [ii] propose a set of elephant rights that might in future be made law.

Two important objections are often raised against ideas that animals be given legal rights. One is that law exists for the sake of humans only and the other that animals cannot administer and demand such rights. Any cursory examination of laws and policies of democratic societies reveals laws that regulate and restrict human behaviour towards animals. Many kinds of animals are afforded some kind of legal protection against cruelty, abuse, and neglect. Although this kind of legal guardianship does not possess the scope and strength we would want for elephants, it shows that the well-being of some animals are already addressed through laws that restrain human behaviour towards the animals humans possess or care for. Every possibility thus exists to present arguments to further develop and extend legal means to guard animal interests.

What about the argument that animals cannot take their case to a court of law to insist on the enforcement of their legal rights? Two arguments can counter this view. One counterargument is that we have a common practice of some humans arguing on behalf of others in support of the fulfilment of their rights, whether in a court of law or whatever other public space. A second counterargument addresses the kind of insistence on one's rights that is required. We could make

the speciesist move to require that animals speak human language in defence of their legal rights. However, that requirement could never be fulfilled. If we allow living beings to indicate their insistence on their rights through their behaviour, a different picture emerges. Most of us know that even reptiles and insects can clearly communicate to us in no uncertain behavioural terms that they prefer liberty to being captured by us, or, they prefer their current state of well-being to being injured or harmed by us. Thus, in a timeless, universal language we all understand, non-human living beings make us understand that they find certain human actions directed at them most unwelcome.

If it is not at all a strange thing in human societies to protect animal interests and well-being through law and if animals can clearly communicate their insistence to be allowed to live their lives free from unwanted human interference, then it might become reasonable to propose judicial protection of elephant interests and well-being. If this proposal has some kind of plausibility, what would be the contents of the legal protection I would propose for elephants? I want to propose that we assign elephants a set of legal rights based on the moral values defended earlier. I will next defend why I propose the idea of a set of legal rights for elephants and then present the contents of such rights.

Rights are generally understood as justified claims to specific things that a society guarantees its citizens for certain strongly defended reasons. The crucial point in this context is that the majority citizens in a society have decided the claim for something is acceptable and that members have a duty to provide that something to one another. Take the right to life, for example. There are strong reasons why no human being ought not to be killed without the strongest possible justifying reasons. Therefore many societies place a strong moral duty on every citizen to refrain from taking any other citizen's life. Why can legal rights for elephants not function in the same way? We as superior, powerful species decide to voluntarily limit our actions toward elephants by accepting that we owe them certain moral duties. If we are obligated to refrain from harming them in certain ways and have duties to benefit them in others, does that not imply that they can claim those restraints and provisions from us as rights? This conclusion does not appear to be unreasonable, or does it?

What would be the contents of a set of elephant rights? I will formulate the set of rights in a tone that reflects the duties humans ought to fulfil towards elephants. The first right builds on the earlier proposal that humans should not lightly kill elephants. I want to formulate this right as follows: "No human may kill an elephant unless in self-defence, or when an independent panel of appropriate experts find compelling reasons to do so." The second right articulates the result of an earlier discussion on liberty for elephants: "No human may deprive an elephant of its liberty to live its own life in a fitting habitat without convincing justificatory reasons." The third right summarizes the

earlier outline of the importance of privacy for elephants: “No human may intrude or interfere in an elephant’s life without strong reasons to do so.” The final right I think elephants deserve goes as follows: “Elephant owners, managers, or keepers must give elephant’s appropriate care and

compassion that will ensure both their well-being and that no harm or suffering from non-natural causes will befall the elephants they are custodians of.”

## VI

In an ideal world we could be satisfied with the ethical values proposed above, feeling that elephants are now properly cared for. They can live their lives undisturbed with minimum human interference and only normal wilderness pressures and ecosystem challenges to contend with. However, our world is utterly and irreparably flawed, confronting us with regularly occurring and constantly bothering moral disagreements and dilemmas. New situations demanding refined moral judgements to deal with non-ideal conditions constantly crop up. Debates about culling elephants are prime examples of intense moral disagreements, bitter conflicts, and tough dilemmas. How should we deal with these more messy aspects? Why is it so difficult to apply moral values like those defended above to the interaction between humans and elephants?

In what follows, I will explain why we have persistent moral disagreements in democratic societies and then analyse the nature of the moral dilemmas that human interaction with elephants generate. I will illustrate these ideas with culling as a case study interwoven with the exposition of the ideas.

In their seminal work on how to deal with moral conflict through what they define as deliberative democracy, Amy Gutmann and Dennis Thompson [1996] explain persistent moral disagreements as a result of four factors that occur in all human societies. I will apply their ideas to explain why the culling of elephants generates intense moral conflict.

One factor that often leads to persistent moral disagreement is our incomplete understanding of the details of the situation or issue to be judged. A lack of in depth knowledge or detailed understanding of the issue under investigation results in different people judging different ethical values applicable.

The debate on the culling of elephants has been plagued by our incomplete understanding of the dynamics of elephants in the African savannah ecosystem. What level of elephant impact on vegetation is ‘normal’? What is the degree of fluctuation in vegetation change acceptable in the

savannah ecosystems? We just don't know. What are the effects of artificially provided water, fires, and other browsers compared to the impact of elephants on vegetation? We can only guess. What kept elephant numbers stable throughout the greater part of their history? We can merely speculate. Our incomplete understanding of the role of elephants in ecosystems ought to be abundantly clear.

No wonder the elephant scientists engaged in an "Elephant Science Round Table" with the South African national minister of Environmental Affairs and Tourism in August 2006 proposed "the establishment of a multi-disciplinary, multi-stakeholder research advisory platform to oversee a 20 year research programme"!

A second factor that leads to moral disagreement is the well known phenomenon of moderate scarcity. The goods judged as valuable by living beings are not available in sufficient quantities to ensure that every living being can comfortably get as much as they need or prefer. For this reason we will always debate appropriate ways of distributing valuable goods, dividing scarce resources, assigning precious opportunities, or of recognizing merit, strength, and beauty. Land available to elephants has shrunk dramatically over the past century. Elephants now compete for land with farmers in many parts of Africa and with other animals in fenced off conservation areas. Many managers of conservation areas report an overpopulation of elephants that apparently have too much of an impact on the quality of the habitat available to other living beings. Whether such reports are accurate is not the issue now, but the fact that many knowledgeable people observe the lack of sufficient resources for not only growing numbers of wildlife but also burgeoning human populations as well.

The third factor causing persistent moral disagreement is the limited generosity of human beings. We are not altruistic in nature, as the interests of our selves or our group often make us partial. In the process we often deny others things, opportunities, and recognition they ought to be able to rightfully claim from us. Why should humans be generous to elephants and allow them large tracts of land where humans could have made productive livelihoods? Why not utilise elephants as resources to combat poverty and create jobs for the unemployed? Should some elephants not sacrifice their lives to ensure the long term survival of their species, as we do not want our tax money to guarantee the long term security of conservation areas? Why should we not judge elephants as part of the natural resources of Africa that will help us provide a better life for everyone human involved? How can we justify safeguarding elephant lives and caring for elephant well-being if human lives are wasted through devastating poverty? Our generosity towards higher mammalian species only goes as far as first taking care of human well-being allows us, or so many

of us would like to argue. It is no surprise that culling as a mechanism to deal with elephant overpopulation is often accompanied by the welcome bonus of elephants as a rich source of revenue to improve human lives.

Our ethical values do not always neatly cohere nor do they suggest a fully consistent set of imperatives. The incompatibility between the directives of some of our ethical values forms the fourth factor that creates persistent moral disagreement. We are not always clear on how to specify a particular ethical value, nor are we confident about its exact range or scope. If we balance competing values differently or assign varying strengths to them we can get conflicting outcomes. The end result is disagreement about complex ethical issues, regardless of a possible consensus about the fundamental ethical values involved.

Incompatible values that give rise to moral dilemmas present some of the most difficult ethical issues to resolve. A moral dilemma occurs when one ethical value points to an emphasis on safeguarding certain interests, whilst one or more other ethical values point in a different direction. This often implies that if one looks at an ethical issue from one perspective in the light of a certain principle, and its associated arguments and evidence, then one solution appears to be the correct one. However, emphasis on another ethical value in conjunction with its associated evidence and arguments make a different solution appear correct. Sometimes both prescribed actions appear acceptable and in other cases neither solution seems palatable. When this kind of conflict between ethical values with contrasting prescriptions occur in the context of non-ideal conditions, moral disagreement appears almost insoluble. The unfortunate characteristic of moral dilemmas is that they seem to require that we sacrifice one or more aspects of our ethical values and their supporting arguments and evidence. This loss appears unacceptable to people strongly committed to their set of ethical values.

One moral dilemma in the debate about culling elephants is the conflict between an individualist perspective that values the life of every animal affected and the ecosystem perspective that prioritises the well-being of the combined elements within the complex interactive web of life defined as an ecosystem. The individualist perspective wants no life wasted at the hands of humans, whereas the ecosystem or holistic perspective is quite comfortable with the idea that human intervention can sacrifice even groups of individual lives for the sake of the health and well-being of the greater whole. Thus, a view that humans should kill no elephants regardless of their impact

on the ecosystem stands against the idea that humans may kill any number of elephants as precaution to ensure the long term functioning of an ecosystem. In the case of a real moral dilemma, both perspectives cause a loss of something of value that no one really wants to disregard.

## **Conclusion**

In this essay I have shown that we need a new ethics for human interaction with elephants as a result of the dramatic shift in the power that humans now exercise over elephants. I have argued that the ethics that guide professionals in their relationships with humans and non-humans subject to their knowledge, technology, skills, and power seem to provide useful pointers for an ethics that can guide our powerful species in their relationship with elephants. I have articulated a set of moral values that I then formulated as a set of moral duties humans have towards elephants. The core ideas are that humans must respect the lives, liberty, and privacy of elephants and take appropriate care of their well-being. I finally showed why we have persistent moral disagreements about aspects of human interaction with elephants, such as culling members of an overpopulation of elephants.

I am convinced that the way we deal with elephants and with one another in debating elephant issues betrays the quality of our humanity. Can we deal with deep moral conflict in ways that still show respect for one another and value one another's contributions to solve intractable moral problems? Can we continue the conversation regardless of our differences and still listen attentively to both the contents and justification of the viewpoints of our opponents? The deep emotions associated with the debate on elephants threaten to overwhelm the tolerance and critical reasoning we require for meaningful engagement through dialogue. Hopefully we can interrogate and engage our emotions fittingly so that we will always treat our opponents in debate respectfully as fellow human beings with dignity and equal worth.

Our humanity will also be tested in our interactions with elephants. Can we treat elephants appropriately as beings dependent on our benevolence for opportunities to live their lives according to their lights? Can we use our vast store of knowledge about nature, ecosystems, mammals, and elephants to fully respect elephants for what they are: beings so close to us and yet so impressively different? Humans are members of the most successful product of biological evolution and through our astonishing cultural evolution we have become the most knowledgeable and powerful species ever to set foot on earth. Do we want to live up to our species name, *homo sapiens*, in our interaction with elephants? Can we live as the "wise beings," those who understand the most about

all forms of life on earth? Can we then appropriately value elephant lives and accordingly act respectfully towards them?

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<sup>1</sup> See for example the work of Iain Douglas-Hamilton (1975), Cynthia Moss (1988, 1992), Joyce Poole, and Katy Payne (1998).

<sup>2</sup> See for example the work of Elephants for Africa Forever [EFAF], run by Howard Blight, Rory Hensman, and Philè van Zyl as described on their website, <http://www.efaf.co.za>.

<sup>3</sup> See the detailed research results of people like Douglas-Hamilton (1975), Moss (1988, 1992), Payne (1998), Whyte (2001, 2002), Chadwick (1992); Meredith (2001); McComb *et al* (2002); Gröning (1999); Hanks (1979) and Larom (2002).

<sup>4</sup> I use the classic text of Beauchamp and Childress (2001) on professional ethics in the field of medicine to provide my 'vaguish' overview of professional ethics.