

ANIMALS AND THE SCOPE OF RAWLSIAN SOCIAL JUSTICE

By Ainar Petersen Miyata

One of the most attractive and influential theories of ethics in contemporary philosophy is the contractualist account of social justice presented by John Rawls in *A Theory of Justice*. This theory aims to provide a convincing systematic basis for social justice that does not suffer from what Rawls sees as the most symptomatic problem of utilitarianism, namely that it “does not take seriously the distinction between persons” (Rawls 1999:24). In this essay, I will discuss the status of animals within the framework of this ethical theory. More specifically, my aim is to examine whether or not Rawlsian contractualism gives rise to, or can be reconciled with, an adequate animal ethic.

Rawlsian contractualism seeks to give a positive account of the rules governing how we ought to treat one another. Another contractualist, T. M. Scanlon, describes this domain as that of “what we owe each other” (Scanlon 1998:7); for Rawls, this is the domain of “social justice”. The main idea behind the contractualist answer to the question of what rules ought to govern our treatment of each other is that the source of these rules must be how each of us rationally wants to be treated. If the rules of how we treat each other must trace back to how we rationally want to be treated, and the rules are supposed to apply to all of us, then it is natural to say something like, “the rules should be what we rationally agree upon them being”. The precise nature of this agreement and the resulting rules are the form and matter of contractualism, the agreement being what is referred to as the “social contract” and the rules being the “principles of justice”. On the Rawlsian account, the idea of the “original position” and the “veil of ignorance” guide the nature of the agreement. The rational judgments resulting from the deliberation in the original position must then go through a process of attaining “reflective equilibrium”. After these steps have been taken, the end result will be the principles of justice. I will now explain the terms “original position,” “veil of ignorance” and “reflective equilibrium” in turn.

The original position is a hypothetical construct of reason. It is a mental tool intended to let you “get” at

certain truths about morality, namely the rules governing our treatment of each other. It closely resembles similar ideas expressed by various thinkers throughout the history of moral philosophy; Hume’s “judicious spectator,” Adam Smith’s “impartial spectator” and Thomas Nagel’s “view from nowhere” are some examples. On the Rawlsian scheme, it is the original position that lets us discover what the contents of the contract governing the rules of our treatment of each other are, for the contract is not actual, but hypothetical. The only way to access the contract is to use our capacities of imagination and reason to envision *all of us* rationally discussing and subsequently coming to agreement on the rules that are to govern our treatment of each other. The original position is thus a kind of thought experiment where you imagine a kind of ultimate debate: supremely rational and supremely comprehensive. Note that the notion of rationality used here is the self-interested instrumental one, so

The veil of ignorance affects all debaters in the original position and makes them forget all about their own as well as the others’ positions in life.

all debaters in the original position are assumed to bargain for the best possible deal.

A central feature of the Rawlsian original position is the veil of ignorance. Much like the impartial spectator and the view from nowhere, the veil of ignorance is supposed to capture the sense in which morality and moral judgments are impartial and objective. Because the debating agents in the original position are driven by self-interested instrumental rationality, we might expect the resulting contract to be biased in certain ways. Particularly, we



merely reflect the interests of the most powerful balanced against each other. For Rawls, the veil of ignorance is the most important element ensuring that the principles we garner from the original position are principles of *justice*: It ensures that the procedure embodies the principles of equality and fairness.

Completing this brief summary of Rawlsian contractualism is the idea of reflective equilibrium. A reflective equilibrium is the end state of a particular type of process of reasoning, where the different beliefs one has about a topic are weighed against each other and modified to create the coherent system of beliefs that keeps the highest number of beliefs intact, while not giving overdue weight or disregarding one type of belief in favor of another. Rawls thinks that we should not simply accept the results that we get from “entering” the original position. When we have those results, we must enter a process of reasoning where we weigh both the results from the original position *and* our previously held moral beliefs and intuitions against each other and modify them to reach a reflective equilibrium: “A conception of justice cannot be deduced from self-evident premises or conditions on principles; instead its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view,” according to Rawls (1999:19).

should expect the agreement to come out in favor of the strong and well-off, since the debaters will argue in favor of people in their own position in life, and the strong and well-off are more likely to triumph in the argument. To get rid of these biases, the veil of ignorance is introduced. The veil of ignorance affects all debaters in the original position and makes them forget all about their own as well as the others’ positions in life. Thus, the debaters do not know whether they are strong and well-off, or weak and poor. They do not know whether they are men or women, CEOs or minimum wage workers, Muslims or Christians, tall or short, and so on. In short, the veil of ignorance is supposed to make the debaters forget all properties about themselves and others that are *morally irrelevant*. Properties that are morally irrelevant in this sense are properties that should not enter our consideration when we consider whether an individual is worthy of moral concern. Without the veil of ignorance, the original position would arguably not be a device that could give any moral insight at all: It would

1. Animals within a contractualist scheme

First, I will consider the possibility of accounting for an animal ethic within Rawlsian contractualism: what the principles of justice arrived at through the original position would have to say about our treatment of non-human animals. On the face of it, Rawlsian contractualism leaves animals completely out of the loop. The results from the original position are determined by the hypothetical self-interested rational discussion and agreement of the participants. Non-human animals certainly have their own interests, and some might even have a sort of rationality. However, no non-human animal has the ability to participate in a discussion and a subsequent agreement like the one required. It seems like animals are not part of the “each other” in the search for the rules that govern our treatment of each other. The principles of justice might still have something to say about how we should treat animals, but since the self-interest of the debaters in the original position shapes the principles, there is little or no reason

to suppose that the interests of animals would be protected by it. The only protection that could be ensured would be the very limited one that is based on the interests of people who want animals to be protected. Contractualism has, on the face of it, few resources to account for animal ethics, and contractualists sometimes consider this a flaw in their view. Because of this, indirect ways of accounting for our ethical relationship with animals have been proposed. Before I examine this latter approach, however, I will look at an argument that, if successful, would show that animals have a moral standing within the contract after all. If it turns out that we were wrong in discounting non-human animals in the original position, this would require an important revision to the theory.

1.1. Is the veil of ignorance speciesist?

The argument centers on the concept of the veil of ignorance. Recall that the veil of ignorance grounds the justice of the social contract by prohibiting the parties who form the contract from knowing specific things about their own position in the society for which the contract is to apply. The veil of ignorance is supposed to strip away all morally irrelevant properties, properties that are thought to be irrelevant to the basis on which we are equal, in the sense of being equally worthy of moral concern. For instance, the property of being a rich white male is not a property that grants a special moral status. Two rich white males are not equal in the moral sense because they are rich white males: A poor black female would be just as worthy of moral concern. So morally irrelevant properties are things like race, gender, age, social status, skills, being liked by some people and so on. The class of morally irrelevant properties is very broad. Considering this, we may raise the question of whether species membership is also morally irrelevant in this sense. Tom Regan suggests this approach in *The Case for Animal Rights* (Regan 2004). It is easy to see how the agreement from the original position would result in strong principles for protecting non-human animals if species membership was to be among the properties affected by the veil of ignorance. Since the debaters in the original position would then not know whether or not they were actually human or some other kind of animal, they would be interested in making sure that all animals are as well off as possible. It is likely that the rules resulting from this discussion would severely restrict all sorts of animal exploitation by humans, as the debaters would want to ensure that they

The property of being a rich white male is not a property that grants a special moral status.

do not turn out to have the life of a chicken in a factory farm, for instance.¹ Against this, Peter Carruthers argues that, contrary to the above statement, species membership *is* a morally relevant property, at least to the majority of people. On his view, being held to be morally relevant by the majority of people is a sufficient condition of being a morally relevant property (Carruthers 2011). This follows from the thought that, rather than being a foundational account of morality, Rawlsian contractualism is a systematic way of structuring an ethical theory *based on certain previously held values*.

While I think that Carruthers' view is at least partly correct, I believe that this argument, which we can call the "argument from speciesism", should (and, hopefully, would) persuade the majority of people. "Speciesism," as presented by Singer (1995) and others, is a term intended to liken the attribution of moral significance to species membership to the attribution of moral significance to properties that we no longer consider morally significant. The strongest and most obvious analogy is racism; differentiating moral status based on race is now strongly frowned upon. To see whether the analogy really works we may use a kind of science fiction example: Suppose in some alternate reality, a historical accident isolated two groups of *Homo sapiens* from each other long enough for them to diverge genetically and morphologically to the point where they could no longer interbreed. These two groups would now be considered different species. Let us call them *species X* and *species Y*. Now we can ask whether membership to one or the other group is relevant to whether or not an individual is worthy of moral concern. Perhaps it is likely that members of two groups

would do exactly this. But suppose again that the only differences between the two species lay in the genitalia and reproductive system, plus perhaps a few additional fingers on *y*'s part. Say species *X* by chance got the upper hand technologically, came to dominate the lands of species *Y*, and took members of *Y* as slaves. The analogy with racism should be quite clear. Unless some other property of species *Y* had changed – for instance its members' ability to reason, or experience emotions – the accusation of speciesism would have a strong bite here. When considering whether two individuals are worthy of moral concern, we do not ask about their race, we do not ask about their sex – and neither should we ask about their species.

Species membership *is/should* not be a morally relevant criterion – it really *should* be one of the properties

that are “veiled” in the original position, just as skin color is. However, once we realize the reason why species membership is *normally* not included among the properties that are affected by the veil of ignorance, we will see why this argument will not affect the position of animals within the Rawlsian scheme. It is not because species membership is a morally relevant property that the veil of ignorance leaves it untouched, but rather because it is a good (or at least traditional) *tracker* of morally relevant properties. As far as we know, members of the species *Homo sapiens* are the only entities in possession of certain properties that we think of as morally relevant. For Rawls, these properties are what he considers to be the constitutive properties of *moral persons*: (1) the capability of having a conception of their own good (expressed by a rational plan of life); and (2) the capability of having a sense of justice, at least to a minimal degree. Furthermore, he stresses that this moral personality is “a potentiality that is ordinarily realized in due course” (Rawls 1999:442). *These* are the grounds on which we are equal on the Rawlsian account. By these standards, the category of beings that are moral persons coincides fairly well with the category of beings that are *Homo sapiens*. This would of course change if another species whose members were moral persons were encountered. Species membership, then, is not a “veiled” property because it normally makes no difference whether we know which species we belong to or not when creating the Rawlsian social contract; there is only one species we could belong to if we were among the parties involved in creating the social contract in the first place – namely *Homo sapiens*. Notice that, if, accepting my account of speciesism above, we should ever be in a situation where there were multiple species with members qualifying as moral persons, then species membership *would* have to be among the criteria affected by the veil of ignorance.

1.1.1. Marginal cases

Non-human animals, as they are commonly understood today, do not qualify as moral persons, and will thus fall outside the scope of social justice on this account. Indeed, this was Rawls’ own understanding of his theory, as he freely admits (1999:441–449). But once we have realized that species membership alone cannot guarantee moral significance, one of the animal liberationist’s favorite questions follows naturally: What about those *humans* who do not possess the relevant properties to be considered moral persons; do *they* not have moral standing? This is the problem of marginal cases.

It seems we are forced to say that they do not, even

though most people probably would shun this conclusion. But let us take a closer look at the problem. Groups of humans that are often mentioned when the marginal case problem is discussed are infants, children, senile old people, and people with severe mental disabilities. Recall that Rawls defines moral persons in terms of *potentialities*. We then see that the two largest groups – infants and children – fall within this definition.² Regarding the other two groups, it should be easy to see how the persons in the original position would agree to granting rights, or at least some degree of protection, to members of those two groups, since all persons in the original position would have the potential to become a member of those two groups. The likelihood of each person becoming either senile or otherwise severely mentally disabled at some point in their life would, if known, be a fact hidden by the veil of ignorance.

1.2. Do animals matter indirectly?

Now that we have excluded animals from partaking in the original position and asserted that they will reap few benefits from the principles of social justice, does this mean that a contractualist must consider our treatment of them as completely devoid of moral significance? The supporter of a contractualist doctrine must hasten to say “no” and invent some reason for saying so, lest he find himself advocating a decidedly counterintuitive (as well as unfashionable) view. One way to proceed from here, though this is not the approach suggested by Rawls, would be to maintain that our treatment of animals does matter, but indirectly. The paradigm example of this approach is the one put forth by Kant, where our duties towards animals are indirect duties towards humans, or more precisely: to ourselves.³ Very crudely put, the idea is that since our relationships with animals are analogous in some ways to our relationships with other humans, how we act towards animals will influence how we act towards humans.

Carruthers proposes a solution along these lines to work within the Rawlsian scheme, and he borrows ideas from virtue ethics to complete his position. On his view, whether actions towards animals are good or bad depends on what character and attitude those kinds of actions would encourage in the agent. Brutality and cruelty towards animals, for instance, would encourage an attitude of acceptance towards brutality and cruelty in general, and a character disposed to commit such acts. This seems to be an almost exact restatement of the Kantian position. Carruthers thinks that the agents in the original position “should realize... the vital role that motivational states and

emotional reactions play in human decision making,” and therefore come to agree on more than “a framework of rules to govern their behavior” (Carruthers 2011). What they should agree on is “a duty to foster certain qualities of character, or *virtues*” in order to make it more likely that agents do end up acting in accordance with the principles of justice determined in the original position. Carruthers thus thinks that the result of the contract should include something akin to a virtue ethic. On the face of it, this seems like an attractive approach; it combines the systematic non-foundational approach of contractualism with the intuitive appeal of virtue ethics. Most people would agree – I presume – that it is a good thing to be virtuous, and most people would agree that we need a system of justice to allocate rights and duties. Carruthers’ account does go a long way to broaden contractualism’s potential for explaining our intuitions about animal ethics, and it may well be close to an exhaustive account of our treatment of non-human animals as far as social justice is concerned. This takes us, finally, to the question looming above us like the proverbial elephant: Does the scope of ethics coincide with the scope of social justice? Or, in other words: Is an exhaustive account of social justice an exhaustive account of ethics? I will address this important question in the following section.

It is easier, after all, to live without considering animal welfare.

well be close to an exhaustive account of our treatment of non-human animals as far as social justice is concerned. This takes us, finally, to the question looming above us like the proverbial elephant: Does the scope of ethics coincide with the scope of social justice? Or, in other words: Is an exhaustive account of social justice an exhaustive account of ethics? I will address this important question in the following section.

2. The scope of Rawlsian social justice

Rawls seemed to think that there are good grounds for talking about morality beyond the realm of social justice. In *A Theory of Justice*, he urges us to

...recall... the limits of the theory of justice. Not only are many aspects of morality left aside, but no account is given of right conduct in regard to animals and the rest of nature. A conception of justice is but one part of a moral view. (Rawls 1999:448)

Rawls explicitly states that an account of social justice is but part of a complete account of morality, and he specifically mentions animals as one of the issues that are left out. Despite this, his position is sometimes criticized from an animal welfare perspective on the assumption that animals are not included within his account of social justice.⁴ This might be because his theory of justice is taken to be an exhaustive theory of morality despite his statement to the contrary – Carruthers’ account is an example of this – or, it might simply be because Rawls has so little to say on this

matter – only about half a page in his 560-page magnum opus concerns this issue.

2.1. Do we need more than social justice?

Rawls has stated that morality exceeds the scope of social justice, but to take this idea seriously we need more than the almost offhand affirmation of its truth by one authority. We do have the option to accept Carruthers’ indirect account of animal ethics. It would seem that adding an entire realm of morality *outside* the scope of social justice would make an ethical theory almost exponentially messier. If we are to broaden our account of morality, we should have a good reason for doing so.

Those who criticize Rawls on the grounds of lack of an animal ethic might be satisfied with Carruthers’ solution. Many people concerned about animal welfare would be satisfied if the solution were shown to have the right consequences: namely, that people would be kinder to animals (Carruthers’ position might even require vegetarianism, as per the reasoning of Hursthouse and others).⁵ On the other hand, there might be occasion to doubt whether such indirect obligations would be sufficient to accomplish much. It is, after all, easier to live without considering animal welfare.

There is also the concern that Carruthers’ position is completely dependent on there actually being a link between cruelty to animals and cruelty to people. Both anecdotal and empirical evidence show that animal cruelty is far more common among youths referred to mental health services (Ascione 2001). This can be taken to imply that cruelty to animals can have bad consequences for one’s mental health, so there might be some reason to think that the link between cruelty to animals and cruelty to people is true. But there is one somewhat disturbing implication of this view: One could easily think of other behaviors that plausibly follow the same pattern, for instance the mutilation of teddy bears and dolls, or even the playing of violent video games. These types of behavior could presumably have the same type of negative effects on the agent’s character and attitudes as cruelty to animals would. On Carruthers’ account, then, it would seem as though cruelty to animals is wrong on the same level as “cruelty” to video game characters is wrong. Whether the examples proposed are real or not matters little to the argument at hand. What matters is that when cruelty to animals is deemed “wrong” because of some property of the concept “cruelty” that is defined without regard to any harmful effect on the object (i.e. suffering), our definition of “wrong” seems to have missed an important part of the picture. One of the

main concerns for both the animal liberation movement and the animal rights movement has been to establish the animals themselves as a locus of moral concern, whether it is as sentient beings with basic interests (Singer 1995) or as “subjects-of-a-life” (Regan 1985). Explaining away the moral status of animals by reducing animal ethics to indirect duties towards humans takes us right back to where we started. As we have seen, it is perhaps insurmountably difficult to include non-human animals *within* a conception of social justice, but rather than take this to mean that animals have second-rate or non-existent moral status, we should take it as a cue to start exploring the precarious landscape of morality that lies beyond.

3. Beyond social justice

To find out what lies beyond social justice we need to look into the motivations for Rawls’ contractualist scheme, but first let us look at the meager but suggestive paragraph that Rawls devotes to this issue.

3.1. Rawls on animals

Here is the paragraph quoted in its entirety:

Certainly it is wrong to be cruel to animals and the destruction of a whole species can be a great evil. The capacity for feelings of pleasure and pain and forms of life of which animals are capable clearly imposes duties of compassion and humanity in their case. I shall not attempt to explain these considered beliefs. (Rawls 1999:448)

In this short passage, I take Rawls to assert four things. Here is an account of them in turn:

- (1) Cruelty to animals is wrong. This could potentially be explained by Carruthers’ account. Alternatively, it could just be a (re)affirmation of the intuition that entities with capacity(3) and perhaps (4) mentioned below can be the subjects of morally wrong actions.
- (2) Speciecide (the destruction of a whole species) can be wrong. This could refer to some sort of ecological concern, which is outside the scope of this essay, or it could simply be a restatement of (1).
- (3) The capacity for feeling pleasure and pain imposes certain duties. This is a fairly strong claim, and is suggestive of Rawls’ probable deviation from a standard position in rights doctrines (see below). It is also in line with the utilitarian account of animal ethics, and perhaps it hints at some of Rawls’ debt to utilitarian thought.

- (4) Forms of life that animals are capable of imposing certain duties. This is somewhat hard to make sense of, but perhaps it refers to the sociability of animals, or to the various other capacities that non-human animals may have that may generate interests, for instance, empathy, expectations of future behavior, and the like.

I think that (3) and (4) possibly reflect some basic assumptions of what morality means, and this will be the topic of the last section. For now we must consider what Rawls means by “duties of compassion and humanity”, and “considered beliefs”.

Ruth Abbey suggests that the “considered beliefs” might be related to the notions of “considered judgments”

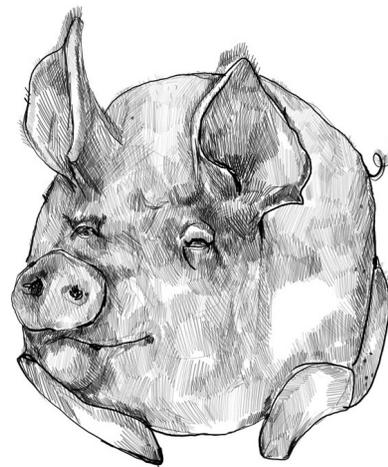


Illustration: Renate Thor

and “considered convictions” (Abbey 2007), which are notions that come up in reference to his idea of reflective equilibrium. Recall that the process of reaching reflective equilibrium is the process of weighing the principles emerging from the decisions in the original position against our previously held moral beliefs and intuitions. Rawls calls the things weighed against the result of the original position “considered judgments” and “considered convictions” (Rawls 1999). One option is to say that we should complement the resulting reflective equilibrium with our considered beliefs (including our concern for animals). Another option is that considered beliefs are just like considered judgments and considered convictions, and should be part of what is weighed against the result of the original position from the beginning of the process of reaching reflective equilibrium.

One last thing of interest, also pointed out by Abbey, is that the affirmation of (3) and (4) singles Rawls out as

a deviant to a standard view within rights ethics: the view that rights generate all our duties. Since animals fall outside of the scope of social justice and are thus not granted rights, the duties of compassion and humanity must belong to a kind of duties that are not generated by rights (Abbey 2007).

3.2. The Consequentialist Solution

If there is such a thing as morality beyond social justice, then the duties of compassion and humanity must surely be examples of it – though it is hard to know what Rawls saw as the content of the expressions. I will now present a possible solution to how both Rawlsian social justice *and* an adequate animal ethic can be part of a broader moral outlook.

This approach hinges on the realization that Rawlsian contractualism is essentially a form of consequentialism. Rawls defines teleological theories as those that both define the right independently from the good and define the right as maximizing the good – utilitarianism fits into this

category. Rawlsian contractualism differs from these theories in that it rejects maximizing as the criterion for rightness (Rawls 1999:26–27). His theory thus fits the consequentialist imperative *simpliciter*, “Do what leads to the best consequences,” when “the best consequences” is analyzed as the good distributed according to a sound principle of justice (in

our case, the good distributed *fairly*). Since it is a good bet that the Aristotelian search for the “ultimate good” is doomed to fail, we should recognize “the good” to be a heterogeneous entity that, though it *may* have some universal characteristics, will vary across *kinds* (species, societies etc.) and among individuals. The chief task of ethics on this view will then be to come up with a system of distributed justice able to cope with this plurality. Rather than making a heroic attempt to include everything, Rawls defines a desirably broad, but reasonably limited “kind” that his system of justice is to account for, namely moral persons. It is desirably broad because it is not limited by decidedly local properties such as species membership. It is reasonably limited because the properties it requires are just the properties that are requirements of potentially partaking in the kind of agreement and discussion with which the whole domain (social justice) is concerned. The properties it requires are the potential ability to contribute to the col-

lective pool of expressions of individual conceptions of the good (or the kingdom of ends, to borrow a Kantian term), which is the fuel for the decisions in the original position, and a sense of justice (and the desire to apply it), which gives the subject reason to “attend” the original position in the first place.

We see now that the question has been reversed, and that we have accounted for why we *limit* ourselves to social justice rather than accounted for why we should exceed it. On this account, social justice is the scope of the tool that is the original position, and the parts of the world that are excluded are so, not because of ignorance or neglect, but because the tool is not applicable to them. Rather than discard the tool in hope of finding a heroic theory able to cope with everything at once, it would be more reasonable to keep the tool and apply it where it works, but also to realize that there are different *moral kinds* with which entirely different tools might be needed to cope.

In the case of animals, most of whom probably do not have a conception of their good, it makes no sense to make them evaluate and debate their own interests, even in a thought experiment. Neither does it make much sense to evaluate our treatment of them in the same way that we evaluate our treatment of moral persons, regarding justice. Animals cannot be offended by being treated unjustly in the way that humans can, because they cannot relate to any regime of distribution (Ariansen 2000:12–13). However, whether they have a *conception* of their good or not, it is clear that they can experience both good and bad things, for at the very least, suffering is a bad thing and pleasure is a good thing. Even though the principles of justice that should govern our treatment of animals may be hard or perhaps impossible to determine, we should be able to make some considered judgments regarding how we should act.

The following line of reasoning seems promising: If you take any regime of distribution, compare two isolated instances of a kind within that regime, and judge them without regard to the regime, the one with more good and less bad will be judged to be the better; only within a context of unfair distribution will it be otherwise. Since animals do not suffer injustice from unfair distribution, we can rank our interactions with animals on the scale of better to worse. Furthermore, since animals do not have a conception of their good, we must evaluate the matter ourselves – with reasoned and empirically justified judgments – and because the principles of justice guiding these interactions are unknown or unknowable beyond the individual level, we are forced to judge them by the standard of

how much good and bad they result in. This amounts, perhaps, to a kind of limited scope act-utilitarianism, where we have a duty to evaluate our actions towards animals with a limited utility principle in mind, not concerning the maximization of the total good, but simply the maximization of the good of the agent(s) and the patient(s)⁶ involved in the particular interaction.

One major issue with this account is the “priority problem,” which is the problem of deciding how to prioritize between distinct principles of justice (Rawls 1999:30–40). Problems would arise if the principles within the domain of social justice could come into conflict with the principles concerning our treatment of animals. It is fair, however, to assume that duties and rights derived from the original position would trump extra-contractual duties in cases of serious conflict, given the firmer foundation for these. I believe that this approach could provide a plausible account of animal ethics that takes the moral status of individual non-human animals seriously. This account presents strong duties towards the animals we interact with, and would probably call for changes in our behavior; as such it would probably be an account that has the right consequences (better care for animals). A full account of this position would require its own essay.

Conclusion

I think it is clear that morality can extend beyond social justice. On the account just given, social justice is seen as a sphere within morality (perhaps the only one) where it is possible to establish broad principles of distributive justice. Here, ethics exceeds social justice by default, since morality is seen to spring from the primal moral question, “what ought I to do?” when this is answered by, “that which leads to the best consequences, namely ‘the good’ distributed justly”.

With this in mind, attempts to constrain morality to those things that can be accounted for within social justice should seem artificial. While our understanding of ethics is sounder within this sphere and the realm beyond it is slippery and intangible, this should be taken as a challenge rather than a call for defeat. Beyond social justice lies the frontier of our ethical enterprise, and like all frontiers, it yearns to be explored. In the case of animal ethics it is true that elements within social justice have things to say about our conduct with animals, and those things should be taken seriously and acted upon as appropriate. They should not, however, be mistaken for exhaustive accounts of animal ethics – for that, we must explore the unknown.

NOTES

¹ The view would also have far-reaching consequences for how we treat animals in the wild. Presumably, the rules would require us to have a completely different attitude to intervention in the lives of wild animals. Perhaps we would require policing of predators to make sure that they only kill and maim as much prey as they truly need.

² This reliance on potentialities gives rise to some other problems, but they lie outside the scope of this essay.

³ “Even gratitude for the long service of an old horse or dog (just as if they were members of the household) belongs indirectly to a human being’s duty with regard to these animals; considered as a direct duty, however, it is always only a duty of the human being to himself” (Kant 1996:443)

⁴ See, for instance, Gardner (2003), Pritchard & Robinson (1981) and Regan (1985 and 2004).

⁵ See Gruen (2010).

⁶ Moral patients are individuals who are not moral agents themselves, but are nevertheless worthy of moral concern. Animals and all the humans that fall under the heading “marginal cases” are moral patients.

LITERATURE

- Abbey, R. 2007, “Rawlsian Resources for Animal Ethics”, *Ethics and the Environment*, 12, 1, 1–22.
 Ariansen, P. 2000, “Animals, Care and Justice”, in *Dyreetikke*, Føllesdal,

A. (ed.), Fagbokforlaget, Oslo.

Ascione, F. R. 2001, “Animal Abuse and Youth Violence”, in *Juvenile Justice Bulletin*, [online]. Available from: <<https://www.ncjrs.gov/pdffiles1/ojdp/188677.pdf>>

Carruthers, P. 2011, “Against the Moral Standing of Animals”, in *Practical Ethics: questions of life and death*, Morris, C. (ed.), Oxford University Press, Oxford.

Gardner, R. 2003, “Animals, Politics and Justice: Rawlsian Liberalism and the Plight of Non-Humans”, in *Environmental Politics*, 12, 2, 3–22.

Gruen, L. 2010, “The Moral Status of Animals”, in *The Stanford Encyclopedia of Philosophy*, [online]. Available at: <<http://plato.stanford.edu/entries/moral-animal/> [16.04.2014].

Kant, I. 1996, “The Metaphysics of Morals”, in *Practical Philosophy*, Gregor, M. J. (trans.) Cambridge University Press, Cambridge.

Pritchard, M. S., & Robinson, W. L. 1981, “Justice and the Treatment of Animals: A Critique of Rawls”, *Environmental Ethics*, 1, 55–61.

Rawls, J. 1999, *A Theory of Justice*, revised ed., Harvard University Press, Cambridge.

Regan, T. 1985, “The Case for Animal Rights”, in *In Defence of Animals (Vol. 9)*, Singer, P. (ed.), 13–26, Basil Blackwell, New York.

———. 2004, *The Case for Animal Rights: Updated with a New Preface*, revised ed., University of California Press, Berkeley.

Singer, P. 1995, *Animal Liberation*, 2nd ed, Pimlico, London.