

Ethics and Nonhuman Animals: A Philosophical Overview

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Abstract

The central purpose of this chapter is to provide an overview of the relationship between ethics and nonhuman animals. That is, in what way ethics has been understanding and incorporating nonhuman animals as participants in our moral community. To that end, I present how some of the different ethical perspectives concur to offer a more adequate response to the question of how we should include nonhuman animals in morality. The theoretical contributions offered by Peter Singer (utilitarianism), Tom Regan (law), Karen Warren (care) Martha Nussbaum (capabilities) and Maria Clara Dias (functionings) are called for the construction of this panorama and to the development of this debate.

Keywords

Animal ethics; Moral community; Applied ethics.

Introduction

Narratives that subordinate and, to a certain extent, justify the domination of nonhuman animals and nature in face of the unique and exclusive interests of human beings are easily found throughout the history of philosophy. The most varied discourses

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constructed and hierarchically determined the place each should occupy in the world.¹ In this way, the Judeo-Christian tradition, aligned with the Stoic teachings that defend that the capacity of reasoning was the sole source of the dignity of the natural being, determined and restricted the core of morality to the realm of human beings.² That is, who should dominate and who should be dominated. Facing such a naturalized discourse over time makes animal ethics one of the burning debates of the day.

In 1971, the collection *Men, Animals and Morals*, edited by Stanley Godlovitch, Roslind Godlovitch and John Harris was released.³ In spite of its almost inexpressive receptivity, on April 5, 1973 the Australian philosopher Peter Singer published in the *New York Review of Books*⁴ a review of the work in question, under the provocative title: *Animal Liberation*. In 1975, Singer⁵ publishes a book with the same title, addressing the animal issue in the light of a utilitarian perspective focused on the equal interests of sentient beings, that is, beings with the capacity to experience pain and pleasure. The introduction of the debate proposed by Singer in *Animal Liberation* makes the 1970s the cradle of contemporary animalist discussions.

In the 1980s, Tom Regan⁶ publishes *The Case of Animals Rights*. From a different perspective of Singer, Regan bets on the understanding of the nonhuman animal as the subject of a life and, consequently, subject of right. To this end, it approaches the struggle of human rights with that of animal rights, claiming to deal with inseparable moral projects.

The following decades to date have been marked by innumerable discussions about animalistic ethics. Among them, Karen Warren⁷ proposes to think of the animal issue in the light of an ecofeminism focused on care. According to this current, it becomes essential to incorporate gender asymmetries into the ecological (animalistic)

¹ The belief in the supremacy and dominion of the human over animals and the natural world as a whole can also be observed in several biblical passages. One of them exemplifies this idea: "All the animals of the earth will fear and respect you: the birds of the sky, the reptiles of the ground and the fish of the sea are in your power. Everything that lives and moves will serve as food for you. And I give you all, as I have already given you the vegetables." (GENESIS, IX, 2-3) BIBLE. Portuguese. Bíblia Sagrada. Translation by Ivo Storniolo and Euclides Martins Balancin. São Paulo: PAULUS, 1990. Edição Pastoral.

² Jews and Stoics defend situations in which we have negative duties to animals. That is, duty not to abuse or mistreat them. However, in both, nonhuman animals are not incorporated into the moral community.

³ GODLOVITCH, S.; GODLOVITCH, R.; HARRIS, J. *Men, animals and morals*. New York: Taplinger Pub Co, 1971.

⁴ SINGER, P. Available at: <<http://www.nybooks.com/articles/1973/04/05/animal-liberation/>>. Accessed on: 26 Jul. 2017.

⁵ SINGER, P. *Libertação animal*. São Paulo: Martins Fontes, 2010.

⁶ REGAN, T. *The case of animal rights*. Berkeley, LA: University of California Press, 2004.

⁷ WARREN, K. *Ecofeminist philosophy. A western perspective on what it is and why it matters*. New York: Rowman & Littlefield Publishers, 2000.

debate, since it would be possible to identify that an androcentric bias would cross a good part of the philosophical tradition. Warren's approach in *Ecofeminist philosophy* aims to defend a universalistic character of care while proclaiming for a contextual moral vegetarianism, as opposed to the abstract prescriptions, according to Warren, identified in the theories of Singer and Regan.

Martha Nussbaum⁸ advocates the capability approach as the way to address nonhuman animal issues. According to Nussbaum, the purpose of her proposal is "to map the political principles governing the relationship between humans and animals"⁹. Therefore, Nussbaum intends to make the focus on capacities to be able to offer a way out of the paths offered by Singer and Regan, while at the same time trying to avoid being held hostage to compassion and to the instrumentalization of nonhuman life.¹⁰

Maria Clara Dias¹¹ ¹²bets on the inclusion of nonhuman animals in light of the functionings approach. Dias endorses part of the approach offered by Singer, but refuses that members of the moral community are restricted to sentient beings. The author does not appeal to the idea of a subject of a life, like Regan, not even to the capabilities, according to Nussbaum, but in a philosophical strategy focused on the functionings themselves in opposition to the other perspectives presented previously.

From the presentation of these different approaches, we seek the construction of a space of plural dialogue, evidencing that the issue of nonhuman animals is one of the most paradigmatic debates of contemporary Bioethics.

1. Peter Singer and Utilitarianism

The proposal put forward by Peter Singer, which consists of the definition of who are "our own" and therefore of whom belongs to our moral circle, inserts itself, as already announced, in a utilitarian tradition. In general, for this tradition, it is the principle of utility that underlies the adopted ethical perspective. The term utility in this sense designates that property existing in anything, property by virtue of which the object tends to produce or provide benefit, advantage, good or happiness, or to prevent harm, evil or

⁸ NUSSBAUM, M. *Fronteiras da justiça*. Deficiências, nacionalidade, pertencimento à espécie. São Paulo: WMF Martins Fontes, 2013.

⁹ Ibidem, p. 431.

¹⁰ Ibidem, p. 432.

¹¹ DIAS, M. C. *Perspectiva dos funcionamentos*. Rio de Janeiro: Pirilampo, 2015.

¹² Idem. *Ensaios sobre a moralidade*. Rio de Janeiro: Pirilampo, 2015.

unhappiness from happening to the part whose interest is at stake. If this part is the community in general, it will be about community happiness, whereas, in the case of a particular individual, the happiness of the individual will be at stake.¹³ This idea, however, is refined by John Stuart Mill,¹⁴ who seeks to reform Bentham's utilitarian morality by refusing the maximization or quantification of welfare resulting from the calculation of pleasures and by investing in the qualitative aspect of the constituent elements of happiness. According to Mill:¹⁵ 'The doctrine that accepts utility or the principle of greater happiness as a moral foundation holds that actions are right to the extent that they tend to promote happiness and are wrong when they tend to produce the opposite of happiness. By happiness is meant pleasure and absence of pain, through unhappiness, pain and deprivation of pleasure.

In a way, the classical utilitarianism of Bentham and Mill shares the idea that welfare considerations provide reasons for action and, in assessing the strengths of these reasons, the welfare of all that are concerned should be impartially considered. In order to refine and innovate the utilitarian thesis, Singer improves not only the thesis of the classical utilitarians, but deconstructs the arguments of his greatest critic, John Rawls. For this, Singer criticizes the basis of equality underlined by Rawls and, more precisely, the concept of moral personality.

Since John Rawls¹⁶ himself admits that the capacity for moral personality is not strict, Singer points to the fact that if moral personality is related to the sense of justice that each member of the moral community must possess, then there will be a gradation of the sense of justice in these moral personalities. Moreover, if the minimum to identify the basis of equality needs a line that demarcates who has or does not have the sense of justice, we must point out that it is an exclusionary project that will leave out a series of human beings that will never reach the minimum level of this sense, such as individuals who, depending on the problems and/or disabilities they may have, will never reach the so-called moral personality defended by Rawls, thus rejecting the Rawlsian project, Singer seeks to analyze which minimal would that be so that we could determine who is part of this group which we call "our community".

¹³ BENTHAM, J. *Uma introdução aos princípios da moral e legislação*. 2. ed. São Paulo: Brasil Cultural, 1979. p. 4.

¹⁴ MILL, S. *A liberdade/ utilitarismo*. São Paulo: Martins Fontes, 2000.

¹⁵ *Ibidem*, p. 30.

¹⁶ RAWLS, J. *Justiça e democracia*. São Paulo: Martins Fontes, 2002.

1.1 The Two Levels of Morality: Unmasking Speciesism

Singer joins Richard Hare¹⁷ who, in relation to the calculation of personal choice, distinguishes two levels of morality. The first level of morality is associated with moral intuitions, judgments we make in our daily lives, the result of a series of social relations and rules that we endorse without reflecting on them. In a way, these are the choices that we end up making as the result of our involvement, our personal interests and contextual pressures. For Hare, it is an orientation that, although we cannot escape it, has the purpose of making some situations more pragmatic and less reflective. However, there would be a second dimension of morality, where the critical level would reside. At this second level, we would be able to form a more reasoned thinking about which principles we should endorse as a guide to our daily lives, our actions, and so on.

From this two-dimensional idea of morality, Singer presents the principle of impartiality with the purpose of defending its universalization. This proposal seeks to put in check what, for Singer, we could name arbitrary (or particularistic) criteria to justify our moral actions based on the criteria of proximity/distance and, of course, belonging to a human/nonhuman species. Singer's goal is to denounce and condemn, among other things, what animalistic ethical literature calls speciesism.¹⁸

The Principle of Equal Consideration of Interests in Singer's Thesis and Its Limits

The principle of equal consideration of interests advocated by Singer signals that in our moral deliberations we should attach the same weight to the similar interests of all those affected by our actions. In this way, an interest is an interest, regardless of who it belongs to, human or nonhuman. In short, it is a question of arguing that interests should be considered equally. But how is this equality guaranteed?

The principle of equal consideration of interests does not mean treating everyone equally. Singer warns us that equal consideration of interests is a minimum principle of equality in the sense that it does not impose equal treatment. It is worth noting that in

¹⁷ HARE, R.M. *Moral thinking: its levels, method and point*. Oxford: Oxford University Press, 1981.

¹⁸ According to Singer, speciesism is the bias or biased attitude of one in favor of the interests of members of their own kind and against those of others. Cf. SINGER, P. *Libertação animal*. São Paulo: WMF Martins Fontes, 2010. p. 8.

Singer's view, not even rejection of speciesism would imply assuming that all lives are equal in value.¹⁹

It is necessary to observe some controversies that are frequently highlighted in Singer's thesis. First, considering that the author seeks to defend a moral perspective that is not restricted to conventional contractualist models that aim to privilege rationality as the determining criterion of those who are part of our circle of morality, the interests of other beings would enter into the field: the interest of all sentient beings. Singer makes a distinction between what would be basic and complex interests. And it is from this distinction that the hierarchy of interests comes to enter into his theory, as some of his opponents point out, as it is the case of Gary Francione.

This hierarchy is evident in *Animal Liberation*, and is rescued by the author in *The Life of Animals*, by J. M. Coetzee.²⁰ In this work, Singer²¹ becomes a character of his own narrative, as he describes a supposed conversation with his daughter, Naomi. The central topic of this dialogue is above all the way in which Singer himself understands animal issues and how his way of staying hostage of a kind of hierarchy over life types ends up impacting the character of a fictional dialogue that he, the father, establishes with his daughter.

In the dialogue, Naomi confided to her father that she had the anguish of knowing who Singer would save if by chance the house where they lived caught fire when she was still a child: she or the dog, Max. Naomi's question goes to the core of the hierarchy of Singer's interests. Since a child does not have complex abilities, such as self-understanding, notion of future or past, and Max, the dog, already possessed some abilities hierarchically superior to hers, she feared that the father's response was for the salvation of Max. The truth is that we readers also expected the same answer. However, Singer claims he would save his daughter, Naomi. The author bases his answer on the basis of a supposed question to Max:

Sorry, Max, you were going to have to defend yourself. You know, even as a child, Naomi was able to wonder if I would save you or her. You never thought of that, did you? And Naomi was always talking about how she would be when she

¹⁹ SINGER, P. *Libertação animal*. São Paulo: WMF Martins Fontes, 2010. p. 32.

²⁰ COETZEE, J. M. *A vida dos animais*. São Paulo: Companhia das Letras, 2012.

²¹ SINGER, P. Peter Singer. In: *A vida dos animais*. São Paulo: Companhia das Letras, 2012. p. 102-110.

grew up. I'm sure you've never thought about what you're going to do next summer, not even next week.²²

Although Singer tries to answer his daughter without calling into question his own theory, Naomi insists:

Is not this speciesism? What you are saying is not that these characteristics – self-consciousness, planning the future, and so on. – are those that humans have, and are therefore more valuable than any characteristic of animals? Max has a better nose than mine. Why is this not an objective reason to save him and not me?²³

Singer provokes his daughter in order to demonstrate that the ethical question would not be around life in itself. Consequently, his perspective would not lead him to understand death as an evil in itself. The central issue for the author lies in the death associated with pain. And this perhaps is, in fact, the most central point of the divergence between Singer's utilitarian perspective and Regan's proposal for animal law. Tom Regan, like the philosopher Ursula Wolf and other philosophers based on the Kantian theory, direct a critique to the utilitarianism of preferences of Singer, identifying that such an approach would not defend that the lives have value in themselves. Regan and Wolf are examples of philosophers who somehow try to use Kant's rights theory not only to question Singer, but to rethink how the rights approach would provide a way for building a broader view of the moral community (beyond the criterion of rationality) that is, at the same time, associated with the defense of the subject of a life.

2. Tom Regan, *Human and Nonhuman Rights*

Regan's central proposal²⁴ is to argue that all human beings have inherent value and the right to be treated with respect because they are "subjects of a life." That is, according to the author, they are the subjects of a life for being aware, a unified psychological identity and an experience of welfare that can do them better or worse:

²² Ibidem, p. 105.

²³ Ibidem, p. 105.

²⁴ REGAN, T. *The case for animal rights*. Berkeley, LA: University of California Press, 1983.

they are beings that have value beyond their utility for others and, therefore, deserve respectful treatment. His proposal can be summarized as follows:

Regan considers that the fundamental error in the relationship between human and nonhuman animals is that the latter are treated by the former as mere "things", "resources" usable for the satisfaction of human interests – thus creating a system of exploitation that does not find moral support. According to Regan, some animals have a psychological complexity that makes them subjects of a life; therefore, have inherent value and have as much right to be treated with respect as non-paradigmatic humans. Since these non-paradigmatic human beings are part of the moral community, similar moral status must be attributed to animals with similar psychological capacities, which also become involved in moral relations.²⁵

Regan's attempt is therefore to combine the idea of human rights with the defense of animal rights, a situation in which it is impossible to ground the first without resorting to the second. Parallel to this, the author points out as an error – a morally questionable limitation – to take the criterion of sentience, defended by Singer, as founding for the expansion of our moral circle. According to Regan, just as traditional moral philosophy defined the scope of morality, leaving out the vast majority of beings endowed with sensitivity and consciousness, the utilitarian perspective here represented by Peter Singer would leave out of the moral consideration all the living beings destitute of sentience. Such beings would be to Regan, nevertheless, subjects of a life and therefore part of our circle of moral obligations. For this reason, Regan admits that the moral community would consist of beings endowed with reason, beings endowed with conscience and beings devoid of reason and sentience.

2.1 The Idea of Inherent Value in Tom Regan

Regan seeks to establish his defense in the conception of inherent value in relation to establishing a critique of Singer's utilitarianism. According to the author, Singer defends an aggregative theory, in which the sum of satisfaction and frustration of different individuals would be associated with the consequences of all involved. For him, Singer would place moral value in the interests of the individual and not in the interested

²⁵ Op. Cit., p. 71.

subjects. That would mean that under certain circumstances Singer would accept that the inherent values of some beings could be morally suppressed or sacrificed in the name of maximizing the happiness or welfare of a majority. For Regan, it is critical that a theory of animal rights establishes as a criterion the idea that no being of inherent value can be used as a means to an end.

To be the subject of a life would be precisely the criterion that, in Regan's view, would approximate the struggle of human rights to animal rights. Thus, all those who have inherent value possess it *equally*, whether human or not. Thus, Regan argues that if we are correct in asserting that all subjects of a life have inherent value in the same measure we conclude that everyone should be treated in the same way. Therefore, we should also assign basic moral rights to animals.²⁶

Having established these criteria, Regan believes that we have sufficient reasons to give up the utilitarianism of preferences. Once the inherent value is assumed we would no longer accept that the life of one being could be in the service of the interests of another being or other beings, nor would one life be subject to the preferences of another. Therefore, the subjects of a life would be understood, within this perspective, as ends in themselves, moving away the component of utility established and assumed in Singer's theses.

3. *Karen Warren and Ecofeminisms*

By Highlighting the differences between Singer's and Regan's theories, Warren constructs her perception of both authors from their similarities. For the author, both Singer and Regan would be framed in a reformist conception of ethics, which, according to her, can bring important limitations that need to be problematized. According to Warren, the appeal for rationalism found in both Singer and Regan, aimed at building ethical perspectives that include nonhuman animals in the moral circle, is the same one used to reject them. Therefore, one should consider the focus given exclusively to reason. What does she carry? For the author, as for other ecofeminists (Josephine Donovan, Carol Adams, and Lori Gruen),²⁷ to think to what extent feelings and emotions are

²⁶ Ibidem, p. 71.

²⁷ Here it is worth noting that Warren does not adopt (or reject) the same ecofeminist perspective of Adams, Donovan, and Gruen. Warren's proposal aims to adopt care as a process and not the ethics of care. For Warren, assuming an ethic of care as a feminist proposition may run the risk of incorporating a material or value dualism. For Warren, however, it is necessary to incorporate the feminist denunciations

pushed aside by the utilitarian perspectives and rights applied to animals need to be deconstructed from a gender perspective, denouncing the androcentrism of the philosophical tradition that thought and forged ethics.

And why have feelings and the role of emotions been removed from the ethical scene? The question raised from different ecofeminist currents seeks to establish a relation between the subjugation of nature, animals and women in the scenario of philosophy. This relationship is established by Warren under a conceptual bias that aims to highlight the virtual exclusion of women from the intellectual scenario.²⁸

To Warren, thinking and constructing an ecofeminist proposal means questioning the systems of domination that operate to limit the freedoms of beings. Questioning the bases of systems would be a critical reflection on the structures and institutions that underpin the way we see and locate the "other." Within this territory, the woman was designed as a not totally rational being, moved mainly by the subjective character of her passions that jeopardized her choices and deliberations, that is, her potential as a thinking being. In this way, man would be the only one capable of performing a reflexive, critical process about the world. Parallel to this, images have long shown the attempt to "animalize women" and, on the other hand, a kind of "feminization and sexualization of animals".²⁹

The relationship between women and nonhuman animals would therefore arise from the oppression they both suffer, whether physical or psychological. This process would be triggered by the social imaginary that naturalizes the practices of domination, reproduction, institutionalization of violence and maintenance of a society where the subject is the man – white, European, cisgender, heterosexual – while the others are signified by him through language. In this way, as Beauvoir³⁰ says, the subject (man) and the world around him come to be defined according to his narrative: the others are the others by the one defining himself as I.

The non-fragmented understanding of a worldview, in which the strongest oppresses the weakest in the most different contexts, would invite us to denaturalize these practices, constituting what Carol Adams³¹ conceptualized as an "absent referent."

that demonstrate that a principled ethic does not always aid in a morally correct decision. Given this fact, the search for inclusion of care becomes paramount in her work.

²⁸ ROSENDO, D. *Sensível ao cuidado: uma perspectiva ética ecofeminista*. Curitiba: Prismas, 2015. p. 91.

²⁹ ADAMS, C. *A política sexual da carne: a relação entre carnivorismo e a dominância masculina*. São Paulo: Alaúde, 2012.

³⁰ BEAUVOIR, S. *Le Deuxième Sexe*. Paris: Gallimard, 1949.

³¹ ADAMS, C. Op. cit.

This concept would be responsible for bringing to the language the role of demystifying the way the "other" was meant in reference to the "I". Language, therefore, would assume the fundamental point, since it would have the power to deconstruct the literal sense of women's subjugation and care as a woman's practice. More than that, the concept of absent referent could lead us to a questioning about the heterosexist order that dominates the social imaginary as a whole and that, to some extent, structured the way all relationships are established, not to mention the discourse on biology and ecology strongly compromised and impregnated by narratives that aim at the normalization of certain practices from a conception of nature.

The absent referent in this sense allows us to identify the process by which we pass when we become the "other" of a supposed "I". The absent referent as a concept-complaint would make it possible to note that the option for an ethics that removes care would necessarily erase from the scenario the female subjects who participate in the moral community. In this way, women are animalized and feminized, reduced to the potential of the body exposed to consumption dominated by the masculinist imaginary, nature as a scenario of exploitation of natural resources and nonhuman animals, in the condition of things, were and are still fragmented by the speeches and everyday habits. Carol Adams, on this point, draws attention to the way we relate to our plate of food in a way that is totally foreign to the ethical discourse we intend to apply in other spheres of life. We fragment our own practices in the name of violence that we do not want to problematize; a supposed "ethics" dominated by narcissistic, individualistic, masculinist and capitalist interests, evidently associated with the discourse of scientific knowledge, above all, of nutritional territory.

3.1 Between Justice and Care: In Search Of a Contextual Moral Vegetarianism

Within the ecofeminist debate, we find a strong debate between ethics based on fairness (impartiality) or care (bias). Usually the ecofeminist perspectives end up committing themselves to the ethics of care for the moral grounding of their approach. In this way, they incorporate into their basis the problematization of the supposed impartial and disinterested subject of justice against the bonds that, according to Warren, end up determining values (associative duties) that emerge from an ethics sensitive to

care. Warren,³² despite not adopting the ethics of care, develops, from it the criticisms she recognizes as necessary to the perspectives focused on justice.

Warren presents more specifically six criticisms:

- 1) It is based on a misconception of the "I" as an atomistic individual, rather than beings in relation to one another;
- 2) It preserves a misconceived or limited concept of morality as fundamentally a matter of absolute and universal rights, rules and principles;
- 3) It supposes that the resolution of moral conflicts is always relative to the judgments, competition of interests, rights or rules of independent moral agents in a hierarchical, adversarial, winner-loser mode;
- 4) It fails to evaluate to what extent other values, particularly values of care, enter into the actual decision-making of women (and others) faced with genuinely ambiguous moral situations;
- 5) It misrepresents morality as unambiguous, simplified, and abstract, when, for most of us, it is ambiguous, complex, and concrete;
- 6) Its methodology tends to reproduce the status quo, consolidating existing power and authority relations through the methodological concealment of these relations.³³

From these criticisms, Warren intends to defend that care need not necessarily be a separate ethics, but constitutive of an ethics that aims to carry contextualized universalist pretensions – a fundamental element of her proposal. After all, universality resides in particularity.³⁴ In this sense, an ethics sensitive to care would mean affirming the need to understand that the practice of care would be an ability of a moral agent.³⁵ Hence, Warren does not fit the criticism that are commonly aimed at ecofeminism aligned with the ethics of care. It is a critique that questions the extent to which ecofeminism based on an ethic of care would not endorse some essentialist gender presuppositions by relating care directly to women, a project of defending a specific moral psychology to the

³² WARREN, K. *Ecofeminist philosophy*. A western perspective on what it is and why it matters. New York: Rowman & Littlefield Publishers, 2000..

³³ Ibidem, p. 106-107.

³⁴ ROSENDO, D. *Sensível ao cuidado: uma perspectiva ética ecofeminista*. Curitiba: Prismas, 2015.

³⁵ Ibidem.

feminine universe. Warren does not follow this path, and therefore such criticism does not fall on her.

Warren also rejects the idea that ethics focused on nonhuman animals should project a universal moral commitment to vegetarianism. For her, it is necessary to identify that, in certain contexts, the use of nonhuman animals for feeding purposes escapes the preponderant logic of domination in Western societies – as shown by Carol Adams.³⁶ In addition, the author proposes that we consider situations of human communities that, given the geography in which they are situated, have no alternative or choice about the type of diet that they can or should adopt. In other cases, such as the Sioux tribes, humans are hunters, but they are also hunted. That is, they are eaters and also food. It is therefore important for Warren to think that the logic of the domination of the other occurs in specific situations where and when all that is edible as flesh is ontologized. At this point, it is possible to say that Warren approaches the proposal of an intersectional vegetarianism, as we can locate in the perspectives defended by Matthew Cole and Karen Morgan. However, it must be acknowledged that Warren does not elaborate further on the use of nonhuman animals in other fields, such as use for research, entertainment, clothing, and so on.

Anyhow, Warren's ecofeminist contribution seeks to problematize the approach taken by an ethical conception of principles (Singer and Regan), and ends up questioning the limits of an ethics of care. For Warren, ecofeminist ethics should not break dramatically with principled ethics, but rather resurrect the values that feminists point to the ethic of care for a broader ethics that should be pursued in concrete cases. Thus, we would be able to adopt moral attitudes towards other human and nonhuman beings.

4. *Nussbaum and the Focus on Capabilities*³⁷

Martha Nussbaum,³⁸ aligned with the basic principles of Aristotelian ethics, understands that

³⁶ ADAMS, C. *A política sexual da carne: a relação entre carnivorismo e a dominância masculina*. São Paulo: Alaúde, 2012.

³⁷ In this section, we will use the term "animals" to speak of "nonhuman animals" because it is the terminology used by the Portuguese version of the work of Martha Nussbaum.

³⁸ NUSSBAUM, M. *Fronteiras da justiça. Deficiências, nacionalidade, pertencimento à espécie*. São Paulo: WMF Martins Fontes, 2013. p. 401-402.

[...] the capabilities approach provides a better theoretical guide than other approaches to the issue of animal rights. For it recognizes a wide number of types of animal dignity and the corresponding needs for its flourishing. And because it is attentive to the variety of activities and goals that the various types of creatures pursue, the focus is capable of producing standards of justice among species that are subtle yet demanding, involving fundamental rights for creatures of different kinds.

To defend her perspective, Nussbaum³⁹ incorporates the critique of social contract theories, now applied to the case of nonhuman animals. According to the author, because they are strongly committed to the classical notion of rationality as the premise of who can or can not participate in the contract, these theories would fail to recognize the intelligence of many animals. In addition, it would restrict the contract only to the primary and not derived from a theory of justice subjects.⁴⁰

On the utilitarian perspective, Nussbaum recognizes that among all contemporary ethical perspectives, the most contemporary version of utilitarianism has undoubtedly contributed to the recognition of animal suffering as evil.⁴¹ It was, according to the author, the ethical perspective that has been trying the most to broaden our conception of moral circle, in order to include nonhuman animals as participants in ethics. The author even points out that, at first, the utilitarianism of preferences advocated by Singer offers satisfactory answers to our most basic moral intuitions, since it seems reasonable to accept that unjustly inflicted pain should be the central object of our ethical concerns. However, Nussbaum⁴² points out that this perspective has some problems:

[...] the ambiguity of the very notion of preference; the existence of preferences shaped by ignorance, ambition and fear; even worse, the existence of "adaptive preferences" that simply adapt to the low level of quality of life that the person ended up being led to expect for themselves over time.

³⁹ Ibidem.

⁴⁰ Even though it is in this way, Nussbaum also recognizes that the focus on capabilities is a close ally to contractualist perspectives. Cf. NUSSBAUM, M. *Fronteiras da justiça*. Deficiências, nacionalidade, pertencimento à espécie. São Paulo: WMF Martins Fontes, 2013. p. 415

⁴¹ Ibidem.

⁴² Ibidem, p. 420.

Moreover, Nussbaum draws attention to the fact that the evaluation and comparison of utility when we turn to animals becomes very problematic. Therefore, trying to understand the preferences of animals would carry obscurity, fragility, and difficulty.

The author takes up the ideas of Aristotle in *Parts of Animals*.⁴³ For her, the scientific spirit recognized by Aristotle before other animals would not only lead us to admire these complex organisms, but also to the idea that it is good for these organisms to persist and flourish according to the kind of things they are.⁴⁴ From this idea, Nussbaum argues that we humans would have specific moral obligations towards nonhuman animals. These obligations would be related to the promotion of welfare and the dignity of the individual creature.⁴⁵ The author says:

The focus on capabilities attaches no importance to high numbers as such; their focus is on the welfare of existing creatures and the damage done to them when their powers are harmed. Of course, creatures can not flourish in isolation, and thus, for animals as for humans, the existence of appropriate groups and communities is an important part of the flourishing of individuals.⁴⁶

4.1 Positive and Negative Duties: Capabilities and Overlapping Consensus

The ethics focused on the capabilities elaborates a general critique to the moral notions that distinguish positive and negative duties and that, with that, only incorporate the first ones. In other words, it questions the reason why we traditionally believe that it is morally wrong to kill someone, but we do not tend to recognize the same moral weight by letting someone die. For Nussbaum, in the case of animals, there is no room for *stricto sensu* distinguishing between positive/negative. If on the one hand we have an obligation not to inflict any inappropriate treatment on the animals, we should also endorse positive practices aimed at flourishing. Of course, the positive duty here translated as human intervention must accompany an exercise that does not anthropomorphize animal life. Here is evident the concern for animals that live directly with humans. However, it is possible and necessary to think about how human attitudes also interfere with the lives

⁴³ ARISTÓTELES. *Partes dos Animais*. Porto: INCM - Imprensa Nacional Casa da Moeda, 1999.

⁴⁴ *Ibidem*, p. 428.

⁴⁵ *Ibidem*, p. 438.

⁴⁶ *Ibidem*, p. 438.

of animals in their natural habitats. Although Nussbaum does not touch on this point, we could think here of how humans have been influencing the way of organization and quality of life of nonhuman beings from the anthropogenic character of climate change. If animals are part of our moral community, there would be no frontier that would allow us to deny our responsibilities to these nonhuman animals, whether near or far from us.

Nussbaum assumes that the focus on capabilities ends up being a form of political liberalism, relying on the idea of overlapping consensus advocated by John Rawls. To this end, it highlights two confrontations: the first concerns the challenge of those who would take part in the consensus. The second question is whether we could expect animal rights to become the object of overlapping consensus over time.⁴⁷ The author assumes that the overlapping consensus in the case of animals would be an anthropocentric idea, since the participating members would be beings human beings, who would defend moral judgments, from reasonable reasonable doctrines, basing themselves on their own good faith. It is evident that such a form of understanding would be contested and rejected by utilitarians, such as Bentham, who understand that the reason for the adoption of a moral attitude would be foreign to the human point of view. The reason would be animal suffering itself.

Nussbaum ends her defense of animal ethics from the focus of capabilities as a project that is part of the building of global justice project. For her, facing the paradigms erected by the tradition of the frontiers of political philosophy is a challenge to which the theory of capabilities has offered interesting answers. The animal issue would be one of many other dilemmas assumed by its perspective, aiming at the construction of a model of justice that values the complexity of animal lives and their struggles to flourish in freedom.

5. M. C. Dias and the Focus on Functionings

Maria Clara Dias defends the inclusion of nonhuman animals in light of the functionings approach (perspectiva dos funcionamentos - PF). To understand how the author constructs her perspective applied to the animal case one must consider her critique of the way in which the Enlightenment tradition isolated the human being from

⁴⁷ Ibidem, p. 475.

other life forms and the ecosystem in general.⁴⁸ That is, it is necessary, firstly, to understand the criticism proposed by Maria Clara Dias, in the formulation of the PF, regarding the conception of "individual self" drawn in modernity. According to the author, this would be a caricatural conception that does not allow us to understand the way each and every one of us is constituted. No wonder it is during the Enlightenment that we see the human being occupy a central place in the various fields of knowledge.⁴⁹ The inferiority of nonhuman animals is also welcomed by the notions that our rationality and capacity for self-determination should be the foundation of morality. As nonhuman animals do not share such characteristics, such an argument is used as justification for an instrumental and often utilitarian treatment of those. They would not be "ends in themselves" because they do not have the capacity to self-determine, not to be rational, nor able to assume the role of legislators. This logic is the basis that synthesizes the support of a moral hierarchy, which promotes and reiterates the qualification of nonhuman functional systems.

That would mean saying that the PF allows us to affirm that we are blindfolded, if not at least we suffer from a moral blindness, because of an inheritance that forges a false understanding about ourselves. This is because, in some sense, we think that we are made out of nothing, that our identities are constituted preponderantly in isolation. The notion of a self built in a totally independent way is declared to be at least innocent and at best worthy of problematization. To assume this way of thinking, according to Dias, greatly compromises our self-description as moral subjects and corroborates the illusion that we can live in isolation.

It is true that her conception could be understood as another perspective, among many, hostage of the anthropocentric premise: the defense of a human exceptionalism. Such a defense would be the incorporation of nonhuman animals into our moral community only when they were in some way associated with human beings and their (in)direct interests. In this sense, Dias's defense would be quite similar to Kant's⁵⁰

⁴⁸ The perspective of the functionings applied to the animals was developed by Fabio A G Oliveira and Priscila Carvalho in an oral communication "Environmental and animal ethics in light of the functionings approach", presented during the UNESCO Chair in Bioethics 12th World Conference, BIOETHICS, MEDICAL ETHICS & HEALTH LAW, on October 2015, Naples–Italy.

⁴⁹ It is important to emphasize that, at that moment, the Enlightenment responds to theocentrism, trying to establish the bases from which human culture, understanding, freedom, autonomy and rationality could constitute the tools against dogmatism and interference of the legislation of faith and always presented with political powers. In this sense, the philosophy of illustration would have left us a bonus and a burden, namely: the valorization of reflection on the one hand and anthropocentrism on the other.

⁵⁰ KANT, I. *Lectures on ethics*. Indianapolis: Hackett Publishing Company, Inc., 1980.

proposal in *Lectures on ethics*, when the philosopher assumes the existence of an ethical relationship with nonhuman animals (in the example given by Kant, a dog) whenever it is associated with the life of a human being, in this case the "owner of the animal". Here we would have an answer that would not fully meet us, since it excludes the animals with which we have no contact, maintaining a kind of "weak" anthropocentrism in effect. The author, however, rejects this argument and offers an alternative. Having previously rejected a purely abstract conception of the self, Dias points to the need for an "[...] empirical investigation into the various existing forms of life that have been more or less explicitly incorporated into our moral universe".⁵¹ Questioning the caricatural notion of a deterritorialized "I" and its anthropocentric vision, the philosopher intends to reject an ingrained matrix of thought, which prevents us from understanding nonhuman animals, the environment and even inanimate beings, as constitutive parts of who we are and of what we project as our ideal of an accomplished or happy life.

The immediate consequence of adopting this perspective, according to Dias, is the redirection of the focus from our moral conception of justice to the demands inherent in the basic functioning of the various functional systems. In addition, the "I" is reinserted into the universe that forged it: the world. Having thus expanded our moral circle to other functional entities, we must now defend the constitution of a universalist, non-anthropocentric, non-anthropomorphic moral community.

5.1 Basic Functionings and Nonhuman Animals

It is possible to say that the perspective advocated by Dias directly rejects Regan's subject of a life. Because the focus on the functionings is not compromised or restricted to the notion of life to determine who or what should be included as the object of morality. While for Regan the concept of the subject of a life is itself sufficient for the determination of what has moral status, for Dias, an ethical theory need not conceive of life in itself as a value. The basic functions of each functional system that deserve attention.

As for utilitarianism, a perspective based on the basic principles of diminishing pain and maximizing pleasure as a way of guaranteeing a decent life to sentient beings,

⁵¹ DIAS, M. C. *Perspectiva dos funcionamentos*. Rio de Janeiro: Pirlampo, 2015. p. 21.

the PF rightly questions the criterion of sentience. By leaving out a broader (systemic) understanding of how the identities of beings are formed, Singer's utilitarianism of preferences, for example, is incapable of including non-sentient beings and even inanimate objects in their moral community. In addition, it remains hostage of a hierarchy with which the PF does not agree. Unlike Singer's preference utilitarianism, the PF does not rank human beings as morally superior by their ability to glimpse future projects. After all, according to the author, our most serious moral failure would be to put ourselves

[...] as the high point of a hierarchical scale of the beings concerned by our moral discourse. This is a mistake which, in my view, does not even seem to escape Singer. [...] Singer does not hesitate to admit that the life of beings capable of elaborating a life project is hierarchically superior to an only lived life.⁵²

The proposal offered by Warren, on the other hand, for not breaking with the universalistic pretension sought by the PF and keeping in line with the need to contextualize demands, from the care approach, may approximate the theses defended by Dias. Here it makes sense to point out, however, that ecofeminism does not bring with it the pretense of incorporating inanimate objects into morality, unlike PF. However, with respect to nonhuman animals, the similarities become evident, especially when Dias states that

[...] during our process of knowledge production we may be led to the error of projecting on the other beings characteristics that mark our own species. From a moral point of view, we can be attentive to such an offense and develop our imaginative ability to broaden our sensitivity to previously imperceptible demands. We may pay less attention to our intellectual arrogance and more attention to our own feelings. We can see and hear in a less "anthropocentric" way. Against the crime in the projection on the other of our own demands, these are the only weapons that we have: a continuous process of sensitization and accurate listening of the other.⁵³

⁵² Ibidem, p. 227.

⁵³ Idem. *Ensaïos sobre a moralidade*. Rio de Janeiro: Pirlampo, 2015. p. 227.

Faced with the capacity focused proposal, we can locate, in the liberal aspect of Nussbaum, the greater distance from the focus given to the functionings offered by Dias. If for Nussbaum the focus of ethics must be given in favor of freedom for the exercise and flourishing of a life, Dias bets on a less liberal and more inclusive conception of justice.⁵⁴

If Dias is correct and we no longer have the moral justification of a hierarchy among the various beings, then we must concentrate our moral commitment, as the author observes, in the endless quest to understand the other, be it a human being or not a human being. Only in this way could we avoid the blind repetition of grave moral errors against the beings with whom we share the world. In this process of interaction and constant and uninterrupted listening, the capacity to sensitize us to the suffering of others invites us to open the door and allow affections to take their place in ethics.

6. Conclusion

As it was possible to observe, different approaches integrate the map of theories and authors who seek, from different perspectives, to offer reasons that justify the inclusion of nonhuman animals in morality. This debate urges us to think about the way we operate in the world and in what way we often leave out of our ethical concerns elements that can and should be incorporated into our horizon of commitments. Taking our responsibility for animal treatment modifies not only our way of treating them more directly, but the way we come to be constituted as subjects in the world. Hence, to think about nonhuman animals is to rethink the role and responsibility of human beings, from the identification of border boundaries erected in time and maintained daily. In the end, it is a question of assuming that we share the world with other beings, and that this implies moral obligations that go beyond the category of belonging to the same species. Taking a more careful look, we can surprise ourselves and learn to live more harmoniously.

⁵⁴ Idem. *Perspectiva dos funcionamentos*. Rio de Janeiro: Pirilampo, 2015. p. 21.