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TONY YENGENI'S RITUAL SLAUGHTER:

ANIMAL ANTI-CRUELTY VS. CULTURE.

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A Research Report submitted to the Faculty of Humanities,

University of the Witwatersrand, Johannesburg,

in fulfilment of the requirements of the degree of Master of Arts.

Johannesburg, 2008

ABSTRACT

In this research report 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 unnecessary pain 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.

DECLARATION

I declare that this is my own unaided work. It is submitted for the degree of Master of Arts in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

Kevin Gary Behrens

15th day of February, 2008.

ACKNOWLEDGEMENTS

I wish to gratefully acknowledge the thoughtful, insightful and laborious assistance of my supervisor for this project, Dr Brian Penrose, as well as that of Prof. Thaddeus Metz, in the early proposal-writing phase of the project.

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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, frequent moral appeals are made to culture as providing a justificatory basis for particular practices.

This incident also brings to the fore a crucial *metaethica*l debate. 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. Since moral relativism makes morality contingent upon what is deemed to be moral within one's own group, it could justify the claim that ritual slaughter is morally justifiable within a culture that believes it is so. Clearly, this is also a highly contentious position.

The extent of the public debate over the Yengeni ritual slaughter indicates that all of the above areas of ethical debate 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.

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 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.

I begin by looking at the specific case: the Yengeni ritual slaughter, providing an overview of the media debate occasioned by this incident, highlighting the claims and interests defended from both sides of the debate. I attempt to use this case to identify the moral issues which are raised by ritual slaughter of this kind.

I then turn my attention to the first normative ethical issue raised by this incident, namely the question of human moral obligation towards animals. My whole argument is a non-starter if it can be shown that animals have no moral claim on humans at all. If animals cannot be wronged, or, even if they can be, they are not wronged in this kind of ritual, then the matter is settled, and there is no question of a need to morally justify such acts on any other grounds. I proceed by trying to show that some kind of consensus exists among philosophers that animals should not be needlessly caused to suffer by human beings.

Having defended the position that it is immoral to harm animals without good reason, I still need to address two kinds of possible challenge to my contention that ritual slaughter of this kind is not morally justified. The first is the metaethical challenge of moral relativism. If moral relativism is correct, then there is no objective basis for a moral judgement of the kind I make - that animals should not be hurt unnecessarily - as all moral judgements are

culturally relative. I shall attempt to show that this position is flawed and untenable and unable to provide reasonable grounds for ruling out objective cross-cultural moral judgements.

With the challenge of relativism set aside, I still need to consider another normative ethical claim that could potentially challenge my contention that ritual slaughter is not morally justifiable. Behind much of the public debate about the legality of the Yengeni ritual is an underlying contention that even if it is a *prima facie* wrong to cause suffering to animals, this wrong is outweighed by the moral values intrinsic in participation in cultural practices. I consider the views of those who argue for the "Politics of Difference". Much of this philosophical debate centres on issues of legal accommodation and tolerance of cultures, but I focus on the underlying claims that belonging to and participating in a culture constitutes a moral good for those involved. I suggest that some claim by cultures for their traditional practices to be morally defensible on the grounds of culture seems reasonable and just, but that no cultural practice can necessarily be morally justified on such grounds alone.

If it is a *prima facie* wrong to cause animals unnecessary suffering, and if cultural practices themselves have a moral value for those who practice them, then I am left with having to weigh up the relative importance of these competing moral claims. This will be my primary project in this paper, and will be the focus of the rest of my discussion.

In attempting to weigh up these competing moral claims, I begin by considering the analogous situation in which established human rights (for women) come into conflict with cultural claims. I argue that when women's interests in not being killed, physically harmed or abused come into conflict with claims based in culture, moral claims based on established cultural practice carry less weight than the competing claims. I then extend this line of argument, attempting to apply it to cases where the moral obligation not to harm animals conflicts with moral values related to the practice of cultural rites, arguing similarly that the cultural claims are outweighed. I defend this by considering the typical moral values or social goods understood to be derived from cultural participation, and argue that taking moral exception to any one particular cultural practice does not constitute significantly denying these goods to those who perform this practice. I conclude that the moral value or social goods derived form cultural practice are not significant enough to outweigh the *prima facie* wrong of harming animals in ritual sacrifices.

Finally, I attempt to counter a number of objections to my argument. Firstly, I address the possible objection that my analogy with women's interests is inappropriate since this situation compares one set of human interests against another, whereas the question under consideration pits human interests against animal interests. Some might contend that in such situations, human interests always take precedence. I shall attempt to show that this is not so. Secondly, I consider the objection that sometimes weighty human interests may require that some animals are caused to suffer. I consider experimentation on animals for medical purposes as a possible example of this. I argue that human interests in

avoiding death and serious illness might be weighty enough to justify some harm to animals, but that the kinds of human interests which are promoted by cultural participation are not. Thirdly, I counter a possible objection that I have missed the point of the real value of this sort of ritual in the lives of those who participate in it. Participants may indeed experience enormous spiritual or psychological relief, or even healing, through these acts. However, such symbolic acts could easily be modified to exclude harm to animals and still provide equally meaningful psychological or spiritual relief to participants. And finally, I counter an objection that the embeddedness of the act within a cultural context changes the meaning of the act itself, rendering it morally justifiable. In the absence of a strong, reasoned argument in support of such a position in cases such as this, I argue that this objection does not appear to hold water.

I conclude that even though cultures have a legitimate claim to obtaining the social goods and value derived from their cultural identification and participation, this claim does not morally outweigh the obligation not to cause sentient beings unnecessary suffering. Acts of ritual sacrifice, of the kind performed by the Yengeni family, which cause animals suffering are morally wrong, even when they are part of an important cultural ritual.

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, however. 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. The specific case, and the resulting debate merely serve to highlight the moral controversies involved in cases of this type.

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 is

under discussion – the Yenegeni 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). That may have been so, but it is nonetheless unlikely that any kind of pre-stunning equipment was available to perform the actual slaughter. Be that as it may, 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). 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: 57).

Whether or not this procedure was followed in this specific case is not relevant, as most rituals of this nature would cause pain to the animal, so that the kind of moral conflict I am intending to highlight remains valid.

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). 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). 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).

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*: "Yenegeni Ritual Spearheads Cultural Row", 23 January 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*: "Yenegeni Ritual Spearheads Cultural Row", 23 January 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", 23 January 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", 26 January 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 unnecessarily hurt. 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 unnecessarily.

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 should be avoided.

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: 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: 181).

Thus, Scanlon too, asserts that animals should not be hurt unnecessarily.

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: 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: 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: 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: 112). Fox later recanted this position. (Gruen: 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: 107), and "Undoubtedly animals should not be maltreated. They should not be made to suffer needlessly or excessively." (Fox: 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, 198: 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 wantonly 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: 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: 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: 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: 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 unnecessary and avoidable pain. 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 is morally wrong, since it causes unnecessary suffering to animals.

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 moral relativism, and by the moral good/values located in cultural participation and identification.

4. The Case from Moral Relativism

One obvious school of thought, which would defend the position that a particular act, which is an intrinsic part of a culture, would be morally justified, by virtue of its being part of that culture, is moral relativism. In its strongest 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 (Gowans: Section 2). The ritual slaughter under discussion would, thus, be morally justified within the culture of the Yengeni family. This is a obviously a serious challenge to my argument, which I now intend to counter.

The main challenge to address is metaethical in nature. Gowans defines what is termed "Metaethical Moral Relativism" as follows: "The truth or falsity of moral judgments, or their justification, is not absolute or universal, but is relative to the traditions, convictions, or practices of a group of persons." (Gowans: Section 2). He continues: "[T]he standards of justification in… societies may differ from one another, and… there is no rational basis for resolving these differences. This is why the justification of moral judgments is relative rather than absolute." (Gowans: Section 2).

Clearly this position is open to many objections, and it is not possible within the scope of this paper to discuss these in detail. I shall, however, give attention to two. My main objection is that, on this view, certain acts which intuitively

seem very wrong, indeed, might be morally "justifiable". 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. Female genital mutilation would also seem to most of us to be immoral, and the fact that such acts are an intrinsic part of particular cultures would not seem to provide moral justification for such acts. 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: 21-22).

Secondly, as Rachels points out, if metaethical moral relativism is correct, the whole concept of moral development or progress and social reform in societies would become meaningless. (Rachels: 22-23). The practice of slavery in a previous age would then have to be understood as having been morally justified in its time. The abolishment of slavery, child labour, and racial discrimination in some societies would no longer be able to be understood as moral progress or improvement. More disturbing, if moral relativism were generally believed to be true, societies would become inherently conservative, and even static, as attempts to effect social change would be weakened by the belief that if society holds that current practice is moral, then it must be so. Current struggles, such as those for greater rights and liberties for women and gays and lesbians in contexts in which these are still denied or circumscribed, would be weakened, creating a situation in which no development towards more just or equitable societies could easily occur.

Both of these consequences of moral relativism seem to be absurd, and untenable, as they fly in the face some of our most strongly felt moral intuitions. On these grounds, I submit that metaethical moral relativism is deeply flawed and cannot be reasonably substantiated.

A second kind of challenge posed by relativism is normative in nature. Gowans describes it as follows:

> …[T]he term 'moral relativism' is sometimes associated with a normative position concerning how we ought to think about, or behave towards, persons with whom we morally disagree. Usually the position is formulated in terms of tolerance. In particular, it is said that we should not interfere with the actions of persons that are based on moral judgements we reject… (Gowans, Section 2)

Most often proponents of this position propose tolerance and non-interference in a legal or political sense. They therefore appeal for social protection against interference in culturally sanctioned practices which others may believe to be wrong. Much of the pro-culture side of the debate around the Yengeni incident was characterised by this sort of demand. As I have excluded legal/political aspects from my discussion, I do not need to deal with this challenge here. I am not claiming that ritual sacrifice should be prohibited.

But it is also possible to frame this normative challenge in less political terms and to claim that it is wrong even to privately pass judgement or hold a negative moral opinion about the morality of the practices of other cultures. Having

stated that I believe ritual sacrifice of the kind under discussion to be a *prima facie* wrong, I would clearly be guilty of this charge. There is, however, a fundamental logical flaw to this sort of normative challenge. If one holds the position that all moral judgements are true only in a relative sense, then so is the judgement that it is morally impermissible to pass judgement on the practices of another culture. The relativist grounds for this kind of normative claim relativise the claim itself. This is an obvious absurdity.

David Wong, an ethicist widely recognised as a modern proponent of a more nuanced and sophisticated form of moral relativism, makes the point that relativism is generally negatively perceived, at least, in part, because it is often only the most extreme position, as described above, which is the subject of debate. (Wong, 1993: 449). Even as a celebrated proponent of relativism, Wong also rejects a simplistic form of metaethical relativism, proposing, instead, what he calls "pluralistic relativism". He describes his position as such:

> The version [of relativism] I defend constitutes an alternative to universalism and relativism as these views are usually defined. My alternative agrees with one implication of relativism as it is usually defined: that there is no single true morality. However, it recognizes significant limits on what can be counted as a true morality. There is a plurality of true moralities, but that plurality does not include all moralities. This theory occupies the territory between universalism – the view that there is a single true morality – and the easy target typically defined as relativism: the

view that any morality is as good as any other. (Wong, 2006: xii).

Wong argues that there are two basic functions that any moral code needs to fulfil. Firstly, it must manage conflicts of interest between individuals and, secondly, it must manage internal conflicting wants and interests within an individual, which cannot all be satisfied simultaneously (Wong, 1993: 446). Moral systems develop in order to fulfil these two practical functions. His argument is both sophisticated and reasonable, appealing to a form of naturalism to defend his position. Wong sees the development of moral codes in evolutionary terms: they develop in order to satisfy the need for the inter- and intra-personal conflicts he describes to be effectively managed. (Wong, 2006: Chapter 2). Wong suggests that different and even partially incompatible moral codes may be able to fulfil these functions equally well. As long as a moral code satisfies the objective criteria of successfully managing these inter- and intra-personal conflicts, it is valid, even if it achieves this differently in different moral codes.

It is important to observe that, however valid Wong's position may or may not be, it does not possess the resources to deal with human obligations towards animals. His entire concept of morality is focused on dealing with conflicts between and within human beings. He proposes some kind of objective method of measuring the validity of differing moral codes, but since this method relies on his assertion that valid moral codes need to manage inter- and intra-personal conflicts (both relating to humans) – it is hard to see how his position can

address moral questions relating to our responsibilities towards non-human animals.

But what about the challenge of normative relativism? Even as strong and sophisticated a defender of relativism as Wong rejects an extreme form of normative relativism, claiming that it is more reasonable "… to permit us to pass judgement on others with substantially different values. Even if these values are justified as our own from some neutral perspective, we are still entitled to call bad or evil or monstrous what contradicts our most important values." (Wong, 1993: 448). Wong continues that how we should act on such judgements depends on the situation. Mostly he believes we should express our judgement, but not try to enforce our values on others. However, he concedes that in a case such as the practice of human sacrifice, tolerance may be a less weighty consideration than the need to stop the practice. (Wong, 1993: 448).

Wong suggests that there is not one single objective morality, true for all people, but stops far short of giving blanket approval to all acts within a culture simply because they are acceptable within that particular culture. His characterisation of the functional purpose of morality is totally anthropocentric, and so provides little guidance for dealing with the question of moral concern for animals. Yet, even he keeps open the possibility that some actions are so obviously wrong that culture cannot be used as a basis for their defence, as well as that there may be weighty enough moral issues that would permit us to judge the actions of others.

At most, Wong seems to believe that pluralistic relativism is sometimes able to provide grounds for asserting that acts are moral within a particular culture, even if they are immoral in another. But he does not claim that culture provides sufficient grounds for the moral justification of actions. Thus, not even Wong's more convincing kind of relativism is able to provide grounds for morally justifying the maltreatment of animals in acts of ritual sacrifice. I will similarly argue that culture alone cannot be used to morally jusify a particular act, especially if there are more morally weighty issues at stake.

5. The Case from Cultural Identification

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: 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: 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 difference, 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: 38).

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, this is conceived of in communitarian terms: there is value in simply belonging

and identifying culturally, and people have an interest in obtaining these social goods. 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, autonomy, 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: 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, 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*).

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, 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 express their cultural identity.

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.

6. 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 encouraged 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: 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: 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, slavery, torture and cannibalism as morally acceptable, 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 interest in self-esteem,

belonging, identification, 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, 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.

The issue of smoking tobacco in public spaces is another example which highlights the principle I am invoking. Smokers may claim to have an interest

in smoking because of the pleasure it brings them. But non-smokers also have an interest in preserving their physical health by not breathing in the tobacco smoke of others. Since, where smokers and non-smokers share a physical space, it is impossible that both interests can be fulfilled, simultaneously, how can we decide which of these interests is of greater moral weight? I contend that interests relating to survival, physical health, bodily integrity etc. must outweigh interests in pleasure. Smokers should morally avoid smoking in public places because their interest in pleasure is not as morally significant as the interests of non-smokers to remain healthy. Many kinds of interests and social goods may well be valid and morally considerable, but interests relating to survival, bodily integrity and health surely carry the greater moral weight.

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 and unnecessarily is in no way rendered less immoral because it is based in an established cultural or traditional practice. If the defence for cultural practices is the need for identification, the promotion of self-esteem derived from a sense of belonging to a cultural group, and the other potential social goods to be obtained through the practice, these perceived human interests cannot be more morally significant than unnecessarily causing suffering to another sentient animal, any more than they could be to another human. It seems reasonable to assert that obligations not to cause physical harm or pain to sentient beings outweigh the moral value inherent in cultural identification and participation, even when these are conceived of as an important element of the self-identification of the culture concerned.

Clearly, this position would not be accepted by everyone. So, I need to take one step back, and consider again the moral values inherent in cultural identification which I identified in the previous section. It might be argued (in a way reminiscent of one of the claims of normative relativism) 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. If someone says that what one does in one's culture is wrong, they 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 self-esteem be acknowledged.

However, 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. One is not disallowing the importance of these interests if one takes issue with the morality of one particular cultural practice of a group. Cultural identification is not based on any single practice,

but on many different elements. 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 affirm the annual reed dance, even if the spectacle of bare-breasted women in public would normally be seen to offend ideas of decency within one's own culture. (This might be an example

where Wong's kind of relativism might make sense.) But one might take moral exception to the practice of virginity testing which 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 some individual practices as morally questionable. It cannot be claimed that members of a culture are being significantly robbed of the moral values they might derive from cultural identification because some people question the moral justifiability of a particular cultural practice.

Having claimed that it is reasonable to assert that humans have as a minimum moral obligation not to cause animals unnecessary suffering, and having broadly accepted that the members of cultures have a legitimate claim to the social goods that are produced by their identification with and participation in their culture, I have argued the latter kinds of claims are morally less weighty than the former. I have also argued that morally questioning a particular cultural act does not constitute significantly diminishing the social goods members of this culture can potentially obtain by participating in their culture. It therefore follows that the ritual slaughter of the kind performed by the Yengeni family is a *prima facie* wrong, and that claims based on the moral

value of cultural identification or participation are unable to outweigh this moral claim.

Before concluding, I need to address a few possible objections to my argument. The first objection that I need to counter arises because of the species divide between the competing claims in this situation. My analogy above, contrasting claims regarding the bodily integrity, survival and health of women, with cultural claims, pit one kind of moral obligation towards human beings against another. Some might argue that when an obligation towards humans conflicts with an obligation towards 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: 289).

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

To answer this, I turn to a another analogous example which is of relevance. In her article "Animals and Accommodation" Paula Casal considers the case of ritual animal sacrifice amongst the Santería community of Southern Florida. This community practice a syncrestic religion combining elements of Catholicism and traditional African religion. Central to their religious pratice is the regular sacrifice of animals, as they believe that their ancestral spirits cannot survive unless they are "fed" by these sacrifices (Casal: 246). Claiming that between 15 000 and 18 000 animals a year are sacrificed by this community, Casal describes the method of slaughter used: A priest holds the animal in one hand, and with the other inserts a short knife into one side of the animal's neck, and pushes it through to the other side. Casal claims that since there is a significant chance that both carotid arteries will not be severed at the same time, this is a particularly inhumane form of slaughter. (Casal: 246). Furthermore, she quotes Gary Francione's description of the typical practice of slaughter:

> There are completely legitimate reasons to be concerned about Santería sacrifices, which are far more brutal than most other methods of slaughter… Santería practitioners often completely saw the heads off larger animals, such as goats and sheep, and place the heads of birds and smaller animals under foot and then pull the animals until dismemberment occurs. Animals are

> allowed to bleed to death very slowly and do not lose consciousness for extended periods of time. They are often kept in filthy and inhumane conditions, and are deprived of food and water, for several days before the ceremony. (Casal: 251).

Casal also claims that since the sacrifices may not be eaten, and are raised purely for the purpose of sacrifice, they are frequently badly fed, not raised hygienically and do not have their medical needs attended to. (Casal: 247).

Casal's paper considers the issue from a legal perspective, which I have excluded from the scope of this paper, and which renders her argument rather irrelevant for my purposes. However, the Santería community did seek legal protection of their practices, and special accommodation for them to practice this form of slaughter, which would otherwise be forbidden by local anti-cruelty legislation. (Casal: 247). There are clearly moral claims underlying this demand for legal accommodation. Again, we are faced with competing moral claims: animal anti-cruelty vs. culture. What makes this case even more complex, however, is that the claims of the Santeros are not just based in culture, but on religion. Furthermore, their treatment of animals in this way is not just for entertainment or other more trivial reasons, but is an essential requirement of their religious practice. (Casal: 243).

Here, then, we have a cultural minority claiming a right to practice a ritual required by their religion, which involves the frequent painful and gruesome maltreatment of sentient beings. Does the fact that claims are made both to

religious freedom and cultural identification make any difference? Does the fact that this practice is a requirement of their religion make their treatment of animals any less immoral? Do human interests automatically outweigh those of animals? The scale and brutal nature of the maltreatment of animals in this case is surely enough to cause reasonable people to conclude that the way in which animals are treated by this community can only be immoral, and no cultural or religious interests can possibly make it any less immoral. Claims based on religious freedom or cultural identification cannot possibly outweigh the wrong of the blatant torture of other sentient beings on a massive scale, repeatedly.

To allow that any practice is granted moral legitimacy on the grounds that it is an intrinsic part of a culture (or, for that matter, a religion), and because human interests somehow trump those of animals would be to open the way for all kinds of possible terrible abuses of animals which do not seem to be reasonable to tolerate. If human interests are always more morally weighty than those of animals, 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. As a matter of principle, the interests of people based on the moral values obtained through cultural identification - their sense of belonging, self-esteem and recognition – are not morally significant enough to outweigh the moral illegitimacy of blatant cruelty. Whilst it can be argued that the ritual slaughter practiced by South African cultural groups is far less cruel than that of the Santeros, it remains cruel, and, thus, based on principle, still wrong.

A second objection to my argument that I wish to address is the claim that sometimes animals may need to be harmed for the sake of human interests. This is not to say that human interests always outweigh those of animals, but that they can possibly carry more moral weight. If this is indeed so, my detractors would then possibly have grounds to argue that, because of a colonial and Apartheid past in which many of South Africa's cultures were repressed and denigrated, the interests of these communities in the restoration of their dignity and self-esteem or cultural identification could outweigh the moral obligation not to harm animals in rituals of the type under consideration.

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, in cases where the health and, indeed, lives of large numbers of people could be preserved as a result of medicinal 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. Given those conditions, I think a case could be made for morally defending the use of animals in this sort of way to promote human interests.

The important point though, is that what is at stake here is the *health and lives* of people. This kind of justification of harm to animals is of a completely different kind from that based on the moral values inherent in cultural identification: the health of many people is a distinctly different kind of interest to these. As I argued earlier, interests in survival, health, bodily integrity and such, carry more moral weight than the kinds of interests which are obtained through cultural identification and participation. It may be that human health and the saving of human life are weighty enough grounds to trump animal welfare. The values of self-esteem, recognition, redress of past injustices, etc. cannot be seen as being as morally weighty as those of health and life. I doubt that it can be argued that the harm done to people who experience having one aspect of their culture morally questioned by others is the same kind of harm as that of being seriously ill or dying. The values inherent in cultural identification do not seem to provide compelling enough reasons for justifying treating animals in ways which are otherwise immoral, not in the same in which the preservation of human life or curing of diseases might be argued to do. Thus, I do not believe that ritual slaughter involving pain for animals can be defended on these grounds.

Thirdly, I need to consider the possible objection that I have overlooked the real meaning and importance of the ritual under discussion. This kind of ritual has an intrinsic meaning of its own, which is not solely about the values 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*: "Yenegeni Ritual Spearheads Cultural Row", 23 January 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 can fully appreciate how much this aspect of the practice is experienced as deeply valuable to those who participate in it. However, such practices are essentially symbolic. There is no reason 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. Symbolic acts do not have intrinsic meaning. We invest them with meaning. Symbolically *sparing* an animal the ordeal and suffering of a sacrificial ritual, and possibly even sparing its life, could potentially constitute an even more powerful symbolic act of healing, as human beings, wishing to find healing and restoration after painful experiences, respond in an empathetic manner, recognising the interests of other sentient beings not to experience pain, either.

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.

I am unconvinced that the moral status of an act of ritual slaughter can be changed by virtue of its embeddedness within a cultural practice. My detractors would have to show how this might work, as I can see no grounds for arguing that the rules change because an act is embedded in a cultural practice. Would ritual human sacrifice be any less immoral by virtue of its being embedded in a practice with significant cultural meaning? For this objection to hold water, a good argument showing *how* cultural embeddedness could work to change the moral meaning of an act would have to be made. As far as I can see, in the public debate surrounding the incident under discussion, no such argument was tendered, not even by those who most strongly claimed that such acts hold deep significance, spiritually and emotionally, for those who participate in them.

7. 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 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 form 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.

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 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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