

Federico Zuolo

# ANIMAL WELFARE AND PLURALISM. A POLITICAL (AND LIBERAL) SOLUTION TO THE ISSUE OF THE TREATMENT OF ANIMALS

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The underlying idea is that implementing forms of “civilized” politics is desirable as well as feasible. And, as far as the Italian political system is concerned, it is also urgently needed, since the system appears to be poorly prepared to deal with the challenges emerging in many policy areas: from welfare state reform to the governance of immigration, from the selection criteria in education and in public administration to the regulation of ethically sensitive issues.

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## KEYWORDS

Animal welfare, pluralism, political liberalism, overlapping consensus,  
animal ethics

## ABSTRACT

**ANIMAL WELFARE AND PLURALISM. A POLITICAL (AND LIBERAL) SOLUTION  
TO THE ISSUE OF THE TREATMENT OF ANIMALS**

People disagree widely over the moral status of animals and the treatment we owe to them. Such a disagreement rests both on diverse factual understanding of empirical data concerning animals and on the moral responses to these facts. Against this background, the aim of this paper is to provide a principled political solution to the issue of what treatment animals are owed in a context of disagreement concerning their moral status. To address such a pluralistic scenario I employ a two-stage justification inspired by Rawls's discussion of overlapping consensus in *Political Liberalism*. I outline six main views on the moral status of animals and argue that there is only one position on animal treatment capable of winning the principled support of these views and passing the test of freestandingness. Such a position requires that animal suffering be minimized in interactions with human beings as much as is reasonably possible, but allows the use of animals for fundamental human interests. I argue that such a position should not be regarded merely as a compromise, because it is the one most compatible with the current state of reasonable disagreement on the moral status of animals and should be publicly supported.

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**1. INTRODUCTION: ANIMALS AND DISAGREEMENT**

People disagree widely over the moral status of animals and the treatment we owe to them. The disagreement touches upon whether animals have a moral status, and, if they do, what such a status demands of us. Some people care about animal welfare, others campaign for animal rights and animal liberation. Other people use (some may say exploit) animals for economic purposes. Some people have deep affective relations with animals and consider them fundamental to their lives. Others seem to care about none of the above. Whatever one's view on the matter, animals do play an important role in everybody's life, even in the lives of those who deny any moral status to animals: indeed, all human beings have at least some indirect relation with animals, for instance, when one eats meat or uses a drug which has been tested on animals before being employed by humans. This is something of a platitude. But what bearing does this issue have on public rulings?

The important thing we should bear in mind when thinking about these issues is that many practices involving human-animal relations (in particular, food production and scientific experiments on animals) have a public dimension and cannot merely be confined to a private area. Why so? This is because such practices need public regulation, at least as far as matters of safety (for instance regarding meat production) are concerned, but also because most people think that this is not a morally indifferent domain. Hence, in virtue of the pervasiveness and ubiquity of relations between human and non-human animals, and the importance of such relations for the life both of those who consider animals worthy of moral concern and those who do not, animal treatment is a matter of public concern: it touches upon fundamental interests and affects directly or indirectly the life of all. In the light of this, it is fairly uncontroversial to say that there should be common rules establishing how animals should be treated in the many areas in which human beings relate to animals.

Although what I've been saying so far might seem rather trivial, it immediately becomes non-trivial if we consider how widely people disagree on the moral status

of animals and the moral treatment owed to them. How should we deal with such disagreement? What bearing does it have on the need for a public ruling? Unlike standard approaches in animal ethics, in this paper I will argue that we should take the reasonable disagreement on this issue seriously. Theories in animal ethics, by contrast, have typically overlooked disagreement on the moral status of animals as unjustified and have variously urged that public institutions and citizens adopt a comprehensive and controversial ethical stance on animals, whether utilitarian, right-based, or feminist. But a liberal response to a situation of disagreement over an issue that should be ruled publicly requires a shared method of justification that accounts for a pluralistic background. In this paper, I will try to apply to the domain of animal treatment a two-stage method of public justification, inspired by Rawls's discussion of overlapping consensus in *Political Liberalism*.

The paper will unfold as follows. In the next section I will define what reasonable disagreement regarding the moral status of animals means, and I will present the type of public justification I will employ. Then, I will single out six main views concerning the moral status of animals. In the third section, I will outline three positions expressing general principles of animal treatment on which there could be agreement by the six views. Against this pluralistic background, I will employ a two-stage method of public justification inspired by the Rawlsian discussion of overlapping consensus. I will argue that a principle—prescribing the minimization of animal suffering but the admissibility of the use of animals for the sake of satisfying fundamental human interests—is the one capable of gaining principled public agreement. I shall demonstrate how the diverse reasonable views may have reasons to sustain it, and why unreasonable views and people may still accept it as a good compromise on prudential grounds. In the fourth section, I will respond to some objections. Finally, in the conclusion, I will discuss the implications of this political solution.

A caveat before beginning. In this paper I will not directly discuss whether animals do have a moral status and, if so, which one. I will simply start from the widely recognized assumption that human beings have a moral status. By making this assumption I refer to standard adult human beings. This means that I will not discuss the troublesome issue of marginal cases (such as infants, severely mentally handicapped individuals, elders suffering from harsh forms of dementia and so on).

The argument of marginal cases has been used in many theories as a cornerstone to reject the idea that human beings, *qua* members of a biological community, should as such be entitled to the recognition of moral personhood and treated differently from animals. As will become clear in what follows, I will not need to address the issue of marginal cases because I will not defend any specific position concerning whether and what type of moral status animals and human beings have. The aim of this paper is, rather, to show what kind of solution we should seek to find in the face of disagreement over the moral status of animals.

## 2. REASONABLENESS, PUBLIC JUSTIFICATION AND COMPETING VIEWS ON THE MORAL STATUS OF ANIMALS

### 2.1. *Reasonableness and animals*

In this section, before presenting the competing views on the moral status of animals and working out the procedure for public justification, I will provide some preliminary remarks on the type of disagreement I will address. What does reasonableness mean in this domain? Following a standard Rawlsian perspective, by reasonableness I understand an individual disposition towards the following three features: to propose and honor fair terms of cooperation, to consider all individuals as free and equal, and to recognize and accept the consequences of the burdens of judgment.<sup>1</sup> In the field of views about the moral status of animals, the third of these three general features is particularly prominent. As we are not discussing conceptions of justice or basic social institutions but views on animals and the relations between human beings and animals, for the sake of simplicity I will assume that all citizens and the theories they subscribe to accept the first two features, which, *per se*, have no bearing on animal issues. I will discuss unreasonableness in § 4 below. Let us now consider what it means to say that the issue of the moral status of animals is a domain where diverse individuals can reasonably disagree. If an individual is reasonable she accepts what Rawls calls the “burdens of judgment”, that is she recognizes that the free use of reason generates disagreements in many areas of life. If individuals agree on a specified core of liberal principles, regulating social cooperation and fundamental individual entitlements, the disagreements in other areas of social life should be accepted and tolerated as the consequence of reasonable use of reason.

Regarding the issue at stake here, reasonable people are willing to recognize that the burdens of judgment (competing individual moral intuitions, diverse understanding of scientific evidence, different personal experiences) generate a number of reasonable responses to the issue of the moral status of animals and the treatment we owe to them. Certainly, from the standpoint of a fully-fledged comprehensive doctrine some of them may be considered inappropriate, unconvincing, inconclusive, and even all things considered wrong. But, as reasonable persons, if we are committed to a liberal perspective, we must recognize that there can be disagreement on these issues, which results from the free use of reason (burdens of judgment).<sup>2</sup>

In sum, following Rawls, also in this camp, “reasonable persons see that the burdens of judgment set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought. It

<sup>1</sup> For the reconstruction of reasonableness I follow Boettcher (2004).

<sup>2</sup> Even Garner (2013), purportedly outlining a political theory for animals, fails to recognize this point because he features current disagreements on the moral status of animals only as constraints to be addressed by a nonideal theory, not as the persistent expression of reasonable disagreement.



is unreasonable for us to use political power, should we possess it or share it with others, to repress comprehensive views that are not unreasonable” (Rawls 1993, 61).

## 2.2. *What kind of public justification?*

Situations characterized by controversies concerning the moral status of and the treatment owed to certain beings are certainly difficult to address. But, this is not novel to political philosophers. Typically, liberal theories aim to address such situations by trying to find a form of *public agreement* on common principles that may be shared by different positions. What form such an agreement should have varies according to the type of approach one favors. In this paper I intend to provide an argument inspired by the Rawlsian idea of two-stage justification. But I do not intend to convey the idea that a Rawlsian approach is the only way to respond to a situation of disagreement. Perhaps the conclusions I will draw may be reached from different perspectives. However, I think it could be interesting to try to apply a Rawlsian-inspired approach to an issue that has so far not been explicitly addressed in this way. In particular, a Rawlsian-inspired approach seems to be very promising in that it provides a form of public justification including both free-standing reasons and reasons internal to comprehensive views, thus aiming at both generality and the inclusiveness of diverse views. The advantage of this form of justification is that, if successful, it can provide an eminently *political*, namely independent of metaphysical claims, solution, which is most suitable to the wide disagreement on the moral status of animals. The specific form of such a two-stage justification will be explained shortly. Now a couple of words on the thorny issue of animals in Rawls’s theory of justice.

In *A Theory of Justice* Rawls excludes animals from the original position and the domain of justice, because animals do not possess the two moral powers (the sense of justice and the capacity to form and pursue a conception of the good) constituting moral personality (Rawls 1999, 448).<sup>3</sup> Then, the debate on Rawls and animals has been characterized by two diverging tendencies. On the one hand, some have tried to provide a Rawlsian argument claiming that animals should be included in the original position (Elliot 1984, VanDeVeer 1983, Rowlands 1999). On the other hand, others have rejected such an approach and argued that Rawls’s theory of justice is constitutively unfit to include real concerns for animal welfare and rights (Singer 1993, 80; Garner 2012). These critics say that Rawls’s structural reliance on Kantian reciprocity between full moral persons makes justice as fairness hardly capable of accounting for the duties we have toward moral patients, such as infants, severely retarded human beings and animals. Therefore,

<sup>3</sup> In *Political Liberalism* (Rawls 1993, 21 and 245) Rawls maintains that the treatment owed to animals (and the natural environment) constitutes a possible extension of public reason. However, there are certain difficulties in dealing with this issue by making recourse to the constraints of public reason. For an interesting reconstruction of Rawls’s ambiguity and possible inconsistencies on this issue, see Flanders (2013).

these critical strands claim that in order to argue for direct duties toward animals we ought to get rid of Rawls's theory.

The solution I propose does not rely on either of these perspectives. Against these views, my contention is that it is possible to provide a Rawlsian principled solution to animal treatment, but—I will argue—not one advocating rights to animals, and not *via* the inclusion of animals in the original position.<sup>4</sup> My aim is, rather, to provide a Rawlsian-inspired justification of a principle ruling the treatment of animals. It's now time to explain better such a form of justification.

As known, in *Political Liberalism* Rawls holds that the public justification of justice as fairness unfolds in two stages. In the first stage justice as fairness “is worked out as a freestanding political (but of course moral) conception” (Rawls 1993, 140–141), namely a conception whose validity is independent of the diverse comprehensive doctrines characterizing a pluralistic society. In the second stage, an overlapping consensus is sought among reasonable comprehensive doctrines, through which justice as fairness “can win its support by addressing each citizen's reason, as explained within its own framework” (Rawls 1993, 143).

With respect to the version of public justification outlined by Rawls in *Political Liberalism*, here there are a couple of differences that should be spelled out. Rawls employs the model of two-stage justification in issues concerning the fundamental structure of society against the background of different comprehensive doctrines. This means that, first, the model of justification is usually applied to issues of justice. But, here the issue of the treatment of animals cannot be considered uncontroversially a matter of justice in Rawlsian terms. Indeed, as hinted at above, animals are not part of the domain of justice as fairness, neither as subjects nor as recipients of justice. However, such difficulties do not imply that there cannot be a form of public justification, although not about justice.<sup>5</sup>

The second feature in which there is divergence from the Rawlsian model of justification is that the different views about the moral status of animals we will see below are not always comprehensive views in the Rawlsian sense. Indeed, these views do not often include “conceptions of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships, and much else that is to inform our conduct” (Rawls 1993, 13). However, this is not a problem because Rawls himself admits that there are many “partially comprehensive doctrines” (Rawls 1993, 13) and “[m]ost people's religious, philosophical, and moral doctrines are not seen by them as fully general and comprehensive” (Rawls 1993, 160). As we are not discussing concep-

<sup>4</sup> I will not pursue the further alternative of arguing that Rawls's perspective can accommodate a theory of duties to animals that are not duties of justice either. For this last perspective, see Abbey (2007).

<sup>5</sup> On the idea that an overlapping consensus can be sought not only on justice but also on other important issues I'm inspired by the example of overlapping consensus on conceptions of citizenship provided by March (2006, 389).

tions of justice and the basic social structure, but specific views on animals, what I will mostly consider below may be called *partially comprehensive doctrines or views on the moral status of animals*. But, henceforth, for the sake of simplicity I will call them *views* if not further specified, bearing in mind that they are the functional equivalent of comprehensive doctrines for an overlapping consensus on a specific issue.

These differences do not threaten the applicability of the model itself, because we've seen above that there are the conditions for needing such a form of justification: there is reasonable disagreement over a public issue which affects the lives of all people and should be publicly ruled.

A further difference revolving around the specificity of the domain we are trying to apply this justificatory device to is the function of the two stages. Jonathan Quong (2011, 161-180; see also Zoffoli 2012) has aptly pointed out the ambiguity of the role of the overlapping consensus in Rawls's political liberalism. He shows how the traditional understanding of overlapping consensus is torn by the following dilemma: either the overlapping consensus is useless insofar as the real justificatory work is done by the first stage, or it threatens the freestanding justification if in the overlapping consensus a comprehensive view may object to the liberal principles arrived at in the first stage. With respect to this debate, the sort of justificatory work done by the two-stage form of justification I employ here is different, in that it does not concern justice and society's basic structure but a very specific albeit important issue. As argued, I do not think this prevents us from the possibility of using this justificatory tool, but the consequence is that both stages are necessary. Indeed, here in the freestanding stage, unlike in matters of basic justice, the principles we formulate do not directly follow from reasonableness and publicly shared liberal principles, because the idea of society as a fair system of cooperation and the principle of treating individuals as free and equal have little to say about the treatment of animals. Hence, the justificatory work done by the freestanding stage will work as a "filter". As publicly shared liberal principles do not let us choose a set of principles for the treatment of animals, the freestanding stage simply shows which sets of principles, if any, are independent of claims deriving from comprehensive views, without necessarily providing reasons for endorsing one of them. But this is too minimal and indeterminate a criterion, because diverse sets of principles may meet it. Hence, we need a further level of justification. At the second stage, the overlapping consensus, we have to check whether what has been shown to be independent of comprehensive views is also justified according to the internal standards of the (partially) comprehensive views. In sum, principles concerning the treatment of animals cannot be derived from basic ideas of a fair society and of free and equal citizens. In a sense, the freestanding stage lacks an internal proper justificatory standard for the treatment of animals, because it does not follow from reasonableness and, as in Rawlsian justice as fairness, we cannot rely on an uncontroversial epistemic standard. The standards for full acceptability are, instead, provided by each specific comprehensive view. Hence, in this form of two-stage public justification both stages are necessary.

A further specification of the need for the two stages will be provided after the discussion of the specific views.

### 2.3. *Six views on the moral status of animals*

Now let us outline the main views on the issue of the moral status of animals, taking them in order from the one according to the greatest value to their status to that attributing no value at all to animals *per se*.<sup>6</sup>

❶ *Animals as moral subjects.* This view holds that animals have a fully autonomous moral status. The most famous formulation of this position is expressed by Regan's idea of animals as subject-of-a-life, bestowing on animals a form of status that carries with it inherent value and is analogous to the moral personality of human beings (Regan 1983). Animals' possession of inherent value is generated by their having a fundamental property, the capacity to have experiences, which makes them worthy of moral concern. In general, this entails a deontological theory of animal rights, according to which killing animals for meat production and scientific research is morally wrong. Other typical human practices, such as industrial farming and exploitation of animals, should equally be outlawed. Such a perspective may require the full liberation of animals from human domination (see also Francione 2008; Donaldson and Kymlicka 2011).

❷ *Animals as sentient beings.* Animals, like humans, are sentient beings. Therefore, animal welfare should be included in the utilitarian calculus. But, utilitarianism provides different responses to the status of animals. Classical utilitarianism considers them only as recipients of pleasure and pain, and accordingly holds that their life can be taken provided that their suffering is minimized. By contrast, Singer's preference utilitarianism distinguishes conscious animals from self-conscious animals (Singer 1993). The former are limited to the experience of suffering and enjoyment, while the latter also have a sense of the future and more complex preferences. Although this distinction makes the utilitarian perspective more complicated, it does not change the fundamental idea that there is only a single measure of moral concern. Accordingly, the moral status is simply determined by (the level of) sentience. With respect to this, however, utilitarianism tends to be interspecifically egalitarian. Singer's idea of interspecific equality of interests makes the case for an egalitarian moral concern when it is the case. From this it follows that animal suffering should be minimized, and welfare promoted, and all practices incompatible with animals' ethological needs (such as industrial farming) should be abolished. Utilitarianism has varying responses on the admissibility of animal killing. In principle, it may be admitted if justified on overall utilitarian grounds. Classical utilitarianism admits of it provided that it is done with the least suffering to animals. In Singer's perspective, however, it all depends on whether an animal is conscious—thus merely feeling pleasure and pain and

<sup>6</sup> This list includes most of the relevant approaches discussed in Warren (1997).

responding to stimuli—, or self-conscious—thus also capable of more complex desires and expectations about the future. In this latter case, killing, for reasons that are not grounded on pure necessity, because of self-defense or lack of alternative food, is not permitted.

③ *Animals as the subject of caring relations.* Animals are living entities with which human beings entertain diverse forms of relations. This means that, *qua* living beings, they may suffer and interact with human beings. On this view, the moral standing of animals may easily be tracked by empathy: as human beings care for animal welfare, interact, and sympathize with them, human beings have responsibility towards animals according to the type of relations they have with them.<sup>7</sup> But in general, such a responsibility requires that animals should not be killed and exploited in practices that are against animals' ethological nature. Moreover, as human beings naturally develop empathy towards animal welfare, suffering should be minimized. Unlike right theory, however, this perspective is grounded in the relations between humans and animals, and the attitudes of the former towards the latter. Therefore, it does not require a full liberation of animals, because non-exploitative relations between human beings and animals are not only possible but also commendable. But this view, depending on personal relations and rejecting impartiality, is ambiguous on the issue of the killing of animals. Consider the following feminist diverging accounts. For instance, Noddings (1984, 159) proposes a full-blown theory of special relations of caring, in which the killing of animals is admitted if there is no special relation with them. Josephine Donovan, instead, claims that care feminist theory would not allow even compassionate slaughter of animals because an empathic communication with animals would clearly say that “no animal would opt for the slaughterhouse” (Donovan 2006, 310).

④ *Animals as part of the environment.*<sup>8</sup> Environmentalism holds that animals count morally *qua* members of species that are part of natural habitats. On this view, what counts are the collective components of the biotic system, in particular species, not individuals *per se*. Each component is valuable to the extent of its importance and rarity in the ecosystem. Accordingly, the moral imperative is the safeguard of the natural ecological equilibrium, which is for instance endangered by certain human practices, such as pollution and in some cases industrial farming. Therefore, coherent environmentalism does not prohibit *per se* the rearing and killing of wild and domesticated animals, but only to the extent that it is detrimental to the maintenance of ecosystems. Environmentalism might even require the killing of animals which threaten to exceed the ecological equilibrium of a zone. However, certain practices, such as the domestication of wild animals and in general the lack of an appropriately ethological environment for animals, may be considered wrong from an environmental perspective.

<sup>7</sup> For a representative outline of the feminist empathy-based view on animal status see Donovan (1996).

<sup>8</sup> What follows synthesizes shared environmental tenets. The most thorough expression of this view may be found in Callicott (1989).

⑤ *Agnosticism towards the status of animals.* The agnostic view holds that it is impossible to reach a conclusive position on the moral status of animals because, like the existence of God, there cannot be a conclusive argument on this issue. This stance is compatible with the idea that agnostics may easily accept that other people may have profound convictions on animals. However, unlike theological agnosticism, they may be ready to admit that the treatment of animals is not a wholly private issue, like religious faith, since animals certainly exist and are part of our lives. Therefore, agnosticism must be distinguished from indifferentism: agnostics hold that they cannot embrace a conviction on animal treatment but do not claim that it is morally indifferent how animals are treated and that any treatment is acceptable.

⑥ *Humanism.* In general humanism holds that only human beings possess those capacities (rationality, sense of justice, moral agency...) that make them holders of moral personality and worthy of direct moral concern.<sup>9</sup> Theorists and advocates of animal rights usually represent humanism along the lines of the Cartesian view, according to which animals are equivalent to machines, having no feeling, no mind and rationality. However, humanism may include diverse perspectives. It may include a proper Cartesian view, as well as a Kantian view endorsing humane treatment of animals on the grounds that cruelty to animals may foster cruelty to human beings (Kant 1963, 373). Therefore, although humanism rejects the idea that animals may have an autonomous moral status independent of human instrumental use of them, it may nonetheless justify indirect duties to animals. Thus, in its Cartesian versions humanism accepts any treatment of animals; in its Kantian version some properly qualified and limited restrictions against cruelty to animals may be justified.<sup>10</sup>

This is not a fully detailed list. There may be other intermediate, and more nuanced, views, but most of them are included.<sup>11</sup> Following the definition of reasonableness above, it is easy to see that all these views may reasonably be held. All are compatible with the first two requirements of reasonableness (the idea of society as a fair system of cooperation, and the principle of treating others as free and equal). Moreover, some of them—(1) and perhaps (3)—are committed to the idea of also extending these principles to the realm of (some) animals. As far as the third requirement (willingness to accept the burdens of judgment) is concerned there is little in the views *per se* to establish whether this condition is satisfied or

<sup>9</sup> This holds for normal adult human beings, as humanism is standardly exposed to the problem of human marginal cases. However, as said above, I won't discuss this issue here.

<sup>10</sup> Humanism also includes, among many, most of the contractarians, such as Carruthers (1992) as well as Narveson (1976).

<sup>11</sup> For instance, I may have underrepresented relational- but not care-based-views. In general, in the list above I have not included associative accounts of animals. This exclusion is justified because these accounts do not seem to take side with a distinctively fundamental stance on the moral status of animals. Indeed, they either rest on a baseline of animal rights theory—Donaldson and Kymlicka (2011)—or make the case for an associative perspective on *some* animals, with which human beings have long established cooperative relations, such as for instance dogs. On the latter see Valentini (2013). Moreover, there may be some nuanced positions, such as the view between (a) and (b) endorsed by Cochrane (2012) supporting an interest-based animal rights theory without animal liberation.

not. It depends on whether individuals actually hold such views reasonably or not, that is, whether individuals accept the burdens of judgment and accept the possibility of reasonable disagreement. As anticipated above, the form of public justification I will propose in the next section is concerned only with reasonable views. I will discuss the case of unreasonable people in the last section.

### 3. THREE POSITIONS ON THE TREATMENT OF ANIMALS AND THE TWO-STAGE JUSTIFICATION

In a situation of disagreement such as this we need not discuss the merits and limits of each view. To do this, we would need to rely on a metaphysical and metaethical account of human and animal natures, which goes beyond what can be done publicly in political liberalism. Instead, we now have to see whether there can be public support for a principled solution. I will outline three main positions establishing the normative principles for treating animals. Then, I will discuss each position critically, in terms of its capacity to pass the test of freestandingness and overlapping consensus.<sup>12</sup>

#### 3.1. *Three positions*

(a) *Animal rights position.* Animals have a right to life, a right not to suffer and a right not to be exploited. Moreover, in interactions with human beings animals should be treated according to their ethologic needs. It follows that animals can neither be reared and killed for meat production, nor can they be used in research experiments.

(b) *Animal welfare position.* Animal suffering should be minimized in interactions with human beings as much as is reasonably possible, but animals may be used for fundamental human interests (which may include human nourishment and scientific research).

(c) *Animals as means position.* There should be no *a priori* restriction to the use of animals, either in terms of the purposes to which or the manner in which they may be employed. There may be restrictions only if certain uses of animals might cause harm to human beings.<sup>13</sup>

<sup>12</sup> It bears specifying that my use of the overlapping consensus on animal treatment differs deeply from Nussbaum's mention of it (Nussbaum 2006, 388-392). Although she subscribes to political liberalism, it is not clear how other comprehensive doctrines could support her capability approach, which is in its turn a comprehensive doctrine. Indeed, it vindicates a comprehensive theory of good life, which is based on a metaphysical account of species, necessary to establish which set of capabilities are fundamental to characterize a good life for each animal species. Such an exclusive perfectionist view of the good life and essentialist account of biological notions seem at odds with the requirements of political liberalism.

<sup>13</sup> Needless to say, what counts as a harm is very controversial. Harms at least include consequences for human health. But some may argue that human sensitivity toward animal suffering may also be harmed if sensitive people are exposed to animal suffering. In this case, this position would require a ban on the display of animal suffering in public as a way to safeguard human sensitivity, but not a ban on animal suffering in general.

It is important to remark that these three normative solutions have not been devised *ad hoc*. On the contrary, it is easy to see that they reflect the most important and representative positions on animal treatment. Indeed, (a) represents a core set of substantive claims of most widespread theories in animal ethics (right theories and utilitarianism); (b) may be called a sort of *welfarism* and in many variants may be found at the basis of most current Western laws on animal treatment;<sup>14</sup> (c) was the mainstream position in Western legislation and culture before the concerns and campaigns for animal welfare and rights that began some decades ago.

Let us now consider which of positions (a)-(c) passes the justificatory test. As anticipated, I will employ a two-stage form of public justification including a freestanding stage and overlapping consensus. I reformulate these two stages as two criteria through which the three positions (a)-(c) are to be assessed. Accordingly, I will assess

(*freestandingness*) whether a position can be justified by reasons that are independent of the comprehensive views on the moral status of animals,

and

(*overlapping consensus*) whether it can gain the support of comprehensive reasons, which are internal to the views on the moral status of animals (1-6).

The freestanding stage consists in the stage of justification that is independent of and neutral with respect to the (partially) comprehensive views. Its main aim is to exclude reasons that are *necessarily* dependent on the (partially) comprehensive views. Overlapping consensus, however, is necessary to grant that what is arrived at through the freestanding stage can win the support of each reasonable view, so that all views have internal reasons to endorse the agreed principles. Moreover, following Rawls's considerations on overlapping consensus, it also ensures stability for the right reasons. Although this latter feature is certainly important, I will focus here only on the justificatory dimension.

As already anticipated above, both stages are necessary for a proper and stable justification. If we had a freestanding justification of a set of principles without the overlapping consensus, there would be the risk that each view would not consider what is shown to be freestanding as justified according to their internal standards. As what reasonable people agree on (society as a fair cooperative system and the idea of citizens as free and equal) tells very little about animal treatment, the freestanding stage can establish only whether a certain position may be justified independently of comprehensive reasons or not, while the overlapping consensus serves to grant that what passes the freestanding is also justified according to internal requirements of acceptability.

<sup>14</sup> Among many general and specific rulings, consider for instance the European Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing and many other similar rulings at European and national level; or consider the US Laboratory Animal Welfare Act (PL August 24 1966, 89-544) and the following amendments.



If, on the other hand, we only had the overlapping consensus, that is views converging on a set of principles for different reasons without a common and independent standard, such an agreement would suffer from two problems. First, it would be impossible to say if any solution is acceptable in general, because we would have no instrument to rule out patently unacceptable situations. Second, it would be more fragile insofar as exposed to changes in the relative strength and diffusion of the views. Consider the following two examples. First, consider the case of two comprehensive views that were very popular in the XIX century: a form of utilitarianism considering an elite-restricted government as the best way to pursue the overall utility, and a traditional Christian view endorsing hereditary monarchy as the expression of God's will. Suppose we are in a society in which there are only these two views. Both views would have internal reasons to rule out democracy as a legitimate form of government. If we were committed to a form of public justification accepting only internal reasons without a freestanding stage of justification, we would have no tools to reject such a convergence as unjust. Second, regarding animal treatment, the freestanding stage is necessary to ensure that the convergence in the overlapping consensus is not sociologically limited and biased by the actual diffusion of certain views. For instance, if we were in a society in which only views (4)-(6) and a form of utilitarianism rejecting interspecific egalitarianism were represented, it would seem to be acceptable to converge on the position that animals may also be made to suffer for futile human reasons. However, such a position, ultimately, seems to be dependent on a comprehensive view, because it relies on a substantive account of human superiority and the lack of animals' moral worth. Hence, it couldn't aspire to independency from comprehensive views because the convergence on this position would hide its controversial grounding. In sum, this position would seem to be biased toward the status quo, thus being incapable of winning the support of those unrepresented views—in particular (1) and (3)—were they to appear in society.

Building on this, it is now time to assess positions (a)-(c) with the two previous criteria. Let us start discussing animal instrumentalism (c), because it is the easiest case. Animal instrumentalism can be supported by reasons that are independent of comprehensive views on the moral status of animals. For instance, by admitting the use of animals in research laboratories animal instrumentalism fosters scientific research, which in turn contributes to the promotion of public health. The promotion of public health through scientific research is certainly a value grounded in generally acceptable reasons, whose validity may be endorsed by reasons independent of any view. But, at the overlapping consensus, animal instrumentalism can hardly win support from all positions. Indeed, (5) and (6) have reasons to endorse it, (4) might sustain it, but views (1)-(3) have strong reasons to oppose it, because it is not even committed to the minimization of animal suffering, not to speak of an alleged right to life; thus animal instrumentalism does not respect the pluralism of views on the moral status of animals and fails to comply with the overlapping consensus. Hence, animal instrumentalism should be rejected, because it fails to provide reasons that are acceptable by all the reasonable views. In what

follows I will discuss what is the most preferable principle between animal rights position (*a*) and animal welfarism (*b*), in the light of the criteria provided by the freestanding stage and the overlapping consensus.

### 3.2. *Assessing freestandingness*

First, let us see how animal rights position (*a*) and animal welfarism (*b*) fare with respect to the criterion of freestandingness. Which of the two can win the support of reasons that are not dependent on any of views (1)-(6) above? As animal welfarism is based on the full recognition of animals as bearers of a fully autonomous moral status, such a recognition seems to be dependent on the idea of the inherent value of animal life (1). The idea of the inherent value of animal life cannot be independent of any doctrines on the moral status of animals. Such an idea rests on a controversial view of moral personality that other views may reasonably reject. Therefore, if we are committed to the idea that a principled solution should be grounded in reasons on which any reasonable position may agree, the idea of according rights to animals fails to satisfy the freestanding requirement and can be defended *solely* on the basis of a comprehensive view.

By contrast, animal welfarism seems to fare better with respect to the requirements of the freestanding stage. Indeed, in support of animal welfarism there may be diverse reasons independent of specific views. To see this, let us unpack animal welfarism and analyze its two main components: the admissibility of the killing of animals for the satisfaction of fundamental human interests (*b*<sub>1</sub>), and the minimization of animal suffering (*b*<sub>2</sub>). I will consider them in turn, starting with the former. The traditional view says that the permissibility of a diet which includes a fair amount of protein and experiments on animals to foster scientific progress are required by the uncontroversial idea that we ought to promote human health. Hence, human beings have fundamental interests in eating meat and making experiments on animals. This view is disputed by animal rights advocates<sup>15</sup> who argue that proteins can be provided by vegetables and research on animals is either useless or replaceable by other methods. Let us assess these two remarks in turn.

Provided that, as seen earlier, an outright and absolute ban on the killing of animals may be justified only on the basis of a comprehensive and controversial account of the moral status of animals, the debate concerns whether the purchase of food is a sufficient and, all things considered, justified reason for killing animals. But, this means that if we accept this, we have moved to a different level of discourse, in which we adjudicate on the relative admissibility of alternative courses of action which do not touch upon the more fundamental non-inadmissibility of the killing and use of animals. Thus, other types of public reasons should be employed to weigh the merits of the diverse positions. For instance, one may appeal

<sup>15</sup> It is true that some nutritionists also argue that animal proteins are detrimental to human health. However, it is dubious that such an observation can in fact determine a duty to be thoroughly vegetarian and is not simply a recommendation to reduce the consumption of meat.

to the environmental unsustainability of animal farming, or to the idea that the reduction or abolition of animal farming may free crops and resources to provide cheaper food to the world's poor. Arguments derived from environmental sustainability and global fairness are independent of views (1)-(6), and hence seem acceptable to all, although maybe not fully convincing for all. However, such arguments seem capable of justifying (major or minor) changes in degree, not a complete prohibition of the use of meat.

The latter critical remark by animal rights advocates is rejected by official medicine, establishing that in many areas there is no reliable substitute to tests on animals. Even if scientific research in most Western countries has adopted the "three Rs rule" (replace, reduce, and refine the use of animals in laboratories), many current (and future) life-saving or quality-of-life-enhancing drugs have been (and probably will be) developed through tests on animals. Tests on animals that are proven to be necessary to scientific development seem to be justified on the ground of the promotion of human health. However, against this claim, Francione (2007) argues that even in those (very few) cases in which research on animals is really necessary, employing animals is unjustified because in laboratories we treat animals as mere resources. As there is no way morally to justify humans' preeminence and superiority with respect to animals, we cannot use animals as resources if we are committed to the principle that unwilling humans cannot be used as resources. Despite its seeming straightforwardness, however, such an argument rests on a comprehensive view based on interspecific radical egalitarianism, requiring to treat as ends in themselves all sentient beings. Hence, the idea that even necessary research on animals is wrong does not seem to pass the test of freestandingness.

In sum, the idea that animals can be used is justifiable on freestanding grounds, whereas the opposite is not. Moreover, generally acceptable reasons against the use of animals for meat eating and scientific research may only suggest a reduction of such practices, not a total ban.

It may be asked, then, how the idea of minimizing animal suffering ( $b_2$ ) could pass the test of freestandingness. After all, the idea that animal welfare should be promoted and animal suffering minimized is one of the core tenets of theories of (1)-(3). Therefore, it seems to depend on (comprehensive) views. Why shouldn't the allegation of failure to meet the freestanding criterion that we have just leveled against the animal rights position also be valid against animal welfarism? I submit that it is possible to provide a grounding for ( $b_2$ ) that is independent of comprehensive views. But, since here we're trying to justify a general duty (to minimize suffering) as a public requirement, we should prove more than freestandingness. As we have to show that it is not only admissible but also publicly required, the test to be passed should be more robust. The idea that animal suffering ( $b_2$ ) should be minimized passes a more robust test in three senses. First, it is epistemically accessible; second, not incompatible with fundamental interests of the parties at stake; and, third, endorsable by a public (non-controversial) value.

First, (*b*<sub>2</sub>) rests on a fact that is epistemically accessible to all. Scientific evidence and everyday experience of many people attest that vertebrates (and in particular mammals) have a sufficiently developed sensorial system to experience pain. Whether and to what extent animal suffering matters is morally controversial, but that many animals, in particular mammals, experience suffering, is hardly deniable (on this see in general Aaltola 2012, 49-67).

Second, affirming the disvalue of animal suffering does not impinge on other fundamental interests. One may rebut this claim by saying that ensuring suffering-minimizing livestock farming would be very costly, and thus detrimental at least to the interest of meat eaters. However, how costly it might be depends on technological issues and the level of animal protection, which I will discuss in the last section; conversely, the idea of minimizing animal suffering is not *per se* against the interest of human carnivores. As the minimization of animal suffering meets this condition, what reasons would people have not to accept it? Even those who do not subscribe to an animal-based doctrine have no reasonable reasons to reject it. Only a sadist, whose conception of the good is that of causing as much pain as possible to animals, would find the principle of minimizing animal suffering detrimental to his interests. Needless to say, however, the interests of the sadist are not eligible for public safeguard.

Third, let us see if the minimization of animal suffering may be positively grounded in a public value, namely in a value that is independent of controversies on the moral status of animals. This is possible if we ground the minimization of animal suffering not on their worth, but on the respect we owe to the commitment that many people have to the promotion of animal welfare. One of the fundamental liberal principles says that people cannot be compelled to respect laws which they could not reasonably accept. As we have seen at the beginning of this paper, there are domains (e.g. production of meat and scientific experiments) in which the treatment of animals is a matter of public concern and ruling. Accordingly, people morally committed to the value of animal welfare are compelled to live in states ruling many areas of life affecting animal welfare. Thus, enforcing the principle of minimizing animal welfare is a way to respect the moral power of forming and pursuing the conception of the good of those who are committed to the promotion of animal welfare. Unlike the controversial inclusion of animal rights in the domain of justice, in the liberal perspective adopted here, respect for human commitment to animal welfare may be considered a matter of justice, as a way not to force people to comply with rules (on the treatment of animals) they find morally unacceptable. Hence, the minimization of animal suffering may be grounded in and required by a noncontroversial public principle: the respect owed to individuals' capacity to form and pursue conceptions of the good.

Therefore, minimizing suffering should be publicly adopted because it is epistemically accessible, compatible with other values, and grounded in a public non-controversial value, while banning the killing of animals is not.

### 3.3. *Assessing the overlapping consensus*

Now let us consider how (*a*) and animal welfarism fare with respect to the overlapping consensus requiring the internal support of each view (1)-(6).<sup>16</sup> Animal rights position may be fully supported by (1), and only partially endorsed by (2) and (3), because certain versions of utilitarianism and care-based theories may justify the humane killing of animals. Environmentalism (4) objects to current industrial farming methods of rearing animals, not the killing of animals *per se*. Finally, agnostics (5) and humanists (6) have reasons to reject (*a*) insofar as it limits the liberty to use animals.

Let us now consider animal welfarism. (1) has both a reason to support animal welfarism (the minimization of suffering) and one to oppose it (admissibility of killing). As this is a complicated situation, I will discuss it in greater detail shortly, after considering the other views. Utilitarians (2) and care-based stances (3), instead, may have good reasons to accept animal welfarism, because by placing emphasis and priority on animal suffering animals' welfare is certainly improved. Moreover, (2) and (3) place restrictions on animals' use but do not require animal liberation as does (1). Hence, (2) and (3) may find an appropriate use of animals for acceptable human purposes justified. (4) has nothing against animal welfarism as far as it is compatible with environmental principles. Agnostics (5) have no reasons to oppose animal welfarism; and even humanists (6) may have some reasons to support it. In particular, both (5) and (6) may have reasons to ban cruelty, as a way to respect humanity or recognize the deep moral convictions of advocates of animal rights and welfare. Now let us reconsider (1). (1)'s position seems to be indeterminate because it has both reasons to oppose animal welfarism (admissibility of killing, *b*<sub>1</sub>) and to endorse it (minimization of suffering, *b*<sub>2</sub>). One may say that (1) may only have prudential reasons to endorse animal welfarism as a second best solution given the impossibility of reaching (*a*). But this is not really so. Indeed, (1) would have a principled reason to oppose (*b*<sub>1</sub>), a principled reason to endorse (*b*<sub>2</sub>), and at least an overall prudential reason to accept animal welfarism. This means that although (1) does not seem to have a wholeheartedly principled reason to endorse animal welfarism, reasonable holders of (1) know that, insofar as position (*a*), expressing more precisely their view, cannot be accepted by others, they shouldn't propose a set of principles which couldn't be accepted by others. Moreover, they have at least some principled and prudential reasons to endorse animal welfarism. Therefore, on overall ground, in virtue of reasonableness and the balance of reasons, animal welfarism should be supported by holders of (1) as a good and not only prudential solution.

<sup>16</sup> Recall that (*c*) has already been discarded as incapable of meeting the requirement of (β).

A matrix summarizing (β). It should be read according to whether each of the views (1-6) supports (✓), rejects (✗) or shows a conflicting attitude (□) toward positions (a)-(c).

		(a) Animal rights position	(b) Animal welfarism	(c) Animal instrumentalism
1	Animals as moral persons	✓	□	✗
2	Animals as sentient beings	□	✓	✗
3	Animals as subject of caring	□	✓	✗
4	Animals as part of the environment	✗	✓	□
5	Agnosticism	✗	✓	✓
6	Humanism	✗	✓	✓

Accordingly, giving consideration to the sustainability in terms of freestanding reasons and the capacity to win internal support by diverse views, animal welfarism should be preferred over the animal rights position and animal instrumentalism. In sum, animal welfarism is a principle which sits comfortably with the fact of reasonable pluralism and should be publicly adopted.

#### 4. SOME OBJECTIONS AND THE UNREASONABLE

A first general objection to the approach I'm proposing holds that in the face of a situation characterized by disagreement and uncertainty regarding the moral status of animals we ought to adopt a precautionary principle, for we don't know what moral weight we should give to animals. Applying the precautionary principle would incline us to prefer the animal rights position because granting rights to animals would be a way to prevent the unwarranted killing of beings that we may later recognize as endowed with a certain moral status entailing a right to life.

We may respond to this objection by questioning the adequacy of applying the precautionary principle to our issue. The precautionary principle is usually invoked as a sound response to situations of uncertainty. And the case of the moral status of animals seems to be a sort of situation of uncertainty, generated by the disagreement. However, a closer look at this issue may suggest a different response.

Indeed, we should distinguish between two types of uncertainty. There may be a causal uncertainty, namely an uncertainty concerning the causal link between the current state of affairs and a future one; and there may be a normative uncertainty concerning how a state of affairs is to be assessed. The former case can be illustrated by reference to environmental protection. There can be disagreement on the fact that current exploitation of the environment will take us to a catastrophic

situation (causal uncertainty), but there is no doubt that environmental catastrophe is something to be avoided (normative certainty). The issue of the treatment of animals can illustrate the latter case. Here, there is uncertainty generated by disagreement over the attribution of moral status to animals and what this would imply (normative uncertainty), but if all agreed that (at least certain) animals have a moral status similar to that of human beings, we could conclude that animal life would not be available for ordinary human purposes (normative certainty), except in cases of immediate threat to human life. In the former case, a precautionary principle would suggest our adopting measures to try to prevent the occurrence of the undesired event. In the latter case, normative uncertainty suggests that we also take normative disagreement into account, in particular if diverse interests clash. This distinction helps us understand that in a case of normative uncertainty there may be no possibility of cancelling the underlying uncertainty without unwarrantedly restricting people's liberties, because, unlike the case of causal uncertainty, normative uncertainty may be the unavoidable result of the free and legitimate use of human moral faculties differently combining individual moral intuitions, empiric data, and moral responses from other people. This means that the precautionary principle may be blind and inappropriate when there is reasonable disagreement on what are the fundamental values at stake and how we should weigh them.

A second objection may hold that, regarding the disagreement on the moral status of animals, the solution I've proposed is not admissible, because the incapacity of some people to accord an appropriate equal moral status to animals is similar to the situation where some people objected to the abolition of slavery. Indeed, this argument goes, animals are actually treated as slaves in contemporary societies because they are exploited as mere means for the sake of human ends. Moreover, the lack of full recognition of equal personhood to slaves was similar to the current lack of recognition of moral status to animals. To respond fully to this objection I should have to delve into substantive arguments concerning the moral status of animals, which I cannot do in this paper. However, I can broach a preliminary response along the lines of the idea that the comparison between animal treatment and slavery is unsound. First, the failure to accord equal personhood to slaves was completely faulty insofar as it lacked any underlying scientific basis; whereas almost nobody, even within the animal rights advocacy, denies that there are important and relevant differences between human beings and animals in features that matter morally (in particular, as far as mental development is concerned). Second, this comparison is misplaced because the types of relations between human beings and animals and those between certain populations and slaves are completely different. Indeed, certain human groups have been subjugated to slavery for certain periods in virtue of pure power relations (slavery in the ancient Greek-Roman and modern world); whereas animals have also been used and exploited in virtue of certain biological and ethological features—in particular those of domesticated animals—that are totally absent in the populations of slaves. This is not to say that human exploitation of animals is *fully natural*, whereas human exploitation of human beings is *totally social*. It is also true that many

human relations to animals are social ones, but even these latter have a biological basis which cannot be traced, nor justified in the case of slaves.

A third objection says that, if we consider the capacity to include diverse interests, we should prefer principle (a) to (b), because (a) also safeguards the interests of animals in continuing to live. However, as seen, that such interests should be included is precisely a matter of disagreement, insofar as it is dependent on controversial views on the moral status of animals. In the face of the fundamental disagreement over the moral status of animals, the subjective interests of animals cannot be included in this criterion. Therefore, contrary to first impressions (b) is no less inclusive of interests than (a).

At this point one might ask which parties could agree on animal welfarism. One might suspect, indeed, that the proponents of most radical stances, for instance, some animal rights activists, would find it unacceptable that animals are killed for reasons that they do not consider admissible because of their comprehensive doctrine.

To respond to this challenge we should, in a Rawlsian fashion, distinguish between reasonable and unreasonable doctrines. As I have tried to show, individuals holding reasonable views on the moral status of animals have reason to accept as a principled solution the idea that animals may only be killed for admissible reasons (revolving in particular around the promotion of human health) and that animal suffering should be minimized. But, there are certain versions of animal rights advocacy that are unreasonable. As anticipated above, as far as the treatment of animals is concerned, reasonableness is defined by the willingness to accept the burdens of judgment concerning reasonable disagreement on the moral status of animals. Accordingly, by unreasonable here I mean those who find other views morally unacceptable *qua* the result of immoral motivations and/or the incapacity to use practical reason correctly. This holds in general, but here I focus only on the most typical case of unreasonable activists for animal rights. Such unreasonable persons may simply criticize and express their contempt to those who disagree, or engage in actions of protest with violent means (as is sometimes the case against scientific laboratories in particular). In sum, they are unreasonable because they refuse to treat reasonably those who disagree with them, or try to impose their views by force on unwilling others.

How liberalism should respond to the challenge of unreasonableness is a very complicated issue. Suffice it to say the following here. Such unreasonable positions have no principled reason to find animal welfarism acceptable. However, they may have other sorts of reasons to converge on it. In particular, reasons for which they should accept animal welfarism may be prudential ones: failing an agreement on their favored choice (a), even persons holding unreasonable doctrines on animal moral treatment have good (although not principled) reasons to prefer animal welfarism to animal instrumentalism, that is at least a treatment that recognizes the



moral importance of animals' suffering. In that case there would be a sort of *modus vivendi* on the treatment of animals between reasonable and unreasonable parties, while reasonable parties would have a sort of overlapping consensus on it. And this is in line with what political liberalism can get from unreasonable stances in general. Hence, the issue of the treatment of animals does not seem to pose specific and insuperable problems to the liberal project.

## 5. MORE SPECIFIC REGULATIONS AND CONCLUDING REMARKS

Finally, a couple of considerations on the specific policies that may be drawn from animal welfarism. One may say that animal welfarism seems at least indeterminate as to what the principle of minimizing animal suffering requires. A radical interpretation of this principle may require the complete change of industrial husbandry, so as to rear animals in ways that are mostly compatible with their ethological nature; whereas a minimalist interpretation would simply require, as is currently provided at varying degrees in most Western legislations, that animals be stunned before slaughter in order not to suffer during it. Alternatively, it might be thought that the most coherent implication of animal welfarism should be to engineer, produce and consume genetically modified animals that cannot perceive pain. However, specifying such issues is not the aim of this paper, which instead was pitched at a certain level of abstraction and generality. Many of the specific prescriptions regarding what animal welfarism requires in laboratories or breeding farms depend both on the evolution of our knowledge of animal welfare and of technically available breeding methods. If we agree on animal welfarism at a general level, then we may also have good reason to accept that the full specification of what is required by the principle of minimizing animal suffering may be decided at the level of democratic procedures, as well as on consideration of relevant technological and social developments. This also means that variability among countries in virtue of diverse cultural specificities and across time because of varying majorities may determine different legitimate solutions within the range defined by the general public principle of animal welfarism.

More specifically, special types of safeguard according to animals' ethological nature and relations with humans (e.g. pets) do not pose a problem to this framework and are easily justifiable within it. However, it is worth mentioning the issue of ritual slaughtering which seems to pose a more thorny problem. As is known, ritual slaughtering has been widely criticized (and in some countries banned) because it is thought to pose a threat to animal welfare in virtue of the prohibition of stunning before slaughtering required in Muslim and Jewish sacred texts and traditions (see Casal 2003 and Haupt 2007). This seems to require a dubious exemption from the principle of minimizing animal suffering. I cannot provide a thorough response to this issue here, which, however, does not threaten the validity of this framework. In particular, it is to be discussed and established whether,

unlike animal suffering caused by sporting activities such as hunting, religious rituals should be considered the expression of fundamental human interests, allowing an exemption from the principle of minimization of animal suffering.<sup>17</sup>

In conclusion, in this paper I have argued that there can be agreement among conflicting views on the treatment of animals. The position of minimizing animal suffering while admitting the use of animals for the sake of promoting fundamental human interests may be endorsed by freestanding reasons as well as by reasons internal to comprehensive views. Therefore, such a position is the most reasonable one capable of responding to a situation of disagreement, and should be recognized as the object of a principled and stable agreement.

## REFERENCES

- Aaltola E. (2012), *Animal Suffering: Philosophy and Culture*, London, Palgrave
- Abbey R. (2007), "Rawlsian Resources for Animal Ethics", *Ethics and the Environment*, 12, pp. 1-22
- Boettcher J. W. (2004), "What is Reasonableness?", *Philosophy and Social Criticism*, 30, 5-6, pp. 597-621
- Callicott J.B. (1989), *In Defense of the Land Ethic. Essays in Environmental Philosophy*, New York, State University of New York Press
- Carruthers P. (1992), *The Animals Issue: Moral Theory and Practice*, Cambridge, Cambridge University Press
- Casal P. (2003), "Is Multiculturalism Bad for Animals?", *The Journal of Political Philosophy*, 11, 1, pp. 1-22
- Cochrane A. (2012), *Animal Rights without Liberation*, New York, Columbia University Press
- Donaldson S. and Kymlicka W. (2011), *Zoopolis. A Political Theory of Animal Rights*, Oxford and New York, Oxford University Press
- Donovan J. (1996), "Animal Rights and Feminist Theory", *Journal of Social Philosophy*, 27, 1, pp. 81-102
- (2006), "Feminism and the Treatment of Animals: From Care to Dialogue", *Signs: Journal of Women in Culture and Society*, 31, 2, pp. 305-328
- Elliot R. (1984), "Rawlsian Justice and Non-Human Animals", *Journal of Applied Philosophy*, 1, pp. 95-106
- Flanders C. (2013), *Public Reason and Animal Rights*, unpublished manuscript

<sup>17</sup> Ritual slaughter may be admitted to the extent that religious practices are considered at least as publicly worthy of respect as the convictions of those persons whose comprehensive doctrines are committed to the welfare of animals. On this see Zuolo (2014).

- Francione G.L. (2007), "The Use of Nonhuman Animals in Biomedical Research: Necessity and Justification", *Journal of Law, Medicine and Ethics*, 35, 2, pp. 241-248
- (2008), *Animals as Persons. Essays on the Abolition of Animal Exploitation*, New York, Columbia University Press
- Garner R. (2012), "Rawls, Animals and Justice: New Literature, Same Response", *Res Publica*, 18, pp. 159-172
- (2013), *A Theory of Justice for Animals. Animal Rights in a Nonideal World*, Oxford, Oxford University Press
- Haupt C. (2007), "Free Exercise of Religion and Animal Protection: A Comparative Perspective on Ritual Slaughter", *George Washington International Law Review*, 39, pp. 839-886
- Kant I. (1963), *Lectures on Ethics*, New York, Harper and Row
- March A.F. (2006), Liberal Citizenship and the Search for an Overlapping Consensus: The Case of Muslim Minorities, *Philosophy and Public Affairs*, 34, 4, pp. 373-421
- Narveson J. (1976), "Animal Rights", *Canadian Journal of Philosophy*, 7, 1, pp. 161-178
- Noddings N. (1984), *Caring: A Feminine Approach to Ethics and Moral Education*, Berkeley and Los Angeles, University of California Press
- Nussbaum M. (2006), *Frontiers of Justice. Disability, Nationality, Species Membership*, Cambridge (Mass.) and London, Harvard University Press
- Quong J. (2011), *Liberalism without Perfection*, Oxford, Oxford University Press
- Rawls J. (1993), *Political Liberalism*, New York, Columbia University Press
- (1999), *A Theory of Justice*, Cambridge (Mass.), The Belknap Press of Harvard University Press
- Regan T. (1983), *The Case for Animal Rights*, London, Routledge & Kegan
- Rowlands M. (2009), *Animal Rights. Moral Theory and Practice*, London, Palgrave
- Singer P. (1993), *Practical Ethics*, Cambridge, Cambridge University Press
- Valentini L. (2013), "Canine Justice: An Associative Account", *Political Studies*, first published online 21 January, DOI: 10.1111/j.1467-9248.2012.01006.x
- VanDeVeer D. (1983), *Interspecific Justice and Animal Slaughter*, in H.B. Miller and W.H. Williams (eds), *Ethics and Animals*, Clifton (NJ), Humana, pp. 147-162
- Warren M.A. (1997), *Moral Status. Obligations to Persons and Other Living Things*, Oxford, Oxford University Press
- Zoffoli E. (2012), "The Place of Comprehensive Doctrines in Political Liberalism: On Some Common Misgivings About the Subject and Function of the Overlapping Consensus", *Res Publica*, 18, pp. 351-366
- Zuolo F. (2014), *The Priority of Suffering Over Life. How to Accommodate Animal Welfare and Religious Slaughter*, RESPECT Project Working Paper Series, no. 1/2014, <http://www.respect.iusspavia.it/?workingpapers>