

Neo-Republicanism as a Route to Animal Non-Domination

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In this article, we reinterpret the current political turn in animal rights theory in terms of republican as opposed to liberal political theory. By appealing to the values of liberty and fraternity as well as equality, we argue for a conception of animal liberation from human *domination* and not from *humanity* per se. This establishes a basis of liberty and fraternity in our cooperative relationships with animals in a “zoopolis,” or interspecies political community. We contend that such a basis for interspecies political cooperation is not available on the more traditional model of animal liberation, where rights are derived from weak equality of the species.

Keywords:
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INTRODUCTION

Liberalism and republicanism both appeal to a triad of values in formulating the rights of human persons and citizens: liberty, equality, and fraternity. But animal rights theory focuses extensively on equality to the detriment of liberty and fraternity. Here, equality for animals appeals to species egalitarianism where humans and animals are on a morally equal baseline. Animals come up short, however, when it comes to the value of liberty understood as exercising the powers of autonomy or rational self-direction (Smith, 2012). Likewise, when it comes to fraternity with animals as members of the same political community (or “zoopolis”), the problem of animals lacking the autonomy necessary for citizenship and civic participation prevents this value from being realized (Hinchcliffe, 2015). Consequently, all that remains is a weak basis of species egalitarianism sufficient to ascribe rights—as legally protected statutes—to animals. But this entails recognizing that animals cannot meaningfully enter into political community with humans.

This kind of assessment is challenged, however, by the recent “political turn” in animal rights (Hobson, 2007; Cochrane, 2013; Wissensburg, 2014). The turn attempts to broaden the appeal to values besides equality, highlighting instead the important role to be played by liberty and fraternity. So far, this broadened appeal to liberty and fraternity has been articulated in terms of liberal theory. In this paper, however, we rearticulate the appeal to liberty and fraternity, characteristic of the po-

litical turn in animal rights, in terms of neo-republican theory. We believe that by taking the political turn in a republican direction we can offer an account superior to liberalism of the triad of liberty, equality, and fraternity in our relations with animals. Our neo-republican account goes beyond the ascription of animal rights on the basis of weak species egalitarianism. We argue that the mere ascription of rights to animals necessarily leaves them systemically or structurally dominated within the zoopolis. But there are significant hurdles to arguing for a republican conception that makes sense of non-dominating relations with animals. In particular, it would appear that the basis of egalitarianism between human and non-human animals is so weak that there is no plausible basis for interspecies reciprocity. Non-domination requires reciprocity between those who assign rights and statuses and those to whom these are assigned *in the sense that* the latter must be able to challenge the assignments made by the former (see for example Pettit, 1999; Richardson, 2002; Bohman, 2007). But non-human animals cannot plausibly perform this task of challenging the rights assigned to them by humans, with the consequence that there is no reciprocity sufficient to warrant talking about an interspecies relationship of non-domination.

In this connection, Wissensburg (2014) has argued that any attempt to advance a neo-republican conception of animal non-domination must necessarily fail—indeed, that our relationships with animals are unavoidably dominating, resembling feudalism rather than republi-

canism. Justified on paternalistic and anthropocentric grounds, such relations may be rendered benign, but they are nonetheless unavoidably relations of domination. Contrary to this view of feudalism for animals, however, we contend that non-dominating interspecies relations are both feasible and desirable. We argue that the incapacity of non-human animals to challenge the rights and statuses assigned to them by human policy-makers presents no insurmountable obstacle to animal non-domination, given a sufficiently nuanced understanding of their vulnerabilities to domination in a zoopolis.

We proceed in the following steps. Section 1 examines animal liberation and rights in the work of Singer and Regan as well as various forms of liberal contractualism in light of the idea of species egalitarianism. Section 2 considers the extreme consequence of this focus on egalitarianism in abolitionism and extinctionism, positions which advocate for the liberation of animals from all human interference. We then refocus on the ideas of liberty and fraternity over equality in the political turn in animal rights theory. From here, in Section 3 we develop a neo-republican route to animal non-domination by considering the possibilities of interpersonal and systemic domination with respect to subjects of interference who are not also political agents. In Section 4 we consider an objection to the republican route, replying to this objection in the final Section 5. All in all, we provide an account of the prospects for liberating animals from human *domination* rather than humanity per se. This establishes a basis of liberty and fraternity in our cooperative relationships with animals in a zoopolis, or interspecies political community. Such a basis for interspecies political cooperation is not available on the more traditional model of animal liberation, where rights derive from weak equality of the species.

1. SPECIES EGALITARIANISM AND CONTRACTUALISM

Contemporary animal rights theory has its origin in the idea of species egalitarianism, placing humans and animals on an equal moral level (Coeckelbergh, 2009). The premise of such egalitarianism is that—provided they meet a threshold of sentience (Singer, 1975) or can be construed as the subjects-of-a-life (Regan, 1983)—members of the human and animal community are equally morally considerable subjects, and rights-holders by extension. Here, species egalitarianism was immediately linked to politics insofar as it was the basis of the animal liberation movement. By comparison with hu-

man liberation movements, equality of the species was equated with gender equality and racial equality (Fjellstrom, 2002). Nonetheless, as tied to the political goal of animal liberation, species egalitarianism did not emerge from liberal political theory as much as from philosophical ethics. Its principal proponents were Peter Singer (1975) and Tom Regan (1983) who, respectively, argued for the equal moral considerability of all species on the basis of animal interests and moral claims about animal rights. But, in Singer and Regan alike, species egalitarianism turned out to be of a fairly weak sort. Indeed, they both considered humans and animals to be equal only in some ethically significant respects, such as a common interest in not suffering or a moral claim not to have suffering needlessly inflicted on them. Certainly, this did not allow for equality between humans and animals in terms of civic participation. All in all, equal moral considerability resulted in equal treatment for humans and animals only when they had the same interests or interests of some equivalent weight or importance.

Despite the weak character of its egalitarianism, the model of animal rights in philosophical ethics provides an indispensable foundation for the subsequent political turn on both liberal and republican interpretations. Without such a minimal baseline of equality between humans and animals, it is unlikely that the extension of rights to other creatures would have gained hold at all. But, while laying this foundation, animal rights encountered an obstacle in the dominant contractualism of liberal theory. After all, contract proved to be deeply ambivalent regarding species egalitarianism and animal rights. On the one hand, it could be thought to deny egalitarianism and political rights for animals on the ground that the framers of any contract, determining the principles of justice, must be rational agents tasked with selecting principles for all other rational agents (Abbey, 2007). In contractualism, this means that the framers are representatives of ordinary citizens having to select principles of justice in an original position with its veil of ignorance. Here, such representative citizens know the general truths of psychology, sociology, and economics. But they do not know particular facts about themselves, including their conception of the good, their socioeconomic status, or even their sex and race. Behind this veil of ignorance, they thus have to select principles that would be fair to all rational agents, regardless of particular differences of class, sex, race, and so on. But this contractualist framework presupposes *inegalitarianism* of species, along with the inapplicability of political rights and justice to animals. At any rate, it does so to the ex-

tent that animals are not rational agents, analogous to citizens (Scruton, 2000; Ladwig, 2015).

On the other hand, however, contractualism could just as well be thought to affirm species egalitarianism and the political rights of animals. This follows if it is denied that the contractualist approach applies only to rational subjects, even if the framers of a contract have to be conceived as subjects of this sort. So, for example, Mark Rowlands (1997) argues that the veil of ignorance should be thickened to include species membership among the list of informational constraints on what representative citizen selecting the principles of justice may know. In this respect, he appeals to the Rawlsian intuition that individuals should not benefit from the possession of characteristics, such as rational agency, for which they are not responsible. In other words, it is morally arbitrary for rational agents to benefit from their rationality and agency, so that equal moral considerability of animals is achieved by placing these human characteristics behind the veil (Garner, 2013). Nonetheless, species egalitarianism remains of a weak sort, at least insofar as the rational agency of the representatives behind the veil of ignorance is an ethically relevant characteristic of humans qualifying them for the role of attributing rights and protections to animals. This, of course, does not entail prioritizing human interests over animal interests, insofar as knowledge of species membership is hidden behind the veil. But it does entail the priority of human judgment in the attribution of rights and the subsequent fulfillment of duties. Such a priority of human judgment in framing a contract is acknowledged by Andrew Cohen (2007) who argues that animals are owed direct moral considerability as stringent as that owed to rational human agents. But animals acquire their moral status only indirectly via such agents in the framing process (Garner, 2012a; Smith, 2012).

To be sure, there are many other versions of contractualism applied to the rights of animals (see for example Garner, 2012a, for an application of a Scanlonian contract). It is not our intention, however, to provide an exhaustive survey of them all. Instead, we wish only to emphasize the following point. Although they may be understood as attempting to embrace the value of species egalitarianism, contractualist accounts of animal rights strongly reinforce the weak character of the claim to human/animal equality. Hence, contractual animal rights depend on the priority and sufficiency of human judgement in favor of animal welfare (Rowlands, 1997) or they render them dependent on human representatives facilitating reasonable agreement about the desira-

bility of animals having any contractually-based rights (Garner, 2012b). Keeping in mind this priority of human judgment in the representation of animals, we turn next to the broadening of the appeal to values besides equality, such as liberty and fraternity, in the political turn.

2. THE POLITICAL TURN AND THE BROAD APPEAL TO LIBERTY AND FRATERNITY

According to Tony Milligan (2015), the political turn may be understood best as an attempt to downplay the importance of the value of egalitarianism for animal rights. Indeed, he argues that the appeal to equality in Singer and Regan leaves them vulnerable to their abolitionist critics, such as Gary Francione (1996, 2008) and Joan Dunayer (2004). Here, abolitionists repudiate the weakening of species egalitarianism in Singer and Regan, which we have shown above to be reproduced in liberal contractualist accounts of animal rights. Indeed, they contend that if humans are to be regularly prioritized in their relations to animals, then the resulting human/animal relations are not really egalitarian at all. Instead, they should be understood as a continuation of speciesism. That the priority assigned to humans makes no reference to “humanity”—as a justificatory term of art—makes no difference: weak species egalitarianism is still speciesist, from this point of view. Consequently, abolitionists commit instead to a strong species egalitarianism ruling out any regularized priority of human over animals interests for whatever reasons (Regan, 1987).

But this strong egalitarian commitment of abolitionism results in the closely related position of extinctionism. This entails rejecting all reformist approaches to animal rights which take a pragmatic view of promoting animal interests under the mantle of rights. On the extinctionist view, if animal dependency on humans is an entrenched feature of human/animal relations, then the dependent animals should be prevented from breeding. Indeed, this is the only way to guarantee the prevention of similar relations of abusive dependency in the future. But we also note that extinctionism would equally be a criticism of contractualism in which human judgment is prioritized and—as in Garner’s (2012a) appropriation of Scanlon—prioritized in such a way as to leave the rights of animals entirely dependent on enough citizens reasonably agreeing upon them as being “worthwhile.” In this respect, we would add to Milligan’s analysis that liberal contractualism offers no better resource from within political theory for countering extinctionism than the ethical approaches of Singer and Regan. While it has been described in the pejorative as fundamentalist

(Garner, 2012b) and puritan (Milligan, 2015), extinctionism can, at least, be said to have the virtue of being fully consistent in its embrace of species egalitarianism. Neither the philosophical ethicists, Singer and Regan, nor the liberal contractualists, Rowlands and Garner, can make any such claim to consistency in their appeals to the value of equality with animals. All of them find it necessary, in one way or another, to significantly qualify their claims to equality between the species by appeal to differences between humans and animals in their capacities for autonomy and civic participation.

Even if one were to reject as overblown the extinctionist assertion that weak species egalitarianism is no more than speciesism under another name, one is left wondering why there should be such an emphasis on egalitarianism in animal rights discourse. To be sure, equality always contributes to our conception of rights and of what we owe to one another. But, as Milligan correctly notes, the effect of a singular overarching focus on equality is the almost total impoverishment of the values of liberty and fraternity. At any rate, this is the effect of such a focus if species egalitarianism is embraced in its strong sense. Here, liberty is reduced to an exclusively negative form of non-interference. After all, in the case of those animals whose relations with us are characterized by entrenched dependency, like most domestic animals, their liberation from such abusive dependency calls for their extinction (Burgess-Jackson, 1998). As Milligan soberly puts it, strong species egalitarianism means that any “positive obligations and socially based commitments to one another are easily lost sight of.” (2015, 10) Palmer (2010), Clement (2003), and Midgley (1983) famously foreground positive duties to animals based on relations. It is in this context of concern about the impoverishment of other values, such as positive liberty and fraternity or solidarity, brought about by the singular focus on equality, that Milligan identifies the current political turn with Donaldson and Kymlicka’s *Zoopolis* (2011).

Rather than making a sweeping appeal to species equality the center of their theory of what we owe to animals, proponents of a zoopolis must relegate equality to a background role, as stressed by advocates of differentially or relationally proscribed positive rights (Henderson, 2009). While acknowledging a background of equal universal rights of animals as sentient beings or subjects-of-a-life, they also foreground the particular, or differential, rights of various categories of animals: domestic, sovereign, and liminal. In this respect, Donaldson and Kymlicka (2013) appeal to an analogy with

the particular rights of national citizens, independent nation states, and denizens (who claim various legal statuses within our own national borders, ranging from tourists and business travelers to asylum seekers). On this analogy, domestic animals are then seen as our domestic co-citizens, wild animals as wild sovereigns, and liminals as various sorts of denizens occupying various positions between co-citizen and wild sovereign. Hence, what we owe in terms of positive rights and duties to co-national citizens will relevantly differ from what we owe to the citizens of other sovereign countries and what we owe to denizens residing within our borders. Likewise, what we owe to domestic animals with whom we share our households will differ from what we owe to wild animals and what we owe to liminal animals. To be sure, Donaldson and Kymlicka’s analogy has been widely criticized for overgeneralizing human/animal relations that are considerably more complex than their rather simple tripartite framework allows (von Essen & Allen, 2016a). But the significance of their approach for sorting out patterns of human-animal relations and their associated positive obligations (Silverstein, 2013) remains vitally important. As Rogers puts it: “Animal rights theorists must either work within the theory put forward by Zoopolis or explain why not.” (Rogers, 2012, p. 510)

This, then, shifts the focus of attention to the particularity of what we owe to animals, against the backdrop of a weak species egalitarianism that is geared to recognizing ethically significant differences between humans and the variety of animals with whom we are differently related. The political import of this shift is that “the picture of liberty (i.e. animal liberation) ... [becomes] both more robust and more plausible” as it is tied into an “account of solidarity, community, connection, or fellow feeling with other creatures” to whom quite different things are owed (Milligan, 2015, p. 10). This shift to the value of fraternity or solidarity may seem a bit surprising to anyone more familiar with discussions of solidarity with animals in the contexts of ecofeminism or care theory. Here, such internatural solidarity is theorized in terms of sentiment rather than *legal rights* of political membership (Hailwood, 2012; von Essen & Allen, in press). But animal rights are also a basis of fraternity or solidarity with other creatures in the juridical sense of demanding their legal recognition as members of the same political community, with many different kinds of protected statuses that must be respected. Indeed, solidarity and justice mutually presuppose each other, where solidarity necessarily precedes legal rights (Donovan, 1996).

Fraternity thus becomes the fraternity of rights-holders: all those who are recognized by law, even though their recognition and statuses may vary. So, domestic animals may be recognized as having a positive right to be included in household decisions, wild animals may be recognized as having (not only a negative right to sovereign non-interference but also) a positive right to assistance under particular circumstances in which the integrity of their separate communities are somehow threatened, and liminals may be recognized as having a positive right to, say, the continuation of traditional supplementary feeding practices. In the context of a much broader discourse of animal rights, liberty ceases to be about extinctionism, and assumes positive dimensions. Animal liberation can thus mean many other things besides the extinction of species that are dependent on humans, in one way or another (Horta, 2013).

Although Milligan conceives of it as a turn away from abolitionism and extinctionism, the political turn instigated by Donaldson and Kymlicka might just as well be seen as a turn away from contractualism. At any rate, it may also be seen this way to the extent that contractualism remains focused on offering “a single big response to the plight of all animals” (Milligan, 2015, p. 10) by pulling all animals generically into the domain of justice, rather than on identifying the many different kinds of duties that are owed to particular animals as a function of our particular positions in the zoopolity. But, contrary to Milligan who sees the turn as entailing a broader appeal to liberal values, we argue next that it may more straightforwardly, and, in a hitherto underexplored way, also be understood as a *turn towards* republican political values in the context of animal rights.

3. THE REPUBLICAN INTERPRETATION OF THE POLITICAL TURN

In this section, we argue that neo-republicanism is better positioned than liberalism to embrace a sufficiently broad and robust appeal to liberty and fraternity, values with which the political turn in animal rights theory needs to engage in full. In particular, we argue that the neo-republican idea of liberty as a non-dominating political relation can be shown to realize this aim. We previously appealed to neo-republicanism’s non-domination framework in the context of care and dependency as concerned the supplementary feeding of wild boar (von Essen & Allen, 2016b), but here we endeavor to supersede this position, considering the systemic character of animal non-domination.

To be sure, we acknowledge that liberalism can accommodate the positive dimension of liberty, along with the value of community or solidarity. But we contend that liberalism is less able than republicanism to transfer its distinctive conceptions of liberty and fraternity to our relationships to animals. So, in Rawls (1999) for instance, the positive dimension of liberty is captured in the idea that the basic institutional structure of society should be arranged so as to facilitate citizens—possessing a sense of justice—to realize their autonomous, self-chosen plan of life. Moreover, society is conceived as a system of cooperation in which social goods are to be distributed fairly and in which each depends on the others for the realization of self-chosen individual goods. This presupposes fraternity in that society is united by its citizens’ sense of justice, whereby each is willing to recognize the legitimate claims of others to their fair share of social goods and their right to pursue their own individual good. It also presupposes civic duties, such as civility, whereby each is willing to affirm shared public values when participating in public processes of deliberating about the laws and holding officials to account.

These liberal conceptions of liberty and fraternity, however, are not sufficiently robust for translation to non-human animals. It is highly questionable—and probably anthropocentric in the worst sense—to say that animals possess a sense of justice analogous to humans, let alone the sense of justice distinguishing the citizens of the modern liberal state. It is also highly controversial to suppose they possess powers of autonomy, in the traditional political meaning analogous to humans (Scruton, 2000; Hinchcliffe, 2015). To this extent, there can be no reciprocity between human and non-human animals in the system of interspecies social cooperation, each facilitating the other’s freedoms as co-participants in shaping the laws of the shared political community. But is there any reason to suppose that neo-republicanism can offer any more robust conception of liberty and fraternity in our relations with animals? By contrast with liberty as autonomy within the system of social cooperation, neo-republicanism advances a conception of liberty by virtue of non-dominating social relations. Conceived in terms of relations between human participants of a political community, domination may be understood broadly as the exercise of arbitrary power over others. But the exercise of arbitrary power has a variety of expressions.

For instance, it can be understood simply as an exercise of arbitrary interpersonal power, as when the

gunman threatens his victim: “your money or your life.” This might be seen as a non-normative expression of arbitrary power to the extent that the power exercised by the dominator is merely an expression of will *unsupported* by the norms and expectations of the wider social system. But, in other cases, the power to dominate another has the backing of social structure (Richardson, 2002). So, the slave-master’s ability to exercise an arbitrary will over the slave has the normative backing of the institution of slave-holding. Moreover, domination might even be conceived in exclusively institutional and systemic terms without reference to interpersonal domination and the arbitrary will. This latter possibility of institutional domination may arise when the subjects of legal interference by the state cannot contest the particular rights and statuses that have been assigned to them within the system of social cooperation. Here, institutional or structural domination is the source of a controversy between domination theorists.

On the one hand, Pettit (1999) argues that non-domination entails both 1) that those public officials assigning rights and statuses to others must track their interests as participants in social cooperation and 2) that the subjects of legal interference by the state must be able to challenge these assignments. On this view, it is ultimately the ability of the subjects of interference to act also as *agents* capable of challenging their assigned statuses within the system of cooperation that ensures a suitably non-arbitrary, reciprocal power relationship sufficient for non-domination. On the other hand, Lovett (2010) and List (2006) argue that non-domination entails only that public officials track the interests of the subjects of interference. In other words, embracing 1) while rejecting 2), Lovett and List do not see it as a condition for non-domination that the subjects of state interference should also be agents capable of challenging their assigned rights and statuses. On this view, the ability to check interference is not held by the subjects of interference exercising a counter-power of their own. Instead, it is held by a neutral agent as impartial third party exercising this power on behalf of the latter. But this neutral third party is not a deputized or proxy agent for the subjects of interference, who exercise no power of their own. Indeed, such neutral third party invigilation consists only of ensuring that the rules of social cooperation are properly enforced.

From the point of view of our concern with neo-republicanism as a route to animal non-domination, the Lovett and List position is highly significant. It is significant in that it points to a relationship in which there is

no reciprocal exercise of power between those who assign rights and statuses and those to whom they are assigned. After all, as we noted in connection with Rawls’ liberal conception of liberty and fraternity, animals are not plausibly understood as autonomous agents capable of exercising reciprocal powers, in a system of interspecies cooperation with humans. If it is possible to say—consistent with Lovett and List—that non-domination does not entail reciprocal powers but only neutral third party invigilation of the rules, then animal non-domination begins to look like a viable prospect for the interspecies political community.

4. WISSENBERG’S ‘FEUDALISM’ OBJECTION

Before developing this prospect any further, however, we consider a skeptical response to a republican route to animal non-domination offered by Wissenberg (2014). Like us, Wissenberg interprets Donaldson and Kymlicka’s position in *Zoopolis* as closer to republicanism than liberalism. That is, it is closer to republicanism insofar as it emphasizes particular duties of citizenship over the possession of equal universal rights as the qualification for inclusion in the domain of justice. Unlike us, however, he interprets Donaldson and Kymlicka as more deeply committed to the application of citizenship theory to animals than we believe is really the case. In this respect, he stresses that, while animals can be “ascribed rights,” they “obviously cannot consciously be rights-wielders,” claiming their rights against other members of the zoopolity (2014, p. 39). But, “even less can they be *active republican citizens*, acknowledging or performing duties” to fulfill rights claims that could be made against them by other members of this political community, human or animal (Wissenberg, 2014, p. 39; emphasis added). In other words, they cannot plausibly be understood as agents, exercising or wielding any of those rights that are assigned to them, let alone wielding a right to contest the rights and statuses that have been ascribed to them, which Pettit takes as the ultimate guarantee of non-domination.

Hence, Wissenberg insists that the relationship of humans to animals may well be fraternal to the extent humans recognize extensive interrelationships with animals, assigning particular rights and statuses to them as fellow members of the zoopolity. But he also stresses that this is necessarily a fraternal relationship of benevolent domination. Certainly, it is domination on Pettit’s account of domination above. Consequently, Wissenberg believes that human/animal fraternity is more plausibly understood by analogy with a feudal political order

than with a republic. As feudalist rather than republican, he contends that the political turn in animal rights should be conceived as “animal inclusive” but flatly “non-egalitarian” (Wissenberg, 2014, p. 31), thus rejecting even the weak species egalitarianism we have taken as baseline in both liberalism and republicanism. To this extent, his formula of animals being ascribed rights they cannot wield proves compatible with what we have called the priority of human judgment, in both the liberal and republican interpretations of the political turn. Indeed, it is precisely this priority of judgment that defines his conception of feudalism for animals. According to Wissenberg, feudalism means that “to each animal subject a different role is assigned, with *different and unequal rights-claims*, not necessarily in a hierarchical but rather in an organic structure—albeit with, at the top of this Body Ecologic, the *human brain that is tasked with the perpetual reflection on, and is aware of its responsibility for, harmony among its constituent parts*” (Wissenberg, 2014, p. 43; emphasis added).

But does this view of a fraternal interspecies relationship in which animals cannot be conceived as agents wielding or exercising the rights assigned to them, and in which the priority of human judgment necessarily prevails, have to be understood as benevolent domination? We note that, although failing to meet Pettit’s conditions for non-domination, it is less obvious that Wissenberg’s “feudalism” fails to meet the condition for non-domination set by Lovett and List. That is, animals cannot enjoy a fraternal relationship of non-domination to the extent that they cannot be agents contesting the different and unequal statuses assigned to them by human members of the zoopolis. But they can enjoy such a relation to the extent that unequal rights and statuses, derived from public officials’ deep reflection on, and awareness of responsibility for, the harmony of the zoopolis and its system of interspecies cooperation, are the subject of neutral third party invigilation. Let us say that the officials take seriously their responsibility to assign rights and statuses to animal differentially by tracking their interests, as cooperating members of the zoopolis. As long as neutral independent agencies hold the power to check interferences by public officials deviating from the rules of cooperation established through their differential assignments of rights and statuses throughout the zoopolity, such agencies could be said to ensure the realization of interspecies non-domination, in the sense proposed by Lovett and List.

With appropriate third party invigilation and proper enforcement of the rules of interspecies cooperation, a

check is placed on the prospects for interpersonal domination derived from non-normative exercises of an arbitrary will that simply flouts the rules. But can it still be argued that such invigilation establishes a mode of systemic domination? In other words, is the impartial enforcement of rules, sanctioning interferences that cannot be challenged by the subjects of interference, itself a mode of domination? In this regard, Blunt (2015) criticizes Lovett and List on the ground that their conception of “non-domination” would be consistent with an idealized form of apartheid entailing reflections on, and awareness of responsibility for, inferior races to whom rights and statuses must be assigned unequally, establishing a system of rules to be neutrally administered by an impartial third party invigilator. Appealing to such an idealization of apartheid, Blunt concludes that the assignment of rights absent the power of agency to contest these assignments fails the test of reflective equilibrium. It fails this test insofar as it fails to measure up to our considered judgments of what justice entails, in light of the best available empirical evidence about the world in which we live together.

5. FINDING THE ROUTE TO ANIMAL NON-DOMINATION

However, we wish to consider the possibility that the non-reciprocal character of the interspecies relationship, in which rights and statuses are assigned to animals who themselves lack the powers of agency to challenge such assignments, can prove consistent with neo-republican non-domination. Here, we stress that the problem with the Lovett and List position does not lie in the idea that non-domination can be achieved without the subjects of interference also playing the role of agents who may contest the statuses assigned to them by public officials. Rather, it lies in their denial of any role for a third party as deputized or proxy agent for the subjects of interference, holding the power to contest their assigned statuses on their behalf. Indeed, Lovett and List’s third party tracks interests and enforces the rules, but without ever contesting the rules. Nonetheless, the notion that a contestatory power may be wielded on behalf of the subjects of interference is familiar enough in the neo-republican tradition insofar as parliamentary representatives function as deputies or proxies for the people, acting by the leave of the people (Pettit, 1999; Maynor, 2003). Indeed, such deputized or proxy representation avoids the problem of systemic domination to which the Lovett and List position is vulnerable. It does so by ensuring a mediated form of reciprocity between

those assigning statuses and those to whom they are assigned, thus removing the need for the latter directly to wield the power of contestation for themselves. Nonetheless, it obviously also continues to appeal to their agency in the electoral selection of their proxy agents as parliamentary representatives.

But, if systemic domination may be avoided through the selection of deputized or proxy agents in the case of human participants in the zoopolity, then this does not easily translate to animal participants who lack equivalent powers of agency in interspecies cooperation. Not, at any rate, unless we are willing to assign voting rights to animals, thereby committing the error of thinking about animals as if they were capable of exercising equal citizenship rights, which motivated Wissenburg's rejection of republicanism in favor of feudalism. Does this mean that the problem of systemic domination remains for animals in the zoopolis, such that there is no neo-republican route to animal non-domination? In this regard, it might be argued that there is no such route. Certainly, we can conceive of third party proxy agents for animals. For example, we might appeal to the role played by any number of animal rights NGOs, claiming to represent the interests of animals who cannot speak for themselves, in the public, political fora of a republic. Such organizations are not neutral invigilators of the rules, but rather challenge these rules on behalf of those they claim to represent as their proxy agents. Hence, if the proxy representation of animals results in any kind of systemic domination in the zoopolis, then this would be for an entirely different reason from that identified by Lovett and List. Systemic domination would result not from neutral but uncritical invigilation of the rules, but rather from the inability of the animals to exercise political agency in selecting the proxies claiming to represent their interests in public fora. Further, it would be a function of their inability to exercise such agency in contesting *how* the proxies go about representing them in these fora (see von Essen & Allen, 2016a).

In fact, this might be seen as analogous to another version of idealized apartheid, one in which only white people as the proxy representatives of black people hold the power to contest the rules of inter-racial cooperation, and black people cannot contest *how* they are represented by whites. Here, the idealization has nothing to do with the neutrality of invigilation. Instead, it is that the white people sincerely believe—on the basis of the racist norms to which they subscribe—they are representing the best interests of black people when challenging the rules on their behalf. To this extent, they do not

exercise a merely arbitrary, non-normative will in their relationships to blacks. Nonetheless, there is an obvious disanalogy between this version of apartheid based on whites proxy representing blacks and humans proxy representing animals. The disanalogy is that blacks in the modified version of apartheid do possess powers of agency to contest these rules for themselves or to select their representative to speak and act on their behalf. Consequently, the modified version of idealized apartheid is still systemically dominating in that the apartheid system refuses to recognize that the subjects of interference could also be political agents.

In this respect, such a system clearly fails the test of reflective equilibrium proposed by Blunt insofar as refusing to recognize the political agency of participants in cooperation who are capable of exercising such agency does not square with our considered judgments of the entailments of justice, especially given the lack of any sound empirical support for racist norms and ideology. But it surely is consistent with our considered judgments about justice to say that the proxy representation of those who do not select their own proxies may be appropriately non-dominating. At any rate, this is consistent with our considered judgments, provided there are good reasons to believe that the subjects of interference are genuinely incapable of exercising agency on their own behalf and the proxies who claim to represent their interests can make defensible and contestable claims about their best interests. An obvious example would be the proxy representation of the severely cognitively disabled. By contrast with the modified apartheid example, the best available empirical evidence here may well show the subjects of interference to be incapable of also exercising powers of agency, in the relevant senses of contesting interference in public fora or selecting proxies (Wong, 2010).

Of course, proxy representation of the interests of those who cannot represent themselves or select their representatives remains controversial, even in the case of the severely cognitively disabled. But it is not so controversial that it cannot ever pass the test of reflective equilibrium. Controversy arising from such third party representation has less to do with whether it aligns with our considered judgments about what we owe to those lacking relevant powers of agency, human or animal, than the rigor with which claims to be a proxy representative have been publicly deliberated, in light of the best available empirical information concerning their interests (see von Essen & Allen, in press). To this extent, we believe that it is as misleading to talk about feudalism for ani-

mals as it would be to talk about feudalism for severely cognitively disabled humans. In both cases, proxy representation rather than neutral invigilation may establish a route to non-domination appropriate to the situation of those incapable of exercising powers of political agency in open public deliberation challenging the present rules of cooperation.

CONCLUSION

We have argued for a neo-republican route to animal non-domination. Consistent with the political turn in animal rights theory, we argued for engagement with the ideas of liberty and fraternity over the appeal to species egalitarianism motivating the early movement of animal rights and animal liberation. In its extreme abolitionist and extinctionist forms, animal liberation came to mean the liberation of animals from all human interference, leaving no room for animal liberation and a right to fraternity with humanity in a zoopolis. In its contractualist form, liberalism did not recommend such an extreme view of animal liberation from humanity, but neither did it do any better in terms of conceiving of a solidaristic interspecies political community. We argued, however, that neo-republicanism can conceive of such a community in which animals may be liberated from interpersonal and systemic domination by humans. Above all, we argued that this calls not for Lovett and List's conception of non-domination as neutral third party invigilation, but rather for proxy representations of animal interests that retain Pettit's emphasis on the contestation of interferences. Here, contestation is not undertaken by the subjects of interference, but this is consistent with our considered judgment regarding subjects of interference who lack the appropriate powers of political agency.

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