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Robert Nozick on nonhuman animals:
Rights, value and the meaning of life

Josh Milburn¹

This paper is a version of a chapter forthcoming/published in the Palgrave Macmillan volume *Ethical and Political Approaches to Nonhuman Animal Issues*, edited by Andrew Woodhall and Gabriel Garmendia da Trindade. It may differ slightly from the final version.

It has been widely noted that the political turn in animal ethics has been broadly liberal in character (e.g., Milburn 2016; Milligan 2015; Wissenburg 2014), with the key texts (e.g., Donaldson and Kymlicka 2013; Garner 2013; Nussbaum 2006) all drawing, primarily and explicitly, from liberal political philosophy. Though this focus is understandable, contemporary political theory does not begin and end with liberalism, and the political turn will be intellectually impoverished if it is unable or unwilling to engage with other strands of political philosophy. One way to contribute to widening our understanding of the place of nonhuman animals (NHAs) in political theory is by looking to right libertarian (hereafter, libertarian) thought. Animal ethicists might be excused for assuming that libertarian philosophy has nothing to offer progressive thought on NHAs, as, regrettably, prominent libertarian theorists have traditionally been vocal critics of animal rights. For example, Tibor Machan (e.g., 1985; 1991; 2004), Loren Lomasky (e.g., 1987, 221-7; 2013) and especially Jan Narveson (e.g., 1977; 1987; 1999) have written in no uncertain terms about their opposition to prominent animal ethicists, their support for meat-eating or their conviction that NHAs are not rights-bearers. This is regrettable, not least because it serves to obscure the views of Robert Nozick, the foremost libertarian political philosopher, who was – especially when compared with some of his intellectual descendants – remarkably open to strong normative obligations towards NHAs.

Nozick, the author of the widely-read *Anarchy, State and Utopia* (hereafter, ASU) (1974), is often cited as the most important political philosopher of the 20th century other than

¹ With thanks to all who have offered comments on earlier versions of this piece, including David Archard, Jeremy Watkins, Cillian McBride, Fabian Schuppert, Tom Walker, Rudmer Bijlsma and the editors of the present volume. This paper arises from my PhD research, which was funded by Northern Ireland's Department for Employment and Learning.

John Rawls. For this reason alone, the absence of sustained consideration of the place of NHAs in Nozick's philosophy is striking. Further, Nozick wrote a considerable amount about NHAs. Rawls wrote little about the topic, but a wide literature has arisen exploring the place of NHAs in his thought. Indeed, Nozick suggests that we owe a much to NHAs – he was (at least) a vegetarian (Nozick 1981, 523), and many of his arguments seem to lend themselves fairly straightforwardly to veganism. The absence of Nozick in the animal ethics literature is mirrored by an absence of animal ethics in the Nozick literature; among commentators, Nozick's thoughts on NHAs are put aside as a tangential consideration which cannot be pursued (Arneson 2011, 18; Bader 2010, 13; Lacey 2001, 28; Nagel 1981, 203; Wolff 2003, 2-3), or even decried as a waste of space (Johnson 1976, 182).

In this chapter, I will begin to correct this gap in the literature by closely examining the place of NHAs in Nozick's thought. In addition, I will offer indications of how this ties to the broader question of NHAs in libertarian thought. Typically of Nozick, it is hard to find a single position on NHAs; however, given that consideration of NHAs can be found variously in his politics, his ethics and his axiology, this is perhaps understandable. I will begin by addressing the idea that Nozick was simply a speciesist, before outlining what I will suggest is the most straightforward reading of Nozick on NHAs – namely, that our obligations to NHAs are relegated to the moral sphere from the political sphere. Nonetheless, I will suggest that tensions in this position indicate that Nozick may have been more open to animal rights than has been previously appreciated. I will close by looking to Nozick's axiology and ethics, showing how Nozick argues that NHAs are beings valuable in-and-of-themselves and that we have strong moral obligations towards them, whatever our political obligations.

Nozick and speciesism

One way that Nozick has been addressed in the animal ethics literature is as a straightforward speciesist (Dombrowski 1997, 157-75; McMahan 2002, 218; Rachels 1990, 183-4). This view is based on his review of Tom Regan's *The Case for Animal Rights* (1983) written for the *New York Times Book Review* (1983) and later republished in his *Socratic Puzzles* (1997). A typical reading of this piece would suggest that Nozick dismisses Regan's arguments on the grounds that we can ignore the problems raised by the argument from species overlap² (Pluhar 1995, 71), and that, instead, we can merely assume that "the species an individual belongs to [is] morally relevant" (Nozick 1997, 307). Arguments for this are thin; Nozick

² This has been called the "argument from marginal cases". This latter name is actually owed ultimately to Narveson – a libertarian critic of animal rights – but is problematic for a number of reasons (cf. Horta 2014).

asserts that species membership is not “on surface, blatantly irrelevant morally” (1997, 308), wondering whether “the bare species characteristic of simply being human ... will command special respect only from other humans”, as “an instance of the general principle that the members of any species may legitimately give their fellows more weight” than a “neutral view would give them” (1997, 308). A second suggestion is that we view – this is a descriptive claim, not a normative one – humans and NHAs against “a different background and texture” (1997, 308), and that these backgrounds are “two rich tapestries (one richer than the other)” (1997, 309). It is the total difference, Nozick suggests, between these rich tapestries which justifies a difference in treatment.

These arguments in support of speciesism are poor, and Nozick recognises this (1997, 309), but suggests that anti-speciesist philosophers will nonetheless not be taken seriously (1997, 309) – again, a descriptive claim. While we might dismiss Nozick’s arguments as weak, it could be that speciesism is something common to libertarian positions. Machan, for instance, is avowedly and clearly speciesist (1991, 170; 2002, 9-14; 2004, 25-54), even if he has a rather idiosyncratic account of speciesism, seemingly understanding non-speciesism as a kind ecological or environmental ethic (2004, 2). Meanwhile, Narveson, to his credit, rejects speciesist reasoning (1987, 43).

Nozick’s challenge to Regan does not, for him, represent an attempt to wash his hands of animal ethics. He closes his article by saying that “[t]he topic” of the treatment of NHAs “is not a trivial or unimportant one” (1997, 310). This is not an empty claim, and he elsewhere spends considerable time arguing for respectful treatment of NHAs, as will be discussed. I suggest that Nozick’s opposition to Reganite philosophy is sincere, but that his focus upon Regan’s anti-speciesism is, all things considered, ill-chosen. I say this not least because, in the review, Nozick gestures towards an alternative view about the status of NHAs which appears to be non-speciesist. He writes that NHAs “do have some inherent value and hence may not be treated any way anyone might please, but their inherent value is not equal to that of people” (1997, 310, emphasis Nozick’s). Note that he here says people, not humans – one need not be a speciesist to endorse this claim, if we understand people as the plural of person. In the review, as in his earlier ASU, Nozick is explicitly open to the notion that hypothetical extra-terrestrials may be greater-than-persons (1974, 45; 1997, 308), and, correspondingly, may warrant different treatment/valuation. He is therefore, no doubt, open to the possibility of non-human persons and human non-persons.

Here, Nozick is gesturing towards a non-speciesist ethic, simply one that is different from Regan’s; the valuation of personhood may well be defensible in a way that the valuation

of human-ness is not. If we reject Nozick's claims about species as ill-chosen, the review indicates that Nozick's concern with Regan is with his reliance upon the argument from species overlap (Nozick 1997, 306-7), with his "all animals are equal" axiology and with his use of "inherent value" to ground obligations (Nozick 1997, 309-10). In addition, there is an implicit worry about the size of a state necessary to enforce Regan's picture, or a post-Regan picture (Nozick 1997, 309).

It is striking that the former three challenges resonate closely with some of the criticism levelled at Reganite philosophy in the political turn (though, at the time, they might be more easily read as critiques of animal rights tout court) while the latter is a standard libertarian worry about animal-rights-respecting states (cf., e.g., Machan 2004, 23). Also striking is that Nozick reads Regan as a political, so not "merely" moral, thinker. Once we look beyond Nozick's misdirected – and, by his own admission, weak – defence of speciesism, we see a subtle and before-its-time critique of Regan which explicitly leaves open the possibility of alternative anti-speciesist positions.

Nozick on vegetarianism

Nozick's comments in the review can be fruitfully contrasted with what he says in *ASU*, in which NHAs are considered at some length. Nozick presents a series of compelling thought experiments to show us that NHAs "count for something" (1974, 35), and, after developing an account of how respect is owed to NHAs directly and deftly handling some arguments in support of meat-eating, concludes that "the extra benefits Americans today can gain from eating animals do not justify doing it. So we shouldn't" (1974, 38). The extent to which Nozick's arguments for universal Western veg(etari)anism³ were radical should not be underestimated; Nozick was writing in 1974, prior to the publication of Peter Singer's 1975 *Animal Liberation* or Regan's 1983 *The Case for Animal Rights*. However, as already mentioned, commentators on Nozick have a tendency to dismiss them as an aside of limited importance.

It is as a part of this discussion that Nozick introduces his maxim of "utilitarianism for animals, Kantianism for people" (1974, 39).⁴ We should resist taking this as his all-things-

³ Though Nozick writes only about flesh, it is fairly clear that his argument works better as one for veganism than vegetarianism, at least insofar as the milk and egg industries inflict death upon NHAs. Indeed, it resembles the simple argument for veganism presented by Gary Francione and Anna Charlton (2013).

⁴ Robert Garner characterises this as a succinct statement of the ethic of animal welfare (Garner 2013, 26, 78); indeed, Garner is one of the few animal ethicists to look explicitly to Nozick's political thought on NHAs, though he rejects it as inadequate.

considered view of the status of NHAs. He introduces the suggestion as “too minimal” (1974, 39), and almost immediately rejects it. He is clearly worried about the possibility that there may be no legal censure of violence towards NHAs (1974, 40-1), which appears to be a natural consequence of this view. Ultimately asking if “utilitarianism is at least adequate for animals”, he declares that he “think[s] not” (1974, 42). “Even for animals”, he explains, “utilitarianism won’t do as the whole story, but the thicket of questions daunts us” (1974, 42).⁵ The following can be taken from this initial discussion in ASU: Nozick is of the view that NHAs have some degree of (for want of a better term) “inherent” value or worth, and this means that we have certain duties towards them. In particular, this means that people in Western democracies (or, minimally, the United States) are obliged to not eat NHAs. Typically, this would be understood as a matter for Nozick’s moral philosophy, rather than his politics; in refusing to extend rights to NHAs, Nozick excludes NHAs from political protection. When it comes to Nozick’s political realm and questions of justice, rights are exhaustive – only they can be demanded or enforced (Nozick 1981, 499, 503; Vallentyne 2011, 147; Wolff 2003, 22). However, we can see a tension in this relegation of issues concerning NHAs to the “moral” realm. Nozick’s first discussion of NHAs takes place in the development of his political philosophy, and he is unhappy with the framework he proposes, not least because it seems to entail that the state cannot punish “animal cruelty”.

If Nozick is to defend the possibility that the protection of NHAs is excluded from the political domain, he needs some way to separate humans and NHAs. He shows awareness of this in ASU, and is not content to rest on species difference. He is also sceptical of many of the ideas traditionally offered to separate humans and NHAs – intellect, self-consciousness, moral agency, and so on. Instead, “[a]n intervening variable M is needed for which the listed traits are individually necessary, perhaps jointly sufficient (at least we should be able to see what needs to be added to obtain M), and which has a perspicuous and convincing connection to moral constraints on behavior toward someone with M” (1974, 48-9). M is identified, but not adequately explained, as the ability to hold “an overall conception” of life, and “the ability to regulate and guide [one’s] life in accordance with some overall conception it chooses to accept” (1974, 49). This ability to devise a picture of a whole life, the chance to act with the intention of forming a life of one’s choosing and the consequent possibility of leading a life of one’s choosing is of central importance to Nozick, undergirding his

⁵ An idea similar to Nozick’s “utilitarianism for animals, Kantianism for people” is Jeff McMahan’s three-tiered account of the wrongness of killing (McMahan 2008). If we were to defend Nozick’s maxim, McMahan’s account would be the right place to start.

conception of rights. As to why this is so, Nozick “conjecture[s] that the answer is connected with that elusive and difficult notion: the meaning of life” (1974, 50).

Grounding rights in the meaning of life

It might be tempting to dismiss Nozick at this point – if his exclusion of NHAs from the political domain rests upon something as imprecise as the meaning of life, he is truly clutching at straws. However, and somewhat untypically, he does offer considerable discussion of this topic elsewhere,⁶ first in *Philosophical Explanations* (1981, chap. 6), and then in *The Examined Life* (2006).⁷ In these works, Nozick indicates what he understands the meaning of life to be, or, at least, what he considers a meaningful life to be. His account of meaning rests partially upon his account of value, which will be addressed later, but can nonetheless be understood in the abstract: “Value involves something’s being integrated within its own boundaries, while meaning involves its having some connection beyond these boundaries” (2006, 166; cf. Nozick 1981, 594-5). Nozick applies this specifically to the meaning of life: “The value of a person’s life attaches to it within its limits, while the meaning of his life attaches to it as centered in the wider value context beyond its limits” (1981, 611).

We can deduce that Nozick’s strong negative rights derive from the meaning of life because meaningfulness depends upon one freely choosing to interact with items of value beyond themselves. This means that rights give us the space we need to make our lives meaningful. By contrast, if humans were kept unconscious in vats, their lives would be meaningless (though valuable) – appropriately, Nozick observes that our lives would be meaningless if we were merely food for aliens, even if delicious (1981, 586). In order to live a meaningful life, one both needs the capacities that allow one to cultivate meaningfulness and one needs to exist in conditions in which one is free to practice them; the latter, for Nozick, is a world in which strong negative rights are recognised and respected.

Assuming that Nozick endorses this possibility, he actually offers a fairly unique explanation of the exclusion of NHAs from the political domain. Alone, this indicates that he

⁶ In looking beyond ASU, I implicitly reject a now-old-fashioned view that Nozick abandoned libertarianism (see, e.g., Hailwood 1996, chaps. 1, 10). He certainly later defended elements of a non-libertarian politics – especially his idea of “symbolic utility” (Nozick 1993, chaps. I-III; cf. Nozick 2006, chap. 25) – but both defended something like libertarianism in his last book (2001) and professed to remaining libertarian in his last interview (Sanchez 2001). While his thought undeniably developed, to say that he abandoned libertarianism would be a mistake. I also, partially, reject Thomas Nagel’s widely-quoted claim that Nozick offers “libertarianism without foundations” (1981); Nozick does offer a grounding for his rights, but we have to look beyond ASU to find it.

⁷ *The Examined Life* was first published in 1989.

should be of interest to animal ethicists. It would be possible to take this account of Nozick's position on NHAs as read. Indeed, the idea that NHAs are excluded from Nozick's political domain corresponds with the reading typical among commentators and mirrors the accounts of other libertarians. Nonetheless, taking this approach would downplay the existence of tensions within Nozick's politics. I suggest, as an alternative to this reading, that Nozick or the Nozickian could endorse animal rights.

One approach would be to take as given Nozick's grounding of rights in the meaning of life but suggest that he was nonetheless wrong to limit rights to humans; something that neither Nozick nor his critics seem to consider. Perhaps to the extent that NHAs could freely create and sustain links to valuable entities beyond themselves (say, the affection a cow has for her calf), a NHA's life could be made meaningful by the actions of the NHA herself, just as human lives can be made meaningful by the actions of the human herself. This would make extending rights to NHAs within Nozick's framework coherent; though perhaps less so than paradigmatic adult humans, (at least some) NHAs have potentially meaningful lives, but this potential is denied by the way we treat them. Extending rights to NHAs to protect them from this treatment would allow them to develop meaningfulness.

The argument may seem to follow quite easily: Humans require rights to freedom from human interference because their lives have potential for meaning, and the rights to freedom from interference allow them to pursue their lives' meaningfulness. NHAs also have potential for meaning in their lives, and this potential is frequently scuppered by human interference. Consequently, they, too, should be granted rights. There is an open question, however, concerning the extent to which the potential meaningfulness of NHA lives would relate to their "ability to regulate and guide [their lives] in accordance with some overall conception [they choose] to accept" (Nozick 1974, 49). As this element is part, for Nozick, of how the meaning of life grounds rights for paradigmatic adults, the observation that NHAs might be able to make their lives meaningful cannot be straightforwardly used to ground animal rights. Perhaps the Nozickian who wishes to deny that NHAs are rights-bearers would say that, even if they have the potential for some level of meaningfulness in their lives, NHAs lack the ability to pursue a life of their choosing. This difference might hold some importance; even though NHAs have the capacity to cultivate meaningfulness (surely not a uniquely human capacity) they lack the capacity which really grounds the importance of

human freedom – or so might say my interlocutor.⁸ Nonetheless, this approach might allow for the possibility of a distinctly Nozickian account of animal rights.

If I were to pursue the argument with my imaginary interlocutor, she might suggest that in order for NHAs to achieve their limited potential for meaningfulness, they need some level of protection, but not the kind of freedom to form a full life-plan that humans require. Perhaps NHAs would require protection from the infliction of death and suffering, and maybe some degree of freedom of movement/association or access to the kinds of space they require – the kinds of rights for which contemporary interest-based animal rights theorists argue. But maybe we do not need to take this rather curious route to suggest that Nozick was concerned with the protection of the key interests of NHAs. Instead, we can see the seed of animal rights in Nozick’s own words. Recall his uneasiness at the thought that NHAs might be excluded from any and all legal protection, and not because of any indirect duty (i.e., a duty to some human which concerns the NHA), but because of their own value. Also recall the way that, in Nozickian philosophy and libertarian political theory more broadly, rights are exhaustive when it comes to questions of justice. If Nozick or the libertarian wishes to extend any protection to NHAs, then there is only one option open to them: these NHAs must have rights. This is part of what makes Nozickian politics so interesting when it comes to animal ethics. There is very little “middle ground” concerning the class of rights-bearers or the recipients of justice; a given being is either in or out.

Choices and interests

Part of the reason that it might seem difficult for Nozick – and libertarians more broadly – to take account of animal rights is the reliance upon “choice” or “will” rights. These are rights instituted to protect the choices or will of the individual. So, for example, a right against being sold into slavery is more accurately described as a right over whether one is sold into slavery, with Nozick explicitly allowing that an individual may choose to sell herself into slavery, if she is so inclined (1974, 331). NHAs seem to lack the capacities for making these kinds of choices. Nozick’s focus on will rights can be understood when his rights framework is contextualised within his account of meaning, given that free choice is necessary to live a meaningful life.

⁸ Nozick tells us that “some people” understand a meaningful life to be one 1) organized according to a plan, which 2) possesses structure and is 3) lived transparently, so that 4) others can learn from it by 5) seeing as positive those features exalted (1981, 578). This seems to assume a level of mental sophistication perhaps lacking in all actual NHAs.

As Nozick's rights are will rights and as NHAs are "either in or out", his comments about NHAs have troubled those philosophers who have looked to them. Peter Vallentyne, though he astutely identifies the relationship between claims, rights and justice in Nozickian philosophy (2011, 145-8), is puzzled by Nozick's references to the claims of NHAs, assuming that Nozick is making reference to claims that are unenforceable (2011, 166). However, "claims", like "rights", have no place in Nozick's unenforceable moral philosophy. Alan Lacey is also perplexed by Nozick's discussion of NHAs. He reads Nozick's foundation of rights in a way close to how I have presented it, before attributing faulty reasoning to him:

"[W]e might distinguish that some creature has a right to a certain treatment and saying that it is right so to treat and wrong not to. The latter need not entail the former. Perhaps something only has a right if it is capable of recognizing rights in general, both its own and those of others; infants have rights in virtue of what they will become later[.]" (Lacey 2001, 28)

The problems with this kind of potentiality argument are notorious, and it is unfair to suggest that Nozick would endorse such a fallacious argument without reference to his work. Without irony, Lacey goes on to say, criticising Nozick's consideration of hyper-intelligent extra-terrestrials (whom Nozick suggests might have certain rights over humans), that a "mere increase in intelligence, moral insights or sensitivity, however vast, would surely not justify sacrificing us for their purposes. We do not sacrifice children or imbeciles for our own" (2001, 29). Lacey is correct on this latter point, but we do sacrifice NHAs, and Nozick's political philosophy as presented must – begrudgingly – permit this. More likely than Nozick endorsing flawed potentiality arguments is that, as indicated in his arguments for veg(etari)anism, he believed that NHAs and human infants are owed protection in their own right, thanks to their inherent value, the fact that they count for "something". This, though, Nozick finds difficult to articulate. Recall how he said that the "thicket of questions" surrounding the issue of NHAs "daunts" him (1974, 42).

Vallentyne correctly observes that if Nozick holds that all rights are choice-protecting, which it seems that he does, he owes an account demonstrating that there are no interest-protecting rights. There is no attempt at such a demonstration in Nozick's corpus (Vallentyne 2011, 149). Vallentyne recognises that choice-protecting rights do not and cannot extend to NHAs and infants, and accurately links the two groups (2011, 145-6, 149). Despite this, he does not mention any exclusion of infants from Nozick's rights-framework, though he does

stress an exclusion of NHAs. Vallentyne assumes that Nozick includes babies in his system of rights, presumably because they possess interest-protecting rights, while reading him as excluding NHAs. It is not clear why Vallentyne, after recognising the parallels in the two cases, should separate them without argument. It is true that Nozick sometimes writes as if he is opposed to attributing rights to NHAs, perhaps because he does not want to come across as “extreme” or a “crank” (cf. Nozick 1981, 523; Nozick 1997, 305-6), but at the same time, he seemingly wants to offer them (and infants) protection. Embracing interest rights seems to be one of the few options open to Nozick, unless he wishes to go down a rather dark path.

This alternative route is taken by Narveson. He is, like Nozick, a libertarian, and takes significant influence from the latter (especially in his earlier libertarian work). However, he takes an explicitly neo-Hobbesian contractarian position, which contrasts with Nozick’s commitment to a political theory informed by morality. The significance of this will become clear. Narveson is of the view that those who wish to harm NHAs should not “have to submit to the self-ascribed ‘moral’ ministrations of those who want to make them charter members of the moral republic” (1999, 135), and holds that if it is in our interests to treat NHAs well, then we should, but, if not, “why should we go to the trouble?” (1987, 41-2).⁹ In this sense, Narveson has advanced no further than Thomas Hobbes; both exclude NHAs from the domain of the political because of their assumed inability to enter any kind of contractual relationship.¹⁰ Martha Nussbaum is right when she observes that

“[T]he urgent need to undermine the basis of monarchical and hierarchical conceptions of politics explained and to a great extent justified the decision to focus on those human beings who are roughly equal in power and resources [in Hobbes]. We do not live in the same world now; and we have no such excuse for not facing [issues of inclusion in justice] head on, in the course of designing basic political principles.” (2006, 32)

Narveson, however, does not stop at the exclusion of NHAs. Those same reasons which are used to exclude NHAs apply to many humans. Narveson writes that any “basis for the

⁹ A broadly similar position is taken by Machan. He is opposed to intervention of the government into the life of humans for anything perceived as a moralistic reason; governments exist solely to protect human rights, and not for “animal welfare” (2004, 18, 23, 53). Machan does seem to believe that there are moral constraints on our treatment of NHAs, but this is a separate question to whether they have rights, which, he claims, they do not (1985, 75; 1991, 164; 2004, 20-1, 118). Consequently, and though Machan sometimes seems nervous of his own conclusion (2004, 22), there should not be any direct legal protection of NHAs.

¹⁰ For more on Hobbesian contractarianism, see Mark Rowlands’s contribution to the present volume.

objection to cruel treatment” of NHAs “is surely sympathy, just as it is for our dealings with human infants” (1999, 139). The capacities which grant an individual rights, Narveson claims, are “perfectly familiar to any adult, or any child beyond infancy” (1999, 160), though presumably not to infants. In fact, Narveson elsewhere denies that they are familiar to all adults. Though implausibly claiming that “[e]ven very retarded human beings ... are far in advance of even bright animals” intellectually (1987, 32), he denies that there can be any “inherent value” in “greatly subnormal humans or infants” (1987, 39). His ethico-political framework “must, of course, classify those humans who are so far below the standard for our species ... as not inherently qualified for basic rights” (1987, 46). This leaves Narveson’s state a dystopic vision. He endorses the use of NHAs – for food, entertainment, science and so forth – currently standard, and is opposed to the minimal regulation that these industries receive. However, he must also endorse the possibility that certain humans may be used in these ways. His vision is one which, surely, we must reject.

Susan Okin sees Nozick’s state as similarly dystopic. She suggests that Nozick’s commitments to self-ownership and derivative property rights lead to the conclusion that humans are owned by their mothers (1989, 81-4). Nozick, she suggests, excludes “infants, small children, and many of the developmentally disabled” from the domain of rights-bearers (1989, 85). Okin imagines a world in which a woman might produce “a child for whatever purpose she chooses”: for sale, “to keep it [sic] in a cage to amuse her ... or even to kill it and eat it, if she were so inclined” (1989, 84).

It is my contention that Nozick does not want to take this path, as concerns humans or NHAs. That Nozick should be concerned with respect for all – regardless of whether beings are able to reciprocate respect – can in part be traced back to the moral foundations of his politics. The argument of ASU is motivated by Nozick’s foundational assumption that some things are deeply unjust: “Individuals have rights, and there are things no person or group may do to them” (1974, ix). These things are wrong regardless of whether we live in the state, and regardless of whether treating them as wrong is in our interests. Narveson’s Hobbesian framework, however, is motivated by egoism and self-protection. For this reason, Nozick will always be uneasy about following the Narvesonian path – at least when he feels that there is something deeply wrong about inflicting significant, direct harms upon young children and NHAs, which he clearly does.

In order to take the alternative path, in which respect for NHAs and all humans is a demand of justice, Nozick needs to extend rights to those beings who lack the capacity to meaningfully possess choice rights. The most suitable way to do this would be to endorse the

extension of interest rights to these beings. Precisely how these interest rights would look is not something that can be read from Nozick's work – as Vallentyne has observed, Nozick does not consider interest rights in his published material at all. Perhaps if he had, he would have been able to make greater sense of how his views of NHAs fit in with his wider political philosophy, and may have been able to offer a political animal ethics more satisfying – to him and to animal ethicists – than his “too minimal” maxim of “utilitarianism for animals, Kantianism for people” (1974, 39).

In suggesting that Nozick could extend interest rights to NHAs, I am essentially suggesting that Nozick could temper his libertarianism, but temper his libertarianism in a way consistent with other claims he makes. It is not uncommon for critics (e.g., Fried 2011) to claim that Nozick dulls the edge of his libertarianism with non-libertarian elements, even in ASU. Nozick himself later accepted that his political theory as presented in ASU was “inadequate” for failing to take into account the symbolic utility of actions (1993, 32), though he did not recant libertarianism (Sanchez 2001). This allows for a number of ways in which we might understand the possibility of interest rights in Nozick's thought; first, his comments on NHAs in ASU may indicate that, even in 1974, Nozick did not buy into his own libertarianism. Second, his dissatisfaction with the full consequences of libertarianism in his more developed thought may indicate that animal rights is an aspect that he would, could or should have endorsed in his later life, even while holding fast to an (otherwise) broadly libertarian worldview. A third, unsympathetic, possibility would be that Nozick was highly inconsistent in his political commitments, and that his mixed messages on animal rights are one element of this. On this third reading, there would be no way to mediate between Nozick-the-consistent-libertarian and Nozick-the-latent-animal-rightist.

Possible objections

I will now offer brief responses to four possible worries about my presentation of Nozickian politics as potentially sympathetic to NHAs.

The first issue is the minimal state. A state with the power and mandate to enforce the rights-claims of NHAs would be larger than the state typically associated with Nozick. However, the requirement for a larger-than-expected state is not a reason for a Nozickian to reject animal rights. If the demands of justice require a large state, Nozick is prepared to accept this; a point not lost on commentators. In what Bernard Williams calls “a vitally important but unemphatic passage” (1981, 35-6) of ASU, for example, Nozick professes that

he is open to a redistributive state as a means of rectifying historical injustices (1974, 230-1). Similarly, Joachim Wüdisch (2014; cf. Waldron 2005) has recently argued that Nozickian minarchism necessitates a welfare state – something often seen as anathema to libertarianism.

The second issue is that Nozick is often presented as an advocate of unrestrained capitalism, and capitalism is frequently portrayed as a bad thing for NHAs. I do not deny that, as currently practiced, capitalism is bad for NHAs, but this does not mean that we are obliged to overthrow it. Nozickianism has tools for constraining the free market, including, but not limited to, rights. To put it simply, if NHAs have rights, then much of what is done to them under capitalism should be prevented by the state. This means that a Nozickian can condemn the rights-violations inflicted by capitalists, and those industries in which the rights-violations are inherent, without having to condemn capitalism itself. In this sense, a Nozickian picture of animal rights is not far from a liberal picture of animal rights. It is also worth remembering that the left, too, has a long history of opposition to animal rights, and real-world socialist states have hardly been utopias for NHAs (Donaldson and Kymlicka 2014).

Third, though I have illustrated that Nozickian politics is potentially open to animal rights, I may have done this by showing that Nozick is not truly a libertarian.¹¹ If the truly libertarian position is more like Narveson's, then this leaves libertarianism undesirable for animal ethicists (and many other thinkers). Even this, however, would not mean that animal ethics and libertarianism should have only an antagonistic relationship, as there is potential for the exploration of how libertarian-inspired tools might enrich animal ethics or be applicable to NHAs. Work in this area has already begun: Rainer Ebert and Tibor Machan write about "libertarianizing" rights theory as it is applied in animal ethics (2012), John Hadley explores the attribution of Lockean-inspired property rights to NHAs (2015, chap. 3) and I argue that Nozick's "Lockean" proviso can be used to offer significant protection to NHAs (2014). It is possible that this work represents the most valuable contributions that libertarian theory can offer to animal ethics; rather than adopting a libertarian theory of animal rights wholesale, animal ethicists may be able to draw tools from libertarian theory to help deal with particular problems.

This ties to a fourth problem: it is possible that animal ethicists reject Nozickian politics for reasons unrelated to its treatment of animal rights. To be clear, I have sympathy with many criticisms of Nozick, and, in exploring his work here, I do not wish to be read as

¹¹ My focus has been on Nozick's foundational question of rights-possession rather than his entitlement theory, when, arguably, it is the latter element of his thought which is "most" libertarian.

endorsing libertarianism. However, once again, we can point to the normative tools which Nozickian/libertarian philosophy contains; these are ideas which could be taken from their libertarian context and applied elsewhere. In addition, there is value, especially for liberal animal ethicists, in demonstrating the possibility of a broad consensus for animal rights, even among theorists who might typically be considered hostile to the possibility.

Nozick's ethics

In my exploration of Nozick's political philosophy, I have overlooked key aspects of Nozick's animal ethics. If the possibility of Nozickian animal rights is rejected, Nozick's arguments for Western vegetarianism would be solely moral, but this would not mean that his animal ethics should be ignored. In both *The Examined Life* and *Philosophical Explanations*, Nozick considers NHAs within his "organic unity"-based axiology (1981, 415-9, 440-4; 2006, 162-6). He thereby offers a principled way of justifying his (intuitionistic) claim in ASU that NHAs count for "something". Organic unity is an idea from aesthetics, wherein a work of art can be judged valuable based on the extent to which it unifies disparate elements (themes, media, colours), and the extent to which the unified elements were, originally, disparate. This same method, Nozick claims, can be used to judge value in any field (Nozick 1981, 415-6), with more organically unified entities being more valuable. The judgement is a two-part one: "[t]he greater the diversity that gets unified, the greater the organic unity; and also the tighter the unity to which the diversity is brought, the greater the organic unity" (Nozick 2006, 164).

When the principle is applied, "we can rank organisms roughly in accordance with their degree of organic unity, so that most plants come below most animals, with higher animals coming above the lower ones" (Nozick 1981, 417). Paradigmatic humans are placed above NHAs, as "[s]entience and then consciousness add new possibilities of unification over time and at a time, and self-consciousness, being an 'I', is an especially tight mode of unification" (1981, 416-7; cf. 2006, 163). This means that "the ranking of organisms in accordance with degree of organic unity matches our value ranking of them, with people above other animals above plants above rocks" (1981, 417), though there is potential for overlap (1981, 415).

NHAs are, then, of fairly considerable value – though some are more valuable than others.¹² The high value of NHAs takes on particular significance when it comes to the human desire to live a meaningful life. This is because, to repeat, human lives become meaningful by connecting with things of value. Importantly, however, individuals must respond appropriately to these entities of value (Nozick 1981, 428-33; Nozick 2006, chap. 14). We do not, for example, make our lives more meaningful by responding with disgust to things of beauty. Instead, we might admire valuable art or protect valuable ecosystems, or we could derive some meaning from having the appropriate disvaluing attitudes towards disvaluable things;¹³ we can be angry at injustice, disgusted by wastefulness. The way that our lifestyles might demand the death and suffering of NHAs, or the denial of their freedom, must – at least when as transparently unnecessary as it is in the West – indicate that we have the wrong kinds of attitudes towards them qua beings of value; this, in turn, makes our lives less meaningful. It is not by killing, overpowering or hurting NHAs that we make our life meaningful, but by admiring them, respecting them, or – when appropriate – aiding them.¹⁴ Following this to its conclusion, we see that, *ceteris paribus*, the life of a vegan is more meaningful than the life of a non-vegan on Nozick’s picture. To reiterate, however, people must freely choose to engage appropriately with things of (dis)value. Their lives are not made meaningful if they are forced to engage appropriately with them.

This picture of the place of NHAs in Nozick’s philosophy is neatly tied together in his four levels of ethics (2001, 260-2; 2006, 212-4). It is important to be moral – “being moral instances and realizes a more general kind of value, and you should be moral because it is ... a better way to be” (2001, 283) – but the only thing we can do with a person who refuses to behave morally is to try to appeal to their better side. “All that any society should

¹² Exploring this fully is beyond the scope of the present chapter. Nozick claims that the means of judging organic unity will vary in different “realms” (1981, 418, 426), so in reality offers a kind of meta-axiology. When it comes, however, to the “realm” of animals – human and otherwise – he seems to think, as indicated, that organic unity is grounded primarily in mental sophistication. Mental sophistication will perhaps not always win out, however, with Nozick claiming that a redwood is more valuable than a mouse (1981, 415). Simon Hailwood suggests that this could be justified by the age and size of the tree (1996, 150); though the mouse wins on the primary measure of organic unity, the tree wins on others. Also possible is that Nozick is mistaken. The mouse could be more organically unified, or perhaps the tree and the mouse are of not of the same “realm” – Nozick problematically assumes that they are – meaning that their value could even be incomparable. Though cross-realm comparisons of value are sometimes possible, they are not always (Nozick 1981, 419).

¹³ Disvaluable things are those entities with a destructive telos (Nozick 1981, 419). This need not mean – a point Lacey seems to miss (2001, 81) – that telos is essential to Nozick’s metaphysics or applicable in all “realms”. While the concentration camp is disvaluable (Nozick 1981, 419), the volcano need not be. Nozick takes this disanalogy for granted (Hailwood 1996, 154).

¹⁴ Nozick talks of V verbs (support, respect, affirm, etc.) and anti-V verbs (neglect, dismiss, destroy, etc.). We act ethically, and give meaning to our lives, when we V those things of value and anti-V those things of disvalue.

(coercively) demand is adherence to [the first level]. The further levels should be a matter for a person's own individual choice and development" (2001, 281-2). The first level is the ethics of respect, and ultimately concerns respect for the negative rights of autonomous adults. The principles of ASU are one way to work this out, and another (a kind of naturalistic, evolutionary ethic) is offered in Nozick's *Invariances* (2001, 280, 248-78). NHAs, unless Nozickian animal rights can be grounded, are excluded.

Nozick's second level is the ethics of responsiveness, described variously as an ethic which "mandates acting in a way that is responsive to other people's reality and value, a way that takes account of their reality and is intricately contoured to it" (2006, 212) and as about "acting in a way that is responsive to people's value, enhancing and supporting it, and enabling it to flourish" (2001, 280). Why Nozick here specifies only the value of people is unclear; he certainly does not justify it. Given that – as established – many NHAs are beings of considerable value in Nozick's axiology, there is no reason that they should be excluded from the ethics of responsiveness. When Nozick speaks of his own vegetarianism, it is the language of responsiveness (or, perhaps clumsily, respect) that he uses: "A respect for and valuing of animal life leads me not to eat meat or fish and to try to avoid wearing animal products" (1981, 523). I suggest that a fully worked-out ethics of respect would include not merely people, but NHAs.¹⁵

In Nozick's own description of the four levels of ethics, it is in the third level that NHAs explicitly enter. The ethics of caring, when fully developed, mandate "nonharm, ahimsa and love to all people, perhaps to all living creatures" (2001, 280). The ethics of caring is a long way from any kind of political prescription. In its demand for positive attitudes, the ethic speaks to individuals about how they should feel; even the actions of the individual seem secondary. (The fourth layer of ethics, the ethics of light, is reached only by great spiritual leaders; Socrates, Buddha, Jesus. What it mandates, if anything in particular, is unclear.)

Nozick, then, is able to offer coherent, original arguments for the value of NHAs, and present both an ethical framework and an account of the meaning of life in which respect for NHAs finds a comfortable place. This should perhaps not be surprising. Nozick, as well as being one of the most original philosophers of the 20th century, was a vegetarian, and devoted

¹⁵ Nozick writes that he is concerned with exploring "the fullest moral basis" for our treatment of other beings, meaning that, in practice, he focuses on humans. He is explicit, though, that this focus does not mean that he denies that NHAs might be owed certain kinds of respectful treatment (1981, 451). This may be the reason that even those commentators who look to Nozick's ethics (e.g., Hailwood 1996, chaps. 11-3) downplay his comments on NHAs.

several pages in his first and most important book to explaining (with simple, intuitive, compelling arguments) that all in the West should be too. Even if – which I deny – his politics must be hostile to NHAs, perhaps it is time that Nozick is recognised as deserving of a place in our minds among the morally-focussed animal ethicists of the 20th century.

Concluding remarks

The political turn in animal ethics should expand its reach and potential by looking to political philosophy beyond liberalism. Right libertarianism has been almost entirely ignored by animal ethicists, and right libertarian philosophers have been highly critical of animal rights. Nonetheless, Robert Nozick, the most prominent right libertarian, should be recognised as a novel and interesting, if cautious, animal ethicist. Even if we might have reason to not endorse Nozick's philosophy, it would be a mistake to simply ignore it. It is my hope that the political turn in animal ethics will allow not just new and novel approaches to animal ethics, but reassessments of existing political theories and influential thinkers. Nozick's reassessment is, in my view, long overdue.

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