

Expanding Global Justice: The Case for the International Protection of Animals*

Oscar Horta

University of Santiago de Compostela

1. INTRODUCTION: WHY DO THE INTERESTS OF NONHUMAN ANIMALS NEED INTERNATIONAL PROTECTION?

A growing number of people in different countries believe that the way in which we commonly relate to nonhuman animals cannot be considered acceptable. In fact, this paper will argue, there are strong reasons backing that view, according to which the interests of animals should be respected. They are based on two premises that can be presented rather simply: the fact that they are sentient, and the fact that their sentience gives us reasons to take their interests into account. Despite this, animals are made to suffer, killed and harmed massively in many ways, and their interests enjoy almost no legal protection. It is not only that so many countries have so few or no laws restricting what can be done to them. It is also the fact that in those countries where legislation protecting nonhuman animals does exist, those laws usually deal with secondary issues, allowing practices that cause massive harms to animals to go on fully permissibly. Given this situation in terms of the domestic protection of animals, it is no surprise that their protection is also virtually nonexistent in the international arena.

To be sure, there are international NGOs and private organizations around the world that, with different strategies and results, invest their resources in helping nonhuman animals. The term “international protection of animals” is sometimes used to describe their work. And it is no doubt the case that some of these groups are instrumental in making a difference for nonhuman animals. After all, they have the capacity to raise

* This is the pre-peer-reviewed version of the following article: “Expanding Global Justice: The International Protection of Animals”, *Global Policy*, 4 (4), 2013, 371-380, which has been published in final form at <http://www.globalpolicyjournal.com/articles/international-law-and-human-rights/expanding-global-justice-case-international-protection-a>. The author wants to thank Alasdair Cochrane, Íñigo González Ricoy and an anonymous referee for their very helpful comments on drafts of this paper.

public awareness of the current disregard of nonhuman animals and of the harms they suffer, which is a requirement if any significant change in animals' situation is to occur. However, the kind of protection this paper is concerned with is somewhat different: it is the form of protection that can be enforced by political institutions.

To see why we can say nonhuman animals currently lack significant protection of this kind, we can consider the ways in which such protection could take place. A way in which this could be done would be by different sovereign states (ideally an important number of them) signing and enforcing agreements stating the positive and negative duties necessary to make that protection effective. Another way would be by states establishing institutions such as agencies that would not only be in charge of overseeing multilateral agreements, but which would also have the power to make binding decisions that states should duly implement, thus limiting the sovereignty of states on this subject.

While such agreements and institutional bodies exist for a number of purposes in the international arena, the protection of nonhuman animals is not one of them. There is no international agency operating today concerned with this aim. And, while there are some multilateral agreements that deal with the treatment of animals, they cannot be said to provide significant protection to them. Consider the Terrestrial Animal Health Code (TAHC), whose application is controlled by the World Organisation for Animal Health (OIE, 2012). This code regulates certain uses of nonhuman animals for food and other purposes. While the regulations include some stipulations concerning the welfare of animals, they are extremely limited, especially in comparison with the harms the animals suffer by being used in the ways the code regulates. They do not challenge in any real way the exploitation animals suffer. Indeed, the limitations are basically aimed at safeguarding human health and economic goals. Moreover, as Otter, O'Sullivan and Ross (2012) have pointed out, these regulations are presented with a vague language (something very common in animal welfare laws) that make their enforcement extremely difficult. And they certainly assume the use of nonhuman animals as resources is fully acceptable.

Another example of a multilateral treaty concerning nonhuman animals, the Convention on International Trade in Endangered Species of Wild Fauna (CITES) establishes a list of endangered species (not only animal species, also plant species), the members of which cannot be killed or treated in ways that threaten their survival. Crucially, however, the motivation for this measure is not the protection of the interests of individual animals, but the conservation of biodiversity. But both aims are wholly

different (Shelton, 2004; Horta, 2010a). Sentient animals have interests as sentient individuals that transcend the mere fact of being alive and reproducing that the survival of their species requires, and conservationist measures do not protect them. Practices which harm animals in ways that do not jeopardize their survival are accepted by CITES, just as they are by other environmentalist regulations. Moreover, for similar reasons only a tiny number of animals is protected by this particular treaty.

In this paper I will claim that this is not the proper way to deal with the interests of nonhuman animals. The main point I will argue for here is that the same ideas that allow us to argue for human rights and global justice provide strong support for the claim that the interests of nonhuman animals should be respected and protected internationally. In addition, I will argue that there are further reasons why such protection should take place internationally.

To defend this conclusion, in section 2 I will argue that we should reject the views that nonhuman animals cannot be recipients of justice and that they are not morally considerable beings. Section 3, will present the case why this protection should take place in the international arena. It will argue that the main reasons we have to accept universal human rights and defend global justice can also be used to defend basic animal rights and expand global justice to include sentient animals. Just as all humans, as sentient and vulnerable beings, have basic rights grounded in their fundamental interests irrespective of where they happen to have been born or reside, so too do nonhuman animals. Then, in section 4 I will present other reasons to bring the protection of animals to the international arena, based on the fact that it is at this level that several animal exploitation industries are protected by different treaties and institutions, impeding the defence of animals at the domestic level. Section 5 will address two objections: first, the claim that the arguments in favor of the international protection of animals cannot be accepted by those who reject cosmopolitanism; and second, the claim that enforcing such a protection globally would be unacceptably universalistic and may even threaten certain cultures. Section 6 will address the question of what interests of animals should be protected. It will respond critically to the view that the protection of animal interests should be concerned solely with minimizing the suffering of domestic animals. Finally, section 7 will conclude by pointing out that the arguments of this paper do not merely demand improved *regulation* of the use of nonhuman animals, but also support the *end* of such use. This section will also point out that even if our goal should be that animals are provided significant protection

internationally, that does not mean that animal advocates' first priority should be trying to achieve changes in international law. It may be more strategic for animal advocates to focus on achieving a shift in the public's attitudes that can eventually trigger such changes. This task will require that the work of these advocates should not be limited to their own countries but should be conducted internationally.

2. WHY POLITICAL INSTITUTIONS AND JUSTICE SHOULD NOT BE FOR HUMANS ONLY

2.1. THE ARGUMENTS AGAINST THE PROTECTION OF THE INTERESTS OF NONHUMAN ANIMALS

According to certain views, only humans should be protected in a nonderivative way, because only they can satisfy the criteria that are necessary for that. On some accounts, only humans should be protected because nonhuman animals cannot be recipients of justice (McCloskey, 1965; Rawls, 1971, p. 512; Melden, 1988, p. 64). According to these views, even if those practices that harm nonhuman animals are immoral, it is wrong to prohibit them legally if no human being is harmed by them. Such prohibition, on this view, would be an unacceptable violation of the Millian 'Harm Principle'. On other, more radical views, nonhuman animals cannot receive justice because we do not even have reasons to consider them morally (Narveson, 1987; Carruthers, 1992).

There are two ways in which the argument that nonhuman animals do not merit justice can be defended. First, this can be argued for on the basis that only humans are rational agents (that is, only they possess complex cognitive abilities, a sense of justice, the capacity to respect other individuals' interests, etc.) (Leahy, 1991; Carruthers, 1992). Second, it can be argued that we do not owe justice or consideration to nonhuman animals simply because we are more powerful than them, or because we do not have social bonds with them (Callicott, 1989; Petrinovitch, 1999).

We will see now two arguments which have been used to rebut these claims, the one that appeals to species overlap and the one that appeals to impartiality and procedural approaches. A third argument that also rejects these views by means of an appeal to sentience will be presented in section 3 (since it will be also the one that will base the claim that the protection of animals should take place in the international arena).

2.2. A CRITIQUE OF THE ARGUMENTS (1): SPECIES OVERLAP

The first reason why these arguments do not seem to work is that the criteria they appeal do not draw a line that separates those who belong to the human species from those who do not. The reason for this is that there are a number of humans who also fail to satisfy these criteria. Consider rational agency. There are many human beings who lack the cognitive capacities required for that (Pluhar, 1995; Dombrowski, 1997). In fact, any one of us might eventually lack such capacities, for instance, if we suffered some serious brain injuries. And there are human beings who, due to congenital reasons, have never had those capacities. Moreover, all of us have been in that situation at least once in our lifetime, that is, when we were infants. Of course, it might be argued that infants merit justice because they have the *potential* to have those necessary capacities (Devine, 1978, pp. 503-4). And yet, most of us surely believe that the reason infants deserve justice comes down to the harms they themselves can suffer, and not the harms the future agents they would become could suffer (so terminally ill infants who will never reach maturity should be protected just as much as other children should [Nelson, 1956, p. 143; Pluhar, 1995]).

Something similar happens if we consider those criteria that appeal to relations instead of capacities. We may be far more powerful than nonhuman animals, but it is clear that there are also extreme differences in the power relations that exist between human beings. If we do not owe justice or consideration to nonhuman animals because we are more powerful than them, the same criterion justifies not owing justice or consideration to those humans who are in a situation of weakness. And if having social bonds is the requirement for that, then that would mean that people from different communities have no reason to respect each other, or that the dispossessed and socially excluded are not owed any justice or consideration either.

The fact is that for any criterion we choose, whether it consists in having certain capacities or standing in certain relations, as long as it is not a purely definitional one, there will be human beings who fail to satisfy it. Due to this, it has been argued that, eventually, those views that claim that nonhuman animals are not owed justice or even mere moral consideration end up displaying a speciesist bias: that is, they are simply

discriminating against those who do not belong to a certain species—our species (Pluhar, 1995; Horta, 2010b).

Perhaps it might be argued that even if there are humans who do not meet the criteria mentioned above we should nevertheless ensure their interests are properly protected because of our feelings of compassion, solidarity or sympathy towards them (Benson, 1978; Scruton, 1996). But then we would no longer be claiming that the reason why nonhuman animals cannot be the recipients of justice or consideration is that they fail to satisfy the mentioned criteria, because the view we would then be holding would explicitly reject those criteria. In fact, if this were acceptable, legislators and policy makers would also have reasons to protect the interests of nonhuman animals, given the fact that there are lots of people who have feelings of sympathy for nonhuman animals.

Furthermore, we must note that there are many humans who do *not* have those feelings of compassion, solidarity or sympathy towards other humans, and there are humans abused all around the world precisely because no one has those feelings for them. So this cannot be either a criteria that distinguishes humans from nonhuman animals.

2.3. A CRITIQUE OF THE ARGUMENTS (2): PROCEDURAL APPROACHES AND IMPARTIALITY

We have just seen that the claim that we can exclude nonhuman animals from the realm of justice or consideration simply because we do not care for them while we do care for humans does not work. This should make sense, since it is widely accepted that our feelings of sympathy cannot constitute the basis for providing justice or legal protection. This is why most of us now believe that minorities should be legally protected even when they are in a powerless position, and even if others have no feelings of sympathy for them. A reason why many of us believe this is that when it comes to considering what each of us is owed, we assume that impartiality has to play a basic role. And it can be argued that if we examine the question in a truly impartial way we will claim that the interests of nonhuman animals should be considered as we would want those of humans to be as well.

In fact, impartiality is one of the ideas that inspire procedural approaches to justice. And, even though it has often been believed that these approaches necessarily exclude nonhuman animals, it can be argued that if we examined the question in a truly impartial way we would reach a different conclusion. Suppose, for instance, that we assume a Rawlsian perspective. According to this approach, the principles of justices that we should

accept are those we would choose in an original position in which we put under a veil of ignorance our knowledge of what our actual position in society is, as well as other facts such as our capacities, sex, skin colour, etc.

Defenders of this approach may want to deny that we need to be concerned with the interests of nonhuman animals. Rawls himself (1971, p. 512), as well as others defenders of this approach (Carruthers, 1992), have assumed that nonhuman animals should not be protected by those principles of justice. However, we can reply to this that if we really intend to proceed in an impartial way it seems that in the original position we should also put our cognitive capacities and species membership behind the veil of ignorance. And if we do this, it is hardly believable that anyone would reasonably accept a situation in which the interests of nonhuman animals were not granted proper protection (VanDeVeer, 1979; Singer, 1988; Rowlands, 1998; see also Cohen, 2007).

An objection against this is that it would be impossible for us to imagine not being human. This is disputable, but, in any case misses what a thought experiment such as this one is about: to consider which prescriptions we would support by considering impartially the impact they would have on all those affected by them. Having an exact picture of the precise experiences that all can have is not required for that process to be undertaken meaningfully.

Now, it might well be objected that there are other general problems with employing this Rawlsian approach. Yet the point being made here is that when impartiality is foregrounded, similar conclusions follow. Utilitarianism, for instance, which cares basically for the promotion of wellbeing, requires us to adopt an impartial viewpoint and several versions of it invite us to formulate policies by considering their effect on the situation of all individuals who possess interests (Singer, 1980; Matheny, 2005). And, again, it is inconceivable that in such a situation we would consider it preferable for nonhuman animals not to be adequately protected. Furthermore, according to other theories which give more weight to the situation of those individuals who are faring the worst – such as egalitarian or prioritarian theories of justice – we would again have ample reasons to protect nonhuman animals, and in this case those reasons would be even stronger, since they are usually worse off with than us and these approaches give priority to the worse off (Vallentyne, 2005; Holtug, 2007).

Due to this, we can claim that the Harm Principle cannot be legitimately appealed to in order to block the protection of animals. Those practices that harm nonhuman animals

do harm someone: the animals that are victims of them. So, they should be considered unacceptable according to this principle (see on this Garner, 2005, ch. 2; Cochrane, 2010, p. 69). As we have seen, a consideration of the problem in an impartial way leads us to conclude this. In the next section we will see another argument to reach the same conclusion, by claiming that we should provide protection to all sentient beings.

What we have just seen appears to show that impartiality requires that we not only take into account human interests, but also those of nonhuman animals. But we may ask further why this is so. That is, why impartiality would commit us to provide nonderivative protection to nonhuman animals while not to other entities such as plants, or artworks. If we discard the criteria mentioned above (such as cognitive capacities or special relations), what other criterion may we be left with for that matter? Is there any cogent one that applies both in the case of humans and nonhuman animals?

3. SENTIENCE, MORALLY IRRELEVANT CRITERIA, AND STATE BORDERS

I will now argue that when it comes to being taken into account there is, in fact, a sound criterion available, and it is one that is satisfied by all individuals with interests, be they humans or nonhuman animals. That criterion consists in the mere fact of being sentient. The reasons why this can be considered a sound criterion is, to put it as simply as possible, that the capacity to have positive and negative experiences is what makes it possible that one can be positively or negatively affected, and therefore to have interests that need to be protected.

In order to see why we should accept this a sound reason it may be useful to consider the way in which claims to extend justice to all humans are usually made.

Defenders of universal human rights have often claimed that the morally relevant characteristics are universally shared among humans. That is, they have claimed that the features that should grant that one individual has his or her interests protected are not only possessed by those who happen to belong to a certain culture, nation or state (Pogge, 1989). It is for this reason that the protection of the interests of human beings should be enforced not only in certain countries or regions, but internationally. This is in fact a central idea in the debates concerning global justice.

The question, then, is, what criterion can be considered relevant for that matter? As we have seen, defenders of human rights cannot accept any of those criteria that are

usually presented to exclude nonhuman animals, since there are many humans who are excluded by them too. Instead, as said above, we should look for a criterion that points to that which is valuable.

Now, there are three main theories of what is valuable for individuals. Experientialism, also known as mental state welfarism (not to be confused with animal welfarist views, see Francione, 2000), claims that only positive and negative experiences can be good or bad. Desire-based or preference-based theories maintain that the satisfaction of the preferences of individuals is good while their frustration is bad. According to this position, when we have positive and negative experiences we have attitudes in favor or against those experiences (though we may also prefer, sometimes, things that make us have negative experiences). Finally, objective list theories maintain that there are several things that can be objectively good and bad for us, which include but are not exhausted by our positive or negative experiences. Other features to be taken into account, on this view, might include health or lack of it, achievement of our aims and goals, meaningful relations with others, development of our abilities, etc. These are all views with a long history, experientialism tracing back at least to the Epicureans, preferentialism being the default view assumed among economists and objective list theories tracing back at least to Plato and Aristotle (for discussions of these theories see Griffin, 1986; Sumner, 1996; Feldman, 2004).

Each of these theories differs in terms of its account of wellbeing, but they agree on one thing: that in order to be recipients of value it is not necessary to satisfy the criteria mentioned above, such as the possession of rational agency or social relations, but only to be sentient. This is quite clearly the case for experientialists and preferentialists, where conscious experience is obviously the necessary and sufficient condition for the possession of well-being. However, it is also true of objective list accounts of well-being. While such accounts may give several criteria of what makes a valuable life, it would be implausible if enjoyable conscious experiences were not one of them (Nussbaum, 2006, ch. 6). Therefore, even if each of these theories differs in terms of its account of wellbeing, they must conclude that all sentient animals are bearers of value (Bernstein, 1998).

This is where the key point stated in this paper rests. What we have seen means that any normative position that takes into account that which is valuable will have to conclude

that the interests of sentient animals must be protected. Any theory of justice that is concerned with what is of value to individuals must include sentient animals.

Now, this argument, by claiming the relevance of sentience, entails that not only do human beings have morally significant features, but so too do sentient animals. From here we can claim that if humans have fundamental rights it has to be because they are sentient, vulnerable beings that possess basic interests (see for instance Buchanan, 2004; Caney, 2007) Since many animals are also sentient, vulnerable beings with basic interests, they too must accordingly possess fundamental rights as well (Cavalieri, 2001). This means that the same arguments presented by proponents of universal human rights and global justice support the claim that the interests of nonhuman animals should be globally protected as well. That is, it means that the protection of animal interests should not be dependent on the different legislations that states have. As it has been argued in particular by defenders of cosmopolitan approaches to global justice, being born in Sweden or in Somalia is irrelevant to what a human being is owed as a matter of basic justice. After all, basic justice is owed to all those who possess the morally relevant features – and hence to both Swedes and to Somalis. But if this is the case for humans, then it must apply to nonhuman animals too. That is, if nonhuman animals possess the morally relevant features – that is, sentience – then being born in Sweden or in Somalia should be equally irrelevant for the award of basic rights to them. Why? Because this fact has nothing to do with what the theories of wellbeing claim that is valuable for us, which is what can constitute the basis for the attribution of rights.

Moreover, these are not only reasons in favor of providing international protection to the interests of animals. They are also reasons to believe this protection should be a significantly strong one. If the arguments we have seen are right, then they would imply that, as it happens when some basic human rights are at stake, the protection of the interests of nonhuman animals is an important matter of justice.

4. PRACTICAL ARGUMENTS: HOW ANIMAL INDUSTRIES ARE PROTECTED INTERNATIONALLY

In addition to this general argument for extending global justice to all sentient nonhuman animals, there are other, more particular, practical reasons why the protection of the interests of animals should be brought to the international arena, and not just be left for sovereign states to deal with. This is so because there currently are multilateral agreements

and supranational institutions that put limits on the ways in which nonhuman animals may be protected domestically. This happens for reasons that do not have to do at all with the defence of animals' interests, but, on the contrary, with the protection of the industries that use animals as resources. Here are two examples of this.

The European Union's Common Agricultural Policy (which currently spends around 40% of the European Union's total budget [European Commission, 2012]) gives enormous subsidies to the beef, dairy, and the ovine and caprine industries, among others. These subsidies increase significantly the number of animals that are made to suffer and which are killed – by ensuring that those harmful practices continue even when consumer demand would require far fewer animals to be used.

In addition, the World Trade Organization has the capacity to impede or make it impossible for states to introduce measures that limit or ban altogether the import of goods whose production necessitated the harming of nonhuman animals. This means that even if a certain state intended to ban some use of animals in its territory it might be ultimately unable to do so. (A case that illustrates this is the recent controversy after the appeal by Canada and Norway asking the WTO to disallow the European Union ban on products coming from the slaughter of seals, on the basis that it allegedly violates its regulations [see Gambardella, 2010].)

Since these are examples of international bodies working to protect practices which inherently harm nonhuman animals, the only way to defend those affected animals is by taking action at the same level, that is, in the international arena.

5. OBJECTIONS

5.1. THE CLAIM THAT THE INTERNATIONAL COMMUNITY NEED NOT CORRECT ALL INJUSTICES

There are different objections that can be presented against the claims made in the previous section. One has to do with the conclusions to be drawn from the idea that the place where one was born is morally irrelevant. Most people would agree that this is crucially important when it comes to granting someone some basic entitlements to justice. However, it can be argued that this does not imply that the international community should be in charge of correcting all the injustices that some (or many) have to suffer

simply because they were born in a certain place rather than another one. Indeed, it has been argued that the international human rights regime should be restricted to remedy only those injustices that the international order itself creates, but not other injustices, even when they depend on what country or state those who suffer them were born (Macklem, 2007; Beitz, 2009).

This would be a strong line of criticism if there were nothing going on in international relations that created a situation of injustice to animals. However, this is not so. We have seen some examples of the ways in which the current international order creates itself an unjust situation for animals. International bodies actively protect animal exploitation industries in ways, and animals have no voice to oppose this. Moreover, the way in which this is done actually makes it in some cases impossible for states to remedy that situation. As we have seen, even if most citizens in a certain state intended to prohibit at least certain forms of animal exploitation they may be unable to do so. But it is not they who will actually suffer the consequence of this, but the animals. And sections 2 and 3 have provided us with reasons to conclude that the interests of animals should be taken into account, in ways that are incompatible with the harms that the animal exploitation industries that are currently protected internationally inflict on them. Accordingly, we can conclude that the present situation is therefore unjust. And it is the international regime that creates this situation. Moreover, it is only in the international arena that it can be solved. This makes it fully legitimate to claim that the international community must aim at solving it. This means that not only defenders of what has been called “non-relational” cosmopolitanism can agree with the conclusions presented in this paper. Even if one does not share the view that all injustices should be remedied by international bodies we still have reasons to accept the conclusion that the interests of animals should be protected internationally (see on this Donaldson and Kymlicka, 2011).

5.2. THE APPEAL TO CULTURAL DIVERSITY

Another objection can arise because, as we have seen, if we take seriously the case for the international protection of nonhuman animals, that will set serious limits on the internal autonomy of different countries, and impose changes in their domestic legislations (just as it happens in the case of other pieces of international legislation and agreements). And it may of course be objected that this would amount to an unjustified *imposition* of values

that are completely alien to the cultures and traditions of other people. Some may argue that some practices, such as hunting, killing, eating or harming animals in other ways, are a deep-rooted part of many cultures. So attempts to provide nonhuman animals with international safeguards would constitute a gross imposition that may pose a serious threat to the very existence of those cultures (Wenzel, 1991; Lynge, 1992). Moreover, it may be argued that it would be an illegitimate imposition, on the basis that those who do not belong to a certain group do not have the right to impose their values on members of that same group.

In response to this it may be interesting to point out in the first place that it is highly dubious that any culture really needs to include harming nonhuman animals in certain ways as one of its defining, essential, features. Consider an example of this that has often been discussed in the literature, and which in fact has to do with an international agreement already in place, the international ban of whaling. In the late 90s, the Makah people (a native community from the Northwest of the US) asked to be exempted from this ban on whaling. The Makah argued that killing whales was part of their cultural identity. But, as several authors have pointed out (Barry, 2002, p. 255; Cochrane, 2010, p. 89), when the Makah demanded this they had not been killing whales for some 70 years.

Of course, harming nonhuman animals in certain ways may be part of a culture, but cultures change. In fact, this not only happens in the case of the Makah; all cultures are changing all the time. To see this we can consider also the case of the Inuits. This can be interesting because the Inuits have also protested against international measures having to do with the use of animals. In particular, they have objected that a ban on seal imports as approved by the European Union threatened their traditional way of living (Wenzel, 1991; Lynge, 1992). Now, the point here is that both the Makah and the Inuit have claimed that they be exempt from laws forbidding the killing of certain animals on the grounds that they challenged their traditional ways, but their ways of living are no longer the ones their ancestors used to have. They now have cars and supermarkets, which their ancestors did not have. This obviously meant a change in their cultures, but one that peoples such as the Inuit or the Makah have certainly accepted. Some may argue that this has not really promoted their interests and that they would be better off if they continued to live as their ancestors have. But the fact is that they do not renounce those goods and services that make their lives more comfortable. If, all else being equal, cultural changes that promote

human interests are acceptable, then there can be no reason why cultural changes that promote animal interests cannot also be equally acceptable.

Moreover, even if harming animals were essential to a certain culture, it would still be hard to argue that such harms should go on. Barry (2002, pp. 253-54) makes this point by comparing the case of the Makah people with the invasion and mass killing of the Moriori people by the Maori in the 19th century. Even if fighting and enslaving others is part of warrior cultures such as the Maori, it is nevertheless something that cannot be considered acceptable, due to the harms caused to others. And, given the arguments presented in sections 2 and 3, this is so whether the victims are humans or nonhuman animals. Moreover, even those who want to argue that cultural diversity as such is something good, can easily accept that there can be cultures that are not (Casal, 2003, p. 22). And, as Cochrane (2011, p. 192) has pointed out, “[t]he loss of a culture that is defined entirely by the grave harm it causes to animals is not much of a loss”.

Barry’s example of the Maori and the Moriori also shows us what can be replied to the claim that those who do not belong to a certain community should not impose their values on the members of it. Those communities that protest against the international protection of nonhuman animals do so because they claim that their interests should be respected against the preferences of others. But this position can only be defended consistently if these communities are prepared themselves to respect others as well, and it would not allow them to impose their will on others by harming them. And this is totally incompatible with the practices they intend to defend. We have seen that we must reject as speciesist the view that we only need to respect human interests, and not those of other animals. Therefore, if we accept the argument that we should respect the interests of others, that means we have to respect sentient animals too. And respecting animals’ interests is incompatible with hunting and killing them.

This means that the very demands for respect on which the argument we are addressing here is based end up supporting the protection of nonhuman animals, rather than the opposition to it.

Finally, we must note that enforcing animal protection internationally would not only have consequences for those communities with certain traditions harmful for animals that are especially visible, or even those which currently have no animal legislation at all (even if in the short term these are, as Otter, O’Sullivan and Ross [2012] point out, the groups who are likely to be focused upon). As I have said before, those countries in which

there is already some animal legislation, fail to protect animals anywhere near adequately enough. Even in states with the most advanced animal protection laws, nonhuman animals are still treated as resources for human use. For instance, European farmers and customers who consume animal products and services are engaged in ways of relating to animals that are obviously harmful, just as much as Arctic whalers and seal hunters. Protecting the interests of animals in ways that are meaningful and robust will demand radical changes from *all* political communities.

6. WHICH ANIMAL INTERESTS SHOULD WE PROTECT?

Finally, there is the problem of just which animal interests we should seek to protect. I have previously drawn an analogy between the case for the recognition of universal human rights and the case for the international protection of animals. Yet it is usually assumed that the latter should be much more limited, on the assumption that our duties towards animals as individuals should be basically negative ones aimed at sparing domestic animals any gratuitous suffering. Now, as Francione (2000) has persuasively argued, even if we just accepted this view (which he finds insufficient) we would still have reasons to stop most of the ways in which we use nonhuman animals (since, strictly speaking, it is not necessary to harm them as we do). However, there are reasons to think that this way of understanding the kind of protection we should provide to animals is in fact incomplete and inconsistent.

First, if relieving suffering is a positive thing, it seems that depriving someone from positive experiences is then a negative thing. Accordingly, depriving a being who can have positive experiences from having them (as it happens if we kill her) is something negative for that being (McMahan, 2002). This gives us reasons to claim that the legal protection of nonhuman animals should not be restricted to a minimization of the suffering they endure, but should also aim at safeguarding their lives.

Second, many legal systems include not only negative restrictions on the ways in which we may act towards human beings, but also positive duties to promote their interests. Rights to education, social benefits, etc. are examples of this. If the interests of nonhuman animals deserve consideration, it is not clear why their protection should be limited to negative duties towards them (the recent piece of legislation introduced in Italy

stating drivers' obligation to aid animals victims of accidents is an example of this [Italian Ministry of Infrastructure and Transport, 2012]).

Third, even if domestic animals are commonly seen as the primary recipients of our duties (Anderson, 2004, p. 285; Palmer, 2010), they are not the only animals that can be affected positively or negatively by our actions. There are many ways in which we can harm and benefit those animals that live in the wild. In fact, it is perfectly possible to come to the aid of many animals who suffer significantly from natural causes (Cooke, forthcoming). As such, if the satisfaction of the interests of nonhuman animals is a good to promote, it is again not clear why legislation in this field should not safeguard animals living in the wild as well as domestic ones. As I have pointed out above, environmental law cannot really cover this, since what is good for individual nonhuman animals is commonly rather different from what is good for the environment; in fact the defense of biodiversity can be even harmful for individuals (this is explained in Dawrst, 2009; Horta, 2010a). What these animals actually require is to be helped as sentient, vulnerable individuals, just as humans would require to be aided if they were in the same situation (see Ng, 1995; Cowen, 2003). While taking care of this can be done by single states it can be carried out more successfully through international cooperation between states.

Fourth, as Siobhan O'Sullivan (2011) has pointed out there is not only an external inconsistency between the ways in which nonhuman animals and human animals are treated and legally protected: there is also an internal inconsistency between the different ways we treat animals depending on whether we use them as resources or not, and on what purpose we use them for. Animals regarded as "companion animals", for instance, are treated and legally considered very differently from those that are bred for food, even if they have basically the same interests. If bare sentience is what counts for basic justice, as I have argued, then no sound reason appears to justify this.

7. CONCLUSION

In this paper we have seen that there are compelling reasons to believe that the interests of nonhuman animals matter morally, and that taking this seriously entails that providing protection for these interests in the international arena should be an important political matter. In fact, these same reasons must lead us to question the current massive harms that we inflict upon nonhuman animals – harms which are inherent to their use as resources. I

have argued that if speciesist attitudes and the current disregard of nonhuman animals are untenable, then nonhuman animals should enjoy a strong, internationally institutionalized, protection. In fact, the arguments in favor of that protection not only require that the use of animals as resources be regulated, but actually conclude it is unacceptable, and demand its end. We may be pessimistic about whether a real move in this direction is actually possible, given that they enjoy such scant protection at the moment. And yet, one should not be too pessimistic. There is a growing and important number of people in different countries who think that the harms we inflict to animals is unacceptable (the growth of the number of vegans around the world is quite revealing regarding this). It is only to be expected that the continued growth of this group will result in changes occurring in the future regarding the protection of the interests of animals, including at the international level.

Now, from what I have said above it may be understood that the view I favor is that animal advocates should focus their strategy on securing that international treaties are agreed and/or international bodies are created to defend animals. However, what I have said here does not necessarily imply this. In fact, I believe that, in general, significant changes in the political arena occur only as long as they are triggered by changes in society, which requires a shift in the attitudes of the public. Given this, and given also that there are still many people all around the world who just do not care about nonhuman animals, it seems that the most strategic course of action for activists at this moment would be to focus on changing speciesist attitudes. Without this, impatient efforts to achieve political and legislative changes immediately will hardly be able to make a significant difference for animals.

But there is something important regarding this that does follow from the arguments presented here. Activists tend to focus their work in their own countries. What we have seen shows that this may not be the right approach. When they have the resources to do it, they should also try to make changes in other countries too. Not only are there sound practical reasons to suggest that they should do this: but there is also an important moral imperative based simply on the fact that all sentient animals are morally important regardless of their location.

REFERENCES:

- Anderson, E. (2004) 'Animal Rights and the Values of Nonhuman Life', in C. Sunstein and M. C. Nussbaum (eds.), *Animal Rights: Current Debates and New Directions*. Oxford: Oxford University Press, pp. 277-98.
- Barry, B. (2002) *Culture and Equality: An Egalitarian Critique of Multiculturalism*. Cambridge: Harvard University Press.
- Beitz, C.R. (2009) *The Idea of Human Rights*. Oxford: Oxford University Press.
- Benson, J. (1978) 'Duty and the Beast', *Philosophy*, 53, pp. 529-49.
- Bernstein, M.H. (1998) *On Moral Considerability: An Essay on Who Morally Matters*. Oxford: Oxford University Press.
- Buchanan, A. (2004) *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*. Oxford: Oxford University Press.
- Callicott, J.B. (1989) (ed.), *In Defense of the Land Ethic: Essays in Environmental Philosophy*. Albany: State University of New York Press.
- Caney, S. (2007) 'Global Poverty and Human Rights: The Case for Positive Duties', in T. W. Pogge (ed.), *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor*. Oxford: Oxford University Press, pp. 275-302.
- Carruthers, P. (1992) *The Animal Issue: Moral Theory in Practice*. Cambridge: Cambridge University Press.
- Casal, P. (2003) 'Is Multiculturalism Bad for Animals?', *The Journal of Political Philosophy*, 11, pp. 1-22.
- Cavalieri, P. (2001) *The Animal Question: Why Nonhuman Animals Deserve Human Rights*. Oxford: Oxford University Press.
- Cochrane, A. (2010) *An Introduction to Animals and Political Theory*. Basingstoke: Palgrave Macmillan.
- Cochrane, A. (2011) *Animal Rights without Liberation*. New York: Columbia University Press.
- Cohen, A.I. (2007) 'Contractarianism, Other-Regarding Attitudes, and the Moral Standing of Nonhuman Animals', *Journal of Applied Philosophy*, 24, pp. 188-201.
- Cooke, S. (forthcoming) 'Perpetual Strangers: Animals and the Cosmopolitan Right', *Political Studies*.
- Cowen, T. (2003) 'Policing Nature', *Environmental Ethics*, 25, pp. 169-82.
- Dawrst, A. (2009) 'The Predominance of Wild-Animal Suffering over Happiness: An Open Problem', *Essays on Reducing Suffering*. Available from: <http://www.utilitarian-essays.com/wild-animals.pdf> [Accessed 17 April 2010].
- Devine, P. (1978) 'The Moral Basis of Vegetarianism', *Philosophy*, 53, pp. 481-505.

- Dombrowski, D. A. (1997) *Babies and Beasts: The Argument from Marginal Cases*. Chicago: University of Illinois.
- Donaldson, S. and Kymlicka, W. (2011) *Zoopolis: A Political Theory of Animal Rights*. New York: Oxford University Press.
- European Commission (2012) *The Common Agricultural Policy: A Partnership between Europe and Farmers*. Luxembourg: Publications Office of the European Union.
- Francione, G.L. (2000) *Introduction to Animal Rights: Your Child or the Dog?* Philadelphia: Temple University Press.
- Feldman, F. (2004) *Pleasure and the Good Life*, Oxford: Oxford University Press.
- Gambardella, M., (2010) 'The EU Ban on Seal Products: Some Customs and WTO Open Questions', *Global Trade and Customs Journal*, 5, pp. 145-154.
- Garner, R. (2005) *The Political Theory of Animal Rights*. Manchester University Press: Manchester.
- Griffin, J. (1986) *Well-Being: Its Meaning, Measurement and Moral Importance*, Oxford: Oxford University Press.
- Holtug, N. (2007) 'Equality for Animals,' in J. Ryberg, T. Petersen and C. Wolf (eds.), *New Waves in Applied Ethics*, Basingstoke: Palgrave Macmillan, pp. 1-24.
- Horta, O. (2010a) 'The Ethics of the Ecology of Fear against the Nonspeciesist Paradigm: A Shift in the Aims of Intervention in Nature', *Between the Species*, 13/10, pp. 163-87. Available from: <http://digitalcommons.calpoly.edu/bts/vol13/iss10/10/> [Accessed 22 May 2012].
- Horta, O. (2010b) 'What Is Speciesism?', *Journal of Agricultural and Environmental Ethics*, 23, pp. 243-66.
- Leahy, M.P.T. (1991) *Against Liberation: Putting Animals in Perspective*. London: Routledge.
- Lynge, F. (1992) *Arctic Wars, Animal Rights, Endangered Peoples*, Hanover: University Press of New England.
- Machan, T. (2004) *Putting Humans First: Why We Are Nature's Favorite*. Lanham: Rowman and Littlefield.
- Macklem, P. (2007) 'What is International Human Rights Law? Three Applications of a Distributive Account', *McGill Law Journal*, 52, pp. 575-603.
- Matheny, G. (2006) 'Utilitarianism and Animals', in P. Singer (ed.), *In Defense of Animals: The Second Wave*. Malden: Blackwell, pp. 13-25.
- McCloskey, H.J. (1965) 'Rights', *Philosophical Quarterly*, 15, pp. 115-27.
- McMahan, J. (2002) *The Ethics of Killing: Problems at the Margins of Life*. Oxford: Oxford University Press.
- Melden, A.I. (1988) *Rights in Moral Lives. A Historical-Philosophical Essay*. Berkeley: University of California Press.

- Italian Ministry of Infrastructure and Transport (Ministero delle Infrastrutture e dei Trasporti) (2012) 'Regolamento di attuazione dell'articolo 177, comma 1, del decreto legislativo 30 aprile 1992, n. 285, come modificato dall'articolo 31, comma 1, della legge 29 luglio 2010, n. 120, in materia di trasporto e soccorso di animali in stato di necessità (GU n. 289 del 12-12-2012)', *Gazzetta Ufficiale*, 289, pp. 1-9.
- Narveson, J. (1987) 'On a Case for Animal Rights', *The Monist*, 70, pp. 31-49.
- Nelson, L. (1956) *System of Ethics*. New Haven, Yale University Press.
- Ng, Y.-K. (1995) 'Towards Welfare Biology: Evolutionary Economics of Animal Consciousness and Suffering', *Biology and Philosophy*, 10, pp. 255-85.
- Nussbaum, M.C. (2006) *Frontiers of Justice: Disability, Nationality, Species Membership*. Cambridge: Harvard University Press.
- O'Sullivan, S. (2011) *Animals, Equality and Democracy*. Basingstoke: Palgrave Macmillan.
- Organisation for Animal Health (OIE) (2012) *Terrestrial Animal Health Code (TAHC)*, 21st ed. Paris: OIE.
- Otter, C., O'Sullivan, S. and Ross, S. (2012) 'Laying the Foundations for an International Animal Protection', *Journal of Animal Ethics*, 2, pp. 53-72.
- Palmer, C. (2010) *Animal Ethics in Context*. New York: Columbia University Press.
- Petrinovich, L. (1999) *Darwinian Dominion: Animal Welfare and Human Interests*. Cambridge: MIT Press.
- Pluhar, E. (1995) *Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals*. Durham: Duke University Press.
- Pogge, T.W. (1989) *Realizing Rawls*. Ithaca: Cornell University Press.
- Rawls, J. (1971) *A Theory of Justice*. Cambridge: Harvard University Press.
- Rowlands, M. (1998) *Animal Rights, A Philosophical Defence*. London: MacMillan Press.
- Scruton, R. (1996) *Animal Rights and Wrongs*. London: Metro.
- Shelton, J.-A. (2004) 'Killing Animals that Don't Fit in: Moral Dimensions of Habitat Restoration' *Between the Species*, 10/4, 1-21, Available from:
<http://digitalcommons.calpoly.edu/bts/vol13/iss4/3/> [Accessed 22 May 2012].
- Singer, B.A. (1988) 'An Extension of Rawl's Theory of Justice to Environmental Ethics', *Environmental Ethics*, 10, pp. 217-31.
- Sumner, L.W. (1996) *Welfare, Happiness, and Ethics*. Oxford: Oxford University Press.
- Vallentyne, P. (2005) 'Of Mice and Men: Equality and Animals', *Journal of Ethics*, 9, pp. 403-33.
- VanDeVeer, D. (1979) 'On Beasts, Persons and the Original Position', *The Monist*, 62, pp. 368-77.
- Wenzel, G. (1991) *Animal Rights, Human Rights: Ecology, Economy and Ideology in the Canadian Arctic*. London: Belhaviour Press.