

Animals and the Frontiers of Citizenship

Will Kymlicka* and Sue Donaldson**

Abstract—Citizenship has been at the core of struggles by historically excluded groups for respect and inclusion. Can citizenship be extended even further to domesticated animals? We begin this article by sketching an argument for why justice requires the extension of citizenship to domesticated animals, above and beyond compassionate care, stewardship or universal basic rights. We then consider two objections to this argument. Some animal rights theorists worry that extending citizenship to domesticated animals, while it may sound progressive, would in fact be bad for animals, providing yet another basis for policing their behaviour to fit human needs and interests. Critics of animal rights, on the other hand, worry that the inclusion of ‘unruly’ beasts would be bad for democracy, eroding its core values and principles. We attempt to show that both objections are misplaced, and that animal citizenship would both promote justice for animals and deepen fundamental democratic dispositions and values.

Keywords: citizenship, animal rights, justice, co-operation

1. Introduction

In our recent book *Zoopolis*, we made the case for a distinctly ‘political theory of animal rights’.¹ In this Lecture, we attempt to extend that argument, and to respond to some critics of it, by focusing specifically on the novel idea of ‘animal citizenship’.

To begin, let us briefly situate our approach in the larger animal rights debate. One of our goals in the book was to get beyond the traditional animal rights debate that has focused almost exclusively on one issue—the intrinsic moral status of animals. Many readers will be familiar with this 40-year debate, but just to remind you:

- animal rights theorists have claimed that because animals possess sentience or consciousness and therefore have a subjective good, they have the sort

* Canada Research Chair in Political Philosophy, Queen’s University, Kingston, Canada. Email: kymlicka@queensu.ca. This article was delivered by Will Kymlicka as the 2013 HLA Hart Memorial Lecture on 21 May 2013 at the University of Oxford.

**Independent researcher, Queen’s University, Kingston, Canada.

¹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (OUP 2011).

- of moral standing that justifies certain inviolable rights—to life and liberty, and in particular the right not to be used as a means to human well-being.
- In response critics have argued that to be a possessor of such inviolable rights requires something more than sentience or a subjective good. It requires some alleged higher capacity, typically a cognitive capacity such as rationality or autonomy or moral reasoning. And therefore only humans can be the bearers of such rights and, moreover, by virtue of possessing these higher capacities, humans have the right to use other beings who lack these capacities.
 - Animal rights theorists in turn have responded that restricting inviolable rights to those with a certain degree of cognitive complexity is both theoretically arbitrary and at odds with our actual practices. Indeed the evolution of the theory and practice of human rights in the last 60 years has been to repudiate any limitation based on the rationality or autonomy of the beings involved. Inviolable rights are first and foremost for the protection of the weak and vulnerable, not some sort of prize awarded to the most rational or cognitively complex.

To lay our cards on the table, we endorse the strong animal rights view—sentience is sufficient to qualify for inviolable rights—but we have little new to say on that question. Our focus instead is to show how it leaves unaddressed questions of what sorts of relations we *should* have with animals. We inevitably and rightly will have different relations with different groups such as wild animals, domesticated animals and liminal animals (wild animals living among us), and these differing relationships generate different moral obligations.

For example, consider wild wolves and domesticated dogs. Since dogs are domesticated wolves, they share the same intrinsic moral status, but we have very different relations with them. Through domestication we have brought dogs into our society, bred them to become dependent on us, and incorporated them into our schemes of social co-operation. These facts are morally significant—they create obligations to dogs that are different from those to wolves, despite their common intrinsic moral status.

Our project in *Zoopolis* is not simply to emphasize the moral significance of these relational obligations, but also to argue that we can make sense of these different relations through the concepts and categories of political theory.² To simplify, we argue that we can usefully distinguish three broad patterns of such relations:

- domesticated animals should be viewed as members of a shared society with us, and hence as having rights of membership. In political theory, membership rights are typically theorized in the language of citizenship.

² The need for a more 'relational' theory of animal rights has been noted by others—eg, Clare Palmer, *Animal Ethics in Context* (Columbia University Press 2010)—but other relational accounts have not drawn upon political theory to help characterize the relevant relationships.

We can therefore illuminate our distinctive obligations to domesticated animals by considering political theories of citizenship.

- Wilderness animals should be seen as having rights to their own territory and autonomy on that territory. In political theory, rights to territory and autonomy are typically theorized in the language of sovereignty. We can therefore illuminate our distinctive obligations to wilderness animals by considering political theories of sovereignty.
- Liminal animals (eg ‘urban wildlife’)—the non-domesticated animals who live among us—should be seen as having rights of residency without participating in a shared co-operative scheme with us. In political theory, ideas of denizenship have been used to capture this status of residency without citizenship, and these ideas can help illuminate our distinctive obligations to liminal animals.

This is obviously a very schematic summary, but for this Lecture we want to focus on the first category—the idea of co-citizenship for domesticated animals—and to respond to some concerns that have been raised about it.

To render the issues more vivid we will consider a specific case—one that some of you may be familiar with. It is the story of Bill and Lou, two oxen who worked at Green Mountain College in Vermont as part of the college’s sustainable agriculture programme. Last year, after 10 years ploughing the fields at the college Lou injured his leg on the job, and Bill rejected the idea of continuing to work by being yoked with a new ox. The college deliberated and decided to kill Bill and Lou and process them into hamburgers to serve in the college cafeteria. There was outrage at this decision. A nearby sanctuary offered to take the oxen so they could have a peaceful retirement at no cost to the College. The College said no. They rejected the offer because left alive, Bill and Lou would violate the goal of sustainable agriculture—the oxen would continue to consume resources and emit greenhouse gasses while no longer balancing the scales as petroleum-free tractors.³

The controversy about this case is unsurprising—Bill and Lou were known to many people as individuals, making their treatment stand out against the general background of our violence towards domesticated animals (hereafter DAs). Many animal rights (hereafter AR) advocates argued, correctly, that Bill and Lou have rights to life and liberty that were violated by the decision to kill them. But this does not seem to fully capture all of the perversities of the College’s reasoning. In any event, for many traditional AR advocates the problem actually started much earlier, since they believe that Bill and Lou should never have been used as workers on the College farm in the first place.

³ For the story of Bill and Lou, see James MacWilliams, *Politics in the Pasture* (Lantern Books 2013); John Sanbonmatsu, ‘An Ethical Blind Spot of the Locavores’ (*Providence Journal*, 17 December 2012) <<http://blogs.providencejournal.com/ri-talks/this-new-england/2012/12/john-sanbonmatsu-an-ethical-blind-spot-of-the-locavores.html>> accessed 15 July 2013.

For these AR advocates—sometimes called ‘abolitionists’—any use of animal labour is inherently oppressive and exploitative.

So on the one side, we have the College which feels entitled to kill the oxen who are no longer fulfilling their functional role, viewing them as ‘dispensable as rusty farm implements’, in John Sanbonmatsu’s words.⁴ And on the other side, we have AR advocates who think all use of domesticated animals must be abolished. What both are missing, we believe, is the possibility that Bill and Lou could be members of a just co-operative scheme at Green Mountain College. Our citizenship model is intended to illuminate this possibility.

We will pursue the argument in three steps. First we will briefly recapitulate our argument for why DAs such as Lou and Bill are owed the status of co-citizens. Then we will consider two important objections that have been raised to this idea, one from defenders of AR who worry that extending citizenship to DAs, while it may sound progressive, will turn out to be bad for animals, providing yet another basis for policing their behaviour to fit human needs and interests. The second objection is from critics of AR, who argue that the inclusion of DAs like Bill and Lou would be bad for democracy, harming or diminishing the overall quality of our democratic life, and eroding the values and principles that we cherish in democratic citizenship.

2. *The Moral Case for Recognizing Domesticated Animals as Citizens*

What distinguishes DAs from other animals is that we humans have brought them into our society. We have taken them out of the wild and through selective breeding have made them dependent on our care; we have incorporated them into our schemes of co-operation; and we have foreclosed any (immediate) option of a more independent existence. In that sense they have been made members of our society, but as a caste group intended to serve us. Every dimension of their lives is governed and regulated by a human political order which ignores their interests. They are tyrannized, in short. So the fundamental question of justice for DAs is not just: What do we owe sentient individuals? The question is: What do we owe to animals whom we have brought into our society as a dominated caste? In cases where humans have been brought into society as a caste group—for example, slaves or indentured labourers—justice requires recognition of their full membership in society. Justice does not require returning slaves or their descendants to Africa, or compelling them to exit and form their own society, but rather recognition of their full membership within this society. And the legal tool we use to acknowledge full membership is citizenship. Citizenship is the tool of

⁴ Sanbonmatsu (n 3).

converting older relations of caste hierarchy into relations of equal membership.

In our view, the same normative logic applies to domesticated animals as to human caste groups. Note also that domestication makes citizenship *possible*. Citizenship is a co-operative relationship, and so to view someone as a co-citizen requires capacities for trust, communication, co-operation and physical proximity. We cannot enter such relations with all animals on the planet, but we can with domesticated animals. Domestication presupposes and enhances these capacities for sociability across species lines.⁵ If you stop to consider for a moment what it would mean to try to share the demos with spitting cobras, or blue whales, or Bengal tigers, it highlights the many features of humans and domesticated animals which allow us to form bonds, engage in co-operative activity and share physical space.

All of this is vividly illustrated in the case of Bill and Lou. Descriptions of their 10 years on the College farm emphasize how they were co-operative, attentive to human communication and hard working; how they formed meaningful bonds with students and handlers; and were part of the College community. In every relevant sense, they were members of a shared society. And yet because they were not recognized as full members, their very existence was precarious, and subject to a crude instrumental calculus.

So domestication makes the extension of citizenship both morally necessary and practically feasible. What would this mean concretely? Citizenship is typically understood as involving a bundle of rights and responsibilities, and so too in this case we can think about the rights and responsibilities of DAs. The rights of citizenship include rights of residency;⁶ rights to protection, both from harm at human hands and from other threats, such as fire and flood;⁷ rights to health care;⁸ labour rights, such as the right not to work in an unsafe environment, and disability and retirement benefits;⁹ and the right to have one's interests taken into account in determining the common good, and in

⁵ Juliet Clutton-Brock, *Animals as Domesticates: A World View through History* (Michigan State University Press 2012).

⁶ This would preclude eviction or expulsion of DAs from society, as is taking place in the forced rewilding of Heck cattle in the Netherlands. As we discuss below, a citizenship model would allow DAs to explore exit options, but it does not permit forced exit. On the Heck cattle experiment, see Jamie Lorimer and Clemens Driessen, 'Bovine Biopolitics and the Promise of Monsters in the Rewilding of Heck Cattle' (2013) 48 *Geoforum* 249.

⁷ When the residents of New Orleans were being evacuated during Hurricane Katrina, they were told to leave their companion animals behind. Many refused to leave under these conditions. In response, new federal legislation requires that emergency services be trained and equipped to rescue companion animals. This does not however apply to other domesticated animals, such as farm animals or lab animals. See Leslie Irvine, *Filling the Ark: Animal Welfare in Disasters* (Temple University Press 2009).

⁸ In its Manifesto, 'A Blueprint for a Better World for Everyone' for the 2010 UK general election, 'Animals Count!' (which changed its name to Animal Welfare Party in 2013) included a commitment to 'establish an "NHS for animals" to better protect the health of our animal companions'.

⁹ On animals as workers, see Jason Hribal's 'Jessie, a Working Dog' (*Counterpunch*, 11 November 2006) <www.counterpunch.org/hribal11112006.html> accessed 3 January 2014; 'Animals, Agency, and Class: Writing the History of Animals from Below' (2007) 14 *Human Ecology Rev* 101; and *Fear of the Animal Planet: The Hidden History of Animal Resistance* (Counter Punch Press 2010).

shaping the rules that govern our shared society and activities.¹⁰ All of these have routinely been denied to DAs, in part because they have been denied an even more fundamental right: the right to an individual identity—not just in the sense of a name and legal certificate, but an identity that locates the individual in a larger set of family and social relationships that shape and confirm one’s sense of self and place in the world.¹¹

But citizenship is not just about rights, it is also about responsibilities. Indeed one of the most distinctive features of a citizenship model of animal rights is that it is prepared to contemplate such civic responsibilities. Consider two possible examples. First, DAs, like humans, have a duty of civility towards their co-citizens. Any scheme of social co-operation requires that members learn to regulate their behaviour to avoid imposing undue burdens or inconvenience on others, so that all members can flourish together. And so, for example, we might legitimately socialize dogs so as not to bite humans or to jump up on them. Some AR theorists view any such socialization as inherently oppressive—as the coercive restriction of natural animal behaviour in order to make animals more convenient for us. But it is important to emphasize that any scheme of co-operation requires this sort of socialization, which is also found among social species of wild animals (eg, among wolves or primates). What matters is whether the norms of civility into which members are socialized truly enable the flourishing of all members. This is clearly not true today, where DAs are sanctioned for even the most minor inconvenience they impose on us, while we blithely ignore the immense burdens and inconveniences we impose on DAs. But if we abandon the idea of duties of civility, we are abandoning the possibility of viewing humans and DAs as members of a shared society, and hence the possibility of just relations.

Second, citizenship may include a duty of contribution. It is part of any co-operative scheme that members contribute in line with their interests and inclinations. Today, of course, this contribution is extracted from DAs in oppressive and coercive ways, without any regard to their own interests or preferences, and some AR theorists argue that any use of animal labour or products will inevitably be exploitative. But we can imagine forms of contribution that are in line with the interests and inclinations of animals themselves. Using sheep to graze grass around solar panels, for example, seems

¹⁰ For discussions of the political representation of animals, see Anna Marie Matarrese, ‘The Boundaries of Democracy and the Case of Non-Humans’ (2010) 5 *In-Spire J L, Pol Societies* 55; Kimberly Smith, *Governing Animals: Animal Welfare and the Liberal State* (OUP 2012).

¹¹ On the importance of this right to identity in the context of children’s rights, see Priscilla Alderson, *Young Children’s Rights: Exploring Beliefs, Principles and Practice* (2nd edn, Jessica Kingsley Publishers 2008). Domesticated animals are often repeatedly moved from one owner or user to another, without any concern for the way this disrupts the social relationships that underpin individual identity. The impact of this identity disruption on companion and assistance animals is discussed by Jean Harvey, ‘Companion and Assistance Animals: Benefits, Welfare Safeguards, and Relationships’ (2008) 22 *Intl J App Phil* 161. A similar story also applies to captive wild animals—see the discussion in Sue Savage-Rumbaugh and others, ‘Welfare of Apes in Captive Environments: Comments On, and By, a Specific Group of Apes’ (2007) 10 *J App Anim Welfare Sci* 7.

benign, as does using sheepdogs to search for those sheep who wander off into danger.¹²

Under conditions of justice or non-domination, humans, and members of other social species, are drawn to co-operative activities which allow them to develop knowledge and skills; to experience the satisfaction of competence and mastery; to develop relationships; and to feel they are making a contribution or being helpful or taking care of their family. Indeed, to deny individuals this opportunity—for example, through chronic unemployment, ethnic discrimination or overly restrictive paternalistic conditions on work options for children or people with disabilities—is a form of exclusion. So, in our desire to protect DAs from exploitative forms of work and contribution, we do not want to err in the other direction of excluding them from a meaningful dimension of social life.

Many complexities remain in defining the terms of DA co-citizenship, particularly in relation to both rights of participation, given that DAs are unable to voice their interests in propositional form, and responsibilities of civility and contribution, given that DAs may lack the mental attributes required for moral or legal culpability. We will return to these challenges below. But it is worth emphasizing that these challenges are not unique to the case of DAs. Consider the provisions of recent UN Conventions regarding the rights of the child and the rights of people with disabilities.¹³ In both cases, it is assumed that children (even very young children) and those with disabilities (even severe cognitive disabilities) are not just vulnerable individuals who have needs for protection and provision, but are also members of society, involved in dense webs of trust, communication and co-operation with others, and as such have both rights of participation to help shape social norms as well as responsibilities to comply with those social norms.¹⁴ And in relation to both young children and people with severe cognitive disabilities, implementing these rights and responsibilities requires developing new ways of engaging the subjectivity of these co-citizens, focusing less on the ability to articulate or understand propositions, and more on attending to their 'varied modes of

¹² Assuming of course that both sheep and sheepdogs have the other rights of citizenship, including disability and retirement benefits. See Scott Mayerowitz, 'S.F. Airport Hires Herd of Goats for Fire Prevention' *USA Today* (6 July 2013) <www.usatoday.com/story/todayinthesky/2013/07/06/san-francisco-airport-hires-herd-of-goats-for-fire-prevention/2493899/> (accessed 3 January 2014) on the San Francisco airport using goats and dogs in this way, in part to protect certain rare wild animals that would be harmed by lawnmowers.

¹³ Convention on the Rights of the Child (1989) and Convention on the Rights of Persons with Disabilities (2006).

¹⁴ This is the so-called 3P model: protection, provision and participation. The addition of the third P (participation) to contemporary children's rights and disability rights movements reflects a conscious reorientation of these movements around 'citizenship as the central organizing principle and benchmark' (Michael Prince, *Absent Citizens: Disability Politics and Policy in Canada* (University of Toronto Press 2009) 3, 7). See also Allison Carey, *On the Margins of Citizenship: Intellectual Disability and Civil Rights in Twentieth-Century America* (Temple University Press 2009); John Wall, 'Can Democracy Represent Children: Toward a Politics of Difference' (2011) 19 *Childhood* 86; Marc Jans, 'Children as Citizens: Towards a Contemporary Notion of Child Participation' (2004) 11 *Childhood* 27; Ruth Lister, 'Why Citizenship? Where, When and How Children?' (2007) 8 *Theoretical Inq L* 693.

doing, saying and being'.¹⁵ So we are already committed as a society to building new models and relations of citizenship that are inclusive of the full range of human diversity, and there is no conceptual obstacle to extending this commitment to our animal co-citizens as well.

This is obviously just a sketch of what co-citizenship might look like, but we hope the underlying normative logic is clear. Through domestication, humans have brought DAs into our society and incorporated them into our schemes of social co-operation, and so we owe them rights of membership, which we can illuminate through theories of citizenship. While we hope this idea has some intuitive appeal, it faces a number of important challenges and criticisms. In the rest of this Lecture, we will examine two: whether citizenship would really be good for domesticated animals; and whether animal citizenship would be good for democracy.

3. *Is Citizenship Good for Animals?*

So far we have defended citizenship as a way of affirming the rights and interests of animals, but some critics worry that citizenship will prove to be yet another way in which we police and discipline DAs to fit into our categories and practices. This is particularly a worry because DAs after all cannot vote, or engage in rational debate, or collectively mobilize or rebel. The reality is that DAs are highly vulnerable, dependent on humans, unable to effectively resist us and unable to articulate their subjective interests in human language. This means that a relationship of co-citizenship depends on the good will of humans. Meaningful co-citizenship is only possible if humans are able and willing, in good faith, to interpret and represent animals' interests and support their political agency and participation. Yet of course we know that humans often have a strong self-interest in exploiting animals, or at least in governing animals in ways that are convenient for us. There is a real worry here that viewing DAs as 'citizens' could prove to be, not a form of emancipation, but simply yet one more way in which humans shape and govern animal lives, and police their behaviour, in order to make them fit our pre-established categories and practices. For example, in the name of co-citizenship we will rigorously enforce duties of civility and contribution, yet somehow find excuses to avoid

¹⁵ Bren Neale, 'Introduction: Young Children's Citizenship' in Bren Neale (ed), *Young Children's Citizenship: Ideas into Practice* (Joseph Rowntree Foundation 2004) 15. As Neale notes, much of the literature on the UN Convention on the Rights of the Child focuses on older children—essentially young adults—whose inclusion requires relatively little change to established democratic practices, since they are assumed to be (almost) able to follow adult modes of behaviour and communication. But the UN Convention applies to children of all ages, and taking seriously 'citizenship for young children on the other hand requires some effort on the part of adults to accommodate children's varied modes of doing, saying and being' (ibid). On the importance of attending to physical expressions, gestures and sounds as key to understanding the subjective good of infants and those with severe cognitive disabilities, and to socializing them into trusting relations built around cooperative norms, see Alderson (n 11) and Leslie Francis and Anita Silvers, 'Liberalism and Individually Scripted ideas of the Good: Meeting the Challenge of Dependent Agency' (2007) 33 Soc Theory Pract 311.

upholding the corresponding rights of membership (such as health care, labour rights, political representation).

The danger here is indeed vividly illustrated by the case of Bill and Lou. While Green Mountain College did not explicitly use a citizenship framework, they did describe Bill and Lou as members of an 'intimate biotic community... of care and respect', and claimed to listen to their voices and interests. For example, in response to the offer that Bill and Lou could retire to a nearby sanctuary, the College claimed the oxen would find this move too stressful, and so Bill and Lou would be better off dead.

In this case, this purported responsiveness to the animals' wishes is easy to dismiss as a bad-faith self-interested projection of what is most convenient for humans. This is indeed what one would expect when decisions about the good of animals are made by those with a self-interest in exploiting them. But while this is a fair criticism of the College's (mis)use of the language of 'membership' and 'community' to describe its treatment of Bill and Lou, it leaves unresolved the question of how we can prevent this sort of misuse. If the idea of animal citizenship is to be more than just an empty slogan, we need to explain how this citizenship will be enacted, and in particular, how it will be truly responsive to the subjective good of the animals themselves.

In relation to Bill and Lou, for example, we can be reasonably sure they would have preferred retirement to death, but how did they experience the work they had been doing for the past ten years ploughing the fields, working alongside each other and alongside the College's students? Did they like pulling plough? Did they experience this as a form of enslavement, extracted only through coercion and the whip, or did they enjoy the work and the social relationships it involved? Would they have preferred keeping meadow grass mown, or taking cart loads of turnips to market? What activities did they enjoy? Who were their friends? What was important to them?

The College has been rightly criticized for lacking a credible account of the conditions or processes by which we can solicit and interpret animals' subjective good. But the College is hardly alone in this failing. This is an enormous gap in our collective understanding. As a society, we have made virtually no effort, to date, to understand the inner lives of animals. To be sure, there has been in the past 30 years an explosion in the field of 'animal welfare'.¹⁶ But much of this literature suffers from two key limitations. First, it often defines animal welfare in terms of a narrow conception of physical health, as measured by the incidence of diseases or mortality rates. Animals kept in a small confined sterile cage may indeed be protected from such physical threats,

¹⁶ For a helpful overview, see David Fraser, *Understanding Animal Welfare* (Blackwell 2008). There is also the related booming field of cognitive ethology, studying the cognitive capacities of animals, such as perception, memory, communication and so on. This field has taught us a great deal about what animals can do with their minds, but again is often surprisingly silent on the question of how animals might experience their lives, including the exercise of these capacities. See Savage-Rumbaugh and others (n 11) for efforts to assess how bonobos in captivity think about their lives, and their subjective good.

and so score well on measures of ‘animal welfare’, yet may lead a life of unremitting boredom, deprivation and isolation.

Second, and more importantly, these studies typically take as a given that domesticated animals exist to fulfill a certain role in our society, and seek only to enhance animal welfare within the constraints of that function. For example, studies start from the assumption that the goal of our relationship with pigs is to produce bacon, and then ask how we can minimize the stress that pigs experience in this relationship. (While being fattened for slaughter, do they have higher cortisol levels in pens or stalls?) The structure and purposes of the relationship are pre-defined by humans, and the goal of animal welfare research is to reduce stress and anxiety for animals within those defined terms.

This is obviously not the sort of question a citizenship framework would ask. A citizenship model would instead start from the question whether domesticated animals want to relate to us at all, and if so, for what purposes? What forms of co-operative activity with humans, if any, do they find fulfilling?¹⁷ A citizenship model presupposes that society exists to serve the interests of all its members, and that social norms must be equally responsive to the good of all its members. DAs, therefore, as much as humans, have the right to determine the purposes of our shared life together.

We have barely begun to ask that question as a society. Too often we assume that evolution (including selective breeding) has predetermined the structure of DAs’ lives, as if they are fit for only one activity or relationship. But many different ways of life are possible for DAs. Many have escaped human management to become part of feral populations either on the fringes of our society or as part of more remote rewilded communities. A lucky few farm animals have escaped to sanctuaries where they can explore a variety of possible lives, including different levels of interaction with humans, with members of their own and other species. A citizenship model would require that we find ways of enabling DAs to safely and meaningfully express their desires and explore options.

Because DAs have been bred to become dependent on us, the option of immediate and full exit from human relations—of immediate ‘rewilding’—is unlikely. But we can certainly imagine ways of enabling DAs to gradually and safely explore partial exits, leading in some cases to new options that might be closer to a feral existence. It seems likely that, given these opportunities, different DAs will make different choices, not only across species but within species. For example, we might expect that, given the option of partial exit, most horses would choose to spend less time with humans, and more with their own species, and a more feral existence. Many dogs, however, given the choice, might well choose to have even more intimate and co-operative activities with a

¹⁷ What, if any, is the ‘relation that the animal him/herself, actively, accepts to create with the human?’ (Vinciane Despret and Jocelyne Porcher, *Être Bête* (Actes Sud 2007)).

wider range of humans. But we must always remember that DAs, like humans, are unique individuals, each with her own life to lead, and her own biography to unfold, differing in their curiosity, desire for adventure, risk aversion, and in the kinds of intra-species and inter-species sociability they find comforting (or confining). It is as individuals, not tokens of species, that these opportunities will be explored, and that new relationships will emerge.

Of course, it will still fall to humans to interpret animals' responses to these options, and this raises the question whether we can ever penetrate the mystery of animal minds. But in our view, this is not in fact such a mystery, particularly in relation to DAs. Anyone who has any experience with domesticated animals knows that they are constantly trying to communicate their preferences to us, and that they often have strong views about how their relationship to us should be structured. In popular culture, we sometimes talk about 'dog whisperers' or 'horse whisperers' who are seen to have some sort of magical or mystical ability to understand DAs' subjective good.¹⁸ But this is not a mystical power: the sad truth is that many humans simply do not take the time and effort to engage with domesticated animals and understand what they are communicating (and, as a result, at some point, the animals give up trying to communicate).¹⁹ Elisa Aaltola makes this point forcefully, noting how terribly obtuse we humans must appear from animals' point of view, appearing 'as deaf creatures who cannot be reached, who cannot be communicated with, whose acts are random and inconsistent, and far too many of whom remain forever more violent and abusive'.²⁰

The lives of Bill and Lou give many examples of this. For example, after Lou was injured, Bill refused to plough with any other ox. In effect, he said 'If Lou's retiring, then I think I'll retire now too, and we can both hang out in the back meadow together'. Indeed there are photos of the pair just a couple of days before Lou was killed, sitting companionably together in a field. This is one of those moments when an individual animal is making a clear expression of his preference, and relying on his human companions to recognize this, acknowledge it and respect it. Little did Bill know that by merely indicating this preference to retire, he was signing his death warrant.

In all of these respects, a citizenship framework requires a steep learning curve. As a society, we have little experience in either creating opportunities for

¹⁸ In his book *The Elephant Whisperer: My Life with the Herd in the African Wild* (Thomas Dunne 2009) 196, Lawrence Anthony tries to combat this perception, emphasizing that 'there are no deep secrets, no special abilities, and definitely no psychic powers' to communication with animals, but rather 'all it takes to make progress is an open-minded attitude . . . a bit of patience and persistence'.

¹⁹ Smith (n 10) suggests that this is actually a learned incompetence: as humans grow up and are taught their mastery over animals, they are taught that they do not need to listen to animals, and so lose their natural ability to do so. Far from being a difficult skill that needs to be nurtured, the ability to listen to animals is actually a natural skill that is suppressed through socialization into practices of human supremacy. Therefore, 'animals' inability to communicate with us is not a natural fact; it is an artefact of our domination over them' (124). For a similar analysis, see Nicole Pallotta, 'Origin of Adult Animal Rights Lifestyle in Childhood Responsiveness to Animal Suffering' (2008) 16 *Soc Anim* 149.

²⁰ Elisa Aaltola, *Animal Suffering: Philosophy and Culture* (Palgrave 2012) 179.

DAs to explore different ways of life or in listening to what they are trying to tell us about what sorts of activities and relationships they find fulfilling. But these are eminently learnable tasks. And where these mechanisms are in place to solicit and be responsive to the subjective good of DAs, then we have every reason to believe that extending citizenship would indeed be emancipatory, and not just another form of exercising tyranny over DAs to fit our human expectations.

4. *Are Animal Citizens Bad for Democracy?*

So far we have argued that it is morally imperative to extend citizenship to DAs, and that this can be done in ways that are genuinely good for animals, responsive to their subjective good, and not simply a projection of human interests. But now we want to turn to a different worry, one which concerns the impact of including animals on the quality of our democratic life. Would including animals somehow erode or tarnish the most precious values we ascribe to ideals of democracy and citizenship? As Anne Marie Matarrese notes, ‘even if we find a theoretical basis to speak of democratic rights applied to non-humans it may not be *desirable*’ in its impact on the functioning of democracy.²¹

In one sense, this worry is puzzling, since including animals in the demos is an effort to extend the reach of our democratic ideals. At present, we govern animals’ lives in tyrannical ways, exercising pervasive control over even the most minute aspects of their lives, yet without in any way seeking to solicit their preferences or to ensure their representation. Surely extending citizenship to animals is evidence of our commitment to democratic ideals, and indeed of a desire to deepen those commitments. Why then would anyone fear that this would erode cherished democratic values?

Part of the answer, we suspect, rests on the particular way that democracy has been conceptualized in the Western philosophical tradition. Ever since the Greeks, democracy has been conceived as relying on a distinctively human capacity for public reason and self-governance, which in turn is understood as the capacity to regulate our ‘bestly’ animal natures. The hallmark of the citizen is one whose bestly nature is subordinated to reason and the sovereign will. We humans have appetites and passions, like other animals, but what distinguishes us from animals is that we can suppress these appetites through reason. We have supervening capacities (for impulse control, moral reflection, rational debate or public reason, principled action) which can check and guide our underlying bestly nature. And from Plato onwards, politics and citizenship have been envisioned as the coming together of individuals capable of self-rule based on these specifically human capacities. Animals must be excluded from

²¹ Matarrese (n 10) 68.

politics, not just because they are alleged to lack the capacities for citizenship, but because those capacities are precisely defined in contrast to animal nature, as the successful suppression of animal nature. Sharing the polis with domesticated animals is a threat, therefore, not simply because they are unruly, but also because including them will make it more likely that humans too will act upon their unruly animal nature rather than their moral self-rule.²² Including beastly animals will make it less likely that humans will control the beast within, opening the door to tyranny.²³

Frans De Waal calls this 'veneer theory'—the idea that human morality is a 'cultural overlay, a thin veneer hiding an otherwise selfish and brutish nature'.²⁴ This view has deep roots in the Western tradition, and still implicitly guides many of our everyday attitudes and assumptions, but it is demonstrably wrong about both humans and animals.²⁵ The reality is that humans and other animals are continuous in our moral natures, as in other aspects of our natures. Human morality relies on moral emotions (love, concern) and pro-social tendencies (cooperation, trust, reciprocity, norm sensitivity, altruism and conflict resolution) we share with many animals. De Waal and other ethologists have been systematically demonstrating this for several decades now.²⁶ As Kirstin Andrews has argued, animals have the capacity to understand and respond to others without entertaining propositions about them,²⁷ and as Mark Rowlands has argued, they have the capacity to be good without knowing what 'good' is.²⁸

That DAs have these capacities is clear enough in the case of Bill and Lou. It is important to remember that, like all oxen, Bill and Lou are huge and strong animals, fully capable of harming humans either intentionally through aggressive behaviour or unintentionally by, for example, carelessly backing into them, or pinning them against walls. And yet everyone trusted them not simply to be non-aggressive, but also to be careful about the humans around them.

²² Indeed, Plato views the excessive freedom of domesticated animals as the mark of anarchic democracy and its inevitable descent into tyranny:

No one who hasn't experienced it would believe how much freer domestic animals are in a democratic city than anywhere else. As the proverb says, dogs become like their mistresses, horses and donkeys are accustomed to roam freely and proudly along the streets, bumping into anyone who doesn't get out of their way; and all the rest are equally full of freedom (Republic 563c).

²³ For a detailed exposition of this argument in Plato and Rousseau, see Emma Planinc, 'Democracy, Despots and Wolves' Canadian J Pol Sci (forthcoming). Planinc views this argument with some sympathy, and offers it as grounds for opposition to our Zoopolis theory. We give a more complete response to her paper in Donaldson and Kymlicka, 'Unruly Beasts: Animal Citizens and the Threat to Democracy' Canadian J Pol Sci (forthcoming).

²⁴ Frans de Waal, *Primates and Philosophers: How Morality Evolved* (Princeton University Press 2006) 6.

²⁵ For the persistence of this view, against all the evidence, see Mary Midgley, 'The Concept of Beastliness: Philosophy, Ethics and Animal Behaviour' (1973) 48 *Philosophy* 111.

²⁶ de Waal (n 24); see also Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives of Animals* (University of Chicago Press 2009); Kristin Andrews and Lori Gruen, 'Empathy in Other Apes' in Heidi Maibom (ed), *Empathy and Morality* (OUP forthcoming).

²⁷ Kristin Andrews, *Do Apes Read Minds? Toward a New Folk Psychology* (MIT Press 2012).

²⁸ Mark Rowlands, *Can Animals be Moral?* (OUP 2012). See also (2012) 25 *Social Justice Research* on new research into animals' empathy and concern for fairness.

The parents of the students at Green Mountain College would never have let their children near the oxen if they did not have firm trust in these dispositions. And this trust was warranted: everyone who knew Bill and Lou described them as gentle, co-operative, and affectionate beings, and trusted them to interact with students on a daily basis while being careful not to kick or trample or pin them.

Indeed, we systematically ignore the ways in which DAs carefully regulate their own behaviour in order to live with us and other animals. Cows and horses are acutely aware of their relative body size and weight, the force of their jaws, the care they must take to avoid stomping, not just on humans, but on cats or chickens underfoot. And this is just the tip of the iceberg. The more we study our interactions with domesticated animals, the more we learn about how acutely attentive and responsive they are to our behaviour, and *vice versa*.

Consider recent studies of human–dog interactions in city parks.²⁹ Dogs have to exercise a great deal of self-restraint as they learn the rules of going for a walk (eg not lunging at a passing dog or human, not trying the patience of their human companion with endless prolonged sniffing),³⁰ and there will always be temptations and conflicting interests which require them to exercise patience, tolerance or self-control. Humans are aware that their dogs exercise self-control in these ways, and often reward them for this. With experience and maturity, dogs can become extremely savvy park users, attuned to the various dimensions of park life and their place in it. They can become good citizens not just of the walking paths, but of the designated off leash areas (learning how to negotiate the rules of dog encounter and play), or coordinated human–dog games and activities. Highly responsible dogs learn ‘to become an urban dog that does not bother those that are not its friends’.³¹ Whether on the street or at the park they learn to go about their business, seek out their friends (human, canine and other) and pleasures without accosting joggers, sunbathers or other mutts; defecating where they ought not; running in front of vehicles; or pinching unsupervised picnics. Observers have described this constant process of spontaneous mutual adaptation and accommodation as a form of social ballet.

This process of learning social rules and adapting to the presence of others rests upon impressive levels of mutual attentiveness and communication. Dogs watch where we look, where we point, our body language, and how we register emotions in our face. And they in turn have developed communication strategies to try to communicate with us. Unlike wolves, dogs have evolved a repertoire of barking sounds specifically to communicate with humans—the

²⁹ See, eg, Eric Laurier, Ramia Maze and Johan Lundin, ‘Putting the Dog Back in the Park: Animal and Human Mind-in-Action’ (2006) 13 *Mind Culture Activity* 2; Julie Urbanik and Mary Morgan, ‘A Tale of Tails: The Place of Dog Parks in the Urban Imaginary’ (2013) 44 *Geoforum* 292.

³⁰ And hopefully their humans are doing the same—restraining the impulse to spend walk time ignoring their dog while they text, or forgetting what it is to have a nose and a longing to use it!

³¹ Laurier, Maze and Lundin (n 29) 14, 17.

bark which invites play, the bark which alerts us to strangers or potential danger, the bark which demands food or signals other urgent needs, the bark which asks for attention or inclusion—which humans correctly distinguish.³²

In all of these ways, DAs are reliable participants in norm-governed social practices. DAs may not reflect on the norms they follow, or on the reasons for trusting and co-operating with us, but they are not unruly or brutish, and including them in the demos poses no threat of tyranny or chaos. Indeed, there are good reasons to think that including DAs can actually strengthen our civic life. For example, in neighbourhoods where people have dogs and walk them, people tend to have higher levels of trust, are more likely to converse with neighbours, more likely to engage in civic participation, and more likely to have a sense of security.³³ Where humans include DAs in their sense of community, that community is stronger.

So the unruly beast story is wrong about DAs, ignoring their capacity for norm-responsive behaviour. But it is also wrong about human morality. The fact that animals and humans are continuous in our moral natures as in other aspects of our nature suggests not only that we should expect to find antecedents or dimensions of moral behaviour in animals, but also that we should view human morality, not simply as a narrowly defined reflective intellectual capacity, but rather as embodied behaviour grounded in moral sentiments and pro-social impulses, and embedded in intuition and practical reason. And indeed, recent work in moral psychology analyses human moral behaviour in precisely these terms, recognizing that much of our moral behaviour: (i) is prompted directly by moral emotion or intuitive judgement, unguided by conscious reflection; and (ii) consists of instilled habits and adherence to norms which might rarely, if ever, be subject to conscious reflection or revision.³⁴

Indeed, the moral health of a society depends on this sort of habituation. We are born with various pro-social tendencies (co-operation, helpfulness, reciprocity, etc) which are moulded through socialization into habitual responses and behaviours that embody certain social norms. Society functions, not because we all reflectively endorse propositions about these norms, but on the contrary because most of the time violating those norms is literally unthinkable. We do not weigh up the reasons for and against conducting lethal

³² The family dog project at ELTE in Budapest led by Peter Pongrácz has confirmed that humans are indeed able to correctly distinguish and interpret these different barks. See Pongrácz and others, 'Human Listeners are able to Classify Dog Barks Recorded in Different Situations' (2005) 119 *J Comp Psychol* 136; 'Acoustic Parameters of Dog Barks carry Emotional Information for Humans' (2006) 100 *Appl Anim Behav Sci* 228.

³³ Urbanik and Morgan (n 29); Laurier, Maze and Lundin (n 29); Lisa Wood and others, 'More Than A Furry Companion: The Ripple Effect of Companion Animals on Neighborhood Interactions and Sense of Community' (2007) 15 *Soc Anim* 43.

³⁴ Not only do we manage to be moral agents much of the time without rational reflection, but sometimes the process of conscious scrutiny actually undermines our ability to do the right thing, or to come to the right choice or judgement. See Jonathan Haidt, 'The New Synthesis in Moral Psychology' (2007) 316 *Science* 998; Lisa Bortolotti, 'Does Reflection lead to Wise Choices?' (2011) 14 *Philos Explor* 297; Valerie Tiberius and Jason Swartwood, 'Wisdom Revisited: A Case Study in Normative Theorizing' (2011) 14 *Philos Explor* 277.

experiments on orphaned children; on the contrary, we would never even think of doing such a thing. Similarly, Steven Pinker argues that dramatic reductions in violence (such as the end of honour duels) occur, not because we are 'weighing the moral issues, empathizing with the targets or restraining an impulse, but [because we don't have] the violent act as a live option in the mind at all. The act is not considered and avoided: it is unthinkable'.³⁵ A shared civic life is possible because, on most issues, we do not rely on people's deliberations to ensure that they do not enslave us or experiment on us, but rather we rely on the fact that 'we are the kind of people who would never even think of doing that'. This is a civic life that we share with DAs.³⁶

This is not to deny the fundamental importance that rational reflection on moral norms plays in our collective democratic life. This is essential, not least because some of the social norms that we habitually comply with are unjust, and need to be critically evaluated, using (say) Rawlsian public reason or Habermasian deliberation. At crucial junctures, moral practices or commitments need to be foregrounded and subjected to widespread scrutiny. Consider attitudes towards slavery in the United States in the mid-19th century, or attitudes towards homosexuality in recent decades. These moments of heightened awareness of moral controversy, where the capacity for rational reflection is particularly engaged, can lead to momentous decisions about how to revise the moral ideals embedded in our social practices, institutions and traditions. Moral progress has depended on creating robust spaces for the exercise of these capacities for reflection and deliberation.

However, while it is essential to make room for these capacities, we must not let them take up all the room in our conception of citizenship, for at least three reasons. First, while these capacities help make moral progress possible, the best indication that we have in fact *succeeded* in making moral progress is when these new behaviours and commitments become habitual and unreflective for most of us most of the time. Focusing too much on rational reflection ignores the necessity of habituated norm-responsiveness for any functioning society, and the mechanisms that enable individuals (human or DA) to participate (and to flourish) in moral relations.

Second, we must not treat the possession or exercise of the capacities for rational reflection as a precondition or threshold for being a citizen. If we say that to qualify as a citizen, it is not enough to participate in social life and be responsive to social norms, but one must also be able to rationally reflect and

³⁵ Steven Pinker, *The Better Angels of Our Nature: Why Violence Has Declined* (Viking 2011) 624. Indeed, if asked to give their reasons why these practices are wrong, people often struggle to do so. They are 'morally dumbfounded' (Jonathan Haidt, 'The Emotional Dog and its Rational Tail: A Social Intuitionist Approach to Moral Judgement' (2001) 108 *Psychol Rev* 814).

³⁶ It is important to emphasize that this behaviour, while unreflective, is not instinctive in the biological sense. On the contrary, it is the result of intensive processes of socialization that habituate us to be (intuitively, spontaneously, often unconsciously) responsive to social norms. For both humans and DAs, it is a social and cultural achievement, not a biological given.

evaluate on propositions regarding these norms, then we are quickly sliding into a very exclusionary conception of citizenship. Many humans never engage in rational reflection in this sense, and for all of us it is at most something we can exercise for a part of our lives. Defining citizenship in this way would make it impossible to think about citizenship not only for animals, but also for children, people with cognitive disabilities, dementia or severe mental illness, and indeed would give all of us at best a fragile and conditional citizenship standing.

This is not simply dangerously exclusionary, but misses the point or purpose of citizenship, which is to recognize and uphold membership in a shared society. Citizenship is a way of acknowledging who belongs here, who is a member of the people in whose name the state governs, and whose subjective good must be considered in determining the public good and in shaping the social norms that structure our co-operative relations.³⁷ Viewed this way, the fundamental basis of democratic citizenship is not rational reflection, but rather the capacity for norm responsiveness in inter-subjective relationships—the ability to moderate behaviour in accord with internalized norms when relating to other selves.³⁸ Such a conception is emerging not only from empirical studies of the everyday dynamics of democratic civility, but also from the work of disability scholars and theorists of children's rights. Recent disability theorists make a similar case for recognizing that capacities for moral agency and democratic citizenship are embedded in ongoing social relations among responsive, reflexive and interdependent selves, not located in a threshold individual capacity for rational reflection and debate, or conscious self-restraint. As a result, even severe cognitive disabilities do not disqualify individuals from participating in, and contributing to, norm-governed and morally valuable practices.³⁹ Similar ideas are articulated in the literature on young children's participation and citizenship,⁴⁰ and underpin recent UN Conventions on children's rights and rights for persons with disabilities.

So we are already committed as a society to taking seriously the citizenship of people with a wide range of cognitive capacities. Rather than defining citizenship in terms of an ideal of the model citizen as self-governing, autonomous, capable of articulating 'the principles and policies they advocate and vote for',⁴¹ we need to think of citizenship as a way of interacting with all of those who share our society, in all of their diversity. Citizenship is about treating co-citizens as full and equal members of a shared society, supporting

³⁷ For a more detailed defense of this conception of citizenship as tracking membership, see Donaldson and Kymlicka (n 1) 55–61.

³⁸ Sharon Krause, 'Bodies in Action: Corporeal Agency and Democratic Politics' (2011) 39 *Polit Theory* 299.

³⁹ Barbara Arneil, 'Disability, Self Image and Modern Political Theory' (2009) 37 *Polit Theory* 218; Stacy Clifford, 'Making Disability Public in Deliberative Democracy' (2012) 11 *Contemp Polit Theory* 211; Francis and Silvers (n 15).

⁴⁰ See the works of Wall, Jans, and Lister cited in n 14.

⁴¹ John Rawls, *Political Liberalism* (Columbia University Press 1993) 217.

and fostering their flourishing, and their opportunities for co-operation and participation in ways that are meaningful and possible for them. And having rightly committed ourselves to inclusive citizenship in this sense in relation to human diversity, we can hardly exclude DAs on the ground that they do not fit an image of the model citizen that many humans do not fit.

Third, while we need to build robust spaces for rational deliberation, we must also recognize that this capacity for reason and deliberation carries its own risks. Rational deliberation is a vital resource for democracy, but also a danger. Indeed, we would argue that the gravest human injustices have arisen, not from our failure to suppress our unruly animal natures, but precisely from the way that humans have developed ideas and rationalizations that they then use to suppress the moral sentiments and pro-social dispositions we share with animals. Ideas about racial or caste purity, religious heresy, the vanguard of the proletariat, the undeserving poor or fallen women have overridden the social norms of reciprocity and tolerance or moral sentiments of compassion and trust. Martha Nussbaum has rightly highlighted this problem of how humans allow ideological commitments to override compassion, and how important this has been in many of the gravest human injustices.⁴²

Indeed this is precisely what seems to have happened to Bill and Lou. In the grip of an ideology about the demands of ecological sustainability, the officials at Green Mountain College let an abstract formula of carbon emissions override reciprocity and friendship with Bill and Lou, and suppress their ability to respond more directly to the demands of compassion, justice and citizenship.

And so while we must create robust spaces for rational reflection and democratic deliberation, we must view this, not as suppressing our beastly animal natures, but as building upon and helping to guide the moral sentiments and pro-social dispositions we share with animals. In order to avoid our all-too-human tendency towards ideological pathologies, we must continually work to reconnect these rational capacities to the full potential of our moral and social being. Viewed in this light, extending citizenship to DAs is not a threat to the cherished values of democratic citizenship, but a healthy reminder of what we should truly value.

5. Conclusion

In sum, including DAs in our conception of citizenship is a requirement of justice, and would not threaten or erode the bases of our civic life, and to the contrary would help to strengthen these bases. Citizenship is about recognizing that we are members of bounded communities which shape the opportunities for us to flourish, and about supporting every member of the community to

⁴² Martha Nussbaum, 'Compassion: Human and Animal' in Marianne DeKoven and Michael Lundblad (eds), *Species Matters: Humane Advocacy and Cultural Theory* (Columbia University Press 2012).

write their own life script. Citizens, given their different innate capacities, capacities which alter dramatically over the course of life and according to circumstances, will differ widely in our scope for meaningful autonomy, contribution and participation, but the commitment we make, on this model, is to support and enable citizenship agency where it is possible, while fully meeting our responsibilities for protection and provision. The story of Bill and Lou gives us a glimpse into some dimensions of what this world might look like, but is mostly a stark reminder of how very far we have to go, not just in our practices, but in our capacity to imagine a new and better world.