

## Can Applied Ethics Lead to Justice for Animals?

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In the summer of 2023, approximately 2,000 young, dead penguins washed up on the beaches across Uruguay. The birds were thin, their stomachs empty, and scientists suggest that this mass death was due to starvation. Without fat, the penguins can't keep warm in the colder waters that they now have to navigate to find food. Food shortages due to overfishing in South America may have contributed to their demise. This die-off was unprecedented for the species, although the magellanic penguin population has been consistently dropping, and the species is now considered near threatened. Impacts of climate change, which contributed to these penguins' precarity, were also likely the cause of the mass deaths of penguins in New Zealand in 2022, when hundreds of little blue penguins washed up dead. They probably died because warming oceans forced them to venture into deeper and colder waters in search of food, causing them to dive to distances that are not sustainable. These birds were also found to be thinner than they should have been. An even more drastic penguin die-off occurred in Antarctica in 2022—over 10,000 emperor penguin chicks perished when the sea-ice they were growing up on melted before they had the fat and waterproofed feathers needed to survive in the cold waters. Most of the birds drowned or froze to death. These sorts of large-scale group deaths have led scientists to suggest that the emperor penguins will be extinct by the end of the century.

The striking deaths of different penguin populations is just one illustration of the complex and devastating impacts of human-caused climate change and other forms of environmental destruction, now recognized as Earth's sixth mass extinction. Further cases include the loss of billions of aerial birds over the last

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50 years and the steady global decline of insect populations over the same period, together with the dramatic decrease in insect biomass and diversity. These terrible losses are driven both by slow-onset events—such as rising global temperatures, rising sea-levels, increasing levels of ocean acidification, and the continuing creep of human encroachment on animal habitats—and by related quick-onset disasters such as floods and fires. All these losses coincide with the worldwide expansion of the deliberate production and killing of animals in land-based factory farms and in aquafarms, technologies of death that are significant direct and indirect threats to animal life on the planet.

The catastrophic state of human–animal relations is the primary concern of much recent work in animal ethics. Many animal ethicists now are focused on addressing society-wide practices that harm and kill animals. Martha C. Nussbaum's *Justice for Animals: Our Collective Responsibility* has this practical focus, situating the project squarely within the “political turn” in animal ethics. Nussbaum's contribution is welcome for its recognition that “our world is dominated by humans everywhere” (xi) and its contention that injustices to animals resulting from human domination cannot be overcome without challenging age-old notions about human superiority over animals.

The theoretical framework Nussbaum uses for these ideas is the “capabilities approach” in development economics (hereafter CA), originally introduced by Amartya Sen and elaborated by Nussbaum and others. The CA treats economics not as a supposedly value-neutral science for optimizing the economy's functioning but as a humanistic endeavor to promote flourishing. Its cornerstone is the thought that flourishing should be understood in terms of people's opportunities to exercise their capabilities. Having expanded on that approach to include nonhuman animals in her earlier work, *Frontiers of Justice*,<sup>1</sup> Nussbaum focuses in the current book exclusively on animals. Starting from the position that sentient animals matter, her application of the CA stipulates that a society is minimally just when it ensures that animals, together with human beings, can exercise ten basic capabilities including those for life, bodily health, bodily integrity, and emotions.

This practice, taking a theory that seems promising in one domain and applying it to another, is the mark of applied ethics, and it tends to be favored by many animal ethicists. The two standard approaches, pro-animal utilitarianism that focuses on the ability to feel pleasure and pain and neo-Kantianism that accents views about animal rights and animal dignity, adopt this methodology. For utilitarians, justice demands that we treat like cases alike when it comes to minimizing suffering and maximizing pleasure. They extend the hedonic calculus popularized by Jeremy Bentham beyond humans to all animals who can experience pain and pleasure. Kantian theory, which has been beautifully revised by Christine Korsgaard, teaches, in Nussbaum's words, that “all animals are perceivers, with the capacity to

<sup>1</sup>Martha C. Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press 2006), 325–407.

represent the world to themselves. Moreover, their perceiving is evaluative ... seeing some things as good for them and others as harmful ... all animals, then, want and ascribe value to the ends for which they strive" (69). Just as humans should be seen as ends in themselves because of our evaluative stances, so, too, animals should be seen as ends in themselves.

Nussbaum's view is not that different from Korsgaard's. The CA also demands that every "individual creature is seen as having a dignity that law and politics must respect" (81). But unlike Korsgaard, Nussbaum doesn't represent the value of nonhuman animal lives as having a fundamentally different derivation from that of the value of human lives. Although here Nussbaum is more like utilitarians, she differs from them in holding that avoiding suffering and promoting pleasure aren't the only values that matter; that humans and animals pursue numerous ends; and that both the ends and activities promoting them should be available in a just society.

Despite their divergences, all these proposals to arrive at justice for animals by extending trusted theories presume that the political and economic structures of our increasingly globalized world are more or less okay, needing merely to be reformed to help vulnerable humans and animals to lead better lives and achieve greater justice. As the planet burns and penguins and other animals die off at accelerating rates, this stance has become increasingly untenable, and in fact runs counter to an important social-scientific corpus that shows that devastating tendencies to exploit many humans and to treat all natural things, including animals, as fungible resources are foundational for capitalist modes of socioeconomic organization. As we argue in *Animal Crisis*,<sup>2</sup> this presents a clear danger for animal-oriented exercises of applied ethics like those of Nussbaum and others. When pursued in isolation from social criticism aimed at uncovering injurious structures and exposing their destructiveness, these exercises not only distract attention from mechanisms that reliably reproduce grievous harms to humans and animals but come to serve, however unwittingly, as ideological covers for the damaging status quo.

Nussbaum's official position is that of "a liberal revisionist" (171). Her claim that she also has a "revolutionary streak" (171) may seem to express awareness that the steps for animals she advocates go directly against the grain of the current world order. But she avoids any discussion of how or why the kind of respect for animals she enjoins is antithetical to our current form of life. Strikingly, her talk of human beings' undifferentiated "collective" responsibility for animals is contradicted by research showing that the profit-seeking practices that have directly and indirectly harmed and killed so many animals, and visited grave and often fatal injuries on huge numbers of human beings, have served to enrich a very small number of people.

There is a further respect in which Nussbaum's commitment to applied ethics may hamper her pro-animal efforts. This strategy seems to excuse her

<sup>2</sup>Alice Crary and Lori Gruen, *Animal Crisis: A New Critical Theory* (Cambridge: Polity, 2022).

from needing to know very much about the animals for whom she advocates. It doesn't matter much if she "has no friendships with animals" (262) or knows of no real pigs who are treated extremely well (xx) because for her "theory is the important thing ... and if we have the theory as a template, we can always regroup" when we learn more about animals (120). This insouciance about whether we have the lives of animals in focus, which seems to sanction distance from animals and the work of those who built the field of critical animal studies, may be the source of a series of problematic passages throughout the book. In defense of her fish-eating habits that she expresses unease about, Nussbaum regularly misrepresents and dismisses veganism; she mentions the "massive change in crop growing" that a global shift toward plant-based diets would involve as a negative (184) and not as one of the main positive considerations cited by animal advocates and environmentalists. After citing two vegans who allow for the "benign use" of some domesticated animals, she contradicts herself by claiming that vegans "deny the possibility of mutually beneficial symbiosis" (221).

Despite some infelicitous interpretations and lack of adequate attention to much of the exciting work in the field of animal studies, given the catastrophic relationships we have with animals, it is heartening to have such a prominent theorist call for justice for animals.