

The Kitchen and the Forum: Nonhuman Animals and Their Political Representation

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*A mis padres, que nunca dudaron de mí
cuando decidí dedicarme a algo tan extraño como la filosofía.*

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Abstract

This thesis provides a systematic analysis and a defense of the claim that at least some nonhuman animals (i.e. mammals) ought to be granted political standing, understood here as a (*pro tanto*) duty of political institutions to represent their interests in policy-making. On the normative side, and drawing from the debates on the boundary problem in democratic theory, I argue that most (but not all) principles of political inclusion require the inclusion of at least some mammals. One such principle (the All Affected Interests Principle) receives special attention, and a version of it is defended from a series of challenges raised by its main rival principle, the All Subjected Principle. On the conceptual side, I defend that (and try to specify how) all of the most influential contemporary accounts of political representation allow for animals to be *bona fide* objects of political representation. Finally, I introduce several institutional proposals, and formulate, develop and discuss some criteria to guide institutional design.

Resumen

En esta tesis analizo sistemáticamente y defiendo la idea de que al menos algunos animales no humanos (i.e. los mamíferos) son merecedores de alguna clase de estatus político, entendido como un deber *pro tanto*, por parte de las instituciones políticas, de representar sus intereses en los procesos de toma de decisiones políticas. Del lado normativo, y partiendo de los debates acerca del llamado “problema de la demarcación” (*boundary problem*) en teoría de la democracia, defiendo que la mayoría (aunque no todos) de los principios de inclusión política exigen la inclusión de, por lo menos, algunos mamíferos. Uno de estos principios (el Principio de Todos los Intereses Afectados) recibe una especial atención, y es defendido de una serie de desafíos planteados por su principal rival, el Principio de Todos los Sujetos. Del lado conceptual, defiendo que (y trato de mostrar cómo) las más influyentes teorías contemporáneas de la representación política permiten entender a los animales como objetos genuinos de representación política. En último lugar, presento también algunas propuestas institucionales, y formulo, desarrollo y discuto algunos criterios para guiar el diseño institucional.

Table of contents

Acknowledgments	i
Abstract.....	vi
Table of contents	viii
List of tables	xii
Introduction	1
1. Two travelers in New England	1
2. The basic argument: a quick overview	3
3. The political turn in animal ethics	7
4. The questions I shall leave aside.....	10
5. Political representation v. representation before courts.....	15
6. Who is this thesis addressed to?	19
7. Non-ideal theory	21
8. On the road ahead: the structure of the thesis	22
Chapter 1. Animals and their minds	25
1.1. Drawing lines: moral and pragmatic.....	25
1.2. Sentience.....	27
1.2.1. Sentience as phenomenal consciousness	27
1.2.2. Are animal conscious? The argument from analogy	28
1.2.3. Animal consciousness and higher-order theories of consciousness	32
1.2.4. What is it like to be a conscious animal?.....	33
1.3. Autonomy	36
1.3.1. Assessing the case for animal autonomy	38
A. Minimal rationality	38
B. Ability to understand means and make plans.....	42
C. Autonoetic consciousness	44
1.4. Conclusion	51
Chapter 2. Why animals deserve moral consideration	53
2.1. Moral status and interests	55
2.2. Why the Indirect Duty View is not enough	59
2.2.1. First problem: The moral status of non-rational humans.....	61
2.2.1.1. The slippery slope argument.....	63

2.2.1.2. The social stability argument	64
2.2.2. Second problem: Insufficiency	65
2.3. Pain and moral status	68
2.3.1. How is pain bad?	68
2.3.2. Is the suffering of animals less relevant morally?	72
2.4. The moral status of non-sentient living entities	75
2.5. Conclusion	77
Chapter 3. The grounds of political inclusion: Nonhuman animals and the boundary problem.....	79
3.1. The many meanings of “political inclusion”	79
3.2. The All Affected Interests Principle	85
3.2.1. The All Affected Interests Principle and nonhuman animals	89
3.3. The All Subjected Principle	97
3.3.1. The All Subjected Principle and nonhuman animals.....	99
3.4. The Stakeholder Principle.....	105
3.4.1. The Stakeholder Principle and nonhuman animals	106
3.5. The Social Membership Principle.....	114
3.5.1. The Social Membership Principle and nonhuman animals	116
3.5.1.1. Donaldson and Kymlicka on the political inclusion of animals..	116
3.5.1.2. Carens’ Social Membership Principle	118
3.6. Conclusion	122
Chapter 4. Justifying inclusion: In defense of the All Affected Interests Principle	123
4.1. Monism and pluralism about political inclusion.....	125
4.2. How to argue about principles of inclusion	128
4.3. Assessing the threat of the All Subjected Principle	131
4.3.1. The inclusion goals of the All Subjected Principle.....	132
4.3.2. The All Subjected Principle and the political inclusion of children	134
4.4. A defense of the All Affected Interests Principle	138
4.4.1. Accounting for the duty to represent the interests of children.....	138
4.4.2. Common objections to the All Affected Interests Principle	140
4.4.2.1. Vagueness	140
4.4.2.2. Compensation/restriction vs. inclusion.....	142
4.4.2.3. Overinclusiveness	143
A. Wrong domain	144

B. Wrong scope	147
4.5. Conclusion	150
Chapter 5. The political representation of nonhuman animals	152
5.1. The representative and systemic turns	153
5.1.1. The representative turn	153
5.1.2. Systemic representation	155
5.2. Pitkin on the concept of representation.....	156
5.2.1. Pitkin’s methodology	156
5.2.2. The many faces of representation	158
5.2.3. The political representation of animals.....	161
5.2.3.1. Standing for: The symbolic representation of animals	161
5.2.3.2. Acting for: The substantive representation of animals	162
5.2.3.2.1. Representing abstractions and representing interests.....	165
5.2.3.2.2. Against the necessity of ascribing actions	166
5.3. Pettit on political representation	168
5.3.1. Pettit’s account.....	168
5.3.2. The political representation of animals, responsive and indicative	169
5.4. Mansbridge on rethinking representation	172
5.4.1. Mansbridge’s four models of representation	172
5.4.2. Rethinking representation (for animals)	174
5.5. Positivist theories of representation	179
5.5.1. Saward on representation as claim-making	180
5.5.2. Rehfeld on representation as audience-recognition.....	182
5.5.3. Positivism and animals	184
5.6. Further discussion	185
5.6.1. Representation without authorization: A response to Schweber	186
5.6.1.1. Schweber’s argument.....	186
A. The Legitimizing condition	187
B. The Authorization requirement	188
C. Active role of constituencies	188
5.6.1.2. Legitimacy without authorization	189
5.6.2. Positivism and responsiveness	193
5.6.2.1 How helpful are positivist theories for our project?.	193
5.6.2.2 Can they be harmful?	195

5.6.2.2.1. Two senses of “logically prior”	195
A. Weak constructivism	197
B. Strong constructivism	198
5.7. Conclusion	200
Chapter 6. Making it happen: Institutionalizing the political representation of animals.....	202
6.1. The problem	203
6.1.1. What happens?	203
6.1.2. Why it happens?	204
A. Individual factors	204
B. Institutional factors	208
6.2. Five proposals	211
6.3. Evaluating the proposals	215
6.3.1. Feasibility	216
6.3.2. Effectiveness	220
6.3.2.1. Specifying the goal	220
6.3.2.2. Consideration v. protection	224
6.3.2.3. What counts as success?	225
6.3.2.4. The challenge from redundancy	226
6.3.3. Normative justification	229
6.4. Conclusion	239
Conclusions	241
References	255

List of figures and tables

Table 1.1. Varner's overview of the argument from analogy	31
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Introduction

1. Two travelers in New England

Cavendish, Vermont

In the mid-seventies, the writer and political dissident Alexander Solzhenitsyn was forced to leave the USSR. After spending some time in West Germany and Switzerland, he moved to the United States. There, Solzhenitsyn and his family settled in Cavendish, Vermont, a little town thirteen miles west of the Connecticut River. Despite its two-storey houses and churches lovely lined on both sides of Main Street, and that familiar sight, the gas station, warmly welcoming the approaching traveler, Cavendish does not appear like a particularly thrilling place to spend one's exile. But, alas, Solzhenitsyn thought otherwise. As he put it: "Exile is always difficult, and yet I could not [have] imagined a better place to live ... and wait for my return home than Cavendish, Vermont."¹ One of the things he particularly enjoyed was the possibility of observing "here in Cavendish, and in the surrounding towns the sensible and sure process of grassroots democracy where the local population decides most of its problems on its own, not waiting for the decision of higher authorities."² Here Solzhenitsyn was referring to one of the most celebrated political institutions of New England: the town meeting.

Town meetings are arguably the closest thing to direct participatory democracy one can find in the United States. Established somewhere during the 17th century, they offer citizens an opportunity to meet and participate in the making of laws concerning local (i.e. town-level) political decisions. Indeed, many great thinkers have hailed the town meeting as the best expression of the idea of self-government. In guaranteeing that citizens can effectively held their governments accountable, it erects a robust barrier against the threat of tyranny and abuse. Thomas Jefferson, for instance, once wrote that town meetings "have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government, and for its preservation."³ A similar

¹ "Minutes of the Cavendish Town Meeting – 1994". Quoted in Bryan 2003, xv.

² Bryan 2003, xvi.

³ "Letter to Samuel Kercheval", July 12, 1816, quoted in Zimmerman 1999, 3

laudatory tone can be found in the words of Ralph Waldo Emerson, who credited town meetings with having uncovered “the great secret of political science,” that is, the problem of “how to give every individual fair weight in the government, without any disorder from numbers.”⁴ The ideas that most readily come to mind when one reads these passages are those of self-determination and self-government, and the image is one of free and equal citizens jointly participating in the creation of the laws that will determine their common fate.

Rockland, Maine

In August 2003, three decades after Solzhenitsyn and his family moved to Vermont, another celebrated writer, David Foster Wallace, arrived in the town of Rockland, a popular tourist destination located in Maine’s Mid Coast region, “the nerve stem of Maine’s lobster industry” (Foster Wallace 2006, 235). The purpose of Foster Wallace’s visit to New England was to cover the 56th edition of the Maine Lobster Festival. “[O]ne obvious project of the MLF,” he wrote, “is to counter the idea that lobster is unusually luxe or rich or unhealthy or expensive, suitable only for the effete palates or the occasional blow-the-diet treat” (238). And so every August thousands of Mainers, New Englanders and other curious visitors get together to celebrate over the region’s most famous crustaceous. Foster Wallace’s expedition to the coast of Maine resulted in an essay called “Consider the lobster,” which was originally published in *Gourmet* magazine. In it, he discusses the Maine Lobster Festival, the influence of the lobster and tourism industries in the region, the biological classification of lobsters, and how best to cook them.

This last issue leads Foster Wallace (242) to mention “a detail so obvious that recipes don’t even bother to mention,” namely “that the lobster is supposed to be alive when you put it in the kettle.” It is then when “considering the lobster” turns out, in Foster Wallace’s pen, to mean something more disturbing than it might have originally seemed. As he puts it, “there is a question that’s all but unavoidable at the World’s Largest Lobster Cooker, and may arise in kitchens across the U.S.: Is it all right to boil a sentient creature alive just for our gustatory pleasure?” (243). To most readers of

⁴ Zimmerman 1999, 3.

Gourmet, this might have seemed a rather insolent question. But Foster Wallace does not leave it there. After the sentence just quoted, he devotes many lines to recount what he takes to be convincing evidence both that lobsters are sentient and that they have preferences (chiefly among them, a preference for not being boiled alive). This, he thinks, leaves us in an uneasy position: “[I]f you, the Festival attendee, permit yourself to think that lobsters can suffer and would rather not, the MLF can begin to take on aspects of something like a Roman circus or medieval torture-fest” (253).

The ideas Foster Wallace is trying to convey in his essay (unlike the example of town-meetings, I hesitate to suggest that they readily come to mind) are those of the badness of suffering, vulnerability, and human dominion.

2. The basic argument: a quick overview

We have here two seemingly unconnected ideas: the moral relevance of animal suffering, on the one hand, and human self-government, on the other. The kitchen and the forum. The main aim of this thesis is to argue that, despite initial appearances, these two ideas are not so unrelated after all. Although it is true that only humans can act as political agents, the consequences of their decisions do not fall exclusively upon them. The well-being and the life-chances of millions of animals are no less vulnerable to the effects of our policy choices, over which they can exert no control.

Let us see a few examples. First, political systems have the power to authorize (and routinely do) the killing of animals for food. According to one estimate, in 2018 69 billion chickens, 1.5 billion pigs, 656 million turkeys, 574 million sheep, 479 million goats and 302 million cattle were killed for these purposes.⁵ How many sea animals are killed is even more difficult to calculate, but, according to one study, the global seafood production in 2013 amounted to almost 155 million tones.⁶ Many of these animals (especially those that are part of the intensive animal farming system) undergo painful and stressful procedures, such as dehorning, branding, tail-docking, beak-trimming, forced separation from their offspring and finally slaughter. They also suffer various

⁵ <https://ourworldindata.org/grapher/animals-slaughtered-for-meat> (Last accessed: June 2, 2022).

⁶ <https://ourworldindata.org/fish-and-overfishing> (Last accessed: June 2, 2022).

mutilations and injuries, and are vulnerable to many additional abuses.⁷ As the food writer Michael Pollan (2006, 317) observes, “[t]o visit a modern Confined Animal Feeding Operation (CAFO) is to enter a world that for all its technological sophistication is still designed on seventeenth-century Cartesian principles: Animals are treated as machines—“production units” —incapable of feeling pain.”

Second, political systems have the power to authorize (and routinely do) the harming and killing of animals for recreational, religious or cultural reasons. In many countries, bullfighting is a legally protected practice, financially supported by the state. In Spain, for instance, one out of every five towns organizes public events and celebrations where bulls are used, routinely harmed and usually killed (in either professional or amateur bullfighting shows).⁸ But, of course, not only bulls are affected. In 2019, Japan resumed the hunting of whales after withdrawing from the International Whaling Commission, whose members had *de facto* banned such practice. In the words of Shigeto Hase, Director-General of the Japanese Fisheries Agency, this move would guarantee that a “culture and way of life will be passed on to the next generation” (BBC News 2019). Cock-fighting, though less popular, is still allowed in various countries. In France, for instance, where cockfighting is a crime, the Penal Code includes an exemption (sub. 3 of article 521.1) for those places in which an uninterrupted tradition has existed. Exemptions from animal welfare laws on religious grounds are also widespread. European law, for example, requires that animals be stunned before they are slaughtered.⁹ But many member countries have introduced special clauses allowing for exceptions, if doing so is necessary to protect certain religious practices. In Austria, for example, no-stunning is allowed when it is mandated by a recognized religious domination.¹⁰ Similarly, Article R214-70 of the French Maritime Fishing and Rule Code

⁷ In his book *Every Twelve Seconds*, Timothy Pachirat (2011, 145) reports one of such cases, which he witnessed while working at a slaughterhouse: “Camilo hands me an electric shaker and emphasize that I should not use it when a USDA [the US Department of Agriculture] inspector is present... After a few hours into the chutes, it becomes clear to me that both Gilberto and Camilo use the electric cattle prods extensively, sometimes sticking them under the animals' tails and into their anuses.”

⁸ Abad Liñán, Galán y Alameda 2016.

⁹ As established by the Council of Europe's Convention for the Protection of Animals for Slaughter and the European Union's Council Regulation 1099/2009, art. 4.

¹⁰ Animal Protection Act 32, para. 3, sentence 2.

allows an exemption to animal welfare legislation when “stunning is incompatible with the practices of ritual slaughter.”

Third, political systems have the power to authorize (and routinely do) the use of nonhuman animals for scientific research and experimentation. In most countries, existing regulations make the exact number of animals used for these purposes almost impossible to know. In the US, for instance, researchers are not required to report the number of birds, rats and mice used in experimentation, since these animals are not covered by the Animal Welfare Act. These difficulties notwithstanding, one study estimates that in 2015 at least 192.1 million animals were used for scientific purposes around the world (Taylor and Rego Alvarez 2020).

Fourth, political systems have the power to authorize (and routinely do) urban planning projects which profoundly affect the lives of animals, radically altering (or, in many cases, even destroying) their habitats. Habitat loss is not a new phenomenon, and many of its causes are entirely natural, but urbanization and land conversion processes have surely become important contributors. In a 2002 study on the causes of tropical deforestation, Helmut J. Geist and Eric F. Lambin (2002, 143) contended that “tropical deforestation is driven by identifiable regional patterns of causal factor synergies, of which the most prominent are economic factors, institutions, national policies, and remote influences ... driving agricultural expansion, wood extraction, and infrastructure extension.”

Finally, political decisions can indirectly affect the well-being of animals by creating the kind of conditions that make aggressive behavior among animals more likely. For instance, in many countries it is a usual practice to regroup growing pigs in farms several times during each production cycle. This process, however, boosts aggressive behaviors, as pigs compete for a position of dominance within the new group (Camerlink and Turner 2017, 43). That constitutes a subtler and more indirect impact, in which the harm is not directly due to human intervention, but it is nonetheless a harm, which curtails the wellbeing of the affected animals.

This is not mean to be an exhaustive list of the ways in which the decisions of governments (at many levels of governance) can have an impact upon the interests of animals. The writer Svetlana Alexievich ([1989] 2017), 9) once wrote that animals have “a right to their own history of suffering” which “will be written some day,” but I am

afraid this cannot be the place. Moreover, the fact that I have used examples where animals suffer is also not meant to entail that such suffering is always unjustified (although I believe that much of it is). For the purposes of this introduction, no such assumption is needed: these examples were chosen only because they are particularly vivid and illustrative.

What these examples suggest is that “human self-government” is something of a misnomer, for even though political power is exclusively exercised by humans (or some of them, at least), it is by no means exercised only over humans. This thesis explores the normative implications of this asymmetry. More specifically, I will argue that we have a *pro tanto* duty to institutionalize mechanisms to politically represent the interests of at least some animals. The first part of the thesis focuses on the normative aspect of the discussion. First of all, I will try to show that mammals are sentient individuals with morally weighty interests. For the sake of simplicity, my discussion will focus primarily on those interests that arise from the badness of pain and suffering¹¹ for a specific subset of animals: *mammals*. This restriction is not meant to imply that *only* mammals matter. Rather, it is essentially a pragmatic strategy: by focusing on cases on which most people tend to agree that the well-being of animals matters, I intend to avoid making certain controversial assumptions that might not be strictly required to have our discussion started (and also to reach some substantive normative conclusions). A complete theory of the political status of *all* nonhuman animals will of course have to deal with other kinds of animals, but my aim here is more modest.

To bridge the gap between the “moral” and the “political” domain, I will appeal to the different principles of inclusion that have been offered in the context of the so-called boundary problem in democratic theory (roughly, the question about how to distribute political power, influence and relevance in democratic systems). These principles, I shall argue, have been employed to justify various allocations of participatory rights (first and foremost, the right to vote), but also to determine whose interests a decision-making body has a duty to represent politically. Many (but not all) of these principles support the inclusion through political representation of at least some groups of animals. One of these principles (the so-called All Affected Interests Principle) will receive

¹¹ In what follows, “suffering” will refer to particularly intense or lasting pain. It does not, then, refer to a categorically distinct type of state.

special attention, and a version of it will be defended in one of the chapters. Applying this principle, we can ground a duty to represent the interests of animals in political decision-making processes.

The second part of the thesis asks whether it is actually possible to represent the interests of animals politically. Instead of developing a theory of my own, I will argue that most contemporary theories of political representation do allow for this possibility. Of course, that discussion still operates at a high level of abstraction, and does not specify which particular mechanisms should be used to implement the proposal. This thesis concludes by assessing and discussing some institutional instruments which have been suggested in the nascent literature on the representation of animals, or in parallel debates on the representation of future generations or children.

3. The political turn in animal ethics

This thesis aims to make a contribution to three different (albeit related) recent trends. First, throughout the last decades, many political philosophers have begun wondering whether we should reform our basic representative institutions so that they become more sensitive to the interests of collectives like (young) children¹² or future generations.¹³ Nonhuman animals, who share with those other groups a lack of political agency, have also found their way into those debates.¹⁴

Second, increasing attention has also been devoted to issues of democratic inclusion: namely, the question about who ought to be entitled to participate in democratic decision-making. Traditionally, democratic theorists had focused on the question of *how* democratic decisions ought to be taken, but less on *who* ought to be taking those decisions. As Robert Dahl complained in the 70s, this was “a problem almost totally neglected by all the greatest political philosophers who write about democracy” (Dahl 1970, 60). Today, this is no longer true: since then, many articles have been written, and

¹² Rehfeld 2011b.

¹³ Kavka and Warren 1983; Dobson 1996; Ekeli 2005; Thompson 2010; Beyleveld et al. 2015; Karnein 2016; González-Ricoy and Rey 2019.

¹⁴ Dobson 1996; Goodin 2003; Dryzek 2000; Eckersley 2000; Smith 2012; Donoso 2016; Garner 2016; Cochrane 2018; Hooley 2018b; Vink 2020.

an entire literature has emerged about the so-called *boundary problem*.¹⁵ Crucially for us, some of those authors have expanded the focus from a specific concern on the allocation of voting rights to broader questions of political inclusion (through, for instance, devices of political representation), which may also involve nonhuman entities (Goodin 1996; Dryzek 2000; Eckersley 2000).

Third, this thesis also aspires to make a contribution to the so-called *political turn* in animal ethics. Of the most important contributions to normative theorizing on animals in recent years, a substantive number of them have dealt with issues traditionally associated with political philosophy, and have employed the vocabulary and methods characteristic of the discipline. The topics discussed include, but are not restricted to, the relationship between animals and justice,¹⁶ citizenship,¹⁷ the democratic ideal,¹⁸ deliberation,¹⁹ republicanism,²⁰ sovereignty,²¹ political agency,²² public reason,²³ political representation,²⁴ just war,²⁵ multiculturalism²⁶ and property rights.²⁷ Obviously, this thesis owes a lot to the efforts of all those authors.²⁸

It is worth emphasizing, however, that the “political turn” does not (or at least it should not) imply that these issues are being raised and debated for the first time. For example, at least since the publication of John Rawls’ *A Theory of Justice* there has been some discussion concerning the role of animals in a theory of justice.²⁹ Similarly, already in 1997 Robert Goodin, Carole Pateman and Roy Pateman had contemplated the

¹⁵ Cf. Whelan 1983; Goodin 2007; Abizadeh 2008; Beckman 2009; Song 2012; Erman 2014; Miller 2020.

¹⁶ Garner 2013; Horta 2013a; Valentini 2014a; Berkey 2015; Pepper 2017b; Healey and Pepper 2021.

¹⁷ Donaldson and Kymlicka 2011; Hinchcliffe 2015; Hooley 2018a; Cochrane 2018.

¹⁸ Garner 2017a, 2019; Cochrane 2018.

¹⁹ Driessen 2014; Garner 2017b, 2018; Meijer 2019.

²⁰ Paez 2021.

²¹ Donaldson and Kymlicka 2011; Horta 2013b; Cochrane 2018.

²² Donaldson and Kymlicka 2011; Hooley 2018a; Pepper 2021.

²³ Flanders 2014; Schultz-Bergin 2017; Pepper 2017a; Basl and Schouten 2018; Zuolo 2020.

²⁴ Smith 2012; Cochrane 2018; Hooley 2018a; Vink 2020.

²⁵ Cochrane and Cooke 2016; Milburn and Van Goozen 2021.

²⁶ Casal 2003; Kymlicka and Donaldson 2014.

²⁷ Hadley 2015; Milburn 2016.

²⁸ For a thicker characterization of the turn, see Milligan 2015 and Cochrane et al. 2018. For our purposes, however, this minimal definition will do. See also the essays in Garner and O’Sullivan 2016.

²⁹ VanDeVeer 1979; Regan 1983; Rowlands 1997.

possibility of granting sovereign rights to nonhuman Great Apes, and the question of whether animal issues could be discussed by appealing to public reasons had already been mentioned (albeit very briefly) by Rawls himself in *Political Liberalism* ([1993] 1996, 244-246). As a final example, the inclusion of nonhuman interests within political decision-making procedures has been a long battle cry of some green deliberative democratic theorists.³⁰ The point, then, is not that, with the political turn, people started paying attention to these issues for the first time (although, arguably, they started receiving greater attention). Rather, what the political turn marks is a development internal to animal ethics itself—where there has been a move from discussions about, say, the moral status of animals, to debates about how our legal, political and social institutions should acknowledge and respond to that status.

Sue Donaldson and Will Kymlicka's 2011 book *Zoopolis* is probably the most widely known and discussed work within this trend. In the authors' view, both the theory and practice of animal rights is at an impasse, due in great part to a failure to acknowledge a crucial aspect of our moral relationships with animals. More specifically, they complain that most authors working on animal issues have focused primarily on the basic (negative) rights possessed by all animals in virtue of their being sentient beings, while neglecting other (membership) rights, which depend on the existence of certain relationships. This focus has flattened our moral landscape "in a way that is not only intellectually implausible but unattractive," as it "ignores the inevitability of, and desire for, ongoing and morally significant relationships with animals" (Donaldson and Kymlicka 2011, 10). Moreover, Donaldson and Kymlicka argue, without paying attention to these membership rights, we cannot properly think about the political standing of animals, as they believe that those are precisely the sort of rights that ground someone's political status and its corresponding entitlements.

Citizenship theory, claim the authors, provides the best way to overcome these challenges and make animal rights relevant again. Thus, they suggest distinguishing between three categories of animals. First, there are domesticated animals, who should be seen as citizens of mixed/human animal political communities. Second, we find wild animals, who ought to be regarded as members of sovereign, self-governing communities. The third category covers liminal animals (non-domesticated animals who

³⁰ Goodin 1996; Dryzek 2000, Ch. 6.

reside near or among humans), who are best treated as “denizens”—that is, as partial members of the political communities within the borders of which they reside.

A relational approach is also endorsed by political scientist Kimberly Smith (2012) in *Governing Animals*, another important contribution to the political turn. In her book, Smith wonders whether (and if so, how) liberal states can enforce duties of justice towards animals without violating their self-imposed neutrality about the good. In her view, the answer lies in the idea of the social contract: since at least some animals can be seen as co-participants in a mixed human/animal scheme of cooperation, they are entitled to some of the protections liberal societies bestow upon their members—chiefly among them, some form of political representation.

Unsurprisingly, not everybody agrees with the general assumption that relational considerations provide the only grounds for political standing and rights. Alasdair Cochrane (2018), in his book *Sentientist Politics*, adopts a different approach. According to him, the fact that animals, as sentient beings, enjoy certain basic rights, can ground a duty to implement and maintain political and social institutions capable of adequately paying heed and protecting the fundamental interests of animals. Unless we rely on such institutions, argues Cochrane, we will not be able to live up to our duties towards sentient beings (as none of us can individually fulfill these duties at a reasonable cost) or secure the rights of those beings (who should not depend on the good graces of humans). In this thesis, I side with Cochrane (and against Donaldson, Kymlicka and Smith) in holding that interest-based considerations can ground at least some aspects of someone’s political status. At the same time, I do share with all of them the belief that there are sound reasons to redesign some of our basic political institutions so that they become more sensitive to the interests of nonhuman animals.

In the remainder of this introduction, I will clarify four important preliminary issues. Finally, I will offer a brief summary of the structure of the thesis.

4. The questions I shall leave aside

Focusing on one thing usually means you cannot focus on others. That is a fact of life, and this thesis does not pretend to be an exception to this truism. In deciding to focus mainly on political inclusion through representation, there are several other issues,

possibilities and debates that I am setting aside, if only because time and space (and, of course, my skills) are finite. In this section I will mention three that I take to be particularly relevant for our particular discussion.

Political agency: Throughout this thesis I assume that political inclusion comes either through voting rights or political representation. That is, naturally, a simplification. To begin with, in representative systems voting rights are usually rights to choose one's political representative. The contrast suggested above should be understood merely as an expedient shorthand: "representation" here means "non-electoral representation."

Some authors have argued, in addition, that animals are capable of engaging in distinctively political forms of agency.³¹ If this suggestion is correct, the voting rights/political representation dichotomy might not be exhaustive: even if animals cannot exercise voting rights, they may nonetheless be able to exercise some form of political agency, which would not be reducible to political representation, as I am using the notion here. I am not convinced that animals can be political agents, but I will not discuss this issue in this thesis. Instead, I will focus on the contrast between the kind of political agency required to participate in politics through the usual mechanisms of large-scale mass democracies (which animals clearly cannot exercise) and non-electoral political representation (which I will argue that at least some animals are apt for). That question, it seems to me, is challenging enough, and does not rule out further potential dimensions of the problem.

Citizenship: At this point, the reader might be wondering about the role that citizenship plays in my discussion. After all, citizenship is usually characterized as membership within a political community, which involves a bundle of rights and duties (which include, among others, the right to be represented in political decision-making processes). To clarify my stance, let me introduce one view one might hold about citizenship:

Biconditionality: One ought to be politically represented if and only if one is a citizen of a political community.

³¹ Donaldson and Kymlicka 2011; Donaldson 2020. For criticisms, see Hinchcliffe 2015; Hooley 2018a; Pepper 2020.

This thesis defends that at least some animals ought to be politically represented, but does not assume Biconditionality. Hence, it is not committed to the view that the animals owed political representation ought to be regarded as citizens, although it does not rule it out either. Whenever I talk about citizenship, it will be because a particular author I am discussing does so. In general, at least three different positions on the relationship between representation and citizenship are compatible with the arguments I shall be defending:

First, one may hold that animals ought to be politically represented without being considered citizens. On this view, someone might enjoy certain political entitlements even if she is not a member of a political community—understood as entailing the possession of a larger bundle of rights and liabilities besides a right to be politically represented. This view clearly rejects the Biconditionality thesis.

Second, one could claim that animals should be represented and be considered citizens without necessarily enjoying all the rights typical of citizenship. On a prominent view, citizenship is conceived as a status that confers its holders a bundle of rights and liabilities. These rights and duties, however, can be disaggregated and allocated in different ways, and to various degrees (where one is a full citizen when she possesses the maximal set of rights and liabilities, and a semi-citizen—or a denizen—when she only possesses a certain number).³² For someone who thinks that some animals should be politically represented, and that the Biconditionality thesis is correct, but is reluctant to accept that they should receive the full package of rights and duties—social, civic and political—typical of full membership (for example, a right to be covered by a public health system, or a duty to pay taxes), that is an attractive option. On this view, animals are seen as semi-citizens (or denizens), which enjoy some of the rights of citizenship (e.g. representation), but not necessarily all of them.

Third, one might want at least some animals to be considered full citizens, entitled to the full panoply of rights characteristic of full citizenship (at least as long as they have

³² Cohen 2009.

the capacities required for the assignment of those rights in the first place). As we have seen, this is what Sue Donaldson and Will Kymlicka defend for domesticated animals.³³

Disagreement: In democratic societies, citizens disagree about philosophical, moral and religious matters. Although some of those disagreements may be the product of sheer irrationality, ignorance and bad faith, they are often perfectly reasonable. For many questions, it is difficult to find conclusive arguments in one direction, and the evidence tends to be scant, fallible and hard to access. Given the kind of creatures that we are, and given the kind of questions that we ask, we cannot free ourselves from what John Rawls famously termed the “burdens of judgment.”

The fact of reasonable pluralism has led many political philosophers to argue that the coercive exercise of political power ought to be limited in ways that do not impose upon citizens (considered as free and equal individuals) views to which they might reasonably object. Some, for instance, believe that legitimate political power can only be exercised on the basis of public reasons—that is, reasons that can be justified to those subjected to political power.³⁴ Others believe, more specifically, that given the large amount of reasonable disagreement about the good and the right, only decisions resulting from a fair decision-making procedure can be politically legitimate (Waldron 1999). In short, what these views claim is that citizens disagree about so many substantive issues that the justification of coercive political arrangements and decisions must either appeal to a very specific subset of substantive principles (which might be acceptable to everyone) or rely on a fair decision-making procedure in which all affected parties enjoy a say.

As I explained above, in this thesis I argue that certain moral facts about nonhuman animals give us strong reasons to redesign our political institutions. Here, however, someone might point out that one of the things citizens disagree about is precisely the

³³ Of course, one could also defend that these three views might all apply to different groups of animals. Donaldson and Kymlicka themselves, for instance, believe that domesticated animals should be considered full citizens, whereas liminal animals are best seen as semi-citizens (denizens).

³⁴ This includes both views requiring some kind of *consensus* on the reasons supporting a political decision (Rawls [1993] 1996; Quong 2011), and views requiring simply a *convergence* of private judgments on the acceptability of that decision (Gaus 2013; Vallier 2014).

moral status of animals (e.g. whether they have moral status in the first place, the kinds of creatures that can have it, or the types of morally relevant interests that they possess). What implications, we can ask, does this have for my main claims? Am I committed to the view that political institutions ought to be modified regardless of what citizens think about it? If that is the case, I might be accused of advocating the sort of intervention that states cannot legitimately impose upon their citizens in a pluralistic democratic society. Or am I committed, on the other hand, to the view that we should not really modify those institutions, precisely because citizens disagree about it? If that were the case, the arguments of this thesis would lose much bite (if not all of it).

I cannot here defend any specific conception of political legitimacy or the acceptable uses of political power. Instead, I will try to show that the arguments I defend in this thesis are compatible with a wide range of such conceptions in a way that does not render those arguments trivial or virtually inconsequential.

To begin with, the arguments defended here are compatible with the view (on its most general formulation) that the justification of political decisions cannot appeal to facts about which reasonable citizens disagree. First, one may argue that not all disagreements concerning the moral worth of animals are reasonable: for instance, claiming that no animal possesses moral status, or that mammals do not have at least a *prima facie* interest in avoiding pain and suffering³⁵ are, quite plausibly, unreasonable positions. So, it might be claimed that to the extent that this thesis relies on premises about which no reasonable disagreement exists, we can safely avoid the restrictions imposed by the fact of reasonable pluralism. Second, and less controversially, it might be claimed that even if all, or most, of the premises required to support the arguments in this thesis constitute potential sources of reasonable disagreement, this would at best show that political authorities cannot legitimately make any decision on the basis of those premises alone. This, however, is compatible with claiming that citizens have a

³⁵ John Basl and Gina Schouten (2018, 639), for example, have claimed that “[s]ince many reasonable citizens reject the conclusion that animals have morally important interests, we seem *not* to share an interest in restricting or abolishing animal use.” Now, if the rejection entails that *absolutely no animals* have *no morally important interests*, I am inclined to call its alleged reasonableness into question. Zuolo 2020, 157-161 argues that some positions that radically deny any sort of moral status for animals are unreasonable.

moral duty to try to bring about certain changes in the architecture of their political systems (even if states cannot legitimately *impose* those changes). Third, one might hold that public reasons can indeed be provided on behalf of certain theses about the moral status of nonhuman animals, to which we might appeal in order to justify at least some political interventions of the kind proposed here (Flanders 2014; Zuolo 2020, esp. Ch. 5). Finally, one could also contend that even if the existence of reasonable disagreement about animal issues gives us reasons against enforcing any decision that relies on controversial premises, these reasons are *pro tanto* and may be outweighed under conditions of moral urgency (for example, the present *status quo*, in which the interests of millions of animals are systematically impacted upon by political decisions over which they cannot exert any influence, and without there being in place any robust institutional mechanism to ensure that those interests provide at least some input into political decision-making).³⁶

On the other hand, many of the arguments defended in this thesis are compatible with the view according to which, whenever citizens disagree about the good and the right, the legitimacy of political power ought to depend exclusively on the procedural fairness of the relevant decision-making processes. Along those lines, one may argue (as we shall see later) that political decisions affecting the interests of animals are procedurally unfair whenever they do not count those interests. On this view, the problem is not that political decisions set back certain interests of nonhuman animals (for this would require appealing to procedure-independent standards of correctness), but that those interests are not even given a fair hearing in the corresponding decision-making process. All these views, I believe, are compatible with the arguments defended in what follows. And, crucially, none of them renders those arguments uninteresting or trivial.

5. Political representation v. representation before courts

For some time, philosophers and legal theorists have been discussing the legal standing of animals. Some have argued that nonhuman animals should be considered legal persons (Wise 2000; an introduction to the debate can be found in Favre [2008] 2011, Ch. 9), or at least that the procedures allowing public officials or private plaintiffs to sue

³⁶ This reading is inspired by the arguments in Wendt 2019.

on animals' behalf should be made more flexible (Sunstein 2005). This discussion has focused, to an important extent, on the representation of animals—in particular, their representation before courts—and how to enhance it.

This kind of representation matters for several reasons. First of all, almost all countries have passed animal welfare laws, and some even mention the protection of nonhuman life in their constitutions. For example, the “dignity of living beings,” as well as “the safety of human beings, animals and the environment” is enshrined in the Swiss Constitution (Art. 120), and its German counterpart entrusts the state with a duty to protect “the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action” (Art. 20a). Similarly, Article 13 of the Treaty on the Functioning of the European Union requires the EU member states to “pay full regard to the welfare requirements of animals,” as they are “sentient beings.” Secondly, litigation on behalf of animals (pursued by animal welfare and advocacy groups, such as the Nonhuman Rights Project led by Steven Wise) has achieved some significant victories. To mention just a few recent landmark decisions, in 2016 a judge from the Third Court of Guarantees in the state of Mendoza (Argentina) declared Cecilia, a chimpanzee who had been living in the Province of Mendoza zoo, a nonhuman legal person. In 2018, the High Court of the Indian state of Uttarakhand concluded that the “entire animal kingdom, including avian and aquatic” ought to be recognized as “legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person” (*Naryan Dutt Bhatt v. Union of India and others*). An identical decision was reached by the Punjab and Haryana High Court (*Karnail Singh and others v State of Haryana*) one year later. Finally, in May 2020 the Islamabad High Court in Pakistan upheld “without any hesitation” the legal rights of animals, commanding the elephant Kaavan to be released from the Marghazar Zoo.³⁷

This thesis, however, aims to focus on the representation of animals in those instances where laws are made, and not where they are applied and interpreted. Although representation before courts is undoubtedly important (for the reasons stated above, and surely for many others), it is also arguably insufficient. Animal welfare acts, for

³⁷ I am not mentioning here the case of the orangutan Sandra in Argentina, often hailed as another example of a nonhuman animal being granted legal rights (a writ of habeas corpus, in this case), as some prominent voices within the animal litigation movement have persuasively argued that “what [was] unfolding in the Buenos Aires provincial court is a regular animal welfare investigation.” See Wise 2015.

instance, although something to celebrate, still contain many exceptions and loopholes that leave thousands of animals unprotected. For instance, the US Animal Welfare Act, in its Section 2(g), states that “the term “animal” ... excludes (1) birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research, (2) horses not used for research purposes, and (3) other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.” Likewise, Section 24 of the NSW Prevention of Cruelty to Animals Act in New South Wales, Australia, stipulates that most of its clauses do not apply to rabbits used for agricultural purposes (O’Sullivan 2011, 34). Constitutional provisions for animals, on the other hand, are enshrined as “policy goals” (and not as “fundamental rights”), which can be interpreted much more flexibly, and are harder to enforce (Cf. Vink 2020, Ch. 5). And whilst the Uttarakhand High Court ruling theoretically conceded nonhuman animals the rights of living persons, this assertion has been disproven by the fact that animals in this state continue to be killed for food (Cf. Crespo 2019, 214 n. 29).³⁸ Lastly, animal litigation also faces considerable obstacles, not the least of which is the general reluctance of courts to grant legal personhood to nonhuman animals. In 2004, for instance, the US Ninth Circuit Court of Appeals (*Cetacean Community v. Bush*) ruled that whales, dolphins and porpoises lacked standing to sue on their own behalf, as they cannot be considered persons. Chimpanzees Tommy, Kiko, Hercules and Leo were also denied a writ of habeas corpus by several courts across the New York State on an analogous basis. Although the Nonhuman Rights Project appealed these fourth cases, no legal victories have been achieved so far.³⁹ In 2017, Chucho, an Andean spectacled bear, was granted a writ of habeas corpus by the Colombian Supreme Court of Justice, only to

³⁸ In a similar spirit, Alasdair Cochrane (2018, 2) has complained that “the formal recognition of animals’ sentience in the EU, the UK, and a raft of other states has proved perfectly compatible with the brutality of industrial animal agriculture.”

³⁹ In at least two of these cases, the Nonhuman Rights Project has been successful in another sense: in 2015 Stony Brook University announced that it would not use Leo and Hercules for research, and the two chimpanzees were transferred to the Project Chimps sanctuary in Northern Georgia. For a helpful summary of the Project’s achievements see: <https://animalcharityevaluators.org/charity-review/the-nonhuman-rights-project/> (Last accessed: June 2, 2022).

have it rebuked three years later, in January 2020, by the country's Constitutional Court (El Tiempo 2020).

The representation of animals before courts is important. At the same time, the range of action of courts is constrained by the legal system within which they operate, which in turn depends on prior political decisions. If the processes that lead to them do not sufficiently take into account the interests of nonhuman animals, the laws they produce will inherit, to some extent, this anthropocentric bias. And, as we will see with more detail in Chapter 6, representative systems probably have features that make them likelier to disregard the interests of nonhuman animals. As I will argue there, representative systems can amplify, on the one hand, some individual psychological propensities that lead humans to discount the interests of nonhumans, such as uncertainty (we are often unsure whether a decision will impact animals' welfare positively or negatively), ignorance (we often ignore important facts about the effects of our decisions on the wellbeing of animals), status quo bias (we often tend to see the *status quo* as good, and any deviation from it as *prima facie* bad), motivated reasoning (we often reason so as to reach the conclusions we already want to reach), the distorting influence of irrelevant factors (such as whether we find an animal cute or ugly), or the value/action gap (the inability to translate into practice our beliefs about what ought to be done). On the other hand, representative systems, as institutional arrangements, also have features that make disregarding the interests of animals more likely, such as the inability of nonhuman animals to directly sanction or hold accountable political representatives, or to issue electoral threats and pressures (as they cannot vote), the vulnerability of representatives to the lure of economic interests (which in many cases do not align with the wellbeing of animals), and—occasionally—the existence of electoral barriers that make it harder for smaller parties (such as parties advocating animal rights) to enter into Parliament.

At this moment, animal interests receive little or no formal political representation.⁴⁰ Many countries have established animal welfare committees. However, they have tended to focus on very specific issues, and have been typically given a humble role in the decision-making process. For instance, the Animal Welfare Committee in Australia

⁴⁰ Here, of course, I am talking about bodies and offices specifically designed to represent those interests. Standard representative institutions may sometimes advance and protect animal interests, but, in general, whether they do so or not is an entirely contingent matter.

advises the National Health and Medical Research Council on issues related to the use of animals in biomedical research. Its scope, then, is restricted to one particular domain (the use of animals in biomedical research). In May 2021, however, the UK announced the introduction of the Animal Welfare (Sentience) Act 2021 which, at least on paper, appears to be somewhat more ambitious. To begin with, the Act requires the Secretary of State to establish an Animal Sentience Committee (ASC), which will consider “the effect of government policy on the welfare of animals as sentient beings.” The committee would be authorized to produce reports on any government policy, assessing the extent to which “the government is having, or has had, all due regard to the ways in which the policy might have an adverse effect on the welfare of animals as sentient beings.” Once the ASC publishes a report, the Secretary of State must provide an answer within three months. In addition, the Committee would be covered by the Public Records Act 1958, and the Freedom of Information Act 2000, which would enhance and protect its ability to investigate and review legislation.

One important caveat is that the Act includes exceptions for areas of government policy affecting legislative provisions that fall within devolved competence (that is, if they are within the legislative competence of the Scottish Parliament, the Welsh Senedd Cymru, and the Northern Ireland Assembly).⁴¹ As I write this introduction, the Animal Sentience Committee does not exist yet. It is, nonetheless, a promising development, the progress of which we will have to scrutinize carefully.

The aim of this thesis, in general, is to ask whether we have a duty to implement (or, at the very least, to experiment with) mechanisms of this sort.

6. Who is this thesis addressed to?

This thesis aims to contribute to the political turn in animal ethics, but it is not primarily addressed to theorists already working within this trend. Instead, its intended audience

⁴¹ Originally, the Act excluded *all* invertebrates, as it defined “animals” as “any vertebrates other than *homo sapiens*.” However, after a government-commissioned independent review by the London School of Economics (led by philosopher Jonathan Birch) concluded that there is strong evidence that decapod crustaceans and cephalopod molluscs are sentient, the Act will be expanded so as to include those two additional groups.

is composed mainly of political philosophers and democratic theorists of various stripes who have at least some sensitivity towards animal issues, but who need not believe that the interests of animals deserve equal consideration, or even that they can be genuine bearers of moral rights.

Philosophical theorizing always involves a trade-off between the amplitude of the audience one wants to address and the ambition of the claims one wants to make. The more people you want to engage with, the less controversial your arguments should be. And, conversely, the bolder your claims, the smaller the number of people you are likely to persuade. Here, I will be happy to sacrifice some ambition in exchange for an opportunity to engage with a larger audience. For this reason, I will try to assume as few controversial theses in animal ethics as I can manage without undermining the whole project, moving around what Henry Sidgwick ([1898] 1998, 7) beautifully called “the region of middle axioms.”⁴²

This approach is somewhat different from that typically followed by “political turn” theorists, in that it does not make the argument depend on an account of what basic moral rights animals are due, or on whether they ought to be considered recipients of justice. These two questions, I think, are extremely important, and a complete account of the political standing of animals needs to face them sooner or later. But, given that we are still some miles away from reaching such a stage, I think that a strategy like mine can be potentially useful. After all, the political philosophers and democratic theorists working within the political turn are already convinced of the importance and relevance of granting animals some kind of robust political standing, notwithstanding all the disagreements they may continue to hold.⁴³ The rest, if they are to be persuaded of the interest of this entire project, should be addressed in a vocabulary they are familiar with, and on the basis of assumptions and claims they do not find too far-fetched.

⁴² I became familiar with this expression thanks to José Juan Moreso.

⁴³ In fact, some of these theorists will probably find my assumptions (and my conclusions) too conservative. Cf. Kymlicka 2017, 181.

7. Non-ideal theory

When discussing the political status of animals, some authors focus on what a just “interspecies polity” would look like, whereas others focus on how to bring about incremental improvements through institutional reform, even if still falling short of what would be deemed optimal. A spectrum can be identified, with some efforts adopting a more ideal approach, and other accounts favoring instead a less ideal one. Alasdair Cochrane, for instance, clearly pursues the former strategy. As he himself puts it, his book *Sentientist Politics* is “primarily concerned to attempt to outline and reveal *what justice demands*, as opposed to what might be achievable here and now” (Cochrane 2018, 10. Italics are the author’s). Robert Garner, on the other hand, takes the nonideal path, as the subtitle of one of his books makes clear: *Animal Rights in a Nonideal World* (Garner 2013. Italics are mine).

This contrast is a matter of degree. Those who lean towards ideal theory, for example, tend to provide accounts of a just society that correspond to what John Rawls labelled “realistic utopias.” That is, even if they do not particularly worry about whether their preferred model is easy to achieve from where we stand now, they do nonetheless care about whether it is achievable in general. Conversely, those who lean towards the other end of the spectrum also do not want to claim that things ought to be exactly as they are now.

Drawing from Laura Valentini’s (2012) useful analysis, the “ideal/non-ideal divide” can be taken to cover at least three distinct issues: i) whether a theory assumes that individuals will fully (or only partially) comply with the demands of justice and morality; ii) whether the content of a theory is constrained by considerations of feasibility, and iii) whether a theory depicts an end-state, or a transition phase, which might still be suboptimal in various respects.

This thesis adopts a mixed approach. First, many of the arguments in this thesis are expected to operate under circumstances in which individuals do not fully comply with the demands of justice and morality. Although these arguments might not work for a race of devils, I nonetheless expect them to apply to societies in which the interests of animals are still objectionably disregarded to some extent. Second, and by the same token, it is not the main goal of this thesis to specify what a just interspecies polity would look like. Even though some of the things I will say are relevant for these

discussions, I will not be assuming that the proposals discussed here depict a desirable end-state (rather than a transitional stage). Finally, the constraints of feasibility will increase as the thesis unfolds. They will be quite low in the Chapter 2, in which I argue that many animals have a well-being of their own (which matters morally regardless of how likely it is that people will acknowledge it), but will be much stricter in Chapter 6, where I survey some proposals to institutionalize the political representation of animals, and discuss the criteria that ought to guide our choices (feasibility being a crucial one).

8. On the road ahead: the structure of this thesis

This thesis begins by looking at its main protagonists: nonhuman animals. In Chapter 1, I specify which particular group of nonhuman animals I shall be focusing on (i.e. mammals), and summarize the philosophical and scientific debate regarding the presence among these animals of two features: sentience and autonomy. Whereas sentience is likely to be shared by all mammals, it is at best an open question whether some of the capacities relevant to autonomy can be possessed by a small group of hominids.

The reason why I focus on sentience and autonomy is because these features are usually taken to ground the moral considerability of an individual (and, as we shall see later, have also been discussed as grounds of political inclusion). Indeed, moral considerability is the subject of Chapter 2, where I argue that sentient animals (regardless of whether they are autonomous or not) have at least some morally relevant welfare-interests (in avoiding pain and suffering), which give us reasons—and under some circumstances also create *pro tanto* duties—to act in certain ways for reasons grounded in the badness of pain and suffering for animals themselves. In doing so, I reject the so-called Indirect Duty View, according to which all our duties towards nonhuman animals ultimately derive from duties we owe other humans. In this chapter, I also discuss what makes pain bad, whether human pain is necessarily more relevant (morally speaking) than human pain, and what is the moral status of non-sentient living entities (e.g. plants, etc.).

Chapter 3 begins to bridge the gap between the moral and the political domain, and introduces the main question of the thesis: Do we have duties of political inclusion

towards at least some nonhuman beings? In this chapter, I distinguish between three different senses of “political inclusion,” clarifying which one is relevant for our purposes (to anticipate, as a duty of political institutions to *represent* the interests of animals in policy-making). I then ask how the question about the political inclusion of nonhuman animals could be addressed, and suggest that we avail ourselves of the various principles of inclusion that have been discussed in the context of the so-called “boundary problem” in political and democratic theory. After responding to some general objections against the entire project, I present four principles of inclusion (the All Affected Interests Principle, the All Subjected Principle, the Stakeholder Principle and the Social Membership Principle), and assess whether, on each of these views, at least some animals ought to be politically included (by having their interests politically represented). My answer is that at least three of these principles support an affirmative answer. Regarding the All Subjected Principle, however, I am more skeptical.

Whereas Chapter 3 discusses the implications of different principles of inclusion, assuming that they are true, in Chapter 4 I defend the validity one least one version of the All Affected Interests Principle. After setting out the desiderata of an adequate principle of inclusion, I address the challenge raised by the All Subjected Principle to the political inclusion of animals. The fact that this principle might not support the inclusion of animals, I argue, should not worry us, as this principle is not intended to determine whose interests political institutions have a *pro tanto* duty to represent (and if it was intended to do precisely that, it would arguably prove inadequate). Then, I put forward a version of the All Affected Interests Principle that seems adequate, and discuss to some common objections.

In Chapter 5, I tackle the question of whether animals can be politically represented to begin with. Instead of proposing and defending a particular account of political representation, I focus instead on several influential accounts of political representation that have been developed by various authors: Hanna Pitkin, Philip Pettit, Jane Mansbridge, Michael Saward and Andrew Rehfeld. All these views, I argue, leave room for animals to be genuinely politically represented. In this chapter, I also respond to an objection by Howard Schweber against the possibility of representation where no authorization can be given, and discuss the role of responsiveness—central to the argument for the representation of animal interests—in positivist theories of representation (such as those put defended by Saward and Rehfeld).

Finally, Chapter 6 asks how the political representation of animals might be institutionalized in real-world political systems. More specifically, it analyzes five specific institutional proposals (specific representatives for animals, an ombudsman for animals, deliberative initiatives, commitment devices and changing a country's electoral system). The main goal of the chapter, however, is not to argue for the adoption of any of these proposals, nor to claim that they will be successful or not—as the answer to these questions depend on empirical information that we currently lack, and which I am not in a position to supply. Rather, the goal is to discuss and elaborate on the main evaluative criteria that should guide institutional choice; that is, the criteria that we should employ in choosing among proposals once we become capable of testing them empirically. Representative institutions for animal interests, I argue, ought to be feasible, successful in dealing with at least some of the factors that lead institutions to disregard animal interests, and normatively legitimate. A major part of the chapter is devoted to unpacking what that means.

Chapter 1. Animals and their minds

Introduction

In this chapter I introduce the main protagonists of this thesis: nonhuman animals. Yet, as I pointed out in the Introduction, the scope of the discussion will be restricted to a specific subset of them: namely, mammals. In Section 1.1 I distinguish between two kinds of lines we can draw: moral and pragmatic. Unlike their moral counterparts, pragmatic lines do not aim to delimit the borders of the moral community (i.e. beings that are morally considerable or have moral status). Rather, they are constraints deliberately imposed upon one's theorizing in order to allow the debate to move on. After clarifying the distinction, I will proceed to survey the available evidence regarding the presence among animals of two faculties that will be of great relevance throughout this thesis: the capacity to engage in autonomous action (autonomy) and the capacity to consciously experience things like pain or joy (sentience). Section 1.2 will focus on sentience, whereas Section 1.3 will discuss autonomy. Anticipating the conclusions, I think the results are mixed: while there seem to be sound reasons to believe that all mammals are sentient, it remains an open scientific and philosophical question whether at best a few of them can act autonomously (or at least quasi-autonomously).

1.1. Drawing lines, moral and pragmatic

The animal kingdom is immensely vast, going from apes, horses and cows to oysters and sponges. Unsurprisingly, this immensity raises familiar questions: Am I going to draw any lines? And if so, where and why? To some extent, this is a sensible worry. Unless we embrace some form of Jainism, we will want to bound (or, at least, layer) the domain of morality in some way or other. Yet, at the same time, we must always acknowledge the instability of such lines, especially when they are taken to determine the limits of the moral community (i.e. which entities matter morally). As the late philosopher Tom Regan liked to say: "Wherever you draw the line, draw it in pencil."

In this section, I distinguish between two different kinds of lines. I will then specify which kinds of lines I will be drawing, and why. First of all, there are *moral* lines. These

are meant to identify which beings are morally considerable. Normally, these lines combine a normative criterion of moral considerability (i.e. what it takes for an individual to be morally considerable) and a series of empirical claims regarding the kinds of individuals that satisfy or not this criterion. Importantly, both elements are somewhat independent. I might be right, for instance, in thinking that sentience is a sufficient condition for moral consideration, yet err in believing that fish are not sentient beings.

Secondly, we can also draw *pragmatic* lines. By pragmatic lines, I just mean lines that allow us to make some progress towards a certain goal, and whose acceptability does not depend on its truth. That is, they are lines that we draw for purposes other than discovering the truth about a certain issue (in many cases, because we want a discussion to move forward in spite of some persistent disagreements). In this thesis, I shall focus on mammals, and leave the other animals aside. However, that is not because I think this is where the line ought to be drawn. Rather, I take such an approach because I think there are some pragmatic reasons for doing so.

On the one hand, the sentience of mammals is a much less controversial issue than the sentience of other groups of animals, as we will see in the next section. Because we cannot dwell on the most technical philosophical and scientific aspects of the dispute, restricting the discussion to the least difficult cases seems a constraint worth admitting. On the other hand, intuitions about the moral unacceptability of causing suffering to animals for no good reason are weightier and more widely held in cases involving mammals. If this was a thesis about animal ethics, I would not mind spending more time on the hard cases. But, as my goal is to discuss the political status of animals, I believe it is better if I frame the discussion in a way that leaves other debates as minimally controversial as possible (remember that we are “in the region of middle axioms,” and that this thesis purports to address people who might be reluctant to accept highly ambitious claims about the moral status of animals). As can be seen, none of these reasons depend on the truth of the matter about where the moral lines should be drawn. They merely recommend postponing these issues until we have made more progress in the discussion, and until we have convinced other people (besides animal ethicists) that it is indeed a discussion worth having. So, I conclude, this thesis draws some lines, but they should not be taken to express profound philosophical claims.

Having clarified this distinction, I will now focus on the question about the presence among mammals of two morally relevant psychological properties: sentience and autonomy.

1.2. Sentience

1.2.1. Sentience as phenomenal consciousness

Are nonhuman animals (and mammals in particular) conscious? This is a tricky question, partly because of the difficulties involved in defining “sentience.” For the purposes of our discussion, I will define a sentient being as an entity capable of experiencing *phenomenally conscious* mental states.⁴⁴ “Phenomenal consciousness,” as philosophers of mind use the expression,⁴⁵ refers to the qualitative and subjective aspects of consciousness. Thus, phenomenally conscious states are mental states that have a subjective aspect: they are states such that there is “something like” having them (Nagel 1974), or that have an “internal aspect” (Chalmers 1996, 4). Admittedly, this is a vague characterization, but it is not clear whether we can do much more about that: as a matter of fact, most philosophers agree that consciousness is an elusive phenomenon, and some even doubt that it can be defined without circularity.⁴⁶ At best, we might be able to point towards it. Suppose I were to see a certain color for the first time. I might have learned everything about the physical and neurological processes that accompany the perception of this color, yet I will not count as having experienced that color until I have felt “what it is like” to see that color: the blueness of blue, or the redness of red.⁴⁷ But also the saltiness of chips, the heat of a spicy curry, the unpleasantness of a headache, the roar of an airplane engine, or the coldness of a drop of rain on my skin. These are all things of which most of us have been phenomenally conscious throughout

⁴⁴ In the literature, “sentience” is also sometimes defined, more narrowly, as the capacity of an individual to subjectively experience (positive or negatively) valenced mental states, such as pain or pleasure (Cf. Browning and Birch 2022). As the markers of sentience on which I shall focus on this chapter are also valenced states (i.e. pain), this distinction will not have a big impact on our discussion.

⁴⁵ Block 2002, 206-208.

⁴⁶ As Ned Block (1980, 278) put it, quoting what Louis Armstrong answered when asked about what jazz was: “If you got to ask, you ain’t gonna never get to know.”

⁴⁷ This is borrowed from Frank Jackson’s (1982) famous article.

our lives, and which seem to have a distinctive feel to them. *That* constitutes phenomenal consciousness.

1.2.2. Are animals conscious? The argument from analogy

When I ask whether animals are sentient, I am asking whether they can experience mental states of this sort. Note that this does not necessarily imply that their phenomenal states should be identical to ours. What matters is whether there is still “something that it is like” for them to have those experiences. As I write this, I am surrounded by many objects which I am fairly sure are not capable of experiencing phenomenal states: books, a desk, a lamp, a chair... There is nothing it is like for a chair to be seated upon, nor for a book to be read. But there, among all these things, half-asleep on the floor, lies an interesting case: my dog. Can he experience phenomenal states? Or, in other words: Is he conscious?

Some philosophers have claimed that we should not give these questions much thought. John Searle (1994, 218), for instance, has empathically defended that view:

I do not infer that my dog is conscious, any more than, when I come into a room, I infer that the people present are conscious... If somebody says, “Yes, but aren’t you ignoring the possibility that other people might be unconscious zombies, and the dog might be, as Descartes thought, a cleverly constructed machine, and that the chairs and tables might, for all you know, be conscious? Aren’t you simply ignoring these possibilities?” The answer is: Yes. I am simply ignoring all of these possibilities. They are out of the question. I do not take any of them seriously.

This view expresses a very natural attitude. After all, if my dog started to behave as if he was in pain, I would not wait until I had reached a satisfactory answer to the problem of animal consciousness before helping him. Yet, at the same time, I do not think one can dismiss the entire theoretical problem of animal consciousness so easily. Some questions about animal consciousness seem to be perfectly legitimate, and can only be answered by reflecting on which conclusions we are entitled to draw from the presence of certain physiological processes. Consider, for instance, some puzzles raised by nociception—the capacity to react to noxious (i.e. harmful or potentially harmful)

stimuli. Each time we experience pain, there is nociceptive activity. But the opposite is less clear. First, nociceptors have been detected in animals with a considerable degree of psychological unsophistication—for instance, the leech *Hirudo medicinalis* and the *Aplysia californica*, a species of sea slug (Walters 1996). Second, some animals can engage in complex patterns of associative learning in response to noxious stimuli which almost surely do not result in the subjective experience of pain—for example, decapitated cockroaches (Varner 1998, 31) and rats whose spine cord has been severed (Grau 2002). Finally, and perhaps more importantly, humans with severed spines register nociceptive activity yet they report feeling no pain at all (Macphail 1998). Now, if neither reacting to noxious stimuli nor the existence of nociceptors suffice to conclude that one is experiencing pain (in the phenomenal sense), then we cannot dismiss the problem of animal consciousness so quickly.⁴⁸

One standard argument for the view that at least many nonhuman animals are phenomenally conscious is the “argument from analogy.” This argument, which has been used mainly to show that animals can feel pain, has the following structure:

1. We know that, in *X*, a phenomenon or property *P* causes or determines another phenomenon or property *Q*.
2. *Y* has *P* as well.
3. *Ceteribus paribus*, *Y* must also have *Q*.

This argument seems promising. However, as Collin Allen (2004, 623) has warned, we cannot know what the relevant *Ps* or *Qs* are without a guiding theory about the nature and functions of consciousness. Without knowing what to look for, we cannot tell whether a given feature that is present both in humans and in certain animals supports attributing consciousness to the latter any more than we can tell whether a given feature

⁴⁸ Admittedly, the view I am discussing need not dismiss (i.e. as having been definitely refuted) the problem of animal consciousness, as it merely asserts the permissibility of ignoring it. This strategy is indeed widely followed in many domains: philosophers of physics or biology, for instance, feel entitled to ignore skepticism when discussing their subject-matters. They do not try to show that there are physical or biological facts in the first place, but merely assume that these facts exist. Perhaps, by the same token, we can merely assume that animals are conscious and ignore skeptical challenges, even if these challenges have not, strictly speaking, been defeated. In any case, the remainder of this section can be understood as addressing those unconvinced by this Moorean strategy.

that is present in humans but not in those animals supports the opposite conclusion. Now, even if we do not know the specific details nor have a complete theory of human consciousness, some candidates seem likelier than others.⁴⁹ And if some animals share these features, that will increase the likelihood of the conclusion that they are also capable of experiencing conscious pain—without, of course, *proving* it conclusively. A conclusion of this sort was reached by a team of scientists in a 2013 article summing up the advances in the neuroscience of consciousness in the previous ten years:

Similar neuronal mechanisms might support a level of consciousness across mammalian species in general, given brain structures and circuitry that are closely homologous to the human case, conserved neurophysiological signatures during sleep states and general anesthesia, and comparable behavior... Beyond mammals, however, this argument is more difficult to make, primarily owing to an incomplete understanding of the relevant neuroanatomy and neuro-physiology (Boly et al. 2013, 12).

Similarly, the signatories of the famous “Cambridge Declaration on Consciousness” stressed that:

[c]onvergent evidence indicates that non-human animals have the neuroanatomical, neurochemical, and neurophysiological substrates of conscious states along with the capacity to exhibit intentional behaviors... Non-human animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates (Quoted in Andrews 2015, 51).

After carefully reviewing several meta-analyses on the subject, Gary Varner has elaborated a useful table listing the most plausible evidence for the existence of animal pain, and evaluating how well do different groups of animals fare with respect to the various indicators (Table 1.1.).

⁴⁹ Borrowing from Birch’s (2020) terminology, even if we cannot adopt a *theory-neutral* approach to this problem, we can nonetheless a *theory-light* framework (one that does not require us to have a complete theory of the nature and functions of consciousness).

TABLE 5.3. The “Standard” Argument by Analogy, Further Updated

	Invertebrates				Vertebrates			
	Earthworms	Leeches & snails	Insects	Cephalopods	Fish	Herps	Birds	Mammals
1) Nociceptors present	?	+	-	?	+	+	+	+
2) Brain present	-	-	-	+	+	+	+	+
3) Nociceptors connected to brain	-	-	-	+	+	?/+	?/+	+
4) Endogenous opioids present	+	?	+	?	+	+	+	+
5) Responses modified by known analgesics	?	?	?	?	+	?	+	+
6) Response to damaging stimuli analogous to that of humans	-	?	-	+	+	+	+	+
7) Has separate ascending pathways for the affective and sensory components of pain	?	?	?	?	?	?	?	+
8) Can separately attend to the affective and sensory components of pain	?	?	?	?	?	?	?	?

Source: Modified from table 5.2 above, for the reasons given in the text.

Table 1.1. Varner’s overview of the argument from analogy (Source: Varner 2012, 123).

These three examples suggest at least two things. First, even though it is true that we still do not have a generally accepted theory of the material bases of consciousness (or pain in particular), as Allen correctly points out, there are a few candidates that appear to be better positioned than others. Second, all of these candidate features appear to be present among mammals—whereas it is more controversial whether they are also present among other groups of nonhuman animals. As we have seen, Boly and her colleagues suggest that “beyond mammals, [the argument from analogy] is more difficult to make.” Varner is even more pessimistic: “[T]he conclusion of the standard argument [i.e. the argument from analogy] is that probably all vertebrates can feel pain, while invertebrates (with the exception of cephalopods) cannot” (Varner 2012, 113). Only the signatories of the Cambridge Declaration on Consciousness seem to be quite

confident that birds are conscious too.⁵⁰ For this reason, concluding that mammals are sentient is safer than saying the same about birds or fish.

In the following two subsections I will discuss two possible objections (one skeptical about the very possibility of nonhuman consciousness, the other skeptical about our epistemic access to its content).

1.2.3. Animal consciousness and higher-order theories of consciousness

The first challenge to animal consciousness derives from the so-called higher-order thought (HOT) theory of consciousness. According to the HOT theory of consciousness, phenomenally conscious states can be reduced to mental representations of a special sort (i.e. metacognitive states; that is, thoughts about other thoughts). Thus, in order to have a conscious experience *E*, a subject *S* must also have some higher-order order thought *T* (actual or dispositional) that has *M* as its object. This idea is often labelled the Transitivity Principle: “A conscious state is a state whose subject is, in some way, aware of being in it” (Gennaro 2018, 9; see also Rosenthal 2000, 272-276).

By raising the cognitive requirements of phenomenal consciousness, HOT theories challenge the possibility of animal consciousness. If consciousness requires that one be able to think of oneself as having some particular mental state, does not that set a standard most animals are unable to meet? Peter Carruthers, one of the main proponents of the HOT theory of consciousness, thinks so. In his view, “higher-order representation theories will entail ... that very few animals beside ourselves are subject to phenomenally conscious mental states” (Carruthers 2005, 51).

This is a crucial issue, albeit one I lack the space to address properly. The honest move, I believe, is to admit that this is a limitation of the present discussion. Nonetheless, let me add two qualifications to this last point. First, the HOT theory of consciousness is not unanimously accepted among philosophers of mind, some of which think it ought to be rejected.⁵¹ Second, many of its proponents do not believe that HOT theories of

⁵⁰ Though, of course, given their prominence, it still gives considerable support to the view that birds are conscious.

⁵¹ See, for instance, Block 2011.

consciousness entail that animals lack phenomenal consciousness. For instance, in his seminal essay “Two Conceptions of Consciousness,” David Rosenthal (1986, 350) argues that, since “most nonhuman animals ... plainly do have conscious sensations,” it follows that they “can presumably form thoughts about such objects [i.e. first-order mental representations], albeit primitive thoughts that are very likely not conscious.” Rocco Gennaro, another supporter of the HOT theory of consciousness, agrees that “HOTs need not be as sophisticated as it might initially appear,” and adds that “in recent years, some experiments have also strongly suggested that many animals can have metacognitive states” (Gennaro 2018, 10). For these reasons, I do not think this challenge needs to be fatal.

1.2.4. What is it like to be a conscious animal?

Another skeptical challenge comes from the view that, even if animals are phenomenally conscious, their experiences may be too qualitatively different from ours for our moral judgments to provide any guidance. This view relies upon Thomas Nagel’s (1974) famous argument that the subjective aspect of consciousness is stubbornly elusive and cannot be fully explained only by reference to objective (i.e. non-subjective) facts, such as, say, neural events. As he put it: “At present we are completely unequipped to think about the subjective character of experience without relying on the imagination—without taking up *the point of view of the experiential subject*” (Nagel 1974, 449. Italics are mine). Now, since we cannot experience *from the inside* what it is like to be a beaten dog or a wounded bat, how can we know whether their pain is even remotely similar to ours? As a matter of fact, Ludwig Wittgenstein seems to have harbored doubts of this sort, as her Russian teacher Fania Pascal recalls:

“I had my tonsils out and was in the Evelyn Nursing Home feeling sorry for myself. Wittgenstein called. I croaked: “I feel just like a dog that has been run over.” He was disgusted: “*You don’t know what a dog that has been run over feels like*” (Quoted in Frankfurt 2005, 24. Italics are mine).

When confronted with this question, I am tempted to paraphrase one of the characters of the Woody Allen movie *Hannah and her sisters*: “How the hell do I know what animal pain feels like? I don’t know how the can opener works.” My second, more considered,

reaction, is to doubt that the conclusion (we cannot know whether animals are conscious in a way that is similar to ours) follows from the premises (we cannot experience what it is like for an animal to have phenomenally conscious states). What an argument like Nagel's, if sound, implies is that experiencing a phenomenally conscious state is essentially a *first-personal phenomenon*: only for the experiencing subject there is something it is like to be in a particular state. This fact allegedly entails that a fully third-personal description of consciousness cannot be complete, for there is no way a third-personal description of something (which should be in principle intersubjectively accessible) can adequately capture an essentially first-personal phenomenon (which is in principle only accessible to the experiencing subject). Thus, any scientific theory of consciousness that does away with the latter is bound to leave out important pieces of information.

Even if we accept this, however, we should not conclude that we cannot form any justified beliefs about how the phenomenally conscious states of others feel like. Instead, this is something we do all the time: when we see someone falling on the street, we form beliefs about how that person feels like at the moment, even if, of course, we cannot have *access* to her conscious experiences. The title of a famous movie to the contrary, we cannot be John Malkovich. Now, the impossibility of *experiencing* someone's mental states does not prevent us from being able to *infer* things about the character of those mental states, inferences that can be more or less warranted. If that was really the implication, a view like Nagel's would prove too much: since the experiences of other human subjects are as inaccessible (i.e. essentially first-personal) as those of a bat, we would have to conclude that we cannot even know whether other humans' pain is similar to mine. This is even worse when the pain is caused by a condition we have not experienced (and are unlikely to experience in the future). Most of us, for instance, have probably experienced what it is like to have a headache, but not what it is like to suffer from spina bifida, or from fibrodysplasia ossificans progressiva, an extremely rare disease which causes fibrous tissue (i.e. muscle, tendons and ligaments) to ossify. Should we conclude, then, that we have absolutely *no clue* about the experiential badness of those pains—or, even further, that we have absolutely no clue whether it is *bad* to suffer them in the first place? This conclusion, however, assumes that we can only have justified beliefs about how a phenomenally conscious state feels like when we have experienced it. But this criterion seems too strong.

Even if we cannot experience *X*, we can still make inferences about what *X* feels like. In the case of other humans, that seems indeed a sensible strategy: as long as we are all the same kind of creatures (with the same physiological structure), there is no reason to expect the subjective aspects of our phenomenally conscious states to differ too much. In the case of nonhuman animals, things are more difficult. Still, some inferences are better grounded than others. Again, mammals are a good candidate, given the similarities that exist between them and us. To illustrate: to the extent that we believe pain depends on the existence of a certain physiological architecture, which is similar in humans and nonhuman mammals, it seems at least justified to believe that their experience of pain has some qualitative resemblances (we can later introduce discounting factors reflecting the remaining uncertainties). Let us see one example: philosophers and scientists working on pain tend to distinguish between the “sensation of pain” and the “sensation of dislike” associated with the former. Those elements are widely believed to be separable, based on the reports of patients who have undergone a prefrontal lobotomy, a cingulotomy or who have consumed opium derivatives—e.g., morphine (Aydede 2019). Drawing on this, Adam Shriver (2006) has argued that our best scientific theories trace this phenomenon to the existence of two differentiated pathways in the human nervous system (dissociation happening whenever only one of them is activated). Crucially, this particular physiological architecture seems to be present in mammals too, which allows us to infer, on the basis of these theories, that their sensations of pain, and the dislike associated to it, are potentially separable (which is partly a qualitative feature of pain). Of course, these theories and their assumptions might turn out to be wrong, but for our argument to work we do not need certainty, but justified belief.

In addition, it is often argued that because humans are linguistic and conceptual animals, we are able to transform mere sensations of pain into more complex experiences. As Stephen Budiansky (1998, 193) writes: “[O]ur ability to have thoughts about our experiences turns emotions into something far greater and sometimes far worse than mere pain.” In Chapter 2 (Section 2.3.2), I will argue that the normative implications of this view are more ambiguous than one might initially think: having more complex experiences of pain, with greater conceptual elements, is often better than being trapped in an experience of mere pain from which there is no escape. Still, it is worth noting that this is not a problem that affects only nonhuman animals. Many

humans, at various stages of their lives or throughout their entire lives, cannot exercise their linguistic capacities. With respect to these (temporarily or permanently) non-linguistic human beings, the claim applies the same. Thus, if correct, the view under discussion does not show that humans' and animals' qualitative experience of pain (or, more generally, their phenomenally conscious states) is different; rather, it shows that the experiences of linguistic and non-linguistic beings (the latter including both human and nonhuman animals) are different. But, as I mentioned, I do not think that any clear moral implication follows from this fact.

So, I conclude, both common sense and the available scientific evidence give us good reasons to believe that many nonhuman animals are sentient (that is, that there is something it is like for them to experience phenomenally conscious states in general, and pain in particular). Among them, mammals stand out as the group of animals to whose sentient we can assign a higher degree of credence. I will now move from the issue of sentience to the question of autonomy.

1.3. Autonomy

Besides being sentient, cognitively unimpaired adult human beings are also capable of acting autonomously. Whether any nonhuman animal qualifies as an autonomous being is a difficult question. In this section I will argue that it is an open philosophical and scientific question whether at best a few mammals can act as autonomous—or quasi-autonomous—agents. Most nonhumans, however, do not appear to satisfy the requirements of even a generous conception of autonomy such as the one we will adopt here.

Before moving any further, it is important to note that whether animals can be autonomous or not depends to a great extent on the conception of autonomy we adopt. If we assume a Kantian account (which requires that one be able to reflectively give oneself universally valid principles) or the so-called two-level conception of autonomy (which requires that one be able to have fairly complex second-order thoughts about one's first-order thoughts⁵²), then it is very unlikely that any animal can qualify as an

⁵² See, for instance, Dworkin 1988, 20. Beauchamp and Wobber 2014, who argue that chimpanzees might be autonomous creatures, criticize these two accounts as being too demanding.

autonomous agent. Kantian accounts, on the one hand, tie autonomy to moral agency, which animals arguably lack.⁵³ Two-level conceptions, on the other hand, require the possession of certain sophisticated metacognitive abilities. Although the presence of some metacognitive abilities in animals is the subject of an interesting scientific and philosophical debate,⁵⁴ it is doubtful that even on the most optimistic accounts they will meet the standards of complexity set by two-level theories of autonomy.

In this section I will adopt Joseph Raz's (1986) conception of autonomy, which, as I will explain in a moment, is less demanding than its alternatives. Here I might be accused of choosing the account that it is most likely to achieve my goals. But that is not the case. First of all, my goal is not to *show* that some animals are autonomous agents, but to *explore* whether, even on the most generous conception of autonomy, some animals might qualify as autonomous, or quasi-autonomous, beings. Secondly, the Razian conception of autonomy is not a marginal theory which I have just happened to resurrect, but a widely discussed and influential player in the game—and has been assumed in the discussion of some of the principles of inclusion that we will see in Chapter 3. Thirdly, we may not even have to choose which of the three alternatives provides the *correct* account of autonomy. It might be that, in our moral talk and practice, we use the term “autonomy” in different ways (each of them intended to play a particular function), and that different accounts simply try to capture different phenomena—phenomena that are all normatively interesting in their own right. In any case, those who disagree can feel free to divide the discussion in two parts, one that explores whether any animals can qualify as autonomous agents on the least demanding

⁵³ Mark Rowlands (2012) has argued that animals are neither moral agents nor pure moral patients: rather, they are *moral subjects*: that is, beings who can act on the basis of moral reasons (which in the case of animals means emotions which reliably track the good and bad-making features of various situations) but who cannot be held responsible for the resulting decisions, as they seem incapable of understanding the content of those reasons. David DeGrazia, on the other hand, has claimed (1996, 203) that “[o]n any reasonable understanding of moral agency, some animals are moral agents.” DeGrazia's argument is that if we see “moral agency” as a matter of degree, we cannot simply rule out the possibility that at least some animals are moral agents. Marc Bekoff and Jessica Pierce (2009, 143-145) have also suggested that animals might be moral agents, but their notion of “moral agency” seems—and the authors are perfectly aware of it—different from the one usually adopted by moral philosophers. For discussion, see Rowlands 2012, 84-88.

⁵⁴ For an optimistic view see Gennaro 2009. For a skeptical reading of the available evidence see Carruthers 2008.

account of autonomy, and one that argues for the superiority of this account over its rivals. This section is only devoted to the first of these two tasks.

On Raz's account, autonomy requires at least three things. First, an autonomous being must be in possession of the necessary *mental abilities* "to form relatively complex intentions and plan their realization" (Raz 1986, 371). Second, an autonomous individual must enjoy an adequate range of choices available to her. Third, she must also be independent. That is, the individual must not be subject to someone else's will. When these three conditions are satisfied, an agent can be considered the author of her action. Autonomy, in this view, becomes synonymous with self-authorship.

1.3.1. Assessing the case for animal autonomy

Whether animals are autonomous or not cannot be established on purely *a priori* grounds. We need, of course, an account of autonomy, and the philosophical tools needed to interpret the existing scientific evidence, but empirical debates cannot be set aside. Of the three requirements of autonomy I introduced at the end of the last subsection, only the first threatens (or, at the very least, most obviously threatens) animals as potential autonomous beings. In Raz's view, autonomous individuals must have the cognitive wherewithal capable of sustaining the formation of complex intentions and the execution of plans. At the very least, this requires minimum rationality, the ability to comprehend the means required to realize goals and the mental faculties necessary to plan actions (Raz 1986, 373). In addition, autonomous beings must be able to see themselves as bearers of a life stretching over time (371). In what follows, I will be focusing on these specific capacities, one at a time.

A. Minimal rationality

Autonomous beings must be minimally rational. That seems indeed a plausible requirement. A massively irrational creature (systematically unable to form reliable beliefs about the world, or to make its actions, beliefs and desires cohere) would hardly count as autonomous on any reasonable conception of autonomy. The expression

“minimum rationality” admits many potentially valid interpretations. Let us consider three distinct (and perhaps complementary) options:

Minimal epistemic rationality: A being is minimally epistemically rational if she is able to form reliable representational states such as beliefs.⁵⁵

Minimal practical rationality: A being is minimally practically rational if the content of her representational states (plus other states - i.e., desires) can be used to explain her actions, and if the three elements—beliefs, desires and actions—cohere to a certain extent.

Minimal logical rationality: A being is minimally logically rational if her decisions are subject to certain logical constraints.

Let us start with minimal epistemic rationality. On this interpretation, a minimal rational being is one who can reliably track various features of its environment. Most nonhuman animals (and specially mammals) would appear to be minimally rational in this sense, for they clearly have representational states (about the external world, their own bodies, the bodies and behavior of others, and—perhaps in some animals—the mental states of others). Moreover, these states are often reliable: the information they produce correlates in a stable way with the things in the world to which they refer (Cf. Paez 2021, 10). Thus, the presence of tables seem to produce stable (and reliable) stimuli in the cognitive systems of dogs—though, of course, it is a further question whether they *understand* tables and other objects.⁵⁶ As Hilary Kornblith (2002, 28-29) has put it: “There is a large literature on animal cognition, and workers in this field typically speak of animals knowing a great many things. They see animal knowledge as a legitimate

⁵⁵ Those who doubt that animals can have genuine beliefs or desires can feel free to talk instead of “belief-like” states, “desire-like states” and so on.

⁵⁶ This is not a neutral assumption. Some authors (notably, McDowell 1994) have denied the possibility of any kind of *nonconceptual* content, so that if one does not have the concept of a table (even if a very primitive one) one cannot even be said to be perceiving one. Here I am assuming either that nonconceptual content is real, or that animals have some rudimentary conceptual abilities.

object of study, a phenomenon with a good deal of theoretical integrity to it.”⁵⁷ Granted, that this is a minimal account of epistemic rationality, but that is precisely the point.⁵⁸

If we adopt the second reading (minimum rationality as minimal practical rationality) we get similar results: the actions of many nonhuman animals can be explained by reference to the content of certain mental states—such as beliefs and desires—in a way that makes those actions apt for some kind of evaluative appraisal. That is, we can judge the degree to which their actions cohere with their beliefs and desires. Of course, this might not always be possible in practice, as the content of these mental states will often be indeterminate or inaccessible to us, but there is no reason to think that it should also not be possible in principle. Researchers of a behaviorist bent once thought that animal cognition and behavior could be fully explained without any reference whatsoever to representational states of any kind: we have perceptual inputs, we have behavioral outputs, and there is no need to posit any further mental entities or processes in between. But, as Derek Penn and Daniel Povinelli (2013, 64) have pointed out, “the evidence that has accumulated over the past 10 years has thoroughly eliminated any doubt that a behaviorist explanation of nonhuman cognition is untenable.”⁵⁹

Minimal logical rationality poses a more serious challenge. On the one hand, logical reasoning seems to demand a considerably high degree of abstraction, one it is unclear any nonhuman animal can achieve. On the other hand, though, we have evidence of animals behaving in ways that at least seem to suggest that their decisions are subject to certain logical constraints. For example, various studies suggest that some animals are able to make inferences by exclusion (Call 2004 on apes; Erdőhegyi et al. 2007 on dogs). In one of these studies (Call’s), great apes were able to correctly guess where the food was after knowing where it was not. The subjects were presented with two containers, and were offered information—both visual and auditory—about their contents. When they were shown that one of the containers was empty (i.e., the

⁵⁷ See also Dretske 2000, Ch. 5.

⁵⁸ A further response is that this conception is too minimal even for Raz’s requirement. As he does not specify how he understands minimum rationality, I cannot easily assess this objection. If it is right, then it would mean that most (if not all) nonhumans are not autonomous. The conclusion, then, would remain the same, although it would be reached at an earlier stage.

⁵⁹ For further discussion, see the essays in Hurley and Nudds 2006.

container was noiseless), the subjects selected the other container, even in the absence of any cues regarding its potential content. Another interesting research program focuses on the use of transitive inference in animals (Allen 2006; Vasconcelos 2008; Guez and Audley 2013). Although it is widely accepted that some animals *appear* to engage in transitive inference, researchers disagree about whether the available evidence can be fully explained in terms of associated conditioning, or whether a more ambitious explanation must be contemplated (namely, one in which those animals are actually reasoning to a certain degree).

There are at least two ways to circumvent this dilemma. First, it might be claimed that minimal logical rationality simply requires that one's decisions be *subject* to the constraints of logic, regardless of whether this comes as a result of mere associative conditioning or conscious reasoning. Second, one can accept that logical reasoning proper involves highly abstract symbolic operations that are beyond the reach of at least the great majority of nonhuman animals, yet still claim that many basic patterns of inference have non-linguistic analogs which can be used by some animals. Defenders of this second strategy (see, for instance, Bermúdez 2003, Ch. 7) accept that logic is essentially a linguistic phenomenon, but nonetheless hold that reasoning is a more fundamental phenomenon, which only partially overlaps with logic (and which is not restricted to humans). As José Luis Bermúdez (2003, 140) writes, the challenge “is to identify forms of reasoning at the nonlinguistic level and then explain them in a manner that does not require the animal to deploy elementary logical concepts.” This “proto-logic” (as he calls it) might be all that minimal logical rationality requires.

Some people might claim that the first strategy sells logical rationality too cheap. I understand the linguistic aspect of this criticism: to say that one can be “logically rational” without ever consciously engaging in logical reasoning may sound too far-fetched. But I am less convinced about the substantive point (namely, that mere subjection to the constraints of logic—or if one favors the second strategy, the constraints of a more fundamental, not necessarily linguistic, proto-logic—cannot be enough for the minimum rationality that autonomy requires). Many of us, when acting autonomously, do not pay much heed to the logical status of the reasons on the basis of which we act. We simply operate with the logical autopilot on, which (typically) guarantees that we do not depart excessively from the constraints of logic and valid reasoning, and nothing else seems required. If this strategy proved wildly unreliable

(i.e., if it systematically failed to respect the conditions of valid inference), then we would be in great trouble. But as long as it works well, there is nothing to worry about. Now, I do not see why this move cannot be applied to those animals whose actions are coherent with the rules of valid inference. If their logical (or proto-logical) autopilot is reliable enough, where is the trouble? One could object that autonomy seems to require a degree of choice (which the autopilot precludes by definition), but it is controversial whether this requirement should apply at the level of logic, or whatever the most fundamental level of basic valid reasoning is. Autonomy, on almost any account, does seem to require the possibility of choice, but this choice must be made against the background of certain reliable epistemic and logical capacities, which needn't themselves be "freely" chosen for one to count as an autonomous agent.

On the basis of some plausible interpretations of "minimum rationality," which in turn rely on respected and plausible (though, of course, not uncontroversial) philosophical views, the blanket exclusion of all nonhuman animals appears unwarranted. We can now move from minimum rationality to the ability to understand goals and ends, and to elaborate and pursue plans.

B. Ability to understand means and make plans

In this section I will jointly discuss two of Raz's conditions: the ability to understand the means necessary for the realization of goals and the mental faculties needed to develop and carry out plans. The reason is quite straightforward: one cannot plan anything unless she is able to understand how means can be used to realize particular goals. Plans, of course, might include more than the sheer ability to comprehend means as being instruments to attain something else, or achieve some further goals, but at the very least they require it. For the purposes of our discussion, if animals can make plans, they are also capable of understanding the means required to realize goals.

One further requirement of planning is the ability to travel mentally. "Mental time travel," as the psychologists Thomas Suddendorf and Michael Corballis—who coined the expression—describe it, involves both "the mental reconstruction of personal events from the past (episodic memory) and the mental construction of possible events in the future" (Suddendorf and Corballis 1997, 133). A planner must be able to position herself

in the future, envisioning possible scenarios. Unless this condition is satisfied, the “forward-looking” aspect of planning will remain absent. Suppose I am planning what to do this evening. I can go to the cinema, or go see a band that I like and is finally coming to town. Or I can call some friends and go for a walk. Or simply take a ride on my bike. If I am incapable of conceiving of any of these as real possibilities, choices that I can make in the future (as *doable*, in short), I will not be able to make any plans at all. For decades, animals have been thought unable to travel mentally in time. Indeed, it is still quite common to hear that animals, unlike us, are trapped in the present. Surely, it is said, they can react to external stimuli in ways far more complex than we originally thought, but they cannot look ahead. This assumption, however, can no longer be taken for granted.

The use of tools offers us one criterion to test the forward-looking abilities of animals.⁶⁰ Tools are interesting because they are constituted by objects which bear no direct connection with the future. It is only when combined with a subject’s expectations and beliefs about what this object can achieve in the future that they become *tools*. And tool use, it appears, is common among some nonhuman animals.⁶¹ Chimpanzees, for instance, use branches from palm-oil trees in order to gain access to richer food sources (Yamakoshi and Sugiyama 1995). They also use tools to widen the holes of termite nests (Sanz and Morgan 2007) and hammers to crack nuts (Nishida 1990).⁶²

One possible objection is that tools are not plans, but only the means through which plans are realized. We would have a plan, so the argument goes, if animals were shown not merely to use tools, but also to create them. Tool manufacture, rather than mere use, is what we need in order to show that animals can plan. This objection has two parts, none of which decisively refutes our argument. First of all, something can be a plan and

⁶⁰ This intuition can be challenged: Spiders build very complex webs, which are, in a sense, tools. But we would hesitate to attribute them fairly complex cognitive capacities (not to mention the ability to time travel mentally). Now, even if it does not constitute a perfect test, it might be an acceptable proxy.

⁶¹ An extensive literature review, from which many of these references have been retrieved, can be found in Andrews 2016. For further discussion, see Varner 2012, 215-216. See also Hills and Butterfill 2015, 368 for a defense of the thesis that animals can predict the outcomes of possible future actions in a way that seems to require a “primitive sense of the self, needed to distinguish actual from simulated action.”

⁶² Tool use among nonhuman animals is not restricted to chimpanzees, though. For a comprehensive discussion, see Shumaker et al. 2011.

also a means through which an additional plan is realized. Suppose I decide to go to a concert tomorrow. That is undoubtedly a plan. Now, at some point I will have to buy a ticket: I can do it now, later in the evening, or tomorrow in the morning. Suppose I decide I will do it in the evening. That is surely another plan. But it is a plan that is also a means to the realization of the first plan: I cannot go to the show if I cannot buy a ticket. Yet there is no incoherence here: something being a plan is compatible with it also being the means to the realization of a further plan (Bratman 1987, 28-30). Second, even if we assume that only tool manufacture (as opposed to tool use) provides evidence of a being's ability to make plans, that would still fail to rule out all nonhuman animals. Though rarer than tool use, tool manufacture is also found among animals in the wild. Chimpanzees manufacture tools to enhance their hunting practices (Preutz and Bertolani 2007), and can also fabricate stone tools (Carvalho et al. 2008). Likewise, New Caledonian crows are also known for their ability to manufacture highly complex tools (Kacelnik et al. 2006, 520). Tool manufacture has also been reported among some enculturated great apes, including the famous bonobo Kanzi (Savage-Rumbaugh and Lewin 1994, Ch. 8).

All these examples, I believe, show that at the very least some animals (mostly mammals) can understand the means required to realize several goals. In addition, they also suggest that at least some of them have the ability to make—and realize—plans.

C. Auto-noetic consciousness

The last requirement (seeing oneself as the subject of a life stretching over time) is also the trickiest. “A life stretching over time” is a slippery, highly abstract philosophical expression. We can interpret it as “seeing oneself as the subject of a life with a particular narrative structure that is both accessible and intelligible to oneself” (i.e. a *narrative identity*, as psychologists usually call it). On that reading, animals are ruled out. But another potential reading is “awareness of being an object with a certain temporal extension, going back into the past and stretching into the future.” Whether this reading excludes animals or not is an open question. Great apes, for instance, seem aware of objects as entities that stretch over time (Barth and Call 2006), and, as we shall see in a minute, there is also some evidence that they are capable of self-recognition. They are

thus capable of recognizing objects as perduring entities, and also of recognizing themselves as objects in the world, so there is no clear reason why they should not be able to recognize themselves as objects that endure in time (that is, as being at t_2 the same object that they were at t_1). Crucially, part of the answer to this question will depend on how intellectualized a notion of “awareness” we adopt. If “awareness” requires having, and understanding, the concept of an organism, of the future, the past, etc., then animals will probably be excluded as well. But on a less intellectualized interpretation, one might see oneself as a life stretching over time if she has auto-noetic consciousness (i.e., the ability to place oneself in the past, the future, or counterfactual situations).

Earlier we discussed the idea of “mental time travel” as the capacity to reconstruct personal events in the past and construct possible events in the future. In a sense, “mental time travel” is nothing but the ability to exercise one’s “auto-noetic consciousness,” to navigate the geography of one’s life as an event extending over time, and successfully project it into the future. What distinguishes both of them from the mere ability to recollect information from the past or forecast events in the future is that an auto-noetic conscious being can experience herself as the subject of these past and future events. Even if she does not have the know-what abilities to master all the involved abstract concepts, she might still have the know-how skills to act *as if* she did. In this final section I will discuss whether nonhuman animals have auto-noetic consciousness. If some of them do, they might be able to have a sense of themselves, even if do not possess the concepts human beings typically employ to think about ourselves.⁶³ Yet, as I will try to show, the evidence here is even less conclusive.

Following Gary Varner’s (2012, Ch. 8) useful analysis, we can distinguish three elements central to auto-noetic consciousness: a backward-looking aspect, which can be linked to the presence of episodic memory; a present element, linked to the ability for self-recognition, and a forward-looking element, linked to the ability for planning and the use of a theory of mind. Let us discuss them in turn.

⁶³ Though, on some accounts, these facts may suggest that these animals have these concepts, though their level of mastery might not be quite sophisticated.

i) *Episodic memory*. As an average human being, I am able to remember a few things. I can remember, for instance, the lyrics of some of my favorite songs, the plot of the last movie I saw, or the formulation of John Rawls' two principles of justice. But I am also able to remember things which seem to have different qualitative features, like when I was three or four years old and my grandparents would take me to the railroad station to see the trains rushing by the platform, or the night when a friend and I went to see Bruce Springsteen play at the Olympic Stadium in Barcelona. These memories have a distinctive feature: they are things that *happened to me*, and I remember them as such. They are not abstract, detached, thoughts I have just managed to retain in my mind. Psychologists use the labels "semantic memory" and "episodic memory" to distinguish between these two kinds of memories, where the former refers to the detached thoughts. I have kept in my memory, and the second refers to particular events of my life. The latter, it seems, involves some amount of "mental time travel" into the past, which allows us to look back upon our own life. Mental time travel in episodic memory is a journey throughout and within one's self.

It is widely accepted that some animals have really good memories. Captive elephants, for instance, seem able to remember keepers and conspecifics they have not seen in a long time (Varner 2012, 184). But we must be very careful here: good memories do not imply episodic memory. As we have seen, episodic memory has distinctive features that set it apart from other kinds of memory. Do any animals have this kind of memory? It is hard to tell. Many criteria for episodic memory cannot be straightforwardly extended to nonhuman animals, since they require linguistic communication. But other methods and criteria have been proposed and the jury is still in. In an influential article, Nicola Clayton and Anthony Dickinson (1998) argued that their research on scrub jays showed that these animals can fulfill "the behavioural criteria for episodic-like memory in non-human animals" (272). Likewise, a 2006 review of the literature concluded that "[i]n sum, it seems that what has been called episodic memory is a capability that is not restricted to humans" (Dere et al. 2006, 1221). These conclusions have not gone unquestioned. Psychologists Thomas Suddendorf and Janie Busby (2003, 391), for example, have claimed that mental time travel (whose backward-looking part is episodic memory) "is a uniquely human characteristic" (Suddendorf and Busby 2003, 391)—although they acknowledge "the current lack of evidence."

ii) *Self-recognition*: For animals to have any sense of themselves at all, they must be able to identify themselves as being *that* specific object in the world. The “present” element of autothetic consciousness is thus the ability for self-recognition. How can this capacity be tested? Although that is a controversial issue, the most well-known proposal is the so-called mirror test, originally developed by the psychologist Gordon Gallup (1970).

In the original test, animals were marked on parts of their bodies outside of their visual fields (without any additional aid, that is) while they were anaesthetized. The animals, once they were awake, were put in front of a mirror. Many animals recognize *something* in the mirror, but not themselves. African grey parrots, for instance, appear to mistake their own reflections for the presence of conspecifics (Pepperberg et. al 1995, 186). In order for an animal to pass the mirror test, she must be able to identify the spot on her body. If, after seeing her reflection in the mirror, the animal touches or investigates the marked part of her body (which she cannot see directly) with a frequency above chance, that is taken as evidence of self-recognition. That is what provides the missing reflexive piece. Since Gallup’s original studies, chimpanzees, gorillas, orangutans, bottlenosed dolphins, Asian elephants, magpies and Rhesus monkeys have apparently been able to pass the test (Andrews 2016). If that is correct, Gallup’s (1970, 87) claim that “the capacity for self-recognition may not extend below man and the great apes” may have been a bit too hasty.

Nowadays, it is widely assumed that the mirror test is, in some respects, underinclusive. Some animals—like dogs—rely primarily on senses other than vision,⁶⁴ and others—like elephants—do not appear to pay much attention to such an insignificant change in their bodies as a little red spot. Other authors, though, have argued that the test is also *over*inclusive. Cecilia Heyes, for instance, has suggested that passing the mirror test only shows that one can recognize her own body, not her own self (1994, 910). At this moment, then, the jury is still in.

⁶⁴ In a recent study, Alexandra Horowitz (2017) has developed an “olfactory mirror test”, which apparently domestic dogs can pass. For skepticism about the results (though not about the method) see Gallup and Anderson 2018.

iii) *Theory of mind*:⁶⁵ Vervet monkeys have different alarm calls to different predators, and each of these calls elicits a distinct response. Daniel Dennett (1998, 290) has described one famous anecdote involving these animals and their calls:

[T]wo bands or groups of vervets were once observed in a territorial skirmish; one group was losing ground and one of the losing-side monkeys, temporarily out of the fray, seemed to get a bright idea: it suddenly issued a leopard-alarm (in the absence of any leopards), leading all the vervets to head for the trees - creating a truce and regaining the ground his side has been losing.

This is a striking anecdote, which suggests that animals can *deceive* other animals. Which would in turn mean that they can have mental states about the mental states of other beings, a fairly complex ability known as “theory of mind” (or “mindreading”). To have a theory of mind is to be capable of attributing mental states to others (their beliefs, goals, desires, perceptual states...), and use these attributions to guide one’s actions. But it is also to anticipate what others will do in the future: since I know Tim wants the last piece of cake as much as I do, I should better run to get it first. Detective stories work in a similar way: the detective is always trying to guess the beliefs and desires of the suspects in order to predict where they might be hiding, while suspects are trying to guess the mental states of the detective in order to predict her next move and be far by then. Having a theory of mind is what allows us to deceive and lie, but also to make jokes or give our best friend a surprise. That is the future-oriented element of auto-noetic consciousness (as it allows one to think about the future in relation to oneself, in strategic terms).

In 1978 David Premack and Guy Woodruff published their seminal paper “Does the chimpanzee have a theory of mind?” There, the authors argued that an adequate explanation of the behavior of some chimpanzees might require that we take them as capable of attributing mental states to others, on the basis of which they are able to act. Though their argument failed to convince many scientists of the truth of their conclusions, it convinced them of the legitimacy and interest of the question, which has

⁶⁵ Since I have already discussed planning in the preceding section, I shall here only focus on the issue of the theory of mind.

been thoroughly discussed in the meantime. After all these years, where do we stand? First of all, we must distinguish between different mental states that can be attributed: though some of them might be propositional attitudes (beliefs and desires, for instance), not all of them need to be (perceptual states, for example, might not have propositional content, or at least not a very complex one). In a 2008 review of the literature, Joseph Call and Michael Tomasello, two leading experts in the field, concluded that the evidence strongly suggests that “chimpanzees understand the goals and intentions of others, as well as the perception and knowledge of others,” but that “there is currently no evidence that chimpanzees understand false beliefs” (Call and Tomasello 2008).

That last bit is important, so let us say something more about it. One standard way to test the presence of “mind-reading” abilities is the so-called *false belief task* (Winner and Perner 1983). The original test, which was applied to children, involves a puppet show, where one of the puppets puts a piece of chocolate inside a box before leaving the stage. While the puppet is out, his mother changes the location of the food, so he cannot find it later. When the puppet comes back, the show is interrupted and children are asked where they think the puppet will look for the chocolate. If they answer that the puppet will look where he originally left the chocolate, they pass the test; if they think he will look where his mother—unbeknownst to him—hid it, then they fail it. Passing the test is taken as evidence that one can attribute beliefs to others, and predict their behavior on the basis of these beliefs. For a long time, chimpanzees (and Great Apes in general) have been unable to pass the false belief task. This has led some people to conclude that, although these animals might be able to attribute other types of mental states to others (see Hare et al. 2000 for perceptual states), they cannot attribute them beliefs, or at least we currently do not have evidence to support such a claim. In 2016, however, Christopher Krupenye and his collaborators (which included both Call and Tomasello) published an article summarizing several experimental results which suggest, in their view, that “great apes also operate, at least on an implicit level, with an understanding of false belief” (Krupenye et al. 2016, 110).

Let us now listen to the skeptics. Daniel Povinelli, another leading researcher in the field, has been arguing for years that research on animal mindreading (whether about perception, goals, or beliefs) falls prey to what he calls a “logical problem.” According

to Povinelli, for every interpretation of the evidence suggesting that chimpanzees are forming beliefs about the mental states of others, there is an alternative explanation in terms of their beliefs about the behavior of others. “[T]he problem,” he and his collaborator Jennifer Vonk have written, “is not primarily an empirical one.” Rather, what matters is “to come to grips with the fact that the experimental results from the kinds of techniques that are currently in vogue cannot add a single bit of evidence in unique support of the conclusion that chimpanzees reason about mental states—*any* mental states” (Povinelli and Vonk 2004, 11). The basic idea is this: current theories about theory of mind in chimpanzees are underdetermined by the available evidence. Until we find a method to come up with data that could only be explained by one of the competing hypothesis, progress will be impossible. Faced with such an impasse, one may appeal to Morgan’s canon, a highly influential methodological principle within comparative psychology, which states that “[i]n no case may we interpret an action as the outcome of the exercise of a higher psychological faculty, if it can be interpreted as the outcome of the exercise of one which stands lower in the psychological scale” (Morgan 1894, 53). Hence, when the data underdetermines two different explanations, we should presumptively favor that which gives the least role to higher psychological faculties. One could thus argue that merely positing beliefs about the behaviors of others complies better with Morgan’s canon than appealing to beliefs about the beliefs of other animals (which, arguably, stand “higher” in the psychological scale).

Both theses—the logical problem and Morgan’s canon—have generated a lot of discussion. With regards to the latter, psychologists and philosophers have grown increasingly skeptical of the principle’s force. Elliot Sober (2006, 97), for instance, has suggested that perhaps Morgan’s canon deserves to be “swept from the field and replaced by a much simpler idea ... empiricism.”⁶⁶ With regards to the former thesis, some authors have argued that we have already reached the point in which the data no longer underdetermines the theory. Logan Fletcher and Peter Carruthers (2013, 96), for example, have defended that “there is ... a strong case for saying that some nonhuman

⁶⁶ By this, Sober (2006, 97) means refraining from making any clear judgment “until we can point to observations that discriminate between these two hypotheses.” For other criticisms, see de Waal 1999 and Fitzpatrick 2017. For a defense of Morgan’s canon see Karin-D’Arcy 2005

animals are capable of at least Stage 1 mindreading [a primitive form of mind-reading].”⁶⁷

Do animals have a theory of mind? Again, the jury is still in. As we have seen, prominent authors disagree about how to properly interpret the current evidence. In addition, methodological disagreements further increase the difficulty of an already difficult enterprise.

Because of the amount of open questions, I do not think we can provide a satisfactory answer to the question about autonomy in nonhuman animals. Too many “ifs” remain controversial to pretend otherwise. Mental time-travel, episodic memory, self-recognition, and the ability to form a theory of mind are all debates that do not appear to have approached any sort of resolution. Although modern science shows that the mental lives of many animals is indeed fairly complex, whether this complexity goes as far as including autonomous action remains to be seen. Still, it bears noting, once again, that the best candidates are mammals (specifically, the Great Apes, and even more specifically, chimpanzees). For this reason, I conclude, it is an open philosophical and scientific question whether these animals can act as autonomous, or quasi-autonomous, agents.

1.4. Conclusion

In this chapter I have tried to do two things. First, in Section 1.1 I established the scope of this thesis. As I mentioned, I will focus on nonhuman mammals. The main reasons behind this restriction are primarily pragmatic: since I cannot dwell on all the issues that a complete discussion would require this is where I will draw the line, so that we can at least get the debate started (and potentially appeal to people who might be moderately skeptical about more ambitious claims regarding the moral status and worth of animals) Sections 1.2 and 1.3, on the other hand, surveyed two crucial scientific and philosophical debates: whether animals are sentient (Section 1.2), and whether they are capable of acting autonomously (Section 1.3). By sentience, I roughly refer to what philosophers of mind call “phenomenal consciousness” (Section 1.2.1). In Section 1.2.1

⁶⁷ See Lurz et al. 2014 for a critical discussion of Fletcher and Carruther's arguments.

I presented and defended a version of the argument from analogy, which suggests that many animals are sentient (mammals providing the least controversial case). Sections 1.2.2 and 1.2.3 discussed two possible objections: that higher-order theories of consciousness undermine the case for animal sentience, and that we cannot know what it is like for animals to be sentient, or to experience phenomenally conscious states (especially negatively valenced states like pain). Section 1.3, on the other hand, focused on autonomy. As I explained in Section 1.3.1, the goal of this chapter is to explore whether, on the least demanding conception of autonomy (the Razian conception), some animals can qualify as autonomous agents. In Section 1.3.2 (A, B and C), I review the available evidence. There, I argued that animal autonomy is considerably more problematic than animal sentience, and that the best we can conclude is that it is an open question whether a few animals (mainly Great Apes) can act as autonomous, or quasi-autonomous, agents. With this, the ground is set for dealing with the normative questions.

Chapter 2. Why animals deserve moral consideration

Introduction

This thesis assumes that animals matter morally. So vaguely stated, this claim is hardly controversial. Not even Immanuel Kant would deny that it is wrong to beat a dog merely for the fun of it. As he would put it, we might have duties *regarding* animals, even if we do not have duties *to* animals (that is, even if the grounds of these duties do not depend on facts about animals themselves—e.g. whether pain and suffering are bad for them).⁶⁸ On this view, usually known as the Indirect Duty View, we have indirect obligations regarding animals to the extent that fulfilling them helps us satisfy other duties that we humans owe (directly) to each other. For instance, if cruelty towards animals makes cruelty towards other humans more probable, then we have an indirect obligation to refrain from the former in order to decrease the likelihood of the later.

In this chapter, I will argue that this is not enough. Many animals have a well-being of their own, capable of imposing duties on us. These duties, because they are grounded in the interests of animals themselves,⁶⁹ are not indirect. The structure of the argument will be as follows. In Section 2.1, I will introduce the notion of “moral status,” specifying the role it will play in the discussion. In Section 2.2, I will offer a more detailed characterization of the Indirect Duty View, pointing out some of its main problems. Section 2.3 defends that avoiding unpleasant and unwanted pain is an important aspect of an individual’s well-being, and a potential source of direct duties (which are grounded, at least partly, on the badness of pain for that individual). In the last part of this chapter (Section 2.4), I will discuss whether human pain is necessarily weightier from a moral point of view than animal pain, and whether our discussion also entails that we have duties towards plants and non-conscious forms of life.

⁶⁸ Here I am referring to Kant as philosophers usually read him. Whether this was his actual view is less obvious, however—as his thoughts on animals have appeared on notes from Kant’s lessons on ethics, where he might have just stated (without necessarily endorsing) a popular way. It must be noted, however, that the view attributed to him fits well with his general moral framework.

⁶⁹ By “interests,” I refer to the constituents of an individual's well-being.

Before moving any further, some caveats are in order. First, in this chapter I will not say much about whether animals have rights. What I will argue is that they have interests weighty enough to generate obligations on our part. On some theories of rights, this is enough for someone to be a genuine rights-holder (Feinberg 1974; Raz 1986). On other accounts, rights are entitlements that protect certain autonomous choices (rather than interests).⁷⁰ I will not attempt to settle this debate here. If rights protect interests, and animals have interests, then animals can be subjects of rights. If, on the other hand, rights solely protect autonomous choices, then animals (most of them, at any rate) do not qualify as rights-holders. This last alternative is compatible, however, with the existence of a broader category of “protective entailments,” some of which can apply to animals, and of which rights (on the narrower conception) would constitute a subset. Finally, if rights can protect *either* interests or autonomous choices, then animals will count as potential rights-holders to the extent that they have interests worthy of protection.

Second, I will also not say much about whether death is bad for animals, or whether we have a *pro tanto* duty not to kill animals. For the sake of simplicity, I will be focusing on pain and suffering. Philosophers are divided about the reasons that make death bad for someone. On the one hand, some authors have claimed that death is only bad if we have a conscious desire to avoid it (Cigman 1981). If animals cannot entertain such thoughts, death may not be bad for them on this account.⁷¹ On the other hand, other authors have defended that death is bad when it deprives us of pleasant experiences that we would have enjoyed had we remained alive (Nagel 1970; Bradley 2009). On this view, one can harm animals by killing them, even if the process does not cause them any pain or suffering. In what follows, though, I will not assume any of these views and will focus instead on interests on which there is bigger agreement.

Finally, although I will focus on pain, I do not want to deny that other things matter as well. The best theory of well-being might be radically pluralistic, involving interests of different sorts. If I focus on pain it is because I think it is the candidate that most plausibly satisfies two requirements: i) moral relevance, and ii) applicability to animals.

⁷⁰ More precisely, as in the so-called will theory of rights, autonomous choices regarding the duties that others owe us. On this view, rights protect our control over the duties others have towards us.

⁷¹ For a defense of the view that animals can understand the concept of death see Monsó and Osuna-Mascaró 2020.

To illustrate this, contrast it with the case of autonomy: surely considerations of autonomy are morally relevant, and very plausibly ground important duties and rights (e.g. freedom of expression, freedom of conscience, etc.). Yet, as I defended in the previous chapter, it is highly controversial whether any nonhuman animal qualifies as an autonomous agent—and, even in the best scenario, it would at best apply only to a small set of mammals. Pain, on the other hand, is both morally relevant and easier to attribute to a larger number of nonhumans.

2.1. Moral status and interests

This chapter is, essentially, about the moral status of nonhuman animals. In this section, I will define the notion of moral status, as I shall be using it in this thesis, and will also clarify how it relates to moral agency and possession of interests. As I will use the expression, an entity has moral status, or is morally considerable, when it counts morally for its own sake. That is, when our reasons for doing—or refrain from doing—certain things to that entity are ultimately grounded (at least partly) in facts about it. This is, I think, a fairly widespread use. Frances Kamm (2008, 183), for instance, has written that “*an entity has moral status when, in its own right and for its own sake, it can give us reasons to do things such as not to destroy it or help it*” [Originally in italics]. According to David DeGrazia (2008, 183), “[t]o say that *X has moral status is to say that (1) moral agents have obligations regarding X, (2) X has interests, and (3) the obligations are based (at least partly) on X’s interests*” [Originally in italics]. In Mary Anne Warren’s (1997, 10) view, “an important feature of the concept of moral status is that the moral obligations that are implied by the ascription of moral status to an entity are obligations *to that entity*” [Italics are the author’s]. And as Agnieszka Jaworska and Julie Tannenbaum (2018) have claimed, “[a]n entity has moral status if and only if it or its interests morally matter to some degree for the entity’s own sake.” On this view, moral status entails the existence of moral entitlements grounded in facts about an individual, and depends on the presence of the capacities that allow for the instantiation of the relevant facts. To illustrate, if we believe that the badness of pain can give rise to duties of a certain kind (e.g. not to cause pain unnecessarily, for example), an individual will possess moral status if she has the capacity to feel pain.

Despite the inevitable vagueness, this is perhaps the most natural way to account for the apparent asymmetry between, say, destroying someone's favorite banjo and hitting someone's beloved grandmother. In the first case, my duties seem to be grounded exclusively in facts about the banjo's owner (e.g. a duty not to destroy someone else's personal property for no good reason), whereas in the second case my obligations appear to be grounded, in addition, in facts about the person involved (e.g. whether I might cause her pain, or whether I may frustrate her autonomous choices).⁷² To see the difference that moral status makes, suppose it were true that animals were only owed indirect duties in virtue of the spillover effects resulting from animal abuse (i.e. if cruelty to animals made humans crueler to each other). If that were the case, these duties would be *modally undemanding*,⁷³ as they would only apply in the range of cases in which humans are negatively affected as a result of cruel attitudes towards animals. In all the counterfactual (non-actual) scenarios in which no human is negatively affected, cruelty is allowed. Direct duties, on the other hand, are *modally demanding*, as they obtain over a vast range of non-actual circumstances—those in which no moral spillover results from animal abuse. Even in the counterfactual scenarios in which cruelty to animals has no spillover effect over humans, cruelty is *pro tanto* impermissible. Moral status, then, transforms the modal status of the duties we have towards those who enjoy it.

Here I would like to clarify two points. First of all, to say that someone possesses moral status is not necessarily to say that she is a *moral agent* (that is, a being with the ability to deliberate and reflect on the morality of her decisions and actions, and who can be held responsible for them). Babies, for instance, or severely cognitively impaired humans, are not moral agents, yet they have moral status. For this reason, they are considered “moral patients” (that is, beings who can still be harmed by the actions of others, and towards whom we can have direct obligations). Many authors believe that being a moral agent changes one's moral status. Others believe, in addition, that being a *potential* moral agent also has this effect (Cohen and Regan 2001, 37; Liao 2010).

⁷² Note that, although the obligation not to destroy the banjo is grounded partly in facts about the banjo (for instance, that it is someone else's property), these facts are not ultimate grounds, as they only matter in virtue of additional reasons (relating those facts to the owner of the banjo).

⁷³ The idea of “modally demanding values” (also called “robustly demanding” or “modally robust”) has been developed foremostly by Philip Pettit in various places (see, for instance, Pettit 2015).

Again, this is an issue we can set aside, for the goal of this chapter is not to argue that agents and nonagents (nor, more generally, humans and nonhumans) possess the same moral status, but only that the latter do possess moral status.

Secondly, note that the definition of moral status I have provided is, in a sense, quite minimal. It is at least logically compatible, for instance, with the possibility of nonliving and nonsentient objects like works of art being genuine bearers of moral status. This is because, on some moral theories, nonsentient objects can have *final value*,⁷⁴ which gives us reasons to avoid damaging them.⁷⁵ Because those reasons would be ultimately grounded, at least partially, in facts about the objects themselves (their final value), they would qualify as bearers of moral status according to our definition.

Some people might find this characterization too permissive. I do not think this is the case, for two reasons. On the hand, as I have defined it, moral status does not play any fundamental grounding role. That is, an entity does not have interests⁷⁶ or some form of impersonal final worth that merits protection because they have moral status; rather, they have moral status because they have interests or impersonal final worth that are already worthy of protection—where that will depend, in turn, upon facts about, say, the value of well-being or autonomy. So, as I use it (in a way that I believe is consistent with common uses among moral philosophers), moral status is the condition or status an entity achieves when it possesses interests, autonomy or some form of final worth capable of generating modally demanding reasons of the sort mentioned above, and where the real normative work is done by the latter and not by the former.

On the other hand, and expanding upon this, in this thesis I will focus specifically on the value and moral relevance of interests. Interests are here understood, following the standard definition, as whatever it is that makes one's life go better (when they are satisfied) or worse (when they are set back). They are, in short, the components of an individual's well-being. Of course, different theories of well-being will postulate different interests, the value of which they will try explain in different ways. But this is

⁷⁴ Here, "final value" means "valuable for its own sake."

⁷⁵ Some examples include the pen Abraham Lincoln used to sign the Emancipation Proclamation (Kagan 1998, 285), mink coats, handsome china, and gorgeously enameled frying pans (Korsgaard 1983, 185), and Prince Diana's dress (Rabinowicz and Rønnow-Rasmussen 2000, 41).

⁷⁶ Here I use "interests" to include both autonomy-based and non-autonomy-based interests. When I talk about the interests of animals, I will be referring to this latter category.

not a problem for us, since (as I explained above) I will be mainly concerned with a specific type of interest all theories of well-being recognize as relevant: the interest in avoiding undesired pain. Here, again, our discussion will proceed in the region of middle axioms. This focus on interests does exclude things like works of art, which have no life which could go better or worse to begin with.⁷⁷ Moreover, interests (or, at least, the interest in avoiding unwanted pain) can play some justificatory normative role, as I will defend later in this chapter.

Those who remain unconvinced about the minimalist definition of moral status will probably favor an alternative strategy. Adopting a more restricted definition, they might want to stipulate that an entity possesses moral status if and only if we have reasons to do or refrain from doing certain things to it that are justified (at least partly), *in virtue of certain facts about the interests of that entity*. In fact, if we look at the above quotes, at least two of the definitions (those by DeGrazia, Jaworska and Tannenbaum) endorse a restriction of this sort. On this characterization, works of art and other nonliving entities would be ruled out as potential bearers of moral status. For the purposes of this thesis, nothing of substance hinges on whether we adopt the more minimalist or the more restrictive strategy. On the minimalist strategy, we first define moral status, and then we restrict the scope of the discussion to those entities which, in addition, can have interests. On the restrictive strategy, on the other hand, entities who cannot have interests are defined away from the beginning. But, in both cases, the result is roughly the same, as we end up focusing only on entities which can possibly have interests (that is, a well-being of their own). The only difference lies in the stage at which we make this focus explicit.⁷⁸

Having clarified the notion of moral status at stake (as that which makes an entity count morally for its own sake), and the role of interests and well-being in our discussion (as restricting the range of entities we shall be focusing on), I will now introduce and criticize the Indirect Duty View, which tries to explain why it is wrong to harm animals without granting them moral status.

⁷⁷ That, of course, does not immediately exclude non-sentient living entities like plants or trees. I will discuss this issue in Section 2.4.

⁷⁸ Note that if one rejects that non-sentient entities possess any final worth, the minimalist strategy may be unnecessary. This, however, is a substantive thesis about which I will remain agnostic.

2.2. Why the Indirect Duty View is not enough

Any plausible moral theory must condemn, in one way or another, the infliction of gratuitous pain or suffering on animals. We have a moral duty not to set a cat on fire, or beat an abandoned dog to death, and any moral theory worth taking seriously should be able to explain why we have these duties. The Indirect Duty View attempts to meet this challenge without granting animals genuine moral status. According to this view, we have duties *regarding* animals, but we do not have duties *towards* animals. All these duties, though real, are ultimately grounded in facts other than the well-being of animals themselves. The main goal of this section is to call into question the Indirect Duty View, by raising two challenges against it. To anticipate, I will later argue (in Chapters 3 and 4) that mammals have some morally relevant interests at stake in policy-making that must be taken into account by one important principle of inclusion (i.e. the All Affected Interests Principle). If the Indirect Duty View is correct, however, animals do not really have morally relevant interests at all (unless in a derivative way). In criticizing this view, I attempt to pave the ground for those later steps in the overall argument of this thesis.

The claim that our duties towards animals are fundamentally indirect can be motivated in many ways. Some authors think that only rational beings (who are ends-in-themselves) can give us fundamental (as opposed to derivative) moral reasons to do or refrain from doing something.⁷⁹ A related view is that morality is best understood as the set of rules that would be agreed upon by rational agents in ideal circumstances. And, because the framers of the hypothetical contract would have no incentive to concede animals any sort of fundamental moral relevance, we do not owe animals direct duties.⁸⁰

If the Indirect Duty View is right, gratuitous cruelty towards animals is wrong (and thus we really have a duty not to cause it), but it is not wrong in itself. Specifically, acts of cruelty to animals are wrong when they “have an undesirable moral spillover” (Nozick 1974, 36). Such spillover can be understood in different ways. Let us now see two possible versions of this view.

⁷⁹ The *locus classicus* for this view is Kant [1874-1875] 1997. For a Kantian-based critique see Korsgaard 2018.

⁸⁰ Carruthers 1992. Against this, Cohen 2007 has argued that contractarianism, broadly understood, is actually well equipped to warrant fundamental moral standing to animals.

Suppose you strongly believe that animals deserve direct moral consideration, and should not be made to suffer for trivial reasons. If you are such a person, then you are very likely to feel deeply distressed to find out about cases of animal cruelty. Your well-being will be affected to an extent that might render reprehensible an otherwise morally unobjectionable act. As Peter Carruthers has written, animal abuse “would violate the rights of animal lovers to have their concerns respected and taken seriously” (Carruthers 1992, 107). So, even if the suffering of the abused animals is not intrinsically morally relevant, yours is, and this explains why it is wrong to make an animal suffer for no good reason. We can call this the *Distress View*.

This view admits of at least two interpretations. On the one hand, we may say that “the concerns of animal lovers” are not taken seriously only when the individuals who care about them are *aware* of such concerns’ being disregarded. On this reading, humans are only affected in a morally significant way when they find out about particular cases of animal abuse, and, as a result, they *experience* distress.⁸¹ However, on some views of well-being, one’s life can go worse in a morally relevant sense even if there is no awareness of it.⁸² This last claim can ground another interpretation of the Distress View in which individuals’ concerns are not taken seriously when the object of these concerns is not being satisfied, regardless of whether the concerned individuals know it or not. On this alternative reading, the life of someone who cares about the treatment of animals goes worse when animals are treated in ways she would strongly be opposed to should she become aware of them.⁸³

⁸¹ This seems to be Carruthers’ own view, since he claims that restrictions “would only apply to suffering that occurs in a manner that is unavoidably public” (Carruthers 1992, 107).

⁸² Arguably, this is the case of those accounts of well-being that link it to the fulfillment of the preferences one would have were she a fully rational—informed—agent. See Griffin 1986, 13 for discussion.

⁸³ Note that, although in theory both views have different implications, in practice there might be more overlap than one may initially expect. To see why, let us assume, for the time being, that the first interpretation is the right one. Imagine also that, unlike my animal-loving fellows, I do like to make animals suffer. One possible way to fulfill my indirect duties to them while also being able to enjoy my sadistic hobby is to only cause the amount of suffering that I know others will not know about. But under conditions of uncertainty and incomplete information, this is almost impossible to determine, so I will also have to take into account the *risk* that my actions will come to light. This move has important implications, for it entails that the scope of my duties is bigger than it would be under circumstances of

The Distress View is not the only version of the Indirect Duty View. On another version, which we might label the *Slippery Slope View*, cruelty towards animals is wrong because it increases an individual's likelihood to engage in acts of cruelty directed against our fellow human beings, who do matter morally. Immanuel Kant, as we saw in the introduction of this chapter, allegedly believed that there are some constraints on the ways in which we can permissibly treat animals because "he who is cruel to animals becomes hard also in his dealings with men" (Kant [1874-1875] 1997, 212). A similar view has put forward by Carruthers. According to him, given that we do not engage in conscious moral deliberation all the time, we need to develop sufficiently robust dispositions to ensure a reasonably high degree of compliance with moral norms. And a general disposition against suffering, even if it still allows for some false positives (caring about things who do not really count morally), provides the most efficient means to minimize the number of false negatives (failing to care about things who do count morally). As he writes, cruelty to animals "betray[s] an indifference to suffering that may manifest itself ... in that person's dealings with other rational agents" (Carruthers 1992, 153-154).

Obviously, this view relies on an empirical premise, but it is at least a reasonable one. As two authors have recently noted, "[e]xtensive research has identified acts of animal cruelty, abuse, and neglect as crimes that may be indicators and/or predictors of crimes of interpersonal violence and public health problems" (Lockwood and Arkow 2016, 910).

Is the Indirect Duty View, in any of its two versions, plausible? I shall argue that they do not. Although we may very plausibly have indirect reasons not to make animals suffer, those reasons cannot fully explain what is wrong with animal abuse.

2.2.1. First problem: the moral status of non-rational humans

First of all, the Indirect Duty View has difficulties avoiding the implication that non-rational human beings also lack moral status. If one believes that moral rules are those

certain and full knowledge. However, for the purposes of our discussion we need not settle the extent to which this overlap takes place.

that rational beings, trying to pursue their own self-interest, would favor in a hypothetical situation, it is hard to escape the conclusion that our duties towards babies, future generations and severely cognitively impaired individuals are fully indirect as well—as the hypothetical contractors do not belong to any of these groups.⁸⁴ Some authors emphatically embrace this conclusion. David Gauthier (1986, 268), for instance, claims that “animals, the unborn, the congenitally handicapped and defective, fall beyond the pale of morality tied to mutuality” [his preferred moral theory, which is a form of contractarianism]. Others, although believing that, strictly speaking, these “marginal humans” do not possess moral status, argue that we should treat them as *if* they were morally considerable individuals to which we owe direct duties (whereas this is not the case with regards to animals).

Peter Carruthers has offered two arguments in favor of this latter strategy. First, he argues that because there are no sharp boundaries between rational and non-rational human beings, “the attempt to accord direct moral rights only to rational agents (normal adults) would be inherently dangerous and open to abuse” (Carruthers 1992, 114). Self-interested contractors have every incentive to protect themselves against the possibility of a dangerous slippery slope. This danger, however, does not exist in the case of animals, where there is a sharp boundary between humans and nonhumans (115). Carruthers’ point is not ontological, as he recognizes the difficulty of drawing a precise distinction between humans and nonhumans “in terms of intelligence or degree of rationality” (115). Rather, the sharp distinction exists at the justificatory level: while we might appeal to the lack of moral status of babies to deny it also for able-minded adults, we would never even dream of appealing to the lack of moral status of animals to deny it for humans. If we do not grant moral status to all humans, we might end up losing it altogether. This risk, Carruthers believes, does not arise in the case of animals.

Second, Carruthers also argues that contractors would only agree on those principles that secured a measure of social stability (114-118). Because many humans care deeply about babies or severely cognitively impaired humans, they would not accept a social order in which the interests of these individuals were not assigned any moral worth.

⁸⁴ One caveat. As I mentioned earlier, some authors believe that contractarian theories can accommodate these concerns, by arguing that rationality as a requirement that contractors must satisfy does not entail that only rational beings can be protected by moral norms. However, these are not Indirect Duty Views.

Therefore, it would be in the interests of contractors to favor principles that operate *as if* these individuals really possessed moral status.

Both arguments are problematic. Let us examine them one by one.

2.2.1.1. The slippery slope argument

Carruthers' first argument faces at least three objections. First, it is not obvious why contractors would adopt an absolute protection against a possibility whose likelihood may indeed be small. All democratic countries, for instance, adopt age restrictions which are, to some extent, arbitrary, as there is no sharp distinction between rational and non-rational, or competent and non-competent citizens. Here, too, the possibility of a slippery slope is real. Yet it is so remote that contractors do not have strong incentives to enfranchise newborn babies or severely mentally impaired citizens. Unless we assume that contractors are maximally risk-averse, it is not obvious why they would favor such a strategy. Moreover, the risk they would be disposed to accept will depend on the balance between the potential costs and the potential benefits. For purely self-interested individuals, not granting certain humans moral status might indeed prove highly beneficial. Experimenting on babies and mentally impaired individuals, for instance, would yield higher benefits than experimenting on animals. Carruthers, however, does not offer any argument to believe that the costs (which, we must bear in mind, cannot involve the harms imposed upon these individuals themselves) will outweigh the benefits.

A second problem with this argument is that the impossibility of drawing sharp boundaries does not prevent us from making clear distinctions. What the lack of sharp boundaries regarding the distribution of a property shows is that there is a spectrum without discrete discontinuities (or that, if they exist, we do not know them). But, even in these cases, we can still easily differentiate between the extremes of the spectrum. Again, just because we do not know whether sixteen-year-old children are competent enough to be enfranchised, we cannot conclude that a three-months old baby may also be competent (she almost surely will not be). To be fair, Carruthers does not deny that, theoretically speaking, we can draw certain lines. What he claims, however, is that, because humans are not "deeply theoretical" (116), as he puts it, all these lines will in

practice be vulnerable to abuses. And because contractors are aware of general facts about human psychology such as these, they will want to protect themselves against its most harmful effects. Nevertheless, one does not need to be deeply theoretical to distinguish between a forty-year old adult and a newborn baby. Unless one assumes that humans will necessarily jump from one extreme of the spectrum to the other (which age-based voting restrictions call into question), this worry seems overstated.

Finally, Carruthers' argument in favor of a justificatory asymmetry between humans and nonhumans is also questionable. The gist of the argument is that while there is a risk that people may appeal to the lack of moral status of babies and other "marginal humans" to justify committing atrocities towards other humans, nobody will appeal to the lack of moral status of animals to justify committing atrocities towards humans. But I do not think this claim is correct. The lack of moral status of animals has indeed been used to justify cruelty against humans. When groups of humans are compared to rats or cockroaches, the implicit suggestion is that they can be crushed and mistreated. What allows us to make sense of this is the assumption that rats and cockroaches lack moral status and can be crushed. Thus, the assumption that certain animals lack moral status can in fact provide the basis for a dehumanizing strategy. But if that is right, then there is no clear-cut asymmetry between animals and humans of the sort Carruthers assumes.

2.2.1.2. The social stability argument

Let us turn now to Carruthers' second argument. As we saw earlier, this argument holds that contractors would only favor principles that people could reasonably be expected to endorse. Now, because many people have deep feelings towards non-rational humans (i.e., their children), it is highly unlikely that a social order in which they were not granted moral status would muster enough support to secure stability.

The main problem with this argument, I believe, is that, even if the underlying point is sound, it does not clearly support any asymmetry between humans and nonhumans. Just as many rational humans care about children or the severely mentally impaired, many also care about animals. A 2015 Harris Poll survey, for instance, showed that nearly 95% of US pet-owners believe their pets are part of their family (PR Newswire 2015). It

does not seem too implausible to suggest that a world in which human animals were not granted any moral status would face stability problems.

One may reply that we do not have direct evidence that this would be the case. That is surely correct: we do not have direct evidence in favor of our claims, as there is probably no society in which absolutely no animal has been recognized at least some degree of moral consideration. But the same can be said about Carruthers' argument: although some societies have practiced infanticide,⁸⁵ there probably has never existed a society that granted children absolutely no moral consideration and managed to survive.⁸⁶ So, again, there seems to be no clear asymmetry between nonrational humans and nonhumans that would justify treating them differently (or, at the very least, *so differently*) from a contractarian standpoint. Thus, I do not think that the Indirect Duty View can justify a distinction between nonrational beings of the sort that some of its proponents (and, more generally, many others reflecting on the overall plausibility of the view) want.

2.2.2. Second problem: Insufficiency

A further problem of the Indirect Duty View is that it seems incapable of fully capturing what is wrong with animal cruelty. Consider the following case:

A group of individuals break into an animal shelter. After tying fifteen dogs to trees, they savagely mutilate them, sawing off their front limbs. The dogs are then left to die (Cambra 2001).

Obviously, that is morally wrong, and any plausible moral theory should be able to explain why. According to the Indirect Duty View, actions like these are wrong because they cause intense distress on people who care about animal welfare, or because they involve behavioral dispositions that make those who develop them likelier to be cruel against other humans. In all the possible worlds in which the relevant non-moral facts obtain (i.e., there exist people who care about animals and become distressed when they

⁸⁵ See, for instance, Diamond 2012, 177-178.

⁸⁶ As Carruthers himself suggests when he argues that it is “by no means obvious [that communities that practiced infanticide] failed to recognize the moral standing of human infants” (119).

see them suffer for no reason, or it is true that being cruel towards animals makes cruelty against humans more probable), animal cruelty is wrong.⁸⁷ This means that in the non-actual scenarios in which they do not obtain, there is nothing wrong with animal cruelty. That, as I will try to show, is highly counterintuitive.

Imagine that, in the case above, the perpetrators are, and are aware of being, the last people on Earth. Since, obviously, they do not care at all about the well-being of animals, there would exist no living individual who cared about animals and who would feel distressed by animal cruelty. Would those acts be permissible? I believe the most attractive answer is “No.” Similarly, even if there was only one perpetrator, and she was the last person on Earth (which would defuse the worry about cruelty to other humans), it seems wrong to make an animal suffer for no good reason at all. Sawing off the legs of fifteen dogs is wrong even if done by the last human being on Earth.⁸⁸

In response to this, it might be claimed that even if the interests of no living being would be set back, the interests of many dead individuals who cared about the treatment of animals would.⁸⁹ Would not that explain why even in those cases animal cruelty might be wrong? Well, perhaps in some cases it might. But this strategy is puzzling, as the moral status of dead persons is even more controversial than that of animals. Although animals lack strong autonomous agency, they are conscious beings who can experience pain and suffering (at least those we are focusing on: mammals). Dead persons, on the other hand, are neither. Any view that appealed to the interests of the dead to vindicate the Indirect Duty View would undercut many of the view’s main motivations (an emphasis on autonomous agency as the only grounds of moral status).⁹⁰

⁸⁷ For the sake of the argument, I am simplifying the discussion. Even if cruelty against animals causes distress among those who care about animal welfare, it is still an open normative question whether that would make (even in the argument’s own terms) animal cruelty wrong. Salman Rushdie’s *The Satanic Version* surely distressed thousands of Muslims, but we cannot straightforwardly conclude that he was acting immorally when he wrote the book. Still,

⁸⁸ A similar argument is suggested in DeGrazia 2009, 149, and Nozick 1974, 36.

⁸⁹ The possibility of posthumous harms has been discussed by Feinberg 1974 and Partridge 1981

⁹⁰ Surely, a contractarian might argue that contractors can have reasons to assign some moral status to the dead. But the same strategy can be used (and has been used) to grant animals moral consideration. A more refined rephrasing on my claim is that, on the understanding of contractarianism that bars the

If that is correct, then our intuitions regarding animal cruelty are more modally demanding than the Indirect Duty View can account for. That is to say, the wrongness of animal cruelty covers a broader range of situations (namely, those in which there is no human who might be distressed or be the victim of cruel actions) than those the Indirect Duty View predicts. As Brad Hooker (2003, 67) has put it, “even if Kant is right to think cruelty to animals tends to lead to cruelty to humans, this does not exhaust our reasons not to be cruel to animals.”

In response, a defender of the Indirect Duty View might contend that theory-choice is always a holistic matter, and that intuitive adequacy is, at best, only one of the many factors that we should take into account. Following David and Stephanie Lewis (1970, 211-212), one could see philosophical argument as a kind of haggling over the price in plausibility that theories must pay when they fail to account for certain intuitive judgments. In some cases, the price will be small enough (either because the intuitions at stake are not very central, or because other factors outweigh the potential loss). In other cases, though, the price might be too high to pay. In this section I have not decisively shown that the Indirect Duty View belongs to this second category. But at least I think I have shown that its costs are higher than its defenders might have originally thought. On the one hand, the theory lacks adequate resources to establish a strong distinction between nonhuman animals and humans—which seem required in order to block some unwelcome implications (unwelcome even for defenders of the Indirect Duty View—otherwise it is unclear why they would put so much effort into blocking them). On the other hand, it cannot account for certain intuitive judgments about what is (im)permissible to do to animals in certain cases.

In some respects, then, the Indirect Duty View seems insufficient from a moral point of view. That does not mean that indirect considerations are irrelevant, however. It sounds quite plausible to say that if engaging in acts of cruelty to animals causes distress to those who think such acts are wrong and also increases my likelihood of engaging in future acts of cruelty against humans, these facts give me additional reasons not to perform them. But, as I have argued, I am not convinced that these reasons are exhaustive.

attribution of moral status to animals (and supports the Indirect Duty View), the dead are also likely to be excluded as well.

Now, if we have direct duties towards animals, how can we ground them? One possibility is to appeal to considerations of autonomy. Yet, as I argued in the previous chapter, animal autonomy is, at best (and a very optimistic best at that) a privilege of a few mammal nonhumans. The capacity to feel pain and to suffer, on the other hand, offers a more attractive alternative, as it includes many more animals.

2.3. Pain and moral status

In this section I will argue that pain is, under certain circumstances, non-derivatively bad, and we have a duty not to inflict it. Although this duty might have multiple grounds, the badness of pain figures prominently among them. That would mean that the duty is grounded, at least in part, in facts about the individual who experiences the pain (which, as I mentioned earlier, is the mark of moral status). And, since many animals are able to experience pain and suffering, they are genuine possessors of moral status. Or, in other words, recipients of direct duties.

2.3.1. How is pain bad?

When we ask about the badness of pain, we can talk, first, about pain's instrumental badness. Pain, just as everything else, can be instrumentally good or bad, depending on its consequences. On the one hand, pain can be instrumentally bad when it prevents us from doing what we want to do, or when it incapacitates us for long periods of time, or hinders the satisfaction of valuable goals, or the maintenance of important relationships. On the other hand, pain can be a useful indicator of bodily damage and disease. Individuals who suffer from congenital insensitivity to pain (i.e. the inability to feel any kind of pain) provide a dramatic example of this. As one of the contributors to an encyclopedia on perception explains, “[i]n general, persons with congenital insensitivity to pain have a shortened life expectancy, as they have repeated burn injuries” (Hellier 2016, 119). Because they cannot hear the alarm bells of a well-functioning nervous system, they do not respond to various sorts of harms until it is too late.

Whether (and if so, when) pain can also be non-instrumentally bad for someone is a more difficult question. Some authors believe pain is intrinsically and unconditionally bad. Irwin Goldstein (1989, 273), for instance, thinks that “pain’s intrinsic badness is not founded in and so potentially undermined by pain’s surroundings.” Nowadays, most philosophers disagree with the second half of the claim.

First, there seem to be cases in which someone feels pain, but it is not obvious that the pain is bad for her in a morally compelling sense (unlike the usual examples of paradigmatic “bad pain” involving toothaches and migraines). When Mike Tyson fought in the ring, we can be pretty confident that he experienced pain. Some of that pain, for sure, might have been instrumentally bad for him (i.e. when it moved him away from victory), and some of it even intrinsically bad. It is not clear, however, that morality has anything to do with pains like this one. If pain constitutes an essential component of an activity that you find valuable, the intuition that pain is always bad for you is much less vivid—at least in any sense of “bad” that implies that others have reasons to prevent that outcome, or that the universe would be better if it had never occurred.

Second, philosophers and scientists typically distinguish between the “sensation of pain” and the “sensation of dislike,” as we saw in the previous chapter. Drawing on the testimonies of patients who have undergone surgical procedures or consumed certain substances, both aspects are assumed to be separable. In cases like these, the sensation of pain does not appear to be intrinsically or unconditionally bad. After all, if those who are actually experiencing the pain do not deem it bad, why should we? Of course, this argument makes two assumptions. First, it assumes that the badness of pain is predicated on the sensation alone. As we will see later, this is not the only option. Second, it is also assumed that the patients’ testimonies are trustworthy. Some authors disagree with this. Stuart Rachels (2000, 199), for instance, has noted that even “[u]nder favorable circumstances, ordinary subjects might get these matters wrong,” emphasizing that in these cases the circumstances “are unfavorable because the subjects are high on drugs.”

At any rate, we need not settle these debates. For even if pain is not unconditionally bad, that does not mean that it is never non-instrumentally bad. Many authors believe that even if the sensation of pain is not unconditionally bad, all pains are, when disliked (that is, *conditionally*), intrinsically bad. As Derek Parfit (1984, 493) put it: “On the use

of ‘pain’ which has rational and moral significance, all pains are when experienced unwanted, and a pain is worse or greater the more it is unwanted. Similarly, all pleasures are when experienced wanted, and they are better or greater the more they are wanted.”

There are at least two ways to defend this position. First, one could argue that unwanted pains are bad *because* they are unwanted. According to so-called “desire-theories” of well-being, someone’s life goes better when her desires are satisfied, and conversely, her life goes worse when her desires are left unfulfilled. Thus, it might be claimed that unwanted pain is a set-back to one’s well-being because it involves a frustrated desire. Chris Heathwood (2007, 24) defends a theory of this sort when he claims that “facts about pleasure just are facts about desire.”⁹¹

Second, an alternative is to hold that pains are bad *when* (but not necessarily *because*) they are unwanted, on account of what it feels like to experience unwanted pain. On this view, the badness of pain cannot be reduced to a desire for its termination, even though this desire is a contributory element to such badness. The main intuition behind this claim is that an account of pain’s badness must appeal to how it feels to be in pain. Since this view assumes that the sensation of pain in itself is not a good candidate (because it can be present without pain being bad), its defenders appeal instead to the *experience of pain*, which is understood as the conjunction of two elements: the sensation of pain and the dislike. What is intrinsically bad, then, is not the mere sensation of pain, nor the frustrated desire to avoid pain, but the complex composite experience of disliking pain. Without the former, we only have a dislike (which is a much broader category than “pain”), whereas without the latter, we are left with a morally contingent sensation. Guy Kahane (2009, 330) has explicitly defended this view: “The state that is intrinsically bad,” he argues, “is not that of having a sensation of pain, but of having it *and* disliking it” [Italics are mine]. And it is also suggested by Stuart Rachels (2003, 18) in a discussion of pain’s intrinsic badness, where he declares his neutrality “on whether the (bad) experience consists merely in phenomenology, or in phenomenology conjoined with, say, some motive or affect or belief.”

⁹¹ I am here, of course, assuming that pain is the counterpart of pleasure (or at least that facts about both of them will be reducible to facts about desire). Heathwood (2007, 24 n. 2) explicitly endorses this assumption.

Once again, this is a debate we do not have to settle. As we have seen, there are at least three views about the badness of pain:

(i) The sensation of pain is unconditionally and intrinsically bad.

(ii) The frustration of a desire to avoid pain is intrinsically bad.

(iii) The experience of unwanted pain is intrinsically bad.

On all these theories, pain can be intrinsically (although not unconditionally) bad—that is, regardless of its consequences. They give us reasons not to inflict pain upon someone because of how it is for that individual to feel the sensation of pain, or to have a desire unsatisfied, or to experience unwanted pains. Whenever any of these requirements (depending on what the right theory turns out to be) is satisfied by a sentient being, we can say that she possesses some moral status—as facts about the badness of pain are ultimately grounded, at least partly, in facts about an individual. As I explained in the previous chapter, we have good reasons to believe that at least all mammal nonhumans are sentient and can feel pain. In addition, the physiological architecture of their nervous system also seems to indicate a capacity to separate feeling the sensation of pain from disliking the pain.⁹² So, theories i) and iii) can be used to argue that pain is bad for animals.

Theory ii) might be more controversial. Skeptics might argue that, on this theory, pain is only bad for animals if they are capable of wanting pain to end. But, since nonhuman animals are not linguistic animals, they cannot really desire anything at all (Cf. Frey 1980). This claim faces two obstacles. First, the view that only linguistic animals can have desires is highly controversial nowadays. In fact, analyses of (nonlinguistic) animal behavior in terms of beliefs and desires are very common in the field of cognitive ethology. Peter Carruthers (2008, n. 1), for instance, finds the case “for thinking that animals share with us a basic first-order cognitive architecture for forming beliefs, for generating desires, and for practical reasoning and decision making in the light of those beliefs and desires” to be “overwhelming.” Even Donald Davidson (1982,

⁹² Even if that was not true, it would not follow that pain is not bad for animals. Admittedly, one possibility would then be that they never dislike pain, even though they can feel the sensation of pain. A more likely alternative would be that in animals experiencing the sensation of pain and disliking it are not separable.

318), who famously argued that animals cannot have beliefs, thinks that they can nonetheless have “desires, hopes and hates.”⁹³

Second, even if animals turned out to be incapable of entertaining genuine desires or wants, one might still claim that they are nonetheless capable of having desire-like or want-like attitudes, which may suffice for desire-theories of well-being to apply to them. One reason to adopt this generous conception of the view is that, unless we do so, we cannot claim that babies or very young children have a well-being of their own.⁹⁴ If well-being depends on having certain psychological complex desires, who can only be possessed by creatures with sufficiently well-developed linguistic capacities, then the life of those humans cannot go better or worse. This seems very implausible. Either the desires relevant to desire-based theories need not be highly complex, or the desire theory must be dropped, or its scope clearly delimited. Eden Lin (2017) has defended the second strategy,⁹⁵ whereas Donald Bruckner (2016, 14-15) has endorsed the third alternative.

The main views about the intrinsic badness of pain, we can conclude, all plausibly apply to nonhuman animals (and even more plausibly to mammals in particular).

2.3.2. Is the suffering of animals less relevant morally?

In the previous chapter I mentioned the view that, because of the relative cognitive unsophistication of nonhuman animals, their suffering is also simpler. Because humans are creatures with more complex cognitive and conceptual capacities than nonhuman animals, our experiences of pain are also cognitively richer. We do not only experience

⁹³ On desire-based theories, pain is not bad because of how it feels for the subject that experiences it. Nevertheless, it remains bad for reasons that have to do with the subject itself (the badness of desire-frustration—*her* desires).

⁹⁴ Raymond G. Frey (1983, 97) famously conceded, “with great reluctance,” the possibility that experimentation on humans might be defensible, for precisely those reasons. But, as far as I know, he is the only author to have defended this horn of the dilemma. And even Frey apparently ended up accepting that animals have interests and can be harmed (DeGrazia 1997, 4).

⁹⁵ To be precise, Lin does not argue that desire-theories of well-being imply that infants cannot have a well-being of their own. Rather, his point is that they fail to cohere with certain intuitions about their well-being.

the sensation of pain, but can adopt also a broader perspective about the causes, the consequences and the nature of our pain. This is often believed to entail that animal pain is also less weighty, morally speaking. If the pain of animals is more rudimentary than ours, this is a natural thing to conclude. In this last subsection, however, I will cast some doubt on this assumption.

As I pointed out earlier, the goal of this chapter is not to show that the moral status of humans and nonhumans is the same. Some philosophers have argued that, from a moral standpoint, the comparable interests of humans and nonhumans ought to be treated alike.⁹⁶ About this, I remain deliberately agnostic. Thus, I want to be clear about what the aim of this subsection is. The main point is that, if there is a difference in the moral status of humans and nonhumans, it is not unequivocally supported by the fact that the pain of adult able-minded humans is both conceptually and cognitively more complex than that of nonhuman animals. In doing so, I hope to clarify the strength and the relevance of the interests animals have in avoiding pain and suffering.

Why would the cognitive and conceptual complexity of human pain make it weightier, morally speaking? There are at least two possible answers. On the one hand, as the philosopher Sahar Akhtar (2011) has argued, beings with complex cognitive abilities can develop certain interests that other beings cannot: namely, higher-order, global and long-term interests. When I reflect about what I find valuable, I can develop higher-order interests about other first-order interests of mine, or global interests about what I want my life as a whole to be like, or long-term interests encapsulating various other interests, which become means to a higher end. Pain, apart from thwarting some immediate interests of mine, can also set back these other, more complex, interests, which depend for their existence on the possession of a fairly sophisticated cognitive wherewithal. Beings without these capacities, like animals, cannot possess these interests (or not with the same degree of complexity), and so the impacts that pain and suffering can have on their well-being are more restricted. On the other hand, it has been reported that negative expectations can decrease the effectiveness of analgesics (for example, Dworkin et al. 1983). This suggests that being able to think too much

⁹⁶ That, by the way, would not entail that interests are always comparable, as it is often mistakenly suggested. So, even if the “equal consideration of interests” principle applies across species, that would not mean that it is equally bad to kill an adult human being and, say, a porcupine.

about a particular pain (forming expectations about what it will involve, when it will start, or how much it will last) can end up increasing the intensity of its experience. Animals, who do not seem to be aware of these details, are, once again, spared these harms.

These two arguments I find persuasive. But they work both ways. For complex cognitive capacities (indeed, the two mechanisms I just discussed) can just as well decrease the negative impact of pain upon someone's well-being. First of all, beings with complex cognitive abilities can engage in inter-temporal interest calculation, where they discount the impact of short-term negative experiences if (and because) they are part of more complex long-term, higher-order or global interests. We can distance ourselves from some of our pains, and see them as nuisances that we have to endure in order to achieve a more fundamental goal or satisfy a weightier higher-order, global or long-term interest. As Akhtar (2011, 503) puts it: “[W]e often discount pain when doing so favors long-term and complex interests ... If we consider professional athletes, such as football players and ballerinas, it is even more obvious that many discount pain in order to achieve complex goals.”⁹⁷

Second, in many cases, being able to understand pain allows us to relativize it. We are aware that, unpleasant as they might be, many of our pains will not last forever. They are experiences that at one point we did not have, and that will cease at some other point in the future. This, however, requires the possession of sophisticated cognitive capacities. Those who lack them (and I am assuming that most, if not all, animals lack the capacities required to have these thoughts about pain) cannot escape their pain. In Bernard Rollin's (1998, 144) words, “[i]f they are in pain, their whole universe is pain; there is no horizon; they are their pain.”

Finally, the effects of expectations on the experience of pain can also be positive. Numerous studies suggest that, for patients with positive expectations regarding the imminent relief of a particular pain, it takes a smaller dose of certain analgesic substances to actually alleviate the pain, compared with the dose needed for patients who have been administered the same substance unknowingly—and could not form any

⁹⁷ Other examples mentioned are religious mortification, getting tattoos or piercings, and medical interventions (Akhtar 2011, 503-504).

positive expectation regarding the cessation of pain.⁹⁸ This phenomenon, known as *placebo analgesia*, requires, once again, the ability to have fairly complex thoughts about pain, and to form expectations about it. If these abilities are too complex for nonhuman animals, that is another respect in which the simplicity of their pain makes it worse for them.

Being able to have more complex experiences of pain does not have unidirectional moral implications. In some cases, it makes pain worse; in others, it makes it less bad. For this reason, I do not think human pain is necessarily weightier, from a moral point of view, than animal pain.

2.4. The moral status of non-sentient living entities

I would like to close this chapter by discussing the following important question: What are the implications of the view defended here for living beings who are—presumably—not sentient, such as plants?⁹⁹ At first glance, I think the claims I have made are compatible with a wide array of perspectives. For instance, they seem to be wholly compatible with the following views:

- (1) *Sentientism*: Plants are not sentient entities, and sentience is the only attribute that can ground an entity's moral status. Thus, being sentient is necessary for being morally considerable.
- (2) *Moral status pluralism*: Plants are not sentient, but they nevertheless have moral status, grounded in attributes other than sentience—such as, for example, being living things. On this view, although sentience might be sufficient for moral consideration, it is not necessary.

Mammals, I have argued, are sentient, and can experience negatively valenced states such as pain. That, in turn, grounds a weighty interest in avoiding pain that supports a *pro tanto* duty not to inflict it. What this assume is that sentience (and, more specifically, the capacity to experience pain and suffering) constitutes a *sufficient*

⁹⁸ For a useful survey of the available evidence, see Shevlin and Friesen 2021.

⁹⁹ Of course, this category includes many other things, but I shall be using “plants” as a shorthand for non-sentient living entities.

ground of moral status. I remain agnostic, however, about the existence of further (and independently sufficient) grounds of moral status. Of course, if they exist, our moral deliberations would become harder, since they would add an additional layer of complexity to an already highly complex problem. Morality, however, needn't be easy, so that would not really be an objection.

There is a further objection I want to address. Let us for a moment assume that plants *are* sentient. The consequences of such a scenario (the probability of which may be pretty small but perhaps not nonzero¹⁰⁰) would be extremely appalling and revisionary. So appalling and revisionary, indeed, that some may consider it more of an indication that something has gone wrong with my arguments—for some, these implications would constitute, in brief, a *reductio ad absurdum*. To properly assess this objection, we need to say something about what these potential implications might be. Some candidates may include the following:

- i) If plants are sentient, and we have a duty not to make sentient entities suffer for no reason, and since we probably cannot avoid causing some degree of suffering, then it would be better if human beings ceased to exist.
- ii) If we have a duty not to make sentient beings suffer, then we have a duty not to eat them.¹⁰¹ If plants are not sentient, then we can shift from an animal-based diet to a plant-based diet. Yet if plants are also sentient, then this last move cannot be made and the only option available involves starving to death.
- iii) If we have a duty not to make sentient beings suffer, and plants turn out to be belong to such a category, that would call for a deep rethinking of many practices—such as, for instance, gardening—which seem to be paradigmatic examples of morally innocuous activities.

How should we respond to these challenges? i) and ii) have an easy answer, I believe. For the argument I have been defending is that we have a *pro tanto* duty not to make

¹⁰⁰ For an optimistic view, see Calvo 2017. For criticism, see Mallatt et. al 2020.

¹⁰¹ One way to defuse this worry would be to reject that a duty not to make sentient beings suffer implies a duty not to eat them—i.e., if we can painlessly kill them. However, to make this objection as strong as possible I will be assuming that it is not possible to painlessly kill animals used for food consumption and that this fact generates a *pro tanto* duty not to eat them.

sentient beings suffer.¹⁰² That is, we should not cause suffering *unless there are weighty reasons that might justify our doing so*. Yet if it turns out that some degree of suffering is necessary for humans to survive, that would be very plausibly regarded as a potential weighty reason of the sort required by the argument. However, and very importantly, we would still be required to choose the option that is likely to cause the least amount of suffering, and the principle would apply without any modifications to cases in which the imposition of suffering is not necessary for our survival. So, though the argument would have different implications than it would if plants were not sentient, its core would remain the same. To paraphrase the German journalist Iris Radisch: “In our living together with sentient beings, it is impossible to do everything right. But that does not give us the right to do everything wrong.”¹⁰³

What about iii) then? Here I am tempted to answer thusly: If it turns out that we have been so radically mistaken about the minds of plants, it would be almost miraculous if we have gotten it right about the ethics of how to treat them. Indeed, I think a stronger formulation of this view might be defended:¹⁰⁴ since, arguably, our current treatment of plants is justified insofar as we think of them as non-sentient entities, should we discover that this is actually not the case, that we should indeed rethink some of our practices.

2.5. Conclusion

In this chapter I have argued that at least some animals matter morally, in a robust sense. In Section 1.1, I introduced the notion of moral status, and specified the role that interests play in our discussion. In Section 2.1, I discussed the Indirect Duty View, which purports to show how can matter morally even if they lack moral status. This view, I argued, faces two objections. On the one hand, it has problems avoiding the conclusion that nonrational humans lack moral status too (2.2.1.). On the other hand, it also fails adequately capture what is wrong with animal cruelty (2.2.2). In Section 2.3 I turned to pain, which, I argued, constitutes an important element of an individual’s well-

¹⁰² See Section 1.

¹⁰³ Quoted in Arias-Maldonado 2014,19.

¹⁰⁴ Though, since I do not have the space to defend it here, I will limit myself to state it.

being, and which we are reasonably confident that at least mammals can experience. First, I discussed the conditions under which pain is bad for someone (2.3.1). Although I did not commit myself to any particular account, I tried to show that in all the main theories, pain can be bad for the animals that experience it. Second, I discussed the idea that human pain is necessarily worse (morally) than animal pain (because of our relatively more complex cognitive capacities). In response, I argued that, even if human pain is more complex than that of animals, the moral implications of this fact are less straightforward than one might assume (2.3.2). Finally, in Section 2.4 I addressed the issue of the moral status of plants and non-sentient living entities in general.

Chapter 3. The grounds of political inclusion: Nonhuman animals and the boundary problem

Introduction

In the last two chapters, I argued that at least some animals are sentient beings with a well-being of their own, which matters for its own sake and which is often important enough to generate duties on our part. In the remainder of this thesis, I will discuss whether this has any political implications. Chapters 3 and 4 focus on the normative question of whether we should include animals politically, whereas Chapters 5 and 6 discuss whether political representation provides a good way to make sense of this suggestion. In this specific chapter, I consider what different theories of political inclusion developed in the context of the so-called “boundary problem” might say regarding the inclusion of nonhuman animals. The discussion will proceed as follows. First, I will make (in Section 3.1) some preliminary remarks and clarifications regarding the notion of political inclusion. Second, I will introduce and discuss the main contending principles: the All Affected Interests Principle (Section 3.2), the All Subjected Principle (Section 3.3), the Stakeholder Principle (Section 3.4), and the Social Membership Principle (Section 3.5). With the potential exception of the All Subjected Principle, all of these principles—I shall argue—demand the political inclusion of at least some animals.

3.1. The many meanings of “political inclusion”

“Political inclusion” is a highly ambiguous expression, which has been used by various authors in many different ways. For this reason, it is necessary to make some distinctions.¹⁰⁵ In this section, I will specify which sense of “political inclusion” I will be concerned with.

¹⁰⁵ In what follows, I will be speaking, indistinctly, of “political inclusion,” “political membership,” “political protection,” and “political status” as shorthand for any of the three modes of membership that I introduce below. The reader may feel free, if she thinks that my usage of these terms overstretches their

Basically, when we discuss the political inclusion of an individual or group, we can be interested in at least three different questions:

- (1) Who ought to be given a *robust say* in the decisions of a political system?
Inclusion as the possession of strong participatory rights (e.g. the right to vote).
- (2) Who ought to be given a *weak say* in the decisions of a political system?
Inclusion as the possession of weak participatory rights (e.g. the right to participate in a non-binding referendum).
- (3) Whose individuals' interests and rights does a decision-making body have a duty to politically represent? *Inclusion as political representation*.

“Political inclusion” can play different roles, each of them associated with distinctive (though, of course, related) normative phenomena. There is no need to discuss which of the above alternatives corresponds to the “true” concept of political inclusion, for such a thing may not even exist, or it may be flexible enough to accommodate the three questions listed above. What we must do is to carefully specify which of the three questions is relevant for our purposes.

Questions i) and ii) seek to identify the members of the *demos*. A *demos*, in this sense, is constituted by the set of individuals that actively participate in the making of political decisions (paradigmatically, the bearers of voting rights) in a political community. As Christian List and Mathias Koenig-Archibugi (2010) have argued, if we want to identify the members of the *demos*, it is not enough to identify which individuals ought to enjoy certain political rights and entitlements (what they call the *compositional* question), but we should also pay attention to the functional characteristics an aggregate of individuals must have in order to perform a governance-facilitating role (i.e. guiding collective decision-making and enabling coordination). In short, we must also adopt a

ordinary meaning, to focus directly on the three modalities themselves. In addition, I do not want to suggest that these options jointly exhaust the idea of political status. Some authors (for instance Goodin, Pateman and Pateman 1997 and Donaldson and Kymlicka 2011) have argued that sovereignty or citizenship is also an aspect of the political status of animals. As I mentioned in the Introduction, I acknowledge this possibility, but will not discuss it in this thesis.

performative standpoint.¹⁰⁶ List and Koenig-Archibugi's notion of the demos is a radically agent-centered one, inspired by the original meaning of democracy as "the collective capacity of a public to make good things happen in the public realm" (Ober 2008, 8). If political communities have to make decisions, some of their members must qualify as agents in a specific sense.¹⁰⁷ On this reading, the notion of political community identifies which individuals possess the required functional characteristics.¹⁰⁸

Animals fall outside the scope of the notion of "political inclusion" presupposed by questions i) and ii). Although many nonhuman animals can be considered agents of some sort, it is much doubtful that they can display the functional features to jointly constitute a demos. To be sure, animals often organize themselves in groups and make collective decisions, and these decisions might be profitably modelled employing some of the same tools that social scientists use to theorize social decision-making in general, and democratic decision-making in particular (List 2004; Conradt and Roper 2007; List and Conradt 2009). Some people may want to say that the difference between "democratic" decision-making in animals and democratic decision-making in humans is only one of degree, albeit a very substantial one. Others might want to insist that there is a difference in kind between both cases, and that talk about "animal democracy" is at best a way of speaking. At any rate, even if there is only a difference of degree, it seems huge enough to justify treating both cases *as if* they were different in kind.¹⁰⁹ Thus, in

¹⁰⁶ As they put it: "[I]f we try to define the demos in terms of a membership criterion alone, it is not guaranteed that the resulting "demos" can support "kratos," the second and equally important etymological component of "democracy." (List and Koenig-Archibugi 2010, 84)

¹⁰⁷ The "specificity" proviso is meant to stress that only some forms of agency are relevant here. There is one sense in which children are obviously agents (at least once they reach a certain age), but that does not automatically make them qualify as agents in the relevant sense.

¹⁰⁸ I am talking about individuals for the sake of simplicity, but the picture might be more difficult. List and Koenig-Archibugi, for instance, believe that the relevant features must be found at the level of groups, not of individuals. This is a thorny question which should not concern us here. The crucial point is that the constitution of the demos should be constrained by the capacity (or, more abstractly, the potential) to instantiate certain forms of agency, regardless of the level at which such agency fundamentally operates. In any case, "individuals having the required functional characteristics" can be read as shorthand for "individuals composing the group with the required functional characteristics."

¹⁰⁹ In their aforementioned paper List and Koenig-Archibugi (2010, 98-101) suggest two operational criteria for detecting potential demoi: i) external coherence (measured in terms of the absence of cyclical

what follows I will be assuming either that animals cannot display the functional features of a demos, or that if they can, they do so in a way that radically differs from what we find in the paradigmatic cases involving human demoi.

Question iii) assumes a broader sense of “political inclusion,” which incorporates those individuals whose interests a polity has a duty to represent. It must be noted that a duty to represent someone’s interests politically differs from a *merely moral* duty to take into account those interests. To begin with, a duty to political represent the interests of an individual or a group essentially involves considerations of institutional design, and specifically refers to how the decision-making process ought to be designed. A merely moral duty, on the other side, does not necessarily involve considerations of institutional design.¹¹⁰ And even when it does have institutional implications, they do not necessarily apply to the configuration of the decision-making process. Such a duty might be fully satisfied, for instance, through the adoption of certain legal rights prohibiting certain behaviors, or through the implementation of specific policies. This is the sense of “political inclusion” that I will have in mind throughout this thesis.

These terminological precisions aside, we are still left with the fundamental normative question of why we should include any animals to begin with. In this thesis, I propose to address this question by appealing to the different principles of inclusion that have been proposed in the context of the so-called boundary problem—basically, the question of how political influence, power and relevance ought to be distributed in democratic systems. Before moving any further, I will address two general objections which, if successful, would undermine most of what follows.

On the one hand, it might be argued that this strategy cannot succeed because the principles of inclusion discussed in the context of the boundary problem are principles of *democratic* inclusion. This requires, at the very least, that those included be able to *relate as equals* (Erman 2014). But, it could be contended, we cannot relate with

preferences) and i) internal cohesion (understood in terms of agreement either at a substantive or meta-substantive level). If animals have no preferences whatsoever, or have preferences that are highly cyclical, or if there is no way in which they could be said to be agreeing about something, then the problem would be solved (assuming that we do not want to challenge the criteria).

¹¹⁰ Some duties, for instance, might be unenforceable. And others might not require a sophisticated institutional scaffolding to be satisfied.

animals as equals. For two individuals to relate as equals, two requirements must be satisfied (Lippert-Rasmussen 2018, 71):

- i) They must treat one another as equals (e.g. as their moral, epistemic or social equals).
- ii) They must regard one another as equals (e.g. as their moral, epistemic or social equals).

On this account, relational equality requires that a set of cognitively demanding attitudes and behaviors be adopted by *all* participants in some social collective scheme. In a democracy, it requires all citizens to treat and regard their fellow citizens as their equals. It seems clear, though, that, regardless of whether we can treat and regard animals as, say, our moral equals, they surely cannot do so. Even if some nonhuman animals are endowed with moral emotions that reliably respond to the bad- and good-making features of many different situations (Rowlands 2012), there does not appear to be any evidence that they possess even a rudimentary concept of moral equality of the kind that is required for them to be able to treat humans (or other nonhumans) as their equals.

I do not think this objection is fatal, for two reasons. First, it is at least possible to think that the reason why the democratic ideal requires equality in the case of humans is that they are indisputably each other's moral equals, and, at least in the case of adult, cognitively unimpaired individuals, are also capable of relating as equals. But if animals are not our equals (and remember that in this thesis I take no stance on this question), or cannot relate with us as equals (as it is very plausibly the case), why should we require any demand of relational equality to be respected in the first place? When there really is a problem, it seems, is when two or more groups of individuals who are morally equal, *and also capable of relating as equals*, are not treated as such. That is truly incompatible with the democratic ideal. But this does not tell us much about the conditions under which those who are not our moral equals, or with whom we cannot relate as equals, ought to be included politically. So, on this alternative view, the democratic ideal would require only that those *who are capable of doing so* relate to each other as equals, but would not necessarily extend this requirement to those who cannot (to which, of course, other sorts of constraints and requirements may apply).

Second, some participants in the discussion (Cf. Dryzek 2000, Ch. 6; Eckersley 2000; Goodin 2007, 55 n. 32; Garner 2017a) have indeed discussed the implications of these arguments for animals and other nonhuman entities. This suggests either that the previous point is sound (and the inclusion of animals is compatible with the democratic ideal, even if we cannot relate to them as equals) or that it is not true that the boundary problem concerns exclusively democratic inclusion. If we endorse this last view, we might say there are questions of *political inclusion*, of which questions of democratic inclusion would constitute a specific subset, which might be addressed by appealing to principles of political inclusion, of which specifically democratic principles would likewise constitute a subset. Moreover, even if the principles of inclusion we will be discussing had been proposed as *democratic* principles of inclusion alone, that would not imply that they can only be applied to discussions about democratic inclusion. To illustrate, Rawlsian principles of injustice were originally applied to discussions of domestic justice alone (and so intended by Rawls himself), but that does not necessarily imply that they cannot be used in discussions of global or intergenerational justice. Very often, the scope of philosophical principles is broader than what their proponents assume, and the only way to test this is by engaging in first-order normative reasoning.

A second, related objection points out that the boundary problem concerns the determination of the domain of democracy, which, at first glance, would appear to be a question about the composition of the demos in the above sense (i.e. restricted only to democratic agents). Ben Saunders (2012, 287), for instance, has claimed that “[t]he fact that the all-affected principle can be construed as recommending the inclusion of non-agents within the democratic process at all suggests a faulty conception of democracy.” This restriction, however, would not accurately reflect how these principles have actually been used in the debate. Archon Fung (2013, 237), for instance, sees these principles as regulating the distribution of political influence, “not just ... of a participatory democratic kind, but also indirect (e.g., delegated) and passive (e.g., structural or cultural) kinds of influence.” Kristian Skagen Ekeli (2009, 445) defends that “everyone whose living conditions and life prospects are seriously affected by a collectively binding decision, should also have the opportunity to influence the decision process and participate or be represented in the making of that decision.” In a similar spirit, Robyn Eckersley (2000, 118) argues that “all those potentially affected by risks should have some meaningful opportunity to participate or otherwise be represented in

the making of the policies or decisions which generate such risks,” Harry Brighouse and Marc Fleurbaey (2010, 150) see as one of the implications of their discussion that “[a]ll individuals should have their interests effectively represented in proportion to their stakes,” and Robert Goodin (2003, Ch. 11) has argued that one of the implications of the principle of equal consideration of interests (which, as we shall see in a minute, he takes to support his preferred answer to the boundary problem¹¹¹) is that we must try to represent the “mute interests” of non-human entities. Given that these principles have been used to determine who ought to be politically included in all of the three senses discussed above, they provide an interesting starting point.

And, even if such a restriction was accurate, we might, once again, distinguish between the boundary problem and a broader problem of political inclusion, and use the principles typically employed in the context of the former to explore and attempt to answer further questions in the context of the latter. As with the previous objection, whether this can be done can only be determined by way of first-order normative discussion.

Having clarified the notion of “political inclusion” at issue, as well as the relationship between the boundary problem, democratic inclusion, and political inclusion, I will now discuss whether the main principles developed in response to the boundary problem justify the inclusion of at least some animals.

3.2. The All Affected Interests Principle

One popular answer to the boundary problem is the so-called All Affected Interests Principle, aptly summarized by Robert Dahl (1970, 64) as follows: “[E]veryone who is affected by the decisions of a government should have the right to participate in that government.” This principle has played a huge role in several discussions in democratic

¹¹¹ This is the All Affected Interests Principle, which will be discussed in some detail below.

theory (for instance, those concerning the possibility and desirability of global democracy).¹¹²

One obvious question that immediately comes to mind is this: Who counts as “affected”? Suppose Richard Nixon had accidentally called you on the phone in 1971, waking you up from a pleasant sleep. Would that count as affecting your interests in the relevant sense? Defenders of the All Affected Interests Principle would say no. Though it is surely true that you would have been affected by a decision taken by the President of the United States,¹¹³ both the event and the particular affected interest are too trivial to generate any claim whatsoever. This is why most definitions of the principle include what we may call a “relevancy proviso:” Only sufficiently relevant interests generate claims to inclusion or representation. As Robert Goodin (2007, 51) puts it, “not every old interest ought automatically entitle one to a say in the matter.” Likewise, Gustaf Arrhenius’s (2019, 7) formulation of the principle specifies that people that “are relevantly affected by a decision ought to have ... influence over it,” Kristian Skagen Ekeli (2009, 445) claims that the scope of the principle covers “everyone whose living conditions and life prospects are seriously affected by a collectively binding decision,” Ian Shapiro (2003, 52) has held that “[t]he claim to a democratic say in collective decisions ... rests on the causal principle of having a pertinent affected interest,” Mathias Koenig-Archibugi (2017, 2) has written that “people who are significantly affected by a policy decision should have an opportunity to influence that decision,” and Laura Valentini (2014b, 793) has qualified the principle so as to only cover decisions “in principle open to democratic adjudication.”

Some authors claim that the All Affected Interests Principle, in the above formulation, is incoherent (Goodin 2007, 52-53). The reason is this: according to the principle, who is to participate in a decision is determined by who is affected by that decision. Yet this is something we cannot know until the decision has already been made. Suppose there are three alternative policies among which to choose (A, B and C), which would, if implemented, affect different sets of people (A*, B* and C*). Who should participate in this decision? At first glance, the answer seems indeterminate. If policy A is chosen,

¹¹² Other formulations and defenses of this principle can be found in Held 1995; Eckersley 2000, 118, Shapiro 2003, 52; Arrhenius 2005; Goodin 2007; Ekeli 2009, 445; Brighouse and Fluerbaey 2010, 138; Fung 2013; Valentini 2014b, 791; Koenig-Archibugi 2017, 2.

¹¹³ I am here assuming that Nixon was on duty and not, say, vacationing at Camp David.

then the members of A* should be given a say. But if B wins, then it is the members of B* who should participate. Goodin believes the paradox vanishes once we move from an overly narrow *All Actually Affected Interests Principle* to an *All Possibly Affected Interests Principle*, in which one counts as affected by a decision if there are alternative choices that could have made her better or worse off.¹¹⁴ So, even if people in B* are not directly affected by the outcomes of A, as long as their position could have improved had B been selected, they count as affected in the relevant sense. On this formulation, one can be affected by how the menu of choices is set, and not just by the outcomes of the decisions ultimately taken.

The All Affected Interests Principle rests upon a particular conception of democracy and government as something that has to do, to an important extent, with people's interests. On an influential account, democracy is primarily a mechanism to protect people's interests. The roots of this idea can be traced back at least to the so-called *protectionist theory of democracy* (Ball, Dagger and O'Neil 2014, 37), associated with the British utilitarians.¹¹⁵ In his *Essay on Government*, James Mill (1992 [1828], 5) contended that the end for which government is a means is to distribute "the scanty materials of happiness" in order to ensure "the greatest sum of it in the members of the community ... preventing every individual, or combination of individuals, from interfering with that distribution, or making any man to have less than his share." But are all forms of government equally positioned to realize this goal? Absolutely not, says Mill. Only the institutions of representative democracy can adequately protect the interests of individuals. Robert Goodin (2007, 50) explicitly acknowledges this intellectual debt in his own defense of the All Affected Interests principle: "Protecting people's interests", he writes, is "the most plausible candidate principle for bringing the "who" and the "how" of democratic politics into alignment." It tells us, first, who ought to be included (all whose interests are significantly affected), and it also tells us how decisions should be made (democratically, since "well-established results tell us is the best way to protect

¹¹⁴ David Owen (2012, 132) has objected that this constitutes one way of being *actually* (as opposed to possibly) affected by a decision. This seems to me a verbal disagreement, since both Goodin and Owen agree that there is one interpretation of the All Affected Principle which faces such inconsistency, and since they both reject such interpretation for analogous reasons. Since the normative implications of their views are identical, the discussion about what counts as "actual affecting" proper seems neither here nor there.

¹¹⁵ C.B. McPherson (1977, Ch. 2) calls this the *protective model of democracy*.

and promote people's interests").¹¹⁶ On this account, the value and functions of democracy have to do with its ability to bring about certain desirable outcomes, for which democratic procedures are but a means.

There is, however, a more procedure-oriented alternative account, in which the All Affected Interests Principle is made to rest on a conception of democracy and government as a mechanism for the fair adjudication of competing interests. On this alternative, political institutions ought to fairly take into account everybody's interests, without having to pursue, in addition, a set of procedure-independent outcomes. Once again, democracy is claimed to be particularly well-suited for the task: in giving all citizens an equal say, it ensures that they enjoy adequate opportunities to press their interests. When deliberative democrats appeal to the All Affected Interests Principle, they have in mind, I think, an account of this sort.¹¹⁷ Similarly, other authors (Arrhenius 2019, 16; Brighouse and Fleurbaey 2010) have attempted to anchor the principle on a general account of the fair distribution of political influence.

There is, in fact, a third account, which grounds the All Affected Interests Principle in a conception of democracy and government as the expression or the realization of collective self-government.¹¹⁸ Sofia Näsström (2011b, 123), for example, has argued that "the all-affected principle draws its normative force from the modern notion of self-rule." Likewise, Joseph Lambert (2015, 54) has held that giving a say to those affected by political decisions is "a required precondition for people to be able to rule themselves at all." On this account, only those interests that relate to self-government call for political inclusion.

In what follows, however, I will mostly focus on the two former accounts—protection and consideration of interests. This is because, although it is an open question whether nonhuman animals have interests worthy of political protection or fair consideration, animals unable to rule themselves collectively in any robust sense of the expression.

¹¹⁶ See also Miller 2009, 205.

¹¹⁷ See Dryzek 2006, 27; Mansbridge et. al 2014, 65. Habermas [1992] 1996, 107-108 famously puts forward a "discourse principle," according to which the only valid norms are those "to which all possibly affected persons could agree as participants in rational discourses." This principle is expected to provide "a rational balancing of competing value orientations and interest positions ... acceptable in principle to all parties, even if on the basis of respectively different reasons."

¹¹⁸ See also Bengtson and Lippert-Rasmussen 2021, 9-12.

Here, of course, I might be accused of illegitimately setting aside those conceptions of the All Affected Interests Principle that do not suit my interests. I do not think this is the case, for three reasons. First of all, for the purposes of this chapter (which is conditional in nature), all that I need to show is that at least one *extant* conception of the principle (i.e. one with genuine purchase in the literature) can be applied to animals. Second, in the next section I will discuss and criticize some strategies for restricting the scope of the All Affected Interests Principle. Finally, in the next chapter I will argue that these two conceptions of the All Affected Interests Principle—those based in the protection and consideration of interests—are normatively compelling. So, these are versions of the principle i) that have been endorsed by actual participants in the debate, and ii) that are valid from a normative standpoint.

So, summing up, for our purposes the All Affected Interests Principle might be said to arise from a conception of government as an instrument to protect and/or ensure the fair consideration of interests. We can now address its potential applicability to nonhuman animals.

3.2.1. The All Affected Interests Principle and nonhuman animals

In this subsection, I will discuss whether the All Affected Interests Principle demands the political inclusion of animals (at least through political representation). At first glance, this would appear to be the case. States (and other political entities as well, such as the units of federal states with ample competences) have an enormous power over the life conditions of millions of animals. Remember the examples I mentioned in the Introduction: animals are routinely killed for food, harmed for recreational and religious reasons, used for animal experimentation, or displaced from their habitats by urbanization projects. The well-being of millions of animals (even if, once again, we restrict our focus to mammals) is at stake in all these situations, which are made possible by the political systems which pass (or do not revoke) the laws that allow them—or who punish those who resist. In other words, although political institutions need not themselves be the ultimate authors of those practices, they nonetheless play an important explanatory role by *enabling* them. So, if the All Affected Interests Principle requires the inclusion of those whose interests are actually, probably or possibly affected by political decisions, animals appear to qualify quite straightforwardly.

Moreover, as I pointed out above, the All Affected Interests Principle can be grounded (albeit not solely) in two different views of democracy and government as a mechanism of interests-protection, and as a mechanism of interests-consideration. On the first view, the All Affected Interests Principle is grounded in a more fundamental principle of Protection of Interests, while on the second view the principle is grounded in a more fundamental principle of Consideration of Interests. Intuitively, though, it seems that both principles can be naturally extended so as to cover at least some nonhuman animals:

Protection of interests: Suppose we must implement one of two policies of urban planning. Policy *A*, on the one hand, will foreseeably entail the infliction of mild levels of stress upon 2.000 mammals, a small number of which might get accidentally harmed. On the other hand, the implementation of Policy *B* will predictably entail the infliction of severe physical pain upon 3.000 mammals. Let us assume, in addition, that both policies would have, in all the other respects, roughly similar benefits and costs. In such a case, it seems clear that we ought to implement *A* over *B*. This, however, cannot be explained by any potential instrumental benefit of *B*, as, *ex hypothesi*, we are ruling out this possibility. Something like an imperative to protect the interests of those animals (or, at least, to minimize the degree to which they are set back) seems to be doing the normative work in this example. If that is correct, then the Protection of interests principle applies to at least some nonhuman animals (mammals, in the example).

An inclusive principle of protection of interests can be understood in various ways. On the one hand, the principle can be read teleologically: states of affairs in which animals have their interests protected are good, and we have reasons to improve, maximize or satisfy the extent to which this protection takes place. On the other hand, the principle also admits of a more deontological formulation, according to which we owe animals certain duties, and the best way to discharge this duty is through the adoption of certain institutional arrangements (Cf. Cochrane 2018, Ch. 2). One of these duties, as I defended in Chapter 2, would be to abstain from inflicting suffering upon animals without a robust justification. So, we could either implement institutional arrangements that prevented animals from suffering various harms and having their welfare-interests thwarted, or we could either implement institutional arrangements that prevented *us* from causing animals to suffer without an adequate reason.

It is, of course, an empirical question whether representing animals would actually enhance the protection of their interests (and in that sense, my argument is *conditional* on the truth of certain empirical assumptions). Nevertheless, I do believe that there are some reasons to think this might be the case. As we saw in the Introduction, political systems routinely make decisions that pervasively affect (often negatively) the well-being of animals. And, as we will discuss in more detail in Chapter 6, there are several factors that possibly explain this lack of protection, such as uncertainty and ignorance, motivated reasoning, animals' inability to elect their representatives and hold them accountable, or a country's electoral system. All these factors political institutions can amplify, or reproduce over time (if only because, at least in democratic societies, representatives will attempt to respond, to some degree, to citizens' preferences and psychologies propensities, a process over which animals cannot exert any influence). By making animals more visible in the political decision-making process (through representative devices), it is at least plausible to suggest that the resulting decisions will be more sensitive to their interests. This hypothesis is consistent with Siobhan O'Sullivan's (2011) observation that the degree of protection different animals receive (even if they belong to the same species) is positively correlated with their degree of visibility. In any case, uncertainty about those empirical hypotheses remains compatible with the existence of a *second order* duty to experiment with such arrangements—triggering, if they turn out to effectively protect the interests of animals, the *first order* duty to implement representative arrangements for animals.

Consideration of interests: Someone's interests are not adequately considered in at least two sets of cases. The first consists of cases where someone's interests are simply not taken into account—where an individual is, so to speak, excluded from the moral community. Suppose that a black man is prevented from boarding a flight because of the color of his skin. Once the plane takes off, one of its wings bursts into flames, and the engine crashes down, leaving no survivors.¹¹⁹ Clearly, it was in the interests of the man not to take that flight: had he boarded the airplane, he would have died in the accident. But, at the same time, he was wronged by the decision not to allow him board the airplane: the reasoning leading to that decision, beneficial as it might have turned out to be, did not take into account the interests of the passenger—or failed to give them their due weight.

¹¹⁹ This example is taken from Woodward 1986, 810.

The second kind consists of cases where someone's practical deliberations fail to consider how their actions will affect the interests of other beings, even if these individuals are thought to possess moral standing. Culpable recklessness offers the clearest example. Suppose my neighbor John builds a laboratory in the basement of his house and starts experimenting with various chemical substances without knowing anything about chemistry. John's actions are morally objectionable, but not necessarily because he doesn't believe that the people that might be affected by the consequences of his blind experimenting do not matter: he might perfectly think that his family and neighbors matter morally and have interests that he ought not to thwart. Still, he has irresponsibly failed to consider how his actions could affect these people and their interests.

The fact that one has failed to take into account the interests of others (in the sense of failing to bear those interests in mind when making a decision, or in the sense of failing to care about the impact of one's actions upon others' interests) seems to constitute a distinctive wrong—that is, a wrong that is independent from the wrongness of setting back their interests, as it would still be wrong *even if, by pure chance, nothing bad happened*. Whereas the Protection of interests principle arguably concerns the latter, the Consideration of interests principle focuses on the former. And if animals have morally relevant interests, as I argued in Chapter 2, there is no reason why this principle could not apply to them as well. In fact, the opposite seems to be the case. Suppose my family and I are moving to a new city. We are choosing between two houses. In both cases, we are expected to live equally well. Now, we also have a cat, whose live we do not know how it will fare in each scenario. If, upon buying our new house, we act solely on the basis of how it is going to affect us (that is, if we do not make any effort to learn about how the cat would fare in each case, or if we do not even think that how the cat would fare in each case provides reasons for and against our choices), it seems that we are objectionably failing to properly considering the cat's interests.

There are various potential ways to ground this principle. We might have acted wrongly i) because we have ended up harming someone (i.e. we have thwarted these interests), ii) because we have increased the risk of her interests being set back, or iii) because we have disrespected her by failing to treat her as a morally considerable individual—that is, as an entity in possession of the kind of properties that we must pay heed to when we think about how to act or what to do. In other words, and returning to our previous

examples, in building a laboratory in my basement, I might be acting wrongly because I end up harming my family and my neighbors, because I put them in danger, or because I do not treat them as beings with moral standing. Similarly, I might be acting wrongly because I end up depriving the cat of a better life (at no significant cost for me), because I create such a danger, or because of the sheer fact of failing to consider my cat's interests in my practical reasoning.

Alternatives i) and ii) support an instrumental justification for the Consideration of interests principle, where what matters ultimately is whether interests are thwarted, or whether it becomes more likely that they will be thwarted. If that is right, they do not offer an alternative to the Protection of interests principle, but a specification of the principle. On the other hand, iii) offers an alternative explanation where the wrongness of disregarding someone's interests does not reduce to facts about interests—even if those facts might shape some features of the wrong in question. Rather, on this view, we wrong an individual by failing to respect her.¹²⁰

Option i), taken in isolation, should be discarded, since failing to consider someone's interests is morally wrong even if nothing bad happens. That our reckless actions effectively end up harming someone might add to the weight of our wrong, but does not determine, in itself, whether the wrong has been committed or not. I am less sure, however, about the remaining alternatives. Arguably, ii) partly explains what makes the “consideration of interests” principle plausible: when we ignore the effects of our actions, and fail to properly take into account the well-being of others, we make it more likely that those interests will be set back, and that seems morally important. But it is an open question whether this exhausts the entire normative significance of the principle. Those who believe that there are no such things as fundamental duties of respect or that nonhuman animals cannot be owed them will probably favor the reductive explanation. Be that as it may, this is a discussion that we can safely set aside, for what we are really concerned about is the plausibility of the principle, not its ultimate grounds. If we have such a duty, then we must ensure that the interests of morally considerable beings are taken into account in our deliberations regarding decisions that might have a substantive impact upon them. And, when those deliberations take place in political decision-

¹²⁰ This would constitute a failure of what Stephen Darwall (1977) calls *recognition respect*, which he defines as “a disposition to weigh appropriately in one's deliberations some features of the thing in question and to act accordingly” (38).

making sites (that is, in representative institutions), we should ensure nonhuman interests a chance to be counted.

So, it seems that, at first glance, two of the principles in which the All Affected Interests Principle has traditionally been grounded can be nicely extended to include at least some nonhuman animals.

This argument can be criticized in at least two ways. First of all, someone might note that not all the ways in which animal interests are affected by political decisions are morally wrong. Perhaps animal experimentation (or some forms of it, at least) is morally justifiable, or even required. And who would want to suggest that the emergence of urban settlements are inherently immoral because they upset the life patterns of animals, no matter how greatly they might contribute to alleviate poverty? This reply, however, misses the mark, as all that the All Affected Interests Principle demands is that, if one has an important interest affected by a political decision, she should be included (under a suitable modality of inclusion) in the correspondent decision-making process. Whether setting back those interests might, under some circumstances, be justified is immaterial to the principle. And even if it mattered, it would only show that, to the extent that those interests can be permissibly infringed, the All Affected Interests Principle does not apply. But this would still leave plenty of cases where it does apply: namely, those in which no plausible justification seems available. As long as we accept that animals have morally relevant interests that are often unjustifiably infringed in ways that are authorized by the state (or whatever the relevant political unit turns out to be), there is room for the All Affected Interests Principle to operate.

Second, it might be objected that even if the interests of animals are affected by political decisions, none of them are affected in a way that satisfies the relevancy proviso. This strategy can be pursued in at least two ways. On the one hand, one can claim that the interests of animals differ *in kind* from the type of interests that are relevant to the All Affected Interests Principle (Difference in Kind objection). This objection admits of at least two interpretations:

- (i) The kind of interests relevant for the All Affected Interests Principle correspond to the articulated economic—income, wealth, resources...—and/or

social—recognition—demands of various groups (e.g., class interests in Marxist theory, women’s interests in feminist theory, corporate interests, etc.).

(ii) The kind of interests relevant for the All Affected Interests Principle require certain sophisticated cognitive capacities (metacognitive abilities, robust propositional capacities...), which nonhuman animals presumably lack.

It is hard to see what could motivate this sort of restriction, though. If animals have morally relevant interests, and if those interests can be plausibly covered by both a principle of protection of interests and a principle of consideration of interests, why should not those interests count as being of the right kind, from the standpoint of the All Affected Interests Principle? One way to defend such restriction is by appealing to what democracy is *really* about. For example, one might argue, first, that the kind of interests relevant to the All Affected Interests Principle are the kind of interests relevant to the democratic ideal, and, second, that the kind of interests relevant to the democratic ideal are those that belong to social or economic collectives, or that express judgment-sensitive attitudes. Of course, that these are the only interests that are relevant to the democratic ideal is questionable. But, even if we assumed so for the sake of the argument, the general move might be resisted, once again, by distinguishing between a broad category of questions of political inclusion and a narrower category of questions of specifically democratic inclusion. Leaving labelling issues aside, the question of whether political institutions have a duty to represent the interests of nonhuman animals because of their potential to enhance the degree to which those interests are protected or considered cannot be simply stipulated away.

On the other hand, it might be said that, even if the interests of animals do not differ in kind, they are of a sufficiently lower *degree* to be safely ignored. These interests, though real, are either trivial or unimportant (Difference in Degree objection). Two responses can be offered to this objection. First of all, even if those interests of animals that are affected by political decisions were really trivial or unimportant, it would not follow that the All Affected Interests Principle does not apply to them. Or, at least, showing so would require taking additional steps. On one version of the All Affected Interests

Principle,¹²¹ political influence should be allocated in proportion to the degree to which individuals have their interests affected. So, even if the degree to which the interests of animals is lower than that of humans, that should not necessarily prevent the principle from operating. As long as there is some positive degree of impact, there should also be some positive degree of influence. This response might be considered unsatisfactory for two reasons. First, it is at best a Pyrrhic victory, for it is compatible with an insignificant degree of influence (or a say), undistinguishable in practice from an alternative in which the All Affected Interests Principle does not apply at all. Second, our objector might reply that the All Affected Interests Principle, even on its proportionalist version, only applies if the relevancy proviso is satisfied. That is, only if the interests at stake are already “pertinent,” “relevant,” “significant,” or “important.” But if such lower threshold is not even met, proportionalism cannot come to the rescue.

Therefore, a more ambitious response should challenge the claim that all the affected interests are trivial. That is the second possible reply to the Difference in Degree objection. If we look at the examples mentioned in the Introduction, this claim seems clearly false. We might discuss whether animals have an interest in reproducing, or whether they have an interest in being alive, or in being free. These are, to varying degrees, controversial issues. It is much less controversial, however, that they (especially mammals) have a non-trivial interest in avoiding pain and suffering, which is thwarted in the cases mentioned. If we accept that animals have interests, that some of these interests are morally weighty, and that they are routinely affected by political decisions, the objection strains credulity. When the Japanese government authorizes the resumption of whale hunting, the interests at stake are not at all trivial. And the same goes for bullfighting, animals in the industrial agricultural system, primates used for experimentation, etc.

None of these objections, then, seems to prevent the All Affected Interests Principle from covering at least some animals. Summing up: nonhuman animals are affected by political decisions, and in some cases the interests at stake are neither trivial nor unimportant. Absent compelling reasons to the contrary, they are covered by the All

¹²¹ Brighouse and Fleurbaey 2010 explicitly defend this view, which they call Proportionalism. Goodin 2007, 51 and Arrhenius 2018 also acknowledge this possibility. See also, for a qualified defense, Rosenberg 2019.

Affected Interests Principle. We can now turn to the principle's main competitor, the All Subjected Principle.

3.3. The All Subjected Principle

Although the All Affected Interests Principle has many supporters, it is far from being universally endorsed. One prominent alternative is the All Subjected Principle. In this section we will discuss whether this alternative principle can be applied to animals too. The root intuition behind it is that political inclusion ought to track subjection to the law, or to the coercive power of the state (instead of mere affectedness). Each of these two options supports different interpretations of the principle. According to the All Subjected to Law Principle, participatory rights, political power and influence should be granted to those who are subjected to the laws of a polity. As Robert Dahl's (1998, 78) principle of full inclusion commands: "The citizen body in a democratically governed state must include all persons subject to the laws of that state except transients and persons proved to be incapable of caring for themselves."¹²² According to the All Subjected to Coercion Principle, it is when one is subjected to the coercive power of a state that inclusion is called for. In the words of Arash Abizadeh (2008, 45): "[A] democratic theory of popular sovereignty requires that the coercive exercise of political power be democratically justified all those over whom it is exercised, that is, justification is owed to all those subject to state coercion."¹²³

Again, the question arises: Who counts as being subjected in either version of the principle? Ludvig Beckman (2014, 256-257) has usefully distinguished three ways in which one could be subjected to law. First, one can be a legal subject if one is subjected to legal duties. That is, if there is a body of laws that purports to have the authority to guide one's behavior or modify one's normative standing. The second view links subjection to law with the existence of power-conferring rules (rules that confer the power—but not the duty—to establish a legal relationship). On this conception, one is bound by the law in the relevant sense if one has been conferred certain legal powers.

¹²² Other defenses of this version of the principle can be found in López-Guerra 2005 and Beckman 2008, 2009, 2014.

¹²³ David Miller also leans towards this principle. See specially Miller 2009 214, 225.

Finally, one is a legal subject if one is subjected to institutions with the power to make one obey the law, coercively if need be.¹²⁴

Let us move now to coercion. Most defenders of the All Subjected to Coercion Principle care about the coercive power of the state because of its potential to undermine personal autonomy.¹²⁵ And what does it take to be an autonomous being? Following Joseph Raz's analysis, which we introduced in Chapter 1, and to which authors discussing this principle often appeal explicitly,¹²⁶ at least three elements can be highlighted. First, autonomy requires the possession of the necessary *mental abilities* "to form relatively complex intentions and plan their realization" (Raz 1986, 371). Second, the individual must enjoy an adequate range of choices available to her. Third, she must also be independent. That is, the individual must not be subject to someone else's will. When these requirements are intentionally thwarted by a third party,¹²⁷ coercion takes place.

As with the All Affected Interests Principle, the All Subjected Principle relies upon a particular account of democracy (i.e., its core values and functions). In this case, the main function of democracy and government in general is to express the ideal of self-rule, understood either as a demand or a constitutive element of individual autonomy. Here is the core thought: legitimate exercises of power¹²⁸ must respect the autonomy of individuals, and this will not be possible unless the latter become, in a sense, co-authors of the laws to which they are subjected.¹²⁹ As Rousseau ([1762] 1999, 54) famously formulated it, the fundamental problem is to "[f]ind a form of association that defends and protects the persons and goods of each associate with all the common force, and by means of which each one, uniting with all, *nevertheless obeys only himself and remains as free as before*" [My emphasis]. In principle, exercises of power might be reconciled with personal autonomy if they could be agreed to by fully informed rational individuals

¹²⁴ A similar taxonomy has been offered by Robert Goodin (2016, 370-372).

¹²⁵ See, for instance, Abizadeh 2008, Miller 2009.

¹²⁶ Cf. Abizadeh 2009, 39-40;

¹²⁷ If I lose any of these of these elements due to natural causes, I might be said to have lost autonomy, but not to have been subject to coercion. This is what the "intentionally" clause intends to capture.

¹²⁸ Here "exercises of power" is mean to cover both the making of laws and the coercive exercise of state power.

¹²⁹ Dahl 1989, 122.

or, in its Kantian version, if they rested upon principles which reasonable persons would be willing to universalize.¹³⁰ Defenders of the All Subjected Principle, however, contend that this is not enough: exercises of power must not only be *justifiable to* autonomous individuals; they must also be *justified by* those over which this power is exercised through the exercise of their political rights.¹³¹

Now, of course, different authors might want to emphasize different things. For some - the proponents of the All Subjected to Law Principle—it is the law’s distinctive *claim* to regulate someone’s normative standing (i.e., its alleged normative authority over its subjects to impose or withdraw duties and rights) that generates such rights to inclusion.¹³² For others—the defenders of the All Subjected to Coercion Principle—it is the *enforcement* of the law that constitutes a potential threat to personal autonomy. And, of course, some believe that both the implicit claims of legal directives and the coercive nature of its enforcement matter. What they all accept, though, is that securing individual autonomy requires that those subject to state power have control over it, by having a say over its decisions and by co-authorizing its laws.

3.3.1. The All Subjected Principle and nonhuman animals

In this section I will discuss whether the All Subjected Principle can be applied to animals. Earlier in this thesis, I argued that it is an open question whether at least some nonhuman animals are autonomous beings (albeit to a lower degree than humans who can have complex thoughts about their own lives, viewed as wholes with a certain more or less developed narrative structure). This might seem to imply that the All Subjected Principle cannot be applied to them. Let us see whether this is true.

Before we start, recall that the All Subjected Principle can be understood in at least two ways. Defenders of the All Subjected to Law Principle believe subjection is essentially subjection to a particular legal system, which makes claims in other people’s names, and

¹³⁰ Or, in the Scanlonian version, unable to reject.

¹³¹ Abizadeh 2008, 41.

¹³² As H.L. Hart writes in *The Concept of Law*: "Normatively, having a legitimate claim to make someone subject to a law entails having a legitimate claim to enforce that law on those subject to it" (Hart 1961, 20-22, quoted in Goodin 2016, 372 n. 19).

which purports to direct their behavior—by force, if need be. Defenders of the All Subjected to Coercion Principle, on the other hand, allow for informal forms of coercion which, they believe, the legalistic interpretation fails to capture.¹³³

If we favor the former interpretation of the principle, animals might appear to be ruled out immediately, since they are not subjected to any legal authority (i.e. they do not have legal duties or can be granted legal powers). But that may be too quick. As we saw in the Introduction, in 2018 the High Court of the Indian state of Uttarakhand (and one year later, the Punjab and Haryana High Court) declared “the entire animal kingdom, including avian and aquatic” as “legal entities having a distinct persona with corresponding rights, *duties* and liabilities of a living person” [My emphasis]. All citizens, the Court concluded, were declared “persons in loco parentis as the human face for the welfare/protection of animals” (Quoted in *The Hindu* 2018). In these two northern Indian states, animals are (at least in theory) legal subjects with legal rights and, apparently, legal duties as well. It is, not clear, however, whether these are genuine legal obligations at all, as they are not action-guiding for the animals involved (who cannot understand them, nor possibly follow them), nor will elephants and horses be put on trial for breaking “the duties of living persons.” Moreover, the supporter of the All Subjected Principle might claim that the principle only applies where someone’s autonomy is interfered with. Even though subjection to law is a necessary condition, it might not be a sufficient one. This additional requirement (infringement of autonomy) would exclude at least most of these animals, even if they are formally subjected to the law.

Similarly, the All Subjected to Coercion Principle seems to rule out animals because they are not autonomous agents. But in this case, I think, we ought to proceed more carefully. Even if animals cannot be subjected to coercion through having their autonomy thwarted, they might still be subjected to coercion in other ways. Let us unpack this suggestion with some detail. On one possible reading, autonomy plays an important role in the All Subjected Principle to Coercion because it is quite good at identifying and explaining the wrongness of coercion. Typically, the value of autonomy

¹³³ This version of the principle may also entail that some legal precepts are also of little relevance if they are not enforceable in a coercive manner.

explains why it is wrong for us to thwart someone's will without an adequate reason. Let us call this function, for the sake of brevity, the *No-Coercion function*. I will assume that autonomy usually performs this function. That might be, nonetheless, compatible with some of the elements characteristic of autonomous agency being sufficient to perform that very function—even if they still fall short of full autonomy. Let us call this the Multiple Realizability Thesis:

Multiple Realizability Thesis: The No-Coercion function (making it wrong to thwart someone's will without an adequate reason) can be realized either through autonomy *or* through some of its elements.

Because at least some animals have a will of their own, they might be subjected to wrongful coercion *even* if they are not autonomous agents (although that fact might make coercion *worse*, of course). Is there anything to recommend this thesis? Consider the following case. Chimpanzees, we know, are highly social animals who dislike being separated from other chimpanzees. When they are held captive, they display abnormal behaviors, such as repetitive rocking, drinking their urine, and self-mutilation (Birkett and Newton-Fisher 2011, 1). In zoos, they have been reported to manufacture objects which they use as missiles against visitors (Osvath 2009). Also, as we saw in Chapter 1, they appear to be capable of performing quite cognitively complex activities: they can use and manufacture complex tools (which seems to indicate at least a primitive sense of the future), appear to be able to recognize themselves in front of a mirror, and might even be able to have mental states about the mental states of others.

Unsurprisingly, chimpanzees do not like being captured. Henry Craig, who trained the movie-star Bonzo—a famous chimpanzee who appeared in films such as *My Friend Irma Goes West* (1950) and *Bedtime for Bonzo* (1951)—describes the animal's capture in Liberia as follows: “[T]he natives set out a kettle of beer. Later they return and toss the passed out chimps into cages” (Quoted in Molloy 2011, 58). Let us assume for the sake of the argument the truth of Craig's story. This means a group of chimpanzees, who would have rather stayed with their conspecifics, were given alcohol so they could be easily forced into captivity. In animals of such a cognitive and social complexity, this looks like a case of objectionable coercion. If that is right, then there must be some element performing the No-coercion function (i.e. a set of considerations explaining

why the wrong-making features of coercive intervention apply here). But if, *ex hypothesi*, chimpanzees are not autonomous beings, something else must be doing the work. And, given that they appear to have some of the capacities typical of autonomy, these capacities might be a good candidate.

It might be replied that we do not need to appeal to any supposed coercion to understand what is morally problematic about these cases. When they are held captive, chimpanzees suffer, and this suffices to explain what is wrong about captivity. The problem is that it does not seem possible to explain *why* they are suffering without appealing to their minimal rationality, their ability to make plans and their capacity to understand various aspects of their social worlds. Let us distinguish between the suffering or pain that is caused because an animal in captivity is not adequately taken care of (e.g., if she is subject to abuse or has to live in unhealthy spaces), and the suffering or pain that is caused by the very condition of captivity. The former suffices to explain why captivity can be problematic for animals with lower cognitive capacities, or less social natures, who would not care very much about their situation if they had an adequate amount of food and space. Fish in water tanks (or at least some of them) might be harmed if they are not taken care of adequately, but they do not seem to be particularly stressed about the very fact of their captivity, which they are indeed unlikely to understand at all. But an account like this does not seem enough to fully explain what is problematic about holding chimpanzees in captivity.

Another way to reply to this objection is simply to modify the original example. Suppose Bonzo had been kept constantly drunk (or under the effects of a drug without adverse health effects) so that he could not acknowledge his condition and start getting stressed and behaving abnormally. Now, the suffering would have disappeared, yet the case seems to remain problematic from a normative standpoint. It seems plausible to believe that if certain animals have some of the capacities of autonomy, they can be subject to certain forms of coercion that are morally problematic, even if we grant that an autonomous being must necessarily have all the elements of autonomy.¹³⁴ And that

¹³⁴ The argument that some animals can be coerced in the sense relevant to the All Subjected to Coercion Principle has been defended by Robert Garner (2017a).

would be what the All Subjected Principle to Coercion worries about (or, at least, might playing an analogous role to that principle).

On the alternative account I am suggesting, the defining feature of wrongful coercion is not the infringement of someone's autonomy *per se*. Rather, it is the objectionable thwarting of someone's will—that is, without an adequate reason. Considerations of autonomy, clearly, explain what is particularly objectionable (perhaps even *especially* objectionable) about thwarting the will of an agent's will without an adequate reason. But this “principle of respect for autonomous agency” might be seen as an instance of a broader “principle of respect for agency,” which might explain why thwarting the will of non-autonomous (or, at least, not fully autonomous) *agents*, like many nonhuman animals, can also be wrong, performing an analogous function to that which considerations of autonomy are supposed to play in cases like these (Cf. Wilcox 2020).

This account might inform an interpretation of the All Subjected to Coercion Principle, according to which political inclusion tracks coercion against someone's agency (and where autonomy is only a form of agency). Some animals might fit on this account, as they are agents whose will can be thwarted in several ways. We could thus have a *pro tanto* duty to include them politically, either by granting them participatory rights, or by representing their interests politically. Since the first alternative is a non-starter, some form of political representation would be the answer.

Against this interpretation of the All Subjected to Coercion Principle, one could defend two views. First, one can argue that political inclusion ought to track only those forms of coercion that overlap with autonomy—that is, only those cases in which the thwarted will is that of an autonomous being. On this view, the All Subjected to Coercion Principle would not care about coercion *simpliciter*, but only about some of its manifestations.¹³⁵ Second, someone can adopt a conception of coercion in which

¹³⁵ Someone might suggest following a similar strategy with regards to the All Subjected to Law Principle, where being the subject of legal obligations would only constitute a proxy for a further, deeper fact. But just as autonomy tracks coercion, and animals might perhaps be victims of objectionable coercion, it is not easy to see what the equivalent would be in the legal case. Speaking (or legislating, or acting) in the name of an autonomous being, without giving her an opportunity to consent or contest my claims and actions, might be an objectionable thing for me to do, even if I succeeded in tracking the

animals (or most of them, at any rate) cannot be coerced by definition. Consider, for instance, Robert Nozick's (1969) influential discussion of coercion. On Nozick's definition, coercion is characterized in terms of *credible threats* to use physical force if the coerced subject does not obey the coercer's will, not in terms of the use of physical force itself. In addition, the ability to issue (and be subject to) a threat is, in Nozick's view, quite demanding cognitively speaking, requiring the capacity to form complex second-order thoughts about the mental states of others. As we saw earlier, perhaps some animals are able to form such thoughts. But most probably cannot. So, on an account like Nozick's, it seems to follow that at least the majority of animals cannot be coerced.¹³⁶ This informs an interpretation of the All Subjected to Coercion Principle in which political inclusion tracks coercion, but where coercion cannot be applied to animals.

It is difficult to establish which of these three interpretations best describes the All Subjected to Coercion Principle, as it has been used in the literature. Defenders of the principle, on the one hand, have typically discussed autonomy and coercion simultaneously, without considering whether the two may be separable, so it is not easy to tell whether they might allow for such a possibility. On the other hand, there does not seem to be a single notion of coercion assumed by the principle's defenders. Arash Abizadeh (2008, 57), for example, explicitly states that he takes coercion "to include both *coercive acts* (noncommunicative coercion) and *coercive threats* (communicative coercion)," whereas David Miller (2010, 114) defines it as necessarily involving some form of communication: "We normally speak of coercion," says Miller, "when P forces Q to undertake some relatively specific course of action by communicating an intention to cause bad consequences if that action is not performed."

I can only conclude by pointing out that, of the three possible readings of the All Subjected to Coercion Principle, only one (which separates coercion from autonomy, and grounds the principle ultimately in the value of the former—or, more precisely, in the way in which coercion thwarts agency) might be able to accommodate nonhuman animals.

interests of that individual. But speaking on behalf of a nonautonomous being, as long as I track her interests well enough, does not seem to be equally problematic.

¹³⁶ And perhaps even the few species who might have those abilities might not be able to exercise them to the degree that Nozick's account requires.

At best, the two other readings might apply to a very small subset of mammals, if they turn out to be autonomous agents in some interesting sense. Because of the vast number of “ifs” involved, I do not think we should place much faith on the potential of the All Subjected Principle as a vehicle for the political inclusion of nonhuman animals.

3.4. The Stakeholder Principle

In this section I will discuss a further principle of inclusion (the Stakeholder Principle), and its applicability to nonhuman animals. In a series of papers and essays, Rainer Bauböck (2006, 2009, 2018) has argued that what ought to determine political inclusion is whether an individual has a stake in the continued existence of a political community. This he calls the Stakeholder Principle: “[S]elf-governing political communities should include as citizens those individuals whose circumstances of life link their individual autonomy or well-being to the common good of the political community.” (Bauböck 2009, 479. Italics are the author’s). But the mere survival of the community is not enough. According to Bauböck, for the Stakeholder Principle to apply, an individual’s well-being and autonomy must not only depend on the continuity of a particular community, but also on that community being governed democratically.

As in the previous cases, we need some tools to identify who has a relevant stake. In an earlier paper, Bauböck (2009, 480) had argued that someone has a relevant stake in a particular political community if:

- i) She depends on it for the long-term protection of her basic rights (*Dependence*), or
- ii) She has been subjected to its authority for a significant period of time over the course of her life (*Subjection*).

So formulated, these criteria seem to establish independently sufficient conditions for a valid claim to inclusion. Of course, if someone meets both requirements, the obligation to make her a member of a particular political community will be overdetermined.

The Stakeholder Principle stresses the importance of well-being and autonomy. This suggests that the normative conception of democracy and government on which it rests is pluralist in nature: the value of democracy stems both from its ability to promote and

protect the interests of individuals, and also from its commitment to personal autonomy.¹³⁷ Only if those whose well-being and autonomy depend upon the continued existence of a self-governing political community are recognized as members of that community will these two important functions of democracy be realized. Having introduced the Stakeholder Principle, I will now argue that on its most plausible version, it covers at least some animals as well.

3.4.1. The Stakeholder Principle and nonhuman animals

According to the Stakeholder Principle, political inclusion should target individuals whose well-being and autonomy depend on the persistence of a particular democratically organized political community. As we saw, Rainer Bauböck believes someone has a relevant stake in a political community if she depends on it for the protection of her basic-rights (*Dependence*) or if she has been subjected to its authority for a significant period of time (*Subjection*).

At first glance, many nonhuman animals would seem to meet the first condition: without an adequately recognized protection, their fundamental interests are permanently at stake (recall the examples we saw in the Introduction). Moreover, even if animals were granted *legal* protections, there is the risk that the relevant law-making processes, absent any mechanism to represent the interests of animals (that, is without a further *political* recognition), will be biased in important ways. As I will argue in Chapter 6, there are reasons to expect this outcome, as political decision-makers face powerful incentives to disregard the interests of animals. As Bauböck (2018, 40) puts it, “being an outsider who does not belong to any [political] community is a condition of extreme precariousness.”

There are several possible ways to resist extending this claim to animals. First, it might be claimed that some animals (wild animals, for instance) are better off without belonging to any political community. This can mean at least two things: i) animals in

¹³⁷ Proponents of the All Affected Interests Principle might protest that "protection of interests", for them, can also include an interest in having one's autonomy adequately respected, so that their underlying conception of democracy need not really be monistic. I agree. Thus, this paragraph should not be read as identifying features of the Stakeholder Principle that none of its (alleged) alternatives have.

the wild typically have lives of net positive well-being, and are not in need of any kind of protection; or ii) though the lives of wild animals are often precarious, intervening in nature is likely to do more harm than good, so it is best to act *as if* their interests merited no political protection. Though nature is red in tooth and claw, human intervention might be even worse. Three responses are available. Firstly, it must be noted that this argument, if sound, would only show, at best, that there is a class of nonhuman animals that do not meet the Dependence criterion. Other animals (domestic animals living in industrialized societies, for instance) might still satisfy it. Secondly, i) is a highly controversial claim, rejected by many philosophers and biologists.¹³⁸ Nature might be gators protecting their younglings, and fish in the river swimming free, as in the words of a Lynyrd Skynyrd song, but it is also predation, parasites, earthquakes, floods and unhealed crippling wounds. As Darwin's famously exclaimed: "What a book a Devil's chaplain might write on the clumsy, wasteful, blundering, low, and horribly cruel work of nature!"¹³⁹ Although there is disagreement about the scope of this claim, it seems clear that *some* wild animals are indeed highly vulnerable creatures, in a condition of deep precariousness. Thirdly, ii) is also disputable: though interventions tend to be risky ventures, and many of them have definitely caused more harm than they tried to prevent, the claim that *all* interventions (regardless of their scale, duration, and ambition) are going to involve excessive costs is unwarranted.¹⁴⁰ And, in any case, we are *already* massively intervening in nature, so the real choice is not whether to intervene or not, but how to distribute the various risks and harms imposed by the many interventions that we have already set in motion.

Another possible objection notes that the Dependence condition mentions "basic rights", while I have been talking about "fundamental interests." Although both humans and nonhumans have interests, perhaps only the former can have basic rights. And since possession of basic rights determines who is dependent in the sense relevant to the Stakeholder Principle, nonhuman animals are excluded (since they cannot be dependent in a rights-involving sense). Both of these claims are controversial. To begin with, it

¹³⁸ See, for instance, Ng 1995; Dawkins 1995, Ch. 4; Horta 2010; Faria 2016.

¹³⁹ "Letter to J.D. Hooker." Available at the *Darwin Correspondence Project*: <https://www.darwinproject.ac.uk/letter/DCP-LETT-1924.xml> (Last accessed: June 2, 2022).

¹⁴⁰ See Cowen 2003, 173-174 for discussion of some (not entirely uncontroversial) examples of zero or low-cost interventions.

must be noted that the view that at least some animals can possess certain basic moral rights is widely shared among moral philosophers, and it is the standard view among those working in animal ethics. Although, for the purposes of this thesis, I remain agnostic on this issue, it must be noted that it is not a minority view at all. Second, and more importantly, it is unclear how the interests of animals can be excluded from the Stakeholder Principle. Let us assume two things: i) animals have interests, and ii) they do not have autonomy-based interests. If that is the case, the most natural way to exclude animals from the Stakeholder Principle would be to stipulate that the principle only covers autonomy-based interests. This interpretation cannot be right, however, for remember that the Stakeholder Principle, in Bauböck's formulation, is meant to apply to those whose well-being *and* autonomy are at stake. If the only interests that matter are autonomy-based interests, this distinction would be redundant. Why talk about well-being as something that can be jeopardized *in addition* to autonomy? This suggests that there are certain non-autonomy-based interests that are relevant to the principle. But this is the kind of interests many nonhuman animals can have: their autonomy, I am assuming, cannot be compromised, but their well-being surely can.

A third objection points out that, on Bauböck's account, the well-being and autonomy of those covered by the Stakeholder Principle must not merely be dependent on the continued existence of a particular political community, but *also on its being democratically organized*. Even if the protection of the well-being of animals depends on the continued existence of a polity, this last restriction seems more difficult to circumvent. On the surface, it is not clear how these two things (well-being and self-determination) might be connected in the case of animals. If no connection can be made, that is a problem. But it is even worse if the opposite connection exists: namely, if the well-being of animals depends on a political community remaining undemocratic. Suppose, as some economists have claimed, that democracy causes economic growth.¹⁴¹ Meat consumption, in turn, is positively correlated with GDP per capita,¹⁴² which allows for (although, of course, in no way implies) a causal connection between economic growth and meat consumption. If that were indeed the case, then it could be argued that the well-being of many animals depends upon a country remaining

¹⁴¹ See, for instance, Acemoglu et al. 2019.

¹⁴² See the chart in: <https://ourworldindata.org/grapher/meat-consumption-vs-gdp-per-capita> (Last accessed: June 2, 2022).

undemocratic (to the extent that democracy causes growth, and growth increases meat consumption rates).

It is thus important to distinguish between two different objections: the *No Connection Objection* (the well-being of animals does not depend upon a political community being governed democratically) and the *Adverse Connection Objection* (democracy can harm the well-being of animals). Let us start with the latter. Let us assume it is true that many animals would be better off if the countries in whose territory they live do not democratize. At best, this would indicate that *some* animals (in our example, those used for food) are better off without democracy. But that does not tell us much about those countries which are already organized democratically. When democracies die, economic collapse might follow, and this might secure the well-being of some animals, who will no longer be raised for food.¹⁴³ But it could also harm those animals whose interests were protected by animal advocacy groups—whose demands could previously be addressed to government officials via democratic channels, and who have now become voiceless. Or those animals whose interests already receive some formal protection. Democracies allow for self-correcting mechanisms, and the protections afforded to animals figures among the kind of things that can be corrected and modified. In fact, according to one study (Holst and Martens 2016), a country's degree of democratization is one of the variables positively correlated with the strength of its animal protection policies.¹⁴⁴

Now, of course, many countries are not well-functioning democracies (not even *sufficiently* well-functioning). And even when they are, it will not always be clear how the link between the protection of well-being and the persistence of democratic government might go. This is what the No Connection Objection states. In order to answer this stronger charge, I will discuss head-on the requirement that one should have a stake in a political community being governed democratically in order to be included politically.

¹⁴³ This claim is uncertain, though, for three reasons: i) those animals who are already alive would not benefit from this; ii) those not yet born will not benefit, since they will not exist (this will depend on how we answer the Non-identity problem), and iii) as we have seen, the alternatives (e.g., living in the wild) do not ensure that these animals will have lives with an adequate level of well-being.

¹⁴⁴ One famous example is the absence of nationwide animal welfare legislation in China.

Here are two possible interpretations of the Stakeholder Principle:

1. One should be a member of a political community if her well-being and autonomy depend on the continued existence of that community, and also on that community's being democratically organized.
2. One should be a member of a political community if her well-being and autonomy depend on the continued existence of that community. Still, if one's well-being and autonomy *also* depend on that community's being democratically ruled, that has an effect on the type of membership one should be granted.

Bauböck clearly favors the first one: having a stake in the continued existence of a political community and having a stake in that community's being democratically organized cannot be disaggregated. They are the two sides of one indivisible coin. In what follows, though, I will argue that the second view is preferable. If political inclusion can be disaggregated into various modalities (strong and weak participatory rights, political representation...), that seems to invite a more multi-dimensional formulation of the Stakeholder Principle. On the one hand, someone's well-being and autonomy depending on her being politically represented in a political community that persists over a certain amount of time gives us one type of stake that might be relevant for the Stakeholder Principle—to which it would correspond a specific modality of political inclusion. On the other hand, if that person's autonomy and well-being also depend upon that community's remaining democratically governed, that gives us a different kind of stake that is also relevant for the Stakeholder Principle—which would, in turn, be connected with another modality of political inclusion. Note that this strategy would preserve Bauböck's intuition that it matters whether one's well-being and autonomy depend on the way a polity is governed. But, instead of claiming that this is a necessary condition for political inclusion, this alternative specification of the principle holds that it is a sufficient condition for inclusion, as well as a necessary condition to enjoy a modality of membership not available to those lacking this sort of vulnerability.

Most importantly, this second formulation allows us to better tackle some challenges that Bauböck himself wants to deal with. Consider the case of children and the mentally impaired. Members of these groups are objects of political inclusion (both as beings whose interests ought to be represented politically, and as citizens of the states they reside in), and Bauböck does not dispute this. Note, however, that in these two cases the

link between well-being, autonomy and self-government can be as hard to identify as it is for many groups of nonhuman animals. This makes the case of children and mentally impaired humans a hard test for the first reading of the Stakeholder Principle (whereas, in turn, it can be more easily dealt with by the second, more permissive reading). Fully aware of this challenge, Bauböck offers the following response:

The reason why we recognize them as citizens is that political communities are transgenerational human societies. The status of membership in such communities is acquired at birth and does not depend on age-related cognitive or other capacities. In democracies, it is the larger transgenerational society that collectively governs itself and not the subcategory of adults who have the capacity and opportunity to vote or hold public office. Minor children are citizenship stakeholders because of their belonging to a transgenerational political community (Bauböck 2018, 46).

The first part of the argument is straightforward enough. Political communities are transgenerational human societies. This I take to entail, at the very least, the existence of links of cooperation, dependence and other relations that have a synchronic (and not merely diachronic) character. Children are vulnerable creatures, dependent upon people in the past (who must have set up the necessary infrastructure to make their flourishing possible), in the present (who must take care of them here and now) and in the future (who must not abruptly dismantle such infrastructure). But vulnerability and dependence do not obviously exclude animals, nor are they necessarily linked to collective self-rule. Many domesticated animals, for instance, are constitutively dependent upon the existence of humans—in the present but also in the future—and on their maintaining certain relationships with them. If this argument is to exclude all animals (while including minor children and the mentally handicapped), something else must be added.

This is what the second part of the paragraph aims to establish. Bauböck argues that the subject of collective self-government is the larger transgenerational society, as opposed to the particular temporal parts of these societies. I find this claim far from obvious. Self-government can have both diachronic and a synchronic components, and there may be no reason to suppose that one of them constitutes the *true* self-governing agent. But even if that was the case, it is not clear how this move would support the inclusion of

children and mentally impaired humans while excluding animals. Plausibly, the inclusion (or the exclusion) of anyone, even in the larger transgenerational society, will depend—even if it cannot be reduced to—the properties of the individuals that compose its parts. But, once again, it is not clear what properties all animals lack which all children and other humans possess. If the argument is that children will one day become citizens with full participatory rights, then it would fail to include all those children who will never achieve such status, as well as the severely mentally handicapped. Indeed, Bauböck himself rejects this argument, which requires—he says—admitting these groups within the political community only after they have reached the age of majority (46). If that is not the argument, though, I am unable to see how we can move from trans-generational collective self-government to the inclusion of minor children and the mentally handicapped—and to the exclusion of nonhuman animals in general. The important question here seems to be whether self-governed communities require that *all* their members be able at some point to *actually* participate in self-government or not (perhaps by voting, but also by participating in protests, running for office...). If the answer is yes, then not all humans will qualify: some children and the severely mentally impaired will be excluded. If the answer is no, then the blanket exclusion of animals appears unsupported.

It might be answered that what matters is whether one has the capacity for participating in self-government, regardless of whether one can realize it or not. I have the capacity to play the accordion even if I will never in my life lay my hands on an accordion, or even if I spend my whole life trapped in a hole in the ground. Likewise, minor children and the mentally handicapped, it could be argued, have the capacity to participate in self-government. It just happens that, for some reason or other, they will never realize such capacity. This strategy faces three problems. First, we need an account of why a capacity which might never be exercised is normatively relevant. Arguments appealing to potentiality tend to be widely controversial, and though they might of course be right, they cannot just be assumed without further argument. Second, the argument also appears to have implausible implications. Political membership, it seems sensible to assume, includes both certain rights and obligations. If membership requires self-government, but the mere capacity to do so is sufficient to enjoy the rights, it must also be enough to be subject to its obligations (say, paying taxes or, in some jurisdictions, voting). But this seems puzzling. In what sense is a two-year child subject to the

obligations of political membership—whatever these obligations might be? Would we criticize babies for failing to fulfill these obligations? I do not think so. If we are to avoid arbitrariness, we must apply the arguments consistently. But then they lose plausibility. Third, even this strategy cannot successfully include all humans that a theory like Bäuböck presumably wants to cover: individuals with severe congenital cognitive impairments, for instance, do not even possess the *capacity* (realized or not) to participate in self-government.

All these arguments seem to fail. As Bäuböck himself puts it: “The status of membership in [political] communities is acquired at birth and does not depend on age-related cognitive or other capacities.” (46). If cognitive capacities are irrelevant, the blanket exclusion of animals from the Stakeholder Principle seems hard to motivate.¹⁴⁵ None of these strategies, it seems, can support the inclusion of minors and the mentally impaired in a way that also justifies the exclusion of all animals. This discussion has implications for the status of the No Connection Objection. If collective self-rule requires that everyone be able to actually participate in politics, then the connection between self-rule and the protection of the well-being and autonomy of certain humans will be as hard to establish as it is in the case of animals. On the other hand, if collective self-rule does not require actual participation of any kind, we wind up with a watered-down account self-rule, unable to support the exclusion of all animals. All these difficulties would be easily avoided if we simply relaxed the requirement that one’s well-being and autonomy be dependent upon a community’s being governed democratically, in the way I suggested above.

To sum up, in this section I have argued that some animals seem to satisfy one of the criteria Rainer Bäuböck has proposed in order to identify who is covered by the Stakeholder Principle. Various objections and further restrictions have been discussed and criticized. If the arguments defended here are sound, the principle—on its most plausible formulation—demands that these animals be included politically. Once again,

¹⁴⁵ Bäuböck (2018, 47) also argues that expanding the borders of political communities in this fashion will do little to improve the conditions of domesticated or other animals and might do great harm to the idea of *equality* of membership that is fundamental for democracy." This is a different argument, a general version of which I discussed at the beginning of this chapter.

this cannot entail the right to vote (nor other strong participatory rights¹⁴⁶), which animals are incapable of exercising, but it can nonetheless involve some form of political representation.

3.5. The Social Membership Principle

We can now turn to the fourth (and, for the purposes of our discussion, last) principle of inclusion: the Social Membership Principle. Every Sunday, hundreds of foreign domestic workers congregate around Statue Square in Hong Kong to spend their day-off together. The vast majority of them are women, who left their countries of origin (mostly the Philippines and Indonesia), and with them, their families. Imagine, for a moment, that Hong Kong were to become a democratic country. Who should be given rights of participation and political representation? Plausibly, all passport-carrying citizens ought to be included.¹⁴⁷ But what about foreign domestic workers? Should they also enjoy these rights and status? Most principles of inclusion appear to support that conclusion, since the majority (if not all) of these workers have interests seriously affected by the decisions of their host country, to whose laws and coercive power they are also subject. Moreover, it is also likely that their well-being and autonomy depend upon the polity continuing to exist in the future. But this might not exhaust the alternatives. On a further view, the main reason why many foreign domestic workers ought to be granted political rights and status is that they are already members of that society in a significant sense. This is often called the Social Membership Principle: citizenship (or democratic rights to participation and representation) is grounded in social membership. As Will Kymlicka and Sue Donaldson (2018, 165) have put it, “[c]itizenship should track social membership.”

Joseph Carens has developed and defended one of the most influential articulations of this principle. In his view, residing within the territorial boundaries of a polity over a sufficiently long period of time makes one a member of that society, and social

¹⁴⁶ It may not even include the full panoply of rights typical of citizenship if there were sound reasons against doing so. As I argued in the introduction, I try, as much as I can, to distinguish between the question about political representation and the broader question of citizenship.

¹⁴⁷ Or almost all of them. Some authors (see, for instance, López-Guerra 2005; 2014, Ch. 4) have argued, on the basis of the All Subjected Principle, for the disenfranchisement of nonresident citizens.

membership “generates moral claims to legal rights and to legal status” (Carens 2013, 159-160). Thus, residence and time are sufficient for membership, which in turn grounds the legal rights and status commonly associated with citizenship. Other potential requirements—such as, for instance, sharing the traditions of the cultural majority or learning its language—are, from a moral point of view, irrelevant.

Being a member of a society usually involves being engaged (or being likely to engage) in valuable social relationships with others, and having one’s life conditions set in a way that makes the fulfillment of one’s interests dependent on the thriving of that society (and on one remaining a member). As Carens (164) writes, what matters is “the relationships, interests, and identities that connect people to the place where they live.”

There are at least two, not necessarily incompatible, ways to motivate the Social Membership Principle. On the one hand, we can focus on the *vulnerability* of the individual whose life conditions (i.e., the satisfaction of her interests and the adequate protection of her rights) depend upon her continued membership in a society. If that is the route we take, then the Social Membership Principle might become indistinguishable from the Stakeholder Principle (and also from some versions of the All Affected Interests Principle). On the other hand, we can focus on the non-instrumental value of the social ties themselves. According to this reading, being a member involves the existence of various normatively significant relationships, which ground certain membership rights, granted exclusively to those among which the relevant relationships hold.¹⁴⁸ On this principle, then, the function of democracy and government is to acknowledge and recognize normatively significant ties (due to instrumental or non-instrumental reasons), and to respond to them appropriately (where this will involve some form of political inclusion).

¹⁴⁸ As David Owen (2011, 615) has formulated it: “[S]ocial membership is characterised by non-instrumentally valuable social attachments and ties that arise from one’s (past or present) residence within the territory of the state”. The nature of these attachments can be described in more or less nationalistic terms. Sue Donaldson and Will Kymlicka (2011, 53), for instance, affirm that “[t]here are powerful moral values tied with citizenship, including values of national identity and culture, and of self-determination.”

3.5.1. The Social Membership Principle and nonhuman animals

We turn now to the Social Membership Principle. As we saw earlier, this principle holds that political inclusion must be grounded in social membership, which means that one should be included within a political community if she is a member of the society established within the territory in which that political community will operate. Whether, on this principle, animals can be politically included will thus depend on the conditions under which an aggregate of individuals constitutes a society. Plausibly, this will depend on the existence of several ties and relations, which can be formulated in stronger and weaker terms.

In this section I will address two specific formulations of the principle: that of Sue Donaldson and Will Kymlicka, who have explicitly argued in favor of recognizing at least some animals (i.e., domesticated animals) as members of our political communities, and that of Joseph Carens, which also requires, or so I will argue, expanding the political community beyond the borders of humanity.

3.5.1.1. Donaldson and Kymlicka on the political inclusion of animals

As I mentioned at the beginning of this thesis, Sue Donaldson and Will Kymlicka's book *Zoopolis* contains the most well-known and widely discussed argument for the political inclusion of nonhuman animals. According to Donaldson and Kymlicka, there are at least two categories of rights: *universal rights*, which both humans and nonhumans can possess in virtue of being sentient individuals with a well-being of their own, and *membership rights*, which depend upon the existence of certain relationships and ties. Political status, the authors believe, involves rights of this latter sort: to have political status is to be the bearer of certain rights grounded in one's membership in a specific community. Obviously, the relevant membership conditions must not themselves assume the existence of that political community, for that would be circular. If political status is to be allocated according to membership, it must be membership in a pre-political community. What could this mean? One possible interpretation is this: membership in a specific political community depends upon the existence of certain social relationships and ties that are independent of *that* specific political community (where "political" is understood, narrowly, as having to do with the existence of

territorially-based entities with the ability to enforce the upshot of collective decision-making processes, such as, for instance, the state).¹⁴⁹ Or, as Donaldson and Kymlicka's above quote had it: "Citizenship should track social membership.

But this view begs the following question: How to identify social membership? What are its markers? Or, alternatively: What are these pre-political relationships upon which political communities must be built? Donaldson and Kymlicka (2011, 65) suggest at least three candidates: interaction, mutual vulnerability and interdependency. In their view, these three types of relationships figure among the elements that make an otherwise random collection of individuals a society.

If a society is a collection of individuals among which relationships of interaction, vulnerability and interdependency have developed over time, can animals be part of our societies? Does the idea of an interspecific social community make sense? It seems the answer is yes. As Donaldson and Kymlicka (65) put it, "[t]he idea that animals and humans belong in hermetically separated compartments ... is contradicted by our everyday experience of constant human-animal interaction, and at odds with all the scientific studies of such interactions." Indeed, the idea of a shared human-animal community is more commonly accepted than one might originally think. As we already saw in Chapter 2, a 2015 Harris Poll reported that nearly 95% of pet-owners in the US considered their pet to be a member of their family (PR News Wire 2015). This should not be very surprising, since domestic animals (as well as non-domesticated animals living in cities, such as coyotes and raccoons) have undoubtedly established relationships of interaction, vulnerability and interdependency with humans. This is, after all, what domestication means. Whether other groups of animals meet these requirements (or at least some of them) is more controversial. Donaldson and Kymlicka, for instance, believe that wild animals do not normally appear to be especially interested in interacting with humans, nor does interdependence play a very important role either. Vulnerability, though, is a different issue, for it does seem to apply to a broad range of wild animals. First, there are those animals whose habitats have been (or are in danger of being) destroyed by humans. And, more generally, if it is true that many animals in

¹⁴⁹ Note that this is compatible with claiming that those social relationships and ties are political in some other sense. What the Social Membership Principle seems to require is that the political community and the social community on which its membership-conditions are grounded be distinct (regardless of whether they are both political communities).

the wild have lives of substantive (or even net) negative well-being, and might benefit from our assistance (at least when doing so is possible and not too costly), they would count as vulnerable as well.

For the purposes of our discussion, we need not dwell on those details. If the Social Membership Principle is correct, and if Donaldson and Kymlicka are right in thinking that vulnerability, interaction and interdependence constitute grounds of social membership, then at least some animals ought to be politically included. And that is all we need for the time being.

Against this, it might be argued that no proper social relationship can obtain when one of the parties is unaware of what the relationship is about. It is far from obvious, however, that nonhuman animals do not understand in any way that they are immersed in relationships of various sorts with humans. Again, anyone who has lived with a dog or a cat will be familiar to the many ways in which they can form expectations about what it is that we will do to them (from feeding them to playing with them), as well as what it is that they should do in turn. Though animals might not be able to form very complex thoughts about the nature, duties and benefits of social relationships, that is not enough to conclude that they understand *nothing* about them. Moreover, if we set the bar for what counts as being in a social relationship too high, we would also be excluding many humans as well (babies and the severely mentally impaired), of which more will be said in the next section.

3.5.1.2. Carens' Social Membership Principle

In this subsection, I will discuss another prominent version of the Social Membership Principle, defended by Joseph Carens. In Carens' formulation of the principle, having resided within the territorial boundaries of a polity over a sufficiently long period of time makes one a member of that society, and therefore also a member of the particular political community operating within those territorial boundaries.

For our purposes, a good starting point can be found in Carens' discussion, in his 2013 book *The Ethics of Immigrations*, of the reasons why babies should be granted citizenship at birth. If we follow traditional theories of citizenship, with their emphasis on the capacity to exercise political rights, it is not obvious why babies ought to be

members of any political community, at least not until they have reached the age of maturity. After all, babies cannot exercise political agency: they cannot vote, cannot participate in demonstrations, cannot write letters to their local newspapers (which they are not even able to understand), etc. Yet it seems that, in a sense, they are (rightly) members of our political communities—or, more modestly, are genuine objects of political inclusion in at least one of the three senses distinguished at the beginning of this chapter. Why is that the case? What makes the political inclusion of babies morally required?

Carens suggests two reasons. First, he argues, we must take into account the relevance of vulnerability: stateless individuals are vulnerable individuals, no matter whether they are adults or babies. Indeed, statelessness might actually leave babies *more* vulnerable. These considerations are important, but they support at best a general right to be a member of *one* political community (Carens 2013, 21). What we need to know is why we should grant babies membership within this or that particular political community.

His second argument tries to bridge that gap. Babies, it will hardly be denied, do not appear out of the blue. Rather, they are born into “various sorts of relationships and [belong] to various sorts of human communities” (23). Of these relationships, one will have at the other end the state. In Carens’ own words: “[E]ven though a baby cannot exercise ... any political agency, the state where she lives matters a lot to her life.” (23) Why? Basically, because the state has the power to shape someone’s future life chances and choices. It is because the life of the baby will predictably be determined by her interactions with the state that she ought to be included as a member of that political community at birth.

Note that these arguments give us both a criterion to identify who are the members of a society (those whose life chances and choices will be predictably shaped by the decisions of a state, which are normally those who have resided within its territorial borders for a long period of time) and an account of why political membership should track social membership (because these dependencies ought to be taken into account by the entity that generates them).

Now, what are the implications of Carens’ formulation of the Social Membership Principle for animals? One possible response is that it would have no implications, since Carens’ account requires, first of all, that one be a resident within the territorial borders

of a state, a status—legal residence—which animals do not currently enjoy. Even if this last observation is true, its implications are unclear. Arguably, Carens’ focus on residence does not depend upon any intrinsic feature of legal residence. Rather, it is based on residence being a better proxy for determining who has spent sufficient time within the territorial limits of a state than, say, citizenship—indeed, let us recall, spending time within the territorial boundaries of a state is, in turn, a proxy for determining whose interests and choices depend upon the decisions of particular states. But, even if better than citizenship, legal residence might still be unduly restrictive in some cases. Let us assume no animals are legal residents anywhere. What follows from this observation? If, as I have argued in previous sections, the life chances (i.e., the well-being or interests) of many animals strongly depend upon the decisions that states make, the upshot is this: legal residence constitutes, in the case of animals, an incomplete proxy. Many animals will spend their lives within the territorial borders of a state, and given how pervasive the power of the latter is, that makes the life chances of the former particularly dependent on its decisions. If what ultimately matters is whether someone’s well-being is, over a long period of time, dependent on the actions and decisions of a state (that is, vulnerability, and the traceability of this condition to one, relatively stable, source), whether an individual is *de facto* recognized as a legal resident should at best be seen as a useful, albeit fallible, rule of thumb; this more fundamental criterion, it seems, applies to many animals—at least sedentary animals, or nomadic animals who do not leave the boundaries of a state’s territory—whose well-being, over a long period of time, is dependent on the actions and decisions of the states within the borders of which they live.

One possible response might be that, even if states shape the life chances of many animals, they do not shape their choices, for strictly speaking, animals make no choices. The underlying idea being, of course, that nonhuman animals lack freedom of the will, and that only beings whose will can be free can truly choose. This objection fails for at least two reasons. On the one hand, it is doubtful that the absence of free will implies the absence of choices. Surely, it implies the absence of *free* choices (in a metaphysical sense), but whether this is a general requirement of all choices is an open philosophical question (Cf. Paez 2021). Moreover, the claim that animals do not have free will is

premised upon the controversial notion that free will is an all-or-nothing matter.¹⁵⁰ Yet when seen as something that can come in degrees, whether at least some animals can qualify as free to a certain extent becomes, once again, an open question.

On the other hand, if this argument were true it would also jeopardize the political inclusion of babies and the severely mentally impaired, who appear to be as incapable of free will (in a demanding sense) as many nonhuman animals. Obviously, it can be replied that babies will grow up, developing a more robust free will, and thus becoming capable of making true choices. But this is not true of all babies, and it is definitely not true of mentally handicapped humans with congenital impairments. If we want to justify their inclusion—and Carens certainly does—we must accept one of the following claims: i) babies and the severely mentally impaired are free enough to make some choices, ii) choices needn't be free to count as such, or iii) having one's well-being and life chances shaped by a state is a sufficient condition for political inclusion (regardless of whether choices are also so shaped). Any of these claims will suffice to preserve the political inclusion of babies and the mentally handicapped, but none of them will support the blanket exclusion of nonhuman animals. If choices do not require free will, then animals can make choices and their life chances and choices will be shaped by the state, as the Social Membership Principle requires. If, on the other hand, we adopt a minimalist notion of free will in which some babies and mentally handicapped individuals are somewhat free, then it would be arbitrary to deny extending this strategy to animals. Finally, if the state shaping one's life chances is enough for one to be granted some form of political membership, many animals will potentially qualify as well. If we want to keep babies and mentally impaired humans as members of our political communities, the full exclusion of animal becomes harder to justify, since any such strategy appears to end up throwing the human baby out with the nonhuman bathwater, to quote a quip by Evelyn Pluhar (1995, 46).

In this section I have tried to show that the Social Membership Principle also demands the inclusion of at least some animals in our political communities. Which animals

¹⁵⁰ To be sure, this is not the only way to motivate the thought. Alternatively, it might be grounded in the view that animals lack whatever capacities are required to even reach the lowest threshold of the continuum. However, this response is likely to reproduce the original problem at another level: if these capacities themselves can come in degrees, it is not obvious that no nonhuman animal can possess them, as we saw in a previous section.

should be included will depend, of course, on how we spell out the details of the principle. Two formulations (Sue Donaldson and Will Kymlicka's, and Joseph Carens') were discussed. In the former case, animals belong to mixed human-animal societies (and are therefore potential bearers of political status) when they have developed sufficiently robust relationships of interdependence, vulnerability and mutual cooperation. In the latter, what matters is whether they reside within the territorial borders of states the decisions of which shape their life chances, and perhaps also their choices. None of those accounts, I have argued, can disqualify all nonhuman animals.

3.6. Conclusion

In this chapter I have argued that a majority of the main principles of inclusion seem to entail that at least some nonhuman animals should be politically included in some sense. Ranked according to the degree of confidence in the main conclusions, I have claimed i) that the interests of many animals are significantly affected by the decisions of various political entities, and are therefore covered by the All Affected Interests Principle (3.2.1.); ii) that some animals are members of shared human-animal communities, thus falling under the scope of the Social Membership Principle (3.5.1); iii) that the Stakeholder Principle cannot support the blanket political exclusion of animals without also excluding some humans that its proponents nonetheless want to include (3.4.1), and iv) that the All Subjected to Coercion Principle is unlikely to support the political inclusion of animals—although this might depend on how we conceive the role of coercion within the principle (3.3.1). Now, all these arguments have assumed a conditional structure: assuming that a given principle of inclusion is correct, what are the implications with regards to the political standing of animals? That is, I believe, a useful way to make some progress while temporally avoiding the difficult question of which of these principles is the right one (or are the right ones, if we accept a pluralist view, as I will argue we should). But sooner or later these questions must be faced, and it is to them that we turn now.

Chapter 4. Justifying inclusion: In defense of the All Affected Interests Principle

Introduction

In the previous chapter I argued that some principles of inclusion can support the political inclusion of at least certain animals—the requirements being more or less strict depending on each particular principle. In doing so, I adopted a conditional strategy, which assumed that these principles are correct in order to explore their potential implications. This strategy, though interesting, has obvious limitations. To see why, consider the following: If what I argued in the previous chapter is correct, then there is one principle of inclusion—the All Subjected Principle—that is unlikely (or at least so I will assume in this chapter) to vindicate the inclusion of nonhuman animals. Now, if the All Subjected Principle is the *correct* principle of inclusion, the mere fact that other principles would support the inclusion of animals if they were valid would become irrelevant—for, *ex hypothesi*, they would not be valid or adequate. Thus, if we want to know whether animals ought to be granted some political status and have their interests represented, we cannot settle for an exploration of which principles of inclusion, *if correct*, would support this conclusion. We also need to know which principles are indeed the correct ones.

In this chapter I will argue that there is a valid formulation of the All Affected Interests Principle that can justify the inclusion of at least some animals, and that is not threatened by the fact that the principle's main rival—the All Subjected Principle—does not support such a proposal. In a nutshell, the argument is the following: once we acknowledge that political inclusion can come in different ways (weak and strong participatory rights, on the one hand, and “mere” political representation, on the other hand), we can see that the All Subjected Principle is not best thought of as a principle regulating whose interests political institutions have a duty to represent. First, because such a characterization would not adequately capture the function that the principle has played in the various debates in which it has been employed. Second, because if the principle really had that function, it would prove counterintuitive (for instance, it would prove unable to support the view that political institutions have a duty to represent the

interests of babies or very young children). The All Affected Interests Principle, in turn, can avoid these difficulties, and it is therefore preferable—at least as a principle for determining whose interests ought to be politically represented.

This chapter is structured as follows. In Section 4.1, I will introduce a distinction between monist and pluralist approaches to political inclusion. Second, I will clarify (in Section 4.2) the elements and desiderata of an adequate principle of inclusion. Section 4.3 argues that the All Subjected Principle is not an adequate principle for regulating whose interests political institutions should represent, as that would have counterintuitive results and would fail to reflect how its defenders typically see the principle. Then, in Section 4.4, I contend that the All Affected Interests Principle, understood as a principle regulating whose interests ought to be represented, can avoid those results, and also argue that the principle, so conceived, can avoid—or at least provide an answer to—some of its most recurrent objections.

Two caveats are in order. First, and to be clear about my theoretical ambitions here: the main goal of this chapter is not to conclusively show that the All Affected Interests Principle is an adequate principle of inclusion (understood as a principle arbitrating whose interests should be represented). Rather, the goal is to increase its plausibility and attractiveness by showing how it fares better than its main rival in one important respect, and how it has several things to reply to its most common objections. Second, in this chapter I only contrast the All Affected Interests Principle with the All Subjected Principle, and leave aside the other two principles discussed in the last chapter (the Stakeholder and Social Membership Principles). There are at least three reasons to support this methodological decision. Firstly, the All Affected Interests Principle and the All Subjected Principle are the most influential principles in the debate—given the temporal and spatial limitations of a thesis, it seems at least acceptable to limit the discussion in this way. Secondly, and as I pointed out in the previous chapter, it is an open question whether the two remaining principles are distinct principles, or sophisticated applications of the All Affected Interests Principle. Finally, note that, for the specific purposes of this thesis, comparing the All Affected Interests Principle with the Stakeholder and Social Membership Principles would be less interesting—as all these principles already vindicate the inclusion of certain animals (it would, of course, retain some interests, as they do not necessarily require the inclusion of the same animals).

4.1. Monism and pluralism about political inclusion

This chapter leaves open the possibility that some form of pluralism about political inclusion is correct. In this section, I clarify what pluralism can mean in this context, and specify both the way in which I shall be using the expression in this chapter and why it is a good idea, from a methodological standpoint, to leave such a possibility open.

Principles of political inclusion often assume that all those *and only those* who satisfy the relevant principle's criterion are to be politically included. We may call this the “if and only if” clause. Ludvig Beckman (2014, 253), for instance, claims that “[o]n the assumption that “bound by collective decisions” represents both *a necessary and sufficient* condition for democratic rights, it seems to follow that the only facts relevant in determining people's rights are concerned with their relationship to national legislation” (Italics are mine). Similarly, Claudio López-Guerra's (2005) argument for the disenfranchisement of long-term expatriates assumes that, since inclusion is exhaustively determined by subjection to law, and since long-term expatriates are no longer properly subjected to the jurisdiction of their countries of origin, they ought to be excluded.

The “if and only if” clause, however, can be understood in at least two ways. On the stronger reading, one might claim that there is only one valid principle of inclusion for all domains of political inclusion (for our purposes, domains of political inclusion match the three senses of “political inclusion” described in the previous chapter—strong and weak participatory rights, and “mere” political representation). This is a crude monistic view, which states that the answer to the questions of who ought to be granted weak and strong participatory rights, and whose interests political institutions have a *pro tanto* duty to represent, is provided by one single principle of inclusion. On this view, then, only one principle of inclusion is relevant to political inclusion in all of its forms.

On a weaker reading, one might hold that, for each particular domain of political inclusion, there is only one valid principle of inclusion. This reading, however, allows for *different* principles of inclusion to be adequate *within different domains*. Thus, one might believe that the principle that regulates the allocation of strong participatory rights (most paradigmatically, the right to vote) needn't be the same principle that determines whose interests political institutions have a *pro tanto* duty to represent. This

last approach is pluralistic insofar as it accepts that different principles of inclusion can be correct within their respective domains. We can call this position *moderate pluralism*.¹⁵¹

Rainer Bauböck (2018) has defended a view of this sort. According to him, the All Affected Interests Principle identifies who ought to have their interests represented in the decision-making process, the All Subjected Principle identifies the bearers of a right to contest governmental decisions, and to receive equal protection of their rights and freedom by those government, and the Stakeholder Principle determines who ought to be considered a citizen of a particular policy. Similarly, Eva Erman (2021) has recently argued that both the All Affected Interests Principle and the All Subjected Principle are normatively important, as they both serve two distinct values (procedural fairness and political autonomy) that are part of the democratic ideal, and which should jointly shape the functions of democratic institutions

Moderate pluralism can be contrasted with a stronger of pluralism,¹⁵² which calls into question the very justification of the “if and only if” clause, either within a particular domain or across various domains. On this view, an argument successfully showing that the Xs ought to be politically included does not, by itself, imply that the Ys ought to be politically excluded (or, at least, that it would be permissible to exclude them). So, one could argue that we have reasons of type *A* to politically include a set of individuals, and reasons of type *B* to politically include another, not necessarily overlapping, set of individuals. Because the “if and only if” clause is no longer assumed, the fact that different principles require different allocations of political influence, power or relevance does not imply that those requirements are in conflict.¹⁵³

Suppose, for instance, that we have an account that successfully explains why individuals that are subjected to the law in a particular jurisdiction ought to be politically included in some way (say, by granting them strong participatory rights). If sound, this account would explain why, if a group of subjected individuals is not

¹⁵¹ It is moderate because it remains committed to the view that, for each particular domain, the “all and only all” clause still applies—in other words, for each particular domain, only one principle of inclusion is correct. Because of this, someone might claim that this is not really a form of pluralism at all. As far as I am concerned, if the substantive description of the view is admitted, this is just a purely verbal dispute.

¹⁵² Or, as some might claim, *genuine* pluralism.

¹⁵³ Thomas Christiano (2008, 80-81) arguably suggests a view of this sort.

politically included in that way, those individuals have been *wronged*. But it would not follow from this (not, at least, without further arguments) that those individuals, once included, are also wronged if other individuals, on the basis of different reasons, are also included under the same modality of inclusion—which is what the “if and only if” clause requires. Thus, a defense of the view that those subjected to law ought to be politically included does not, by itself, imply that those not subject ought to be included as well. That will depend on two factors. On the one hand, it will depend on whether there are really independent grounds for including non-subjected individuals. On the other hand, it will also depend on whether the kind of considerations that explain why it is wrong to exclude subjected individuals can be used to explain (with additional steps) why including others would be either impermissible or at least not normatively required.

Although I think that this stronger form of pluralism remains underexplored, in this thesis I shall settle for the moderate version. I think this methodological strategy is adequate for three reasons. First of all, moderate pluralism is less controversial than either crude monism or strong pluralism, which makes it, other things being equal, preferable. Second, and as I pointed out in the previous chapter, in this thesis I will only focus on one specific modality of inclusion. Thus, if I can defend that the All Affected Interests Principle (in some formulation) is an adequate principle for this particular domain, I will have successfully achieved my main goal here, regardless of whether the principle is also adequate in other domains or not. Third, and relatedly, I do not want to claim that the All Subjected Principle is wholly mistaken. It may be, for instance, that when it comes to determining the allocation of strong participatory rights, there is really something special about legal subjection or coercion that makes it the case that someone who is subjected is seriously wronged if she is not granted participatory rights over the relevant decision making processes. That is, at least, a plausible view that I do not want to reject from the outset. And, more importantly, it is also one that I do not *need* to reject. For what I claim in this chapter (let us recall) is, first, that the All Subjected Principle is not an adequate principle (nor has it been generally thought to be) *for regulating whose interests ought to be taken into account in policy-making*—here this is understood to be more than a mere moral requirement that all affected interests be taken into account in our moral deliberations. But one might accept this and believe that the All Subjected Principle is an adequate principle for the allocation of other modalities of political power, influence and relevance. Secondly, in this chapter I also claim that the

All Affected Interests Principle is an adequate principle for that specific domain of political inclusion. But this, again, is compatible with the All Affected Interests Principle being insufficient (or perhaps even mistaken) when applied to other domains of inclusion.

4.2. How to argue about principles of inclusion

In this section, I will clarify what it means, for a principle of inclusion, to be valid or adequate within a specific domain of inclusion. Arguably, an adequate principle of inclusion must meet the following desiderata:

A. *Plausible fundamental principles and values.* First of all, an adequate or valid principle of inclusion must be grounded in a plausible fundamental value (or set of values). To the best of my knowledge, no author has argued that principles of inclusion are normatively self-standing. Being affected, being subjected, having a stake or being a member of society matter morally because of other, more fundamental, values and principles. As we saw, defenders of the All Affected Interests Principle usually care about the consideration, protection and promotion of well-being, whereas proponents of the All Subjected Principle are mainly worried about the autonomy or agency-threatening potential of coercion or arbitrary subjection to law.¹⁵⁴

This first desideratum seems quite straightforward: if principles of inclusion make reference to more fundamental values and principles, then these values and principles should be plausible. A principle grounded in the value of being red-haired can be quickly dismissed, for red-hairiness does not possess any plausible moral value. Surely, a principle of inclusion might still be invalid even if its core values are plausible, but it nonetheless states a necessary, even if not sufficient, condition.

¹⁵⁴ Some argue that an adequate principle of inclusion should in addition be compatible with certain minimal requirements of the democratic ideal, such as political equality (Erman 2014, Song 2012, Miller 2020), solidarity (Song 2012, Miller 2020) or some form of agency (Saunders 2012, Erman 2014). This requirement, if really called for, would only apply to the specifically democratic formulations of those principles as principles of democratic inclusion (which, as I pointed out in the last chapter, could be seen as an instance of a broader category of principles of political inclusion). Moreover, the value of both political equality and solidarity might themselves be grounded in more fundamental values, such as autonomy, equality, dignity or well-being.

B. *Clearly specified inclusion goals.* An adequate argument for inclusion also requires that we clearly specify what kind of inclusion we are advocating (and for whom). In this respect, at least two categories are relevant: the subjects of inclusion (that is, the set of individuals over which the demand of inclusion applies) and the modalities of inclusion (for our purposes, strong and weak participatory rights on the one hand, and “mere” political representation on the other hand). Both categories set the dimensions of inclusion, and an adequate principle of inclusion must clearly specify their content

The main reason behind this second desideratum is the following. As we saw in the last chapter, inclusion comes in many degrees and shapes. This fact renders “political inclusion” *simpliciter* an uninformative notion. Suppose, for instance, that someone appeals to the Social Membership Principle to vindicate the political inclusion of guest workers in foreign countries. Let us further suppose that this argument can vindicate (re)designing political institutions so that they represent guest workers in their host countries, but does not support granting them the right to vote at any level (i.e. local, regional or national elections). Can we say that the Social Membership Principle is adequate, or that it has successfully justified the political inclusion of guest workers? Well, that will depend on which goal we had in mind when we formulated the argument. If the aim was to support the claim that political institutions have a duty to represent guest workers, then we can say that the argument has been successful, as the principle is valid *for that domain*. Now, if the goal was to support the enfranchisement (i.e. involving strong participatory rights) of guest workers, then the argument has failed. Without a set of clearly specified inclusion goals, principles of inclusion lack testable success conditions—which “inclusion” *simpliciter* cannot by itself determine.

C. *Sound bridging principles.* Thirdly, an adequate principle of inclusion must involve some principle that attempts to bridge the fundamental principles or values on which the principle rests with the inclusion goals it aims to vindicate, and this principle must be sound.¹⁵⁵ On the one hand, we must be able to reconstruct the way in which the core values of a principle inclusion support a particular type of inclusion. This is, in fact, what we did when we presented the four principles of inclusion in the last chapter: we made their fundamental values and their inclusion goals explicit, and we reconstructed the way in which the former might lead to the latter. On the other hand, though, for a

¹⁵⁵ Andrić 2017 speaks of a “plausible rationale.”

principle of inclusion to count as adequate or valid, the reasoning connecting its fundamental values and inclusion goals must be sound. This desideratum I take to be quite straightforward: if we cannot match a set of fundamental values and a set of inclusion goals in an explanatorily satisfactory manner, then a principle of inclusion is inadequate

D. *Extensional adequacy*:¹⁵⁶ Finally, an adequate principle of inclusion should not yield results that contradict our considered judgments¹⁵⁷ regarding political inclusion. “Considered judgments” are those whose reliability is not undermined by a local debunking explanation.¹⁵⁸ Or, as Rawls ([1971] 1999, 42) put it, those that are exercised “in circumstances where the more common excuses and explanations for making a mistake do not obtain.”

This requirement is actually trickier than what this succinct formulation suggests. On the one hand, because there exists a great deal of reasonable disagreement about the role that conformity to intuitions (even considered ones) ought to play in theory-choice, vis-à-vis other epistemic values like parsimony or coherence (both among the elements of a given theory and between theories). On the other hand, because there is also considerable disagreement about what makes a normative belief a “considered” one (or, conversely, under which circumstances a normative belief loses such a status). For example, as Edmund Handby (2022) has recently argued, intuitions in political philosophy are vulnerable to at least three types of biases: i) parochialism (i.e. when our intuitions track normatively irrelevant facts about our political units), ii) endogeneity (i.e. when our intuitions are been shaped by the very individuals or institutions these intuitions are about), and iii) idiosyncrasy (i.e. when our intuitions are shaped by contingent facts about our own life histories).

In what follows, I will assume a weak version of this requirement: *ceteribus paribus*, if a principle of inclusion has implications that contradict our considered judgments about

¹⁵⁶ I take this from Andrić 2021.

¹⁵⁷ For the purposes of this discussion, I will use “considered judgments” and “considered intuitions” interchangeably.

¹⁵⁸ *Local* debunking arguments attempt to undermine the reliability of a particular normative belief. This contrasts with *global* debunking argument, which attempt to undermine the reliability of our normative beliefs in general. For the sake of the argument, I assume that our normative beliefs can sometimes be reliable. The distinction between local and global debunking arguments comes from Kahane 2011.

political inclusion, then that counts against accepting that principle as adequate. That, of course, is merely a *prima facie* consideration, and does not prevent us from endorsing a theory with counterintuitive implications if the theory can secure sufficient theoretical gains in other domains relevant to theory-choice (vis-à-vis those of their rival theories).

4.3. Assessing the threat of the All Subjected Principle

In the last chapter, I argued that the All Subjected Principle is unlikely to vindicate the political inclusion of nonhuman animals (although I left open the possibility that it might support the inclusion of at least some small subset of higher mammals). If this principle is the correct principle of political inclusion, and on the assumption that the principle requires the inclusion of “all subjected individuals, and *only* of those individuals” (that is, the “if and only if” clause), then it follows that nonhuman animals (the great majority of them, at least) should not be, or needn’t be, politically included. Hence, in order to defend this last proposal, we must confront the challenge raised by the All Subjected Principle.

In this section I shall argue, on the one hand, that the All Subjected Principle’s inclusion goals refer essentially to a specific modality of inclusion (strong participatory rights) that does not correspond with the modality of inclusion through which animals might possibly be included. In other words, I will claim that the All Subjected Principle purports to regulate the allocation of strong participatory rights, and not to determine whose interests political institutions have a duty to represent. Thus, once properly understood, it does not really raise any challenge against the inclusion of animals. At best, the All Subjected Principle would imply that animals ought not to be granted strong participatory rights, but that is a conclusion we need not be worried about.¹⁵⁹ On the other hand, I will also argue that, if the All Subjected Principle was employed to settle the question of whose interests ought to be represented, then the principle would

¹⁵⁹ Of course, remember that there are some authors who believe that some animals can exercise some kind of political agency. I leave it open whether this conclusion might be a problem for those views. That, it seems to me, will depend on whether the kind of political participatory abilities that, on these views, animals are capable of exercising can be equated with those required to exercise strong participatory rights. If they are not, as it would arguably be the case, then there may be theoretical space for another category of participatory rights which might or not be covered by the All Subjected Principle.

be extensionally inadequate (as it is unable to vindicate a duty to represent the interests of babies or young children). Stripped to its bare bones, then, the argument is the following: either the All Subjected Principle does not aim to regulate the domain of political inclusion relevant for the inclusion of animals, or it is not an adequate principle within this domain (Again, I do not rule out the possibility that the principle is adequate for other domains).

4.3.1. The inclusion goals of the All Subjected Principle

In this subsection I argue that the All Subjected Principle is mainly concerned with the distribution of strong participatory rights. I do not take this to be particularly controversial. However, as it has important consequences (basically, it suggests that the All Subjected Principle poses no threat, by itself, to the claim that animals ought to be represented), I will nonetheless briefly recap the evidence on its behalf.

If we look at how the principle has been defined in the literature, it becomes clear that the principle's inclusion goals concern primarily (if not exclusively) one specific modality of inclusion: strong participatory rights. Ludvig Beckman (2014, 252), for instance, states that “those subject to the laws of the state should be granted *participatory rights*,” and explicitly notes that “[d]emocracy at any level of political organization is difficult to imagine without *a right to a democratic say by means of the vote*” [Italics are mine]. Similarly, Arash Abizadeh (2008, 41) holds that those subjected to state coercion ought to be granted opportunities to actually “*participate* in the political processes that determine how power is exercised” [Italics are mine], while Claudio López-Guerra, another influential defender of the All Subjected Principle, has developed his views in a paper entitled “Should Expatriates Vote?” and a book whose subtitle is “The Morality of Electoral Exclusions.” Eva Erman (2014, 539), in turn, argues that all those who are systematically and over time subjected to the exercise of political power ... and to its laws, political decisions and rules, should systematically and over time have and equal influence in the decision-making,” where “influence” entails, at least, “robust participation in formal decision procedures (e.g. through *electoral vote*)” [Italics are mine]. Finally, Robert Dahl's (1989, 129) defense of the All Subjected Principle purports to answer the question of how the *demos* ought to be constituted. However, as we saw in the previous chapter, “How should the *demos* be

composed?” is a narrower question than “Whose interests political institutions have a duty to represent?” and is tied to more robust and psychologically demanding modalities of inclusion. In Dahl’s (1989, 109) view, members of the demos must be able to participate in a political process at whose decisive stage they “must be ensured an equal opportunity to express a choice that will be counted as equal in weight to the choice expressed by another citizen.” This, notes Dahl, is “what we ordinarily mean by voting.”

We reach similar conclusions if we look at the debates in which the principle has been invoked, which have involved the voting rights of expatriates (López-Guerra 2005), resident noncitizens (Beckman 2006, Song 2009), nonresidents (Beckman 2014, Goodin 2016), immigrants (Abizadeh 2008, Miller 2010) and corporations (Hasnas 2018, Beckman 2018).

On both its main definitions and the debates on which it has been employed, the All Subjected Principle is seen a principle that attempts to regulate the distribution of strong participatory rights. Its goal, then, does not seem to be to determine whose interests political institutions have a duty to represent. Now, if that is correct, it is not a problem if this principle, as such, does not require the political inclusion of animals, for we are simply dealing with separate questions.

Of course, just because a principle has not been applied in one context it does not mean that it *cannot* be so applied. If the All Subjected Principle could successfully be employed to settle whose interests should be politically counted, and always on the assumption that the principle i) does not require the inclusion of animals and ii) determines exhaustively who ought to be included within one domain (the “if and only if” clause), then we would have no duty to represent the interests of animals. In the next section, I shall argue against this move: if we employ the All Subjected Principle to answer the question of whose interests ought to be represented by political institutions, the principle ends up being extensionally inadequate or lacking plausible fundamental principles and bridging principles.

4.3.2. The All Subjected Principle and the political inclusion of children

Let us suppose that the All Subjected Principle regulated not only the allocation of strong participatory rights but also the distribution of the right to be politically represented.

(Generalized) All Subjected Principle: Political decision-making institutions have a *pro tanto* duty to politically represent the interests of those (and only those) who are subject to either the laws of a polity, or to its coercive institutions.

This view possesses some intuitive appeal. First of all, individuals who are subjected to coercion or the law plausibly have their agency thwarted in a normatively distinctive way, a situation that arguably calls for an appropriate response. On one account, this requires giving those individuals a right to shape their own collective decision-making context; that is, to be co-authors of the laws and policies that are made in their name, or on the basis of which they can be coerced (Cf. Erman 2021, Lindley Wilson 2021). In some cases, this might involve granting them strong participatory rights. Now, whenever participation proves unfeasible (or undesirable),¹⁶⁰ some form of institutionalized political representation might be an acceptable solution. Of course, this story might be incorrect, but it is at least plausible.

This view, however, faces one important obstacle: it cannot account for the duty of political institutions to represent the interests of children. To be sure, I cannot here show that there is such a duty. But I am not merely taking it for granted either. First, something in the vicinity of this obligation is assumed in the UN Convention on the Rights of the Child (CRC), which states (in its article 3.1) that “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” Now, given that at least in legislative bodies, the relevant actors are *political representatives*, this seems to require (at least in that particular context) that the interests of children be represented. Second, and building on

¹⁶⁰ For example, one might think that because of the extraterritoriality of law, almost everyone everywhere is subjected to the laws of other countries (Goodin 2016). However, someone who accepted a view of this sort might still believe that giving strong participatory rights to literally everyone might be impossible in practice, or might jeopardize other values of at least analogous weight.

the CRC, many international organizations (like the Committee on the Rights of the Child, the Council of Europe or the European Parliament) have been calling for the instauration of independent offices for children tasked with representing their interests since at least the mid-90s. For instance, on July 1992, the European Parliament passed a resolution on the rights of children, which encouraged member states to appoint ombudspersons for children “qualified ... to safeguard children’s rights and interests, deal with their requests and complaints, monitor the application of laws protecting children, and inform and guide the public authorities in their work to uphold children’s rights” (Quoted in Reif 2004, 301). Third, and relatedly, an ombudsperson for children (or an analogous office) operates in more than 40 countries.¹⁶¹ Although those institutions might differ in many ways, they are usually aimed, at the very least, at making the interests of children more visible in the political process (i.e. to increase their substantive representation). Finally, the political representation of children has been explicitly defended by some academics working on political inclusion and children’s rights (Cf. Schrag 2004, Cohen 2005, Rehfeld 2011b).¹⁶²

Moreover, intuitions regarding the existence of such a duty do not seem obviously vulnerable to a local debunking explanation. To begin with, institutions purporting to represent the interests and rights of children¹⁶³ exist in several countries from different continents (they exist, for instance, in places as distant as Norway, Costa Rica, and Kazakhstan), so that intuitions about those institutions do not appear to be clearly parochial. Secondly, because those trends depart from the *status quo* in many important ways (e.g. by dropping the assumption that parents’ interests already encapsulate those of their children), those intuitions are also not clearly endogenous. Thirdly, given the variety of personal profiles of those who share the relevant intuitions (from laypeople to members of international organizations, from activists to academics), it is also difficult to see how those intuitions might be due to purely contingent facts about their life stories (i.e. to idiosyncrasy). Although these intuitions might be incorrect, they

¹⁶¹ https://en.wikipedia.org/wiki/Children%27s_ombudsman (Last accessed: June 2, 2022).

¹⁶² Some authors have argued that, in addition, at least some currently disenfranchised children should enjoy some opportunities for political participation. As I am not focusing on participation, I shall leave this debate aside.

¹⁶³ Whether they are ambitious enough is, of course, a different question.

nonetheless seems to be one operating “in circumstances where the more common excuses and explanations for making a mistake do not obtain,” to recall Rawls’ phrase.

In what follows, then, I will assume that there is a considered judgment supporting the existence of a duty to politically represent the interests of children. This duty, I shall argue, cannot be accounted for by the All Subjected Principle. This, as I pointed out earlier, does not imply that the principle is mistaken, but it counts against it—especially since, as I will argue in the following section, the All Affected Interests Principle can account for it without assuming significant additional costs.

But why, one might wonder, should the All Subjected Principle be unable to vindicate the political inclusion of children in the specific sense that we are considering? After all, children are in some sense subjected to the law. In Spain, for instance, children are natural persons, with the capacity to bear rights and duties (although, of course, throughout an important part of their childhood those duties will have to be discharged by third parties). This might lead a defender of what I have called the (Generalized) All Subjected Principle to conclude that the principle is indeed capable of vindicating the inclusion of children. In the remainder of this section, I shall call into question this claim.

Let us assume that virtually all children are subjected to the law in some sense. Even if that is true, it still an open question whether this sense of “subjection to the law,” or of having “legal obligations,” is the one that matter for the All Subjected Principle. To see this, recall that the principle relies, *inter alia*, on a set of fundamental values and a set of bridging principles connecting those values with the principle’s stated inclusion goals. The former typically involve autonomy, or autonomy-based interests, whereas the latter involves a story purporting to show that subjection to law or coercion without political inclusion wrongs the subjected in a distinctive way (precisely, because of the way in which subjection threatens autonomy).

So, the sense of “subjection to law” relevant to the All Subjected Principle must, at the very least, preserve the connection between autonomy-based considerations and the distinctive impact that law and/or coercion have upon them. However, the sense of “subjection to law” which applies to all children does not appear to satisfy this requirement, for not all children are autonomous beings. If all children (regardless of whether they are autonomous beings or not) are subjected to law in the inclusion-

demanding sense, then it is unclear whether autonomy is playing any grounding role. So, we are left with the following dilemma. On the one hand, we can say that all children are subjected to the law, but then any essential connection with autonomy seems to disappear—and if that is the case, the All Subjected Principle would seem groundless.¹⁶⁴ On the other hand, we may want to retain the connection between subjection (in the inclusion-requiring sense) and autonomy, but that would force us to narrow down the relevant notion of “subjection to the law,” and will exclude many children.

Two replies are available. First, one might argue that autonomy is a scalar property, which can be had by children to various degrees. However, even on the most generous conception of autonomy it will be the case either that not all children have it, or that some nonhuman animals possess it. For example, if someone claims that even one-year old children have *some* degree of autonomy, they will arguably be unable to exclude *all* nonhuman animals (one might of course accept that at least some animals are autonomous, but recall that in this chapter I am assuming that that they are not).

Second, someone might argue that even if not all children are autonomous *now*, they will be so in the future. But, as I anticipated in the previous chapter, this is also an unsatisfactory move. On the one hand, because it is not clear why thwarting the *actual* will of a *potential* autonomous being is relevant *now*. On the other hand, because not all children are potentially autonomous—think, for instance, of children with terminal illnesses, or with severe congenital cognitive impairments.

Hence, it does not seem that children can be subjected to law in the way that the All Subjected Principle requires, and which would vindicate their political inclusion. Something analogous happens if we switch to the All Subjected to Coercion formulation of the principle. Here, we also seem to face a dilemma. Either we risk losing the connection between autonomy and coercion (thus leaving the principle somewhat groundless), or we end up endorsing a much more generous characterization of coercion on which at least some nonhuman animals can be coerced (again, one might surely

¹⁶⁴ And, at any rate, that would not automatically vindicate the exclusion of animals, since, as I pointed out in the previous chapter, the High Court of the Indian States of Uttarakhand and Punjab and Haryana has ruled that animals are subjected to the same legal duties as humans.

accept that at least some animals can be coerced, as I suggested in the previous chapter, but I am here assuming that the notion of coercion in play is more demanding than that).

Let us take some stock. In this section I have argued i) that the main function of the All Subjected Principle, as its defenders see it, is not to determine whose interests ought to be represented in policy-making, but to regulate the allocation of strong participatory rights, and ii) that we have reasons not to use the principle in that way anyway, as it would then be unable to account in the right way¹⁶⁵ for the duty of political institutions to represent the interests of children. On the plausible assumption that the existence of such a duty constitutes a considered judgment, the inability of the All Subjected Principle to account for it counts against it. This principle, as we have conceived it, appears to be extensionally inadequate.

Those two arguments, if successful, would help us resist the threat from the All Subjected Principle to the political representation of animals. But that does not imply that there is a positive case for representing them. In the following section, I will argue that a version of the All Affected Interests Principle is better positioned (for this specific domain of political inclusion) than the All Subjected Principle, as it can vindicate the duty to represent children and can avoid (or at least alleviate) the main objections usually faced by the All Affected Interests Principle in its most ambitious formulations (that is, as a principle regulating the distribution of strong participatory rights).

4.4. A defense of the All Affected Interests Principle

4.4.1. Accounting for the duty to represent the interests of children

If it is true, as I suggested in the previous section, that failing to account for the duty of political institutions to politically represent the interests of children counts against a principle of political inclusion (understood, specifically, as a principle purporting to determine whose interests ought to be represented), then the ability of a principle to vindicate that duty will, *ceteribus paribus*, count in its favor. In this subsection I shall

¹⁶⁵ That is, without severing the connection between the principle's fundamental values and its inclusion goals, or without dropping the assumption that animals are not covered by the principle.

argue that the All Affected Interests Principle can easily account for the existence of that duty.

Applied to the particular domain of inclusion that concerns us, the All Affected Interests Principle entails that political institutions have a duty to represent the interests of those whose interests are relevantly affected by political decisions. Two points are worth noting here. First, this duty is not merely a *moral* duty to take into account, in our moral deliberations, those interests that we are likely to affect with our decisions (although that is also important, to be sure). Its purpose is not primarily to guide individual behavior but institutional design. At the same time, though, and that is the second point, the All Affected Interests Principle, as we are discussing it here, does not imply any specific institutional device through which the interests of the affected should be represented. It leaves ample room for institutional variation and flexibility, allowing the principle to be sensitive to things like the intensity and likelihood of the affectance or the moral relevance of the interest.

It is easy to see why the All Affected Interests Principle, so conceived, requires that children be represented. After all, even though many of them lack autonomous agency (at least the kind of autonomous agency that animals lack), they possess morally relevant interests which are usually at stake in political decisions. Political systems have the power to settle virtually every aspect of the circumstances within which children develop, a period of enormous vulnerability and dependence (and least on its initial stages). A few examples of crucial decisions include setting and funding a public school system, regulating child custody, designing welfare programs for the least well off children, regulating exposure to toxic substances (such as lead, which is believed to have a powerful impact upon children's brain development) or implementing climate change prevention and mitigation measures (since current children will bear the consequences of global warming to a greater extent than adults).

On any plausible conception of interests, those will count as normatively significant, and will be covered by any reasonable version of the All Affected Interests Principle. For this reason, the principle seems well-equipped to vindicate the duty of political institutions to represent the interests of children. If that is correct, the All Affected Interests Principle is, in one respect, preferable to the All Subjected Principle (at least, of course, within the particular domain of inclusion at issue). Now, all of this will be of

little use if the All Affected Interests Principle turns out to fare worse in many other respects. In the next subsection, I shall deal with some prominent objections.

4.4.2. Common objections to the All Affected Interests Principle

Although the All Affected Interests Principle remains quite popular, it has also been the target of forceful criticism. In this section I discuss three common objections, and argue that, if we understand the All Affected Interests Principle as a principle regulating whose interests ought to be politically represented, these objections turn out to be either avoidable, or less threatening, or do not solely affect the All Affected Interests Principle.

4.4.2.1. Vagueness

The first objection states that the All Affected Interests Principle is too vague to provide any significant practical guidance, since the principle only applies to *morally significant* interests, which need to be *significantly* affected (i.e. excluding accidental or excessively trivial cases). But, the objection goes, there is simply too much disagreement about what counts as a morally significant interest (or about what it takes for an interest to be significantly affected) for this formulation to be illuminating.

There is a kernel of truth in this objection: the All Affected Interests Principle includes vague provisos, which are risky and must be handled with care. I do not think, however, that this problem is fatal for (or specific to) the All Affected Interests Principle. To begin with, it must be noted that all theories of inclusion involve similar provisos. For example, the All Subjected Principle holds that political inclusion depends on being subjected to the law or coercion *in the right way* (as otherwise tourists ought to be politically included in whatever country they travel to¹⁶⁶), the Stakeholder Principle depends on having a *sufficient* stake on the continued existence of a self-governing policy, and the Social Membership Principle depends upon the existence of *sufficiently* strong connections and ties with the members of a society. Since whatever normative property an account of inclusion posits to be relevant can be had trivially (and infringed

¹⁶⁶ See Beckman 2009, Ch. 2, for a defense of the All Subjected Principle that admits such a possibility (although its effects are, in practice, nullified by external considerations).

upon accidentally), sufficiency/relevance provisos appear to be indispensable. That is, of course, a companions-in-guilt response, which does not (by itself) answer the substantive question behind the objection.

The second (and more substantive) reply to the Vagueness objection is that from the fact that we are unsure about whether some interests are morally relevant, or affected by pure chance or not, it does not follow that all cases are like that (or, more importantly for our discussion, it does not follow that there cannot be a non-trivial collection of cases in which the interests at stake are both relevant and significantly affected). Political systems, for instance, have direct (i.e. non-accidental) control over the circumstances under which citizens can be imprisoned (or even sentenced to death), over the existence and depth of a welfare system (including, among many other things, education, health and pensions), the regulation of our most crucial relationships (e.g. marriage), the delimitation of property rights, the provision of public goods, like highways, clean water and air, or a military, etc. These examples suffice to show that political systems routinely make decisions (and, more generally, are in a position to routinely make decisions) on matters that affect quite relevant interests of individuals, in ways that are neither accidental nor trivial. And, as we saw in Section 3.2.1 of the previous chapter, one can also find several examples of morally relevant animal interests significantly affected by political decisions (so, the All Affected Interests Principle needn't be too vague in general, nor in the case of animals in particular).

We can thus distinguish between cases in which we have no clue whether something is in someone's interests, cases in which there are equally good arguments pointing in different directions, and cases in which it is more likely than not that a morally significant interest is being affected in the relevant way (or vice versa). Since the scope of this third category needn't be trivial, the All Affected Interests Principle can be action-guiding despite its vagueness. Moreover, even when there is either absolute ignorance or uncertainty about a class of interests (or decisions affecting them), we might still retain a second-order duty to try to improve our epistemic position, whenever that is feasible and does not prove excessively costly.

4.4.2.2. Compensation/restriction vs. inclusion

A second objection to the All Affected Interests Principle contends that the principle fails to account for what we typically do when our actions affect others. Ludvig Beckman (2009, 45-47), for example, has argued that when our actions affect others (that are not included within the decision-making process), we either restrict our actions, establishing clear limits over our decision-making powers, or we compensate those we have affected.¹⁶⁷ On the basis of this intuitive observation, Beckman distinguishes between a “discourse principle” that provides a standard for moral legitimacy (i.e. “actions should be evaluated with reference to the extent to which they could have been accepted by everyone whose interests are affected”¹⁶⁸) and a “democratic principle” of inclusion, which does not require us to enfranchise everyone affected by a decision.¹⁶⁹

The first thing to note is that this distinction is not exhaustive. Between a moral obligation to evaluate actions by appealing to how they affect the interests of others and a democratic obligation to *enfranchise* (i.e. through strong participatory rights) those affected by a decision, there is a third, intermediate, possibility: a duty to politically represent those affected by a decision—which is precisely the version of the All Affected Interests Principle at issue in this chapter. This third view, as I pointed out in the previous chapter, differs from a mere moral duty in that it does not simply require that individuals take into account, in their moral reasoning, how their actions might affect others’ interests. Rather, it also requires political decision-making to be set in a way that ensures (or, at least, makes it more likely) that affected interests will at least be given a fair hearing. This duty, then, guides institutional design and not merely the behavior of individuals. On the other hand, this intermediate view differs from the second one in that it does not require granting the affected strong participatory rights.

Let us suppose, for the sake of the argument, that the view according to which we should give strong participatory rights to those whose interests are affected by political decisions cannot account for what we typically do when our decisions affect the interests of others. This inability to reflect ordinary practices might, at best, undermine the All Affected Interests Principle understood as a principle regulating the distribution

¹⁶⁷ See also Abizadeh 2012, 878; López-Guerra 2014, 47; Bengtson 2020, 97.

¹⁶⁸ Beckman 2009, 46.

¹⁶⁹ See also Saunders 2014, 16.

of strong participatory rights, but it does not necessarily rule out the version of the All Affected Interests Principle which only purports to determine whose interests political institutions should represent. Here, I think, what we typically do when our decisions affect others does not provide any determinate intuitive guidance (that is, in one specific direction). For example, in many cases, decisions that will predictably affect different agents from different countries leads them to jointly establish an organism in which the different parties and affected interests are represented. Decisions about fisheries and other aquatic resources, for instance, are usually discussed in intergovernmental regional organizations, such as the Asia-Pacific Fishery Commission, the International Whaling Commission or the Pacific Salmon Commission. Likewise, major transnational organizations (UN, WHO, WTO) can be seen as mechanisms through which those affected by decisions with an international scope can be represented through their national governments.¹⁷⁰ Those examples suggest, I believe, that there are several cases in which it is at least an intuitively acceptable course of action to represent those affected by a decision. That, however, does not support the assumption that restricting one's decision-making power or compensating the affected are *the* alternatives by default. The third possibility (political representation) does not *necessarily* depart from what we ordinarily do when our decisions affect the interests of others.

4.4.2.3. Overinclusiveness

Perhaps the most famous objection against the All Affected Interests Principle claims that the principle is overinclusive (i.e. extensionally inadequate). There are at least two possible ways to formulate this objection. Following Robert Dahl's (1989, 195) distinction, we can distinguish between the *domain* of political-decision making (that is, the set of individuals who ought to participate in the making of a decision, or whose interests ought to be represented) and its *scope* (the set of permissible decisions). The All Affected Interests Principle has been accused of being overinclusive in both dimensions, so I shall discuss each version of the objection separately.

¹⁷⁰ Surely, things are importantly different in practice. Nevertheless, I am assuming that the intuitive argument does not merely appeal to how things turn out to work in the real world.

A. Wrong domain

The first version of the objection states that the All Affected Interests Principle requires the inclusion of more individuals than it seems sensible to include. To see why, let us recall that, as we saw in the previous chapter, the All Affected Interests Principle can be understood as requiring the political inclusion of either those individuals whose interests are *actually* affected by political decisions, or those individuals whose interests *can be possibly* affected. For critics of the principle, this leads to the following dilemma. On the one hand, although the All Actually Affected Interests Principle requires the inclusion of a narrower set of individuals, this formulation of the principle appears to be circular, for who is actually affected will depend on which particular decision (among the many possible decisions at stake) is eventually made. On the other hand, although the All Possibly Affected Interests Principle can overcome the circularity challenge, it also seems to require, as Robert Goodin (2007, 68) noted, “giving virtually everyone everywhere a vote on virtually everything decided everywhere,” as it seems that we all are, in a sense, possibly affected by all potential decisions (i.e. for almost every possible decision, there is a causal pathway with a non-zero degree of probability that leads to the decision to have an impact upon our interests). For some, this conclusion constitutes a *reductio ad absurdum* of the All Affected Interests Principle. The claim, then, is that the All Affected Interests Principle is extensionally inadequate insofar as it gets the domain of policy-making wrong. Although I cannot conclusively show that this objection can be defeated, I will nonetheless mention six possible replies.

First, one might question whether the intuitions that we are appealing to when we declare the All Affected Interests Principle extensionally inadequate are really considered judgments. To begin with, for many centuries we have lived in a world of states with strong sovereign rights over their territories, in which political inclusion has been channeled primarily through institutions operating at the national level, and covering only those who resided within the boundaries of one state.¹⁷¹ There is thus a

¹⁷¹ An important caveat: here I am not claiming that, historically, political inclusion has always operated at the national level. In fact, some authors have argued that before the emergence of modern political orders, sub-national political units had (and in some places continue to have) some mechanisms of political inclusion (Cf. Scott 2009; Stasavage 2020). Now, even if undoubtedly interesting, it is unlikely that those traditions have substantially shaped Western modern and contemporary political theories, and

risk that our intuitions regarding the inappropriateness of radically different forms of political organization and inclusion are to some extent the result of parochialism (as we have had little experience with institutional alternatives) and endogeneity (as our intuitions regarding political inclusion might be the product of an effort by the part of nation-states to legitimize themselves).

Second, someone might concede that the All Affected Interests Principle is indeed a very demanding (and perhaps unrealizable) ideal, but that this is not a problem if highly ideal theory is a worthwhile enterprise. David Estlund (2008, 269-270), for instance, has argued that it makes sense to ask whether a picnic spot is better than our current location even if it is unreachable. Likewise, it might be claimed that it makes sense to ask whether a world in which everyone is included is better (in at least one respect) than a world of bounded polities, even if that world is literally out of reach. Of course, this response will not have much bite for those who are more skeptical about this sort of theorizing in the first place, or for those who think that a global demos is objectionable or undesirable even in ideal terms.

Third, it might be argued that there is no reason why the All Affected Interests Principle should be absolute: even if the principle really implies that everybody should be given the right to vote or be represented on virtually everything, there may still be other considerations and values that outweigh and defeat these implications. But, of course, just because a principle cannot be applied in all possible circumstances we cannot conclude that it does not apply in any range of circumstances whatsoever. Actually, this seems to be the case with virtually all principles and rights: on Ronald Dworkin's (1977, 22-28) well-known account, principles are rarely absolute, and they can be outweighed by other values and principles under some circumstances, without becoming invalid or losing their worth. To illustrate, the right to private property does not imply that anyone can possess anything under any circumstances (i.e. it can be outweighed and restricted by competing rights, values and principles), but (almost) nobody believes that there is no right to private property of any kind nor under any circumstances. Similarly, freedom of expression does not lose its worth simply because its scope is not unrestricted.

their associated intuitions—which, at any rate, are mainly concerned about inclusion at the international/global level.

Fourth, some of the problems with the All Possibly Affected Interests Principle arise from the assumption that inclusion must necessarily involve the right to vote. But, on the version of the All Affected Interests Principle I am concerned here, all that the principle requires is that we set institutional devices that ensure or make more likely that the interests of all affected individuals will be adequately taken into account. Thus, not only does the principle *not* imply that we grant the affected strong participatory rights, but it is also pretty flexible with respect to the precise way in which that broad institutional prescription is implemented.¹⁷² In Chapter 6, I will discuss several possibilities. For our purposes here, I will just note that some critics of the All Affected Interests Principle as a mechanism for the distribution of strong participatory rights have shown some sympathy towards this possibility. Claudio López-Guerra (2014, 95), for instance, argues that although there is no compelling reason to enfranchise everyone everywhere, it may be appropriate nevertheless to implement some mechanisms of *reciprocal representation* in which representatives of one country (with voice but not vote) would be sent to the legislatures of other countries.¹⁷³

Fifth, neither the All Actually Affected Interests nor the All Possibly Affected Interests Principles exhaust the logical space of possibilities. Between actuality and possibility there is an intermediate category: *probability*. On this third formulation, the All Affected Interests Principle should target those whose relevant interests are *likely* to be affected by a decision, or by the functioning of a decision-making body. Although this version of the principle might still have highly expansive implications, it can avoid some of the alleged pitfalls of the All Possibly Affected Interests formulation: if only probably affected interests matter, many interests that might be possibly (but extremely unlikely) affected will be not be counted. As Goodin (2007, 59-62) has noted, an analogous line of reasoning underlies many formulations of the Precautionary Principle. As a principle of decision-making under circumstances of risk and uncertainty, the Precautionary Principle cannot focus on *actual* harms. At the same time, it is now widely accepted that the principle ought to focus on probabilities, whenever they are available, and not on mere possibilities. By the same token, one might argue that, whenever it is possible, the

¹⁷² Somebody might claim that it is too watered-down to legitimately count as a version of the All Affected Interests Principle. Although I am not about this, readers might feel free to call this principle the All Affected Interests Principle*.

¹⁷³ López-Guerra takes this suggestion from Schmitter 1997.

All Affected Interests Principle ought to focus on the probability of events—since, at least in part, the All Affected Interests Principle is motivated by the worry that disenfranchised or unrepresented interests *risk* being disregarded in political decision-making processes.

Finally, some authors have argued that the All Subjected Principle also has substantially expansive implications (Goodin 2016; Andrić 2021; Goodin and Arrhenius 2022). Consider, for instance, the case of extraterritorial jurisdiction, whereby a state claims the authority to forbid and punish behaviors that occur beyond its territorial borders. The USA Patriot Act, for instance, passed in 2001, forbids anyone anywhere from providing material support to terrorists (Goodin and Arrhenius 2022, 95). That is a law purportedly binding virtually every individual in the world. Moreover, when those laws are adopted by countries as powerful as the US, they seem to be backed by a credible threat of coercion, at least in some cases (e.g. weaker countries from a military standpoint). If the defender of the All Subjected Principle wants to avoid those implications, they must show that the most adequate characterization of subjection to the law or coercion (which ought to be supported, at least partly, on independent grounds) does not count those cases (or at least, not all of them) as genuine instances of subjection (see, for some attempts to do that, Beckman 2014 and Abizadeh 2021). Note that my point here is not that this cannot be done, but merely that, just as there seems to be a *prima facie* case against the All Affected Interests Principle for being overinclusive in its domain, there also seems to be an analogous *prima facie* case against the All Subjected Principle. Of course, perhaps one might come up with a more precise formulation of the later that avoids (or, at least alleviates) its most expansionary implications, but then so might the All Affected Interests Principle.

B. Wrong scope

The second version of the objection, in turn, states that the All Affected Interests Principle is also extensionally inadequate with regards to the scope of decision-making. In other words, if the All Affected Interests Principle is correct, then we should be able to decide over things that, at first glance, it does not seem that we should have any decision-making power over. In *Anarchy, State and Utopia*, Robert Nozick (1974, 269) famously introduced a version of this objection (although, it must be noted that Nozick

did not specifically have the All Affected Interests Principle in mind). Suppose I am deeply in love with a girl from my neighborhood. One day I hear that she wants to get married and is looking for a partner. Of course, that is exactly what I want to be, and I would be disappointed if she decided otherwise. Yet, at the same time, it would be mistaken to conclude that, because I would be affected by her decision, I therefore have a right to participate in that decision. Ultimately, that decision should be taken only by the girl herself, and not co-decided by all the affected. Consider Dolly Parton's famous song "Jolene," where she pleads another woman to stay away from her lover. There is no doubt Parton's stakes are high ("My happiness depends on you," she claims), but that clearly does not give her any right to really participate in the decision. Writing a great song might be the most she is morally allowed to do.

In cases like these, being affected is insufficient to generate claims of inclusion. In response, it might be argued that even though you have no right to participate in the decision, you have a right to influence it. Gustaf Arrhenius (2019, 14), for example, thinks it is "reasonable that the suitors have a right to influence the decision in the sense that they have a right to present their case, send flowers and poems, etc., as a corollary of some form of freedom of speech." But, arguably, you would have this right even if you had nothing at stake.

Second, one could say that interests that involve what Ronald Dworkin (1977, 234) famously labelled "external preferences" (that is, preferences about what goods and opportunities others should get, as opposed to "internal preferences" concerning the goods and opportunities that I should receive) should not figure among the kind of impacts that trigger the All Affected Interests Principle. But that seems too radical, as we routinely make political decisions concerning what other individuals and social groups should do or get. Moreover, it is not obvious why, for instance, the preference that the girl from my neighborhood marries me is a purely external preference: surely, it is a preference about what the girl should do (marry me), but it is also a preference about what I myself should do (as it takes at least two to marry).

Third, it can be claimed that the All Affected Interests Principle it is not concerned with individual or merely private decisions, but with political or public ones. Obviously, that is a tall order, since any attempt to draw the line between private and public affairs is arguably going to prove controversial. But a deeper problem is that the objection can be

modified in a way that avoids this response while still delivering apparently implausible implications. Instead of matters of love, we can talk about war. Suppose the United States is planning to wage a war against some country in the Persian Gulf. That certainly appears to be in the political side of the divide. But the claim that people in these countries should participate in the decision remains counterintuitive.

A better strategy, I think, is to call into question the assumption that the All Affected Interests Principle should regulate, not only the domain of policy-making, but also its scope. This view rests upon two plausible claims. The first is that the principles regulating the scope of political decision-making and those determining who should participate or be represented in the relevant decision-making processes needn't be the same. The second (related) claim is that the All Affected Interests Principle only aims to settle who ought to participate or (as in the formulation at issue) be represented in decisions that are *permissible* to begin with. An otherwise permissible decision might be rendered illegitimate all things considered if does not allow for the participation, or the representation, of the right set of individuals, but there does not seem to be any way in which including the right individuals will make legitimate a decision that is impermissible.

This view, I think, would help make sense of our worries in the war example. According to just war theorists, the decision to start a war can be just or unjust (the so-called *jus ad bellum* question). If the war is unjust, then it is impermissible to wage it, and this would explain why those who are affected should not participate in its making (namely, because the decision itself should not be made). Now, if the war is unjust, and given the strictness of the conditions under which it might be permissible to start a war, this would mean that a collective is being treated in such a morally deplorable way that it becomes justified for its members to kill others in self-defense (or for third parties to intervene on their behalf). This, again, might explain why not all the affected have the right to participate in making the decision: for others—beyond those to which a theory of just war gives the right to wage a war—to decide whether a war should be waged is for them to be able to veto the legitimate exercise of self-defense rights under morally extreme circumstances—which, arguably, is also not permissible.¹⁷⁴

¹⁷⁴ See Oberman 2015 for a defense of the view that, whenever it is permissible to wage a war, it is also necessarily morally required.

Note, in addition, that this move would not only help the All Affected Interests Principle, for the All Subjected Principle also appears to face similar challenges. Consider, again, the case of war. According to the All Subjected Principle, all countries subjected to international law should participate in that decision, which might sound counterintuitive too. Here it might be replied that international law is really no law because it is not truly binding. That is, of course, a controversial issue. But even if that reply succeeded, it would still be the case that, if international law was really binding (and that is basically a contingent matter), decisions about war should be made, not only by the fighting parties, but also by any country subjected to treaties regulating the normative status of war and wartime behavior. Moreover, this reply would still not save cases of civil war, where the relevant legal system operates at the national level, and is truly binding. Distinguishing between questions of scope and domain would also help the defender of the All Subjected Principle to avoid this problem

It seems, then, that the All Affected Interests Principle, on the version I am discussing here, is less vulnerable to the principle's most common objections. Because, in addition, the principle is better equipped than the All Subjected Principle to account for the existence of a duty to politically represent the interests of children, it is arguably preferable as a principle for determining whose interests ought to be represented in policy-making.

4.5. Conclusion

In this chapter I have defended two main claims. On the one hand, I have argued that the All Subjected Principle does not really challenge the inclusion (through representation) of nonhuman animals (4.3). First, because its defenders do not typically see it as a principle for determining who ought to be politically *represented* (4.3.1). Second, because, if we tried to employ the principle for that purpose, it would arguably prove inadequate, as it does not seem able to vindicate the intuition that political institutions have a duty to represent the interests of children (4.3.2) On the other hand, I have also argued, more positively (in Section 4.4), that the All Affected Interests Principle fares comparatively better, at least when we understand it as a principle for determining whose interests ought to be represented, as it can actually account for the duty to represent the interests of children (4.4.1), and is less vulnerable (so conceived)

to the objections most typically encountered by the principle (4.4.2). If this and the arguments defended in the previous chapter are correct, then political institutions have a duty to represent the interests of at least some nonhuman animals.

Chapter 5. The political representation of nonhuman animals

Introduction

Animals cannot authorize (or, if need be, disallow) their potential representatives. But if that is the case, one may wonder, does it really make sense to say that they can be politically represented in the first place? When addressing a question like this, there are at least two strategies available. The first involves thinking about what *the* concept of representation requires (or what the *nature* of representations consists of), and see whether, on the best account, animals can be represented or not. The second strategy proceeds in a different way: instead of looking for a unified account or definition of political representation, it stresses the plurality of conceptions available, and considers which of them allow for animals (or their interests, at the very least) to be represented. I am skeptical about the first strategy, since I am not sure there is a single, determinate concept of political representation, nor do I believe that there is a specific phenomenon that has a privileged claim to be referred to by this expression (although, of course, there may be many different phenomena with a strong claim *not* to be so referred).

In this chapter, I shall pursue the second strategy: I will examine different theories of political representation and see whether animals fit or not. Skeptics might complain that this alternative strategy allows for animals to be represented *too easily*, if it is enough to find one conception that allows for such a possibility. In order to address these worries, I will restrict the set of relevant conceptions to those that have enjoyed significant influence in the last decades: namely, those put forward by Hanna Pitkin (Section 5.2), Philip Pettit (Section 5.3), Jane Mansbridge (Section 5.4), Michael Saward and Andrew Rehfeld (Section 5.5). Even if it cannot avoid some degree of arbitrariness, I believe this selection is sufficiently comprehensive to constrain the strategy in the way I suggested: it is a form of conceptual pluralism, but not of a trivial kind. Moreover, since at least one of the authors I will discuss (Pitkin) explicitly believes that the concept of political representation does indeed have a unified content, my discussion of her arguments can be seen as addressing those who defend the first strategy. First, however, I will explain how this discussion relates to some recent trends in the debate on political representation (in Section 5.1). Finally, in Section 5.6 I address an objection by

Howard Schweber to the possibility of political representation without authorization, and discuss the attractive of positivist views.

5.1. The representative and systemic turns

5.1.1. The representative turn

Skepticism about political representation has been a recurrent theme in the history of political thought. “Sovereignty cannot be represented for the same reason that it cannot be alienated. It consists essentially in the general will, and the will cannot be represented.” With these words, Jean-Jacques Rousseau ([1762] 1999, 127) famously expressed his doubts about representation. In the 20th, some participatory democrats raised similar worries. “Representative democracy,” has claimed Benjamin Barber ([1984] 2003, xxxiv), “is a paradoxical an oxymoron as our political language has produced.” Such a form of government is, in his view, incompatible with freedom, equality and social justice (145-146). According to these authors, representation and participation are opposites. And since the democratic ideal requires popular participation, there is no escaping the conclusion that representation is inherently detrimental to democracy. Of course, given the immense logistical challenges faced by modern democratic systems, representative institutions might be inevitable. But they are nonetheless second-best solutions: that is, necessary but nonetheless regrettable compromises.

In the last two decades, many authors working on political representation have called into question these assumptions. Their main intuitions were summed up by David Plotke (1997, 19) in an influential article: “[T]he opposite of representation,” he contended, “is not participation. The opposite of representation is exclusion. And the opposite of participation is abstention.” Although, of course, nobody denies that some forms of representation can work (and have often worked) as exclusionary devices, these authors emphasize the inclusive and democracy-enhancing potential of political representation.¹⁷⁵

¹⁷⁵ See, for discussion, Urbinati 2006 and Nässtrom 2011a. Arguably, most of the books and articles on political representation written in the last two decades share this optimistic attitude.

Along with such a reappraisal of the value of political representation, there has emerged an interest in non-standard forms of representation. Traditional theories had tended to view representation as a formal relationship between representatives and constituencies drawn along geographical lines, where the representative bond was usually initiated and terminated through formal processes such as elections. Moreover, the traditional locus of political representation was thought to be the legislature.¹⁷⁶ Throughout the last decades, these features have lost some of their centrality. Among other things, recent discussions have addressed the role of informal representatives—such as NGOs, advocacy groups, civic associations or individual self-appointed representatives (Rubenstein 2014; Montanaro 2017), non-electoral forms of representation (Mansbridge 2003; Saward 2009) and the possibility of constituencies delimited on a non-geographical basis (Dobson 1996; Rehfeld 2005).

Both trends (a revalorization of representation as a potential vehicle for inclusion, and a growing interest in its non-standard manifestations) characterize what is usually referred to as the “representative turn” in democratic theory. Although some authors have built more into the idea of the representative turn (Cf. Nässtrom 2011a), I will settle for this more modest characterization. Clearly, this thesis owes a profound debt to this trend. To begin with, the political representation of nonhuman animals looks like a paradigmatic instance of a non-standard form of representation. On the other hand, in exploring whether political representation can provide an adequate vehicle for the political inclusion of animals, I am betting on the inclusive potential of representation. Note, however, that even if representation were indeed at odds with participation in the case of humans, that would not necessarily be a problem for us. Suppose, as critics do, that representation and participation are rival goods, so that you cannot get some of the former without losing some of the latter. In that case, one could still say that even if every reduction of participation is, *prima facie*, a bad thing, the benefits of representation might be such that, all things considered, we are better off with some of it, even if it involves some regrettable losses. Whether that is true or not will depend on the value we ascribe to participation: the more valuable it is, the bigger the work representation should do in order to compensate for the losses. Now, in the case of

¹⁷⁶ With this I am not necessarily claiming that they took these features to *define* political representation. However, this is where they directed their attention (Cf. Fairlie 1940; Eulau et al. 1959; Miller and Stokes 1963).

animals, participation is either absent or not as valuable as it can be for humans (if it is true, as some theorists claim, that animals are capable of participating in some sense). This means that the potential losses would be easier to compensate by the potential benefits of representation. Even if there is always something regrettable about representation, that is considerably less so in the case of animals.

5.1.2. Systemic representation

When we study political representation, we can adopt two different (although not necessarily incompatible) approaches. On the one hand, we can focus on the relationship between a particular representative (or representative body) and a specific group of individuals. For instance, we can analyze the relationship between Parliament, political parties or local governments and their respective constituencies. On this approach, representation is seen as a dyadic relationship between a principal and an agent, although the nature of the relationship and the main actors needn't be restricted to the traditional cases (to wit, dyadic representation might be electoral or non-electoral, representatives might belong to the formal or to the informal spheres of government, including NGOs and self-appointed representatives). On the other hand, we can focus instead on the representative effects resulting from the interaction of different political actors and constituencies (Pitkin 1967, 221; Mansbridge 2003; Disch 2011; Kuyper 2016; Rey 2020).¹⁷⁷ On this view, a constituency can be represented by the whole political system (or by a subset of it), even if there is no dyadic, discreet relationship between that constituency and a particular representative. And, conversely, the effects of a constituency's bond with a particular representative might vanish at the systemic level. As Felipe Rey (2020, 5) has put it: "[I]t is perfectly conceivable for women to have descriptive representation in an institution of the system, even in a very important representative institution such as congress, and nevertheless not be descriptively represented by the system as a whole if they are excluded from many other places in the system, including the media, the judicial branch, and administrative boards."

¹⁷⁷ This trend mirrors a parallel systemic turn in deliberative democratic theory (Cf. Dryzek 2009; Parkinson and Mansbridge 2012).

Although I acknowledge its relevance and insights, the impact of the systemic turn upon this thesis is less straightforward than that of the representative turn. As I mentioned in the Introduction, my discussion of representation is divided in two parts. In the first (and longest), I examine some influential theories of political representation, and discuss whether they allow for the political representation of animal interests. In this part, I focus on relatively general accounts of representation that transcend the systemic/non-systemic divide (even though, for the sake of simplicity, I will mostly use low-level examples, involving dyadic relationships). For this reason, not much will depend on the particular debates concerning the relevance of this distinction. In the second, I focus on a few specific institutional proposals, and develop what I think are the main standards against which these proposals ought to be judged. Here, the influence of the systemic approach will be more visible, as, plausibly, the interests of animals might be best represented through the joint operation of various institutional devices.

5.2. Hanna Pitkin on the concept of representation

5.2.1. Pitkin's methodology

In this section, I will discuss Hanna Pitkin's conception of representation. After explaining her methodology, and outlining her view of representation, I will argue that there is space in Pitkin's account for animals to be genuinely represented.

Pitkin's project, as developed in her landmark 1967 book *The Concept of Representation*, Hanna Pitkin, rests upon two central assumptions:

- i) REPRESENTATION¹⁷⁸ *is unified, invariant and shared*. According to Pitkin, there is such a thing as *the* concept of representation, which underlies and unifies the various uses of the word "representation." "Representation," she claims, is "a single, highly complex concept that has not changed much in its basic meaning since the seventeenth century" (Pitkin 1967, 8). We ought to think of the concept of representation as being *unified* (there is some property or set of properties that unifies all its instances), *invariant* (its core meaning has remained—roughly—

¹⁷⁸ Following the convention, I will use small capitals to name concepts and quotation marks to mention linguistic items such as words.

the same, even if it might have undergone various changes on the surface) and *shared* (representation theorists are discussing about the same thing, not merely talking past each other). In Pitkin's view, the essential meaning of REPRESENTATION is "the making present *in some sense* of something which is nevertheless *not* present literally or in fact" (Pitkin 1967, 8-9).

ii) *A traditional account of conceptual analysis.* Methodologically, Pitkin makes two further assumptions that can be usefully grouped together. First, she assumes a classical theory of concepts, as having a rather stable and identifiable definitional structure (i.e. a set of necessary and sufficient conditions). Second, she assumes that these structures can be discovered via conceptual analysis: by presenting counterexamples to some alleged applications of a particular concept, we can rule out many properties as necessary conditions of that concept. As Eric Margolis and Stephen Laurence (2021) put it: "Paradigmatic conceptual analyses offer definitions of concepts that are to be tested against potential counterexamples that are identified via thought experiments."

Unsurprisingly, none of these assumptions has gone unchallenged. For instance, Andrew Rehfeld (2011a, 631) has called into question the unity of REPRESENTATION by suggesting that "[r]ather than formulating these debates in terms of *one* concept of representation, let alone *the* concept of representation ... it would be more useful to develop *concepts* of representation to study the broad array of phenomena that we often imprecisely classify as "representation."

Pitkin's account of conceptual analysis is also controversial. Many philosophers are skeptical either that concepts have the kind of structure the classical picture assumes or that we can identify the content of concepts by appealing to our linguistic intuitions. To support their doubts, they usually refer to the apparent inability of conceptual analyses to convince more than a few philosophers. For example, Jerry Fodor (1981, 283) has claimed that it is "among the most important findings of philosophical and psychological research over the last several hundred years ... that attempts at conceptual analysis practically always fail."¹⁷⁹ Among the skeptics, those of a Wittgenstenian bent

¹⁷⁹ See, for similar criticisms see Papineau 2009. For two important contemporary defenses, see Jackson 2000 and McGinn 2012.

might argue that different uses of one concept need not share any feature in common. Interestingly, Pitkin herself became heavily influenced by Wittgenstein's philosophy of language when she was finishing *The Concept of Representation*. As she writes in a footnote: "[Wittgenstein's work] has so much altered my thinking about language and philosophy that ... I have made no effort to incorporate Wittgensteinian ideas into my text in the process of revision ... [I]f I were to write it over again now, it would be a different book" (Pitkin 1967, 254-255, n. 14).¹⁸⁰

For the sake of the argument, though, I will assume all those methodological assumptions.

5.2.2. The many faces of representation

These methodological remarks aside, we can now face the central question: does Pitkin's theory allow for the representation of animals? In what follows, I will defend an optimistic view. But for us to adequately address this issue we must first understand how Pitkin understands the structure, and the various manifestations, of the concept of representation.

One useful starting point is the distinction between representation as an activity (representation as *acting for*) and representation as a mere state of affairs (representation as *standing for*), which Pitkin takes to be fundamental. This might seem puzzling. How could representation not be an activity? Yet, in Pitkin's view, this is extremely common: we systematically speak of representation (and representativeness, representing, etc.) in cases where there is no action involved. For instance, we can say that the lion represents the city of Singapore or that the Queen of England represents the majesty of the Commonwealth. But these claims imply nothing about the actions of any lion, nor do they require that the Queen of England be performing any action in particular: she can count as the representative of the Commonwealth even when she is asleep.¹⁸¹ Pitkin

¹⁸⁰ As she recognizes in a later book on Wittgenstein and justice: "I first became acquainted with language philosophy while I was a graduate student in Berkeley ... What I encountered at that time was primarily Oxford ordinary-language analysis" (Pitkin 1972, viii-ix).

¹⁸¹ Plausibly, she should be alive. But i) being alive is not an activity, and ii) it is, in any case, a requirement for *being the Queen*, and not for the Queen to represent something else.

calls this *symbolic representation*. On this model, representation functions as “a kind of symbolization, so that a political representative is to be understood on the model of a flag representing the nation, or an emblem representing a cult” (Pitkin 1967, 92). Symbols, as Pitkin understands them, are arbitrary, and only count as representing something if enough people believe they do. The lion and the Queen of England merely *stand for* whatever it is they are representing, and no specific action on their part is required.

Descriptive representation offers another example of representation as standing for. When we lament the lack of diversity of a particular decision-making body, we often frame it in terms of that body lacking “representativeness.” Representation, in this sense, depends on the degree of resemblance between a representative body and the represented. As John Adams, one of the Founding Fathers, famously put it, a representative legislature “should be an exact portrait, in miniature, of the people at large” (Quoted in Pitkin 1967, 61). This model of representation underlies the idea of proportional representation, whereby an elected body must approximately reflect the divisions and cleavages existing in a particular electorate. On this model, correspondence and similarity are the main evaluative criteria. Once again, no specific action is required for this sort of representation to take place.¹⁸²

Representation as *acting for*, on the other hand, does specify some actions that a potential representative must realize in order for her to be called a representative at all. The mere possession of some properties (like being thought to stand for *X* by a collective, or being similar to some *Y*) is not enough. Pitkin distinguishes between two versions of representation as acting for: *formalistic representation* and *substantive representation*.

On the formalistic model, representation is characterized on the basis of formal procedures that initiate (or terminate) the relationship of representation, and which give the representative the authority to bind certain individuals (i.e. its constituents).

¹⁸² Many authors have challenged this account as being excessively crude. Philip Pettit (2013), for instance, believes that there is one kind of likeness (which he calls *operational likeness*) which depends precisely on the actions of the representative (i.e., how they match the actions of the represented). Likewise, Suzanne Dovi (2002) has argued that not all members of a group are equally interesting as descriptive representatives of that group. As she puts it, not any Latino, black or woman will do.

Authorization is, in Pitkin's view, the procedure through which the representative acquires new rights, and the represented new liabilities. The formal model of representation specifies the means by which one can become someone else's representative (say, her legal representative after signing a contract or her political representative after an electoral process); it does not say much, however, about how she ought to act once the relationship is in place. Once the representative is authorized to occupy her role, the representative can act as she pleases, for she will remain a (formal) representative as long as her authorization is not withdrawn. Of course, it might be prudent for the representative to follow her constituent's instructions, for otherwise she will probably have her authorization withdrawn; in many cases, it might also be the morally right thing to do. But her status as a formal representative will not be invalidated: acting on behalf of one's constituents is not a defining condition of representation on this model. For this reason, Pitkin complains, the model cannot give us "representation as an acting for others, an activity in behalf of, in the interest of, as the agent of, someone else" (Pitkin 1967, 113).

This last element is, in Pitkin's view, a defining feature of the last variety of representation: *substantive* representation. Here, representation is characterized not in terms of the formal procedures through which someone acquires the power to act in certain ways, but in terms of the substance of her actions. For someone to be called a substantive representative, she must be "acting in the interest of the represented, in a manner responsive to them" (Pitkin 1967, 209). The contrast between the formalistic and the substantive model is easy to see. Suppose I authorize someone to represent me in certain legal affairs, who ends up systematically acting against my interests (either because she is incompetent or because of sheer bad faith). Unless I revoke my authorization, that person will remain my formal representative, but once she systematically fails to act in my interests, she ceases to represent me in a substantive sense.

5.2.3. The political representation of animals

5.2.3.1. Standing for: the symbolic and descriptive representation of animals

Once we have become familiar with Pitkin's theoretical framework, we can go back to the question we raised at the beginning of the previous section: can animals be politically represented? The answer will depend on which modality of representation we are considering.

Clearly, animals can be symbolically represented. Just as the Queen of England can stand for the Commonwealth, anything can stand for a particular animal or group of animals, provided that a particular collective acknowledges it. If the relevant group (whatever it is) were to see the Queen of England as standing for foxes (i.e., as calling them to mind), that would suffice for the latter to be represented symbolically. In fact, on this model animals themselves can also (symbolically) *represent*. Just as the Queen might represent foxes, so foxes might represent the Queen, provided that a sufficiently large number of people saw the former as standing for—that is, as symbols of—the latter. To the best of my knowledge, however, none of the authors who have discussed the political representation of animals has had in mind anything like symbolic representation (which skeptics might happily grant, but consider too trivial a notion).¹⁸³ For this reason, it is worth asking whether they can also be represented on the other models.

The case of descriptive representation is trickier. As we saw earlier, this modality of representation requires a certain likeness between the represented and those who do the representing. But this is an ambiguous requirement. Following Philip Pettit (2013, 145), we can distinguish between two types of likeness:

- i) *Compositional likeness*: Two groups *A* and *B* are compositionally alike if their composition is identical (e.g., a representative sample of a larger population).

¹⁸³ Recall that what ultimately drives the concern about representing animals is the potential impact of such an arrangement on the interests of animals themselves. It does not seem, however, that symbolic representation bears any significant connection with interests.

ii) *Operational likeness*: Two groups *A* and *B* are operationally alike if their members act similarly.

Here I will focus on compositional likeness, for if we can successfully apply it to animals, that would be enough to show that descriptive representation (in at least one of its manifestations) can apply to animals. If we frame the descriptive representation of animals in terms of the *identity* of the involved (women representing women, blacks representing blacks), the descriptive representation of animals is absurd: animals cannot be members of decision-making bodies. But identity is not the only option. The composition of decision-making bodies might try to reflect, for instance, the many *interests* present in the territory within which a decision-making body operates. This suggestion, absent an argument showing that the interests of animals never count for political decision-making, can be applied to at least some animals. So, there is one sense in which animals might be descriptively represented, by appealing to the similarity between the set of interests represented in decision-making places and the set of interests existing in a particular place. If an important decision-making body (say, a Parliament) does not represent any interest of any animal, it will lack, to some extent, descriptive accuracy.¹⁸⁴

5.2.3.2. Acting for: the substantive representation of animals

We now turn to formalistic representation. On this model, let us briefly recall, an individual becomes a representative when she is authorized to do so by those she will represent. Through authorization, she acquires the right to bind her constituents through her actions. So stated, it seems clear that animals cannot be formally represented: the ability to give one's authorization (at least the kind of authorization that representation entails) requires being able to entertain considerably complex and abstract ideas—e.g. the representative relationship, the powers the representative will acquire, the rights the represented will waive. Those ideas, in turn, require the possession of fairly complex cognitive abilities, which no animal seems to possess.

¹⁸⁴ Another possibility, suggested by John Dryzek and Simon Niemeyer (2008), involves representing the discourses of the collectives affected by a decision.

It must be noted that there are at least two different questions involved here. First, there is a question about the initiation and termination conditions of the representative relationship: that is, the conditions under which someone becomes (or ceases to be) a representative. Formalistic representation initiates and terminates when authorization is given or withdrawn. That is, arguably, the core tenet of the model. When the representative is authorized, there is a transfer of power, rights and authority from the person who authorizes to the one who represents. And, conversely, when a representative is disallowed, there is a devolution of powers, rights and authority in the inverse direction, from the representative to the person who authorized in the first place. But that leaves open a further question: namely, whether the *sources of authorization* should be identical to the *objects of representation*. As Pitkin defines it, formalistic representation requires that those who authorize a representative be the same individuals over whom the authority of the representative is exercised. It is, I think, an interesting question whether we could have formalistic representation if we had a relationship which initiated and terminated when authorization was offered or revoked, but in which the sources of authority did not coincide with the objects of representation—that is, when a third party authorizes the representative to act on your behalf. If that was possible, then animals might be vicariously represented through a third party, who would receive its authorization from another individual (who might be waiving rights over animals that she previously held).

This question, however, I will set aside, focusing instead on the possibility of substantively representing animals. This modality of representation, I shall now argue, can quite smoothly accommodate the representation of animal interests, regardless of whether they can also be formally represented by others. If this category allows for animals to be genuine objects of representation, then we would be able to conclude that Pitkin's theory of representation can account for the representation of nonhuman animals in a sense which is arguably of interest to those involved in the discussion.

So, can animals be substantively represented? According to Pitkin, substantive representation occurs when one acts in a manner that is responsive to the interests of the represented. That, however, specifies only a necessary condition. Let us see what else it requires (Pitkin 1967, 118-119). First, the action must be deliberate. If you happen to further my interests by mere chance, you have not acted as my representative. Second, the action must be such that people behave (or, at the very least, ought to be heave)

differently when they perform it on their behalf or in the interests of someone else, acting as their representatives. The reasons that should guide our actions in both scenarios are different: at least in some cases, what seems courageous where I am the one who will suffer the consequences of risky decisions may be reckless or negligent in cases where the consequences will befall upon others (i.e. those whom I represent).

Even these two additional requirements still do not suffice for an action to count as an instance of substantive representation. “A mere acting for the benefit of another,” claims Pitkin (130), “does not suffice to create representation.” As Andrew Rehfeld (2018, 222) has observed, if I give you a gift that I know you will like, I am acting in a manner that is responsive to your interests, but I am not representing you at all. What is missing here, according to Pitkin, is the possibility of attributing the action of the representative to the represented. Attribution bridges the conceptual gap between deliberately advancing someone’s interests and substantively representing that individual. As Pitkin (1967, 140) puts it when she distinguishes between representing someone and substituting someone, “[w]e begin to speak of representation only when the substitute’s actions are, in some way or for some reason, to be ascribed to another.”

This last requirement seems to raise some doubt about the possibility of representing animals substantively. To begin with, animals are not the kind of creatures to which we can literally ascribe any of the actions a political representative would perform on their behalf. We will not say they have presented a motion, drafted a bill, or voted a resolution. Moreover, Pitkin (154) also claims that “the represented must himself be capable of action, have a will and judgment of his own ... Taking care of someone or something helpless or totally incompetent is not representing.” Although animals are not literally helpless or incompetent, whether they have a will and judgment of their own will depend on how we conceive of these requirements.

It would now seem that the “attribution of actions” requirement undermines the representation of animals from a conceptual standpoint. That would be, in my view, too quick. In responding to this challenge, I will pursue two different strategies, each one in a different subsection. First, I will assume that substantive representation requires ascription of actions to the represented and argue that, *as Pitkin understands the requirement*, animals *qua* represented subjects can indeed be ascribed actions. Second, I

will argue that, at any rate, ascription of actions is probably not a necessary condition of substantive representation.

5.2.3.2.1. Representing abstractions and representing interests

Pitkin's requirement that those who are substantively represented must be potentially attributed the actions of their representatives might seem to decisively rule out the possibility of representing animals substantively, as they cannot be *literally* ascribed the actions of their putative representatives. Interestingly, Pitkin herself does not think that the attribution must be literal, for she believes that abstractions, among which she includes interests, can also be substantively represented (154). Yet, as she is well-aware, "abstractions cannot literally act for themselves" (155).

But how can we ascribe actions to abstract entities which, literally speaking, cannot act at all? Pitkin's answer is that all that matters is that the represented entities or beings be *thought as* acting through the representative. It is all, she claims, "a matter of how we conceive the situation" (155). Unfortunately, she does not explain exactly what this means. Given her own framework and methodology, it could just mean that we are disposed to use the verb "act" (or cognate expressions) in our description of the situation, even if, on Pitkin's own admission, only in a purely metaphorical way. We often apply to abstractions verbs that, on a literal reading, would entail that their subjects are agents. But, as I said, this is speculative, for Pitkin does not elaborate on this point.

We do not, however, need her to do so in order to be able to make two points. First, we can claim (indirectly) that if the impossibility of literally ascribing actions to abstractions does not make such ascription meaningless, the impossibility of literally ascribing the actions of representatives to animals will also not render such ascriptions meaningless. Second, we can also argue (more directly) that if, on Pitkin's account,

abstractions can be substantively represented, and interests are a kind of abstraction, then nonhuman interests can be substantively represented.¹⁸⁵

5.2.3.2.2. Against the necessity of ascribing actions

But should we really be able to ascribe actions to someone in order for her to be genuinely represented in the substantive sense? At first glance, it does not seem true that, in general, we ascribe actions to interests when we say they are being represented. Consider the following utterance: “The US Republican Party really represents the interests of the wealthy.” This, I take it, is not a purely philosophical fabrication, but a perfectly natural expression. Its abstract schema, in fact, can be filled in various ways: “Party/individual/faction *X* really represents, or has failed to properly represent, *Y*’s interests.” But it does not seem that claims like these assume or attribute (either implicitly or explicitly) any action to the interests they refer to. The only attribution of actions involves the individual or group who does the representing (in fact, the action attributed is precisely that of representing). Similarly, we usually say that the president of our country is, in a sense, our representative, who can substantively represent our interests and wishes. But suppose I have never voted for my current president, and have also participated in demonstrations against her government, and written angry Twitter threads against her political party. Here, I think, I would not be attributed any particular action of my president. What I would be attributed would be the *normative consequences* of her actions—that is, I would be liable to acquire new duties or rights. But this kind of attribution, Pitkin claims in another section of her book, is only derivatively relevant to representation.¹⁸⁶

It might be argued that those examples just show that the way in which we currently talk about representation has changed since Pitkin wrote her book. But note that this would mean, first of all, that REPRESENTATION is not (or, at least, no longer) an invariant

¹⁸⁵ *Mutatis mutandis*, these two strategies can also be used to respond to the worry that animals are not capable of judgments of their own (at least, on the matters that might be relevant to political representation).

¹⁸⁶ “[T]he ascription of the action,” holds Pitkin (1967, 52) “is what is fundamental,” whereas “the ascription of consequences is but one kind of occasion or reason for ascribing an action whose consequences normally would fall on the actor himself.”

concept whose meaning has remained constant over the years. And, second, it would also entail that the concept, *as we use it now*, does not (or, at least, no longer) require that one be able to attribute actions to the represented themselves.

In response, it might be complained that this strategy leaves us without a satisfactory explanation for the distinction between buying a gift for my niece and substantively representing the interests of someone. Both actions involve acting on someone's behalf, in a manner that is responsive to their interests, so that cannot in itself explain the distinction. The "attribution of actions" requirement at least gave us a plausible candidate, but now we are sent back to square one. However, if my claims in this section are correct, attribution of action, its initial plausibility aside, was not really a successful explanation for such a distinction after all. We are then left with two alternatives. On the one hand, we can give up the very project of finding the necessary and sufficient conditions of an allegedly unified and roughly invariant concept of representation, as Pitkin herself appears to have ended up doing after coming into contact with Wittgenstein's philosophy of language. Maybe REPRESENTATION (the concept), or "representation" (the word), just do not have the kind of structure her project initially assumed. On the other hand, we could stick to Pitkin's variety of conceptual analysis and look for further candidates. At any rate, the impossibility of literally attributing actions to animals (the actions relevant to this context, of course, for animals can be attributed actions) does not show that animals cannot be substantively represented, for either attribution of actions needn't be literal, or it is not a necessary requirement of substantive representation in the first place. And, given Pitkin's claim that abstractions (including, among other things, interests) can be substantively represented, it seems safe to assume that animal interests can indeed be substantively represented. That would be enough to conclude that Pitkin's theory allows animals to be represented in one of the senses that is of relevance to the debate about the conceptual possibility of representing animals.

5.3. Pettit on political representation

5.3.1. Pettit's account

In this section I will discuss the potential applicability to animals of another influential account of political representation, developed by Philip Pettit in a series of papers (2010a; 2010b; 2013).¹⁸⁷ According to him, a crucial distinction can be established between two different modalities of representation: responsive and indicative. Suppose I am choosing who should be my representative in a certain context (e.g. a faculty meeting I cannot attend, in Parliament, etc.). There are at least two types of individuals that I can choose among. On the one hand, I can choose individuals that I justifiably believe will act according to my interests, preferences or values, regardless of whether they share them. These are *responsive representatives*, for they will respond to my interests and values independently of their own wishes and preferences. On the other hand, there are also individuals that will reliably advance my interests and preferences regardless of whether they have had any contact with me or not (e.g. because they are already committed to these values, or share those interests). These are *indicative representatives*, as they indicate how I would act like under similar circumstances. In this modality, representatives needn't be responding to my interests,¹⁸⁸ as they might not even know who I am.

Let us illustrate the distinction with a couple of examples. According to an idealized (but, for our purposes, quite useful) view, members of Parliament have incentives to align their actions with their voters' interests and preferences because otherwise they would be removed from office. The threat of electoral punishment if they ignore their voters' instructions shapes their behavior. That is a paradigmatic example of responsive representation, where representatives reliably respond to their constituents' interests and wishes, even when they do not share them (at least to the extent that they are motivated by a desire to remain in office). Consider, in turn, deliberative mini-publics—i.e. small assemblies of citizens grouped together to deliberate about a particular issue, guided and aided by experts, who provide them with the information necessary to form an opinion.

¹⁸⁷ Pettit also devotes some pages of his book *On the People's Terms* to this issue (Cf. Pettit 2012, 199).

¹⁸⁸ In order to avoid an unreadable repetition of the locution "interests, preferences and values" I will in what follows alternate between some of them. This must be understood as a shorthand for this more cumbersome formulation.

When participants constitute a random sample of the population, their post-deliberation beliefs are those that would be adopted by the electorate at large had they followed a similar deliberative process. Their post-deliberation judgments *indicate* what others very much like them would come to believe under analogous circumstances. Note, however, that those individuals are not responding in any way to the views and opinions of the general public (with which they do not even need to have had any contact).

Do animals fit within this account? If we follow Pettit's own words, it seems the answer is no, for he has explicitly claimed that "[n]o individual or body can count as the representative of another unless selected or authorized to act in that role" (Pettit 2013, 138).¹⁸⁹ And, since animals are not able to give this sort of authorization, that puts an end to the discussion. However, this conclusion is too premature. On the one hand, it is an open question whether Pettit is really committed to the claim that we cannot represent animals politically. On the other hand, even if Pettit himself really believes so, it remains a further question whether he *ought* to. That is, it is an independent question whether his *theory* really requires us to rule out the political representation of animals. In the following subsections I will tackle each of these two questions.

5.3.2. The political representation of animals, responsive and indicative

With regards to the first question, I think there are some reasons not to take Pettit's words too literally. His 2013 article "Meritocratic Representation" does indeed begin with the assertion quoted above. But it can be useful to see how this quote emerged from Pettit's earlier work on representation. In a previous text on the subject, Pettit (2010b, 426) endorsed a conditional or stipulative (rather than categorical) formulation of the above claim: "*Let us assume that one party, A, represents another, B, if and only if A, with B's authorization, purports to speak or act for B*" [Italics are mine]. Why would we want to make such an assumption? Pettit himself (2010a, 61) hints at one possible reason when he says: "My focus in this chapter is representation on [its] democratic, popularly enabling sense." "Thus," he concedes, "the target of this chapter

¹⁸⁹ In his latest work, Pettit has focused more on "control" than on "authorization." Nevertheless, I do not think this alters the basic nature of the present challenge (animals cannot control power-wielders any more than they can authorize them), so I will stick to "authorization," if only for the sake of simplicity.

is narrower than it might have been.” Pettit’s project, then, is not to offer a complete account of political representation, but only to analyze those aspects that are relevant for, or intersect with, issues regarding self-government and democratic legitimacy. But this is compatible with political representation obtaining, and constituting an interesting phenomenon in its own right, also in cases in which self-government is not possible—that is, where no control can be exercised or where no authorization can be given. If this is correct, we might not, after all, worry too much about his seemingly categorical claim about the necessity of authorization.

But, regardless of what Pettit himself might think about the question, it is an interesting question whether his theory allows for the representation of animals. Does this theory become unrecognizable if we apply to beings who cannot authorize their representatives? Consider, in the first place, responsive representation. According to Pettit (2010a, 71-77), this modality of representation admits of two different manifestations: directed responsiveness and interpretive responsiveness. In the first case, representatives are bound by a set of directives, explicitly or implicitly issued by their constituents. In the second, the potential constituency can issue no directives, either because their members are individually incapable of doing so or because they are unable to form coherent and stable group attitudes, and the representative enjoys a larger interpretive leeway as a result. For this reason, says Pettit (2010a, 74), interpretive representation becomes unavoidable when the represented “is a minor.”

Since animals have interests, to which one can respond in various ways, they can be represented in the responsive sense. Now, because they cannot issue directives to their representatives, an important degree of interpretation will have to be exercised. Thus, on at least one modality (interpretive responsive representation), animals seem to be *bona fide* objects of political representation. In fact, these reasons why this is so are analogous to those that led Pettit to apply this category to minors, as we saw in the previous paragraph. Plausibly, the absence of authorization makes it harder to monitor the tracking process and correct it when it deviates too much. So, it is true that, without authorization, representation may be harder to secure and less stable. But this just means that the representation of animals would be more fragile than that of humans, some degree of fragility being an inescapable feature of political representation.

Indicative representation constitutes, I think, a tougher nut to crack. The behavior and actions of indicative representatives allow us to infer certain features of the represented: facts about their identity, their actions, their interests, and values. As Pettit (2010a, 65) puts it: “Indicative representers stand for the representees in the sense of typifying or epitomizing them; *how they act is indicative of how the representees would act*” [Italics are mine]. Although we might possibly have representatives for animals from whose actions we could reliably infer facts about animals, I do not know whether these would include facts about how animals might act under similar circumstances. Consider a very reliable and competent advocate for animal rights, who favors the abolition of factory farming. From her actions, it seems, we might infer that the abolition of factory farming would help protect animal interests. Now, does this also indicate that this is what animals would do? Does the abolition of factory farming fall within the set of actions possibly realizable by animals? Surely, were animals to become autonomous individuals, they might want to act so as to abolish factory farming, but I am unsure about how to evaluate counterfactuals as remote as this one. Because I would prefer to avoid these issues, I will leave indicative representation aside. After all, all that our argument needs has already been accomplished in the previous paragraph. Allowing for the possibility of representation without authorization does not make Pettit’s account of representation unrecognizable, since it is compatible with at least one of the modalities of representation that the theory contemplates: namely, interpretive responsive representation.

It might be replied that the representation of children can be in fact authorized by third parties, so we do not have to drop the authorization requirement after all in order to account for the possibility of their representation. Indeed, right after mentioning the case of minors, Pettit (2010a, 74) notes that “here authorization may be supplied by a court.” On this broader view, one might claim that authorization is always required, but it needn’t be given by the represented themselves; when they cannot do it, others can do it for them. Let us assume, for the sake of the argument, that this is correct. In that case, I think, we could simply extend that same strategy to animals: although they are unable to authorize their potential representatives, others can nonetheless do it for them. Even if some version of the authorization requirement was really unescapable, we would still not be forced to rule out the possibility of representing animals politically. So, I

conclude, animals can also be genuine objects of political representation in Pettit's theory.

5.4. Mansbridge on rethinking representation

5.4.1. Mansbridge's four models of representation

In this section, I discuss Jane Mansbridge's account of representation, as developed in her influential article "Rethinking Representation" (2003). There, Mansbridge laments that "the normative theory of what constitutes "good" representation has not kept pace with current empirical findings [about actual representative practices and institutions]" (Mansbridge 2003, 515). Normative theories of representation, she claims, are in serious need of updating. If we want to make any progress, we must adopt a more expansive account of political representation. As she puts it, "empirical work in the last 20 years has identified *at least three other forms of representation* [apart from those typically discussed by representation theorists]" (Mansbridge 2003, 515. Italics are mine).

According to Mansbridge, representation theorists have focused mainly (or in some cases, even exclusively) on one form of representation, *promissory representation*. Promissory representation is modeled on the principal-agent schema. There is an agent (the representative), who makes some promises to a principal (the represented). If the principal so wishes, she can, by authorizing her, empower the agent, thus bringing about a relationship of promissory representation. On this model, the focus rests on the authorization of the relationship, the quality of which (from a normative standpoint) depends on whether or not the promises are kept. Moreover, the traditional notion of accountability is at play: if the represented believe their representatives have not kept their promises, they can withdraw their authorization.

One of the main characteristics of promissory representation is that everything occurs in a linear manner: first, promises are made, then authorization is given, and finally the agent is evaluated and held accountable for her actions. But, according to Mansbridge, representation seldom has this linear structure; if representation equals promissory representation, then representation is actually a very rare phenomenon.

Fortunately, political scientists have identified various additional phenomena, which do occur regularly, and which can be productively understood as forms of representation. These additional varieties of representation Mansbridge calls anticipatory, gyroscopic and surrogate. *Anticipatory representation* is inspired by the so-called retrospective theory of voting, the proponents of which argue that voters do not decide who to elect on the basis of what the candidates promise, but by looking back to their past behavior.¹⁹⁰ In the anticipatory model of political representation, there is also an agent and a principal, but the relationship is more complex. Here, the representative does not seek to maximize the fulfilling of the promises she has made to the electorate in the past. Instead, she acts so as to increase her likelihood of being reelected. In other words, she represents the electorate by anticipating what she might be punished or rewarded for in the next election. In Mansbridge's view, the quality of anticipatory representation depends in turn on the quality of the deliberation between representatives and their constituents throughout a given term. Moreover, anticipatory representation lacks traditional accountability, in that the representative must "anticipate" the terms of the representative relationship, often even before the represented themselves have formed preferences about them.

Gyroscopic representation is very different from the preceding models. In both promissory and anticipatory representation, voters have some direct control over the preferences of their representatives, and they can incentivize their behavior. But gyroscopic representatives do not need such external incentives, for they have already internalized a particular set of principles and values, and can be reliably expected to act on them. Voters do have some *indirect* control over their representatives, though. How? Quite simple. Although they cannot determine the content of the values the representatives embrace, they can determine whether they occupy positions of power or not—they can, in James Fearon's (1999) words, "select good types."¹⁹¹ Thus, a gyroscopic representative is one who i) has internalized a set of principles, ii) regularly and predictably acts on the basis of these principles, and iii) is elected *because* she is

¹⁹⁰ For a useful survey and discussion see Healy and Malhotra 2013.

¹⁹¹ As Mansbridge (2003, 521) puts it: "In all versions of gyroscopic representation, the voters affect political outcomes not by affecting the behavior of the representative ... but by selecting and placing in the political system representatives whose behavior is to some degree predictable in advance based on their observable characteristics."

taken to possess features i) and ii). In this model, traditional accountability is insufficient: although, to be sure, there is accountability between representatives and their constituents, gyroscopic representatives also feel accountable to their own principles and values (i.e. they see themselves as acting *in their name*). According to Mansbridge, two variables are relevant to judge the quality of this kind of representation: first, the quality of the deliberation during the authorization process (i.e., the elections), and second, the flexibility of the political system (i.e., how easily we can select, maintain or remove a particular representative within that system).

Finally, we have *surrogate representation*, which Mansbridge (2003, 522) defines as “representation by a representative with whom one has no electoral relationship—that is, a representative in another district.” Traditional models of representation often assume that, however we define the relationship between representatives and their constituencies, they both belong to the same district.¹⁹² But surrogate representatives trespass these geographical boundaries, for they represent the interests or preferences of people who do not belong to their electoral districts, and thus could not have possibly voted for them. To illustrate this, Mansbridge uses the case of Barney Frank, a former member of the US House of Representatives. Frank, an openly gay Democrat from Massachusetts was seen by many as representing the interests of gays and lesbians living in other states. And when these people cannot provide significant input into decision-making (not at least through the channels offered by their own districts), this becomes important. In Mansbridge’s view, the normative criteria through which we can judge surrogate representation are twofold: first, given democracy’s aggregative elements, it matters whether conflicting interests are represented in proportion to their numbers in the population. Second, given democracy’s deliberative aspects, it also matters whether all important perspectives enjoy some degree of representation.

5.4.2. Rethinking representation (for animals)

Does Mansbridge’s taxonomy of political representative leave any space for the representation of animals? Let us start with promissory and anticipatory forms of representation. On these two models of representation, animals cannot be represented.

¹⁹² The so-called theory of virtual representation might be an exception.

Even if we relax the assumption regarding the electoral nature of representation, the fact remains that both accounts set requirements that animals cannot meet. In the promissory model, representation requires that promises be made by the representative to the represented, on the basis of which the latter can then decide whether they empower the former. But animals are not capable neither of understanding promises nor authorizing any representative relationship. Similarly, the anticipatory model requires that representatives anticipate how their constituents will evaluate their actions in the next election. This assumes, in turn, that the represented can punish or reward the representative for her actions. But, once again, this is not possible in the case of animals. There may be cases in which animals do authorize us to do something (in a very loose sense of authorization—i.e. by not resisting),¹⁹³ and there may also be cases in which animals do resist some of our actions (i.e. by reacting angrily). When I play with my dog, and he brings the toy back, that can be understood as a positive feedback mechanism of some kind. But these are all cases in which actions and their effects are relatively simple and not dispersed through a broad network of complex institutional structures which only beings with certain cognitive capacities can understand, and only when a vast cultural infrastructure is in place. My dog can certainly associate me with the toy, but it cannot associate the actions of someone he has never seen with a temporally distant event (which he also ignores) having a certain positive or negative effect on his well-being.¹⁹⁴

Perhaps it might be replied that here I am assuming that the animals themselves must be doing all this work. But this need not be the case. Jennifer Rubenstein (2007), for instance, has argued that in some cases accountability can be exercised by parties other than those primarily affected by the decisions of a decision-making body. Decisions affecting individuals who live in countries where political liberties are absent, or who cannot organize themselves politically (because of want of institutional capacity or collective-action problems), can still enjoy some degree of *surrogate* accountability, if there are other parties (such as NGOs) who try to do the work the affected cannot do by

¹⁹³ See Healey and Pepper 2021 on assent.

¹⁹⁴ Some political scientists have claimed that human beings are also quite bad at this (See, for instance, chapters 4-7 in Achen and Bartels 2016. For a response, see Stokes 2018). If that is the case, then the promissory model of representation will have explanatory limitations even for humans (something which, by the way, Mansbridge does already accept).

themselves. Maybe, the reply goes, surrogate accountability can operate as well in the case of animals—through the work of animal protection organizations, for instance. Interesting as this suggestion may be, it does nothing to address this particular problem. Perhaps surrogate accountability can help us accommodate animals within the landscape of political representation, but not through the model of either anticipatory or promissory representation. As its name indicates, surrogate accountability is, at best, part and parcel of the surrogate model of representation.

Indeed, it seems that the surrogate model offers a more promising alternative. As we have seen, surrogate representation requires that the representative stand for the interests of individuals living outside their electoral districts. This might be due to the actions of a representative being on behalf of the represented group (in the case of Barney Frank, defending the rights of gay individuals) or to the representative's identity corresponding with that of its surrogate constituents (being himself a gay person). For obvious reasons, I will focus only on the former type of cases.

A further ambiguity concerns the role of elections in surrogate representation. As we have seen, Mansbridge characterizes surrogate representation as that performed “by a representative with whom one has no electoral relationship—that is, a representative in another district.” The first half of the definition supports a broad interpretation, in which surrogate representation does not require any sort of electoral relationship. The last bit of the definition, however, supports a narrower reading, in which surrogate representation requires some sort of electoral bond, even if it is not a direct bond between the surrogate representative and its surrogate constituency. So, for example, even if Barney Frank needn't establish an electoral bond with gay citizens living outside his district, he must have at least been elected in some district.

If we drop the electoral assumption, the surrogate model can be applied to the case of animals. For, if the assumption is dropped, surrogate representation would merely require a representative to stand for the interests of some group of individuals, regardless of whether there is any electoral connection. Such a low threshold seems easier to meet. Consider, for instance, the case of animal parties—the Dutch Party for the Animals, the Spanish PACMA, the Animal Protection Party in Germany, the Animal Welfare Party in the UK... All of these parties claim to be acting for the interests of at least some groups of animals. As long as the members of those parties are being faithful,

it seems possible to say that they are representing in a surrogate manner the interests of these animals.

Of course, one might ask why we should drop the electoral requirement. Two answers are available. First, it might be argued that this move is permissible under a theory like Mansbridge's. As I understand Mansbridge's argument, the electoral requirement is not a definitional element of surrogate representation, but merely a feature of the particular cases she focuses on. If Barney Frank can represent individuals who have not (who could not have) elected him, why should it matter (for this particular representative relationship) whether he has been elected by some other constituency? Second, it can also be argued that dropping the electoral assumption would better comply with Mansbridge's two criteria for normatively desirable surrogate representation. On the one hand, representing animals would ensure that deliberative processes can incorporate important perspectives that are usually neglected. On the other hand, it would also ensure that, in cases of conflict, their interests are at least taken into account.

One objection is that, since animal parties would be elected by humans,¹⁹⁵ they would be representing humans. This objection states that because humans will be represented as well (perhaps according to the promissory or anticipatory models), animals cannot be represented. But this implausibly assumes that two or more constituencies cannot overlap. In the case of animals, there will be at least two constituencies: one involving humans, the other involving animals. With regards to the former, anticipatory or promissory models of representation might be relevant. Yet this is compatible with the latter constituency being represented as the surrogate model indicates. To illustrate, let us consider again the case of Barney Frank: though he was selected through the ordinary electoral mechanisms by the members of her geographically-based district (constituency 1), he was also representing the interests of some members (i.e., gays and lesbians) of other districts who had no direct electoral control over him (constituency 2). However, the fact that he was chosen by the members of constituency 1 did not rule out the possibility of an additional representative relationship—of a different sort—with the members of constituency 2.

¹⁹⁵ This fact shows that, even if it were true that surrogate representation required some electoral relationships to be in place, that would still not disqualify the representation of animals. For even in this case there would be—in fact, there must be—some electoral relationship.

I will now turn to gyroscopic representation, and its applicability to animals. In her book *Governing Animals*, Kimberly Smith (2012) discusses the case of Charlotte Laws, an animal rights activist from Los Angeles. In 2004, Laws was elected member of the Greater Valley Glen neighborhood council. One of her first initiatives was to promote the creation of a new office called the Director of Animal Welfare (DAW), a position for which she was subsequently appointed. Among other things, the DAW can bring policy proposals to the neighborhood councils, who can in turn bring them to the city council. Though it is true that these are quite limited powers, the example is illustrative. For one thing, Laws is clearly working on behalf of animals. And, what is more interesting, she regards her actions as being guided by her commitment to animal well-being—that is, she sees herself as being intrinsically motivated by certain values and principles. As Smith (2012, 113) notes: “[W]hen I asked Charlotte Laws to whom she was accountable, she did not refer to campaign contributors or to the neighborhood council that appointed her; she cited her own commitment to animal rights. In other words, she holds herself accountable to the principles that have guided her public career.” On the face of it, these appear to be exactly the kind of features that the gyroscopic model of representation aims to capture.¹⁹⁶

Here, the skeptic might complain that there is no reason to take Laws’ words at face value. After all, humans are not very good at introspection. In many cases we are simply unaware of many of the factors that guide our actions. Perhaps when Laws claims to be acting mainly on the basis of her own moral principles she is just rationalizing a more complex and “tainted” set of motivations, which might have been (at least partly) shaped by several other—more mundane—factors. This skepticism, however, generalizes very quickly. For every case of potential gyroscopic representation, we can always ask how we can know that the representative is solely motivated by her commitment to certain principles. Maybe there are no pure gyroscopic representatives. So what? A certain degree of idealization is often helpful when you want to show the virtues of a new taxonomy. But that does not mean that a phenomenon cannot occur in the real world, even if it occurs in more complex and gradual ways—that is, with the behavior of representatives being, *to some extent*, intrinsically motivated by moral

¹⁹⁶ In fact, the bylaws for the project describe it as providing “a voice and a form of political representation for nonhuman animals” (Quoted in Smith 2012, 109).

principles and values. Gyroscopic representatives (as ideal types) may be described as lacking (or at least not needing) external incentives, and as being exclusively motivated by their commitment to a set of core values. And one could surely say that there is nothing in the world that fully satisfies this description. But that does not rule out certain candidates being closer or further to the ideal, so that they display to a greater or lesser degree the features typical of an ideal gyroscopic representative.

Another objection is that there seems to be no important difference between gyroscopic representation and surrogate representation once we drop the electoral requirement. There is some truth in that, for every case of gyroscopic representation (applied to animals), there will also be a case of surrogate representation, which we defined as the representation of those interests with which one has no electoral relationship. Now, the opposite is not true. Some cases of surrogate representation (when applied to animals) might not be cases of gyroscopic representation. Suppose Charlotte Laws' actions were fundamentally motivated by a promise she made to her son. If everything else remained equal, she would still be representing the interests of animals in the surrogate sense. Yet she would not be representing animals in the gyroscopic sense, for her actions would not be guided by a previously internalized set of principles.¹⁹⁷

We can conclude then that of the four models of representation Mansbridge presents, at least two (the gyroscopic and surrogate types) can be applied to animals, once we cease to assume that representation must always be mediated through ordinary electoral processes. As I have argued, there are some circumstances in which relaxing this assumption is potentially fruitful.

5.5. Positivist theories of representation

In this section I address one family of views about political representation, which I shall call—following Schweber (2016)—*positivist* theories of representation. Positivist theories of representation assume that political representation can be fully characterized without appealing to any kind of normative or evaluative considerations (such as

¹⁹⁷ Of course, she might have internalized principles about keeping promises. But that seems to trivialize gyroscopic representation, since every time a representative acts she must have internalized *certain* principles.

authorization, legitimacy or responsiveness to interests).¹⁹⁸ Although these considerations might be relevant for the moral evaluation of political representation, they do not define it. Anti-positivist theories of representation, on the other hand, believe that no fully satisfactory theory of representation can dispense with normative considerations.

In this section I will consider two influential—and explicitly—positivist theories: Michael Saward’s (2010) constructivism and Andrew Rehfeld’s (2006) audience-based account of representation. I will argue that these two theories, which are fairly minimalist, can easily accommodate the political representation of animals.

5.5.1. Saward on representation as claim-making

Political representation, suggests Michael Saward, is a social construction. Of course, no contemporary theorist would deny this much—although a lot will depend on how “social construction” is defined—so we must be more precise about what that means. The main intuition behind Saward’s account is that we should see the political representative as a kind of artist. What she creates are quite peculiar and precious artifacts: an image, or a model of her constituents as having such and such features, or having such and such interests. Every representative claim, argues Saward, contains a carefully crafted representation of those it purports to represent. As he puts it: “There is an indispensable *aesthetic* moment in political representation because the represented is never just given ... A representative ... has to mould, shape, and in one sense construct that which is to be represented. She has to be an artist, to operate aesthetically, to evoke the represented” (Saward 2010, 74).

According to Saward, representation is best understood as a process of *claim-making*, in which “[a] *maker* of representations (‘M’) puts forward a *subject* (‘S’) which stands for

¹⁹⁸ Whether “authorization” or “responsiveness” are normative notions is controversial. In a sense, they clearly are, for they involve a standard or norm that tells us when some action deserves a certain status (e.g., when an action has been authorized or is responsive). But this kind of normativity has no obvious link with morality. The actions of a henchman may be authorized by a Mafioso leader, or be responsive to his desires, but that does not make them morally permissible at all. So, in one sense, these notions are normative, but in another, they are not.

an *object* ('O') that is related to a *referent* ('R') and is offered to an *audience* ('A') (Saward 2010, 36). For instance, an elected representative (maker) may present herself (subject) as acting for the interests of her constituents (object) in Parliament (audience).¹⁹⁹ Or, to use one of Saward's own examples, "Marx (maker) offered the working class (subject) as the symbol of revolutionary hope (object) to the would-be members of that class (audience)."²⁰⁰

From this, he thinks, we can conclude at least two things:

- i) Political representation is not an outcome that can be achieved at any particular moment in time, but an ongoing—and never fully finished—process (for representative claims are being constantly made and contested). In Saward's terminology, representation is not a *presence* but an *event*.
- ii) There is no reason for political representation to be restricted to electoral settings. A variety of political actors can make representative claims (i.e., claims to be acting on behalf of, or standing for, a particular group or individual), and only a very small subset of them can be authorized pursuant to ordinary electoral mechanisms.

Political representation is a social construction, not because it is a social phenomenon, but because it involves constructing an image of the represented as having certain features and interests. As Lisa Disch (2015, 488) has usefully summed it up, the core of constructivism is the idea that "political representation in mass democracies functions more creatively, generatively and dynamically—as theories of representation in culture, literature, and the arts would predict—than statically and "unidirectionally"—as the prevailing normative theory of representative democracy prescribes."

This last point is crucial. In the late 60s, Hanna Pitkin (1967, 140) had argued that "the represented must be somehow logically prior [to their representatives]." But it is precisely this assumption (unidirectionality) that Saward wants to call into question. Here it is important to note that there are some ways in which the representatives can be prior to the represented that Pitkin does not need to reject. For instance, consider what

¹⁹⁹ The particular flesh-and-blood individuals would constitute the referent.

²⁰⁰ Saward 2010, 37.

we may call the *looping effects of political representation hypothesis*.²⁰¹ According to this hypothesis, representatives create the groups they purport to be acting for, simply by offering images of these groups that previously unrelated collections of individuals end up internalizing (of “feminist women” as advocating the abolition of prostitution, or of the “poor” as being responsible for their predicament). Just as labeling individuals can modify their performance in various task, representation may be able to alter individual and collective self-images and senses of identity—giving rise precisely to groups with those identities. Whether that is the case is an empirical question, of course. However, this is a thesis about *causal* precedence (which Pitkin says nothing about), not about *logical priority*. Saward’s view, in order to be distinctive, must make a stronger claim: it is not enough to provide a *causal* story about how representatives might bring about the groups they claim to represent, but a *constitutive* explanation about how representative claims can create their own constituencies—not the flesh-and-blood individuals, of course, but the portrayal of the represented as beings with distinct interests and preferences.²⁰² For the purposes of this section, we need not get into such details, as all that we need so far can be provided by the schema introduced above. In a later section, I will have to say more about the rejection of unidirectionality.

5.5.2. Rehfeld on representation as audience-recognition

In his 2006 article “Towards a General Theory of Political Representation,” Andrew Rehfeld defends an account of representation that is even more minimalist than Saward’s. According to Rehfeld, facts about representation are mainly (or exhaustively) determined by facts about the target audience—namely, whether the audience, following certain rules of recognition, acknowledges one particular representative claim as valid. In Rehfeld’s own words: “Whether one *is* a representative is a fact of the matter that corresponds to whether an audience recognizes a claimant as such” (Rehfeld 2006, 6 n. 13).

²⁰¹ Here I am paraphrasing an expression by Hacking 1999, 34.

²⁰² To understand the distinction between causal and causal constitutive explanations think of an ordinary middle-sized object like a table or a chair. These objects are constituted by particles, but they are not caused by them. See, for illustration, Dasgupta 2017, 75-78.

Let us illustrate this with a phenomenon that puzzles Rehfeld: the possibility of *undemocratic* representation. The ambassador of the People's Republic of China to the UN is clearly not himself a democratically elected official, nor has he been appointed by a democratically elected government. Yet there seems to be some sense in which he is and acts as a representative. Or, as Rehfeld (2006, 2) puts it, "when Nikita Khrushchev slammed his shoe on the podium at the United Nations observers had no problem recognizing that he was the representative of the Soviet Union ... despite his failing to have conformed to any reasonably democratic norms." In both cases the relevant individuals are taken to be representatives of some sort. And what is more important, their actions have significant consequences over those in whose name they purport to speak. Now, if political representation must conform to democratic norms, undemocratic representation would be a non-starter. Because Rehfeld thinks this is implausible, he proposes a minimalist account of representation which clearly separates the conditions under which representation obtains from the conditions under which representation is legitimate or morally acceptable. On his account, the Chinese ambassador to the UN and Khrushchev could count as representatives because the relevant audiences at the time, following a shared rule of recognition, so considered it. Note that this is a positivist theory insofar it merely "describes facts about the political world without necessarily appealing to normative standards of legitimacy or justice" (Rehfeld 2006, 2).

On this last point, Rehfeld and Saward's accounts coincide. But they depart in at least two ways:

- i) Unlike Rehfeld, Saward does not believe that facts about the audience exhaustively determine the facts about political representation. Audiences, in his view, are partly responsible for the existence of a representative claim, but only in concert with the other elements in his scheme (the maker, the subject, the object...).
- ii) Unlike Saward, Rehfeld does not have a theory about the nature of representative claims (that is, whether they are the creations of a maker or something else). This is mainly because, on Rehfeld's account, the maker of representative claims is at best derivatively relevant to political representation.

Audiences determine not only whether representation obtains, but also whether (and if so, how) claim-makers are relevant to this assessment.

5.5.3. Positivism and animals

On Saward and Rehfeld's theories of political representation, I believe, there is nothing that prevents animals from being politically represented. In fact, this should not be excessively surprising. Perhaps the most fundamental objection to the possibility of representing animals politically is that only beings who can possibly authorize or contest their representatives are genuine subjects of representation. But, as I noted earlier, neither Saward nor Rehfeld's proposals make any such demand. Authorization and contestation might be relevant in order to assess whether a particular instance of representation is democratic or not, but the very existence of representation does not depend on that.

Let us see with some more detail how both theories could accommodate the representation of animals. Animal parties—like the Party for the Animals in the Netherlands, PACMA in Spain, the Animal Welfare Party in the UK, etc.—often make representative claims on behalf of animals. And so do many animal welfare organizations and animal rights groups. On a view like Saward's, these claims will bring about genuine processes of representation whenever they adjust to the schema we introduced earlier, which requires a maker of representations putting forward a subject as standing for an object—related to a referent—and offering this image to an audience. At first glance, there is no reason to think that the claims of these groups and organizations violate any of these conditions. So, for example, we could say that the members of the Party for Animals (the makers) offer themselves (the subject) to an audience (the Dutch electorate) as standing for the interests (the object) of the animals within the country's borders (the referent). Similarly, Charlotte Laws presents herself to the neighbours of the Greater Valley Glen as standing for the rights and interests of the animals living in the area. Of course, it is an open question whether in those particular cases the audiences will acknowledge the validity of the claim. But even if they did not, that would not constitute a principled reason to oppose the representation of animals as such. For some particular representative arrangement to count as possible on Saward's theory, it must be able to satisfy its schema. And this requirement, I submit, can be

satisfied in the case of animals. Indeed, Saward (2010, 83) himself seems to explicitly acknowledge this possibility when he claims that “the rise of new claims to represent ... nonhuman nature and future generations,” is part of “a range of broad trends suggesting that the time is ripe for a reassessment of nonelective representative claims.”

Similar conclusions follow if we endorse a purely audience-based account like Rehfeld’s. Again, the representative claims put forward by animal parties and advocacy groups do not seem to possess any feature that disqualifies them as potential exercises of representation. As we have seen, on this theory “[w]hether one *is* a representative is a fact of the matter that corresponds to whether an audience recognizes a claimant as such.” In the case of animals, audiences may be more or less disposed to acknowledge the validity of these claims (for example, the claims made by the Dutch Party for Animals, or the claims made by Charlotte Laws), but if they do, the claimants will *ipso facto* become genuine representatives for animals. It is, admittedly, difficult to know who counts as *the relevant audience* in a given context, but that reflects a more general worry about Rehfeld’s theory. As in the case of Saward, the existence of these kind of claims partly motivates Rehfeld’s discussion (Cf. Rehfeld 2006, 1).

5.6. Further discussion

In the remainder of this chapter, I address two further issues. First, I discuss and criticize an argument by political scientist Howard Schweber against the possibility of representing politically beings who cannot authorize or contest the claims of their putative representatives. Second, I argue that defenders of the political representation of animals should not focus too much on positivist theories of representation. To begin with, the insensitivity of these theories to matters of responsiveness disconnects them from the kind of considerations that typically motivate the proposal. Moreover, on at least one reading, constructivism expresses a skeptical attitude towards the very idea of responsiveness that is even more threatening.

5.6.1. Representation without authorization: a response to Schweber

In his article “The Limits of Political Representation,” Howard Schweber (2016) argues that beings who cannot authorize their political representatives, or contest their claims, cannot be genuinely represented. This affects very young children, future generations and, of course, animals. According to Schweber, it also affects positivism about political representation in general—since, on a view like his, it follows that political representation cannot be purely characterized without appealing to at least one normative consideration (i.e. authorization). In this section I will challenge Schweber’s argument. On the reading of his argument in which those conclusions follow, I argue, Schweber and his opponents are simply talking past each other. This reading, moreover, is not best supported by other things Schweber says. I should emphasize that my discussion is only concerned with Schweber’s (theoretical) arguments against the extension of political representation to beings who cannot authorize their representatives. Whether the argument is successful in challenging positivism is something I will not discuss.

5.6.1.1. Schweber’s argument

Schweber’s main argument can be schematized as follows:

1. All representative claims involve legitimating principles that purport to justify certain facts about representation (*Legitimizing condition*).
2. The legitimation of a representative claim requires that its putative constituencies be able to contest it and authorize it (*Authorization requirement*).
3. In order for a group to constitute a constituency, its members must be able to authorize and contest representative claims addressed to them (*Active role of constituencies*).

Before discussing what I take to be the most problematic premise (the Authorization requirement), I will say a bit more about each of them.

A. The Legitimizing condition

Schweber’s argument rests on a particular conception of political representation. The core of this view is the idea that all representative claims involve a presumption of legitimacy. All such claims aim—at least implicitly—at justifying certain facts about representation (be the actions of the representative, her very standing as a representative, or the exclusions of a particular system of representation—i.e. all those groups and individuals that are set aside²⁰³). As he puts it, “[a] conception that is not sufficiently robust to generate legitimating principles for a set of representative limits is not a genuine political conception of representation” (Schweber 2016, 384).

This seems indeed plausible to me. No sensible political representative would expressly claim, or implicitly suggest, that there is something illegitimate about her actions or standing as a representative, or about the broader representative system within which she operates.

As it stands, however, the Legitimizing condition is ambiguous between two readings:

LC1) Representative claims involve legitimating principles that *purport* to justify certain facts about representation.

LC2) Representative claims involve legitimating principles that purport to justify—and *must in fact justify*—certain facts about representation.

On the first reading, the pretension of legitimacy of a representative claim is realized whenever the representative intends or pretends her claims to be legitimate. On the second reading, however, a claim should not only be presented as legitimate, but ought in fact to be legitimate, in order for it to constitute a valid representative claim. At some point, Schweber (391) claims that “political representation is a system of *legitimized* action,” indicating, in my view, that he accepts something like LC2.

²⁰³ In his article, Schweber contends that the presumption of legitimacy applies fundamentally to the exclusions of a representative system (those who get—or not—represented), but this restriction might be unnecessarily strong and I will drop it in order to strengthen his argument.

B. The Authorization requirement

The Legitimizing condition, as I understand it, states that a representative claim necessarily involves a presumption of legitimacy, which must be satisfied (i.e. legitimized) in some way. Schweber, however, also believes that this presumption can only be satisfied if representative claims can be contested by the constituencies to which they are addressed. As he puts it, “[a] genuine claim to the status of representation entails a claim to legitimacy, which requires a relationship of authorization by a putative constituency” (383).

This further step is grounded in a particular conception of politics as the domain in which various claims are put forward contested by different actors. The actions of governments can be contested by other political parties, civil society associations, or private individuals writing angry posts on Facebook, and that is why they count as “political.” On the other hand, unborn generations and nonhuman animals, even if they can be represented in some sense, cannot be represented in “a robust political” way (383), as they lack the relevant “contestatory” capacities—i.e. as they cannot contest representative claims about them, those claims cannot be legitimized, and they thus fail to satisfy of the necessary conditions of political representation. As Schweber (388) claims: “A noncontestable representative claim is something like a nondefeasible proposition in science; it does not assert a relationship to any testable state of affairs.”

C. Active role of constituencies

In Schweber’s view, the defining conditions of political constituencies are no less stringent than those of valid representative claims. First, he claims, they must be plausible. Unicorns and all persons who were wearing blue on April 19, 1986 would thus be ruled out (391). Second, their membership conditions (i.e. those in virtue of which one belongs to a particular constituency) must also be relevant. “The set of living individuals who like the Beach Boys” possibly designates a real, and in principle identifiable, group of people. But it does not designate any *politically* relevant potential constituency, as there is nothing about one’s attitudes towards The Beach Boys that has

an obvious political import.²⁰⁴ Third, and most importantly, its members must be able to i) reach collective-action-enabling agreements, ii) enter into substantive normative relationships with their representatives, iii) accept the exclusions set by any particular system, and iv) deliberate with others and authorize their representatives (391).

Although the details are not fully fleshed out, these requirements are arguably traceable to the requirements set in the previous two premises. If valid representative claims are those that carry with them a pretension of legitimacy, which can only be satisfied if those addressed by the claim can authorize it or contest it, then only those groups of individuals capable of realizing these actions will qualify as *bona fide* potential constituencies. Because animals and future generations cannot be genuine addressees of valid representative claims, they cannot form any meaningful constituency.

5.6.1.2. Legitimacy without authorization

In this section, I will try to show why Schweber's argument fails to support its exclusionary conclusions. In doing so, I will challenge Premise 2 (The Authorization requirement). As I said earlier, I believe Premise 1 (The Legitimizing condition) to be quite plausible. But, in itself, this condition does not tell us much about the grounds of legitimacy (i.e. what it is that legitimizes a particular representative claim). This is the gap that the Authorization requirement attempts to fill. For this reason, this will be our main target (note, in addition, that if Premise 2 turns out to be ill-grounded, Premise 3 would lose its bite as well).

As we saw, Schweber believes that legitimacy demands, at the very least, the possibility of authorization. Otherwise, it would not be possible to contest political claims and actions. In general, the existence of a necessary link between legitimacy and authorization seems dubious. Actions affecting young babies, severely cognitively handicapped individuals, future generations and nonhuman animals can be described as legitimate and illegitimate, yet they cannot be authorized (in some cases because the affected individuals have not yet developed the required cognitive abilities, and in other cases because they will never develop them).

²⁰⁴ Of course, Schweber is well aware that whether this criterion has been satisfied or not will in most cases be highly controversial (391).

Of course, Schweber is not talking about legitimacy in general, but about political legitimacy in particular. But it is unclear what difference does this make, as paradigmatic political agents (e.g. governments, political parties, legislators) routinely make decisions that affect individuals without the ability to contest them, where at least some of these decisions appear to be potentially described as legitimate or illegitimate. Unless we want to conclude that these ascriptions are never appropriate, it seems that we should relax the link between legitimacy and authorization.

One plausible way to do this is by distinguishing those individuals with the ability to authorize those who act or speak in their name from those who do not. Regarding the former, the link between legitimacy and authorization seems quite plausible. Even if individuals can be legitimately forced to do things that they have not authorized, they should at least have enjoyed the opportunity to do so (e.g. by participating in a fair decision-making process). Regarding the latter, however, the link between authority and legitimacy seems perfectly dispensable. When our actions affect individuals who cannot authorize us, or contest our actions, legitimacy must be grounded in other kinds of considerations—at least to the extent that we want to say that these actions can be legitimate. This is, after all, one of the main reasons why paternalism appears to be more acceptable when it involves very young children, or severely mentally handicapped adults. In those cases, an adequate protection of someone's interests, for instance, can provide an acceptable standard of legitimacy. But if that is the case, Premise 2 would be false.

It might be argued that Schweber understands “political legitimacy” in a narrower sense. As I mentioned above, he seems to understand politics as the domain in which different claims and decisions can be contested, regardless of whether this use of “political” is able to capture paradigmatic cases of political actions, such as the actions of governments, legislators or political parties. On this conception, for a claim or action to be legitimized simply means not to have been contested too much. This does not, however, imply that contestation should be done by those referred to or affected by a representative claim. On the contrary, NGOs routinely contest the actions of national governments and international bodies when they affect individuals who lack the institutional infrastructure and collective action capacity necessary to even enjoy a meaningful opportunity to contest those actions by themselves. In cases like these,

accountability is surrogate.²⁰⁵ Even this narrower conception, it seems, is not enough to support Premise 2.

One could, of course, stipulate that “political legitimacy,” in this context, necessarily requires the possibility of authorization by those directly addressed by a representative claim. Now, if Schweber’s point is merely that on a stipulative definition, animals, future generations or very young children cannot, by definition, be politically represented, then I am afraid that he and his opponents are merely talking past each other. Although the latter do care about contestation (see, for instance, Dryzek 2000), they do not assume it to be a definitional feature of the political domain—or at least not under the assumption that the affected themselves must be able to authorize and contest. If that is correct, then I do not think Schweber has successfully addressed his rivals.

A more general problem with this strategy, I believe, is that it makes certain features of Schweber’s argument less plausible than they would be if we adopted a broader notion of legitimacy. Let us go back, for a moment, to our final version of Premise 1, as we developed it earlier:

All representative claims involve legitimating principles that purport to justify (and must justify to some extent) certain facts about representation.

Is this claim true? If we ask whether representative claims always involve a presumption of legitimacy (in the broad sense) that vindicates certain facts about political representation, the answer seems to be yes. Political representatives present themselves and their actions as being justified and legitimate. But things are less clear if we ask whether representative claims always involve a presumption of legitimacy in the narrower, stipulative, sense. To be sure, some of them may do. But there seem to be putative representative claims whose presumption of legitimacy has nothing to do with the possibility of authorization or contestation.

Consider, for instance, the apparent representative claims made by non-democratic and authoritarian leaders. For many years, the restriction of civil and political liberties in Singapore was carried out in the name of certain deeply-rooted “Asian values.” As Lee Kuan Yew, Singapore’s prime minister for many decades since the country’s independence, once put it: “What Asians value may not necessarily be what Americans

²⁰⁵ Rubenstein 2007.

or Europeans value. Westerners value the freedoms and liberties of the individual. As an Asian of Chinese cultural background, my values are for a government which is honest, effective and efficient.”²⁰⁶ Such actions were presented as representing Singaporeans’ real preferences and true values, but they did not have much to do with authorization or contestation—since, in fact, what these actions did was reducing the scope of both.

Similarly, when NGOs claim to be acting on behalf of the global poor, they often appeal to the satisfaction of their basic needs and the protection of their fundamental rights, but not to authorization. Given the conditions in which these individuals find themselves in, the kind of institutional mechanisms that might enable them to authorize or disallow their representatives are not always available. Bono, U2’s frontman, clearly expressed this thought in an interview with the *London Evening Standard*: “I represent a lot of people [in Africa] who have no voice at all ... They haven’t asked me to represent them. It’s cheeky but I hope they’re glad I do.”²⁰⁷

Finally, animal advocate groups also make representative claims (i.e. they claim to be representing the interests of various groups of animals who would otherwise lack a voice), yet they have not been authorized by those on whose behalf they claim to be acting.

These are examples of alleged representative claims which share a presumption of legitimacy that does not rely on the ability of the represented to authorize their representatives. Certainly, some of them might turn out not to be genuine representative claims. But the best way to argue for this conclusion is not to simply build the necessity of the possibility of authorization into the very definition of “legitimacy” or “legitimation”. Instead, it seems more advisable to begin with a broad conception of legitimacy, one that does not settle on definitional grounds the ways in which a claim can be justified, and then show that only those that can be authorized can be justified (as the narrow notion of legitimacy entails). However, if the arguments I have presented in this section are correct, this strategy is unlikely to succeed.

²⁰⁶ <https://www.nas.gov.sg/archivesonline/data/pdfdoc/lky19921120.pdf> (Last accessed: June 2, 2022).

²⁰⁷ Quoted in Saward 2010, 82.

5.6.2. Positivism and responsiveness

5.6.2.1. How helpful are positivist theories of representation for our project?

In this chapter I have argued that positivist theories of representation can accommodate, theoretically at least, the political representation of animals. Obviously, this makes them an attractive choice for those who find the proposal normatively compelling. In this last section I want to sound a note of caution. In dispensing with normative considerations, positivist theories do away with the requirement that genuine representation needs to be capable of being authorized. But this attitude is a double-edged sword, for it also does away with responsiveness, which constitutes one of the core elements of the argument for the political representation of animals that I introduced and defended in Chapters 3 and 4. On the proceduralist interpretation of the All Affected Interests Principle, representative institutions must be responsive to the interests of animals in the sense that they must *count* those interests and take them seriously. On the outcome-oriented version of the principle, representative institutions are to be responsive in the sense that they have a *pro tanto* duty to *promote* or *protect* the relevant affected interests. Positivist theories do not care about this: political representation can in principle obtain even if the actions of the representative are utterly lacking in responsiveness. Thus, these theories appear to be insensitive to one of the basic ideas behind the entire project.

It might be objected that this needn't be the case. In a recent discussion, Anja Karnein (2016) has argued that Rehfeld's account can be improved if we restrict the rules of recognition that ground political representation. In Rehfeld's view, if accepted by the relevant audience, *any* rule of recognition will do. Otherwise, he claims, we cannot account for various phenomena, such as the possibility of undemocratic representation. Karnein disagrees. In her view, it is possible to restrict the set of acceptable rules of recognition without necessarily having to incur such theoretical losses—which she admits follow from a theory that rules out things like undemocratic representation from the outset. This conciliatory strategy, she thinks, would allow us to occupy “an important middle position between democratically legitimate representation, on the one hand, and a completely random choice of the audience, on the other” (Karnein 2016, 90).

The gist of Karnein's proposal can be summarized as follows: A putative rule of recognition is acceptable if and only if it accords "with some background norms that generally govern the relationship between the represented and the audience" (Karnein 2016, 90). So, audiences cannot just apply whatever rule of recognition they please. Were they to apply a rule such as "Representation obtains whenever a new skyscraper is completed in the Chinese city of Shenzhen," that would not ground any instance of political representation at all, as it does not reflect any recognizable background norm governing the representative relationship. This constraint, argues Karnein, would not necessarily rule out undemocratic representatives, because the background norms are varied and do not always demand democratic legitimacy. In some cases, being connected to the principle of sovereignty is all that political representation requires (Karnein 2016, 89).

Building on this, it could be argued that Karnein's proposal allows us to retain responsiveness (as it could be said to be a norm usually governing the representative relationship) within a positivist approach. Is this strategy successful? I am not sure. To begin with, it could be argued that once we bring responsiveness back, the account ceases to be genuinely positivist. If Karnein is correct, the implication is not that positivism can accommodate responsiveness: rather, it would follow that, on its most plausible formulation, Rehfeld's view is not really a positivist view. This might be a terminological issue, so let us assume that it would still count as a positivist account. A more fundamental problem arises, I think, from the vagueness of expressions such as "background norms" and "generally." Consider, for instance, a country that has just recently become a representative democracy. In a sense, it seems that democratic principles are not among the background norms governing representative relationships in that country, so we should conclude that genuine representation is impossible in the new political system. But this seems implausible. This gives us reason to liberalize these notions: perhaps, one could suggest, the "generally" clause can also refer to norms taken from other contexts (that is, outside the history of that particular country). Because democratic norms govern the representative relationship in many countries, this move allows us to claim that a genuine representative system can operate in our emergent democracy. Yet, at the same time, it also reinforces the contingency of responsiveness, for there also seem to be many cases (like the Chinese ambassador to the UN, or Kruschev, in Rehfeld's example) where the relevant background norms do not have

much to do with responsiveness. Although Karnein's strategy, if successful, would show that "the rules by which the audience selects a representative cannot be entirely arbitrary" (Karnein 2016, 90), it does not demand responsiveness. Which leaves us back right to where we started.

This, of course, does not mean that those who defend the political representation of animals should reject positivism. They could perfectly assume a general theory in which responsiveness does not play any definitional role, while focusing only on those instances of representation which do involve at least some degree of responsiveness. That is a perfectly legitimate strategy, and, in line with my pluralist approach, I needn't oppose it.

A more serious problem arises, I think, when positivist theories do not only avoid considerations of responsiveness, but also carry with them a latent skepticism about the very idea of responsiveness. Whereas, in the former cases, positivism would merely be neutral vis-à-vis responsiveness, these other theories would call this very idea into question.

5.6.2.2. Can they be harmful?

5.6.2.2.1. Two senses of "logically prior"

As we saw in Section 5.5, constructivism explicitly rejects the assumption that the represented *must* be somehow logically prior to their representatives. This view admits of at least two readings:

Weak reading: The represented *needn't* be logically prior to their representatives. Though they may be, this is a contingent fact about political representation, rather than a necessary requirement.

Strong reading: There is no representation-independent matter of fact about the interests, will or preferences of the represented. In other words, what is to be represented does not exist or cannot be known prior to the act of representation itself. The former *cannot* be prior to the latter.

According to the first reading, representation involves mutual constitutive relations between the represented and the representative. But this is compatible with there being, at least in some cases, a matter of fact about the degree of responsiveness achieved by a particular instance of representation (i.e. to what extent it succeeds in promoting the interests, will or preferences of its constituency). The second reading, though, carries with it a more pernicious skepticism about the very idea of responsiveness. Accuracy, similarity, correspondence and cognate “success notions” are rejected because they presuppose that the represented can have interests or preferences (often derided as “pre-political”) that exist prior to their being made the object of a representative claim, something the strong reading denies.

Saward’s own stance is difficult to pin down due to the vagueness of his remarks. Let us see a few examples:

“[T]o a considerable degree, representation has no context or claim-independent meaning, rather its meaning is made through invocation” (Saward 2010, 17).

“Would-be representatives, of whatever type, *must of necessity pick and choose, propose and fabricate, a distinctive and limited vision of, or set of interests for, the constituency.* The prospect that they can in some plausible sense represent a clear and encompassing set of constituency interests is remote, at best” (Saward 2010, 45).

“Given the uncertainty and instability of the character of the represented, *representatives offer images or portraits, none of which will be accurate in any profound or full sense of the word,* but some of which may be accepted in part by target audiences as appropriate” (Saward 2010, 68).

“[T]he signified, or the object, is not the same as the thing or district itself (the referent). It is, rather, a picture, a portrait, an image of that electorate. It is *no closer to being the thing itself that a Rembrandt self-portrait was to Rembrandt himself*” (Saward 2010, 74). [Italics are all mine]

The use of pictorial metaphors, which are often ambiguous, and the unspecified scope of some locutions (e.g. “to a considerable degree,” “in a profound or full sense of the word”) make it hard to decide. Saward’s argument seems to be that, given the performative aspects of the representative process, plus the fallibility and indeterminacy

of any representative claim, any account of representation as a mere transmission belt between the interests of the represented and the actions of representatives will prove fatally simplistic. What the deeper implications of this view are is, however, much less straightforward. For the purposes of this discussion, I do not need to settle which of these two views is Saward really committed to. It suffices to note that these two readings are possible, and that one of them would be detrimental to the purposes and arguments of this thesis. In what follows, I will argue that we needn't be afraid of the weak reading, and that there are no good reasons to support the stronger (and potentially threatening) interpretation.

A. Weak constructivism

Drawing upon the previous discussion, we can distinguish between two kinds of constructivism about political representation. *Weak constructivism* is the view that the represented need not be logically prior to their representatives. The former (as beings with a certain will, preferences or interests) are often constituted by (as opposed to merely having attitudes caused by) the actions of the latter. *Strong constructivism*, on the other hand, holds that there is no matter of fact about the interests, will or preferences of the represented prior to the actions of some representative. On this view, the interests, will and preferences of the represented are never logically prior to the representative process.

Though there may be independent reasons to oppose weak constructivism, it is not a view, I think, that defenders of the political representation of animals ought to feel threatened by. According to the weak constructivist, the universe of political representation (all the phenomena that a complete theory of political representation should ideally account for) extends far beyond the domain of representation understood as responsiveness to logically prior interests, wills and preferences. The latter may single out an important aspect of political representation, but it is also limited from an explanatory standpoint.

The weak constructivist is committed to some sort of conceptual and explanatory pluralism. The concept of political representation, she suggests, can fulfill different explanatory roles, and as long as these roles are legitimate (this is to say, as long there is

something there to explain), further questions about which of these roles correspond to political representation *proper* seem misplaced. As David Chalmers (2011, 538) has said apropos the definition of “belief:” “[I]nstead of asking “What is a belief? What is it to believe?” and expecting a determinate answer, one can instead focus on the various roles one wants belief to play and say: here are some interesting [mental] states, B_1 can play these roles, B_2 can play these roles, B_3 can play these roles. Not much hangs on the residual verbal question of which is really belief.” Similarly for representation, once we have disaggregate the various different roles one may expected it to play, one can focus directly on those roles and not worry much about whether one of the corresponds to representation *proper*.

Because of this pluralist approach, weak constructivism does not necessarily threaten the idea of responsiveness, as it just states that, of the many interesting phenomena that may be referred to as instances of representation, not all of them involve responsiveness. But that does not imply that there is no responsiveness, nor that responsiveness is unimportant.

B. Strong constructivism

Things change, though, when we switch to strong constructivism. Unlike its weaker counterpart, strong constructivism does challenge the very idea of responsiveness. It does not only claim that there is something more to political representation than responsiveness, but it also calls into question that it may even be a part of it. If this version of constructivism is correct, then both the idea of responsiveness and, by extension, the political representation of animals (at least when motivated by the sort of considerations I discussed earlier) becomes impossible or irrelevant. Since representation always involves portraying an image (i.e. building a model) of the represented, as being such and such, or having such and such interests, and since that image will always be uncertain, instable and contestable, there is no matter of fact about the interests, will or preferences of the represented prior to the representative process itself.

Luckily, I do not think we have any good reason to accept such a view. The most that we can derive from all the features listed above (e.g. uncertainty, contestability...) is

that representative claims, and representation itself, cannot be entirely accurate or true (or, in other words, infallible).²⁰⁸ But it is not clear to me who would deny this—i.e., who would claim that political representation requires absolute certainty, incontestability or infallibility. Of course, there is also the fact that representation always involve some form of mediation: a portrayal of the represented as having a particular identity, or sharing certain interests. But this, as many philosophers of science working on models and scientific representation have pointed out, does not prevent some portrayals from being more or less accurate, or more or less similar, to its target system than others (see, for discussion, Mäki 2011; Weisberg 2013; Elliot-Graves and Weisberg 2014). We must be careful not to conflate a weak ontological thesis—representation involves the existence of an object that is distinct from that which it represents—with other stronger ontological and epistemological propositions—the unavoidability of mediation implies that there is no matter of fact about the object being represented, or that we can no longer avail ourselves of notions such as “truth,” “accuracy” or “similarity.” Though the former is unlikely to be denied by anyone (not even the characters of Borges’ famous story would think that the map was literally *the* territory), the latter is indeed highly controversial.

Consider the following example. Over my desk there are some paper models of a few skyscrapers. There is, for instance, a model of the Hong Kong Bank of China Tower, another of the Taipei 101. Obviously, the models are not the real buildings. But that does not prevent me from saying, nor does it seem illegitimate for me to say, that there many ways in which they can be more or less similar to their referents. There are definitely many grey areas, where one can say that there is uncertainty, instability and contestability.²⁰⁹ But it is beyond doubt that if I cut the paper version of the Bank of China Tower in half it would look less similar to the original building. Likewise, suppose that somebody complained about how little the spire in the paper model of the Taipei 101 resembles that of the real skyscraper. This evaluation involves the notion of

²⁰⁸ A discussion of the notion of partial truth can be found in Chapter 5 of Stephen Yablo’s (2014) *Aboutness*.

²⁰⁹ And even in these cases we should not directly conclude that there is not a matter of fact about these issues nor that I cannot know them. Contestability and uncertainty engender doubt, but do not have deeper ontological implications.

resemblance (which, arguably, also involves, at least implicitly, a standard of accuracy), and seems perfectly meaningful—and, in that particular case, also true.

Mediation, uncertainty, instability and contestability, then, are not features specific to representation, but can be found everywhere: they pervade scientific or perceptual knowledge (where we would not hesitate to talk about—approximate—truth, or accuracy). All those things, although they can have an impact upon the implications that we can draw from representative claims (e.g. we should always doubt that representative claims capture all there is to capture), are not enough to call into question the very idea (and the relevance) of responsiveness.

5.7. Conclusion

In this chapter, I have defended that the idea of animals being politically represented (or, more accurately, of animals having their interests represented) is not conceptually mistaken. To do so, I have focused on the accounts of political representation offered by Hanna Pitkin (Section 5.2), Philip Pettit (Section 5.3), Jane Mansbridge, (Section 5.4), Michael Saward (Section 5.5.1) and Andrew Rehfeld (Section 5.5.2). On all these theories, I have argued, animals (and their interests) can be genuine objects of political representation. In Section 5.6.1, I discussed an objection by Howard Schweber, based on the connection between political representation and legitimacy—which, in Schweber’s view, entails that only beings who can authorize their representatives can be genuinely represented. Against Schweber’s arguments, I argued that considerations of legitimacy do not rule animals as potential subjects of political representation. Finally, I focused (in Section 5.6.2) on positivistic theories of representation (such as those championed by Saward and Rehfeld), and their relationship with responsiveness. On the one hand, I contended that the insensitivity of these theories to considerations of responsiveness makes them less attractive for those defending the representation of animals precisely on the basis of those considerations—although I conceded that this might nonetheless be a legitimate strategy to pursue (5.6.2.1). On the other hand, I tried to show that some versions of positivism (what I called strong constructivism) carry with them a skepticism regarding the very idea of responsiveness which might be devastating for our project, if true. Nonetheless, I argued that this sort of skepticism is not warranted (5.6.2.2).

As the reader will have surely noticed, this chapter has been devoted to general and quite abstract accounts of representation. In the next chapter, I will discuss some of the specific ways in which animal interests might be represented.

Chapter 6. Making it happen: Institutionalizing the political representation of animals

Introduction

In this chapter I discuss some ways to institutionalize the political representation of animals. The goal of this chapter is not to defend the implementation of any particular mechanism, which would require a lot of currently unavailable and highly context-dependent empirical information. Instead, I will focus on five specific proposals, highlighting their main normative strengths and weaknesses. I will also analyze which criteria we should employ for choosing among the different alternatives. In discussing specific institutional proposals, I also hope to convince more down-to-earth readers that the political representation of animals is not simply an abstract idea, but one that can be given a more definite content.

In Section 6.1, I offer a more detailed characterization of the problem of disregard for animal interests in policy-making (what the problem consists in, and what some of its main causes are). In Section 6.2, I introduce five institutional proposals that might contribute to mitigate this problem: political reservations for specific representatives, an ombudsman for animals, deliberative initiatives involving animal issues, commitment devices and changing a country's electoral system. In Section 6.3, I systematically elaborate upon and discuss three criteria that should arguably guide institutional choice: feasibility, effectiveness and normative justification. In a nutshell, I argue that we ought to implement those institutional arrangements that are feasible (i.e. they can be implemented, and are stable once they are implemented), effective (i.e. they manage to effectively target some of the factors driving disregard for animal interests), and normatively justifiable (i.e. there is no decisive reason why this arrangement should not be implemented in the first place).

6.1. The problem

In this section I provide a more detailed analysis of what it means for political decision-making to disregard the interests of animals. Throughout this thesis I have claimed that political decision-making objectionably disregards the interests of animals. That is the most basic formulation of the problem I am concerned with. But if we want to discuss how different institutional proposals might alleviate this problem, we first develop a more fine-grained formulation of the issue (its causes and consequences), decomposing the bigger problem into more manageable and actionable sub-problems. I will thus focus on two specific questions: “what are the various manifestations of the problem?” and “what are the main causes of the problem?”

6.1.1. What happens?

First, we need to distinguish between two ways in which the interests of animals can be disregarded. Here it can be useful to differentiate between considering an interest (counting it in our practical deliberations, as providing *pro tanto* reasons for or against a decision or course of action) and protecting an interest (avoiding the infringement of an interest).²¹⁰ Consider a case of urban planning, where it is being discussed whether a parcel of land should be used to build a new road. If, upon discussing the initiative, planners take into account the interests of animals likely to be affected by the project (if they take those interests as providing reasons for and against the decision), then they are *considering the interests* of animals. But, importantly, consideration of interests does not entail protection of interests. It may happen, for example, that the new road is thought to be beneficial enough to outweigh potential infringements of interests. If planners merely think about how building a road in a suburban area where coyotes roam would affect their interests, they are considering these interests; if, because of this, planners abstain from building the road (or make changes in the original plan, or change its location), then they will also be protecting the interests of these animals.

²¹⁰ There is also a possible additional category: advancing an interest, understood as contributing to the fulfillment of an interest. Because it is a moot point whether there is a normatively relevant distinction between protecting and advancing interests (which will depend on your views on the moral significance of the distinction between doing and allowing), I will set it aside.

Drawing on this, we can say that an interest is disregarded if it is not considered or if it is not protected adequately. Each form of disregard corresponds to one of the two values relevant to the All Affected Interests Principle that I described in Chapter 3 (consideration and protection). How we think about these values will affect how we see the problem, and (as we will see later, in Section 6.3.2.2) what role we want institutions to play. If, for instance, we think that institutions only have a duty to take into account the interests of the affected, without pursuing any specific outcome, we shall mainly be concerned with consideration and not protection. In what follows, I shall remain agnostic about this specific issue.

6.1.2. Why it happens?

Second, it is also important to know what the causes of disregard are. Though I obviously cannot attempt to develop a complete list, we can nonetheless identify some potential (and, I would add, fairly likely) candidates. Of these, some are more or less relatively common features of human psychology, and do not affect decision-makers *qua* decision-makers. I will call these *individual* factors. Other drivers of disregard for animal interests, however, do depend (at least partly) on the institutional framework within which decision-makers operate, and involve specific incentives to which the latter are particularly vulnerable. These I will call *institutional* factors. An important caveat: this distinction needn't deny that what I call individual factors might be dependent on *some* institutional factors, which make them more or less likely, and which might shape how they manifest. The contrast I want to stress is that between causes that depend primarily on the specific position a decision-maker holds in political decision-making sites, and causes that do not.

A. Individual factors

- i) *Uncertainty*: Some important questions about the mental lives of animals have still not found a satisfactory answer. As we saw in Chapter 1, scientists and philosophers are still divided on issues such as whether animals can be self-conscious, form second-order mental states, or possess a “theory of mind.”

Similarly, moral philosophers disagree about plenty of issues: whether animals have moral rights, whether they have an interest in being free, whether death is bad for them, etc. There is no reason to suspect that these questions have an obvious answer (and if they do, consensus has not been achieved yet). Given that people's moral judgments depend on how they perceive the minds of others (Goodwin 2015), it is to be expected that these knowledge gaps will have an impact upon their moral reasoning.

ii) *Ignorance*: Individuals usually ignore important facts about the plight of animals. In their book on the economics of farm animal welfare, F. Bailey Norwood and Jayson Lusk (2011, 327) note that “[i]f there is one salient fact we have learned talking with thousands of people about farm animal welfare, it is this: people do not know much about the way farm animals are raised.” Likewise, an article reviewing the literature on public perceptions and attitudes toward farm animal welfare claims that “[w]hen asked to rate their current knowledge about farming practices, the majority [of participants in several studies] reported that this was low, ranging from 50% indicating that they are not informed about the subject ... to 80% agreeing that they do not possess a lot of knowledge about [farm animal welfare]” (Clark et al. 2016, 468).

In some cases, ignorance is deliberate.²¹¹ In one study conducted in Oklahoma, one-third of participants declared they “preferred not to be involved in the swine welfare debate, and to not have to think about it when purchasing food and voting on farm-related initiatives” (Bell, Norwood and Lusk 2017). In a similar study in the Netherlands, around 27% of participants recognized strategically ignoring “issues in the context of meat” (Onwezen and van der Weele 2016). In other cases, ignorance is induced. In the US, for instance, several states have adopted so-called “ag-gag” laws, which involve harsh penalties for those who take photos or videos inside factory farms without the owner's permission (Wrock 2016). Though some of these laws have been declared unconstitutional by state courts, where they still exist they make it harder for ordinary citizens to

²¹¹ This phenomenon is known as “active information avoidance” (Golman et al. 2017) or “motivated ignorance” (Williams 2021).

become informed about what happens inside the walls of factory farms and slaughterhouses.

Ignorance matters because knowledge matters. In the EU, a survey reported knowledge about animal welfare as one of the strongest predictors of an individual's view on animal welfare (Cornish et al. 2016, 5). More generally, knowledge about the circumstances under which farm animals live is associated with a greater willingness to pay for “animal-welfare products” (Clark et al. 2016, 469).

iii) *Status quo bias*: Humans have a tendency to regard the current state of affairs as desirable, and any divergence from it is seen as a *pro tanto* loss—even if, all-things-considered, a divergence is ultimately deemed acceptable (see Kahneman and Tversky 2000). What we happen to do now (“the normal”) is considered the right thing to do. Attitudes towards the use of animals are no exception. Psychologist Melanie Joy (2010), for instance, has claimed that meat-eating is typically justified on the basis of three “Ns:” it is natural, normal and necessary. Appeals to what is natural and what is normal are plausibly driven by a status quo bias: unless deviances from what is normal and natural are perceived as a loss, it remains unclear how such appeals could be used to (non-instrumentally) justify any kind of behavior. Because the current *status quo* is in many ways detrimental to the interests of animals, this bias can potentially contribute to sustain the neglect of animal interests (at least by making the required changes more difficult to achieve).²¹²

iv) *Motivated reasoning*: Motivated reasoning occurs when individuals reason so as to reach conclusions “that they want to arrive at,” instead of what the available evidence requires them to believe (Kunda 1990). It is, in other words, a “tendency to conform information processing to some goal collateral to accuracy” (Kahan 2017, 26): for example, reducing the psychological strain produced by cognitive dissonances. In the case of animals, there is some research suggesting that individuals' skepticism towards animal minds increases when they think about the morality of eating meat, and the connection between

²¹² In debates about the morality of bullfighting, for instance, it is common to hear that it is a tradition that has existed for many years.

eating meat and animal suffering (Bastian et al. 2012). In this case, the tension between the belief that suffering is bad and the belief that meat consumption produces animal suffering threatens the belief that eating meat is not morally problematic. One way to reduce this tension is to grow skeptical of animal sentience. Given the myriad ways in which decisions believed to be morally innocuous actually produce animal suffering, some degree of motivated reasoning can be expected to occur.

v) *Distorting influence of irrelevant factors*: Sometimes, the interests of animals are disregarded due to the influence of factors that are irrelevant from a normative point of view. One example is whether an animal is regarded as “cute” or “beautiful.” Humans often care more about the interests of those animals that look nice to them. As the late Justice Antonin Scalia allegedly claimed during a discussion concerning the regulation of endangered species’ habitats: “Can’t we pick up an uglier example than the bear? You’ve picked the cutest, handsomest little critter” (Quoted in Gunthorsdottir 2001, 204). Less anecdotally, Matthew Ruby and Steven Heine (2012, 47) have identified appearance as one of the “chief predictors of disgust at the thought of eating [animals]” in subjects across the US, Canada, Hong Kong, and India. The disturbing corollary of this tendency is that the interests of the “uglier” animals will in turn receive less attention—and be deemed less worthy of protection—on the basis of considerations that are, from a moral point of view, completely irrelevant.

vi) *Value/action gap*: It often happens that we believe we should do something, but nevertheless end up doing a different thing. For example, one can be convinced that she should go back to work, but instead spend the time listening to one more song or sending one more message. This gap between what an agent values and what she does is known as “the value/action gap”—or, as philosophers call it, “weakness of the will.” It is pervasive, and contributes to explain inaction with regards to many pressing problems. In the environmental domain, for example, it has been observed that increased concern for environmental problems does not necessarily change people’s behavior (Cf. Kollmuss and Agyeman 2002). It should not be a surprise that this phenomenon is also at work in the animal case. Even when people agree that the interests of animals ought to be protected in a certain context, they do not always act

accordingly. As the authors of one study on consumer choices write: “[A]nimal welfare-minded consumers do not always walk their talk” (Akaichi and Revoredo-Giha 2016, 1683).

B. Institutional factors

vii) *Inability to sanction*: Animals cannot hold decision-makers accountable for their decisions, as they cannot vote or demonstrate. Indeed, they cannot even react to those decisions in a way that policy-makers can acknowledge. In small-scale settings, one can see how animals react to one’s actions (e.g. a man beating a dog can surely acknowledge that he is making the animal suffer). But that is not the case in the political domain, where the connection between actions and their effects upon others is spatiotemporally distant, non-linear and subject to causal over- or underdetermination. Both the institutional infrastructure and the cognitive wherewithal that would be needed in order for animals to potentially sanction political agents are simply not available. It thus should not come as a big surprise that when political theorist Terence Ball (2006, 13) participated in a roundtable discussion with a US state legislator, and asked him why elected representatives did not “pay much (if any) attention to the fate of future people, and still less to that of non-human creatures,” the state legislator’s reply was: “Because they don’t vote.”

viii) *Electoral pressures*: Though animals cannot vote, competent adult humans do. And if they are vulnerable to the biases listed above, their political representatives will have specific incentives to disregard the interests of animals. Even if they were able to overcome those biases (which is highly unlikely, given that politicians are ordinary human beings), they would still inherit them from their voters.

One might object, following some recent trends in political science (Achen and Bartels 2016), that this assumes an unrealistic picture of real-world democratic politics. Citizens do not tend to vote for the parties that would best satisfy their preferences, beliefs and interests, and they do not tend to hold them accountable for failing to do so. This means, among other things, that there is a gap between

individual preferences, beliefs and interests, on the one hand, and the determinants of responsiveness and accountability, on the other.²¹³ If that is right, we might not be entitled to conclude, from the fact that individuals suffer from certain biases, that their representatives will reproduce them. In response, let us modify the original argument. According to Achen and Bartels, voters' preferences tend to be shaped by their group identities (primarily, party affiliation). Likewise, voters' retrospective assessments' of political performance tend to be myopic (that is, they disproportionately focus on their perceived subjective well-being during the last period before the next elections). But note that even in this raw model of political responsiveness and accountability, the main point remains the same: the considerations that shape voters' choices (and guide political agents) have little to do with animal interests, for party identities seldom revolve around animal issues and perceived subjective well-being is only contingently connected with animal welfare. To the extent that they care about increasing their chances of being (re)elected, this gives political agents further incentives to disregard the interests of animals.

ix) *Economic interests*: Powerful industries depend on the use and exploitation of animals. So powerful, in fact, that they have the capacity to influence public policy. Already in 1998, political scientist Robert Garner (1998, 67) wrote that “those who are generally hostile to the introduction of further restrictions on their ability to exploit animals have developed formidable lobbying and general public relations structures paid for by some of the wealthiest interests in their respective countries.” OpenSecrets, a US-based non-profit organization that tracks the effects of money and lobbying on elections and public policy, estimates that only in 2021 the American meat industry invested around 4,419,849 USD in lobbying efforts (OpenSecrets 2022).

All this money appears to influence political decision-making. After the state of Mississippi passed a law banning the use of labels like “veggie burger” or “vegan hot dog” (Piper 2019) in July 2019, Mike McCormick, President of the Mississippi Farm Bureau Federation, publicly thanked the Mississippi House

²¹³ For the view that electorates are somewhat competent (even if individual voters are not) see Ashworth and Fowler 2020.

Agriculture Committee for their work. “This bill,” he claimed “will protect our cattle farmers from having to compete with products not harvested from an animal” (Lowery 2019). Similarly, when in 2015 the scientific advisory committee in charge of laying out the US Dietary Guidelines suggested a move towards plant-based diets (on the basis of public health and sustainability considerations), “the US Department of Health and Human Services and the USDA [the US Department of Agriculture] ... ultimately left out any discussion of reducing meat, dairy, or egg consumption in the published guidelines” (Reese 2018, 21). One final example: in 2018, the Spanish news show *Salvados* showed undercover footage of ill-treated animals inside animal farms. Four days before the show was aired on TV, Interporc Spain—an entity representing the interests of the white pork sector in Spain—sent a letter to the then minister of agriculture Isabel García Tejerina, complaining about what they perceived as an unfair and inaccurate depiction of the industry, and requesting institutional support.²¹⁴ A few days after, García Tejerina was interviewed on the Spanish public TV, where she claimed that the show did not offer a fair picture of the sector. One important detail was that, on her own admission, the minister had not watched the show.²¹⁵

Of course, none of this implies that the meat industry has bribed politicians. However, it does suggest that it is a well-organized interest group with the capacity to influence the political agenda, as well as particular decisions, through well-connected networks of influence and powerful public image strategies.

x) *Electoral barriers*: In many countries, there exist parties that purport to defend the interests of animals. Perhaps the most famous one is the Party for the Animals, in the Netherlands, which currently enjoys 6 seats in the Dutch Parliament lower house.²¹⁶ But, in general, these parties are small and have little political presence. Their electoral success is, of course, a function of the number of voters who decide to support these parties. However, electoral success is also influenced by the structure of a country’s electoral architecture. Proportional

²¹⁴ <https://www.adshoyahuesca.org/wp-content/uploads/2018/02/carta-ministra.pdf> (Last accessed: June 2, 2022).

²¹⁵ For the video, see: <https://www.rtve.es/noticias/20180206/tejerina-defiende-sector-porcino-espanol-puntero-nivel-mundial/1675040.shtml> (Last accessed: June 2, 2022).

²¹⁶ Since the 2021 March general elections.

electoral systems, for instance, are believed to increase the presence of minority parties in national legislatures (Lijphart and Grofman 1984). Similarly, electoral thresholds (which specify a share of the vote a candidate or political party must ensure before it can enter into Parliament) can decrease the electoral chances of a political option (Baskaran and da Fonseca 2013). In countries with a First Past the Post within single-district electoral system or with tough electoral thresholds, the chances animal parties (*qua* minority parties) enjoy of influencing political decision-making will be, comparatively speaking, quite slim.

In this section I have tried to provide a more detailed overview of the main problem I am concerned with. Disregard for animals has many faces and causes. In the next section I will introduce five institutional proposals intended to alleviate this problem.

6.2. Five proposals

Because institutions, unlike Tolstoy's happy families, are seldom alike, it is useful to start by introducing the various proposals I will analyze:

i) *Specific representatives*: One way to represent the interests of nonhuman animals is to reserve a number of seats in Parliament for specific representatives of animals (Dobson 1996; Cochrane 2018; Hooley 2018b). This proposal is modeled on the system of political reservations and quotas that is in place in countries as diverse as India, New Zealand, Romania or Mauritius (Bird 2015). The precise shape of the arrangement will depend on how we answer two questions: Who is eligible for these positions, and who can vote for these representatives? On a restricted model,²¹⁷ only certain citizens can become specific representatives or vote for them (e.g., individuals who have demonstrated a concern for animal issues in the past). On an unrestricted model, all citizens can run for these positions, and they are elected by the electorate at large. Of course, there are intermediate positions: one might argue, for instance,

²¹⁷ I am drawing this terminology from Ekeli (2005), who applies it to the representation of future generations. Dobson (1996), one of the main proponents of the restricted model, applies it to future generations and nonhuman animals.

that everyone should be eligible for these positions, but the electorate (for these precise representatives) should be restricted to a specific subset of the public.

ii) *An ombudsman for animals*: Another proposal involves establishing an independent office tasked with protecting and representing the interests of animals (Hooley 2018). An ombudsman is usually appointed by governments or legislatures, and has the power to investigate and review legislative and administrative procedures, hear complaints, and make recommendations. It does not have, at least not usually, formal powers to enforce compliance with its decisions and recommendations.

iii) *Deliberative initiatives*: A third suggestion is to promote deliberative initiatives, allowing ordinary citizens to deliberate about issues that affect animals (Goodin 2003; Garner 2018; Cochrane 2018, 49). This might involve small-scale instruments such as deliberative mini-publics, where randomly selected citizens gather together to deliberate (among them and with experts) about a particular issue. Deliberative mini-publics can be used to directly shape political decision-making, to raise issues that will be considered in broader macro-political processes, to inform public discussion, to inform policy-makers about the views of the public (Goodin and Dryzek 2006; Dryzek 2010, 168-170), to teach citizens how to critically evaluate orators (Chambers 2009, 340), to provide citizens with informational-shortcuts (Warren and Gastil 2015), or to indicate what citizens' considered views might look like (Ingham and Levin 2018).²¹⁸

iv) *Commitment devices*: A fourth proposal involves the adoption of commitment devices, institutional arrangements aimed at restricting an agent's future choices, by making some of the alternatives more expensive than they would had been otherwise (Bryan et al., 2010). Commitment devices can be hard and formal (i.e. constitutional provisions) or soft and informal (i.e. electoral promises), depending on the precise mechanism they adopt, and the strength of the

²¹⁸ Some people might wonder whether this is really a mechanism to represent the interests of animals. To the extent that it can work as an instrument to ensure that those interests are protected (or at least get a fair hearing) in policy-making, I am willing this alternative as an instance of a representative device (although it is, of course, many other things beside that).

sanctions involved. Other examples might include setting policy targets and goals, or adopting procedural and substantive legislative requirements. This proposal has been discussed in the context of future generations (Boston 2017, Ch. 8), and might be fruitfully considered in the case of animals too.

v) *Changing the electoral system*: The fifth proposal suggests modifying the electoral system, either by adopting a proportional system, or by dropping or relaxing electoral thresholds, as both measures are believed to increase the presence of minority parties in national legislatures. (Garner 2016, 106. For discussion, see Hooley 2018, 299-302).

Some caveats are in order. First, all these proposals focus mainly (although not exclusively) on formal decision-making spaces, such as Parliaments, which have the legal capacity to make binding decisions. This is not because informal spaces (e.g., civil society associations and public opinion) do not matter: they do matter, and a more complete analysis of the matter must incorporate them. But since time and space constraints do not allow me to explore in depth both spheres, I will simply focus primarily on the former. Second, even within the aforementioned limitations, I do not intend this discussion to offer an exhaustive review of all possible proposals. Again, time and space prevent me from discussing the issue in greater detail, but I have tried to select those alternatives that have received a greater deal of attention (either in the specific literature on animals, or in cognate debates). Third, even though, for the sake of exposition and analytical clarity, I will deal with these proposals separately, there is no *a priori* reason why they cannot co-exist and complement each other. In fact, it seems sensible to believe that an adequate response to the problem of disregard for animal interests should involve a combination of different institutional mechanisms, both formal and informal, interacting in complex ways.

These proposals²¹⁹ can differ along several lines. First, they can differ regarding their target. Specific representatives and ombudspersons focus on specific agents within the political system, who appear to be particularly well-positioned to act on behalf of animals. Deliberative initiatives focus on ordinary citizens, and seek to encourage them to consider the interests of animals in their private and public deliberations.

²¹⁹ This includes both types (e.g. specific representatives) and particular tokens of each type (reserved seats in Parliament within the general electoral roll, reserved seats with a specific electoral roll, etc.)

Commitment devices can constrain the activities of policy-makers, institutions, citizens or civil society associations. Finally, modifying the electoral system targets the very structure of the political system.

Second, these proposals can differ regarding the kind of powers they involve. Specific representatives, as members of parliaments, contribute to the making of binding political decisions. An ombudsman, on the other hand, lacks these powers, as its decisions are (typically) not binding. Deliberative initiatives may or not be formally empowered, depending on how they are designed. To this day, however, the majority of deliberative mini-publics have had at best an indirect influence on political decision-making. They have been mainly used to provide recommendations to policy-makers (with no guarantee that these recommendations will be endorsed), to improve political discussion (enhancing deliberation and providing higher-quality information to citizens) and to market-test citizens (that is, to survey their views on different issues and policies).²²⁰ Commitment devices, in turn, do not give policy-makers any additional powers at all: they simply increase the costs of some possible uses of the powers that are already available to them. Last of all, changes in the electoral system only have an indirect impact if they make it easier for members of small political parties to get into parliament. When this happens, the powers of these representatives are the same as that of ordinary representatives.

A third difference concerns how the behavior of representatives aligns with the interests of animals. This alignment might be sought in at least two ways: exogenously, by focusing on the identity of the representatives—whether they have a prior disposition to care and protect the interests of nonhuman animals, or endogenously, by focusing on the structure of incentives that any representative—regardless of their identity—will face in a particular political context.²²¹ Basically, the first strategy attempts to identify representatives that we can trust to take animals seriously, whereas the second strategy seeks to motivate representatives—no matter what their prior motivations are—to consider the interests of animals, rewarding them if they do so, and sanctioning them if they do not. Typically, these sanctions target the electoral prospects of the representative: if she performs well, she will be allowed to continue in office; if she

²²⁰ Goodin and Dryzek 2006.

²²¹ I am borrowing this terminology from González-Ricoy and Gosseries 2016, 8-11.

does not, she will be removed from power. The first strategy corresponds to what Jane Mansbridge (2011) has called the *selection model* of political representation, whereas the second corresponds to a *sanction model*. Note, however, that in the second case it is not animals themselves who sanction their representatives. For obvious reasons, humans would have to perform that task on their behalf, thus exercising a kind of *surrogate accountability* (Rubenstein 2007).

How does that apply to our discussion? Specific representatives for animals, for instance, may be expected to take into account the interests of animals because of their identity (e.g. if they are members of an animal advocacy group), or under the threat of electoral sanctions. An ombudsman, on the other hand, is usually expected to be intrinsically motivated to care about its target-group, independently of electoral sanctions (to which they are vulnerable only indirectly). To illustrate: Målfrid Grude Flekkøy, Norway's first barneombud (Norway's Ombudsman for children) was a respected psychologist with plenty of experience with children. And Flekkøy's successor, Trond-Viggo Torgersen was also popular for his role in TV programs for children.

A final difference concerns the breadth of the mandate. Some proposals are designed to deal with a broad range of issues, whereas others have a more restricted subject matter. If their scope is broad, their powers will extend over a wide array of issues that are expected to have an impact on the interests of nonhuman animals (such as the economy, technology, the environment, public health, food regulation, urban planning, etc.). On the other hand, if their scope is narrow, they will focus on a restricted set of issues, which might only superficially track the impact of policy-making on animals' interests.

6.3. Evaluating the proposals

Which criteria should be taken into account when evaluating these proposals? In this section I will introduce five criteria: i) feasibility; ii) effectiveness; and iii) normative justification. Although I cannot show that these requirements can be met by the five institutional proposals under discussion (as I mentioned earlier, this is an empirical question), I will attempt to clarify why they matter, and how they should be understood in this specific context.

6.3.1. Feasibility

Institutions for animals, if they are to be of any value, must be feasible. Following Pablo Gilabert and Holly Lawford-Smith (2012), we can distinguish between a *binary* conception of feasibility—where an institutional arrangement is either feasible or unfeasible—and a *scalar* conception—where different institutional schemes can be ranked according to their degree of feasibility.²²² In the first case, “political feasibility” is tantamount to “political possibility:” if an institutional arrangement is unfeasible in this sense, it must be ruled out (as, per the “ought implies can” principle, we cannot have reasons to bring about impossible proposals²²³). In the second case, “political feasibility” comes in degrees.

On both conceptions, Gilabert and Lawford-Smith argue, political feasibility requires accessibility and stability. If there is no route through which we can move from “here” (our present situation) to “our destination” (the implementation of an institutional scheme), a proposal is inaccessible. However, even if we are able to reach our destination, a proposal will be unfeasible in any interesting sense unless it is minimally stable. Suppose we implemented an institutional arrangement that successfully eradicated extreme poverty for just one day. The next morning, business would follow as usual and poverty would continue to devastate the lives of the bottom billion. Would we say that the proposal (“alleviating poverty”) has really been implemented? Arguably, the answer will depend on how we specify the desired temporal horizon of our proposal, but it is unlikely that any serious proposal will welcome such short lapses of time.

If a particular institutional scheme is unfeasible in the binary sense, we have no reason to try to implement it. And if it is less feasible than other alternatives (that is, in the scalar sense), we have *pro tanto* reasons not to implement it.²²⁴ Here it might be objected that philosophers disagree about the extent to which considerations of feasibility can constrain normative and evaluative theorizing. And, although this is absolutely correct, I do not think it affects my point, for even those who deny that unfeasibility affects the *desirability* of unrealistic institutional schemes can nonetheless

²²² See also Cowen 2007, sec. 3.3.

²²³ Gilabert and Lawford-Smith 2012, 10.

²²⁴ Though if its expected value (conditional on being implemented) is sufficiently higher, this deficiency might be offset.

accept that feasibility does at least shape the reasons we have to *implement* one institutional proposal over its alternatives. As David Estlund, a vigorous defender of *purely evaluative*²²⁵ normative theorizing, has put it, unfeasibility “may be a serious problem in the context of an institutional blueprint that is urged as a practical proposal—a goal to set out for” (Estlund 2020, 10). Perhaps a world in which magic existed and wizards could heal all diseases, or even make them disappear, would be better than our current system of evidence-based medicine, with all its limitations. Yet since such a world is utterly inaccessible to us, we should stick to the alternatives that are feasible. In fact, we have very powerful reasons not to waste crucial resources on, say, building schools of magic, or using public funds to support the production of wands.

One argument for the (binary) feasibility of the five proposals relies on the fact that they already exist in many countries—albeit, of course, focused on other groups. A recent discussion, for instance, estimated that at least 28 countries include political reservations for ethnic groups within their political systems (Bird 2015, 12), making them “less idiosyncratic ... than many scholars previously thought” (Reynolds 2005, 301). Similarly, the number of ombudspersons around the world has increased fivefold since 1983 (Finkel 2012, 291). Commitment devices (in the form of constitutional provisions, policy targets and goals, etc.) are ubiquitous in contemporary political systems. As for proportional electoral systems, the system has been adopted in at least 87 countries.²²⁶ Finally, deliberative mini-publics on various issues have been organized in many countries since the 70s (Smith and Setälä 2018). This, the argument holds, shows that these institutional arrangements needn’t be inaccessible in general (though, of course, they might be inaccessible in specific spatiotemporal contexts).

Nicholas Southwood and David Wiens (2016) have challenged the idea that “actual” implies “feasible,” which clearly underlies the previous argument. In their view, actual states of affairs (that is, states of affairs that have been realized) can be “counterfactually fluky” (i.e., they may have happened by pure chance). For instance, I

²²⁵ “Purely evaluative normative theorizing” here means a type of theorizing that is not restricted by considerations of feasibility or likelihood.

²²⁶

https://en.wikipedia.org/wiki/Proportional_representation#List_of_countries_using_proportional_representation (Last accessed: June 2, 2022).

may be able to beat Magnus Carlsen in a chess match, but that is unlikely to happen in a vast majority of the possible worlds in which I play that match. This state of affairs, if it was realized, would be actual, but not feasible, according to Southwood and Wiens. This is because for a state of affairs to be feasible given certain circumstances, the realization of that state of affairs must not be *counterfactually fluky* (i.e. the state of affairs must be realized in a sufficiently high number of possible worlds in which these circumstances obtain). If that is correct, showing that certain institutional arrangements are actual does not show that they are feasible in the sense of “feasible” relevant to the discussion about the reasons we have for implementing one institutional scheme over its alternatives—since, the argument goes, they could have been implemented by pure chance.

One might object that if an institutional proposal can potentially bring about an immense good, then we have reasons to implement it even if its likelihood is not bigger than winning the lottery or being struck by lightning. One problem with this reply is that no one has defended, as far as I know, such an ambitious claim. Institutions for animals might, at best, reduce certain procedural and substantive injustices to which many animals are vulnerable, but they cannot be expected to be the ultimate solution to all problems afflicting animals.

Southwood and Wien’s argument suggests that we cannot know *a priori* which proposals are feasible and which are not. How might we then proceed if we want to answer these questions? I think that at least two strategies are possible, which I will mention in order of degree of credence. First, one can try to identify the causal mechanisms that underlie the successful realization of different institutional proposals, and then see whether those mechanisms can be expected to operate in the particular circumstances we are concerned with.²²⁷ If these mechanisms prove robust enough, the problem of counterfactual flukiness will be much less pressing. One virtue of the five proposals I am dealing with is that, because there exist many exemplars in the real world, it might be easier to identify those mechanisms.

Second, one could try to defend a more sophisticated version of the original argument. As Southwood and Wiens (2016, 3055) suggest, instead of merely stating that *X*’s having been realized at *t* shows that *X* was feasible at *t*, one can argue that “[t]he long-

²²⁷ Cf. Southwood and Wiens 2016, 3055-3056. For a more detailed discussion see Wiens 2013.

run frequency with which apparently infeasible moral goals have been achieved over the course of history gives us reason to be optimistic” about the prospects of a particular proposal. Thus, one might say, because there are many instances of an institutional type (e.g. ombudspersons) already in place, we have reasons to be optimistic. This would be akin to a situation in which I was able to win against Magnus Carlsen several times. In this case, the likelihood of that state of affairs (victory) being counterfactually fluky appears to diminish.

This “probabilistic” alternative, they admit, overcomes some potential obstacles (e.g. in being about frequencies and not discrete events, it is less prone to identify purely haphazard states of affairs as feasible). However, Southwood and Wiens believe, it also raises new ones. First, it forces us to specify what the reference class is (a question the answer of which is not at all obvious). Second, it faces problems of individuation (How should we characterize the types and tokens of “trying to realize an institutional proposal?”). Third, since, in many cases, the evidence will be lost, inaccessible or simply unknown, it will face further epistemic obstacles. That is probably correct, but I am not sure it is a specific problem of this argument. All arguments relying on frequencies will face them, including Southwood and Wien’s own objection. For if a state of affairs is counterfactually fluky when it is not realized in a *sufficiently high* number of possible worlds where certain circumstances obtain, we also need to specify what the relevant reference class is. Likewise, an important part of the evidence that might tell us in how many possible worlds a state of affairs can be realized will also be lost, inaccessible and unknown. If these obstacles are fatal, then they will also undermine Southwood and Wien’s “actual does not imply feasible” argument. Conversely, if they can be overcome, then there is no obvious reason why they cannot be overcome too with regards to our own argument.

Additionally, one may argue that as long as a conclusion can be permissibly inferred from the evidence at our disposal (assuming that one has tried to find that evidence), we are justified in acting according to that conclusion. It is always possible that, somewhere down the line, we might find additional evidence that proves our conclusions wrong. But that is a fact of life: we always judge on the basis of the evidence we have (and

have which we have put some effort into finding). What we cannot know cannot hurt us, epistemically speaking.²²⁸

It is for political scientists to identify the causal mechanisms or the relevant frequencies needed to ground valid judgments of feasibility. That political reservations or ombudspersons exist in many countries might not imply that they are feasible (not to mention extending it to animals), but they are the starting point from which this question might be answered.

6.3.2. Effectiveness

The value of an institution also depends, to an important extent, on what kinds of things you can do with them, and how successfully you can do these things. Ineffective institutions might still possess some expressive value, but they are, other things being equal, less valuable than effective institutions. Assessing the effectiveness of an institution requires at least three things (specifying i) the underlying logic and specific goals of the proposal, ii) its general functions, and iii) its success conditions). In what follows, I shall discuss each of them separately.

6.3.2.1. Specifying the goals and the underlying logics

First of all, we need to specify which causes of disregard for animals we want to tackle with our institutional proposals, and how is the proposal expected to operate. Here I will describe what I think are the main targets of the five proposals I introduced above. Three things must be noted, though. First, what I will do here is to elucidate the rationale underlying each proposal—its “intervention logic,” in Jonathan Boston’s (2017, 167) expression. But clearly that does not mean that the proposal will effectively deliver on its promises. As I have insisted, that is an empirical issue. Knowing why doing something might plausibly have certain effects does not mean it will—although it

²²⁸ I am not particularly sure about this claim. In response, one may argue that even if we do not know the particular things that we ignore or cannot access, we do know that we ignore or cannot access some things, and that is enough to support some discount in the degree of credence we attribute to a given belief. However, as long as this discount is not overwhelming, the objection might be overcome.

constitutes a first step in the process of building testable hypotheses, and helps to motivate the interest of the proposal. Second, for the purposes of illustration and ease of exposition, I will be dealing with each proposal in isolation. Any plausible institutional recipe, I assume, will combine elements from different proposals (as it will also likely combine formal and informal mechanisms, representation in parliaments and representation in courts, etc.). Third, I do not intend this discussion to be fully exhaustive. As I acknowledged earlier, there are probably causes of disregard other than those I identify, and even an analysis of those can surely be improved upon. In addition, it is also possible that some proposals have different targets on different temporal horizons. Specific representatives, for example, may attempt to address the absence of sanctioning-mechanisms (*Inability to Sanction*). But one might argue that, in the long run, they also attempt to change people's attitudes and behavior (thus also addressing the more "individual" factors I mentioned, such as *Ignorance*, *Status quo bias* or *Motivated reasoning*).²²⁹ I will essentially focus on what I believe are the *main* target-causes of each proposal, instead of *all* their possible targets.

A. *Specific representatives*: A system of political reservations intends to tackle both individual and institutional causes of disregard for animal interests. Which specific causes are targeted, however, will depend on the details of the proposals. On the one hand, the unrestricted model (where all citizens are eligible and/or where all citizens can elect specific representatives) is expected to be particularly well-suited to offset the effects of *Economic interests* and *Electoral barriers*. By giving the general public a bigger role in decision-making processes on issues affecting animals, it aims to render these processes more transparent and less vulnerable to the influence of special interests. Second, by granting a number of specific representatives for animals it intends to overcome electoral barriers to entry, which might have otherwise blocked the presence of animal-focused representatives.

The restricted model, in turn, pursues further goals. First of all, it aims to increase the influence of those who are expected to care about animal issues (or who have demonstrated such a concern in the past), diminishing the impact of

²²⁹ Ekeli (2005), for instance, has argued that representing the interests of future generations through specific representatives can boost good-quality deliberation about future issues, thus changing the attitudes and beliefs of the public.

Inability to sanction (since what the proposal involves is precisely a sanctioning mechanism) and *Electoral pressures* (as electoral pressures from unconcerned citizens would be reduced).²³⁰ Second, the restricted model also seeks to empower individuals with ample knowledge of animal-related issues, thus curbing to some extent the effects of *Ignorance* (I say to some extent because, as I mentioned earlier, even experts disagree about certain fundamental issues regarding, for instance, which animals are actually conscious or which kinds of mental operations they are able to perform). In both cases, the introduction of animal issues in the agenda might be expected to have an impact on individual factors such as *Ignorance*—since, if animals are politically visible, certain issues and problems would become harder to ignore (Ekeli 2005; Boston 2017, 231-233; Cochrane 2018, Ch. 3; Hooley 2018, Section 8.5; Vink 2020, Ch. 4.1.).

B. *An ombudsman for animals*: Ombudspersons usually pursue certain tasks (typically, oversight of parliamentary and executive action, advocacy, research, monitoring, handling complaints...) at arm's length from the executive and the legislative. Given this independence, they are expected to be less vulnerable to the incentives and pressures that ordinarily affect these branches. Arguably, ombudspersons primarily aim at countering the impact of *Electoral pressures* (as they are only indirectly subject to them) and *Economic interests* (to which they are hoped to be less captive, given their lack of formal decision-making powers). Moreover, because ombudspersons, when working properly, essentially constitute soft mechanisms of horizontal accountability, they are also expected to provide means to sanction policy-makers and institutions (countering the limitations set by *Inability to sanction*). Finally, these positions are usually occupied by individuals experienced in the relevant areas. Ideally, their training would allow them to avoid (or at least resist) the most dangerous consequences of *Ignorance* (Beckman and Ugglá 2016; Boston 2017, Ch. 10; Hooley 2018; González-Ricoy and Rey 2019, 8-9; Smith 2020).

C. *Deliberative initiatives*: The particular targets of deliberative initiatives depend on important features of these initiatives, such as their degree of empowerment and policy-shaping potential. At the very least, all these initiatives

²³⁰ For these two reasons, they would also be less vulnerable to *Electoral barriers*.

seek to *educate* citizens, helping them understand what is at stake in one specific situation, and what are the relevant considerations that should be taken into account. Deliberation, under the right conditions, is expected to produce some epistemic benefits, such as reducing *Ignorance* (by making individuals aware of facts previously unbeknownst to them), or to change the motivations of the participants, neutralizing the intensity of *Status quo bias*, *Motivated Reasoning* and the influence of *Irrelevant Factors*—as it forces participants to address each other with reasons that they can accept as such, this kind of reasoning ideally excludes brute appeals to the *status quo*, strategic uses of argumentation, as well as irrelevant considerations which others might easily reject (Cochrane 2018, 42-43; Garner 2019, 321-323). By making people more invested in a particular issue, deliberative initiatives may also reduce the *Value-action gap*. More empowered deliberative initiatives also address the institutional sources of disregard for animal interests. The belief is that promoting deliberative initiatives with the capacity to shape policy-making (for instance, by issuing binding resolutions) would weight against the dangers of *Inability to sanction* (as citizens who delivered on these issues would be able to sanction policy-makers), *Electoral pressures* (since, even if pressures would remain, they would come from better informed and concerned citizens) and *Economic interests* (for the impact of the most opaque and out of the spotlight forms decision-making would be restricted).

D. *Commitment devices*: The main function of commitment devices is to make certain alternatives less seductive than they would otherwise be. Constitutional restrictions, for instance, attempt to bar some alternatives from the choice set (unless the provisions themselves are changed following demanding procedures). Establishing targets and goals, on the other hand, sets publicly accessible benchmarks which other political agents, institutions or associations can employ to evaluate policy-makers' performance regarding one particular issue (and the sanction for failing to realize them can go from public shaming to diminishing the electoral prospects of the incumbent).²³¹ All these initiatives try to resist the impact of the *Value/action gap*: by pre-committing themselves, policy makers are expected to make shirking or abandoning their original goals a

²³¹ Boston 2017, Ch. 8.

costlier alternative. This mechanism, if successful, would ensure a measure of compliance and intertemporal consistency (the decisions taken at t^1 cannot simply be reversed at t^2 without any noticeable cost). Moreover, commitment devices can also serve to counter the effects of *Electoral pressures*, as they establish competing pressures. On a simplified sanction model, political agents would be forced to care about fulfilling their promises and assumed goals regarding animal issues, as failing to do so might diminish their chances of re-election. Of course, these devices might in some cases be too soft: in 2008, for instance, the Spanish Parliament passed a resolution calling for Spain's adherence to the Great Ape Project, and the adoption of legislation granting nonhuman Great Apes certain basic rights. Because the issue was not discussed in Parliament before the stated deadline, the resolution (which was indeed a commitment of a sort) had no impact.

E. *Changing the electoral system*: Electoral engineering aspires to bend the iron of excessively tight electoral restrictions. They thus attempt to counter the effects of *Electoral barriers* (Boston 2017, 224-225). This is the argument made by the 1986 report by the New Zealand Royal Commission on the Electoral System, which argued that moving from the country's then First Past the Post system to a Proportional Representation system with suspended thresholds for specific groups might be the best way to improve the representation of the Māori.²³²

6.3.2.2. Consideration v. protection

Second, we must clearly specify what it is that we are trying to achieve (the general function, in short, of a proposal). As I explained in Section 1.1., there are two goals that institutions for animals can have. On the one hand, one may want these institutions because they can make animals politically visible. In that case, the goal is to ensure that the interests of animals are taken into account—*considered*—in political decision-

²³² In 1996, New Zealand partly adopted such recommendations, adopting a Mixed-Membership Proportional (MMP) system. This change appears to have increased the percentage of Māori MPs vis-à-vis the total number of MPs in Parliament (Johnson-Myers 2013, 85).

making (at least regarding those decisions that affect their interests). Whether or not these interests are ultimately advanced or protected, they should at least be counted. On the other hand, one may want to implement these institutions because they *protect* the interests of animals, or at least certain basic interests. Here the goal is not merely procedural (to have a decision-making procedure which is sensitive to the interests of animals), but outcome-oriented (to produce results that are valuable independently of the procedure that brought them about). A successful evaluation requires that we specify whether our intended goal is to improve consideration, protection, or a combination of both.

6.3.2.3. What counts as success?

Third, we must also clarify how to interpret the results in the light of a proposal's intended goals. In any realistic scenario, no institutional proposal will satisfy its goals completely. In the case of institutions for animals, no institutional scheme will guarantee absolute consideration or maximal protection. A question arises then: What counts as success? In order to be interesting, any account appears to require at least three things. First, it will not count as success only cases of perfect goal-satisfaction. This seems to be an impossible demand to satisfy, and would condemn to failure not only institutions for animals, but all institutions that have ever existed (which are, to some extent, sub-optimal). Second, it will also not count as success any possible marginal improvement over the *status quo*, as this would make success *too* easy: if an institutional proposal succeeds whenever it involves a minimal improvement over the baseline (no matter how trivial), too many things would count as successful. Third, it will allow for scalar assessments: ideally, we should be able to say that an institutional proposal is more effective than others, in a particular context, and with respect to a particular goal. Combining these three desiderata we can say that any realistic benchmark will include a lower threshold, above which proposals might be ranked according to the (always imperfect) degree of satisfaction of their goals.

Whereas 6.3.2.1 and 6.3.2.2 specify what it *is* that we want to achieve, 6.3.2.3 specifies *when* we have successfully achieved those goals. Both elements seem to be essential. On the one hand, we want institutions to do things effectively. On the other hand, we want institutions to do *particular* things—which need to be specified in advance in

order to even know whether an institution has been effective in any sense that we might care about.

6.3.2.4. The challenge from redundancy

Now, even if in this chapter I will not discuss how effective different institutional mechanisms would be at representing the interests of animals, there is nonetheless a general challenge that I want to address—for if the challenge is successful it would mean that the very idea of representing animals politically (as opposed to some particular institutional mechanism) is misguided. Roughly put, this challenge states that the political representation of nonhuman animals is very likely to prove redundant. In response, I shall offer a few reasons why this needn't be the case.

To describe the objection with greater detail, consider what Karsten Klint Jensen (2015) has called the “Münchausen problem of motivation” for the political representation of future generations. In this context, it has been argued that voters do not take the future seriously enough, and that the political representation of future generations might curb these biases, either by making decisions that will benefit or protect future interests, or by promoting a more rational and impartial deliberation among citizens that eventually transforms their attitudes towards the future. Jensen argues that this reasoning is problematic. If, on the one hand, present voters do not pay enough heed to future generations, why should we expect the representatives of future generations to perform well their task? After all, they will be selected by these very short-sighted voters, who, if the assumption is correct, cannot be trusted to select individuals especially motivated to act for the future, nor hold them accountable if they disregard future interests. On the other hand, if we concede that citizens do care enough about the future so as to be able to select apt future representatives, why would we need these representatives in the first place? If citizens do care for the future, they will simply have future generations in mind and vote accordingly. In Jensen's words: “The roundabout way of electing representatives for future generations for the sake of more impartial deliberation appears superfluous” (Jensen 2015, 544). An analogous argument could be applied to our discussion: If citizens are not sufficiently motivated to consider the interests of animals seriously—or to deliberate about them impartially—why should we expect them to select individuals who will? In fact, why should we even expect them to accept the

adoption of specific representative devices to represent animal interests? And, conversely, if citizens are really capable of being motivated in such ways, what would be the point of representing animals? If that was the case, should not they just vote with the interests of animals in mind?

The redundancy objection, then, holds that the kind of motivations needed to make the political representation of animals²³³ successful are precisely the same motivations that would, if widely adopted, make it unnecessary: namely, a disposition to consider the interests of animals, and how these interests are affected by political decisions. For the sake of the argument, I will assume that the interests of animals cannot be adequately represented unless people are motivated to some extent to take those interests into account. Without this minimum, it could be argued, it is not clear why any political agent might be disposed to bring the proposal about in the first place. Moreover, it is even less clear why those occupying the relevant positions would be motivated to act so as to ensure that the interests of animals are adequately considered in political decision-making processes (for, *ex hypothesi*, no one would be interested in holding them accountable). Even if we grant all this, it can still be argued that the degree of internalization of animal interests—and the disposition to do so—required to have animal-focused representative devices adopted needn't be as demanding as that required to make representation redundant.

Let us contrast two different models. On one model, the intensity of the disposition to internalize animal interests determines the prospects of animal-focused representative institutions, but it is not in turn shaped by those institutions. Moreover, on this model, the motivation to internalize animal interests remains constant. On an alternative model, this motivation is dynamic (its intensity can increase or decrease), and can itself be shaped by institutional devices representing animal interests. This allows for the possibility of feedback loops: at t^1 , X 's disposition to care about the interests of Y is sufficiently strong to support or tolerate the adoption of institutional devices representing Y 's interests. At t^2 , in turn, the activity of these devices increases X 's disposition to care about the interests of Y —hence potentially allowing for the adoption of even more ambitious institutional devices. On this model, the only thing we need is a

²³³ Understood here as the adoption of animal-focused institutional devices within the representative institutions of a political system.

non-trivial (even if still deficient) disposition to care about *Y*'s interests for the wheels to start turning.

Worries about redundancy, then, might be assuaged if political institutions (and representative institutions in particular) are able to shape citizen's dispositions to care about the interests of a particular group—if they can play, in short, an educative or transformative role. And there is some evidence that this is often the case. Throughout the last decades, there has emerged a growing literature on the feedback effects of public policies on citizens' attitudes (Cf. Mettler and Soss 2004; Kumlin and Stadelmann-Steffen 2014). Similarly, knowledge of law (i.e. what is permitted and forbidden by the legal system of a particular country) has been found to have an impact on people's attitudes towards the behaviors targeted by those laws (Berkowitz and Walker 1967; Tankard and Paluck 2016). In the US, for instance, the legal recognition of same-sex marriage at both the state and federal level appears to have led some citizens—who would have otherwise opposed it—to accept it (Hanley et al. 2012; Kreitzer et al. 2014; Flores and Barclay 2016).²³⁴ Some studies have focused specifically on the impact of representative institutions. For instance, one study on gender quotas in West Bengal found they weakened stereotypes about gender roles in both the public and domestic spheres, and also reduced the negative bias in the perceived effectiveness of female leaders (Beaman et al. 2009). A similar analysis found that such quotas resulted in an increased reporting on crimes against women (Iyer et al. 2012). Comparable effects have also been reported in other countries: in the US, for instance, one study found that the election of African Americans to office tended to decrease racial tension and increase racial sympathy in Democrats and independent voters (Hajnal 2011).

If this hypothesis is correct, political representation needn't be redundant. The motivations required to adopt a set of representative devices are not necessarily identical to the motivations that would make those devices superfluous. Importantly for our purposes, all these examples involve cases (women and the scheduled castes in India, African Americans in the US) where the duty to consider affected interests is not always

²³⁴ Hanley et al. are responding to another paper (Franklin and Kosaki 1989), which argues that this feedback effect was in fact negative: recognition of same-sex marriage, the authors argue, bolstered polarization, rather than acceptance. But note that even Franklin and Kosaki's claim assumes that such feedback effects take place.

respected, and where people fail to manifest the types of dispositions that would be present in a scenario in which those arrangements were superfluous. Although it might be that, ultimately, some specific institutional mechanism (or perhaps even the very general proposal) turns out to be ineffective (in some case even because of redundancy issues), that is something that we cannot settle on *a priori* grounds.

6.4. Normative justification

Finally, an institutional proposal needs to be normatively acceptable. We should implement a particular institutional arrangement only if, all things considered, the normative reasons for doing so outweigh the normative reasons against it. These normative reasons (or, more precisely, the weight that we assign them) might, of course, be themselves sensitive to considerations of feasibility and effectiveness, incorporating them into the final verdict.

Suppose that I am right and we have a general duty to represent the interests of animals. Suppose also that all the five proposals rank similarly regarding feasibility and success. In that scenario, would we have any reason to prefer one of the five proposals? In this section I will discuss some normative advantages and disadvantages specific to each proposal. Note that my goal is not to evaluate these proposals globally, but merely to highlight the particular normative issues that each of them raises. These issues should be discussed against the background of a broader balancing of reasons, including, *inter alia*, the more general reasons to include animals politically that I have defended in earlier chapters.

i) *Specific representatives*: This proposal faces at least two important normative challenges. The first one is directed at the very proposal, while the other objects specifically to what we have called the restricted model (i.e. where only a subset of citizens can be eligible either to occupy these seats or participate in the election).

The first challenge goes like this:²³⁵ When a number of seats in Parliament are devoted to a specific cause, this diminishes the political power of everyone else. Because political power is a highly rivalrous good, securing a certain amount of it for a specific

²³⁵ This objection has been raised in debates over the representation of future generations. See Wolfe 2008, 1919. Hooley 2018b, 8.5.2. discusses it issue in the context of animals.

group reduces the share of the rest. On its strongest version, this argument also holds that because the number of animals is so massive²³⁶ (greatly outnumbering the number of humans), representing them would consume almost all (if not all) our political resources. If representing animals entails undermining the representation of humans, then “[s]uch a proposal is a nonstarter politically” (Hooley 2018b, 319).

These worries might be alleviated in various ways. First, note that the proposal does not require the representation of *individual animals* (as per the “one vote, one person principle”²³⁷), nor does it require that the composition of legislative chambers reflect the composition of the broader society, including animals (as would demand certain forms of descriptive representation). Instead, it only requires the representation of their *interests*. Even though talk of “interests” tracks facts about individuals, we can attribute the same interest to many individuals, so that in talking about that interest we are referring, in a parsimonious way, to all those individuals who share the interest. Because of this, the number of animals that exist has no direct implications over the number of representatives that they should be afforded under this proposal (although there may be a more indirect correlation).

Second, the distribution of political power need not always be a *zero-sum* game. Having a specific number of representatives devoted to animals does not necessarily restrict the influence of other causes and groups. This is because the problems that affect animals often overlap and intersect with other problems. Take the case of intensive animal farming. Representatives for animals should ideally make visible the conditions under which farmed animals live (and, if we support an outcome-based approach, also try to protect their well-being). But the impact of factory farming is not restricted to farmed animals. As it currently operates, factory farming generates substantive environmental harms (e.g. livestock and fisheries account for 31% of food-related greenhouse gas emissions, on some estimates²³⁸). It also increases global health-risks, due to the conditions under which farmed animals are reared (i.e. tightly packed in dirty small spaces). As the physician Michael Greger has put it: “If you actually want to create global pandemics, then build factory farms” (Quoted in Sigal 2020). What this suggests

²³⁶ According to one estimate, only wild land vertebrates might number between 10^{11} and 10^{14} . See Tomasik [2009] 2019.

²³⁷ Hooley 2018, 320-321.

²³⁸ <https://ourworldindata.org/environmental-impacts-of-food> (Last accessed: June 2, 2022).

is that denouncing factory farms, and the living conditions of farmed animals, does not need to alienate other causes and groups. Whether this happens will depend on how the representatives' mandate is designed. If they are barred from appealing to additional reasons (i.e. reasons that are not directly related to animal welfare) when justifying why an activity that negatively affects animals is worthy of consideration, worries about of the sort under discussion will be warranted. But this will depend, to an important extent, on a specific choice about institutional design, not on a built-in feature of the proposal.

Third, it is likely that, even after taking the previous considerations into account, any proposal of this kind will somehow reduce the political power of other representatives. But that might not adversely affect the political system at large if the reduction in the power (both absolute and relative) of these representatives is compensated by an increase in the range of topics that are up for public discussion in debate. As I noted earlier (when talking about the influence of economic interests), decision-making involving animal issues is often opaque. This means that both the processes that lead to these decisions and the motives that underpin them are not always in the open. Specific representatives for animals can bring these issues and decision-making process back to public attention, and render them amenable to public scrutiny. Even though they take some power out of the hands of some representatives, this might be offset by the fact that citizens would now be explicitly allowed to participate in decisions that are often left to experts and made in a climate of secrecy, poor deliberation and little accountability.²³⁹

Fourth, it can be argued that reductions in political power are not always objectionable. They might even be desirable in cases of *overinclusion*, where certain individuals or groups have been enjoying more power or influence than can be justified. For instance, the enfranchisement of women surely diminished the (relative) political power of men, but that was perfectly acceptable. Whether one enjoys a fair share of political power is determined by the right principles of inclusion. If what I argued in earlier chapters is correct, adult able-minded humans have been wielding a disproportionate amount of political power (as they play an almost exclusive role in shaping policy-making while the interests of many other affected individuals are left unattended). Of course, that does

²³⁹ An analysis of the secrecy surrounding the regulation of animal experimentation can be found in Lyons 2013.

not show that *whatever* reduction of political power will be legitimate, but it does suggest that such reductions needn't be unacceptable *per se*.

Fifth, suppose that the political representation of all seriously affected animals indeed required devoting an unacceptable amount of political resources to animal issues, in a way that left humans unrepresented. Would that mean that animals should not be represented at all? I do not think so. At best, it would show that the representation of animals is an ideal that cannot be fully realized without sacrificing weightier ideals. But this is compatible with attempting to achieve those aspects of the ideal whose costs are acceptable. Consider the case of the Dutch Party for Animals. According to one study (Otjes 2014, 121), “[d]ifferent measures show an increase in attention to agriculture in the *Tweede Kamer* [the Dutch Parliament] after the PvdD entered” in 2006. Even though the case is different from our proposal, as it did not involve any specific reservations for animal representatives, the example shows that some benefits can be reached with very small costs (as of 2022, the Party for Animals only occupied 6 seats in the Dutch Parliament, out of 150).

Finally, note that the worry about reductions in political powers is pressing only if the electorate is restricted in some way. If all citizens can vote for specific representatives for animals (as on the unrestricted model), they will retain ultimate control over who gets elected. That would not be the case only if animal representatives were selected from or elected by a small subset of the general public, as the restricted model demands.

The second objection targets specifically the restricted model of the proposal. Basically, the objection accuses the restricted model of curtailing citizen's political standing. On the one hand, the objection goes, this proposal appears to threaten political equality, by giving a small group of voters a bigger say on issues affecting animals (at least, if those citizens can also vote in general elections) than that of their co-citizens. If that was the case, they would be enjoying two votes—i.e. a disproportionate amount of political influence. That, of course, is problematic. If the political influence of citizens is unequally distributed, do not they cease to be political equals? One possible way to respond to this challenge (which has been suggested, for instance, by Dobson 1996, 34) is to require those eligible to vote for specific animal representatives, and who are willing to do so, to relinquish their right to vote for “all-purpose” representatives. One might thus belong to a restricted roll (and vote for specific representatives for animals),

or to a general roll (and vote for the all the other representatives), and nobody would simultaneously belong to both rolls at the same time. A system of this sort operates in New Zealand, where the Māori can choose between being in the general electoral roll or in a restricted roll (the so-called “Māori electorates”) that participates in the election of specific representatives for the Māori.

On the other hand, the restricted model also limits the right to run for office. The reason is straightforward: if only some individuals are eligible for these positions, the exercise of that right gets restricted. After all, that would mean that similarly talented and ambitious individuals would not enjoy roughly equal chances of occupying positions of power. In response, it might be argued that the right to hold office does not require *everyone* to be able to occupy *every* position of power, but only that each adult citizen be granted *adequate opportunities* for holding political positions. That seems actually the view that one needs to endorse, for instance, if one wants to defend the legitimacy of reserved seats or party quotes for women. Consider the following example: in India, women in the Gram Panchayats (the local village councils) are reserved at least one-third of council leader positions (Duflo 2005). If an arrangement like this can be justified (which I will assume it can, for the sake of the argument), the right to run for office must be qualified in some way—which, no matter, how we flesh out the details, must hold that the right to run for and hold office is not objectionably restricted merely because *some* options are restricted. If that strategy is successful, it might then be employed to rescue the restricted model from this second objection.

ii) *An ombudsman for animals*: As I pointed out earlier, ombudspersons typically lack formal binding and sanctioning powers. Some authors have deemed this feature a virtue of the proposal, as it allows it to avoid questions regarding its legitimacy. If an ombudsman possessed formal powers to bind and sanction other decision-makers and decision-making bodies, it would be acting as a counter-majoritarian institution, vulnerable to the usual objections against this sort of institutions (e.g. Why should an unelected minority of individuals be able to direct policy-making?). Now, if elected bodies retain ultimate control over legislative and executive decisions (as, allegedly, it is the case when ombudspersons lack formal powers), this problem does not even arise. As Ludvig Beckman and Fredrik Ugglå have put it, because the “institution does not possess formal power to intervene in or to modify either the input or output of the

democratic process,” it “safely avoids objections grounded in normative conceptions of democratic legitimacy” (Beckman and Ugglä 2016, 124).

That is, if true, an important advantage. Other things being equal, proposals which face less normative challenges are, *prima facie*, in a better position than their alternatives. Nevertheless, it must be noted that the argument presented above depends on a specific (and, as we will see below, not uncontroversial) account of the kind of impacts on policy-making that trigger questions of political legitimacy. On this view, questions regarding the legitimacy of an institution only arise if this institution enjoys binding decision rights recognized by a formal system of norms.

To see why, imagine a formally disempowered ombudsman, who nonetheless happens to be extremely influential (so much that one can reliably assume that its recommendations will be adopted—precisely because it has recommended them). Even though its resolutions do not bind other bodies in a formal sense (i.e. there is no formal rule that states so), it still *de facto* shapes the latter’s decisions (e.g. perhaps the office is so popular that no other party can risk the electoral costs of ignoring its recommendations and advice). On the view described above, the operation of this institution raises no issues of legitimacy. But, of course, not everybody will accept this. On an alternative view (quite congenial to the All Affected Interests Principle), reliably and predictably affecting (i.e. *de facto* shaping) public policy is sufficient for an institution to raise questions of legitimacy—regardless of whether that is the result of a formal mechanism explicitly recognized in a normative system, or the product of an informal device, or a custom. For those sympathetic to this view, a highly influential ombudsman would still raise important legitimacy challenges even if it was not formally empowered to alter the inputs or the outputs of the democratic process.²⁴⁰

iii) *Deliberative initiatives*: The normative advantages and shortcomings of deliberative initiatives will depend, to an important extent, on their specific design. In general, it has been widely recognized that mini-publics can improve the epistemic credentials of deliberation (Smith and Setälä 2018, 305). That is, once again, an important virtue of a

²⁴⁰ Here I do not claim to be making any discovery. In their paper, Beckman and Ugglä (2016, 123) explicitly claim that “[t]he major issue of contestation” concerns “the way we ought to conceptualize the *demos*.” And, as we saw in Chapter 3, Beckman is one of the main (and most persuasive) defenders of the All Subjected to Law Principle.

proposal—other things being equal, institutional arrangements that promote epistemically more accurate (e.g. truer or more justified) judgments are better. What those benefits justify, however, is more controversial. Some authors (Chambers 2009; Lafont 2015) have argued that improving the epistemic quality of public deliberation and discussion is not enough for an institutional arrangement to legitimately shape public-policy. For these authors, legitimate decision-making bodies must be both *deliberative* and *participatory* initiatives. And, because mini-publics typically involve a small number of participants, they probably do not meet this last requirement. In other words, what mini-publics gain by enhancing deliberation they lose by reducing (mass) participation.

One possible response is that if participants are randomly selected, they will make up a statistically representative sample of the general population, whose decisions and judgments will in turn reliably indicate what the public at large would decide and judge if everybody was allowed to participate in the process. Thus, even if not everyone has the opportunity to participate in mini-publics, the views reached after deliberation will hopefully correspond (at least roughly) to those the electorate at large would adopt. On this view, mini-publics provide shortcuts that allow us to achieve high-quality deliberation, while at the same time by-passing the scaling-up problems that mass participatory initiatives face. This argument has been forcefully attacked by Cristina Lafont (2015). According to her, because mini-publics transform the views of participants vis-à-vis the untransformed views of the general public, the former can no longer be lumped together with the latter. “[B]y becoming better informed and having reasoned about the issues at hand they have become more like experts on those issues than ordinary citizens” (50). Now, if that is the case, then letting the views of this small minority directly shape public policy would be tantamount to allowing experts shape political decision-making. If that conclusion seems hard to accept, Lafont claims, we should abandon shortcuts: democracy, in her view, cannot avoid mass deliberation.

Which side we take on this debate will determine how we see both the potential and the moral limits of mini-publics in general (and applied to the case of animals in particular). If we think that mass participation is dispensable or can be by-passed through shortcuts like the one described above, then we might allow mini-publics to decisively shape at least some aspects of public policy. If, on the other hand, we reject shortcuts and believe mass participation to be indispensable, we will resist attributing mini-publics any

decisive political role (that is, any role that goes beyond issuing recommendations and guiding policy-makers, informing public debates or educating groups of citizens about particular issues).

As I have presented it, this debate is partly internal to deliberative democratic theory, and it is tied to a particular (deliberative) conception of democratic legitimacy which not everybody might accept. I, for instance, do not believe that the legitimacy of a political decision or arrangement should be ultimately grounded solely in facts about certain humans (able-minded adults who are the participants of deliberative processes).²⁴¹ But even in this case I do not think we can avoid the debate completely. First, because, even if the deliberative democratic conception of legitimacy does not offer a complete account of political legitimacy, it plausibly constitutes an important element of it. If there cannot be any “[deliberative] democratization without improved mass deliberation” (Lafont 2015, 45), that would count as a *pro tanto* reason against the legitimacy of any institutional arrangement that does away with mass participation. Second, it seems that we have at least important instrumental reasons to care about the number of people who have participated in making a decision. Social psychologist Tom Tyler, for example, has argued that people’s judgments about legitimacy are shaped by their judgments about control over the relevant processes (Tyler [1990] 2006, 7). Thus, if a majority of people believes that a decision has been made following a process over which they have no control (as would be the case if mini-publics were allowed to directly shape political decision-making), they will be less disposed to judge those decisions and processes legitimate. And, since legitimacy, as Tyler (126) understands it, involves both a disposition to obey and support, this would mean that these individuals would be less disposed to obey and support those decisions. But if a majority does not feel compelled to obey a political decision, then that decision will be worth little more than the paper on which it is written. Even if we are not fully committed to the

²⁴¹There are two ways to make the deliberative democratic conception of legitimacy compatible with this claim. First, one might reject that deliberative democratic legitimacy offers a complete account of political legitimacy rather than an account of specifically *democratic* legitimacy (which might be understood as a subset of a broader category). Second, the relevant deliberative processes might be understood broadly, so as to cover not only strong reason-giving among humans, but also less sophisticated communicative exchanges between humans and non-human entities (Dryzek 2000, 140). Some formulations of the deliberative criterion of democratic legitimacy are Cohen 1989, 22; 1997, 407; Estlund 1993, 1469; Benhabib 1994, 26; Gutmann and Thompson 1996, 4, and Martí 2006, 133.

deliberative democratic conception of legitimacy, we still have good reasons to care about the challenges it raises to some uses of mini-publics.

iv) *Commitment devices*: As I explained above, commitment devices come in many shapes, and vary along different lines. For the purposes of this section, two dimensions stand out: i) the *character* of the device (i.e. whether it involves hard or soft constraints and sanctions), and ii) its *time-horizon* (i.e. whether the proposal is expected to constrain the activity of policy-makers during a normal electoral cycle, or whether it aims to have a more durable impact). Because commitment devices are adopted by political institutions and decision-makers themselves, it might initially look as if the proposal avoids, once again, problems of democratic legitimacy. Just as Ulysses willingly decided to tie himself to his ship's mast in order to resist the sirens' luring chants, so might legislators and other decision-makers decide to tie their hands with regards to some issues or decision-making domains in order to resist certain temptations and perverse incentives.

But this is where the character and the time-horizon of commitment devices come into play: if a device constrains the decision-making power of political institutions over a long period of time (that is, a period that extends beyond a typical electoral cycle), and if it does so robustly (that is, if it is *really* difficult for political agents to do otherwise), then such a constraint might face potential legitimacy-based objections, especially of intergenerational legitimacy. (Rigid) constitutional provisions, for instance, face one problem of this kind: namely, they constrain the decision-making power, not only of the generation and the specific electorate that supported their adoption, but of generations to come—who did not have a say in the process but will have to face its consequences nevertheless. That is an old discussion in political philosophy, and I only mention it here to highlight its relevance.²⁴² In response, one can either accept it (and conclude that commitment devices should be soft, or have a short timespan²⁴³) or resist it (e.g. by claiming that such constraints might be a legitimate means to curb the excessive power and influence of human voters over issues that do not only affect them). All these views,

²⁴² For useful discussion, see Thompson 2005 and Beckman 2016.

²⁴³ Thomas Jefferson, for instance, famously suggested that constitutions should expire and be replaced every 19 years (*Letter to James Madison*, September 6, 1789). Available at: <https://jeffersonpapers.princeton.edu/selected-documents/thomas-jefferson-james-madison> (Last accessed: June 2, 2022).

however, can accept that soft or brief constraints needn't raise particularly troubling normative challenges, and that commitment devices, in general, can be justified.

v) *Changing the electoral system*: Many authors believe that political decision-making processes should take into consideration a large number of different views. In his *Considerations on Representative Government*, John Stuart Mill (1977, 432) famously described Parliament as a Congress of Opinions, "an arena in which ... every opinion of the nation ... can produce itself in full light and challenge discussion." More recently, John Dryzek and Simon Niemeyer (2008) have discussed the potential benefits of a formal Chamber of Discourses, where different discourses are represented (instead of individuals or groups, who might still be represented in ordinary chambers).

The basic intuition behind these claims is that all perspectives, opinions and views (or a substantive number of them, or at least the most relevant to a specific issue) should be present in political decision-making sites. This could be justified by appealing to at least three sorts of considerations. First, one could argue that individuals should enjoy fair opportunities to have their views discussed or considered in political decision-making processes. Second, it could be claimed that the epistemic benefits of democracy²⁴⁴ only arise if there is a sufficiently large pool of information to draw upon (Landmore 2012, 98). And third, it might be said that deliberation requires access to "multiple perspectives" (Sunstein 2017, 129) or to "the perspectives most relevant to a decision" (Mansbridge 2003, 552).

The proposal to modify a country's electoral system can be grounded in this principle, regardless of how we justify it: if certain electoral systems (or specific features, such as tight thresholds) excessively constraint the number of views that can be discussed in Parliaments, then we have reasons to loosen such restrictions. It might be argued that all the five proposals under discussion can be justified on similar grounds: plausibly, one of the reasons why we might want an ombudsman for animals, or specific representatives, or deliberative initiatives about animal issues, is to increase the number of views that receive political attention.

Still, this specific proposal has one feature that might make it particularly attractive for the most skeptical readers: namely, that it is not specifically focused on animals, nor

²⁴⁴ Be they the product of deliberation or other non-deliberative information-processing mechanisms.

does it requires to take any stance regarding any thesis in animal ethics. If you do not believe there are sound arguments to specifically represent the interests of animals, you can nonetheless support the representation of discourses and views about the interests of animals—by reasons that do not depend those interests. If adopting more proportional electoral systems, or relaxing electoral thresholds, can increase the number of parties and views that can enter into Parliament, then such measures are like a tide that lifts all boats, without specifically focusing on any boat.²⁴⁵

If what I have argued in this thesis is correct, and animals (or some of them, at least) really have interests worthy of being politically represented, this argument is not necessary. Nevertheless, the argument’s central point (that this proposal is impartial or neutral in a way that the alternatives are not) continues to be relevant. Other things being equal, an arrangement that does not focus on one specific group of individuals (which is, so to speak, “multi-purpose”) might be preferable to arrangements with particular targets.

6.4. Conclusion

In this chapter I have turned to the question of how to institutionalize the representation of animal interests in real world political systems. In Section 6.1. I offered a more fine-grained analysis of the general problem of disregard for animal interests in policy-making, distinguishing, on the one hand, between two ways in which disregard can occur (6.1.1.), and suggesting, on the other, several potential sources of disregard (6.1.2.). Then (in Section 6.2) I introduced five institutional proposals for representing the interests of animals, which have been discussed in the literature on the representation of animals (still in its infancy), or which I have adapted from debates in the vicinity (like the debate on the representation of future generations). These proposals, I pointed out, can vary along many dimensions. Third, in Section 6.3 I discussed three general desiderata of institutional design: feasibility (6.3.1.), effectiveness (6.3.2.) and normative justification (6.3.3). From the standpoint of

²⁴⁵ Of course, there is the possibility that pro-animal views will not be benefited. But, for the skeptic, that would not be a worry.

institutional design, proposals that are unfeasible, cannot achieve their goal or lack normative justification appear to be inadequate.

Conclusions

It is now time to pause and look at the road behind. In this last part of the thesis, I will summarize what I think are the main points and contributions of this thesis, as well as some of its main limitations. This will allow us, first of all, to reconstruct the structure of the main argument defended in this thesis, and to capture its basic logic. It will also help us isolate the many claims and arguments presented throughout the different chapters, some of which are independent from each other. This is important, for one simple reason: many parts of the argument, and many of the claims made above, will need refining, and some will probably have to be abandoned. Isolating the different parts of the arguments can make it easier for us to identify, whenever it becomes necessary, those claims and arguments that can be retained, those that should be revised, and those that we should reject. Finally, highlighting the main limitations of the thesis (some of which I anticipated in the Introduction) is, besides a demand of honest inquiry, useful for identifying avenues for future research.

Introduction

1. The well-being of millions of nonhuman animals is pervasively affected by political decisions over which they have no control.
2. Although some efforts have been made to enhance the legal status of animals, and to represent them before courts (e.g. the Nonhuman Rights Project), the scope for legal action is limited, and is constrained by whatever biases exist in the law-making process (where there—almost—exist no mechanisms to ensure that the interests of animals are taken into account).
3. The question arises whether we have a duty to (re)design political institutions (in particular, representative institutions) so that they become more responsive to the interests of nonhuman animals.
4. The focus on representative institutions allows us to avoid taking a stance on two controversial questions: i) whether animals can be political agents in some sense, and ii) whether animals can (and should) be recognized as citizens of mixed human-animal political communities.

Chapter 1 – Animals and their minds

1. It is permissible to restrict the scope of our discussion to mammals for purely pragmatic reasons (that is, without assuming that there is necessarily any deep feature that separates morally all mammals from all other nonhuman animals).
2. We have compelling reasons to believe that all mammals are sentient (i.e. they are phenomenally conscious creatures). More specifically, we have compelling reasons to believe that mammals are capable of experiencing pain—although, inevitably, there is some indeterminacy regarding the extent to which their pain resembles that of humans.
3. It is much more difficult to conclude that mammals are autonomous agents. Even if we adopt a relatively generous conception of autonomous action (which only requires three capacities: minimal rationality, the ability to understand means and make plans, and the capacity to see oneself as the subject of a life stretching over time), it is at best an open philosophical and scientific question whether at least some small group of mammals (e.g. some Great Apes) can act autonomously.

Chapter 2 – Why animals deserve moral consideration

1. As I use the expression, an entity has moral status when we have reasons for doing—or refrain from doing—certain things to that entity that are ultimately grounded (at least in part) in facts about that entity.
2. There are at least two ways to think about the moral status of nonhuman animals: the Indirect Duty View and the Direct Duty View. According to the Indirect Duty View, animals do not possess moral status, as all the duties that we have towards them are ultimately duties that we owe to other human beings (i.e. these duties are not ultimately grounded, not even partly, in facts about animals themselves). This view, however, has difficulties justifying a morally relevant distinction between humans and nonhumans (which some prominent defenders of the view want to make), and yields several counterintuitive judgments.
3. Animals, unlike inanimate objects such as works of art, possess interests (i.e. they have a well-being of their own). One relatively uncontroversial example is the interest in avoiding pain and suffering. Mammals, as we established in Chapter 1, can experience pain. Moreover, on the main theories about the

badness of pain, the pain of mammals can be considered intrinsically bad. This gives us reasons to do or refrain from doing things to some animals that are ultimately grounded in facts about the animals themselves (i.e. the badness of pain for them). Thus, they can be considered bearers of moral status in the sense specified above. The interest in avoiding pain and suffering, in addition, is weighty enough to generate a *pro tanto* duty not to inflict it. If that is correct, we end up with a version of the Direct Duty View.

4. The pain of (cognitively unimpaired) human adults might be conceptually richer than the pain of nonhuman animals. This qualitative difference, however, does not have unidirectional moral implications. In some cases, being able to have more complex experiences of pain can indeed make one's pain worse. In other cases, however, it can make pain easier to tolerate.
5. The argument in this chapter is compatible with different views about the moral status of non-sentient living entities (e.g. plants). On the one hand, it is compatible with claiming that only sentient beings can have moral status (on an account of moral status which requires the possession of interests, and which rules out non-sentient beings as potential interest-bearers). On the other hand, it is also compatible with claiming that some non-sentient living entities can have moral status too (as one could, alternatively, assume either an account of moral status which does not require the possession of interests, or a theory of interests in which non-sentient entities can have them).

Chapter 3 – The grounds of political inclusion: Nonhuman animals and the boundary problem

1. “Political inclusion” can refer to at least three forms of political status: i) possession of *strong* participatory rights (like the right to vote); ii) possession of *weak* participatory rights (such as the right to participate in non-binding initiatives), and iii) having one's interests politically represented (which cannot be reduced to a merely moral right to have one's interests considered). Although nonhuman animals cannot be politically included in the first and second senses, it is an open philosophical question whether they can be included in the third sense.

2. Although principles of inclusion developed in the context of the boundary problem have been used mostly to justify different views about the distribution of participatory rights in democratic societies, they might also be used to inform and guide broader debates about political inclusion in general (e.g. political representation). On the one hand, many participants in the debate (e.g., Dryzek, Eckersley, Ekeli, Goodin) have used the principles in this way. On the other hand, normative principles can have a broader range of application than what its original proponents initially thought (think, for instance, about Rawls' Difference Principle).
3. According to the All Affected Interests Principle, one ought to enjoy participatory rights or be politically represented when her interests are relevantly affected by political decisions. This principle admits of an instrumentalist reading, which sees inclusion as a mechanism to ensure the protection of interests, and a non-instrumentalist reading, which sees inclusion as the best way to ensure that all affected interests are considered, and that conflicts of interests are adjudicated in a fair way.²⁴⁶ In Chapter 2, we saw that mammals have a weighty interest in avoiding pain and suffering. In the Introduction, we saw how political decisions have an impact upon the well-being of animals (and, particularly, upon the interest in avoiding pain and suffering). Therefore, the All Affected Interests Principle seems to require that at least some nonhuman animals be included (i.e. politically represented).
4. On the All Subjected Principle, someone should be politically included if she is either subject to the laws of a political system (the All Subjected to Law Principle), or to the coercive institutions of the state (the All Subjected to Coercion Principle). Assuming, as we concluded in Chapter 1, that most nonhuman animals (if not all) are not autonomous agents, the All Subjected Principle seems unlikely to support their political inclusion. First, although in at least one jurisdiction (India) animals have been declared subjected to legal duties, this sense of "subjection to law" is not robust enough for the All Subjected to Law Principle to apply. Second, whether the All Subjected to Coercion Principle can be applied to nonhuman animals will depend on whether

²⁴⁶ As we saw, it also admits a third reading, grounded in the value of self-rule.

the principle ultimately tracks infringements upon autonomy, or (more broadly) infringements upon agency in general. All in all, we should not put too much weight on this last strategy.

5. According to the Stakeholder Principle, one should be politically included within a particular political community if she has a relevant stake in the continued existence of that community (i.e. if her well-being and autonomy depend on the persistence of the community, and on the community being democratically governed). The well-being of many nonhuman animals (domestic animals are the clearest example) depends on the persistence of the particular communities in which they live. Whether it also depends on the community being democratically organized is a thornier question. Nonetheless, if this requirement must be interpreted in a way that covers children (as Rainer Bauböck, the principle's foremost defender, intends), then it might not be possible to exclude *all* nonhuman animals at the same time.
6. Finally, according to the Social Membership Principle, someone ought to be politically included if she is a member of the society established within the territorial boundaries of the relevant political community. On Sue Donaldson and Will Kymlicka's version, the principle applies to domestic animals, and partially to liminal animals. On Joseph Carens' version of the principle, which stresses the importance of residence within a community's territorial boundaries over a sufficiently long period of time, some animals (i.e. those that do not leave the boundaries of the community) qualify as well.

Chapter 4 – Justifying inclusion: In defense of the All Affected Interests Principle

1. An adequate principle of inclusion i) should rely on a *plausible set* of fundamental principles and values, ii) should *clearly specify* its intended inclusion goals, iii) should express a *sound bridging principle* linking the fundamental principles and values, on the one hand, and the inclusion goals, on the other hand, and iv) should be *extensionally adequate*.

2. The All Subjected Principle probably does not require that we include animals politically. Now, it is not clear that the All Subjected Principle should be seen as a principle regulating whose interests political institutions have a duty to represent. First, because that would not accurately reflect how the principle has been employed by its main defenders. Second, because, if it was, it would not be extensionally adequate (it would fail to account for the duty of political institutions to represent the interests of babies and/or very young children).
3. The All Affected Interests Principle, understood as a principle for determining whose interests ought to be politically represent, fares better in this respect, as it can easily account for the duty to represent the interests of children.
4. When understood in this way, the All Affected Interests Principle can avoid or resist many of its most common objections (which are more forceful when directed towards the All Affected Interests Principle understood as a principle for determining the distribution of strong participatory rights).

Chapter 5 – The political representation of nonhuman animals

1. The expression “political representation” very likely refers to many different phenomena, all of which can be considered legitimate instances of political representation for some purposes, and under some circumstances. In order to evaluate whether nonhuman animals can be represented, though, it is reasonable to assess first whether this is a possibility allowed by prominent theories of representation (so as to avoid relying on a purely idiosyncratic stipulative definition).
2. On Hanna Pitkin’s extremely influential account, representation can be formal, symbolic, descriptive or substantive. Nonhuman animals can be clearly represented symbolically. It is an open question whether they can be represented descriptively and formally under some specifications. Most importantly, we have compelling reasons to conclude that they can be represented substantively (which seems to be the sense that most authors have in mind when they discuss the political representation of animals).

3. In Philip Pettit's view, political representation can be responsive and indicative. Whether animals can be represented in the indicative sense raises difficult challenges, and ultimately depends on how we answer some controversial questions. It is better, then, to focus on responsive representation, which seems easily applicable to animals.
4. Jane Mansbridge distinguishes four kinds of political representation: promissory, anticipatory, gyroscopic and surrogate. Although animals cannot be represented in the first two ways, they can be represented by surrogates and also by gyroscopic representatives.
5. Positivist theories of representation (like those of Michael Saward and Andrew Rehfeld) hold that political representation can be fully characterized without appealing to normative considerations of legitimacy (such as responsiveness or authorization). On both Saward's constructivist and Rehfeld's audience-based accounts, the political representation of animals seems, from a conceptual standpoint, perfectly possible.
6. Howard Schweber's argument against the possibility of political representation without authorization fails to show that an account of representation that does not require, in all cases, the possibility of authorization cannot retain a link between representation and legitimacy.
7. Because it eschews appeals to responsiveness, positivism about political representation might not be particularly attractive for those defending the possibility of representing animals politically—although they can accept positivism as a theory of representation in general, and latter assume responsiveness as a requirement of *normatively desirable* representation.
8. Political constructivism can be understood in two ways. On a weak reading, it holds that the interests of the represented are *partly* constituted by the act of

representation itself. On a strong reading, however, it also holds that there are no interests prior to the act of representation. This last view makes the whole project of representing nonhuman animals either unattractive or groundless. Nevertheless, the reasons in favor of the strong reading are not persuasive.

Chapter 6 – Making it happen: Institutionalizing the political representation of animals

1. There are many reasons why the interests of nonhuman animals might be disregarded in political decision-making. Some of them derive from human psychological trends and mental states (uncertainty, ignorance, status quo bias, motivated reasoning, the distorting influence of irrelevant factors, and the value/action gap). Other factors, however, depend more on the institutional machinery of electoral politics (animals' inability to sanction, their inability to make electoral pressures, the influence of economic interests, and the impact of electoral barriers).
2. The political representation of animals might be institutionalized in at least five ways: by reserving a number of seats in parliament for specific representatives, by appointing an ombudsman for animals, by promoting deliberative initiatives, by adopting commitment devices, or by modifying the electoral system—i.e. towards a proportional system). Although it is an empirical question whether those proposals will work, we can nonetheless identify which evaluative criteria ought to inform our decisions.
3. One first important criterion of a desirable institutional proposal is whether the proposal is feasible. Feasibility can be understood in binary or scalar terms, and refers both to the accessibility and the potential stability of a particular arrangement. If an institutional scheme is unfeasible in the binary sense, we have sound reasons not to waste valuable resources trying to implement it. If it is unfeasible in the scalar sense, our reasons not to implement the scheme will be proportional to its degree of unfeasibility.
4. Effectiveness is another important criterion. If an institutional proposal cannot successfully achieve whatever it is that we want of it, it will lose much (if not

all) of its attractiveness. In order to test a proposal's effectiveness, we should clearly specify a set of goals (i.e. whether the interests of nonhuman animals ought to be considered, or also protected), the conditions under which those goals have been successfully accomplished (so that we can tell whether the proposal has been imperfectly successful or a straightforward failure), and some hypothesis about the underlying logic through which a specific institutional scheme might help increase the degree to which the interests of nonhuman animals are considered or protected (so that we can tell whether the impact of an institutional arrangement has been what we expected, or the result of sheer luck).

5. Finally, an (all things considered) desirable institutional proposal must be normatively justified. Although none of the five proposals discussed raise serious normative challenges *in general*, some particular versions do. In that section, I defended that none of those challenges is necessarily unsurmountable. Still, if two proposals are roughly equal in other respects, we should choose that which raises the lesser number of normative worries.

In general, this thesis has attempted to contribute to the political turn in animal ethics in at least three ways:

- i) First, by appealing to principles and arguments developed in the context of the boundary problem in democratic theory to inform debates about the political inclusion of nonhuman animals. Although these principles have been mentioned in some contributions to those debates, no systematic, book-like, discussion of the potential connections between the two literatures has been developed yet, as far as I know. In focusing on these questions, I have tried to achieve two goals. First, I have tried to provide arguments for the political inclusion of nonhuman animals that do not rely on a thick account of the moral rights of animals. This, I think, can facilitate communication between people working in animal ethics and people working in other domains of political philosophy. Second, I have also aimed at exploring the nature of the different principles of inclusion themselves: how to understand them, and how best to justify them.

ii) Second, I have also tried to probe in a systematic manner the accommodation of the representation of animals within contemporary accounts of political representation. Again, this is a question on which I have not found much discussion in the emerging literature on the political representation of nonhuman animals (one exception being Kimberly Smith in her book *Governing Animals*).

iii) Third, I have attempted to use discussions, arguments and proposals developed in the literature on the political representation of future generations (comparatively more developed) to illuminate the debate about the political representation of nonhuman animals. This literature provides valuable and useful resources that are often not exploited to their full potential.

But, obviously, it also faces some limitations. I will finish this section by pointing out some of them. As it will become clear, many of those limitations are inherent to the *minimalist* strategy I have assumed throughout this thesis. Although, for the specific purposes of this work, this is a legitimate strategy, a more substantive account of the political status of nonhuman animals will have to take a stand on certain controversial issues.

i) In this thesis I have discussed solely the political status of *mammals* (and I have done so by focusing primarily in the interest they have *in avoiding pain and suffering*). This restriction limits both the *kinds* of animals that a theory of the political status of animals is concerned with, and the *interests* that it can employ to potentially justify attributions of political status. A more developed account must tell us, first of all, whether other classes of animals (that is, beyond mammals) merit some form of political status as well. Secondly, such an account must also tell us whether there any other interests, beside the interest in avoiding pain and suffering, that can justify the political inclusion of animals.

All authors working in the political turn agree that sentient animals have a weighty interest in avoiding pain and suffering. They disagree, however, on which additional interests they have, how they ought to be ranked, and whether they are relevant for questions about political inclusion. Some believe, for instance, that at least some animals (even if they are not fully autonomous

beings) have a politically relevant interest in being free (Donaldson and Kymlicka 2011; Giroux 2016; Paez 2021), while others are more skeptical (Cochrane 2012). Other examples include interests in continued life, procreation, or privacy. Ideally, a complete theory of the political status of animals should identify all those interests that are potentially relevant to political inclusion, produce principles to illuminate the ranking and weighing of those interests under specific circumstances, and estimate which animals are likely candidates for possession of those interests, given the best available evidence.

ii) Because I have focused mainly on the interest of mammals in avoiding pain and suffering, I have been unable to tackle the important question of whether different groups of animals might be assigned different types of political status. Think, for instance, of Donaldson and Kymlicka's distinction between domesticated, wild and liminal animals. According to them, these three classes of animals possess distinct interests, and deserve differential treatment. A unidimensional account of the kind I have assumed here is insensitive to those differences (since, if one focuses merely in the interest in avoiding pain and suffering, there is no obvious normatively relevant difference between domesticated, wild and liminal animals), and it is thus ill-equipped to assess the possibility of group-specific varieties of political status.

iii) Also, in focusing only on *political representation* as the relevant modality of political inclusion, this thesis has left open the question of whether animals might be politically included in other ways. Obviously, they cannot participate in politics (not at least through the typical participatory channels of large-scale mass democracies). But there may be other potential modalities of political inclusion available, such as citizenship or sovereignty (which some authors have argued are fitting for at least certain groups of animals).

iv) Borrowing from Robert Dahl's terminology, this thesis has focused on the *domain* of democratic decision-making (who ought to participate—or, in our case, be represented—in political decision-making processes). But there are also questions about the *scope* of democratic decision-making that I have not dealt

with. The scope of democracy involves the set of decisions that a democratic political system can permissibly make. Plausibly, there are some decisions so morally heinous that they would not be legitimate no matter how impeccably democratic the procedures that brought them about are. For instance, no matter how inclusive and deliberative the procedure that preceded it, a decision to torture a randomly chosen child for the fun of it would not be permissible. These matters belong to what Luigi Ferrajoli famously called “the sphere of the undecidable.” In this thesis, I have analyzed how political decisions are to be arranged when they affect nonhuman animals, but I have left aside the important question of whether there are some decisions involving animals that are not up for democratic adjudication in the first place. Some authors believe, for example, that animals have certain fundamental rights, which no individual or institution can permissibly infringe (except, perhaps, to avoid “catastrophic moral horror,” in Robert Nozick’s expression). A complete theory of the political status of nonhuman animals, then, ought to specify the boundaries of both the domain and the scope of democratic (and, in general, political) decision-making in matters concerning animals.²⁴⁷

v) Relatedly, I have not taken a stance on the role of disagreement in our discussion. As I mentioned in the introduction, the arguments in this thesis are compatible with at least three positions: i) there is no reasonable disagreement about at least some claims about the interests of at least some animals, and those interests can justify certain forms of political inclusion, ii) there is reasonable disagreement about the interests of animals, and the existence of this disagreement means that the state cannot coercively enforce the inclusion of animals (but it is compatible with citizens having a moral—non enforceable—duty to support changes in their political arrangements that include animals politically), or iii) there is reasonable disagreement about the interests of animals, but disagreement only offers a *pro tanto* reason against the coercive implementation of political arrangements that represent the interests of animals. A more developed account of the political status of animals needs to tell us

²⁴⁷ Donaldson and Kymlicka 2011 and Cochrane 2018, for instance, build their respective theories of the political status of nonhuman animals (at least in part) on an account of their basic rights.

which of these three alternatives is preferable, so as to fully disclosure the normative implications of animals' having political status.

vi) Although in this thesis I have offered what I think is a plausible defense of a version of the All Affected Interests Principle that can accommodate and justify the political inclusion of nonhuman animals, some important questions remain unanswered. On the one hand, in the above discussion, I distinguished between a version of the principle that merely requires consideration of interests with a stronger version of the principle that requires, in addition, protection of interests. I have not, however, said anything about how to balance both types of considerations in cases in which animals have their interests considered but not protected. On the other hand, I am still somewhat unsure about some steps in the argument—for example, my response to the “wrong scope objection.” Even though I believe that the strategy I suggest is promising, it still requires more elaboration than what I have been able to provide here.

vii) Finally, as I have stressed throughout this thesis (especially in the last sections), many of the claims I make are conditional on the truth of certain empirical premises about the effectiveness of different institutional proposals to represent the interests of animals—premises which, although I certainly take to be reasonable enough, we still do not have enough evidence to conclusively settle. What I have tried to provide in this thesis, then, are some normative criteria by which different results might be judged (and what implications they would have). Which results do obtain (that is, whether representing nonhuman animal interests would increase their degree of protection, or at least ensure that they are better taken into account) is something we cannot answer without systematic empirical analysis. As I pointed out in the Introduction, some political systems are adopting (or, at least, planning to adopt) institutional devices that at least promise to offer some degree of representation for animal interests (e.g. the UK Animal Sentience Committee). If those developments became a trend, social scientists would might be able to investigate them, and assess the relative effectiveness of different institutional devices, as well as the causal mechanisms underpinning success and failure. If so, we might begin to “de-conditionalize”

the arguments in this thesis. The arguments in this thesis can be understood as providing reasons for the relevance (and the need) of this sort of empirical research—that is, as a second-order duty to experiment with representative arrangements.

References

- Abad Liñán, José Manuel; Galán, Javier and David Alameda. 2016 (October 20). Uno de cada cinco pueblos usa toros y otras reses en sus fiestas. *El País*. https://elpais.com/cultura/2016/09/08/actualidad/1473332055_067607.html (Last accessed: June 2, 2022).
- Abizadeh, Arash. 2008. Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders. *Political Theory* 36(1): 37-65.
- Abizadeh, Arash. 2010. Democratic Legitimacy and State Coercion: A Reply to Miller. *Political Theory* 38(1): 121-130.
- Abizadeh, Arash. 2012. On the Demos and Its Kin. *American Political Science Review* 106(4): 867-882.
- Abizadeh, Arash. 2021. The Scope of the All-Subjected Principle: On the Logical Structure of Coercive Laws. *Analysis* 81(4): 603-610.
- Acemoglu, Daron; Naidu, Suresh; Restrepo, Pascual and James A. Robinson. 2019. Democracy Does Cause Growth. *Journal of Political Economy* 127(1): 47-100.
- Achen, Christopher H. and Larry M. Bartels. 2016. *Democracy for Realists: Why Elections Do Not Produce Responsive Government*. Princeton: Princeton University Press.
- Akaichi, Faical and Cesar Revoredo-Giha. 2016. Consumers Demand for Products with Animal Welfare Attributes: Evidence from Homescan Data from Scotland. *British Food Journal* 118(7): 1682-1711.
- Akhtar, Sahar. 2011. Animal Pain and Welfare: Can Pain Sometimes Be Worse for Them than for Us? In Beauchamp, Tom and Raymond G. Frey (eds.). *The Oxford Handbook of Animal Ethics*. Oxford: Oxford University Press, pp. 495-518.
- Alexievich, Svetlana. [1989] 2017. *Boys in Zinc*. London: Penguin Classics.
- Allen, Collin. 2004. Animal Pain. *Noûs* 38(4): 617-643.
- Allen, Colin. 2006. Transitive Inference in Animals: Reasoning or Conditioned Associations? In Hurley, Susan and Matthew Nudds (eds.). *Rational Animals?* New York: Oxford University Press, pp. 175-185.
- Andrews, Kristin. 2015. *The Animal Mind: An Introduction to the Philosophy of Animal Cognition*. New York: Routledge.
- Andrews, Kristin. 2021 Animal Cognition, in Zalta, Edward N. (ed.). *Stanford Encyclopedia of Philosophy* (Summer Edition).

- <https://plato.stanford.edu/archives/sum2016/entries/cognition-animal/> (Last accessed: June 2, 2022).
- Andrić, Vuko. 2017. How Do Affected Interests Support Global Democracy? *Journal of Global Ethics* 13(3): 264-278.
- Andrić, Vuko. 2021. Is the All-Subjected Principle Extensionally Adequate? *Res Publica* 27: 387-407.
- Arias-Maldonado, Manuel. 2014. Rethinking the Human-Animal Divide in the Anthropocene, in Wissenburg, Marcel and David Schlosberg (eds.). *Political Animals and Animal Politics*. Basingstoke: Palgrave Macmillan, pp. 17-29.
- Arrhenius, Gustaf. 2018. The Democratic Boundary Problem Reconsidered. *Ethics, Politics & Society* 1: 89-122.
- Arrhenius, Gustaf. 2019. Democracy for the 21st Century: Research Challenges, in Randeria, Shalini and Björn Wittrock (eds.). *Social Science and the Crossroads. Annals of the International Institute of Sociology vol. 1*. Leiden: Brill. References are from the online version of the paper available at: <https://www.iffs.se/media/2401/democracy-for-the-21th-century-research-challenges-in-wittrock-et-al-sociology-looks-at-the-twenty-first-century-aug-2015.pdf> (Last accessed: June 2, 2022).
- Ashworth, Scott and Anthony Fowler. 2020. Electorates versus Voters. *Journal of Political Institutions and Political Economy* 1(3): 477-505.
- Aydede, Murat. 2019. Pain, in Zalta, Edward N. (ed.). *The Stanford Encyclopedia of Philosophy* (Spring Edition). <https://plato.stanford.edu/archives/spr2019/entries/pain/> (Last accessed: June 2, 2022).
- Baskaran, Thushyanthan and Mariana Lopes da Fonseca. 2013. Electoral Thresholds and the Success of Minor Parties. *Center for European, Governance and Economic Development Research Discussion Papers. No. 177*.
- Ball, Terence. 2006. Democracy, in Dobson, Andrew and Robyn Eckersley (eds.). *Political Theory and the Ecological Challenge*. Cambridge: Cambridge University Press.
- Ball, Terence; Dagger, Richard and Daniel I. O'Neill. 2014. *Political Ideologies and the Democratic Ideal*. New York: Pearson Longham.
- Barber, Benjamin R. [1984] 2003. *Strong Democracy: Participatory Politics for a New Age*. Los Angeles: University of California Press.

- Barth, Jochen and Josep Call. 2006. Tracking the Displacement of Objects: a Series of Tasks with Great Apes (Pan Troglodytes, Pan Paniscus, Gorilla Gorilla, and Pongo Pygmaeus) and Young Children (Homo Sapiens). *Journal of Experimental Psychology: Animal Behavior Processes* 32: 239-252.
- Bastian, Brock; Loughnan, Steve; Haslam, Nick and Helena R. M. Radke. 2012. Don't Mind Meat? The Denial of Animals Used for Human Consumption. *Personality and Social Psychology Bulletin* 38(2): 247-256.
- Bauböck, Rainer. 2006. Stakeholder Citizenship and Transnational Political Participation: A Normative Evaluation of External Voting. *Fordham Law Review* 75(5): 2393-2447.
- Bauböck, Rainer. 2009. The Rights and Duties of External Citizenship. *Citizenship Studies* 13(5): 475-499.
- Bauböck, Rainer (ed.). 2018. *Democratic Inclusion: Rainer Bauböck in Dialogue*. Manchester: Manchester University Press.
- Basl, John and Gina Schouten. 2018. Can We Use Social Policy to Enhance Compliance with Moral Obligations to Animals? *Ethical Theory and Moral Practice* 21: 629-647.
- BBC News. 2019 (July 1). Japan resumes commercial whaling after 30 years. <https://www.bbc.com/news/world-asia-48821797> (Last accessed: June 2, 2022).
- Beauchamp, Tom L. and Victoria Wobber. 2014. Autonomy in Chimpanzees. *Theoretical Medicine and Bioethics* 35: 117-132.
- Beaman, Lori; Chattopadhyay, Raghavendra; Dufflo, Esther; Pande, Rohini and Petia Topalova. 2009. Powerful Women: Does Exposure Reduce Bias? *Quarterly Journal of Economics* 124(4): 1497-1540.
- Beckman, Ludvig. 2008. Democratic Inclusion, Law and Causes. *Ratio Juris* 21(3): 348-364.
- Beckman, Ludvig. 2009. *The Frontiers of Democracy: The Right to Vote and Its Limits*. Basingstoke: Palgrave Macmillan.
- Beckman, Ludvig. 2014. The Subjects of Collectively Binding Decisions: Democratic Inclusion and Extraterritorial Law. *Ratio Juris* 27(2): 252-270.
- Beckman, Ludvig. 2016. Power and Future People's Freedom: Intergenerational Domination, Climate Change, and Constitutionalism. *Journal of Political Power* 9(2): 289-307.

- Beckman, Ludvig. 2018. Personhood and Legal Status: Reflections on the Democratic Rights of Corporations. *Netherlands Journal of Legal Philosophy* 47(1): 13-28.
- Beckman, Ludvig and Fredrik Ugglå. 2016. An Ombudsman for Future Generations: Legitimate and Effective? in González-Ricoy, Iñigo and Axel Gosseries. *Institutions for Future Generations*. New York: Oxford University Press, pp. 117-134.
- Bekoff, Marc and Jessica Pierce. 2009. *Wild Justice: The Moral Lives of Animals*. Chicago: University of Chicago Press.
- Bell, Eryn; Norwood, F. Bailey and Jayson L. Lusk. 2017. Are Consumers Willfully Ignorant about Animal Welfare? *Animal Welfare* 26: 399-402.
- Benhabib, Sheyla. 1994. Deliberative Rationality and Models of Democratic Legitimacy. *Constellations* 1(1): 26-52.
- Bengtson, Andreas. 2020. Dead People and the All-Affected Principle. *Journal of Applied Philosophy* 37(1): 89-102.
- Bengtson, Andreas and Kasper Lippert-Rasmussen. 2021. Why the All-Affected Principle is Groundless. *Journal of Moral Philosophy*: 1-26.
- Berkey, Brian. 2015. Prospects for an Inclusive Theory of Justice: The Case of Non-Human Animals. *Journal of Applied Philosophy* 34(5): 679-695.
- Berkowitz, Leonard and Nigel Walker. 1967. Laws and Moral Judgments. *Sociometry* 30(4): 410-422.
- Bermúdez, José Luis. 2003. *Thinking without Words*. New York: Oxford University Press.
- Beyleveld, David; Düwell, Marcus, and Andreas Spahn. 2015. Why and How Should We Represent Future Generations in Policymaking? *Jurisprudence* 6(3): 549-566.
- Birch, Jonathan. 2020. The Search for Invertebrate Consciousness. **Noûs**.
- Bird, Karen. 2015. Ethnic Quotas and Ethnic Representation Worldwide. *International Political Science Review* 35(1): 12-26.
- Birkett, Lucy P. and Nicholas E. Newton-Fisher. 2011. How Abnormal Is the Behaviour of Captive, Zoo-Living Chimpanzees? *Plos One*. Online version.
- Block, Ned. 1980. Troubles with Functionalism, in Block, Ned (ed.). *Readings in Philosophy of Psychology, Vol. 1*. Cambridge, MA: Harvard University Press, pp. 268-306.

- Block, Ned. 2002. Concepts of Consciousness, in Chalmers, David J. 2002. *Philosophy of Mind: Classical and Contemporary Readings*. New York: Oxford University Press, pp. 206-218.
- Block, Ned. 2011. The Higher Order Approach to Consciousness is Defunct. *Analysis* 71(3): 419-431.
- Boston, Jonathan. 2017. *Governing for the Future: Designing Democratic Institutions for a Better Tomorrow*. Bingley: Emerald.
- Boly, Melanie; Seth, Anil K.; Wilke, Melanie; Ingmundson, Paul; Baars, Bernard; Laureys, Steven; Edelman, David B. and Naotsugu Tsuchiya. 2013. Consciousness in Humans and Non-Human Animals: Recent Advances and Future Directions. *Frontiers in Psychology*. Online version.
- Bradley, Ben. 2009. *Well-Being and Death*. New York: Oxford University Press.
- Bradshaw, Karen. 2020. *Wildlife as Property Owners: A New Conception of Animal Rights*. Chicago: University of Chicago Press.
- Bratman, Michael E. 1987. *Intentions, Plans, and Practical Reason*. Cambridge, MA: Harvard University Press.
- Brighouse, Harry and Marc Fleurbaey. 2010. Democracy and Proportionality. *Journal of Political Philosophy* 18(2): 137-155.
- Browning, Heather and Jonathan Birch. 2022. Animal Sentience. *Philosophy Compass* 17(5): 1-14.
- Bruckner, Donald W. 2016. Quirky Desires and Well-Being. *Journal of Ethics & Social Philosophy* 10(2): 1-35.
- Bryan, Frank M. 2003. *Real Democracy: The New England Town Meeting and How It Works*. Chicago: University of Chicago Press.
- Budiansky, Stephen. 1998. *If a Lion Could Talk: Animal Intelligence and the Evolution of Consciousness*. New York: The Free Press.
- Call, Josep. 2004. Inferences about the Location of Food in the Great Apes (*Pan Paniscus*, *Pan Troglodytes*, *Gorilla Gorilla*, and *Pongo Pygmaeus*). *Journal of Comparative Psychology* 118(2): 232-241.
- Call, Josep and Michael Tomasello. 2008. Does the Chimpanzee Have a Theory of Mind? 30 Years Later. *Trends in Cognitive Sciences* 12(5): 187-192.
- Calvo, Paco. 2017. What Is It Like to Be a Plant? *Journal of Consciousness Studies* 24(9-10): 205-227.

- Cambra, Lali. 2001 (November 5). Unos desconocidos cortan las patas con una sierra a 15 perros de la protectora de Tarragona. *El País*. https://elpais.com/diario/2001/11/05/catalunya/1004926049_850215.html (Last accessed: June 2, 2022).
- Camerlink, Irene and Simon P. Turner. 2017. Farmers' Perception of Aggression between Growing Pigs. *Applied Animal Behaviour Science* 192: 42-47.
- Carvalho, Susana; Cunha, Eugénia; Sousa, Claudia and Tetsuro Matsuzawa. 2008. Chaînes Opératoires and Resource-exploitation Strategies in Chimpanzee (*Pan Troglodytes*) Nut Cracking. *Journal of Human Evolution* 55:148-163.
- Carens, Joseph. 2013. *The Ethics of Immigration*. New York: Oxford University Press.
- Casal, Paula. 2003. Is Multiculturalism Bad for Animals? *Journal of Political Philosophy* 11(1): 1-22.
- Carruthers, Peter. 1992. *The Animals Issue: Moral Theory in Practice*. Cambridge: Cambridge University Press.
- Carruthers, Peter. 2005. *Consciousness: Essays from a Higher-Order Perspective*. New York: Oxford University Press.
- Carruthers, Peter. 2008. Meta-Cognition in Animals: A Skeptical Look. *Mind & Language* 23(1): 58-89.
- Chalmers, David J. 1996. *The Conscious Mind: In Search of a Fundamental Theory*. New York: Oxford University Press.
- Chalmers, David J. 2011. Verbal Disputes. *Philosophical Review* 120(4). 515-566.
- Chambers, Simone. 2009. Rhetoric and the Public Sphere: Has Deliberative Democracy Abandoned Mass Democracy? *Political Theory* 37(3): 323-350.
- Christiano, Thomas. 2008. *The Constitution of Equality*. Oxford: Oxford University Press.
- Cigman, Ruth. 1981. Death, Misfortune and Species Inequality. *Philosophy and Public Affairs* 10(1): 47-64.
- Clark, Beth; Stewart, Gavin B.; Panzone, Luca A.; Kyriazakis, Ilias and Lynn J. Frewer. 2016. A Systemic Review of Public Attitudes, Perceptions and Behaviours Towards Production Diseases Associated with Farm Animal Welfare. *Journal of Agricultural and Environmental Ethics* 29: 455-478.
- Clayton, Nicola S. and Anthony Dickinson. 1998. Episodic-like Memory during Cache Recovery by Scrub Jays. *Nature* 395: 272-274.

- Cochrane, Alasdair. 2012. *Animal Rights Without Liberation: Applied Ethics and Human Obligations*. New York: Oxford University Press.
- Cochrane, Alasdair. 2018. *Sentientist Politics: A Theory of Global Inter-Species Justice*. New York: Oxford University Press.
- Cochrane, Alasdair and Steve Cooke. 2017. “Humane Intervention”: The International Protection of Animal Rights. *Journal of Global Ethics* 12(1): 106-121.
- Cochrane, Alasdair; Garner, Robert and Siobhan O’Sullivan. 2018. Animal Ethics and the Political. *Critical Review of International Social and Political Philosophy* 21(2): 261-277.
- Cohen, Andrew I. 2007. Contractarianism, Other-regarding Attitudes, and the Moral Standing of Nonhuman Animals. *Journal of Applied Philosophy* 24(2): 188-201.
- Cohen, Elizabeth F. 2005. Neither Seen nor Heard: Children’s Citizenship in Contemporary Democracies. *Citizenship Studies* 9(2): 221-240.
- Cohen, Elizabeth F. 2009. *Semi-Citizenship in Democratic Policy*. Cambridge: Cambridge University Press.
- Cohen, Joshua. 1989. Deliberation and Democratic Legitimacy. Pp 17-34 in Hamlin, Alan and Philip Pettit. *The Good Polity: Normative Analysis of the State*. Oxford: Basil Blackwell.
- Cohen, Joshua. 1997. Procedure and Substance in Deliberative Democracy, in Bohman, James and William Rehg (eds.). *Deliberative Democracy: Essays on Reason and Politics*. Cambridge, MA: MIT Press, pp. 407-438.
- Cohen, Carl and Tom Regan. 2001. *The Animal Rights Debate*. Lanham, MD: Rowman & Littlefield Publishers.
- Conradt, Larissa and Timothy J. Roper. 2007. Democracy in Animals: The Evolution of Shared Group Decisions. *Proceedings of the Royal Society B: Biological Sciences* 274(1623): 2317-2326.
- Cornish, Amelia; Raubenheimer, David and Paul McGreevy. 2016. What We Know about the Public’s Level of Concern for Farm Animal Welfare in Food Production in Developed Countries. *Animals* 6(74): 1-15.
- Cowen, Tyler. 2003. Policing Nature. *Environmental Ethics* 25(2): 169-182.
- Cowen, Tyler. 2007. The Importance of Defining the Feasible Set. *Economics & Philosophy* 23(1): 1-14.
- Crespo Santiago, Víctor. 2019. Los animales no humanos como titulares de derechos legales: la sentencia del Alto Tribunal de Uttarakhand en el caso Narayan Dutt

- Bhatt contra el Estado de Uttarakhand y otros. *Revista de Bioética y Derecho* 46: 203-217.
- Dahl, Robert A. 1970. *After the Revolution: Authority in a Good Society*. New Haven: Yale University Press.
- Dahl, Robert A. 1989. *Democracy and Its Critics*. New Haven: Yale University Press.
- Dahl, Robert A. 1998. *On Democracy*. New Haven: Yale University Press.
- Darwall, Stephen L. 1977. Two Kinds of Respect. *Ethics* 88(1): 36-49.
- Dasgupta, Shamik. 2017. Constitutive Explanation. *Philosophical Issues* 27(1): 74-97.
- Davidson, Donald. 1982. Rational Animals. *Dialectica* 36(4): 317-327.
- Dawkins, Richard. 1995. *River Out of Eden: A Darwinian View of Life*. New York: Basic Books.
- De Waal, Frans B. M. 1999. Anthropomorphism and Anthropodenial: Consistency in Our Thinking about Humans and Other Animals. *Philosophical Topics* 27: 255-280.
- DeGrazia, David. 1996. *Talking Animals Seriously: Mental Life and Moral Status*. Cambridge: Cambridge University Press.
- DeGrazia, David. 2008. Moral Status As a Matter of Degree? *Southern Journal of Philosophy* 46(2): 181-198.
- DeGrazia, David. 2009. Moral Vegetarianism from a Very Broad Basis. *Journal of Moral Philosophy* 6(2): 143-165.
- Dennett, Daniel C. 1998. *Brainchildren: Essays on Designing Minds*. Cambridge, MA: MIT Press.
- Dere, Ekrem; Teke-Kart, Emriye; Huston, Joseph P. and Maria Angelica De Souza Silva. 2006. The Case for Episodic Memory in Animals. *Neuroscience & Behavioral Reviews* 30(8): 1206-1224.
- Diamond, Jared. 2012. *The World Until Yesterday: What Can We Learn from Traditional Societies?* New York: Penguin Books.
- Disch, Lisa. 2011. Toward a Mobilization Conception of Democratic Representation. *American Political Science Review* 105(1): 100-114.
- Disch, Lisa. 2015. The “Constructivist Turn” in Democratic Representation: A Normative Dead-End? *Constellations* 22(4): 487-499.
- Dobson, Andrew. 1996. Representative Democracy and the Environment, in Lafferty, William M, and James Meadowcroft (eds). *Democracy and the Environment*. Cheltenham: Edward Elgar, 124-139.

- Donaldson, Sue. 2020. Animal Agora: Animal Citizens and the Democratic Challenge. *Social Theory and Practice* 46(4): 709-735.
- Donaldson, Sue and Will Kymlicka. 2011. *Zoopolis: A Political Theory of Animal Rights*. New York: Oxford University Press.
- Donoso, Alfonso. 2016. Representing Non-Human Interests. *Environmental Studies* 26(5): 607-628.
- Dovi, Suzanne. 2002. Preferable Descriptive Representatives: Will Just Any Woman, Black, or Latino Do? *American Political Science Review* 96(4): 729-743.
- Dretske, Fred. 2000. *Perception, Knowledge and Belief: Selected Essays*. Cambridge: Cambridge University Press.
- Driessen, Clemens. 2014. Animal Deliberation, in Wissenburg, Marcel and David Schlosberg (eds.). *Political Animals and Animal Politics*. Basingstoke: Palgrave Macmillan, pp. 90-104.
- Dryzek, John. 2000. *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*. New York: Oxford University Press.
- Dryzek, John S. 2006. *Deliberative Global Politics: Discourse and Democracy in a Divided World*. Cambridge: Polity.
- Dryzek, John S. 2009. Democratization as Deliberative Capacity Building. *Comparative Political Studies* 42(11): 1379-1402.
- Dryzek, John S. 2010. *Foundations and Frontiers of Deliberative Governance*. New York: Oxford University Press.
- Duflo, Esther. 2005. Why Political Reservations? *Journal of the European Economic Association* 3(2-3): 668-678.
- Dworkin, Gerald. 1988. *The Theory and Practice of Autonomy*. Cambridge: Cambridge University Press.
- Dworkin, Ronald. 1977. *Taking Rights Seriously*. Cambridge, MA: Harvard University Press.
- Dworkin, Samuel F.; Chen, Andrew C.; LeResche, Linda and Daniel W. Clark. 1983. Cognitive Reversal of Expected Nitrous Oxide Analgesia for Acute Pain. *Anesthesia & Analgesia* 62(12): 1073-1077.
- Eckersley, Robyn. 2000. Deliberative Democracy, Ecological Representation and Risk: Towards a Democracy of the Affected, in Saward, Michael (ed.). *Democratic Innovations: Deliberation, Association and Representation*. London: Routledge, pp. 117-145.

- Ekeli, Kristian Skagen. 2005. Giving a Voice to Posterity: Deliberative Democracy and Representation of Future People. *Journal of Agricultural and Environmental Ethics* 18: 429-450.
- Ekeli, Kristian Skagen. 2009. Constitutional Experiments: Representing Future Generations through Submajority Rules. *Journal of Political Philosophy* 17(4): 440-461.
- Elliot-Graves, Alkistis and Michael Weisberg. 2014. Idealization. *Philosophy Compass* 9(3): 176-185.
- El Tiempo. 2020 (January 23). Animales no son sujetos de derechos: Corte en caso de oso Chucho. <https://www.eltiempo.com/justicia/cortes/oso-chucho-corte-determino-que-los-animales-no-tienen-derechos-454718> (Last accessed: June 2, 2022).
- Erdőhegyi, Ágnes; Topál, József; Virányi, Zsófia and Adam Miklósi. 2007. Dog-Logic: Inferential Reasoning in a Two-Way Choice Task and Its Restricted Use. *Animal Behaviour* 74(4): 725-737.
- Erman, Eva. 2014. The Boundary Problem and the Ideal of Democracy. *Constellations* 21(4): 535-546.
- Erman, Eva. 2021. The boundary problem of democracy: A function-sensitive view. *Contemporary Political Theory*. Online version.
- Estlund, David M. 1993. Who's Afraid of Deliberative Democracy? The Strategic/Deliberative Dichotomy in Recent Constitutional Jurisprudence. *Texas Law Review* 71: 1437-1477.
- Estlund, David M. 2008. *Democratic Authority: A Philosophical Framework*. Princeton: Princeton University Press.
- Estlund, David M. 2020. *Utopophobia: On the Limits (If Any) of Political Philosophy*. Princeton: Princeton University Press.
- Eulau, Heinz; Wahlke, John C; Buchanan, William and Leroy C. Ferguson. 1959. The Role of the Representative: Some Empirical Observations on the Theory of Edmund Burke. *American Political Science Review* 53(3): 742-756.
- Fairlie, John A. 1940. The Nature of Political Representation I. *American Political Science Review* 34(2): 236-248.
- Faria, Catia. 2016. Animal Ethics Goes Wild: The Problem of Wild Animal Suffering and Intervention in Nature. PhD Thesis: Pompeu Fabra University.

- Favre, David S. [2008] 2011. *Animal Law: Welfare, Interests, and Rights* [2nd Edition]. New York: Wolters Kluwer Law & Business.
- Fearon, James D. 1999. Electoral Accountability and the Control of Politicians: Selecting Good Types versus Sanctioning Poor Performance, in Przeworski, Adam; Stokes, Susan C. and Bernard Manin (eds.). *Democracy, Accountability, and Representation*. Cambridge: Cambridge University Press, pp. 55-97.
- Feinberg, Joel. 1974. The Right of Animals and Unborn Generations, in Blackstone, William (ed.). *Philosophy & Environmental Crisis*. Athens, GA: The University of Georgia Press, pp. 43-68.
- Finkel, Evgeny. 2012. The Authoritarian Advantage of Horizontal Accountability: Ombudsman in Poland and Russia. *Comparative Politics* 44(3): 291-310.
- Fitzpatrick, Simon. 2017. Against Morgan's Canon, in Andrews, Kristin and Jacob Beck (eds.). *Routledge Handbook of Philosophy of Animal Minds*. New York: Routledge.
- Flanders, Chad. 2014. Public Reason and Animal Rights, in Wissenburg, Marcel and David Schlosberg (eds.). *Political Animals and Animal Politics*. Basingstoke: Palgrave Macmillan, pp. 44-57.
- Fletcher, Logan and Peter Carruthers. 2013. Behavior-Reading versus Mentalizing in Animals, in Metcalfe, Janet and Herbert S. Terrace (eds.). *Agency and Joint Attention*. New York: Oxford University Press, pp. 82-99.
- Flores, Andrew R. and Scott Barclay. 2016 Backlash, Consensus, Legitimacy, or Polarization: The Effect of Same-Sex Marriage Policy on Mass Attitudes. *Political Research Quarterly* 69(1): 43-56.
- Fodor, Jerry A. 1981. *Representations: Philosophical Essays on the Foundations of Cognitive Science*. Cambridge, MA: MIT Press/Bradford Books.
- Foster Wallace, David. 2006. *Consider the Lobster and Other Essays*. New York: Little, Brown and Company.
- Frankfurt, Harry G. 2005. *On Bullshit*. Princeton: Princeton University Press.
- Franklin, Charles H. and Liane C. Kosaki, 1989. Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion. *American Political Science Review* 83(3): 751-771.
- Frey, Raymond G. 1980. *Interests and Rights: The Case Against Animals*. Oxford: Oxford University Press.

- Frey, Raymond G. 1983. Vivisection, Morals and Medicine. *Journal of Medical Ethics* 9: 94-97.
- Fung, Archon. 2013. The Principle of Affected Interests: An Interpretation and Defense, in Nagel, Jack and Rogers Smith (eds.). *Representation: Elections and Beyond*. Philadelphia: University of Pennsylvania Press, pp. 236-268.
- Gallup Jr., Gordon G. 1970. Chimpanzees: Self-Recognition. *Science* 167(3914): 86-87.
- Gallup Jr., Gordon G. and James R. Anderson. 2018. The “Olfactory Mirror” and other Recent Attempts to Demonstrate Self-Recognition in Non-Primate Species. *Behavioural Processes* 148: 16-19.
- Garner, Robert. 1998. *Political Animals: Animal Protection Politics in Britain and the United States*. Basingstoke: Palgrave Macmillan.
- Garner, Robert. 2013. *A Theory of Justice for Animals: Animal Rights in a Nonideal World*. New York: Oxford University Press.
- Garner, Robert. 2016. Animals, Politics and Democracy, in Garner, Robert and O’Sullivan (eds.). *The Political Turn in Animal Ethics*. Lanham, MD: Rowman & Littlefield, pp. 103-108.
- Garner, Robert. 2017a. Animals and Democratic Theory: Beyond an Anthropocentric Account. *Contemporary Political Theory* 16(4): 459-477.
- Garner, Robert. 2017b. The Boyd Group and Animal Experimentation: A Case Study of Deliberation. *Global Journal of Animal Law* 5(1): 79-100.
- Garner, Robert. 2018a. Deliberative Democracy in Action: A Case Study of Animal Protection. *Politics and Animals* 4: 1-15.
- Garner, Robert. 2019. Animal Rights and the Deliberative Turn in Democratic Theory. *European Journal of Political Theory* 18(3): 309-329.
- Garner, Robert and Siobhan O’Sullivan (eds.). 2016. *The Political Turn in Animal Ethics*. New York: Rowman & Littlefield.
- Gauthier, David. 1986. *Morals by Agreement*. Oxford: Clarendon Press.
- Gaus, Gerald. 2013. *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World*. Cambridge: Cambridge University Press.
- Geist, Helmut J. and Eric F. Lambin. 2002. Proximate Causes and Underlying Driving Forces of Tropical Deforestation. *BioScience* 52(2): 143-150.
- Gennaro, Rocco J. 2018. Consciousness, in Vonk, Jennifer and Todd Shackelford (eds.). *Encyclopedia of Animal Cognition and Behavior*. Berlin: Springer, pp. 1-14.

- Gennaro, Rocco J. 2009. Animals, Consciousness and I-Thoughts, in Lurz, Robert (ed.). *Philosophy of Animal Minds*. Cambridge: Cambridge University Press, pp. 184-200.
- Gilbert, Pablo and Holly Lawford-Smith. 2012. Political Feasibility: A Conceptual Exploration. *Political Studies* 60(4): 809-825.
- Giroux, Valery. 2016. Animals Do Have an Interest in Liberty. *Journal of Animal Ethics* 6(1): 20-43.
- Golman, Russel; Hagmann, David and George Lowenstein. 2017. Information Avoidance. *Journal of Economic Literature* 55(1): 96-153.
- Goldstein, Irwin. 1989. Pleasure and Pain: Unconditional, Intrinsic Values. *Philosophy and Phenomenological Research* 50(2): 255-276.
- Goodin, Robert E. 1996. Enfranchising the Earth, and Its Alternatives. *Political Studies* 44(5): 835-849.
- Goodin, Robert E. 2003. *Reflective Democracy*. New York: Oxford University Press.
- Goodin, Robert E. 2007. Enfranchising All Affected Interests, and Its Alternatives *Philosophy & Public Affairs* 35(1): 40-68.
- Goodin, Robert E. 2016. Enfranchising All Subjected, Worldwide. *International Theory* 8(3): 365-389.
- Goodin, Robert E. and John S. Dryzek. 2006. Deliberative Impacts: The Macro-Political Uptake of Mini-Publics. *Politics & Society* 34(2): 219-244.
- Goodin, Robert E. and Gustaf Arrhenius. 2022. Giving Those Subject to the Law a Vote, in Bowman, Paul (ed). *Studies on the Democratic Boundary Problem*. Stockholm: Institute for Futures Studies, pp. 91-122.
- Goodin, Robert E; Pateman, Carole and Roy Pateman. 1997. Simian Sovereignty. *Political Theory* 25(6): 821-849.
- Goodwin, Geoffrey P. 2015. Experimental Approaches to Moral Status. *Philosophy Compass* 10/11: 914-926.
- González Ricoy, Iñigo and Felipe Rey. 2019. Enfranchising the Future: Climate Justice and the Representation of Future Generations. *WIREs Climate Change* 10(5). Online version.
- Grau, James W. 2002. Learning and Memory without a Brain, in Bekoff, Marc; Allen, Colin and Gordon M. Burghardt (eds.). *The Cognitive Animal*. Cambridge, MA: MIT Press, pp. 77-88.

- Griffin, James. 1986. *Well-Being: Its Meaning, Measurement and Moral Importance*. Oxford: Oxford University Press.
- Guez, David and Charles Audley. 2013. Transitive or Not: A Critical Appraisal of Transitive Inference in Animals. *Ethology* 119(9): 703-726.
- Gutmann, Amy and Dennis F. Thompson. 1996. *Democracy and Disagreement*. Cambridge, MA: Harvard University Press.
- Gunthorsdottir, Anna. 2001. Physical Attractiveness of an Animal Species as a Decision Factor for its Preservation. *Anthrozoos* 14(4): 204-215.
- Habermas, Jurgen. [1992] 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (trans. William Rehg). Cambridge, MA: MIT Press.
- Hacking, Ian. 1999. *The Social Construction of What?* Cambridge, MA: Harvard University Press.
- Hadley, John. 2015. *Animal Property Rights: A Theory of Habitat Rights for Wild Animals*. London: Lexington Books.
- Hajnal, Zoltan L. 2001. White Residents, Black Incumbents, and a Declining Racial Divide. *American Political Science Review* 95(3). 603-617.
- Handby, Edmund. 2022. Assessing the Use of Intuitions in Contemporary Political Theory. *Journal of Politics*. Online version.
- Hanley, John; Salamone, Michael and Matthew Wright. 2012. Reviving the Schoolmaster: Reevaluating Public Opinion in the Wake of *Roe v. Wade*. *Political Research Quarterly* 65(2): 408-421.
- Hare, Brian; Call, Josep; Agnetta, Bryan and Michael Tomasello. 2000. Chimpanees Know What Conspecifics Do and Do Not See. *Animal Behaviour* 59(4): 1771-1785.
- Hart, Herbert L. A. 1982. *Essays on Bentham: Studies in Jurisprudence and Political Theory*. Oxford: Clarendon Press.
- Hasnas, John. 2018. Should Corporations Have the Right to Vote? A Paradox in the Theory of Corporate Moral Agency. *Journal of Business Ethics* 150: 657-670.
- Healey, Richard and Angie Pepper. 2021. Interspecies Justice: Agency, Self-Determination, and Assent. *Philosophical Studies* 178: 1223-1243.
- Healy, Andrew and Neil Malhotra. 2013. Retrospective Voting Reconsidered. *Annual Review of Political Science* 16: 285-306.

- Heathwood, Chris. 2007. The Reduction of Sensory Pleasure to Desire. *Philosophical Studies* 133(1): 23-44.
- Held, David. 1995. *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance*. Redwood: Stanford University Press.
- Hellier, Jennifer L. 2017. Congenital Insensitivity to Pain, in Hellier, Jennifer L. (ed.). *The Five Senses and Beyond: The Encyclopedia of Perception*. Santa Barbara: Greenwood, pp. 118-120.
- Heyes, Cecilia M. 1994. Reflections on Self-Recognition in primates. *Animal Behaviour* 47: 909-919.
- Hills, Thomas T. and Stephen Butterfill. 2015. From Foraging to Autonoetic Consciousness: The Primal Self as a Consequence of Embodied Prospective Foraging. *Current Zoology* 61(2): 368-381.
- Hinchcliffe, Christopher. 2015. Animals and the Limits of Citizenship: Zoopolis and the Concept of Citizenship. *Journal of Political Philosophy* 23(23): 302-320.
- Holst, Alexander and Pim Martens. 2016. Determinants of Animal Protection Policy: A Cross-Country Empirical Study. *Politics and Animals* 2(1): 1-14.
- Hooker, Brad. 2003. *Ideal Code, Real World: A Rule-Consequentialist Theory of Morality*. Oxford: Oxford University Press.
- Hooley, Daniel. 2018a. Political Agency, Citizenship, and Non-human Animals. *Res Publica* 24: 509-530.
- Hooley, Daniel. 2018b. The Political Status of Nonhuman Animals. PhD Thesis: University of Toronto.
- Horowitz, Alexandra. 2017. Smelling Themselves: Dogs Investigate Their Own Odours Longer when Modified in an “Olfactory Mirror” Test. *Behavioural Processes* 143: 17-24.
- Horta, Oscar. 2010. Debunking the Idyllic View of Natural Processes: Population Dynamics and Suffering in the Wild. *Telos: Revista Iberoamericana de Estudios Utilitaristas* 17(1): 73-90.
- Horta, Oscar. 2013a. Expanding Global Justice: The Case for the International Protection of Animals. *Global Policy* 4(4): 371-380.
- Horta, Oscar. 2013b. Zoopolis, Interventions and the State of Nature. *Law, Ethics and Philosophy* 1: 113-125.
- Hurley, Susan and Matthew Nudds (eds.). 2006. *Rational Animals?* New York: Oxford University Press.

- Ingham, Sean and Ines Levin. 2018. Can Deliberative Minipublics Influence Public Opinion? Theory and Experimental Evidence. *Political Research Quarterly* 71(3): 654-667.
- Iyer, Lakshmi; Mani, Anandi; Mishra, Prachi and Petia Topalova. 2012. The Power of Political Voice: Women's Political Representation and Crime in India. *American Economic Journal: Applied Economics* 4(4): 165-193.
- Jackson, Frank. 1982. Epiphenomenal Qualia. *Philosophical Quarterly* 32(127): 127-136.
- Jackson, Frank. 2000. *From Metaphysics to Ethics: A Defence of Conceptual Analysis*. New York: Oxford University Press.
- Jaworska, Agnieszka and Julie Tannenbaum. 2018. The Grounds of Moral Status, in Zalta, Edward N. (ed.). *The Stanford Encyclopedia of Philosophy* (Spring Edition). <https://plato.stanford.edu/archives/spr2018/entries/grounds-moral-status/> (Last accessed: June 2, 2022).
- Jensen, Karsten Klint. 2015. Future Generations in Democracy: Representation or Consideration? *Jurisprudence* 6(3): 535-548.
- Johnson-Myers, Tracy-Ann. 2013. The Mixed Member Proportional Representation System and Minority Representation. PhD Thesis: University of New Brunswick.
- Joy, Melanie. 2010. *Why We Love Dogs, Eat Pigs, and Wear Cows*. San Francisco: Conari Press.
- Kacelnik, Alex; Chappell, Jackie; Kenward, Ben and Alex A. S. Weir. 2008. Cognitive Adaptations for Tool-related Behaviour in New Caledonian Crows, in Wasserman Edward A. and Thomas R. Zentall (eds.). *Comparative Cognition: Experimental Explorations of Animal Intelligence*. Oxford: Oxford University Press, pp. 515-528.
- Kagan, Shelly. 1998. Rethinking Intrinsic Value. *Journal of Ethics* 2(4): 277-297.
- Kahan, Dan M. 2017. The Expressive Rationality of Inaccurate Perceptions. *Behavioral and Brain Sciences* 40: 26-28.
- Kahane, Guy. 2009. Pain, Dislike and Experience. *Utilitas* 21(3): 327-336.
- Kahane, Guy. 2011. Evolutionary Debunking Arguments. *Noûs* 41(1): 103-125.
- Kahneman, Daniel and Amos Tversky (eds.). 2000. *Choices, Values, and Frames*. Cambridge: Cambridge University Press.
- Kamm, Francis M. 2007. *Intricate Ethics: Rights, Responsibilities, and Permissible Harm*. New York: Oxford University Press.

- Kant, Immanuel. [1874-1875] 1997. Moral Philosophy: Collin's Lecture Notes, in Heath Peter and Jerome B. Schneewind (eds.). *The Cambridge Edition of the Works of Immanuel Kant. Lectures on Ethics*. Cambridge: Cambridge University Press.
- Karin-D'Arcy, M. Rosalyn. 2005. The Modern Role of Morgan's Canon in Comparative Psychology. *International Journal of Comparative Psychology* 18(3): 179-201.
- Karnein, Anja. 2016. Can We Represent Future Generations? In González-Ricoy, Iñigo and Axel Gosseries (eds.). *Institutions for Future Generations*. New York: Oxford University Press, pp. 83-97.
- Kavka, Gregory S. and Virginia Warren. 1983. Political Representation for Future Generations, in Elliot, Robert and Arran Gare (eds.). *Environmental Philosophy: A Collection of Readings*. University Park: Pennsylvania State University Press, pp. 26-33.
- Koenig-Archibugi, Mathias. 2017. How to Diagnose Democratic Deficits in Global Politics: the Use of the "All-Affected Principle." *International Theory* 9(2): 171-202.
- Kollmuss, Anja and Julian Agyeman. 2002. Mind the Gap: Why do People Act Environmentally and What are the Barriers to Pro-Environmental Behavior? *Environmental Education Research* 8(3): 239-260.
- Kornblith, Hilary. 2002. *Knowledge and Its Place in Nature*. New York: Oxford University Press.
- Korsgaard, Christine M. Two Distinctions in Goodness. *The Philosophical Review* 92(2): 169-195.
- Korsgaard, Christine M. 2018. *Fellow Creatures: Our Obligations to the Other Animals*. New York: Oxford University Press.
- Kreitzer, Rebecca J; Hamilton, Allison J. and Caroline J. Tolbert. 2014. Does Policy Adoption Change Opinions on Minority Rights? The Effects of Legalizing Same-Sex Marriage. *Political Research Quarterly* 67(4): 795-808.
- Krupenye, Christopher; Kano, Fumihiro; Hirata, Satoshi; Call, Joseph and Michael Tomasello. 2016. Great Apes Anticipate that Other Individuals Will Act According to False Beliefs. *Science* 354(6308): 110-114.
- Kumlin, Staffan and Isabelle Stadelmann-Steffen (eds.). 2014. *How Welfare States Shape the Democratic Public: Policy Feedback, Participation, Voting, and Attitudes*. Cheltenham: Edward Elgar.

- Kunda, Ziva. 1990. The Case for Motivated Reasoning. *Psychological Bulletin* 108(3): 480-498.
- Kuyper, Jonathan W. 2016. Systemic Representation: Democracy, Deliberation, and Nonelectoral Representatives. *American Political Science Review* 110(2): 308-324.
- Kymlicka, Will. 2016. [Review] Robert Garner and Siobhan O’Sullivan (eds). *The Political Turn in Animal Ethics*. Rowman and Littlefield, 2016. *Animal Studies Journal* 6(1): 175-181.
- Kymlicka, Will and Sue Donaldson. 2014. Animal Rights, Multiculturalism and the Left. *Journal of Social Philosophy* 45(1): 116-135.
- Kymlicka, Will and Sue Donaldson. 2018. Metics, Members and Citizens, in Bauböck., Rainer (ed.). *Democratic Inclusion: Rainer Bauböck in Dialogue*. Manchester: Manchester University Press.
- Lafont, Cristina. 2015. Deliberation, Participation, and Democratic Legitimacy: Should Deliberative Mini-publics Shape Public Policy? *Journal of Political Philosophy* 23(1): 40-63.
- Lambert, Joseph. 2015. Democratic Inclusion and the Governance of Immigration. *Social Theory and Practice* 41(1): 51-76.
- Landemore, Hélène. 2012. *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many*. Princeton: Princeton University Press.
- Laurence, Stephen and Eric Margolis. 2021. Concepts, in Zalta, Edward N. (ed.), *Stanford Encyclopedia of Philosophy* (Winter Edition). <https://plato.stanford.edu/archives/spr2021/entries/concepts/> (Last accessed: June 2, 2022).
- Lewis, David K. and Stephanie Lewis. 1970. Holes. *Australian Journal of Philosophy* 48(2): 206-212.
- Liao, S. Matthew. 2010. The Basis of Moral Status. *Journal of Moral Philosophy* 7(2): 159-179.
- Lijphart, Arend and Bernard Grofman (eds.). 1984. *Choosing an Electoral System*. New York: Praeger.
- Lin, Eden. 2015. Against Welfare Subjectivism. *Noûs* 51(2): 354-377.
- Lindley Wilson, James. 2021. An Autonomy-Based Argument for Democracy, in Sobel, David; Vallentyne, Peter and Steven Wall (eds.). *Oxford Studies in Political Philosophy Volume 7*. Oxford: Oxford University Press, pp. 194-226.

- Lippert-Rasmussen, Kasper. 2018. *Relational Egalitarianism: Living as Equals*. Cambridge: Cambridge University Press.
- List, Christian. 2004. Democracy in Animal Groups: A Political Science Perspective. *Trends in Ecology and Evolution* 19(4): 168-169.
- List, Christian and Larissa Conradt 2009. Group Decisions in Humans and Animals: a Survey. *Philosophical Transactions of the Royal Society B* 364: 755-762.
- List, Christian and Mathias Koenig-Archibugi. 2010. Can There Be a Global Demos? An Agency-Based Approach. *Philosophy & Public Affairs* 38(1): 76-110.
- Lockwood, Randall and Phil Arrow. 2016. Animal Abuse and Interpersonal Violence: The Cruelty Connection and Its Implications for Veterinary Pathology. *Veterinary Pathology* 53(5): 910-918.
- López-Guerra, Claudio. 2005. Should Expatriates Vote? *Journal of Political Philosophy* 13(2): 216-234.
- López-Guerra, Claudio. 2014. *Democracy and Disenfranchisement: The Morality of Electoral Exclusions*. Oxford: Oxford University Press.
- Lowery, Alex. 2019 (January 25). Fake meat bill passes House, heads to Senate. *Mississippi Farm Bureau*. <https://msfb.org/2019/01/25/fake-meat-bill-passes-house-heads-to-senate/> (Last accessed: June 2, 2022).
- Lurz, Robert W.; Kanet, Sharisse and Carla Krachun. 2014. Animal Mindreading: A Defense of Optimistic Agnosticism. *Mind & Language* 29(4): 428-454.
- Lyons, Dan. 2013. *The Politics of Animal Experimentation*. Basingstoke: Palgrave Macmillan.
- Macphail, Euan M. 1998. *The Evolution of Consciousness*. New York: Oxford University Press.
- Mäki, Uskali. 2011. Models and the Locus of their Truth. *Synthese* 180(1): 47-63.
- Mallatt, Jon; Blatt, Michael R.; Draguhn, Andreas; Robinson, David G. and Lincoln Taiz. 2020. Debunking a Myth: Plant Consciousness. *Protoplasma* 258: 459-476.
- Mansbridge, Jane. 2003. Rethinking Representation. *American Political Science Review* 97(4): 515-528.
- Mansbridge, Jane. 2011. A “Selection Model” of Political Representation. *Journal of Political Philosophy* 17(4): 369-398.
- Mansbridge, Jane; Bohman, James; Chambers, Simone; Estlund, David; Føllesdal, Andreas; Fung, Archon; Lafont, Cristina; Manin, Bernard and José Luis Martí.

2014. The Place of Self-Interest and the Role of Power in Deliberative Democracy. *Journal of Political Philosophy* 18(1): 64-100.
- Martí, José Luis. 2006. *La república deliberativa: una teoría de la democracia*. Madrid: Marcial Pons.
- McDowell, John. 1994. *Mind and World*. Cambridge, MA: Harvard University Press.
- McPherson, C. B. 1977. *The Life and Times of Liberal Democracy*. New York: Oxford University Press.
- McGinn, Colin. 2012. *Truth by Analysis: Games, Names, and Philosophy*. Oxford: Oxford University Press.
- Meijer, Eva. 2019. *When Animals Speak: Toward an Interspecies Democracy*. New York: New York University Press.
- Mettler, Suzanne and Joe Soss. 2004. The Consequences of Public Policy for Democratic Citizenship: Bridging Policy Studies and Mass Politics. *Perspectives on Politics* 2(1): 55-73.
- Milburn, Josh. 2017. Nonhuman Animals as Property Holders: An Exploration of the Lockean Labour-mixing Account. *Environmental Values* 26(5): 629-648.
- Milburn, Josh and Sara Van Goozen. 2021. Counting Animals in War: First Steps towards an Inclusive Just-War Theory. *Social Theory and Practice* 47(4): 657-685.
- Mill, James. 1992. *Political Writings* (Edited by Terence Ball). Cambridge: Cambridge University Press.
- Mill, John Stuart. 1977. *Collected Works of John Stuart Mill Vol. 19* (Edited by John M. Robson). Toronto: Toronto University Press.
- Miller, David. 2009. Democracy's Domain. *Philosophy & Public Affairs* 37(3): 201-228.
- Miller, David. 2010. Why Immigration Controls Are Not Coercive: A Reply to Arash Abizadeh. *Political Theory* 38(1): 111-120.
- Miller, David. 2020. Reconceiving the Democratic Boundary Problem. *Philosophy Compass* 15(1): 1-9.
- Miller, Warren E. and Donald E. Stokes. 1963. Constituency Influence in Congress. *American Political Science Review* 57(1): 45-56.
- Milligan, Tony. 2015. The Political Turn in Animal Rights. *Politics and Animals* 1(1): 6-15.
- Molloy, Claire. 2011. *Popular Media and Animals*. Basingstoke: Palgrave Macmillan.

- Montanaro, Laura. 2017. *Who Elected Oxfam? A Democratic Defense of Self-Appointed Representatives*. Cambridge: Cambridge University Press.
- Monsó, Susana and Antonio J. Osuna-Mascaró. 2020. Death is Common, so is Understanding It: the Concept of Death in Others Species. *Synthese* 199: 2251-2275.
- Morgan, C. Lloyd. 1894. *An Introduction to Comparative Psychology*. London: Walter Scott.
- Nagel, Thomas. 1970. Death. *Noûs* 4(1): 73-80.
- Nagel, Thomas. 1974. What Is It Like to Be a Bat? *Philosophical Review* 83(4): 435-450.
- Näsström, Sofia. 2011a. Where is the Representative Turn Going? *European Journal of Political Theory* 10(4): 501-510.
- Näsström, Sofia. 2011b. The Challenge of the All-Affected Principle. *Political Studies* 59: 116-134.
- Niemeyer, Simon and John S. Dryzek. 2008. Discursive Representation. *American Political Science Review* 102(4): 481-493.
- Niemeyer, Simon and Julia Jennstål. 2016. The Deliberative Democratic Inclusion of Future Generations, in González-Ricoy, Iñigo and Axel Gosseries (eds.). *Institutions for Future Generations*. New York: Oxford University Press, pp. 247-265.
- Nishida, Toshisada. 1990. *The Chimpanzees of the Mahale Mountains: Sexual and Life History Strategies*. Tokyo: University of Tokyo Press.
- Norcross, Alastair. 2020. *Morality by Degrees: Reasons without Demands*. Oxford: Oxford University Press.
- Norwood, F. Bailey and Jayson L. Lusk. 2011. *Compassion, By the Pound: The Economics of Farm Animal Welfare*. New York: Oxford University Press.
- Nozick, Robert. 1969. Coercion, in Morgenbesser, Sidney; Suppes, Patrick and Morton White (eds.). *Philosophy, Science, and Method: Essays in Honor of Ernest Nagel*. New York: St. Martin's Press, pp. 440-472.
- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books.
- Ng, Yew-Kwang. 1995. Towards Welfare Biology: Evolutionary Economics of Animal Consciousness and Suffering. *Biology & Philosophy* 10(3): 255-285.
- Ober, Josiah. 2008. The Original Meaning of "Democracy": Capacity to Do Things, not Majority Rule. *Constellations* 15(1): 3-9.

- Oberman, Kieran. 2015. The Myth of the Optional War: Why States Are Required to Wage the Wars They Are Permitted to Wage. *Philosophy & Public Affairs* 43(4): 255-286.
- Onwezen, Marleen C. and Cor N. van der Weele. 2016. When Indifference is Ambivalence: Strategic Ignorance about Meat Consumption. *Food Quality and Preference* 52: 96-105.
- OpenSecrets. 2021. Meat processing & products: Lobbying, 2021. <https://www.opensecrets.org/industries/lobbying.php?cycle=2022&ind=G2300> (Last accessed: June 2, 2022).
- Osvath, Mathias. 2009. Spontaneous Planning for Future Stone Throwing by a Male Chimpanzee. *Current Biology* 19(5): R-190-R191.
- Otjes, Simon. 2014. Animal Party Politics in Parliament, in Schlosberg, Marcel and David Wissenburg (eds.). *Political Animals and Animal Politics*. Basingstoke: Palgrave Macmillan, pp. 107-122.
- Owen, David. 2011. Transnational Citizenship and the Democratic State: Modes of Membership and Voting Rights. *Critical Review of International Social and Political Philosophy* 14(5): 641-663.
- Owen, David. 2012. Constituting the Polity, Constituting the Demos: on the Place of the All Affected Interests Principle in Democratic Theory and in Resolving the Democratic Boundary Problem. *Ethics & Global Politics* 5(3): 129-152.
- O'Sullivan, Siobhan. 2011. *Animals, Equality and Democracy*. Basingstoke: Palgrave Macmillan.
- Pachirat, Timothy. 2013. *Every Twelve Seconds: Industrialized Slaughter and the Politics of Sight*. New Haven: Yale University Press.
- Paez, Eze. 2021. A Republic for All Sentients: Social Freedom without Free Will. *Pacific Philosophical Quarterly*. Online version.
- Papineau, David. 2009. The Poverty of Analysis. *Aristotelian Society Supplementary Volume* 83(1): 1-30.
- Parfit, Derek. 1984. *Reasons and Persons*. Oxford: Clarendon Press.
- Parkinson, John. 2012. *Deliberative Systems: Deliberative Democracy at the Large Scale*. Cambridge: Cambridge University Press.
- Partridge, Ernest. 1981. Posthumous Interests and Posthumous Respect. *Ethics* 91(2): 243-264.

- Penn, Derek C. and Daniel J. Povinelli. 2013. The Comparative Delusion: The “Behavioristic/Mentalistic” Dichotomy in Comparative Theory of Mind Research, in Metcalfe, Janet and Herbert S. Terrace (eds.). *Agency and Joint Attention*. New York: Oxford University Press, pp. 62-81.
- Pepper, Angie. 2017a. Political Liberalism, Human Cultures, and Nonhuman Lives, in Cordeiro-Rodrigues, Luís and Les Mitchell (eds.), *Animals, Race, and Multiculturalism*. Basingstoke: Palgrave Macmillan, pp. 35-59.
- Pepper, Angie. 2017b. Justice for Animals in a Globalising World, in Woodhall, Andrew and Gabriel Garmendia da Trindade (eds.). *Ethical and Political Approaches to Nonhuman Animal Issues*. Basingstoke: Palgrave Macmillan, pp. 149-175.
- Pepper, Angie. 2021. Political Agency in Humans and Other Animals. *Contemporary Political Theory* 20: 296-317.
- Pepperberg, Irene M.; Garcia, Sean E.; Jackson, Eric C. and Sharon Marconi. 1995. Mirror Use by African Grey Parrots (*Psittacus Erithacus*). *Journal of Comparative Psychology* 109(2): 182-195.
- Pettit, Philip. 2010a. Varieties of Public Representation, in Shapiro, Ian; Stokes, Susan C.; Wood, Elizabeth Jean and Alexander S. Kirshner (eds.). *Political Representation*. Cambridge: Cambridge University Press, pp. 61-89.
- Pettit, Philip. 2010b. Representation, Responsive and Indicative. *Constellations* 17(3): 426-434.
- Pettit, Philip. 2012. *On the People’s Terms: A Republican Theory and Model of Democracy*. Cambridge: Cambridge University Press.
- Pettit, Philip. 2013. Meritocratic Representation, in Bell, Daniel A. and Li Chenyang (eds.). *The East Asian Challenge for Democracy: Political Meritocracy in Comparative Perspective*. Cambridge: Cambridge University Press, pp. 138-160.
- Pettit, Philip. 2015. *The Robust Demands of the Good: Ethics with Attachment, Virtue and Respect*. Oxford: Oxford University Press.
- Piper, Kelsey. 2019 (July 3). Mississippi is forbidding grocery stores from calling veggie burgers “veggie burgers.” *Vox*. <https://www.vox.com/future-perfect/2019/7/3/20680731/mississippi-veggie-burgers-illegal-meatless-meat> (Last accessed: June 2, 2022).
- Pitkin, Hanna F. 1967. *The Concept of Representation*. Los Angeles: University of California Press.

- Pitkin, Hanna F. 1972. *Wittgenstein and Justice: On the Significance of Ludwig Wittgenstein for Social and Political Thought*. Los Angeles: University of California Press.
- Plotke, David. 1997. Representation is Democracy. *Constellations* 4(1): 19-34.
- Pluhar, Evelyn B. 1995. *Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals*. Durham: Duke University Press.
- Pollan, Michael. 2006. *The Omnivore's Dilemma: A Natural History of Four Meals*. New York: Penguin Books.
- Pollock, John L. and Joseph Cruz. [1986] 1999. *Contemporary Theories of Knowledge* [2nd Edition]. Lanham, MD: Rowman & Littlefield.
- Povinelli, Daniel J. and Jennifer Vonk. 2004. We Don't Need a Microscope to Explore the Chimpanzee's Mind. *Mind & Language* 19(1): 1-28.
- Premack, David and Guy Woodruff. 1978. Does the Chimpanzee Have a Theory of Mind? *Behavioral and Brain Sciences* 1(4): 515-526.
- Preutz, Jill D. and Paco Bertolani. 2007. Savanna Chimpanzees, Pan Troglodytes Versus, Hunt with Tools. *Current Biology* 17(5): 412-417.
- PR News Wire. 2015 (July 16). More than Ever, Pets are Members of the Family. <https://www.prnewswire.com/news-releases/more-than-ever-pets-are-members-of-the-family-300114501.html> (Last accessed: June 2, 2022).
- Quong, Jonathan. 2011. *Liberalism Without Perfection*. Oxford: Oxford University Press.
- Rabinowicz, Wlodek and Toni Rønnow-Rasmussen. 2000. A Distinction in Value: Intrinsic and For Its Own Sake. *Proceedings of the Aristotelian Society* 100: 33-51.
- Rachels, Stuart. 2000. Is Unpleasantness Intrinsic to Unpleasant Experiences? *Philosophical Studies* 99(2): 187-210.
- Rachels, Stuart. 2003. A Defense of Two Optimistic Claims in Ethical Theory. *Philosophical Studies* 112: 1-30.
- Rawls, John. [1971] 1999. *A Theory of Justice* [Revised edition]. Cambridge, MA: Belknap Press.
- Rawls, John. [1993] 1996. *Political Liberalism*. New York: Columbia University Press.
- Raz, Joseph. 1986. *The Morality of Freedom*. Oxford: Clarendon Press.
- Reif, Linda C. 2004. *The Ombudsman, Good Governance and the International Human Rights System*. Leiden: Springer-Science+Business Media.

- Reese, Jacy. 2018. *The End of Animal Farming*. Boston: Beacon Press.
- Regan, Tom. 1983. *The Case for Animal Rights*. Los Angeles: University of California Press.
- Rehfeld, Andrew. 2005. *The Concept of Constituency: Political Representation, Democratic Legitimacy, and Institutional Design*. Cambridge: Cambridge University Press.
- Rehfeld, Andrew. 2006. Towards a General Theory of Political Representation. *Journal of Politics* 68(1): 1-21.
- Rehfeld, Andrew. 2011a. The Concepts of Representation. *American Political Science Review* 105(3): 631-641.
- Rehfeld, Andrew. 2011b. The Child as Democratic Citizen. *The ANNALS of the American Academy of Political and Social Science* 633(1): 141-166.
- Rehfeld, Andrew. 2018. On Representing. *Journal of Political Philosophy* 26(2): 216-239.
- Rey, Felipe. 2020. The Representative System. *Critical Review of International Social and Political Philosophy*. Online version.
- Reynolds, Andrew. 2005. Reserved Seats in National Legislatures: A Research Note. *Legislative Studies Quarterly* 30(2): 301-310.
- Rollin, Bernard E. 1998. *The Unheeded Cry: Animal Consciousness, Animal Pain and Science*. Ames, IA: Iowa University Press.
- Rosenberg, Jonas Hultin. 2019. Equality, Proportionality, and the All-Affected Principle. *Democratic Theory* 6(1): 73-96.
- Rosenthal, David M. 1986. Two Concepts of Consciousness. *Philosophical Studies* 49(3): 329-351.
- Rosenthal, David M. 2000. Consciousness and Metacognition, in Sperber, Dan (ed.). *Metarepresentations: A Multidisciplinary Perspective*. New York: Oxford University Press, pp. 265-295.
- Rousseau, Jean-Jacques. [1762] 1999. *The Social Contract* (trans. Christopher Betts). Oxford: Oxford University Press.
- Rowlands, Mark. 1997. Contractarianism and Animal Rights. *Journal of Applied Philosophy* 14(3): 235-247.
- Rowlands, Mark. 2012. *Can Animals Be Moral?* New York: Oxford University Press.
- Rubenstein, Jennifer. 2007. Accountability in an Unequal World. *Journal of Politics* 69(3): 616-632.

- Rubenstein, Jennifer. 2014. The Misuse of Power, Not Bad Representation: Why it is Beside the Point that No One Elected Oxfam. *Journal of Political Philosophy* 22(2): 204-230.
- Ruby, Matthew B. and Steven J. Heine. 2012. Too Close to Home. Factors Predicting Meat Avoidance. *Appetite* 59(1). 47-52.
- Sanz, Crickette M. and David B. Morgan. 2007. Chimpanzee Tool Technology in the Goualougo Triangle, Republic of Congo. *Journal of Human Evolution* 52(4): 420-433.
- Saunders, Ben. 2012. Defining the Demos. *Politics, Philosophy & Economics* 11(3): 280-301.
- Saunders, Ben. 2014. Democracy and Future Generations. *Philosophy and Public Issues* 4(2): 11-28.
- Savage-Rumbaugh, Sue and Roger Lewin. 1994. *Kanzi: The Ape at the Brink of the Human Mind*. New York: John Wiley & Sons.
- Saward, Michael. 2009. Authorisation and Authenticity: Representation and the Unelected. *Journal of Political Philosophy* 17(1): 1-22.
- Saward, Michael. 2010. *The Representative Claim*. Cambridge: Cambridge University Press.
- Schmitter, Philippe C. 1997. Exploring the Problematic Triumph of Liberal Democracy and Concluding with a Modest Proposal for Improving Its International Impact, in Hadenius, Axel (ed.). *Democracy's Victory and Crisis*. Cambridge: Cambridge University Press, pp. 297-310.
- Schrag, Francis. 2004. Children and democracy: Theory and policy. *Politics, Philosophy & Economics* 3(3): 365-379.
- Schutz-Bergin, Marcus R. 2017. Animal Rights in a Diverse Society. PhD Thesis: Bowling Green State University.
- Schweber, Howard. 2016. The Limits of Political Representation. *American Political Science Review* 110(2): 382-396.
- Scott, James C. 2009. *The Art of Not Being Governed*. New Haven: Yale University Press.
- Searle, John R. 1994. Animal Minds. *Midwest Studies in Philosophy* 19(1): 206-219.
- Shapiro, Ian. 2003. *The State of Democratic Theory*. Princeton: Princeton University Press.

- Shevlin, Henry and Phoebe Friesen. 2021. Pain, Placebo, and Cognitive Penetration. *Mind & Language* 36(5): 771-791.
- Shriver, Adam. 2006. Minding Mammals. *Philosophical Psychology* 19(4): 433-442.
- Shumaker, Robert W.; Walkup, Kristina R. and Benjamin B. Beck. 2011. *Animal Tool Behavior: The Use and Manufacture of Tools by Animals* [Revised and Updated Edition]. Baltimore: Johns Hopkins University Press.
- Sidgwick, Henry. [1898] (1998). *Practical Ethics: A Collection of Addresses and Essays*. New York: Oxford University Press.
- Sigal, Samuel. 2020 (August 20). The meat we eat is a pandemic risk, too. *Vox*. <https://www.vox.com/future-perfect/2020/4/22/21228158/coronavirus-pandemic-risk-factory-farming-meat> (Last accessed: June 2, 2022).
- Smith, Kimberly K. 2012. *Governing Animals: Animal Welfare and the Liberal State*. New York: Oxford University Press.
- Smith, Graham. 2020. Enhancing the Legitimacy of Offices for Future Generations: The Case for Public Participation. *Political Studies* 68(4): 996-1013.
- Smith, Graham and Maija Setälä. 2018. Mini-Publics and Deliberative Democracy, in Bächtiger, Andre; Dryzek, John S.; Mansbridge, Jane and Mark Warren (eds.). *The Oxford Handbook of Deliberative Democracy*. Oxford: Oxford University Press, 300-314.
- Sober, Elliott. 2006. Comparative Psychology Meets Evolutionary Biology: Morgan's Canon and Cladistic Parsimony, in Daston, Lorraine and Gregg Mitman (eds.). *New Perspectives on Anthropomorphism*. New York: Columbia University Press, pp. 85-99.
- Song, Sarah. 2009. Democracy and Noncitizen Voting Rights. *Citizenship Studies* 13(6): 607-620.
- Song, Sarah. 2012. The Boundary Problem in Democratic Theory: Why the Demos Should be Bounded by the State. *International Theory* 4(1): 39-68.
- Southwood, Nicholas and David Wiens. 2012. "Actual" Does not Imply "Feasible". *Philosophical Studies* 173: 3037-3060.
- Stasavage, David. 2020. *The Decline and Rise of Democracy: A Global History from Antiquity to Today*. Princeton: Princeton University Press.
- Stokes, Susan. 2018. Accountability for Realists. *Critical Review* 30(1-2): 130-138.
- Suddendorf, Thomas and Janie Busby. 2003. Mental Time Travel in Animals? *Trends in Cognitive Sciences* 79(9): 391-396.

- Suddendorf, Thomas and Michael C. Corballis. 1997. Mental Time Travel and the Evolution of the Human Mind. *Genetic Social and General Psychology Monographs* 123(2): 133-167.
- Sunstein, Cass R. 2005. Can Animals Sue? In Sunstein, Cass R. and Martha C. Nussbaum (eds.). *Animal Rights: Current Debates and New Directions*. New York: Oxford University Press, pp. 251-261.
- Sunstein, Cass R. 2017. Deliberative Democracy in the Trenches. *Daedalus* 146(3): 129-139.
- Tankard, Margaret E. and Elizabeth L. Paluck. 2016. Norm Perception as a Vehicle for Social Change. *Social Issues and Policy Review* 10(1): 181-211.
- Taylor, Katy and Laura Rego Alvarez. 2020. An Estimate of the Number of Animals Used for Scientific Purposes Worldwide in 2015. *Alternatives to Laboratory Animals* 47(5-6): 196-213.
- The Hindu. 2018 (July 5). Uttarakhand declares animals to be ‘legal persons’. <https://www.thehindu.com/news/national/uttarakhand-hc-declares-animals-to-be-legal-persons/article24335973.ece> (Last accessed: June 2, 2022).
- Thompson, Dennis F. 2005. Democracy in Time: Popular Sovereignty and Temporal Representation. *Constellations* 12(2): 245-261.
- Tomasik, Brian. [2009] 2019. How Many Wild Animals Are There? *Reducing Suffering*. <https://reducing-suffering.org/how-many-wild-animals-are-there/> (Last accessed: June 2, 2022).
- Tyler, Tom R. [1990] 2006. *Why People Obey the Law*. Princeton: Princeton University Press.
- Urbinati, Nadia. 2006. *Representative Democracy: Principles and Genealogy*. Chicago: University of Chicago Press.
- Valentini, Laura. 2012. Ideal vs. Non-ideal Theory: A Conceptual Map. *Philosophy Compass* 7(9): 654-664.
- Valentini, Laura. 2014a. Canine Justice: An Associative Account. *Political Studies* 62(1): 37-52.
- Valentini, Laura. 2014b. No Global Demos, No Global Democracy? A Systematization and Critique. *Perspectives on Politics* 12(4): 789-807.
- Vallier, Kevin. 2014. *Liberal Politics and Public Faith: Beyond Separation*. New York: Routledge.

- VanDeVeer, Donald. 1979. Of Beats, Persons, and the Original Position. *The Monist* 62(3): 368-377.
- Varner, Gary E. 1998. *In Nature's Interests? Interests, Animal Rights, and Environmental Ethics*. New York: Oxford University Press.
- Varner, Gary E. 2012. *Personhood, Ethics, and Animal Cognition. Situating Animals in Hare's Two Level Utilitarianism*. New York: Oxford University Press.
- Vasconcelos, Marco. 2008. Transitive Inference in Non-Human Animals: An Empirical and Theoretical Analysis. *Behavioural Processes* 78: 313-334.
- Vink, Janneke. 2020. *The Open Society and Its Animals*. Cham: Palgrave Macmillan.
- Waldron, Jeremy. 1999. *Law and Disagreement*. Oxford: Oxford University Press.
- Walters, Edgar T. 1996. Comparative and Evolutionary Aspects of Nociceptor Function, in Belmonte, Carlos and Fernando Cervero (eds.). *Neurobiology of Nociceptors*. New York: Oxford University Press, pp. 912-114.
- Warren, Mary Anne. 1997. *Moral Status: Obligations to Persons and Other Living Things*. Oxford: Clarendon Press.
- Warren, Mark E. and John Gastil. 2015. Can Deliberative Minipublics Address the Cognitive Challenges of Democratic Citizenship? *Journal of Politics* 77(2): 562-574.
- Weisberg, Michael. 2013. *Simulation and Similarity: Using Models to Understand the World*. New York: Oxford University Press.
- Wendt, Fabian. 2019. Rescuing Public Justification from Public Reason Liberalism, in Sobel, David; Vallentyne, Peter and Steven Wall (eds.). *Oxford Studies in Political Philosophy Volume 5*. Oxford: Oxford University Press, pp. 39-64.
- Whelan, Frederick G. 1983. Democratic Theory and the Boundary Problem, in Pennock, J. Roland and John W. Chapman (eds.). *Nomos XXV: Liberal Democracy*. New York: New York University Press, pp. 13-47.
- Wiens, David. 2013. Demands of Justice, Feasible Alternatives, and the Need for Causal Analysis. *Ethical Theory and Moral Practice* 16(2): 325-338.
- Wilcox, Marc G. 2020. The Intrinsic Value of Liberty for Non-Human Animals. *Journal of Value Inquiry* 55: 685-703.
- Williams, Daniel. 2021. Motivated Ignorance, Rationality, and Democratic Politics. *Synthese* 198: 7807-7827.

- Wimmer, Heinz and Josef Perner. 1983. Beliefs about Beliefs: Representation and Constrain Function of Wrong Belief in Young Children's Understanding of Deception. *Cognition* 13(1): 103-128.
- Wise, Steven M. 2000. *Rattling the Cage: Toward Legal Rights for Animals*. Boston: Da Capo Press.
- Wise, Steven M. 2015 (March 6). Update on the Sandra Orangutan Case in Argentina. *Nonhuman Rights Blog*. <https://www.nonhumanrights.org/blog/update-on-the-sandra-orangutan-case-in-argentina/> (Last accessed: June 2, 2022).
- Woodward, James. 1986. The Non-Identity Problem. *Ethics* 96(4): 804-831.
- Wolfe, Matthew W. 2008. Shadows of Future Generations. *Duke Law Journal* 57(6): 1897-1932.
- Wrock, Rebecca Kristen. 2016. Ignorance is Bliss: Self-Regulation and Ag-Gag Laws in the American Meat Industry. *Contemporary Justice Review* 19(2): 267-279.
- Yablo, Stephen. 2008. *Aboutness*. Princeton: Princeton University Press.
- Yamakoshi, Gen and Yukimaru Sugiyama. 1995. Pestle-pounding Behavior of Wild Chimpanzees at Bossou, Guinea: A Newly Observed Tool-using Behavior. *Primates* 36: 489-500.
- Zimmerman, Joseph F. 1999. *The New England Town Meeting: Democracy in Action*. Westport, CT: Praeger.
- Zuolo, Federico. 2020. *Animals, Political Liberalism and Public Reason*. Basingstoke: Palgrave Macmillan.