

## Political Standing for Animals

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### Introduction

If a Martian's only knowledge of earth came from political theory, she might come to the conclusion that human beings are the only animals that live on this planet, or at least the only animals of any importance. Despite the important and groundbreaking work in the area of animal ethics over the last 40 years - work that has had significant influence on the larger field of ethics - other animals remain largely invisible in political philosophy and political theory.

Hopefully *Zoopolis* will help to change this. In this work, Donaldson and Kymlicka attempt to improve both the current state of political theory with respect to other animals, and the dominant rights based approach present in animal ethics. They make a compelling case that we need to move beyond traditional animal rights theory to better understand our positive obligations to different animals. Their relational account of our different obligations to different animals (domesticated, liminal, and wild) is an interesting and persuasive attempt at this. But what is perhaps most interesting, and important, about *Zoopolis*, is their claim that we must appeal to explicitly *political* categories to understand what just relations would look like with these animals. According to Donaldson and Kymlicka, domesticated animals can and should be seen as our fellow citizens, wild animals should be seen as living in their own sovereign communities, and liminal animals should be accorded the rights of denizenship.

The foundation of Donaldson and Kymlicka's appeal to these political categories is the claim that other animals have inviolable rights. Still, many are reluctant to recognize non-human animals as having these rights and find the idea too radical. Donaldson and Kymlicka suggest, however, that recognizing animals as having inviolable rights is not necessary for thinking we have good reasons to extend these political categories to other animals.

Here I take up this project and consider what follows for how might think of animals relating to our political communities from much more modest moral beliefs about our obligations to other animals. My aim is to show that even if we reject the claim that animals have inviolable rights, these much more basic moral beliefs about other animals requires us to bring their interests into our political theorizing. I'll argue that other animals should be seen as having what I'll call political standing and that we can ground many of the same practical obligations outlined by Donaldson and Kymlicka, without an appeal to inviolable rights.

My argument will draw on two central claims about our moral obligations to other animals:

- We have an obligation not to harm animals without justification. And we are not justified in harming animals for trivial reasons or when there are alternatives consistent with a flourishing human life.
- For animals in our care, we have obligation to meet their needs and promote their well-being.

On the basis of these claims, we can ground many different and significant obligations to different groups of animals. But we cannot stop there. Recognizing these obligations requires

us to recognize the legal and political mechanisms needed to uphold and enforce these obligations. In short, it requires us to recognize that other animals have political standing.

The account I present here is exploratory and all too brief. With this, I do think it has some inherent shortcomings. It cannot ground an appeal to all of the same political categories put forward by Donaldson and Kymlicka and, because of this, I think the expanded, inviolable rights approach offered by DK is a more adequate foundation for how we should think about our political relations to other animals. Nevertheless, the account of our obligations to other animals I sketch here is able to recognize many of our moral obligations to other animals, and the need to grant other animals political standing. The goal of this essay is to show that on much more minimal moral commitments, radical rethinking of how other animals relate to our political communities is urgently needed.

It is worth saying a bit more about the argumentative strategy employed in this essay. The strategy I follow here is one that has been utilized by recent work in animal ethics. One notable feature of early work in animal ethics was that many authors argued for significant obligations to other animals on the basis of what some take to be rather strong moral beliefs or commitments. In *Animal Liberation*, Peter Singer argued that similar interests of other animals deserved *equal consideration* with the like interests of humans. And Tom Regan argued that all subjects-of-a-life had *equal rights* to different goods or protections. In response, some argued against these strong claims, on which many of the obligations Singer and Regan believe we have to other animals rested. I do not think these counterarguments have been compelling.

Nevertheless, an interesting and important development in animal ethics has been to show that rather extensive and radical changes in our relations to other animals can be grounded on much weaker claims about the moral status of other animals that nearly all of us already hold. For example, some have argued that each of us has an obligation to be vegetarian or vegan on the basis of beliefs all of us already share.<sup>1</sup> And Tzachi Zamir, in *Ethics and the Beast*, argues persuasively for the (near) abolition of the use of animals in agriculture, experimentation, and other exploitative industries from a moral position consistent with speciesism. Part of what has made these arguments so compelling, I believe, is their recognition that the vast majority of the ways in which humans currently exploit, harm, and kill other animals are done for trivial reasons for which it is hard to see how they could justify these harms.

In this essay, I attempt to employ this strategy, extending it to consider how we might view animals relating to our political communities. First, I argue that on the basis of two modest moral commitments, we should recognize a wide variety of moral obligations to different animals. Many philosophers have already made compelling arguments along these lines, and I briefly recap some of these arguments here.

The central claim I want to argue for, however, is that once we recognize these obligations, we must include other animals in our legal and political institutions. I argue that other animals have political standing, and that recognizing this is required to fulfill and uphold our duties to these animals. Thus, even if we don't think animals have inviolable rights, we have

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<sup>1</sup> See "The Immorality of Eating Meat" by Mylan Engel; "Moral Vegetarianism from a Very Broad Basis" by David DeGrazia; and "A Moral Argument for Veganism" by Dan Hooley and Nathan Nobis (forthcoming).

very good reasons to recognize them in our legal and political institutions. I conclude by considering a few objections to my argument.

### **Obligations to Different Animals**

Following Donaldson and Kymlicka, I think a fully adequate account of our obligations to different animals cannot be completed in the abstract (for *all* animals), but must consider our relations to different animals and some of the specific details concerning the nature of their lives and well-being.

The first part of my argument briefly sketches out many of the obligations we have to different animals that can be grounded in the two claims below:

- We have an obligation not to harm animals without justification. Not only should we not harm animals for trivial reasons, we are not justified in harming animals when there are alternatives consistent with a flourishing human life.
- For animals in our care, we have obligation to meet their needs and promote their well-being.

#### *Domesticated animals*

On the basis of these, rather meager moral claims, we can ground nearly all of the negative duties that Donaldson and Kymlicka account for on an inviolable rights position.

If we accept these claims, then we should end the use of animals in nearly all forms of animal agriculture. Animals are seriously harmed on both factory farms and smaller farming operations.<sup>2</sup> These harms occur during the course of their short lives - they undergo painful body mutilations without anesthetic, they are confined in ways that cause significant bodily injury and psychological distress, and they are deprived of basic goods (space to move, social relations with other animals) necessary for a flourishing life. With this, all sentient animals are harmed when they are killed - often their death is quite painful, and nearly all of the animals we kill for food are harmed by an untimely death, as they are usually killed at a very young age, and cut off from any possibility of valuable future experiences. This, of course, is a controversial claim, but one that I think has been adequately defended in the literature.<sup>3</sup>

These harms are not justified. The vast majority of human beings do not live in situations where they need meat to survive or be healthy, nor can the pleasure we get from the taste of animal flesh or animal byproducts be used to justify the harms we cause these animals. We would rightly reject any alleged justification that appealed to pleasure if its source were not food (if someone, for example, harmed animals because he liked to paint with their blood), and we should reject them in this area as well. Other attempts to justify these harms also fail.

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<sup>2</sup> The one possible exception is the use of chickens for eggs, in rather limited circumstances where all their needs are met and they are not harmed. See Donaldson and Kymlicka (2011) and Hooley and Nobis (forthcoming) for discussion of when using chickens for eggs might be morally permissible.

<sup>3</sup> Some argue that a painless death does not harm some animals because death can only harm those beings with a strong sense of their self existing in the future. This position goes against common sense and rather strong intuitions. We have good reasons to believe that death harms young babies and infants, as well as individuals with severe cognitive disabilities and severe dementia. So we should reject this account of the harm of death.

Similar arguments can be made, on the basis of these claims, for the abolition of the use of animals in entertainment, clothing, and in many types of harmful testing done on animals for cosmetics and other consumer products. In all of these areas, the harms animals undergo are some of the most serious an individual can be made to experience, while the benefits humans derive are trivial and not at all necessary for a flourishing life.

The use of animals in experiments for medical research is a bit more complicated. However, here, too, the moral claims noted above call for the end of the use of animals in this area (at least in experiments that kill and harm animals). One of the most common attempts at a justification for the harms animals are made to experience is that these harms are justified, in some way, by the moral superiority of human beings. But as T. Zamir has pointed out, whether or not one grants that human beings are 'more valuable' or morally superior is disconnected from any legitimate justification of suffering and harm.<sup>4</sup> Even if all human beings are 'more valuable' than other animals, this does not give us a right to harm other, less valuable beings. Harmful experiments on other animals is not a form of self-defense, and our use of animals in these areas cannot be properly compared to a burning building/sinking boat scenarios, where we might be justified in choosing to save those beings that are more valuable. As a result, even without an appeal to inviolable rights, we are not justified in harming other animals to gain knowledge, even if some of this knowledge might lead to potential life-saving drugs or treatments for human beings.<sup>5</sup>

In addition to the obligations not to harm domesticated animals in the ways noted above, we also have obligations to provide for the conditions of a flourishing life for the domesticated animals in our care. This is something nearly all of us already recognize for the companion animals we live with. But these obligations of care should be extended to all domesticated animals and can ground obligations to provide domesticated animals in our care with things like adequate health care and social companions.

### *Wild animals*

When it comes to wild animals, we have an obligation not to hunt them, fish them, or otherwise harm these beings. Like domesticated animals raised for food, we can live flourishing lives without harming animals in these ways. Nor does the pleasure human beings get from harming animals in these ways justify acting violently towards them or killing them. These practices ought to end.

Importantly, however, our obligations not to harm wild animals extend beyond the direct ways humans so often hurt these beings. As Donaldson and Kymlicka point out, human beings harm many wild animals indirectly, by failing to consider these beings and their interests

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<sup>4</sup> Zamir (2007), 61.

<sup>5</sup> Further support for the claim that the use of animals in harmful experiments is not justified can be found by considering how the ways humans often attempt to justify this behavior could be utilized by very advanced aliens wishing to experiment on human beings. We can imagine a species of aliens with capacities that far exceed our own. Because of these capacities, these aliens might claim they are justified in using human beings as test subjects. We would rightly reject this sort of argument. But if we think that the fact that human beings are 'more valuable' than other animals because of specific capacities we have, and as a result we can justifiably experiment on them, then, we must admit that advanced aliens would be justified in experimenting on us, using the same moral reasoning.

when designing and building our cities, roads, and travel routes, and through the many ways we pollute their habitats and our world. Humans can take the lives and interests of other animals into account when designing cities, buildings, and travel ways. Doing this would not compromise our ability to lead flourishing lives. Many of the changes needed to spare animals from indirect harms simply require taking the interests and lives of other animals into account, and can be done with minimal effort (such as altering the design of glass windows on skyscrapers to prevent birds from crashing into them). As a result, I believe we can ground obligations to undertake efforts to mitigate these, and other ways, we so often indirectly harm wild animals. These indirect harms also are not justified.

### *Liminal animals*

Similar obligations can be established for liminal animals - animals that live near or around human settlements but not under the direct care of human beings. All too often, these beings are harmed and killed with little justification or with little pursuit of alternative courses of action: coyotes are shot and killed because they are *perceived* to pose a threat to human beings; mice, rats, raccoons, and other animals are deemed pests and killed for convenience; and other animals, like pigeons, are exterminated on a regular basis.

In these and other cases, the harms we inflict on these animals are not justified. We can find ways to live peacefully with liminal animals, and peaceful alternatives to extermination and forced removal are consistent with human beings living flourishing lives. The convenience, or perceived convenience, that extermination provides does not justify needlessly killing other animals.

On the basis of the two moral claims I've staked out, we must also recognize that liminal animals are not aliens, but belong where they live. They have no other home: transporting these animals to other areas would harm them. In light of this, not only do we have obligations not to directly harm these beings, but we also can and should rethink and rebuild our cities in a way that minimizes the indirect harms inflicted upon liminal animals.

### **Animals and Political Standing**

Thus far I have briefly sketched out some of the most important obligations we have to different animals that can be reached on the basis of the two modest moral claims I outlined earlier. This sketch is all too brief, and a full defense of these claims requires responding to several important objections. Still, I believe that these arguments can be sufficiently filled out. Even without an appeal to inviolable rights for animals, we can reach many of the same practical obligations to different animals that Donaldson and Kymlicka outline in *Zoopolis*.

But the obligations I have sketched have implications that extend beyond this. Recognizing these obligations leaves open the question of what implications they have for how we think about how other animals relate to our political communities. What I want to argue here is that these obligations show that animals deserve what I will call political standing.

Before explaining the concept of political standing, it is helpful to mention moral standing. Moral standing, or moral status, is a concept frequently employed in ethics. As I understand it, moral standing is a shorthand, of sorts, meant to cover those beings that matter morally. More formally, a creature has moral standing if it deserves some level of moral consideration and if moral agents have some direct duties to that creature.

I want to suggest that we can use a similar concept for thinking about the individuals whose interests ought to matter to our political communities. A creature has political standing if its interests deserve some level of legal protection and political representation. At the very least, an individual that has political standing is owed some level of legal protection of that being's interests, has legal standing to enforce and uphold these protections, and is granted some form of political representation for their interests.

### **Grounding Political Standing**

Whether or not we think animals have inviolable rights, we can justify the claim that they deserve political standing by appealing to the moral claims I outlined earlier, claims that many of us already accept and which generate substantial obligations to these animals.

Other animals should be seen as having political standing because to fulfill and uphold our obligations to these animals requires recognizing this status. If we conceived of these obligations as only concerning individuals - perhaps as a private system of obligations - then we would be setting ourselves up only to perpetually allow the current harms and exploitation of other animals.

### *Legal rights and legal standing*

One element of political standing, involves legal rights and legal standing. These elements flow rather naturally from the obligations we have to other animals that I previously outlined. If we do have these obligations to other animals, then the only way we can actually fulfill and uphold these obligations is to grant other animals legal rights that protect them from being killed, made to suffer, and harmed in the ways we noted previously. Obviously, many individuals violate the obligations we have to other animals on a regular basis. As a result, to uphold these obligations requires putting them into law, and protecting animals from these violations with various methods of enforcement.

The case for legal standing rests on practical grounds. Without legal standing, the legal rights of other animals will not be enforced and protected as well as they should be.<sup>6</sup> An individual or entity has legal standing when it has the right or ability to sue. Traditionally this has been denied to animals, who under most legal regimes are treated as property or things.

Legal standing for animals would obviously look different than the legal standing of many human beings: animals cannot bring cases on their own behalf. Nevertheless, others could be legally allowed to make legal cases on behalf of animals.<sup>7</sup> On such a system legal action would be undertaken on an animals behalf, in determining whether or not legal relief should be granted, the court would take injury to the animal into account, and the relief would run to the benefit of the animal.<sup>8</sup>

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<sup>6</sup> For an interesting article on the issue of legal standing for other animals, with a more practical focus on how this might be advanced in the United States, see "Standing for Animals" by Cass Sunstein.

<sup>7</sup> One question is which humans should be allowed to bring cases on behalf of other animals. This might be limited to public officials, the guardians of specific animals, and animal advocacy/protection groups. However, assuming a robust system of legal rights were in place protecting animals from being killed, made to suffer, etc., we might think it would be fine for anyone to be able to make the case on behalf of any injured animal.

<sup>8</sup> See Chris Stone, "Should Trees Have Legal Standing," p.10.

Granting animals legal standing - that is, giving others the ability to bring suits *on their behalf* - would serve several purposes. First, it would serve as an important mechanism for enforcing and protecting the legal rights of animals. In addition to this, it would provide redress for animals, for specific harms and injuries they may have suffered. Finally, by allowing other animals to have suits brought on their behalf, this would provide greater public awareness of the ways animals are often harmed and exploited by human beings.

### *Political representation*

The need for political representation for animals rests on similar grounds as that of legal standing. As we have already seen, different animals are harmed by human beings in a wide variety of ways. With this, human beings are often indifferent to the ways we harm other animals, unaware of these harms, or choose to ignore or belittle them. Given these facts, providing animals with different forms of political representation would serve the important function of protecting the interests and legal rights of animals in legislatures and other public bodies that might otherwise ignore them.

Expecting normal citizens, not focused on the specific task of protecting animals from harm, to effectively promote and protect the legal rights of animals, particularly in new and unforeseen circumstances, asks too much. Not only is there a potential conflict of interest in how everyday citizens might vote, but there is also a knowledge deficit. Many citizens just don't know enough about particular animals and about particular issues to effectively represent their interests and protect them from unjustified harms.

At this point it is hard to say just what forms the political representation of other animals ought to take. Political representation of different animals can, and probably should, take on many different forms at different levels of government, and in different government decision-making bodies.<sup>9</sup>

### *Evaluating my approach*

I've argued that even on the modest moral claims I laid out earlier, and the obligations that follow from them, the interests of other animals (most importantly, in being protected from unjustified harms) should not be ignored when thinking about our political communities. Other animals should be seen as having political standing.

I think this approach to other animals has several things going for it. First, it recognizes the need for legal rights and legal standing, as well as political representation, for all animals, whether they are part of our communities (as in the case of domesticated animals) or not. This is an important insight: whether or not specific animals are a part of the communities we live in (like our companion animals are) they deserve legal rights, legal standing, and political representation.

Further, the approach I have taken shows just how badly institutional reform to our legal and political systems is needed and that nearly all of us are already committed to this, on the basis of beliefs we already hold. Even if one thinks that a citizenship approach is too radical or goes too far, even if one denies that domesticated animals are equal members of human-animal societies, and even if one doubts other animals have inviolable rights, we still have very

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<sup>9</sup> See Donaldson and Kymlicka (2011), p. 153-154, for some ideas.

good reasons to think that other animals have political standing and are, in this sense, members of our shared political communities. Like us, they deserve legal rights that protect them from harm, and the legal standing to protect their interests. And like us, they deserve political representation as a means to protect their interests.

The approach I have offered here for conceptualizing how other animals might relate to our legal and political institutions is not without its shortcomings. While I have argued that this approach can ground many of the same practical obligations and legal rights that Donaldson and Kymlicka's approach can account for, I do not think my approach can recognize all of them. On the basis of the two moral claims I have put forward, I do not think we can account for the full incorporation of domesticated animals in our communities that a citizenship approach, based on moral equality and inviolable rights, would recognize. Thus, some of the practical implications - concerning rights to mobility, the shared use of public space, and broader issues concerning how we conceive of the public good - will not be recognized on the approach I have offered here. With this, while I think we can recognize most of the same obligations with respect to wild and liminal animals, my approach may not be able to ground an obligation to engage in (limited) interventions to aid wild animals.

Since I think we have good reasons to recognize other animals as bearers of inviolable rights (or something close to this), I think these are genuine shortcomings. Nevertheless, it is still important to recognize just how much the approach sketched here can approximate many of the same obligations and also account for a radical rethinking of how other animals relate to our political communities.

## **Objections**

### *1. Rights without Rights Language?*

One objection to my argument is that while I have avoided using rights language, the position I have advocated for other animals, ultimately, relies on them having rights. I have argued that the vast majority of ways human beings use other animals cause serious harms and are not justified. Further, I argued that this is the case even in some cases when human beings might benefit greatly from using animals in these ways, such as some types of experiments for medical knowledge. If this is true, you might think that this essentially amounts to other animals having rights that cannot be overridden to promote the best consequences. And this might be seen as a problem, since from the outset I said I would attempt to present an argument that did not rely on the claim that other animals have inviolable rights.

Whether or not this is the case, however, I don't think it is a problem. This is because the argument I made only *appealed* to less controversial moral beliefs that many of us already share, and all of us ought to hold. If it is the case that on the basis of *these beliefs* the rights of other animals can be secured, this only shows that many of us are already committed to an animal rights position. The key point, however, is that my argument has made no appeal to rights, but only to much more modest moral claims about our obligations to other animals.

### *2. Is political representation necessary?*

Another objection to my argument contends that once political standing for other animals is politically possible, it will no longer be practically necessary. Since granting other animals legal rights, legal standing, and various forms of political representation will (most likely) require



voters in democratic countries to vote in favor of these measures, you might think that some of these measures, such as political representation, will no longer be needed once it is politically possible. If citizens care enough about other animals to grant them political representation, perhaps this representation will no longer be needed.

I think this response to my argument is naive about how change for animals is likely to occur and about the constant threats to other animals that human relations with other animals will always have. Even if many of the reforms I've outlined here require democratic majorities to pass, it is very likely that many individuals will still want to use animals in ways that cause serious and unjustified harms. So both to protect animals from these individuals, and to protect them from future harms that result from human ignorance, requires recognizing the political standing of other animals.

### *3. Personal Motivation and Political Effectiveness*

My argument has not attempted to challenge speciesism. Rather, I have attempted to make my arguments here in a way that is consistent with the belief that human beings are more valuable than other animals simply because of their membership in the human species.

Some are afraid, however, that a failure to challenge speciesism might doom this sort of approach from the start. Donaldson and Kymlicka raise this concern about welfarist approaches to animals, and argue that these approaches are ineffective when confronted with cases where *any* human interest might be served by the exploitation of other animals. They write, "As long as the basic premise of moral hierarchy goes unchallenged, reasonable people will disagree about what constitutes an 'acceptable level' of animal exploitation, and our widespread but vague impulse to limit 'unnecessary' animal cruelty will continue to be overwhelmed by the self-interested and consumerist pressures heading in the opposite direction" (Donaldson and Kymlicka, 4).

The arguments I have presented here challenge this claim: I do not think reasonable people can, in fact, disagree about acceptable ways of harming other animals to serve human ends. Even if we think human beings deserve greater moral consideration because of the species they belong to, this fact cannot justify the harms we inflict on other animals. This realization has been one of the important insights in recent work in animal ethics.

Dismantling speciesism is likely important to recognizing a more adequate account of all of our obligations, and just relations, to and with other animals; on that point I agree with Donaldson and Kymlicka. But it is not necessary to show that the vast majority of ways human beings harm other animals are not justified, or that other animals must be included in how we think of our political communities.

Nevertheless, I do think there are legitimate worries that individuals who accept a speciesist moral hierarchy may revert back to, or be more inclined to accept, unjustified moral beliefs about when harming other animals is permissible. This is an important empirical question about human psychology that animal activists and advocates must consider. Further, we might worry that the most politically effective way to advance the interests of other animals employs the language of rights or inviolable rights. This is a difficult empirical question, but one that is well worth considering.

## **Conclusion**

In any case, my primary aim in this paper is much more modest. Some readers of *Zoopolis* might be tempted to think that if they reject inviolable rights for other animals, they are off the hook, and don't need to rethink how other animals relate to our political communities. I have attempted to show that this is mistaken. If we accept the two modest claims about our obligations to other animals - claims that I think most of us already hold in the abstract, but apply inconsistently and in a biased way - then radical rethinking of the relation of other animals to our legal and political institutions is needed. Animals should be recognized as having political standing, and our legal and political institutions must be reformed in light of this fact. Thus, whether we think animals have inviolable rights or not, all of us must begin to rethink the place of animals in the polis.

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