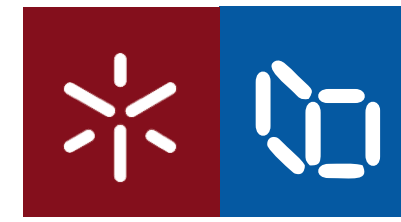


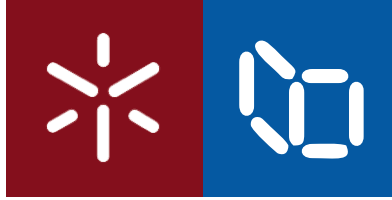


Lara de Mendonça André

**The relevance of sentience: shaping
nonanthropocentric politics**

Universidade do Minho
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Master's Dissertation
Master in Political Philosophy

Supervised by
Doctor Catia Faria

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STATEMENT OF INTEGRITY

I hereby declare having conducted this academic work with integrity. I confirm that I have not used plagiarism or any form of undue use of information or falsification of results along the process leading to its elaboration. I further declare that I have fully acknowledged the Code of Ethical Conduct of the University of Minho.

A RELEVÂNCIA DA SENCIENTIA: DELINEANDO UMA POLÍTICA NÃO ANTROPOCÊNTRICA

Resumo

Esta dissertação explora as contribuições da filosofia política para o debate acerca da consideração dos seres sencientes não humanos. Primeiramente, analisam-se o antropocentrismo e o especismo como posições dominantes em filosofia moral e política, segundo as quais os interesses humanos têm prioridade (senão consideração exclusiva) sobre os interesses não humanos. Defende-se que ambas posições são injustificadas e que a senciência é o critério relevante para a consideração tanto moral quanto política. Removidos os vieses antropocêntricos, a filosofia política pode traduzir questões éticas para a linguagem da justiça e posicionar os interesses não humanos na ordem política. Em segundo lugar, discutem-se versões contratualistas Rawlsianas e não Rawlsianas a fim de determinar sua compatibilidade com a proteção dos interesses não humanos. Finalmente, analisam-se três obras do chamado “giro político” nos estudos animais: *Zoopolis* (2011) de Sue Donaldson e Will Kymlicka que defendem o reconhecimento de cidadania para animais domesticados, quase-cidadania para animais liminares e soberania para animais selvagens; *Sentientist Politics* (2018) de Alasdair Cochrane que propõe uma democracia cosmopolita sencientista; e *A Theory of Justice for Animals* (2013) de Robert Garner que sublinha a necessidade de conceber teorias da justiça sensíveis aos interesses não humanos, mas politicamente viáveis. A conclusão geral é que é urgente redirecionar o debate sobre a consideração dos seres sencientes não humanos de uma questão de ética aplicada para uma questão de ação política que exija um compromisso das instituições políticas com a proteção dos seres sencientes não humanos.

PALAVRAS-CHAVE: animais não humanos, antropocentrismo, justiça, política, senciência

THE RELEVANCE OF SENTIENCE: SHAPING NONANTHROPOCENTRIC POLITICS

Abstract

This dissertation explores the contributions of political philosophy to the debate about the consideration of nonhuman sentient beings. First, anthropocentrism and speciesism are analyzed as the dominant positions in moral and political philosophy, according to which human interests have priority (if not exclusive consideration) over nonhuman interests. It is argued that both positions are unjustified and that sentience is the criterion that matters for both moral and political consideration. Once anthropocentric biases are removed, political philosophy can translate ethical issues into the language of justice and place the interests of nonhuman sentient beings within the political realm. Secondly, Rawlsian and non-Rawlsian versions of contractualism are discussed to determine their compatibility with the protection of nonhuman interests. Finally, three fundamental works are analyzed in the context of the so-called “political turn in animal studies”: *Zoopolis* (2011) by Sue Donaldson and Will Kymlicka who claim the recognition of citizenship for domesticated animals, denizenship for liminal animals and sovereignty for wild animals; *Sentientist Politics* (2018) by Alasdair Cochrane who proposes a cosmopolitan sentientist democracy; and *A Theory of Justice for Animals* (2013) by Robert Garner who stresses the need to develop theories of justice that are sensitive to nonhuman interests but also politically feasible. The general conclusion to be drawn is that it is urgent to shift the debate on the consideration of nonhuman sentient beings from a question in applied ethics to a question of political action that requires a commitment of political institutions to the protection of nonhuman sentient beings.

KEYWORDS: anthropocentrism, justice, nonhuman animals, politics, sentience

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Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.

John Rawls¹

But a truly global justice requires not simply looking across the world for other fellow species members who are entitled to a decent life. It also requires looking, both to one's own nation and around the world, at the other sentient beings with whose lives our own are inextricably and complexly intertwined.

Martha Nussbaum²

Since all sentient creatures possess moral worth and rights, and since all sentient creatures merit membership and representation within political communities, it is not just human beings who are entitled to social justice.

Alasdair Cochrane³

1 Rawls (1999, p. 3).

2 Nussbaum (2006, p. 406)

3 Cochrane (2018, p. 142)

1. Introduction

A central question this dissertation aims to answer is: what contributions can political philosophy make to the debate about the consideration of nonhuman animals? There is an immense discrepancy between what ethicists prescribe and the appalling way nonhuman sentient beings are still being treated. Several authors have thus argued that this in part due to the fact that animal advocates have long overlooked the power of couching their arguments in the language of justice, a paramount concept in political theory. Political philosophy can indeed offer several conceptual resources that can translate ethical issues into the language of justice, political institutions, and public policy, helping situate the needs and interests of nonhuman sentient beings within the social and political order.

The dissertation proceeds as follows. The present first chapter consists of an introduction that lays out the main questions that will be investigated and the general organization of the chapters. The second chapter prepares the theoretical ground by introducing the essential concepts and arguments used in the debate on the moral consideration of nonhuman sentient beings. It introduces the definitions of speciesism and anthropocentrism and the main arguments commonly used to support them. There have been different attempts to ground the preferential treatment of human beings over other animals. Sometimes, simply by assuming the moral priority of the human species without presenting any further argument to back up this assertion. Other times, by appealing to certain attributes that cannot be empirically corroborated or, more commonly, by appealing to the alleged human possession of higher intellectual capacities or to certain special relations among human beings, which nonhumans lack or otherwise fail to engage in. The chapter assesses the cogency of such arguments. First, by testing them against the challenge presented by the argument from species overlap. Second, and crucially, by offering two additional arguments for the consideration of nonhuman sentient beings. These are the argument from relevance and the argument from impartiality.

Once the basic premises that speciesism is unjustified and that sentience is what matters for moral consideration are established, it is possible to consider (1) whether nonhuman sentient beings should also be recipients of justice, (2) what would be owed to them in practice as a matter of justice and (3) how should sentience ultimately shape the way we presently do politics.

Accordingly, the third chapter delineates how in recent decades several political theorists have begun to challenge anthropocentrism and speciesism by attempting to insert nonhuman sentient beings in the realm of political philosophy. A starting point for the discussion is John Rawls' seminal book *A*

Theory of Justice and, in particular, the question of whether the Rawlsian original position can be deployed so as to accommodate nonhuman beings in the sphere of justice. The chapter assesses the most prominent positions within this debate (Donald Van De Veer, Mark Rowlands, and Julia Tanner), with a view to determining the extent to which Rawlsian and non-Rawlsian versions of contractarianism may theoretically protect the interests of nonhuman sentient beings.

The fourth and last chapter is dedicated to a literature review of the so-called “political turn in animal ethics”. It examines three substantial contributions to the political turn that flesh out what political systems that take into account the interests and rights of both humans and nonhumans might look like. First, it examines Sue Donaldson’s and Will Kymlicka’s *Zoopolis: A Political Theory of Animal Rights* (2011). Next, it considers Alasdair Cochrane’s *Sentientist Politics: A Theory of Global Inter-Species Justice* (2018). Finally, the chapter assesses Robert Garner’s *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013). The main objective is to highlight the contributions they individually make to the debate and also to determine the main points of agreement and disagreement in the scholarship of the political turn.

Before going into detail, some remarks are necessary. First, the focus of the second chapter is put on contractarianism, more specifically on Rawlsian contractarianism, mostly due to its remarkable influence in contemporary political philosophy. However, the conclusions arrived about the moral and political considerability of nonhuman sentient beings are compatible with most if not all other normative theories, including several forms of consequentialism, deontology, virtue ethics, care ethics, and rights theories.

Second, this dissertation agrees with the view that rights are better understood not as intrinsic features of right holders but rather as principles that help secure the fundamental interests of sentient beings and that can be granted equally to human and nonhuman sentient individuals. It is assumed thus that rights have instrumental value in helping protect the well-being of sentient beings. Supporting rights and speaking the language of justice, both conceptually and strategically, can, therefore, be extremely valuable in the defense of nonhuman sentient beings.

Finally, though most authors often prefer to simplify their language by referring to nonhuman individuals as “nonhuman animals” or simply “animals”, in this dissertation I use, whenever possible, the more encompassing expression “nonhuman sentient beings” as a matter of accuracy and neutrality. This is because I admit the plausibility of the claim that in the future humans might see themselves sharing an expanded moral and political community with nonorganic sentient beings. Such

sentient beings would not belong to different biological species (as all the existing and future nonhuman animals) but they might actually come to exist in an entirely different substrate, such as sentient robots and supercomputers, with all the moral and political implications that sentience entails.

2. Speciesism and Anthropocentrism

This dissertation endorses the general view that political philosophy, similarly to what happens in moral philosophy, ought to be developed as to include in its discussions, not just human beings but, progressively, all sentient beings, regardless of species membership. This move necessarily entails overcoming speciesist and anthropocentric biases. Thus, before entering the realm of political philosophy, in this chapter, I introduce working definitions of *speciesism* and *anthropocentrism* and assess the main arguments used to support as well as to refute them in order to lay the foundational moral arguments for the political consideration of nonhuman sentient beings.

2.1. Definitions of Speciesism and Anthropocentrism

Often speciesism and anthropocentrism are used interchangeably, but the assumption that they are synonyms is unwarranted.

Speciesism is a form of discrimination, similar to racism and sexism, that occurs when individuals are given less moral consideration than others (or none at all) based on their species membership. (Cushing, 2003; Dunayer 2004; Horta, 2010c; Pluhar 1995; Ryder, 2011; Sapontzis 1987; Regan, 1983; Singer, 2017)

Anthropocentrism, on the other hand, claims that only human beings are owed full moral consideration and that all nonhuman individuals are deemed less morally considerable or not considerable at all. (Faria & Paez, 2014; Horta, 2018a)

Speciesism may be anthropocentric but also nonanthropocentric. In a typical instance of anthropocentric speciesist discrimination, individuals are denied moral consideration simply because they are not human. For example, one may find it morally acceptable to keep hens in tiny, cramped battery cages, while considering morally unacceptable to submit humans to the same living conditions, despite the fact that both humans and chickens have an interest in not suffering.

Yet, nonhuman individuals may also be discriminated against individuals who belong to other nonhuman species. For example, consider two different sentient animals: a dog and a fox. One may treat the dog very favorably and the fox very unfavorably, without necessarily favoring humans. Despite being nonanthropocentric, this differential treatment seems equally unjustified, since both animals are sentient and share the same fundamental interest in not being harmed, regardless of their species.

The vast majority of people tend to believe that either (1) only human beings matter or (2) any sentient beings matter, but human beings matter more. Both claims are anthropocentric and speciesist. But as we have seen, people also tend to believe that (3) certain nonhuman sentient beings matter more than other nonhuman sentient beings who belong to different species, despite having similar interests. This third claim, although nonanthropocentric, is also speciesist. In speciesism, individuals who do not belong to a certain species unfairly receive unfavorable consideration (Horta, 2010c, p. 244). Like racism or sexism, speciesism occurs not only when individuals are harmed or completely disregarded, but also when their interests are considered to a lesser extent compared to similar interests of members of other privileged species.

2.2. Defenses of Speciesism and Anthropocentrism

The view that humans should be favored over nonhumans has been commonly criticized as speciesist. Different arguments have been used to defend the idea that nonhuman sentient beings can be treated unfavorably or that their interests can be disregarded. Sometimes it is said that (a) humans deserve to be treated better simply because they are members of the human species without presenting any further argument to back up this assertion. Other times, it is claimed that (b) human beings are superior to nonhuman beings for reasons that cannot be empirically verified in any way. It is also often claimed that (c) humans have certain special intellectual capacities that nonhuman beings lack, or that humans can have certain special relations with other humans and that we can verify nonhumans lack such relations with humans or with each other. This section will look into more detail at these three arguments used to defend speciesism and human moral superiority over other animals.

2.2.1. The definitional argument. A common defense of anthropocentric speciesism is the *definitional argument*, which essentially goes as follows: *Only human beings matter (or matter more) because they belong to the human species.* (Diamond, 1991; Gaita, 2003; Posner, 2004) The argument states that mere membership to the human species is what is relevant morally, what can also be called definitional anthropocentrism (Horta, 2018a). The main problem with this argument is that it is a circular argument: it aims to explain why it is important to belong to the human species, but it assumes beforehand that it is important to be human to be morally considerable, which is what it should actually prove instead.

Richard A. Posner (2004), for instance, argues that:

Membership in the human species is not a morally irrelevant fact, as the race and gender of human beings have come to seem. If the moral irrelevance of humanity is what philosophy teaches, so that we have to choose between philosophy and the intuition that says that membership in the human species is morally relevant, philosophy will have to go. (p. 64)

Intuitions, however, are often subject to an enormous variety of biases, especially ingroup biases. In addition, we often have conflicting intuitions about crucial ethical matters. Just claiming there is a deep intuition that merely being born into the human species is morally relevant is thus not enough. We need an argument to back up the intuition. The definitional argument does not provide that. Instead, it begs the question by failing to explain why it is justified to privilege humans over nonhumans solely based on the criterion of species membership. When reasons given in support of an ethical position do not provide a valid justification, they can be deemed arbitrary and should thus not be taken into account.

2.2.2. The argument based on unverifiable attributes. In order to properly defend human moral superiority, one would have to go further and explain why exactly only humans matter or matter more. One attempt to justify human superiority is to claim that only humans matter because only humans have intrinsic value or greater intrinsic value than other sentient beings, or that humans hold a superior ontological status because they belong to a divinely chosen species. (Harrison, 1989; Reichmann, 2000; Machan, 2004).

For example, Margaret Somerville (2010) claims that “every human being has an ‘intrinsic dignity’ that comes simply with being human; having that dignity⁴ does not depend on having any other attribute or functional capacity.” (as cited in Donaldson & Kymlicka, 2011)

However, none of these attributes or circumstances can actually be verified or confirmed in any way. We cannot possibly know whether only humans have intrinsic worth or whether species can be chosen by supernatural entities and further to that, that only the human species is divinely favored. At the end of the day, this argument also begs the question by again assuming something to be true about human beings without giving further substantiation. The *argument based on unverifiable attributes* ultimately fails due to the unwarranted premises it is based on.

4 For a criticism of the concept of dignity as been applicable to humans only see Korsgaard (2018); Kymlicka (2018), Nussbaum (2006).

2.2.3. The argument based on verifiable attributes. An apparently more compelling argument used to defend anthropocentrism claims that there are certain attributes that, unlike the previous, are not only verifiable but also exclusive to human beings. The *argument based on verifiable attributes* maintains that only humans have certain cognitive capacities or are able to establish and maintain certain types of special relations with each other. These allegedly unique human attributes are then used to justify granting human beings full moral consideration, whereas nonhuman beings are deemed inferior, less or no morally considerable at all.

Several authors have advanced their arguments for human superiority based on these supposed special human capacities (Carruthers, 1992; Descartes, 1930; Ferry, 1992; Frey, 1980; Leahy, 1991; Scruton, 1996) and special human relations (Midgley, 1983; Naverson, 1989; Petrinovich, 1999; Scanlon, 1998; Wenz, 1998). Some of the most cited attributes are of cognitive and social nature such as the possession of reason; higher intelligence; the use of language; moral agency; the sense of justice; autonomy; the possession of culture; the capacity to enter into contracts; the capacity to demand and to respect rights; the capacity to build relations of solidarity; the capacity to build political relations, etc. Unlike the unverifiable attributes, we are now talking about certain specific attributes that are empirically verifiable.

There are, however, at least three different ways to dispute these arguments. They will be discussed in more detail in the next section.

2.3. Refutations of Speciesism and Anthropocentrism

This section presents three arguments that can be formulated to challenge the most robust defenses of speciesism and anthropocentrism. The *argument from species overlap* and the *argument from relevance* can be used separately or combined to respond to basically all objections raised against the claim that all sentient beings are morally considerable, not just human beings. The third argument, the *argument from impartiality*, is an additional argument that claims that speciesism is not only a form of arbitrary discrimination similar to racism and sexism but that it is also incompatible with justice.

2.3.1. The argument from species overlap. The *argument from species overlap* is essentially based on the following problem: not all members of the human species have all or even some of the verifiable special human capacities and relations that supposedly make humans, and only

humans, fully morally considerable. Human individuals such as babies, toddlers, some elderly and those victims of certain accidents or who suffer from diseases that affect their mental health often have similar or less cognitive capacities than many nonhuman individuals. And many humans do not possess any of these special attributes at all, and never will. As a matter of fact, any of us may become permanently deprived of these capacities and relations due to illness or an accident, for example. (Bentham, 1996; Bernstein, 2004; Dombrowski, 1997; Ehnert, 2002; Horta, 2014; Miller, 2002; Norcross, 2004; Pluhar, 1995; Singer, 2017; Tanner, 2011; Wilson, 2005)

For any special human capacities or relations that can be listed, there will always be some human individuals who possess them to a larger degree and others who possess them to a smaller degree, or those who do not possess them at all. The argument from species overlap shows that in order to be consistent, we would have to unavoidably deny full moral consideration to all those sentient humans who lack certain intellectual capacities or special relationships or seriously restrict it to only those who fit within a certain limited spectrum of cognitive capacities, which contradicts the “all humans are equal” basic premise and, arguably, amounts to a form of ableism⁵. The only way to avoid this undesirable conclusion and deflect both the ableist and speciesist charges is by rejecting the premise that it is justified to give less or no consideration to those sentient individuals who fail to meet certain intellectual or relational criteria, be them human or nonhuman.

It should be mentioned that in the defense of nonhuman sentient beings it is sometimes argued that several of the intellectual capacities and special relationships that have traditionally been claimed to be unique to human beings might not be exclusive to *Homo sapiens* after all – and this supposedly weakens speciesist claims of human superiority. This is partly important given the supremacist risks of human exceptionalism. However, even if we accept, for the sake of argument, that many nonhuman sentient beings also possess several, if not many, of those special social and intellectual attributes, and that we simply have not yet been able to demonstrate them empirically (in part, perhaps, due to speciesist biases in science), the point is that all special cognitive attributes that humans may possibly share with nonhumans remain completely *irrelevant* for moral consideration.

Thus, the argument from species overlap does not exactly show why an individual should matter morally, but only on which attributes moral consideration *cannot* rest. It is a negative argument, which is nevertheless extremely useful in showing how inconsistent, partial and prejudiced we are

⁵ Ableism is here simply defined as “discrimination or prejudice against individuals with disabilities”. <https://www.merriam-webster.com/dictionary/ableism>

towards nonhuman sentient beings in our moral assessments. The argument from species overlap hints at the fact that having certain intellectual capacities or special relationships, despite being verifiable, are not actually the *relevant* attributes for moral consideration. As we will see in the next section, to be fully morally considerable an individual simply needs to be *sentient*.

2.3.2. The argument from relevance. The *argument from relevance* is a positive argument that puts forward what really matters when deciding which individuals are morally considerable. The argument is essentially premised on the idea that we should base our moral decisions on *relevant* factors.

For example, in a typical classroom, students often have different levels of intelligence, however, it is unreasonable to think that if two students get accidentally burned in the school lab, that the less intelligent student would suffer less than the more intelligent one or that the more intelligent student should be prioritized in the emergency room. It is for this reason that in order to decide who should be assisted first, a doctor would check for symptoms of pain or look at the burns in the students' bodies to assess which look worse as the relevant criteria for prioritizing assistance, and not wonder which patient is more intelligent.

As we have seen, those who defend speciesist views claim that to be morally considerable, an individual must have, for example, certain sophisticated intellectual capacities, or must be able to maintain certain special relations with others. But none of these capacities are what dictates whether or not one can be harmed or benefited in the first place. At most, these special capacities determine some of the different ways in which one individual can be harmed or benefited. Even though certain advanced cognitive capacity may determine that an individual A may be harmed in a particular way or may perceive a negative experience differently than another individual B who lacks this same capacity, it is not that capacity by itself that determines whether individual A can be harmed. To be harmed at all, individual A must simply be sentient.

Sentience is here defined as the capacity of an entity to have conscious experiences that can either have positive or negative hedonic valence. Positive conscious experiences may include mental states of well-being, happiness, and pleasure. Negative experiences include those of stress, fear, and pain among others. Since only sentient beings can perceive themselves as being in beneficial or detrimental states, only sentient beings can be harmed or benefited by agents or events that concern them. Sentient beings are harmed when certain acts or events detract them from their well-being and

are benefited when acts or events promote their well-being. In the literature, sentience has been commonly considered a necessary and a sufficient attribute for moral considerability. Thus insofar as sentience is what renders it possible for beings to be either positively or negatively impacted by acts as well as omissions, it has several ethical and political implications. (Allen & Bekoff, 1997; Braithwaite, 2010; Broom, 2014; Dawkins, 1980; DeGrazia, 1996; Gregory, 2004; Griffin, 1981, 1992; Haynes, 2008; Rollin, 1989; Sandøe & Simonsen, 1992; Smith, 1991)

Typically, humans and all nonhuman animals with centralized nervous systems share the primary biological apparatus that enables them to have internal conscious experiences that satisfy the fundamental physiological, behavioral and evolutionary criteria for sentience⁶. On July 7, 2012, a group of renowned neuroscientists signed the *Cambridge Declaration on Consciousness*. The declaration stated that not only humans but also a substantial number of animals, including vertebrates and many invertebrates, are conscious beings:

The absence of a neocortex does not appear to preclude an organism from experiencing affective states. Convergent evidence indicates that non-human animals have the neuroanatomical, neurochemical, and neurophysiological substrates of conscious states along with the capacity to exhibit intentional behaviors. Consequently, the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Non-human animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates. (Low et al., 2012)

What this means is that these animals, in virtue of being conscious, can experience what happens to them, and have mental states which can be positive or negative for them. Being sentient means they have the basic ability to feel and react to such stimuli consciously, by experiencing them from the inside. Sentience is distinct from other aspects and capacities of the mind, such as intelligence, creativity, intentionality, and self-awareness. Sentience can also be described as the morally relevant aspect of consciousness because it is sentience (and not other qualities of conscious minds) that determines whether a being can experience well-being.

⁶ Although sentience can only be present in beings who are conscious, consciousness itself may not be a property exclusive to biological beings. Some authors argue that in the future, with the advance of artificial consciousness, sentience might also be present in digital form in nonorganic conscious beings, such as computers and robots. Crucially, even though it remains to be seen whether or not artificial consciousness will become a reality, sentience is and shall remain indefinitely the only relevant attribute for full moral considerability, regardless of whether it will be present in organic or nonorganic substrates of future conscious beings. As Nick Bostrom (2011) puts it: "Substrate is morally irrelevant. Whether somebody is implemented on silicon or biological tissue, if it does not affect functionality or consciousness, is of no moral significance. Carbon-chauvinism is objectionable on the same grounds as racism."

Even though scientists still debate whether certain groups of animals are sentient, a sufficiently large number of animals are indisputably considered sentient, which also means they can experience suffering and well-being and thus have basic interests that must be taken into consideration, such as the interest in not suffering and the interest in living and being able to enjoy positive experiences. As Peter Singer exemplifies in *Practical Ethics* (2011):

The capacity for suffering and enjoying things is a prerequisite for having interests at all, a condition that must be satisfied before we can speak of interests in any meaningful way. It would be nonsense to say that it was not in the interests of a stone to be kicked along the road by a schoolboy. A stone does not have interests because it cannot suffer. Nothing that we can do to it could possibly make any difference to its welfare. A mouse, on the other hand, does have an interest in not being tormented, because it will suffer if it is. (p. 50)

It is not the aim of this dissertation to explore different theories of consciousness, nor is it to specify which beings are sentient but, rather, it is simply to argue that *if certain individuals are considered sentient, then they should be morally considerable*.

To be clear, different sentient beings who belong to different species can experience the world in different ways. Different individuals, such as a dog, a fish, a chicken or a human being may admittedly have very different subjective experiences. However, what we all have in common is that the experiences we have can be either positive or negative for ourselves simply because we are all sentient. An object like a bicycle that is not sentient, can be said to have neither positive nor negative experiences simply because it cannot have experiences at all. So if a bicycle is destroyed by a truck it can be said to be “damaged” but it cannot be said to have been “harmed” in any way because it lacks the capacity for suffering.

In short, the argument from relevance claims that when it comes to granting moral consideration, what should be taken into account is (1) how an individual can be positively or negatively affected by our actions or omission and that (2) to be positively or negatively affected, one only needs to be sentient. Any attributes other than sentience are not relevant for deciding whether or not an individual is morally considerable.

Now, as mentioned, the basic idea behind the argument from relevance is that for each and every decision we make there are some factors that are relevant and others that are not. One could naturally reject the claim that we should base our decisions on relevant criteria in the first place. But that does not seem very plausible. For example, being a three-year-old child seems to be a relevant

criterion in order to be admitted to a kindergarten. However, it is, alone, not a valid criterion to be admitted to a hospital. For that, having a broken leg could instead be a valid reason. On the other hand, having a broken leg does not seem to be a valid criterion to be admitted to a kindergarten. This is so not just because there are certain rules that determine the requirements to be admitted to kindergartens or hospitals. Instead, the rules make sense because they are not arbitrary, but based on valid reasons with respect to what is relevant or irrelevant for being admitted to those specific places. (Rachels, 1990; Horta, 2018a).

In other words, in order to be justified, “decisions are to be made according to those factors that are relevant to that which those decisions are about.” (Horta, 2018a). As we have seen, intellectual capacities or relationships are irrelevant to whether or not we should take someone’s interests into account. They are not relevant because they are not the attribute one needs to have in order to be able to be harmed or benefited – being sentient, in opposition, is relevant to one’s ability to be harmed or benefited, which explains the moral relevance of sentience.

The argument from relevance can also be used to demonstrate why we should give moral consideration to sentient beings rather than to all living beings, to species, to ecosystems or any other nonsentient entities. It can be particularly helpful, also, in disentangling the conflict between the moral consideration of sentient beings and environmentalism, which is relevant since environmentalist views have a considerable influence on political institutions and political decisions that directly and indirectly affect a large number of nonhuman sentient beings.

As Donaldson and Kymlicka (2011) put it very aptly, sentience is also the relevant criterion for determining not only who is morally considerable, but also who is ultimately owed justice:

Only a being with subjective experience can have interests, or be owed the direct duties of justice that protect those interests. A rock is not a person. Neither is an ecosystem, an orchid, or a strain of bacteria. They are things. They can be damaged, but not subject to injustice. Justice is owed to subjects who experience the world, not to things. Non-sentient entities can rightfully be the objects of respect, awe, love, and care. But, lacking subjectivity, they are not rightfully the objects of fairness, nor are they agents of intersubjectivity, the motivating spirit of justice. (p. 36)

2.3.3. The argument from impartiality. Imagine a situation in which we are treated unequally and that it results in us being harmed. Most people accept the idea that it would be

unacceptable if anyone would benefit from this situation. Thinking impartially means that, conversely, we should not accept other situations in which we would personally benefit from the unequal treatment of others that could result in them being harmed.

However, many people are prepared to accept situations in which nonhuman sentient beings are harmed to benefit us. This shows that when it comes to the way we treat nonhuman sentient beings, we are inconsistent and accept unequal forms of treatment that we would otherwise find completely unacceptable and unfair should we be in the position of those being unfavorably treated.

Accordingly, *the argument from impartiality* is premised on the view that any discrimination is incompatible with justice. The argument maintains that treating nonhuman sentient beings worse than human beings is a form of discrimination and inconsistent with impartiality, which amounts to injustice. For if human beings were discriminated against and treated as nonhuman animals are, it would be deemed unacceptable. (Horta, 2010a; Lippert-Rasmussen, 2006)

An illuminating way of thinking about impartiality is by trying to imagine a hypothetical scenario in which we were about to be born but do not know what place we will occupy in society. Supposing we are also unable to know what our sex, skin color, intellectual capacities, social or economic status will be, what moral and political principles would we choose for governing the world? The model for this argument has been presented by different authors (Brandt, 1979; Harsanyi, 1982; Scanlon, 1998), but the most notorious version, known as “the original position”, was presented by John Rawls in *A Theory of Justice* in 1971. Rawls’ original position and whether it can be applied to nonhuman sentient beings (and its implications to our commitments to justice and impartiality) will be extensively discussed in the next chapter.

The argument from impartiality is particularly relevant for discussions in normative political philosophy because it forces us to think more deeply about the core concepts of fairness, impartiality, and justice, aiming at overcoming possible biases and blind spots in our moral and political mental maps.

2.4. Conclusion

This chapter argued that we have strong reasons to maintain that all sentient beings are equally morally considerable on the grounds they are sentient and thus have a well-being of their own. It has also been argued that we have compelling reasons to reject the views that hold that only humans

matter or matter more than nonhuman sentient beings. For if the reason for morally considering an individual is that their well-being may be affected for better or for worse, then the degree of such consideration must depend on the magnitude to which their well-being could be affected for better or for worse and not on whether such an individual possesses certain cognitive capacities or belongs to a certain species. Finally, it has been argued that sentience is also the relevant criterion for determining which individuals are ultimately owed duties of justice, as a matter of fairness and impartiality, which means that sentience has not only moral but also important political implications.

3. Impartiality, Justice, and Antispeciesism

This chapter provides an analysis of how impartiality, the very concept of justice, and political philosophy (more broadly), have been thought out over the last few decades from a nonspeciesist, nonanthropocentric perspective. In political philosophy, impartiality arguments have been inspired by John Rawls' influential *A Theory of Justice* (originally published in 1971), and it is usually assumed that Rawlsian contractarianism offers anthropocentrism a justification but, as it will be examined in this chapter, this claim is ungrounded. Some forms of contractarianism, however, may not be theoretically capable of fully protecting the interests of nonhuman sentient beings. The plausibility of this claim will also be assessed in the last section of this chapter.

3.1. John Rawls: The Original Position

In his eloquent *A Theory of Justice* (first published in 1971), John Rawls proposes a thought experiment to help us think about what the basic structure of a fair society should look like. Rawls calls the device the *original position*. According to the heuristic method of the original position, participants are hypothetically able to choose mutually acceptable principles of justice in a supposedly completely impartial manner.

There are two basic constraints in the original position: (1) individuals must choose the governing principles of the world behind a *veil of ignorance*, i.e., a state of complete ignorance of their own individual characteristics such as gender, race, physical and mental attributes, wealth, or social and economic position in society. Rawls claims that this procedure ensures a fair, impartial viewpoint as participants are able to freely choose the principles that would guide the development of fair policies and institutions but without trying to promote their own particular interests; and (2) according to Rawls' contractarian model, the individuals in the original position must be "rational", "moral" and "self-interested" persons (Rawls, 1999, ch. 1).

The resultant scenario is described by Rawls (1999) in the following excerpt:

No one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This

insures that no one is advantaged or disadvantaged in the choice of the principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. (p.12)

The original position is not strictly attached to any moral theory in particular and under the conditions proposed by Rawls, individuals are free to choose their governing principles of justice, but Rawls believes that his preferred contractarian principles, namely, the *difference principle* (Rawls, 1999, ch.2) and the *greatest equal liberty principle* (Rawls, 1999, ch.3) would win out over other competing principles, such as the utility principle⁷. Nonetheless, despite its apparent moral neutrality, Rawls' original position has not escaped criticism.

Particularly relevant to this dissertation is the alleged charge of speciesism and anthropocentrism since, however impartially derived, the principles of justice are not applicable, according to Rawls, to nonhuman sentient beings. As it is several times stated in *A Theory of Justice*, "our conduct toward animals is not regulated by these principles, or so it is generally believed" (Rawls, 1999, p. 441) and "presumably this excludes animals; they have some protection certainly but their status is not that of human beings" (Rawls, 1999, p. 442). The soundness of the speciesist charge against Rawls' original position will be assessed next.

3.2. Donald Van De Veer: A Thicker Veil of Ignorance

In 1979, a few years after the publication of Rawls' *A Theory of Justice*, philosopher Donald Van De Veer published an article titled "Of Beasts, Persons, and the Original Position". In it, the author points out an apparent "anomaly" in Rawls' theory: "Rawls claims that, strictly, not all persons are owed just treatment according to his principles of justice. They are, he claims, *if they are 'moral persons'*" (Van De Veer, 1979, p. 369). According to Rawls, a moral person is (1) a person with a capacity for a sense of justice, and (2) a person who has a conception of her good as expressed by a rational plan of life. (Rawls, 1999 p. 297). Van De Veer (rightly) highlights the fact that there may be many humans who do not satisfy these conditions and thus fail to be moral persons⁸. This could imply

⁷ Economist John Harsanyi has also envisioned the original position but, unlike Rawls, Harsanyi (1953) argued that a participant in the original position would maximize their expected utility, rather than choose principles guided by a maximin rule.

⁸ See also Nussbaum (2006) for similar criticisms.

that possibly millions of humans would not be owed just treatment, perhaps including all of those with serious brain diseases and mental disorders.

In addition, among the beings which fail to be moral persons on Rawls' contractarian view are not just a nontrivial percentage of human beings but virtually all sentient nonhuman animals, which would all be excluded from being owed just treatment. Van De Veer notes that Rawls' has stated that even though with his discussion he did not aim at offering an account of the "right conduct in regard to animals", he maintained that "it does seem that we are not required to give strict justice anyway to creatures lacking" the aforementioned capacities. (Rawls, 1999, p. 448)

Having in mind that the whole point of the veil of ignorance is to ensure impartiality and to prevent participants from being guided by their own prejudices, Van De Veer (1979) proposes an important modification to the original position:

So, participants [in the original position] must at least assume that they are choosing principles to regulate interaction among beings who have interests, who *could* be better off or worse off. But this is true of any sentient being whether or not it has the capacity for a sense of justice or a rational life plan, and importantly, whether such a sentient creature is a moral person or not—or a human being or not. ... If, then, the original position were fully neutral, its participants would not only have to be ignorant of the race, sex, or social position qua participants [in the resulting just society], it would seem that they would have to be ignorant of their species membership as well—subject only to the qualification that they shall have interests as participants. (p. 372)

Now, assuming that (1) all sentient animals have morally relevant interests and that (2) species membership is an irrelevant and arbitrary criterion for moral considerability (as previously argued), Van De Veer (1979) claims that it is plausible that Rawls' original position was conceived in a way that would necessarily allow participants to choose speciesist principles of justice. (p. 374) The plausibility of this claim, however, has been challenged by different authors, remarkably by Mark Rowlands, as we shall see in next section.

Notwithstanding the previous, the use of Van De Veer's modified original position where participants would find themselves behind an even thicker veil of ignorance (one in which they would also be ignorant of their species membership in the resulting just society) helps illuminate discussions about the nature of equality, impartiality, just treatment and moral consideration of the interests of all sentient beings.

Van De Veer’s modified original position challenges deep-seated speciesist biases by inviting us to contemplate the reasons for our propensity to discount the interests of nonhuman sentient beings against humans. Obviously, questioning the rationale of Rawls’ original position imposes several difficulties to the entire Rawlsian strategy to determine the principles of justice. Consider Table 1 below:

Table 1
Number of sentient beings alive at any given moment (estimates)

Type of sentient being	Number
Humans	7,700,000,000
Nonhumans under exploitation	1,091,100,000,000*
Nonhumans in the wild	1,010,012,160,000,000,000*

Note. *Low estimates. Reproduced from Tomasik, B. (2018). “How many animals are there?” (Original work published in 2009)

It seems that principles of justice can hardly be considered “just” if the vast majority of beings with interests are completely disregarded. At one point, Rawls admits that if his theory of justice works adequately for humans, it may have to be revised to take into account other relationships (Rawls, 1999, p. 449). But as Van De Veer (1979) notices, one may wonder if the exclusion of the well-being of all nonhuman sentient beings from a theory of justice is the “right way to go about things” (p.377).

As we have seen with the argument from species overlap, the only way to completely avoid the troublesome conclusion that nonhuman sentient beings are not owed just treatment is by rejecting the premise that it is justified to give no consideration to those beings (be them human or nonhuman) who fail to meet certain intellectual or relational criteria. In addition, as discussed with the argument from relevance, these are ultimately irrelevant moral criteria.

Challenging speciesism may raise yet another difficulty: Rawls’ theory of justice has been considered by several authors as incompatible with the consideration of the interests of nonhuman sentient beings on the grounds that his theory is entirely based on contractarian principles, and as Rawls (1999) himself has noticed, it may not be possible to “extend the contract doctrine to them in a natural way” (p. 512).

Some authors are seemingly more pessimistic than others about the possibility of adapting Rawls' theory to overcome the species divide. Contractarians typically argue that (1) for a contract to be binding the parties involved in making the contract must be able to keep it and (2) because only moral beings with a sense of justice can keep contracts, then (3) all nonmoral beings with interests supposedly cannot be included in a contract however hypothetical, as a nonspeciesist original position would require. Thus "satisfactory modifications of Rawls' initial situation undermine its contractarian basis and require the rejection of exclusively self-interested participants" (Pritchard & Robinson, 1981, p. 55). For Narveson (1983, p. 45) the moral standing of animals is of "things". For Gauthier (1986, p. 268), nonhuman animals and humans with severe intellectual disabilities are "beyond the pale" of contractarian morality. According to Carruthers (1992), it is indeed assumed that only those individuals who are rational, and thus able to see themselves as a part of a contract, can be benefited by a contract, therefore only rational beings would merit protection under contractarianism. At this point, though, it should not be difficult to conclude these claims cannot escape the previously demonstrated argument from species overlap, on top of a charge of acute ableism. Carruthers' problematic position, in particular, will be discussed in more detail later on.

Faced with this quandary, one could (1) fully accept Rawls' contractarian theory of justice despite all the speciesist implications (an unwarranted position since, as previously discussed, an arbitrary discrimination such as speciesism is incompatible with justice); (2) reject Rawlsian contractarianism altogether on the grounds that it is speciesist⁹ and thus incompatible with true impartiality (another unwarranted claim, as we will see Rawlsian contractarianism does not really have the implication that it is inconsistent with the impartial consideration of the interests of all sentient beings); or (3) claim that the view that Rawlsian contractarianism is incompatible with the moral consideration of nonhuman sentient beings (and their just treatment) is actually *false*, as contractarian philosopher Mark Rowlands (1997) has argued for.

3.3. Mark Rowlands: A Neo-Rawlsian Nonanthropocentric Contractarian Approach¹⁰

9 Tom Regan (1983), for example, has criticized Rawls' contractarianism with the argument that "it [Rawls' position] systematically denies that we have direct duties to those human beings who do not have a sense of justice — young children, for instance, and many mentally retarded humans." He then goes on to conclude that since many, if not all, nonhuman animals cannot be considered rational beings with a sense of justice, contractarian approaches fail to concede them direct moral rights.

10 I would like to thank Catia Faria for her extensive help with this section.

Contractarianism has been usually considered a safe refuge for many theorists wishing to restrict moral consideration to human beings only. Aware of this issue, Mark Rowlands (1997) has argued that this commonly accepted view is false. Properly understood, Rawlsian contractarianism would, in fact, entail that nonhuman sentient beings are moral beings and thus recipients of justice.

According to a contractarian generic view, the maximization of the good should be replaced by the achievement of justice, such that we should act as prescribed by principles that rational agents, in an appropriate social contract, would find acceptable. The most paradigmatic version of this account is indeed John Rawls' contractarianism. As previously discussed, Rawls' theory of justice is built upon two basic ideas: (a) the original position, that is, an imaginary state of affairs, from where the principles that will determine the basic structure of a just society are to be derived and (b) the veil of ignorance, a tool meant to ensure impartiality.

The veil of ignorance supposedly achieves neutrality by denying individuals the knowledge of their particular circumstances that would otherwise jeopardize impartially choosing the principles of justice. Thus, social-economic conditions, natural endowment and particular sets of moral beliefs are absent from the original position.

According to Rawls, though, however impartially derived, the principles of justice are not applicable to nonhuman sentient beings. As most notably stated in his *Theory of Justice*: "While I have not maintained that the capacity for a sense of justice is necessary in order to be owed the duties of justice, it does seem that we are not required to give strict justice anyway to creatures lacking this capacity" (Rawls, 1999, p. 512).

From these words, it is usually assumed that nonhuman sentient beings are excluded from the scope of the principles of justice, as thereby implied by contractarianism itself. The justification behind it is that given that only rational agents formulate the principles of justice (and hence the moral contract), the principles of justice only apply to rational agents. Since nonhuman sentient beings are not rational agents (or they do not have a sense of justice or lack the rational capacity to display it), the principles of justice do not apply to them.

However, the soundness of this argument is clearly questionable. The first problem has to do with consistency between the impartiality requirement and the exclusion of nonhumans on the basis of their lack of rationality. This has been examined in great detail by Mark Rowlands (1997). He considers the two different arguments that Rawls uses to support the principles of justice, which are:

The Social Contract Argument (SCA): the principles of justice are such that would be accepted by rational agents in the original position.

The Intuitive Equality Argument (IEA): if property P is undeserved, then it is morally arbitrary and one is not morally entitled to it. If one is not entitled to P then one is not entitled to whatever benefits emanate from possessing P.

Rowlands' central argument is then formulated as follows:

(1) SCA is dependent on IEA, in the sense that the IEA determines the acceptability of the description of the original position, and this determines which principles of justice we shall accept.

(2) Rationality is an undeserved property (nature's distributive responsibility). Thus, it is a morally arbitrary property and one is not morally entitled to its possession or to whatever benefits emanate from possessing it.

(3) It follows that restricting the beneficiaries of the protection of the contract to rational agents would be to contradict the Intuitive Equality Argument.

(4) Therefore, rationality is a restriction we cannot legitimately apply in the original position. (Rowlands, 1997, p. 242)

Note that the same applies if we substitute "rationality" in (2) for "cognitive capacities" more generally or "species membership". No individual is responsible neither for the cognitive capacities she has nor for the species she belongs to. They are as much the result of the natural lottery as other natural talents are, and in this sense, undeserved. Thus, because they are morally arbitrary, no one is entitled to its possession or to the benefits that follow from having them. Given the IEA, it follows that restricting the application of principles of justice to those individuals with certain cognitive capacities or which belong to a certain species (e.g. the human species) cannot be justified: species membership and cognitive capacities should also be put behind the veil of ignorance.

What this implies in terms of the consideration of nonhuman sentient beings is that they are legitimate beneficiaries of the social contract, what amounts, according to Rawlsian principles, to them having direct moral rights. Rawls' contractarianism then not only allows for the consideration of nonhuman sentient beings but actually, if consistent, entails it.

The second problem also regards consistency, but now between the exclusion of nonhuman sentient beings from the social contract (based on their lack of certain cognitive capacities) and the assignment of full protection to those human beings in similar circumstances. This asymmetry is a position maintained by many other theorists in the field¹¹, most notably Peter Carruthers (1992).

In order to examine this problem, we need to address once again the argument from species overlap. What the argument points out is that whatever property one may refer to (usually a presumably human-specific feature), there will be a “species overlap”, that is, the property will be satisfied by members of different species and there will be members of different species who will not satisfy it, including many humans.

For example, consider that, following Rawls, property P stands for rationality. Clearly, most nonhuman sentient beings do not possess it. However, it is also the case that many humans lack it as well. Newborns or cognitively disabled individuals (among others) do not possess the complex cognitive functioning required by rationality. Therefore, if we accept that X and Y are equally impaired as regards the satisfaction of morally relevant properties, it would be inconsistent to claim that X and Y should not be equally considered. Thus, consistency would require that we exclude some human beings (those who have not the relevant cognitive capacities) from the scope of moral consideration. It follows that, by denying this implication, Rawls’ contractarianism would be an inconsistent proposal that should be rejected.

Now, alternatively (as claimed by Rowlands), let us suppose that P stands for sentience. Here, the species overlap between most human and nonhuman animals (most animals are sentient) works the other way around: it does not disqualify some humans from moral consideration but rather extend it to most nonhuman animals. So, what the argument from species overlap commit us with is the following disjunction: either we exclude some human beings from the scope of moral consideration (e.g. those who lack certain cognitive capacities) or we extend it to most nonhuman animals (e.g. those who are sentient).

It may still be argued that there is a property that P refers to that no other nonhuman sentient beings possess, that is, the very property of belonging to the human species. Even though this is what many theorists often have in mind, it is rather unacceptable, as previously argued with the definitional argument. Given that P stands for a morally relevant property, even if we restrict this assessment to the

¹¹ For a detailed examination of this asymmetry see Evelyn Pluhar (1995). Other noncontractarian defenses of this asymmetry will be left aside from the scope of this dissertation.

scope of contractarianism, it is easy to see how species membership fails to be a relevant characteristic.

Remember that, according to Rawls, a morally arbitrary property is such that it is undeserved, that is, it is something that is the case for an individual independently of her choice or responsibility (Rawls, 1999, p. 86). Thus, being a human being is undeserved in the sense that no human had the choice to make things differently for her. Natural processes dictate that X belongs to species S1 (and Y belongs to species S2), with as much the same arbitrariness that dictates X's sex or skin color (the reason why they should all be put behind the veil of ignorance). Therefore, species membership is not a morally relevant property, and hence those who belong to S1 do not deserve to belong to S1 what amounts to say that they do not deserve to possess the benefits that belonging to S1 grants them. Therefore, members of S1 and S2 should be equally considered, despite the fact that only members of S1 satisfy the (undeserved – morally arbitrary) characteristic of belonging to S1.

Peter Carruthers (1992) has made an attempt to reject the practical consequences that follow from the argument from species overlap. He claims that nonhuman animals, given the absence of rational agency, are not due direct moral consideration, whilst human beings who fail to satisfy that condition should nevertheless be treated as if they were full moral agents. The reasons to endorse this asymmetry, according to Carruthers, are the following: (a) if we accept a principle which draws a moral line between rational and nonrational humans, there is a high risk that people will misuse it (mostly due to their lack of theoretical ability), which, at the end, would lead to the moral exclusion of some individuals that are actually rational even though they may not seem so; and (b) our cultural and psychological biases are such that people could never accept a principle that excluded nonrational human beings from moral consideration. Since people would not accept such a principle, adopting it would compromise social stability.

Carruthers' objections have been extensively analyzed by moral philosophers (most notably Pluhar, 1995 and DeGrazia, 1996). These replies, however, will not be addressed here mostly because it is well-established in the animal ethics literature that Carruthers' arguments fail to secure the place of nonrational human beings inside the moral circle. After all, his arguments do not challenge the practical consequences implied by the argument from species overlap by rejecting that human and nonhuman sentient beings equally share or lack morally relevant properties. And if that is so, it is not clear at all (aside from practical considerations) what is wrong with ignoring the interests of nonrational human beings if, with slight modifications on how things are in the world, people would perfectly discern

between rational and nonrational humans. Once the risk of rational agents being excluded disappears, nothing seems to stop us from harming nonrational humans in the exact same ways in which we harm nonrational nonhumans, since the principles of justice do not apply to them anymore. And the same seems to follow from the appeal to social stability. Would it be right to torture a severely disabled human being if social stability were not compromised? Social stability does not obviously entail moral rightness. In fact, historically, in human cultures, social stability has been often insured via the unjustified dismissal of a great part (sometimes the majority) of the individuals' interests (e.g. women or black-skinned people). Still, we do not hesitate in considering it wrong.

However, the major problem with (b) seems to be that it entails that a principle such that excludes nonrational individuals from moral consideration must necessarily follow from contractarianism. This is actually what most people think when they think about contractarianism: rationality determines the boundaries of moral consideration and the limits within which the principles of justice are to be applied.

But, as we have seen before, the assumption on which Carruthers' argument relies is wrong. As Rowlands shows, from the fact that the ones responsible for formulating the contract and the principles of justice are rational agents it cannot be inferred that the "contract and its embodied principles of morality apply only to rational agents" (Rawls, 1999, p. 237). The restriction of the beneficiaries of the social contract to rational agents contradicts the *Intuitive Equality Argument*: Rationality, alongside with other cognitive capacities, is a morally irrelevant property and thus possessing it should not be advantageous for anyone that has it. Therefore, rationality, no less than higher social condition, cannot restrict the application of the principles of justice to the individuals that possess it.

So, what Carruthers takes to be a major virtue of contractarianism – justified nonascription of direct moral rights to nonhuman animals – follows from an improper understanding of contractarianism itself. As it has been shown, there is no incompatibility between Rawlsian contractarianism and the consideration of nonhuman sentient beings. In fact, it has been argued, that consistent contractarians cannot help but endorse the consideration of nonhuman sentient beings. Claiming otherwise is inconsistent. As Rowlands points out: "The above claims are not compatible with the correct understanding of Rawls' theory. Rawls (or others) is, therefore, not entitled to make them" (Rowlands, 1997, p. 244).

Later, Rowlands went on to call his position *neo-Rawlsianism*, which is “Rawlsian contractarianism purged of its unnecessary Hobbesian elements” (Rowlands, 2009, p. 174). Implications of Kantian and (neo-)Hobbesian contractarianism and the interests of nonhuman sentient beings will be discussed more thoroughly in the next section.

3.4. Julia Tanner: Neo-Hobbesian Contractarianism and Nonhuman Moral Standing

Philosopher Julia Tanner has raised, in different papers, at least two important arguments regarding contractarianism and the moral consideration of nonhuman animals (and their just treatment). The first argument is presented within the scope of Rawlsian/Kantian contractarianism and the second, within the scope of (neo-)Hobbesian contractarianism.

First, Tanner (2011) has argued that while she agrees with Rowlands that, contrary to the prevalent view in political philosophy, a Rawlsian theory of justice can legitimately be applied to nonhuman animals as to include them in the sphere of morality and justice, Rawlsian contractarianism may actually *allow* certain very specific types of animal experimentation.

Succinctly, Rowlands (2002) had argued that one of the implications of correctly interpreting Rawls’ theory of justice is that animal experimentation is illegitimate and should thus be completely ended. Tanner (2011) then argued, contrary to Rowlands, that under a Rawlsian theory there may be some special circumstances where it is permissible to use nonhuman animals as experimental test subjects. Namely, the situations would be those where the individual animals are *benefited* by the experiments. (Tanner, 2011, p. 570)

According to Tanner (2011), beneficial experiments are those experiments in which (1) there is no harm or risk transferability, i.e, experiments in which healthy animals are not harmed on purpose and forced to endure risky medical testing to produce benefits for humans (p.578) and (2) are beneficial in the sense that they are therapeutic, i.e, animals (for example, those terminally ill) may actually be helped by the use of a specific experimental drug or treatment that may reduce/eliminate their suffering or prolong their lives. (p. 569)

Tanner (2011) argues that, in a Rawlsian spirit, what matters is how harms are (fairly) distributed, not how harms and/or risks have been transferred. Tanner’s conclusion is persuasive and in order to achieve it, she re-examines Rawls’ *difference principle* and introduces a derivative principle –

the benefits principle – so that some experiments that benefit the animals tested on are not deemed unjust. (Tanner, 2011, p. 581)

Rawls' difference principle states: "inequalities are to be arranged so that they are ... to the greatest benefit of the least advantaged" (Rawls, 1999, p. 266). Tanner's benefits principle, on the other hand, states that: "inequalities in the distribution of benefits and harms are to be arranged so that they are to the greatest benefit of the least advantaged" (Tanner, 2011, p. 581). Accordingly, animal experimentation would only be considered unjust if it turned the animals into the least advantaged.

Tanner's second argument tackles neo-Hobbesian contractarianism and the moral standing of "marginal"¹² humans and nonhuman sentient beings. Arguably, the term "marginal" used by Tanner to refer to human beings is itself ableist¹³ and will, therefore, be replaced here by "humans with severe intellectual disabilities". Tanner (2013) explains that, unlike Rawlsian contractarianism (that is seen as capable of fully accommodating the interests of nonhuman sentient beings), it is commonly believed that neo-Hobbesian contractarianism cannot grant direct moral standing for both humans with severe intellectual disabilities (henceforth "humans with SID") and nonhuman animals.

One of the reasons why Rawlsian contractarianism is seen as compatible with granting moral consideration to nonhuman sentient beings is because it is regarded as having a Kantian and not a Hobbesian nature. Several authors¹⁴ have detected similarities between Rawlsian and Kantian theories. Rawls himself has claimed that his aim was "to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau and Kant" (Rawls, 1999, p. 10). According to Rowlands (2009, pp. 123-128), the major differences between the two are: (1) the source of authority or what conditions need to be met in order for the contract to impel us to be ruled by it; and (2) what grounds this authority.

The source of authority in the Hobbesian contract is that it is rational to consent to the rules that come out of it because it is in the contractors' rational self-interest to do so (Rowlands 2009, p. 124). A contract is authoritative for as long as it is in the contractor's interest. Besides that, there is a rationality condition since supposedly it is not in our long-term rational self-interest to contract with those individuals incapable of understanding the terms of the contract (2009, p. 125). Thus, on this version of the contract, it makes sense to exclude nonhuman individuals, as we cannot enter into a

12 By "marginal humans", Tanner refers to all "those who currently are not rational; those who are no longer rational; or those who never have been, never will be and are not rational" (Tanner, 2013 p.142).

13 Several authors have opposed the use of the term "marginal". A comprehensive analysis can be found in Taylor (2017).

14 Nussbaum (2004), for example, regards Rawls' theory as a type of Kantian contractarian theory. Rowlands (2009, p. 125) also identifies Rawls as a Kantian contractarian.

contract with them because they are not rational. This way, those that hold the orthodox contractarian view, which dictates that because the authors of the contract are rational so must the recipients be, adhere to a Hobbesian form of contractarianism. (Rowlands, 2009, p. 129)

On the Kantian version, however, the contract is a mere tool for getting at the truth. The contract derives its authority from the fact that it embodies “moral truth or correctness” (Rowlands, 2009, p.126). Kantian contractarians, such as Rawls, use the social contract “as a heuristic device in terms of which we can identify and express the principles embodied ... in the moral code that we have ... in fact adopted” (Rowlands, 2009, p. 125). For Rawls, this is precisely the intuitive equality argument, as previously discussed, that Rowlands (1997) used in order to establish the compatibility of Rawlsian contractarianism with the moral consideration of nonhuman sentient beings. On this type of contract, the moral truth, whatever it may be, is independent of the contract (Rowlands, 2009, p.126). The role of the contract on Rawls’ Kantian version of the contract is therefore to “help elucidate the content” of “objective moral principles” (Rowlands, 2009, p.128).

By *neo-Hobbesian contractarianism*, Tanner (2013) means this traditional or orthodox contractarian view according to which “the source of authority for which is that it is rational to consent to the rules that emerge from the contract because it is in the interest of the contractors to do so” (p. 142). Consistent with this view is thus the claim that “only rational beings capable of entering into an agreement have moral standing” (p. 142).

Yet, it has been argued that under neo-Hobbesian contractarianism humans with SID and nonhuman animals could have a form of direct moral standing, secondary moral standing (Cohen, 2007), which Tanner (2013, p. 144) refers to as *asymmetrical moral standing*¹⁵.

Under contractarianism, contracting subjects can have different moral standings in relation to one another. Moral standing can be primary or secondary (or, alternatively, symmetrical and asymmetrical). For example, individual A has primary moral standing with respect to individual B when they are both in the circumstances of justice and B agrees with A to owe her some moral consideration. A can also acquire moral standing with respect to B less directly: A can have secondary moral standing with respect to B if another individual C insists that B extends direct moral consideration to A and B agrees with C to owe direct moral consideration to A. (Cohen, 2007, p. 190)

¹⁵ Tanner thinks the term secondary may imply that such standing is weaker than the primary one. To avoid this implication, she refers to primary moral standing as *symmetrical moral standing* and to secondary moral standing as *asymmetrical moral standing* (to reflect the asymmetrical relationship between those with primary and secondary moral standing). (Tanner, 2013, p. 144)

Additionally, moral standing can also be either direct or indirect. According to Cohen (2009, p. 234; cf. Morris, 1991, p. 82), *direct* moral standing is standing that is owed to the being in question, whereas *indirect* moral standing is owed regarding the being in question. Cohen (2007, p. 188) argues that nonhuman sentient beings can be owed direct moral consideration under contractarianism. For example, A and B are both human individuals and A has symmetrical moral standing with respect to B if B agrees to owe her some moral standing; because this consideration is owed to A it is direct. For Cohen, C (a nonhuman sentient being) has asymmetrical moral standing with respect to A if A agrees with B to owe C some moral standing; because this consideration is owed to C it is direct. So, for Cohen, individuals with asymmetrical moral standing have direct moral standing.

However, it could be argued that Cohen's account of direct moral standing is not direct in the right way. Several authors (Wilson, 2001, p. 137; Carruthers, 1992; Kant, 1963, pp. 239–240) have argued that direct moral standing is determined by a being's intrinsic properties and is owed directly to an individual in virtue of the kind of being she is, whereas indirect standing is determined by relational properties and comes to a being via a different route—it is channeled through an individual with direct moral standing. (Tanner, 2013, p. 145) So, according to Tanner (2013), “arguably neither marginal [*sic*] humans nor animals can have the right kind of direct moral standing under the traditional contractarian account” (p. 145).

Tanner (2013) argues that the traditional/neo-Hobbesian contractarian account of asymmetrical moral standing is indirect but even if it is direct, as advanced by Cohen (2007), it is *counterintuitive* and *fragile*.

Asymmetrical moral standing is counterintuitive since (1) it has little or no room for the interest (whether self-interested or altruistic) we take in humans with SID and nonhuman animals. (Tanner, 2013, p.154). For example, an infant human can earn asymmetrical moral standing with respect to a rational contractor B, if the infant's parents contract with B to extend direct moral consideration to their daughter (Cohen, 2007, p. 191). Similarly, a companion dog could earn moral standing with respect to B if her human companions contracted with B. So, according to Cohen (2007, p. 191), children and nonhuman animals' moral standing might “piggyback” on the moral standing of rational contractors who take an interest in their welfare. But Tanner (2013) sees a problem with that:

We do not usually think of direct moral standing as “piggybacking” on the interests that those with symmetrical moral standing take in those without it. There is something very artificial about this way of viewing it. An account of the moral standing of marginal [*sic*] humans and

animals needs to explain the part of our moral landscape that says a human baby or a nonhuman animal have direct moral standing regardless of the interests the baby's parents or the animal's human companions take in them. The asymmetrical account fails to do this. (p. 146)

And (2) asymmetrical moral standing is counterintuitive because it is also unable to give a satisfactory account of parents' moral obligations to their children or humans' moral obligations to companion animals. (Tanner, 2013, p. 154) For example, imagine parents have no one else around them who they could make a contract with to protect the welfare of their baby or companion animal. This scenario does not satisfactorily account for why it would be wrong for parents to torture their own baby or humans to torture their companion nonhuman animal.

As Tanner argues, this account is counterintuitive because (1) the fact that the parents have entered into an agreement with others not to hurt their baby is not the reason we would usually think they should refrain from harming their baby. A human baby has interests, such as not being tortured. These interests are ignored by contractarianism so long as there is no one around who cares enough about them to make a contract protecting the baby's interests. The baby's interests, however, are still present even if no one is around to care about them. And (2), it does not offer the parents a reason to refrain from torturing their baby if they are the last three humans in existence and no pre-existing contractarian agreements are in place. (Tanner, 2013, p. 148).

Cohen (2007, p. 191) and Morris (1991, p. 95) acknowledge this problem and admit it may be hard to explain how a child or nonhuman animal have any standing with regard to its parents or human companions if they are not in the circumstances of justice under contractarianism.

For Tanner (2013), asymmetrical moral standing is yet another reason why traditional contractarianism is so problematic:

By making moral standing dependent on contingent facts about contractors' interests in non-contractors the moral standing of the latter seems to be divorced from them, they are almost irrelevant when it comes to determining their moral standing. What those who advocate the rights of marginal [*sic*] humans object to about contractarian theories is that they do not locate marginal [*sic*] humans' moral standing in the interests or claims of the individuals themselves, but are subject to rational contractors' deliberations that may leave them out entirely. (p. 148)

The situation is even more problematic in the case of nonhuman animals. For Tanner (2013), “unlike marginal [*s/c*] humans (who will usually¹⁶ have family members willing to contract on their behalf) animals will often have no one willing to contract on their behalf” (p. 148). Under contractarianism, nonhuman animals tend to remain unprotected because those with primary/symmetrical moral standing “will be required to take a strong interest in them (strong enough to forego some benefits they might otherwise have had) and many animals are unlikely to elicit such interest” (Tanner, 2013, p. 148).

Thus, although humans do take an interest in animals’ welfare (whether from self-interested or altruistic reasons) these interests are not likely to result in any protection for animals because they are likely to be outweighed by other (self-)interests. An account that allows such interests to be overridden is counterintuitive. (Tanner, 2013, p. 150)

According to Tanner, under traditional, neo-Hobbesian contractarianism, asymmetrical moral standing is not just counterintuitive, but also *fragile* because it is contingent on the interests of (both) parties to the contract. (Tanner, 2013, p. 151) Different authors (Tucker & MacDonald, 2004, p. 7; Morris, 1991, p. 90; Cohen, 2009, p. 236) claim that individuals with asymmetrical moral standing are afforded, in practical terms, the same standing to those with symmetrical moral standing. For Cohen (2007, p. 191), the only difference between the two is their origin: symmetrical moral standing originates from a direct agreement between two contracting parties whereas asymmetrical moral standing originates from an agreement between two contracting parties about a third party. But Tanner (2013) argues it is precisely this difference that makes the moral standing of humans with SID and nonhuman animals fragile because their moral standing is ultimately dependent upon others. (p. 151) For Tanner (2013), asymmetrical moral standing is fragile in at least three ways:

(1) First, it is dependent on whether a human rational agent takes an interest in the welfare of humans with SID or nonhuman sentient beings.

(2) Second, it is dependent on the strength of the interest humans take; if the contractor only takes a weak interest in the human with SID and nonhuman parties then they may not be willing to make the necessary sacrifices to gain strong moral standing for them.

Tanner (2013) argues that

¹⁶ It could be argued that, from an affluent perspective, humans with severe intellectual disabilities being afforded protection by family members willing to contract on their behalf is actually not as common as we may think.

granting moral standing to another being is costly (it imposes significant restrictions on what one might do). For a contractor to agree to grant such standing they must be offered something of commensurate value (something that makes having this cost imposed on them worthwhile) or they will not enter into the contract. It is unlikely that there will be anything of commensurate value that could be offered to the contractor. As such, asymmetrical standing is fragile insofar as it depends on the ability/willingness of those who are interested in animals to pay the costs to those who are not interested in animals. (p. 153)

(3) Third, it is dependent on the interests of the contractor being negotiated with, if they can get all that they want without agreeing to extend moral consideration to third parties then they will not extend such consideration to either humans with SID or nonhuman animals.

Traditional, neo-Hobbesian contractors are self-interested parties making a contract to protect their own interests. Self-interest, however, is not necessarily restricted to an individual's own welfare. It is possible for self-interested individuals to take a nonegoist interest in others, including some of those nonrational agents who are incapable of making contracts (like children and nonhuman animals). It is these nonegoistic interests that give rise to asymmetrical moral standing. But the fragility of this account is that in the absence of such nonegoistic interests only contractors are protected. (Tanner, 2013, p. 150). As Tanner warns:

It is this dependence on contractors' interests that makes asymmetrical moral standing fragile; when interests conflict rational contractors are likely to prioritize self-interested reasons; self-interest usually has lexical priority over other-regarding interests. In the process of making a contract compromises have to be made; the welfare of a third party is something they might make compromises on. (Tanner, 2013, p. 151)

Additionally, there is a reason to think that in a contractarian context, nonhuman animals' moral standing is even more fragile than the moral standing of most humans with SID. We can imagine that humans might want to protect the interests of a human with SID (e.g. a family member). But it is not so evident that self-interested human contractors would be sufficiently interested in nonhuman animals' welfare to want to appropriately protect them. As a matter of fact, given the widespread speciesist attitudes, it is implausible to think they would be interested.

It is important to note here that the source of authority of the neo-Hobbesian account under discussion is that it is rational to consent to the rules that emerge from it because it is in the interest of the contractors to do so. But as Tanner (2013) concludes: "Because the authority for this contractarian

account of moral standing is self-interest, self-interest will leave nonrational individuals (both human and animal) in the background, only being considered when a rational agent is willing and/or able to do so” (p. 154).

For Tanner (2013), even admitting that contractors have an interest in protecting nonhuman animals and/or humans with SID “these interests are likely to be overridden by interests that are more important to a self-interested contractor; their own interests” (p. 154). The neo-Hobbesian contractarian account of asymmetrical moral standing, therefore, fails in providing a satisfactory account of the direct moral standing of nonhuman animals and humans with SID.

3.5 Conclusion

This chapter has assessed the soundness of the speciesist charge against John Rawls’ original position as well as the extent to which different contractarian views can accommodate nonhuman interests. Donald Van De Veer (1979) argued that it would be plausible to claim that Rawls’ original position was conceived in a way that would allow participants to choose speciesist principles of justice, and has therefore proposed a modified original position where participants would find themselves behind a thicker veil of ignorance in which they would also be ignorant of their species membership.

Rawlsian contractarianism has indeed been commonly considered incompatible with the moral consideration of nonhuman sentient beings. However, Mark Rowlands (1997) has soundly argued against this view. Since according to the Intuitive Equality Argument individuals are not responsible neither for their cognitive capacities nor for the species they belong to, these properties are undeserved and morally arbitrary. Hence, no one is entitled to its possession or to the benefits that follow from having them. It follows that restricting the application of principles of justice to those individuals with certain cognitive capacities or which belong to a certain species cannot be justified. Properly understood, Rawlsian contractarianism can in fact entail that nonhuman sentient beings are moral beings and also recipients of justice.

Finally, the chapter ended with Julia Tanner’s (2013) criticisms on the traditional/neo-Hobbesian contractarian account of asymmetrical moral standing as, in the best-case scenario, *counterintuitive* and *fragile*. Since authority for this contractarian account of moral standing is ultimately self-interest, it will leave nonrational individuals (both human and animal) in the political background, contingently dependent on others’ goodwill or ability to help. The direct implication is that neo-

Hobbesian contractarians cannot escape the charges of ableism and speciesism. Or, in other words, neo-Hobbesian contractarianism, unlike Rawlsian/Kantian approaches, are inevitably discriminatory and ultimately unable to secure humans with severe intellectual disabilities and nonhuman sentient beings within the sphere of justice.

4. The Political Turn in Animal Studies

This chapter begins with a timeline of the so-called “political turn in animal ethics”, highlighting some of its most relevant contributions. Issues surrounding the predominant liberal approach to nonhuman politics in the literature will also be briefly addressed, as well as the differences between environmental justice and interspecies justice, which often bring about conflicting understandings of justice. The chapter continues with an assessment of three major political contributions that aimed at challenging speciesist and anthropocentric biases in political philosophy. These are *Zoopolis: A Political Theory of Animal Rights* (2011) by Sue Donaldson and Will Kymlicka, *Sentientist Politics: A Theory of Global Inter-Species Justice* (2018) by Alasdair Cochrane and *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013) by Robert Garner. Such contributions may be considered the most complete (albeit nonexhausting) attempts at delineating nonanthropocentric politics.

4.1 Introduction

In the last two decades, there has been an expressive growth in the political approach to the consideration of nonhuman sentient beings, in such a way that some authors refer to a “political turn in animal ethics” (Milligan, 2015; Garner & O’Sullivan, 2016). What, then, is the nature of this political turn?

The first possible answer to this question is actually to deny that there has been a political turn. That is, for many working in the field as well as for animal advocates, debates in animal ethics have always had important political implications. If politics deals with the ultimate objectives of societies and the discrimination of nonhuman animals is unjustified, then the protection of their interests should be undertaken and enforced legally and politically, at least, in ideal terms.

However, it can also be argued that, in practical terms, animal advocacy has failed in the political front or that political achievements for nonhuman sentient beings have been largely insufficient when not merely symbolic. This apparent political failure is precisely what seems to have motivated several authors to attempt to develop a more robust theoretical framework aiming at placing all sentient beings and their fundamental interests within the range of politics and justice.

As we have seen in chapter 3, at least since the 1970s (and especially after the publication of Rawls’ *A Theory of Justice* in 1971), several authors have been trying to place nonhuman sentient

beings within the scope of political philosophy. Specific key concepts such as fairness, impartiality, and justice have been extensively discussed from a nonspeciesist, nonanthropocentric perspective.

Various aspects of different political theories, but more prominently contractarianism, have been debated as to assess, among other issues, whether contractarian models can adequately accommodate the interests of nonhuman sentient beings. Yet it is only more recently that philosophers have attempted to formalize more comprehensive political approaches to nonhuman animal issues.

Some contemporary leading voices in nonhuman political theory include Alasdair Cochrane, Sue Donaldson and Will Kymlicka, Siobahn O'Sullivan, Tony Milligan, and Robert Garner. Relevant collections of original essays in the literature of the political turn include Garner's and O'Sullivan's *The Political Turn in Animal Ethics* (2016) and Andrew Woodhall's and Gabriel Garmendia da Trindade's *Ethical and Political Approaches to Nonhuman Animal Issues* (2017). Another publication of relevant interest is the journal *Politics and Animals* which focus on topics related to politics and human-animal relations.¹⁷

Cochrane, Garner and O'Sullivan (2016) have argued that one of the key features of this new literature is the collective focus on justice, which is quite distinct from other more traditional approaches to animal studies. They claim that

the crucial unifying and distinctive feature of these contributions – and what can properly be said to mark them out as a 'political turn' – is the way in which they imagine how political institutions, structures, and processes might be transformed so as to secure justice for both human and nonhuman animals. (pp 3-4)

From a liberal approach to politics, it could be said that the consideration of other sentient beings has been traditionally treated as an ethical issue within the individual sphere such that now it needs to be expanded to a deeper political reflection on, among other topics, the nature of democracy, representation, citizenship, legitimacy and justice. That is, the crucial question would no longer be of what obligations we have as individuals towards sentient beings of other species, but what political institutions, if at all, must be established for the effective protection of the interests of nonhuman sentient beings. (Ahlhaus & Niesen, 2015) That could be considered the ultimate objective behind the philosophy embedded in political turn.

However, it has to be said that, so far, the political turn has been polarized between liberal-multiculturalist (Donaldson's and Kymlicka's) and liberal-cosmopolitan (Cochrane's) approaches, very

¹⁷ *Politics and Animals* can be accessed at: <https://journals.lub.lu.se/pa/index>

much influenced by Rawlsian liberalism. Still missing in the literature are, for example, communitarian, socialist, feminist or egalitarian alternative political approaches stemming from a nonanthropocentric perspective. It is not exactly the purpose of this dissertation to detail what such an alternative theory of justice might look like, but rather signal that there is still plenty of room for the introduction of new political approaches, possibly less attached to the moral underpinnings of Rawlsian liberalism or liberalism in general.

As several authors have pointed out, moral duties to nonhuman animals, at one point or another, are likely to conflict with Rawlsian principles of justice, most notably with the liberty principle. While traditional/neo-Hobbesian contractors might not necessarily adopt the Rawlsian liberty principle, it does seem plausible to assume that self-interested contractors are likely to endorse some form of moral pluralism and may adopt something similar to the liberty principle, which will allow them to pursue their own conception of the good. (Tanner, 2013, p. 147). For Garner (2012), though, such a principle is always likely to trump nonhuman animals' interests when there is a conflict with human liberty. In a liberal state, contractors are likely to favor not interfering with an individual's pursuit of their conception of the good. How contractors treat nonhuman animals, however, falls under the pursuit of their conception of the good. As a consequence, arguments arising from a liberal principle of moral pluralism are typically compelling arguments against forcing individuals to respect the interests of nonhuman sentient beings. (Garner, 2012, p. 163)

As the field of nonhuman politics evolves and its mission becomes more defined, it also becomes crucial to establish the differences between environmental justice and the emerging development of interspecies justice. First, we have to step back and look at this issue from the perspective of moral philosophy. Despite the prevalent confusion between environmental ethics and animal ethics, there are strong reasons to believe they are fundamentally incompatible positions. This incompatibility has been frequently pointed out in recent years (Faria, 2011, 2012; Faria & Paez, 2019; Horta, 2010b, 2018b), stressing that interspecies justice cannot be properly obtained without clearly accounting for the interests of sentient beings, regardless of species membership.

As Faria & Paez (2019) explain, animal ethics and environmental ethics are incompatible ethical positions because they have incompatible criteria of moral considerability and have, at least in some cases, incompatible normative implications regarding the interests of sentient individuals:

In certain cases, environmental views prescribe that we intervene in nature in ways that are detrimental to wild animal well-being. In other cases, they require us to abstain from preventing

or alleviating the harms that animals living in the wild endure due to natural causes. In both of these instances, environmentalist views collide with the essential claim in animal ethics according to which the interests of sentient individuals, including nonhuman animals, are morally paramount. That implies that sometimes we are required to refrain from harming nonhuman individuals. Other times, it implies that we ought to prevent or alleviate the harms they suffer, whenever we can. Therefore, we can endorse one of the two views, but not both at the same time. (p. 12)

Problems arising from this incompatibility are often minimized or completely disregarded in the literature, with nontrivial consequences to the consideration of nonhuman animals, particularly those living in the wild. The tendency of excluding the nonanthropogenic suffering of wild animals is already being noticed in political philosophy, at least to some extent. However, even when wild animals are recognized as worthy of moral consideration and recipients of justice, certain environmentalist values still play a decisive role in discussions about what is due to nonhuman wild animals as a matter of justice.

Also, it has to be noted that at least one volume has been published under the umbrella of the political turn, namely, the collection *Political Animals and Animal Politics* (2014) edited by Marcel Wissenburg and David Schlosberg but it cannot exactly be classified as fully belonging to the domain of animal politics. Different authors such as Garner (2016), Milburn (2016) and Hooley (2016) have pointed out that most articles in the book should be regarded as belonging to the field of environmental ethics and politics, rather than animal ethics and politics. For Garner, this is unsurprising, given that editor Wissenburg “is a green political theorist who does not have great sympathy with the notion of animal political theory” (Garner, 2016, p 491). This is a clear example of how environmental politics and interspecies politics can easily be mistaken to be compatible or assumed to be about the same needs and demands – a very contentious assumption that should be avoided by those interested in the still relatively new domain of nonhuman politics.

It is misleading to talk about environmental justice while assuming that the interests of sentient beings are being properly protected within this political framework. Environmental justice remains anthropocentric in essence because it is based on environmental values which often conflict with nonhuman interests without (inconsistently) trumping the interests of human beings.¹⁸ (Faria, 2011, 2012)

¹⁸ Exceptions which allow for the eradication of human populations can be found in Linkola (2009) and Pianka (2006).

One of the crucial purposes of justice, however, as Donaldson and Kymlicka put it, should be the protection of vulnerable individuals. All sentient beings are vulnerable in the sense that what happens to them matters to them. Thus, the fact that sentient beings care about how their lives go (for better or worse) generates a distinctive moral claim on us as individuals and a call for justice as a society. While environmental justice may seem to challenge the anthropocentric privileging of human beings, in fact, it presupposes a moral hierarchy according to which the interests of just one set of vulnerable individuals (humans) are protected, and the interests of the rest of sentient beings (nonhumans) are often subject to a series of trade-offs. (Donaldson & Kymlicka, 2011, p.35)

Environmentalists, for example, often prescribe that many nonhuman sentient individuals should be harmed to promote human environmental interests. Occasionally, it is true, some nonhuman sentient beings end up being benefited, but mostly as a side-effect of anthropocentric environmental measures, and only to the extent humans are benefited (and never harmed) in the first place. (Faria & Paez, 2019). Thus, environmentalism remains fundamentally inappropriate to ground an interspecies justice.

The next three sections will introduce the major contributions to the inclusion of nonhuman sentient beings in the domain of justice and politics, more widely. As we shall see, some proposals are more compelling than others, but all things considered, theorists have to be praised and acknowledged for their groundbreaking work in a field that is still largely dominated by anthropocentrism and deep-seated speciesist biases and attitudes.

4.2. Sue Donaldson and Will Kymlicka – Zoopolis: A Political Theory of Animal Rights

Zoopolis: A Political Theory of Animal Rights (2011) constitutes the first systematic attempt to place the debate about the moral consideration of nonhuman sentient beings within a political framework. Donaldson and Kymlicka start from the basic premise of animal rights theory that all sentient individuals are morally equal and possess certain inviolable rights.

However, the authors consider that the animal rights approach has been largely ineffective, with nonhuman animals remaining broadly marginalized from the political sphere. The argument for the inclusion of nonhuman sentient beings in the sphere of politics is based on two premises. First (1) that nonhuman animals possess not only negative rights but also positive rights and in order to secure positive rights for nonhuman animals a new political framework is required. Second (2) that traditional

animal rights theory has mostly failed in effectively protecting those rights, both negative and positive, though even if it had been more successful in protecting negative rights, a different political approach would still be required in order to secure positive rights for nonhuman animals. This can be achieved, according to the authors, by expanding contemporary citizenship theory to include nonhuman animals, thereby accommodating various relational and differentiated rights as well as positive duties towards nonhuman animals.

To be clear, Donaldson and Kymlicka endorse a moral rights view for nonhuman animals, but unlike most animal rights theorists, they argue that the rights framework should include not just universal basic negative rights for nonhuman animals but also a series of positive rights that emerge, they argue, from positive relational duties humans have towards nonhuman animals.

For Donaldson and Kymlicka, negative rights, e.g., the rights not to be tortured, killed or confined, apply generically to all beings who possess a subjective existence, that is to “all animals that have some threshold level of consciousness or sentience” (Donaldson & Kymlicka, 2011, p. 15). Such inviolable universal rights should be grounded in virtue of the individuals’ sentience or selfhood, rather than on personhood which is typically attributed to human beings only and associated with the possession of complex cognitive capacities (such as language, abstract reasoning or long-term planning). The authors deploy the argument from species overlap to highlight our moral inconsistencies towards nonhuman sentient beings:

When dealing with sentient humans, we do not assign degrees of basic human rights or inviolability according to differences in mental complexity, intelligence, or emotional or moral range. Simple or brilliant, selfish or saint, torpid or vivacious – we are all entitled to basic human rights because we are all vulnerable selves. Indeed, it is often humans with the most limited capacities who are most vulnerable, and most in need of the protections of inviolability. Moral status does not rest on judgments of mental complexity, but simply on the recognition of selfhood. Talk of personhood obscures this, and creates false barriers to the recognition of animal rights. The idea that inviolable rights are grounded in the capacity for language, moral reflection, or abstract cognitive ability strains common sense, and seems disconnected from any plausible account of how we actually reason morally. (Donaldson & Kymlicka, 2011, p. 39)

According to the authors, however, positive rights do not stem from individuals’ sentience, but rather, on variable human-nonhuman relationships. As examples of positive duties, they cite duties that follow from different types of social, political, and historical relationships with nonhuman animals:

“duties of care, hospitality, accommodation, reciprocity, or remedial justice” (Donaldson & Kymlicka, 2011, p. 6). The relational positive rights advocated by Donaldson and Kymlicka are also group-differentiated rights, meaning that, similarly to the human case, they argue, different groups of nonhuman animals should be entitled to different sets of rights, based, for example, on the territories they live as a group (Donaldson & Kymlicka, 2011, p. 23). Accordingly, citizenship theory can help reconcile and integrate the universal negative rights advocated by traditional animal rights theory with positive, relational duties that help to locate nonhuman animals within a more outright political framework. In their own words:

In our view, the evolution of citizenship theory provides a helpful model for thinking about how to combine traditional ART [animal rights theory] with a positive and relational account of obligations. At a minimum, it shows the intellectual possibility of reconciling invariant ethical prescriptions with relational duties. But we want to go further and argue that citizenship theory provides a helpful framework for this reconciliation in the animal case as well. (Donaldson & Kymlicka, 2011, p. 23)

The authors thus distinguish between universal rights which are not dependent on one's relationship to a particular political community (but, rather, mere sentience), and citizenship rights, which are dependent on membership to a particular political community. As a consequence, they argue, expanding animal rights via citizenship theory implies the recognition of (1) citizenship for domesticated animals, (2) denizenship for liminal animals and (3) sovereignty for wild animals.

Starting with (1), Donaldson and Kymlicka claim that domestication has generated specific relationships between humans and nonhuman animals and that a central task of any political theory of animal rights would be to explore the terms under which these relationships can be rendered just (Donaldson & Kymlicka, 2011, p. 73). Domestication has resulted in extremely unjust relationships, with nonhuman animals being coercively confined and systematically exploited for the benefit of humans. So much so that many animal advocates believe relations between humans and domesticated animals are irredeemably unjust and beyond reform.¹⁹ Contrary to this, Donaldson and Kymlicka (2011) believe that those relations can be reordered in just terms if they are reconceived along the lines of

¹⁹ Gary Francione is well-known for holding this view. For him, the original process of domestication was immoral to begin with, so any relationship we might have with existing domesticated animals is inevitably immoral. Francione's 'abolitionist approach' claims that we should not just promote the complete abolition of animal exploitation, but that we should also seek the ultimate extinction of all domesticated animals. As Francione puts it: "we ought not to bring any more domesticated nonhumans into existence. I apply this not only to animals we use for food, experiments, clothing, etc. but also to our nonhuman companions ... We should certainly care for those nonhumans whom we have already brought into existence but we should stop causing any more to come into existence ... it makes no sense to say that we have acted immorally in domesticating nonhuman animals but we are now committed to allowing them to continue to breed." (Francione, 2007)

membership and citizenship, and where domesticated animals are “accorded the status of co-citizens in a political community that governs in the name of both its human and animal members” (p. 73).

For Donaldson and Kymlicka (2011), the main reason for granting citizenship rights to domesticated animals is the fact that we have historically caused domesticated animals to be brought into our human society, so we must accept they are now co-members of a shared human-animal political community (p. 74). However, even if we could bring an end to domestication, we would still see ourselves living in surrounded by animals who share our communities, which suggests “there is no such thing as an ‘our world’ that doesn't include animals, and our task is to identify appropriate forms of human-animal relations” (p. 87).

Taking domesticated animals as co-citizens and members of our society entails three core elements: the right of residency, the right to have their interests accounted when determining the collective or public good of the community, and the right to shape evolving rules of interaction through political agency. (Donaldson & Kymlicka, 2011, pp. 90-101) Recognizing domesticated animals as members of the community would also entail they have an equal right to communal resources such as medical care (p. 142).

One of the novel contributions of *Zoopolis* is that it makes a very compelling case to a common objection typically raised when we talk about nonhuman animals and politics. Namely, how are nonhuman animals supposed to actively participate in politics after all? It is often argued that some of the essential characteristics of citizenship (such as reciprocity or political participation) cannot in principle be applied in relation to nonhuman animals because they are unable to exercise meaningful political agency. Donaldson and Kymlicka respond to these objections by first looking at how citizenship is enacted across the full range of human diversity and then bringing, by consistency, nonhuman animals into the picture.

Citizenship is often associated, for example, with the exercise of vote or with the ability to engage in public debate. At first glance, Donaldson and Kymlicka (2011) agree that “it might seem that animals are simply incapable of being citizens in this sense” (p. 64). Yet, drawing on recent disability theories of citizenship that have focused on enabling the exercise of citizenship through the so-called “dependent”, “assisted”, or “interdependent” agency, in which “entering into relations of citizenship is, at least in part, entering into relationships that involve facilitating the agency of our co-citizens, at all stages of their life course and at all levels of mental competence” (Donaldson & Kymlicka, 2011, p.

60), they argue that the citizenship status of domesticated animals, just as in the human case, should not be determined by their cognitive capacities:

In short, the common view that animals cannot be citizens rests on a misunderstanding about the nature of citizenship, even in the human case. Many people assume that animals cannot be citizens because (a) citizenship is about the exercise of political agency; and (b) political agency requires cognitively sophisticated capacities for public reason and deliberation. Neither claim is correct, even for human beings. Citizenship is about more than political agency, and political agency takes forms other than public reason. (Donaldson & Kymlicka, 2011, p. 61)

This “dependent agency” model for political participation means that even people with severe cognitive disabilities have a certain capacity for agency, “but it is agency that is exercised in and through relations with particular others in whom they trust, and who have the skills and knowledge needed to recognize and assist the expression of agency” (Donaldson & Kymlicka, 2011, p. 104). Where such supportive and trusting relations exist, those with mental disabilities have the requisite capacities for citizenship. If we properly remove speciesist biases, domesticated animals will also, on this view, be capable of forming similar relations of trust with humans that allow them “to manifest a subjective good, to cooperate, and to participate” through dependent agency. That is, in short, to be citizens. (Donaldson & Kymlicka, 2011, pp. 104-105)

Regarding (2), Donaldson and Kymlicka discuss vastly unexplored issues arising from the so-called “liminal animals”. That is, wild/nondomesticated animals who live amongst us in urban, suburban or rural areas. They argue that the most suitable political status for them is of denizenship, “a status which recognizes that they are co-residents of our urban spaces, but that they are neither capable of, nor interested in, being recruited into our cooperative scheme of citizenship” (Donaldson & Kymlicka, 2011, p. 24). Liminal animals such as pigeons, squirrels, raccoons, rats, etc are living amongst us mostly because of the benefits of living close to humans, but according to Donaldson and Kymlicka (2011), “they exhibit their own distinctive patterns of interaction and interdependence” (p. 63) that differ from those of domesticated animals and wild animals. Because liminal animals do not engage in socially meaningful interactions of trust and cooperation with humans, they should be regarded as denizens or “co-residents of human communities but not co-citizens” (p. 223). Denizenship, like citizenship, is:

a relationship that should be governed by norms of justice, but it is a looser sort of relationship, less intimate or cooperative, and therefore characterized by a reduced set of rights and

responsibilities (...) But where the rights and responsibilities are reduced in a more reciprocal way, and done in order better to accommodate the distinctive interests of denizens themselves, then denizenship can serve as a vehicle for just relationships. (Donaldson & Kymlicka, 2011, p. 223)

For Donaldson and Kymlicka (2011), because liminal animals have often been seen as undesirable “aliens”, “invaders” or “trespassers” who threaten us with their “diseases, dirty habits, or unruly behaviour” (p. 224), the denizenship framework can be used “to accommodate a fuller range of diversity in society, and to bring those perceived as deviant, foreign, second class, undesirable, or dangerous into just relations with the body politic” (p. 225).

As for (3) wild animals, the authors believe that the previous models outlined for domesticated and liminal animals are “neither feasible nor desirable” (Donaldson & Kymlicka, 2011, p. 156). They argue that, instead of citizenship theory, sovereignty theory best applies to wild animal communities and the diverse positive obligations we owe them. Sovereignty is understood as “the right of wild animal communities to lead autonomous, self-directed lives” (p. 205). Donaldson and Kymlicka (2011) identify direct violence, habitat destruction and spill-over effects as the main vulnerabilities faced by wild animals. Granting them sovereignty would help secure their right to belong to specific territories that “cannot be invaded, colonized, or robbed by others” (p. 205). Sovereignty ought to be conceded to wild animals on the grounds that, unlike domesticated animals, they are believed to be competent to run their own affairs.

Sovereignty thus provides, for Donaldson and Kymlicka, a framework for thinking through our obligations of positive intervention to wild animals. Yet, they are very cautious and conservative regarding the extent to which help should be offered to wild animals. They are mostly concerned about anthropogenic harms rather than natural harms that affect wild animals, claiming that interventions should aim mostly at protecting the habitats and the sovereignty of wild animals or, alternatively, as a way of offsetting or remedying harms we have already caused to wild animals. As they put it: “It is our duty to be aware of, and to minimize, the harms we cause to wild animals, and to try to balance these harms, when possible, through appropriate acts of positive assistance” (Donaldson & Kymlicka, 2011, p. 206).

Even though they recognize “we do not owe obeisance to some kind of law of nature. We owe duties of justice to wild animals” (Donaldson & Kymlicka, 2011, p. 187), they are rather reluctant to advocate well-planned, safe interventions to help reduce nonanthropogenic wild-animal suffering. At the

end of the day, their view is not fundamentally different from the dominant “laissez-faire” approach to wild-animal suffering of traditional nonhuman animal advocacy. Indeed, some authors have noticed that even though Donaldson and Kymlicka aim at defending a theory of animal rights and not an environmentalist theory, “some of the arguments invoked in *Zoopolis*, however, resemble environmental arguments” (Horta, 2013, p. 122). In part, their position seems to be informed by justified concerns that some interventions in nature may cause more harm than good, but for the most part, it seems the authors are moved by an underlying idyllic view of nature (Horta, 2010b). That is, the view according to which most animals have good lives in nature as long as humans do not disturb their habitats. Accordingly, only certain limited-scale acts of assistance that do not undermine the ability of wild animal communities to flourish as independent and self-determining communities would follow.

For Donaldson and Kymlicka (2011), respect for the sovereignty of wild animal communities helps us fulfill our positive duty towards wild animals in ways that respect their “interests, preferences, and agency” (p. 216). But considering the well-documented work on natural harms wild animals endure in nature (Cunha, 2018; Dawkins, 1995; Faria, 2016; Horta, 2010b, 2015, 2017; Ng, 1995), it is hard to see how simply preserving their habitats help secure their most fundamental interests in living and in not suffering, for simply preserving habitats as they presently are is possibly the easiest way of preserving a *status quo* of intense suffering and premature deaths.

The authors agree that since wild animals depend on their relationship to their environment for food and shelter, our duty to uphold the sovereignty of wild animals is actually “a duty to respect the dependency of wild animals on their environment” (Donaldson & Kymlicka, 2011, p. 258). But even though it is true that wild animals depend on their environment to maintain their living conditions, it is not true that they always do it successfully. Even in the most pristine and untouched natural environments, wild animals are succumbing in great numbers to famine, thirst, disease, malnutrition, physical injuries, and several other harmful natural processes. Indeed, some authors actually refer to natural environments and wild animal communities as “failed states”, as opposed to “sovereign”, “flourishing” states. Realizing that a considerable number of wild animals actually live in failed states would probably demand quite different duties of care and justice, well beyond mere respect for their habitat and sovereignty.

Donaldson and Kymlicka acknowledge that the sovereignty approach actually leaves many questions unanswered, and they are uncertain about how wild-animal sovereignty should be enforced politically in the first place. Since wild animals cannot represent themselves or make collective

decisions for the protection of their sovereign interests, the authors argue that wild-animal sovereignty could be asserted or enforced by some form of “proxy representation by human beings who are committed to the principle of animal sovereignty” (Donaldson & Kymlicka, 2011, p. 209). To be clear, they acknowledge that their concern at this stage is not to advocate the creation of specific institutional mechanisms, but rather formulate the underlying moral and political arguments that should drive institutional reform.

Now, *Zoopolis*' theses have been challenged by different authors. Oscar Horta (2013) argued that the wild-animal “communities” which Donaldson and Kymlicka have in mind are ecological communities (which often – and wrongly – suggest that animals have good lives in nature) not political communities and that the meaning of granting sovereignty for wild animals is, therefore, somewhat lost:

To be sure, some animals form communities, and many live in shoals, swarms, or herds. These, however, may not be political communities. Political communities need some kind of political agency, even if by that we simply understand some form of decision making that takes place collectively or by some of the members who have the authority and/or the legitimacy to do so. One can be a mere member of a community, without being able to exercise citizenship in the sense of agency, but there has to be somebody who is an agent. If no one in a community exercises sovereignty, that is, if no one makes decisions regarding the life of the community, it is hard to see how such sovereignty can exist. (Horta, 2013, p. 120)

But more importantly, Horta argues that regardless of how we define wild-animal communities, “animals do not successfully meet the challenges of living in the wild” and actually live in a Hobbesian state of nature “in all the senses of the term”, in a far worse situation than *Zoopolis* assumes. For Horta (2013), the situation of animals in the wild can be considered “analogous to one of a humanitarian catastrophe, or to that of irretrievably failed states” (p. 119), and the main implication of this conclusion is that that intervention in nature to help wild animals should not be as limited as Donaldson and Kymlicka defend in *Zoopolis*:

If we follow *Zoopolis* in employing political categories to illuminate animal ethics, then most animals in the wild are living in irretrievably failed states incapable of ever being transformed into sovereign communities that respect their members' interests. There is just no previous non-catastrophic state that might be desirable to restore. To avoid catastrophe, we need to bring about a completely new scenario. Furthermore, limited intervention cannot solve this situation, since it is due to structural features of ecosystems. (Horta, 2013, p. 119)

Catia Faria (2016) has also claimed that Donaldson's and Kymlicka's characterization of wild-animal communities as communities that "flourish" if their self-determination is fully respected is fatally flawed since "the vast majority of wild animals is prevented from flourishing, primarily, by natural processes" (p. 149) and

Individual flourishing cannot be defined in terms of an animal community's flourishing, since a community's thriving does not imply that its individual members do flourish. On the contrary ... the flourishing of the community implies that most of its members have premature deaths and lead lives of net suffering. (Faria, 2016, p. 149)

Faria (2016) also argues that the satisfaction of wild animals' interests does not depend, as Donaldson and Kymlicka believe, on the preservation of their natural environments as they are, "since the preservation of their natural environments amounts to continuous suffering and death for most animals that come into existence" (p. 142) and thus, sovereignty rights would not adequately fulfill wild animals' rights to have their basic needs and interests met. Instead, Faria advocates that the most suitable way of protecting the interests of wild animals is through "environmental enhancement" or, in other words, the implementation of substantial "modifications of natural environmental conditions which produce a net positive effect on the well-being of sentient individuals". (Faria, 2016, p. 142)

Alasdair Cochrane (2013) argued that using relational position and group-based distinctions when determining nonhuman animals' proper entitlements is a process vulnerable to the same critiques that are often raised against theories that differentiate the rights of humans on the basis of group-based distinctions (we will see this criticism in more detail in the following section). Cochrane's central argument is that "while the relational position and group membership of animals can be of relevance in determining their rights, it is not of primary importance" (Cochrane, 2013, p. 129). Instead, what is crucial in delineating their rights are the interests that flow from capacities sentient nonhuman animals have. Grounding positive rights in cosmopolitan political principles that reject group-based distinctions could also perfectly accommodate different types of obligations we have towards animals (Cochrane, 2013, p. 129).

In line with Cochrane's (2013) criticism, it could be ultimately argued that granting a group of sentient animals certain rights and denying these same rights to another group of animals with similar interests is an instance of nonanthropocentric speciesism. Cochrane went on to fully develop his nonanthropocentric cosmopolitan approach in the book *Sentientist Politics*, which will be assessed in the following section.

There are several aspects of *Zoopolis* that can be objected from an antispeciesist point of view, but all in all, the book should be praised not only for exposing the overwhelming speciesist bias present in practically all contemporary political philosophy, but also at the very heart of animal rights theory.

4.3. Alasdair Cochrane – Sentientist Politics: A Theory of Global Inter-Species Justice

The most recent contribution to the political turn in animal studies is the proposal laid out by Alasdair Cochrane in *Sentientist Politics: A Theory of Global Inter-Species Justice* (2018). The book is premised on the idea that if sentient nonhuman beings possess moral value and rights, then their moral worth and rights ought to justify, shape and constrain the aims and the structure of politics, “in other words, the very nature of politics itself must be altered so that it serves all sentient creatures” (Cochrane, 2018, p.3). The sentientist politics that Cochrane defends in the book is, more specifically, a sentientist cosmopolitan democracy. That is, “a global political order made up of overlapping local, national, regional, and global communities comprised of human and non-human members who exist within shared ‘communities of fate’” (Cochrane, 2018, p.3). Institutions should be democratic in the sense that they must be participative, deliberative, and representative, with the interests of nonhuman sentient beings being defended by “dedicated representatives” (Cochrane, 2018, p.4).

The main point of contention with other scholars of the political turn regards the criteria for attributing political entitlements. Cochrane (2018) is firmly committed to a cosmopolitan approach that prioritizes the interests of individuals as opposed to the groups they belong to, or the specific relations they have with each other. For Cochrane, it is rather surprising that authors of the political turn would give such prominence to factors such as whether animals are domesticated or wild, or whether they live far from or close to humans:

For an animal’s relational position with humans is morally arbitrary in the same way that sex, race, nationality, and species are morally arbitrary. After all, a wild animal is sentient just like a domesticated animal. And my pet cat has interests just like a cat on the other side of the world. Why should the entitlements and life prospects of any of these creatures be altered by arbitrary contingencies like where they happen to have been born, or whether they are the product of selective breeding? The interests of the individual seem like the most important way to determine what is owed to a sentient creature, and thus the best guide to shaping our political order. (Cochrane, 2018, p. 6)

Cochrane (2018) holds that animal rights and cosmopolitanism are both committed to impartiality which makes them “natural bedfellows”. Cosmopolitans share the belief with other liberal thinkers that an individual’s entitlements should not be affected by factors that are morally arbitrary and beyond their control such as race, religion, sex or social class (Cochrane, 2018, p. 6). Yet, they give a step further and claim that the place where one is born is also arbitrary and a theory of justice should aim at being truly global. However, as Cochrane rightly points out, despite all these professed commitments to impartiality and the global nature of justice, the vast majority of cosmopolitans have not been willing to take impartiality to its logical conclusion:

Cosmopolitans have not sought to construct theories focused on all individuals without regard for group distinctions and arbitrary contingencies. Instead, they have constructed them on the basis of a rather prominent morally arbitrary group-based distinction: that humans and only humans matter morally and politically. (Cochrane, 2018, p. 7)

Sentientist Politics aims at fixing this anthropocentric flaw in cosmopolitan thinking by imagining a political order that “transcends the contingencies of borders and species” (Cochrane, 2018, p.7). As far as animal ethics goes, Cochrane also (correctly) argues that is not just animal advocacy that needs to get political, but that the political turn in animal ethics itself needs to get impartial, that is, arguments based on group membership and relational position should be rejected for arbitrarily discriminating nonhuman individuals and that, instead, the interests of all nonhuman sentient animals should be taken equally into consideration.

Since currently, the most salient dispute in the scholarship of the political turn refers to the question of whether group-differentiated rights and relational position are relevant criteria for nonhuman political entitlements, the rest of this section will focus on Cochrane’s treatment of the issue. Group-differentiated theories of rights have been criticized on several grounds. Cochrane (2013) had already discussed this previously, stressing how such critiques apply to the theory of animal rights as defended in Donaldson’s and Kymlicka’s *Zoopolis*. Accordingly, for Cochrane (2013):

(1) Group-differentiated theories of rights fail to extend to nonassociates rights that ought to be so extended.

In particular, Cochrane is not convinced that the citizenship rights that Donaldson and Kymlicka grant to domesticated animals should not be extended to all wild animals as well. For Cochrane, it is a mistake not to extend to wild animals core rights such as the rights to political concern, political agency, and residency, which are granted only to domesticated animals. For instance, regarding the right of

residency, Cochrane (2013) (rightly) concludes that exactly what provides safe and secure residency certainly differs amongst nonhuman animals, “depending on their capacities and interests” (p. 132) and the specifics of rights to residency are better determined through “a consideration of all the relevant factors and interests at stake, and not simply by appeal to whether the animal belongs to a group that lives ‘here’ or ‘out there’” (p. 134).

(2) Group-differentiated theories of rights grant too much weight to the rights of associates over nonassociates.

According to Cochrane (2013), denying outsider groups their just entitlements can happen through privileging the rights of insider groups. In other words, favoring the rights of domesticated animals (who live close to us) leaves fewer resources to secure the rights of those further away (such as wild animals). In order to illustrate this problem in *Zoopolis*, Cochrane looks at the discussion of the right to healthcare. Donaldson and Kymlicka (2011) argue that the right to healthcare is a basic right of citizenship in most contemporary societies, and is thus a right that should be extended to domesticated animals. They also believe, however, that it is a right that should not be attributed to wild animals (Donaldson & Kymlicka, 2011, pp. 142-143). For Cochrane, however, it is again not clear why the right to healthcare should not be extended to nondomesticated animals. Cochrane’s point is that privileging the rights of domesticated animals over wild animals is illegitimate since when all relevant interests at stake are fully evaluated, “not only can wild animals sometimes be assigned the right to healthcare, but sometimes it will be a right that is stronger than that possessed by some domesticated animals” (Cochrane, 2013, p.135).

(3) Group-differentiated theories of rights wrongly treat groups as homogeneous entities.

As previously noted, in *Zoopolis*, Donaldson and Kymlicka argue that our interactions with wild animals should be similar to the relationship between distinct self-governing communities (Donaldson & Kymlicka, 2011, p. 168) and that would entail duties to respect their sovereign rights of self-determination. Cochrane (2013) distinguishes at least two problems with identifying the wild-animal communities to whom Donaldson and Kymlicka believe sovereignty is owed. First, and Donaldson and Kymlicka agree with this assessment, if a community of wild animals is to be identifiable at all, it will have to refer to a mixed-species group whose territorial boundaries are fluid (Donaldson & Kymlicka, 2011, p. 191). But there is a bigger problem, even if such a community can be identified, it is unclear that they constitute a political community. For Cochrane (2013), “political communities are clearly not natural entities, but have instead been constructed by humans to facilitate shared social enterprises

and to represent and maintain certain feelings of affiliation” (p.136). Looking at wild animals, Cochrane (2013) argues, it is hard to see how they could form a political community in any meaningful way:

After all, there is not much evidence of shared enterprise or feelings of affiliation within groups of wild animals. Indeed, many animals are in perpetual violent conflict with one another, as illustrated by the relations between predator and prey animals. Furthermore, since many wild animals are solitary, and do not live in social groups, it is very hard to see how these animals can meaningfully fit into a conception of a cooperative group bonded by feelings of attachment. (p. 136)

Anticipating the objection, Donaldson and Kymlicka have opted to define wild communities more loosely, claiming that what matters for granting sovereignty is not that wild animals share feelings of affiliation or cooperate with each other, but rather, they must merely be “competent” in surviving in their environment: “What matters for sovereignty is the ability to respond to the challenges that a community faces, and to provide a social context in which its individual members can grow and flourish” (Donaldson & Kymlicka, 2011, p. 175). But this solution raises several other problems which have been duly noticed not only by Cochrane but by other authors, in particular, the problematic identification between ecosystem health or flourishing and individual flourishing (see the previous section).

(4) Group-differentiated theories of rights assume that these groups necessarily have value as they exist presently.

Even if wild animal communities can be satisfactorily identified, there is yet another problem, Cochrane (2013) argues, which is the “valuational objection”. Donaldson and Kymlicka (2011) claim that granting sovereignty to wild animals is the best way to protect their interests in autonomy and noninterference (p. 173) and that they have these interests because they are competent in managing their own affairs and have an evident antipathy to human intervention (p. 177). This is, however, a very controversial claim. For Cochrane (2013), “there are good reasons to question whether animal communities really do have an interest in noninterference to preserve their current form” (p. 138). Cochrane correctly reminds us that in nature, a significant number of animals suffer terribly due to disease and starvation, for example, and it is indeed hard to imagine why wild animals would prefer this nightmarish state of affairs over being directly helped by humans. As he concludes: “At the very least, it is extremely hard to make sense of the idea that those wild animals who suffer terribly and face death

directly as a result of the current conditions of their community also have an interest in the preservation of that community in its current form” (Cochrane, 2013, p. 138).

The cosmopolitan foundations advanced by Cochrane are well-aligned with previous arguments about the relevance of sentience as the fundamental criterion for both moral consideration and political entitlement as well with the argument in favor of fairness, consistency and impartiality, which rules out, as a matter of justice, any form of discrimination of sentient individuals based on their species, geographical location or group membership.

4.4. Robert Garner – A Theory of Justice for Animals: Animal Rights in a Nonideal World

As far as the polarization in the political turn goes, Robert Garner’s book *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013) could be said to be aligned with Cochrane’s position, insofar as it also rejects a relational approach to rights in favor of an interest-based theory of rights. But unlike Donaldson, Kymlicka and Cochrane, Garner takes a different direction by discussing an interesting and often overlooked question: how feasible should a theory of justice be? Garner draws on Rawls’ conceptualization of ideal and nonideal theory, as follows:

what constitutes valid nonideal theory must be a matter of intuition but, in addition, nonideal theory “looks for courses of action that are morally permissible and politically possible as well as likely to be effective” (Rawls, 1999: 89). The meaning of the second of these is well understood, albeit perhaps difficult to determine. The moral permissibility of a course of action, for Rawls, is a function of the degree to which it removes the most grievous or most urgent injustice, the one that departs the most from the ideal theory (Rawls, 1971: 246). Finally, Rawls holds to the view that the effectiveness of a nonideal theory can be judged by the degree to which it moves society toward the ideal position. (Garner, 2013, p.14)

The model provided by Rawls enables, according to Garner, political theorists (including those interested in defending the interests of nonhuman sentient beings) to think about theories of justice while also taking into account factors such as effectiveness, moral permissibility, and political achievability.

The book aims to answer three key questions: (1) can animals be recipients of justice, (2) what do animals gain from being recipients of justice and, (3) what are animals due as a matter of justice? As for (1) and (2) Garner believes that animals can indeed be recipients of justice and that given the status

that the concept of justice carries, the strongest protection of animals' interests would be achieved by framing the debate in justice terms. As he puts it:

The benefit for animals of being part of the discourse of justice relates to the status of the concept. The fact that a case of injustice is regarded as something that ought to be remedied urgently means that it is more likely to entail legal compulsion. So, whilst it is possible theoretically to conceive of a moral realm independently of justice, it is doubtful if any direct moral duties to animals, equivalent to or greater in weight than those attached to justice claims, can, in practice, be established. In actuality, in other words, excluding animals from a theory of justice amounts, at best, to the claim that we have very limited direct duties to some animals, and, at worst, that we only have indirect duties to them. (Garner, 2013, p. 163)

While Garner (2013) argues that there is “no obstacle to animals being regarded as recipients of justice” (p. 162), he is rather skeptical regarding contractarianism, including Rawlsian contractarianism, and invites animal advocates to consider thinking about justice for nonhuman sentient beings outside the contractarian framework: “although contractarian theories have traditionally denied animals this status, theories of justice do not end with contractarian versions, and we are quite entitled to consider alternatives” (p.163).

As for (3), that is, the question of what are animals due as a matter of justice, Garner first evaluates a number of different positions in animal ethics and attempts to determine whether they fall within the context of ideal or nonideal theories of justice. He then advances two variants of his own theory of justice: (1) the sentience position (nonideal) and (2) the enhanced sentience position (ideal).

Regarding (1), Garner (2013) describes his sentience position as a nonideal theory that: prohibits morally the infliction of suffering on animals for human benefits, but at the same time accepts that humans can still, under certain circumstances, use them. Because it does not engage at all with the question of the value of animal lives, sacrificing animal lives for human benefit is not regarded as problematic ethically. (p. 18)

Garner (2013) essentially puts forward a theory that is not necessarily abolitionist, that is, that does not aim at abolishing the whole animal exploitation enterprise. This is because, under his view, abolitionism “does not pass the Rawlsian realistic utopia test” (p. 165) since advocating the abolition of animal exploitation is asking too much of human beings and something that would necessitate “a transformation of what would seem to be our natural tendency to put our species, at least in some instances, first morally” (p. 162). This claim, however, is extremely problematic for it is not evident at

all that simply because humans have ingrained speciesist moral tendencies reflected in our culture and behaviors that such customs and attitudes should not be vigorously and constantly challenged, even if the moral and political change may be slow. This is, in fact, the main assumption of social justice advocacy concerned with human beings alone. Even though prejudice and harmful behavior will always be present to some extent, political action should aim at preventing or otherwise minimizing it as much as possible, with a view to future abolition. It seems arbitrary to think that justice, when applied to nonhumans, would (or should) work any differently.

Since Garner (2013) maintains that asking humans not just to stop inflicting suffering on animals but also not to kill them is too demanding and doomed to political failure, he claims that the focus of animal advocacy should instead be on eradicating the suffering of animals and that as a matter of justice, too, “this goal should be an obligation of the state” (p. 167). However, it is of course controversial, to say the least, to claim that even though nonhuman animals have an interest in living that this fundamental interest can continue to be trumped to satisfy trivial human interests in the name of political achievability. This argument seems to be inconsistent with not just a nonspeciesist ethic but also with another aspect of nonideal theories which is precisely its moral permissibility.

Even though Garner (2013) maintains that “the most grievous, or most urgent injustice” (p. 91) that ought to be removed is the infliction of suffering, one could argue that killing nonhuman animals for the most gratuitous reasons is equally impermissible – and unjust – even if one is willing to concede (also a highly disputed position) that nonhuman animals have a weaker interest in living compared to that of human beings (which is precisely Garner’s position). As Cochrane (2018) also puts it, we have strong reasons not to kill nonhuman animals, even if one assumes their interest in continued life is weaker than humans’ one:

Although some sentient creatures have an interest in continued life that is stronger than others, the interest is significant for all who possess it. After all, the interest in continued life must be satisfied for any further interests of an individual to be satisfied; if that interest is thwarted, then all of an individual’s opportunities for future interest-satisfaction are also thwarted. On this basis, it is certainly a fundamental interest of all sentient individuals, which give us a very good prima-facie reason not to kill them. (Cochrane, 2018, p. 29)

It is also worth mentioning that a large proportion of animal advocates who support welfare reforms and ameliorist campaigns adopt this position merely for strategic reasons rather than for normative ones – they are actually fully committed to the idea that animals should not be killed,

however good their lives under exploitation might be and however painlessly they might be slaughtered. Welfare reforms are regarded as yet another tool that may help gradually reshape legislation and politics in favor of nonhuman animals.

The claim that the political focus should be on “eradicating the suffering of animals” may sound laudable and actually irreproachable. Yet, it should also be checked for feasibility within the right context. Since we are talking about animals under exploitation (and putting aside the debate on the harm of death) it is hard to imagine how a sufficiently large number of nonhuman individuals could actually be raised and killed without harming them considerably. The suggestion that suffering must be eradicated (for exploited domesticated animals) without consistently prescribing the progressive eradication of the very status quo of exploitation (dismissed as an unrealistic utopian goal) and without challenging speciesist biases with the excuse that killing animals is part of our human culture and traditions sounds quite perilous for an allegedly nonanthropocentric theory of justice.

Garner goes on to argue that his nonideal theory, however, would not inhibit the movement toward the ideal position. His ideal theory of justice, or enhanced sentience position, is very much premised on the idea that “although at least some animals have an interest in continued life, those normal adult humans who possess the characteristics of personhood—rationality, autonomy, a sophisticated communication system, moral agency, and so on—have a greater interest in continued life” (Garner, 2013, p. 129). In practice, the implication would be that:

The enhanced sentience position places much greater limits on what it is morally permissible to do to animals than does the sentience position. According to the latter, the lives of animals are of no moral concern. Provided that suffering is, at the very least, minimized, we are morally permitted to use animals in whatever way we see fit. In the case of the former, on the other hand, the lives of animals can only be sacrificed if very significant human benefits accrue. Clearly, if we had to make a choice between saving the life of an animal and saving the life of a human, all things being equal, we would be morally obliged to choose the latter. When the human costs of saving an animal’s life are less than this, the morally correct outcome to choose is less obvious. (Garner, 2013, p. 133)

The most evident problem with this position is that even if one is prepared to accept the claim that nonhuman animals have a lower interest in life compared to humans (putting aside the implications that follow from the argument from the species overlap), it does not follow that we would always be “clearly” obliged to choose to save the life of a human over a nonhuman. There will always

be situations where the reasons for saving the life of nonhumans will be stronger: whenever not saving them would imply causing bigger harm compared to the harm that other individuals would suffer. There are several robust criteria for determining the strength of the reasons for taking into account someone's interests that are independent of both species membership and cognitive abilities: how bad their situation is; how good their situation is expected to be should they not be harmed; the magnitude of the possible harm to be caused; the total amount of individuals harmed; how much each individual benefited could benefit other individuals; which opportunities are to be lost as the result of the infliction of a harm (such as death), etc. Nevertheless, whichever of these criteria we adopt, the challenge is not to be biased as to attach, by default, less weight to the good of members of outgroups, be it based on gender, race, species, or cognitive abilities.

As a result, Garner's ideal enhanced sentience position is ultimately against enshrining nonhuman animals' interest in living in the form of a right to life because, he insists, the interests of nonhuman animals can always be "overridden for the benefit of those with a stronger interest in life" such as most adult humans (Garner, 2013, p.133). This is, however, for the reasons presented above, far from being necessarily the case.

4.5. Conclusion

In *Zoopolis: A Political Theory of Animal Rights* (2011), Sue Donaldson and Will Kymlicka make the important claim that nonhuman animals also possess not only universal negative rights but also a series of positive rights and that a new political framework is required to protect those rights. In a novel approach, they argue that citizenship theory should be expanded so as to recognize citizenship for domesticated animals, denizenship for liminal animals and sovereignty for wild animals.

One important contribution of *Zoopolis* is the claim that nonhuman animals can also exercise political agency in a relevant way through dependent or assisted agency, in line with what disability theories of citizenship have defended in recent years. However, some important objections have been raised against *Zoopolis*. In particular, its assessment of the situation of wild animals as flourishing, independent and self-determining communities is highly controversial. Different authors have argued that a great number of wild animals actually suffer extensively in their natural environments as a result of a number of harmful natural processes and that, in many cases, wild animals could be seen as living in failed states, or in a literal Hobbesian calamitous state of nature.

Another crucial point of contention is *Zoopolis'* use of relational position and group-based distinctions in assigning positive rights to nonhuman animals. Alasdair Cochrane provides an engaging response to *Zoopolis* by advancing a nonanthropocentric cosmopolitan approach in his *Sentientist Politics: A Theory of Global Inter-Species Justice* (2018). Cochrane strongly opposes the emphasis *Zoopolis* puts on group-differentiated rights and rightly argues that a commitment to impartiality dictates that what should be prioritized are the interests of sentient individuals as opposed to the groups they belong to, or the specific relations they may have with each other or with humans. Cochrane also argues that the moral worth and rights of nonhuman sentient beings ought to justify, shape and constrain our politics. In Cochrane's sentientist cosmopolitan democracy (and similarly to what Donaldson and Kymlicka propose) the interests of nonhuman sentient beings are to be defended by dedicated representatives in a democratic process that must be participative, deliberative, and representative.

Finally, with *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013), Robert Garner offers a valid criticism about how animal advocates are perhaps wrongly doing animal ethics and politics by focusing excessively on ideal outcomes while at same time ignoring the powerful strategy of treating animal issues as a matter of justice, rather than a matter of individual choices and actions. His call for political feasibility is both legitimate and desirable, however, in many aspects, his own position does not fully satisfy the criteria of moral permissibility. As a result, not even his ideal theory of justice – the enhanced sentience position – convincingly grants nonhuman sentient animals robust protection as recipients of justice, since anthropocentric demands may still, often, trump nonhuman interests, namely and crucially, their interest in continued life.

5. Conclusion

This dissertation explored the fundamental contributions of recent political philosophy to the debate over the consideration of nonhuman interests. It started by assessing anthropocentrism and speciesism as the dominant positions in the field, according to which only human beings matter or always matter more than nonhuman sentient beings. Under scrutiny, these positions reveal to be unjustified. Remarkably, when taken consistently, they cannot grant the alleged universal equal consideration of all human beings. Alternatively, this dissertation claimed that we have strong reasons to uphold the view that all sentient beings are equally morally considerable on the grounds they are sentient and thus have a well-being of their own, regardless of their cognitive capacities or species membership. In addition, it also claimed that sentience is not only the relevant criterion for moral considerability but also the relevant criterion for determining which individuals are owed justice.

The dissertation then proceeded by examining how political philosophers have attempted to remove anthropocentric biases within the field, with a particular focus on contractarianism. Accordingly, Donald Van De Veer, Marks Rowlands, and Julia Tanner have challenged contractarian premises that assume only human beings are owed duties of justice. Van De Veer (1979) has suggested that Rawls' original position should be modified so that species membership should also be put behind the veil of ignorance. The speciesist charge raised against John Rawls' original position has been assessed in detail and deemed unsound following Rowlands (1997). If properly understood, Rawlsian contractarianism actually entails that nonhuman sentient beings are moral beings and recipients of justice. Tanner (2013) has argued that neo-Hobbesian contractarianism, unlike Rawlsian contractarianism, cannot consistently secure nonhuman sentient beings within the sphere of justice, mostly due to the fragile and counterintuitive premises neo-Hobbesian contractarianism is based on, which do not successfully escape the charges of ableism and speciesism. As a consequence, animal advocates should consider sticking to non-Hobbesian contractarianism, such as the Rawlsian version defended by Rowlands (1997), or consider thinking about justice for nonhuman sentient beings outside the contractarian framework altogether.

Relatedly, this dissertation also pointed out that in the growing scholarship of nonanthropocentric political theory there is still room for new political approaches, perhaps less committed to Rawlsian liberal philosophy, as attention has been called to the fact that our duties to nonhuman animals are often likely to clash with Rawlsian principles of justice, most remarkably with the

liberty principle. Liberal contractors tend to favor noninterference with an individual's pursuit of her conception of the good so, in the name of liberal moral pluralism, the liberty principle is likely to privilege human interests and trump nonhuman interests whenever there is a conflict with human liberty.

The importance of clearly distinguishing between interspecies justice and environmental justice has also been highlighted. There are strong reasons to argue that animal ethics and environmental ethics are incompatible positions because they have conflicting criteria of moral considerability and have, at least in some cases, incompatible normative implications regarding the interests of sentient beings. It can thus be mistaken to advance environmental justice while presuming that the interests of nonhuman sentient beings would be adequately safeguarded within this political framework.

The last chapter of this dissertation examined the so-called "political turn in animal studies". Different authors have noticed that, despite great and continued efforts to advance the arguments for the moral consideration of nonhuman sentient beings, animal advocacy has not been very successful in earning substantial political achievements for nonhuman animals. To fix this, different approaches have been advanced suggesting how politics can be enhanced so as to include nonhuman sentient beings within its sphere.

Accordingly, it first examined Sue Donaldson's and Will Kymlicka's *Zoopolis: A Political Theory of Animal Rights*. Published in 2011, the book was the first substantial contribution to the political turn. One of the most distinctive features of *Zoopolis* is its (contentious) relational and group-differentiated approach to rights, according to each different group of nonhuman animals are entitled to a different set of positive rights, depending on the type of relationship they have with human beings. As a consequence, the theory prescribes the recognition of citizenship for domesticated animals, denizenship for liminal animals and sovereignty for wild animals.

Second, it considered Alasdair Cochrane's *Sentientist Politics: A Theory of Global Inter-Species Justice* (2018). *Sentientist Politics* is in many ways a direct response to *Zoopolis*. Cochrane substantially disagrees with *Zoopolis'* emphasis on group-differentiated rights and proposes a cosmopolitan nonspeciesist approach committed to impartiality which prioritizes the interests of individuals as opposed to the groups they belong to, or the specific relations they have with each other. For Cochrane, sentient nonhuman beings possess moral worth and rights and these values ought to justify, shape and constrain the aims and the structure of politics. His sentientist politics is, more specifically, a sentientist cosmopolitan democracy in which democratic institutions must be

participative, deliberative, and representative, within which the interests of nonhuman sentient beings are to be defended by dedicated representatives.

Finally, Robert Garner's *A Theory of Justice for Animals: Animal Rights in a Nonideal World* (2013) was assessed. With regard to the main point of contention in the political turn, Garner also rejects a relational approach to rights in favor of an interest-based theory of rights. Garner further argues that theorists should not only conceive theories of justice that take into consideration the interests of nonhuman sentient beings but that such theories should also aim at being politically feasible. Garner believes that nonhuman animals can be recipients of justice and that given the status of the concept of justice and the legal compulsion it entails, nonhuman interests are better protected by framing the debate in justice terms. Garner proposes two versions of his own theory of justice: (1) the sentience position (nonideal) and (2) the enhanced sentience position (ideal), both focused primarily on eliminating the infliction of suffering on nonhuman (domesticated) animals, which he considers the most atrocious injustice animals face.

Despite the polarization on certain issues, the crucial conclusion shared by the main scholars of the political turn (and fully endorsed by this dissertation) is that nonhuman animals, in virtue of their sentience, are recipients of justice. Because the aims and activities of human political communities and political institutions largely affect nonhuman sentient beings, the rejection of speciesism and the protection of nonhuman interests, therefore, becomes not just a matter of personal ethics but also a matter of politics. Justice itself can only be consistently construed if it unequivocally grants robust consideration to the interests of all sentient beings, regardless of species membership. This dissertation has thus been an effort at pushing political philosophy into this necessary nonanthropocentric direction.

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