

**Animals without Rights: A Critical Analysis of Recent Approaches in
Animal Ethics**

by

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Abstract

Non-human animals suffer greatly and are exploited in numerous ways by humans. This is a grave injustice that points to an urgent need for an adequate framework from which to protect animals from mistreatment by humans. Although classical theories in the animal rights literature have existed for some time now, in recent years few theorists have engaged in the effort to find more persuasive theories under which the mistreatment of animals by humans should be considered. Two influential attempts to develop such a theory were undertaken by Martha Nussbaum in her article and book chapter "Beyond Compassion and Humanity: Justice for Nonhuman Animals" (2004, 2006), and by Robert Garner in his books *Animal Ethics* (2005) and *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013). In this paper, I argue that both these approaches have fundamental flaws that prevent them from being adequate theoretical frameworks under which to protect animals. Through careful examination of the theories, I show why they can't fulfill what they claim to, and should be rejected.

The only real way to protect animals, I argue, is to assign them universal rights under the theoretical concept of justice. Taking animal rights seriously means that they have these rights by virtue of their selfhood and sentience. An application of this view means an extension of the rights view, widely acknowledged since the human rights revolution, to animals. Such an extension would mean that virtually all human exploitive treatment of animals ought to be abolished. It calls for a new paradigm shift in human-animal relationships. It is now the appropriate historical and political moment for such an extension.

Preface

This thesis is an original intellectual product of the author, Boaz Sharoni.

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Dedication

This work is dedicated to all nonhuman animals who are oppressed by man, and to everyone fighting for their right to be heard, respected, and treated justly in the world.

And for Kito, who reminds me daily about the great value of all lives.

1. Introduction

Different approaches to animal ethics are presented in the literature. They were developed in order to rethink human-nonhuman animal¹ relationships and in particular to protect animals from human exploitation and to establish certain animal rights and their moral status. The first comprehensive theories to protect animal rights were developed by pro-animal rights philosophers such as Peter Singer, who published his first well-known utilitarian theory in *Animal Liberation* (1975), and Tom Regan's famous deontological theory in *The Case for Animals Rights* (1983). Much has been written in response to these first major attempts and they are still used as focal points for much of the deliberation in the field. However, many also find these theories unsatisfactory for different and often opposing reasons.

In recent years, a few theorists have engaged in the effort to find a new, clearer, and more persuasive theory based on which the treatment of animals by humans might be discussed. One influential attempt was made by Martha Nussbaum in an article entitled "Beyond Compassion and Humanity: Justice for Nonhuman Animals" (2004) and in her book, *Frontiers of Justice: Disability, Nationality, Species Membership* (2006). Another effort has been made by Robert Garner in *Animal Ethics* (2005) and in more comprehensive manner in his recent work, *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013). Both Garner and Nussbaum seek to answer several key questions: what obligations do we have toward animals? What should be the guiding political principles regulating our human-animal relationships as distinct from our current exploitative interactions with animals? In addition, they both wish to extend the concept of justice to animals. They argue that their theories serve as the best theoretical frameworks through which animals can be protected – under the framework of justice – from mistreatment by humans, and both have made important contributions to the ongoing discussions in the field of animal rights. However, in this paper I argue that both of their approaches have fundamental flaws that prevent them from being the best theoretical frameworks under which to protect animals. Through careful examination, I wish to reveal their weaknesses and present challenges to some of their basic assumptions. I

¹The term "non-human animals" is used to highlight the fact that human beings are also animals. Hereafter, for convenience, I will often use the term "animals" to refer to non-human animals.

hope to show why they can't fulfill their aims, and that they do not provide the best, or even adequate, theories for the protection of animals.

One of Garner's main premises, on which he bases his theory, is that humans have a superior moral status compared to animals. Garner objects, in short, to seeing non-human animals as moral equals of humans on two main grounds. The first is his claim that humans' interest in life and freedom is always greater than that of other animals. The second is the lack of political feasibility, according to him, of what has come to be called the 'abolitionist', or the species egalitarian view. In response, I will argue that his assertion of human greater interest in life and freedom is not well supported; even if it was, it would not follow that humans have greater moral value than animals. I will show that the decision that humans have greater moral value than other animals is a rather arbitrary, speciesist decision.² I will also challenge Garner's development of his non-ideal and ideal theories, revealing the weakness of adopting a theory that only focuses on minimizing suffering for the short term, while not granting rights to animals except the right not to suffer even in the long term.

Nussbaum's approach is an attempt to extend her well known "capabilities approach" – originally developed to frame relationships among human beings – to grant basic justice to animals as well. In short, Nussbaum recognizes the need for justice for animals, and her theory is, on first glance, very sympathetic to animal capabilities and their protection. However, her theory has major shortcomings that stand in stark opposition to her seemingly sympathetic approach. First, she argues for a tragic and inalienable conflict between humans and other animals that in fact does not exist. Second, and more problematic, when it comes to the elimination of current practices that exploit animals, practices that do not respect the most basic animal capabilities, Nussbaum sacrifices even the most basic animal interests (that of *life* and *bodily integrity*, for example) to those of arguably trivial human interests without further argument. Nussbaum's conclusions based on her approach, I will argue, are completely

²It is worthwhile noting in this context that many people today do think that animals have *some* moral worth – an idea that is reflected in the long tradition, at least from Kant's time, of prevention of cruelty to animals and other welfare laws that are part of virtually all states' legal systems. This limited moral worth, however, is of very limited usefulness for them, except for sometimes eliminating the cruelest ways we treat animals. It does not secure the most important things to them – their life and freedom.

inconsistent with some of its basic arguments. Highlighting its major shortcomings, I will reject this theory, too, and show why it is flawed and inadequate to protect even the most basic animals' entitlements, or capabilities, as Nussbaum had hoped.

If these theories are inadequate for fulfilling the task of protecting animals from human exploitation, the questions of what obligations we have toward animals, and what are the guiding political principles needed to sustain these obligations remain open. As I will shortly discuss, I share with both Nussbaum and Garner the view that humans current treatment of animals call for our immediate attention to questions of justice and that we should extend the concept to answer these questions. With that, and unlike Nussbaum and Garner, I join scholars in the animal rights debate who think that animals – like humans – should be granted basic universal rights by virtue of their selfhood and sentience.³

It is important to note that my argument does not apply to *all* animals indiscriminately, but rather to sentient, conscious animals. The concepts of conscious and sentience, I contend, can guide us in answering the question of which animals should be granted those rights. Sentience has long been used by animal rights theorists to serve as a basic threshold to enter the community of beings who deserve our protection. In the relevant context, sentience is

³Claims of universality immediately raise the question of cultural pluralism. Would it matter, for example, if killing is done by indigenous people, who may be dependent upon animals for food or clothing? On the one hand, what is the point of adopting animal rights principles if not to stop these traditions? On the other hand, a more sensitive view would recognize that it would be wrong for most people to eat animals since other options are available to them, but it would also be wrong to insist that traditional indigenous peoples be forced to give up their traditional meat eating practices since they are dependent on them for surviving. The case of indigenous people is especially interesting and there is a debate within indigenous societies about the justification and the necessity of some of their practices. In any case, the killing of animals by indigenous peoples amounts to a very small part of animal slaughtering and some indigenous leaders strongly criticize the way the fur industry, for example, uses them to justify the mass scale industrial exploitation of animals. For a discussion of animal rights and indigenous people in the Canadian context, see Sorenson 2010, 25-28. In any case, the universality I suggest here is, borrowing Igantieff's idea, a "self-consciously minimalist" (Igantieff 2000, 321-322). People from different cultures may continue to hold different views about animals, but nevertheless agree about what is unarguably wrong in our treatment of them.

more than the capacity to respond to stimuli. DeGrazia explains that sentience is the capacity of having at least some feelings. Feelings include conscious sensation such as pain – where pain refers to something felt and not merely the nervous system's detection of stimuli – and emotional states such as fear (DeGrazia 2002, 18; 1996, 99). Sentient animals include at least all vertebrates – they are all conscious, can suffer, feel pleasure, pain, and anxiety; and they all have desires and basic interests (Singer 1975, 185-88). Sentient beings have a subjective experience of the world – they are beings who are selves. This is different from merely being alive in that there is an 'I' who experiences the world, an 'I' who can experience pleasure or pain and whose life can get better or worse. Sentient beings are continually interested in staying alive. As Francione puts it, the presence of sensation is not an end in itself, but a means to the goal of staying alive (Francione 2004, 127). They are, moreover, vulnerable selves who can greatly benefit from the protection of rights. In short, beings who are sentient selves – 'someone's home', as Kymlicka and Donaldson phrase it – are beings that have a subjective experience of the world, and thus deserve the protection of rights. I contend that these criteria – sentience and consciousness⁴ – are both the necessary and sufficient criteria for being entitled to the protection of rights (Kymlicka & Donaldson 2011, 24). The threshold of sentience is also accepted by Nussbaum, who agrees that political principles that aim to address issues of basic justice should be focused on beings who can feel pleasure and pain and thus benefit from their protection (Nussbaum 2006, 361-362).

Defenders of the sentience view sometimes have hard time when challenged with arguments of dissimilarity between species – dissimilarities that are sometimes so great between humans and certain species that make it unlikely that such creatures, even if clearly alive, are sentient (a worm is often used as an example). This may sometimes lead to a grey area because no one can say how much dissimilarity is enough to make the judgment that sentience is absent (Allen & Trestman 2014). This is a valid point. However, and perhaps most importantly for my purposes here, is the fact all animals that are used by humans are sentient. This is true of all vertebrates – mammals, fish, birds and others who are sentient selves. As

⁴For extended discussion on the concept of consciousness in animal ethics, see DeGrazia 1996, 101-105, and Fellenz 2007, 41-45.

Francione (2000, 6) argues, even if we don't know enough about whether or not many other animals should be regarded as sentient, we know that many of them are sentient, and that the ones we regularly exploit most certainly have this quality.⁵

The extension of justice to animals means an extension of the rights view, widely acknowledged in many parts of the world since the human rights revolution, to animals. Such an extension would mean that virtually all human exploitive treatments of animals, a notion that I will explain in the next section, ought to be abolished. A full application of granting rights to animals would mean that not only must we change our current exploitive treatment of animals, but we must also think seriously about the numerous other, more passive ways, that our acts interfere with other animals. We must think, for example, about how human expansion into more and more land and natural habitats, how the design of our cities, population growth, and so forth, force animals to migrate and cause the destruction of other species. This is an extremely complex issue that I will not be able to deal with in the present paper considering space limitations. It is, moreover, beyond my current understanding to fully address it, or even evaluate all the possible consequences. The best I could hope to do is to offer some very general principles to guide our thinking about it.

Where does this all lead us? A new paradigm shift has to take place in human-animal relationships. This is far from being a utopia, as some argue. As Johnson (2013, 498) mentions, "[H]uman exceptionalism is much less secure than it once was; it is now challenged in fields beyond animal and environmental ethics such as, for example, political theory". And indeed, political theory should have much to say about it, as the issue resides in the borderline of normative ethics and the political arena. In section two of this paper, I will clarify why human use of animals is exploitive, describe the current ways in which animals are exploited, and then suggest that the concept of justice is needed to make sure animal rights are respected. In section three, I will describe and analyze, and eventually reject, Nussbaum's capabilities

⁵Many animals will not be regarded as sentient at this point in time, and there is no definitive answer to the question of which animals are sentient and conscious. Many so called "low" forms of life do not fit this characteristic to date. But assessing this is an ongoing scientific process. If in the future we have solid ground to think that a creature has these necessary qualities of sentience and selfhood, we must extend the rights view to protect these species as well.

approach to animal rights. In section four, I will provide a critical analysis of Garner's theory, revealing both its strengths and weaknesses, and finally reject it as an adequate theory as well. Section five will evaluate Nussbaum and Garner theories on practical grounds. In conclusion, I will reflect again on Garner and Nussbaum theories and suggest that it is now the historical and political moment when we could extend the concept of justice to animals. It is beyond the scope of the present work to offer a comprehensive and exhaustive new theory of justice for animals. But I hope that through my critical analysis of these two influential theories this paper will shed some light on, or offer some theoretical focus to, deliberations in the field of animal rights. Thus it might, perhaps, provide some encouragement to those interested in granting justice to all animals, human and nonhumans alike.

2. Animals exploitation and the call for justice

Before turning to the question of why the concept of justice is best suited for our thinking about what obligations we have toward animals, it is important to specify why in the first place we need to think about such obligations. Why, in other words, do we need to theorize about what we owe animals, or whether our treatment of them is wrong? Simply put, this is due to the enormously consequential ways that humans exploit other animals and the many ways humans' acts destroy natural habitats, involving the massive destruction of various species of animals.

Animals have always been a part of human societies. Human domestication of animals began about 9000-10,000 years ago, but it was not until the 19th century and with greater intensity in the second half of the 20th century, that a major shift was introduced in human-animal relationships (Clutton-Brock 1999, 26; Hemmer 1990; Harari 2012). During the last 200 years, agriculture in general and the utilization of farm animals in particular have undergone major processes of industrialization and mechanization. Industrialization involves farmers' total control of all aspects of animals' lives: their environment, nutrition, movement, reproduction, breeding for select genetic traits, and eventually their death (Tsovel 2006, 240). Animals in these industries ceased to be considered as 'live animals' and became products and machines – manufactured on assembly lines where profit is the main factor determining their fate (Harari 2012). Major mechanical, technological and medical advances, combined with the invention of new practices, economic processes, and a fast growing demand for animal products, introduced factory farming, where humans harshly exploit animals and inflict great suffering on them for our benefit. This is happening in the systematic, violent, industrial systems of henhouses, cowsheds, pigpens, fishponds, laboratories, and the like.

The reason why our treatment of animals is exploitative is because it is wrong to take advantage of the vulnerability of animals and their relative weakness. As Honderich (2005, 283) notes "[T]o exploit someone or something is to make use of him, her, or it for your own ends by playing on some weakness or vulnerability in the object of your exploitation". This is a value free statement and it does not mean that exploitation is unjust or unethical per se. What makes the exploitation of animals unjust is the fact that we use the structurally unequal power

relations that exist between humans and animals, and even create them. Our treatment of animals cannot be regarded as legitimate, because we subordinate their very basic needs to our own, turning their vulnerability to human advantage.

In the food industries, dairy cows are artificially inseminated and hooked up to milking machines several times a day. Their calves are taken from them, usually within a day of being born, and when their milk production declines – usually around 4-6 years of age – the cows are sent to slaughterhouses. They normally suffer great environmental stress and contract numerous diseases. Male calves are often kept in small cages to eliminate mobility so their flesh will be tender when slaughtered at a few months of age for veal meat. Cattle grown for beef are burned for identification, their testicles are ripped from them, and their horns cut or burned off (Garry 2004, 207-240; Bekoff 1998, 168-169, 347-348; Stookey and Watts 2004, 183-205). Before being slaughtered, they are often shipped around the world in crowded and filthy conditions for thousands of kilometers, or locally, in such harsh conditions that many animals die or are severely injured in the process (Bekoff 1998, 335-336; PETA 2014; HSUS 2014). Chickens that are raised for their flesh (or poultry, as it is called by the industry) live in dirty sheds with tens of thousands of other birds where intense crowding and confinement lead to numerous diseases. They are genetically modified to grow large so quickly that their legs and organs often can't support their weight. At six or seven weeks of age, they are packed into cages and sent to be slaughtered. The overwhelming majority of birds who are raised for their eggs – laying hens – are crowded together in wire cages, so called battery cages, where they do not even have enough space to spread their wings. Although Europe has banned the battery cage since 2012 and most European countries have phased it out, in North America the majority of laying hens are still raised in this way. Laying hens' beaks are cut off so that they won't peck each other out of the frustration created by this unnatural confinement and they spend their lives under severe stress. When their production drops, they are shipped to the slaughterhouse. Because male chicks of egg-laying birds are unable to lay eggs and the meat of their bodies is considered unprofitable, they are always destroyed; either ground up alive on a conveyor belt or tossed into bags and choked to death (Duncan 2004, 307-323; Bekoff 1998, 169, 101-104; Tactacan et al. 2009, 698-699; Thaxton 2004, 81-95). Female pigs are confined to

tiny cages – gestation crates – that are too small to allow them even to turn around. They are constantly impregnated until their bodies are worn out and are then sent to be slaughtered. Their piglets are taken from them at a few weeks of age. Their tails are chopped off, the ends of their teeth are snipped off, and the males are castrated. The pigs then live in extremely crowded pens on tiny slabs of dirty concrete before being sent to the slaughterhouse (Bekoff 1998, 272-273; Blackwell 2004, 241-269).⁶ Fish are either raised in crowded aquafarms, where they often suffer various infections and diseases before being starved to death or slaughtered, or they are caught in large nets of commercial fishing ships. In addition, the UN's FAO estimates that between 18 and 40 million tons of unwanted sea animals are thrown back into the sea, usually with fatal injuries (Bekoff 1998, 176; PETA 2014; HSUS 2014).⁷

Numerous animals are continually exploited in other industries as well. In the fashion industry foxes, dogs, cats, minks, rabbits and other animals are used for their fur. These animals are kept in small wired cages before being killed in various ways including electric shock, gas, and poison and often are even skinned alive. The fur industry kills over 50 million animals each year worldwide (PETA 2014; Liberation BC 2014). In Canada, tens of thousands of baby harp seals are shot or repeatedly bludgeoned with metal hooks and hundreds of black bears are shot or caught in traps and left to suffer for days so that their skins can be used (Daoust & Caraguel 2012, 445-455 ; Sorenson 2010). Cows, pigs, and kangaroos, among other animals, are skinned for their leather, sometime even before being slaughtered for food.

Animals are also used for human entertainment. Exotic or wild animals are often used in circuses and forced to perform silly behaviors for profit. Numerous other animals are confined in zoos, many in unsuitable conditions, and are displayed for human enjoyment. Whales, orcas, and other sea animals are confined in tiny water cages that prevent them from performing

⁶ In the United States, where data is available, approximately 9 billion land animals are slaughtered by the food industries every year (United States Department of Agriculture 2014; The Humane society of the United States 2014).

⁷ There is also the question of "free-ranged" animals that are raised for food. These involve different practices than what I have described and raise different issues with respect to harm to animals. I will address these issues later.

even a fraction of their natural behaviors. They, too, are displayed for human amusement and used to gain profit (Naomi, Parsons, and Farinato 2009; Bekoff 1998, 376-382).⁸

And, of course, an enormous number of animals are used for research, teaching and product testing. Mice and rats, rabbits, guinea pigs, dogs, cats and primates are confined, infected with various diseases, electrolyzed, poisoned and tortured in various other ways in laboratories of universities, private companies and government authorities. Although many countries, such as the countries in the EU and India, have prohibited cosmetics testing on animals, in many parts of the world laboratory animals are still used for this purpose. Estimates are that anywhere between 40 million to more than 100 million animals are used in laboratory experiments every year, and this is most likely a low estimate since data on most animals used for these purposes is not available (Bekoff 1998, 212-217; Taylor et al. 2008). Finally, breeders in the pet industry raise and sell dogs and cats, while there are reliable estimates that three to four million abandoned or stray cats and dogs are killed in shelters every year in the United States alone (HSUS 2014). The pets industry also kills animals for our companion pets food, although it is generally only animals that are found not suitable for human food that are used for that purpose.

The reality described above is only a partial description of the ways animals suffer and are exploited under humans' hands. It calls for our urgent attention to the questions of how we treat animals and whether this massive, never ending exploitation is right. Traditionally, our treatment of animals has usually been approached in moral or ethical terms. Many theorists have argued, and many people believe, that we have moral obligations toward animals. If we accept the view that we have moral obligations toward animals, then we need to consider the nature of these obligations and what they do or should involve. The language of justice, I think, supplies us with more precise understanding for thinking about what we owe animals.

⁸Places like zoos and aquariums argue for the educational, scientific and often ecological and species preservation value they have. Yet, a recent article reviewing evidence in the field concluded that "there remains no compelling evidence for the claim that zoos and aquariums promote attitude change, education, or interest in conservation in visitors, although further investigation of this possibility using methodologically sophisticated designs is warranted" (Marino et al. 2010, 1).

The concept of justice generates basic entitlements and obligations that are different in character and more demanding than those established by our less definite moral views. As John Passmore remarks, "the question of whether it is wrong to act in certain ways is not the same question as whether it is unjust so to act" (Passmore 1979, 47, cited in Garner 2013, 47). As Nussbaum argues, justice concerns the sphere of basic entitlements – when we say that our acts toward animals are unjust we mean that animals have a right not to be treated that way – not only that it is wrong to act in that manner (Nussbaum 2006, 337). This is a strong claim since it establishes a framework from which to assign, and protect, basic animal rights.

Moreover, what we come to think of as an issue of justice (or injustice) is strongly related to conceptions held in our society, and these conceptions are the result of ongoing struggles. Recognizing the exploitation of animals as an issue of injustice necessitates a struggle. Iris Marion Young reminds us in her important essay "Five Faces of Oppression" (1990), that injustices are the result of complex, systemic, structural and social interactions. Systems of oppression are not necessarily the result of individual acts to repress others, but rather are built into the everyday practices of society. In Young's words, "the conscious actions of many individuals daily contribute to maintaining and reproducing oppression, but those people are usually simply doing their jobs or living their lives, and do not understand themselves as agents of oppression" (Young 2009, 56). This view illuminates the idea that (a) to correct injustice we need to work on changing these structural elements rather than just the behavior of individuals, and (b) issues that call attention to justice are often not conceived as such by most people exactly because they are embedded in complex, systematic, structural and social interactions. Our treatment of animals, I think, is an excellent example of such a "system of oppression".

The discussion above suggests that our moral obligations toward animals are of a specific nature – obligation of justice – calling for the immediate remedy of the suffering animals experience at the hands of humans. For those who reject the idea that human beings have some sort of moral obligation toward other animals, it is beyond the scope of this paper to convince them of this point. Yet, it is worth mentioning that our current practices and treatment of animals also raise important issues of justice regarding our obligations toward our

fellow human beings. Among these are issues of hunger, malnutrition, and food security especially in poor countries and the devastating environmental effect factory farming has on our planet.⁹ These issues are beyond the scope of this paper, but are nonetheless crucial in order to understand the full consequences of our current treatments of animals.

⁹It is now recognized by professionals from leading research institutes that world hunger is a question of inequality, not scarcity. Poor countries sell their grains to be fed to animals in factory farming while many of their own people are hungry. As Eric Holt-Giménez et al. (2012, 595) claim, "In reality, the bulk of industrially produced grain crops goes to biofuels and confined animal feedlots rather than food for the one billion hungry". The enormous negative effect factory farming has on the environment is widely recognized, as reflected for example in the UN livestock's long shadow report (2006).

3. In search of a theory (1): Nussbaum's capabilities approach to animal rights

Recognizing the fact that humans act in ways that deny dignified existence to other animals, Nussbaum employs her well-known capabilities approach – originally developed to establish principles of justice among humans – to extend basic justice and rights to animals as well. Her goal is to establish the idea that human use and treatment of animals is a burning issue that raises questions of justice. In this effort, she tries to sketch a better theoretical framework than what is currently available with which to protect animals' basic rights and address questions of justice. With the right adjustments, Nussbaum argues, her capabilities approach provides better theoretical guidelines than other approaches to determine what rights are due to animals (Nussbaum 2006, 327; 2004, 300).

She begins by denying the limited usefulness of both contractarian (the indirect duties view derived from Kant's tradition) and utilitarian (most notably argued for by Peter Singer) approaches to deal with the issue of basic justice for animals. Compared to contractarianism and utilitarianism, her capabilities approach "is capable of recognizing a wide range of types of animal dignity, and of corresponding needs for flourishing" (Nussbaum 2004, 300). It is interesting to note here that Nussbaum does not address a very substantial third body of theoretical efforts that undertake this task – the animal rights' view developed by theorists like Regan and Francione in her work. This a-priori limitation already suggests that her theory might not be the most adequate of *all* possible approaches available.¹⁰

A brief overview of the capabilities approach to animal rights

As I mentioned previously, the basic premise of Nussbaum's approach is the idea that human-animals relationships pose issues that need to be addressed under the framework of justice. A fundamental idea behind the theory is that there is something wonderful in all complex forms of life. All creatures should have the opportunity to flourish. Nussbaum's approach focuses on

¹⁰ The capabilities view is a close ally to the rights view and indeed Nussbaum sees it as a species of the human rights approach, with the added value of being more sensitive and accurate (Nussbaum 2006, 284-286). As previously mentioned, Nussbaum also recognized that her claim for justice in the case of animals means that animals should have rights not to be treated as they do. Yet, her discussion ignores the large body of theoretical work that assigns animals these basic rights.

creating the conditions each animal needs to flourish. She states that "the conception of the creature as a subject of justice is exactly that: the conception of a world in which there are many different types of animals striving to live their lives, each life with its dignity" (Nussbaum 2006, 356). To answer the question whether a creature has adequate opportunities to flourish, she turns to the species norm as its standard. The species norm supplies us with the necessary point of reference to judge whether a creature has sufficient opportunities to flourish. Central to her approach, as in the case of humans, is a focus on the individual animal. It is the individual creature— not the group or the species – that is the subject of our moral considerations (357).

Another characteristic of the capabilities approach is its ambitious scope. Humans, she argues, also have obligations toward animals that are not under our direct control. Because we have a detrimental effect on natural habitats and on many 'wild' animals – we also have the duty to take these effects into consideration and balance them with respect for species' autonomy (Nussbaum 2004, 312). But she goes even further. According to her approach, all species deserve to enjoy cooperative and mutually supportive relations, and since nature does not work that way (e.g. animals are not moved by moral considerations) she calls, "in a very general way, for the gradual supplanting of the natural by the just" (Nussbaum 2006, 399-400). In other words, humans should police nature utilizing principles of justice. This is, of course, a very controversial argument, and Nussbaum does not fully develop it, recognizing that this issue is well beyond the basic rights of animals, which is her focus.¹¹

Before turning to discuss what I see as the major limitations of Nussbaum's approach, it is worthwhile to briefly describe the main capabilities she recognizes for animals. By capabilities Nussbaum means the basic functions or the innate powers or potentialities that different creatures have that are central to leading a flourishing life (Nussbaum 2006, 366). In the human case, it also means the fundamental entitlements that are necessary for a decent and dignified human life (166). The animal capabilities list is based on the same categories as the list for humans. Each capability is presented along with the implications for human behavior. The list

¹¹I do not address the issue of extending the concept of justice to govern nature, as it is beyond the scope of this paper (and of Nussbaum's work as well). For an interesting discussion of the ecological implications of Nussbaum's approach, see Wissenburg 2011, 391-409.

has an important normative purpose. It is not merely recognizing the list of capabilities that will enable animals to flourish, but also the fact that these capabilities must be protected in order to achieve justice (Garner 2013, 112). Here, due to space limitations, I will present an abbreviated version of the first three capabilities, which are the most important for the discussion that will follow.¹²

1. *Life* – "[A]ll animals are entitled to continue their lives, whether or not they have such a conscious interest. All sentient animals have a secure entitlement against gratuitous killing for sport. Killing for luxury items falls in this category and should be banned. On the other hand, intelligibly respectful paternalism supports euthanasia for elderly animals in pain. In the middle are the very difficult cases, such as the question of predation to control population, and the question of killing for food. The reason these cases are so difficult is that animals will die anyway in nature, and often more painfully. ...As for food, the capabilities approach agrees with utilitarianism in being most troubled by the torture of living animals. If animals were really killed in a painless fashion, after a healthy and free ranging life, what then? Killing of extremely young animals would still be problematic, but it seems unclear that the balance of considerations supports a complete ban on killing for food" (Nussbaum 2004, 314-315).¹³

2. *Bodily health* – "One of the most central entitlements of animals is the entitlement to a healthy life. Where animals are directly under human control, it is relatively clear what policies this entails: laws banning cruel treatment and neglect, laws banning the confinement and ill treatment of animals in the meat and fur industries; laws forbidding harsh or cruel treatment for working animals, including circus animals..."(315).

3. *Bodily Integrity* – "[A]nimals have direct entitlements against violations of their bodily integrity by violence, abuse, and other forms of harmful treatment – whether or not the treatment in question is painful" (315).

¹²Nussbaum's full list also includes the following categories: (4) senses, imagination and thought, (5) emotions, (6) practical reason, (7) affiliation with others, (8) meaningful relationships with other species and with nature, (9) play, and (10) control over's one environment (Nussbaum 2004, 314-317).

¹³It is not at all clear why the fact that animals will die anyway makes these cases more difficult. All animals, including humans, are mortal. Thus, it is not the future death of an animal (human or nonhuman) that should guide our moral deliberations, but how, and under what conditions, they live.

3.1 Beyond compassion and humanity? Problems and inconsistencies in Nussbaum's approach

The implications of Nussbaum's capabilities list and the requirement that these capabilities should be protected are obvious. Consider these principles from Nussbaum's list: "animals are entitled to continue their lives, whether or not they have such a conscious interest"; they are not to be confined; they have entitlements against "violations of their bodily integrity by violence, abuse, and other forms of harmful treatment – whether or not the treatment in question is painful". The implication of these principles would seem to be that animals should not be killed as a source of food or clothing for humans or generally exploited for other purposes. But Nussbaum does not arrive at this conclusion. Instead, she allows the use of animals for food, demanding that humans eliminate only the most gratuitous treatments of animals in the food industries. She also allows them to be used for research and perhaps for other purposes as well. These obvious inconsistencies call for explanations.¹⁴ It means, that although the capabilities approach to animals may be an adequate theory in general, the way Nussbaum develops and extends it, and in particular her failure to follow it to its logical conclusion, is problematic and puzzling.

Tragic conflicts between humans and animals?

To explain these seeming contradictions in her theory, Nussbaum argues that there is a tragic, unavoidable conflict between humans and animals. She remarks that "our world contains persistent and often tragic conflicts between the well-being of human beings and the well-being of animals" (Nussbaum 2004, 318; also 2006, 402). That is, eating animals and experimenting on them is a sacrifice of a fundamental animal capability (always their *life* in the case of food, and at least their *bodily integrity* and *health* in the case of experiments), but a necessary one – according to Nussbaum – if we are not to sacrifice a fundamental human

¹⁴Some critics were not slow to respond to Nussbaum's inconsistency. For example, Schinkel argues that "the possibilities of human use of animals that Nussbaum wishes to retain and wishes to see as morally justifiable, do not go together with her capabilities approach to animal rights" (Schinkel 2008, 45). Schinkel critique, nonetheless, has as its goal to correct and achieve greater consistency within Nussbaum's approach rather than to reject it.

capability. In other words, Nussbaum argues that we face a 'difficult' situation – since we do not know what the implication of a complete ban on killing animals for food might be on the "health of all the worlds' children" and the "world environment", and since we gain necessary knowledge for human health from animal research (Nussbaum states unequivocally that research on animals is a tragic conflict, but she's not as explicit about killing animals for food, because, in her opinion, we don't know the consequences of a plant based diet). What we are left with is a series of normative and empirical questions: Do we really face a tragic conflict situation between humans and other animals, as Nussbaum argues? Do we not know what the consequence of a vegetarian diet is for the world environment and for human health? Is eating animals or experimenting on them necessary and morally justified if important human interests are served in the process?

Tragic conflicts, as Schinkel shows, quoting Nussbaum's earlier work, occur "when each of the available alternatives for actions involves serious wrongdoing, or... when none of the alternatives open to the actor is free from serious moral wrongdoing" (Schinkel 2008, 55). So the first set of relevant questions for us is (1) whether killing animals for food involves serious wrongdoing, and (2) whether the alternative (e.g. not eating animals) also involves serious wrongdoing? The second set of relevant questions is: (3) whether experiments on animals involve serious wrongdoing and (4) whether the alternative (e.g., not using animals as subjects in experiments) involves serious wrongdoing as well? As I will discuss shortly, the answer to the first question in each set is positive while the answer to the second question in each set is negative. Thus, we do not in fact have tragic situations of conflict with other animals.¹⁵

As noted above, human's lack of knowledge, in Nussbaum view, about the consequences of a plant based diet on human health and on how the "world environment"

¹⁵It may be the case that humans and animals do have a kind of tragic conflicts if we consider human population growth and human expansion into more and more natural habitats that is certainly harming other species. Yet, as my analysis will show, in the cases of food and research on animals there are no tragic conflicts between humans and animals. My discussion here is limited to these cases and is unable to cover the broader cases due to space limitations.

would be affected, is the reason why killing animals for food should not be banned. In order to describe this as a tragic situation, it seems that Nussbaum feels that killing animals for food involves a serious wrongdoing, but that the alternative is equally problematic. Thus, she can argue that "the balance of considerations" does not ban this practice. The question of using animals for scientific experiments poses an even "more difficult problem" (Nussbaum 2004, 318). She views this as a tragic conflict where animal capabilities must be sacrificed in order to gain necessary valuable human health. Two general kinds of responses can be made here – normative and empirical.

To start with, it is simply not true that "nobody really knows" the consequences of not killing animals for food on human health and on the environment. As opposed to what Nussbaum suggests, we actually do know that factory farming is devastating for the world's environment. There is extensive evidence for this, including a major comprehensive report published by the UN's FAO. The overall conclusions from the report were that the livestock sector has an enormous impact on the environment and that it is "one of the top two or three most significant contributors to the most serious environmental problems, at every scale from local to global" (Steinfeld et al. 2006, xx). As for human's (or children's) health, Nussbaum is wrong here too. There is ample evidence that strongly links animal based food to numerous diseases such as obesity, diabetes, and cardiovascular diseases. Research shows that a plant based diet is not only sufficient and satisfactory, but is also healthier than an animal based diet. This is true for all people, at all life stages, from infancy to old age. It has been acknowledged by official health and nutrition authorities such as the United States Department of Agriculture (Tuso et al. 2013; USDA choose my plate 2014; PCRM 2014).¹⁶ Thus, killing animals for food is

¹⁶ Today, there is no doubt that all people, with careful planning, can do not only adequately well, but in fact better, on a plant based diet. The concern that some people cannot adequately live on a plants based diet is contrary to current dietary knowledge. For example, the American Dietary Association, the largest and most influential organization of people working on dietary issues in the world, issued a position statement that states: "It is the position of the American Dietetic Association that appropriately planned vegetarian diets, including total vegetarian or vegan diets, are healthful, nutritionally adequate, and may provide health benefits in the prevention and treatment of certain diseases. Well-planned vegetarian diets are appropriate for individuals during all stages of the lifecycle, including pregnancy, lactation, infancy, childhood, and adolescence, and for athletes" (Winston & Ann Reed 2009, 1266).

not an example of a tragic conflict as it is not necessary to eat meat or animal products. Nussbaum's claim that "nobody really knows" is either based on ignorance or an unwillingness to admit the truth.

The issue of scientific experiments on animals also calls for clarification. First, many different alternative methods are available today for researchers. It is widely recognized by leading institutions in many countries that testing cosmetics on animals is not necessary and that there are many cheaper and faster methods that produce more accurate information (PCRM 2014; European Commission 2008). Second, the extrapolation from animals to humans often proves to be inadequate and improper. That said, it is true that today, by using animals in experiments humans gain valuable, life-saving knowledge – but should we consider this a tragic conflict?

Animal research is often conceived as a "lifeboat" situation where someone needs to be sacrificed in order for others to live – a true tragic situation where the circumstances of justice do not apply. But this construction of the situation is in fact flawed. Animals are in this 'lifeboat' only because we put them there and choose to make human suffering their concern. It is not, in other words, animal and human good that are in the balance. Only the human good (in the form of human health) is in question while the animal good is not considered (Schinkel 2008, 57). To better clarify the misconception, Francione suggests a thought experiment: if we can save only a dog or a human from a burning house – which one do we save? Even if we decide that we ought to save the human, this decision would not tell us anything about whether it is acceptable to exploit animals. The reality is that we create most of our conflicts with animals. We bring animals into existence for our use, produce them for food, raise them to be laboratory subjects and then speculate about how to resolve the "conflict" that we have created (Francione 2000, xix-xxxi). Furthermore, as Kymlicka and Donaldson observe, to think of giving up animal research as a great sacrifice is to "misunderstand the moral situation". This is because we have already given up numerous medical advances by not allowing humans to be subjects in experiments – and we do not view this as a sacrifice (Kymlicka & Donaldson 2011, 43-44). So this situation does not qualify as a tragic conflict either. At most, it is a conflict that humans have consciously *created*. But this conflict is not a case where each of the available

alternatives for actions involves serious wrongdoing – not bringing animals into our laboratories is not wrong doing. It may involve not acting positively to enhance human health, but it is generally recognized that we need stronger reasons to justify positive acts than justifying an omission, that "not killing is morally more basic than saving lives" (Schinkel 2008, 56; Honderich 2005, 6).

Human and animal interests and moral worth

Nussbaum argues that the ideal situation would be one in which "no creature is being used as a means to the ends of others, or of society as a whole" (Nussbaum 2004, 307; 2006, 351). Likewise, it is hard to see how an *entitlement* of an animal to continue to live, maintain bodily health and integrity, is compatible with a justification for killing animals for food or experimentation. The only way to resolve this contradiction is to argue that human and animal interests should be weighed against each other, and that human interests outweigh those of the animals in question (Schinkel 2008, 53). In other words, a theory of justice for animals cannot allow the subordination of the most important and basic animals' interests to those of human interests without making the argument that human interests are more important. Without this premise the argument for preferring the interest of humans is arbitrary. Although Nussbaum seems to believe that human interests take precedence over those of animals, she does not actually make this assertion. Making such a claim would reduce the theoretical strength of her argument. Instead, she prefers to view the question of moral worth across species as irrelevant to her theory. This is a metaphysical question, she argues, and although the idea of equal cross-species dignity is attractive, and there is no truly acceptable way to deny it, many people do not see it that way today. She maintains that the idea that all creatures are entitled to adequate opportunities for a flourishing life is sufficient as a stable foundation for her theory (Nussbaum 2006, 383-384).

Yet, making the claim that the same capabilities for human and animals must be protected (and indeed choosing the same categories) seems to suggest that Nussbaum regards the moral status of humans and animals as equivalent (Garner 2013, 115). But avoiding the question of the moral worth of humans and animals and demanding only that we respect animals' basic capabilities is highly problematic. As Fellenz (2007, 30) observes "[T]he need for a

philosophical ground to social policy is especially pressing in the case of policies that concern the treatment of animals". Neglecting the issue of an animal's moral worth and interests and how these compare to human moral worth and interests, leaving the issue to be decided only in the political arena, is in fact to decide against the animal (30). There is certainly a place for theorists to present arguments about the moral value of animals in order to establish the foundation for policy making. Then, as in the case of humans, the issue will ultimately be evaluated and decided on the political level. Nonetheless, Nussbaum chooses to ignore this issue and has seemingly decided against animal interests, not even considering whether human interests should be sacrificed. Thus, although the capabilities approach seems to regard human and animal moral worth as equivalent, or at least not radically different, Nussbaum's conclusions favor human interests over those of animals. But without making the argument that human moral worth is greater, her argument is remarkably inconsistent.

To summarize, Nussbaum's conceptualization of the relationship between animals and humans as a tragic conflict is misleading. In fact, there is no tragic conflict between humans and other animals. Moreover, even if we assume that Nussbaum is implicitly working under the assumption that human dignity (or moral worth) is greater than that of animals – even though she does not explicitly make this claim – the fact that she claims that her theory is a type of a rights theory and that animals have entitlements – rights – not to be treated as they currently are, exposes a lack of commitment to animals in her approach. The concept of rights means that a right cannot be infringed upon for the greater benefit of others – within and across species, an idea that Nussbaum supports throughout her work. But despite this, she is unwilling to follow her capabilities approach to its logical conclusion – often reverting to the traditional animal welfare position in the process. These inconsistencies in Nussbaum's extension of her capabilities approach mean that her theory should be rejected as the preferred or even as an adequate theory on which to base animal rights. Although Nussbaum

hopes to extend the principle of justice to animal-human relationships, it is clear that justice is not served if we follow the conclusions she reaches based on the capabilities approach.¹⁷

¹⁷That is not to say that the capabilities approach *in general* is not adequate to serve as an appropriate theory of justice for animals. It is Nussbaum's conclusions, and in particular her construction of the situation between human and animals as a tragic conflict, that prevent the capabilities approach to animal rights from being an adequate theory.

4. In search of a theory (2): Garner's approach to animal justice

In his recent works, Robert Garner's main goal is to address several important and related questions about the moral status of animals and our obligations to them. Garner's starting point is that we owe nonhuman animals justice and, thus, principles of justice ought to be applied to them. Our moral views toward animals, Garner argues, must be transformed and articulated as part of a viable theory of justice in order to have meaning. Recognizing animals' moral worth is only the first step, but one that is not sufficient, by itself, to truly protect animals from mistreatment by humans. In the course of his effort to improve existing theories, Garner rejects three positions found in the animal rights literature: the utilitarian position, which is most closely associated with Peter Singer; the capabilities approach associated with Martha Nussbaum; and the species-egalitarian approach, which is associated with Tom Regan's rights' based theory. Garner claims that they are all flawed in ways that prevent them from being adequate frameworks with which to protect animals. As a result, he develops his own animal rights' based approach, utilizing the language of justice to include animals under its framework. In so doing, Garner contributes to the ongoing discussion about animals' moral worth and our obligations to them. In *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013), Garner adopts a pragmatic approach, and, as a result, he comes up with a two stage process to achieve its goal. First, he calls for a non-ideal theory of justice – what he terms *the sentience position* – to be utilized for the near future. Then he develops an ideal theory – the *enhanced sentience position* – that should be applied sometime in the future when the idea of animals as worthy recipients of justice gains more public support and acceptance. (Garner does not tell us how to measure this support or what his criteria for this would be).

Despite Garner's significant contribution to the field of animal rights, most notably recognizing animals as worthy recipients of justice, many aspects of Garner's approach are problematic. In what follows, after briefly describing his ideal and non-ideal theories, I will focus on the arguments that are most problematic.

The sentience and enhanced sentience positions to animal rights

Garner's "sentience position" is primarily concerned with eliminating animal suffering at the hands of humans. Under its guidelines, humans can use animals but may not inflict suffering on them while doing so. This position adopts as its starting point the view that sentient animals have an interest in not suffering. He contends that animals have a right not to suffer under human hands but do not have a right to life or liberty. What this means in practice is that activities that inflict more than trivial suffering on animals would be prohibited (Garner 2013, 124). All such practices (which include not only inflicting pain, but also causing a variety of negative states such as anxiety, frustration, boredom, and so on) would be prohibited since animals have "a *right* not to have suffering inflicted on them by humans" (124). Garner emphasizes that this position is different than the traditional animal welfare view as he maintains that there is no justification for inflicting suffering on animals "whatever the benefit that might accrue to humans", while the animal welfare view permits this if the benefits that human gain are sufficient (124). Nonetheless, consistent with his view that human life is worth more than animal life, Garner allows for an exception to this principle: inflicting suffering on other animals would be permissible in order to protect human life (Garner 2005, 73; 2013, 176 note 3).

In elaborating his "ideal theory," Garner introduces what he calls the "enhanced sentience position". This position recognizes that, as Garner puts it, at least some animals have some interest in continued life and perhaps liberty (but not interests as strong as those of humans), and, as a result, these interests should be taken into account in our moral deliberations. However, humans would always take precedence in conflict situations since humans "all things being equal, have a greater interest in life" (2013, 15). This position, Garner argues, is much more restrictive than his sentience position in terms of how we treat animals. Whereas under the sentience position we could use animals, with the only obligation being to minimize their pain, the enhanced sentience position requires that we sacrifice the lives of animals only if very significant human interests are involved. Garner does not elaborate much on what these human interests might be or what he considered as "very significant". He does tell us, however, that satisfying trivial human interests, such as eating meat, would be

prohibited under this position, except when eating meat is necessary for human health and survival. In the case of experiments on animals, Garner thinks that the practice is justified as long as it provides "very substantial benefits to humans" (2013, 134), but even then only without inflicting suffering on animals (because animals have a right not to suffer). In essence, the enhanced sentience position does not grant any additional rights to animals (they still lack the right to life or liberty, for example), but places more restrictions on humans – demanding a "very significant" benefit for humans as a condition for using other animals.

4.1 Qualified speciesism: Problems and inconsistencies in Garner's theory of justice

In order to support the claim that humans have a greater interest in life and liberty than animals, Garner employs the concepts of personhood and autonomy. Drawing on Frey (1987), Garner argues that whereas humans use what he calls 'control autonomy', animals only use 'preference autonomy'. Control autonomy involves "a much higher quality of life concerning a rational assessment of desires and a willingness to shed or moderate some ... desires if they are not consistent with an individual's conception of the good life. At most ... animals are only capable of dealing with a very basic set of first order desires, which denies them means to that rich full life of self-fulfillment and achievement..." (Garner 2013, 129). Garner adds to this the characteristics of personhood – rationality, autonomy, sophisticated communication system, and moral agency – that, in his view, give humans a greater interest in continued life. He concludes that the moral worth of animals and humans is different and "It is not possible to justify moral egalitarianism between humans and animals because it is not the case that humans and animals have equally important interests in life and liberty" (118). Moreover, it is important for Garner's argument to show why the death of an animal is less harmful than a human death. Death is bad because it involves deprivation – "things that might have happened but now will not because of death" (130). Although animals, as sentient beings, do lose future pleasures and experiences, humans lose richer opportunities (as suggested by the different kinds of autonomy) due to their greater psychological capacities, and thus humans have more to lose by death. The implication, in Garner's view, is that it would be justified morally to choose the life of a human over that of an animal because this would cause less harm (131). Garner approves of the "stubborn conviction" among philosophers that "the lives of normal humans

must be of a greater value than the lives of many, if not all, nonhuman animals" (132). As a result, humans ought to have a stronger claim on a right to life and liberty than do animals (133).

These arguments are puzzling and raise a number of interrelated questions. Do humans, in fact, have greater interest in life and liberty than other animals? Does interest in life and liberty constitute a valid measure of moral worth? Do humans, in general, possess a greater moral value than animals? Does this imply that animals are not to be granted the right to life and liberty? A first general response would be that Garner, like many others, commits the mistake of drawing a strict line between humans and animals, between us and them. Throughout his work, he regards all animals on one side of the moral scale and humans on the other. This approach no doubt does not take the numerous variations between animals into account and, by and large, it ignores the continuum, rather than the division, that scientists and theorists now recognize exists between humans and other animals. In other words, the qualitative categories that Garner and others commonly use to differentiate human and animals are mistaken. As Pluhar (1995, 57) puts it, "no characteristic has yet been found that is wholly lacking in nonhumans and wholly present in humans". I will now examine Garner's arguments in more detail and will suggest several responses.

Interest in life and ethical considerations

Garner's fundamental argument that humans have greater interest in life and liberty than other animals, and that the "level of complexity of the individual affects what can be a harm for that individual" (Garner 2013, 15) is far from being supported. Put simply, it is not clear that humans have greater interest in life and liberty, as Garner argues. This is an arbitrary decision which stems from the anthropocentric view that sees things like the ability to plan one's life, rationality, developed communication system, etc., as more important than other animal abilities. Thus, it is a speciesist decision (i.e., favoring a so called human characteristic) that is based entirely on the human perspective. The right question here is, in whose view is life and freedom more important? For the animal, her life and freedom is everything and the most important thing for her. For my cat, his life is the most important thing for him. Does he, because of his lesser psychological capacities, have a lesser interest in life than I have? At the

very least, this is doubtful. We need to "zoom out" from the human perspective when making such a decision and try to imagine what the interests of other animals would be when making such claims. We can try to develop some sense of what are likely to be the basic interests of other animals, such as their interests in life, a kind of freedom, comfort and the satisfaction of their basic needs. To do so we could use something like Rawls's notion of the "original position" and imagine (as a thought experiment) what principles of justice we would want for other animals by envisioning that we ourselves could have been a bear, dog, or any other animal. If we accept that animals have moral value, as Garner does, we must perform this thought experiment which leads to the conclusion that animals' lives are as important to them as are our own. Just as when we want to utilize principles of justice in matters relating to humans we must think not only of our own interests (as white males, for example), but take into equal consideration all relevant human beings, the same is true when making decisions based on principles of justice for animals. In addition, the assumption that humans have a greater interest in life than animals is by no means a simple fact. A fact has empirical or theoretical support. In this case there is no such evidence or support. To validate such a claim, one has to examine, under impartial conditions, the interests of various species, including human beings, to continue their life. But, of course, there are no such data. Garner uses the language of facts to give his assertion a stronger basis. But it is no more than an assertion, based solely on the different abilities humans and other animals have, and on the assumption that human life is richer and fuller than that of animals.

However, it is also not clear that human characteristics result in 'richer' and much 'higher' life experiences than those of all other animals. Of course, most humans have the capacities to experience life in ways that differ from other animals. But animals have different capacities as well. Birds can fly, many animals can breathe underwater, some can jump higher or run faster than humans, others can smell, see or feel things we humans can't. Why are these experiences less rich than those humans have? Why these abilities are considered "lower" and less valuable? Garner would argue that these experiences are qualitatively different than those experienced by humans (Garner 2013, 128-132). But, deciding that human experiences of the world are necessarily richer than those of other animals is to underestimate the nature of the

cognitive, emotional, and moral lives of other animals. Of particular relevance here is philosopher Steve Sapontzis's remarks that "even if intellectually more sophisticated beings can enjoy a wider variety of feelings, those who are intellectually less sophisticated can compensate for and even overcome this deficit through greater intensity, duration, purity, extent, etc., of their feeling" (Sapontzis, cited in Fellenz 2007, 44). Furthermore, Garner's assertion that *the* "level of complexity of the individual affects what can be a harm for that individual" (2013, 15) is not supported by current scientific knowledge. As evolutionary biologist Marc Bekoff (2013) states, "The notion that small-brained animals are 'less intelligent' than big-brained animals and 'suffer less' also needs to be revisited as it's surely a myth". Animals have what nature provided them for their needs and self experience of the world. They are individual beings that can thrive in their own inner worlds, not in ours or those of other animals. Thus, it is unreasonable to claim that the lack of some characteristics makes their life less rich and less valuable.

Another point is that even if it can be shown that humans, in general, do have greater interest in life or liberty than other animals, it is still not clear why greater interest in life or liberty results in a greater moral value. Garner's strong link of the interests in continued life to the moral worth of those interested is inherently flawed. An example will illustrate this. The World Health Organization estimates that about 800,000 people commit suicide each year worldwide, and many more attempt suicide (WHO 2014). It is safe to assume that many of them did not have an interest in continued life. Does that mean that their moral status is any different (by Garner's logic, lower) than that of any other human beings? That would surely be a very awkward position to take. Similarly, even if we accept the argument that all adults human have greater interest in continued life than any other animals (because of their rationality, autonomy, sophisticated communication system, moral agency and so on), does that mean that humans have greater moral value than animals? One's moral value is not a result of his or her interests in life or liberty (or any other interest for that matter). It is a result of our recognizing every person's moral worth, and not the presence or absence of interests in continued life.

Humans and animals moral status revisited

Even if we agree that some animals have relatively poor cognitive abilities and lives compared to humans, or lesser ability to think about the future, what would it tell us about their moral

status? As Bekoff (2013) argues, we would first have to show that these lesser cognitive abilities are morally relevant; or, as Duncan asks rhetorically, "is having a sense of time and being able to foresee one's own death a morally relevant difference between humans and animals?" (Duncan 1993, 7, cited in Bekoff 2013). Garner answers this question affirmatively but he fails to support this claim, except by saying that it makes the life of such a person richer and more valuable. It also could be argued, that the cognitive lives of some animals are not as rich as other more cognitively complex animals, and that these less cognitively developed animals have a limited range of experiences and memories. But as Bekoff points out, the relatively limited experiences and memories may well be more valuable to the animal exactly because they are fewer in number. All this suggests that "higher" cognitive capacities do not necessarily equal richer experiences, or produce morally relevant differences between the experiences of animals and humans. Even if we acknowledge that some experiences are "higher" and some "lower", that some lives are richer and some poorer, "it seems dubious," as Nussbaum puts it, to think "that these considerations should affect questions of basic justice and the political principles with which we frame an approach to those questions" (Nussbaum 2006, 361).

Still, it is generally recognized that humans possesses higher moral value than animals on the grounds that humans have morally relevant characteristics that animals lack. The idea, in short, is that humans are beings whose characteristics – rationality, sophisticated communication system, and moral agency – are sufficient to establish the greater moral values of their bearers (even without the argument that they produce greater interest in continued life). To further support this Garner raises the so called "life boat" situation, which demonstrates, in his opinion, that human lives are morally more valuable than those of animals. But do humans really have greater moral value than animals based on these characteristics? Is it really true that "there is a strong case for saying that the life of a normal human is more valuable than that of an animal" (Garner 2013, 126). A number of questions can be raised to challenge his view.

First, there is growing evidence that with respect to possession of each of the characteristics that we value in human beings, the difference between humans and some other animals is only a difference in degree and not in kind (Fellenz 2007, 41). That is, many animals

also possess the same attributes that are often regarded as uniquely human in varying degrees. Consciousness, rationality, unique communication systems and even moral agency are not limited to humans (Bekoff & Pierce 2009; Low 2012). Second, it is questionable whether this manner of assessing the moral worth of animals (e.g., based on characters like rationality or communication system for example) is adequate because, as Fellenz (2007, 41) recognizes, "it presupposes that humanity is the standard of value and animals can be worthy of moral consideration only to the extent that they are like us". Why, for example, we choose personhood¹⁸ and rationality as the right criteria for establishing moral value as opposed to sentience or emotions? The obvious reply is that it would be easier for us to recognize our fellow human beings as having *personhood*, and at the same time deny that most, if not all, other animals have this characteristic. This would allow us to continue to regard ourselves as morally superior. But isn't that self serving? It is not clear why these criteria are morally better than the others just mentioned. Of course, choosing additional criteria to establish moral value, such as sentience, would force us to significantly widen our moral considerations and to put all sentient beings on a par with us – a conclusion that most people will no doubt reject.

Third, Garner is probably correct in stating that there is wide recognition that humans have a higher moral value than animals, and that there is a near consensus among pro-animal philosophers that human life is more valuable than animal life (Garner 2013, 129, 132; 2005, 75). He points to Tom Regan's conclusion that in the life boat situation, where humans and animals are involved and we can save only one, it is the human we ought to save. This is in keeping with Garner's view that the harm caused by human death would be greater than that caused by the animal's (Garner 2005, 75-76). As I commented in my analysis of Nussbaum's arguments, a lifeboat situation, where someone needs to be sacrificed in order for others to live is a true tragic situation where the usual considerations of justice do not apply. But using this situation to compare humans' and animals' moral worth is in fact flawed because it draws a

¹⁸ The concept of "personhood" is debated and hard to define. In the relevant context it may refer to beings who are self-aware and possess consciences. Among animal rights theorists there is no agreement about the exact criteria that are needed to be a person. See Fellenz 2007, 47.

general conclusion from a specific tragic situation. That is, principles of justice under situations of extreme conflict are not necessarily the same as those in regular, non-conflict situations.

Lastly, questions of moral value (human and animal) are highly metaphysical. The history of philosophy is abundant with attempts to discover the roots and justification for equal moral worth among humans and the superiority of human beings over the rest of the planet's creatures. The idea that all humans have an equal basic moral status is virtually universally acknowledged. It is, however, first and foremost, a political idea that rests on mutual recognition between human beings. As Nussbaum (2006, 383) puts it, "where humans are concerned, the idea of equal dignity is not a metaphysical idea, but a central element in political conceptions that have long been prevalent in modern constitutional democracies".

To summarize, Garner's argument that humans have greater interest in life that results greater moral value than other animals is not well supported. Trying to establish human greater moral worth on additional grounds also prove inadequate. Even if we accept the argument that humans have greater moral value than other animals, it is not clear why greater moral value implies differential treatment. It is not clear, in other words, that moral superiority translates easily to justification for the domination of humans (Schmidtz 1998, 62). Garner only grants animals a right not to suffer under human hands, but, as I explain in the next section, this is far from protecting animals from human exploitation. Moreover, working only to end animal suffering is not likely to move us any closer to ending animal exploitation. Put differently, such a focus will not begin to shift prevailing ideas about the moral status of animals and what we humans owe them. And, it will not serve as the link to achieving the ideal theory sometime in the future. Animal welfare laws that focus on reducing suffering have existed for more than a century. Although there have been many improvements, numerous animals still suffer greatly under human hands. Focusing merely on animal suffering only blurs our moral compass. If we want to eliminate injustices, and if we agree that using animals for most purposes is a case of injustice, it is a mistake to allow it at present. We know from research in social and cognitive psychology that many of the causal mechanisms underlying these injustices are very persistent (Robeyns 2008, 357-358). Therefore, it is not likely that once the use of animals is not prohibited in the short term, people will somehow move toward the view that animals are not

to be used in the future. Furthermore, as I have argued, in today's world most humans do not require eating animals for their nutrition or well being. As a consequence, a theory that allows the use of animals to satisfy trivial human interests is not just. These problems in Garner's approach prevent his theory from being an adequate theory to protect animal rights.

5. Practical considerations of Nussbaum's and Garner's theories

Considering both Garner and Nussbaum theories on practical grounds further illuminates the major problems they have. Both Nussbaum and Garner call for a complete change of practices, the total elimination of factory farming and the return to traditional animal farming. Recall that Nussbaum asserts that if animals were killed painlessly, after healthy, free ranging life, then it seems unclear to her that we should ban completely the killing of animals (Nussbaum 2014, 314-315). Yet, animals are not killed *after* a healthy and free ranging life, but always in their prime or even their youth. Nussbaum seems to have recognized this subsequently as she revised the later text (2006) to reflect this fact. Under Garner's sentience position, factory farming in general should be ended, as animals suffer greatly in this system, but the killing of animals for food in free ranging husbandry systems would be permissible as it would substantially minimize animals' pain and suffering. In Garner's words, "free range farming in which animals lead good lives and have painless deaths is not such a moral problem from the perspective of the sentience view" (2005, 114).

For Nussbaum, the call to return to "free-ranging" practices is theoretically inconsistent with her argument, as I discussed above. For both of them, this vision is completely unrealistic. Abuse, infliction of pain, violence, severe stress, and confinement are considered as standards in factory farming. It is highly unrealistic that there is any other way to supply animal food to the ever growing human population. Today, close to 99% of all meat in the U.S comes from factory farming. Approximately 96% of laying hens, 97% of turkeys, 95% of pigs, and 78% of beef are produced in factory farming. According to the industry's own figures, less than 1% of chickens nationwide are raised as "free range" (National Chicken Council 2012), and since there are far more chickens raised for meat than any other kind of farmed animals, this means that only 1% of the meat industry in the U.S is free ranged (Safran-Foer 2009, 271). Indeed, factory farming was created to supply mass production of meat (and other animal products) at the lowest price. This is the only way such a demand can be met and thus even free range farming for milk, cheese, and eggs (where animals are not necessarily killed in the process) is unrealistic.

Furthermore, even in a "free range" system, almost all animals live unnaturally short lives before being sent to the slaughterhouse. And the notion that animals are not suffering or

can have painless death in free range systems is a myth. Garner himself seems to realize that and admits that all husbandry and slaughtering must involve the infliction of at least some suffering (Garner 2013, 136). In terms of Garner's enhanced sentience position, the use of animals would be prohibited except when necessary for human health or survival. In effect, at least in the developed world, the implication of this principle would be that no animal should be raised for human nutrition. In the case of animals used for scientific research Garner is less decisive, allowing their use as long as substantial benefits to humans are granted, but without the infliction of suffering. Yet, the assertion that animals can somehow be used as subjects in research without suffering is completely unrealistic.

6. Concluding remarks

The preceding discussion was aimed at revealing the major weaknesses in Nussbaum's and Garner's theories. Garner's assertion that humans have a greater interest in life and freedom than other animals was refuted; I also showed that it does not follow that humans have greater moral value than other animals and that to decide this is arbitrary and speciesist. Garner's development of his non-ideal and ideal theories was also challenged based on the limited usefulness of adopting a theory that focuses only on minimizing suffering for the short term, while not granting rights to animals except for the right not to suffer in the long term. As for Nussbaum, I showed that her argument for a tragic and inalienable conflict between humans and other animals is not supported either empirically or normatively. Furthermore, her willingness to sacrifice even the most basic animal interests to those of trivial human interests without further argument reveals a serious lack of commitment to animals, and makes her conclusions remarkably inconsistent with the basic assumption of her theory. Therefore, my conclusion was that both these theories must be rejected as preferred theories for the protection of animals from human exploitation.

Where does this all leave us? In face of the grave injustice animals are currently suffering, what is needed is a better, more adequate framework under which to protect animals from mistreatment by humans. In recent years, there has been a slow but consistent change in human perceptions of animals in many parts of the world. Increasingly, the understanding that considering animal rights is not limited to extreme or marginal groups is gaining public recognition. As a result, more and more people challenge their own moral views and perceptions. In the past century, as a result of numerous social struggles, justice and rights were extended to women, people with disabilities, minority groups and so on. Thus, in keeping with the tradition of liberal rights, it is now the historical and politically appropriate moment to extend justice and rights to animals. These changes may now be accepted by the public. Historically, one of the main barriers to change our current treatment of animals was a lack of knowledge and information about what happens behind the walls of the animal industry. But today, in an age where information is readily available, it is no longer acceptable to plead ignorance, only indifference.

This extension would mean that the use of animals by humans in the various food, clothing, entertainment and scientific industries must end. I do not suggest that we must abolish all human-animal relationships as long as basic rights are being respected and that mutual relationships are to the advantage of both. That is, we need to distinguish between the use of animals – where mutual advantage is gained – and their exploitation as was explained earlier. It does mean that no animal should be the property of someone else. Animals, like humans, are not commodities, but creatures with their own personalities, natural needs and wills. Thus, if we are to maintain mutual relationships with some animals, as I think we should, this cannot be based on the relations of master and slave, or worse, of commodity and owner, as in the current situation. With regard to animals with whom we live in close contact, such as dogs and cats, the relationship should be one of guardianship. Most other animals should be free to live their lives as they wish without the coercive interface of humans. A comprehensive theory should also guide our behavior with regard to our less direct interactions with animals. It ought to construct principles to judge actions that may affect animals that are not under our direct supervision, such as expansion to natural habitats. Such a theory should say, for example, that in our decision to cut down a forest or invade a new environment, we must take into consideration the rights of animals (and humans) that are dependent on that environment for their lives.¹⁹

To summarize, both Nussbaum and Garner developed their theories to answer the question of what obligation we have toward animals and to change the fundamental wrong that characterizes most current human-animal relationships. Both theories, however, are inadequate and unable to fulfill this task. To succeed at extending justice to human-animal relationships, what we need is a new conceptualization of the place of animals in our society. At minimum, we must end our direct involvement in animal abuse by adopting the principles of

¹⁹One such promising and comprehensive theory is Kymlicka's and Donaldson's theory of animal citizenship, developed in detail in their recent book *Zoopolis: A Political Theory of Animal Rights*, 2011. An example of an internationally recognized declarative document with a potential list of animal rights is the "Declaration of Animal Rights" developed by the activist NGO "Our planet. Theirs too". It is provided here as Appendix A.

veganism.²⁰ But this is not enough. We should then design public actions and policies that work to achieve those principles we recognize as minimally just. As in all social struggles, the animal rights movement must take public action. Of course, as Robeyns (2008) advises, when designing actions and policies, we need to consider a whole range of feasibility constraints. She adds, "it is important to distinguish between those that we have good reason to take as virtually unalterable by society, versus those that are more contingent" (350). Garner wants us to think that the use of animals by humans is closer to those constraints that are unalterable (like the dependency of all life on the presence of oxygen), when in fact it is something conditional that can be changed. To change this "paradigmatic leap across the species divide" (Garner 2013, 16) we should work to generate processes of participation, information, and involvement of more and more people. We should also think of the relevant emotional, social-economical, psychological and political mechanisms that are at work, and address them. Does this demand too much of human beings? Garner describes the objectives of the animal rights movement as being "exceptionally altruistic, asking us to give up significant advantages (potentially our health, a major source of food, clothing, entertainment) in order to protect members of different species" (2013, 120). However, as I have demonstrated, we do not need to give up any significant advantage in order to protect animals. Rather than being "exceptionally altruistic", these are workable goals.

²⁰Although one's diet is an important part of being a vegan, veganism is more than that. Put bluntly, it is the understanding that animals value their own bodies and lives, and that much like humans they have an interest in continuing to live and in being free from any suffering inflicted upon them. It is the recognition that animals have a right to be treated with respect and that they are not human property.

Bibliography

- Allen, Colin and Michael Trestman, *The Stanford Encyclopedia of Philosophy* (Summer 2014 Edition), "Animal Consciousness", Edward N. Zalta (ed.),
<http://plato.stanford.edu/archives/sum2014/entries/consciousness-animal>
- Bekoff, Marc, Carron A. Meaney. 1998. *Encyclopedia of animal rights and animal welfare*. Westport, Conn: Greenwood Press.
- Bekoff, Marc, and Jessica Pierce. 2009. *Wild justice: The moral lives of animals*. Chicago: University of Chicago Press.
- Bekoff, Marc. 2013. "The Birds and the Bees and Their Brains: Size Doesn't Matter." *Psychology Today*, April 5. Accessed August 18, 2014.
<http://www.psychologytoday.com/blog/animal-emotions/201304/do-smarter-dogs-really-suffer-more-dumber-mice>
- Bekoff, Marc. 2013. "Do "Smarter" Dogs Really Suffer More than "Dumber" Mice?." *Psychology Today*, April 7. Accessed August 18, 2014.
<http://www.psychologytoday.com/blog/animal-emotions/201304/do-smarter-dogs-really-suffer-more-dumber-mice>
- Blackwell, T. E. 2004. "Production Practices and Well-Being: Swine", in *The Well- Being of Farm Animals: Challenges and Solutions*, editors G. J. Benson and B. E. Rollin, chapter 12. Blackwell Publishing, Oxford, UK. doi: 10.1002/9780470344859.
- Clutton-Brock, Juliet. 1999. *A natural history of domesticated mammals*. New York, NY, USA; London; Cambridge, U.K: Cambridge University Press.
- Daoust, P and C, Carague. 2012." The Canadian harp seal hunt: observations on the effectiveness of procedures to avoid poor animal welfare outcomes". *Animal Welfare*, 21: 445-455. doi: 10.7120/09627286.21.4.445
- DeGrazia, David. 1996. *Taking animals seriously: Mental life and moral status*. Cambridge; New York: Cambridge University Press.
- DeGrazia, David. 2002. *Animal rights: A very short introduction*. Oxford: Oxford University Press.

- Donaldson, Sue, and Will Kymlicka. 2011. *Zoopolis: A political theory of animal rights*. Oxford: Oxford University Press Oxford.
- Duncan, I. J. H. 2004. "Welfare Problems of Poultry", in *The Well-Being of Farm Animals: Challenges and Solutions*, editors G. J. Benson and B. E. Rollin, chapter 14. Blackwell Publishing, Oxford, UK. doi: 10.1002/9780470344859.
- European Commission. 2008. "Report on the Development, Validation and Legal Acceptance of Alternative Methods to Animal Tests in the Field of Cosmetics". Accessed June 18, 2014. <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0416:FIN:EN:PDF>
- Fellenz, Marc R. 2007. *The moral menagerie: Philosophy and animal rights*. Urbana: University of Illinois Press.
- Foer, Jonathan Safran. 2009. *Eating animals*. New York: Little, Brown and Co.
- Francione, Gary L., 2000. *Introduction to animal rights: Your child or your dog?*. Philadelphia: Temple University Press.
- Francione, Gary L. 2005. *Animals—Property or persons?*. Oxford University Press.
- Frey, R. G. 1987. "Autonomy and the value of animal life". *Monist* 70, (1): 50.
- Garner, Robert. 2005. *Animal ethics*. Malden, MA; Cambridge: Polity.
- Garner, Robert. 2013. *A theory of justice for animals: Animal rights in a Nonideal world*. Oxford: Oxford University Press.
- Garry, F. B. 2004. "Animal Well-Being in the U.S. Dairy Industry". in *The Well-Being of Farm Animals: Challenges and Solutions*, editors G. J. Benson and B. E. Rollin chapter 11, Blackwell Publishing, Oxford, UK. doi: 10.1002/9780470344859.
- Harari, N, Yuval 2012. *From Animals into Gods: A Brief History of Humankind*. Charleston, N.C. : Create Space.

- Hemmer, Helmut. 1990. *Domestication: The decline of environmental appreciation*. New York; Cambridge: Cambridge University Press.
- Henderson, George L., and Marvin Waterstone. 2009. *Geographic thought: A praxis perspective*. New York; London: Routledge
- Holt-Giménez , Eric. Annie Shattuck , Miguel Altieri , Hans Herren & Steve Gliessman. 2012. "We Already Grow Enough Food for 10 Billion People ... and Still Can't End Hunger". *Journal of Sustainable Agriculture*, 36:6, 595-598, doi: 10.1080/10440046.2012.695331
- Honderich, Ted. 2005. *The oxford companion to philosophy*. Oxford; Toronto: Oxford University Press.
- Igantieff, Michael. 2000. Human rights as politics, human rights as idolatry. Tanner Lecture Library.
- Johnson, Jane. 2013. "Vulnerable subjects? The case of nonhuman animals in experimentation". *Journal of bioethical inquiry* 10, (4): 497.
- Low, Philip. 2012. "The Cambridge Declaration on Consciousness".
<http://fcmconference.org/>
- Marino, Lori, Scott O. Lilienfeld, Randy Malamud, Nathan Nobis, and Ron Broglio. 2010. "Do zoos and aquariums promote attitude change in visitors? A critical evaluation of the American zoo and aquarium study". *Society and Animals* 18, (2): 126-138.
- Naomi, Rose A., E.C.M. Parsons, and Richard Farinato 2009, "The case against marine mammals in captivity", 4th edition.
http://www.humanesociety.org/assets/pdfs/marine_mammals/case_against_marine_captivity.pdf
- Nussbaum, Martha Craven. 2004. "Beyond Compassion and Humanity: Justice for Nonhuman Animals". in *Animal rights: Current debates and new directions*, editors Cass R. Sunstein and Martha Craven Nussbaum. New York: Oxford University Press.

- Nussbaum, Martha Craven. 2006. *Frontiers of justice: Disability, nationality, species membership*. Cambridge, Mass: The Belknap Press of Harvard University Press.
- Pluhar, Evelyn B. 1995. *Beyond prejudice: The moral significance of human and nonhuman animals*. Durham: Duke University Press.
- Regan, Tom. 1983. *The case for animal rights*. Berkeley: University of California Press.
- Robeyns, I. A. M. 2008. "Ideal theory in theory and practice". *Social Theory and Practice* 34, (3): 341.
- Schinkel, Anders. 2008. "Martha Nussbaum on animal rights". *Ethics & The Environment* 13, (1): 41-69.
- Schmidtz, David. 1998. "Are all species equal?" *Journal of Applied Philosophy* 15, (1): 57-67.
- Singer, Peter. 1975. *Animal liberation: A new ethics for our treatment of animals*. New York: Avon Books.
- Sorenson, John. 2010. *About Canada: Animal rights*. Halifax: Fernwood Pub.
- Steinfeld, Henning, Pierre Gerber, Tom Wassenaar, Vincent Castel, Mauricio Rosales, Cees de Haan. 2006. "Livestock's Long Shadow: Environmental Issues and Options". Rome, Italy: Food and Agriculture Organization of the United Nations.
<http://www.fao.org/docrep/010/a0701e/a0701e00.HTM>
- Stookey, J. M. and Watts, J. M. 2004. "Production Practices and Well-Being: Beef Cattle." in *The Well-Being of Farm Animals: Challenges and Solutions*, editors G. J. Benson and B. E. Rollin, chapter 10. Blackwell Publishing, Oxford, UK.
Doi: 10.1002/9780470344859.
- Tactacan, G. B., W. Guenter, N. J. Lewis, J. C. Rodriguez-Lecompte, and J. D. House. 2009. "Performance and welfare of laying hens in conventional and enriched cages". *Poultry science* 88, (4): 698-707.
- Taylor, Katy, Nicky Gordon, Gill Langley, Wendy Higgins. 2008. "Estimates of worldwide laboratory animal use in 2005". *Alternatives to Laboratory Animals* 36, 327–342.

Thaxton, J. P. 2004. "Stress and the welfare of laying hens". In *Welfare of the laying hen*, Editor Perry, G. C., Chapter 10, 81-95. Wallingford, UK: CABI Publishing. doi : 10.1079/9780851998138.0081

Tsovel, Ariel. 2006. The untold story of a chicken and the missing knowledge in interspecific ethics. *Science in Context* 19, (2): 237-267.

Tuso, Philip J., Mohamed H. Ismail, Benjamin P. Ha, and Carole Bartolotto. 2013. "Nutritional update for physicians: Plant-based diets". *The Permanente journal* 17, (2): 61

Winston J. Craig , Ann Reed Mangels. 2009. "Position of the American Dietetic Association: Vegetarian Diets", *Journal of the American Dietetic Association*, 109 (7), 1266-1282. doi: 10.1016/j.jada.2009.05.027

World Health organization 2014, "Preventing suicide: a global imperative" http://www.who.int/mental_health/suicide-prevention/world_report_2014/en/

Wissenburg, Marcel. 2011. "The lion and the lamb: Ecological implications of Martha Nussbaum's animal ethics". *Environmental Politics* 20, (3): 391-409.

Young, Iris Marion. 1990. *Justice and the politics of difference*. Princeton, N.J: Princeton University Press.

Websites

Liberation BC. 2014. "Fur". Accessed June 15, 2014. <http://liberationbc.org/issues/fur>

National Chicken Council. 2012. "Chickopedia: what consumers need to know". Accessed June 09, 2014. <http://www.nationalchickencouncil.org/about-the-industry/chickopedia/#one>

Our Planet. Theirs too. 2014. "The Declaration of Animal Rights". Accessed September 05, 2014. <http://www.declarationofar.org/>

People for the Ethical Treatment of Animals. 2014. "factory farming: cruelty to animals". Accessed June 05, 2014. <http://www.peta.org/issues/animals-used-for-food/factory-farming/>

- People for the Ethical Treatment of Animals. 2014. "Animals used for experimentation". Accessed June 08, 2014. <http://www.peta.org/issues/animals-used-for-experimentation/>
- Physicians Committee for Responsible Medicine. 2014. "Cosmetic Testing". Accessed June 18, 2014. <http://pcrm.org/research/animaltestalt/cosmetics/cosmetics-testing-end-the-use-of-animals>
- Physicians Committee for Responsible Medicine. 2014. "Vegetarian Foods: Powerful for Health". Accessed June 20, 2014. http://www.pcrm.org/pdfs/health/info_vegfoods.pdf
- The Humane Society of the United States. 2014. "The Welfare of Animals in the Veal Industry". Accessed June 05, 2014. http://www.humanesociety.org/animals/cows/?credit=web_id250079884
- The Humane Society of the United States. 2014. "Farm Animal Statistics: Slaughter Totals". Accessed June 09, 2014. http://www.humanesociety.org/news/resources/research/stats_slaughter_totals.html
- United States Department of Agriculture. 2014. "Livestock Slaughter 2013 Summary". Accessed June 10, 2014. <http://www.usda.gov/nass/PUBS/TODAYRPT/lsan0414.pdf>
- United States Department of Agriculture. 2014. "Choose My Plate". Accessed June 20, 2014. <http://www.choosemyplate.gov/healthy-eating-tips/tips-for-vegetarian.html>

Appendices

Appendix A: The Declaration of Animal Rights

Since the dawn of humanity, there remains a group so persistently abused and marginalized, that their suffering is ingrained in our everyday lives. If animals could talk, their chorus of cries would drown out every other sound in the world. We are all animals. We are all living, breathing beings who share the same Earth. We all feel pain and suffer when we are hurt or deprived of our lives, our families, our freedom. We all have the right to experience kindness, compassion and dignity. We believe in the kinship of all beings, and the possibility for us to coexist in peace and harmony on planet Earth.

CONSIDERING that all living beings on planet Earth came originally from the same source, and follow the same evolutionary principles;

CONSIDERING that all living beings on planet Earth inhabit the same lands, seas and air, and therefore share them and their resources to live within, and to live off of, comprising one ecological system;

CONSIDERING that all living beings possess the same basic needs: to survive, to seek happiness and pleasure and avoid pain, to live comfortably, to procreate, create families and other social structures;

CONSIDERING that all living beings, as known to humankind, are sentient beings, and therefore can feel pain, pleasure, sensations, feelings and emotions;

CONSIDERING that the human species is only one of millions of animal species, and comprises a minute minority in number, compared to the billions of animals living on this planet;

WE HEREBY PROCLAIM THAT:

1. We hold these truths to be self-evident, that all beings are created equal, and have a right to Life, Liberty and the pursuit of their Happiness.
2. Therefore, all animals have the same natural right to exist, as any other living being.
3. All animals have the right to be free, to live their lives on their own terms, as intended by nature.
4. All animals have the right to eat, sleep, be physically and psychologically comfortable, be mobile, healthy, safe, and fulfill all their natural and essential needs. As such, all animals are to be free from hunger, thirst, and malnutrition; physical discomfort and exhaustion; confinement against their will, bad treatment, abusive or cruel actions; pain, injury and disease; fear and distress; and free to express their normal patterns of behavior.
5. All animals have the right to reproduce, live with their offspring, families, tribes or communities, and maintain a natural social life. They have the right to live in their natural environment, grow to a rhythm natural to their species, and maintain a life that corresponds to their natural longevity.
6. Animals are not the property or commodity of humans, and are not theirs to use for their benefit or sustenance. Therefore, they are to be free from slavery, exploitation, oppression, victimization, brutality, abuse, and any other treatment that disregards their safety, own free will and dignity. They should not be slaughtered for food, killed for their skins, experimented on, killed for religious purposes, used for forced labor, abused and killed for sport and entertainment, abused for commercial profit, hunted, persecuted or exterminated for human pleasure, need, or other ends.

7. Humans shall do whatever is within their means to protect all animals. Any animal who is dependent on a human, has the right to proper sustenance and care, and shall not be neglected, abandoned, or killed.
8. Animals who have died must be treated with respect and dignity, as humans are.
9. We call for the protection of these rights. They must be recognized and defended by law, as human rights are. Any act which compromises the wellbeing or survival of an animal or species, or jeopardizes, contradicts, or deprives an animal or species of the rights listed above, should be deemed a crime, and should be punished accordingly.

Source: Our Planet. Theirs too website at <http://www.declarationofar.org/>