

Remarks for the All Campus-Animal Care and Use Committee, January 8, 2009

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As you know, Mr. Marolt has requested that UW address the question of whether it is ethical to do research on nonhuman primates. When I first heard his request, I was puzzled: UW knowingly engages in nonhuman primate research; we have Animal Care and Use Committees reviewing and approving protocols on a regular basis. It seemed a bit like someone asking the Vatican to address the question of whether God exists. I think we already know where the Vatican stands on that.

But as I thought about it more, I think I came to better understand what Mr. Marolt was asking for. If I understand him correctly, Mr. Marolt is asking that UW officially deliberate about and officially adopt a position on a question of applied ethics, a question that directly concerns campus activities. UW has done something similar before. Preparing for the possibility that Jamie Thomson would be the first person to ever successfully isolate human embryonic stem cells, UW formed a Biotechnology Advisory Committee, consisting of biologists, bioethicists, and law professors, who met for about 9 months to examine the ethics of embryonic stem cell research and produce a public report.

Now, the question of the ethics of nonhuman primate research is controversial. And as has become clear from Mr. Marolt's attempts to find an audience to even consider his request, it is even controversial whether it is a good idea to take up the issue. Reports from ethics advisory committees sound nice on paper, but it would not be surprising if researchers and administrators were tempted to reject his request out of hand on the grounds it is not really a good-faith request for open and honest deliberation, but rather an attempt to obstruct research by a meddlesome activist. I think this temptation should be resisted, not because I am interested in speculating about Mr. Marolt's motives, but because I think it's a fallacy to reject an idea simply because one is dubious about the motives of the person whose idea it was. And I think that Mr. Marolt's idea does indeed have merit.

The use of nonhuman primates does raise significant ethical questions. We currently allow research that causes harm and premature death to sentient individuals capable of living long lives, capable of happiness and suffering, capable of agency and emotion. We justify that research not by appealing to the good of those particular individuals nor by appealing to their consent. We justify it by appealing to the advancement of knowledge and the benefits for others. I think that any reasonable view about the ethics of nonhuman primate research must acknowledge that these are significant costs, not to be imposed lightly. Such an important issue should be revisited periodically; it should be periodically reassessed in light of the latest scientific knowledge and ethical reflection.

However, it does not automatically follow that UW should implement such a procedure here and now, much less that this specific committee should do so. Indeed, some might argue that the committee does not have the authority to take a stand on the general issue of the ethics of nonhuman primate research. The idea behind this view is that IACUCs are not authorized to decide *whether* research may be done, only the *manner* in which it may be done. IACUCs are not authorized to *prohibit* research, only to *regulate* it.

This argument is typically made by those opposed to animal experimentation who use it to criticize the existing oversight system as failing to provide satisfactory assurance that the animals are treated ethically. Tom Regan, the leading animal rights philosopher, asserts that "... IACUCs have no authority to impose *ethical* limits on what researchers may or may not do and thus no authority to stop even a single experiment on ethical grounds."¹ Gary Francione, a professor of animal law, says that the AWA only gives IACUCs the authority to regulate "what sort of treatment must be given to animals", and that it does not give IACUCs the authority to address "what particular experiments are appropriate for animal use."²

Now, this argument purports to rest on a legal interpretation, and I do not focus on animal law, so my remarks here are tentative, but I want to briefly indicate why I don't find such a narrow view of the regulations plausible with two examples.

IACUCs are required by law to prohibit any research that is not in compliance with what are referred to as the U.S. Government Principles. Principle VII requires that "the living conditions of animals should be appropriate for their species and contribute to their health and comfort." It would thus be within the IACUC's jurisdiction to prohibit research with a species if they concluded that appropriate housing conditions on campus could not be secured. (Imagine a researcher trying to bring chimpanzees onto a campus that can only secure funding for cages of the size typically used for macaques.) A decision about the appropriateness of housing conditions, which falls squarely within the jurisdiction of an IACUC, can amount to a prohibition on a certain kind of research. An even clearer, second, example comes from Principle II, which requires that "procedures involving animals should be designed and performed with due consideration of their relevance to human or animal health, the advancement of knowledge, or the good of society." So if an IACUC finds that procedures involving animals do not produce sufficiently important knowledge, then it is within the IACUC's legitimate authority to prohibit that research.

And even if this narrow interpretation were the correct reading of the law, it certainly isn't my experience of how ACUCs operate. If a committee does not approve a protocol because it thinks the protocol fails to provide acceptable housing or enrichment, they are dealing with ethical issues, even if they don't frame them using that terminology.

So, I do think that nonhuman primate research raises important ethical issues that deserve attention, and I don't think that this committee is barred from addressing them. Does this mean that the ACACUC needs to implement a process similar to the one I described regarding stem cell research? I don't think so. Nonhuman primate research, after all, takes place across the country. It is a practice that, in some

minimal sense, society itself has taken a stand on, through the laws that allow it, the practices that encourage it, and the funding that supports it. In this respect, the situation with nonhuman primate research is very different from the situation I described earlier with respect to stem cell research. At that time, not a single person had ever engaged in embryonic stem cell research. There were no federal laws. Nothing existed for embryonic stem cell research that was remotely comparable to the infrastructure that exists to oversee nonhuman primate research. Since that time, federal guidelines for embryonic stem cell research have been developed, and there is now a committee on campus that reviews stem cell protocols in a manner not that different from how the ACUCs review animal use protocols.

Now, the mere fact that the research is common, legal, and has an oversight system in place does not necessarily mean that it is ethical. But it seems reasonable that a local animal oversight committee, or UW as a whole, might prefer to focus on its own day-to-day activities and defer the larger questions to those responsible for maintaining and improving the national oversight infrastructure.

Motion:

I move that the committee endorse the position that existing standards of veterinary care and applicable animal welfare laws, regulations, and policies provide a suitable and appropriate basis for determining when the use of nonhuman primates in research, teaching, or outreach at the University of Wisconsin-Madison is ethical.

¹ Carl Cohen and Tom Regan, *The Animal Rights Debate* (Rowman & Littlefield, 2001), 300-01.

² Gary L. Francione, *Animals, Property, and the Law* (Philadelphia: Temple University Press, 1995), 186.