

# The Priority of Suffering Over Life. How to Accommodate Animal Welfare and Religious Slaughter

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Article abstract

Most contemporary Western laws regarding the treatment of animals in livestock farming and animal slaughter are primarily concerned with the principle that animal suffering during slaughter should be minimized, but that animal life may be taken for legitimate human purposes. This principle seems to be widely shared, intuitively appealing and capable of striking a good compromise between competing interests. But is this principle consistent? And how can it be normatively grounded? In this paper I discuss critically this principle (the priority of the minimization of animal suffering over animals' right to life). I argue that this principle can be justified on the ground of respect for the value commitment toward animal welfare, which is held by many people. The advantage of this perspective is its inclusiveness: it can justify without contradiction the principle at stake and allow for the admissibility of religious slaughter while promoting animals' interest in not suffering. This justification also has the advantage of being compatible with the cultural and religious pluralism of contemporary societies.



# THE PRIORITY OF SUFFERING OVER LIFE. HOW TO ACCOMMODATE ANIMAL WELFARE AND RELIGIOUS SLAUGHTER

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## ABSTRACT:

Most contemporary Western laws regarding the treatment of animals in livestock farming and animal slaughter are primarily concerned with the principle that animal suffering during slaughter should be minimized, but that animal life may be taken for legitimate human purposes. This principle seems to be widely shared, intuitively appealing and capable of striking a good compromise between competing interests. But is this principle consistent? And how can it be normatively grounded? In this paper I discuss critically this principle (the priority of the minimization of animal suffering over animals' right to life). I argue that this principle can be justified on the ground of respect for the value commitment toward animal welfare, which is held by many people. The advantage of this perspective is its inclusiveness: it can justify without contradiction the principle at stake and allow for the admissibility of religious slaughter while promoting animals' interest in not suffering. This justification also has the advantage of being compatible with the cultural and religious pluralism of contemporary societies.

## RÉSUMÉ :

La plupart des lois contemporaines portant sur le traitement des animaux, leur élevage et les techniques d'abattage en usage en Occident se préoccupent principalement du principe selon lequel la souffrance des animaux doit être minimisée durant l'abattage, mais reconnaissent que les animaux peuvent être tués à des fins humaines légitimes. Ce principe semble être largement accepté par la société, séduisant intuitivement et susceptible de constituer un bon compromis entre des intérêts concurrents. Mais ce principe est-il cohérent? Et quel peut être son fondement normatif? Dans cet article, j'aborde ce principe de manière critique (la priorité de la minimisation de la souffrance animale sur le droit à la vie des animaux). J'affirme que ce principe peut être justifié dans le cadre du respect de l'engagement envers le bien-être des animaux, lequel est soutenu par de nombreuses personnes. L'avantage de cette perspective est son caractère inclusif : elle permet de justifier de manière non contradictoire le principe en question et rend acceptable l'abattage rituel tout en faisant la promotion de l'intérêt des animaux à la non-souffrance. Cette justification présente également l'avantage d'être compatible avec le pluralisme culturel et religieux qui caractérise les sociétés contemporaines.

## INTRODUCTION

Most Western laws on animal treatment provide that animals' suffering during slaughter should be minimized. Complying with this principle means stunning animals before slaughtering. Although this idea stems from a general concern for animal welfare and covers many aspects of the interactions between human beings and animals, in this paper I will consider only the domain of meat-production and, in particular, the practices of slaughtering. The ethical dimension of animal slaughter is particularly important because the principle of the minimization of animal suffering clashes with Jewish and Muslim rules concerning ritual methods of slaughtering that prescribe the cutting of the throat with a knife without previously stunning the animal. In many Western countries<sup>1</sup> exemptions from the legal requirement for stunning have been granted to Jews and Muslims.<sup>2</sup> Such a scenario seems to present a conflict between two competing interests: freedom of religion and animal welfare.<sup>3</sup>

The aim of this paper is twofold. First, I want to assess the ethical tenability of the most widespread current legal situation, which holds that animal suffering ought to be minimized during slaughter but that human beings are nevertheless allowed to dispose of animals' lives for meat consumption. In particular, I will ask if this idea can be justified in a principled way. Second, in the light of this, I intend to discuss critically the admissibility of exemptions from the prescription of stunning animals for the sake of allowing Jewish and Muslim ritual slaughters. I will hold that both this principle and exemption from it are justifiable. But I will argue that both points cannot be justified on the ground of most current theories of animal ethics. They can be vindicated, instead, by the idea that we should respect those persons who have a moral commitment to the minimization of animal suffering. I will argue that, if justified by this idea, both the principle of the minimization of animal suffering and the exemption from it would be justified and fully compatible.

The paper will unfold as follows. In the next section, I will discuss in greater detail the welfarist normative basis of current legislation. I call this principle "the priority of safeguarding animals from suffering over safeguarding animal life" (PSOL). In the following sections, I will propose the idea of respect for the commitment to animal welfare as an appropriate ground for the principle at stake. I will then respond to some possible critical remarks. Finally, I will explain how and why this grounding can also justify exemptions from this principle for the purpose of recognizing the right to religious freedom.

I would like to announce a couple of caveats before beginning. First, unlike most works in animal ethics, I will not ask in general what the best treatment owed to animals is. Rather, my thesis is a more limited one and my starting point will come within the principles backing actual practices and rulings on animal slaughter. Namely, I will ask if there is a plausible and coherent justification for the principle underpinning current laws on animal slaughter that is compatible with a broader set of widely shared liberal principles. In other words, I will in-

investigate whether we can provide a justification for the principles underpinning current laws without lending support to the idea that they are fully justified and entirely morally convincing. In virtue of this starting point within current practices I will not rehearse traditional issues in animal ethics such as the moral equivalence between non-human animals and human marginal cases having a comparable level of mental development. This is not because such issues are unimportant. Rather, it is because I want to discuss the ethical tenability of the principles grounding current laws through a distinctively *political* approach, where by “political” I mean an approach following the principles of political liberalism. Such an approach seems to be demanded by the increasing and unavoidable disagreement on the moral status of animals that characterizes contemporary societies. The principles of political liberalism seem the most appropriate response to such a pluralistic scenario.

Accordingly, the argument I will put forward should interest both those within the liberal camp who do not think that animals deserve direct moral recognition but who are concerned with people’s moral commitments and those who have a moral concern for animals but who are afraid that within current “non-ideal” conditions a full animal rights position would not be achievable. In both cases, the argument I will propose takes seriously the fact that people reasonably disagree on the treatment of animals, and takes this disagreement as a starting point for finding mutually acceptable principles governing the relations between human beings and animals.

Second, it is worth emphasizing that I will outline a possible defence of the principle underpinning current laws on the treatment of animals, but by no means of all laws and practices currently provided by Western legal systems. Indeed, if current laws are grounded on the idea that killing animals for certain purposes is admissible, provided that animals are treated in a certain way, a number of practices do not seem to be fully compatible with the idea that we should take animal suffering seriously. The fact that some practices (and laws ruling them) do not seem to be coherent with the principle grounding them is not a proof of the wrongness of such a principle, but only of those practices. In sum, although my argument will try to make normative sense of the principle behind current laws and practices, I do not want merely to justify the status quo, and my aim is not overtly conservative. Quite to the contrary, clarifying the sense and force of the grounding might convince us to revise or to ban certain practices and to improve certain rulings admitting them.

### **THE PRIORITY OF SAFEGUARDING ANIMALS FROM SUFFERING OVER SAFEGUARDING ANIMAL LIFE (PSOL)**

The principle we are discussing is a cornerstone of the so-called Animal Welfare Position (AWP). As characterized by Gary Francione<sup>4</sup> and Robert Garner,<sup>5</sup> AWP is concerned with animal suffering, but it considers the killing of animals for legitimate human purposes admissible. AWP expresses a minimal concern for animals and, unlike other positions in animal ethics, it is not committed to some form of equality between humans and animals. The version of AWP embedded

in current rulings includes the following two tenets: First, animal suffering should always be minimized in interactions with human beings.<sup>6</sup> Second, animal life is not morally indifferent, it has certain value and can be taken by humans only in order to satisfy important human purposes.<sup>7</sup> AWP conjoins these two tenets such that the first has priority, in what may be called the *priority of safeguarding animals from suffering over safeguarding animal life* (PSOL).<sup>8</sup> PSOL focuses in particular on animal suffering, but it may be understood more generally as implying a priority for the concern for animal welfare over animal life, because suffering is certainly the negative dimension of welfare. Henceforth, I will most specifically refer to suffering, but in some cases I will talk more broadly about welfare. PSOL establishes that the concern for animal suffering should count in any case, even when there is a valid reason (for instance the purchase of food or the promotion of scientific research) for killing an animal. PSOL has a general scope but, as I said, I will concentrate on its application to meat-production for human nourishment. PSOL holds that

1. Animal suffering caused by human beings should be minimized; and
2. Animal life is not at the full disposal of humans; it may only be taken for legitimate human purposes (for instance, the production of meat for human nourishment) and upon the satisfaction of 1.

Many states also include the following exemption from PSOL:<sup>9</sup>

3. Exemptions from the duty to stun animals for the sake of admitting the production of *halal* and *kosher* meat are allowed.

Despite PSOL seeming at first glance intuitively plausible—after all, who would contest that we ought to minimize the suffering of sentient beings?—the priority of values it expresses is a peculiar one. Except for extreme cases of unbearable suffering and lives not worth living, we would never accept such an ordering of values for human beings: all ethical theories hold that in standard cases the preservation of human life is more important than the protection from suffering.<sup>10</sup> If animal ethics theories have in general fought against unwarranted discriminations between animals and humans, thus campaigning for the inclusion of animals in the same moral domain as human beings, we could ask what the basis for PSOL is, if most of us would not accept such a treatment for human beings.

Generally, it seems difficult to justify PSOL on ethical grounds. It is easy to see that most theories arguing for a direct concern for animals could not accept PSOL. This is so because all such theories recognize animals as having autonomous interests, the most important of which is usually thought to be the interest in continuing to live. There would be a sort of practical inconsistency if we were committed to the idea that we should give priority to safeguarding animals from suffering over protecting their lives, because in general respect for life is considered more important than the prevention of suffering.

This is especially the case in all those theories according intrinsic value to animal life, in particular animal rights theories. But certain consequentialist perspectives, such as Jeff McMahan's, would also reject PSOL. Although it is plausible to suppose that animal interests matter less than human ones, it is not admissible to rear and to kill animals solely for the purpose of eating meat, because eating meat may be justified only for the satisfaction of human pleasure.<sup>11</sup> This is, according to McMahan, too weak an interest to justify the killing of animals when compared to the interest of animals in continuing to live. Even Singer's utilitarianism rejects PSOL for self-conscious animals, while he admits it for merely conscious ones, thus ruling out the possibility of rearing and killing mammals and most animals eaten by people (see below).

With this I do not mean that it is in principle impossible to argue for a *sui generis* autonomous status of animals which would allow for PSOL. Although it has not been proposed so far, it might be done. Any proposals, however, aiming to accord a subjective status to animals while admitting PSOL should explain in a consistent manner why we consider the life of non-human animals less important than their suffering.

### **FROM SAFEGUARDING ANIMAL WELFARE TO SAFEGUARDING THE VALUE COMMITMENT TO ANIMAL WELFARE**

As the approaches justifying direct duties toward animals do not seem available to ground PSOL, we may discuss an indirect strategy to safeguard animal welfare. In particular, I shall propose an indirect strategy grounded in the respect we owe to the value commitment that people have towards animal welfare.

As a preliminary remark I should say what this proposed indirect approach is not. The standard indirect approach in animal ethics is the Kantian one. I do not intend to pursue it at all. Unlike Kant's approach, what is proposed here does not imply that only human beings can have a moral status. It might be the case that other beings beyond human beings have a moral status and are owed an appropriate treatment. What I propose here admits of this possibility but remains neutral with respect to these alternatives. Unlike the Kantian account, I start with the fact that people disagree about the moral status of animals. I will say more about this disagreement in what follows. We can take as a starting point the fact that disagreement about the moral status of animals and the treatment owed to them is not restricted to opposition between those who consider animals worthy of direct moral concern and those who do not. Also, within the former camp, there is a huge disagreement (for instance, among animal rights theorists, utilitarian, and feminist views) concerning the ground of animals' moral status and many practical implications. This means that the disagreement is pervasive and does not seem to be a transient situation. Rather, it seems to be a constitutive feature of people's capacity to express their views freely on this issue.

If we take this disagreement seriously, the most coherent liberal solution would be to avoid employing controversial arguments and principles. Accordingly, con-

cern for animal suffering cannot be based on the idea that animals have subjective moral status because it is controversial to admit this. Likewise, we cannot ask all people to subscribe to an overtly utilitarian view. However, there is at least one very important fact that is hardly deniable: the fact that animals can experience pain and suffer, a fact which is attested by ordinary experience, neurocognitive studies, and evolutionary biology. Controversies arise, however, as to how such an experience of suffering ought to be weighed morally per se and with respect to legitimate human interests.<sup>12</sup> And responses range from egalitarianism of interests in not suffering (Singer) to those views that might recognize the very fact of suffering without admitting that it matters morally per se independently of its consequences on human moral agents (Kantian accounts).

Building on this undeniable fact, we may outline a moral view that could be the object of an indirect approach towards the safeguarding of animals. I will name such a view the “value commitment toward animal welfare.” In this indirect perspective, PSOL may be grounded on the respect owed by liberal institutions to the value commitment towards animal welfare. In what follows I will, first, sketch its main features and, second, say why it passes a test of public acceptability, thus being a good response to the disagreement on the moral status of animals.

Let us sketch the main traits of the value commitment toward animal welfare. By value commitment toward animal welfare, I mean a set of authoritative convictions holding that animals ought to be taken morally into account. This means, first, that animals should be treated according to their ethological nature and, second, that their suffering should be minimized as far as reasonably possible according to one’s capacities. The conjunction of these two prescriptions amounts to striving to promote animal welfare. The set of convictions forming this value commitment includes both explanatory statements on the nature of animals, in particular as far as suffering and welfare are involved, and practical commitments to preventing the former and promoting the latter. How much individual engagement towards the promotion of overall animal welfare is required by this view depends on its specific version. It may be rather minimal, thus implying only the avoidance of animal suffering that is within the individual’s immediate reach, or more demanding, thus engaging the individual in more welfare-enhancing practices. Furthermore, the holders of this view may certainly be committed to the idea that animal suffering should be minimized in general, and not only in their interactions with humans. The core version of the value commitment to animal welfare is widely shared by many people, who hold diverse comprehensive views about the treatment of animals. In particular, utilitarianism, care-based theories, sense of responsibility, or mere individual empathy toward animals may converge on this principle. However, whatever the overall comprehensive view, to count as the holder of a value commitment to animal welfare, it is sufficient that one’s commitment to respecting animal welfare constitutes a firm principle around a well-grounded set of other convictions.

At this point one may wonder whether what I call the value commitment to animal welfare can be reinterpreted, in a Rawlsian fashion, as a sort of “animal-based conception of the good.” They have many features in common. However, unlike Rawls’s conceptions of the good, here there is not necessarily a fully comprehensive “scheme of final ends, that is, ends we want to realize for their own sake, as well as attachments to other persons and loyalties to various groups and associations.”<sup>13</sup> Perhaps the value commitment to animal welfare may be interpreted as a “partial” conception of the good. After all, Rawls himself recognizes that “most people’s political conceptions are normally only partially comprehensive.”<sup>14</sup> The notion of a partial animal-based conception of the good may be very close to the value commitment to animal welfare, as both, *qua* expression of the first individual moral power, are part of individuals’ deep commitments and life-plans. However, I prefer not to employ the jargon of “animal-based conception of the good” because the value commitment to animal welfare may be a subpart of diverse conceptions of the good and grounded in different values. Hence, using such jargon would risk creating unnecessary confusion because, as we will see below, the value commitment toward animal welfare is the set of principles upon which diverse conceptions of the good can converge. Therefore, although I will claim below that institutions’ duty to respect such a moral commitment is grounded, following Rawls’s idea, on the duty to respect individuals’ moral powers and their expressions as conceptions of the good, I do not employ Rawls’s terminology of “conception of the good”.

At this point one may ask what the status of this the value commitment toward animal welfare is.<sup>15</sup> Is it a view actually held by some groups of people in current liberal societies? Or is it a hypothetical possibility which could be elaborated by someone under a certain theoretical construction?

It bears stressing that this view should be seen neither as an actual view held by some people in current liberal societies nor as a purely hypothetical construction having no social adherents. When I say that it shouldn’t be seen as an actual view I do not mean that nobody can hold it. On the contrary, there might be a number of people subscribing to it. I mean, rather, that it should be seen as a philosophical reconstruction of a specific moral concern that is actually shared or theoretically shareable by many views. By this I mean that the “value commitment toward animal welfare” may both be a view to which someone might subscribe autonomously and independently, and also a set of moral concerns that lies at the intersection of many other views.

To further appreciate its status, we should distinguish the question of the reality-status of the value commitment toward animal welfare from its grounding. Its grounding depends on the fact that it is a minimal set of principles for the treatment of animals that can be justified according to principles of public acceptability, as we will see below. Its reality-status depends on whether it is actually endorsed by somebody or whether it is a purely hypothetical position. So we may recognize that the value commitment toward animal welfare is worth pursuing because it is a set of convictions regarding animals that passes a test of



public acceptability and is, thus, a correct liberal response to the condition of disagreement. The issue of whether anyone actually subscribes to this view and, if so, who, is important for its possibility of having practical relevance, but does not establish per se whether it is worth being publicly pursued or not. There are a number of views that are widely endorsed publicly but which do not deserve to be the object of public pursuit. Consider, for instance, religions: many religions are far more popular than the value commitment towards animal welfare, and yet do not meet the conditions of public acceptability as objects of direct public concern. However, we should not be worried about public diffusion of the value commitment toward animal welfare as an autonomous view because, as we will see below, it is endorsed by diverse other views.

### **WHY THE VALUE COMMITMENT TOWARD ANIMAL WELFARE IS PUBLICLY ACCEPTABLE**

There may be some possible objections to my proposal. First, it might be said that grounding PSOL on the value commitment toward animal welfare is too weak a justification, because it does not differ from sensitivity: it is a mix of personal feelings and empathy that liberal states are not supposed to protect. Second, even if institutions had to protect such feelings, the public display of animal suffering should only be prohibited to the extent that it offends a human attitude toward it. Third, even conceding that this is not a matter of sensitivity, one might say that respecting the value commitment to animal welfare may only justify personal exemptions from individual obligations to perform actions against one's convictions (as with the exemption from draft for pacifists or from the performance of abortion for pro-life doctors). But, this couldn't justify a sort of general safeguarding of the commitment to animal welfare without individuals holding such a commitment being called personally to perform actions against their own convictions.

To respond to these objections we must clarify in what sense the value commitment to animal welfare differs from mere sensitivity towards animal suffering, why it is fundamental in the lives of many people, and why it deserves a generalized safeguard and not just individual exemptions or a ban only on the public display of animal suffering. To do this, PSOL as grounded in respect for the value commitment to animal welfare must satisfy the following three criteria:

- (1) it mustn't violate uncontroversially recognized rights or fundamental interests of other persons;
- (2) it must have a clear and fundamental moral importance for the conscience of its holders;
- (3) it must be grounded in a principle that meets minimal criteria of public acceptability.

Why are these criteria appropriate and necessary? If PSOL as grounded in respect for the value commitment to animal welfare didn't satisfy (1), it wouldn't be admissible as a *prima facie* legitimate claim for public consideration. If it

didn't violate rights or interests, to be considered as a valid claim, it should count more than other people's already established rights or fundamental interests, which would hardly be the case. Meeting criterion (2) is necessary to show that the value commitment toward animal welfare is an important expression of individuals' faculty of forming and pursuing conceptions of the good. Thus, the liberal idea that public rules should not unnecessarily constrain the free expression of individuals' moral faculty requires us to take into account such claims as valid ones, provided that they satisfy (1). However, if only (1) and (2) were met, we would simply have a reason to consider respect for the value commitment to animal welfare as a ground for individual exemptions.<sup>16</sup> To show that such a principle deserves a generalized safeguard, we need to check whether it also passes the third criterion, establishing public acceptability. If this criterion is also met, there are no plausible reasons to oppose PSOL as grounded in respect for the value commitment to animal welfare. Hence, if we can show that it is publicly acceptable and morally important for many people, we can conclude that there is no reason why a liberal state should not respect such a value commitment via the safeguarding of animal welfare. If the value commitment toward animal welfare passes these criteria of public acceptability, it means it can also be supported by public reasons and is not a mere private idiosyncratic goal. So, in what follows I will scrutinize whether the value commitment toward animal welfare can ground PSOL according to the three criteria.

(1) First, the principle of minimizing animal suffering during slaughter and the exemption from the obligation to stun animals do not violate the fundamental interests or rights of others. PSOL, indeed, does not violate the rights and interests of ordinary meat consumers, and with the exemption provided in many states it also includes the interests of Muslim and Jewish meat consumers. One may protest that this claim is flawed, because it is not true that PSOL does not violate anyone's rights: PSOL violates animals' rights. But that animals may be considered right holders and entitled to rights is a matter of deep disagreement in our society. Animals as subjective bearers of rights are not eligible for consideration in this criterion of public acceptability. Thus, we cannot consider them as possible subjects whose rights are infringed by PSOL. Doing so would entail considering animal rights theories correct and worthy of public endorsement. But this seems to run counter to the idea of pursuing the least controversial approach we are looking for.

(2) Secondly, the criterion of moral importance for individuals' conscience is necessary to demonstrate that recognizing the value commitment to animal welfare is crucial to ensure that individuals live in accordance with what is prescribed by their moral faculty of forming and pursuing conceptions of the good. Indeed, one of the fundamental liberal principles requires that individuals not be limited in the pursuit of their life-plans, provided that these are compatible with the life-plans of others.<sup>17</sup> For many people, animal welfare is an important value informing ethical commitments and life-plans. Not only advocates of animal rights but also and more widely all those who have non-exploitative daily relations with animals (in particular but not only pets and domesticated animals) are

likely to be committed to the promotion of animal welfare, at least in its basic principle of the minimization of animal suffering. We may presume that holders of a value commitment to animal welfare, facing a situation in which they are compelled to cause suffering to an animal or in which they cannot do anything to prevent it, would experience a harsh violation of their moral integrity.<sup>18</sup>

Here we may perceive the main difference between the value commitment toward animal welfare and the seemingly similar two alternatives: people's sensitivity to animals and people's non-exploitative relations with animals. Protecting animal welfare because we want to safeguard the value commitment towards animal welfare might resemble the idea of safeguarding people's sensitivity and daily, non-exploitative relations with animals. All three strategies ground the protection of animals indirectly via the safeguarding of persons' attitudes toward animals as worthy of moral recognition. Although we may presume that *de facto* many holders of a value commitment towards animal welfare also have sensitivity to animals, the value commitment involves a reformulation of their sensitivity in a principled and moral way, which commands due respect for individual moral capacities. First, unlike a value commitment, sensitivity is a natural disposition that is not subject to constraints of consistency and public justifiability. After all, people have many sensitivities as a matter of taste and natural inclination. But it seems hardly justifiable to say that liberal states should protect such people's positive or negative dispositions regardless of the magnitude and type of these feelings.

Second, the protection of the value commitment is not the same as the protection of the relation between human beings and animals. Kimberly Smith has recently proposed that laws should be seen as "protecting individual animal welfare by protecting good human/animal *relationships*. The best protection for animal welfare is to promote these relationships by supporting good practices of animal husbandry and stewardship."<sup>19</sup> Relationships, as well as sensitivity, do not require individuals to be consistent in their attitude toward all similar animals. It is a matter of personal idiosyncrasy to prefer one kind of animal or an individual animal and not to be concerned with others without having to provide any reason. But public legislation cannot be based on such individual attitudes because common rules and grounds are needed for a public constraint to be acceptable to all. In sum, the content of attitudes and relationships can hardly be put in public terms. Another troubling feature of this proposal is the following. If the good to be protected is a good human/animal relationship, it is not clear what we should do in a case where there is no relationship at all.

If farmers comply with the rules for animal-rearing but have not developed any special relationships with their cattle, what should be safeguarded in this case? If only *actual* beneficial human/animal relationships are to be safeguarded, in this case this model does not apply and we are left with no guidance. If the objects to be safeguarded are *potential* beneficial relationships, should we compel the rule-abiding but not affectionate farmers to develop relations with their animals? This seems absurd. Hence, grounding the protection of animal welfare

on good human/animal relations is unsatisfactory and differs from the value commitment toward animal welfare because the latter, unlike the former, is not a mere expression of personal attitudes but involves a moral reformulation and does not only concern animals included in good relationships with humans, but potentially all animals affected by the relevant laws.

(3) Since there is disagreement over what moral status we should accord to animals, not only between animal advocates and animal skeptics, but also within the field of animal advocates (e.g., among animal righters, utilitarians, feminists, and so on), we should find an uncontroversial value to ground the safeguarding of animal welfare. The third criterion ensures that the principle endorsed by the value commitment to animal welfare is publicly acceptable. Here I understand acceptability as requiring that a value commitment be *cognitively accessible* in its factual content and *non-sectarian* in its normative grounding. In other words, I will assess whether the factual content on which this commitment rests is intelligible to all, insofar as justified according to common epistemic standards, and whether its normative grounding is non-sectarian—that is, endorsable by diverse value perspectives.<sup>20</sup> I cannot provide a full justification of these minimal criteria here, and they are not meant to outline a general theory of public acceptability. Rather, they serve the limited purpose of providing the last step in justifying the minimization of animal suffering in livestock farming as a general duty once the first two requirements above have been met. Their plausibility for this specific purpose suffices here.

First, that animals are capable of experiencing pleasure and pain is a scientific and ordinary fact accessible to all. Indeed, as is known, the physiological structure of pain perception is similar in mammals and other animals with a sufficient cerebral development. Furthermore, at least vertebrates, and mammals in particular, react to certain experiences in a way that we may easily interpret as characterized by pain, including, for instance, attempts to escape from the source of pain and physiological changes.<sup>21</sup> How such experiences of pain should be assessed is a matter of moral controversy, since one might recognize that animals experience what we may call pain, without admitting that this should concern us morally. Alternatively, one might accept that we should give appropriate moral consideration to animal suffering without subscribing to the egalitarianism required by Singer's interspecific perspective. However, the fact that animals do experience something we may understand as equivalent to pain is not publicly obscure and is easily recognizable by any person. Hence, the value of animal welfare rests on facts that are cognitively accessible to all.

Second, we can see that the value commitment to animal welfare is not a sectarian value. By *sectarian* I mean a value that can be normatively justified only if one subscribes to a specific comprehensive view, be it a religious or an ideological one, whereas it would be unjustified according to all other views. The promotion of animal welfare, instead, is a value that can be upheld by diverse perspectives without embracing a unique comprehensive doctrine supporting it. To appreciate this point we need not delve into what people actually think about

animals because many people have partly incoherent or mixed views on animals.<sup>22</sup> Rather than checking out what people actually think, it's better to work with the possible theoretical groundings of PSOL. In what follows, I will consider some alternative views about the moral status of animals. Such views constitute the philosophical core and grounding of many widespread positions. Hence, talking about these views is not irrelevant to the way in which people actually consider animals in their daily lives. But, addressing the issue of public acceptability of PSOL from the vantage point of the following views, rather than from actual positions, will let us avoid the frequent inconsistencies of individual positions. It bears stressing that I do not mean to cover all views in this field. Suffice it here to say that what follows constitutes a fairly widespread set of relevant views. It is sufficient to review these views because respecting the value commitment toward animal welfare as a public basis for grounding PSOL does not require there to be unanimity of support for PSOL. Rather, insofar as the primary object of concern is people's value commitment, it is sufficient for there to be possibly widespread and public support. Consider a range of possible moral positions on the moral status of animals and their suffering: utilitarianism, relational view; ecology, and humanism.

*Utilitarianism.* Animals, like humans, are sentient beings. Therefore, animal welfare should be included in the utilitarian calculus. Accordingly, the moral status is simply determined by (the level of) sentience. Utilitarianism has varying responses to the admissibility of animal killing and does not necessarily lead to a full liberation of animals, for it depends on whether the overall welfare of animals and human beings is increased by a humane use of animals. Traditional utilitarians such as Bentham certainly endorse PSOL, while it is more controversial whether more egalitarian versions would accept it.<sup>23</sup> In any case, PSOL's concern for animal welfare rather than for life is in general a typical utilitarian prescription.

*Relational approaches.* Animals are living entities with which human beings entertain diverse forms of relations. On this view, the moral standing of animals may be tracked by empathy: as human beings care for animal welfare and interact and sympathize with them, human beings have duties towards animals according to the type of relations they have with them.<sup>24</sup> There are diverse approaches in this view, ranging from radical feminist stances<sup>25</sup> to responsibility views.<sup>26</sup> If the former are inclined to some form of deep concern for animals, the latter propose a very moderate form of responsibility that admits most traditional forms of animal exploitation. However, despite these differences, all these perspectives internal to the relational approaches share PSOL as the normative implication.

*Environmentalism.* Environmentalism holds that animals count morally *qua* members of species that are part of natural habitats. On this view, what counts are the collective components of the biotic system—in particular species, not in individuals *per se*.<sup>27</sup> Accordingly, the moral imperative is the safeguarding of the natural ecological equilibrium. Therefore, coherent environmentalism does

not prohibit per se the rearing and killing of wild and domesticated animals, but only to the extent that it is detrimental to the maintenance of ecosystems. However, unnecessary suffering seems unacceptable qua a degrading treatment of living beings.

*Humanism.* In general, humanism holds that only human beings possess those capacities (rationality, sense of justice, or moral agency) that make them holders of moral personality and worthy of direct moral concern. However, humanism may include diverse perspectives. It may include a Kantian view endorsing the humane treatment of animals on the grounds that cruelty to animals may foster cruelty to human beings.<sup>28</sup> But it may also include a view according to which we ought to refrain from mistreating animals because doing so would amount to a disrespect of those human beings who care about animals. Therefore, although humanism rejects the idea that animals may have an autonomous moral status independent of human instrumental use of them, it may nonetheless justify indirect duties to animals and a genuine commitment to their welfare.<sup>29</sup>

This list does not represent all the views currently discussed in the literature on animal ethics or all those expressed by social attitudes and behaviours.<sup>30</sup> However, it is representative of most of the views regarding the grounding of the moral status of animals, except animal rights views. The intermediate positions can easily be identified.<sup>31</sup> It is easy to see that all these views can, for different reasons, accept the principle that we ought to minimize animal suffering as much as is reasonably possible, whereas other issues regarding the treatment of animals (their right to life, the interest in liberation, the possibility of using animals) still remain controversial. Despite their diverse groundings, all have at least an internal reason to be concerned with animal suffering and not to reject the admissibility of killing animals.

Besides finding support in the four views just described, PSOL can certainly also be endorsed by individual-based empathic attitudes. People having different moral principles, life-plans, and ideologies can consider animal suffering unacceptable and repugnant to their moral view. Finally even agnostic views, which hold that, on the matter of animal treatment, there cannot be a knock-down argument, because it is a matter of pure individual conviction, would have no reason to reject it. Since at least holders of utilitarian, relational, environmental, empathic, agnostic, and humanist views may subscribe to the commitment to animal welfare, this latter is not a sectarian value. As it is not a sectarian value, there can be a sort of convergence on the principle of minimizing animal suffering from diverse points of view. Since the convergence on the minimization of animal suffering seems to be very wide, PSOL should be considered an inclusive principle, capable of responding to a situation of wide disagreement on animals' moral status.

Besides agreeing that PSOL is a sound policy, all these views have in common the fact of being diverse expressions of the value commitment toward animal welfare. This is relevant for my argument because the public acceptability of

PSOL is not only grounded in the reasons internal to each view. Indeed, we have a reason to ground PSOL that is autonomous from the internal reasons of each view. This reason is based on the idea that recognizing the value commitment toward animal welfare is a way to respect the capacity to form and pursue moral commitments of the people endorsing such views. This is a form of public justification because it is non-controversial to say that, whatever one's ultimate view on animals, it is at least morally required of liberal institutions to respect such a value commitment. Respecting the capacity to form and to pursue value commitments is a way to comply with the liberal principle requiring that laws be reasonably non-rejectable by people. Given the moral importance of animals for the life of many people, and the fact that PSOL is publicly accessible and non-sectarian, there is no reason for the value commitment toward animal welfare not to be publicly recognized without liberal institutions needing to subscribe to any particular view on the moral status of animals as the true one. Respecting the value commitment toward animal welfare is a publicly justifiable way to defend PSOL and to recognize the diverse ways of being concerned for animals.

In sum, we have established that the commitment towards animal welfare is at the core of diverse views and diverse individuals. This commitment is a fundamental part of the moral integrity of such persons. By publicly supporting PSOL, liberal institutions recognize the value commitment toward animal welfare, thus respecting the persons endorsing this value commitment. Moreover, the protection of animal welfare based on this indirect strategy of recognizing people's moral commitment allows institutions to remain agnostic on what the best theory regarding the moral status of animals is. This is a controversial issue, over which a liberal state should seek to remain neutral.

### **A WEAK GROUNDING?**

A final objection to my argument is the following. Robert Garner rejects the possibility of grounding any substantive principle of animal treatment on an indirect approach in which the object of safeguard is not animal condition per se, but rather a human conception of the good pursuing animal welfare.<sup>32</sup> In the liberal theories Garner mentions (Rawls's, Dworkin's, Scanlon's), an animal conception of the good could not be generally protected, as it would risk clashing with other conceptions of the good exploiting animals. Hence, a liberal state could not restrict the liberty to pursue the latter to protect the former.

To respond to this objection, we must first recall that, if a principle meets criteria (1) through (3), then it does not violate others' rights, it is fundamental for the moral faculty of its holders, and it is publicly acceptable in general, because it is cognitively accessible and morally not sectarian. Moreover, it is also justifiable on a public ground and by the reasons internal to diverse views. But still, even if we admitted all this, one might not yet be convinced that PSOL could issue a general duty to protect animal welfare, and not merely individual exemptions for its holders.

To see why PSOL grounded on the value commitment toward animal welfare can justify a general safeguard and not merely individual exemptions, we have to consider the public nature of this requirement. In virtue of the public recognition of the value commitment toward animal welfare as a principle worth public safeguarding, any action violating such a commitment must not be allowed by the state. Whether it is done in private houses, on animal farms, or in other facilities rearing animals, causing unjustified suffering to animals should be banned because the persons holding moral convictions concerning animal welfare have a legitimate interest in living in a state in which certain morally repugnant practices are not allowed (viz., all those practices inflicting unnecessary pain on animals). Furthermore, we may suppose that the value commitment to animal welfare may have diverse forms. A person may be deeply committed to the principle of minimizing animal suffering but still consider meat necessary for human nourishment. If so, it may be plausible to think that institutions should ensure that slaughtering is carried out without unnecessary suffering to animals, even if this is done in private facilities in which no person committed to animal welfare is present.

Finally, to respond to Garner's objection, what conception of the good and individual liberty would be hindered by the safeguarding of animals from suffering in meat production?<sup>33</sup> And put differently, what reasons would people have not to accept the principle of minimizing animal suffering? Even those persons who do not subscribe to the value commitment to animal welfare have no reasonable reasons to reject it. One may say that producers and consumers of meat have well-grounded reasons to reject this principle, insofar as determining an increase in the cost of meat. However, the extent to which minimizing animals' suffering increases the cost of meat varies and depends on technical factors that cannot be discussed here. But the pursuit of the minimization of animals' suffering is not per se detrimental to the liberties of meat eaters and producers. Only sadists, whose conception of the good is that of causing as much pain as possible to animals, would find detrimental to their interests the principle of minimizing animal suffering in general. Needless to say, however, the interests of sadists are not eligible for a public safeguard and such a view would not pass a test of public acceptability. Hence, no admissible conception of the good is thwarted by safeguarding the value commitment to animal welfare.

We can conclude that Garner's objection fails because we have seen that the safeguard of the value commitment to animal welfare, *qua* an indirect approach towards animal protection, can ground some protection of animal interests (PSOL). For Garner, perhaps, this protection should be considered too minimal, but I contend that it is still some level of protection and, unlike Garner's claim, an indirect approach is not incapable of justifying some protection. That such a level of protection is too low according to Garner's view is another question.

To recap, if this argument is sound, safeguarding value commitment to animal welfare does not violate the rights or fundamental interests of others, is publicly accessible and not sectarian, and expresses a fundamental conscientious conviction of many individuals, which a liberal state should be committed to respect.



Finally, one might claim that my proposal does not provide a conclusive argument because in the end the protection of people's value commitment towards animal welfare is not an all-things-considered convincing reason to justify PSOL. This might be true. To establish whether this proposal is the all-things-considered preferable option, we should weigh it against other relevant values and interests. However, it is worth recalling that my aim was not that of defending this strategy as the best and most morally convincing way to protect animals. My aim was only that of finding a possible justification of current principles ruling the treatment of animals in contemporary liberal societies. The indirect strategy recognizing the value commitment towards animal welfare is an approach consistent with liberal principles, providing a response that does not assume a controversial take on the moral status of animals and sits comfortably with the pluralistic background of our societies. Whether it is fully convincing depends on other considerations, which I cannot address here. As a gesture towards a possible answer, it might be said that there are two possible critical points, neither of which seems more convincing than my proposal. According to the first alternative, PSOL grounded on the value commitment towards animal welfare is too conservative a solution because it still admits of some forms of animal exploitation and does not recognize animals as entitled to a subjective moral status. But to claim for a more inclusive recognition of animals, we ought to assume a specific theory of the moral status of animals, which is controversial and unlikely to be acceptable in the current pluralistic scenario. The second alternative holds that what I propose is in the end too restrictive an option for personal liberties in treating animals and is detrimental to some human interests. But PSOL does not seem to restrict significant liberties; rather, it protects the interest of individual integrity in living under rules compatible with one's moral commitments. In sum, even if we cannot prove its full convincingness, PSOL grounded on the value commitment towards animal welfare is perhaps the most we can do to protect animal welfare, given the constraints imposed by current pluralistic and liberal societies.

### **PSOL AND RITUAL SLAUGHTER**

If PSOL is justified as a matter of respect for the value commitment towards animal welfare, we can analyze the clash between the protection of animal welfare and the right to freedom of religion in a new light. First, we should bear in mind that ritual slaughter has traditionally been intended to cause the quickest and least painful death to animals.<sup>34</sup> Therefore, we may say that Jewish and Muslim religious traditions are also committed to the reduction of animal suffering, despite their understanding of this requirement in the light of religious and not scientifically proven methods.

How should we weigh morally the religious practice of ritual slaughtering? Let us consider the relative moral weight of the right to freedom of religion and the right to live according to one's value commitment. Both seem to be deeply entrenched in liberal values. Both may be seen as two different expressions of the same moral faculty, which we may call, following Rawls, the moral power of

forming and pursuing conceptions of the good. If so, in a liberal state, the right to freedom of religion and the right to live in accordance with one's moral commitments ought to be considered on an equal footing. Hence, both the duty to minimize animal suffering and the exemption from it are justified, insofar as they are ways of recognizing two diverging but equally important expressions of the human moral power to pursue conceptions of the good.

These considerations can provide a response to Paula Casal's argument rejecting the admissibility of exemptions from the ban of cruelty to animals on the grounds of cultural and religious practices. Casal's starting assumption is the following:

I shall avoid reliance on any extravagant assumptions concerning the moral status of animals, nor shall I argue that animals have rights or that their suffering is of equal moral importance to ours .... I merely rely upon the modest assumption, widely accepted by Western governments and citizens, that the existence of anti-cruelty legislation is desirable. Such laws are not based on sectarian views, but on the reasonable grounds that it is wrong to kill animals in painful ways when alternative less painful methods are available, and that there are sound moral reasons to enforce such a prohibition.<sup>35</sup>

Casal's claim purports to be independent of the ground for animal welfare protection. However, Casal cannot be neutral on this. Indeed, if the justification of safeguarding animals from suffering is the respect for the value commitment towards animal welfare, and not for animal welfare per se, Casal's starting point loses its bite. If the moral wrongness of animal suffering does not depend on the harm caused to animals, but on the disrespect to human commitment to animal welfare, we could argue that exemptions for ritual slaughters are admissible, insofar as demanded by a primary interest of conscience (religion). Indeed, it is fairly uncontroversial to say that religion and deep moral convictions as to what we owe to animals have similar and paramount moral importance. On the contrary, following this argument, it is debatable whether other traditional practices involving unnecessary suffering to animals, such as bullfights, insofar as they are mere expressions of local traditions and not of value commitments, could be justified.

However, all these considerations regard the grounding in virtue of which ritual slaughtering might be justified. But this cannot yet license ritual slaughter without further qualifications because there are two legitimate worries in need of response. First, one may ask whether ritual slaughter is really necessary for the expression of one's right to freedom of religion. After all, there are a number of religious practices that do not seem to be necessary for maintaining the core of one's identity and can be abandoned without jeopardizing it. Second, one may question the religious commitment to the reduction of animal suffering. If there is such a commitment (see note 33), why should ritually slaughtered animals suffer more than non-religiously slaughtered ones? The first question expresses

a condition of importance in the practice for one's identity, the second demands that such a practice be coherent with a value which it is supposed to promote. Hence, it seems that public acceptability of religious slaughter is subject to two conditions.

First, it must be shown that religious identity and the integrity of believers would be violated if ritual slaughters were banned. But this is in need of justification because religiously informed practices, as well as other cultural identities can change. Moreover, at least some Muslim communities seem to accept the religious validity of the obligation to stun animals before slaughter.<sup>36</sup> And this puts the burden of proof on the shoulder of Muslim and Jewish communities.

The second condition to be met by a publicly acceptable defence of ritual slaughter concerns the coherence of religious commitment to animal suffering. If the ritual method of slaughtering animals is really a necessary element of religious identity (condition 1), we could argue that ritually slaughtered animals should be compensated for the fact that they presumably suffer more at the end of their life than non-ritually slaughtered animals. It might be thought that, for ritual slaughter to be admissible as an exemption from PSOL, we should require that ritually slaughtered animals live a better life, thus being compensated before being slaughtered. After all, the principle of reducing animal suffering should guide the treatment of animals during their whole lives. Thus, we should more or less equalize the overall suffering of religiously slaughtered animals and of non-religiously slaughtered animals during their whole lives. In the light of this, although the religious grounding of ritual slaughter might certainly be compatible with PSOL grounded on the respect owed to the value commitment towards animal welfare, its full acceptance is dependent upon meeting the condition of necessity for Muslim and Jewish identities, and the availability of other forms of ensuring the commitment to reduce animal suffering.

## CONCLUSION

In conclusion, I should emphasize what the aim of this paper is and is not. This paper has not claimed that the current legislation regarding the treatment of animals is the most morally convincing solution. Its focus has, rather, been on the principle underlying many practices and rulings: the priority of suffering over life. I have argued that the only way to justify this principle is by adopting an indirect view, one that does not recognize the autonomous moral worth of animals and the correspondent direct duties of human beings toward animals. This indirect approach is the best way to respond to the current situation of deep disagreement concerning the moral status of animals because it rests on a non-controversial public value. Whatever one's view on the moral status of animals, whether one considers animals as entitled to rights or as non-autonomous moral subjects, the recognition of the value commitment towards animal welfare cannot reasonably be rejected. This approach has the advantage of providing a public justification without endorsing any controversial view on the moral status of animals. One might contend that in the end this is not true, because tradi-

tionally the indirect approach has been favoured by such views as the Kantian one. Hence, it should not be seen as wholly uncontroversial. However, unlike the Kantian justification for the indirect approach, my proposal does not subscribe to Kant's moral view that holds that only human persons are worthy of direct moral concern and that we owe humane treatment to animals only insofar as provoking unnecessary suffering to animals would mean showing disrespect to humanity. My proposal, by contrast, is agnostic about what the basis for moral status and moral personality is, and is compatible with both a Kantian view and other views favouring animals' interests more directly. However, as seen, the fact that it is agnostic on the issue of the moral status does not mean that it licenses any kind of perspective.

Finally, this indirect perspective of public justification has been applied to a contextual case: PSOL as the principle informing current rulings and practices of slaughtering. But this does not mean that it is doomed to sanctioning the status quo because it helps understand what PSOL really means, which in some cases may require the revision of some practices and laws, and because it fosters the improvement and reformulation of principles according to the criteria of public justification.

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## NOTES

- <sup>1</sup> This provision is accepted by many European countries, the US, and Canada. See, for instance, the European Convention for the Protection of Animals for Slaughter, 21 May 1979, art. 17.
- <sup>2</sup> See Haupt, Claudia, “Free exercise of religion and animal protection: a comparative perspective on ritual slaughter”, *George Washington International Law Review*, 39, 2007, pp. 839-886.
- <sup>3</sup> Switzerland, Norway, Sweden, Latvia, and Poland, instead, have not admitted such exemptions thus affirming the priority of animal welfare over the right to freedom of religion. For an overall discussion see Ferrari, Silvio and Bottoni, Rossella, “Legislation regarding religious slaughter in the EU member, candidate and associated countries”, DIALREL Project Report 2010, available at <http://www.dialrel.eu/images/report-legislation.pdf>, accessed September 2013.
- <sup>4</sup> Francione, Gary L., *Animals as Persons. Essays on the Abolition of Animal Exploitation*, New York, Columbia University Press, 2008.
- <sup>5</sup> Garner, Robert, *A Theory of Justice for Animals. Animal Rights in a Nonideal World*, Oxford, Oxford University Press, 2013.
- <sup>6</sup> It bears specifying that this principle concerns only the treatment of animals by humans, not animals’ condition in general.
- <sup>7</sup> Current standard understandings of “important human purposes” include at least the production of meat and the research on animals. It might be contested whether these practices must be included in the category of “important human purposes” required by the human need for nourishment and scientific research. Although this is a fundamental question, I will not pursue it here because, as said, my aim in this paper is to look for a principled way to justify current laws and not put in question their overall ethical tenability.
- <sup>8</sup> In a similar vein, McMahan, Jeff, *The Ethics of Killing. Problems at the Margins of Life*, Oxford, Oxford University Press, 2002, p. 199, calls it “the view that *suffering matters more*” (italics in original).
- <sup>9</sup> To be true, ritual slaughter pursues the same value as PSOL, differing only in the method to achieve it. Hence, the exemption does not regard the value dimension but only the means to pursue the minimization of animal suffering. See note 34.
- <sup>10</sup> For the sake of simplicity, here I’m talking about ordinary human beings. For a detailed discussion about what principle we ought to employ regarding human marginal cases, see McMahan, Jeff, *The Ethics of Killing, op. cit.*
- <sup>11</sup> McMahan, Jeff, “Animals”, in Frey, R. G., and Wellman, Christopher H., (eds), *A Companion to Applied Ethics*, Oxford, Blackwell, 2003, pp. 525-536.
- <sup>12</sup> It is true that R. G. Frey admits that animals experience pain but denies that this fact has moral relevance. On Frey’s view, in virtue of their lacking desires and language, animals cannot have interests that can be the basis of rights and proper moral considerability. See Frey, R. G., *Interests and Rights. The case against animals*, Oxford, Clarendon, 1980.
- <sup>13</sup> Rawls, John, *Political Liberalism*, New York, Columbia University Press, 1993, p. 19.
- <sup>14</sup> Rawls, *Political Liberalism, op. cit.*, p. 208.
- <sup>15</sup> I am grateful to an anonymous reviewer for pressing me to address this question.
- <sup>16</sup> For a general account assessing the validity of reasons for exemption from the law, see Ceva, Emanuela, “The appeal to conscience and the accommodation of minority claims”, in Calder,

Gideon, and Ceva, Emanuela (eds), *Diversity in Europe. Dilemmas of differential treatment in theory and practice*, London & New York, Routledge, 2011, pp. 32-51; and Ceva, Emanuela, "Self-Legislation, Respect and the Reconciliation of Minority Claims", *The Journal of Applied Philosophy*, vol. 28, no. 1, 2011, pp. 14-28.

- <sup>17</sup> Rawls, *Political Liberalism*; Rawls, *A Theory of Justice*; Patten, Alan, "Liberal Neutrality: A Reinterpretation and Defense", *The Journal of Political Philosophy*, vol. 20, no. 3, 2012, pp. 249-272; Christiano, Thomas, "The Authority of Democracy", *The Journal of Political Philosophy*, vol. 12, no. 3, 2004, pp. 266-290.
- <sup>18</sup> By emphasizing the connection between respect of one's conscientious commitment, liberal principles and integrity I broadly follow Rawls, *Political Liberalism*, *op. cit.*, pp. 310-315.
- <sup>19</sup> Smith, Kimberly K., *Governing Animals. Animal Welfare and the Liberal State*, Oxford, Oxford University Press, 2012, p. 69.
- <sup>20</sup> This formulation may call to mind Kevin Vallier's discussion of intelligibility and accessibility. See Vallier, Kevin, "Against Public Reason Liberalism's Accessibility Requirement", *Journal of Moral Philosophy*, vol. 8, 2011, pp. 366-389. However, although I propose a sort of convergence on the commitment to animal welfare from diverse reasons and perspectives, I use these terms in a more relaxed sense because my argument is not constrained by the limitations of public reason.
- <sup>21</sup> Aaltola, Elisa, *Animal Suffering: Philosophy and Culture*, London, Palgrave, 2012, pp. 49-67.
- <sup>22</sup> As known, Hal Herzog has vividly shown how individuals hold a number of inconsistent beliefs and attitudes towards animals depending on whether an animal becomes a pet or does not enter in a relation with humans, whether it is a socially admissible source of food, or whether it is rightly or wrongly considered dangerous. See Herzog, Hal, *Some we love, some we hate, some we eat*, New York, HarperCollins, 2011. For instance, why should I consider my rodent pet intrinsically morally valuable if I'm not prepared to give equal moral consideration to mice in laboratories (see p. 222)? Herzog shows that in ordinary life our judgments and attitudes depend on contexts and relations with animals which cut across such criteria as the level of rationality, sentience, and consciousness of an animal which are the standard criteria to assess the moral status of animals in animal ethics. Or, along similar lines, consider Bastian, Brock; Loughnan, Steve; Haslam, Nick; and Radke, Helena R. M., "Don't Mind Meat? The Denial of Mind to Animals Used for Human Consumption", *Personality and Social Psychology Bulletin*, vol. 20, no. 10, 2011, pp. 1-10, who show the psychological strategies of meat eaters (denying animal minds) to overcome the cognitive dissonance of eating meat while being concerned with animal welfare. I am grateful to an anonymous reviewer for drawing my attention to this issue.
- <sup>23</sup> As anticipated, Peter Singer has famously endorsed the view that merely conscious beings can be killed and replaced with other animals if their welfare is taken into account. This is in fact Singer's reformulation of PSOL. On Singer's view, the domain of merely sentient animals does not include most mammals at least as a matter of precaution until a full knowledge of animal minds is achieved (Singer, Peter, *Practical Ethics*, Cambridge, Cambridge University Press, 1993, p. 133). It is though controversial to establish which animals are self-conscious and whose killing is prohibited. Hence, the possibility that PSOL could also be applied to livestock farming does not seem altogether rejected in Singer's perspective.
- <sup>24</sup> N. Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (Berkeley and Los Angeles, University of California Press, 1984). This also includes the possibility that certain human/animal relations are radically unequal, and that killing animals is justified, provided that appropriate care of the animal is taken while still alive.
- <sup>25</sup> J. Donovan, "Feminism and the Treatment of Animals: From Care to Dialogue", *Signs: Journal of Women in Culture and Society*, vol. 31, no. 2, 1999, pp. 305-328.
- <sup>26</sup> Midgley, Mary, *Animals and Why They Matter*, Athens, The University of Georgia Press, 1983; Scruton, Roger, *Animal Rights and Wrongs*, London, Demos, 2000.
- <sup>27</sup> Callicott, J. Baird, *In Defense of the Land Ethic. Essays in Environmental Philosophy*, New York, SUNY Press, 1989.

- <sup>28</sup> Kant, Immanuel, *Lectures on Ethics* [1773-4], New York, Harper and Row, 1963.
- <sup>29</sup> Humanism also includes contractarian views, such as Carruthers, Peter, *The Animals Issue: Moral Theory and Practice*, Cambridge, Cambridge University Press, 1992; Narveson, Jan, “Animal Rights”, *Canadian Journal of Philosophy*, vol. 7, no. 1, 1976, pp. 161-178.
- <sup>30</sup> In particular, in this list I have not included the animal rights theories that object to PSOL in virtue of the duty to respect animals’ life. This is an important limitation. However, animal rights views share the concern for animal welfare and animal suffering, and have pragmatic reasons for accepting PSOL as a second best solution which is preferable to no concern at all towards animals. Regan, Tom, *The Case for Animal Rights*, London, Routledge & Kegan, 1983; Francione, Gary L., *Animals as Persons*; Garner, Robert, *A Theory of Justice for Animals*; M. Rowlands, *Animal Rights. Moral Theory and Practice* (London, Palgrave: 2009); Donaldson, Sue; Kymlicka, Will, *Zoopolis. A Political Theory of Animal Rights*, Oxford and New York, Oxford University Press, 2011.
- <sup>31</sup> For instance, I may have underrepresented relational- but not care-based views. In general, in the list above I have not included associative accounts of animals. This exclusion is justified because these accounts do not seem to take side with a distinctively fundamental stance on the moral status of animals. Indeed, they either rest on a baseline of animal rights theory—see Donaldson and Kymlicka, *Zoopolis*—or make the case for an associative perspective on *some* animals, with which human beings have long established cooperative relations, such as dogs. On the latter, see Valentini, Laura, “Canine Justice: An Associative Account”, *Political Studies*, 62, 2014, pp. 37-52.
- <sup>32</sup> See, in particular, Garner, *A Theory of Justice for Animals*, *op. cit.*, pp. 61-75.
- <sup>33</sup> It bears emphasizing that here I do not need to provide an overall response to Garner’s critique of indirect strategies of animal protection because the aim of this paper is not that of defending indirect strategies of animal protection as the best approach in animal ethics. As mentioned at the beginning, my aim is, rather, that of looking for a justification of the principle underlying current legislation. In my concluding remarks I will also show the merits of this approach, but this does not compel me to defend it against other competing approaches as in general the most convincing one.
- <sup>34</sup> Lerner, Pablo and Rabello, Alfredo Mordechai, “The Prohibition of Ritual Slaughtering (Kosher Shechita and Halal) and Freedom of Religious Minorities”, *Journal of Law and Religion*, vol. 22, no. 1, 2006/7, pp. 1-62.
- <sup>35</sup> Casal, Paula, “Is Multiculturalism Bad for Animals?”, *The Journal of Political Philosophy*, 11, 2003, pp. 1-22, p. 2.
- <sup>36</sup> This is the case of Malaysia. See Department of Islamic Development Malaysia, *Malaysian Protocol for the Halal Meat and Poultry Productions* (4 April 2011), Section 4.5.1 “Stunning”, at 7-8.