Locating Animals in Political Philosophy[1]

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Abstract

While animal rights have been a central topic within moral philosophy since the 1970s, it has remained virtually invisible within political philosophy. This article explores two key reasons for the difficulties in locating animals within political philosophy. First, even if animals are seen as having intrinsic moral status, they are often seen as ultimately distant others or strangers, beyond the bounds of human society. Insofar as political philosophy focuses on the governing of a shared social life, animals are seen as falling outside its remit. Second, even if animals are recognized as members of society, they are seen as lacking the capacities or competences said to be essential for politics, and for membership in the demos. We challenge both assumptions. Many animals live and work alongside us, within an interspecies society, and all members of society should have the right to shape decisions about how that society is governed. An interspecies society requires interspecies politics.

The treatment of animals is increasingly recognized as one of the greatest moral challenges we face. Upwards of 10 billion land animals are raised and killed for food each year in North America, almost all under conditions of intense confinement. And the population of wild animals has dropped by 50% in the past 40 years, as human colonization and despoliation of wild animal habitat continues unabated. Moreover, the United Nations estimates that both of these trends will continue: forty years from now, we will be confining and killing even more animals for food and leaving even less space for wild animals. These facts reflect a remarkable sense of entitlement, or what Ted Benton calls 'a quite fantastic species narcissism' (7). Just as current generations puzzle over our ancestors' endorsement of slavery, so future generations will wonder at our moral blindness about harms to animals (Appiah).

In this context, it is interesting to ask what role moral and political philosophies have played in either challenging or perpetuating this sense of species entitlement, and its corresponding moral blind spots. And here we see an interesting divergence between moral and political philosophy. Since the publication of Peter Singer's *Animal Liberation* (1975) and Tom Regan's *The Case for Animal Rights* (1983), moral philosophers have been at the forefront of both academic and public debates about our obligations to animals. Indeed, social scientists have argued that the influence of moral philosophers as catalysts of the animal rights movement is perhaps an unparalleled example of academic philosophy shaping a social movement (Jasper and Nelkin, 90; Rasmussen 118). While there remain deep disagreements within moral philosophy about our obligations to animals, this is now widely recognized as a central issue for the field, with a secure place in the curriculum of moral philosophy in general, and of subfields such as bioethics. One is unlikely to be trained as a moral philosopher today without being required to think critically about our inherited sense of species entitlement.

Political philosophy is a different story. Ninety-nine percent of the work done in contemporary political philosophy – whether on democracy, justice, citizenship, sovereignty, freedom, power, or constitutionalism – makes no reference to animals and implicitly assumes that we can theorize these issues without taking animals into account. A scan of 30 recent textbooks

in political philosophy confirms this striking silence: we discovered not one that encourages readers to think critically about human entitlement to use animals. The vast majority made no reference to animals at all, and the few that do mention animals do so in a way that simply presupposes this entitlement. For example, David Miller's *Political Philosophy*: *A Very Short Introduction* mentions fish, but only in the context of deciding how to fairly allocate rights to fish in international waters: our right to kill fish is taken for granted, and the only question is how to fairly distribute this right. Another textbook (Farelly) mentions cows, but only in the context of how to regulate slaughter in a multicultural society. Here again, the right to eat cows is taken for granted: the only issue is how fairly to resolve disputes about appropriate slaughter methods. In short, all 30 textbooks implicitly or explicitly assume that animals are resources to be used for human benefit, leaving entirely untouched and unquestioned readers' sense of species entitlement.[2]

So whereas moral philosophy has been a catalyst of the animal rights debate, political philosophy has, in Regan's words, been 'caught napping' (xi). We find this both distressing and puzzling.[3] It is distressing because it means that the Western tradition of political theory has not just failed to identify or discuss obstacles to justice for animals; it has itself been one of these obstacles.[4]

But it is also puzzling, since a core issue of political philosophy, for 2000 years, has been the exercise of coercive power. Political philosophy has been concerned above all with determining when the exercise of power is legitimate, and with distinguishing legitimate authority from tyranny. Political philosophers ask: When is it legitimate for some to exercise power over others? And how can relations of power be held accountable to norms of justice? As Augustine famously put it, both a legitimate state and a band of robbers exercise coercion, but what distinguishes a legitimate state is that it aspires to justice and governs in the interests of the governed.

Viewed this way, one might think that governing animals would be a paradigmatic focus for political philosophy. Consider domesticated animals. Every aspect of their lives – their physical confinement and transportation, their sex and reproduction, their ownership and sale, their diet and health, and their killing – is minutely governed by public regulations. Indeed, the expansion and consolidation of modern states were in many ways driven by the expansion of control over domesticated animals (O'Sullivan; K. Smith). Yet virtually none of this exercise of state power over animals is in the interests of the animals being governed, and no mechanisms exist to ensure that power is exercised in ways that track their interests. Rather, state power operates to authorize the use and harm of animals for human benefit.[5] Insofar as political philosophy seeks to replace tyranny with legitimate authority – and to replace the naked exercise of power with justice – then the governing of domesticated animals should be an obvious and pressing issue.

So why has political philosophy been silent on the animal question? Part of the answer, perhaps, lies in the specific way that influential moral philosophers raised the animal question. To oversimplify, moral philosophers like Singer and Regan made two key assumptions: (1) that the central issue was the intrinsic moral status of animals and (2) that the best way to conceive of our obligations to animals was on an expanding circles model. On this view, morality involves expanding the circle of moral concern, firstly from the self to the intimate family, then to the wider circle of people with whom we have personal face-to-face interactions in the neighborhood and workplace; and then to the even wider circle of people with whom we share an impersonal scheme of social cooperation (typically at the national level); and then to humanity as a whole. Singer's central claim is that we need to expand the circle once more, extending consideration beyond humanity to other sentient species who are thus imagined as being on the very outer ring of these concentric circles. This idea is found widely in animal ethics, expressed here in a quote from Jean Kazez:

To be kind, if we take etymology as our guide, is to treat someone as kin, as 'my kind.' An enlightened extension of the idea is that not just family members matter, but all members of my kind – my tribe, my nation, or even my species. And an even more enlightened idea allows that members of other species could be my kind at least to some degree, and in a morally relevant sense (30–31).

The same idea appears within some cosmopolitan theorists, in which animals occupy the position of the ultimately distant 'other' or stranger to be encompassed within what Gary Steiner calls 'cosmic holism' (194).[6]

This vision of expanding circles can be represented this way:
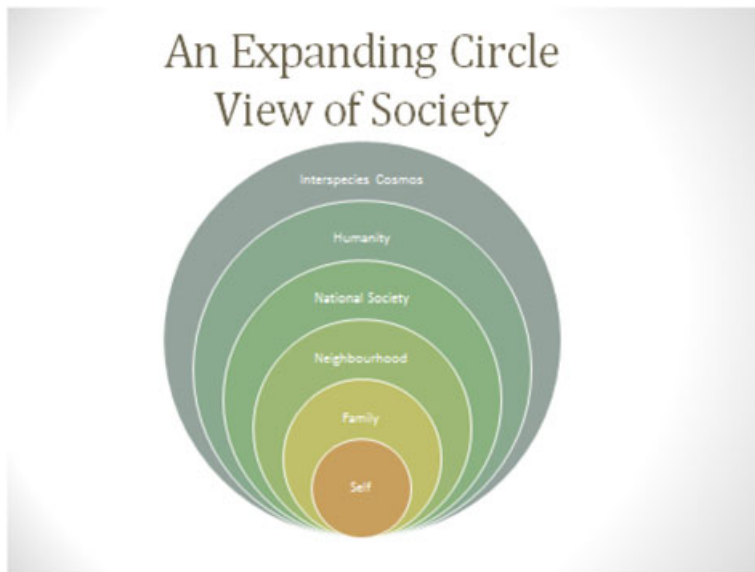
On this view, the family is human; the neighborhood is human, the nation is human, and the international community is human. It's only when we extend outside of the human social realm that we come to the interspecies realm, and the inclusion of animals.

If this is correct, then it is understandable that political philosophers have ignored the animal question. After all, as most of the textbooks emphasize, the distinctive focus of political philosophy, as compared to other fields of normative theory, is neither intimate nor cosmic relationships, but rather 'society', understood in A. John Simmons (2008) words as a 'stable, intergenerational group of persons characterized by peaceful, cooperative, rule-governed conduct with a wide range of activities', and more specifically with a 'political society', that is, with a society that is 'governed' (7–8).[7] Political philosophy focuses on how a shared society is governed and how the benefits and burdens of social cooperation are distributed. And on the predominant animal rights story, animals are not part of our society: they are the ultimately distant aliens beyond our society.

In reality, however, this is a false picture.[8] Animals are alongside us at every stage of these expanding circles. The vast majority of people in North America with companion animals insist that their companion dogs and cats are 'members of the family': we are born into interspecies families and learn our concept of 'family' in that context. Similarly, our neighborhoods and workplaces have always included a wide range of domesticated animals, which live and work

alongside us. And animals are central to society's basic schemes of social cooperation: to our economy, our modes of leisure, our forms of education and science.

This indeed is precisely what 'domestication' means: bringing formerly wild animals into human society, into the *domus*, to live and work alongside us. And note that this presence of domesticated animals in the family, the workplace, and in society is evidence of a striking fact: namely, our shared potential for interspecies sociability. We would not be able to live and work alongside domesticated animals if we and they were not capable of communication, trust, cooperation, physical proximity, compliance with shared rules, and self-restraint.

This fact of interspecies sociability is what makes possible both the best and the worst of human–animal relations,[9] and it is central to the so-called 'animal turn' in the social sciences over the past two decades. As Noske (1997) notes, the social sciences used to define society as an exclusively human phenomenon – indeed, they used to 'present themselves pre-eminently as the sciences of discontinuity between humans and animals' (66) – but this has been replaced by the recognition of interspecies sociability. We are witnessing this animal turn across the social sciences – in geography, sociology, anthropology, ethnography, history, and urban studies.[10]

To be sure, we are not capable of interspecies sociability with all animals on the planet: we cannot easily trust, communicate, or cooperate with eel–pout fish, cobras, or tigers. In that respect, some wild animals are indeed very distant from our social world. But this confirms that animals exist at all points in the expanding circles of concern: some are members of our most intimate inner circle of family, others are members of more impersonal schemes of social cooperation, and yet others are distant strangers.

Interspecies View of Society
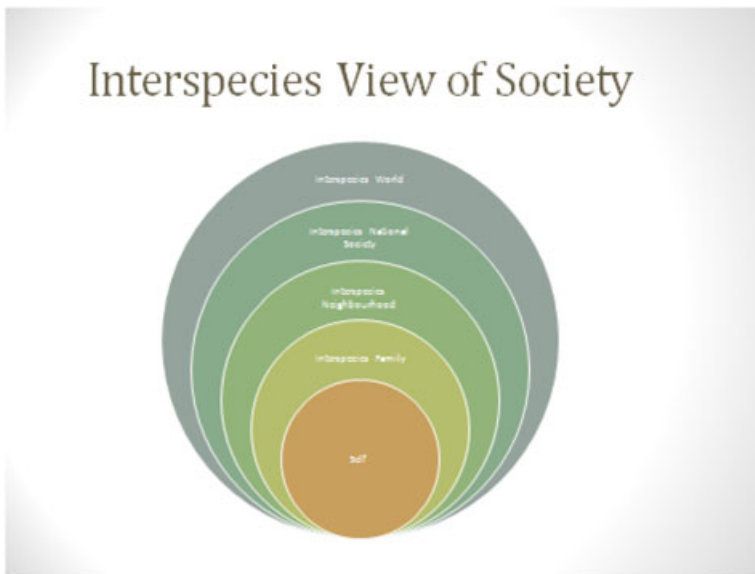
Once we recognize this, however, it immediately raises fundamental questions about how this shared social life is governed, how the norms and rules of interspecies social interaction are decided, and how the benefits and burdens of interspecies social cooperation are allocated. And these, as noted earlier, are the distinctive and foundational questions of political philosophy.

If this is correct, then there is reason to hope and expect that political philosophy will, sooner or later, wake up from its 'napping' and embrace the animal turn. Much of the political

philosophy that is published today seems to be based on an outdated 1970s social science (and ethology), in which society was still seen as exclusively human, perhaps because many of us were indeed trained in that tradition. Perhaps, as a new generation of political philosophers arises who have been exposed to the animal turn in the social sciences, they will bring that into our field. And indeed, we see clear signs that such a trend is emerging.[11]

However, if and when that takes place, it is likely to raise another, perhaps even deeper, challenge. Including animals within political philosophy will immediately reveal a deep and unresolved ambiguity in our discipline: namely, what is the relationship between *social membership* and *political membership*? If animals are members of our society, and share a social world with us, does that mean they should also be members of the demos, and share a political world with us, with rights to participate in processes of collective self-government?

Once we pose this question, it becomes clear that political philosophy offers us two contradictory ways of answering it. On one familiar and widespread view, political membership should indeed reflect social membership. This premise underlines all of the familiar principles invoked to answer the question of who belongs to the demos, whether it is the 'all-affected principle' or the 'all-subject-to-coercion' principle or the 'stakeholder' principle.[12] On all of these views, everyone who is a (non-transient) member of the scheme of rule-governed social cooperation should be considered a member of the demos that determines those rules. And if so, then domesticated animals clearly qualify.

However, this social membership-based approach sits uneasily with another equally familiar view, which is that political membership should be restricted to individuals who have the capacity to engage in particular sorts of reasoning and deliberation. To qualify as a member of the demos, one must be what Steiner calls a 'linguistic agent' (196), able to articulate one's reasons in propositional form, and to understand and evaluate other people's reasons. Clifford refers to this as the 'capacity contract': the demos is restricted to linguistic agents who are given the right to rule over all other members of society.[13]

This capacity contract goes back at least to Aristotle, who famously defined humans as a 'political animal', explaining:

> Now that man is more of a political animal than bees or other gregarious animals is evident. Nature, as we say, makes nothing in vain, and man is the only animal who she has endowed with the gift of speech. And whereas mere voice is but an indication of pleasure or pain, and is therefore found in other animals (for their nature attains to the perception of pleasure and pain and the intimation of them to one another, and no further), the power of speech is intended to set forth the expedient and inexpedient, and therefore likewise the just and unjust. And it is a characteristic of man that he alone has any sense of good and evil, of just and unjust, and the like, and the association of living beings who have this sense makes a family and a state (446).[14]

For Aristotle, only those with 'the power of speech' to 'set forth the just and unjust' can be party to a political relationship, or members of a political community. This link between linguistic agency and political membership runs deep in Western political thought, found equally in the liberal and republican traditions, and in both Anglo-American and Continental traditions. And it is reflected in our everyday understandings of 'politics', 'the public', 'citizenship', and 'the public sphere', all of which are seen as constituted by linguistic acts.[15]

If we accept this capacity contract, it raises the possibility – indeed the inevitability – of a gap between social membership and political membership. There will be various groups of individuals who are clearly members of society, subject to rule-governed schemes of social cooperation, but who are denied membership in the demos because they lack 'the power of speech… to set

forth the just and unjust'. This will include not just domesticated animals but also children and people with cognitive disabilities.[16]

And this in turn raises the possibility that the 'animal turn' in the social sciences may not be sufficient, by itself, to get animals into political philosophy. We may come to accept that animals are members of 'society', yet deny that they are members of 'the public' or 'the demos'. As Blue and Rock note, while developments in social science have afforded a more active role to animals in 'the constitution of social worlds', the concept of 'the public' remains

> stubbornly entrenched in anthropomorphic imaginaries. Within and outside of academe, it is commonplace to suppose that publics are purely human and that publics arise from the unique human capacity for symbolic communication (504).

In short, *society* may be increasingly recognized as interspecies as a result of the animal turn in the social sciences, but *politics* remains defined as exclusively human, at least insofar as political philosophy privileges the capacity contract over the social membership model.[17]

In our view, this conflict between the social membership model and the capacity contract is a fundamental issue for the discipline of political philosophy. Unfortunately, it is difficult to sort out this debate, in part because most political philosophers evade it, vacillating between the two positions as it suits their purpose. In one sentence, political philosophers will invoke the language of 'all affected' to define the demos, insisting that a legitimate state must be responsive to all those who are members of society, all who are subject to its rule, and all who participate in the scheme of social cooperation. Yet in the very next sentence, they restrict the demos to linguistic agents, thereby unilaterally evicting large numbers of members of society from the demos, without acknowledging the self-contradiction.

Because they vacillate in this way, political philosophers largely evade a central issue: namely, *what is the political status of those members of society who are not linguistic agents*? If political philosophy aims above all to ensure that power is exercised in the interests of the governed – if the aim is to replace tyranny with legitimate rule – how is this principle enforced in the case of (the very many) social members who do not qualify under the capacity contract? This question is surprisingly ignored in contemporary political philosophy.

One might think that political philosophers cannot ignore this issue, since it is raised by the case of children. Even if the 'stubbornly anthropomorphic imaginaries' of political philosophers ignore the presence of animals in our society, surely they cannot ignore children. Can we not therefore simply look to see how political philosophers ensure that the interests of children are taken into account in political decision-making, as a model for how to protect the interests of social members who are not political citizens?

Unfortunately, no. The sad fact is that most political philosophers say as little about children as they do about animals. Indeed, in our scan of recent political philosophy textbooks, there were even fewer references to children than to animals (and an almost total absence of any references to people with cognitive disabilities).[18] This conspicuous silence confirms that the field – at least as represented by these introductions to the mainstream canon – has systematically ignored the status of those who are social members but do not qualify for political membership under the capacity contract.[19] Nothing is said about how we ensure that these members of society are governed in ways that are legitimate rather than tyrannical, or how we ensure that collective decisions track their interests. When we consider that children under 18 constitute up to a third of the population of many democracies, and if we add people with cognitive disabilities (a growing proportion of the population), and the billions of domesticated animals, this means in effect that political philosophy has nothing useful to say about the legitimacy of how most members of society are governed.

This is not an intellectually sustainable position. The discipline cannot continue to evade the choice between the social membership model and the capacity contract. We see two ways forward, both of which face serious challenges. One option is to maintain the historical commitment to the capacity contract, with its restrictive definitions of the public/demos/citizenship, but to acknowledge that this renders vulnerable to tyranny a wide range of social members who therefore need some alternative legal or political status. Drawing on existing legal categories, we might try to develop a political philosophy of 'wardship', say, or 'guardianship' or 'denizenship' that acknowledges social membership and protects against tyranny without according political membership.[20]

Since we don't have any such political philosophies of wardship, it is premature to judge whether this is a promising strategy. But we're skeptical. First, there is no non-arbitrary basis for deciding where to set the threshold for the capacity contract. The cognitive and communicative capacities of members of society vary on a range of dimensions, but wherever individuals are located on these continua, they have an interest in, and a legitimate claim to, shaping collective decisions. It is arbitrary to endorse these interests and claims above some stipulated threshold but to discount these interests and claims below that threshold. Second, there's no evidence that wardship effectively protects against tyranny. After all, we have extensive historical experience with institutions of wardship, and it is record of more or less unmitigated failure. For women, slaves, servants, indigenous, and other colonized peoples, wardship has been a recipe for violent exploitation and disregard, which is why all of these groups have struggled for substantive citizenship. Wardship has, systematically, obscured the exercise of power over wards, restricted their freedom, and denigrated their social contributions. The problem is not simply the insult of being deemed politically incompetent or immature, but the profound failure of guardians and trustees, even those with the best intentions, to recognize, understand, or adequately represent, the interests of those classed as wards.[21]

In our own work, therefore, we are exploring the second route: to reject the capacity contract, and start instead from the social membership model, with its commitment to enable all members of society to participate in processes of self-governing. On this approach, political membership tracks social membership, full stop. All those engaged in intersubjective relations, and all those who participate in rule-governed schemes of social cooperation, are members of the demos and have a right to a say, a right to be consulted, and a right to have the expression of their subjective good shape collective decisions.

The challenge here, obviously, is to think creatively about how to enable political voice, participation, and agency by those who are not linguistic agents. Existing mechanisms of political participation – designed by and for linguistic agents – will clearly need to be supplemented with new modes of participation, adapted to the needs and circumstances of members who occupy very diverse locations on the spectra of cognitive and communicative skills. These modes will require new, and more interdependent, conceptions of political agency and new sites of participation that are meaningful to members.

We do not wish to underestimate either the philosophical or political challenge involved in setting aside the capacity contract and extending citizenship to all members of society. If we lack well-developed and compelling political philosophies of wardship, we equally lack well-developed political philosophies of citizenship for children, people with cognitive disabilities, or domesticated animals. But we are not entirely at sea. While political philosophers may have clung tenaciously to the capacity contract, many democratic societies have taken steps to enable citizenship for children and people with cognitive disabilities, and we can learn much from these experiments. And animal rights advocates are establishing new spaces – such as animal sanctuaries – to explore ideas of interspecies political communication and animal co-citizenship.[22] It's early days in the construction of democracy beyond the capacity contract, but we believe that

this project holds enormous promise, not just to improve justice for animals but to help political philosophy recover its mission of replacing tyranny with legitimate rule, and governing societies in the interests of all.

Short Biography

Will Kymlicka and Sue Donaldson are co-authors of *Zoopolis*: *A Political Theory of Animal Rights* (Oxford University Press, 2011) and co-founders of the Animals in Philosophy, Politics, Law and Ethics (APPLE) research group at Queen's University. Their recent work on animals and political philosophy has appeared in the *Journal of Political Philosophy*; *Oxford Journal of Legal Studies*, *Canadian Journal of Political Science*, *Journal of Animal Ethics*, and *Politics and Animals*, as well as several edited volumes.

Notes

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[1] We are grateful to Kok-Chor Tan for inviting us to submit this article and for offering helpful comments, along with those of an anonymous referee.

[2] This is in part self-critique: one of the 30 textbooks we scanned is Kymlicka (2002).

[3] It is particularly puzzling given that animals were a prominent topic within ancient and early modern political philosophy: the silence about animals is distinctive to the contemporary era. While the Oxford Handbook of the History of Political Philosophy contains a chapter on animals (Franklin), the Oxford Handbook of contemporary political theory (Dryzek, Honig, and Phillips) does not discuss animals.

[4] We are here adapting Arneil's observation (2009) that Western political theory has not simply ignored justice for people with disabilities but has itself been an obstacle to justice. The same is true in relation to animals, and for many of the same reasons. For other recent discussions of the invisibility of animals in contemporary political philosophy, see Garner, O'Sullivan, Donaldson and Kymlicka 2011, and Cochrane.

[5] There are animal welfare laws whose ostensible purpose is to curb the worst excesses of exploitation, but in reality, they do not give legal protection to animals from harm but rather give legal protection and ideological cover to the corporations and scientists who harm animals (Francione).

[6] As Pepper notes, most theorists of global justice are as resolutely anthropocentric as theorists who focus on domestic justice. One exception is Martha Nussbaum, who (partially) extends her cosmopolitan theory of justice to nonhuman animals. Her capabilities approach assumes that each species has its own 'species-norm' for flourishing defined primarily by intraspecies forms of attachment and affiliation (364–5). While episodically noting the possibility of interspecies sociality (e.g., 398), she generally conceives of both 'society' and 'polity' as human-exclusive and explicitly excludes animals from the demos. Indeed, she allows for their continuing subjection (e.g., killing them for food or scientific experiments) until such time as an 'overlapping consensus' is achieved by members of human demoi (388–392).

[7] See also Christman's observation that political philosophy focuses on 'people as they live within rule-governed social institutions' (3).

[8] For a care ethics critique of Singer's Expanding Circle view, see Luke.

[9] Many authors in Critical Animal Studies emphasize the 'worst', noting how domestication involved pervasive violence, coercion, and instrumentalization of animals. See Nibert, who suggests 'domesecration' would be a more accurate term. But a one-sided focus on the (undeniable) historic injustice involved in domestication may blind us to the forward-looking potential for justice arising from interspecies sociability.

[10] On this 'animal turn' in the social sciences, see Peggs, Wilkie, and Ritvo.

[11] For example, a new journal on *Politics and Animals* has been established, and several edited volumes on 'the political turn in animal ethics' are in press.

[12] For a review of these principles, see Saunders.

[13] The term is potentially misleading. First, as noted earlier, social membership also presupposes certain capacities – for trust, self-restraint, cooperation, and sociability. What distinguishes the 'capacity contract' is the view that to participate in politics, individuals need not just these social capacities but also more sophisticated cognitive and linguistic capacities. Second, the

language of contract is used here, not in the sense of a voluntary agreement but in the sense that theorists talk of the 'racial contract' (Mills), 'sexual contract', (Pateman) or 'settler contract' (Nichols): as a deeply embedded social logic that structures our institutions and practices in hierarchical terms, subordinating some to the rule of others.

[14] On the foundational significance of this view for the Western philosophical tradition, see Franklin, Steiner, and Wadiwel.

[15] 'The idea that language is the central vehicle of politics – that language, in fact, founds and sustains the difference between human politics and the lives and quarrels of those (beasts or gods) who exist outside the polity – is so deeply ingrained in our preconceptions of the political that it is almost impossible to imagine a public, particularly a democratic one, not constituted primarily by acts of discursive deliberation' (Marres and Lezaun 492).

[16] Indeed, defenders of the capacity contract often exclude these groups in the same sentence that they exclude animals. Among many examples, see Hobbes: 'Over natural fools, children, or madmen there is no law, no more than over brute beasts; nor are they capable of the title of just or unjust, because they had never power to make any covenant or to understand the consequences thereof' (Leviathan II.xxvi.12).

[17] This perhaps helps explain why some earlier works in animal ethics that acknowledged the possibility of interspecies sociability, and hence located animals within a social justice framework, nonetheless implicitly or explicitly excluded animals from the demos. This is arguably the case with some earlier work applying feminist relational ethics (e.g., Gruen), or Rawlsian social contract reasoning (e.g., Rowlands), to animals. On these accounts, animals are objects of duties of social justice but are not subjects within political theories of democracy, citizenship, legitimacy, or sovereignty, presumably because they are seen as lacking the capacities needed for distinctly political relations.

[18] The only references to children are as a potential source of gender inequality in the distribution of childcare work (e.g., S. Smith; Miller; Sher and Brody), that is, the concern is with justice among adults, not with the claims of justice or of participation of children themselves.

[19] There is of course important and innovative work arguing that issues of childhood (e.g., Rollo) and disability (e.g., Arneil) need to be moved from the margins to the core of contemporary political philosophy, but to date, it seems that these arguments have failed to make inroads, at least as represented by existing textbooks that purport to identify the key issues and debates in the field.

[20] This idea is proposed, but not developed, in Hinchcliffe.

[21] Or so we argue in 'Inclusive Citizenship'.

[22] We discuss the experiments regarding children and people with cognitive disability in Donaldson and Kymlicka forthcoming-a,b and the experiments regarding animals in Donaldson and Kymlicka 2015. Other helpful discussions of the prospects for interspecies political communication/participation include Meijer, Driessen, Youatt, Wyckoff, and K. Smith.

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