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Political Animals?

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According to Sue Donaldson and Will Kymlicka, animals are far more than just creatures to whom we have a duty; they are indeed our fellow citizens. The theory is radical yet fragile: it misconceives the nature of both the animal and the citizen. The problem is the lack of responsibility, accountability and liberty – in other words, the irreducible innocence of animals.

Reviewed: Sue Donaldson and Will Kymlicka, *Zoopolis. A Political Theory of Animal Rights*, Oxford University Press, 2011, 352 pp.

The reflection that attempts to formulate the rules governing our relationship with animals is generally ethical and internalist. *Ethical*, because the granting of animal rights in the future would require or exclude particular types of treatment, even though such obligations would not be given a full legal status involving political sanctions. And *internalist* because the rights in question are conceived as subjective rights that derive from what it means to be an animal, just as human rights originate from our very humanity.

Sue Donaldson and Will Kymlicka are Canadian philosophers. The latter is the Canada Research Chair in Political Philosophy at Queen's University in Kingston (Ontario) and a specialist in democracy, justice and citizenship in a multicultural context. They have endeavoured to shift the normative reflection on animals from the sphere of animal ethics to that of political theory. This Animal rights theory is not only political on account of its scope (the need to collectively institute the standards in question as well as their public sanctioning). It is political through and through, deriving our obligations from the diverse *relationships* we have with different animal *groups*, and organising those relationships according to the conceptual logic of *citizenship*. Shifting from the sphere of ethics to that of politics also involves abandoning an exclusively internalist point of view. Expanding animal rights theory in this way means enhancing the theory of the animal subjectivity of analyzing *animal groups*, which are distinguished from one another according to the *different means they have of forming a community*, among themselves and with us.

Even if it is a consequence of the theories developed in the book, the aim is not to merely add a criminal sanction to moral standards or, for example, to criminalize the "murder" of an animal: "Harms to animals, like harms to humans, should be criminalized." (p. 132-133). Rather, the idea is to contemplate the relational *foundation* of *community* obligations that are ordered according to the logic of *citizenship*.

Animals as subjects of rights

There are three main ways to defend the animal cause in theoretical terms: a welfarist approach, which, while highlighting the fact that animals' sentience prohibits us from identifying them with machines and that animal suffering must be lessened as much as possible, nonetheless confirms the instrumentalization of animals by humans; a holistic ecological approach, based on the defence of ecosystems and species, but not necessarily of individual animals; and a basic rights approach, which recognizes the normative claims of the individual.

The authors of *Zoopolis* take the third approach: animals are "the bearers of certain inviolable rights" (p. 4). Animals are sentient beings whose receptiveness to pleasure and pain makes them *vulnerable*, and who therefore appreciate the world differently according to their preferences. Animals are beings for whom the world and what may be done to it are important, so they have a subjectivity that makes them persons and not things. Sensitivity, subjectivity and awareness of self and of the world therefore mean the same thing, as well as sufficing to make animals bearers of a number of subjective rights. Our shared sensitivity thus creates a moral community, with the lives of all animals being equally precious: every animal has "the right not to be tortured, experimented on, owned, enslaved, imprisoned, or killed" (p. 49).

These animal rights are *inviolable*, in other words they cannot be sacrificed for the good – no matter how great – of another. Donaldson and Kymlicka thus defend an anti-utilitarianist theory of animal rights, which contrasts with Peter Singer, for example, and on this point they are closer to authors such as Tom Regan and Martha Nussbaum: "Killing a chipmunk or a shark is a violation of their basic inviolable right to life, just as killing a human being is" (p. 21); it is entirely unjustified to kill a baboon for its organs even if this would allow five humans to be saved.

Granting individual animals the status of being an "end in themselves" (p. 88) would have a negative consequence, firstly in that they cannot be reduced to a mere means by which to satisfy another species, in this case human. "Respect for these rights rules out virtually all existing practices of the animal-use industries, where animals are owned and exploited for human profit, pleasure, education, convenience and comfort" (p. 40). This would "entail the prohibition of current practices of farming, hunting, the commercial pet industry, zoo-keeping, animal experimentation, and many others" (p. 49).

However, the authors maintain that it is not enough to strive towards eliminating the human exploitation of animals, on account of the irreducible and fruitful nature of the interactions between humans and animals. It is also important to seek to determine what might result from non-instrumentalist, mutually advantageous relations.

From personality to citizenship

According to the authors, the animal rights movement must recognize its relative impotence. Admittedly, there has been progress in the area of anti-cruelty legislation and the promotion of animal welfare in Western countries. However, these have had little impact in comparison with the loss of natural habitats due to the expansion of the human population, or the fact that global meat consumption has tripled since 1980 and is expected to double again by 2050.

And yet this ineffectiveness cannot only be explained by people's resistance linked, on the one hand, to our cultural heritage and, on the other, to the interests at stake, whether they be practical and individual (food, clothing, medicines) or economic and systemic (particularly the agri-food sector and its offshoots). The practical impasse also and above all betrays an aporia: animal rights theory has been formulated in too-narrow terms, because its adoption of an internalist point of view has greatly reduced its perspective. It has restricted itself to establishing a list of the rights that animals bear *generically*, simply on account of their sentience; and it has not taken account of the fact that the richness of the relationship between humans and animals might involve *positive* obligations for the former towards the latter.

Politicizing animal rights theory – in other words, first basing it on an analysis of the relationships that different animal groups have with human communities – allows finding the means to enrich it, both quantitatively (extending the list of animal rights by distinguishing those communities that are likely to benefit from them) and qualitatively (giving it a positive side, instead

of simply listing a number of duties to abstain from violent behaviour), because "different relationships generate different duties" (p. 6). This approach – relational hence differential – is not only more *fruitful* in normative terms, but also more *pertinent* in theoretical terms. It contrasts with the *abstraction* that hinders the theories which, believing that all human/non-human relationships are based on domination, and unaware of the irreducibility and complexity of the relational web weaved by humans and other living creatures, merely establish negative duties of abstention.

More specifically, it is the notion of *citizenship* that would enable the expression of generic negative duties towards animals and specific positive duties towards certain groups of animals. Citizenship first and foremost means belonging fully to a community, which requires that community to incorporate the legitimate interests of its members (through different mediations), while also giving them specific responsibilities. Citizenship can thus be a source of particular rights and duties, in addition to the universal rights that humans enjoy as people (and enabling their full realization).

Politicizing animal rights theory in the light of "citizenship logic" therefore requires us to think that if animals as such have a number of generic rights which, for us, establish negative duties towards them, then their belonging to certain groups establishes, for the individuals that make up those groups, certain specific rights, which results in a number of positive duties for us. And yet, just as this citizenship logic enables three types of communities to be distinguished – citizens, foreigners from outside our borders and foreigners within our borders, in other words, denizens – so it leads to a different treatment for the three animal groups.

Citizen chickens

According to Donaldson and Kymlicka, the first group is made up of animals that have been domesticated by man, since domestication constitutes both a specific type of relationship (one that includes violence) and leads to a certain kind of bond (by promoting a certain level of sociability, tightening links between individuals and boosting the potential for communication).

The authors highlight the fact that even though the domestication process has constituted an injustice, we cannot expect to redress it by eradicating the domesticity that has resulted from it. They therefore rule out what they call the "abolitionist/extinctionist approach" taken by those who would endeavour to repair the injustice of domestication by gradually eliminating domestic animals (p. 80 sq.): the practical solution would make the injustice far greater (universal sterilization would increase the interventionist violence inflicted), and the assumptions of a theory that identifies dependence with loss of dignity, and holds that what is natural for animals is to have no relationship with humans, are highly questionable.

Instead, the injustice of domestication demands that fair relations with domestic animals be established. The authors maintain that re-establishing justice means recognizing domestic animals as our fellow citizens, whose own interests should be taken into account when it comes to determining the common good of a community whose members are both human and animal. Thus, Kymlicka the theoretician of multicultural citizenship becomes a theoretician of multispecific citizenship.

The authors are aware that this idea of animal citizenship is counter-intuitive. Nonetheless, for them, while citizenship is three-dimensional, none of its dimensions can be completely denied to domestic animals. Indeed, citizenship has a dimension of community belonging (nationality or residence), a dimension of represented sovereignty (belonging to the people on whose behalf the community is governed) and a dimension of effective participation (political agency).

Extending citizenship to include animals poses no problem as regards the first two points: the first is a fact resulting directly from domestication, which has placed animals at the heart of human society; the second is a fact that is dependent on our decision to take into account the specific interests of domestic animals when considering the common good.

Granting animals political participation, however, seem more challenging. The authors dismiss this objection by referring to the models of assisted or dependent participation that have been theorized for those with intellectual disabilities. These models show that political participation is not limited to the public use of reason and the vote that confirms a public debate, and that it does not, therefore, require a controlled rational reflexivity but simply a preferential, social and communicative existence. They develop an anti-intellectualist conception of citizenship while questioning the meaning we have given to autonomy, which, for all of us, is a dependent or assisted autonomy, albeit to varying degrees. Animals, however, have and express axiological preferences (such as a particular food, game, schedule or walking route), and domestic animals have been domesticated for their ability to communicate, which that process has increased further. We understand the preferences expressed by domestic animals due to our shared intimacy with them, and we can help them to assert those preferences in the decision-making process by granting them a dependent political agency. For example, we would be able to establish an authority that would guarantee that their interests are represented at both local and national level.

Domestic animal citizens would be granted a number of specific rights that establish positive duties for humans: the right to socialization, in other words to learn (without violence) the standards that enable an individual to be an "autonomous" member of a community and to be recognized as such; the right to share the public space and to have freedom of movement (under certain conditions of harmlessness), which contradicts the contemporary tendency towards spatial segregation; the right to protection, not only against human violence (which would apply for all animals) but also against predators, disease and accidents; restricting the use of animal products and animal activity to what is compatible with their status as a full member of the community, without permanent subordination and in a context that guarantees conditions in which they may lead a full life that fulfils their individual desires; the right to reproduce, which, admittedly, would be limited by their responsibilities towards other citizens and their offspring; the right to see the establishment of institutional mechanisms guaranteeing that their interests are taken into account.

Wild animal sovereignty

The authors of Zoopolis identify the second group of animals as being wild animals that live their lives outside of our society. Donaldson and Kymlicka stand out from other authors for whom the question of our relationship with wild animals always leads to the same maxim: leave them alone. For wild animals, which live away from humans and tend to keep their distance, are nevertheless irreducibly vulnerable to human activity, whether directly (taking different animals captive) or indirectly (disturbing their environment, accidents), and their vulnerability is not fully taken into account by a theory of the generic subjective rights of animals. The exteriority of the wild does not mean there is no relationship, and that relationship must become subject to the standards of justice.

The appropriate political concept is that of *sovereignty*, of which our traditional understanding needs to be challenged. Sovereignty is understood as the autonomy of a community according to the definition of its social organization within its territory; sovereignty is disconnected from the state as a form (with which it has been fundamentally connected for modern thinkers since Bodin) and ceases to function as an operator of geographical segregation (it no longer means exclusive control of a territory, but a guarantee of sufficient access to the territory in order for the community to thrive). Once again, we can see the feedback effects of this manner of conceiving the

question of human political sovereignty: several sovereign communities may share the same territory, and their sovereignty may take the form of a non-state.

This theory of wild animal sovereignty allows a number of standards to be set, similar to those of international justice (p. 157), defining particular obligations: a ban on all forms of direct violence (particularly halting the expansion of human settlement on Earth); an obligation to limit spillover effects such as pollution and damage caused by means of transport or construction; a limit on all forms of intervention, even benevolent, when that intervention does not promote or at least protect the sovereignty in question.

Violating the rights of urban coyotes

While the traditional concept generally keeps to the two aforementioned groups, the relational theory developed by Donaldson and Kymlicka identifies a third group, that of "liminal" animals. This includes animals that have not been domesticated and therefore remain wild, yet live within the same territory as human communities and domestic animals. Their situation is unique, because their adaptation makes them dependent on human proximity, although they do not form a community in the strictest sense with humans, which limits cooperation and communication, while our presence does not modify the mechanisms by which they govern their own social life. From city rats to sparrows and squirrels, as well as stray domestic animals, we are dealing with those who live "among us" without being "one of us" – those who are "at home" living in our territory without forming an integral part of "us" (the people); in human society, this can occur either by secession (the Amish) or through immigration.

These residents who are not our co-citizens should be granted a right to residence, which not only requires us not to exterminate them but also to accept them fully and to take account of the impact our way of life has on theirs, without, however, having to grant them the full rights and responsibilities pertaining to citizenship. We would not, therefore, be required to protect them from predators, for example.

A paradoxical anthropocentrism?

One of the merits of *Zoopolis* is that it places the irreducible interaction between humans and animals at the centre of its reflection. On the one hand, this allows us to reject plans – as abstract as they are fruitless – to carry out a practical separation between "them" and "us", a surprising irony for a theory that tries to deny any absolute division between humans and "other animals". On the other hand, this relational and therefore differential perspective permits us to put an end to the abstraction of theories that homogenize all relations between humans and "non-human animals".

While there is no doubting the heuristic relevance of the interactional structure, it is nonetheless true to say that the taxonomy that would precede its application is problematic. The tripartition of animal groups appears somewhat fragile. This would not be an issue if the three groups covered three *normative* categories equally.

In fact, are these groups really *clear-cut*? As the authors observe, a moose can fall into a swimming pool and a woodcock can fly into a bay window. These are wild animals, certainly, but their territory and that of humans (and domestic animals) are sure to overlap, given the finite nature of Earth. Are ants wild animals or liminal animals? If these categories are normative, and if the obligations pertaining to them are different, is it not true to say that their descriptive fragility is problematic?

In return, are the groups in question truly *homogeneous*? Should mosquitoes be treated like sparrows? And bed bugs like pigeons? If the inclusive relations between the different groups are normative from the outset, we fail to see what would lead us to adopt a different way of behaving towards these "resident foreigners".

More radically, is it not paradoxically anthropo*centric* to organize human-animal relations on the basis of a conceptual operator or a paradigm which, although we may be able to discuss the relevance of extending it to animals, is without doubt tailored primarily for interhuman relations? And if conceiving animals in political terms means conceiving them on the basis of the relationship they have with the human community, does it not show that this community is the true setting for politics? It is thus the book's central point – the politicization of animal rights theory – that must be questioned.

Obligated animals?

Extending "citizenship logic" to animals is highly problematic. Indeed, citizenship necessarily links rights and "responsibilities" (p. 116 and 146), which demand that all those who enjoy the former "respect"[1] those same rights for their equals (p. 150). And yet this responsibility presupposes both an awareness of standards and the capacity (at least in the making) to answer for oneself, which animals must be clearly shown to possess. Traditional theories linking the subject of rights with their corresponding responsibilities were careful not to force those that were unable to answer for themselves. When the authors write that "Dog and cat members of mixed human-animal society do not have a right to food that involves the killing of other animals" on the grounds that "the liberty of citizens is always constrained by respect for the liberties of others", are they calling for the criminalization of the "unethical" behaviour of cats that kill mice or remove blackbirds from the nest? Donaldson and Kymlicka are forced to acknowledge that domesticated animals are, in society, "members who are unable to self-regulate when it comes to respecting the basic liberties of others" (p. 150). Obligating animals and talking about them as if they were a subject of rights and duties (p. 147) would mean doing them great violence by conferring something on them that they would be unable to honour on principle. Yet granting them with a citizenship that carries no obligations would destroy the very notion of citizenship.

With regard to extending citizenship logic to animals, the authors of *Zoopolis* in fact only foresee one objection – that of animals' insufficient intellectual capacities. They refute this by highlighting that this intellectual incapacity does not imply a "mental" or cognitive incapacity, because animals have the means to express a preference and establish cooperative relations accordingly. However, by thus promoting an anti-intellectualist conception of citizenship, Donaldson and Kymlicka confirm the presumption that citizens' capacity is strictly of a *cognitive* nature. Their anti-intellectualism thus remains a cognitivism. And yet the basic problem for the recognition of animal citizenship does not stem from a lack of reflective intellectual competence in animals, but rather from the lack of responsibility, accountability, liberty – in other words, the irreducible *innocence* of animals.

Citizenship, international justice and cosmopolitical standards only find true meaning between *equals in responsibility*, at least potentially, which humans and animals are most certainly not, even if they are equally vulnerable. This leads us to think that humanity is not simply a context for politics, but rather its exclusive element. This equality of responsibility, however, is also a necessary condition of the identity of *rights*, and the issue here is what the authors claim to be expanding politically – animal rights theory.

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[1] *Cf.* p. 150: "Justice requires acknowledging the rights of domesticated animals […], but it also requires that domesticated animals, like all citizens, respect the basic liberties of all."

Obliging animals?

Is it possible to talk of "enslaving", "imprisoning" and "kidnapping" animals and their "family", or of the "murder" that would constitute willingly putting them to death? Can we establish a true comparison between the domestication of animals and the importation of slaves (p. 74), the recognition of their citizenship and the abolition of slavery (p. 79 and 101), humans' increasing hold over Earth and colonization (p. 168), and liminal animals and immigrants (p. 126), with the campaigns waged against the former presented as "the animal equivalent of ethnic cleansing" (p. 211)? And when describing the situation of animals that are subjected to continuous, industrialized human violence, Donaldson and Kymlicka adopt the expression "eternal Treblinka" [2]

The only way all of this ceases to be both dubious in theoretical terms and outrageous in practical terms is if we establish – as the authors of *Zoopolis* claim to do – equal dignity between humans and animals. In order to do so, their vulnerability must provide a sufficient basis for an absolute normative claim. This allows the theory of the inviolable rights of animals to be presented as "the next step" (p. 5) that any coherent mind should take once it has recognized that animals are sentient beings. The alternative would be either Descartes' animal-machine, or animals as human beings' equal.

This is far from certain, because it presupposes a moral sensualism and a cognitivism that are highly problematic. *Moral sensualism*, because *harming* and *evil doing* would need to be considered basically synonymous. *Moral cognitivism*, since the quality of moral subject would be correlated to psychological competence alone: for supporters of animal rights, experiencing the self and the world is enough to make that "self" (reasonably undefined) a bearer of rights; the psychological personality (having self-awareness) would thus contain the legal and moral personality (being a subject of rights). However, the latter involves something quite different, and it is not at all certain that it is contained within the former: the freedom, at least potential, of a being capable of answering for itself to itself and others. In such conditions, the animals' lack of a personality does not stem from their limited intellectual abilities. While the authors claim to be "big fans of Star Trek", we might respond that an extra-terrestrial intelligence superior to humans in cognitive terms but entirely irresponsible would, as such, have no more rights than an oyster.

It is not inconsistent to recognize that animals have a psychology, and even to vest their suffering with a moral meaning, without, however, identifying them with subjects of rights. Animal rights theory is not the only path available to those who acknowledge that animal suffering is our concern. More generally, is it not true that the best way to respect animals – certainly not in a moral sense – is to *allow their otherness to question us in our preconceived identities*, rather than identifying them as lesser humans (the analogy with the intellectually disabled, for example) by applying anthropological categories that then lose their own clarity, distinction and critical potential?

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[2] *Cf.* Charles Patterson, *Eternal Treblinka: Our Treatment of the Animals and the Holocaust*, 2002.