Covenant with the wild: A critique of the 'right to roam' movement

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Simon lives off-grid on the edge of a plantation wood in southern England. As well as caring for his woodland, he runs a small farm animal sanctuary and is a trustee of the British Association of Nature Conservationists.

The right to roam for whom? Creating a secure enclosure – 'the pen' – within the wood Simon Leadbeater calls home, led to a serendipitous if gentle epiphany, in which the needs and desires of the wood's nonhuman denizens became progressively apparent. They maintain a cautious distance but behave naturally, compared to being put to flight whenever the author steps into the main part of the wood. The woodland outside of the pen now belongs to the wild, with whom Simon has established a personal accord, a covenant, which he only transgresses through necessity, so that wild animals may enjoy mostly undisturbed lives. People need to find ways of peacefully coexisting with animals by not intruding into their homes. This creates an ethical challenge for those demanding a right to roam, who, by conceptualizing nature abstractly largely advance human interests, overlooking nonhumans' need to roam and live without fear.

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The naïve assumption that the natural world is there to be possessed and used by humans for their advantage in an unlimited manner cannot be accepted. [...] In this context each individual being is supported by every other being in the Earth community. In turn, each being contributes to the well-being of every other being in the community. Justice would consist in carrying out this complex of creative relationships. (Berry, 1999)

The egregious violation across the face of the Earth of wild animals' right to roam is why I felt compelled to write; a fundamental freedom stolen from once free-roaming animals by the exercise of human supremacy, our wholesale domination of the planet. Little wonder wild animals flee from us; for those who love them, we grieve to be so feared.

This essay concerns a perhaps peculiarly English rift between landowners and landless campaigners, or so the dialectic is mostly framed. Reimagined from a different standpoint, however, the self-styled 'right to roam' (R2R) movement aims, with callous irony, to extend human conquest and further constrict animals' rights to freely move (or stay), broadening oppression's reach, deepening the oppressed's distress. Campaigners' demands for additional rights have universal implications, raising important questions about our relationship with nature. My essay invites deeper reflection on the implications of expanding R2R by focusing on nonhuman animals. By borrowing something old and making new I also set out how we might change for the better.

The R2R campaign is making progress. The UK Green Party aims to introduce something similar to the Scottish Outdoor Access Code (https://is.gd/HwjNZ1) to England. Green Party MP Caroline Lucas's *Countryside and Rights of Way Act 2000* (Amendment) Bill contains two principal clauses. First, it aims to "extend the right of public access to the countryside, including grasslands, woodlands, the Green Belt and waters" and, secondly, "any person may camp on access land" (https://is.gd/SJ5tAV). The UK High Court's January 2023 ruling that there was no right to wild camp on Dartmoor without permission from the landowner (even as later overturned at appeal [https://is.gd/B017Gn]) seemed to convince the Labour Party to also replace the "default of exclusion [...] with the default of access" (Hansard, 2023).

Suffering of the wild

Recreational activity can lead to disturbance, which is the equivalent to reducing habitat area (Hambler and Canney, 2013).

My partner Toni and I live on the edge of a plantation wood in southern England, and we would feel the consequences of R2R immediately. Dog walkers, instead of adhering to public footpaths (even if their dogs already don't) would make entering our wood part of their regular routine. All wild animals presently provided some refuge would suddenly have to escape both humans and their dogs. Our woodland as sanctuary would be annihilated in one stroke of legislative change. A longer term inadvertent outcome would be to undo my central conservation aim of transforming our plantation into natural woodland, requiring the accumulation of deadwood. Up to half a natural wood should contain dead or dying trees; many species require them for their homes (Hambler, 2010: 64). In May 2023 I was thrilled to watch a Blue Tit family setting-up residence in a dead Birch, which happened to be dangling from an Oak branch. Earlier that month I had paid nearly £900 for public liability insurance, having been told a year earlier that public access would double our premium. There comes a tipping point when insurance becomes unaffordable, but the far greater cost would lie in removing dozens of unsafe dead or dying trees, wholly at odds with what I am trying to achieve. If wildcampers began to use deadwood as fuel the imperative to dowse their fires would be irresistible, inevitably leading to conflict. A combination of such pressures would make selling inevitable. I expressed such fears to Caroline Lucas and both Green

Blue tits made a home in a dead birch branch hanging from a mature oak tree.

Party peers, receiving no answer to questions posed in letters dating from July 2022 to March 2023 (see https://is.gd/SFDfL5).

My parochial concerns, together with Jo Cartmell's observations concerning the impact of dogs on water vole habitats (Cartmell, 2022), led us to assemble evidence from across the world, demonstrating that public access invariably has a deleterious impact on wildlife (https://is.gd/2Uevyu). In years to come the impact of recreation may increasingly become an important concern for professional conservationists.

Would a R2R support nature's recovery?

[W]e must [...] truly transform our relationship with nature (Caroline Lucas MP, Debate in the House of Commons, 18 May 2023).

Across the world nature is in free fall. Lucas argues that changing English private property laws preventing the public from accessing some rural land is required to change our relationship with nature, the *sine qua non* to tackling the ecological emergency (Hansard, 2023). But if a strained relationship is to improve, such as between individuals in a failing marriage, at least one of the partners has to change. Let's try to illustrate this point through the travails of an old-fashioned marriage between Caelus and Gaia. After a stressful day at work Caelus habitually went to the pub weekday evenings and played golf with colleagues on Saturdays, thereby contributing next to nothing to home life. Frustrated Gaia demanded a crisis summit, during which she told Caelus how selfish he was being. Caelus loved Gaia, so he decided to give up his old ways and to become a solicitous husband. Thus, the relationship was transformed, because of love, better understanding, but most of all because Caelus changed. In Greek and Roman mythology Caelus was both the husband of Gaia, Goddess

A photo taken by Jo Cartmell while quietly observing the comings and goings of her beloved water voles

of the Earth, and her son. We too are the Earth's progeny, but have evolved into an abusive, exploitative, and murderous partner. In order to improve our relationship, the key would be for Caelus to treat Gaia better, out of love.

R2R campaigners talk about 'nature' a great deal but do not define what they mean. In the May 2023 House of Commons debate concerning public access, 'nature' was mentioned 158 times and 'natural' 67 times whereas Lucas specifically mentioned 'wildlife' only twice and overall wild 'animals' were perhaps cited three times (Hansard, 2023). I posit that nature comprises a 'complex of creative relationships in which each individual being is supported by other beings' (Berry, 1999: 61-2). This balance has come to be violently out of sync, but the constant refrain that 'we need to change our relationship with nature' is much the same as saying we want a change in the relationship with our marriage, whereas what we should want is an improvement in the relationship with our spouse. The repetitive use of the term 'nature' diverts us from what we need to focus on, namely our relationship with other beings, especially nonhuman animals.

Taking the animal standpoint

[T]aking the perspective of animal standpoint(s)... move[s]... animals into the center of our moral concern... and afford[s] animals their subjectivity (Heister, 2022).

My partner and I now mostly inhabit a cage. Or so this must appear to the other denizens of the woodland we call home. Within our confines deer above all seem to accept us with a wary tolerance. Sometimes we come across a small

gathering of individuals undetected, their wagging tails expressing their contentment. No matter how often I see them my heart always skips a beat. It provides me with quiet joy to reflect that we provide refuge, a safe area where they can be at ease.

For most woodland managers, deer are just pests, but one in particular became my muse. I loved to look out for a white (leucistic) doe on winter afternoons in the gathering crepuscular gloom, as she floated amongst the trees radiating an eerie luminescence, in contrast to her sisters, barely shadows in the fading light. She has now sadly become what she once seemed, having died in January 2022.

I miss and am indebted to 'my' (part of her enchantment lay in belonging to no one but herself) white doe. I would often, during one of my daily walks within the 'pen', catch, out of the corner of my eye, a glimpse of white, revealing her repose, somewhere in the middle distance, only for me to realize later that she had remained in the very same place for eight and more hours. Occasionally I have to venture into the deer's domain, mainly to tend the young trees I have planted over the years. As soon as they sense me outside of our usual fenced confinement, heads swivel round as one; alarms barked, they gallop from one part of the wood to another, to be anywhere I am not. While fretting about the deer I always start when hares bolt from their forms or, in winter, woodcocks explode from under my feet. As Keggie Carew (2023: 8) remarks, "Wild things flee from us".

One day, walking purposefully rather than observantly along a track edging the wood, I suddenly experienced a commotion and a flash of white. I glanced up, and there was my doe looking at me reproachfully, alert, ready to dash off at the slightest intimation of further encroachment. In that moment I realized the woodland did not belong to me at all, but to her and all the other wildlife. I might say we had joint ownership, as Toni and I lived there too, but while we can share the same 52 acre wood, we could not share the same space. And so, I gave a little bow, walked backwards some way, slowly turned around, then retraced my steps. A fortnight hence I ventured off the same path curious at the sudden appearance of a blanket of pale something lying beneath nearby briars and bracken. My white doe lay in almost exactly the same spot she had stood when reproaching me two weeks earlier. Initially I let her be, save for collecting some of her silvery hair before it became scattered and dispersed beyond recall. That October I interred all that remained beneath a little Yew in a sunny spot near where I found her.

In memoriam: invoking the spirit of Jean-Jacques Rousseau

The natural man lives for himself; he is the unit, the whole, dependent only on himself and on his like. The citizen is but the numerator of a fraction, whose value depends on its denominator; his value depends upon the whole, that is, on the community. (Rousseau, 1762: Bk 1)

When I studied Rousseau as an undergraduate I didn't know that in 1754, in the Preface to his *Discourse on the Origin and the Foundations of Inequality Among*

Men, he had written that

> *if I am obliged not to do any harm to my fellow man, that is not so much because he is a reasonable being but because he is a sentient creature, a quality which, being common to animals and man, should at least confer on one the right not be mistreated for no purpose by the other.*

This was written more than 30 years before Bentham's famous dictum about nonhuman animals: "the question is not, Can they *reason*? nor, Can they *talk*? but, Can they *suffer*?" (Bentham, 1789: ch. 17, §4n). In Part One of that same *Discourse*, Rousseau also wrote that "Every animal has ideas, because it has senses; it even combines its ideas up to a certain point, and man is no different from animals in this respect except in degree" – well over a century before Charles Darwin's *The Descent of Man* evidenced that "the difference [...] between man and the higher animals [...] is certainly one of degree and not of kind" (Darwin, 1871: 105).

Instead, the Rousseau I was taught wrote *The Social Contract* (1762), in which all community members make decisions that they are then enjoined to comply with, so that the law becomes a universalized expression of the citizens' will. This is what Rousseau meant by the *general will*, "the Will to treat the good of others as equally important with our own good" (Plamenatz, 1963: 408). I see this as an articulation of the famous Golden Rule – in Mary Midgley's formulation, "treat others as you would wish them to treat you" (Midgley,1983: 91; see also Narlikar, 2023). Rousseau strove to create a mechanism in which society enshrined this outcome in our relations with one another.

Also unbeknown to me, Rousseau encouraged children to engage with nature in *Émile, Or On Education* (1762), and in his final (posthumously published) work *Reveries of the Solitary Walker* (1782) he emphasized how the "great pageant of creation" enabled him to see God in all his Works, and the "unity of all things". "I feel", Rousseau wrote in that last work, "transports of joy and inexpressible raptures in becoming fused [...] with the great system of beings and identifying myself with the whole of nature" (quoted by French, 2005: 1429).

Rousseau explained how such 'joy and rapture' can change us. As PD Jimack writes in his Introduction to the Everyman edition of Émile, "[t]he young *Émile* will spend most of his time out of doors, running about thinly clad and barefoot, leading to the vigorous, natural and free life of a young animal" allowing the boy to be truly himself (in Rousseau, 1974: xv). However, his 'second birth' at the onset of puberty is when he must learn to see and feel for the other (Ytre Arne, 2023: 4). Ytre Arne (2023) explains how Rousseau's study of plants in *Reveries* emphasized *learning to see well*, by which he meant observing the other with loving disinterest to understand its individual particularities. Such 'seeing well' was, Rousseau argued, crucial to encourage moral behaviour between human beings (French, 2005). If Rousseau were writing now, with his astonishing prescience concerning contemporary thinking about animals, he would surely have extended his gaze beyond botany.

The discipline of ethology could almost be defined as learning to see animals well. Jane Goodall saw for the first time that animals deploy tools; Marc Bekoff realized animals lead rich emotional lives (Goodall, 1971; Bekoff, 2007). Carl Safina, in *Becoming Wild*, "in one deep, clear look into things that are difficult to see" explains that animals share cultures (Safina, 2020: xiii). How should learning about animal particularities alter our behaviour? I shall call what I am developing here *Covenant with the Wild*, which would have upheld the Golden Rule for my white doe, and aims to do so for her wild kin going forward.

Covenant with the wild

This Covenant – an ethical accord or framework – has two interlocking principles. The first is the need to incorporate animals within a social contract process, such as that articulated in *Wild Democracy* (2023) by Helen Kopnina and her co-authors, to adopt conduct ensuring "the well-being of every other being in the community" (Berry, 1999: 61), and conversely, to discourage behaviour that would transgress or otherwise hamper the ability of animals to flourish. In adhering to this Covenant the aims of society would change to achieve Golden Rule outcomes for *all* citizens, not just human ones. Our growing population reinforces the exigency for such a Covenant in which we explore sharing landscapes – in marked contrast to the R2R campaign advancing a ubiquitous human presence.

The second principle is the moral obligation to commit ourselves to cultivating the *art of ethological citizenship*. I suggest that the reason some of us may feel 'nature deprived' has less to do with our capacity to access nature, and more because we don't know how to look upon nature. Unwittingly I began my ethological citizenship apprenticeship when I started to see animal behaviour for the first time from our 'pen' – especially that of my white doe. And in observing, coming to know her particularities, I came to love, eschewing all ingression of her home.

Agreeing, or as I prefer, pledging ourselves to the Covenant with the Wild is simultaneously to embrace a wild covenant, promising never-ending discoveries of the nonhuman world and of ourselves, changing and helping us transition towards behaving morally with regard to animals from the current position in which we emphatically do not.

Instead of making the case to improve our conduct in relation to nonhuman beings, the R2R campaign argues that if access to nature is widened, then this will improve our relationship with nature, which will in turn assist nature's recovery. However, the ecological emergency in Britain and elsewhere is unrelated to the public's access to nature and instead can mostly be laid at the door of industrial animal agriculture (*e.g.* Rigal *et al.*, 2023).

The real focus of the R2R campaign, I believe, concerns intraspecies justice. Supporters of the campaign return again and again to the issues of concentrated landownership – ignoring small-scale landowners such as ourselves – conflating what they perceive as social equity with restoring nature. I acknowledge the legitimate (in some respects) resentment towards traditional elites inheriting vast tracts of land, particularly when this privilege

far from championing social or environmental enrichment either just benefits families to the manor born, or extends the persecution of nonhuman life through various expressions of hunting. However, such a portrayal, whatever its merits on its own terms, cannot invalidate scientifically-based studies demonstrating that greater human intrusion into wild habitats causes harm to their nonhuman denizens. Evidence overwhelmingly points to recreation forming an additional pressure on already beleaguered free-roaming animals. A right to roam would thus represent a further *interspecies* injustice, the spectre of which has inspired this vision for a covenant with other beings, to bring them within the protective community of equal moral concern.

With this ring, I thee wed

In the year 2000 I married my partner Toni. At our ceremony in Norfolk, the clergyman officiating suggested a reading from Kahlil Gibran's *The Prophet* (1923: 20):

> *And stand together yet not too near together:*
> *For the pillars of the temple stand apart,*
> *And the oak tree and the cypress grow not in each other's shadow.*

At the time I was unsure of this reading, but can now attest its wisdom. At our wedding we also signed a covenant of sorts and exchanged rings. Ours were made of gold, but the first wedding rings were crafted from natural materials such as hemp or reeds. Marriage is not for everyone; some end in heartbreak. It seems to me that people do not need to be solely wed to human partners, nor do we necessarily require human partners at all. But, we all do need to be wed to something.

There is a glade in our woodland where a mature Hornbeam leans at an alarming angle. Sometimes I kneel, gazing up at vaulted limbs, her beauty filling me with inconsolable loss conflicting with resolve – 'how could I ever contemplate leaving you?' Then, I remind myself that I am not wed to an individual tree or place, but to the more-than-human wild for whom I cared enough to buy a woodland and for whom I now live to uphold the Golden Rule. I cannot help but wonder: who would join me here, to seal this Covenant with a ring, braided from different strands of willow symbolizing our love and belief in justice for life's creative relationships? *With this ring, I thee pledge …*

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