

Universal Basic Rights for Animals

An important strand of animal rights theory (ART) starts from the premise that all animals with a subjective existence—that is, all animals who are conscious or sentient beings—should be viewed as the subjects of justice, and as the bearers of inviolable rights. The idea that animals possess inviolable rights is a very distinctive view which goes beyond what is normally understood by the term ‘animal rights’. So it is important for us to clarify what we mean by inviolable rights, and why we think animals possess them.

In everyday parlance, anyone who argues for greater limits on the use of animals is said to be a defender of animal rights (AR). Thus, someone who advocates that pigs being raised for slaughter should have larger stalls, so as to improve the quality of their short lives, is described as a believer in animal right. And indeed we can say that such a person believes that animals have a ‘right to humane treatment’. Someone defending a more robust rights view might argue that humans should not eat animals since we have lots of nutritious alternatives, but that medical experiments on animals are permissible if this is the only way to advance crucial medical knowledge, or that culling wild animals is permissible if this is the only way to save key habitats. We can say that such a person believes animals have a ‘right not to be sacrificed by humans unless an important human or ecological interest is at stake’.

These views, whether they endorse a weaker or more robust conception of, are crucially different from the idea that animals have inviolable rights. The idea of inviolable rights implies that an individual’s most basic interests cannot be sacrificed for the greater good of others. In Ronald Dworkin’s famous phrase, inviolable rights in this sense are ‘trumps’ which cannot be violated no matter how much others would benefit from their violation (Dworkin 1984). For example, a person cannot be killed in order to harvest her body parts, even if dozens of other humans might benefit from her organs, bone marrow, or stem cells. Nor can she be made a subject of non-consensual medical experimentation, no matter how much the knowledge gained from experimenting on her would help others. Inviolable rights

in this sense are a protective circle drawn around an individual, ensuring that she is not sacrificed for the good of others. This protective circle is usually understood in terms of a set of basic negative rights against fundamental harms such as killing, slavery, torture, or confinement.

The idea that human beings have such inviolable rights is controversial. Utilitarians, for example, believe that morality requires us to bring about the greatest good of the greatest number, even if this means sacrificing one person to do so. If we can save five people by killing one, we should do so, all else being equal. As the great utilitarian Jeremy Bentham famously put it, the idea of inviolable rights is 'nonsense upon stilts' (Bentham 2002). Since utilitarians do not believe that humans are owed inviolable rights, they obviously do not accord such rights to animals either.¹

Today, however, the idea that humans possess inviolable rights is widely accepted, despite ongoing philosophical debate regarding the grounding for human rights. Inviolability is the basis of our medical ethics, of domestic bills of rights, and of international human rights law. The idea that all human beings are entitled to the protection of certain inviolable rights is part of the 'human rights revolution' in law, and of the shift to 'rights-based' theories in political philosophy. One of the central motivations for Rawls's *A Theory of Justice*, widely seen as heralding the rebirth of political philosophy, was precisely his belief that utilitarianism was unable to account for the wrongness of sacrificing individuals for the good of others, whether that is experimenting on individuals to gain useful medical knowledge, or discriminating against racial or sexual minorities to satisfy the preferences of majorities (Rawls 1971). An adequate defence of liberal democracy, he believed, required a more 'Kantian' conception of respect for individuals, which emphasizes that we should never be treated simply as a means for the good of society.²

While the idea of inviolability is now widely accepted in relation to human beings, very few people have been prepared to accept that animals too might possess inviolable rights. Even those who accept that animals matter morally, and that they deserve to be treated more humanely, often think that when push comes to shove, they can be violated—endlessly sacrificed—for the greater good of others. Whereas killing one human to harvest organs to save five other humans is unacceptable, to kill one baboon to save five humans (or five baboons) is permissible, and perhaps even morally required. As Jeff McMahan puts it, animals are 'freely violable in the service of the greater good', whereas human persons are 'fully inviolable' (McMahan 2002: 265). Robert Nozick famously summarized this view under the label 'utilitarianism for animals, Kantianism for people' (Nozick 1974: 39).

The approach we develop in this book rejects this claim that only humans possess inviolable rights. The human rights revolution has been a profound moral achievement, but it is incomplete. As we will see, the arguments for

inviolability do not stop at the boundaries of the human species. As Paola Cavalieri puts it, it's time to take the human out of human rights (Cavalieri 2001). If it is wrong to kill a human for her organs, even if we can save five people by doing so, so too is it wrong to kill a baboon for his organs. Killing a chipmunk or a shark is a violation of their basic inviolable right to life, just as killing a human being is.³

The claim to inviolable rights for animals has already been ably defended by several AR theorists, and we have little new to add to their arguments.⁴ Those who are already persuaded of this view can skip this chapter, and move directly to the more original part of our argument, regarding the group-differentiated and relational rights we owe to different groups of animals.

Most readers, however, are unlikely to be persuaded of this view, and may indeed find it wildly implausible. If so, we hope that the arguments we develop in the rest of this book will still be of interest. Even if you endorse 'utilitarianism for animals, Kantianism for people'—or indeed, even if you endorse utilitarianism for both animals and people (or some other theory altogether)—we believe there is still a compelling case for adopting a more political and relational account of animal rights. Many of the arguments we give for according citizenship to domesticated animals, sovereignty to wild animals, and denizenship to liminal animals do not depend on endorsing the idea of inviolable rights for animals.

However, our own elaboration of these arguments will be developed within a strong AR framework that includes a commitment to inviolability. This affects how we elaborate these arguments, and the conclusions we draw from them. So in this chapter we attempt to defend that starting point, and to address some of the objections and anxieties that this view is likely to provoke.

Why do so many people find the idea of inviolable rights for animals implausible? Some people think it is simply self-evident that the death of a human being is more tragic, and more of a loss to the world, than the death of a baboon, and that killing a human being must therefore be a greater wrong than killing a baboon. We hope that our discussion in this chapter will give readers a livelier sense of the loss when animals die, and of the complexity of making such judgements of comparative loss. But in any event, this entire line of argument is misplaced. After all, we can and do make similar judgements about the relative loss when different human beings die. We may think that it is more of a tragedy when a young person dies in an accident than when a very old person dies, and more of a tragedy when someone who loves life dies than when a misanthrope dies. Yet these judgements about comparative loss have no implications whatsoever for the inviolable right to life. The fact that it may be more tragic when a young person dies does not mean that we can kill the

old person to provide organs for the young person. We cannot kill misanthropes to harvest organs to use for people who love life.

Indeed, this is the essential point of inviolable rights, and how they differ from utilitarianism. From a strict utilitarian perspective, the strength of people's right to life depends on how much they contribute to the greater good. We are all 'freely violable in the service of the greater good', and so you have to earn your right to life by showing that your continued existence serves the overall good. Those who are young, talented, and gregarious are therefore bound to have a stronger right to life than those who are elderly, infirm, or miserable. The strength of one's right to life varies with the comparative loss from one's death.

The human rights revolution is precisely a repudiation of this way of thinking. The principle of inviolability says that people's right to life is independent of their relative contribution to the overall good, and is not violable in the service of the greater good. This is now firmly established in the human case, and we argue that it must extend to animals as well. The death of some individuals may be more of a tragedy or loss than the death of other individuals, within and across species, but they all possess inviolable rights: they all have an equal right not to be sacrificed for the greater good of others.

To say that animals have an equal right not to be sacrificed for the greater good of others raises another set of worries and objections. Does this entail that animals have 'equal rights' with humans, including, say, the right to vote, or to religious freedom, or to post-secondary education? This is often invoked as a *reductio* of the idea of animal rights, but here again, it misunderstands the logic of the rights revolution. Even within the category of human beings, many rights are differentially allocated on the basis of capacities and relationships. Citizens have rights that visitors do not have (e.g., to vote, or to social services); adults have rights that children do not have (e.g., to drive); people with certain rational capacities have rights that those with severe intellectual disabilities do not have (e.g., to decide how to manage their finances). But again, none of these variations has implications for claims to fundamental inviolability. Citizens have rights that foreign tourists do not have, but citizens cannot enslave tourists, or kill them to harvest their organs. Adults have rights that children do not have, and competent adults have rights that people with severe intellectual disabilities do not have, but children and the intellectually disabled cannot be sacrificed for the greater good of competent adults. Equal inviolability is compatible with variations in a wide range of other civil, political, and social rights, which track variations in underlying capacities, interests, and relationships. Again, all of this is clear enough in the human case, and we argue that it is equally true in the case of animals.

In short, the issue of inviolable rights needs to be kept clearly in mind, and not conflated with a range of other issues regarding our obligations to humans

and animals. The issue of inviolability is, to repeat, the question of whether one's basic interests can or cannot be sacrificed for the greater good of others. The human rights revolution says that human beings possess such inviolability. The strong AR position says that sentient animals also possess such inviolability. Some readers may worry that extending inviolability to animals 'cheapens' the hard-won achievements of the rights revolution. We argue, on the contrary, that any attempt to restrict inviolability to human beings can only be done by radically weakening and destabilizing the scheme of human rights protection, leaving many humans as well as animals outside the scope of effective protection.

Our focus in this chapter on the issue of inviolable rights should not be taken as minimizing the importance of other civil, political, and social rights, such as issues regarding the duties of medical care we have to domesticated animals, or the duties we have to protect the habitat of wild or liminal animals. On the contrary, our entire project is intended precisely to show that we can only address these broader issues by situating them within an explicitly political theory of animal right. Our concern is that while animal rights theory has provided strong arguments for the principle of inviolable rights, it has lacked the conceptual resources to address these broader issues, which require a more relational theory of justice. But before we develop our account of relational justice, we need first to explain why we believe that animals do indeed fall within the scope of a strong rights-based theory, as opposed to being freely violable for the benefit of others.

As noted earlier, the arguments we go on to discuss in this chapter are not new. We believe that the case for a (strong) AR position has already been made, and our primary aim in this book is to take the next step, and to connect ART to broader political theories of justice and citizenship, so that we can identify more clearly potential models of animal-human relationships.

However, to lay the groundwork for our more original arguments in Part II, we provide a brief overview of the moral status/animal personhood debate, in order to explain why we view the strong AR position as the most compelling account. We begin, in section 1, with an argument about animal selfhood, and why this requires the recognition of universal basic rights.⁵ In sections 2 and 3, we examine why plants and inanimate nature do not possess selfhood, although this does not mean that we have no duties towards them, nor that they lack intrinsic value. In sections 4 and 5, we address some possible ambiguities or objections regarding the idea of the 'universality' and 'inviolability' of basic rights.

We hope that readers will find these arguments compelling. However, we do not underestimate the difficulty of 'arguing' others into recognizing animals as vulnerable selves, each in possession of a life as precious as our own. For some people the route to this recognition is an intellectual process, but for

many others, it comes (if at all) through relationships with individual animals. And this is one of the reasons we are anxious to extend the debate beyond the question of basic rights and moral standing to considerations of our actual relationships with animals in their full complexity and richness. We ask readers, even if they reject our starting premise of animal selfhood and the extension of human rights, to hang in for the journey in Part II of this book. It is an exercise in expanding the moral imagination to see animals not solely as vulnerable and suffering individuals but also as neighbours, friends, co-citizens, and members of communities ours and theirs. It imagines a world of human–animal relationships that takes seriously the idea that animals and humans can co-exist, interact, and even cooperate on the basis of justice and equality. We hope that sketching out this more positive vision of human–animal relationships, albeit in broad strokes, can prove compelling even to those readers who have not been persuaded to date by standard AR arguments regarding animal capacities, animal suffering, or the philosophical bases of moral standing.

1. Animal Selves

The assumption of most mainstream contemporary Western political theory is that the community of justice is coextensive with the community of human beings. Basic justice and inviolable rights are owed to all humans by virtue of their humanity, and should be blind to intra-human differences such as race, gender, creed, ability, or sexual orientation. Against this mainstream background, ART poses the question: why just humans? The universalizing impulse of human rights is to extend basic protections across boundaries of physical, mental, and cultural difference, so why should this impulse stop at the boundary of the human species?

The premise of ART—reflected in the writings of Sapontzis (1987), Francione (2000), Cavalieri (2001), Regan (2003), Dunayer (2004), Steiner (2008), and others—is that these protective rights are owed to all conscious or sentient beings, human or animal.⁶ Conscious/sentient beings are selves—that is, they have a distinctive subjective experience of their own lives and of the world, which demands a specific kind of protection in the form of inviolable rights. To limit these rights to humans is morally arbitrary or ‘speciesist’. Such rights can, and ought to, play a crucial role in protecting all vulnerable beings.

Sentience/consciousness has a distinct moral significance because it enables a subjective experience of the world. According to Francione, ‘the observation that animals are sentient is different from saying that they are merely alive. To be sentient means to be the sort of being who is conscious of pain and pleasure; there is an “I” who has subjective experiences’ (Francione 2000: 6).

Steiner's formulation is that 'sentience is a capacity shared by all beings for whom the struggle for life and flourishing *matters*, whether or not the being in question has a reflective sense of which things matter or how they matter' (Steiner 2008: xi–xii). Beings who experience their lives from the inside, and for whom life can go better or worse are selves, not things, whom we recognize as experiencing vulnerability—to pleasure and pain, to frustration and satisfaction, to joy and suffering, or to fear and death.

Recognizing others as sentient in this way changes our attitude towards them. Cora Diamond speaks of recognizing the other as a 'fellow creature' (Diamond 2004). Steiner says that recognizing other beings as sentient creates 'a kinship relation to one another that binds them together in a moral community' (Steiner 2008: xii). Barbara Smuts says 'the "presence" we recognize in another when we meet in mutuality is something we feel more than something we know . . . In mutuality, we sense that inside this other body, there is "someone home"' (Smuts 2001: 308).⁷

The basic premise of ART is that whenever we encounter such vulnerable selves—whenever we encounter 'someone home'—they need protection through the principle of inviolability, which provides a protective shield of basic rights around every individual. One natural way to express this claim is to say that animals should be recognized as persons, and this is indeed how many AR theorists summarize their position. Francione, for example, entitles his recent book *Animals as Persons* (Francione 2008). Since existing human rights norms are often phrased as 'all persons have the right to X', we can restate the ART position as saying that because animals have selfhood, they too should be included in the category of persons.

Many critics of this ART position reassert the traditional view that only human beings are entitled to the protection of inviolable rights. Some critics appeal to religion. The sacred texts of many faiths, including Judaism, Christianity, and Islam, state that God gave humans dominion over animals, including the right to use them for our benefit, and for some devout religious believers this biblical sanction is sufficient grounds to reject ART.⁸ We will set this aside, since we are interested in arguments that draw upon public reasons, not private faith or sacred revelation.

Other critics attempt to deny that animals really do have a subjective experience of the world or that they experience pain, suffering, fear, or pleasure. But the scientific evidence on this point is overwhelming and growing daily. As Palmer notes, it is now accepted by the 'overwhelming majority of biologists and philosophers' (Palmer 2010: 15), so we will set that criticism aside too.⁹

A more serious critique of ART accepts that animals are sentient, but denies that sentience is sufficient for being entitled to the protection of inviolable rights. According to this line of argument, inviolable rights are only owed to

persons, and personhood is something more than mere selfhood; it requires more than the fact of there being 'someone home'.¹⁰ As we noted earlier, many AR theorists effectively equate selfhood and personhood; since animals are sentient selves, they should be treated as persons. But critics have argued that personhood requires some further capacity found only amongst humans. People disagree about what this further capacity is. Some appeal to language, others to the capacity for abstract reasoning or long-term planning, yet others appeal to the capacity for culture or to enter into moral agreements. According to these views, the fact that there is someone home is not sufficient to trigger inviolable rights: the 'someone' at home must also be capable of complex cognitive functioning. Since allegedly only humans possess these cognitive capacities, only humans deserve inviolable rights. And since animals lack these inviolable rights, they can legitimately be used for the benefit of humans.

The multiple flaws in this attempt to reject ART by appeal to personhood have been extensively discussed in the literature. First, even if we could draw a coherent distinction between 'selves' and 'persons', it would not in fact justify ascribing rights on the basis of species membership. Any attempt to draw a line between selves and persons will cut across the species line, treating some humans and some animals as persons, while relegating other humans and other animals to the status of 'mere' selves. Moreover, the very attempt to make a sharp distinction between personhood and selfhood is not conceptually sustainable. It attempts to draw a single clear line in what is really a continuum, or indeed a series of continua along which individuals move at different stages of life. And this in turn reveals the flimsy moral foundations of the appeal to personhood. There is simply no plausible moral justification for ascribing inviolable rights based on personhood rather than selfhood.

We do not want to rehearse all of these arguments, but it is important to clarify not just the futility, but also the grave risks, of trying to invoke personhood as the basis for privileging humans over animals. We cannot assume *a priori* that only humans will pass a test of personhood. It is not true that only humans use language, for example, or that only humans engage in planning. Every day we learn more about animal minds and capacities, and every day the line in the sand allegedly establishing a unique human personhood is obliterated. It is on this basis that recent authors have argued, for example, that the great apes (Cavalieri and Singer 1993), dolphins (White 2007), elephants (Poole 1998), and whales (Cavalieri 2006) possess the cognitive and moral capacities that establish personhood.

One could try to overcome this by raising the bar of personhood so that it requires not only language or planning but, say, the capacity to engage in reasoned moral argumentation and to make commitments to comply with principles reached through such argumentation.¹¹ In this view, personhood requires the ability to articulate one's beliefs verbally in a form that meets

certain standards of public accessibility and universalizability, to be able to understand other people's moral arguments, to engage in some process of rational reflection about the relative merits of these different views, and then consciously and deliberately to conform one's behaviour to the principles that result from such a process of moral reasoning.

It is clear that apes and dolphins are not persons in this Kantian sense. But it is equally clear that many humans are not persons in this sense either. Many humans (e.g., infants, the senile, the mentally disabled, those temporarily incapacitated due to illness, or others with severe cognitive impairments) don't possess the alleged prerequisites of personhood, and in some cases their capacities are clearly exceeded by apes and dolphins and other non-humans. And yet are children and the cognitively impaired not persons? Are they not precisely the most vulnerable kinds of human beings whom the concept of inviolable human rights ought to protect?

In the philosophical literature, this is often described as the 'argument from marginal cases',¹² but this way of stating the objection misses the point. The problem is not that we have a clear majority of 'normal' humans who pass the test of personhood and then a few 'marginal cases' of humans who possess selfhood but not personhood. The problem, rather, is that the capacity for Kantian moral agency is, at best, a fragile achievement that humans have to varying degrees at varying points in their lives. None of us possesses it when we are very young, and we all face periods of shorter or longer duration when it is temporarily or permanently threatened by illness, disability, and aging, or by lack of adequate socialization and education and other forms of social support and nurturance. If personhood is defined as the capacity to engage in rational argumentation and to conform to consciously understood principles, then it is a fluctuating characteristic that varies not only across human beings, but also across time within a life.¹³ To ground human rights in the possession of personhood in this sense would be to render human rights insecure for everyone. And this would defeat the purpose of human rights, which is precisely to provide security for vulnerable selves, including (and indeed especially) in those conditions or periods of life when capacities are limited.

AR theorists sometimes make the point about insecurity in another way. If the protected status of personhood is based on humans possessing superior cognitive capacities to animals, then what happens if an even more evolutionarily advanced species from another planet comes to Earth? Imagine that we encounter a species—let's call them Telepaths—who can engage in telepathy, or who can engage in complex reasoning that exceeds even our most advanced computers, or who can engage in forms of moral self-control that exceed the notoriously weak-willed and impulsive human species. And imagine that Telepaths start to enslave humans, and use us for food, or sport, or as beasts of burden, or as subjects of medical experimentation for their health

research. And imagine that they justify our enslavement and exploitation on the grounds that our primitive forms of communication, reasoning, and impulse control do not meet their tests of personhood. They recognize us as having selfhood, but deny that we have the complex capacities needed for the inviolable rights of personhood.

How would we respond to such enslavement? Presumably we would respond that our alleged inferiority in these respects is irrelevant to our possession of inviolable rights.¹⁴ We might indeed have primitive forms of communication or moral self-discipline in the estimation of Telepaths, but that does not make us mere instruments for the use and benefit of more advanced beings. We have our own lives to lead, our own experience of the world, our own sense of how our lives go better or worse. We are, in short, selves, and it is in virtue of our selfhood that we are owed basic rights, and the presence of allegedly more advanced beings does nothing to reduce our selfhood. Inviolable rights are not a prize awarded to whichever individual or species scores highest on some scale of cognitive capacities, but rather a recognition of the fact that we are subjective beings, and as such should be recognized as having our own lives to lead. But of course we can only respond in this way to the Telepaths if we abandon our quest to deny inviolable rights to animals. The very arguments of cognitive superiority invoked to justify excluding animals are precisely the basis on which Telepaths would justify our enslavement.¹⁵

In these and other ways, basing human rights on a demanding conception of personhood rather than selfhood would render human rights insecure. Indeed, the evolution of the theory and practice of human rights in the last sixty years has been in the opposite direction, repudiating any limitation based on the rationality or autonomy of the beings involved. We can see this internationally with the adoption of the UN Convention on the Rights of the Child (1990) or the UN Convention on the Rights of Persons with Disabilities (2006), as well as in domestic laws and court cases. For example, in an important case dealing with a profoundly intellectually disabled man who could not understand language or conceptualize death, the Massachusetts Supreme Court in 1977 emphasized that 'the principles of equality under the law' have 'no relation to intelligence' or to an individual's ability to 'appreciate' life in a conceptual sense.¹⁶ None of these developments make sense if we tie human rights to a cognitively demanding conception of personhood. In short, invoking personhood to deny inviolable rights to animals only succeeds in eviscerating the theory and practice of human rights for human beings.

Confronted with these objections, critics of ART have responded in various ways. Some bite the bullet and accept that some human beings will not qualify as persons who are entitled to the protection of inviolability, even as some animals might qualify (Frey 1983). We can identify a range of such imagined

geographies of personhood, with various mixes and matches of 'normal' humans and 'higher' animals inside the protected tent, while 'marginal' humans and 'lower' animals are outside.¹⁷ Any intellectually honest attempt to apply a cognitively complex definition of personhood will almost certainly lead to this sort of patchwork quilt of variable and insecure moral status. Some people might think that this is a philosophically respectable position that needs to be taken seriously, but in our view, it is deeply unappealing (not to mention unworkable), and in any event it runs directly counter to the real-world development of human rights theory. The evolving trajectory of human rights has been precisely to erect the strongest of safeguards for the most vulnerable, protecting subordinated groups from dominant groups who question their cognitive capacities, protecting children from adults who can rationalize their abuse, protecting people with disabilities from eugenicists who would deny that their lives have dignity. Anyone who endorses these developments, as we hope our readers do, cannot endorse a theory of moral status that demands cognitively complex personhood.

A surprising number of theorists, however, cling to the hope that personhood can be invoked to reject inviolable rights for (all) animals while preserving the claim to inviolable rights for (all) humans. To preserve this illusory hope, theorists engage in increasingly contorted intellectual gymnastics to defend the privileging of human beings. Some appeal to the idea that all humans, whatever their actual capacities, have the 'species potential' for personhood, or that all humans belong to the 'kind' of being that has the potential for personhood (e.g., Cohen and Regan 2001)—forms of argumentation that are widely discredited in all other areas of moral and political philosophy, but which get revived in a desperate attempt to preserve the right of humans to exploit animals. When the multiple fallacies of such arguments are pointed out (e.g., Nobis 2004, Cavalieri 2001), the last line of defence is to stipulate that all human beings should be seen as inviolable persons simply because of their species membership, regardless of their actual or potential capacities. In rejecting the idea of animal personhood, Margaret Somerville, for example, says that 'universal human personhood means that every human being has an "intrinsic dignity" that comes simply with being human; having that dignity does not depend on having any other attribute or functional capacity' (Somerville 2010). Here we reach the nadir of appeals to personhood, which become nothing more than the bald assertion of speciesism. For Somerville, we should treat every human as an inviolable person because they are one of us (whatever their needs, capacities, or interests), and we should deny inviolable personhood to every animal because they are not one of us (whatever their needs, capacities, or interests).¹⁸

Much of the literature on animal rights has been consumed with these arguments and counter-arguments around personhood. In our view, however,

this way of framing the debate leads us astray. What morally justifies the attribution of inviolable rights is selfhood, not a more cognitively demanding conception of personhood. Indeed, talk of personhood starts us down the wrong path. It suggests we must first develop some canonical list of attributes or capacities that ground inviolable rights, and then look around to see which beings possess these attributes. Rather, we believe that respecting inviolability is, first and foremost, a process of intersubjective recognition—that is, the first question is simply whether there is a ‘subject’ there, whether there is ‘someone home’. This process of intersubjective recognition precedes any attempt to enumerate his or her capacities or interests. Once we know there is someone home, we know we are dealing with a vulnerable self, a being with subjective experience whose life can go better or worse as experienced from the inside. And so we know we should respect their inviolable rights, even before we know their variable capacities such as intelligence or moral agency.¹⁹

All of this is clear enough in the human case. When dealing with sentient humans, we do not assign degrees of basic human rights or inviolability according to differences in mental complexity, intelligence, or emotional or moral range. Simple or brilliant, selfish or saint, torpid or vivacious—we are all entitled to basic human rights because we are all vulnerable selves. Indeed, it is often humans with the most limited capacities who are most vulnerable, and most in need of the protections of inviolability. Moral status does not rest on judgements of mental complexity, but simply on the recognition of selfhood. Talk of personhood obscures this, and creates false barriers to the recognition of animal rights.

The idea that inviolable rights are grounded in the capacity for language, moral reflection, or abstract cognitive ability strains common sense, and seems disconnected from any plausible account of how we actually reason morally.²⁰ Focusing on these capacities may be tempting to anyone whose driving motivation is to exclude animals from the protection of inviolable rights. But that end can only be achieved by hollowing out the theory, making a mockery of the idea of protecting the vulnerable and the innocent.²¹

Given the way talk of personhood obscures our moral reasoning, and the way it has been used for exclusionary purposes, it might be better to avoid the language of personhood entirely, and simply to talk, in both the human and animal cases, of selfhood, and of the inviolable rights that protect selfhood. But the language of personhood is too deeply woven into our everyday discourses and legal systems to simply be expunged. For many legal and political purposes, advancing an animal rights agenda will require using the pre-existing language of persons and extending it to animals. And so we too, like Francione, will sometimes speak about ‘animals as persons’. But it is important to emphasize that, for the rest of this book, we are treating

personhood as a synonym for selfhood, and that we reject any attempt to distinguish personhood from selfhood as the basis for inviolable rights. Such efforts are conceptually unsustainable, morally unmotivated, and radically destabilizing of the very idea of universal human rights.²²

Our fundamental position, then, is that animals have inviolable rights in virtue of their sentience or selfhood, the fact that they have a subjective experience of the world. This naturally raises the question of which beings are indeed conscious or sentient in this sense. Which animals are selves? The truth is, we may never be able to fully answer this question. There is something fundamentally unknowable about other minds, and this chasm increases the further we move from forms of consciousness and experience that most resemble our own. Are molluscs conscious? Insects? The evidence to date suggests they are not, but this may just reflect the fact that we are looking for a distinctly human form of subjective experience, and not considering other possible forms.²³ Scientists are still learning how to study animal minds, and there will undoubtedly be hard cases and grey areas for a long time to come when trying to identify consciousness. However, this doesn't change the fact that we can readily identify it in many instances. Indeed, the types of animals that are most cruelly abused are precisely those whose consciousness is least in doubt. We domesticate species like dogs and horses precisely because of their ability to interact with us. We experiment on species like monkeys and rats precisely because they share similar responses to deprivation, fear, or rewards. To invoke the difficulty of determining a threshold of basic consciousness as a justification for continuing animal exploitation is dishonest. As Francione argues, even if we don't know enough about animal minds to be sure about whether all animals are sentient/conscious, we know that many of them are, and that the ones we routinely exploit most certainly are (Francione 2000: 6; cf. Regan 2003).

Moreover, it is important to emphasize that recognizing selfhood does not require that we be able to unravel the mystery of an animal's mind. The point of the Smuts quote about 'someone home' is that we can recognize consciousness without being able to understand what it is like to be a bat, say, or a deer. (Just as we can recognize the selfhood of other humans whose subjective experience is profoundly different from our own.) This doesn't mean that we shouldn't seek greater understanding of animal minds. Science has made remarkable strides in recent years in demonstrating the range and complexity of animal intelligence and emotion.²⁴ This understanding has been vital in changing human attitudes towards animals, especially in overturning the old scientific consensus that animals were insentient—a prejudice with remarkable staying power, given the overwhelming evidence (and common sense) to the contrary. Scientific understanding is also vital in helping us understand the specific interests of individual animals and species, and in interpreting

what they are able to communicate to us about those interests. The better we understand animals, the greater the opportunities for rich and rewarding (and just) intersubjective relationship. There will always be some animals whose world and experience are so removed from ours—like the eelpout fish living deep in the Pacific Ocean thermal vents—that the best we can do is recognize that there is a self there, respect their basic rights, and leave them to get on with life.²⁵ But there will be countless others with whom greater understanding and relationship is possible. This is where the science of other minds becomes crucial—not in determining *who* has basic rights, but in helping us to understand *how* best to interact with them.

Thus we eagerly await new developments from the ethical exploration of animal minds. However, the moral claim to basic rights does not hinge on these findings. We already know that in the case of most animals, there is 'someone home'. This, in our view, is sufficient to ground respect for basic inviolable rights. Admittedly, ours is a minority view, and we have no doubt that debates will continue to rage concerning moral status, selfhood, personhood, and universal basic rights. Defenders of human superiority will continue to engage in increasingly contorted intellectual gymnastics to defend the privileging of human beings, and animal advocates will continue to strip the last vestiges of human chauvinism from our moral theories. As we said earlier, our aim in this book is not to reproduce all these arguments and counter-arguments—readers who are interested in them can consult a number of good collections of key texts (Sapontzis 2004; Sunstein and Nussbaum 2004; Cohen and Regan 2001; Donovan and Adams 2007; Palmer 2008; Armstrong and Botzler 2008). And no doubt there will continue to be new and more ingenious efforts to defend speciesism in all its dimensions. But as Peter Singer notes, we have now had thirty years of such attempts, and 'the continuing failure of philosophy to produce a plausible theory of the moral importance of species membership indicates, with increasing probability, that there can be no such thing' (Singer 2003).

2. Justice for Persons and the Value of Nature

This then is our basic starting point: like many other AR theorists, we defend inviolable rights for animals as a response to the vulnerability of selfhood or individual consciousness. So far, we have primarily been concerned with defending this position against critics who seek to restrict moral personhood to human beings (or to a few 'higher' animal species). But it's worth noting that there is another, very different, line of critique of ART found amongst ecological theorists. As we noted earlier, they often criticize ART for not extending moral standing far enough. ART extends moral standing to sentient

beings, but not to forests, rivers, or nature more generally. Indeed, some ecologists argue that ART remains fundamentally an anthropocentric theory: it takes human beings as the measure of moral status, and simply argues that some other species share enough human-like characteristics to qualify for human rights.

Let us start with the anthropocentric objection, and then turn to the issue of the value of nature. Anthropocentrism, as we understand the term, is an approach to moral theory that takes humanity as its standard: it starts by asking what the essence is of 'being human' or of 'humanity', and assumes that human beings are entitled to rights and justice in virtue of this essential humanity. Animals, in this anthropocentric view, achieve moral standing only if they can be seen as possessing or approximating some aspect of this essence of humanity.

That is not our approach. Our theory is not one based on any account of the essence of being human, any more than it is based on the essence of, say, being a dog. Our theory is instead based on an account of one of the key purposes of justice, which is the protection of vulnerable individuals.²⁶ Being an 'I'—a being who experiences—represents a particular kind of vulnerability, calling for a particular form of protection from the actions of others, in the form of inviolable rights. This is not imposing a human-centric moral criterion on animals—on the contrary, what happens to sentient beings matters because it matters to them. It is the fact that sentient beings care about how their lives go that generates a distinctive kind of moral claim on us.

It's true that when we ask questions about what we mean by justice, it is often helpful to start from the familiar human case, and to examine our intuitions about what constitutes human justice, and why it is important. As we noted above, we believe that if one attends carefully to those intuitions, we will see that what matters is the presence of subjective experience (which all humans share), and not higher cognitive functions (which only some humans possess, at particular points in life). But the fact that we start from the human case in this sense doesn't mean that we are privileging some theory of humanity, nor that we are privileging a distinctly *human* state of subjectivity. We could equally have started from our intuitions about dogs, and whether they seem to be the kinds of beings who are vulnerable in ways that could be protected by inviolable rights, and if they are, what it is about dogs that makes them vulnerable in the relevant kind of way. And we would arrive at an answer concerning dog sentience, consciousness, or subjectivity, regardless of how close or distant dog subjectivity is to human subjectivity.

Let us turn now to the deeper question about the value of nature. As noted, ecological theorists have argued that it's not just individual animals who are vulnerable to harm from humans. Entire species are obliterated. Watersheds are polluted, mountain ranges pulverized, and once-flourishing ecosystems

degraded. These processes harm both humans and animals, but for ecological theorists, their harmfulness is not reducible to their impact on sentient beings. Many ecological theorists have argued that non-animal nature has an interest in flourishing which must be taken into account, and that plants, ecosystems, etc. must be given moral standing, along with humans and animals, to protect their interests (Baxter 2005; Schlossberg 2007). According to this view, insofar as ART ascribes rights on the basis of selfhood, it lacks the conceptual resources to recognize the moral significance of nature more broadly.

Part of the difficulty here lies in the language of moral standing, invoked by both defenders of ART and their ecological critics. We need different, and more precise, terms to capture the way in which different types of considerations enter into our moral reasoning. To say that humans, animals, and nature all have moral standing, or that they can all be harmed, is unhelpful. A watershed can be harmed, and an otter can be harmed, but only the otter has the subjective experience of being harmed. This does not mean that subjectively experienced harm is necessarily more serious than other types of harm, but it does mean that it is different, and calls for different remedies or protections. Consider a standard example advanced by ecological theorists, in which a flourishing ecosystem has been overrun by deer. Natural predators are absent, so the deer population runs out of control and decimates the local flora endangering the ecosystem, including the last specimens of a rare orchid. Imagine the situation has been allowed to fester, and the habitat is on the verge of collapse. Non-lethal solutions such as propagating the orchid elsewhere, or controlling the deer population through fertility drugs or the creation of habitat corridors, won't work quickly enough, and the only apparent solutions are for humans either to kill the deer or allow them to destroy the ecosystem and its orchid.

In this sort of case, ecological theorists criticize ART for granting moral standing only to individual deer, while withholding moral standing to the ecosystem as a whole, or to a particular species of flower. But does granting moral standing to the ecosystem really help us identify the moral considerations at stake? If we grant moral standing to both the deer and the ecosystem, the implication is that these are moral considerations of the same type, to be weighed against each other, such that it might be acceptable to kill the deer to protect the ecosystem from degradation, or to protect the orchid from extinction. The interests of nature might outweigh those of the deer, who are a dime a dozen over in the next county.

Yet surely this way of framing the issue obscures rather than clarifies the moral factors at work. Consider what happens when we substitute human persons for deer in this example. In that case, we would not favour killing humans to save the orchid. We would try to dissuade humans from their destructive behaviour, we would try to protect the ecosystem and its orchids,

but if worst comes to worst we're not going to be culling any people. The orchid will be lost, and we'll try to do better next time. Why is this? Because the nature of the moral standing at play is qualitatively different. The orchid, or the local habitat, does not have the kind of interest that can override the inviolability of persons and their right not to be killed.

Indeed, ecological theorists typically accept this. When ecological theorists first proposed that plants or ecosystems should have moral standing in theories of justice, critics raised the objection that the protection of an ecosystem or species could be used to justify the killing of humans. Ecological theorists were quick to respond to these 'ecofascism' charges by insisting that granting moral standing in a holistic way to species and ecosystems could not be used to justify the trampling of basic human rights. While holistic entities (e.g., species or ecosystems) have moral standing, it is not equivalent to human moral standing. As Callicott puts it, recognizing the moral status of the ecosystem supplements pre-existing moral systems of inviolable human rights, and cannot be invoked to limit or reject those pre-existing human rights (Callicott 1999).²⁷ Moral standing is a hierarchy, in other words. Natural systems have a moral standing such that ecological values must be taken into account, but these values do not trump basic human rights.²⁸

This move, however, shows that the ecological discourse of moral standing is systematically misleading, obscuring fundamental differences in what we mean by moral standing. As much as ART, ecological theory implicitly operates with the assumption that certain beings are bearers of inviolable rights. But it simply assumes, without argument, that only humans qualify as persons with inviolable rights, while putting both sentient animals and non-animal nature into a residual category of moral standing whose basic interests are subject to trade-offs.

This may be a defensible position, but it's not illuminated or defended by asking whether non-animal nature has moral standing. Rather, the fundamental issue is about how we identify the set of beings whose selfhood generates inviolable rights. The question of selfhood is separate from, and constrains, the ways we respond to the value of nature. Ecological theorists implicitly presuppose that the selfhood of animals, unlike the selfhood of humans, does not generate the protection of inviolable rights. But they give no argument for this position, which therefore amounts to the naked assertion of speciesism, just like Somerville.

In our view, it is misleading to suggest that humans, animals, non-sentient life forms, and inanimate nature all have interests in the same sense, and hence that all have moral standing. On the surface, it appears to challenge the anthropocentric privileging of human beings, but in fact it presupposes a hierarchical concept of moral standing in which only one group of vulnerable individuals, namely humans, are inviolable, while all other animals are

subject to trade-offs. And as we've seen in Chapter 1, the inevitable result of this hierarchical concept is the perpetuation and expansion of the (ecologically disastrous) system of animal exploitation.

A more plausible approach, we have argued, is to start with the question of selfhood. What sorts of beings have a subjective experience of the world, and hence have interests in that specific sense? This question of selfhood or personhood identifies the set of beings to whom justice and inviolable rights are owed. There are many good reasons to respect and protect nature, including instrumental as well as non-instrumental ones. But it is wrong to characterize these reasons as protecting the *interests* of orchids or other non-sentient entities. Only a being with subjective experience can have interests, or be owed the direct duties of justice that protect those interests. A rock is not a person. Neither is an ecosystem, an orchid, or a strain of bacteria. They are things. They can be damaged, but not subject to injustice. Justice is owed to subjects who experience the world, not to things. Non-sentient entities can rightfully be the objects of respect, awe, love, and care. But, lacking subjectivity, they are not rightfully the objects of fairness, nor are they agents of intersubjectivity, the motivating spirit of justice.

Ecological theorists will counter that we're not eliminating the hierarchy, just changing its membership. But this is to misunderstand the claim. We do not deny that humans have moral duties to plants and inanimate nature. Nor do we claim that humans and animals are higher in some cosmic hierarchy than trees or mountains. Rather, we claim that they are different—sentience generates distinctive vulnerabilities, and hence distinctive needs for the protection of inviolable rights. If non-sentient entities shared this interest, and we denied the protections of inviolability to them, then we would be guilty of subordinating them. But they do not have this interest, and therefore there is no disrespect in declining to treat orchids and rock faces as persons.²⁹

3. Nature's Otherness

As we have seen, the ART position on basic rights has been criticized from both directions—that is, by those who think only humans have moral status, and by those who think all of nature possesses moral status. Both critiques perform the same sleight of hand by ignoring animal subjectivity. Both tend to collapse the question of animals into the question of nature writ large, denying that animals, as subjects, need to be protected the way human subjects are, and not simply as components of nature.

What explains the puzzling resistance of so many people—both humanists and ecologists—to acknowledging the selfhood of animals? There are no doubt many reasons, including the long history of the denigration of animals

as mere brutes or things. But it is worth noting that another factor, paradoxically, may be the ways in which we often admire, respect, and value animal life—and nature more generally.

People often view animals as simply part of nature, and hence as something fundamentally 'other'—indifferent to human projects and unknowable to human minds. And while this otherness can sometimes be threatening or alienating, it can also generate powerful aesthetic and moral responses of respect and awe. These are the moments when great natural beauty takes us out of ourselves, briefly silencing the ego and allowing us to lose ourselves in something larger, and something which is essentially indifferent to the self. This 'unselfing' is famously described in Iris Murdoch's account of the kestrel:

I am looking out of my window in an anxious and resentful state of mind, oblivious of my surroundings, brooding perhaps on some damage done to my prestige. Then suddenly I observe a hovering kestrel. In a moment everything is altered. The brooding self with its hurt vanity has disappeared. There is nothing now but kestrel. And when I return to thinking of the other matter it seems less important. (Murdoch 1970: 84)

This is sometimes cited as an example of how nature can and should be valued by human beings, in ways that go beyond its instrumental value as a resource or commodity. The presence of a larger natural order, wholly indifferent to our daily projects and preoccupations, provides a necessary context to, and perspective on, our lives.

Consider a related description by mountain climber Karen Warren:

One recognizes the rock as something very different, something perhaps totally indifferent to one's own presence, and finds in that difference joyous occasion for celebration. One knows 'the boundary of the self,' where the self—the 'I,' the climber—leaves off and the rock begins. There is no fusion of two into one, but a complement of two entities *acknowledged* as separate, different, independent, yet *in relationship*; they are in relationship *if only* because the loving eye is perceiving it, responding to it, noticing it, attending to it. (cited in Slicer 1991: 111)

Deborah Slicer quotes this passage, describing the relationship between climber and rock face as an exemplar of a kind of 'loving attention' which should be the basis for our ethical relations with 'the other', including animals, plants, and non-living nature.

Loving attention and respect for nature's otherness (including its beauty, self-containment, and self-sufficiency) represent a critical moral ability and opportunity for many humans (and perhaps for some animals). And the experience of such moments of selfless attention or connection may be vital in motivating humans to care for nature, including animals. But it is a mistake to see this kind of 'loving attention' as exhausting our moral response and

duty towards animals. Warren speaks of being 'in relationship' with the rock, but it is a one-sided relationship in which it is the human self who does all of the perceiving, responding, noticing, and attending. In the case of the kestrel, on the other hand, there are two selves. The kestrel may be indifferent to Murdoch at the moment she is looking out her window (just as another human self would be, were she unaware of being observed). But there is a potential for intersubjective relationship, and with it, different kinds of moral duties.

Imagine that the kestrel suddenly hits the window and slides to the ground, or that a fragment of rock which Warren has just climbed has been jarred loose and falls to a ledge below. In the first instance, moral action to attend to the kestrel is called for. Murdoch has an obligation to go to the bird and help her if she can. The latter instance demands no comparable moral action. Warren may chide herself for sloppy climbing, and regret marring the rock face, but there is no other self who is suffering, and demanding moral action. The incident may prompt Warren to reconsider whether rock climbing really is consistent with loving attention for rock faces, but there is no call upon her to climb down to the ledge to assist the rock fragment she has dislodged.

If we overemphasize animals' separateness from us—their independence, distance, inscrutability, or indifference—we are at just as much risk of moral error as if we overemphasize our similarity by projecting onto them needs, desires, or interests that are distinctly our own. (And the same might be said of our relationships with other humans.) The fact is that many animals are far from indifferent to us, and quite capable of communicating a great deal about their needs, desires, and interests as individual selves.

Barbara Smuts, in her work with baboons and domestic dogs, is an expert witness of the process of interspecies communication and connection—'the capacity to feel our way into the being of another' (Smuts 2001: 295). In her field research observing baboons, she describes a critical moment in the baboons' response to her presence amongst them. Initially, they simply retreat from her, in a unilateral and instinctive response to a potential threat. Over time, Smuts learns to 'talk baboon', changing everything from 'the way I walked and sat, the way I held my body, and the way I used my eyes and voice'. As she gradually communicates to the baboons that she can respond to their cues indicating emotions, motivations, and intentions, they come to recognize her as a subject:

This may sound like a small shift, but in fact it signalled a profound change from being treated as an *object* that elicited a unilateral response (avoidance), to being recognized as a *subject* with whom they could communicate. Over time they treated me more and more as a social being like themselves, subject to the demands and rewards of relationship. This meant that I sometimes had to be

willing to give more weight to their demands (e.g., a signal to 'get lost!') than to my desire to collect data. But it also meant that I was increasingly often welcomed into their midst, not as a barely-tolerated intruder but as a casual acquaintance or even, on occasion, a familiar friend. (Smuts 2001: 295)³⁰

Smuts came away from her time with the baboons with a profoundly different awareness of the individuality of animals, and the possibilities for intersubjective encounters:

Before Africa, if I were walking in the woods and came across a squirrel, I would enjoy its presence, but I would experience it as a member of a class, 'squirrel'. Now, I experience every squirrel I encounter as a small, fuzzy-tailed, person-like creature. Even though I usually don't know this squirrel from another, I know that if I tried, I would, and that once I did, this squirrel would reveal itself as an utterly unique being, different in temperament and behaviour from every other squirrel in the world. In addition, I am aware that if this squirrel had a chance to get to know me, he or she might relate to me differently than to any other person in the world. My awareness of the individuality of all beings, and of the capacity of at least some beings to respond to the individuality in me, transforms the world into a universe replete with opportunities to develop personal relationships of all kinds. Such relationships can be ephemeral, like those developed with the birds in whose territories we might picnic, or life-long, like those established with cats, dogs, and human friends. (Smuts 2001: 301)

This attention to the possibilities of intersubjective relationship is very different from Murdoch's moment of 'unselfing'. The latter encounter is possible with many kinds of other—sentient and otherwise. The former is only possible with other 'selves', creating the basis for intersubjectivity, and the special protections entailed by its unique form of vulnerability. Generalized discussion of 'the other' (meaning animals and nature) obscures the fact that animals are not just 'other', they are other *selves*. And it is selfhood that motivates the specific moral attitudes of fairness and compassion which underlie our duties of justice.³¹

4. The Great Debate: Summing Up

The foregoing, in essence, describes the 'great debate' initiated by ART for the last forty-five years. The debate is by no means over, but we believe that the arguments to date clearly support the strong AR position: namely, that animals should be recognized as vulnerable selves with inviolable rights (against those who would restrict basic rights to humans), and that these protections of selfhood should be extended to animals without being watered down, or displaced by other moral priorities (against those who would place animals

and nature lower than humans in a hierarchy of moral standing, or advocate a moral standing for animals that disregards the importance of selfhood).

As we have noted, ART remains intensely controversial. And yet, for all their efforts, critics of animal rights have been unable to make a convincing case for the unique moral selfhood of human beings. As Martha Nussbaum rather reluctantly concedes, 'It seems that there is no respectable way to deny the equal dignity of creatures across species' (Nussbaum 2006: 383).

We do not expect our brief discussion in this chapter to persuade anyone who has not already been persuaded on its merits. How, in the end, can you persuade anyone to look in the eyes of another and recognize a person? And so, in the rest of the book, rather than trying to advance new arguments for why animals are selves/persons, we want to explore the implications of recognizing animals as persons, and also as friends, as co-citizens, and as members of communities—ours and theirs. We hope that fleshing out a conception of possible human–animal relationships in these ways will make it easier for readers, the next time they look into the eyes of an animal, to recognize the person there—familiar, yet mysterious, an independent locus of meaning and agency.

5. The Inviolability and Universality of Basic Rights for Animals

While our main goal is to develop an expanded and group-differentiated conception of human–animal justice that goes beyond ART's current preoccupation with basic rights, this is not to diminish the significance of these universal rights. Quite the contrary. They are vital to ending the ongoing tragedy of animal exploitation, and the most egregious forms of violence. So we will conclude this chapter with a brief overview of how we understand these rights, and how they set the foundations for the more expanded conception we develop in later chapters.

What are the implications of recognizing animals as persons or selves with inviolable rights? In the simplest terms, it means recognizing that they are not means to our ends. They were not put on earth to serve us, or feed us, or comfort us. Rather, they have their own subjective existence, and hence their own equal and inviolable rights to life and liberty, which prohibits harming them, killing them, confining them, owning them, and enslaving them. 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, or comfort.

We have described these basic rights as both 'inviolable' and 'universal', just as human rights are typically understood as both inviolable and universal. However, inviolability and universality are concepts that require some further

clarification. Let us start with inviolability. As we have already noted, this term does not mean that basic rights are absolute and exceptionless. This is not true in either the human or animal case, as in cases of self-defence. Human beings have an inviolable right to life, but killing another human being is permissible if it is done out of self-defence or necessity.³² So, too, with animals. There is also a historical dimension to the issue of inviolability. At different stages of human history, or in particular contexts, humans have had to harm and/or kill animals in order to survive. In that sense, too, basic inviolable rights are not absolute or unconditional.

This raises a more general point about the nature of justice: namely, that it only applies in certain circumstances—what Rawls (following Hume) calls the ‘circumstances of justice’. Ought implies can: humans only owe justice to each other when they are in fact able to respect each other’s rights without jeopardizing their own existence. Rawls calls this the requirement of ‘moderate scarcity’: justice is *necessary* because there isn’t an unlimited pool of resources such that everyone can have everything that they want; but for justice to be *possible*, the competition for resources must be moderate rather than severe, in the sense that I can afford to recognize your legitimate claims without undermining my own existence.

We can contrast this with what are sometimes called ‘lifeboat cases’, when there is too little food or shelter for all to survive. In these lifeboat conditions, the most extreme actions may need to be contemplated. In order to avoid everyone on the boat dying, one person may be sacrificed, or sacrifice themselves, and various proposals have been made about how to decide who should live and who should die. But the existence of such extreme lifeboat cases tells us nothing about the basic rights we owe each other in the normal case where the circumstances of justice do apply. In conditions of moderate scarcity, rather than lifeboat cases, murdering other humans for food or shelter is wrong.³³

Similarly, there are lifeboat cases in the relations between humans and animals. Indeed, in the past the circumstances of justice may not have applied to many human–animal interactions, and the killing of animals may unavoidably have been a central and enduring part of a group’s survival strategies. And there may still be some isolated communities of humans dependent on limited local options for survival, who arguably are not in the circumstances of justice with animals.

But circumstances change. Ought implies can, but what we can do changes over time, and so, therefore, does the ‘ought’. Today, most of us are no longer in the circumstances that would justify imprisoning and killing animals for food, labour, or clothing. We have no need to engage in the tragic necessity of harming animals in order to meet our needs.³⁴

This does not mean that we never need to kill animals. Animals sometimes attack humans, or pose a lethal risk to humans by their presence (e.g., venomous snakes who take up residence in human houses). And the nature of these risks can change over time: a particular species of animal with whom we used to have benign relations may develop a virus that is lethal to us, and we may need to take protective action that had not been required beforehand. On the other hand, we may develop technologies (e.g., inoculations, barriers) that allow us to manage long-standing risks from animals, rendering unnecessary harmful self-defence measures that had previously been required.

Assessing and sustaining the circumstances of justice is therefore an ongoing task. Whether one is in the circumstances of justice towards animals is not a simple or one-shot 'yes/no' judgement. While human societies no longer need to routinely kill or enslave animals in order to survive, there will be ongoing cases of potentially lethal conflict, and these cases may evolve and change over time. What does not change, however, is our obligation to try to sustain the circumstances of justice where they exist, and to move towards the circumstances of justice where they do not yet exist. We should not recklessly put ourselves in situations where we are likely to face lethal conflicts with animals, and we should make reasonable efforts to identify practices that would allow us to reduce existing conflicts, in order that, to the extent possible, we can respect the inviolable rights of animals.³⁵

What precisely this will require of us will vary considerably. For those of us who live in wealthy urban environments, the vast bulk of our daily interactions with animals clearly falls within the circumstances of justice. For those living in more remote areas alongside potentially aggressive wildlife, or in poorer societies without adequate infrastructure (e.g., waste disposal, impermeable housing barriers), the necessities of daily life may create more regular risks of lethal conflict, and greater measures would be needed to extend the circumstances of justice. In each case, there is a duty to sustain and extend the circumstances of justice, so as to respect as far as possible the inviolable rights of animals, but obviously more can be expected and demanded of those of us living in more propitious circumstances.

The idea of inviolable rights for animals, therefore, is more complex than it initially appears, and not as absolute or unconditional as it may sound. But all of this is equally true in the case of human rights. We may need to sacrifice humans who pose a lethal risk, or in lifeboat cases. The existence of such tragic cases does not put into question the basic inviolable rights of animals or humans—on the contrary, these cases are tragic precisely because we cannot respect the inviolability that people are owed. And so, in both cases, we have a duty progressively to extend the circumstances of justice so that, wherever possible, we can respect these inviolable rights.

Moreover, while inviolable rights are not exceptionless, we should not overstate these exceptions. For most societies, it is very rare indeed that self-defence or necessity requires violating the basic rights of animals. Some people try to extend the logic of self-defence to the case of medical experimentation on animals, on the grounds that it might lead to cures for lethal human diseases, and so qualifies as a case of 'kill or be killed'. According to this view, either animals or humans will die, and so it's okay for humans to choose their own survival.

But this is a gross distortion of the idea of self-defence or necessity. Consider a comparable human case. Human subjects make much more reliable models for human medical research than animals do, but we do not condone conscripting humans for dangerous, invasive, and non-consensual research purposes. We are rightly appalled by the idea of sacrificing human individuals in order to expand medical knowledge or to develop medical technologies in order to help other humans. This is one of the kinds of exploitation that the inviolability of the individual is intended to protect. Basic rights are needed precisely to prevent one individual's most basic interests being sacrificed for the greater good of others. It doesn't matter if sacrificing one human would generate knowledge that would potentially save a thousand others; we simply don't accept 'benefit to others' as sufficient cause for violating the basic rights of the person. And in the human case, we do not confuse 'benefit to others' with 'self-defence'. If a woman is holding hostages and threatening to shoot them, it may be necessary to kill her to save them. But picking a woman off the street and infecting her with the HIV virus in order to work for a cure is an act of unconscionable violence.

Medical experimentation on animals is often viewed as a hard case for animal rights. Even those who abhor factory farming, cosmetic testing, or recreational hunting will often condone medical research, as though giving up our access to unlimited, if imperfect, research subjects is too great a sacrifice to contemplate (e.g., Nussbaum 2006; Zamir 2007; Slicer 1991; McMahan 2002). But to view this as a sacrifice is already to misunderstand the moral situation. After all, there are countless medical technologies and medical advances that don't exist today because we refuse to use human subjects for invasive experiments. It is hard to overestimate the advances that medical science could have made by now if researchers had been able to use human subjects, rather than imperfect animal stand-ins. Yet we do not view this as a sacrifice. We do not wake up every day lamenting all that untapped knowledge; we are not bitter about the restriction on human subjects that has so hampered medical advance; we do not worry that an overly squeamish attitude about respecting the rights of a few humans is standing in the way of longer and healthier lives for the rest of us. Indeed, anyone who viewed prohibitions on using humans as research subjects as a sacrifice would be

seen as morally perverse. We fully understand, in the human context, that medical knowledge must advance within ethical boundaries, or it simply isn't knowledge that we have a right to. This may force us to be more creative about how we learn, or to be more patient in waiting for results. Either way, it's not something we view as a sacrifice. It's a recognition that a world in which better or longer lives for the many are purchased by sacrificing the few is not a world worth living in.

It will require a huge adjustment for societies to accept that medical knowledge gained by harming and killing animals is not knowledge to which we are entitled. But the costs of the adjustment would be temporary. After a few decades in which new practices became customary, and a new generation of researchers trained, animal experimentation would be perceived much as human experimentation is viewed today. Its prohibition would not be viewed as a cost, just as the absence of human experimentation is not viewed as a cost. Nobody would think that giving up animal experimentation constitutes a sacrifice on the part of humans. Rather, they would wonder how we ever rationalized such a practice in the first place.

This then is how we understand inviolability, in both the human and animal cases: it is conditional on the circumstances of justice, but where those circumstances exist, it provides firm protection for basic rights, even when (and indeed especially when) sacrificing the interests of the few could benefit the interests of the many.

Let us now turn to the issue of 'universality'. Following Cavalieri (2001) and others, we have presented our account of animal rights as a logical extension of the doctrine of human rights, and as sharing in its aspirations to universality. To say it aspires to universality is to say, amongst other things, that it is not offered simply as the interpretation of a particular cultural tradition or religious worldview, but as a global ethic, based on values or principles that are accessible to and shared by the world as a whole.

All such claims to universality immediately raise issues of cultural pluralism. Given that the world's cultures and religions have very different views of the moral standing of animals, how can any one view claim to be universally valid? Is it not a form of Eurocentrism and moral imperialism to impose 'our' views of the rights of animals on other societies? This objection has been particularly salient and controversial in relation to indigenous peoples, some of whom engage in forms of hunting and trapping that animal rights activists have sought to ban (e.g., whale hunting, seal hunting). Viewed against the long history of Western imperialism against indigenous peoples, it is difficult not to see this as yet another example in which Western societies claim the right to exercise power over indigenous societies on the grounds that the latter are backward, primitive, or even barbaric. And so even ardent animal rights

activists sometimes seek ways to exempt indigenous peoples from laws or conventions that would prohibit their traditional hunting practices.

Yet few people in the animal advocacy movement would wish to endorse a generalized 'cultural exemption' that could be invoked whenever traditional cultural practices violate the rights of animals. For example, when Spain joined the European Union, it negotiated an exemption from European animal welfare laws to allow bullfighting on the grounds of 'respecting cultural traditions' (Casal 2003: 1). Most animal rights activists view this as scandalous: what is the point of endorsing animal rights principles if not to stop these sorts of traditions?

In-between Spanish bullfighting and traditional indigenous hunting, there are a wide range of controversial cases, many tied up with religion. Should Jews and Muslims be exempted from animal slaughter laws that are intended to minimize suffering? Should adherents of the Santeria religion be allowed to use animals in ritual sacrifices as part of their religious services? More generally, is there a conflict between respect for cultural diversity and respect for animal rights? And if so, does that mean, in Paula Casal's words, that 'multiculturalism is bad for animals' (Casal 2003)?

This is an important issue, or, more accurately, a nest of different issues that needs to be carefully unpacked. We cannot hope to fully address them here, but it's important to note that the same debate arises in relation to human rights. From the origins of the Universal Declaration of Human Rights in 1948, there have been ongoing contestations over whether the idea of human rights is truly universal, or whether it reflects the imposition of Eurocentric ideas on other cultures, particularly in relation to the rights of women and children, or family life more generally. And so, as with animal rights, we see a number of calls for cultural or religious exemptions from human rights standards. Many countries have entered 'reservations' when signing international human rights norms, particularly in relation to the rights of children and women, which are seen as central to a society's way of life or its religious self-identity. And this in turn has led to questions about whether there is a conflict between respect for cultural diversity and respect for women's rights, and hence whether 'multiculturalism is bad for women' (Okin 1999).

If we compare these debates, the similarities are striking. In relation to their claims for universality, and the contestability of these claims, human rights and animal rights are on a par, and we see no reason to think that animal rights are any more or less capable of universality than human rights. Indeed, if our arguments in this chapter are correct that animal rights flow from the logic of human rights, then their universality stands or falls together. Defending the universality of animal rights despite the persistence of deeply rooted cultural disagreement is a difficult challenge, but it is a challenge we already face in defending the universality of human rights in the face of equally

persistent cultural disagreement, and our answer to the latter challenge is likely to apply to the former.

Much has been written about how best to defend the universality of basic rights in light of these facts and claims of cultural diversity, and we cannot hope to reproduce those debates here, let alone to resolve them. But we can perhaps at least set aside some misunderstandings. Much of the opposition to the universality of human or animal rights rests on a particular view about how cultural values emerge or evolve. As Bielefeldt (2000) notes, when people discuss whether human rights are Western, they often operate implicitly with the model of cultures as acorns that turn into oak trees. To say that human rights are Western is to say that human rights were somehow present in the very acorn of Western civilization, present in its cultural DNA as it were, and hence destined to blossom as the tree grew. By contrast, human rights are said to be missing from the acorn of Islamic or Eastern societies, not part of their cultural DNA, and hence not part of their natural evolution, but can only be at best a foreign graft that does not truly fit into their tree. Similarly, someone who denies the universality of animal rights might argue that animal rights are part of the cultural DNA of the West, but not of the East.

This model of acorns and oak trees is hopelessly misleading, in relation to both human rights and animal rights. To state the obvious, the same Western civilization that nurtured ideas of human rights also nurtured Nazism and Stalinism, not to mention centuries of patriarchy and racial supremacy, all of which drew upon deeply rooted ideas in Western culture about order, nature, evolution, and hierarchy. If most people in the West today embrace ideas of human rights, it is not because these ideas were the only ones that matched our cultural DNA. Rather, people have judged that amongst the many diverse and contradictory moral sources that are found in our history and culture, ideas of human rights are worthy of being endorsed and defended, while other moral sources are judged unworthy of our continued allegiance.

This process is one that takes place within every culture, not just the West. Within every culture and religion, there is a diversity of moral sources (or a diversity of interpretations of moral sources), some of which fit comfortably with ideas of universal human rights, others of which do not. Whether members of a society endorse human rights is not predetermined by their primordial cultural DNA, but rather is determined by their ongoing judgement about which of their diverse moral sources are worthy of allegiance. Human rights achieve universality, therefore, not through a series of alien grafts into societies that lack the appropriate cultural DNA, but through processes of reflecting on diverse moral sources, leading ideally to an 'unforced consensus' on a set of shared values or principles (Taylor 1999).

This is the model that most theorists invoke today to explain the universality of human rights,³⁶ and we believe that the same model applies to animal

rights. No society is predetermined to embrace ART, but nor is any society predetermined to reject it. Every society contains a diversity of moral sources on the status of animals, some of which lead comfortably in the direction of ART, others of which do not, and it is up to all of us to judge which of these moral sources we find compelling.³⁷ This, we believe, is as true of indigenous societies as of European societies. Indeed, the conception of inviolability we have just defended—that is, one which condones the killing of animals only if and when it is a tragic necessity—is arguably closer to traditional indigenous attitudes than to the mainstream attitudes of Western societies for the past few centuries.

The available evidence suggests that many human cultures have viewed the killing of animals as a tragic necessity. For millennia, the fact that humans had to exploit animals in order to survive was a source of psychic stress. It's easy to forget this now, when most people go through their daily lives with barely a thought for the billions of animals who suffer and die to serve human wishes. But in ancient times, to the credit of our ancestors, the exploitation of animals was recognized as tragic and morally problematic. In many Mediterranean cultures, for example, it was considered taboo to consume unsacrificed meat. When animals were sacrificed a token amount was offered to the gods, and the remainder distributed for human consumption. James Serpell describes sacrifice culture as a form of blame-shifting, in which the gods are ultimately held responsible for the killing of animals by demanding that humans offer sacrifice. Animals were delivered to the temple or priest, who performed the ritual slaughter after eliciting (alleged) consent from the animal, thus further mitigating blame. And priests had to cleanse themselves after performing the dreadful deed (Serpell 1996: 207). In modern times, most humans live at a remove from direct animal exploitation, and seem to have successfully repressed any need for redress, although blame-shift and mitigation practices continue amongst traditional hunting societies and religious groups.³⁸

In some respects, endorsing ART may well involve a greater cultural shift for the mainstream of Western societies than for societies that maintain this older view of killing animals as a tragic necessity to be atoned for. And not surprisingly, there is indeed debate within indigenous societies about the wisdom and necessity of various hunting and trapping practices, and some indigenous leaders resent the way the fur industry, for example, uses indigenous peoples in their marketing and publicity to whitewash their industrial-scale exploitative and abusive practices.³⁹

In any event, there is no basis for saying that ART is somehow in the West's cultural DNA but can only be a foreign graft for other societies. The universality of animal rights, as of human rights, is something to be debated openly through a process of reflecting on our moral sources, not prejudged by simplistic assumptions about the primordial essence of cultures.

Obviously, we believe that the claim to universality for both human and animal rights can be vindicated, and that this process of moral reflection can lead to an overlapping consensus on basic rights for all vulnerable selves. But we would emphasize that claiming universality for ART is not the same thing as endorsing its *imposition* on other societies. As with the case of human rights, there are powerful moral and practical reasons for limiting coercive intervention to the most grievous violations, and for focusing our efforts instead on supporting societies to move towards the fulfilment of human and animal rights. This is particularly true when dealing with historically subordinated groups that have good reason to distrust the motives of their erstwhile oppressors.⁴⁰

We should also note that claiming universality for human or animal rights does not justify the *instrumentalizing* of such rights. As noted earlier, there is a long history in which dominant groups have justified their exercise of power over minorities or indigenous peoples by appealing to the 'backward' or 'barbaric' way that they treat women, children, or animals. In this context, human and animal rights are used, not out of a good-faith concern for the rights-holders, but rather to justify the reproduction of existing power relations (Elder, Wolch, and Emel 1998). In the case of animals, dominant groups typically ignore the ways in which they are directly complicit in the abuse of millions of captive and enslaved domesticated animals, while hypocritically complaining about the hunting practices of rural communities and indigenous peoples, or the ritual use of animals by religious minorities, even though these latter practices represent only a tiny fraction of abused animals overall. Dominant groups also complain about the way developing countries fail to protect their charismatic or endangered wildlife, while engaging in rampant extermination campaigns at home against non-endangered animals that often pose much less of a threat. In these ways, dominant groups invoke animal welfare instrumentally, to reaffirm their sense of superiority over other peoples and cultures.⁴¹

In all of these cases, concern for animals is being manipulated and invoked selectively to legitimate injustice between humans, in ways that discredit the underlying norms. We must guard against these forms of moral imperialism. But the solution to this instrumentalization, we believe, is not to disown the universality of human or animal rights, but on the contrary to make that universality more explicit, to ensure consistency and transparency in the way we interpret these principles, and to create forums in which all societies can participate equitably in debating and shaping these principles. Activists in the human rights field have adopted the same approach in response to worries about the instrumentalization of human rights.

This, then, is how we understand universality: we believe that the view of animals as vulnerable selves who need the protection of inviolable rights is

one that is accessible to all societies from within their diverse moral sources, and cannot be treated as the unique property of any one culture or religion. If the arguments for AR are indeed found persuasive, then we all have a duty to respect the inviolable rights of animals once we are in the circumstances of justice, and we all have a duty to try to bring those circumstances into being. What this will require will vary from society to society, but it is a task we all face.

6. Conclusion

Accepting that animals are selves or persons will have many implications, the clearest of which is to recognize a range of universal negative rights—the right not to be tortured, experimented on, owned, enslaved, imprisoned, or killed. This would entail the prohibition of current practices of farming, hunting, the commercial pet industry, zoo-keeping, animal experimentation, and many others.

This is the core agenda of ART, and for many of its defenders it is the totality of that agenda. Animal rights is about abolishing exploitation and liberating animals from enslavement. As we have seen, an influential strand within ART—sometimes called animal abolitionists or liberationists—assumes that these prohibitions against exploitation rule out virtually all forms of interaction.

But we do not believe that ART can stop here. Respecting the basic rights of animals need not, and indeed cannot, stop all forms of human–animal interaction. Once we recognize the basic rights of animals, we need to ask about the appropriate forms of animal–human interaction that respect those rights. Ending the human exploitation of animals is a necessary start, but we need to know what non-exploitative relations might look like. What is the potential for mutually beneficial relations between humans and animals? And what kinds of positive obligations do we owe to animals—whether those in our direct care, those in symbiotic relationship with us, or those who live more distantly and independently of us? These are the questions to which we now turn.

Extending Animal Rights via Citizenship Theory

In our introduction, we defended the necessity of supplementing and extending animal rights theory (ART) through the inclusion of various relational and differentiated animal rights, in addition to the more familiar universal rights typically defended by animal rights (AR) theorists. The first step in such a process is to develop some account of the sorts of relationships between humans and animals that can give rise to morally significant obligations and responsibilities. As we have noted, this is a complicated task, given the enormous variability in these relations. Human relations with animals differ in their beneficial and harmful impacts, levels of coercion and choice, interdependencies and vulnerabilities, emotional attachments, and physical proximity. All of these (and other) factors seem potentially morally relevant.

We need to bring some conceptual order to this confusing profusion of relations. In this chapter, we argue that citizenship theory can help in this task. Thinking about human–animal relations in light of the familiar categories of citizenship theory—such as citizens, denizens, aliens, sovereigns—can help us identify both the distinctive claims that certain animals have upon us, and also the distinctive sorts of injustices we visit upon them. We begin by explaining what we mean by citizenship theory, and the conceptual resources it provides for thinking through issues of relational rights. We then consider and reject two immediate objections to applying this framework to animals.

1. Universal Rights and Citizenship Rights

Let's begin with citizenship in the human case. Imagine that we come across a crowd of human beings getting off a plane at an airport somewhere in our country. Without knowing anything about our more specific relationships

with particular individuals in the crowd, we already know that we have certain universal obligations to all of them, simply because they are sentient beings with a subjective good. These are the universal rights we owe to all persons as such (for example, we cannot torture, kill, or enslave them).

But as the crowd proceeds to passport control, it quickly becomes apparent that these individuals have quite different relational rights. Some of them are our co-citizens and, as such, they have the unqualified right to enter and reside in the country, and, once inside, they have the right to be considered full and equal members of the political community. That is to say, they are co-guardians of the country, with the right that their interests and concerns count equally with those of others in determining the direction of the country. As citizens, they are members of 'the people' in whose name the government acts, they have the right to share in the exercise of popular sovereignty, and society has a duty to create mechanisms of representation or consultation by which their interests will be counted equally in determining the public good or the national interest.

By contrast, other passengers on the plane are tourists, foreign students, business visitors, or temporary workers, who are not citizens. As such, they do not have an unqualified right to enter the country, and may need to have secured permission beforehand (by obtaining a visa, for example). Even if they have permission to enter, they may not have the right to settle permanently, or to work, in the country. Perhaps their visa only allows them to stay for a short period of time before having to leave. As such, they are not included in the people in whose name the government acts, they do not participate in the exercise of popular sovereignty, and there is no duty to create mechanisms of representation to ensure that their interests are counted in determining the public good.

Of course, to repeat, these non-citizens are still human beings and therefore have certain universal human rights. It would be impermissible to kill or enslave them, or to engage in other acts that deny their essential personhood and dignity. But there is no obligation to restructure our public spaces to make them more enjoyable for, or accommodating of, such non-citizens, or to restructure our political institutions to make them more accessible to such non-citizens. It may be that the hundreds of thousands of Chinese tourists who now vacation around the world would enjoy visiting New York or Buenos Aires more if there were more Chinese-language street signs. And if a city wishes to attract tourists, it may well choose to make such changes. But there is no obligation on citizens to make their cities more welcoming to visitors, and it is the citizens, not the visitors, who make this collective decision about the shape of their society and its public space. The visitors do not get to vote in elections or referenda determining policies about street signs.

In short, we typically distinguish between *universal human rights*, which are not dependent on one's relationship to a particular political community, and *citizenship rights*, which are dependent on membership in a particular political community. As they embark from the plane, all passengers possess the former, but only some possess the latter in relation to the country of disembarkation. And this means that their interests count in different ways. To oversimplify, we could say that the interests of citizens determine the public good of the political community, whereas the interests of non-citizens set *side-constraints* on how political communities pursue that public good. For example, in deciding whether to build more public housing, nursing homes, or subways, it is the interests of citizens, not those of tourists, that are determinative. However, we cannot enslave tourists to help us build those houses or subways; the universal human rights of non-citizens set constraints on how citizens of a political community pursue their public good.

This is an oversimplification because, as we will see, there are various 'in-between' categories of people who are more than mere visitors but not (or not yet) citizens, and whose interests need to be considered in a way that is more complicated than this simple dichotomy allows. For example, immigrants who gain long-term residency acquire a certain legal and political standing that differs from that of temporary visitors, even if they do not yet have citizenship. There may also be groups who are affiliated to the state through some form of historic political association other than standard citizenship—for example, the status of American Indian tribes as 'domestic dependent nations'—in recognition of the fact that they form a distinct sovereign people within the boundaries of a larger sovereign people. But the existence of such in-between groups with partial or overlapping citizenship status simply confirms the underlying point: namely, that the fact of being a 'person' with universal human rights underdetermines one's legal rights and political status. (And we must also remember all of the potential visitors who were never allowed to get on the plane in the first place, and who therefore remain resident in some other sovereign political community.)

At first glance, this multiplicity of legal status may seem puzzling. After all, the passengers are all human beings with the same inherent moral dignity and the same vulnerable selfhood. How, then, is it possible that they end up having such different legal rights? Indeed, some cosmopolitans deny that such distinctions are legitimate. They argue that everyone everywhere should automatically have their interests counted equally in political decision-making, either by creating a world of open borders in which all persons have the right to move freely across the face of the earth and take their full citizenship rights with them, and/or by eliminating the very category of citizenship, and simply attributing rights solely on the basis of personhood. Whether we universalize the category of citizenship or abolish it, the result would be the

same—everyone would have an equal right to get on the plane, and everyone would have the same social and political rights (to settle, work, and vote) as they exit the plane.

But that is not the world we live in, and arguably it is not a desirable world. There are good reasons why human beings have organized themselves into distinct political communities that regulate their membership. This is partly for pragmatic reasons. Practices of democratic self-rule are easier to sustain in contexts where people see themselves as co-nationals, with a common national language and sense of attachment to a shared national territory, rather than simply as globetrotters who happen to be momentarily residing here rather than there. Democracy and the welfare state require levels of trust, solidarity, and mutual understanding that may be difficult to sustain in a borderless world that forgoes a sense of bounded and rooted political citizenship.

The commitment to bounded citizenship is not just pragmatic. There are powerful moral values tied up with citizenship, including values of national identity and culture, and of self-determination. Many people see themselves as members of collectivities that have the *right* to govern themselves and their bounded territory, and to govern themselves in ways that reflect their national identities, languages, and histories. These aspirations to national self-government reflect deep attachments to a particular community and a particular territory, and these attachments are legitimate and worthy of respect. Indeed, part of what it means to respect people is to respect their capacity to develop such morally significant attachments and relationships, including attachments to particular individuals and communities, to territory, to ways of life, and to schemes of cooperation and self-government. Bounded citizenship expresses and enables such attachments. Any form of cosmopolitanism that denies the legitimacy of such attachments in the name of universal personhood is missing a key aspect of what it means to respect personhood—namely, our capacity to develop morally significant attachments to bounded communities and territories.¹

For these and other reasons, virtually all major traditions of political theory—whether liberal, conservative, or socialist—have operated on the assumption that human beings organize themselves into distinct bounded political communities. In any event, for the purposes of this book, we will assume that liberal political theory operates in a world of bounded political communities, and hence operates through a theory of citizenship as well as a theory of universal human rights. Whereas a liberal theory of universal human rights tells us what all human beings are owed in virtue of their personhood, a liberal theory of citizenship needs to tell us how we determine membership rights in distinct political communities. And this in turn requires

answering a host of difficult questions: Which people should have which *membership* rights in which political communities? How do we determine the *boundaries* of the various distinct and bounded political communities? How should we regulate *mobility* between such communities, and how should we determine the rules of *interaction* between various self-governing communities?

Some of the most interesting work in liberal political theory over the past thirty years has been concerned with precisely these questions in 'citizenship theory'. (We are using 'citizenship theory' here in a broad sense to encompass all these questions about the definition of boundaries and membership in distinct political communities, and hence to subsume questions about rights to sovereignty and territory, regulation of international mobility, and access of newcomers to citizenship.) Our central claim is that a similar sort of citizenship theory is appropriate, indeed essential, in the case of animals. We argue that, as in the human case, some animals are best viewed as co-citizens in our political community whose interests count in determining our collective good; others are best viewed as temporary visitors, or non-citizen denizens, whose interests set side-constraints on how we pursue our collective good; and yet others are best viewed as residents of their own political communities, whose sovereignty and territory we should respect.

This idea of extending citizenship theory to animals will seem counter-intuitive to many readers. It will undoubtedly be contested by those who deny that animals have the sort of selfhood or personhood that warrants inviolable rights. But even those AR theorists who advocate recognition of the moral personhood of animals have rarely suggested that they could or should be seen as citizens. For a number of reasons, people have trouble connecting the concepts of 'animals' and 'citizenship': they belong to different intellectual registers.²

Our full response to this worry unfolds over the course of the next four chapters. The proof is in the pudding, and we hope to show that applying a framework of citizenship theory is not only coherent, but helps to clarify a number of inconsistencies and dead ends that have afflicted animal rights to date. However, to begin with, it may help to address two major roadblocks to thinking about animals and citizenship. In our view, much of the reluctance to link animals and citizenship theory rests on either (a) a misunderstanding about the nature and function of citizenship, even in the human case; and/or (b) a misunderstanding about the nature of animal-human relationships, both as they exist today and as they might exist in the future. We briefly address these two misunderstandings in the rest of this chapter, in order to prepare the ground for the more detailed discussions to follow.

2. The Functions of Citizenship

One reason why many people have trouble thinking of animals as citizens is that our everyday ideas of citizenship often carry with them connotations of active political participation—citizens are people who vote, engage in public debate, and mobilize politically around contested public policies. At first glance, it might seem that animals are simply incapable of being citizens in this sense. Whatever status animals have, surely it cannot be that of citizens.

However, this is too quick. We need to disentangle the idea of citizenship. Ideas of active political participation are just one aspect of citizenship, and we need a fuller sense of the function of citizenship in our normative political theories before we can judge how it might apply to animals. We can think of citizenship as serving at least three different functions in political theory, which we label rights to nationality, popular sovereignty, and democratic political agency.

1. Nationality: The first function of citizenship—and still the predominant one in international law—is to allocate individuals to territorial states. To be a citizen of country X is to have the right to reside in the territory of X, and the right to return to X if you travel abroad. Everyone should have the right to live somewhere on the globe, and so international law seeks to ensure that no one is stateless. Everyone should be a citizen of some country, with a secure right of residence in it, and a right to return to its territory. Note that citizenship in this passport sense does not yet tell us anything about the nature of the country that people are citizens of. People can be citizens of undemocratic theocracies, monarchies, military juntas, or fascist or communist dictatorships, and hence entirely lacking in rights of political participation. This is citizenship in a very thin sense.

2. Popular sovereignty: Starting with the French Revolution, the idea of citizenship began to take on a new meaning, associated with a particular theory about the basis of political legitimacy. In this new view, the state belongs to ‘the people’, rather than to God or some particular dynasty or caste, and citizenship is about being a member of the sovereign people. As Allen Buchanan puts it, it is part of the ‘gospel’ of liberal theory that the state is not the property of dynastic or aristocratic divisions in society, but rather belongs to the people.³ The legitimacy of the state derives from its role as the embodiment of the inherent sovereignty of the people—in short, ‘popular sovereignty’. This was initially a revolutionary idea that had to struggle, often violently, against older theories of political legitimacy. However, today it is virtually universal, and provides the essential presupposition for international law, and for the United Nations. To gain recognition and legitimacy, states must define themselves as the embodiment of the sovereignty of the people.

As a result, even illiberal and undemocratic regimes today insist that they embody popular sovereignty. Twentieth-century communist and fascist dictatorships, for example, described themselves as ‘people’s republics’ to emphasize that they too endorsed the idea that state legitimacy flows from the will and interests of ‘the people’. Indeed, they often justified their suppression of multiparty electoral democracy on the grounds that such factionalism impedes the proper recognition and expression of the popular will, which is better left to a strong leader or vanguardist party. Citizenship in this sense means belonging to the people in whose name the state governs. Not everyone who is a ‘national’ in the first sense is necessarily included in the ‘people’ in this second sense. Slaves in the USA, for example, were considered American ‘nationals’, at least for some purposes—they were not viewed as nationals of some other country, or as stateless refugees. But they were not American ‘citizens’, in the sense of being included in the sovereign people in whose name the state governs. Many racial and religious minorities have suffered this fate of being nationals of a state, but not considered citizens in the sense of being members of the sovereign people (think about Jews in medieval and early modern Europe). To be a citizen in this second sense reflects a more robust idea of citizenship than mere nationality, connected to a distinctly modern conception of state legitimacy. But it is not yet a fully democratic conception, since it does not entail that citizens are able to exercise their popular sovereignty through democratic means.

3. Democratic political agency: With the defeat of fascism and communism, we take for granted today that the only legitimate way to exercise popular sovereignty is through open multiparty electoral democracy, in which individuals have rights of political dissent, political mobilization, and free political debate. Indeed, we often say that people living in non-democratic regimes are really ‘subjects’ rather than ‘citizens’, even if those regimes claim to be grounded on ideas of popular sovereignty. To be a citizen, in this new understanding, is not just to be a national of a state (as in the first meaning), or to be a member of the sovereign people in whose name the state governs (as in the second meaning), but also to be an active participant in the democratic process (or at least to have the right to engage in such active participation). Citizenship, in this view, involves being the co-author of the laws, and not just a passive recipient of the laws. It therefore rests on assumptions about the illegitimacy of paternalistic rule, and about the capacity of individuals to represent themselves in the democratic process. The subjects of a non-democratic regime may have the benefit of the rule of law, but citizenship involves taking on the right and responsibility to shape the law. And this in turn entails assumptions about the skills, dispositions, and practices involved in political participation, including ideas of deliberation, reciprocity, and public reason.

In our view, all three of these dimensions play a vital and irreducible role when thinking about citizenship, and we need to consider all three when considering whether and how to extend citizenship theory to animals.

Unfortunately, in everyday parlance, and in much of the contemporary political theory literature, the focus is entirely on the third dimension. A theory of citizenship, it is widely assumed, is first and foremost a theory of democratic political agency. And it is this third sense of citizenship that seems, at first glance, to rule out citizenship for animals. After all, animals are not capable of engaging in the processes of 'public reason' or deliberative rationality that theorists like John Rawls and Jurgen Habermas say are essential to democratic agency.⁴

We contest the assumption that ideas of political agency are irrelevant to animals, but before we get to that, it is important to emphasize that citizenship cannot be reduced to democratic political agency, even in the human case. If we define citizenship narrowly as the exercise of democratic political agency, we immediately exclude large numbers of humans from citizenship rights. Consider children, or people with severe mental disabilities, or people with dementia. None of them are capable of engaging in Rawlsian public reason or Habermasian deliberation. Yet they are certainly citizens of the political community, in the first two senses of the term. That is, they have the right to reside in, and return to, the territory of the state. And they have the right to have their interests counted in determining the public good or in the delivery of public services (e.g., health and education).

In both of these senses, children and the mentally disabled are very different from, say, tourists or business visitors. The latter lack citizenship, and so lack rights to nationality and to be included in the sovereign people, even though they may have highly developed capacities for political agency. A tourist may have a profound ability and desire to engage in democratic agency, but that skill and desire by itself does not give them a right to reside in the country, or a right to have their interests counted in the public good. The former, by contrast, are citizens, and so have rights to nationality and to membership in the sovereign people, despite the limitations on their capacities for political agency. We cannot understand the rights of children or the mentally disabled if we ignore their status as citizens. They do not simply have universal human rights, on a par with tourists or business visitors. They also have certain fundamental *citizenship rights*—rights that are independent of capacities for political agency. The capacity for political agency is neither necessary nor sufficient for citizenship in these first two senses.

So it is important not to ignore the first two dimensions of citizenship. A central task of any citizenship theory is to explain who has rights to reside in and return to a particular territory, and to explain who is included in the sovereign people in whose name the state governs. We argue that any

plausible answer to these questions must attend to animals as well as humans. Particular groups of animals should be seen as citizens of our political community in these first two senses. They have the right to reside in and return to the territory of our shared political community, and the right to have their interests included in determining the public good of the community. This is particularly true, we argue, of domesticated animals.

Not all animals will be citizens of our political community, just as not all humans are citizens of our community. Some will be citizens of their own separate communities on their own bounded territories, and then our main obligation is to comply with fair terms of intercommunity interaction. Others will be residents in our community, but not full citizens, and then our main obligation is to respect their rights as side-constraints on how we pursue our public good. In both the human and animal cases, a key task of citizenship theory is to explain how we determine membership in political communities, and on that basis to determine which citizenship rights apply to which individuals. Indeed, we argue that categorizing animals within this sort of citizenship framework clarifies a number of puzzles that historically have afflicted AR theory.

So even if we accepted that animals are incapable of democratic political agency, it would not follow that citizenship theory is irrelevant to thinking about their rights. However, we do not in fact accept the premise that animals are incapable of political agency. This third dimension of citizenship is an essential feature of modern understandings of citizenship, and in many ways can be seen as a culmination or fulfilment of the first two senses. Any conception of citizenship that stopped with rights to nationality and popular sovereignty, without addressing rights of political agency, would be an impoverished idea of citizenship. As we noted earlier, ideas of agency are now so central to our understanding of citizenship that we are inclined to say that where people are denied agency, they are really subjects rather than citizens. The ideal of citizenship involves a deep commitment to political agency.

We share this commitment, but it is important to clarify the nature of it. It is a serious mistake to treat political agency as a threshold or criterion that determines *who is a citizen*, such that those who are incapable of this or that form of agency are relegated to a status of non-citizenship. As we have seen, this would have the perverse effect of excluding children and the mentally disabled from citizenship. Rather, we should think of this third dimension as a value—or rather a cluster of related values—that informs how we treat those who (on prior and independent grounds) we recognize as citizens. Citizenship theory, in this third dimension, affirms values such as autonomy, agency, consent, trust, reciprocity, participation, authenticity, and self-determination,

and says that part of what it is to treat people *as citizens* is to treat them in ways that affirm and respect these values.

We agree that to treat someone as a citizen involves facilitating and enabling their political agency. This commitment rests on a recognition of the dangers of paternalism, the harms of coercion, and the value to individuals of being able to act upon their own desires and attachments. But it is essential to note that *how* we affirm and respect these values varies enormously, even in the human case, as well as in the animal case.

Consider, for example, the contemporary disability movement. As many commentators have noted, this movement has 'adopted citizenship as the central organizing principle and benchmark' (Prince 2009: 16), demanding to be treated 'as citizens' rather than as 'clients' or 'patients' in the care of 'guardians' (Arneil 2009: 235). As such, it is widely counted as one of the paradigmatic instances of contemporary 'citizenship movements' (Beckett 2006; Isin and Turner 2003: 1). Obviously citizenship in this context refers to the third dimension of agency, since people with disabilities typically have already been counted as citizens in the first two senses—they have had rights to reside and return to a country, and have been considered as members of 'the people' in whose name the state governs. However, until recently, people with disabilities have been treated as passive recipients of paternalistic policies decided by their guardians, with little or no input into this process. Against this older model, the disability movement has insisted on rights to agency, participation, and consent, captured in the well-known movement slogan 'nothing about us without us'. This is the core of the claim of people with disabilities to be treated 'as citizens'.

Yet what it means for people with disabilities to be treated as citizens is complex, particularly in the case of those with intellectual disabilities. It is not just a matter of inviting them to engage in Rawlsian public reason or Habermasian deliberation, since they may be unable to communicate linguistically (Wong 2009). Nor is it a matter of giving them the right to vote for a particular political party, or for a particular legislative proposal, since they may be unable to comprehend political platforms or legal proposals, or to formulate judgements about how these platforms would impinge on their own interests (Vorhaus 2005). If they are to participate, it will require new models of 'dependent agency' (Silvers and Francis 2005) or 'supported decision-making' (Prince 2009) for 'non-communicating citizens' (Wong 2009). Older models of paternalistic guardianship are being challenged by newer models in which the goal is to find ways of eliciting a person's sense of their subjective good, often through 'embodied' rather than verbal communication. In these new models, people with mental disabilities can enact their citizenship, but it requires other people—whom Francis and Silvers call 'collaborators'—to help construct a

'script' of their conception of the good life, drawing on both verbal and nonverbal expressions of preference.⁵ As they put it, 'The collaborator's role is to attend to these expressions, to fit them together into an account of ongoing preferences that constitutes a personalized idea of the good, and to work out how to realize this good under existing circumstances' (Francis and Silvers 2007: 325), and to bring this information into the political process, so that their views can shape ongoing debates about social justice.

Some of the most interesting work in citizenship theory in the past few years has focused on this idea of enabling and exercising citizenship through 'dependent', 'assisted', or 'interdependent' agency. This may sound like an exceptional case, but in fact we all go through stages of our lives when we are in need of such assisted agency, whether as infants and children, or when temporarily incompetent due to illness, or in old age. Immigrants may need translation help to understand political debates; people with speech or hearing impediments may need accommodations or assistance if they are to participate. Any plausible conception of citizenship must acknowledge the value of agency, but it must also acknowledge that capacities for agency expand and contract over time, and vary across persons, and that a central task of a theory of citizenship is to support and enable what is often a partial and fragile achievement. This needs to be central to, and not incidental to, a theory of citizenship. As Francis and Silvers put it, 'The difference between the majority of people and the minority of dependent agents is the extent of dependency, not the fact of it' (Francis and Silvers 2007: 331; cf. Arneil 2009: 234).⁶

Stated another way, political agency, as a third dimension of citizenship, should be seen as something that inheres in a relationship amongst citizens, not as an attribute of individuals that exists prior to their interaction. It is not that people are first agents, and therefore are accorded citizenship. Nor do we strip citizenship from our co-nationals who are temporarily or permanently limited in their cognitive abilities or rational agency. Rather, entering into relations of citizenship is, at least in part, entering into relationships that involve facilitating the agency of our co-citizens, at all stages of their life course and at all levels of mental competence.

This new field is opening up important possibilities for citizenship amongst people with disabilities, but we believe it equally opens up the possibility of citizenship for animals, at least for those (domesticated) animals with whom we live in close proximity, and whom we have rendered dependent on us through domestication.⁷ Here, too, we can elicit a range of expressions of preference to construct scripts of domesticated animals' interests, and can bring those into the political process to help determine ongoing fair terms of interaction. Domesticated animals, we argue, should be seen as co-citizens in

this sense, with the right to be represented through forms of dependent agency in our political decision-making. As we show in Chapter 4, insofar as proposals regarding the ethical treatment of domesticated animals do not enable citizenship in this sense—and this is true of some proposals from AR theorists (amongst those who do not advocate extinction for domesticated animals)—they are prone to perpetuating relations of exploitation, oppression, or unwarranted paternalism.

As with the first two senses of citizenship, not all animals will be our co-citizens in the sense of active political participants. Constructing relations of dependent agency involves a degree of intimacy and proximity that is neither feasible nor desirable for animals in the wild. But recall that this is true in the human case as well. Citizenship is a relationship that holds amongst those who cohabit a common territory and who are governed by common institutions. That is true for both humans and animals. We argue that citizenship is both possible and morally required for those (domesticated) animals whom we have brought into our society, and is neither necessary nor desirable for those (wild) animals who should be seen as belonging instead to their own sovereign communities. And, as in the human case, there are yet other groups of animals who fall into in-between categories, neither fully inside nor fully outside our political communities, and hence with their own distinctive status. In all of these cases, the citizenship status of animals—just as in the human case—is determined not by their cognitive capacities, but by the nature of their relationship to a particular bounded political community.⁸

In short, the common view that animals cannot be citizens rests on a misunderstanding about the nature of citizenship, even in the human case. Many people assume that animals cannot be citizens because (a) citizenship is about the exercise of political agency; and (b) political agency requires cognitively sophisticated capacities for public reason and deliberation. Neither claim is correct, even for human beings. Citizenship is about more than political agency, and political agency takes forms other than public reason. Citizenship has multiple functions, and all of them are, in principle, applicable to animals. Citizenship operates to allocate individuals to territories; to allocate membership in sovereign peoples; and to enable diverse forms of political agency (including assisted and dependent agency). Not only is it conceptually coherent to apply all three citizenship functions to animals, but we argue in the remaining chapters that it is the only coherent way to make sense of our moral obligations. Versions of ART that are unable or unwilling to categorize animals through these citizenship frames, we show, are incapable of recognizing morally salient differences in our relationship with different animals, and, as a result, are incapable of recognizing specific forms of oppression against certain animals.

3. The Diversity of Animal–Human Relationships

Reluctance to apply citizenship theory to animals does not just stem from an unduly narrow understanding of citizenship in the human case. It also, and perhaps more importantly, stems from an unduly narrow understanding of how animals relate to human communities. Adopting a citizenship framework presupposes that animals and humans will inevitably be linked through diverse relations of interaction and interdependency, and the task of citizenship theory is to evaluate the justice of these relations, and to reconstruct them on fairer terms. As we discuss below, there are literally dozens of such patterns of interaction and interdependency, for which citizenship theory is potentially relevant.

However, in everyday understanding, and in much of the academic literature on animal rights, animals are seen as falling into just two possible categories: wild and domesticated. The former are free and independent, inhabiting the wilderness ‘out there’ (unless they have been captured for zoos, exotic pet-keeping, or research purposes). The latter are captive and dependent, living under our management at home (as domesticated pets), in the laboratory (as experimental subjects), or on farms (as livestock) (Philo and Wilbert 2000: 11). If one starts from this dichotomy, as many AR theorists do, then it may seem that the idea of citizenship for animals is at best irrelevant and at worst a pretext for continued oppression.

According to classic ART, animals who are wild (human-independent), or capable of living so, should be protected from human intervention. We should ‘let them be’ to get on with their lives. Wild animals do not need to be included within human citizenship regimes: rather, what they need is precisely to be protected from interaction with, or interdependency on, human beings. The idea of citizenship might seem more relevant to domesticated animals, who have been rendered dependent on human beings, and who have lost their ability to live independently in the wild. Extending citizenship status to domesticated animals might ensure that they are treated justly in a mixed human–animal society. However, many AR theorists deny that justice is possible for animals that have been bred to be dependent on, and forced to participate in, human society. The status of dependency is said to be inherently exploitative and oppressive. Thus some AR theorists call for a complete end to domestication and the extinction of domesticated species. Reform is not possible. According citizenship to domesticated animals, in this view, would simply serve to give a veneer of morality to an inherently oppressive relationship of paternalistic dependency and forced participation in a human world.

So for many AR theorists, the idea of extending citizenship to animals is irrelevant, and potentially pernicious. Citizenship would be an appropriate

framework if the goal were to develop better or fairer patterns of interaction and interdependency amongst humans and animals. But for many AR theorists, it is the very fact of interaction and interdependency that is the problem. And the solution is to end these patterns, first by leaving wild animals alone, and second by abolishing relations with domesticated animals. In an ideal world, all animals will be 'wild' or 'liberated', living freely and separately from humans, with no animals having citizenship claims on humans (or vice versa).

We believe that this picture of a world without sustained human-animal interaction and interdependency is fatally flawed, descriptively and normatively. The most obvious problem is that it ignores the many types of animal-human relations that do not fit either the wild or domesticated categories. Consider squirrels, sparrows, coyotes, rats, or Canada geese. These 'liminal' animals are not domesticated, but nor are they living independently of humans in the wilderness. They are living here amongst us in our garages, backyards, and local parks, and indeed have often sought us out because of the benefits of living close to humans. They exhibit their own distinctive patterns of interaction and interdependence that differ from those of both wilderness and domesticated animals. These liminal animals cannot be dismissed as anomalies. There are millions of them, and many of our most difficult ethical dilemmas arise in relation to them. Yet ART provides virtually no guidance regarding these cases.

But even if we focus solely on wilderness and domesticated animals, there will be ongoing relations of interaction and interdependency linking such animals with humans that need to be regulated by norms of justice. In relation to domesticated animals, it is true that domesticated animals should cease to be enslaved, and as we see in Chapter 4, many current proposals for reforming the status of domesticated animals are just a veneer for continued exploitation. However, it is premature to claim that the best or only way to redress the injustices suffered by domesticated animals is to seek their extinction. Historic processes of domestication were unjust, as is the existing treatment of domesticated animals, but histories of injustice (in both the human and animal cases) often generate ongoing responsibilities to try to create new relationships that comply with norms of justice. We argue in Chapter 5 that such relationships are possible, and that pursuing the extinction of domesticated animals is an abdication of our historic and ongoing responsibilities to them.

In terms of wild animals, it is true that animals in the wilderness often need to be left alone, but even wild animals exist in complex relations of interdependency with humans that need to be regulated by norms of justice. Consider animals that feed off a single plant species that is disappearing due to acid rain or climate change. These animals are, in one sense, being 'left

alone'—no one may be hunting or capturing them, or even entering into their habitat—yet they are extremely vulnerable to human activity.

More generally, it is a fatal mistake to think that our duties to wild animals can be met by designating no-go zones (e.g., protected wilderness areas). For one thing, it is simply impossible to turn the full extent of wild animals' habitats into a no-go zone. When scientists in 1991 put a radio collar on a wolf and tracked its movements, it covered 40,000 square miles in two years, starting in Alberta (Canada), moving south to Montana, west to Idaho and Washington, and then north to British Columbia, before returning to Alberta (Fraser 2009: 17). Wolves are wild animals who avoid humans, and some of the movement of this wolf was through protected wilderness (e.g., National Parks), but we can hardly turn all 40,000 square miles into a no-go zone for humans. Most of this territory is criss-crossed by roads, railways, farms, power lines, fences, and indeed international borders, creating multiple forms of human impact on wolves and other wild animals. The vast majority of wild animals live in, or move across, areas that are directly influenced by humans. According to the Wildlife Conservation Society and the Center for International Earth Science Information Network at Columbia University, 83 per cent of the earth's land surface is influenced directly by human beings, whether through human land uses, human access from roads, railways, or major rivers, electrical infrastructure (indicated by lights detected at night), or direct occupancy by human beings at densities above one person per square kilometre.⁹ Wild animals live 'in the wild', but they rarely live in pristine wilderness untouched by humans, and we need a theory of animal rights that addresses these inevitable entanglements between humans and wild animals.

This is not to say that we should stop trying to establish or expand protected wilderness zones. Indeed, our citizenship-based sovereignty model developed in Chapter 6 is intended to support that project, by providing a clearer rationale for the territorial rights of wild animals than is currently available within ART. However, we need to recognize that we cannot solve the problem of wild animals simply through designating no-go zones where we let them be. Given the relentless human expansion and habitat destruction that has already taken place, such protected zones will almost certainly be too small to cover the full range of habitat that many wild animals need. And so, predictably, wild animals have adapted to the human influences in their environment, such that certain forms or degrees of coexistence are now natural for them. As Gary Calore argues, human domination of the planet has in effect turned human-independence into a losing evolutionary strategy, leading to an 'age of interdependent forms' (Calore 1999: 257). Of course, this sort of interdependency is different from that characterizing either domesticated or liminal animals. But as we will see, it is a relationship that raises its own

distinctive issues of justice, and we need some way of conceptualizing this field of coexistence and interdependency between humans and wild animals.

In short, animal–human relationships come in a remarkable array of forms, with varying levels of interaction, mutual vulnerability, and interdependency. And in all of these cases, we argue, citizenship theory, with its differentiated and relational model of rights, is needed to supplement the universal rights that ART has focused on to date.

The failure of ART to consider a citizenship model, we believe, is largely due to its failure to recognize the inevitability of such diverse forms of human–animal relations. But this just pushes back the problem a level: what explains this failure to recognize the enduring nature of human–animal relationships? After all, the idea that animals and humans belong in hermetically separated compartments—with humans here in humanized environments and animals out there in untouched wilderness—cannot survive even cursory inspection. It is contradicted by our everyday experience of constant human–animal interaction, and at odds with all the scientific studies of such interactions. How then did this idea take hold in ART?

An uncharitable explanation is that it took hold because it allows AR theorists to sidestep a number of thorny dilemmas that arise once we acknowledge the enduring nature of human–animal interdependence. A more charitable answer is that AR theorists have focused on the most egregious violations of animal rights, leaving positive and relational duties for another day. But the full answer, we believe, lies in some deeper misunderstandings about the underlying factors that generate these enduring patterns of human–animal interdependence and interaction. The simplistic division of animals into ‘free and independent’ animals inhabiting the wilderness and ‘captive and dependent’ domesticated animals living with humans rests on a series of widespread myths that need to be continually guarded against. We mention three such myths, relating to agency, dependency, and geography. In perpetuating these myths, ART reflects a more general cultural blindness regarding human–animal relations.

Agency

The traditional ART view assumes that humans are the primary agents or initiators of human–animal relationships. Humans either choose to leave animals alone to get on with their lives, or choose to hunt, capture, or breed them in order to serve human wants and desires. If we stopped interfering with animals, relationships between humans and animals would largely cease.

In reality, however, animals also exhibit various forms of agency. Animals can choose to avoid human settlement, but they can also choose to seek it out for the opportunities it offers. There are literally millions of liminal animals

who seek out areas of human settlement. And they can also choose whether to avoid individual humans, or seek them out for food, assistance, shelter, companionship, and other needs. Given a range of non-coercive alternatives, animals can express preferences (i.e., 'vote with their feet') about how to live their lives, and under what circumstances, if any, to engage with humans. A crucial task of any theory of animal rights is to consider what justice requires in terms of these animal-initiated relations with humans, as well as what justice requires in terms of human-initiated interactions with animals.¹⁰

To be sure, the capacity for agency seems to vary widely amongst animals. An adaptive and social animal like a dog, rat, or crow is capable of great behavioural flexibility, of choosing between options depending on context and needs. Other animals are more tightly 'scripted'; they are 'niche specialists' who cannot readily adapt to changes in their environment, either because their needs are inflexible, or because they lack the cognitive flexibility to explore alternatives. But any plausible theory of animal rights must be attentive to the potential for animal-initiated forms of interaction, and for animal agency in response to human-initiated interaction.

Dependence/Independence

The traditional ART view tends to misinterpret the nature of animals' dependence on, or independence of, human beings. As we have seen, the traditional ART view is that wild animals live 'independently' of humans (and therefore need simply to be left alone), whereas domesticated animals are 'dependent' on humans (and therefore are condemned to relations of oppressive subservience). In reality, dependency is a multidimensional continuum which varies for every individual according to activity and context, and over time. There are important respects in which animals living in the most remote wilderness are nonetheless dependent on human beings, and there are important respects in which domesticated animals can exercise independence.

In thinking about dependency it is useful to distinguish two dimensions: inflexibility and specificity. A mouse living in a cage in Johnny's bedroom is dependent in both inflexible and specific ways. Her dependence is inflexible because she is without alternative options if Johnny fails to feed her. She can't transport herself to another location, or start deriving nutrition from fun wheels and cardboard tunnels. Her dependence is also highly specific: she is dependent on one particular human (or one particular human family) to feed her. Contrast this with a rat living at the city dump. The rat is dependent on humans for its food source, but not on any specific humans. It doesn't matter to the rat whether Johnny and his family drop off garbage in any given week, as long as humans collectively don't close up the landfill and withdraw all their garbage at the same time. And even if the dump were to close entirely,

the rat's dependency isn't entirely inflexible. He might be able to relocate and find alternative food sources.

Viewed this way, domesticated animals often exhibit dependence along the specificity dimension: that is, they are typically dependent on specific humans to feed and shelter them. By contrast, wild and liminal animals—virtually by definition—are not dependent on specific human beings for food, shelter, or other basic needs. But notice that wild animals are often more dependent on the inflexibility dimension. Many animals in the wilderness are niche specialists who are intensely vulnerable to even the indirect side effects of human activity. Consider a bird species which migrates along a specific route where humans have erected a significant barrier. If the birds can't figure out how to get around the barrier and continue on their way, they are in trouble. Or consider polar bears whose ice-floe habitat is being lost due to global warming, or monarch butterflies who are dependent on one food source, the milkweed. These animals may live in the wilderness, but even if they are 'left alone' in the sense that no one attempts to hunt, capture, or domesticate them, they are nonetheless highly vulnerable to any human activity that alters their environment. By contrast, many liminal and domesticated animals, though living amongst human beings, may actually be less inflexibly dependent on them. Domestic and liminal animals are often adaptive generalists (rather than niche specialists) who can readily respond to changes in the natural or built environment. Consider racoons and squirrels, and their amazing ability to adapt to (and defeat) every new generation of 'squirrel-proof' feeder or garbage bin enclosure. Consider the feral dogs of Moscow, Palermo, and countless other cities who demonstrate remarkable skills in adapting to a constantly changing urban environment.

In this respect, as Calore notes, certain wild animals are much more 'dependent' on humans than many liminal or domesticated animals. Some of the animals we think of as 'majestic, fierce, and free', such as the tigers of Nepal, are in fact dependent on highly elaborate and costly human schemes of 'rewilding' intervention, whereas many liminal animals can survive, even flourish, in the face of almost total human indifference to them (Calore 1999: 257).¹¹ We need a much more sophisticated understanding of these diverse forms of (inter)dependence.

Spatial Dimensions of Human–Animal Relations

Cultural sociologists and cultural geographers have long emphasized that modern societies operate with a very specific conception of space. Certain spaces—cities, suburbs, industrial and agricultural zones—are defined as 'human' rather than 'animal', as 'cultural' rather than 'natural', or as 'developed' rather than 'wilderness'. These dichotomies underpin our 'culturally

derived modernist conceptions of proper, morally appropriate, spatial relations between animals and society' (Jerolmack 2008: 73). In this cultural imaginary, companion animals stay safely on the leash (rather than becoming feral), wild animals stay in zoos or in pristine wilderness far removed from humans, and livestock stay on the farm. Whenever any animal is found outside its 'proper, morally appropriate' space, it is seen as 'matter out of place', and hence as morally problematic.¹² 'Urban living has resulted in the incorporation of animals into the private sphere (as pets) or urban culture has removed them to a real or imaginary "wild" or some rural past' (Griffiths, Poulter, and Sibley 2000: 59), and if any animals cross the boundary they are 'doomed to be considered morally transgressive as they transgress the spaces that we have defined as "for humans only"' (Jerolmack 2008: 88).

This high modernist conception of space systematically distorts our understanding of human–animal relations. It recognizes the existence of pets in cities (if safely leashed), but ignores the non-domesticated animals around us. And so, liminal animals come into view only when their numbers or behaviour turn them into 'pests'. In other words, they are visible when they become a problem, but invisible as ubiquitous members of the community. We have paid remarkably little attention to the diversity of these animals, the kinds of spaces they inhabit, and the ways we interact with them—from the mice who inhabit our houses, to the sparrows and feral pigeons who scavenge in city cores, to the deer and coyotes who thrive in the suburbs, to the countless species who have evolved in symbiosis with traditional agricultural practices (e.g., the birds, rodents, and small mammals who feed on agricultural crops, and the larger mammals and raptors who prey on them in turn).

There are similar spatial complexities to our relations with wild and domesticated animals. Some wild animals live truly remote from human settlement—like the eelpout fish living deep in the thermal vents of the Pacific Ocean. Others, however, live in little pockets of wilderness completely surrounded by human development, and many wild animals spend at least some of their time negotiating human environments because of the ways our roads, shipping lanes, flight paths, fences, bridges, and tall buildings interrupt their travel and migration routes. In the case of domesticated animals, some, like pet mice or goldfish, spend their entire lives in microworlds inside our houses. Some, like dogs, accompany us out onto the streets and into public spaces. Others, like horses, tend to live in rural areas because their housing and exercise needs are so much more expansive.

These spatial dimensions of human–animal relations interact with the agency and interdependency dimensions identified above in ways that create a dizzying array of relationships, with diverse causal origins, differing types of interaction, and varying levels of vulnerability—and all of these variations are

important for identifying the relevant issues of justice, and for assessing our moral responsibilities. The simplistic dichotomy of wild and domestic animals—and the accompanying call to simply ‘let animals be’—needs to be replaced with a more complex matrix of relationships, and a more complex set of moral prescriptions. Indeed, a chief goal of this book is to dismantle the simple wild/domestic dichotomy, and to replace it with what Jennifer Wolch describes as ‘a *matrix* of animals who vary with respect to the extent of physical or behavioural modification due to human intervention, and types of interaction with people’ (Wolch 1998: 123). In the next four chapters, we highlight several distinctive patterns of human–animal relationships, and show how each of them can be illuminated by drawing upon citizenship theory.