The Discounting Defense of Animal Research

Jeff Sebo
National Institutes of Health[1]

Abstract

In this paper, I critique a defense of animal research recently proposed by Baruch Brody. According to what I call the discounting defense of animal research, our policy of favoring members of our own species is like our policy of favoring members of our own family, nation, and generation: It is not a morally impermissible case of discrimination but rather a morally permissible case of discounting. I argue, however, that none of the standard justifications for discounting supports favoring members of our own species in research. Indeed, if anything, these justifications support favoring members of other species in certain respects, especially given our history and legacy of harming nonhumans in research. The upshot is that we have strong prima facie reason to think that our preferential treatment of humans over nonhumans in research counts as discrimination rather than discounting.

1. Introduction

Baruch Brody has recently articulated a novel defense of animal research, which I will call **the discounting defense of animal research**.[2] Brody thinks, rightly, that the position against animal research is much better developed and defended in the literature than the position in favor of it, and he wants to correct that imbalance, which I think he makes progress towards doing. The defense of animal research that he articulates, according to which we can permissibly favor members of our species for the same kind of reason that we can permissibly favor members of our family, nation, generation, and so on, is interesting and promising. If our preferential treatment of humans in research is based on morally permissible *discounting*, rather than on morally impermissible *discrimination*, then perhaps this preferential treatment is morally permissible all things considered.

However, as Brody himself notes,[3] thus far he has only articulated this defense of animal research. He has not yet argued for it. In order for us to evaluate this defense, we need to consider the kinds of situations in which discounting is justified and see whether our preferential treatment of humans over nonhumans in research is a token of any of these types.

My aim in this paper is to argue that the standard justifications of discounting do not support preferential treatment of humans over nonhumans in research but rather, in some respects, support the opposite conclusion. I will proceed as follows. In section 2, I will summarize Brody's articulation of the discounting defense of animal research. In section 3, I will review the standard justifications for discounting, and I will argue that these justifications do not support placing less weight on the interests of research animals but rather, in certain respects, support placing *more* weight on these interests. I will also argue that these results are not

surprising given the function that discount rates are supposed to play in moral and political theory. Finally, in section 4, I will conclude that we have strong prima facie reason to think that our preferential treatment of humans over nonhumans in research counts as discrimination rather than discounting.

Before I begin, a quick note about the scope of my argument in what follows. As I have indicated, Brody is primarily interested in defending animal research in particular rather than animal use in general. As a result, even though his proposal has implications for many kinds of animal use, he restricts his focus in his discussion to our use of animals in research. I will do the same here, for two main reasons. First, I think that it helps to focus on a particular kind of animal use for the sake of simplicity and specificity. Second, focusing on the case of animal research will allow me to reply to Brody more directly than I would otherwise be able to do. With that said, however, I think that my arguments in this paper have implications for many other kinds of animal use as well, and I will briefly consider those implications below.

2. Brody's Articulation of the Discounting Defense

According to Brody's articulation of the discounting defense of animal research, we are morally permitted to treat nonhumans in ways that we are not morally permitted to treat relevantly similar humans (for example, we are morally permitted to perform harmful experiments on them without the possibility of informed consent) because we are morally permitted to *discount* the interests of members of other species in the same kind of way that we are morally permitted to discount the interests of members of other families, nations, and generations.

Brody explains the rationale behind the discounting defense as follows:

> [C]onsider the difference between the following two questions:
>
> 1A. Why should the interests of my children count more than do those of others?
>
> 1B. Why should the interests of my children count more for me than do those of others?
>
> The former question, asked from an impersonal perspective, is unanswerable. The latter question, which is asked from the personal perspective, is answerable. The same needs to be said about the following pair of questions:
>
> 2A. Why should the interests of humans count more than do those of animals?
>
> 2B. Why should the interests of humans count more for human beings than do those of animals?
>
> As with the previous pair of questions, what is unanswerable from one perspective may be very answerable from the other perspective (2012, pp. 62-3).

It will be helpful to note a couple of features of this defense of animal research that will be important in what follows. First, this is an *agent-relative* defense of animal research, not an *agent-neutral* defense of animal research. That is, Brody is not proposing, as many people do, that we should favor humans over nonhumans in research on the grounds that humans have a higher moral status than nonhumans. Instead, Brody is proposing that we should favor humans over nonhumans in research on the grounds that we have certain histories with, relationships with, and partialities for humans that we do not have with, or for, nonhumans – a proposal which is entirely compatible with the idea that all sentient animals have full and equal moral status. In light of this dialectical situation, I will not take a stand on whether or not humans have a higher moral status than nonhumans here. Instead, I will follow Brody in assuming that all sentient animals have moral status, leaving it open what we should say beyond that.

Second, Brody does not say exactly, or even roughly, what kind of discounting rate the discounting defense is meant to support. That is, he does not say exactly, or even roughly, *how much* we should favor humans over nonhumans. Of course, this is an important issue. After all, even if we decide that we should discount the interests of nonhumans, it will be a further question whether or not the relevant discount rate is compatible with our current preferential treatment of humans over nonhumans in research. For example, if we should discount the interests of nonhumans by, say, 98 percent, then, yes, it will probably follow that much of what we currently do to nonhumans in research is morally permissible all things considered (even if they have full and equal moral status). If, however, we should discount their interests only by, say, 2 percent, then it will probably *not* follow that much of what we currently do to nonhumans in research is morally permissible all things considered (unless, of course, we assume that humans have a *much, much* higher moral status than nonhumans).

Fortunately, since my aim in this paper is to argue that the standard justifications of discounting do not support discounting the interests of research animals at all, I will not have to resolve this issue here. However, it is worth noting that the kinds of discount rates that philosophers tend to find plausible in other cases are much closer to 2 percent than 98 percent.[4] Thus, even if Brody were right to say that we are morally permitted to discount on the basis of species membership, it would not yet follow that our use of nonhumans in research counts as discounting rather than discrimination. Instead, all that would follow is that our use of nonhumans in research and other industries is not quite as bad as the use of relevantly similar humans in these industries would be – where this conclusion is, of course, fully compatible with the idea that our use of nonhumans in research and other industries is very bad indeed.

With these assumptions (and this dialectical situation) in mind, we can now proceed to evaluating the discounting defense of animal research.

3. Justifications for Discounting

I will now will review the standard justifications for discounting, and I will argue that these justifications do not support placing less weight on the interests of research animals but rather, in certain respects, support placing *more* weight on these interests. I will then argue that these results are not surprising given the function that discount rates are supposed to play in moral and political theory.

3.1. Equality

First, we sometimes think that discounting is morally permissible when used to correct an independent imbalance in welfare or opportunities.[5]

For example, a common justification for placing less weight on the interests of future generations is that future generations will be, in many respects, better off than the present generation. They will have more wealth, better technology, more social and political equality, and so on. Of course, not everybody agrees with these predictions. And, of those who do, not everybody agrees that these benefits are sufficient to outweigh the costs to future generations of overpopulation, resource depletion, climate change, and so on. But whatever we think about these issues, many people accept that, *if* future generations will be better off than the present generation, *then* we are morally permitted to place less weight on the interests of future

generations in our thinking about what to do – not because their interests actually, objectively weigh less, but rather because this policy will correct for an independent imbalance in welfare and/or opportunities, thereby allowing us to catch up with people in the future, at least to a degree, overall. Moreover, we accept this kind of reasoning in many other cases as well, even if we do not always frame it in terms of discounting. For instance, many people think that, all else equal, we should prioritize helping poor people over helping rich people, not because poor people have a higher moral status than rich people, but rather because this policy will correct for current inequalities between the rich and the poor.

It should be clear that this justification for discounting does not support placing less weight on the interests of research animals. Nonhuman animals, and especially nonhuman animals bred and used for research, are not better off than humans in terms of overall welfare or opportunities. Indeed, if anything, we should think that the opposite is the case – i.e. we should think that nonhuman animals, and especially research animals, are *worse off* than humans in terms of overall welfare and opportunities – and that we should therefore place *more* weight on their interests insofar as we accept this justification for discounting. Moreover, even if nonhumans *were* better off than humans in terms of overall welfare or opportunities, the upshot would not be that we are morally permitted to harm nonhumans in order to help humans, but would rather, at most, be that we are morally permitted to prioritize helping humans over helping nonhumans.[6] Thus, even if this justification of discounting did support placing less weight on the interests of research animals (which it does not), it would take further argumentation to show that we can permissibly treat research animals the way that we currently do. (Note that this point will apply to all of the justifications for discounting that I will consider in this paper. In what follows, I will occasionally reiterate this point but will not dwell on it.)

3.2. Division of Labor

Second, we sometimes think that discounting is morally permissible when used as part of a division of moral labor.[7]

For example, a common justification for discounting the interests of people in other families, nations, and generations is that we can all do more good overall if we each prioritize members of our own family, nation, and generation. After all, it is impossible for each of us to provide help and support for everyone in the world. Thus, we have to prioritize some over others. And, given that we all face this decision, it makes sense for us to jointly commit to a policy according to which, all else equal, we each prioritize members of our own family, nation, and generation. This will ensure, all else equal, that everyone is taken care of efficiently and effectively, by people who know them well and are close to them in time and space.

This justification for discounting is related to the first. As with the first, it is a response to an inequality in welfare or opportunities. But unlike in the first case, it creates the very inequality that it seeks to respond to: I should prioritize my family members because nobody else will. And nobody else will because I should.

Of course, we can question whether this kind of division of moral labor will, in fact, ensure that everyone gets taken care of in practice, rather than ensuring that people in rich, white families living in rich, white nations get taken care of much better than everyone else. But, as before, whatever we think about this issue, many people agree that, *if* this kind of division of moral labor will ensure that everyone gets taken care of in practice, *then* we are morally permitted to place less weight on the interests of people in other families, nations, and generations – again, not because their interests actually, objectively weigh less, but rather

because this policy will allow us to participate in a collective effort to treat everyone equally in an efficient and effective way.

Here too, it should be clear that this justification for discounting does not support our use of animals in research. Nonhuman animals, and especially research animals, cannot take care of each other in the same kind of way that we can. Indeed, if anything, we should once again think that the opposite is the case – i.e. we should once again think that nonhuman animals, and especially research animals, are much *less* capable of taking care of each other than we are – and that we should therefore place *extra* weight on their interests insofar as we accept this justification for discounting. Indeed, many philosophers have argued for exactly this conclusion. For example, Clare Palmer, Sue Donaldson, and Will Kymlicka argue that we have moral obligations to domesticated animals that we do not have to wild animals (or, for that matter, to many humans) on the grounds that domesticated animals cannot take care of each other in the same kind of way that wild animals (and many humans) can.[8] If this is right, then it follows that we cannot permissibly discount the interests of domesticated animals as part of a division of labor in the same kind of way that we can with wild animals (and many humans). Instead, we must place them in the groups that we take responsibility for as part of this division of labor.

Moreover, we should once again note that even if research animals *could* take care of each other in the same kind of way that we can, the upshot would not be that we are morally permitted to harm research animals as part of this division of moral labor (any more than I am morally permitted to harm your children in order to benefit mine as part of a division of moral labor), but would rather, at most, be that we are morally permitted to prioritize helping humans over helping research animals – which, again, is not enough to show that we can permissibly treat research animals the way that we currently do.

3.3. Demandingness

Third, many people think that discounting is morally permissible when it would be too demanding to treat everyone as having full and equal moral status.

For example, one justification for favoring the present generation over future generations is that future generations are likely to have *many more people in them* than the present generation. Thus, if we treat everyone as having full and equal moral status, then it is hard to resist the conclusion that we should invest the vast majority of our time, energy, and money in helping future generations rather than the present generation, all else equal. But since many people find this conclusion unacceptably demanding, they propose discounting the interests of future generations as a way to limit the moral burden that they impose on us.

How might this justification for discounting apply to our treatment of nonhuman animals? Well, there are many more nonhumans than humans in the world. For instance, E. O. Wilson estimates that there are about a million trillion insects in the world at any given time, a number that makes our seven billion and counting seem downright miniscule in comparison.[9] And even if we restrict our focus to vertebrates (indeed, even if we restrict our focus to mammals), we will still be hopelessly outnumbered.[10] Thus, we might think, if we aspire to treat all animals as having full and equal moral status, then it is hard to resist the conclusion that we should invest the vast majority of our time, energy, and money into helping nonhumans rather than humans, all else equal. But as in the case of future generations, many people might find this conclusion unacceptably demanding, and therefore they might propose discounting the interests of nonhuman animals as a way to limit the moral burden that they place on us.[11]

I am not very sympathetic with demandingness arguments in general. In my view, if it turns out that there are many more individuals in the world with full and equal moral status than we originally thought (and we do not have independent reason to discount their interests), then we have a moral obligation to respond accordingly, even if that means investing much more time, energy, and money into helping these individuals than seems intuitively reasonable to us.[12] Granted, certain ways of limiting or focusing our moral burdens, such as creating a division of moral labor, might be appropriate. But as I have argued here, a division of moral labor must take into account the dependencies and vulnerabilities of particular individuals and groups; and, when we take into account the dependencies and vulnerabilities of many kinds of nonhuman animals, including research animals, it becomes clear that we should place more, not less, weight on their interests as part of a division of moral labor.

Suppose, however, that we are sympathetic with demandingness arguments in general. In this case, there is a simpler, more direct reason why we should dismiss demandingness as a concern in the case of animal research. Specifically, we are not asking in this case whether or not we should drop everything to help tens of millions of animals who already exist, or who are likely to exist no matter what we do. Instead, we are asking whether we should *create* tens of millions of animals each year so that we can then harm them in order to benefit humans. In this kind of choice situation, if we think that demandingness is a problem, then the solution is clear: *We should not create these animals in the first place*. The idea that we could permissibly create so many animals for purposes of medical and scientific research and then treat them poorly *precisely because we created too many to be able to treat well* is, in contrast, clearly not an acceptable proposal.

3.4. Uncertainty

Fourth, we sometimes think that discounting is morally permissible when we are uncertain about whether or not our actions will cause a particular kind of harm.

For example, one justification for time-based discounting in the intrapersonal case is that I am more confident that I will be alive tomorrow than that I will be alive ten years from now. I am also more confident about how my actions will harm or benefit me tomorrow than about how they will harm or benefit me ten years from now (assuming that I will be alive at all at that point). Thus, we think, I should place more weight on my interests tomorrow than on my interests ten years from now when reasoning prudentially, as a result of simple risk-benefit analysis: Insofar as I have a higher credence that my actions will have particular kinds of impact on my short-term self-interest than on my long-term self-interest, the expected utility of my tending to my short-term self-interest is higher than the expected utility of my tending to my long-term self-interest.

How might this justification for discounting apply to our treatment of nonhuman animals? There is at least one clear way in which it might: Suppose we are more confident that humans are sentient than that nonhumans are sentient, and suppose we are also more confident about how our actions will harm or benefit humans than nonhumans (assuming that they are sentient at all). In this case, one might argue that we should place more weight on the interests of humans than on the interests of nonhumans as a result of simple risk-benefit analysis: Insofar as we have a higher credence that our actions will have particular kinds of impact on humans than on nonhumans, the expected utility of our tending to the interests of humans is higher than the expected utility of our tending to the interests of nonhumans.

I think that this kind of epistemic discounting might be appropriate in some cases, such as in the case of invertebrates. (Though even here the arguments for and against epistemic discounting are complicated; I consider them in more detail elsewhere.[13]) But for present purposes it will suffice to make three points. First, this justification for discounting is not compatible with our assumption that research animals have moral status. If we assume that research animals have moral status, then we must also assume either that (a) research animals are sentient, or that (b) sentience is not necessary for moral status. Either way, then, this justification for discounting is ruled out. Second, this justification for discounting is not plausible with respect to the nonhuman species that we are considering here. Granted, the problem of other minds is real. But if we take this problem seriously, then we should be skeptical about everyone, including other humans. Whereas if we do not take this problem seriously, then we have ample evidence that the nonhuman species that we tend to study, most of which are vertebrates, are sentient.[14]

Third, while this justification for discounting may or may not support favoring humans over nonhumans, it does support favoring nonhumans over humans in at least one respect. Specifically, we know for a fact that most animal experiments will harm animal subjects, whereas we do not know for a fact that these experiments will benefit humans.[15] The harm is actual; the benefit is not. Thus, this epistemic justification for discounting implies that, all else equal, we should place more weight on the (certain) harms to animal subjects than on the (uncertain) benefits to humans. At the very least, this consideration will neutralize the idea that we should favor humans over nonhumans in research. And if we reject this latter idea, as I think we should, then this consideration will imply that we have epistemic reason to favor nonhumans over humans in research all things considered.

3.5. Histories, Relationships, and Partialities

Finally, we sometimes think that discounting is morally permissible when we have special histories with, relationships with, and/or partialities towards certain individuals or groups.[16] It will be useful for us to consider this justification for discounting in detail, because it is more complex than the previous two justifications, and also because it seems to be the justification that Brody primarily has in mind in his articulation of the discounting defense.

The basic idea behind this justification of discounting is that morality does not require us to be radically impartial in practice. Even if we have certain basic moral obligations to everyone, we have certain *special* moral obligations to some individuals and groups that we do not have to others, on the grounds that we have certain histories with, relationships with, and/or partialities towards these individuals or groups that we do not have with and/or towards others. For example, we arguably have special duties to our children not only because, for example, this policy makes for a useful moral division of labor, but also because, for example, we brought them into existence and we benefit from their existence.

Brody proposes that similar considerations apply to the human species as a whole. Of course, the details are different in each case, but, Brody is suggesting, the basic moral structure of these cases is the same: Even if we have certain basic moral obligations to all sentient animals, we have special moral obligations to humans that we do not have to nonhumans, on the grounds that we have a special kind of history with, relationship with, and partiality towards members of our species that we do not have with or towards members of other species. And if this is right, then, we can further suppose, we can usefully think of this complex pattern of special obligations in terms of a discount rate. Specifically, we can say that we are morally permitted to weigh the

interests of humans more than the interests of nonhumans as a way of expressing that we have more special obligations to humans than we have to nonhumans as a result of our histories, relationships, and partialities with and towards them.

This is a complex proposal, and we need to treat it as such. First, we should grant the many respects in which Brody is clearly correct. Histories, relationships, and partialities are clearly morally relevant. Everyone across the moral spectrum agrees on this. (Granted, some moral philosophers, such as consequentialists, think that these relations have only indirect moral significance whereas other moral philosophers, such as deontologists, think that they have direct moral significance; but everyone agrees that they have moral significance.) I do owe more to my children than I owe to yours, partly on the grounds that, for example, I brought them into existence and I benefit from their existence. Similarly, I do owe more to my fellow citizens than I owe to citizens of other nations partly on the grounds that, for example, we live in the same territory, share the same resources, participate in the same legal and political institutions, and so on. Moreover, and perhaps most importantly for our purposes here, I am sometimes morally permitted to help some individuals and groups instead of others *merely because I am partial to them*. For instance, if there are too many causes in the world for me to donate to, and if I am especially sensitive to the plight of veterans, then, all else equal, I am certainly morally permitted to donate to causes that support veterans rather than to other causes.

However, we should be cautious about thinking that these considerations support a moral discount rate based on species membership. We can grant that we are more closely evolutionarily related with members of our species than with members of other species. But it is not clear what moral significance this biological relationship, in and of itself, is supposed to have. Indeed, many philosophers, including, most prominently, Peter Singer and Tom Regan, have argued

persuasively that the bare fact of species membership, like the bare fact of race or sex membership, does not in and of itself have any moral significance at all – and to think that it does is a textbook case of unjustified prejudice.[17] Granted, these bare biological facts might map onto other, more particular properties and relations that do have moral significance (such as what kinds of capacities and interests we have and what kinds of particular histories, relationships, and partialities we have with and towards each other). If so, then we can usefully regard these bare biological facts as having a kind of *indirect* moral significance. But in this case, it will be these other, more particular properties and relations that have direct moral significance, and therefore it is with respect to these other, particular properties and relations that we must evaluate the appropriateness of favoring some individuals or groups over others.

The question, then, is whether species membership coincides, even roughly, with the kinds of histories, relationships, and partialities that, we think, generate special moral obligations. (Since I am bracketing questions about moral status for my purposes here, I will set aside questions about capacities and interests in order to focus on questions about histories, relationships, and partialities.) It is tempting to think that the answer is yes, since, as I have said, we certainly do have special relationships with many humans that generate special moral obligations towards them (relationships which, in some cases, it is not possible for us to have with nonhumans). However, it would be a stretch to say that we had these special relationships with all and only humans. And, even if we did, our resulting special moral obligations to all and only humans would represent only a fraction of the special moral obligations that we have overall – many of which, I will argue, we have towards nonhumans.

Consider first our histories and relationships. (I will address our partialities below.) It is common, when thinking about the special moral obligations that result from our histories and

relationships, to focus on cases involving care. But, as many philosophers have argued (and as many people believe), we also have special moral obligations that result from histories and relationships involving harm. For example, many people agree that white Americans have special moral obligations to black Americans at least partly on the grounds that (a) the ancestors of many white Americans enslaved the ancestors of many black Americans, (b) the institution of slavery harmed many slaves, and the social, political, and economic legacy of slavery harms many black Americans to this day, and/or (c) the institution of slavery benefited many white Americans, and the social, political, and economic legacy of slavery benefits many white Americans to this day. Granted, we disagree about many of the particulars: For example, some people might think that the history and legacy of slavery demands reparations; others might think that it demands affirmative action; and still others might think that it demands simply prioritizing the social and political needs of black Americans in activism and advocacy (at least in certain respects).[18] But whatever we think about these issues, we can all agree that the history and legacy of slavery does, in fact, generate special moral obligations in roughly these kinds of ways.

My claim here is that, if we accept this kind of reasoning in general, i.e. if we accept that histories and legacies of harm generate special moral obligations to the victims and survivors of that harm, then we should accept this line of reasoning in the case of research animals as well. Specifically, we should accept that we have special moral obligations to research animals at least partly on the grounds that (a) we have performed invasive medical and scientific experiments on hundreds of millions of nonhuman animals, (b) the institution of animal research has harmed many nonhuman animals, and it continues to harm many nonhuman animals to this day, and (c) the institution of animal research has benefited many humans, and it continues to benefit many humans to this day. Moreover, and to return to and extend our discussion of domesticated and

wild animals from above, insofar as we have bred particular nonhuman animal species for purposes of medical and scientific research, we should accept that we also have special obligations to members of these species on the grounds that (d) we brought them into existence and (e) they cannot survive without our help and support.

Of course, we have to be careful not to draw this analogy between American slavery and animal research in a simplistic or reductive way, or to simply apply our moral analysis of American slavery to animal research without alteration. After all, while there are many continuities between these institutions that are well worth exploring,[19] there are also many discontinuities between them that are well worth emphasizing (especially since many of them are morally relevant for present purposes). To cite just one example, many black Americans are acutely aware of the history and legacy of slavery in a way that research animals are not with respect to research, and therefore many black Americans experience intergenerational trauma around slavery in a way that research animals do not around research. Thus, the case for reparations for slavery is, at least in this respect, stronger than the case for reparations for animal research (at least from a consequentialist perspective).

But this is fine: I am not claiming here that American slavery and animal research are exactly the same. Instead, all I am claiming is that, as the case of American slavery reminds us, we think that histories and legacies of harm generate special moral obligations to the victims and survivors of that harm, as well as to their descendants insofar as they experience residual impacts. Moreover, even if some of the residual impacts of American slavery are not present in the case of animal research, other residual impacts are. For example, we think that white Americans have special moral obligations to black Americans in part because American slavery has resulted in social, political, and economic systems that heavily favor white Americans over

black Americans, and therefore white Americans have a moral obligation to favor black Americans in at least some respects in order to correct for this imbalance, as well as in order to pave the way for future social, political, and economic systems that treat everyone equally. And in the same kind of way, I am claiming, the history of animal research has resulted in social, political, and economic systems that *very heavily* favor humans over research animals, and therefore, I am claiming, we have a moral obligation to favor research animals over humans in at least some respects in order to correct for this imbalance, as well as in order to pave the way for future social, political, and economic systems that treat all animals equally (or at least, that treat them as they ought to be treated, depending on what we think about their moral status).

Here we can see considerations of equality interacting with considerations of histories and relationships. This raises the question: How much work are histories and relationships doing here? The answer to that question will depend on our moral theory of choice. If we are deontologists, then we might think that the history of American slavery and animal research have direct moral relevance. That is, we might think that we have special obligations to the victims, survivors, and/or descendants of harmful institutions simply as a result of the relevant past harms. In contrast, if we are consequentialists, then we will think that the history of American slavery and animal research have only indirect moral relevance, insofar as they impact the kinds of harms and benefits that accrue to particular individuals today. Still, even on consequentialist theories, the act of taking responsibility for past harms is an important step on the path towards correcting for present inequities as well as towards creating future social, political, and economic systems that treat everyone equally. Thus, even if the relevance of histories and relationships reduces to the relevance of future harms and benefits, it is still useful to treat these issues separately, since this separation reveals part of what it takes to create equity moving forward.

Of course, as in the case of American slavery (though here again the details will be different), we might disagree about what follows from this argument. For example, we might disagree about whether the history and legacy of animal research requires reparations for research animals (where these reparations could take the form of, for instance, placing them in animal sanctuaries) or rather whether it simply requires us to allow them to fade gracefully into extinction. But whatever we think about these issues, we can hopefully agree that, if histories and relationships involving harm generate special moral obligations in roughly the kinds of ways that I have been discussing, *then* we have special moral obligations to research animals that require us to favor them over other human and nonhuman animals in certain cases, all else equal.

Moreover, note that these considerations apply even more strongly to researchers than to humans more generally. For example, researchers harm research animals more directly than the rest of us do (though the rest of us are at least complicit insofar as we support the research industry), researchers benefit from the activities that harm research animals more directly than the rest of us do (for example, they benefit not only from medical and scientific advances but also from the salary, benefits, prestige, and so on that this research provides them), and researchers are responsible for the existence of research animals more directly than the rest of us are (though, again, the rest of us are at least complicit). So: If we accept that histories and legacies of harm generate special moral obligations, then it follows not only that humans have special moral obligations to research animals in general but also that researchers have *extra* special moral obligations to research animals in particular.

As for partiality: As I have said, we can grant that we are sometimes morally permitted to benefit some individuals and groups rather than others merely because we are partial to them. But partiality alone does not get us very far. Yes, all else equal, partiality might justify, for

example, donating to one cause rather than another. But, first, as I have said, benefiting one individual or group instead of another is not the same as harming one individual or group in order to benefit another. And, second, all else is usually *not* equal, and it is plausible to think that, if and when our special moral obligations that come from histories and legacies of harm conflict with our moral freedom to act on partiality, the former trump the latter. For example, to return to and expand our previous example, we have a long history of racism and sexism in America, and many people agree that this history makes it the case that, all else equal, (a) white men have special moral obligations to people of color and women, respectively (again, we can remain neutral on exactly what these special moral obligations amount to in practice for present purposes), and (b) these special moral obligations trump the moral freedom that white men might otherwise have to favor each other simply because they feel partial towards each other. Moreover, insofar as the partiality that white men have for each other is partly the *result* of racism and sexism, white men have even more reason to regard their special moral obligations to people of color and women as trumping their moral freedom to act on this partiality.

I believe that we should think about our partiality towards humans in the same kind of way. Yes, all else equal, a partiality for humans might justify, say, donating to causes that support humans rather than to causes that support nonhumans. But, first, it would not justify harming nonhumans in order to benefit humans (as we do in most animal research). And, second, all else is certainly *not* equal in this case: As in the case of racism and sexism, we have a long history of speciesism that makes it the case that (a) humans have special moral obligations to nonhumans (and, again, this is especially true about researchers with respect to research animals) and (b) these special moral obligations trump the moral freedom that we might otherwise have to

favor humans simply because we feel partial towards them – especially if, as seems plausible, our partiality for humans is at least partly the result of speciesism.

The upshot of this discussion is that, if we allow that histories, relationships, and partialities generate special moral obligations in general, then this fact will cut both ways: On one hand, yes, it will generate special moral obligations to particular individuals (human and nonhuman alike) that result from histories and relationships involving care. On the other hand, it will also generate special moral obligations to particular individuals (human and nonhuman alike) that result from histories and relationships involving harm (special moral obligations that, I believe, trump the moral freedom that we would otherwise have to act on partiality). And when we think about our histories and relationships with research animals in particular, we see that we have many special moral obligations to them that arise in exactly this latter kind of way. At the very least, then, this discussion places a considerable burden of proof on the claim that, all things considered, our patterns of special moral obligations map onto species membership in a way that supports a moral discount rate based on species membership.

3.6. The Function of Discount Rates in Moral and Political Theory

If we weave all of the strands of this discussion together, then we get the following results. First, insofar as we strive for equality, insofar as we strive to create a division of labor, insofar as we strive to take our uncertainty about harms and benefits into account, and insofar as we have special obligations resulting from our histories, relationships, and partialities, these considerations cut both ways: Sometimes they generate special moral obligations to particular humans, and sometimes they generate special moral obligations to particular nonhumans.

Second, when we think about our histories and relationships with research animals in particular, we discover that we have special moral obligations to them resulting from the fact that (a) they are not as well off as we are, (b) they cannot take care of each other in the same kind of way that we can, and/or (c) we have a long history of harming them and of benefiting from the activities that harm them (as well as of, in many cases, bringing them into existence specifically for this purpose). Granted, we have special moral obligations to many other human and nonhuman animals as well, and we also have partiality for many other human and nonhuman animals. But these latter moral considerations do not necessarily trump our special moral obligations to research animals, and, even if they did, they would not justify harming research animals in order to help other human and nonhuman animals but would rather, at most, justify helping other human and nonhuman animals rather than research animals in certain cases.

When we step back and reflect on the function that discounting plays in moral and political theory, these conclusions should not come as a surprise. After all, even though it is tempting to think of moral discount rates as always, automatically starting with the agent in question and gradually declining as we move away from that agent in space, time, and similarity, this is not how moral discount rates actually work, and it is certainly not how they ought to work. The point of a moral discount rate is not to codify and certify our natural preference for helping and supporting those who are near us and those who are like us; it is rather to provide us with a framework for thinking about what we owe to others in practice, in light of the fact that we are all in different situations in life, and these different situations make it easier, as well as more appropriate, for us to favor some individuals over others in certain cases. So, yes, sometimes, and in some respects, moral discount rates will track relations like proximity and similarity. For example, the closer we are to someone in time, space, and similarity, the easier it will be for us to

help and support them as part of a division of moral labor, and the more likely we are to have special obligations to them such as promissory obligations. But other times, and in other respects, moral discount rates will track relations like histories and legacies of harm as well as facts about welfare and social, political, and economic status. For instance, as I have discussed at length, we have a moral obligation to favor individuals who are worse off over individuals who are better off, especially if we (and/or the individuals who are better off) are partly responsible for, and have partly benefited from, these patterns of inequity.

Finally, insofar as we are asking and answering these questions from the standpoint of people who have a lot of privilege (as, of course, most academics and researchers do), we can expect that discount rates that track relations like proximity and similarity will conflict with, and sometimes get trumped by, discount rates that track relations like histories of harm and facts about welfare and status. For example, if you and I are part of the richest one percent (as most academics and researchers are, from a global perspective), then our moral obligation to assist the people we have personal relationships with will often conflict with, and sometimes get trumped by, our moral obligation to assist people living in abject poverty. And to the extent that our practice of talking about special moral obligations in terms of a single, simple discount rate obscures these conflicts (or inclines us to always resolve them in favor of the people we have personal relationships with), we should be cautious about using this framing device. This is, of course, a perfectly general point about the relationship between special moral obligations and moral discount rates, and it is worth keeping in mind in all discussions on these topics. But it is especially worth keeping in mind in discussions about our relationships with and treatment of nonhuman animals, since we all, in the context of this discussion, enjoy the kind of privilege that makes talk of a single, simple discount rate obscuring and distorting.

4. Conclusion

I have argued that none of the standard justifications for discounting justify preferential treatment for humans over nonhumans. The main justifications that philosophers usually accept – discounting to achieve equality, discounting as part of a moral division of labor, and discounting as an expression of special moral obligations that stem from our histories, relationships, and partialities – do not imply that we should favor humans over nonhumans in general. On the contrary, they each imply that we should favor at least some nonhumans, for example research animals whom we have a long history of harming for our own benefit and who cannot live without our help and support, over at least some humans, for example rich white Americans whom we do not have a long history of harming for our own benefit and who can, and do, easily live without our help and support.

As I have said, my arguments in this paper do not show that we are never, under any circumstances, morally permitted to favor humans over nonhumans (indeed, I think that we are morally permitted to favor humans over nonhumans in many cases). Nor are my arguments here meant to be the last word on the issue of discounting, since we could still find new justifications for discounting tomorrow that do, in fact, support the kind of discount rate that Brody is proposing. But two points are worth making here. First, I think that we are unlikely to find such justifications given the function that discount rates are meant to play in moral and political theory. Second, even if we did find such justifications, the resulting discount rate would have to be very steep indeed in order to not only (a) counteract the considerations that we have discussed here but also (b) justify not only prioritizing helping humans over helping nonhumans all things

considered but also harming nonhumans in order to benefit humans all things considered. Needless to say, I think that this is unlikely to happen as well.

If all this is right, then we have strong reason to think that considerations of discounting do not, in and of themselves, support preferential treatment of humans over nonhumans in research. Dialectically, this means that defenders of animal research have no choice but to return to traditional questions about the moral status of research animals and the expected costs and benefits of animal research in order to make their case. It also means that defenders of animal research have an even higher burden to meet with respect to these other, more familiar debates than we might have thought. After all, if we have special moral obligations to help and support or, at the very least, not cause further harm to research animals, then a full defense of animal research must show not only that the moral status of animals coupled with the costs and benefits of animal research justifies animal research *all else equal*, but also that the moral status of animals coupled with the costs and benefits of animal research justifies animal research *all things considered*, in spite of the special moral obligations that we (and especially researchers) have to treat research animals much better than this.

The upshot is that, unless and until defenders of animal research either (a) identify new justifications of discounting that support a steep discount rate based on species membership and/or (b) decisively win the debates about the moral status of animals and the costs and benefits of animal research, we are left with nothing to cite in support of our treatment of research animals except for a bare preference for members of our own species and the power to act on that bare preference without fear of reprisal from members of other species. And this is not only the textbook definition of discrimination; it is also the textbook definition of domination and oppression.

Finally, a brief note on the scope of my argument in this paper. While I have been focusing on animal research here for the sake of simplicity and specificity (and because this is the context in which Brody articulates the discounting defense), I believe that the general form of my argument applies to many other kinds of animal use as well. Of course, the details of our analysis will change from case to case depending on a wide range of issues, including the nature of the animals in question, our histories and relationships with them, their vulnerabilities and dependencies on us, the costs and benefits of our treatment of them, and other such factors. But what will not change is the general fact that it will be difficult, if not impossible, to justify a simple moral discount rate based on species membership – at least not in the direction that defenders of animal research were expecting. Furthermore, given that (a) the expected benefits of animal research are much greater than the expected benefits of most other uses of animals and that (b) the expected costs of animal research are, sadly, not much worse than the expected costs of most other uses of animals, it is reasonable to assume that, if the discounting defense of animal research fails, then this kind of defense will fail in many other cases of animal use as well.[20]

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[1] The views expressed in this paper are my own and do not necessarily reflect the position or policy of the National Institutes of Health, the Public Health Service, or the Department of Health and Human Services.

[2] Baruch Brody, "Defending Animal Research: An International Perspective," in Jeremy Garrett, ed., *The Ethics of Animal Research: Exploring the Controversy* (Cambridge: MIT, 2012).

[3] Brody, 2012, p. 64.

[4] For a detailed summary of the debate about discount rates in the intergenerational case, see Dale Jamieson, *Reason in a Dark Time: Why the Struggle Against Climate Change Failed – and What It Means for Our Future* (Oxford: Oxford University Press, 2014), Chapter 4.

[5] For discussion of this justification of discounting, see Derek Parfit, "Equality and priority," *Ratio 10: 3* (1997), pp. 202-221.

[6] Thanks to David Benatar for raising this point in conversation.

[7] For detailed discussion of this justification of discounting, see Robert Goodin, *Utilitarianism as a Public Philosophy* (Cambridge: Cambridge University Press, 1995).

[8] See, for example, Clare Palmer, *Animal Ethics in Context* (New York: Columbia University Press, 2010) and Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford: Oxford University Press, 2011).

[9] E. O. Wilson, "TED Prize wish: Help build the Encyclopedia of Life," recorded March 2007 in Monterey, CA. URL = http://blog.ted.com/2007/04/04/2007_ted_prize_2/

[10] For discussion of the political implications of this imbalance between human and nonhuman animals, see Jeff Sebo, "Animals and the Circumstances of Justice" (manuscript).

[11] Thanks to Robert Goodin for making this proposal in correspondence.

[12] For an argument against the demandingness objection to consequentialism, see David Sobel, "The Impotence of the Demandingness Objection, *Philosophers' Imprint 7:8* (2007).

[13] Jeff Sebo, "Animal Minds and the Ethics of Uncertainty" (manuscript).

[14] For an extended argument for this conclusion, see David DeGrazia, *Taking Animals Seriously: Mental Life and Moral Status* (Cambridge: Cambridge University Press, 1996).

[15] Robert Bass, "Lives in the Balance: Utilitarianism and Animal Research," in Jeremy Garrett, ed., *The Ethics of Animal Research: Exploring the Controversy* (Cambridge: MIT, 2012), pp. 81-105.

[16] For detailed discussion of these kinds of agent-relative obligations and prerogatives, see Samuel Scheffler, *The Rejection of Consequentialism: Philosophical Investigation of the Considerations Underlying Rival Moral Conceptions* (Oxford: Oxford University Press, 1994). And for detailed discussion of the importance of care, relationships, and partialities in determining our special moral obligations, see Carol Gilligan, *In A Different Voice: Psychological Theory and Women's Development* (Cambridge: Harvard University Press, 1982) and Nell Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (Berkeley: University of California Press, 1984).

[17] Peter Singer, *Animal Liberation* (New York: Harper, 2009) and (Tom Regan, *The Case for Animal Rights* (Berkeley: The University of California Press, 2004).

[18] For discussion of the debate about reparations, see Boris Bittker, *The Case for Black Reparations* (Boston: Beacon Press, 2003). And for discussions of the debate about affirmative action, see Thomas Nagel, "Equal Treatment and Compensatory Discrimination," *Philosophy & Public Affairs 2* (1973): 348–363 and Judith Jarvis Thomson, "Preferential Hiring," *Philosophy & Public Affairs 2* (1973): 364–384.

[19] For a detailed examination of the continuities and discontinuities between animal use and slavery (as well as of the strengths and limitations of this kind of intersectional analysis), see Marjorie Spiegel, *The Dreaded Comparison* (Mirror Books, 1997).

[20] Acknowledgements.