

POLITICALLY ENGAGED WILD ANIMALS

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Abstract

My dissertation is called *Politically Engaged Wild Animals*; in it, I suggest that wild animals live in a politicized world, which gives their behaviour unintended political meanings—if humans will listen appropriately. To arrive at this conclusion, I start with Dinesh Wadiwel's (2015) biopower critique according to which any proposals to conserve wilderness or protect wild animals, which relies on human representatives, suffer from a particular sort of risk, namely that of transforming the current overt domination into a neoliberal form of continued human supremacy. I find this critique has traction against proposals like Sue Donaldson and Will Kymlicka's (2011) suggestion of Wild Animal Sovereignty. However, it has less traction against Anishinaabe (Indigenous) legal traditions, which prioritize respect for wild animals and the ecosystems we share with them. In these legal systems, wild animals are not under the jurisdiction of human societies; they are in independent communities that are part of a shared interspecies world.

Thinking of wild animal communities as independently entitled to share the land, water, and air with humans can highlight the interspecies political meanings of conflict between human society and wild animal communities. I suggest we can listen to the behaviour patterns of wild animal communities to reveal unintended political meaning (e.g. protesting human activity or negotiating boundaries with neighbouring groups). Further, researchers are already developing ways to better communicate with wild animals so we all might safely share contested spaces. The moral-political implications of these research projects are typically left in anthropocentric terms. In my view we should reframe this communication as a way of respecting the relationships we already have with wild animal communities. If we can communicate with them, negotiating mutually beneficial boundaries, then we ought to take this communication as a form of political participation. Wild animal communities are speaking for themselves, on land they share with humans, in a politicized world.

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Chapter 1: Introduction: A Political Turn in Ethics for Wild Animals

Driving to a family gathering in the country I encountered a turtle midway through crossing the road. I stopped and waited for her, but she had seized up. I got out and gently lifted her to the other side of the road. This was an ethical encounter. I came face to face with a *wild* animal, it had unknowingly entered a “human” world. The turtle is incapable of intentionally communicating her desires, and I am incapable of telling her where, when, or how to safely cross the road. Nonetheless, the turtle attempting to cross a road makes it clear to me that she would like to reach the other side. Unintentionally, through her actions, we found a way to coexist.

But roads and animals often do not interact so smoothly; nor do tall glass windows and birds; nor agricultural land and animals who might want to feast on that produce, and so forth in many other cases. That turtle whom I helped is part of a pattern, a whole community of turtles and on the nearby highway countless other animals, who risk their lives to cross the roads that unceremoniously cut across their territories, migratory routes, and nesting sites.

I, as an individual, helped an individual turtle safely cross one road. This turtle did not suffer and was treated well and yet there is a problem here that brought the turtle into danger in the first place. The road network endangers countless animals, as do many other systems of human infrastructure, industry, and recreation. While these human activities and constructs are not meant to harm wild animals, they are often performed and designed without consideration of wild animals. And, when wild animals are considered, we usually only seek to minimize harm. We often fail to consider that the wild animals have a right to be there and

to live in a self-regulated way so that their communities might thrive.

Despite us humans wanting to coexist and being interested in helping other animals live with us, we often find it difficult to negotiate that shared space. Even if we have the best intentions, generously attributing value to the intentions of wild animals and being willing to incur costs to ensure their interests are protected, we still might find ourselves caught up in the systemic conflicts between wild animals and humans.

1.1 The political turn in animal ethics

The concern about how to settle conflicts between human institutions and wild animals is not addressed by traditional animal rights approaches (Singer 1974, Reagan 1985). Most traditional animal ethics approaches focus on minimizing harms (Singer 2000; Varner 2012), or securing special protections for at least some species based on their special resemblance to morally salient human characteristics—often focused on nonhuman great apes (e.g. Andrews et al. 2018; Wise 2000, Cavaleiri & Singer 1993). These focuses are a result of starting from the capacities other animals have to suffer, feel, reason, socialize, and pursue a good life. From such a starting place we inevitably end up striving to protect individuals and populations. But this is too direct and immediately fixates on the harm. We also must examine the political systems that produce these harms.

There has been growing interest in such an examination of political systems, deemed the political turn in animal rights. Martha Nussbaum's (2006) *Frontiers of Justice*, proposed justice for non-human animals as a burgeoning "frontier." Some (e.g. Nibert 2002; Hadley 2005; Deckha 2007) had already set off on this new direction, but others would follow (e.g. O'Sullivan 2011; Wadiwel 2014; Meijer 2019).

An influential keystone of the new political turn to justice for animals was Sue

Donaldson and Will Kymlicka's (2011) proposal that political categories like "citizen," "sovereign," and "denizen" ought to be extended to include nonhuman animals. Donaldson and Kymlicka (2011) propose those animals who we live in close proximity with—livestock, companions, working animals, animal research participants, the inhabitants of zoos, etc.—ought to be considered *citizens* of our society and extended many of the protections we expect for citizens. Some of these protections include healthcare; secure availability of food, water, and shelter; protection from predation; and freedom from forced labour. Wild animals living in the wilderness, on the other hand, ought to be treated as *sovereign* with control over their own territories. Humans should protect the territories where wild animals live from unjustified interventions like poaching, clear cutting, etc.. Finally, there are wild animals who live outside wilderness protected under sovereignty and who often live near humans; familiar examples include pigeons, feral cats, mice, and geese. These animals ought to be treated as *denizens* and provided the sorts of protections given to human non-citizen residents.

Since the political turn in animal rights, political theorists have started to explore how we should construct a political theory that includes non-human animals. This is a complementary project to the fight for minimum standards of ethical treatment, and the protection of some select species. Alasdair Cochrane, Robert Garner, and Siobhan O'Sullivan describe this political turn beautifully:

For what makes the political turn both cohesive and distinctive is the fact that the theories which comprise it do not just work within existing structures, but also ask how those structures might be transformed. In other words, they reflect upon and reimagine our political structures, institutions and processes. And in particular, they consider how those structures, institutions and processes might be transformed to secure justice for both humans and animals (Cochrane et al. 2016, 273).

What we need from a political theory that includes animals, then, is an account of how political structures, institutions, and processes might be transformed such that justice can be done.

Most of the discussion about justice for nonhuman animals has focused on captive animals, those who Donaldson and Kymlicka suggest we ought to call citizens. These are animals most directly affected by human decisions about their well-being. These captive animals are usually considered the property of humans and while there may be some protections for their welfare, they are often left to lead lives of indignity, forced labour, and mistreatment (intentional and unintentional). Of course, some animals, including those living in farm sanctuaries or companion animals with attentive families, may thrive in their captivity.

Despite the idyllic picture of animals enjoying their captivity, there is a long history of captive animals resisting captivity. For example, on rare occasions and despite humans' best efforts to control them, livestock have been known to escape the butcher, circus animals escape their captors and trainers, and zoo animals escape their enclosures. Farm sanctuaries provide a place for some of these escapees who are not reclaimed by their owner (Colling 2021,11). Such places provide a possibility for flourishing in captivity and offers humans a new place to observe and interact with a multitude of different species. Farm sanctuaries often foster interspecies relationships which show that animals across species can contribute to the well-being of others in the sanctuary. These new relationship structures invite us to reimagine how humans and captive animals can have relationships and coexist together (Donaldson & Kymlicka 2015; Colling 2021).

1.2 Focusing on Wild Animals

In this project I will not be focusing on captive animals, their liberation, or the new forms of relationships that can be uncovered in sanctuary. Instead, I want to explore how we might reimagine our relationships with *wild animals*. We have a very different relationship

with wild animal than we do with our domesticated pets and farm animals. Unlike captive animals, wild animals do not live with humans and do not have humans regulating every aspect of their daily life, including diet, shelter, protections, and medical care. Also unlike captive animals, wild animals cannot be liberated from captors or unfit caretakers. Further the relationships we might develop with our beloved animal companions or sanctuary animals are not like the relationships we might have with wild animals, who we may not know as individuals, who may deliberately avoid us, and with whom we often ought not pursue a close relationship. Justice for wild animals will have to be something else.

Instead of a farm sanctuary as the paradigm relationship, I highlight Indigenous (primarily Anishinaabe and Algonquin) traditional relationships with wild animals. Their stories describe relationships between humans and wild animals as mediated by the ecosystems in which they live. In Indigenous philosophical traditions humans and animals ought to have a respectful and reciprocal relationship grounded in interdependence with a larger ecology (Noble 2018). Here “respect” rather than “liberation” is what must be added to traditional welfare concerns to achieve justice.

Throughout our discussion we will consider several other answers about what must be added to concerns about minimizing harm in order to achieve justice: Nussbaum (2006) suggests dignity, Donaldson and Kymlicka (2011) suggest sovereignty, Eva Meijer suggests democracy (2019). In each case there is something about wild animals and their communities which must be respected for us to achieve justice.

As we move through discussions of respect, dignity, sovereignty, and democracy, we should be mindful that some of these are typically seen, in the Western context, as concepts meant to describe relationships between humans. This means, on one hand, we must be cautious not to anthropomorphize wild animal communities so that they can neatly fit pre-

existing conceptions of justice developed for humans. On the other hand, we should also be aware that framing justice as a struggle for respect, dignity, sovereignty or democracy against institutions that disrespect, produce indignity, undermine sovereignty, and silence democracy is a struggle that humans and wild animals can participate in together.

1.3 Interspecies solidarity through criticizing oppressive systems

In the spirit of solidarity between human and nonhuman struggles, I want to reiterate Kymlicka and Donaldson's (2014) call for leftist political theory to end the conspicuous silence on how political theories of justice for human animals might extend to nonhuman animals. One reason for this silence seems to be the mistaken belief that there is conflict between justice for humans and justice for animals—that we cannot do both.

Kymlicka and Donaldson highlight three common worries: displacement, trivialization, and multiculturalism. First, displacement is the worry that resources and attention should not be diverted from important struggles against human suffering towards the protection of nonhuman animals. Second, trivialization is the concern that “If we add liberation of animals from oppression and enslavement to the Left's [list of] causes [to support], the result will be to debase the currency of ‘liberation,’ ‘oppression,’ and ‘enslavement’ in human contexts” (Kymlicka and Donaldson 2014, 119). Third, multiculturalism comes into play when governments, news agencies, etc. come to the “defence” of nonhuman animals in specific situations which can be co-opted to demonize minorities over a specific practice (e.g. halal slaughter of animals or Inuit seal hunting).

These worries are best kept as cautions; they are not identifying anything intrinsically dangerous about animal rights movements, or the political turn. When organizing activism, or criticizing cultural practices (especially minority cultural practices) we, as advocates of

justice for nonhuman animals, ought to keep solidarity in mind. We ought to recognize colonial power systems and the ever present risk of entrenching problematic power-structures. Maneesha Deckha explains: “Even if some forms of human or animal exploitation forces a choice over which marginalized group to favour, the dilemma only requires an exercise in ethical judgement not a complete rejection of one group at the expense of the other” (Deckha 2007, 229). When displacement, trivialization, or multiculturalism become a practical concern we may be faced with a particular problem, but the possibility of practical issues does not need to count against the deeper agreement that many of the same power structures and oppressive systems that undermine the dignity, sovereignty, democracy, of humans are the same systems which dominate nonhuman animals.

Kymlicka and Donaldson suggest that while there may appear to be risks of conflict between the pursuit of justice for nonhuman animals and other transformative pursuits of justice, those worries overlook the substantial common ground. They say: “Multiculturalism and animal rights are not in conflict, but flow naturally from the same deeper commitments to justice and moral accountability” (Kymlicka and Donaldson 2014, 128). Animal rights project that also values multiculturalism “would de-center and denaturalize majority practices, open up space for cross-cultural learning, guard against the instrumentalization of progressive causes, and above all would shine a light on forms of power and privilege that have been immunized from ethical accountability” (Kymlicka and Donaldson 2014, 129). I want to start by framing the goals of my project in this spirit of solidarity. I will follow Kymlicka and Donaldson’s suggestion and focus on cross-cultural learning, to highlight problems with the dominant Western practices of governance and land management, which simultaneously disempower Indigenous peoples and wild animals.

Western political thought traditionally cleaves humans off from nature as superior to

all other animals. In contrast, Indigenous (Algonquin) politics calls wild animals “kin” and insists that a responsible government must respect wild animals and the ecosystems we share with them (Pasternak 2017). This relationship with wild animals is not just “better than” the Western hierarchical relationship of human over animal, civilization over wilderness, culture over nature etc.; it is also rooted in a broader resistance to Western narratives of sovereignty and land as property. In this case decolonizing conceptions of wild animals is also challenging the ideas that ground imperialist domination.

I am interested in trying to bring wild animals themselves into a political conversation. The hope is to move away from a conception of wild animal interests, as defended by white, Western, settlers, and towards a view where the wild animals can be listened to. The white, Western, settlers, like myself can then “listen” to wild animals. When wild animals enter into conflicts, transgress boundaries, or peacefully coexist, they tell us something about their world. This “listening” to wild animals is something Indigenous peoples have practiced, accumulating traditional ecological knowledge about how to respect and reciprocate with nonhuman animals. Those of us interested in animal rights need to (re)start accumulating that knowledge, (re)building relationships with wild animal communities and the ecosystems that bind us together. This might allow us to write new narratives about our relationships with nature, by being critical of the power structures implicit in the traditional Western narrative of civilization as a struggle against the wilderness. Scary archetypes like “the big bad wolf” can be replaced with an intimate understanding of the relationship we already have with actual wild animal communities.

By treating wild animals as others to whom we can listen, we allow for them to tell us about how our politicized world, with its borders, rules, and institutions, interact with wild animals’ needs, opportunities, and desires. This approach lets us treat wild animals as-if they

were political participants. The *as-if* is also important. I don't want to trivialize political participation, especially protests, and wild animals are not intentionally political participants. The lack of intentionality is important. While humans can actually participate in politics, wild animals can only be taken as-if their behaviour had political meaning. This as-if participation is significant, it deviates from other accounts of what is needed for justice. Unlike dignity or sovereignty, as-if participation is an activity. Unlike some versions of democracy, our duty as humans is not to represent (with representatives) the interests of wild animals, but rather to respect them and the relationships we have with them. Their political role is something they already have, it is already in practice, and we just need to listen.

1.4 Defining “wild animals”

I distinguish free-roaming, nonhuman *wild animals* from *captive animals* such as those in zoos or laboratories, companion animals like our pets, working animals like police dogs or horses, and livestock animals including those raised for their dairy, meat, eggs, or honey. The contrast of wild and captive is meant to highlight different relationships to humans so that I can address some of the specific concerns about the treatment of wild animals who are not under totalizing human control, the way captive animals are (insofar as we feed, shelter, and maintain captive animals). There may be domestic animals (like feral cats) who count as “wild” for these purposes and there may be wild species (like tigers) who count as “captive,” when in a zoo.

I want to acknowledge there are several special complicated cases that are worth mentioning but would require a separate analysis. In this project, I am *not* going to discuss the complications that arise from considering: abiotic ecological entities (e.g. rivers), non-animal life forms (e.g. fungi, plants, bacteria), animals without brains (e.g. jellyfish,

bivalves), microscopic animals (e.g. tardigrades, dust mites), undiscovered animals, animals who are parasitic on humans (e.g. mosquitos, lice), animals that live in extremely remote parts of the ocean (e.g. deep-sea fish, giant isopods), or animals that are so small that their relationship to humans and the built environment is significantly different those of larger creatures who might make use of crossings, be stopped by gates etc. (e.g. tiny fish, most insects).

By excluding these cases I don't mean to say my view of wild animals has no implications for these species. However, these cases are not part of the paradigmatic examples, stories, and species I have in mind. Like my story of a turtle crossing the road, I will focus on examples of human interaction with reptiles (turtles), mammals (elephants, whales, coyotes, dogs, orangutans, deer), and birds (pigeons, crows). These examples often highlight plausible political relationships or ways of communicating with humans. Stemming from my choice of examples, my discussion of political relationships and forms of communication are going to generalize to some species more easily than others. So this is not a comprehensive attempt to address all human relations with free roaming animals. I don't want to suggest that humans have one sort of relationship to all other species, but rather that humans have a plurality of diverse and complicated relationships with many individual wild animal communities.

1.5 Chapter summaries

Overall this project tackles the general question: what is justice for wild animals? To which I can answer, justice is when wild animal communities are treated with respect such that their behaviour is taken into account when we settle conflicts or design ways of coexisting with them. More specifically I want to build on Donaldson and Kymlicka's (2011)

suggestion that wild animals ought to be treated as-if they were sovereign. However, in place of a Western conception of sovereignty I want to lean on an Indigenous conception of jurisdiction over land (Pasternak 2017). This important distinction changes wild animal justice from a matter of representing their interests as sovereign to one of listening to how wild animals already live with us. Although it preserves important limits on the power of human society, these limits on power are what I take to be the most important features of the Wild Animal Sovereignty proposal I aim to defend. Together this allows me to produce a model of justice for wild animal communities. My model requires careful observation of their behaviour, understood as a form of participating in political relationships with humans, where those relationships are clarified according to Indigenous (Algonquin and Anishinaabe) thought, and fit within the limits on government power highlighted by Wild Animal Sovereignty.

Chapter 2: Justice for Wild Animals

In Chapter Two, I will outline the central goals of justice for nonhuman animals. I address three sets of goals. First, I start with Nussbaum's (2006, 2018) account of what justice for nonhuman animals might look like. Second, I highlight some specific ways we might need to distinguish what justice looks like for wild animals from the general account that focuses on captive animals. Third, I explore Wadiwel's (2015) biopolitical critique of accounts of justice for wild animals. This critique highlights the importance of creating an interspecies community and not transforming the status quo—a cruel and negligent domination of wild animals—into a more beneficent form of continued domination. At the end of this chapter, I will collate eight desiderata for a model of justice for wild animals.

Chapter 3: Wild Animal Sovereignty

In Chapter Three, we will evaluate several proposals (Goodin Pateman & Pateman 1999; Hadley 2005; Donaldson and Kymlicka 2011) for how justice for wild animals might be achieved. As I go through these I will explain where they satisfy in whole or in part the eight desiderata from Chapter Two. I focus on Donaldson and Kymlicka's (2011) promising idea of Wild Animal Sovereignty. It easily provides many of the protections Nussbaum's (2006) account of justice would require, and it does so without the pitfalls I associate with Nussbaum's focus on captive animals. However, it fails to address Wadiwel's (2015) biopolitical concerns (which are part of the set of desiderata we are looking for). This leaves us with a call to find a different, more transformative form of Wild Animal Sovereignty that can involve the agency of wild animals.

Chapter 4: Wild Animals' Grounded Authority

In Chapter Four, I describe just such a new kind of Wild Animal Sovereignty which I call Wild Animals' Grounded Authority. This replaces the concept of sovereignty for the Indigenous form of self-governance which Shrirri Pasternak (2017) calls "Grounded Authority." This reimagines a world where land is shared between humans and wild animals, and wild animals are seen as not only worthy of respect but also as knowledgeable others who can express themselves and from whom we can learn. This account can plausibly satisfy all eight desiderata outlined in Chapter 2, including Wadiwel's (2015) biopolitical concerns of continued human domination. Wild Animals' Grounded Authority avoids domination through a decolonial challenge to Western hierarchies that make humans superior to wild animals. It suggests that wild animals' knowledge and behaviour are part of complex relationships that connect wild animal communities to the land (and water). These relationships justify a sense that the land is as much there for wild animal communities as it is

for humans. This is the sense in which wild animals are already sovereign. We just have to respect these already existing relationships.

Chapter 5: Wild Animals' Political Participation

In Chapter Five, I explain how the conception of animals as knowledgeable and expressive others lets us reimagine human and wild animal conflicts as negotiations. That is, respecting the relationships wild animal communities have with a shared world requires being attentive to them. When we erect barriers, track animal movements, or build bridges for them to safely cross highways, we are not just being good stewards, we are also listening to others whose behaviour itself carries a political meaning. When wild animal communities conflict with humans, they are telling us that something is not working. Obviously, this is not their intention, but we don't need it to be. Humans politicized the world, and so humans must politicize the meaning of behaviour. The goal of this chapter is not to make new suggestions about how to mitigate interspecies conflict. Rather, I want to highlight that when we mitigate interspecies conflict it is a matter of justice between two active political communities. This paints a picture of how we can apply the transformative conception of wild animals having their own jurisdiction on shared land. Wild Animals' Grounded Authority reimagines wild animal communities as political, and Wild Animals' Political Participation spells out what respecting that status means for human societies.

Chapter 6: Escaping Anthropocentrism

In this final brief chapter, I will address two objections to my view. The first suggests that I have conceived of politics in an anthropocentric way and would be better served by focusing on a wider view where wild animal communities are understood as having their own

political structures. The second suggests that there may be a level of anthropocentrism which is inevitable, as such my attempts to escape anthropocentrism might be misguided. After addressing both I offer a retelling of the story of helping a turtle cross the road, and I consider the implication of Wild Animals' Grounded Authority and political participation in that everyday type of encounter with wild animals.

In the end, I want us to reimagine relationships with wild animals as relationships that are part of an interspecies community that has its own interspecies politics. When we are confronted with wild animals, as the turtle I saw trying to cross the road, we should understand that we humans, as the builders and maintainers of things like roads, have an obligation to wild animal communities, including local turtles, to ensure they can still safely exercise the capabilities they and their communities require to flourish. Whenever a human intervenes to more safely coexist with our wild animal neighbours, like helping a turtle cross a road, we are facilitating a way of sharing land, which gives itself to humans and wild animals alike.

Chapter 2: Justice for Wild Animals

In this chapter I set up the goals for any adequate theory of justice for wild animals. To do this I will review existing theories of justice for nonhuman animals, drawing out their strengths and weaknesses. This review will develop a set of desiderata for an adequate theory of justice for animals.

To begin, I analyze Nussbaum's (2006) popular Capabilities Approach to justice for nonhuman animals. Nussbaum presents a theory, not just the goal posts of one, through exploring how she defines justice, and sets-up goals for her theory, we can discern part of a schematic that we can use to evaluate other proposals. To this schematic I will add three layers of criticism, each set of criticisms against Nussbaum's view clarify desiderata which Nussbaum may have overlooked.

The first set of criticisms concern Nussbaum's use of sympathy. They suggest the Capabilities Approach inadequately captures the relationships and power structures involved in human-animal relations. The second set explores some of the specific problems that arise for wild animals as opposed to captive animals. In particular, protecting the capabilities of individuals may not be adequate, we also ought to protect the capabilities of the wild animal communities.

The third set includes some criticisms which seem to apply to just about every proposal of justice for nonhuman animals. Dinesh Wadiwel (2014) suggests that there is a danger of governmental biopower—the power to define living things in politically salient ways—being used to transform one form of overt domination of nonhuman animals into

another more beneficent or less overt form of continued domination. He is concerned that justice for wild animals requires non-domination, or a “truce” in our war against animals. Wadiwel recommends that we still ought to strive for justice for nonhuman animals but that this can only be done through criticism of the systems of oppression.

From these layered criticisms I suggest eight desiderata for a theory of justice. The first three are drawn from the Capabilities Approach itself, (1) wild animals ought to have access to the resources needed to *flourish*, (2) where these needs are assessed *flexibly* to accommodate case-by-case variation, and (3) the protections required to ensure this are provided because the wild animals are *valuable as ends*, not for some other instrumental reason.

The remaining five are drawn from the critiques about what might be missing, unclear, or problematic about the Capabilities Approach. (4) The protections put in place ought to recognize already existing *relationships* between humans and nonhuman animals, including power structures that leave nonhuman animals in a vulnerable position. For wild animals specifically, we must also ensure (5) that their *communities flourish* (meaning they must be able to migrate, reproduce etc.) and (6) that these communities are not just left-to-themselves but are provided adequate *community protection* from habitat loss, poaching etc. To accomplish this without producing new forms of continued domination we ought to (7) understand humans as part of *interspecies communities*, and (8) we ought to constrain and *critique oppressive systems*. These desiderata will form the basis for evaluating various proposals, including my own.

2.1 Dignity and power structures

According to Nussbaum Capabilities’ Approach, we ought to strive to treat others (nonhuman animals included) with dignity. Nussbaum starts her discussion of what

nonhuman dignity might mean by citing an important case from the Kerala High Court, where they insist circus animals are treated in an undignified way, and this is unacceptable.

They conclude their verdict banning certain animals from circus work by saying that:

[...] we hold that circus animals are being forced to perform unnatural tricks, are housed in cramped cages. Subjected to fear, hunger, pain, not to mention the undignified way of life they have to live with no respite [...]. Though not homo sapiens, they are also beings entitled to dignified existences and humane treatment sans cruelty and torture. [...] If humans are entitled to fundamental rights, why not animals? In our considered opinion, legal rights shall not be the exclusive preserve of the humans which has to be extended beyond people thereby dismantling the thick legal wall with humans all on one side and all non-human animals on the other side. While the law currently protects wildlife and endangered species from extinction, animals are denied rights, an anachronism which must necessarily change (Nair v Union of India 2000, 16).

This case is a response to a legal conflict between the Indian government and the Indian Circus Employees Union. In 1998 the Indian government banned the exhibition or training of bears, monkeys, great apes, tigers, panthers, and lions for performance in events like circuses on the grounds that it was a form of animal cruelty for these species. The circus union challenged the order. They suggested that this was arbitrarily targeting them, as it permitted the exhibition of these same animals in other ways, such as in zoos, and it permitted the continued use of other animals, such as elephants, horses, donkeys in circuses and in other forms of labour (Nisha 2017).

The Kerala High Court upheld the order, rejecting the circus union's petitions of unfair treatment citing that there are significant differences between the treatment of nonhuman animals in circuses and in other places like zoos. They also rejected petitions which suggested that circuses "create conservation awareness or a feeling of living in harmony with nature" suggesting it was instead "merely a show of tricks to thrill and excite the public" (Nair v. Union of India 2000, 4) They also rejected claims that circuses train

animals in ways that are humane, that circuses transporting animals did not cause suffering, and that circuses contribute to conservation of endangered species.

Nussbaum (2006) takes this decision to be an international landmark. She highlights a potentially philosophically important use of language: “[circus animals] are also beings entitled to a dignified existence and humane treatment sans cruelty and torture” (Nair v. Union of India 2000, 16). While it is familiar for applied animal ethics to demand humane treatment and condemn cruelty, it is novel to add in a phrase like “a dignified existence.” Nussbaum sees this as an attempt to secure justice for nonhuman animals, not just welfare but something potentially more demanding.

However, there are concerns, as those animals who were liberated from the circus were often moved into zoos. P. R. Nisha (2017) suggests that this move is laden with political distinctions that may not reflect the well-being of the animals involved. She explains that this moves animals from private control of circuses to public control in zoos. The public zoos have an exemption to bans on exhibiting animals because of their claim to be for educational and scientific purposes. In the aftermath of this “liberation,” from one form of captivity to another, many of the liberated suffered. Nisha explains there were many deaths, the conditions in which the “liberated” animals lived were cramped, and the “liberated” animals were often kept on tranquilizers. She recounts the lamentations of Sujit Dilip, who runs Rambo Circus, who explains that even the old lions were made to travel, leading to their deaths, and that all of the animals from his circus who were taken to zoos have now died. Not only this but also that one of his employees, a tiger trainer, committed suicide when the government took away his animals.

Now, Nisha’s (2017) argument is not that the ban did nothing in the service of the animals; she insists that Nussbaum is right to applaud the invocation of “dignity,” and she

maintains that liberation is an end at which we ought to aim. However, she suggests that there is a concerning politics behind the selection of which animals are protected, and what institutions are considered a safe haven. Zoos are evidently not the sanctuary the Indian government had hoped. Further, which animals are protected can be arbitrary or politicized as well. In an earlier version of the ban (from a 1991 order by the Indian Ministry of Environment and Forests), the use of dogs but not lions were forbidden. This policy was reversed without explanation in the 1998 ban. In 2013 the ban on circus animals was expanded to include elephants (although this did not require the immediate transfer of elephants to zoos). However, throughout India for various reasons, including religious parades, elephants are often mistreated but these non-circus related performances are not banned, likely because of their relationship to religious institutions. These decisions about which animals count, and which institutions are safe, reveal a problematic set of power structures.

These power structures and politicized decisions are where Wadiwel (and others) raise concerns about continued human domination. We might proclaim even “dignity” for some but because humans remain the issuers of this “dignity” there is a risk that it will be issued along entrenched political divisions. Privileging charismatic animals (like lions), exempting politically important animal performances (like elephants in religious parades), and entrenching the divisions between human communities (like supporting zoos while condemning circuses) are just a few examples of how the anthropocentric and politicized notion of “dignity” can play out for animals. As we turn to examine the theories of animal justice, we should be cautious about the way human politicization and power structures might impact the analysis and the implementation of this “justice.”

2.2 Capabilities Approach to nonhuman animal flourishing

According to Nussbaum Capabilities' Approach, we ought to strive to treat others (nonhuman animals included) with dignity. For Nussbaum, treating others with dignity means being sympathetic to their needs, desires, and conditions for flourishing, which can be understood as the freedom to exercise their species-specific and individual capabilities (Nussbaum 2006). While the Capabilities Approach was originally developed with humans in mind (Nussbaum 2000; Sen 1986), Nussbaum (2006) develops it to include nonhuman animals.

In the version focused on humans, Nussbaum suggests there are at least ten capabilities which humans must have freedom to exercise: life; bodily health; bodily integrity; sensation, imagination & thought; emotion; practical reason; affiliation; interacting with other species; play; and control over one's own environment (Nussbaum 2000, 77-80). Nussbaum never suggests that these ten are a comprehensive list of all relevant capabilities, but it covers an approximate spread and includes several often overlooked capabilities, like the experience and expression of emotion, having a life that allows for interspecies contact, and a life that includes time to play. These capabilities provide a scope for plausibly universal positive rights to public goods and appropriate means required to exercise capabilities. If these material conditions are not met, humans are being deprived of the freedom required to live a good life.

Nussbaum suggests that these capabilities are the sort of thing which humans must have freedom and opportunity to exercise so that living a good life is possible. They hold a special normative significance, such that a society which fails to protect these capabilities likely has at least some individuals for whom living a good life is impossible. As such,

Nussbaum believes all societies should aim to protect these capabilities so that a good life is at least possible for their members.

This requirement helps to specify what qualifies a capability to make it on the list.

Nussbaum explains:

The capabilities approach begins from a political conception of the human being, and of a life that is worthy of a human being. A notion of the species and of the characteristic activities of a species does, then, inform it. [...] among the many actual features of a characteristic human form of life, we select some that seem so normatively fundamental that a life without any possibility at all of exercising one of them, at any level, is not a fully human life, a life worthy of human dignity, even if the others are present. (Nussbaum 2006, 180)

Here Nussbaum suggests that species is an important indicator of what is required for a member of that species to lead a good life. When talking about nonhuman animals Nussbaum switches language slightly, from “leading a good life” to “flourishing.” With that language changed we could say that for humans to flourish there are some features of their species which lead to characteristic activities. Humans require features like the freedom and opportunity to exercise practical reason, but such features may not be universally found across species.

Nussbaum extends the capability approach to wild animals by recognizing that many of these important capabilities are not limited to humans (other animals also think, feel, play, socialize). This recognizes that nonhuman animals do not live “solitary, poor, nasty, brutish, and short lives” in a Hobbesian state of nature. Under the right conditions, they are capable of flourishing with dignity.

She proposed that there are five capabilities, which she expects we ought to find intuitive, that ought to be protected for a wide array of species:

Dignified existence [for nonhuman animals] would seem at least to include the following: adequate opportunities for nutrition; freedom from pain, squalor, and cruelty; freedom to act in ways that are characteristic of the species (rather than to be confined [...]); freedom from fear and opportunities for rewarding interactions with

other creatures of the same species; a chance to enjoy the light and air in tranquillity. (Nussbaum 2006, 326)

These freedoms and opportunities are written in the context of freedoms humans might owe to nonhuman others. This only means that the opposite is an undignified form of treatment: acting cruelly, neglect, and causing pain; preventing them from acting in characteristic ways through confinement; causing fear and preventing them from having rewarding interactions with conspecifics through isolation; or confinement which prevents them from enjoying light and air in tranquility. For example, when the Kerala High Court decided circus animals ought to be treated with dignity. This means the circus animals are owed a life free from pain or fear, in the sense that they would be free from unnecessary pain or fear inflicted, more or less intentionally, by humans and in the service of entertainment. Using pain and fear to train animals to perform circus tricks for an audience is in conflict with a dignified existence. Since this is presented as something Nussbaum expects is widely intuitive, we should not read it as stating something like “we must prevent all pain and fear, etc.” and rather that we ought not to inflict unnecessarily pain or fear, etc..

These five are loosely related to five of the capabilities recommended for humans. Nutrition has replaced bodily health; freedom from pain, squalor and cruelty, has replaced bodily integrity; freedom of sensation, imagination, and thought, emotion, practical reason, interacting with other species, and play have all been replaced with freedom to act in ways characteristic of their species—which might involve freedoms of sensation, play, etc. depending on the species; opportunities for rewarding interaction with conspecific replaces freedom of affiliation, and opportunities to enjoy light and air in tranquillity replaces control over one’s environment.

This leaves us with the first of our desiderata for a theory of justice for wild animals: *flourishing*. Following Nussbaum’s intuition, a theory of justice for wild animals ought to

protect wild animals' ability to access the resources they need in order to have a possibility of flourishing. It's not clear that we must also define flourishing in terms of species typical behaviours but doing so is at least one plausible way of meeting this desideratum.

This account of protecting freedom and access to resources and opportunities so nonhuman animals have the possibility of flourishing opens up a new question. How are we supposed to know which of the characteristics of a species are relevant to that species' ability to flourish (lead a good life)?

Which capabilities a species has and how that species embodies their capabilities will vary widely, but all species have capabilities which they ought to be able to exercise, or so Nussbaum argues. Not only is there sometimes enormous variation between species, even within species we see significant variation with individual differences in personality and cognitive capacities. Because of this variation even within species, Nussbaum specifies that the capabilities of individuals must be taken into account, not just species or communities. Rather than focusing on identifying possible generalities, she suggests that in order to extend protection of capabilities to nonhuman animals we ought to adopt a flexible (if fallible) sympathetic reflection about their own unique set of capabilities.

Nussbaum's account of sympathy here is meant to be more than a "reflection" on their capabilities. Rather it is a reflection and also a projection of emotional significance. In *Upheavals of Thought*, Nussbaum (2001) uses "sympathy" to describe the way that humans attribute emotions (like love) to their companion animals. She suggests that "projecting" emotions is important even in our own inner life, as we describe our own emotions with common language without transparent access to our own inner states (Nussbaum 2001, 127). The analogy between sympathy and self-ascription of emotions highlights the central role of sympathy for Nussbaum, identifying the emotions of others.

This view of sympathy for Nussbaum differs from other emotional ways of relating to others, like compassion and empathy. These are, however, closely related. Sympathy identifies the emotions of others, from cues about how they express themselves, while empathy refers to “the imaginative reconstruction of the experience” (Nussbaum 2001, 329). In this case empathy is not projecting (or identifying) the emotions of others or the emotional significance something has for them, it is a kind of perspective-taking where one imagines being in the position of the other.

Nussbaum defines compassion as something rather more specific, it requires the identification of a serious and undeserved suffering. Further, one must recognize that the other who suffers is capable of flourishing and matters to oneself. Nussbaum explains “this person or creature is a significant element in my scheme of goals and projects, an end whose good is to be promoted” (Nussbaum 2001, 303). So compassion is a way of valuing others, while recognizing their tragic predicaments. It is importantly different from empathy for Nussbaum, as she explains that one could be empathic for someone who has done wrong, understanding their motives and how they might have felt, and yet not feel compassion for them because the consequences that befall them are not wrongful.

I started exploring this distinction to understand what Nussbaum means when she says that sympathy and compassion ought to be relied on to specify relevant capabilities that humans ought to provide for nonhuman animals. It seems to mean that because we (1) sympathize with nonhuman animals, and (2) feel compassion for them; it is also true that we attribute emotional significance to things in their lives (through sympathy) and that we value them in such a way that we recognize they suffer undeservedly (through compassion). The very fact that suffering is undeserved suggests something related to justice. To act compassionately towards nonhuman animals is only to aim to alleviate undeserved (or unjust)

suffering, and we can know when they suffer from a lack of freedom to exercise their capabilities because, through sympathy, we can identify their suffering.

In her 2006 book *Frontiers of Justice*, Nussbaum connects compassion for nonhuman animals to justice. She explains: “When I say that the mistreatment of animals is unjust, I mean to say not only is it wrong *of us* to treat them that way, but also that they have a right, a moral entitlement, not to be treated that way. It is unfair *to them*” (Nussbaum 2006, 337).

Compassion comes into the picture as a motivator, Nussbaum suggests:

Compassion overlaps with the sense of justice, and a full allegiance to justice requires compassion for beings who suffer wrongfully, just as it requires anger at the offenders who inflict wrongful suffering. But compassion by itself is too indeterminate to capture our sense of what is wrong with the treatment of animals. An adequate response involves compassion of a special sort, compassion that focuses on wrongful action and sees the animals as an agent and an end. (Nussbaum 2006, 337-8)

Here the special sense of compassion closely aligns with Nussbaum’s (2001) account of compassion in *Upheavals of Thought*. The sort of compassion relevant to nonhuman animals is the sort which recognizes them as an “agent and an end.” This recognition is what makes the wrongful suffering of nonhuman animals a matter of justice. Because nonhuman animals are agents who are ends-in-themselves, when we do wrong to them we are also violating some entitlement they have to not be treated that way. The “wrongness” is not only residing in their suffering but also in their being the sort of thing that can be wronged.

This special sort of compassion, which is a response to sympathy for the suffering of nonhuman animals, motivates humans to rectify the wrongdoing. We might imagine that there are forms of undeserved suffering, e.g. illness, where there is no wrongdoing. We might still be moved by compassion to ease suffering, but this is not necessarily a matter of justice. What is required to make it a matter of justice is our finding ourselves in a position of responsibility to provide remediation. If we were responsible for someone’s medical care and

failed to treat it, we would have done them wrong, in a way that feeling compassion for someone for whom we are not responsible is not associated with wrongdoing.

Nussbaum offers an example of how sympathy and compassion move humans to provide for the capabilities of individual animals with whom they have a relationship. A pet dog named Bear gradually lost the use of his hind legs, and while he seemed in no pain and could move around dragging his hind legs, his human companions got him a wheeled device that he could sit in to get around more easily. The wheeled device allows for greater mobility, which is an important part of many capabilities associated with flourishing (play, affiliation, bodily health etc.). Through sympathy, Bear's human companions were motivated to help Bear realize his capabilities through the enhanced mobility of the wheels.

We might ask how this is obligatory. There is something intuitively undignified about Bear dragging his back legs around. But this indignity is not imposed on Bear by some cruel or negligent other. So why is it a matter of dignity, or justice, and not merely kindness that Bear's humans provide him with wheels?

Nussbaum suggests that the relevant sort of dignity concerns something which is worthy of wonder and respect, and so infers from the wonder we feel when study nonhuman animals, "that wonder at least suggests the idea that it is good for that being to persist and flourish as the kind of thing that it is" (Nussbaum 2006, 349). On such an account it would seem that Bear's dragging his legs is in some conflict with "flourishing as the kind of thing that it is." At least this is true if we agree with Nussbaum that the "kind of thing that it is" refers to its species. Bear is a dog and dogs, as a species, at least when they live as companion animals, are typically mobile such that they are able to chase balls, follow you around the house, go for long walks, etc.. Bear's being a companion animal and a dog then suggest that

his disability is preventing him from realizing the capabilities typical of his species and plausibly necessary for his flourishing.

As with humans, though, not all characteristic activities are central to flourishing for the species. We therefore need some mechanism other than species to identify which capabilities are the sort of wonderful things associated with flourishing, and which are innocuous things that might be typical. Sympathy indirectly provides this. Or in other terms, we could say that the animal in question provides us with this information, and we just access it through our ability to perceive what matters to them. Through sympathy we come to know when others (including nonhuman others) are happy, flourishing, exercising capabilities which matter to them, and through sympathy we come to know when they are not flourishing, when they are unhappy, when they suffer undue hardship in attempts to exercise capabilities that matter to them.

In the human case the Capabilities Approach does not have the same reliance on sympathy. Capabilities are understood as something which societies must protect, typically through the legal actions of governments. We ought to sympathize with, empathize with, and be compassionate to other humans, but we do not rely on sympathy to inform us about what sort of capabilities are important to human flourishing. We both are human ourselves, and so have some introspective access to our important capabilities, but humans can also speak up, can demand rights and propose capabilities that need protecting. Nonhuman animals cannot do this, at least not in the same overt way humans can. Nussbaum explains, the addition of sympathy to the Capabilities Approach saying:

So: the capabilities approach [extended to include nonhuman animals] uses sympathetic imagining, despite its fallibility, to extend and refine our moral judgements in this area [nonhuman animal lives]. [...] there is no surefire recipe for doing this right; but we have to begin somewhere (Nussbaum 2006, 355).

Sympathetic imagining (or sympathy) is necessary because we as humans should not presume to know in advance the catalogue of capabilities appropriate to other species, and individuals of those species. Sympathy provides a flexible way to approach the huge diversity of possible ways we might intervene in the lives of nonhuman animals, without subordinating nonhuman animal relationships to human ones.

Not only does sympathy offer an epistemic tool for postulating what an animal might need to flourish, but it also motivates action. Nussbaum calls this motivating power a duty of compassion. She explains that it is out of compassion that humans have duties not to harm nonhuman animals. This is helpful because it does not require any attribution of specific capabilities or cognition to nonhuman animals, rather it condemns humans doing harm to nonhuman animals as a failure of compassion. To avoid such failures we ought to be sympathetic to the capabilities of nonhuman animals and recognize when we are impeding those.

Further, Nussbaum suggests that we recognize at least some set of capabilities as requiring protection. In this way it is sometimes out of duty (not charity) that we might provision nonhuman animals even if we were not the cause of their strife. Thus, we might say that Bear's human companions are appropriately sympathetic such that they can recognize that Bear's struggle with mobility is limiting his access to some important capabilities, which his human companions ought to protect in order for Bear to live a dignified life.

Now we can wrap up the summary of Nussbaum's view by the addition of two desiderata that we might want to find in any other comparable theory of justice. Our first was to enable *flourishing*, the second is *flexibility*. Whatever suite of rights or capabilities we protect, we ought to recognize that only the most minimal (like freedom from pain, squalor, and cruelty) apply broadly to the set of nonhuman animals. Rather we need some mechanism

to help identify the diverse needs of diverse collections of animals. For this purpose, Nussbaum has suggested sympathy as a way of understanding what nonhuman animals require to flourish. The third desiderata is that nonhuman animals are *valuable as ends*; when we ascribe protections to nonhuman animals we ought to do so because they are worthy of these protections just for being the sort of creature they are. Nussbaum manifests this in her account of the specific sort of compassion that recognizes the inherent value of nonhuman animals as others who can be treated unjustly in ways that we ought to rectify.

2.3 Empathy and vulnerability in relationships

Now we move into our first level of criticisms. I want to stress two closely related features that Nussbaum's account of sympathy overlooks. She describes sympathy as a way of reading the emotions of nonhuman animals, but she omits *empathy*, seemingly reserving empathy for human-human relationships. Further, she omits the *relationship* dimension. In the example of Bear the dog, his human companions are not just sympathetic but also have an intimate relationship with Bear. I note that this relationship is hierarchical, because while we might hope to avoid thinking of our pets as our "property," in most jurisdictions, companion animals are in fact are property. We are not just their guardians, but their owners. These elements might modify how we rely on sympathy, or any similar stand-in that accommodates our desire for flexibility.

Both empathy and the importance of relationships are key to Lori Gruen's (2015) detailed analysis of the role of what she calls "entangled empathy" in interspecies ethics. Here Gruen is explicit that empathy is more than imagining what it would be like to be in another's position, or striving to identify what they feel. Being empathetic is being attentive

to similarities and differences as we alternate between our own perspective and the perspective of others.

Gruen specifies that an important feature of interspecies empathy is that it is “entangled” by which she means that the self and the other are created (in part) through their relationships with one another. Gruen calls the activities involved in creation of separate selves from an otherwise entangled being “intra-actions” because the activity belongs to the relationship or entanglement and the outcome are separate individuals (Gruen 2015, 66). This non-individualistic metaphysics modifies Gruen’s account of empathy. Gruen explains:

Entangled Empathy with other animals involves reflecting on proximity and distance. To do it well we have to try to understand the individual’s species-typical behaviour and her individual personality over a period of time. Very often this is not easy to do without expertise and observation. (Gruen 2015, 69).

The phrase “proximity and distance” captures the inevitability of the relationships; we can be nearer or further from others in several ways, we can be more or less similar and we can be more or less closely affiliated. We are not just imagining the perspective of others, we are intra-acting with others who are already in relationships with us. In order to improve our relationships we must also be engaged in understanding others, aware of their differences including their species, but also aware of how they are not always going to behave in ways typical to their species.

If we modify Nussbaum’s account of sympathy by including entangled empathy, we have a more robust epistemic tool. In addition to sympathy and compassion, Entangled Empathy requires us to attend to similarities and differences which let us track not only what others might value and how others could flourish, but also how that valuing could be unlike our own. This reflective process is also done in the context of a relationship, which might be intimate (like the relationship between humans and companion animals) or distant and

mediated by shared ecosystems (like many relationships we have with wild animals). This relationship context might involve power structures about which we ought to be cautious.

Maneesha Deckha (2021) argues that any proposal which requires engagement with and observation of nonhuman animals (especially wild animals) could put those animals in more danger because of the increased proximity to humans. This raises an important consideration, namely that we should not take the call to respond to animals with Entangled Empathy or Nussbaum's sympathy and compassion as a call to increase our proximity to wild animals. We don't need to encroach on their land more in order to understand them better. Rather we should be attentive to the already existing relationships—and especially to those relations where we as humans may be doing harm.

Deckha helps to clarify this by insisting on two other important similarities between humans and nonhuman animals: not only are we entangled together in already existing relationships, but we are also embodied and vulnerable. In our empathic reflections we should keep this in mind. The vulnerability of nonhuman animals' bodies is deeply asymmetrical, in part because of the dominant human legal orders which consider some nonhuman animals "property." While humans and nonhumans are both vulnerable, most nonhuman animals are more vulnerable than most humans.

The vulnerability of nonhuman animal's legal status, as property, is not in line with seeing them as a dignified being who is valuable for themselves. Being another's property suggests that the value one has is "to" and "for" their owner. So long as nonhuman animals are seen as the property of humans they suffer a sort of indignity. In response to this problem, Deckha suggests that nonhuman animals ought to be provided with a new legal status that recognizes their vulnerable position in power structures of human domination. This highlights a second concern Deckha raises against empathy, namely that humans might empathize better

with some more charismatic, familiar, or closely related species. The power structure that establishes human supremacy remains intact even when we insist on empathizing with other animals.

Human power structure makes itself known in our privilege of some species, as charismatic and “likeable” species over others. We also privilege charismatic, “likeable” or otherwise powerful organizations over others. Think back to the case of the circus animals in India. Empathizing with their suffering in cages moves us to recognize their dignity and call for an end to circus performances, which is likely the right call despite the costs to humans employed in the circus. However, the aftermath of such a decision missed the vulnerability of these animals. They are vulnerable not just to the training and confinement of the circus but also to the transit out of the circus, to humans who conceived of zoos as safe havens because they were public, and for research and education. The animals’ position as the “property of humans” vulnerable to our biases, judgements, and prejudice remained intact.

The issue here is not that empathy has no role to play, rather it is an important step in informing us about what nonhuman animals need to flourish and when they are not flourishing. However, empathy is not enough on its own. The relationships we have with nonhuman animals are not neutral, they carry an additional vulnerability, a vulnerability to human domination. We can bring awareness of vulnerability into our empathic reflection. In empathy we oscillate between the similarities and differences between us and them, and one important difference in the case of nonhuman animals is their position in a power structure. We have to mitigate not just harm to animals, but also vulnerability to the arbitrary, legal, and governmental powers humans exert over nonhuman animals.

From Gruen we learn that our empathic reflection should be embedded within the already existing relationships, where our activities are already ongoing and modifications to

those require understanding similarities and differences not just how the other feels. From Deckha we add that these relationships are loaded with power structures that leave nonhuman animals vulnerable to the legal and decision-making powers of humans (in addition to the physical vulnerability to harm). Together this gives us a fourth desideratum, we want an account of justice for wild animals which recognizes *relationships*, both the entangled interactions in already existing systems and the power structures in those systems.

2.4 Protecting Wild Animal Communities

Thus far we have been focusing on core cases that Nussbaum (2006) brings up and they have all been about captive animals. However, there are some features about wild animals that may not be fully developed here. I want to take a closer look at two problems that have been raised concerning the application of the Capabilities Approach to wild animals. The first is a concern with feasibility, given that the Capabilities Approach requires humans to provide for nonhuman animals, but with wild animals we often are not in a position to do this. One solution is that we may not have to protect individual wild animals' capabilities directly; we can instead protect the communities and wider environments' ability to provide for the capabilities of wild animals. The second concern is that there are competing interests from different communities. A possible solution here is to recognize that species specific communities are themselves entangled in interspecies communities which also require protection.

2.4.1 Feasibility and wild animal communities

Nussbaum (2006) initially offers only examples of captive animals and suggests that humans have a duty to provide opportunities to exercise capabilities to captive animals. These

cases highlight some of the issues we might have extending the Capabilities Approach to wild animals.

Nussbaum says that species-appropriate enrichment for captive tigers in a zoo may include a heavy (roughly gazelle weight) ball on a rope. This toy allows them to exercise their predatory hunting capabilities through play. The weighted ball is species-appropriate adjusting for the size and strength of a tiger, it is something the tiger is free to use or not, and it allows for both play and some of the sensations and bodily health wild tigers might achieve through hunting. It also is plausibly informed by zookeepers who are humans with relevant expertise who regularly interact with these animals, so we might reasonably expect that this intervention is appropriately empathic.

Here we also see that exercising a capability does not mean realizing some function. The tiger does not require actually hunting or killing even though it is capable of this. The freedom to hunt and kill is not obviously part of a captive tigers' flourishing. However, while captive tigers may not require killing, wild tigers have no other way to eat (and even though the captive tigers did not kill their food they still eat the meat of other animals, typically animals who were industrially raised and slaughtered).

Here we find one major difference between captive animals and wild animals. We can interact with, identify, and treat captive animals as individuals in ways which are neither viable nor desirable for wild animals. Captive animals are owed provisions and protections in excess of what is plausible or appropriate to care for wild animals. Through this care and captivity humans are directly and intentionally involved in the exercise of power that control, sustain, and in many cases harm captive animals. Meanwhile, wild animals often enter into conflict with humans indirectly and unintentionally through human destructive interventions in their habitats (including resource extraction, highways, settlement, agricultural use,

recreational use, etc.). This means some of the conflicts we must sort out between human society and wild animals are mediated by their habitats, so we'll need something in addition to rules about when to provision or protect individual animals that are already under our control.

Further, captive animals are also handled and identified (often tagged, numbered, and round-the-clock monitored) as individuals. However, wild animals are often part of populations whose size and wellbeing can only be estimated from a sample of individuals. Yet we owe a duty of compassion to not harm all the unidentified and uncounted wild animals as well. This emphasizes the importance of understanding wild animals as part of communities which must also flourish in order for the individuals to flourish, and these communities are entangled together in ecosystems which also must flourish for the communities and individuals.

If we were to apply the Capabilities Approach to wild animals with the same individualism as captive animals we would run into viability concerns. Marcel Wissenburg (2011) criticizes the Capabilities Approach for being naïvely individualistic and neglecting the ecological whole in which individuals are embedded. He suggests that it should follow from Nussbaum's account that:

(a) predatory animals should be kept from cruelty and killing, either in the short run by capture, seclusion and distraction, or in the long term by genetic modification or, where all else fails, culling; (b) non-predators should be protected against overpopulation and famine first by the provision of food, but in the long run by sterilisation, genetic modification or, if unavoidable, culling (Wissenburg 2011, 402).

In this case, (a) and (b) appear to be required to protect the capabilities of both predators and non-predators on Nussbaum's account, as disturbing as they may be. However, this conclusion only follows if we assume that all of the provisions Nussbaum suggests are meant to apply to both captive and wild animals, and it ignores her emphasis on the actions of

humans. I suggest we can solve this problem via an addendum, which I take to be implicit in the first place. When Nussbaum says, “When I say the mistreatment of animals is unjust, I mean to say not only is it wrong of us to treat them that way, but also that they have right, a moral entitlement, not to be treated in that way” (Nussbaum 2006, 337), I suggest we add “by us.” She is suggesting nonhuman animals can be treated in a right or wrong way, instead of the view that humans ought not mistreat animals because mistreating animals is contrary to virtue or is bad for humans. Those moral entitlements can still be understood as rights they have with respect to humans.

This does not mean that humans only respond to the harms that humans have caused. For example, when Bear (the dog) lost use of his back legs his human companions were not the cause, however, we ought to conceive of their adopting Bear as a morally relevant act which makes them responsible for Bear’s medical care. Nussbaum is not explicit about this, but it seems reasonable that the act of taking on a dependent animal comes with additional responsibilities to provide for and protect that animal.

In Nussbaum’s (2018) restatement of her view she includes an example of the Capabilities Approach at work for a wild animal. The US navy was found to violate the Marine Mammals Protection Act by continuing a sonar program that affected the behaviour of whales. The court found that even though the program had a “negligible impact” on whales, it was still unlawful because it “can cause affected marine mammals to stop communicating with each other, to flee or avoid an ensonified area, to cease foraging for food, to separate from their calves, and to interrupt mating” (Pritzker, 1130-31). Nussbaum explains that these considerations are based on the capabilities of the whales, and this is the sort of sympathetic affirmation of animal capabilities for which she advocates. This example shows that protecting wild animals’ capabilities still means protecting them from us. So we

can say that distinguishing between duties to captive and wild animals requires focusing on the interventions humans make and not on imagining a utopian wilderness.

This also shows us that we must include some community level capabilities, not just individual ones. Consider that capabilities like uninterrupted mating opportunities are not part of the general individual capabilities we discussed. Individuals can live full and complete lives without procreating. In some species (e.g. feral cats) we advocate for spay and neuter practices so that the cat population doesn't decimate other wildlife (e.g. local bird populations hunted by feral cats). Nussbaum is explicit that catch and release, spay and neuter programs are a form of population control entirely in keeping with the dignity and capabilities of the wild animals involved.

She defends such activities by comparing them to the contrast case of lethal population control, in which case catch and release, spay and neuter programs are intuitively more in keeping with compassion and dignity. However, it seems that Nussbaum overlooks something she narrowly considers the "capabilities" which we must protect among nonhuman animals as behaviours separated from their outcomes. A spayed or neutered cat, for example, retains all their behavioural capabilities in some sense. They may still freely associate with and copulate with other cats, they just will not add to a potentially problematic cat population. The cat has also not been forced to behave in ways unsuited to a cat, however much being captured in the first place might be an indignity.

I don't dispute the acceptability of controlling populations of cats this way. I also think that Nussbaum may be right that the life of a cat is not worse off if their copulation does not result in kittens. However, when we discuss whales we are concerned that there is a dwindling number, and so in order to continue living in a species-typical way they must also successfully procreate (forage, and raise calves). Here we are implicitly concerned with the

community level capabilities but not just any community capabilities, those community level capabilities which are required for wild animals to exercise their individual capabilities.

The resolution to the apparent infeasibility of providing for the capabilities of wild animals is that *community flourishing* helps to secure the flourishing of individuals. This is our fifth desideratum. An account of justice for wild animals ought to have provisions for community flourishing, not just for individuals, because communities provide for the capabilities of their members.

2.4.2 Conservation, and competition between communities

Once we are in the business of protecting communities, we encounter problems of adjudication between multiple communities. Nussbaum's Capability Approach targets the capabilities of individuals, but in the case of wild animals those capabilities depend upon healthy ecosystems and other communities. Nussbaum (2006) addresses this through her discussion of habitat preservation when she says:

We have the ability to make countless choices that spoil or preserve the habitats of animals. In many cases, too, we have the power to save animals who might otherwise die of disease or the aftereffects of a natural disaster. It seems implausible to think that we have no duties of material aid in such cases; the only question should be how extensive they are, and how to balance them against appropriate respect for the autonomy of a species. This question is very similar in form to the question of foreign aid, and must, like that question be dealt with cautiously (Nussbaum 2006, 374-5).

First of all, the phrase "appropriate respect for the autonomy of a species" is odd because "species" is a category not an agent, species are not autonomous, and various communities or individuals of a species might have different sorts of autonomy. So when Nussbaum refers to the autonomy of a species, I read her as referring to a smaller group. Communities of individuals of a species might characteristically exhibit some form of autonomy. However, it

may not be the same in all cases, and various communities within the same species might have different interests.

With this caveat in mind, I read Nussbaum as making an appeal to the capabilities of wild animal *communities* to be autonomous from human intervention. Capabilities like securing sufficient food, raising young in species that do this, and procreating. These are the capabilities that allow for wild animals to do for-themselves what humans do for captive animals. So, we must balance our duties of compassion that lead to intervention with respect for a wild animal communities' ability to thrive without our intervention.

Here Nussbaum seems to anticipate Donaldson and Kymlicka's (2011) account of Wild Animal Sovereignty by comparing interventions in wild animal's habitats to foreign aid. There remains no duty for humans to provision or protect wild animals from all harms, and we are not expected to protect wild animals because they are "ours to care for." Rather out of compassion we ought to help with disaster relief and to ensure wild animals have access to unspoiled habitats, especially habitats unspoiled by us.

In Nussbaum's (2018) reiteration of the Capabilities Approach to interspecies justice she specifies her view. She explains that "The minute we say 'protect their habitats,' however, we are talking already of responsible stewardship of wild places. [...] Even after we prevent humans from polluting and developing large tracts of land where animals live, we need to intervene in other ways if they are really to be capable of living well" (Nussbaum 2018, 13). This transforms the character of protecting habitats; humans must choose to actively protect or spoil. This is helpful because it doesn't treat humanity as a monolithic agent. If some humans (i.e. governments) do not actively protect habitats, other humans might spoil them.

Here Nussbaum offers some examples of the kind of active protection she has in mind: “monitor the area for fire and water damage, intervene in times of drought, and, of course, try very hard to stop poaching” (Nussbaum 2018, 13). I find the inclusion of poaching interesting, because humans are also the poachers, meanwhile fires or droughts are often not directly caused by humans (but are increasingly prevalent and extreme because of anthropogenic climate change). Humans may in some cases have to take up responsibility to remedy the harms done by humans, but this is not the driving force of Nussbaum’s sense of duty. Instead, she suggests our duties to nonhuman animals stem from compassion and sympathy. Out of compassion for the suffering of others we should intervene to help when there is a drought; this is true for other humans and nonhuman animals.

Compassion, as a motive, contrasts with other plausible motives. When we act out of compassion, we see others as valuable for themselves and not for some instrumental value they play for humans, their own communities, or for their ecosystems. If we intervene in an ecosystem or community for instrumental reasons, we might be willing to use methods like culling of predators (especially those non-native species who threaten native species), invasive monitoring, or funding conservation through trophy hunting (Wallach et al. 2018). Compassion draws our attention to individuals, their capacity to suffer, and our duty to value them as more than their contribution to collective or ecological goods.

Let’s take stock again, Nussbaum claims, rightly, that protection of wild animals will require active intervention to protect their habitats and communities. This should be our sixth desideratum of a theory of justice for wild animals. It ought to provide a way of *protecting communities* of wild animals both to ensure adequate population, freedom from undue human inflicted suffering (e.g. poaching), and to ensure (as far as this is plausible) that there is adequate habitat, which is not made desolate by human industrial activity or natural disasters

(e.g. forest fires). Nussbaum proposes that duties of compassion ought to motivate and describe what sorts of protections are needed.

We've already mentioned a possible problem with this and that is compassion without an awareness of the power structures at play and the vulnerable position of nonhuman animals in relationship to human decision-makers means that even compassion can be anthropocentric. For example, compassion might demand that nonhuman animals not suffer, but that may not be at odds with culling or profiting from nonhuman animals through painless means. Nussbaum (2006) says that killing for sport, luxury items like fur, and cruel practices of raising animals for food are clearly in conflict with the compassionate duty to not inflict harm. However, she leaves space for painless killing of animals for reasons of animal control or food—with the qualification that we should not use the “at least the more complexly sentient animals for food” (Nussbaum 2006, 393). This seems to endorse an anthropocentric power dynamic, where it is up to humans to decide which animals can or cannot be painlessly killed for food, and what that process would be like. It is also up to humans to decide which species are in need of control or to control a nuisance species.

I take it that typically those advocating for duties of compassion to motivate justice for nonhuman animals are going to insist on exercising the greatest caution and exhausting every possibility before using culling as a form of animal control. A concern here is that humans “exercising the greatest caution” still allows humans to decide too much. Jennifer Davidson (2018) suggests that this can be rectified by claiming that humans cannot use animals solely for human benefit or profit. This sort of claim makes more concrete what sort of caution we should exercise. Like humans' treatment of other humans, we can profit off and benefit from one another, but not to the exclusion of the value each human has in-themselves. So too the treatment of others should never be solely for the benefit or profit of one group.

We might need to add further qualifications, such that humans ought not to act so as to solely benefit one nonhuman animal community over another. This seems in-line with compassion, but not just compassion. There must be, in addition to compassion, a standard against which humans might judge competing claims. Such a standard would prevent humans from evaluating when and how to intervene in accordance with anthropocentric values.

A commitment to compassion gives us one further commitment concerning conflict between nonhuman animal communities. Compassion for individuals, or even for communities of a particular species leaves a serious problem because it allows for the compassionate to end up with conflicting duties to multiple communities (or individuals) from different species. One common conflict might concern, on one hand, compassion for individuals from a native species who are threatened by another species that is new to the ecosystem (e.g. native bird communities being threatened by feral domestic cats), and compassion for the individuals from the newly introduced system. In such a case, compassionate conservation conflicts with nativism—privileging historically endemic species over more recently introduced species. If we value nonhuman animals because they have capabilities allowing them to live well as individuals it matters little whether they are endemic to a region. We ought to recognize that while there are risks when populations move into new ecosystems, there is also a possibility for those ecosystems to provide sanctuary to wild animals who face threats in their native ecosystems, and for these introduced populations to thrive and contribute to species richness (Wallach et al. 2018). We ought to reiterate a central claim of the Capability Approach here, we are not supposed to decide in advance the capabilities of nonhuman animals, and compassion lets us care for their capabilities without circumscribing them in advance.

To resolve conflicts between communities (such as native species in conflict with introduced species), Francisco Santiago-Ávila and William Lynn (2020) suggest taking a step back from understanding justice as duties of compassion between humans and other species. Instead, they swap out some of the work “species” is doing for a broader “interspecies” community. If we conceive of land as inhabited by an interspecies community we can evaluate how populations (already entangled in relationships together) relate to one another. When there is conflict within the community and intervention is required, conceiving of the community as an interspecies whole will preclude some problematic polemics. In an interspecies community the division between native and introduced species doesn’t hold moral weight. Native species, for example, are not one community segregated from introduced species.

Santiago-Ávila and Lynn suggest the interspecies community to whom we owe compassion contains individuals who are interdependently participating in intrinsically valuable ecological communities. They also add that it is important to recognize humans are also animals and also part of an ecological whole. The idea of an ecological whole, including humans and nonhuman animals provides a more richly entangled context in contrast to the individualistic and species-specific Capabilities Approach.

So now we have our seventh desideratum. When a theory of justice must adjudicate between communities it should recognize that those communities are themselves interrelated in an interspecies community. This stands in contrast to Nussbaum’s view in one sense, Nussbaum relies on species typical behaviours to help decide what flourishing looks like. Interspecies flourishing might, instead, have a lot to do with the location of the interspecies community because an interspecies community is defined by its shared space and not its species. So, plausibly in addition to duties of compassion we might also need to understand

the limits of compassion. Wild animals are vulnerable to, among other things, humans being more compassionate to a competing community. This vulnerability calls us back to the problem of power structures intervening in our pursuit of justice.

2.5 Biopower critique of animality

The third set of criticisms for the Capabilities Approach focuses on how we might reach an understanding of an interspecies community through criticizing human exceptionalism, letting ourselves be part of a broader community. The issue is that, while compassionate and well intentioned, the Capabilities Approach remains compatible with the pervasive power humans have over nonhuman animals. Humans dominate them not just in terms of physical control but in our own ways of conceptualizing what an animal is, what it should be, how animals are divided from other animals, particularly from humans. These conceptualizations can end up playing a serious role in the application of otherwise well-intended pursuits of justice for nonhuman animals (e.g. the circus animals whose liberation from one form of human domination in circuses only led to a new form of human domination in zoos).

I will begin with an exploration of the problem in general. Then I will raise two issues, the first of which challenges the Capabilities Approach directly for its complacency regarding humans' continued domination of wild animals. After this I will explore a specific problem Wadiwel (2015) suggests applies to almost any proposal for wild animal justice, namely, that regardless of what systems we implement if humans control that system it has the potential to continue human domination of nonhuman animals. Wadiwel proposes a resolution, which might help us achieve justice for wild animals, and that is taking up a critical attitude to the institutions that systemically reproduce injustice.

In this discussion I raise concerns about power structure. For humans to properly account for justice and dignity of nonhuman animals, we ought to be critical of division of human and animal wherever this gives humans power over the “inferior” animal. We’ve already touched upon the obvious falsehood at work in the human-animal divide, namely that humans are animals and can be part of interspecies communities.

Wadiwel (2015) suggests that the power relations between humans and animals are deeply problematic even when the humans strive for justice, -dignity and flourishing for nonhuman animals. He critiques attempts at an interspecies theory of justice for reifying humanity’s domination of wild animals, because in the end it is humans who will represent animals, humans who will judge the merits of their cases, and humans who will define what they can claim. That’s not to say justice is impossible, but rather that striving for justice will require undermining human control of nonhuman animals. This undermining might mean challenging institutions like sovereignty or land management as an exclusively human realm and exploring how we might develop interspecies re-conceptions of sovereignty or land management.

Wadiwel’s (2015) critique of the Capability Approach and other approaches to justice for nonhuman animals begins with a criticism of Michel Foucault, and Giorgio Agamben’s exclusion of animals when they addressed governmental domination of humans, as biological bodies. He endorses their idea, called “biopower,” which explains that governments use facts of biology, classification of what is or is not “normal,” and other conceptual tools to control living bodies. However, he suggests they overlooked some explicit applications of biopower when it comes to animals (the decision that some animals can be meat for example).

He points out that the way humans circumscribe the lives of nonhuman animals ought to be an obvious case of exercising biopower and yet it’s quite contrary to the history. Michel

Foucault coins the term “biopower” as a way of describing relationships between humans and the institutionalized power structures that control humans. Foucault (2007/1978) describes biopower as:

the set of mechanisms through which the basic biological features of the human species became the object of a political strategy, of a general strategy of power, or, in other words, how, starting from the eighteenth century, modern western societies took on board the fundamental biological fact that human beings are a species (Foucault 2007/1978, 16).

It is explicitly about humans, and only humans. We may be the only species for whom being-a-species is a problem, we alone take on this biological fact. With it humans become something exceptional, simultaneously becoming part of the category “animal” and being a special sort of animal. This raises the opportunity for humans to decide what it means to be a “human” to define ourselves as a species attributing human-ness to some traits, animal-ness to others and in so doing creating a method for humans to oppress and elevate different groups based on their affiliation with *that which makes us human* and *that which makes us animal*.

Only humans must face an existential reality of being-a-species (or being an animal). However, humans are not the only species whose being-understood-as-species is part of the systems that dominate them. Even where we attempt to ensure wild animal conservation or welfare we make use of concepts rooted in their biology, or in our delineation of their biology, concepts like “endangered species” or “species of least concern.”

Agamben (1998) expands on the concept of biopower, suggesting that all law is originally an exercise of biopower, namely the power to kill “bare life.” The tragedy of law for Agamben is that humans under law can lose their humanity to a mechanizing totalizing “death.” This is captured in the horror of control exercised by concentration camps, (we might add any number of other forms of extreme control, including the internment camps,

residential schools, and apartheid). Agamben suggests that these measures of control allow “Law” to create a state of exception relegating humanity to “bare life”; which then can be manipulated and killed.

Wadiwel points out that exactly this sort of control—that which treats living others as “bare life” that can be preserved or extinguished—is exercised over nonhuman animals. For example, the abattoir is a place where nonhuman animals are reduced to “bare life”—they are living meat, not dignified others. Ultimately anywhere that the law can exercise the power to (lawfully) kill it reduces those subjected to such a law to bare life, they lose that which made them more than just living, their status as something whose life must be protected by law. Now Nussbaum might call such a state “unjust” but the injustice of lawful killing is precisely what is at issue. In addition to the horrors captive animals (conceived of as property) face, wild animals too faced lethal population control, hunting quotas, as well as a different sort of reduction. They are destroyed without consequence as collateral; they die as roadkill, from destroyed habitats, pollution, etc..

The big concern here is not even that this suffering, death, and trivialization is unjust. The problem is that human governments retain the control to decide which circumstances, and which species or communities, count as justly killed or justly ignored. This control permeates human-animal relations, and is not criticized by Nussbaum. It remains that even on the Capabilities Approach wild animals can be made into nuisance animals, invasive animals, an overpopulated animal etc. all of which allow us, possibly even oblige us to, in Wadiwel’s words, wage war against them.

Wadiwel’s conclusion is that we ought to call a truce and end our war against nonhuman animals. This “war” language focuses attention on the violence of our actions and our intentional control of nonhuman animals, and because of this focus on intentional

violence it takes the domination of captive animals by human institutions as the paradigm case of animal-human relationship. However, I think it fails to capture the often unintended violence against wild animals, which must include violence done even to those species of animals we have extinguished before we identified them. Humanity did not even make-believe a pretence for war, our superiority over wild animals is taken for granted, nearly a self-evident truth; in this it is unlike war as it is the denial of the standing that could allow our violence and neglect to count as a war. I like the term “standing” because it conveys the uniquely anthropocentric implication that those other species who do not stand are excluded, given that their species’ incapacity to stand reflects their lacking the appearance of humanity. Without the appearance of humanity they disappear without any pretense into a background of nature foregrounding the (unnatural, manufactured) glory of “civilization.”

The poignant element of Wadiwel’s (2015) critique of Agamben is that he distinguishes Agamben as attempting to prevent the “animalization of man” and recognizes this as a missed opportunity to resist the systemic violence against non-human animals. Wadiwel suggests that “our relationship to animals is characterised by a balance struck between life and death, where the minute and organised management of the life of populations is key to understanding the dynamic of this relation” (Wadiwel 2015, 101). Humans as managers and organizers are typically not individual humans, but our governments, corporations and other organizations which dominating animals. These entities are constituted by humans, and they organize and direct both the humans that constitute them and others affected by them through law, supply chains, economies, and prevailing social norms or imaginaries. I like that Wadiwel says “management of populations” and not “management of animal populations” because humans and nonhuman animals are together in both being-managed by “humans.”

Understanding humans and nonhuman animals as “animals” described and controlled by human institutions opens up the space to think of “human” and “animal” differently. Here I find that Donna Haraway (2015) captures the shared domination of humanity and non-human animals exquisitely, calling the current state of the world a “chthulucene”—an era of sacrifice and death, or decomposition and destruction. She invokes the ancient Greek word “chthonic,” which describes sacrifice to the ancient Hellenic gods of the underworld. She sets the moral task of this era to be kin-making and opposes it to “the dithering.” That is, given the sacrifices and doom facing our world, we are at risk of dithering, not preparing for an intentional decomposition of an old world into a new world, but continuing as-if there was no need for action in the face of decomposition and destruction. To avoid dithering, and instead to make kin, Haraway tells us to embrace the chthonic aspects of our world, what she calls being “sym-chthonic,” which means decomposing the world of human-superiority intentionally. We are sympathizing with the decomposers, with the old gods of the underworld, not because we praise apocalyptic destruction but because there is an opportunity for new love, and new life. Without human superiority we are free to treat our fellow creatures as kin.

She calls this attitude being a “compost-humanist” rather than a “post-humanist.” On such a view, the world, shared amongst all animals, humans included, is being treated as a sacrifice, perhaps to the capital of the “capitalocene” or the human society of the “anthropocene” as alternate descriptions of the same anthropogenic doom that looms over us all. In the face of such darkness, she insists that all animals, humans included, are kin and insists that kin-making should be our goal. Contrary to Agamben’s resisting the animalization of humanity, she stresses that human-animals have a common enemy, it happens to be a product of human activity.

2.5.1 Biopower critique of the capabilities approach

Wadiwel (2015) suggests that the Capabilities Approach reifies human domination because it insists upon humans continuing to unilaterally decide what nonhuman animals are and what they are owed. Wadiwel is concerned that the status quo human domination of nonhuman animals persists because the Capabilities Approach relies on defining the protected capabilities in terms of their relationship to a so-called “species norm.” This allows the status quo to be smuggled into the Capabilities Approach by hiding domination behind this concept of what is normal for a species, as-if what is normal (in the actual world with human domination) was not going to colour what counts as normal for some species.

Wadiwel finds this danger especially clear in Nussbaum’s insistence that part of the “species norm” for domestic dogs is their subordinate companion relationship to humans (see Nussbaum 2006, 376). This suggests that at least for the domestic dog its (often beneficent) domination is not in conflict with its behavior typical of the species. Wadiwel explains: “The morally sensible alternative is to treat them as companions in need of prudent guardianship, but endowed with entitlements that are theirs, even if exercised through guardianship” (Wadiwel 2015, 232). This may seem like a distinction without a difference, as the companion animal in this case ought to be treated the same, but it raises an important theoretical point. The problem for Wadiwel lies in the continued justification of a hierarchical stratification between humans, who are empowered to judge the capabilities of others, and the nonhuman animals who are judged.

We’ve touched on how we might do this already. It is important to recognize pre-existing relationships in which humans and animals are already entangled (Gruen 2015). From this relational context we can reflect on the ways in which nonhuman animals may be

vulnerable to human power (Deckha 2021). Ultimately our goal ought to include making kin and recognizing a common interspecies community (Haraway 2018). With these cautions in mind we might look for justice by undermining and criticizing dominant institutionalized power structures, in favour of protecting the vulnerable and building on existing interspecies relationships to inform a kin-making practice that builds community between human and nonhuman animals.

This leaves us with perhaps a more nuanced addition to our seventh desiderata. We want a theory of justice which conceptualizes wild animal conflicts in interspecies communities, but we also want to conceptualize humans as part of interspecies communities without dominating those communities. This form of interspecies community stands in contrast to the “dignity” provided to the circus animals in India. In the name of dignity or justice they were moved, from one undignified exhibition to another supposedly more dignified exhibition, and in the process many died. It seems plausible that this move recognizes the inherent dignity of the animals. Further, even those like Nussbaum who applaud the decision could consistently support the court decision while condemning its execution. However, the root of the problem may be that human domination pervades both the case of “just” and “unjust” treatment. This allows for justice to be subverted. Instead, we should look for how we might live with nonhuman animals. For captive animals this project, as I mention in the introduction, is unfolding in places like animal sanctuaries which take rescued animals and have them live in dignity as part of interspecies communities that include humans. But where does that leave wild animals? How are we supposed to break down domination of their wilderness and land so that we can have interspecies communities aimed at a sense of justice that promotes flourishing while also criticizing systems of domination?

2.5.2 Biopower critique of sovereignty

Wadiwel (2015) suggests that being critical of stratification requires challenging existing institutions, and wild animals living in “wilderness” lands are subject to human authority over land, within our borders, that is they are subject to our governments and our sovereignty. The dominant human sovereignty regimes are a central problem because sovereignty is the authority with which human governments control nonhuman animals. Wadiwel’s (2015) use of “sovereignty” stands in for Foucault’s (2007/1978) “governmentality.” Wadiwel prefers the use of “sovereignty” language because it directly relates to what he seems to take as the best-on-offer model for achieving justice for nonhuman animals, namely Donaldson and Kymlicka’s (2011) *Zoopolis*. Donaldson and Kymlicka argue that nonhuman animals should be treated as citizens—if they are captive animals, denizens—if they are wild animals living close to human settlements, or sovereign in their own right—if they are wild animals. Wadiwel endorses this in part, and suggests “the end point [of the pursuit of justice for nonhuman animals] should be imagining the possibilities for animal sovereignties, even if this recognition might take away our own sovereign rights” (Wadiwel 2015, 234). Wadiwel is suggesting that the goal ought to involve securing some sense of political power, an “animal sovereignty,” but expects that our own sovereignty will have to change to accommodate this new animal sovereignty.

Wadiwel criticizes the dominant institution of sovereignty saying:

Human sovereignty over other animals is in essence arbitrary. Our self-declared sovereignty is not gained through our rationality; nor through our cleverness; nor through our extraordinary moral worth. On the contrary, [...] our capability results from our use of violence to appropriate other animals, a process by which we come, after the fact, to claim a supposed “superiority” over other living beings (Wadiwel 2015, 253).

This suggests it is our sovereignty over non-human animals which is the problem. Our sovereignty, which affirms that we are a special species, our well-being matters, at the expense of the animal, (that same animal we might like to pretend we are not). In contrast nonhuman animal sovereignty is ultimately about *not* being under human sovereignty. But we can also challenge the rest of the supposed grounds. We are not “superior,” those special things only humans can do, like reading, writing, building rocket ships, these do not justify domination. It is not in virtue of these unique powers that our well-being matters, rather flourishing, the flourishing of the world, of ecosystems, and of all animals (human, captive, and wild) matters.

We will discuss Wadiwel’s critique of Donaldson and Kymlicka’s proposed sovereignty for wild animals more in the next chapter. For now, let’s suffice to say that in order to avoid dominating nonhuman animals we not only need to institute protections for their flourishing, but also have to constrain our own power to do violence, intentionally and unintentionally to nonhuman animals.

In the end here we have an eighth desiderata, which I’ve hinted at throughout this chapter. A theory of justice for wild animals ought to *critique oppressive systems*. This might include being critical of institutions like sovereignty, which can be liberating for some—those who are well represented by the sovereign, and oppressive to others. Undermining this sense of human control will present a serious challenge to existing theories, and while it is desirable, it is possible that any theory of justice for wild animals will inevitably fail to achieve this. Nevertheless, we can likely achieve it in part by being critical of at least some systems. These desiderata are aspirational, and in what follows I will explore how best to meet them.

2. Tallying up the do's and don'ts

The account thus far has raised several “do's and don'ts.” Let us now summarize what we have so far. From the Capabilities Approach I draw our first three desiderata. (1) Flourishing: justice for wild animals ought to lead to their flourishing, where flourishing is understood as the freedom to exercise their capabilities. (2) Flexibility: a framework aimed at justice for wild animals ought to accommodate variation in capabilities, securing some broad capabilities without limiting the protections that might be given on a case-by-case basis. Nussbaum has suggested sympathy can play a central role in achieving this flexibility. (3) Valuable as ends: whatever protections are given to animals ought to be given to them in virtue of their own right to the freedom to flourish, and not for any instrumental or anthropocentric reason. Nussbaum suggests duties of compassion may have a role to play in appreciating animals for-themselves.

From Gruen we get the fourth desiderata. (4) Relationships: when we assess concerns about how to flexibly accommodate various animals, their needs as individuals or communities, we ought to situate that assessment in an understanding of the already ongoing relationships which entangle us. Through our relationships we can empathize with nonhuman animals and better understand them. Our empathic reflection and compassionate valuing, however, is also in a context where we have unequal relationships, and nonhuman animals are the more vulnerable party in this hierarchy. Overall, we want a theory that recognizes the existing relationships and their existing risks.

Then we raised two more desiderata concerned with justice for wild animals in particular. (5) An account of justice for wild animals must protect autonomous community and ecosystem level capabilities (like predation and reproduction) so that wild animals have the necessary provisions to continue flourishing. (6) Humans must intervene to protect and

preserve ecosystems from destruction (sometimes by other humans). These interventions ought to be made in the service of an interspecies community, such that all communities are considered without privileging one community flourishing over others.

The final two desiderata concern biopower. (7) We should be acutely aware that humans are also animals who are part of these interspecies communities, they are not some separate privileged being. This is also captured through Gruen's recommendation that when we reflect and empathize with nonhuman animals, we ought to do so from the already entangled relationships we have with nonhuman animals and the broader ecological world. (8) Finally, we should expect that in addition to institutions and laws that protect nonhuman animals, we ought to look for the necessary constraints on human authority which can make space for nonhuman animals to be free of domination by humans.

Provided with these eight desiderata, we can now turn to developing a conceptual framework to establish justice for wild animals. This framework will account for those specific concerns affecting wild rather than captive animals and will avoid reifying human domination of wild animals by being critical of the oppressive institutions themselves.

Chapter 3: Wild Animal Sovereignty

Wild animal communities are thrust into and affected by human political activities. Those animal communities don't have a standing in the human political communities making decisions which affect them, often with devastating results. This problem moves Donaldson and Kymlicka (2011) to say animal rights theory must identify "an appropriate structure of political relationships between human societies and wild animal communities" (2011, p. 157). The aim of this chapter is to evaluate existing answers to this challenge.

The most prominent answer to this challenge is Donaldson and Kymlicka's own; they suggest the appropriate relationship may be analogous to the relationships between sovereign states as reflected by international law, and they call this view Wild Animal Sovereignty. This is one of three views Donaldson and Kymlicka (2011) advocate for in their book *Zoopolis*, in which they propose that wild animals living apart from humans and only temporarily coming into contact with humans ought to be thought of as *sovereign*; captive animals,¹ such as pets and farm animals, ought to be thought of as *citizens*; and the wild animals we live among, such as the pigeons and racoons in city gardens, should be considered *denizens*—non-citizen residents.

In Wild Animal Sovereignty, wild animal communities are taken care of by recognizing and protecting territory that is reserved for members of that community. This move allows for ecological, and community-level capabilities to be protected through

¹ They use the term "domestic" animals but they mean the same set of animals I have been calling "captive."

respecting wild animals as valuable-in-themselves and rights holders themselves. It preserves not just individual animals, but relationships between individuals, as well as animals' cultures, which are now well-known to be robustly different across communities of the same species (Whiten 2021), and which are increasingly seen as relevant for conservation goals (Brakes et al. 2021).

In this chapter, I will explore whether or not Wild Animal Sovereignty adequately meets all eight of the desiderata we outlined in chapter two. To do this I'll look at four closely related views. We'll consider a precursor to Wild Animal Sovereignty which I call Westphalian Wild Animal Sovereignty, developed by Robert Goodin, Carole Pateman and Roy Pateman (1997). They suggest that great apes have been wrongly excluded from sovereignty, even on a Westphalian account of sovereignty. This model captures a lot of what we want in a theory of justice, and satisfies four of our eight desiderata.

Then we'll explore how Donaldson and Kymlicka (2011) improve on this view by making it more flexible to accommodate a wide range of wild animal communities, and build on the already existing relationships wild animal communities have with human communities. This account satisfies six of the eight desiderata, leaving us with two features that are not yet satisfied. Donaldson and Kymlicka's account doesn't criticize existing institutions like sovereignty and it maintains divisions between human communities and wild animal communities rather than working towards an interspecies community.

To ameliorate the concerns of potentially maintaining problematic hierarchical institutions I consider John Hadely's (2005) and Karen Bradshaw's (2018) account of Wild Animal Property. Their attribution of property to wild animals through trustees might place important limits on the power human representatives of Wild Animal Sovereignty might have. Ultimately, though these limitations only apply in some cases and still fall short of

Wadiwel's (2015) call for interspecies community and criticism of institutions which we found desirable in chapter two.

Finally we revisit Donaldson and Kymlicka's account to explore whether or not the inclusion of denizenship might help their account satisfy the call for an interspecies community that includes humans. I will ultimately suggest that the denizen account helps, and gets close to producing an interspecies community, but it retains some of the hierarchical trappings of human supremacy and so it fails to satisfy the sort of kin-making Haraway (2015) recommends.

Despite the challenges with building an interspecies community that includes humans, or developing a model of Wild Animal Sovereignty that is critical of the institutions which have hitherto lead to the oppression of wild animals (like human sovereignty or property), I find Wild Animal Sovereignty the most compelling account of justice for wild animals currently on offer. The specific problems it has point me to a variation of sovereignty that might be more suited to the interspecies and critical aims we laid out in chapter two; that variation is Grounded Authority. We will consider this alternative in detail in chapter four; because it starts from Indigenous conceptions of governance and land management it might be able to criticize some of the human supremacy that seems inevitable when considering Western conceptions of sovereignty.

3.1 Westphalian Wild Animal Sovereignty

Let's begin with the most literal conception of sovereignty, from here we can try to show what is working and how something like sovereignty might be a powerful way of protecting the flourishing of wild animals as both individuals and part of their own communities. Goodin, Pateman, and Pateman's (1997) account of Simian Sovereignty, or

what I have called Westphalian Wild Animal Sovereignty, was a forerunner to Donaldson and Kymlicka's (2011) Wild Animal Sovereignty. Goodin, Pateman and Pateman (1997) suggest that it is arbitrary to exclude great apes from sovereignty, where "sovereignty" is understood in the traditional Westphalian sense—independent nations have absolute control within their borders. They were inspired by "A Declaration on Great Apes" (Cavaleri & Singer 1993), which aimed to extend "the community of equals" to great apes by calling for (1) the right to life, (2) protection of individual liberty, and (3) prohibition of torture. Goodin, Pateman, and Pateman (1997) urge a similar extension of sovereignty based on the Westphalian system to include great apes by calling for independent territories set aside for great apes.

The Westphalian system aims to understand sovereignty as the sole and absolute authority of a community's leaders within their borders (p. 827). Goodin, Pateman, and Pateman (1997) explain that the requirements of the Westphalian system are so minimal it is arbitrary to exclude great apes. Like humans, great apes (and potentially many other animals) have communities that exercise authority over a distinct territory. They point out that the Westphalian system is important in its minimalism; it brings an end to concern about the most capable, virtuous, or divine leadership and urges us to respect whatever authority reigns in a region, so long as that authority is strictly bound to that region. Great apes are not as capable of political leadership as humans, but they do establish leadership of a community that reigns over a territory and *that* is what matters. Therefore, exclusion of non-human great apes from the global political community is an injustice.

Recognizing this injustice poses a new problem: how can we include wild animals in an enormously complex, global, political world, which they could not possibly understand? Goodin, Pateman, and Pateman (1997) suggest several possible resolutions, the most

dramatic of which is a “purchase” of great-ape territories from the countries where they live. After securing the territory, the purchasers establish a trustee system to ensure the continued integrity of the territory; then, the purchasers relinquish control granting independence to the great apes and their trustees, which can be internationally recognized and protected.

Goodin, Pateman, and Pateman (1997) suggest that a more plausible variant may be focused on interdependence not independence. Interdependent sovereignty for great apes might take the form of an internationally protected conservation space within an otherwise sovereign state, without a “purchase” exactly but what they called a debt-for-nature swap. It could also take the form of a mixed community, and I find this to be the most plausible, with humans that living near great apes as part of a somewhat autonomous system that holds great ape territories in trust. In all these situations, Goodin, Pateman, and Pateman are advocating something like control of land that is, as far as is practicable, isolated and not available for access by humans.

A problem with their view is that the legitimacy of the great apes’ claim to sovereignty rests upon similarity to humans. So both what we understand sovereignty to be, namely a largely autonomous, permanent, discrete territory, and what entitles a community to that sovereignty—some ability to exercise authority—both continue to take the human case as paradigmatic. Other great apes living sufficiently similar lives in sufficiently similar communities might also fit. But animal communities that have a less clear sense of authority, or permanent and discrete territory, may not fit this well. That is to say, Goodin, Pateman, and Pateman (1997) are still reifying an anthropocentric (and plausible Eurocentric) view, even as they challenge speciesist exclusion of great apes.

Instead of attempting to show that animal communities are sufficiently similar to this distinctly (European) human version of sovereignty (arrived at in the Peace of Westphalia),

we should recognize that the motivation for Wild Animal Sovereignty is something moral. It's not that the inconsistent application of the Westphalian system is the concern, it is the *vulnerability* that comes from not fitting in with that system which we must rectify.

Donaldson and Kymlicka are explicitly motivated by the inadequacy of traditional animal rights approaches at alleviating this vulnerability.

Considered as a problem about vulnerability, we ought to understand that all wild animal communities are caught up in a political world, where the freedom from domination by alien political powers entails some sort of sovereignty. This freedom is not derived from a similarity to humans but rather from a lack of citizenship, its protections and provisions. That means wild animals are already free, they were free before the decisions humans made at the Peace of Westphalia to give other humans (European royalty) absolute control within their borders. Wild animals are free not because of any decision at all, but from a lack of inclusion in the exclusively human political enterprise which excludes them from the beginning (except where they are considered property).

The central wrongful exclusion that calls for Wild Animal Sovereignty is not just from the Westphalian system, not just from human rights, it is exclusion from the political discourse as a whole. This discourse affects them, decides what happens to their territories, and all animals are likewise affected and unjustly excluded, not just the great apes. Therefore, exclusion results in unjust domination.

Goodin, Pateman, and Pateman (1997), open up the possibility of Wild Animal Sovereignty with great ape sovereignty, but it is through Donaldson and Kymlicka (2011) that I see this idea of sovereignty as a solution for most species, not just great apes. Donaldson and Kymlicka still allow for the possibility that some communities, like great apes, may be best served by territories that should be largely inaccessible to humans and free

from human intervention. However, they call Wild Animal Sovereignty a “parallel sovereignty,” where a variety of different approaches share control of territories, including but not limited to restricted access to humans in some wilderness places, access but only to local humans and not outsiders, or shared use places. This sort of control of access and reserving space for wild animals helps to provide for their flourishing by leaving the wild animals with the means to exercise their capabilities, gather food or hunt, and reproduce. It also avoids some of the pitfalls I was concerned with in chapter two; it does not require deciding in advance what the capabilities of wild animals are, it also allows for interspecies communities, potentially making space even for humans and nonhuman animals to share some spaces.

Goodin, Pateman and Pateman (1997) meet four of eight desiderata we are looking for. Their account of flourishing may not flexibly extend to a wide variety of species, but for great apes they support the (1) *flourishing* of individuals, by assigning them rights to lands because those individuals are understood to be (3) *valuable as ends* (and not just valuable but unjustly excluded from human-like sovereignty). These two criteria are manifest in the assignment of any sovereignty-like recognition. These models will always secure flourishing through territory rights and will always consider wild animals as valuable as ends because the wild animals are understood as the holder of the suite of rights associated with sovereignty.

Since sovereignty is a suite of rights held by communities it also aims at (5) *community flourishing*. Finally, in all the cases we will discuss in this chapter, recognition of sovereignty is associated with erecting some institution to protect the sovereign territory, giving us desideratum (6) *community protection*.

3.2 Zoopolis & Wild Animal Sovereignty

Donaldson and Kymlicka (2011) emphasize two other desiderata that Westphalian Wild Animal Sovereignty doesn't capture. The first is (2) *flexibility*. Westphalian Wild Animal Sovereignty doesn't flexibly accommodate a variety of species because it focuses narrowly on a small set of species. Donaldson and Kymlicka want to widen that group to include all wild animals who have an interest in autonomy, so they exclude from their version of Wild Animal Sovereignty only those wild animal communities whose flourishing is not related to autonomy.

The second desideratum that Westphalian Wild Animal Sovereignty doesn't capture is (4) *relationships*. Donaldson and Kymlicka differentiate their view from traditional animal rights views by explicitly focusing on relationships. In chapter two we discussed this as an entanglement between humans, wild animals, and the ecosystems they live in. By recognizing these already existing relationships we can come to find better ways of empathizing with others, and through empathy find flexible ways of accommodating a diverse set of species and individual differences. The relationships that Donaldson and Kymlicka emphasize are not, necessarily, empathic but rather refer to the relationships human and wild animal communities have in their spatial entanglements. That is, humans and wild animals move through each other's space often and since we both have relationships with the same spaces we enter into territorial relationships with each other.

Donaldson and Kymlicka's take up an analogy between wilderness inhabited by wild animal communities and sovereign states because they are, helpfully, both rooted in territoriality. So we begin by thinking of relations between wild animal communities and human societies as relations about territory, how to share it, whose it is etc.. Humans and other species need to share ecosystems, which are living, dynamic, resource-laden, territories.

Sovereign states, on the Westphalian system, share and divide up territories by erecting borders, and negotiating rights of access or passage. Donaldson and Kymlicka don't start with the whole suite of rights associated with Westphalian Sovereignty, and instead focus on the relationships between communities who must nonetheless erect borders and negotiate rights of access or passage.

When it comes to human communities and wild animal communities the “borders” are things like hedges, roads that bisect territory, cities getting in the way of travel routes. So understanding wild animals as “sovereign” may mean reserving their exclusive territories, establishing safe ways to mutually have access to some places, arranging for rights of safe passage for them to travel through our territories, and being respectful when we travel through their territory. This means restricting human access, development, and activity in certain places that are especially valuable to wild animals, while simultaneously allowing, developing-for, and enabling wild animals to safely move through human inhabited and developed places.

Donaldson and Kymlicka summarize their view as five sets of duties that are closely related to the duties between human nations, namely:

(1) Respect for territorial boundaries (e.g., an end to invasion and colonization); (2) limitation of spillover costs (e.g., transborder pollution or road deaths); (3) shared sovereignty of key international corridors (e.g., migratory routes); (4) respect for the basic rights of visitors; and (5) extension of assistance to refugees. In other words, our duty is to enable them to exist as wild animal communities, while limiting the negative costs of their inevitable contact with us. (Donaldson and Kymlicka 2011, 217).

The first of these also suggests that a constitutive part of Wild Animal Sovereignty is borders. The second and third call for responsible treatment of shared and boundary spaces such that the pollution and human infrastructure (e.g. like roads) do not cause spillover harms to the nearby wild animal territories or the migratory routes between wild animal territories. The

fourth recognizes that individuals who do not stay always within the borders of a territory reserved for wild animals are still owed basic rights. The fifth and final duty suggests that there may be migrants, (see Derham and Matthews 2020, for an account of how refugee status might be extended to elephants).

All these duties have analogs in international law. Treating wild animals as-if they are sovereign allows us to extend these duties to them by including them as sovereigns in an international community. This analogy to sovereignty suggests a suite of rights protected by international law ought to be extended to wild animals, for example international law prohibits the forced relocation of communities. Donaldson and Kymlicka take this as exemplary of the sort of thing which is unlawful among humans but permissible among animals. They explain that if a developer wanted to develop land occupied by an Indigenous community, and the developer involuntarily relocates this community to another space which is also occupied, then that would be an obvious violation of the rights of that community. Donaldson and Kymlicka add that it would not matter how carefully the welfare of the community was taken into account, it is still a “brazen injustice” (169). However, with wild animals this sort of practice is tolerated. In cases like this wild animals would be better protected if we were to extend international law to protect wild animal communities from injustices that go beyond the welfare of the community.

There is a sixth duty which Donaldson and Kymlicka didn’t include in the summary, and that is the duty to actively protect those territories we set aside. This active protection means not just respecting borders but also intervening within the borders of wild animal territories. Donaldson and Kymlicka (2011) caution that Wild Animal Sovereignty is not a fanciful way of “letting them be” (180). What we should be working toward is mutually beneficial productive relationships that benefit all. However, when compared to the current

state of affairs, where humans do what is in their interest with little regard for wild animals, most examples of respecting Wild Animal Sovereignty will look like restraining human interests. All that is important to make clear to mitigate risks which is that these restraints are not endless; human interventions can be tolerated and in some cases may even be beneficial for wild animal communities. Donaldson and Kymlicka (2011) use the examples of mitigating or preventing the effects of natural disasters, such as meteor deflection, as a source of mutual benefit.

In this way our treatment of nonhuman animals should be in line with other aims of an international political community, like coming together to mitigate climate change—as in the Paris Accord. We might add to this a number of other problems that will face all of us as an international community, climate change, the chaos it produces (e.g. frequent and intense storms, rampant and extensive forest fires, desertification, ocean acidification, coral bleaching, water shortages, drought), are not facing each national community separately but face us all as an international community. These international struggles also affect human relationships with wild animals. They too may need refuge as they flee inhospitable conditions, wild animals also require our intervention to put out forest fires, protect reefs and other sensitive bastions of biodiversity. Giving nonhuman animals political recognition as part of the global international community does not mean leaving them alone, rather it coheres neatly with the already urgent demands for humans to actively protect the wilderness.

3.2.1 Community autonomy

The specific sense in which Donaldson and Kymlicka want to invoke international law is to protect the *autonomy* of wild animal *communities*. They suggest that wild animal communities have an interest in autonomy, and this interest sets the scope of rights attributed

through Wild Animal Sovereignty. Donaldson and Kymlicka explain the relationship between an interest in autonomy and territory saying:

In short, when evaluating whether and how to accord rights to sovereignty to particular communities, what matters is not the legal institutions they happen to possess, but rather whether they have interests in autonomy, which in turn, depends on whether their flourishing is tied to their ability to maintain their modes of social organization and self-regulation on their territory (Donaldson and Kymlica 2011,173).

Two moves are highlighted in this quote. First, instead of identifying a sovereign community by its legal institutions, Donaldson and Kymlicka suggest we ought to recognize the sovereignty of wild animals in virtue of their interest in autonomy.

Second, this interest in autonomy is determined by whether or not self-regulation and autonomous social organization are closely related to a communities' flourishing.

The move to identifying the Wild Animal Sovereignty of a wild animal community through their interests is a bit unlike human sovereignty. Whether or not a community of humans is "sovereign" has at least something to do with their legal institutions. Human communities are cohesive and organized in such a way that they can declare and enact their sovereignty through speech acts, protest, rebellion, or other acts through which a community makes it known that they are autonomous.

Wild animal communities are incapable of claiming sovereignty, at least in the paradigmatic way through sophisticated speech acts. So Donaldson and Kymlicka suggest we examine their interests. Since wild animals cannot claim to be sovereign, but also cannot claim to *not* be sovereign, we must adjudicate whether we should treat them as sovereign on something other than their claims. The candidate alternative here is their interests. This move helps to ground the autonomy of wild animal communities in something other than the decisions of humans. It suggests that if we could show that

some community of wild animals has an interest in autonomy, we also ought to treat them as-if they were sovereign.

However, this move is not without problems. Alastair Cochrane (2013) argues that wild animal communities, especially interspecies communities or populations of species that tend to live in solitude, lack the relevant cohesion as a community to be a candidate for being identified as sovereign. As an interspecies community, with diverse and competing interests, it's difficult to say "they" together have an interest in autonomy. Further, if such a community could be identified, Cochrane suggests it is plausible that some species (e.g. prey species, diseased, or otherwise uncompetitive species) might have interests in human intervention that are not in accordance with respect for the sovereignty of the interspecies community. Instead of Wild Animal Sovereignty, we ought to have a universal right for all sentient animals to have safe and secure residency.

To fit Cochrane's objection into our system of eight desiderata I suggest this be taken as an objection to Wild Animal Sovereignty's ability to meet the (2) *flexibility* desideratum. Cochrane seems to suggest here that sovereignty demands overlooking important competing interests between wild animals. I suggest this is a misreading of Donaldson and Kymlicka (2011). The relationship humans have to "wild animals" as a whole is not uniform. There are many relationships with overlapping territories. Wild Animal Sovereignty, in my reading of Donaldson and Kymlicka, means respecting the sovereignty of the many communities of conspecifics. They live in overlapping territories and share interests in humans' not-polluting, reserving the greenspace, making this greenspace accessible from other greenspaces for migrating animals, etc.. This overlap allows humans to design wildlife corridors, crossings, and reserves which

directly and simultaneously promote the flourishing of many species (Wang et al. 2018).

To justify Wild Animal Sovereignty as a way of understanding the relationship between human societies and wild animal communities we need to better specify these communities. This leads us to the second part of Donaldson and Kymlicka's statement that the interest in autonomy "depends on whether their flourishing is tied to their ability to maintain their modes of social organization and self-regulation on their territory" (Donaldson and Kymlicka 2011, 173). It's not immediately clear that the communities whose flourishing is tied to autonomous social organization and self-regulation of territory are the deeply conflicted interspecies communities Cochrane has in mind. Rather, flourishing based on autonomous social organization helps us to identify a specific community. If a community has no relationship between its flourishing and autonomous social organization then it's not a contender.

In accordance with our discussion of flourishing in the last chapter we might expect a flourishing wild animal community means that there is sufficient ecological and *intraspecies* community support for individual wild animals to exercise their capability to live a life with dignity. Wild animals ought to have the freedom to access or pursue anything on which flourishing depends. If flourishing depends on intraspecies community autonomy, then those communities must be free to self-organize and self-regulate territory autonomously; that is, they must be free from domination which might interfere with their organizing or regulating territory.

We now must explain what it is about community autonomy that might add something to a proposal like Cochrane's suggestion for a right to safe residency. One part of the idea of sovereignty is that territory provides something other than the raw material for life

(food, water, shelter); it also may have a role in the social organization of a community. Consider breeding grounds; their location is often remembered and must remain available in the future, whether in a year or in a decade. This means offering animals what might be thought of as a suitable alternative is not always good enough. They already have a system of perennially returning to one specific breeding ground. Providing alternatives does not change the whole system at work. Likewise, migratory paths are not just a matter of suitable territory but also about learned navigation and routine stopping places. These routines and perennial returns are part of a dynamic relationship between a sense of place and a community of wild animals. We might extend these to all manner of recurrent and dynamically reproduced situations including: knowledge of and access to familiar hunting and foraging grounds, reliable navigation or territory marking, reliable seasonal effects, water flows, etc.. Wild animals do not merely require space and resources; they require the specific resource laden places with which they are familiar. Further, this is independent of mechanism. It doesn't matter whether they are "remembering" or systematically "re-discovering." What's important is that the specific place, its specific characteristics, location, or history, are relied on by whatever mechanism guides those animals' self-organizing or territory regulating practices.

A wild animal community has an interest in autonomy insofar as autonomy sustains the uses and reuses of places and resources. Capturing or relocating animals would undermine these functions. A captured animal cannot make use of their sense of place. Further human development in or near these territories may disrupt the ability of some wild animal communities to make adequate use of a place. Territorial sovereignty is one means of protecting this relation between species and places.

One example of human developments disrupting this organization is when electric lights from human developments confuse infant sea turtles. They ought to be drawn to the

reflection of the moon in water, but instead move toward the lights. Mother sea turtles require the beach, and not any beach, but the same one used in their breeding season. Then the newly hatched sea turtles must have the right environment without artificial light pollution, otherwise they won't make it to the sea. In this case humans may mitigate harms by changing the amount of light or the colour of lights (Rivas, Tomillo, Uribeondo, & Marco, 2015).

We might be motivated to help the sea turtles because they are threatened or endangered as a species. It is taken as a given that the preservation of species is a good worth pursuing for humans. However, a Wild Animal Sovereignty approach inverts the value somewhat. The turtles are not “ours” to value or not, and the beach is not for human society to value on the sea turtles' behalf—as stewards. Rather, the beach that they require to flourish is *theirs*, and they, as a community, have an interest in the beach remaining appropriately dark. So human developments on or near *their* beach ought to comply with their interest in appropriate darkness.

Once the beach is understood as theirs, their interests impose limits, in this case, on lighting. This needs some clarification, as I am not saying that the sea turtles understand the beach as something they possess. I imagine that sea turtles have no concept of land ownership. The relevant feature is that we humans understand that the beach is theirs, and we share it with them.

Now, there is no part of existing international law that governs rights against light-pollution between states. Thus, when conceptualizing Wild Animal Sovereignty, we are not *only* importing international law, but we are also attributing a status to wild animal communities that can make them part of political, legal, and policy development. Their interests can produce new norms that shared spaces have to allow, for example, appropriate darkness for the safe use of the beach by all its inhabitants, non-humans included.

In light of this example about sea turtles I want to return to the prohibition on forced relocation discussed earlier. In this case it is presumed that wild animal communities have a connection to particular territories which is plausibly important for their flourishing as a community. It is because relocating them disrupts their patterns of using the territory, their home is not just resources for these animals it has a relationship and history that makes the resources usable, they don't just live in a habitat, they habituate generation after generation to a particular habitat making it their home. When we disrupt their flourishing use of that place we are indirectly forcing them out, undermining their self-organization and self-regulation, cutting off the opportunities, arbitrarily and not just any opportunities, but the specific ones that they already habitually realize time and time again. Disruption of their places is a form of domination, one which they likely cannot bear without hardship.

So, we now have an idea of Wild Animal Sovereignty as a status that is analogous to human sovereignty, in the sense that both Wild Animal Sovereignty and human sovereignty concerns community autonomy. However, what sorts of activities intervene in that autonomy may vary widely. This understanding of wild animal communities, varying in needs, affected by a wide variety of possible interventions, suggests that Wild Animal Sovereignty is capturing the diverse relationships humans have with wild animal communities and flexibly accommodating those relationships with different demands. At this point, I am content to say Wild Animal Sovereignty lives up to the promise I started this discussion with that they also capture the already existing (4) *relationships* and the (2) *flexibility* we desire from a theory of justice for wild animals. This is in addition to also providing an outline of six duties we owe wild animals in virtue of their being (3) *valuable as ends*. These duties ensure their (1) *flourishing*, (5) *community flourishing*, and (6) *community protection*. Therefore, Wild Animal Sovereignty satisfies the first six of eight desiderata. However, we still have not

addressed (7) *interspecies communities* which include humans, and (8) *critique of oppressive systems*. Extending a kind of as-if sovereignty to wild animals imposes some helpful limits on human sovereignty and in this way critiques the sovereignty of humans at least in the dominant Western formulations of sovereignty, but this may not go far enough.

3.2.2 Representation

Part of the problem with Wild Animal Sovereignty is that any sovereignty we attribute to wild animals will have to be maintained and protected by human representatives. When we discuss the “interests” wild animals have in autonomy we are not discussing their claims, their behaviour, or their subjective interests. Rather we are imagining (plausibly through careful and reflective empathy) their objective interests. Peter Railton (1986) describes knowing someone’s objective interests as a position of privileged knowledge, where the knower has a more complete understanding of the situation than the individual whose interests are in question. This knower knows “what is good for them” even if it is different from what the individual in question believes is good for them. When we appoint humans as representatives of the interests of wild animals, we are treating humans as the supremely informed knower, the knower who can know “what is good for them” in some ultimate sense. This could be problematic, because, while humans may know specific things which are good for wild animals, which those animals do not know, humans do not always know what is in the interests of wild animals.

This position, representative who “knows” the objective interests of wild animals, makes wild animals vulnerable to the decisions of this supposed knower. Here, Wild Animal Sovereignty potentially entrenches human superiority. Unlike human sovereignty, Wild Animal Sovereignty is a sovereignty without a sovereign. In practice, even territory specially

reserved for more or less exclusive use by wild animals will have to be “governed” or protected and maintained by humans. In this sense Wild Animal Sovereignty is a relationship between human institutions, human sovereignty on the one hand and the appointed human representatives of wild animal communities on the other. The power of the representatives depends on recognition by that very human sovereignty with which these representatives must negotiate. There is a significant risk that representatives of Wild Animal Sovereignty merely present a new structure to humanity’s domination of wild animal communities. To evaluate this risk, we need to better understand what these representatives would be expected to do.

Donaldson and Kymlicka suggest there must be “some form of proxy representation by human beings who are committed to Wild Animal Sovereignty” (Donaldson and Kymlicka 2011, 209). The job of these representatives would be to protect Wild Animal Sovereignty from other humans. This would include: (1) assessing and ensuring that risks which wild animals are subjected to are “genuinely necessary and achieve some legitimate interest, and are proportional to that benefit” (198); (2) ensuring compensation for the inevitable, if inadvertent, harms associated with even necessary risks; and (3) settling disputes between the interests of wild animals and the humans who might live especially close or even within the borders of territory reserved for wild animals. This might include tasks like having a proxy in court, as we might do for minors, but also includes tasks that concern negotiation, conflict resolution, and deciding what sorts of risks are tolerable.

These tasks require human representatives to exercise power over both wild animals and other humans, and to the extent that such exercises of power are necessary we may need to have special protections in place to avoid the wrongful or arbitrary use of power. The first and second duty requires humans who can decide on a case-by-case basis what counts as a

necessary risk, a legitimate achievement, and proportional risk relative to the legitimacy of the achievement. We may for example expect that at least some roads, railways, power lines and other infrastructure must pass through wild animal territory. We also may want to mitigate the risks these cause by erecting barriers along some stretches of road and bridges over others (Burkhart et al. 2015; Clevenger & Waltho 2000).

In other cases we might find that infrastructure projects, line Enbridge's bitumen (unrefined oil from tar sands) pipeline "line 3" which has been protested throughout its construction as it is built under sensitive aquatic ecosystems and through Indigenous peoples territories, may qualify as an unnecessary and disproportional risk. In this case there were people who acted as the representatives of nonhuman animal interests in the form of activists and Indigenous water-protectors, they have been arrested by the hundreds, and the governments of Canada and the United States have ignored their interests (or the interests which they represent) in the service of Enbridge's private interests. This is a case where the representatives matter a great deal. If water-protectors were recognized as an authority capable of shutting down such a project, then this is a case of the representatives being overpowered by the government's monopoly on force. However, if the Canadian and United States governments are considered the "sovereign" representatives then their assessment of necessary risks and legitimate interests is suspect. We might criticize this case on the grounds that private for-profit infrastructure is something we might intuitively find an illegitimate interest to protect in the face of serious environmental risks and protest. However, even if the private interests were considered illegitimate interests in the face of significant risk, in some cases governments get more involved in the interventions. The Keystone XL pipeline was similarly moving oil and bitumen, but this project was explicitly funded by the government of Alberta, Canada. In this case the infrastructure is being built by the "public" and is not

private. We might insist in this case that whether the project is funded publicly or not it could remain illegitimate because it is not in the public interest but serves private interests.

Unfortunately, the democratic bodies responsible for deciding what is in the public interest are often persuaded that private interests are in the public interest (and their electorate may be similarly persuaded). Thankfully the Biden administration intervened and cancelled the US portion of this pipeline.

It would seem looking at cases like these that the “representatives” ought to be some group outside of the government imbued with authority to prevent interventions (like oil pipelines) in areas which are not densely populated by humans. These “representatives” could be activists who have come out in droves to protect our forests, waters, and wildlife, it could include local residents like the Indigenous water-protectors and land-defenders. However, they would need to be given authority in a very strong sense, such that even without coercive power they could resist interventions like oil pipelines or logging without being arrested (for examples of water-protectors and land-defenders being arrested for resisting human intervention in wilderness spaces see: Sainato 2021; & Larsen 2021).

The last duty of these representatives of Wild Animal Sovereignty raises issues even if the representatives were created through the empowerment of local and activist. Donaldson and Kymlicka explain that “sovereignty need not be understood in terms of strict geographic segregation” (Donaldson and Kymlicka 2011, 191) instead it may sometimes include strict separation, other times human communities and wild animal communities might jointly hold territory but restrict access to outsiders, or there may be shared use spaces to allow for migration and other travel. In these cases, the representatives end up with power not just over wild animals and their territories but also humans who live on, near, or travel through those territories.

We might imagine an institution of representatives committed to Wild Animal Sovereignty, who are given power over shared territories with other humans who may have conflicting interests. For example, Indigenous peoples in Canada, especially those who don't live in big cities, consider hunting an essential part of their culture and in many cases their livelihood. This commitment to hunting has brought Indigenous activists into conflict with wild animal activists. So there might be a trilemma here. If local residents of a shared territory are considered the representatives of Wild Animal Sovereignty they could have conflicts of interests with the wild animals, if wild animal activists and special interest groups are considered the representatives they could have conflicts with local residents, and if the larger nations with a monopoly on force are involved they may have many conflicting interests (not the least of which is getting re-elected by people who do not prioritize the well-being of local-communities or wild animals).

Thus, representation seems both necessary and problematic, but let's follow Donaldson and Kymlicka's move to set aside that concern as a separate issue for now. I will take this issue up again in chapter four.

3.2.3 Parallel sovereignty

The representatives that we have discussed are set to mediate between human sovereignty, and interventions it might permit, and the interests of wild animal communities. However, we have not set these representatives up as part of a distinct territory. They are supposed to represent the interests of wild animal communities in the context of already existing relationships, which may include land set aside for wild animals but is not limited to those spaces (and even in those spaces there are roads and other human infrastructure that cut through those spaces).

Unlike Goodin, Pateman, and Pateman's Westphalian Wild Animal Sovereignty which requires international cooperation to set aside an independent territory for great apes, Donaldson and Kymlicka's proposal can fit within existing state structures. It limits interventions but does not necessarily set up an exclusive territory for wild animals and may not require a distinct governing body to protect those wildlife reserves which are set aside exclusively for wild animals. However, this parallel sense of "sovereignty," where wild animals are "sovereign" but also within (and under) the supervision of human sovereign states, seems to weaken the sense in which wild animal communities might be said to be sovereign.

To start with, unlike human societies, wild animal communities cannot negotiate, sign, and agree to international treaties, so any such treaty would have to be decided on by human representatives. Any enforcement of treaties or of more general applications of international law would rely on the willingness of human bodies and the decisions made in human courts. This dependence upon humans seems to undermine any substantial claim to sovereignty.

Along these lines Wadiwel offers this criticism of Donaldson and Kymlicka's proposed sovereignty:

Why is it that they reproduce elements of existing political structure (citizenship, the nation State and the Westphalian system) which might be open to critical questioning, and why is it that forms of human continuing domination—with respect to key decision making—remain authorised?
(Wadiwel 2015, 241)

The thrust of this criticism is that, for Wild Animal Sovereignty, the internal workings of a sovereign state, the ability to make decisions, enter into agreements etc., as well as the institutions that produce those decisions and agreements are always human. In addition, these are the same humans and human-made systems which exercise the domination of wild animal

communities we seek to undo. Instead of criticizing how these institutions overstep their bounds and plausibly misunderstand their (already existing) relationships with wild animals, Wild Animal Sovereignty imagines that the problem is not part of the institution or human decision making but lies only in the wrongful exclusion of wild animals from these institutions.

One specific element of this criticism seems misplaced; it's not at all clear that sovereignty as we normally practice it (the Westphalian system) is applicable to any nonhuman animal community (or to all human communities, for that matter). I have already argued that Donaldson and Kymlicka are not endorsing a Westphalian "state" for wild animals. However, I am sympathetic to the criticism that any Wild Animal Sovereignty leaves animals in a clearly subordinate position.

Donaldson and Kymlicka point out that the Westphalian, absolute understanding of nations independent from foreign influence is often not practiced, given that most nations are part of international associations like the United Nations or the European Union. These still leave room for sovereignty but it's not absolute, and this not-absolute shared authority over territory and individuals is the sort of sovereignty they have in mind. To better understand this, I want to take a look at some theorizing about sovereignty among humans. Donaldson and Kymlicka seem to take their paradigm case of sovereignty from nations within nations, where they explicitly reference (Indigenous) First Nations relationships to the (settler) Canadian government as a case of multiple sovereignties with overlapping, shared, and contested territories.

It is important to qualify this exploration; no one, including Donaldson and Kymlicka or myself, is endorsing the conflict-ridden systems Canada has in place. I am not making an analogy, when I look at the existing human conflicts over sovereignty. I am looking for

caution and guidance to better address Wadiwel's worry that animals cannot participate in a system of political relations. In order to explore how Wild Animal Sovereignty is possible, I want to make explicit where it must be disanalogous to human cases. So this example is *not* an exploration of a model to "extend," but rather it is an exploration of what cannot be extended and what should not be extended.

First let me explain the version of Canadian nations-within-nations which cannot be extended to wild animals. John Borrows (Chippewa of the Nawash First Nation) (2018) argues that the Canadian state itself, its legitimacy and laws, rest upon a foundation of treaties with First Nations. These treaties are part of both Indigenous legal traditions and European settler traditions; this meeting place might be able to erect a shared sovereignty of shared places.

Wild Animal Sovereignty cannot be like this. The authority and legitimacy of human groups is not grounded in an agreement with wild animals. Human states in the European traditions unilaterally seize authority in their very construction through implicit social contracts, colonial settlement, or inherited power. Other animals cannot claim or authorize political power in the same formal and statist sense as humans in the European tradition. Wild Animal Sovereignty having a political standing is only possible after humans first bring sovereignty to the world. Even the other great apes can only have something like a sovereign state in contrast to the human states that surround, threaten, or annex their communities. If humans are respectful of wild animals and sensitive to our relationships with them, then humans constrain themselves, whereas relationships human societies involve constraining one another. Every human community can refer to a history of agreements, transgressions, and law that intertwines them, especially in the cases of explicit treaties. The history of humans and wild animals, even where it appears legal, is only ever part of human legal

traditions, (or divine, eternal, or natural laws); there is no legal tradition created or maintained by non-human animals (even if humans have at times put nonhuman animals on trial for their violation of laws, which may have been conceived of as “natural” or “divine”).

Since wild animals do not make agreements, authorize treaties or participate in any other such distinctly legal behaviour, our extension of legal protections to wild animals can only be done through the laws of human societies. Thus, there is a literal sense in which no human society can enter into agreements directly with nonhuman animals. When Canada enters into treaties with First Nations the parallel sovereignty that results incorporates both legal traditions. Wild animals, having no legal tradition to contribute, cannot do this.

If we imagine a settler government like Canada entering into agreements with human representatives of Wild Animal Sovereignty and the agreements remain entirely in the terms of that settler tradition, which has hitherto dominated wild animals, the resulting “agreement” is trivially different from a dominant power legislating precisely what others “ought” to agree to without including their voice (except insofar as the appointed representative is capable of “speaking” for the dominated).

We might improve this model by ensuring that the representatives are not appointed by or even part of the same legal traditions as the dominating power. We could, at least in Canada, suggest that Indigenous legal traditions, which are far more respectful of wild animals ought to be empowered to protect wild animals. However, this is not going to result in Wild Animal Sovereignty, in part because the way Indigenous legal traditions frame relationships with animals is already not through the lens of sovereignty. We will explore this more in the next chapter, for now let’s suffice it to say that Wild Animal Sovereignty, conceived of as “parallel sovereignty” seems like the sort of thing that is not analogous with parallel sovereignty between nations that have different legal traditions.

Let's move on to a different model of parallel sovereignty, the sort which we should not implement even if we can. Settler Canada passed the Indian Act (1876) where it unilaterally established a system for Indigenous people to be brought under the governance of settler Canada. This system allows for certain specific privileges and a sense of autonomy for Indigenous communities, while simultaneously asserting the settler Canadian state supervenes over Indigenous nations. This structure is not-quite-Westphalian both in the sense that it fails to recognize the "Westphalian" absolute rule of indigenous authorities over their territories, and insofar as it puts some (largely inadequate) limits on the powers of the settler Canadian state.

This system of "subordinate" nations within (but not equal to) the Canadian state has motivated criticism of sovereignty as a possible method for reconciling Indigenous and settler governance of shared, overlapping, and contested territories. Taiaiake Alfred (Kahnawake First Nation) (2006) argues:

Sovereignty is an exclusionary concept rooted in an adversarial and coercive Western notion of power. Indigenous peoples can never match the awesome coercive force of the state; so long as sovereignty remains the goal of indigenous politics, therefore, Native communities will occupy a dependant and reactionary position relative to the state. Acceptance of "Aboriginal rights" in the context of state sovereignty represents the culmination of white society's efforts to assimilate indigenous peoples (Alfred 2006, 325).

We don't need to discuss whether Alfred is right to disavow sovereignty in struggles between humans. Unlike non-human animals, humans can explicitly propose new concepts, more appropriate concepts, and can advocate for them. What is of interest is how he highlights the failures of one case of nations within nations. Sovereignty is adversarial and rooted in coercive power. That is true at least insofar as "sovereignty" helps to designate who has authority to use coercive force in a territory. It is also, admittedly, about protecting the rights of smaller and less powerful states from their larger neighbours by ensuring that those larger

neighbours cannot claim authority over the lands of others. Cases of overlapping territory open the door to conflicting claims of authority because they undermine the Westphalian absolute authority of the nation state to govern its territory. Once these conflicts have been reopened, the inequity in coercive force between smaller and larger states, say indigenous nations and settler Canada, will likely result in the overwhelming exercise of authority by the larger. This relegates the smaller nation to a dependant and reactionary position.

“Sovereign” wild animals not only are the weaker party but have almost no ability to exercise coercive force. So, if there was a conflict of jurisdiction, they would be entirely unable to resist the authority imposed on them. They would be relegated to dependent positions, but even there, scarcely even reactionary. Unlike oppressed humans, wild animals cannot organize political protest, they cannot resist through activism.

The takeaway from all this is that “parallel sovereignty” seems to be a precarious sort of sovereignty. It seems that, for humans, nations within nations have potential, settler governments like Canada *could* honour treaties with the other nations and respect their interdependence, but even this doesn’t work for wild animals with whom there are no treaties, and there is no wild animal sovereign with which to make them. Instead, because of the extreme vulnerability of wild animal communities I would be concerned that the rights of these communities would be a costly and difficult struggle to defend. However, this doesn’t leave Wild Animal Sovereignty with nothing to offer. Humans may not be able to make treaties, but we can constrain our sovereignty, limiting our interventions over wild animal communities and the wilderness in which they live. These constraints on ourselves resemble treating wild animals with sovereignty in some ways. What Wild Animal Sovereignty seems to require, which we have not adequately pinned down, is a way that territory, set aside for

wild animals, can be adequately governed while the autonomy of wild animals remains respected.

3.3 Wild Animal Property

We might need to look for a way to precisely articulate what an appropriate sort of parallel sovereignty for wild animals might be. One promising way to realize some of the goals of Wild Animal Sovereignty is Hadley's (2005) account of non-human animal property rights. Hadley recommends that wild animals be considered private owners of territory. He suggests this right should be grounded in wild animals' interest in satisfying basic needs. Since wild animals cannot engage directly and intentionally with human property norms, they will require that any property issued to them is held in trust by human trustees. Further, since some ecologically sustainable and conscientious uses of land and resources may safely coexist with wild animals who have titles to that same land and resources the ownership can be shared. Finally, since the trustees may not know the individual animals on whose behalf they hold the property in trust, the property might be held by a "Jane Doe" wild animal.

Bradshaw (2018) elaborates on Hadley's suggestion by explaining that having trustees hold property for animals is a good idea because it draws on existing trust law and property law. We already understand how to hold other humans responsible for holding private property in a trust. This means that once existing public land, or interested private parties, assign property ownership to non-human animals' future owners and decisions would have to be made in accordance with the interests of those wild animals. Bradshaw also suggests there is an existing body of unrecognized animal property law in the United States, which may make it legal for wild animals to own land. Bradshaw offers one promising example: "in 1904 New York legislature passed a law prohibiting people from disturbing 'the dams,

houses, homes, or abiding places' of wild beaver'" (Bradshaw 2018, 824). This body of animal property law may even make it possible to litigate against public use or sale of lands that is not in the interest of wild animals.

The Wild Animal Property proposal comes in two distinct variations. The first looks something like a conservation space with limited human access, where those in charge of the reserve might be considered the trustees of the wild animals who live there and not the maintainers of the land on which those animals live. This could have interesting new implications for existing wildlife reserves. For example, it seems that funding the conservation space through trophy hunting might be a violation of the duties of the trustee. However, this model doesn't protect animals outside of the reserve. Further, it undermines the possibility of a human and wild animal interspecies community because the human interests in the community would be subordinate to the "interests of the wild animals" represented by the trustees. This would likely put any humans living on Wild Animal Property in conflict with the trustees of that property, but this may not be intractable. Plausibly there could be shared property where trustees represent the interests of wild animal communities in a dialogue with local human communities who share that property. This "trustee" structure is an interesting way to define the relationship between human representatives of territory held by wild animal communities. Trustees can be held in check and their power is already limited, with established ways of critiquing trustees for enriching themselves or misusing their position. So, while it is not a complete solution to the conflicts of representation it is a start. This "start" still doesn't meet the desideratum (8) *critique oppressive systems*. However, establishing concrete limits on power does limit an oppressive system.

The second variation of Wild Animal Property moves us closer to reaching the other missing desideratum (7) *interspecies community* that includes humans. Rather than setting aside large tracts of land as the property of wild animals we can understand that the existing dwelling places, foraging places, and breeding grounds of wild animals ought to be treated as, in whole or in part, the property of wild animals. This seems to be what is being protected by the New York law that beaver dams etc. cannot be disturbed. In this case no trustee has been established, and the dams could be located anywhere, not just on public land set aside for conservation purposes. We could imagine similar laws protecting the nests, dens, perhaps even hives of other animals. The intuition here is along the lines of the Lockean account of property as that with which one mixed their labour. It also follows a common intuition about how we ought to treat wild animals; whenever possible we should not destroy or relocate their homes. When we must do so we should prepare them for a more suitable (safer, less disruptive) place nearby. This respects that the homes of wild animals matter.

However, we might be concerned that protection for property rights does not go far enough. It would be difficult to protect migratory routes, important travel corridors and the animals themselves if we only protect their property. Spillover harms (e.g. road deaths) and community autonomy (e.g. requiring limited light pollution) are not directly related to property like a den, nest, or dam. There is an opportunity for Wild Animal Property to be incorporated into a system of Wild Animal Sovereignty. Donaldson and Kymlicka (2011) describe Hadley's (2005) Wild Animal Property view as a "significantly weaker protection" (Donaldson and Kymlicka 2011, 169). I would like to be more specific though, the protection offered by Wild Animal Property is very strong, but only in limited circumstances. If we thought of dens, nests, and dams as property, such that if they must be removed then those individual animal owners require compensation, that provides excellent protection of those

dens, nests, and dams. The problem is that Wild Animal Property is insufficiently narrow. It is a complement to a Wild Animal Sovereignty system, not a competitor.

3.4 Denizenship for liminal animals

On one hand, we might now say that Wild Animal Sovereignty could be achieved through a combination of trustees and parallel sovereignty to protect wild animals in the wilderness. However, we might still hold some reservations about exactly how that power structure is implemented. Outside the protected territories there are still wild animals, in our cities, suburbs, and agricultural spaces (e.g. pigeons, geese, coyotes, beavers, feral cats).

The second variation of Wild Animal Property (where Wild Animal property is produced through the labour of individual wild animals whether or not that property is managed by a trustee) is sufficiently expansive to provide some protection for these wild animals. Beaver dams, as well as animal dens, nests, and hives all occur even in urban environments. Protecting these as Wild Animal Property would extend protections for wild animals who live in the liminal spaces between wilderness and captivity. Although, once again this might protect them well in a narrow subset of cases and offers little protection for community autonomy.

Donaldson and Kymlicka classified these wild animals as “liminal animals” and suggested that they may need special protections so that they are not left out of Wild Animal Sovereignty just because they do not live in the wilderness. Donaldson and Kymlicka suggest these liminal animals be given the status of non-citizen residents or “denizens.” Nations already have human non-citizen residents; they include the permanent residents, those on a Visa, migrant workers, refugees, and illegal immigrants. Analogous to humans living outside their sovereign nations, Donaldson and Kymlicka suggest we think of the wild animals who

are temporarily or permanently living outside the “sovereign wilderness” as denizens of our society.

They suggest that as denizens there are three protections that are required in addition to basic rights like protection from bodily harm. Although, as discussed in chapter two the basic rights are understood as limitations on human activity and not a justification to intervene in the potentially violent relationships wild animals have with each other, especially predator-prey relations. The first of the protections for denizens is secure residency, which means that permanent residents ought not to be expelled; by analogy we should not relocate to the wilderness those wild animals who live near humans.

The second protection is “reciprocity of denizenship” which means that a denizen’s not having full access to the rights of citizens must be justified. There are two appropriate justifications. First, the denizens are citizens of a sovereign state elsewhere and their stay is temporary. This would cover wild animals passing through territories with dense human populations. Second, the denizens are permanent residents who have a “mutual desire for a weakened form of affiliation or cooperation” (Donaldson and Kymlicka 2011, 240). Because most wild animals, even in urban spaces, avoid close contact with humans, we can attribute to them a desire to not have a close affiliation of the sort humans might have with their captive companion animals. However, they recognize this is an “evolving relationship” and admit there is significant variation between species and individuals. They offer an example of an injured squirrel; humans might intervene in saving the injured squirrel and nursing them back to health, temporarily providing the provisions and care we might give to a captive animal and then releasing the squirrel back to the wild after recovery.

Third, we ought to protect denizens against stigma. Even human denizens may face stigma, especially when denizenship intersects with racialized identities, and we ought to

prevent unjust discrimination and unnecessary risk or suffering this stigma might cause. This is also true of liminal animals who are at risk of being considered nuisances. Donaldson and Kymlicka suggest that in order to prevent denizenship of liminal animals deteriorating into “hierarchy and prejudice” (248), we ought to ensure protections for their safety and regulations that reduce harm ought to be rigorously enforced. Donaldson and Kymlicka add that humans ought to recognize that they often create conflict with liminal animals, such as having both bird feeders to attract wild birds and a free roaming house cat who hunts those same birds. In this example the house cat (which might be considered a citizen) is being given a privileged position over the wild birds who are mere denizens, not just because it is a predator by nature but also because the welfare of those wild birds being drawn into the cat’s territory is not adequately being considered. This lack of consideration leaves them vulnerable.

To facilitate basic protections, protection of residency, mutually beneficial distance, and respectful anti-stigma considerations Donaldson and Kymlicka emphasize the role of designing urban environments with liminal animals in mind. They emphasize the importance of making some spaces for liminal animals and discouraging liminal animals in other spaces. They suggest that lakes which humans live on might be planned such that some lakes allow for motorized water vehicles and recreation, but other lakes can be reserved for quiet ecologically friendly use so that liminal animals can also enjoy these lakes. Donaldson and Kymlicka point out humans can do the same thing with neighbourhoods in a city, designating some areas that must be kept wildlife friendly, and discouraging wildlife in other parts of the city.

They cite an excellent example of just such a program by Daniel Haag-Wackernagel (1995). In this program, pigeon populations were reduced by (1) providing lofts for pigeons

which had some water and food and were regularly cleaned, (2) actively discouraging the feeding of pigeons elsewhere in the city, and (3) replacing some of the pigeon eggs in these lofts with fakes. This respects that pigeons belong in the city, it prevents pigeons roosting in places that could be dangerous for them and frustrating for humans, and it ensures that pigeons have a safe place to roost.

There is still a hierarchical power at work here, although it seems appropriately beneficent. It remains up to humans to decide what qualifies as adequate protection, which areas are animal-friendly, and which are not, and finally what qualifies as a wild, liminal, and captive animal.

The pigeon loft case illustrates the biopower that still exists under conditions of denizenship. While we move closer to integrating human and wild animal communities into an interspecies community, we retain an important element of human supremacy. There is still a human community of decision makers which is thought of as separate from the pigeon community they control. This division within the “interspecies” community makes it imperfectly or only partially satisfy our (7) *interspecies community* which include humans desideratum, since humans’ place in the interspecies community remains a place of supreme authority. The supremacy of this authority then suggests we also have not yet satisfied (8) *critique of oppressive systems* in the way we found desirable in chapter two.

Wadiwel highlights the work of biopower in forming hierarchy through denizenship (despite Donaldson and Kymlicka’s explicit intention to avoid this). Wadiwel explains:

The effect of ascribing denizenship to these animals is that a right to full membership (either to be members of a pre-existing human community or to possess sovereignty in their own right) is denied because they are not perceived to possess a territory of their own. (Wadiwel 2015, 250)

This highlights the conceptual problem that leads to human exercise of power over animals.

Because sovereignty is being conceived of according to territory, human conceptualization of

territory now dominates the relationship. Further, while denizenship helpfully integrates humans and wild animals into one community where regulations and protections must be provided for both humans and wild animals, this mixed community retains a division, the territory on which this mixed community lives belongs to the human sovereign community. This means that whether wild animals are considered denizen or sovereign they are still dominated by humans who either represent them or more explicitly govern them.

3.5 Conclusion

The analogy between Wild Animal Sovereignty and sovereignty has several serious disanalogies. Wild Animal Sovereignty has no sovereign. With no sovereign of their own wild animal communities' interests must be represented by humans, and this is problematic because human domination is precisely what Wild Animal Sovereignty was meant to avoid. With no sovereign these representatives become the voice of both foreign and domestic policy of Wild Animal Sovereignty as, unlike human sovereignties, wild animals cannot join in international agreements, give permission for international interventions, or otherwise decide for themselves how foreign powers will be permitted to act within their borders.

We considered four ways to bolster the analogy by specifying the sense in which wild animals are sovereign. First, we considered a Westphalian model of sovereignty but found that it leaves little room for the necessary shared spaces and may only support the sovereignty of human-like communities of wild animals (such as the great apes). Second, we considered parallel sovereignty, but this either cannot or should not be done because it either demands wild animals make treaties and have laws, which they cannot do, or it institutes a problematic hierarchy where the Western human sovereign's monopoly on violence gives them an upper hand in any serious dispute over inappropriate intervention. Third, I considered property

rights which either still rely on human representatives or involve a too narrow set of protections. Fourth, I considered denizenship, where wild animals are conceived of as citizens of a foreign sovereign wilderness but permanently live on human-controlled land. This is of course problematic again as they are not in control of their own territory. This leaves me skeptical that Wild Animal Sovereignty can provide the protection we might associate with human sovereignty.

What remains of Wild Animal Sovereignty is just the negation, just that wild animals are not subjects of human governments. If we attribute “sovereignty” to wild animals, we are recognizing that they are not ours. They are not our property, they are not our pests, not ours to govern. Recognizing they are not ours to govern implies that at least some places are theirs (even if those places are shared). Any system of humans deciding precisely what justly belongs to wild animal communities has the inherent problem that humans decided the matter, and in so doing govern what we just said they have no right to govern. Even as it remains ambiguous “what” belongs to wild animal communities the fact that something is theirs changes what is ours. Our national wilderness and conservation spaces are not-just ours they are shared (or plausibly not-ours at all). Even our cities, being full of wild animals who we do not govern, are shared cities, not absolutely ours to govern as we unilaterally see fit.

Compared to the present absolute unilateral human control of all land, Wild Animal Sovereignty, or the somewhat narrower Wild Animal Property, presents a profound limitation on that control. However, we may need to add something to these proposals. They lack a transformative element. Wadiwel ends his critique of Wild Animal Sovereignty with a call to action:

Ending the war on animals does not merely involve confronting human sovereignty over animals, as if this were a matter of storming the Winter Palace; nor does it mean ending an economic system of power, such as, for example, legislating against animals as property. On the contrary, we are dealing with a set of violences that are

deeply embedded into almost every conceivable facet of human organization, life and knowledge. In other words, resistance must seek to confront conduct: how we are governed, how we govern ourselves, and what we know about others. The importance of this focus is strategically understanding the way in which we might conduct ourselves, or work within communities might disrupt and enact spheres of peace within the war on animals, not only in intervening in the institutional reproduction of violence, but also in etching a new set of truths that might enable recognition of animal sovereignties. (Wadiwel 2015, 277)

This call to action emphasizes the critique of human power. It calls for an active and persistent critique of the myriad instances of human use of that power, both in the forms of literal and epistemic violence. It suggests that there is a real Wild Animal Sovereignty to realize but that such a realization requires criticizing the systems of sovereignty that overlook Wild Animal Sovereignty—those systems which treat the world and its inhabitants as something for humans to govern. In the terms of our eight desiderata, Wadiwel is insisting we not give up on the two desiderata which we have thus far only partially fulfilled. He has faith that it is possible to have an (7) *interspecies community* which includes humans—without implicitly endorsing human supremacy—which is capable of (8) *critique of oppressive systems* without introducing new (albeit improved) forms of human domination.

I agree, failing to meet those desiderata is not inevitable. What seems inevitable is that the liberal European conception of sovereignty, which presently dominates the world, has no space for sharing sovereignty with animals. Extending sovereignty to them only results in a transformed (and plausibly more beneficent) form of domination through representation and demarcation. However, I see two untapped possibilities which I will address in chapters four and five. The first is that Wadiwel uses “human sovereignty” to mean the dominant international liberal model of sovereignty developed in Europe. This is not the only “sovereignty” concept. Indigenous political traditions have a different way of relating to territory and the nonhuman others who share it. In chapter four I will explore how Indigenous political thought might provide some of the transformative critique of Western sovereignty,

while simultaneously offering some of the “truths” we might need to better understand Wild Animal Sovereignty without recourse to representatives or international law.

The second opportunity that is missed in this call to action is that it addresses only humans. We must critique our systems; we must resist on behalf of the incapable wild animals. This is true to some extent, but nonhuman animals also resist, they also express themselves, and it is possible for us to listen. Indigenous political thought highlights the politically important role of listening to wild animals and maintaining reciprocity with wild animal communities and the ecosystems we share. Following this idea, I aim to highlight the important political power implicit in the behaviour of wild animals. They already are resisting and engaging with our political boundaries, communities, and industry.

Chapter 4: Wild Animals’ Grounded Authority

Justice for wild animals depends upon humans respecting wild animal communities, human society restraining itself, and maintaining the space wild animals need. The dominant sovereignty and property regimes of liberal capitalism fail to manifest this respect, restraint, and maintenance. I suggest, that Indigenous² political and legal traditions offer insight into how to model justice for wild animal communities.

“Grounded Authority” is Shiri Pasternak’s (2017) term for the land-centred way that the Algonquin establish their jurisdiction. Grounded authority treats the land, waterways, and

² Indigenous philosophy can capture a large number of different groups in this paper I focus on ideas from First Nations in Canada and the Northern United States.

wild animals as having a life of their own. Among humans, the jurisdictional authority over some land is justified in part by their relationships with other more-than-human beings (wild animals, plants, and other ecological beings like rivers). This does not give humans authority over those more-than-human beings, but rather gives them authority about how humans ought to respect, manage, and live off that land. Understanding authority as stemming from shared ecology transforms wild animals from being a part of the territories owned by human sovereigns into free others, who can have rich and respectful relationships with human societies. In this chapter I begin with the Algonquin idea of Grounded Authority and extend it to other species, showing that there is a way in which not only humans have a jurisdiction legitimized by Grounded Authority, but wild animal communities might also have legitimate jurisdiction through Grounded Authority.

I argue that extending Grounded Authority to wild animals captures justice for wild animals in a way only gestured at by other suggestions. In cases of Wild Animal Sovereignty (Goodin, Pateman, & Pateman 1997; Donaldson and Kymlicka 2011) or Wild Animal Property (Hadley 2005, Bradshaw 2018) humans make space for representatives of wild animal communities within the same institutions that have disregarded, disempowered, and destroyed wild animal communities. However, the proposals to include wild animals in the historically oppressive institutions requires restraining human authority, sovereignty, and property. Wild animal sovereignty or ownership depends on wild animals not being subjugated by our human sovereigns, not being owned, and not living on lands exclusively controlled by humans. Through Grounded Authority, humans belong to and share the land with wild animals. This sharing can be a foundation for our relationships with wild animal communities, which is not beginning from a place of human domination.

My aim is to develop an Indigenous account of the relationship between human communities, wild animals, and the land they share. This explanation is starting from a Canadian context and may have special relevance for North America or in other places where Indigenous communities with similar earth-centred interspecies worldviews reside. However, I am interested in the insights this account has for the newly developing worldwide imaginary of interspecies political realities.

It is important to clarify, I am not Indigenous, I am a settler who grew up in Toronto and I am currently at York University, which resides on the traditional territory of many Indigenous Nations. The area known as Tkaronto (from which Toronto derives its name) has been cared for by the Anishinabek Nation, the Haudenosaunee Confederacy, the Huron-Wendat, and the Métis, and is currently home to many Indigenous Peoples. I acknowledge both this history and the current treaty holders, the Mississaugas of the Credit First Nation (referring to the Credit River). This territory is subject to the Dish With One Spoon Wampum Belt Covenant, an agreement to peaceably share and care for the Great Lakes region.

In the spirit of sharing and caring for the land and its waterways, I want to highlight this sharing is not just for human communities from many nations, but also sharing with the more-than-human including the lakes and rivers, and the myriad wild animal communities who also share and care for this land. When we can understand our world as shared (with each other and with more-than-human others) then we can care for it without the Western, Colonial presumption that the world (and its inhabitants) are “for” human exploitation.³

³ This presumption is not *just* Western and colonial. Valuing nature exclusively for its instrumental value is part of the many discourses and traditions from around the world which predate Western Europe’s maritime colonizers. However, particular versions of institutions, such as sovereignty and private property, which have come to dominate the globe, and the Indigenous peoples discussed here, did so through European colonial enterprise.

There are four key elements of Grounded Authority that are found widely among First Nations' discussions of the relationship between human communities, the land, and the more-than-human others with whom we share that land; I'll explain each one in turn. First, political authority is informed by the land and its inhabitants. Since wild animals are informed about the land and its inhabitants, we ought to think of them as also having political authority. Second, the world that gives itself to us also gives itself to wild animals. This same giving without taking is a practice we ought to emulate in our practice of sharing the land and its abundance with others, including other animals. Third, we ought to reciprocate the gifts we have been given—from other humans, wild animals, and the ecosystem—by both giving to others and respecting those givers. Fourth, when we understand that the world is shared, the ecological relationships we have with the shared world are also political relationships. In the way wild animal communities are involved in political relationships with humans because ecological relationships are political.

4.1 Grounded Authority

Pasternak (2017) uses “Grounded Authority” to describe Algonquin Anishinabeg (First Nations) jurisdiction over Barriere Lake. I suggest that Grounded Authority and its treatment of wild animals creates a space where human societies and wild animal communities can negotiate mutually beneficial ways of sharing a territory. This shared territory shares some features with Wild Animal Sovereignty or property ownership insofar as it respects the agency of wild animal communities and limits human authority over the shared land.

In Pasternak's (2017) description, the jurisdiction of chiefs or landholders is justified, at least in part, by relationships and knowledge of that land. The traditional knowledge of the

land is kept alive in stories called “Onakinakewin.” A chief has a duty to protect the Onakinkewin, and candidates⁴ for leadership are evaluated partially on their knowledge of the land, they go through a process called “blazing” where they must learn the Onakinkewin from their elders. With this knowledge, a chief is responsible for the appropriate movement and deployment of people on the land. There are two features that decide how people ought to hold land. First, distribution depends upon the abundance of the land such that each family can sustainably thrive. Second, the relationships between particular families and the places where those families have traditionally lived and hunted should be respected. These traditional relationships between particular families and places suggest those families have especially careful knowledge of those places—how to live, hunt and preserve there.

In this system, relationships to the land and knowledge of its seasons, plants, and animals is part of the justificatory ground for the political authority for the chief and land holders. Pasternak explains “The Onakinkewin exposes the background picture of jurisdiction, [...] which is comported in the daily practices of hunting, gathering, speaking Algonquin, and living on Barriere Lake territory. Jurisdiction [...] retains its integrity through quotidian land use and stewardship” (Pasternak 2017, 95). The knowledge and traditions of the Algonquin help to sustain a relationship with the land and the animals who live there (even when these animals are hunted). This simultaneously enables land holders to live off the land and the very same knowledge and relationships which enable sustainable living also justify their jurisdiction.

This conception of jurisdiction protects both those living off the land and the land itself. When the jurisdiction (or sovereignty) of the Algonquin is respected it can lead to more

⁴ Candidacy is decided largely by family heritage. Often these chiefs are called hereditary chiefs, and are only one part of the governance system. The chief is appointed only after a candidate has been blazed and through a consensus-decision making system found to be acceptable to everyone involved.

sustainable land management through consultation and partnership (Van Schie & Haider 2015), as well as greater community well-being (Fligg & Robinson 2020). The benefit of this system of jurisdiction may not just be in the wisdom and respect of the Algonquin or other Indigenous groups. There is a principle here that the ecological knowledge required to live sustainably in a particular place grounds jurisdiction. This principle is what I am interested in exploring as it would seem that wild animal communities also have this jurisdiction grounding knowledge about how to live sustainably.

Pasternak explains the Algonquin language is conceived of as part of knowing the land. This is, in part, because it contains the specific toponymy of the land (as well as the names of the animals and plants, etc.). This identification of salient geography and ecology is key to good stewardship of the land, as well as successful hunting, gathering, and living off the land. This rich knowledge of particular elements of the environment is also not limited to humans. Wild animals also know the land, and it is from careful observation of animals that the Algonquin have come to know the land, its medicinal plants, its seasons, etc.. Pasternak recounts “For example, the Algonquins have observed the beaver uses yellow-pond lily (*cikitebak*, *akidimô*) for its lungs, the moose uses balsam fir (*aninâdik*) for wounds and sickness [...] bears use trembling aspen (*azâdi*) for a spring tonic, laxative, and dewormer” (Pasternak 2017, 87) This knowledge is captured in both the stories of the Onakinkewin and the names of plants and places in Algonquin language itself.

Pasternak explains that there is an Algonquin saying that wild animals can speak the Algonquin language because the Algonquin language is the language of the land, recounting a story where an elder speaks out to some wolves in Algonquin and asks them to leave, and the wolves comply. The transformative idea behind thinking that wild animals can speak the

language of the land is that wild animals are conceived of as knowledgeable agents who belong on this land and with whom humans must negotiate a sustainable way of life.

Grounded Authority roots the political authority to lead or hold land in the knowledge of that very same land. My suggestion, in the theme of suggestions like Wild Animal Sovereignty or Wild Animal Property, is that wild animals can be thought of as also having Grounded Authority—they ought to be understood as holding the land as well. Further, it is not a problem for both human and wild animal communities to simultaneously hold land because in each case their jurisdiction over that land is limited by ecological considerations (which include sustainable human use of the land). No one community or species has absolute power over the land, their jurisdiction depends on being informed by the others with whom they share that land.

Pasternak is not presenting Grounded Authority as a part of animal ethics. She is describing the ongoing struggle of the Algonquin to secure and maintain control of their territory against the oppressive challenges to that jurisdiction by the settler Canadian government. In this context Grounded Authority is simultaneously part of a tradition that predates European contact, and part of a contemporary criticism of the European political and legal institutions which dominate Canada (and much of the world).

This critical standpoint aligns the human interests of many Indigenous groups with the interests of more-than-human entities and communities (wild animals, plants, seasons, rivers, wind) in which their culture is rooted. This means it provides us with not only an insightful way to think of wild animals but also a model for interspecies solidarity. This critical remodelling begins with the ground.

4.2 Giving without taking

In the Canadian context specifically, the colonial settler government of Canada has claims to share some of the land of Canada through treaties with First Nations and Inuit. There are other Indigenous groups with whom Canada has no treaty (including the Métis and some First Nations) and much of the land which Canada controls remains unceded and is not governed by any treaties. However, while treaties may give us one inroad into understanding Indigenous law when we start from a settler standpoint, they don't offer a complete resolution to the competing power structures in the context of relations with Canada. These treaties connect the British common-law tradition founding colonial Canadian law to the pre-existing Indigenous legal traditions. Borrows (2018) interprets treaties as part of Indigenous legal traditions' as one way of reconciling the Colonial and Indigenous jurisdictions, through a resurgence of understanding Indigenous law and a reconciliation with the Earth. This offers a different character to Grounded Authority, where we recognize the lack of Grounded Authority in the settler alienation from the Earth.

Borrows (2018) starts with a famous promise from Canadian treaty law, the treaties were to endure "for as long as the sun shines, the rivers flow, and the grass grows" (63). Borrows explains that some of the language takes on a different meaning when we consider the claim the grammar of Anishinaabemowin⁵ (the language of the Anishinaabe). Read from an anglophone settler point of view this is not a constraint at all, the sun will always shine, rivers cannot help but flow, and grass cannot help but grow. Borrows explains that in Anishinaabemowin (the Anishinaabe language) many ecological features that English-speakers would describe as things count as animate subjects. This potentially changes the

⁵ Borrows is specifically thinking of the Mississauga dialect of Anishinaabemowin, which is closely related to and often mutually intelligible with the aforementioned Algonquin language.

way in which Anishinabek legal traditions address their relationship with entities like rivers, grass, or the sun. The animacy of the world is accompanied by a sense of respect for the animate.

Borrows suggests that when rivers are understood as subjects acting on the world, “so long as the rivers flow,” should direct attention to the contributions of a flowing river, to the abundance it brings, the environmental wealth that sprouts at the river’s mouth. Here we see something about rivers that is captured that is often missing from a Western conception. As an anglophone I think of a river as chiefly just water in motion, the same way I think of the water moving through the plumbing to my tap and down my drain. However, where rivers are the activity of a particular place, thinking merely of their constitution as “water” misses all the other vitality in and around the river.

Borrows explains that the Anishinaabemowin word for water is *nibi*, related to *nipy* which means life (65). The vitality of the rivers and lakes is part of the concept of water itself. Borrows thinks the case of the river is especially interesting in Anishinaabemowin because the word for the mouth of river *zaagiin* is closely related to *zaagi*, meaning “love” (65). He suggests the life-sustaining love of the river ought to be respected, since it’s contributions and abundance are acts of love from an animate subject. This life and love is given to all those communities (human and more-than-human) who depend upon that river. Yet the river does not require life from us, rather our role in our reciprocal relationship with rivers is to respect them and the gifts they have given.

Further, the inclusion of the river in the treaty between human societies suggests that the river is a way of understanding their relationship. They are not just supposed to respect that river, but they are to treat each other with the same love, the same giving without taking,

that the river embodies. Respecting the river's gift also means recognizing it is not given to just one community, or to just one species.

The Mississaugas⁶ think of themselves in relation to the river. The word *micha* means large, and *zaagin* means river mouth, so Mississauga means large river's mouth, but it also means place of great love. We might add that in context the "love" of this place is the river's love of all the communities (human and more-than-human) to whom the river gives itself.

I grew up in this same place where there are many rivers feeding into the great lakes, and yet I have always thought of myself as belonging to a civilization that spawned in ancient Greece, spread through the Roman Empire, and finally took over the world through colonial and capitalist expansionism. I was given life by the rivers and the land, but I mistakenly attributed my life to an artificial and misleading (Eurocentric, white supremacist, patriarchal) history set apart from nature. I have always thought of wild animals as something we might need to care for in the spirit of charity or stewardship, but they were still lesser-than human, living in a world which has meaning and value because of human things (histories, civilizations, empires, invention, aesthetic appreciation). I expect this is a familiar story, and it leaves out the ecological dependence on the land—its life and love. If I was taught to appreciate the "gifts" of the land they were gifts from God (or gods) and they were given to humans (or worse to God's chosen people, or to deserving humans). This leaves out the activity of the land itself, the gifts rivers give, and the fact that these gifts are given not only to humans but to wild animals (and more-than-human others) as well. As such I was taught only to respect the river instrumentally, which ignores all the other relationships that river has. If you grew up like me, then it might be helpful to recognize the divisive, ecologically

⁶ They are an Anishinaabe tribe who are the treaty holders of the Toronto Purchase Treaty 13, and other treaties and land claims in Southern Ontario.

naive narrative mythologies we were taught, as they may still form a background of intuitions for our more professional meditations on the natural world.

4.3 Sharing land with respect and reciprocity

So now let's begin with an ontology where the life of all communities comes from the land, and the jurisdiction of communities depends upon their respect for this wellspring. In this ontology we might now ask what it means to respect the land in such a way that it could inform how jurisdiction ought to be divided. To answer this, I'll be looking broadly at Indigenous philosophies from several distinct First Nations communities. They all use the language of respect and reciprocity and likely mean the same thing and share a struggle against the Canadian government for the resurgence of Indigenous self-governance.

Glen Coulthard (Yellowknives Dene First Nation) (2014) describes Indigenous peoples' struggles for self-governance against colonial and capitalist regimes as “struggles not only *for* land, but also deeply *informed* by what the land as a mode of reciprocal *relationship* [...] ought to teach us about living our lives in relation to one another and our surroundings in a respectful, nondominating and nonexploitative way” (60). Here Coulthard contrasts Indigenous self-governance with the globally dominant colonial and capitalist systems of governance—which are manifest in the government of Canada. Thinking of land as both “informative” and part of a “reciprocal relationship” with human societies challenges the European Westphalian “sovereignty” relation where a sovereign has dominion over a land. This sovereign power might be informed by (and justified by) the citizens who might voice their collective will, but the sovereign owes nothing, not even respect, to the *land* they rule.

Further the exploitative use of land, which is the explicit purpose of European colonialism, is distinctively not reciprocal; it takes without giving-back and often destroys the land from which it extracts resources. Europeans did not come to the Americas to live on the land, they came to seize timber, gold, and furs and return them to manufacturers and mints in Norway, Spain, France and England (among others). Of course, Indigenous people participated in some of this excessive hunting and extraction, but I think we might be able to nonetheless uphold the view that excessive hunting for the fur trade, for example, is in conflict with the teachings of Indigenous philosophy. This sort of exploitation is not respecting the gifts of the land, it is taking, extracting, removing, destroying, and extinguishing the “resources” (rivers, forests, wild animal communities).

In establishing this contrast between Indigenous thought and European exploitation we have to be cautious not to romanticize Indigenous peoples. Some context is important here, Coulthard is examining the historical struggle for Dene self-governance of the Northwest Territories in Canada. He explains in detail how Indigenous thought informed an initial proposal for self-governance. In practice this proposal was rejected. Coulthard laments:

a reorientation of Indigenous struggle from one that was deeply *informed* by the land as a system of reciprocal relations and obligations (grounded normativity), which informed our [the Dene] critique of capitalism [...], to a struggle that is now increasingly *for* land, understood now as material resource to be exploited in the capital accumulation process (Coulthard 2014 78).

It is important to recognize that Indigenous land-informed thinking does not always capture the decisions of Indigenous groups. With this in mind I should specify my purpose. I am interested in the critical power of Indigenous traditions to develop a theoretical framework for relating to wild animals. This critique is applicable to the institutions that currently dominate wild animal communities, even in places where there are no Indigenous people struggling for sovereignty.

Coulthard challenges the logic of land as dominion/exploitation by describing how his language conceptualizes “land” differently. He tells us that in the Doghrib⁷ language, “land” or *dè* captures relationships between the material “land,” humans and wild animals, lakes and rivers, etc. (61). Understood this way humans are part of the land, which includes the whole ecosystem found in that place. Humans have obligations to the land (wild animals, rivers, etc.) and when we satisfy these, the land (wild animals, rivers etc.) will reciprocate. As an example of this entangled set of obligations, Coulthard recounts Elder George Blondin’s (Sahtu Dene First Nation) story of Blondin’s brother Edward out hunting with a raven.

Edward was hunting near a small river when he heard a raven croaking, far off to his left. Ravens can’t kill animals by themselves, so they depend on hunters and wolves to kill food for them. Flying high in the sky they spot animals too far away for hunters or wolves to see. They then fly to the hunter and attract his attention by croaking loudly, then fly back to where the animals are.

Edward stopped and watched the raven carefully. It made two trips back and forth in the same direction. Edward made a sharp turn and walked to where the raven was flying. There were no moose tracks, but he kept following the raven. When he got to the riverbank and looked down, Edward saw two big moose feeding on the bank. He shot them, skinned them and covered the meat with their hides. Before he left Edward put some fat meat out on the snow for the raven. He knew that without the bird, he wouldn’t have killed any meat that day (Blondin 1990, cited in Coulthard 2014, 61).

The raven is seen as an independent agent, intentionally communicating, and giving an opportunity to the human, and the success of this hunt depends on both agents. The relationship between the raven and the hunter is nondominating and nonexploitative because of the interdependence, respect, and reciprocity. How the hunter thinks of the raven matters; in this case, hunter, raven, even the moose are all part of the relationships that comprise the land.

I want to examine what sort of respect and reciprocity is involved here. In this story, Western intuitions might track a sense of respect and reciprocity in the relationship between

⁷ Coulthard specifies that this is true at least in the Weledeh dialect.

hunter and raven. There is a reciprocal give and take—the raven gives information to the hunter, in exchange the hunter leaves meat for the raven. The raven is treated as informative and deserving of a choice piece of fatty meat, which shows the hunter’s respect for the raven. However, we might be alarmed that those two moose in the story may not be being respected or benefitted by the reciprocity at work. I think understanding the respect and reciprocity between the hunter and the moose better explains an ontology of reciprocity and respect that begins with the land. Exploring the Indigenous concepts of respect and reciprocity requires some recognition that these concepts are not identical with their use in Western thought. For example, my intuition when I hear “respect” in animal ethics is to think of respecting the rights of nonhuman animals, like bodily autonomy. However, it is obvious that respect for bodily autonomy is incompatible with killing. With reciprocity I think of a more-or-less equitable give-and-take, but we have already discussed that Indigenous thought relies on a concept of giving-without-taking.

To work these concepts in conflict, Margaret Robinson (Lennox Island First Nation) (2014) explains how respect and reciprocity feature in Indigenous stories about hunting. The conclusion of her analysis is that while Indigenous thought may be compatible with sustainable subsistence hunting, outside of that lifestyle (in cities where most Indigenous people live today), decolonizing food practices likely requires abstaining from meat, at least the farmed meats found in our grocery stores.

Robinson recounts a Mi’kmaq⁸ creation story. She explains the creator makes Glooscap, a “cultural hero and the archetype of virtuous human life” and his grandmother, Nukumi.

The role of a grandmother is important in Mi’kmaq culture, so much so that Nukumi is the first relative Glooscap acquires. She provides him with wisdom in exchange

⁸ The Mi’kmaq are an Indigenous First Nation who live in Atlantic Canada.

Glooscap must provide her with food. Nukumi requires meat, for she explains that she cannot live on plants and berries alone (which presumably Glooscap ate before her arrival), so Glooscap calls upon his friend, Apistanewj [which is the Mi'kmaq word for American pine marten]. Glooscap asks Apistanewj, the marten, to sacrifice himself so that Glooscap's grandmother may eat. Apistanewj agrees, and to acknowledge this sacrifice Glooscap makes him his brother. Glooscap breaks Apistanewj's neck and lays his body on the ground. Glooscap immediately regrets his actions, Nukumi intervenes with the Creator, and the marten returns to life. The body of another marten now lies on the ground, available to be eaten without the messy feelings of guilt and loss entailed in the death of friend. In later stories Apistanewj is sometimes described as an animal and sometimes as a human boy, but he is always Glooscap's companion (Robinson 2014, 674-5).

To explain Apistanewj's status as simultaneously "dead (and available for eating) and alive (and available for friendship)," or Glooscap's role as both hunter and friend to animals, Robinson introduces a distinction between two ways of referring to animals; there are both individual animals and spiritual beings with whom hunters might form relationships. While Apistanewj, the individual marten, was killed, Apistanewj the spiritual being, or *the Marten*, lives on and has a relationship with Glooscap. In this way the Marten can be respected, not as a God, who sacrifices individual martens, but as the object of a kinship relation with local communities of martens.

Robinson explains the respect involved in hunting comes in several forms. First, is respecting their bodies by using and eating as much of the given body as possible, and quietly leaving to rest whatever bones remain (as opposed to breaking them or burning them etc.). Second, Robinson tells us that whether through hunting, or other practices like collecting medicinal roots or cutting down a tree, appropriate respect is also shown to the given body through rituals that give thanks. Third, is from accepting the death of an individual animal as a gift from a friend. The spiritual being of the animals frames nonhuman animals as others who are not just valuable because of their bodies, they are also intrinsically valuable for-themselves.

Robinson goes on to explain how the relationship between the hunter and the Marten is reciprocal, which is odd in the first place as once dead a marten cannot receive something in return. Again we need that distinction between individual martens and the Marten as a spiritual entity or communal whole. The Marten is the entity with whom human communities have a relationship. Each marten embodies and participates in this spirit. Robinson suggests that when a hunter receives a marten they must give thanks but they also ought to adopt a certain attitude of being-respectful or honoring the Marten. That is the response to the gift of a successful hunt ought to be gratitude, not just for this instance but gratitude for the continued relationship (or friendship) which leads to these gifts. This gratitude, honor and respect is practiced by never taking more than what is needed and in-so-doing leaving enough for the wild animals to thrive.

Robinson introduces the concept of *netukulimuk* or avoiding not having enough. She suggests that while traditional Mi'kmaq society gathered to avoid humans not having enough, now it is wild animals who are at risk of not having enough. Further it is not just some select individuals but indeed whole communities are at risk. She suggests that this ought to be our standard. If we are to respect wild animals as our kin, we ought to extend *netukulimuk* to them as well. The way to do this she suggests is to oppose this is by opposing “environmental destruction caused by industrial processes such as fracking, highway construction, clear cutting, or strip mining” (Robinson 2014, 681). This is an immediately appealing account; it suggests that environmental protection ought to be for the sake of the more-than-human not out of charity but out of kinship which is expressed (but not limited to) traditional stories about hunting.

Now let me tie this together by going back to Coulthard's story about the raven and Borrows' description of the river mouth. The river gives without taking, which, as the

recipient of its gifts means we ought to reciprocate by being grateful for this gift. That in turn means treating the river with a certain appropriate sense of importance, it also means taking no more than we need, and recognizing that in our attempt to avoid not having enough we must leave enough for all the other communities to which the river gives itself. Further this giving need not be intentional, we do not need to imagine a river which has a mind and intentions in order for the river to give. This unintentional giving reveals our dependence on the river, but this dependence takes on a special character. The river is the cause of my being here and depending on it, it is not something I have found to satisfy my needs, the river's giving is prior to the abundance that depends on it.

This same dependency relation recurs with the hunted animals. Because they give themselves over to hunters, the hunters can live with them as part of a land and ecosystem that includes them both. The two moose in the story of the raven and the hunter were given to the hunter. We might find it helpful to clarify that this does not mean those two individual animals intentionally sacrificed themselves, but rather that the moose live in a relationship with hunters and ravens such that moose are given as sustenance to those others. The moose are then given to the raven, hunter, as well as wolves and others. The hunter who leaves out meat for the raven is not just showing respect to the raven but also respecting the moose's gift to the raven and the raven's role in a land and ecosystem that includes moose hunting.

So, humans being respectful and reciprocal with wild animals means that we understand wild animals as valuable in-themselves and not just valuable for us. This is why we must not hunt them or take from their environments any more than we need. Here Robinson (2014) helpfully points out that if you live in a city and get your food from a supermarket, then taking no more than you need likely means not taking any meat, because it is simultaneously unnecessary and not produced with the appropriate respect for nonhuman

animals, or their relationships with the land and other animals. Robinson's vision of decolonizing food draws from stories of hunting but is ultimately about living with a respect for the ecosystems on which we (humans and animal kin) all depend, such that we ensure wild animals can avoid not having enough.

4.4 Indigenous political ecology

I have one more story to recount, which will lead us from respect and reciprocity back to wild animals' Grounded Authority. Brian Noble (2018) offers an example of how two tribes use their shared relationship to a broader ecological whole to negotiate space before contact with Europeans. Noble recounts how the Piikani and Ktunaxa communities had an understanding of what was clearly their territory and between these a shared zone. Ktunaxa hunters were found transgressing this understanding as they had followed a community of black-tailed deer. The Ktunaxa also performed a ceremony to aid in hunting these deer, through this ceremony they took the deer to carry a powerful spirit and medicine (medicine, in this case, means something more than the material used in treating ailments, but a different contribution to a different understanding of health). Respect for the deer entailed following them not just for meat but to follow their medicine. When the Piikani found them the Ktunaxa admitted they were in Piikani territory and came to an agreement, they transferred the rights to the medicine. And hereafter both the Ktunaxa and Piikani would follow and hunt the black-tailed deer where the deer lead them. This relationship between the land, the deer, the Piikani, and the Ktunaxa is a complex system of relations and respect not only for each other but for the deer as well as essential to negotiating how to share the land.

First, the deer were conceived as knowing the land, being free to move on it, and even leading the humans. The deer were not "owned" by either party, the deer's crossing of human

political boundaries did not make them “subject” to the humans who hold that territory. We also did not have to conceive of the deer as exclusive owners or sovereigns of a territory. The land is given to the deer, and the deer give themselves to the hunters, this process requires respect shown in both ritual and in not controlling the deer or their movement.

The Ktunaxa and Piikani both also recognize that they both depend on the deer, and mutually respect the deer. This mutual respect for deer forms the common ground upon which they can negotiate flexible and mutually beneficial boundaries.

The reason that this respectful negotiation is possible is because land and all its ecological relations are shared. Noble (2018) stresses that Indigenous understandings of how human communities and ecosystems relate are built on giving and not taking. The land gives vitality to human and wild animal communities. This gift is shared from the beginning; humans do not have privileged authority. Further, land tenure comes with obligations to respect and reciprocate with others, even with other species. Western settler conceptions of sovereignty and capitalist conceptions of property fail to capture these obligations, especially where they concern wild animals who are often entirely disregarded in Western politics.

Noble suggests we call the appropriate form of negotiation, which starts from the shared gifts of the land, and the shared respect for those gifts, treaty ecologies. This harkens back to Borrows’ claim that valuing the ecosystem is part of treaties in Indigenous law and therefore part of treaties with Indigenous peoples. Together Noble and Borrows suggest that reconciliation with Indigenous peoples requires reconciliation with the earth and wild animals. It is a political ontology that captures solidarity between ecosystems, animals and human communities as they resist a divisive regime that separates land, humans, and animals into “sovereignties” or “properties” without respecting the interdependent relationships that allow interspecies communities to avoid not having enough. A return to that

interconnectedness, upsetting divisive ontologies might help us understand a transformative way of coexisting, informed by the relationships we share (or have together) to the land.

4.5 Evaluating Wild Animals' Grounded Authority

I want to consider the eight desiderata from chapter two and how Wild Animals' Grounded Authority might satisfy all of them. First we want a theory which promotes the *flourishing* of individuals. In Wild Animals' Grounded Authority we see flourishing in the idea of avoiding not having enough. Having the resources and opportunities one needs to exercise the capabilities associated with their flourishing is going to require that they have avoided not having those resources and opportunities.

Second, we want a theory which allows for *flexibility* in the accommodation of a wide variety of species. In Wild Animals' Grounded Authority the flexibility comes from understanding the particularity of place, season, and community all matter. We don't just have relationships with a species of animal but with the specific communities near us and these relationships—to places and between communities—are important.

Third, we want a theory that sees that wild animals are *valuable as ends*. In Wild Animals' Grounded Authority we see wild animals are understood as a kind of kin, capable of communicating, and knowledgeable in the land. Further this having a way of life in a particular place, knowing it, maintaining relationships is understood as part of the justification for authority within human society. We should expect that wild animal communities who are understood to have those same relationships are also justified in their jurisdiction and use of their traditional lands.

Fourth, we suggested that respect for entangled *relationships* and the vulnerabilities that they give rise to is an important feature of justice for wild animals. In Wild Animals'

Grounded Authority the entangled relationships between humans and wild animals are understood as an important part of living on shared land, but also of an ecological and potentially spiritual connection to a larger whole system. This is the system of giving without taking wherein land and water is given to humans and wild animals communities, prey give to predators, and in return the giver is respected and the gift appreciated. This reciprocal giving and respecting forms a way of recognizing relationships that are sometimes exploitative (as in hunter and hunted) in such a way that the vulnerable is still conceived of as valuable in themselves and worthy of respect.

Fifth, we want an account of justice for wild animals which values the flourishing of communities, not just individuals. In Wild Animals' Grounded Authority communities are understood as having relationships to each other mediated by place and ecosystem. Think of the deer who led the Ktunaxa into Pikani territory, the relationships of respect involved there are not just between individuals but between communities and the community level functions that allowed all three of those communities to flourish in an ecologically sustainable way.

Sixth, we wanted to secure community protections from habitat loss, poaching etc.. Concerning Wild Animals' Grounded Authority, since the land is shared, not given to wild animals alone, humans also live on it. The land is not carved up into theirs and ours it is to be respected as all of ours. So we ought to cherish the world around us and its inhabitants and protect them from destruction, pollution, irresponsible hunting because we recognize them all as a gift, or other worthy of respect, who are together part of a larger ecological whole we all share in. This way of thinking avoids in the first place the conceptual segregation of humans from wild animals that the community protection desiderata is meant to mitigate.

Seventh, we wanted an account that understood humans and wild animals together as part of an interspecies whole where humans are not taken to be superior to wild animals. In

Wild Animals' Grounded Authority wild animal communities are thought of as sharing with us, as knowledgeable others we can learn from, who we might follow, and with whom we might work together or communicate. Understanding these possibilities without adding in hierarchical political concepts where wild animals might have to be "recognized" or "represented" allows for humans to interact with wild animals as one of the same kind of being. We are all animals, or perhaps, if we follow Robinson (2014), we are all persons, humans and wild animals are different members of the same whole interspecies community.

Eighth, and lastly, we wanted an account that was based in criticism of oppressive institutions rather than instituting its own potentially new form of continued human domination. Wild Animals' Grounded Authority builds on a tradition of criticizing and decolonizing Western notions of sovereignty, land ownership, land management, and a politics of recognition and representation. We are not extending the institutions used to oppress wild animals to now include them, instead we are supporting the challenges Indigenous political thinkers are making of Eurocentric institutions. Further the new institution here is not erecting anything, it is based on understanding the already existing relationships as something we can respect as they are. This makes Wild Animals' Grounded Authority a radically non-dominating account where humans have no hierarchical relationship but stand on the same shared ground, receiving the same shared gifts as wild animals.

4.6 Conclusion

When we think of justice for wild animals perhaps our strategy should start with the idea that wild animals are expressive, have a relationship to us, and have also been given life by the land we share with them. Humans therefore might be able to communicate with them,

shape their behaviour, and negotiate ways of resolving conflict between humans and wild animal communities. Treating conflicts with wild animals as something to resolve to mutual benefit is also a way of respecting the grounded authority wild animals have on the lands that they need, and where their knowledge lets them thrive.

Further we can take a lesson from solidarity here. Many Indigenous people in Canada struggle for self-governance and control of their land, and they consider respect for ecosystems and wild animals to be part of that political struggle. We might also say that elsewhere in the world, where there may not be Indigenous people struggling for self-governance, the struggle for respect for ecosystems ought to also be a struggle for humans to avoid not having enough. This is possible insofar as the systems of governance, capitalism, and disregard which disrespect wild animal communities also disrespect the humans who struggle to avoid not having enough.

We might be fulfilling our obligations when we build green bridges over highways, establish green corridors, use harmless deterrents to keep wild animals away from places that could be dangerous for them or for humans because of them. Handling conflicts by developing strategies of coexistence that involve observing wild animals, respecting their freedom of movement and right to the abundance of the land, captures respect for wild animals' jurisdiction on the lands we share. The more radical idea is that we also ought to recognize that we cannot just respect the land and wild animals where and when it is convenient for us. We are obliged to respect wild animals and the land because the land gives to them as well.

My brother told me a story: he was crossing a bridge over the credit river in the city of Mississauga (named after the First Nation whose lands were colonized and settled on). While he was on the bridge he looked down and saw a beaver. He noticed a couple walking on the

bridge nearby and pointed out the beaver. They responded with disgust and lamented “that thing will probably go after our trees” by which they meant the beaver might fell some small decorative trees that humans plant along our suburban streets or in our yards. This sort of thinking fails to recognize that the land is also the beaver’s land, those trees are also the beaver’s trees, because this land is a gift to all of us (a gift which suburban development disrespects in the first place). Wild animal grounded authority suggests that whatever policies we develop to coexist with animals like the suburban beaver, must respect that the beaver belongs here and we must leave the beaver with enough to avoid not having enough. This is how we can respect that the beavers have lives which are valuable for-themselves.

Chapter 5: Wild Animals' Political Participation

Wild animals are thrust into our political world. They cannot understand the human political bodies (corporations, governments, neighbourhoods etc.) that affect them, regulating industries they live near, building highways through their territories. Wild animals must interact with, live with, and struggle against human enterprise; for example, chimpanzees cross roads (Cibot et al. 2015), elephants and orangutans raid farms (Mumby & Plotnik 2018), and geese interfere with airports (Meijer 2019). Conflicts like these arise from wild animal communities struggling to share their world with human society.

The struggle wild animal communities have with human society is political because the systems of power that wild animals ultimately struggle against are political. Wild animals obviously are not intentionally participating in politics, but they are participating in behaviour which has implications for political endeavours. Humans too are in a struggle to share the world, but we are in a struggle of self-control and restraint.

In chapter four, we looked at Indigenous thought as the ground of political authority. We explored the idea that respect and reciprocity for wild animals, and the ecosystems we share with them, helps to justify political authority. Such authority is not a hierarchical ruling-over wild animals or even representing wild animals in a system of government, rather respect and reciprocity realize the already existing interdependent relationships humans, wild animals and ecosystems already share. This way of thinking of wild animals resists hierarchy by understanding wild animals as knowledgeable, expressive others with whom we can communicate and from whom we might learn.

This changes the way we might try to evaluate justice for wild animals. Instead of presuming “justice” is up-to-us to determine and apply, listening to animals starts from their know-how. Wild animals are sometimes in conflict and sometimes thriving and we can look at how wild animals are dealing with us, the opportunities and challenges we give them. Then we can modify our behaviour in response to their behaviours until through gradual adjustment and readjustment humans and wild animals together arrive at coexistence. We can define this coexistence goal in Indigenous terms as well, it is not necessarily bounty, or happiness, or a life worth living, coexistence is what happens when both human and wild animal communities can avoid not having enough. The alternative, not having enough, is ultimately unsustainable.

In this chapter, I will start by exploring how it is possible for us to understand wild animal behaviour as-if it was meant to be political. We will start by reflecting on how Wild Animal Sovereignty suggested that we treat wild animals as-if they were sovereign. I suggest we move that as-if down one level of organization to make space for animals to participate, either through direct intentional resistance to human activities, or indirectly through other forms of expression including occupying politicized space. This lets us build on Wild Animals’ Grounded Authority to show how the relationships we have with wild animals provide meanings that can be part of a political discourse aimed at conflict resolution and coexistence.

I then turn to examine a series of cases where careful observations of wild animals and working closely with the local human communities can develop strategies for humans to understand, communicate, and coexist with wild animals. In 5.2 We will look at a clear case of communication in the way that whales resisted whalers. In 5.3 we consider the politics of place in the case of geese communicating through persistent occupation of land near an

airport. In 5.4 then we consider how coyotes living on the periphery of our cities provide an opportunity to listen to wild animals. In 5.5 I explain how seeing orangutans as intelligent beings can change local attitudes. In 5.6 I explain how comparative cognition can come to our aid in helping humans better express the boundaries we need to coexist, and we look at how comparative cognition is helping to ameliorate tension between elephants and local farmers. Throughout these examples I show that wild animals have important relationships to place, which we can observe and respect. In turn wild animals can respect our boundaries, especially when they are appropriately and consistently communicated.

5.1 Reflecting on Wild Animal Sovereignty

In chapter three we considered Wild Animal Sovereignty and Wild Animal Property as possible models for justice in the relationship between human-controlled political bodies and wild animal communities. We concluded that Wild Animal Sovereignty is notably different from the normal use of sovereignty. It is a claim more like we ought to treat wild animal communities as-if they were sovereign. Their interests should be taken into account when humans make decisions that would affect them, and they should be protected from certain abuses, such as forced relocation (Donaldson and Kymlicka 2011, 169).

In this proposal, wild animal's expressions and behaviour remain ignored. Even in chimpanzee communities with a shrewd leader who formed alliances, chimpanzee dominance hierarchies fall short of being a sovereign who makes *rules*. Even where we attribute following social norms to wild animals, that norm-following still falls short of intentionally instituting and abiding by rules. The irrelevance of wild animal behaviour or intention opens the door to the criticism that whether or not we call them sovereign, how human imagine of their lives, their interests, and what they will tolerate, still dominates them.

A situation where "representative" authorities define the scope, limits, and possibilities of life, is what Wadiwel (2015) calls biopower domination. Wadiwel is concerned that any representative solution to justice for wild animals only transforms domination. In *The War Against Animals* (2015), he calls for a "truce," which emphasizes humans' need to constrain their authority. We should take this concern as a call for caution, that appointing representatives is an incomplete picture of justice for wild animals.

To mitigate the transformation of domination, from tyrant to representative, I suggest we relocate the counterfactual. Instead of attributing wild animal communities *as-if* sovereignty, I suggest we consider them *as-if* participants whose behaviour carries political meanings. This allows wild animals to protest human enterprise and join the vital critique central to a healthy democracy.

The feature of politics that I expect a representative solution, like Wild Animal Sovereignty, is overlooking is the presentation demonstrated by the wild animals which humans might represent. I can (as a citizen of a democracy, lawfully) challenge those who represent me in government. I can criticize, protest, vote, or run for office to put pressure on my representatives. Through critique, complaint, and the behaviour of constituents, representatives have something to represent, namely our interests as we have articulated them—not in the abstract. Of course, political practice often fails this ideal, but we are not helpless in the domination of us by inappropriate representation.

In chapter four I suggested that wild animal communities have a sovereignty-like status, Wild Animals' Grounded Authority. This standing suggests that wild animals are already justified in having claims over the resources and land that we share. Their jurisdiction is not based on a privilege granted to them by humans who extend sovereignty to include them, and it is not from the recognition of an international community. Wild Animals'

Grounded Authority comes from the actively maintained relationships wild animal communities have with the land, water, and other animals (humans included). The wild animals know how to lead this life, the specific geography of the places they live, its seasons, and other communities all mean something to those wild animals. These relationships do the work of “recognizing” the authority of wild animals, not formal bodies. These relationships explain why wild animals are here and why they ought to be. This justifies their place.

So, wild animals have a justification for living where they do and given that they are already part of interspecies communities which include humans (even if those humans don’t recognize it). But what does that mean for us humans? Without representatives it might seem that this is a considerably weaker position than Wild Animal Sovereignty. I suggest, however, that on Wild Animals’ Grounded Authority, the wild animals do not need representatives because they can “speak” for themselves.

When the world is understood as also having meaning to wild animals, and the relationships wild animals have with places and other communities are seen as important and valuable, then those meanings and values can enter into conflict with the different meanings and values humans place on those same places. These conflicts of meanings and values can be settled, I will argue, through communication. When we recognize human-animal conflicts as more than a matter of risking bodily harm or damaged property and understand them as simultaneously about what the world means for humans and wild animals, then we can plausibly resolve the conflict by allowing humans and animals to use places in the different ways they each need to. To embark on such a project, we first need to decipher three main questions: first, what is it that wild animals communicate? Second, how can we listen to the meanings the world has for them? Third, how can we express ourselves so that wild animals can listen to us?

5.2 Wild animal resistance: Whales and Whalers

By and large the possibility of political participation requires humans interpreting a political meaning in the behaviour of wild animals who were not intending to interrupt any status quo operations of humans. However, there are a few easier cases where wild animals have straightforwardly and intentionally resisted human control. Sarat Colling (2021) provides a beautiful but harrowing collection of stories that illustrate cases of nonhuman animals resisting human control. Many of these focus on captive animals escaping captivity (e.g. cattle leaping fences to escape the abattoir, or circus animals that overpower their handlers and run free). In most of these cases the escapees are recaptured or killed. Wild animals are already free but are sometimes still the victim of intentional violence.

One such example is the story of Mocha Dick, the white sperm whale who inspired Herman Melville's *Moby Dick*. Mocha is one of many sperm whales that sought out, attacked, and repeatedly survived whalers. Mocha Dick reportedly died while helping a mother whale avenge the death of her calf. The mother whale charged at the ship but was harpooned and killed. Mocha then flipped over a small whaling ship before getting harpooned himself. Mocha was not alone, a decade later there was a report of another white whale with many harpoons still in its living body (Colling 2021, 64-65).

Now in a case like Mocha's it's clear what the whale wants. The whale wants to (a) not be hunted by humans and (b) not have other whales hunted. It also seems plausible that the willingness to brave the dangerous whaling ships to strike-back at humans is related to the systematicity and gross excess with which humans pursued these whales. Mocha knew nothing about the industries and governments involved, but it is not required that Mocha understand this. Mocha also did not demand sovereignty or citizenship.

This sort of explicit resistance may help illustrate the political problem. Whales are excluded from the political system, their behaviour does not count, but it could. Mocha's case is easy, we can understand that this violent retaliation is a desperate expression of fear and outrage. But even if the means of expression, its intention, or the political implication is not as clear, it remains that wild animals are not just the passive recipients of human treatment. Wild animals express their needs, desires, fears, and outrage in their behaviour. Humans can listen to these expressions.

5.3 Communication as political inclusion: Geese and Air Traffic

So long as wild animals are understood as politically inert, impotent, and incorrigible, their behaviour will not be able to register any challenge to human political bodies. Meijer (2019) calls us to establish an Interspecies Democracy wherein humans might attend to the politically meaningful ways nonhuman animals express themselves.

She suggests one central reason why nonhuman animals are excluded from politics is that, at least in modern Western political traditions, they do not communicate, and communication is essential to political activity. For example, in *Leviathan*, Thomas Hobbes says: "To make covenants with brute beasts, is impossible; because not understanding our speech, they understand not, nor accept any translation of right[...]: and without mutual acceptation, there is no covenant" (Hobbes XIV(29), 68). Further, the making of covenants is the foundation of political authority for Hobbes. So, unable to understand our speech, nonhuman animals are left out of politics (to a famously nasty, brutish, and short life).

Meijer (2019) suggests this sort of exclusion of animals too narrowly defines "language" or, in Hobbes' case, "speech." To resolve this we should open up the concept of language to include forms of nonhuman animal expression that might be arbitrarily excluded.

She discusses many examples, including the possibility of understanding language games in the mimicry of parrots (Meijer 2019, 49; also see Burger 2002) or the existence of a sort of grammar in the visual performances of reef squid (Meijer 2019, 55; also see Moynihan 1991).

Even if we formulate such an expansive concept of language that includes nonhuman animals, it remains that they cannot intentionally perform the speech acts central to democracy. Wild animal communities do not and cannot participate in human politics; they cannot intend to resist, challenge, or comply with demands they do not understand from systems of organization beyond their comprehension. However, it is just as true that their silence is unintentional; they do *not* mean to not-resist or not-comply. Their intentions can be neither taken as directly political nor as apolitical. As humans, only we can see in their actions the implicit political meanings that fall out of living in a world that we have politicized. Wild animals are in a politicized world, an alien world of political meanings they do not and cannot know.

I suggest we start with sites of conflict, places where wild animals interrupt the flow of human activities, making themselves known. Then, we try to listen to and communicate with these wild animals. This communication requires observing them, and in some cases attempting to communicate our expectations, observing their response, and repeating in an open-ended negotiation aimed at coexistence.

Meijer offers a start on such an account of wild animal political participation. She suggests that some wild animal behaviours closely resemble human protest. If we take wild animals becoming a threat or nuisance as-if it were political protest, and we think of the wild animals as entitled to respect and capable of communication, then we might be able to resolve these conflicts amicably through communicating with wild animals. Further, such a

resolution would show appropriate respect to wild animals and mitigates the exercise of human power to define justice. The wild animals' behaviour lets wild animals speak for themselves.

On the matter of wild animal behaviour being taken as if it were a protest, Meijer (2019) offers a helpful case; she suggests that the geese at Schiphol airport in Amsterdam protest the culling used to control their population and clear the local airspace from their flocks. The geese moved into this space because it was valuable for them; the population began to grow, which is a way of voting with their feet. As free moving creatures, they can choose where to live from the available resources. Conflict began in 2010 after a plane flew into a group of geese and had to return to the airport. Meijer suggests that there are several plausible options at this point that do not include killing the geese, including bird detection equipment or recognizing the extremely low risk to human safety the birds pose. However, the Dutch government hired exterminators and killed thousands of geese in 2013, 2014 and 2015. This proved remarkably ineffective as new geese moved to the fields replacing their slaughtered kin.

Meijer (2019) interprets these events as political behaviour, suggesting that through "squatting," "occupying," or "foot voting" these geese claimed grassland and airspace near Schiphol and protested culling. Now each analogy to human protest here is strained. The geese are not intentionally squatting on land that "someone else" controls. Nevertheless, they are living on land which someone else did control. Calling them "squatters" then captures some real part of the political situation of their being-there. They do not seek to occupy the land to be an obstacle to the destructive human enterprise that culled geese before them. Yet, they do just this; by continuing to be a nuisance to the airport, they are like protesters occupying, being an obstacle to, and frustrating those with whom they are in conflict. The

geese do not seek any political change when they move into the fields by the airport from afar. Yet, by "immigrating to" and persistently repopulating the area near the airport, they make a political point. They render culling a temporary solution at best.

The geese themselves, without any representatives, can be empowered, through our interpreting, to say "this is our space." Their silent apolitical flocking to that place is not compliance; it undermines the human enterprise's expectations and designs with which it conflicts. The persistent disruption constitutes a behaviour pattern which we can understand as a political statement, that this is a place for geese to live.

This example helps to show how we might locate political meaning in action. It also focuses on a failure to communicate. Humans did not listen to the as-if political content of the geese occupying land near Schiphol. They also did not forewarn, persuade, or discourage the geese. We humans did not treat them as agents capable of making decisions.

Meijer suggests further possibilities such as deterrents like robot geese or the use of manure on nearby fields to dissuade the geese from occupying those fields. This sort of suggestion opens up a possibility for humans to listen and express our demands such that the other animals might comply. Instead of exercising force immediately, we *could* communicate with wild animals.

Meijer has left two tasks to those of us interested in creating something like an Interspecies Democracy. First, we must change public attitudes and reimagine wild animals as the sort of thing that can communicate in politically salient contexts. Second, we must facilitate that communication, which requires a detailed understanding of expressive capacities, needs, and movements of the species with whom we communicate. In section 5.4 and 5.5 I will address how we might work towards a public reimagining of wild animals as

able to communicate. In section 5.6 I will further develop some of the ways we already are negotiating use-of-space with wild animals.

5.4 Making Space to Listen: Coyotes and Suburban Communities

Including *wild* animals in politics has a prima facie conflict because wildness, as a concept on its own, is opposed to civility. However, we've challenged that dichotomy explaining that wild animals can lead flourishing lives, and that humans have an obligation to allow wild animals both the space and the community autonomy needed to realize that flourishing. But what does it look like to get communities onboard with coexistence between human societies and wild animals?

Coyotes in North America have become a “flagship” species for coexistence approaches to carnivore conservation efforts and research (Wekel & Wincorn 2016). In particular, the Northeastern coyote (sometimes called “coywolf”) has garnered attention as its hybridization with wolves has led to larger size and more numerous packs. This population has grown relatively recently and expanded into territories that previously didn't have coyotes, like New York City (Toomey et al. 2012). The Northeastern coyote is becoming a flagship because it is “breaking down barriers” between wolf and coyote, and between wilderness and urban environments. This is made possible because human activity has disturbed traditional territories of cougars and wolves opening a niche for an opportunistic predator (Wekel & Wincorn 2016). This opens an opportunity for humans to strive to coexist with coyotes better than we have with wolves or cougars.

Leaning on common perceptions of coyotes as a nuisance and wolves as a danger, this population of slightly wolf-like coyotes is often seen as an especially dangerous nuisance. As a result many humans and municipalities support lethal population control to keep coyotes

out of their yards and away from their pets, other captive animals, or wild animals valued as “game.” A number of factors affect perceptions of the coyotes (e.g. education, place of upbringing, gender, whether or not you are a sport hunter (Drake et al. 2019)); two surprisingly important features paint a picture of humans politicizing the lives of coyotes in ways that can have lethal consequences, they are (1) the local ethos of a city and (2) what part of the political spectrum people land on.

The city someone currently lives in is identified by Michael Drake and colleagues (2020) as one of the best predictors of someone’s attitude towards coyotes and lethal population control. They explain that while other features like growing up in a rural place or having some education about the species have an effect, it’s not very big. As a result they recommend conservation efforts focus on building emotional connections between local residents and the local wildlife. Hopefully a focus on emotional connection can develop some cities into the sort of place where people typically want to coexist with coyotes.

Local ethos can vary widely and for various reasons. It may have to do with local history, for example, in Cape Breton, Nova Scotia there was a conflict in a national park that resulted in a human death in 2009.⁹ A decade later residents in this region typically held a negative view of coyotes, and significantly more negative a view than tourists in the area (Vaske & Sponarski 2021), although education about coyotes did have a significant effect in reducing the sense of fear people had for coyotes (Sponarski et al. 2016).

Meanwhile, in New York City where coyotes are relatively new, New Yorkers were interested in this new wildlife and had generally positive views (Toomey et al. 2012). Other

⁹ The young woman who died was Taylor Mitchell, a 19 year old folk singer. In response to her death the Nova Scotia government put a bounty on coyotes. Her mother, Emily Mitchell was vocal in her condemnation of this bounty insisting that: "I mean, what's happened to me is devastating, but I just don't think going in and putting a bounty on them and just shooting any coyote is going to solve the problem" (CBC 2010).

communities have demonized coyotes in hunting events, providing bounties and prizes for dead coyotes (Boesel & Alexander 2020). These different local attitudes, practices, and histories shape an affective background which influences the political decisions humans make for coyotes. But the “local ethos” is something humans construct. It's not a feature of the coyotes, it is within our control and when the local ethos supports lethal population control that is a failure of humans' willingness to coexist.

The second feature I want to discuss is how whether people tend to watch conservative or liberal news media affects their view of coyotes, and willingness to support lethal population control. Typically, those who identified as liberal (where “liberal” is the left-most option) had significantly more positive views of coyotes the more they reported to watch local news that might mention coyotes. While those who identified as “conservatives” tended to have more negative views of coyotes the more they reported to watch local news (Nardi et al. 2020).

Both of these features direct us to an unambiguously political culture, either in the form of a local culture or a broad political ideology. These attitudes affect support for policies like lethal population control. The coyote lives are politicized by all the same things that affect wild animals generally, like human industry, infrastructure, habitat destruction, and climate change, but also because they have been flagged as a potentially “dangerous nuisance.” This conceptualization is political, both in the biopolitical sense that we are deciding for others *what* they are, but also in the sense that political polemics and local cultural attitudes affect human willingness to coexist.

Shelly Alexander and Dianne Draper (2019) describe the politicization of coyote life as a set of rules which coyotes potentially transgress. These transgressions are often seen as a justification to kill the coyotes. The rules include crossing human boundaries. In a series of

interviews respondents suggested that coyotes may need to be killed if they transgress spatial barriers like coming “on the porch” or “closer than 200 metres” (Alexander and Draper 2019, 8). These interviews also suggested humans considered killing coyotes justified if the coyotes exhibited supposedly threatening behaviours like: “acting brazen or not scared, [...] more than three coyotes together, defecating in the yard (presumed territorial)”, or were found to be threatening captive animals for example if the coyotes were “in with livestock, chasing calves, killing cats or dogs” (Alexander and Draper 2019, 9). The authors pointed out that respondents also considered behaviours like a coyote killing cats or dogs “natural.”

These responses suggest several problems that must be overcome in pursuit of justice for coyotes: (1) humans justify killing coyotes for a wide variety of reasons, (2) humans essentialize the coyote as dangerous as-if there were no possible world in which coyotes are not threatening. These are both problems for the ethical treatment of coyotes, the first is a violation of the sort of right to life that traditional animal rights would highlight as a bare minimum protection. The second is the problematic misrepresentation of coyotes as essentially vicious. By conceptualizing coyotes as *transgressing rules* and being *punished* with death for their transgressions, Alexander and Draper (2019) highlight a third problem. Humans are implementing rules which have not been communicated to the coyotes. Humans are sentencing the coyotes to death—from threats real or imagined—without a due process or justification for why death must be the sentence. Finally, humans assume that coyotes must respect human boundaries, and humans seem to have no corresponding duty to negotiate those boundaries, accommodate coyotes, share spaces and resources, or effectively communicate those boundaries.

First, we might look for new ways to set up more effective boundaries and share the space. Donaldson and Kymlicka’s (2011) suggestions for how to treat denizen species might

be very effective here. They focus on the need to effectively communicate boundaries, suggesting that justice for wild animal denizens who live close to humans could be achieved through practices like encouraging and preparing for wildlife in one area and discouraging wild animals in other areas. Perhaps we could design neighbourhoods that are coyote tolerant, maybe these neighbourhoods have restrictions that prevent free-roaming cats or off-leash dogs to minimize possible conflict with coyotes. Regardless of what boundaries or regulations we set up, it's important that, if we expect wild animals to respect our boundaries, we ought to set up those boundaries intentionally. This would require making suitable and sufficient space for wild animals and then implementing measures to discourage them from leaving that space.

Second, we must tackle the misrepresentation of wild animals as essentially vicious. In order to motivate coexistence with wild animals we must first reimagine wild animals as something that we can coexist with. Of course, uncaredful interaction with wild animals is dangerous and wild animals would also be misrepresented if we imagine them as "friends we haven't met yet." There is an important middle space, where we strive to keep a safe distance between humans and wild animals without essentializing the wild animals as vicious in their wildness.

Alexandra Boesel and Shelley Alexander (2020) point out that there is an analogy between persecuted wild animals, misrepresented by speciesist depictions, and persecuted humans, misrepresented by racist depictions. They suggest that killing coyotes as part of population management is speciesist and colonialist. It is speciesist because it privileges some desirable species, for sport hunting, livestock, or companionship, over coyotes. They add that it is also colonialist because it disregards Indigenous systems of land management that aim at respectful relations between humans and other species (including predators).

Further they highlight that Indigenous people have been dehumanized in colonial representations, justifying violence and dispossession (Boesel and Alexander 2020, 155). This is also a violence which has not ended. Indigenous activists throughout North America are often involved in conservation efforts to attempt to stop oil pipelines, forest destruction, and other forms of ecological destruction and dispossession.

Colonialism here plays the role of devaluing relationships between humans, wild animals, and the places they live. It accompanies the totalizing values Capitalism gives to those same humans (as labourers or consumers), wild animals (as game), and places as resources to be made useful. When wild animals, like coyotes, interfere with these values we engage the colonial systems of dispossession to make them into a vicious “other” against which we can go to war. Perhaps something like this is also true of the humans who lose their value as labourers or consumers when they stand in the way of the exploitation and destruction of ecologically valuable places and more-than-human others. For this failure they are devalued, made into “radicals” arrested and shot-at (even if, in the case of many Indigenous protesters, it is *their land* which they are defending).

To undo this systematic (but not unintentional) devaluing, we ought to decolonize our thinking about wild animals. In chapter four we explored this in some detail, and we highlighted that in some Indigenous systems of political thought the land is understood as part of an ecosystem which includes humans. In our shared ecosystems wild animals and humans are understood as always already sharing the land and its gifts. Further, wild animals are also seen as “kin” who are knowledgeable, valuable in-themselves, and worthy of respect. This is why I suggest that if we were looking for a form of Wild Animal Sovereignty, we should think less of an analogy with Eurocentric sovereigns and more of the Indigenous idea that political authority in a particular jurisdiction is justified in part by ecological knowledge

and traditional relationships with that place and its more-than-human inhabitants. I call this Wild Animals' Grounded Authority, which means that wild animals have a jurisdiction, they not only belong but they ought to have a say in how they belong. Although their "say" is not going to be clearly stated propositions

In chapter four, I mentioned that the Grounded Authority of Indigenous groups (like the Algonquin) incorporates ecological knowledge into the justification of political authority. The chief, who is responsible for organizing the distribution of families on the land, such that they can sustainably avoid not having enough, is also a keeper of traditional ecological knowledge. Much of this knowledge is gained from wild animals, and is kept in the form of stories that detail the relationships between humans, often as hunters, and more-than-human others (like wild animals, and the spirits associated with those wild animal communities). This structure of keeping, prizing, and integrating ecological knowledge into political authority is great but may have limited extension.

In Canada (and many other colonized places) we have the opportunity to respect the already existing traditions that turn our attention back to the lives of animals with whom we share land. Settler governments rarely respect Indigenous traditional ecological knowledge, or the chiefs, elders, water-protectors (who defend the waters themselves, not just their right to make use of it), land defenders (who defend the lands themselves, not just their right to be on it), and activists who actively make the political implications of that traditional knowledge known. So we might start there, when there are local communities who have intimate relationships and knowledge of the land and the wild animal communities who live there, those relationships ought to justify the jurisdiction of traditional governance which respects and reciprocates the wild animals' care for their world.

But what do we do when the relationships between humans and wild animals have been lost, forgotten, or ill-maintained? After all, densely urbanized places, colonization, and industrialization alienate humans from wild animals, even the wild animals who share our neighbourhoods are often seen as vermin who are out-of-place in a constructed ecosystem like a city. The solution I propose is to start over and reconstruct local traditions of knowing wild animals as our more-than-human kin who share this world (including the built environment). To do this we will look to scientists who study wild animals as specialists, but also to communities who can be mobilized to participate in rebuilding relationships with wild animals.

One important step forward might be making use of citizen science, where people share their observations of wild animals helping to build maps of where the wild animals are, when they are there, and what they have been seen doing. There has been some success with this. For example, Mark Wekel and colleagues (2010) combined surveys and an educational campaign to better understand the movement of coyotes. They distributed surveys to homeowners through a voluntary task of having elementary school children interview their parents. The data this produced was used to map the expansion of coyotes into local suburban areas. However, by involving the local community Wekel and colleagues aimed to “elevate the profile of the novel predator in the community, a prerequisite for managing potential human—wildlife conflict, and also permits stakeholders to quantify their own risk” (Wekel et al. 2010, 1169). The ultimate aim is to promote coexistence, Wekel and colleagues explain: “The future of coyotes in suburban areas [...] depends not only on a scientific understanding of urban coyote ecology but also on stakeholders’ willingness to share their backyards with a top predator” (Wekel et al. 2010, 1169). This “willingness” is not Interspecies Democracy, or an acknowledgment of Wild Animals’ Grounded Authority but it is a prerequisite for it. The

background against which we might be able to have political relationships with wild animals is one where we are watching out for them, aware of them, not as a nuisance but as others with whom we already coexist. We might try to reframe conflicts so that we consider both wild animal and human “willingness” to share space. The resolution to conflicts about sharing space means both sides have to be seen as stakeholders, who can communicate and arrive at mutually accepted ways of interacting safely.

5.5 Changing Attitudes through Setting Boundaries: Orangutans and Farmers

Careful observation of wild animals doesn't *just* mean watching them. After all, those cases where wild animals are called a nuisance indicate a sort of “watching out.” We might watch-out to protect ourselves, our captive animals, our crops etc. What is missing from just watching-out is the sense that the wild animals we might observe are the sort of creature with whom we could negotiate boundaries to ensure peaceful coexistence. When wild animals are seen as inevitably a nuisance, humans can feel they have no control in the relationship, boundary transgressions can feel like threatening violations of our security (or the security of our captive animals or property). Understanding the wild animals as something that thinks, acts for reasons, and therefore can be communicated with transforms them, they lose the visage of a vicious beast becoming an other worthy of respect.

Gail Campbell-Smith, Rabin Sembiring and Matthew Linkie (2012) studied farmers' responses to crop-raiding orangutans. These farmers initially described orangutans as dangerous, vicious creatures who consume significant quantities of their crops. However, the view changed somewhat after they were able to set boundaries with the orangutans. Researchers provided farmers with bamboo drums to scare away orangutans and put up netting on fruit trees making the fruit difficult to access. While both strategies proved

effective, the nets were far more effective (Campbell-Smith et al. 2012, 372). Five months after the trials, all of the farmers had stopped using the nets, despite the fact that the nets were substantially more effective than drums at mitigating crop losses—likely because they were too tricky to hang.

However, the interesting feature is the report of the farmer's change in attitude toward the orangutans. Before the trials 58% of farmers expected that orangutan removal would be their preferred method of conflict mitigation. However, after the trials only 28% preferred removal. This suggests that mitigation through communication, in this case, drums and nets, is not just about being effective but also about changing attitudes. The conflicts call out for resolution, and the humans involved seem to prefer achieving that resolution through changing behaviour and, in so doing, creating interspecies coexistence. Part of what must be done is this change in attitude so that animals are seen as agents we can deter and communicate with, whose behaviour is not aggressive or inevitable but something that can be shaped to accommodate coexistence.

Instead of being mere victims of human enterprise, made into a nuisance that must be overcome, wild animals can be seen as intelligent beings. We are not at the mercy of their wild, wanton destruction, and they need not be at the mercy of our exploitative domination of the world. Through the use of appropriate warning systems (like drums) and barriers (like nets on fruit trees), we can learn how responsive and capable of sharing *they* are, which might also motivate us to embrace sharing. Projects aimed at coexistence through communication and setting appropriate boundaries are not just about the protection of humans, or facilitating a willingness to coexist, it is also about correctly understanding wild animals as the sort of thing with whom we can communicate.

It also means reconceiving of our behaviour as often unintentionally expressing something. For example, when we start to grow large quantities of delicious fruit in an orchard which is easily accessible for wild animals like orangutans, we are unintentionally inviting crop raiding. The orangutan does not know that humans need these crops for their livelihood, they do not have a way of trading or labouring to earn access to the fruit, and they may not realize the extreme violence humans are willing to engage in to protect their exclusive access to this fruit. From their position it's "available" even if it means coming closer to humans than they would like.

Think about how we behave with other humans when defining what is and is not freely available. We use fences, lawns, signs, landscaping, and many other conventions to make distinct what property belongs to whom, which spaces are public, and which are not. So when something is mine, privately, I can do things that make it clear to other humans not to touch, take, or use what's mine. If we want wild animals to also respect some reasonable boundaries, we also must communicate clearly with them.

Wild animals become conceptualized as not just something to conserve, a passive recipient of the human willingness to share, but rather as someone who responds intelligently to the world around them and who may or may not be willing to share *their* spaces as well. We do not require violent control of wild animals if we can non-violently make ways of coexisting intelligible to them. Sharing our world by making it intelligible, democratizes shared spaces by allowing for mutual thriving.

5.6 Comparative Cognition and Communicating with Wild Animals

There are many examples of listening to wild animals and expressing our desires and boundaries in a back-and-forth negotiation already underway. We do things like monitor

animals' migratory patterns (Kite et al. 2016; Lamb et al. 2018), build green bridges and green corridors (Burkart et al. 2016; Abrams et al. 2017; Wang et al. 2018), at least in part for the sake of the wild animals. These projects are not just about engineering a better world for humans; they aim to share spaces with wild animals.

Communicating with wild animals poses unique problems. In order to express our boundaries such that they are intelligible to wild animals we must know a great deal about the wild animals with whom we engage. In our discussion of Indigenous thought in chapter four, I explained that political decision makers, e.g. a chief of the Algonquin (Pasternak 2017), make use of traditional ecological knowledge about the behaviour of wild animals when making land use and management decisions. Further they respect and cultivate relationships with the land they live on so families, living on the same land for generations, have special knowledge of that place and the animals who live there. In this political system ecological knowledge, including knowledge of (and from) wild animals informs human relationships and decisions through traditions. In places where we no longer have traditions that allow us to be informed by the land and wild animals who live there we can look to other experts to help explain how we might best respect wild animals.

This opens up a space for researchers working on comparative cognition to contribute to conservation efforts. Alison Greggor and colleagues (2014) expands on the possibilities for comparative cognition to be helpful for conservation. They suggest that in order to intervene in human-animal conflict in a way that changes wild animal behaviour, comparative cognition theorists and conservationists should engage in a step-by-step process of purposefully altering cues. A “cue” can come in a wide variety of forms, for example: a feature of the environment, especially if it’s something novel like a human-generated noise, something an animal might eat, a barrier like a fence, etc.. For various conservation goals

humans might want to change the behaviour wild animals have in relation to the cue. In some cases humans may want wild animals to avoid something, like the agricultural land humans want orangutans to avoid, in other cases it's something we want wild animals to make use of, like a green-bridge allowing wild animals to safely cross a highway.

Greggor and colleagues (2014) suggest that cues are related to behaviour through a wide variety of learned associations, habits, or dispositions like neophobia. To modify behaviour humans can identify (1) what cues wild animals are using, (2) what mechanisms lead from the cue to the behaviour, and then (3) how we might alter the cue to change the behaviour. They suggest a number of possible ways to alter cues such as: adding an aversive cue, incorporating novelty to deter neophobic wild animals, exposing juveniles to something to make it more attractive, adding rewards etc. One example Greggor and colleagues (2014) offer concerned disruptive noise from a mining operation, they point out that mining produces loud blasts that are disruptive to wild animal behaviour, but suggest that if the loud noises can be made predictable, occurring at the same time everyday wild animals might become habituated to it and therefore less disturbed.

What is interesting to me is that in this discussion and others like it (e.g. Caro 2012), the normative element is separated as “conservation.” This is a goal some human conservationists have. These theorists are not actively recognizing that wild animals have authority in a space, they ought to be there, and we *must* share with them. Further, the wild animals are described as-if humans were controlling their behaviour by teaching them. Humans are conceived of as the knowledgeable “manipulators.” But we could reframe these kinds of projects. When we think about the cues animals already use to know where to go, what to avoid, etc. we should also be aware that we are already communicating, just unintentionally. When we present new cues we might be “teaching” something but we are

also expressing something, and after we express something we can look back and see how wild animals responded. By alternating our expressing something, and then observing wild animal behaviour, modifying our expression, and then observing, and modifying again until we observe the behaviour we aimed at, that is as much shaping-behaviour as it is negotiating a system of cues that lead to coexistence. A final crucial detail in reimagining behaviour-shaping systems as a negotiation, is that wild animals can refuse, they can refuse to be deterred.

This is a way of saying “no” to whatever model of coexistence we tried to create. Consider the orangutan example again. If they did not have sufficient food sources elsewhere, we might start to find that nets and drums are insufficient deterrents. In such a case, we need to go “back to the drawing board,” plausibly exploring root causes of conflict, things like insufficient habitat. Wild animals can be conceived of as acquiescing to our proposals for more harmonious coexistence by taking cues the way we intend and reducing conflict or protesting by either not following the cues we gave them, or protesting by following the unintentional cues we give leading to conflict.

5.6.1 Behaviour-shaping as interspecies politics: Elephants and Farmers

Hannah Mumby and Joshua Plotnik (2018) call for animal behaviourists to get involved in conservation by developing potential behaviour-shaping solutions. They are focused on the applications of behaviour-shaping in the context of elephant conservation specifically. One central conflict between elephants and humans is crop-raiding, where local or migrating elephants can cause substantial losses, and the encounters between humans and elephants can be dangerous.

Mumby and Plotnik (2018) describe and evaluate several ways that farmers might protect their crops from elephants through some form of communication aimed at dissuading the elephant from venturing further, including fencing often with deterrents like chilis, bees, barbed wire, or electricity; perimeter trenches, unappealing citrus crops, or alarms; repellent smells, sounds, or lights. Although farmers will also use strategies based around surveillance, guards, humans or captive elephants to scare wild elephants away; relocating elephants; killing select "problem" elephants; or culling. Conservationists would prefer the communicative methods to dissuade elephants, and there are ways we might maximize the effectiveness of such methods.

Mumby and Plotnik (2018) suggest that the specifics about elephant and human communities in the conflict can change which strategies might work best. For example, consistent and coordinated messaging to the elephants is important, and so a well-organized community that can trust each other to cooperate might be able to implement something like an electric fence, which is effective only if it is maintained; otherwise, elephants may learn the fence, or sections of it, can be crossed without enduring a shock. On the elephants' side of things, it's important to know why they are coming into conflict, whether this is seasonal, part of a migratory path because they are young, merely being opportunistic, or out of need. Involved humans also may want to know who the leader of a particular group of elephants is and to which deterrents she is sensitive. In some cases, it is to her, as a leader, that we are addressing our communication. So careful observation of behaviour and targeted, cooperative, and consistent communication is key here.

In addition to our assessment of how best to dissuade, we must understand the elephants' available resources. If they have insufficient resources, "the mitigation plans are prematurely set up to fail" (Mumby and Plotnik 2018, 3). Coexistence unsurprisingly requires

sufficient resources for all involved to *exist* in the first place. If an elephant community's existence is in danger, our plans for coexistence must start not with communication but with making space and resources available.

Further, there may be other political solutions to habitat loss. Tristan Derham and Freya Mathews (2019) suggest that elephants plausibly meet the criteria for refugees. They reasonably fear persecution in their country of origin, and they flee dangerous places, which may include crossing national borders. Derham and Mathews suggest that "refugee animals should be protected from being sent back into danger or being turned away from their first place of refuge. [...] They should be given an opportunity to flourish in situ or translocated to a new situation in which they will have the chance to flourish" (Derham and Mathews 2019, 4). This sort of broader and more demanding political solution also affirms that wild animals are agents expressing political meanings in their behaviour. In this case, their aversion to dangerous places expresses a need for refuge, despite that they cannot perform a speech act of asking for refugee status.

By approaching human-elephant conflict as a project aimed at coexistence through communicating, the whole conflict is transformed. It is not merely about protecting human interests, where humans might be motivated by fear—of both elephants and crop loss. It is not a conflict between human enterprise capable of forcing their interests and silent wild beasts who cannot help but be destructive. Instead, the conflict is about learning how to have a mutually flourishing relationship and building interspecies communities.

5.7 Conclusion

We can now understand Wild Animal's Political Participation as a give and take. Wild animals live in a world where things and places are meaningful to them; they find lush

fields near airports appealing, urban environments rife with opportunity, orchards tempting. These meanings can bring wild animals into conflict with humans. If we ignore the relationships we have, our understanding of these animals, and our appreciation of the value these animals have as ends in themselves, then we will settle these conflicts crudely, plausibly violently, or through forcing the wild animals to eke out a living in a chaotic mix of alluring temptations and lethal consequences. However, if we understand that wild animals are knowledgeable, they are following cues that we can identify and, in some cases, manipulate, then coexistence with them is possible. This opens new possibilities; we can seek out ways of setting up boundaries that keep humans and human interests safe while also allowing for wild animal communities to flourish without the risk of needless violence.

Let me conclude by emphasizing three key aspects to this behaviour-focused way of thinking about conflict resolution. First, this form of communication requires observing wild animals; sometimes with such fine-grained detail we can decipher individual differences. This changes the power dynamic. We are not the authority here to enforce our will; we humans are the interpreter, listening to their behaviour and seeking a way forward.

Second, communicating with wild animals requires thinking of them as able to communicate, as part of communities with which we can engage. When we see wild animals as communicating, like a hunter who follows a raven and shares the meat which they cooperatively procure, then we can strive for coexistence. Behaviour-shaping techniques open up this way of thinking to any human communities that find themselves in conflict with wild animals. Further these techniques are not just aimed at coexistence but also depend on the empowerment of local communities, so that they can present a consistent message.

Third, behaviour-shaping only works if the wild animals' needs can be met without conflict; otherwise, whatever systems we put in place are set-up to fail. Where resources are

insufficient, the conflict that ensues may require that humans make available appropriate resources, territories, travel routes, etc.. It is through conflict that wild animals can demand this. Such demands are of course unintentional; they do not know whom to address, how, or even what they might demand; but we can see in their actions, their occupation of space, and conflict-laden encounters, demands that something is theirs, that culling is not a solution to conflict, or that more space or resources are required.

Together these three features help us to empower wild animals. By attending to their behaviour, wild animals' conflict with humans is transformed into unintentional political resistance. This might be coupled with extensions of sovereignty, property rights, or refugee status, but they should extend to active agents already engaged in political relationships with human society. These relationships are not just matters of formal representation, where human domination can take new shapes. The relationships are something on-the-ground in the hearts and minds of animals, both human and nonhuman. By learning to listen and interpret wild animals, we can end their silence while maintaining their freedom from human domination.

Chapter 6: Escaping Anthropocentrism

Before I conclude, I want to address two objections that have been raised about my view. I have set the bar for what might qualify as anthropocentrism or human supremacy so high that the account which I champion, Wild Animals' Grounded Authority and Political Participation, also involves anthropocentrism or human supremacy. It's possible that my view continues to manifest human supremacy in two ways. First, I use "politics" to mean something like human politics, where anything which is politicized has been politicized by humans. Here the concern is that my account of treating wild animals as-if they were political participants is recommending an inferior status to recognizing the politics wild animal communities practice amongst themselves. Second, I endorse wild animal political participation where the meaning of their behaviour depends on human interpreters, so humans retain a special status leaving wild animals vulnerable to human interpretation. The concern here is that there is an inevitability to anthropocentric thinking that I do not escape.

6.1 Anthropocentrism about "politics"

Some have raised the issue to me that wild animal communities have their own politics. The view is famously advocated by Frans de Waal in his book *Chimpanzee Politics* (1989). The view suggests that like humans, nonhuman animals (especially great apes) engage in political behaviour. They form cohesive groups, with complex systems of ranking

and relating to one another. Toshisada Nishida and colleagues (1992) tell us about a case where a dominant chimpanzee would strategically share meat from monkeys that were hunted with conspecifics to develop new social relationships. It made him many friends, and this helped him have a long tenure as the alpha chimpanzee. This sort of behaviour suggests at least chimpanzees have political relationships within their communities. We also see chimpanzee's at Ngogo in Uganda patrol the boundaries of their territories which suggests a sort of external political relation (Mitani & Watts 2009). The similarity between these behaviours and human political behaviour is uncanny. The very similar behaviour is why Goodin, Pateman, and Pateman (1997) suggest great apes have been wrongfully left out of our system of global sovereignty.

I rejected Goodin, Pateman, and Pateman's view for its inability to extend beyond the great apes, and some could argue this was too quick. The charge, when it has been made, is that I am neglecting the real political status of wild animals, like chimpanzees, and instead I am proposing an inferior "as-if" political status. To respond I first need to clarify my view: wild animals have a real political status. I suggest it is a kind of sovereignty, namely, Grounded Authority. Their knowledge of and relationship to their territory and its inhabitants supports a claim that their territory is theirs. That is not an as-if status. The as-if part comes into play when I want to decipher what interventions or conflict resolutions are suitable for wild animals. Here, again, the suitability or tolerability is real. The only part that needs an as-if is the legal or human-political significance of understanding that (1) wild animals have a real claim, and (2) the current situation is intolerable for them. Maybe it means they don't have enough territory, or they have inadequate access to a territory, they might require protection, accommodation, etc.. Wild animals, regardless of the sophistication of their

communities, cannot explicate their demands. In this way they are unlike human protestors who can explain which activities or laws they demand be stopped or changed.

While there are political capabilities of wild animals—their ability to organize as communities, adapt to human development, learn relevant signals for safety or danger, understand where they are welcome and where they might be met with hostility—those differ significantly the political capabilities humans have. This is especially true if a community finds themselves in conflict with humans; humans in conflict with other humans have a variety of tools available which I call political participation, this includes activities like protests, issuing demands, presenting lawsuits. Wild animals may have other forms of politics, and I am excited by the new developments suggesting that wild animals' capabilities like social learning, culture, and internal politics, can help us better accommodate and communicate with them (Brakes et al. 2021). However, if we want to say that wild animals are protesting human intervention, making demands of other humans (including the demand to stop doing something), or providing a ground on which a wrongdoer might be sued or otherwise brought to justice, then we need to translate their behaviour and their situation into human political terms. This translation will require interpretation because wild animals cannot intend to make demands of human political institutions. It's not that wild animals don't have politics, they do, and those autonomous self-organizing and self-regulating political and community behaviours are politically relevant. If we want human behaviour to change then at some point, we need to interpret wild animal behaviour into the terms that can create the changes needed to resolve conflicts between their communities and human communities.

The politics of wild animals, where “politics” refers to the group dynamics and cultural knowledge of safe practices or places, interacts with the politics of humans when the

intelligent behaviour of humans and wild animals can interact to develop solutions to conflicts. Consider chimpanzees again; they have complex social structures and when they have to cross a road they do so in small groups, and they look left and right before crossing (Cibot et al. 2015). The behaviour they exhibit is intelligent, and we might expect that if there were bridges built the chimpanzees might use them. Marie Cibot and colleagues (2015) suggested that testing the efficacy of rope bridges used elsewhere to allow monkeys to cross roads might be a cost-effective solution to navigating a dangerous human-modified environment. If chimpanzees can safely interact with the road, then we've resolved a conflict.

Now we might suggest that the road shouldn't have been built there, or if it was to be built, safety of local wildlife ought to have been a pressing concern in the design and construction of the highway. It wasn't, and that's not surprising. That means that we violated their grounded authority, or Wild Animal Sovereignty, of the chimpanzees and did not respect the territories they call home. We also continue to not respect that. On all of this, my view and a Wild Animal Sovereignty view would agree. My view adds two things here. First, we don't need to "reserve" the land and deem it a place of "Wild Animal Sovereignty." The chimpanzees and other animals there already belong there; they already have a Wild Animal Grounded Authority in that territory. Second, when chimpanzees fail to safely cross the highway and end up hit by a car, we should take this as politically significant.

Perhaps if it happened rarely it wouldn't be politically significant; humans also get hit by cars and it's not always an event that changes road design. But when it is systematically repeated, and many chimpanzees die on this highway then I suggest we take the chimpanzee behaviour, in this case persistence in crossing the road, and add to it a political interpretation. This interpretation would mean that when researchers (Cibot et al. 2015, Krief et al 2020) suggest that we ought to explore bridge design, or urgently deploy speed limits and crossing signs

(Krief et al. 2020), one reason we ought to do that is because of the insistence of the chimpanzees. They know the road is dangerous, they look both ways, and they still insist on crossing it. That should tell us something about what they need from us, as another community with whom we have relationships. The lack of adequately safe crossing is then not just dangerous, not just contrary to conservation values, but also unjust and we know that, not because we decided what was in the chimpanzees' objective best interest, but because the chimpanzees' own behaviour signals that.

I expect that this should adequately clarify that when I suggest we treat wild animals as-if their behaviour had political meaning, this is not a subordinate status that they might hold instead of being recognized as not-just-as-if political communities. It is a status in addition to the understanding that their relationships with the land, their Wild Animal Grounded Authority, obliges us to share the world with them and to accommodate them when we intervene on the land where they live.

6.2 Anthropocentrism of Interpretation

The next concern is that when I discuss Wild Animals' Political Participation, I am erecting a human authority, not unlike the human representatives of Wild Animal Sovereignty which I suggested entrench a variety of human supremacy. The thrust of this criticism is that I have failed to adequately support desiderata (7) interspecies community which includes humans or (8) critiquing oppressive systems. As a result, I may have to admit it's inevitable that human communities will retain some degree of supremacy to wild animal communities. This inevitability would sharply undermine my criticism of Wild Animal Sovereignty.

There may be some truth to this. If I were to recommend erecting an institution of human interpreters responsible for codifying the claims of wild animal communities in conflict, then I would be making the same sort of move that Wild Animal Sovereignty makes. However, I don't recommend any such institution. The matter of how we interpret wild animals is open, but we might want to rely on the other forms of authority over interpretation. I recommend that where possible we follow the traditional knowledge of local and Indigenous people, because traditional relationships to places are a relevant kind of expertise. We should couple that with the relevant expertise of the scientific community. Allowing for expert interpretative work relies on the same tools we might use to interpret archaeological artifacts. Local histories and traditions can be helpful, as can careful scientific inquiries, and the combination of these allows us to understand what the human cultures that left those artifacts were doing, how they lived, what things might have mattered to them. Like archaeological exploration of human meanings, wild animals' behaviour also requires interpretation, they cannot just tell us what they expect, demand, or need.

Does this mean I am relying on human superiority, in our “superior” ability to communicate, project or discern meaning? Not really. The reason why wild animals cannot just tell us political information is because they do not know, and cannot understand, the enormous Leviathan that is a government, with its laws, law enforcement, economic pressures, etc.. They cannot understand this because, first of all, it is incredibly difficult to understand at all—even for adult humans specializing in the study of our own political activities—but also because these are our meanings. Second, humans do things like build highways, but chimpanzees don't, so it would be unreasonable to expect chimpanzees to be able to mount the sort of political action that might stop a highway from being built. This is compatible with the view that wild animals can indicate other sorts of information very

clearly. Consider the example of a raven leading a hunter to a vantage point from which the hunter can shoot a moose. That raven has a sufficient understanding of moose hunting and can communicate clearly enough to guide the hunter to a kill. I am not sure I need to call what the hunter is doing there “interpreting.” Rather I think the communication was quite clear and the story is explaining to non-hunters like me, unfamiliar with the communication of ravens, how the raven communicated.

In this sense, human interpretation is not erecting a new institution, and it is not reliant on the view that humans are necessarily superior in our ability to communicate. It only suggests that our complicated world, our meanings, purposes, infrastructures, are likely opaque. So, the participation of wild animals in our political enterprise, the political meanings of their behaviour, is something we must interpret.

6.3 Interspecies Communities without Anthropocentrism

Now that I’ve laid out my account, I want to reflect back on the story I began with. A turtle was trying to cross the road. It was a little dirt road in a rural neighbourhood near the lake. There is no green bridge or tunnel, not even an animal crossing sign. Cars tend to drive slow here because there are often people on the road (as there is no sidewalk).

Accommodating the turtle is easily done, either by picking her up and moving her off the road, or by carefully driving around her. When I got out of the car to move her, I wasn’t sure which side of the road to move her to. On one hand, I was pretty sure she was crossing the road such that she would go away from the nearby lake and towards higher ground. On the other, the lake, which is where, I presume, she spent most of her time, is in the other direction. I conjectured that she may have been frightened away from the lake, as there was some construction nearby (a major home renovation was underway). I made an arrogant

decision; I moved the turtle off the road toward the lake side. I figured I understood what was in this turtle's "objective" interest despite that I knew very little about local turtles. An informed member of the local community explained to me that these turtles nest on higher ground at this time of the year and that's why the turtle was crossing the road.

I was acting compassionately. I had a deep sympathy for the turtle's sense of fear at the car that approached it only moments before. I was worried about why the turtle was trying to leave the lake and sought out more information in a spirit of wanting to empathize with the turtle. Yet, I had still done it wrong. Instead of helping this turtle across the road, I had taken her from halfway across the road and now moved her back into the woods off the road.

Had I understood Wild Animals' Grounded Authority at the time, I might have recognized that the turtle knows where the lake is, the turtle has its own ongoing projects. I was neglecting the turtle's informed relationship to her own environment. As a result, instead of helping her reach safety I reflected, from my position as the superior species, that I knew what was in the interest of this turtle. I did that despite that I have no conscientious relationship with any turtles. I failed to respect the turtle despite my compassion. Instead of understanding our place in this world as the "masters" even as "compassionate masters," Wild Animals' Grounded Authority suggests this world is shared. The wild animals who live here have their own complex and meaningful lives, and the world, its particular specific geography (like the lake and the high ground on the other side of the road) mean something to wild animals. Further, we might learn what the world means to them by interpreting their behaviour. This interpretation could allow us to better understand the causes of conflict, how to mitigate conflict, and how wild animals already are behaving in ways that tolerate the often naive human activity nearby their homes.

So, in what sense did that turtle participate in politics? The turtle there is part of an interspecies community, one which does not have too much conflict over this particular road. The highway nearby, sustaining a large population of vultures with its roadkill, is a bit of a different story. The “political” nature of this turtle’s crossing is part of a working interspecies community. However, the humans who live here don’t understand that they live in an interspecies community. They don’t recognize that their manicured front lawns and motorboats are already sharing those terrestrial and aquatic spaces with wild animals like this turtle. The turtle’s appearance on the road startles that political image of a road that leads to a driveway and a lawn, owned by a human family. The road is a place for cars, and sometimes walking, the lawn a place for lawn mowers, manicured gardens of non-native plant species, none of the places are places for a turtle. Yet simultaneously, amidst this naive conception it is for a turtle. The road is one obstacle in a journey from the lake to the nesting sites, and that road as “obstacle” means something new. The road is for humans and cars, and an obstacle. The turtle’s being on it, scared, tucked neatly into her shell at the sound of an oncoming car, makes clear, through her behaviour, that the road is not just for cars.

Thinking this way reminds me of an Indigenous creation story Thomas King (2003) retells. In it the protagonist, whom he calls Charm and other tellings of the same story have called Sky Woman, was looking for something to eat. A fish suggested a red fern root, telling her it is delicious. To find it she had to dig, and a badger warned her not to dig too deep. But she dug too deep anyhow and fell right through the bottom of her world. As she fell, she descended upon another world, this one was all covered with water. Her fall was broken by some birds who caught her and lowered her to the water's surface. Unable to swim or float indefinitely, the turtle agreed to carry Charm on his back. This was fine until it became clear that charm was pregnant, and there would not be enough room on the turtle's back. The water

animals came to help Charm, and she asked them to bring her some mud from the sea floor. With that mud on the turtle's back Charm made the land and many of the animals crawled up onto it and made their home there. This is how Turtle Island¹⁰ came to be.

The reason I am retelling this story is to point out the relationship to turtles, and other wild animals. These wild animals caution Charm, they help her too and she always seems to need help. Charm is not omniscient, omnipresent, or omnipotent. Without the turtle she would have drowned and there would be no Turtle Island. The world exists before Charm arrives there, and when she makes land it's not hers. The land is given to her, the turtle lets Charm build Turtle Island on his back, and the other animals bring her the mud, and then they live there with her. This conception of wild animals recognizes that wild animals are valuable as ends, that their flourishing matters, but also that they are knowledgeable, that they can communicate, and humans depend upon them.

King highlights how different this is from the Biblical creation story, and then says: "Take Charm's story, for instance. It's yours. Do with it what you will. Tell it to your friends. Turn it into a television movie. Forget it. But don't say in the years to come that you would have lived differently if only you had heard this story. You've heard it now" (King 2003, 29). I have done something with it. I have recognized that though wild animals do not speak in English they still communicate. Though they do not know how to lodge complaints or sign a petition they are knowledgeable. If I listen carefully, and learn, and do not presume that I as a human am superior, then I might be able to understand what their behaviour means and how I might contribute in my own way to the interspecies community where I already live.

¹⁰ Turtle Island is the name many Indigenous peoples give to North America.

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