

*Cosmozoopolis: The Case Against Group-Differentiated Animal Rights**

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Abstract

This paper claims that relational position and group-based distinctions are less important in determining the rights of animals than *Zoopolis* concludes. In particular, it argues that the theory of animal rights developed in *Zoopolis* is vulnerable to some of the critiques that are made against theories which differentiate the rights of humans on the basis of group-based distinctions. For example, in the human context, group-differentiated theories of rights have been criticised on a number of important grounds: for failing to extend to non-associates rights that ought to be so extended; for granting too much weight to the rights of associates over non-associates; for wrongly treating groups as homogenous entities; and for also assuming that these groups necessarily have value as they exist presently. This paper outlines how modified versions of these critiques can be levelled at the theory of animal rights defended in *Zoopolis*.

Keywords: animals, animal rights, universal rights, group-differentiated rights, relational position, cosmopolitanism, capacities, interests.

1. INTRODUCTION

In their fascinating and thought-provoking new book, *Zoopolis*, Sue Donaldson and Will Kymlicka aim to construct a distinctively political theory of animal rights. *Zoopolis* seeks to employ familiar concepts from political theory and practice in order to “supplement” and “extend” so-called “traditional theories” of animal rights (Donaldson and Kymlicka 2011: 50). It argues that

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while traditional theories have provided a plausible basis for attributing universal moral rights to sentient animals based on their intrinsic characteristics, they have failed to capture the variety of duties we have to animals stemming from the very different types of relationships we have with them (6). The book aims to remedy this fault through employing a theory of group-differentiated animal rights that takes animals' relational position seriously.

Zoopolis employs three concepts from political theory and practice to help determine what is owed to different groups of animals. "Citizenship" should be granted to all domesticated animals on the basis that they are full members of mixed human-animal communities, participating in the cooperative project of political life. "Sovereignty", by contrast, should be granted to those wild animals who live apart from humans, on the basis that they are competent to run their own affairs, and seem not to desire intervention. Finally, "denizenship" should be granted to those "liminal" animals who are wild but live in the midst of human settlements (such as crows or mice), on the basis that they reside within our societies, but lack the reciprocal capacities necessary to be regarded as joint co-operators (Ch. 1).

Developing a theory of animal rights that is subtle, nuanced and attuned to the differences between animals is certainly commendable. Moreover, a theory which is alive to the political importance of animal rights is an extremely welcome contribution to animal ethics. It is important, however, not to overstate the novelty of a "political approach" to the question of what is owed to animals. Previous discussions of animal rights have also been political: they have employed political concepts and have offered prescriptions that the state ought to enforce coercively. The novelty of *Zoopolis* resides not so much in connecting animal ethics to political theory, but connecting it to a particular position in political theory: a position which grants considerable weight to group membership and relational position when determining an individual's proper entitlements. Traditional theories of animal rights as espoused by such thinkers as Tom Regan and Peter Singer, on the other hand, have very much been cosmopolitan in character: sceptical about the moral relevance of group-based distinctions, and instead focused on the equal universal entitlements derived from the interests and capacities of individuals (Singer 1995; Regan 2004). When evaluating the theory of *Zoopolis*, then, the question is not whether a political theory of animal rights makes sense. Rather, the appropriate question is whether a political theory which gives such important weight to the relational and group-based distinctions of animals makes sense.

This paper claims that relational position and group-based distinctions are less important in determining the rights of animals than Donaldson and Kymlicka conclude. In particular, it claims that their theory is vulnerable to some of the critiques that are made against theories which differentiate the

rights of *humans* on the basis of group-based distinctions. For example, in the human context, group-differentiated theories of rights —such as that proposed by Kymlicka himself— have been criticised on a number of important grounds: for failing to extend to non-associates rights that ought to be so extended; for granting too much weight to the rights of associates over non-associates; and for both wrongly treating groups as homogenous entities, and for also assuming that these groups necessarily have value as they exist presently.¹ The following three sections of this paper outline how modified versions of these critiques can be levelled at the theory of animal rights defended in *Zoopolis*. In each of them, the paper argues that while the relational position and group membership of animals can be of relevance in determining their rights, it is not of primary importance. Instead, and in keeping with more cosmopolitan traditions of political thought, the paper argues that it is the capacities of individual animals, and the interests that flow from those capacities, that is the most crucial factor in delineating their rights. The paper concludes by briefly exploring how a traditional theory of animal rights grounded in cosmopolitan political thought can still be attuned to the different types of duties we have towards animals.

2. DENYING WILD ANIMALS THEIR JUST ENTITLEMENTS

Zoopolis recognises that all sentient animals possess certain universal moral rights, but argues that animals have further group-based rights on the basis of their different relational positions. Such a theory follows a familiar line of thinking in political theory. For example, David Miller famously proposes a theory of global justice which endorses the protection of minimal universal human rights for all, with further and more extensive rights and duties granted to individuals via their association within a nation-state (Miller 2007). One potential problem faced by such theories, however, is that they can favour denying “outsider” groups —like foreigners— their just entitlements by being too minimalist about the universal rights that are recognised (see *e. g.* Wenar 2008). Crucially, I believe that the theory of animal rights defended in *Zoopolis* faces this problem. In particular, I am not convinced that the citizenship rights that Donaldson and Kymlicka grant to domesticated animals should not also be extended to all wild animals.

Donaldson and Kymlicka argue that citizenship contains three core elements, each of which entails a general right of citizenship that ought to ap-

1. For Kymlicka’s own theory of group-differentiated rights for humans, see Kymlicka (1995). For examples of critiques of theories of group-differentiated rights, see Wenar (2008: 401-411), Kukathas (1992: 105-139), Waldron (1995: 93-119), Barry (2001), and Brown (2009: Ch. 4).

ply to domesticated animals, but not to wild animals: the right to political concern, the right to political agency, and the right to residency (101). In their discussion of the practical implications of their theory, they also discuss further rights that are exclusive to domesticated animals, such as the right to be protected from predation (133-134). I want to claim that each of these rights can and ought to be granted to all sentient animals, including those in the wild.

Let us start then with the first general right of citizenship that Donaldson and Kymlicka identify: the right to political concern. This right means that domesticated animals—like other citizens—are entitled to have their interests included in the public good (101). In other words, it means that lawmakers must consider the well-being of these creatures when formulating and implementing policies. However, it is unclear why this right is something that ought to be exclusive to domesticated animals. For one, Donaldson and Kymlicka themselves acknowledge that the interests of wild animals count for something—this, after all, is the basis on which they assign universal rights to them (Ch. 2). Moreover, it is also evident that the actions of human political communities affect those interests in profound ways. For example, some policies affect animals directly and explicitly, such as decisions to develop areas of wilderness, “manage” wild populations, harvest fish from the ocean, and so on. Other policies affect wild animals more indirectly, such as decisions to burn fossil fuels, or to employ intensive agricultural methods.² Since the interests of wild animals are affected in extensive ways by the actions of political communities, and since those interests count morally for *something*, then it seems only right that political communities ought to include them in their policy deliberations.

Of course it might be objected that while political communities have an obligation to consider the interests of wild animals, that obligation is akin to the obligation we have to foreigners. That is to say, our obligations to respect basic human rights and offer aid in times of crisis are *moral* as opposed to political, grounded in a simple humanitarian duty to alleviate suffering, rather than in duties of justice which apply only within schemes of cooperation.³ However, I do not believe that this is the proper way to conceive of our obligations in respect of human rights and so I am extremely wary of extrapolating this model to the case of wild animals. By recognising that foreigners and wild animals have *rights*, we thereby recognise the existence of correlative duties that can coercively be enforced by the state (Steiner 2005:

2. For a useful discussion of the ways in which our actions necessarily affect wild animals see Nussbaum (2006: 374).

3. For discussion of the difference between humanitarian duties and duties of justice see, Campbell (1974: 1-16), Caney (2005: 110-114), and Nagel (2005: 113-147).

459-479, 460). In other words, the establishment of rights for those individuals immediately makes their interests of *political* concern. Furthermore, acknowledging that foreigners and wild animals have rights which impose duties on our own communities necessarily involves recognising that their basic interests are of political concern *to us*.

Another right of citizenship that Donaldson and Kymlicka identify is the right to political agency: the right to have some say over shaping the policies and rules of the political community (101-103). Once again, it is hard to see why this right should be denied to wild animals. Donaldson and Kymlicka recognise that given the limited moral and rational capacities of animals, there are difficulties in conceiving of *any* animal enjoying the right to political agency. However, they point out—quite rightly in my view—that these difficulties are not insurmountable. After all, their interests can be represented by proxies or “collaborators” in much the same way as the interests of children and the severely mentally disabled are included in the policy-making process (104). But it is unclear why representatives of wild and liminal animals should not also feed into the political process in this way. For once we recognise that the interests of wild animals count both morally and politically, it seems only reasonable to let wild animals have some say—through their representatives—over the shaping of our political goals and policies. In fact, one of the reasons Donaldson and Kymlicka believe political agency to be so important for domesticated animals, is because of the dangers of invisibility: if absent from the policy making process, it is all too easy for these animals not to be shown the concern they are due (113). But of course these dangers of invisibility are even more acute for wild animals since they live apart from us. As such, awarding rights of political agency to wild animals seems absolutely necessary on Donaldson and Kymlicka’s own reasoning.

It again might be objected that letting wild animals have this kind of voice is a step too far. Sticking with the overall analogy employed previously, wouldn’t this be akin to a state letting foreigners have the vote in its elections? No, it would not. As Donaldson and Kymlicka themselves point out, political agency can come in different forms, and it is not all about having a vote (153). Such agency can and does also come in the form of representation—representation of basic interests and rights—which is a model that is perfectly adaptable to wild animals. Given that they possess basic rights, and given that these rights are of political concern, it is only proper to grant wild animals the right to political agency.

The final general citizenship right Donaldson and Kymlicka identify is the right of residency. At first sight this right might well seem to mark off an important distinction between what is owed to domesticated animals and what is owed to all other animals. For Donaldson and Kymlicka seem to be implying that the right to residency grants domesticated animals a right to live

amongst human beings within human societies. Moreover, under their theory, this is not a right shared by other animals: wild animals have no right to live amongst us, and human societies can justifiably limit the population of incoming liminal animals (227). However, I am not convinced that the right to residency really is exclusive to domesticated animals. After all, the right of domesticated animals to live within human society must surely derive from their interest in a safe and secure environment conducive to their well-being. Pet dogs and backyard chickens have an interest in living with humans, for example, because they fare better living amongst humans than they would fare if thrust out into the wild. But since *all* animals have a basic interest in a safe and secure environment, there is at least a *prima facie* case for recognising that they *all* have a right to the type of residency that protects that interest. Indeed, one of the main reasons Donaldson and Kymlicka think that it is useful to assign sovereignty to wild animals is to protect them in their habitats (190). That is, they believe that sovereignty protects what wild animals need for a safe and secure environment conducive to their well-being; sovereignty protects *their* right to safe and secure residency. The universality of the right to safe and secure residency is further supported by Donaldson and Kymlicka's claim that if liminal animals end up living within human societies—having evaded our attempts to exclude them, say—then they should be allowed to stay (228). No doubt they gain this right because they too end up being safer and more secure from living amongst human beings. But surely the lesson to be drawn from this is that *all* sentient animals share this same fundamental right to safe and secure residency, irrespective of whether they are domesticated, liminal or wild. Of course, precisely what provides safe and secure residency differs amongst animals, depending on their capacities and interests. For some animals, the right will amount to a right to live in our homes, for others it will amount to a right to live in protected forests, for still others it will be tracts of wilderness, and so on. The crucial point is that the basic right is universal, and the implications of that right are delineated by the particular interests of the animal in question.

As stated above, Donaldson and Kymlicka do not only provide an account of the *general* citizenship rights of animals, but also usefully discuss some practical implications of their citizenship theory. These implications amount to an account of more *specific* rights possessed by domesticated animals. One such right is the right to protection from predation (132). This right seems to provide a compelling example of a right that it is not appropriate to assign to wild animals on the basis that it would seem to entail the bizarre obligation to segregate predators from prey animals, disrupt natural food cycles, and in effect “police” nature. However, the right to protection from predation is effectively a derivative of the right to life, one of the universal animal rights recognised by Donaldson and Kymlicka themselves. Given that they recognise

that wild prey animals possess the right to life, does this then mean that they must also be committed to protecting wild prey animals from predation? Not necessarily. For it is plausible to think of the right to life as both abstract and *prima facie*. It is abstract in the sense that it requires further specification before we can know what it amounts to for any individual; and it is *prima facie* in the sense that it is defeasible and might not be grounded in all situations for all individuals.⁴ On this understanding, what the right to life amounts to and whether it translates into a concrete right in any particular situation is dependent on context and requires an assessment of all relevant factors. So perhaps Donaldson and Kymlicka might acknowledge the right to life of wild prey animals, but conclude that it does not amount to a concrete right to protection from predation, all things considered, precisely because of their lack of close relations with us. I, however, believe that this is the wrong conclusion. For when all relevant interests and factors are properly considered, it is evident that the right to life of non-domesticated animals *does* sometimes entail the concrete right to protection from predation.

Even if the idea that wild animals have a right to protection from predation might seem absurd at first sight, we do in fact already recognise such rights for many wild animals. For example, we protect wild animals from predation when we impose restrictions and bans on the human hunting of wild animals, such as the ban on whaling: *human* predation is a form of predation after all. Furthermore, many believe that the liminal animals such as birds, mice and rabbits which are frequently targeted by our pet cats and dogs, merit rights to protection. Since we know that our pets do not need to conduct these kills to survive, and since we can take quite simple measures such as fitting collars, storing food securely and so on to prevent such kills, there are certainly weighty reasons for pet-owners to prevent such predatory harms (Sapontzis 1987: 232). Finally, there are also scenarios where many believe it obligatory to intervene to prevent “overabundant” predators from killing rare wild prey —as illustrated by the trapping of mink in the UK for the sake of water voles (Morelle 2011).⁵

The point here is not to claim that all of the examples of current practice outlined above are justifiable. No, the point is simply that *sometimes*, when all relevant factors are considered, the *prima facie* right to life of wild animals can and does amount to a concrete right to protection from predation. Of course, in most situations this concrete right to protection for wild animals

4. On abstract rights, see Dworkin (1977: 98). On *prima facie* rights, see Vlastos (1962: 31-72), and Cochrane (forthcoming 2013).

5. Of course, it has to be noted that in this example the mink are killed. However, relocating them to a sanctuary would obviously be a more just way of preventing these predatory harms.

will not be established. For one, the burdens of the corresponding duties will often be too demanding: we are not in a situation where we can intervene effectively for the sake of wild prey animals at little cost to ourselves. Moreover, consideration of the interests of the predator animals themselves, as well as other animals such as scavengers, who depend on such kills, will often count against the establishment of the right. Nevertheless, these conclusions are properly made through a consideration of all the relevant factors and interests at stake, and not simply by appeal to whether the animal belongs to a group that lives “here” or “out there”.

3. PRIVILEGING THE RIGHTS OF DOMESTICATED ANIMALS

The previous section argued that group-based theories of rights, which differentiate rights according to relational position, are vulnerable to the problem of failing to extend to outsider groups their just entitlements. Of course, one way in which outsiders may be denied their just entitlements is through privileging the rights of “insider” groups. Granting too much weight to the rights of those close to us, after all, leaves fewer resources to secure the rights of those further away.⁶ Once again, I think that this problem is evident in the theory of animal rights presented in *Zoopolis*. This section considers Donaldson and Kymlicka’s discussion of the right to healthcare in order to illustrate this claim.

Donaldson and Kymlicka argue that the right to healthcare is a basic right of citizenship in most contemporary societies, and is a right that should be extended to domesticated animals. Crucially, they also believe that it is a right that should not be attributed to wild animals (142-143). I am not so sure about this conclusion. First, it is unclear why the right to healthcare is inappropriate for non-domesticated animals. After all, given the powerful interest that all sentient animals have in being healthy, it is certainly plausible that the right to health is at least a *prima facie* right enjoyed by them all. However, what that right amounts to in any particular situation will depend on an evaluation of all the morally relevant factors at stake. Crucially, at least in some situations, wild animals can and ought to be granted a concrete right to healthcare. For one thing, sometimes identifying and reducing the health problems of wild and liminal animals will not be particularly onerous. For example, it could just involve dropping a chemical in their waterhole to save them from a slow and painful death. Given that their basic interests count for something, as Donaldson and Kymlicka accept, then if all else is

6. This is a version of what Samuel Scheffler has called the “distributive objection” to special responsibilities (Scheffler 1997: 189-209).

equal and no harmful side-effects will result, it is surely incumbent upon us to take such action.

But even if it is accepted that all sentient animals do possess this universal right to healthcare, it could still be maintained that the right of domesticated animals generates weightier duties for some agents than that of wild animals. Their close relations with us, Donaldson and Kymlicka would presumably argue, establish special and more stringent obligations on our part. However, there is a powerful argument to suggest that many domesticated animals in fact have a weaker claim to a share of health spending from the public purse than do wild animals.⁷ For example, companion animals have particular human individuals—their owners—who are responsible for both their existence and their well-being. As such, it is perfectly legitimate to argue that when all relevant interests are considered, these responsible individuals should take the burden of their health costs, rather than the public at large. Furthermore, since wild animals do not have particular humans with responsibilities for their existence and well-being, they arguably have a stronger claim on public funds.

To avoid misunderstandings, my claim is not that all wild animals necessarily have a greater claim to public health spending than do domesticated animals. My point is rather to show that Donaldson and Kymlicka's privileging of the rights of the group "domesticated animals" is illegitimate. When all things are considered, including a full evaluation of all the relevant interests at stake, not only can wild animals sometimes be assigned the right to healthcare, but sometimes it will be a right that is stronger than that possessed by some domesticated animals.

4. IDENTIFYING AND VALUING WILD ANIMAL COMMUNITIES

The previous sections claimed that the theory of animal rights presented in *Zoopolis* is vulnerable to two related charges that have been levelled at group-differentiated theories of rights: that they can deny outsiders their just entitlements, and can unfairly privilege the rights of insiders. This section discusses two further objections that both relate to the nature of the groups that should form the basis of these differential attributions of rights. An initial "identification objection" concerns the problem of locating meaningful groups to which rights can be attached (Brown 2009: 130). A further "valuation objection" concerns the assumption that these groups are discrete, homogenous entities that ought to be valued and preserved as they exist presently (Waldron 1995: 109). This section presses both objections to

7. Thanks to Paula Casal for making this point to me.

Zoopolis by exploring the problems faced with attributing sovereign rights to “wild animal communities”.

Donaldson and Kymlicka argue that we ought to think about our interactions with animals living in the wild as akin to a relationship between distinct self-governing communities (168). So while we have duties to respect the universal moral rights of wild animals, we also have duties to respect their sovereign rights of self-determination. While this does not mean that we can never interfere in the lives of wild animals—certain natural catastrophes and the like can justify limited policies of assistance—it does mean that any such interventions must only be undertaken in order to restore the autonomous functioning of those communities (180-183).

In the first place, it is necessary to ask whether we can meaningfully identify those wild animal communities to whom Donaldson and Kymlicka believe sovereignty ought to be applied. Perhaps the first thing that comes to mind when we imagine a “wild animal community” to whom sovereignty might be attributed is a social group of a single species of animals residing on a fixed piece of territory. Unfortunately, and as Donaldson and Kymlicka themselves acknowledge, this picture of a wild animal community will not work. For one, any piece of territory is likely to involve a great number of different species of animals, all of whom cannot claim the same rights of self-determination over it. Moreover, wild animals have no knowledge of or respect for defined borders, and will continually cross over them. As such, and as Donaldson and Kymlicka agree, if a community of wild animals is to be identifiable, it will have to refer to a mixed species group whose territorial boundaries are fluid (191).

However, even if such discrete groups of wild animals can be identified, it is unclear that they constitute a “political community”. Political communities are clearly not natural entities, but have instead been constructed by humans to facilitate shared social enterprises and to represent and maintain certain feelings of affiliation.⁸ But when we consider any mixed species group of wild animals, it is hard to see how they fit into this understanding of a community. After all, there is not much evidence of shared enterprise or feelings of affiliation within groups of wild animals. Indeed, many animals are in perpetual violent conflict with one another, as illustrated by the relations between predator and prey animals. Furthermore, since many wild animals are solitary, and do not live in social groups, it is very hard to see how these animals can meaningfully fit into a conception of a cooperative group bonded by feelings of attachment.

8. For a classic account of human communities as ideological constructions, see Anderson (2006).

Attempting to avoid this type of objection, Donaldson and Kymlicka employ a much looser understanding of what comprises a political community, which jettisons, for example, any assumption that there is much cooperation or even interaction among members, or that there is any sort of sentimental attachment to the community. Instead, their claim is that these wild animals must merely be “competent”: “What matters for sovereignty is the ability to respond to the challenges that a community faces, and to provide a social context in which its individual members can grow and flourish” (175).

It is extremely unclear, however, whether any group of wild animals can actually be considered competent in the sense just stated.⁹ After all, different animals require quite different things to successfully respond to challenges, or to grow and flourish. Moreover, the competency of some individuals in a group will necessarily be to the detriment of others in the group—and may even involve the killing and consumption of others! If, for example, we consider the wild animals existing on the African savannah, it is hard to know what the shared collective competency of the group considered as a whole could be. The competencies of the cheetah, of the hyenas, of the gazelles, of the vulture, of locusts, and so on, are all very different, and the competency of one will often be to the detriment of another. In order to claim that a group must be left to autonomously run its own affairs, the group needs to have its “own affairs”, and yet it is hard to see what this may be in the case of groups of wild animals.

Of course, it might be responded that wild animal groups do have a shared sense of competency, in spite of their conflicting interests. For example, some environmentalists might claim that wild animal groups have a collective interest in something like the maintenance of ecosystem flourishing.¹⁰ The problem with this, however, is that it moves us well beyond the type of competency that Donaldson and Kymlicka see as important for the attribution of sovereignty. For recall that they are concerned with competency that allows *individuals* to grow and flourish (175). And ecosystem flourishing cannot plausibly be claimed to allow all individual animals to grow and flourish: for in many instances, a flourishing ecosystem depends on and entails the suffering and death of certain individual animals.

Even if we assume that this problem can be overcome and that we can identify discrete groups of wild animals who constitute communities, we

9. For a fuller and extremely valuable discussion of this point, see Oscar Horta's contribution to this volume.

10. This idea is not explicitly endorsed in *Zoopolis* itself, although the authors do get close to endorsing this idea in their discussion of predation and starvation in relation to “failed states” (176). They also claim that “ecological viability” is part of their understanding of sovereignty (191).

still face the so-called “valuational objection”. Part of the grounds that Donaldson and Kymlicka give for granting sovereignty to wild animals is to protect these communities’ interests in autonomy and non-interference (173). *Zoopolis* claims that wild animal communities possess such interests because they are competent in managing their own affairs and have an evident antipathy to human intervention (177). However, there are good reasons to question whether animal communities really do have an interest in non-interference to preserve their current form. Indeed, it seems highly unlikely that significant portions of these groups such as prey animals, those riddled with disease, or those suffering terribly from starvation, would possess such an interest. It is much more likely, in fact, that wild animals such as these actually possess an interest in their community changing in ways to their benefit, even with human intervention. To be sure, this is not to say that they are consciously interested in and desire such changes. This is highly unlikely, and is illustrated by the fact that nearly all wild animals will resist any form of interference from human beings. Nonetheless, few accounts of interests simply equate them with subjective desires, because it is clear that individuals of all species can be mistaken about what is in their own interests.¹¹ As such, it is perfectly possible that wild animals have an interest in certain goods that they actively resist, and it is also possible that a good many have an interest in their communities changing via the actions of human beings.¹² At the very least, it is extremely hard to make sense of the idea that those wild animals who suffer terribly and face death directly as a result of the current conditions of their community also have an interest in the preservation of that community in its current form.

It is also worth pointing out that preserving these wild animal communities as they exist presently will not be secured simply by following general policies of non-intervention. Donaldson and Kymlicka are well aware that the autonomous functioning of sovereign animal communities can be threatened not just by humans, but also by natural disasters such as earthquakes and the like, and thus allow for limited interventions to restore autonomy in such cases (181). However, another important type of natural disaster that wild animal communities face derives from *other wild animal communities*, such as their predators or territorial rivals. One compelling example of this, of course, is genocidal chimpanzee wars (Mitani, Watts and Amsler 2010: 507). A more mundane example is the simple process whereby population density and other factors continually drive species from one territory to another in the normal process of biological dispersal. Both such cases inevita-

11. For a useful discussion of the objective and subjective elements of “interests” see Swanton (1980: 83-101).

12. Of course, this does not mean that humans are always obliged to act on that interest.

bly involve the transgression of one sovereign animal community by members of another. From the perspective of *Zoopolis*, such transgressions could be described as wars of invasion and self-defence. What seems clear, then, is that preserving wild animal communities as they exist presently through granting them sovereignty will demand far more from human beings than Donaldson and Kymlicka admit. Effectively, it will mean that we will be required to police the relations between wild animal communities, which may require a just war theory for animals, at least concerning the just assistance of the invaded group.

5. CONCLUSION: FROM ZOOPOLIS TO COSMOZOOPOLIS

This paper has argued that the theory of animal rights presented in *Zoopolis* is vulnerable to certain critiques that are levelled at all group-differentiated theories of rights. In the first place, such theories can deny outsider groups their just entitlements. I have argued that Donaldson and Kymlicka mistakenly fail to extend to wild animals rights they grant to domesticated animals, such as the rights to political concern, political agency, residency and protection from predation. Secondly and relatedly, such theories can also unfairly privilege the rights of insider groups. I have argued that Donaldson and Kymlicka grant too much weight to the rights of domesticated animals, for example to healthcare, neglecting the fact that many companion animals have owners who are responsible for their lives and well-being. Finally, such theories also have problems in identifying the relevant groups that form the basis for differentiated rights, and in explaining why they are valuable. I have argued that the theory of *Zoopolis* fails to offer a plausible account of who wild animal communities are, and why they ought to be preserved as they exist presently.

As I hope to have shown, we cannot neatly group animals into discrete categories—domesticated, wild and liminal—each with their own distinctive entitlements. The rights of any particular animal are better determined via a cosmopolitan perspective that attaches rights to individuals primarily according to their capacities and interests, as opposed to their membership in different groups.

Donaldson and Kymlicka might respond that group membership is not intended to replace interests and capacities as a basis for rights, but to complement an interest-based theory of either human or animal rights which will otherwise be underdetermined, and insensitive to the very different types of obligations we have to different individuals. My view is that a theory grounded primarily in the capacities and interests of individual rights-bearers can be attuned to the different obligations we often have to animals. The universal rights of individuals are only abstract and *prima facie*. They need to be further specified into concrete rights by making an all things consid-

ered judgement of all the relevant factors and interests at stake. Importantly, such a process will inevitably recognise that different individuals are often owed quite different things. In my view, this perspective provides the best way to understand human rights, and it is the best basis for a theory of rights for all sentient creatures.¹³

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13. For more on this model, see Cochrane (forthcoming 2013).

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