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The Silencing of the Lamb

— a critical conceptual study of subjectivity,
right-holders, and human rights

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Abstract

It is widespread human doxa that moral concern towards the animal is less important than what we direct towards our fellow human-beings. The animal is avowedly less rational, less susceptible to pleasure, and less capable of creating meaningful interactive relationships, or so widely accepted at least. I will argue that the paradigm in which we hierarchize human concern as superordinated the animal, is largely built on extemporaneous dogmas. By understanding how "the Other" is constructed through interpellation and by subsequent circumlocution "the animal" has been downgraded to a subcategory of moral concern. Seeking to bridge philosophy of mind, philosophy of language and philology I question the compatibility of the definition of "the animal" and its implication on the rights discourse normally taken for granted. I claim subjectivity in "the animal" as self-evident, and the homogenous nomenclature "the animal" as symptomatic of a power-structure between humans and the animal. The onus of justification for "discrimination" against the animal must be on the part of the ones performing positive action (i.e. defenders of Human Rights).

KEYWORDS: *Subjectivity, Human Rights, moral rights, the animal, interest, Other, Other-as-subject, language.*

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1 Introduction

"The potatoes are on boiling and the kettle's singing and I daresay, Mr. Beaver, you'll get us some fish," [said Mrs. Beaver].

"That I will," said Mr. Beaver.¹

Mrs. And Mr. Beaver, in C.S Lewis' "The Lion, The Witch and the Wardrobe", are the archetype of an anthropomorphism². Most obviously, both the animals are performing mundane, but human-like activities. However, what becomes interesting is not the actions undertaken by Mrs. or Mr. Beaver, nor the human-like language, but the usage of "I". The "I", not elicited by abstract thought or complex syntax verbalized, but the "I" as concept will be examined throughout this paper. The poet's use of intentionality in the animal, symptomatic of any one having been "seen by the animal",³ outlines one of two forms "of philosophical treatise regarding the animal".⁴ The poet, through anthropomorphism, alters the animal to something other than "the animal", ascribing it human, or human-like intentionality, emotions, language, and responsiveness to the intersubjective world.⁵

At the other side of the treatise spectrum are those "who have no doubt seen, observed, analyzed, reflected on the animal",⁶ yet refuses to be seen by it. The seeingness in question, is what subjectivity is — perceiving being perceived — although not limited to this aspect alone, an "ancient quarrel between poetry and philosophy" has frequented throughout history.⁷ The refusal of seeing Being, and in extension refusal of perceiving the Other—as-subject with will and interest, is a practice frequenting in any epoch (constructing an out-

¹ Lewis, C.S., "The Lion, The Witch and the Wardrobe", London, Geoffrey Bles, 1950, extract from Ch. vii.

² Anthropomorphism is the transitioning of ascribing human-like characteristics to nonhuman entities. A common practice is that of ascribing God properties of jealousy, avarice, or love, but is also common within human-animal interaction. The distinction, between justified and unjustified anthropomorphism, is whether the *belief is true or false*. Calling "x(= a nonhuman animal) inhibits the capacity to breathe" anthropomorphism, simply in virtue of breathing being a human-like characteristics is unjustified, whilst claiming that x has an interest in voting would be justified. However, there are a myriad of attributes there-between that would not yield such a clear cut.

³ Derrida, Jacques, "The Animal that Therefore I am" (2006), Mallet, Marie-Louise (ed.), Wills, David (trans.), New York, Fordham University Press, 2008, p. 42.

⁴ Ibid., p. 39.

⁵ Ibid., pp. 42–43.

⁶ Ibid., pp. 40.

⁷ Plato, "The Republic of Plato" (360 B.C.E), (3rd ed.), Jowett, Benjamin (trans.), Oxford, Clarendon Press, 1888, p. 381.

group as the Other and therewith a minority). Lewis, being both a poet and scholar, exemplifies this well when he partly discusses the animal as having human-like characteristics (as a poet), and later refuses (as a scholar) subjective consciousness in the animal qua being soulless, since he held experience and sense as two distinctly different phenomenas, wherein the former requires the possession of a soul.⁸

When Mary Wollstonecraft argued for women's rights in *A Vindication of the Rights of Woman*; she demanded rights for women and declared that women had been unrightly refused capability of reason — Being an otherness which had so far been unseen.⁹ The publication provoked Thomas Taylor to satirically compose *A Vindication of the Rights of Brutes*, alluding to the former. Taylor argued against granting rights and recognition to women, because it would inevitably lead to granting rights to brutes, ergo the animal. He argued the animal possessed the same reason as men and should be granted the same rights.¹⁰ Satirically, he proposed the animal's newly founded rationality must lead us to see magpies as would-be musicians, capable of being employed as professional musicians, the dog as an actor and the oxen an arithmetician.¹¹ Since the premiss is *reductio ad absurdum*, so too must it be granting rights to women (and to humankind at large). In other words, if granting rights to x leads to granting rights to y, by the same logic, and granting rights to y is abderian, so too must the former premiss. The songbird is not a musician, any ornithologist would surely refrain from such terminology. But being sensible of such anthropomorphism is not a sufficient explication of the ordeal at hand. Any gesture can be a way of "singing the world",¹² and a reduction of phonetic actions in the animal to mere fixed reactions (the psittacism of birds, the unsongness to songbirds, their mechanically programmed and ineffable reactionary appellations) is an oversimplification at best.¹³

Extrapolating the woman, if any such homogenous singular word could ever be aptly applied, as incommensurable to men, if men are equated with a normative qualitative value,

⁸ Lewis, C.S., "The Problem of Pain", London, Fount Paperbacks, 1977, pp. 103–6.

⁹ Grimshaw, Jean, and Fricker, Miranda, "Philosophy and Feminism" *The Blackwell Companion to Philosophy* (2nd ed.), Bunnin, Nicholas, and Tsui-James, E. P. (eds.), Malden, Oxford, Blackwell Publishing, 2003, p. 553.

¹⁰ Taylor, Thomas, "A Vindication for the Rights of Brutes", (1792), Scholars' Facsimiles & Reprints, 1966, pp. 18–25.

¹¹ *Ibid.*, pp. 93–6.

¹² Merleau-Ponty, Maurice, "Phenomenology of Perception" (1945), Smith, Colin (trans.), London; New York, Routledge, 2002, p. 217.

¹³ Derrida, Jacques, "The Beast & The Sovereign", vol. ii, *The Seminars of Jacques Derrida* (2002–2003), Lisse, Michel; Mallet, Marie-Louise, and Michaud, Ginette (eds.), Bennington Geoffrey (trans.), Chicago, London, The University of Chicago Press, 2009, pp. 85 et seq., cf. p. 285.

is a predilection proclaiming men *better* per definition, by reference to some arbitrary centra of postulates. As Alice Walker wrote: "[The animal] were not made for humans any more than black people were made for whites or women for men".¹⁴ Valuing qualitatively different proponents through the lens of humanity or post–humanity, necessarily proclaims animality, *ceteris paribus*, as lesser. Anthropomorphism is wrong not because it ascribes human–like behavior and characteristics to the animal, but because it presupposes humanity as the siloed centra of comparison, making every interpretation of the animal subject susceptible to the risk of anthropodenial.¹⁵

As David Hume's fictional character Philos makes explicit, whence it makes foolery of Demea's and Cleanthes' (religious and design–oriented) beliefs: "the course of nature tends not to human or animal felicity: Therefore, [the course of nature] is not established for that purpose."¹⁶ If meaning reflects an anthropocentric understanding of human as the *telos* of nature I can, at the very least, question such contingent sentiments, e.g. the thesis of *homo mensura* (seeing the human as the centrum of measuring of the world).

1.1 Purpose and Statement of Issue

Using the nethermost ideas pertaining to the concept of anthropodenial as the fulcrum for further discussion, the purpose of this essay is to evince the marginalized and ostracized group "the animal" — within society and the sphere of rights. Whence ever a normative account of rights and right–holders are faced with a dehiscence, a plethora of problems emerges dividing whatever uniform concepts of egalitarianism and its implementation — whether it be in policy, conduct, or law. Minority groups have, frequently and without much hindsight, been excluded from the theatre of rights, and in like manner their voices are

¹⁴ Alice Walker, "Foreword", in *The Dreaded Comparison: Animal Slavery and Human Slavery*, by Spiegel, Marjorie, New York, Mirror Books, 1996, p. 14.

¹⁵ Frans de Waal argues in "Anthropomorphism and Anthropodenial: Consistency in Our Thinking about Humans and Other Animals", *Philosophical Topics*, Vol. 27, No. 1, University of Arkansas Press, 1999, that the blindness of "human–like" characteristics in the animal is anthropocentric idiosyncrasy; refusing human–like attributes to the animal simply in virtue of them being "the animal" and not "human" begs the question. As such he terms "anthropodenial", as applying critique on the view of a cemented oppositional behaviorism declaring any such attribution anthropomorphism. See: "Are We Smart Enough to Know How Smart Animals Are?", New York, W. W. Norton and Company, 2016, for a furtherance of his argument.

¹⁶ Hume, David, "The Dialogues Concerning Natural Religion", *Dialogues Concerning Natural Religion and the Posthumous Essays*, Popkin, Richard H. (ed.), Hackett Publishing Company, 1980, pp. 59–63.

silenced — muffling their subjecthood and refusing them the right to claiming what is *rightfully* theirs.

The (implicit) juxtaposition of transcendence/immanence; passivity/subjectivity; person/thing, and right/no–right will come to serve as an indication of certain problems and circumnavigations inherent with a logo– and anthropocentric conception of contemporary Human Rights. Morality discourse has subjugated the animal to a lower–tier moral concern; any concern for the animal is supererogatory and as the *sequalea* of strict moral obligations. Moral praxis acquiesces human concern as primary focus, the residual effect on the animal is more often than naught seen as a concomitant, nominal symptom of our care for the former through a non–poised ubiquitous aphorism of morality: “utilitarianism for animals, Kantianism for people”.¹⁷ The animal experience is (paradoxically) seen as non–experience, in an ever–existing state of anosognosia. We must pose to ourselves a commitment of a critical examination of our praxis and the norms which underpin them.

Analyzing nomenclatures becomes pivotal for my paper, language has historically legitimized discrimination against minorities for centuries, ergo made it non–discrimination. Pogroms and slavery alike have been justified by dehumanizing the subjects, giving them less worth through appellation and nomenclatures, which can justify violent acts and killing. In “Huckleberry Finn”, the foul language explicates the nature of the dehumanizing interpellation ascribing individuals less meaning through denomination, when the protagonist’s aunt inquires whether a steamboat accident left anyone injured, whereupon Huck answers “No’m: killed a nigger [sic]”. She responds that “it’s lucky because sometimes people do get hurt.”¹⁸ A reformulated conception does not only engender freedom from the chains of Otherness, but also physical enfranchisement. I claim the so–called animal (like other minority groups) can be justifiably said to be incessantly and unjustifiably discriminated against — marginalized and excluded — and this is in large part done qua its nomenclature.

Because, a lot is at stake for the animal and its naming as such; assuming their non–rights, and exclusion from the moral community in which we operate, they stand to lose everything. As George Orwell writes “I [...] analyze Marx’s theory from the animals’ point of

¹⁷ Nozick, Robert, “Anarchy, State and Utopia”, Oxford and Cambridge, Blackwell Publishing, 1974, p. 39.

¹⁸ Twain, Mark, “Huckleberry Finn”, quoted in Paola Cavalieri’s “The Animal Question: Why Nonhuman Animals Deserve Human Rights”, Woollard, Catherine (trans.), Oxford; New York, Oxford University Press, 2001, p. 29.

view. [Because] [t]o them it was clear that the concept of a class struggle between humans was pure illusion, since whenever it was necessary to exploit animals, all humans united against them: the true struggle is between animals and humans”, he also notes the way in which “men exploit animals” like “the rich exploit the proletariat”.¹⁹ Likewise, Isaac Bashevis Singer notes the history of philosophy as exempt from any mention of suffering, the animal suffering in particular; not because no answers are to be found, but because they (the philosophers) simply did not care (where poets did).²⁰

Notwithstanding, if the world is justifiably anthropocene the class struggle, being exclusively anthropocentric, is unproblematic. However, by challenging such sentiments I make their weakness in foundation cognizable. If the animal question, and say, the question of anthropocentric class struggle is similar and deducible from the same set of rules, the binary opposition of human and the animal concern is not so easily homogeneously differentiated. A phenomenological and deconstructionist approach will help to clarify this relationship, and its supposed hierarchy: a background in which “the animal” question finds its roots as a moral concern needs to be explicated. The reason for incorporating a deconstructionist perspective is also to criticize social norms within the animal debate. By drawing attention to its historical and contemporary foundations, and opposing views, I hope that the animal question will substantiate the nature in which makes possible a questioning of an anthropocentric rights discourse.

By implementing a phenomenological and deconstructionist approach throughout, I will attempt to clarify the moral value of the animal that has been obfuscated through structural norms and practice. Consequently I diverge from the moral myopia prevalent within interspecies questions of ethics, and the statements of issue emerges so:

- a. What is subjecthood, and what does it entail for the animal?
- b. How does (a) relate to human rights?

¹⁹ Orwell, George, in his Preface to the Ukrainian translation of ‘Animal Farm: A Fairy Story’ (1945): ‘Kolghosp Tvaryn’ (trans. 1947), Penguin Books, 2000, Appendix ii.

²⁰ Singer, Isaac Bashevis, “A Young man in Search of Love” (or “A Little Boy in Search of God”), Garden City, Doubleday & Co., 1978, Ch. vii.

1.2 Previous Research — ”the animal” question in context

During the 18th century the animal question was brought into light, having been at best a non-question, and at worst a demotion of their existence as something which begs for being used as a means. Subsequently, to map out the research leading up to mine, one has to start exactly there. Jeremy Bentham advocated animal “rights”²¹; he argued that not only the spoken language but also reason were insufficient and unnecessary for constituting moral concern in a patient. ”The question”, the epistemological basis for *knowing* moral patients, ”is not Can they reason? or Can they talk? but Can they suffer?”²²

Drawing on a Benthamite interpretation of the animal question, or according to Derrida the “massively unavowed” question,²³ the essential property that should surmount to moral concern is capacity to suffer, e.g. embodied minds. By not incorporating sentient beings into one’s moral community, a prejudice is committed, much akin to racism and sexism.²⁴ The discriminatory act, underpinned by prejudiced biases towards the human-species is called “speciesism”. Through the intersection and coalescence of philosophy and politics, as abstract (moral) and institutional rights, one can claim to be ”against all forms of oppression”,²⁵ yet, without a coherent intersectional perspective one might fail to see speciesism as a factor demandant of moral consideration.

Peter Singer, who popularized the term speciesism, directed that alike cases be treated alike, and all relevant theories must reflect coherence. With Bentham as a lodestar, Singer proclaimed that the principle of equal consideration, sprung from coherency and stringency, must incorporate the animal well-being.²⁶ Speciesism is a discriminatory action or belief

²¹ For a discussion on ”rights” in the animal question discourse, e.g. animal liberation/welfarism contra animal rights, see Peter Singer’s ”The Parable of the Fox and the Unliberated Animal”, *Ethics*, Vol. 88, No. 2, 1978, especially p. 122, wherein he argues against moral rights with a utilitarian devotion, for a polemical response concerning Singer’s non-use of rights, see Tom Regan’s ”Utilitarianism, Vegetarianism, and Animal Rights”, *Philosophy and Public Affairs*, Vol. 9, No. 4, Blackwell Publishing, 1980, arguing that the principle of utility presupposes the principle of equal treatment as more fundamental.

²² Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, (1780/1789), New York, Hafner Publishing Co., 1948, p. 144.

²³ Derrida, Jacques, ”Spectres of Marx: The State of the Debt, The Work of Mourning, and the New International”, Peggy Kamuf (trans.), Routledge, London, 1994, p. 85.

²⁴ McMahan, Jeff, ”Cognitive Disability, Misfortune, and Justice”, *Philosophy and Public Affairs*, Vol. 25, No. 1, Princeton University Press, 1996, p. 34.

²⁵ de Beauvoir, Simone, ”’Premier Plan’ Program: An interview with Simone de Beauvoir” (1959), Radio-Canada (ed.), *Simone de Beauvoir: Two Interviews*, ARTE France Développement, 2012.

²⁶ Singer, Peter, ”Animal Liberation”, London, The Bodley Head, 1975, p. 18.

undertaken or held by rational agents against other species.²⁷ The capacity to suffer, so-called sentience, does not only constitute the moral patiency in an individual, but emits towards the exterior a strict obligation demanding, upon the world, moral action and omission of infringement.²⁸ That is why I firmly hold prudential interests (in omission from suffering) e.g. subjectivity, taken together with the economy of moral rights, to be at the heart of the matter of an argument in favor of respect for the animal.

Speciesism is a violation of considering, or treating, alike cases alike; perchance the most symptomatic of speciesism is favoring mundane pleasures for humans as suprajacent the non-trivial suffering for the animal. Nonetheless, the certain kind of speciesism that I am interested in throughout this paper, has modestly little to do with practical effects (even if the practical implications render visible the epistemological nature of species discrimination). The speciesism that I am examining is a more abstract kind, even though it still deals with taxonomical notions of species, ergo, a kind of *speciesnormativity*²⁹, or a way of seeing *Homo sapiens*' experiences as normative, and the animal's as otherness.

A non-practical theory is the belief that the animal is subject to affliction qua being subject to a life, as Tom Regan explains; this proponent makes the animal eligible for moral concern:

[I]ndividuals are subjects-of-a-life if they have beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference- and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them.³⁰

²⁷ Joel Feinberg argues in "Human Duties and Animal Rights", *On the Fifth Day: Animal Rights and Human Ethics*, Morris, R.K., and Fox, M.W. (eds.), Washington D.C., The Humane Society of the United States, 1978, how a the animal cannot commit speciesism, when a wild animal hunts down a prey they are "innocent killers", who cannot deliberate on moral actions.

²⁸ Singer, "Animal Liberation", pp. 35-7.

²⁹ I construct the word precisely for the scope of this paper. Drawing on Maria Nikolajeva's concept of *aetonormativity* (or age normativity), meant to highlight the particular power-relations between adults and children, and the "adult normativity that governs ... children's literature". Whilst Nikolajeva discusses how children's literature socialize children to be oppressors themselves and the danger of children disempowerment through literature, this is a question of subject-as-free-will. I will take my conception of normativity to mean the power of the text (research and literature), which has during centuries formed the animal as the Other, cementing its non-concern for us (through an anthropocentric view on the world (the anthropocene)).

³⁰ Regan, Tom, "The Case for Animal Rights", (2nd ed.), Berkeley and Los Angeles, University of California Press, 1983, p. 243.

Regan declared that, “[i]nherent value [...] belongs equally to those who are the experiencing subjects of a life”³¹ and “[p]ain [...] is an evil in itself [...] *regardless of the consequences* [emphasis added]”,³² and these constitutes a demand on moral agents to consider the capability of experiencing pain, as an inherent value, equal in character, independent of whether the subject of the capacity is the animal or a human.³³ A right to life can be accorded to all sentient beings *iff* “they [...] are the subject to a life by experiencing it”.³⁴

I maintain that the hitherto mentioned notions says too much and too little simultaneously: overinclusive because they still appeal to hierarchies, whether by ability to experience welfare in certain degrees or the qualitatively differences in identities “over time”; underinclusive, on the other hand, because they make either no mention of rights at all, or no distinction between disparate rights. The animal question has to be distinguished with regards to its abstract conceptualization and its practical consequences, which I will briefly consider below.

1.2.1 Practicality and Abstraction

For the purpose of this paper I will first and foremost be focusing on the abstraction of rights — excluding both the practical causalities and the manner in which rights are institutionally constructed. Principally, I will not offer a *straight-application model*. I take a differentiation between the theoretical and the practical sphere as demanding necessity before continuing. Furthermore, my distinction between a bipartite of concepts, does not determinate that a purely theoretical approach yields results untranslatable into practice; demonstrated aptly by

³¹ Regan, Tom, “The Case for Animal Rights”, *In Defence of Animals*, Singer, Peter (ed.), Blackwell Publishing, 1985, p. 187.

³² Regan, Tom, “The Moral Basis for Vegetarianism”, *Canadian Journal of Philosophy*, Vol. 5, No. 2, 1975, p. 187.

³³ *Supra* note 31.

³⁴ Rachels, James, “The End of Life Euthanasia and Morality”, Oxford, Oxford University Press, 1986, pp. 33–36.

theories underpinned by multiculturalism and disability studies.³⁵ A theoretical approach concerning concepts does not make the concepts in themselves esoteric — it truly only makes them so, and only so, insofar as this paper is concerned.

Within the animal rights movement, several theoreticians argue for dissimilar key concepts, i.e.: welfarism, direct duties, indirect duties, abolitionism, and essentialism. Whether deontological redistribution of resources, or hedonistic principles of equality (i.e. Bentham's principle of utility, or Singer's interpretation thereof), they will have a minuscule part to play throughout my paper. The academic community extensively and frequently discuss the animal question qua being a practical effort, but has failed to aptly demonstrate the moral facet of such sentiments. To extrapolate the difference between theory and practice I will briefly discuss what Paola Cavalieri signifies by exclaiming "for each being, its own life is everything", but, then continues to state that this argument falters given its impracticality "by not providing any decision criterion for cases of conflict, [thus], it seems to be quite paralyzing".³⁶ Nevertheless, one can admit to its impracticality, but the right as such is a matter of fact. Consider article 24 of the UDHR,³⁷ and article 31 of CRC,³⁸ declaring rest and leisure a Human Right; although far from implemented in most parts of the world, the unpracticed nature of the right, as such, says nothing of the natural right, inherent in every individual to which the articles' premisses are directed. Rather, the rights exists, in the individual itself, and are instead said to be practically (or institutionally) unfulfilled.

It is quite intelligible that Human Rights doctrine does not refuse (in theory) inherent rights to any (human) individual. Egalitarianism stipulates an in-group, and an out-group, but it should be understood that egalitarianism does not ever further its scope, since moral rights which egalitarianism governs, does not ever expand. Inherent rights exists in themselves, regardless of praxis. Understanding it thence, whenever egalitarianism has

³⁵ For practical approaches to the animal question through multiculturalism see Will Kymlicka and Sue Donaldson's "Animal Rights, Multiculturalism, and the Left", *Journal of Social Philosophy*, Vol. 45 No. 1, Wiley Periodicals, 2014, pp. 116–135, and "Animal Rights and Aboriginal Rights", *Perspectives on Animals and the Law in Canada*, Black, Vaughan, Sankoff, Peter, and Sykes, Katie (eds.), Toronto, Irwin Law, 2015, pp. 159–186. For approaches underpinned by disability studies (in effect attempting a change of the social importance of autonomy and independence to community and interdependence, see Taylor, Sunara, "Beasts of Burden: Disability Theory and Animal Rights", *Qui Parle*, Vol. 19, No. 2, University of Nebraska Press, 2011, pp. 191–222, and Will Kymlicka and Sue Donaldson, "Zoopolis: A Political Theory of Animal Rights", New York, Oxford University Press, 2011.

³⁶ Cavalieri, Paola, "The Animal Question: Why Nonhuman Animals Deserve Human Rights", Woollard, Catherine (trans.), Oxford; New York, Oxford University Press, 2001, p. 113.

³⁷ UN General Assembly, "Universal Declaration of Human Rights", 10 Dec 1948, 217 A (iii), article 24.

³⁸ UN General Assembly, "Convention on the Rights of the Child", 20 Nov 1989, United Nations, Treaty Series, vol. 1577, article 31.

started involving more in the so-called in-group this is because of a correction from a general misunderstanding or forbearance from the antecedently violent withholding of legal rights.

Women had the moral right to vote, before they were "granted" it legally or institutionally. The moral right, theoretically in theorem, is not something which can be given or taken away in itself, although it can be so in practice. One cannot speak of granting rights to the animal, rather, my paper attempts to thoroughly test the animal question and their Being-in-the-world as subjects vis-à-vis constructed conception. In the subjacent chapter, I intend to further strengthen my premiss of focusing on moral rights, since, I take them as a particular and distinct entity in the world, playing a vital role in the regulation and constraint on conduct, and subsequently the assuage of pain.

1.2.2 Moral Relevancy of Moral Rights

A right — whether moral, legal, or institutional — is a valid claim,³⁹ in the sense that it can be "insisted upon without [...] shame".⁴⁰ A non-right, by comparison, is *prima facie* an invalid claim. Any individual with a non-right with respect to its life, say, is a non-claim on its exteriority to refrain from killing it, prompting whence ever performed a certain homogenous class of "noncriminal putting to death".⁴¹ I take rights and academic delimitations thereof to constitute a salient determinate, governing conditional factors that could mean the difference betwixt life and death.

Rights as a particularly distinct subjective property and element, as Ronald Dworkin asserts, trumps utility-goals.⁴² The fact they are distinctive, ascertains the meaning of them being static trumps, prevailing over Hohfeldian non-rights:⁴³ "important enough to prevail in

³⁹ Feinberg, Joel, "The Nature and Value of Rights", *Journal of Value Inquiry*, Vol. 4, 1970, p. 257.

⁴⁰ Feinberg, Joel, "Social Philosophy", Englewood Cliffs, Prentice-Hall, 1973, pp. 58–59.

⁴¹ Derrida, Jacques, "Eating well, or the calculation of the subject: an interview with Jacques Derrida", *Who comes after the subject?*, Cadava, Eduardo; Connor, Peter, and Nancy, Jean-Luc (eds.), London, Routledge, p. 112.

⁴² Dworkin, Ronald, "Is There a Right to Pornography?", *Oxford Journal of Legal Studies*, vol. i, No. 2, Oxford University Press, 1981, pp. 199–200.

⁴³ Dworkin, Ronald "Taking rights seriously", Cambridge, Harvard University Press, (rev. ed.), 1978, p. 11; Regan, Tom, "Animal Rights, Human Wrongs: An Introduction to Moral Philosophy", Lanham, Rowman & Littlefield Publishers, 2003, p. 113.

conflicts with contrary national norms and goals”.⁴⁴ Feinberg makes clear on what a right in x constitutes — whether y has an indirect or direct duty to x is crucial to whether the right in x is fulfilled and respected. If y has a duty under a *noblesse oblige*, and only so, then x can have its general rights violated. However much x physically utters to y, that y through enmity violates its duties towards x, without a subjective right in x the utterance is merely a sentence: any actions emitting from y towards x is gratuitous from y’s duties. To have one’s moral right acknowledged, is to utter and perform a claiming to one’s claim–right through one’s moral right correlative to y’s duty. A right with a correlative obligation cannot be deliberated upon if one wish to comply, whilst the fulfillment of a non–right with duties of nobility as the correlative are personal choices.⁴⁵

I firmly believe this materializes the moral relevancy of a right, by its own worth, but says nothing of the *différance* of a ”right” and a ”right”, e.g. the difference between that of a moral and legal, or institutional, right. Instead, I think moral rights, as I will hopefully demonstrate conclusively in this paper, are interconnected with fundamental interests. You may have a legal right to owning another subject in theorem, and the institutional and legal rights need not have any connotations with moral rights. The reverse would also be true, that the moral wrongness of an action is independent of the very same actions legality, since:

The sexual mutilation of a young girl with unsterilized razor blades is a wrong to her. It is also true that it ought not to be permitted by law or by convention, but what we condemn here and now is not merely that the law does not prohibit it, but that it is done at all. The girl in our example would be wronged whether the act that wrongs her is legal or not, and that is why it ought not to be legal.⁴⁶

The animal’s interests, as an object, is a non–right in law. In effect, as objects, the animal is only referenced in conventional Human Rights law through articles governing property rights, such as art. 17 of the UDHR — because the animal is legally seen as an inanimate object.⁴⁷ Since “[r]ights are themselves *property*, things we own”,⁴⁸ animals cannot own any

⁴⁴ Nickel, James W., ”Equal respect and human rights”, *Human Rights Quarterly*, Vol. 4, No. 1, John Hopkins University Press, 1982, p. 76.

⁴⁵ Feinberg, Joel, ”The Social Importance of Moral Rights”, *Philosophical Perspectives*, Vol. 6, Ridgeview Publishing, 1992, p. 181.

⁴⁶ Feinberg, Joel, ”In Defense of Moral Rights”, *Problems at the Roots of Law: Essays in Legal and Political Theory*, Oxford, Oxford University Press, 2003, p. 158.

⁴⁷ Sandys–Wunsch, Godfrey, ”Animal Law” (2nd ed.), London, Shaw & Sons, 1983, p. 1.

⁴⁸ Feinberg, ”Social Philosophy”, p. 75.

property, being themselves property.⁴⁹ The wrongness of any action directed towards the animal cannot be merely seen through legal trajectories; moral rights with regards to the animal has found its (un)importance in an anthropological discourse setting out to discuss the animal question.

Thusly, any non–morally underpinned rights, harking back to the purpose of this essay, will be excluded from the scope of this paper. What being is itself (going back to the things themselves) must go beyond anthropomorphized judicio–political interpretations of what an important enough interest is.

1.2.3 Human Rights and human rights

The final subject that needs to be surveyed are those theories that are strictly ”human rights”. Before mapping out the field in which my analysis will take shape, a modicum of explication between the discrepancy of, what I stipulate as, ”Human Rights” and ”human rights” is required. Sprung from the differentiation in the former chapter, ”Human Rights” is the entirety of the legal and conventional documents governing human rights. In contrast, ”human rights” are those rights that could best be described as equivalent with natural or moral rights.

As such, my stipulation of human rights as something that intersubjectively exists, is variegated from a postulate of Human Rights, conceptualizing human rights like this makes it both supra positive and preceding said legal positivism. Conceived thusly, human rights are non–instrumental — in other words, simply what (ontologically) *is*.⁵⁰ Human rights and egalitarianism are sprung from the same non–instrumentalism, hitherto conceived.⁵¹ Like any other coherent theory, a theory of human rights requires an ”egalitarian plateau”, which demands uniformity, i.e. the principle of equal consideration.⁵²

In commissioning the equalness in one group, through an interpellation of defining

⁴⁹ Francione, Gary L., “Animals – Property or Persons?”, in Nussbaum, Martha C., and Sunstein, Cass R., (eds.) *Animal Rights: Current Debates and New Directions*, Oxford University Press, 2005, Ch. v.

⁵⁰ Buchanan, Allen, “Egalitarianism and Human Rights”, *Ethics*, Vol. 120, No. 4, University of Chicago Press, 2010, pp. 687–8.

⁵¹ Temkin, Larry S., “Inequality: A Complex Individualistic, and Comparative Notion”, *Noûs*, Vol. 35, No. 1, 2001, p. 333.

⁵² Kymlicka, Will, “Contemporary Political Philosophy: An Introduction”, Oxford, Clarendon Press, 1990, p. 5.

two distinct "I am's" as equals, an Other is abjected. Traditional egalitarianism propounds all P's equal with respect to y, be equal with respect to x, exempting y from any principles of equality; making egalitarianism, whence understood thusly, wholly arbitrary and ironically inegalitarian.⁵³ Again, this is idiosyncratic of Human Rights praxis; in asserting the egalitarian in-group through a dogmatic chosen characteristic the question is begged, as in, i.e. article 1 of the French "Declaration of the Rights of Man and of the Citizen", that "[m]en are born and remain free and equal in rights".⁵⁴ An institutional, or legal, right is an instrumental claim,⁵⁵ contextually dependent, whilst a natural right is a non-instrumental claim, as clearly distinct amongst the economy of rights (as a theoretically and qualitatively infinite transfer of duties to individual encumbrances to claim-rights (a claim to a claim)) — an impedimenta against general goals.⁵⁶

The question, withal commanding explication, is which and what properties suffices for P to be equal with respect to x (x being a human right). Human Rights, to be taken as a coherent theory of moral consideration, ought to stipulate sufficient and necessary conditions in which all humans, and exclusively humans, are accounted for.⁵⁷ I will recount a laconic recapitulation of such attempts, and their subsequent inadequacies.

Brian Orend amplifies the concept of right, as a tripartite expounding of necessary and sufficient conditions for being a subject subjected to human rights: being human, respecting other human's human rights, and inhibiting an interest.⁵⁸ Human rights rejects what a Kantianism would formulate as "person rights"⁵⁹:

⁵³ Midgley, Mary, "Animals and Why They Matter", The University of Georgia Press, Athens (GA), 1983, p. 64.

⁵⁴ France, "Declaration of the Right of Man and the Citizen", 26 Aug 1789, article 1.

⁵⁵ For an instrumental egalitarian theory in practice see Ronald Dworkin's differentiation of equality of resources and welfare: "Sovereign Virtue, the theory and practice of equality", Cambridge, Harvard University Press, 2000; "What is Equality? Part 1: Equality of Welfare", *Philosophy and Public Affairs*, Vol. 10, No. 3, Princeton University Press, 1981, pp. 185–246, and "What is Equality? Part 2: Equality of Resources", *Philosophy and Public Affairs*, Vol. 10, No. 4, Princeton University Press, 1981, pp. 283–345. For instrumentally underpinned Human Rights theories see Thomas Pogge's "World Poverty and Human Rights", Cambridge, Polity Press, (2nd ed.) 2007, and John Rawls' "The Law of Peoples", *Critical Inquiry*, Vol. 20, No. 1, University of Chicago Press, 1993, pp. 36–68.

⁵⁶ O'Neill, Onora, "Environmental Values, Anthropocentrism and Speciesism", *Environmental Values*, Vol. 6, No. 2, White Horse Press, 1997, p. 132.

⁵⁷ Wasserstrom, Richard, "Rights, Human Rights, and Racial Discrimination", *The Journal of Philosophy*, Vol. 61, No. 20, American Philosophical Association Eastern Division Sixty-First Annual Meeting, 1964, pp. 631–2.

⁵⁸ Orend, Brian, "Human Rights: Concept and Context", Mississauga, Broadview Press, 2002, p. 65.

⁵⁹ See Otfried Höffe's chapter (iv) "Kant's innate right as a rational criterion for human rights" in *Kant's Metaphysics of Morals: A Critical Guide*, Denis, Lara (ed.), Cambridge, Cambridge University Press, 2010, see especially p. 74.

man has duties only to man (himself and other men); for his duty to any subject is moral necessitation by that subject's will. Hence the necessitating (obligating) subject must, first, be a person; and this person must, secondly, be given as an object of experience . . . but with all our experience we know of no being other than man that would be susceptible of obligation (active or passive). Therefore man can have no duties to beings other than man.⁶⁰

A conception of human rights, as between persons, would violate the universality of human rights, by exclusion of children, the cognitively impaired, and even, *reductio ad absurdum*, sleeping "people".⁶¹ Alan Gewirth, amongst others,⁶² has, like Kant, defined human rights as requiring rationality reinforcing it, making duties and rights strictly correlatives (in populace).⁶³ However, a presupposition of rationality as necessary and sufficient in moral patients, does not follow from it being necessary and sufficient in moral agents.⁶⁴

Rejecting rationality as relevant for moral consideration leaves a conception of human rights of the same caliber that Orend proposes. Contrary, however, I think that a rebuttal of rationality as *the* aspect constituting moral concern means rendering the requirement of being biologically human susceptible to the same challenges.⁶⁵ An argument in favor of exclusive and universal "human" human rights needs, if rationality is refuted, another attribute which

⁶⁰ Kant, Immanuel, "Metaphysics of Morality", Gregor, Mary (ed. and trans.), Cambridge, Cambridge University Press, 1996, 6:442.

⁶¹ For a debate on Kantian interpretations with regards to direct, indirect, and non-duties towards the animal. For indirect duties see Onora O'Neill's "Kant on Duties Regarding Nonrational Nature", *Proceedings of the Aristotelian Society, Supplementary Volumes*, Vol. 72, Oxford University Press, 1998; for direct duties see Allen W. Wood's "Kant on Duties Regarding Nonrational Nature", *Proceedings of the Aristotelian Society, Supplementary Volumes*, Vol. 72, Oxford University Press, 1998, pp. 189–210, especially p. 198, and for non-duties (as duties are incompatible within a Kantian deontology, see both Elizabeth M. Plybus, and Alexander Broadie's "Kant's treatment of Animals", *Philosophy*, Vol. 49, No. 190, Cambridge University Press, 1974, pp. 375–383, and "Kant and the Maltreatment of Animals", *Philosophy*, Vol. 53, No. 206, Cambridge University Press, 1978, pp. 560–561.

⁶² See, James Griffin's "On Human Rights", Oxford, Oxford University Press, 2008, especially pp. 133–149.

⁶³ See Alan Gewirth's "The Golden Rule Rationalized", *Midwest Studies in Philosophy*, Vol. 3, 1978, pp. 133–147; for a full account of his dialectic argument see "The Community of Rights", The University of Chicago Press, 1996, especially pp. 13–20, and "Reason and Morality", Chicago, University of Chicago Press, 1978, especially pp. 150 et seq., and p. 317.

⁶⁴ Korsgaard, Christine M., "A Kantian Case for Animal Rights", *Animal Law – Tier and Rect: Developments and Perspectives in the 21st Century*, Michael, Margot; Kühne, Daniela, and Hänni, Julia (eds.), Zurich, Dike Verlag, 2012, p. 11.

⁶⁵ The question of desert is irrelevant with respect to the animal since it has no conception of morality, nor of justice, and as such it cannot act contrary to those notions, nor can it act accordingly. For the animal, much like for children, the question of desert becomes a non-question: its responsibilities are precluded. Joel Feinberg explains that "[the animal] cannot (except within narrow limits and for purposes of conditioning) be blamed for what would be called "moral failures" in a human being. [Incapable] [...] of acting rightly or wrongly in the moral sense, of having, discharging, or breaching duties and obligations." See Joel Feinberg's "The Rights of Animals and Unborn Generations", *Philosophy & Environmental Crisis*, Blackstone, William T. (ed.), Athens (GA), University of Georgia Press, 1974, p. 4.

reaffirms the humanness of the doctrine.⁶⁶ I will also define any x as irrelevant of x's sameness in (time) T₁ to its ipseity (x'ity) in T₂ (or T_n). The metaphysical identity (of x) over time (T₁, T₂... T_n), would also be a furtherance of a logocentric (or rational-like) moral priority.⁶⁷ Retorting the soundness in the statement vis-à-vis its moral relevancy: "We say a dog is afraid his master will beat him; but not, he is afraid his master will beat him tomorrow," but, as advanced, whether this is true or not is irrelevant for the task at hand.⁶⁸

The problem with the argument of "biologically human" as a necessary condition, faces several obstacles. The "of a kind" argument, appeals to one's particular kin, in this case humanity.⁶⁹ Martha C. Nussbaum argues that moral consideration should be one considering a species-specific dignity and "the conditions of a flourishing life characteristic of its kind".⁷⁰ Although she defends animal rights, a deconstruction of her seemingly unproblematic statement should render it deficient. If the appeal is directed towards what is "normal" for the kind one belongs to, it would lead to absurd consequences: if a group is more "human" than another, the individuals in the out-group will be compared with the "normality" of its own group, regardless of the subject's individual abilities. In other words, if man is seen as more rational than "the woman" (as has historically often been the case), no individual woman can ever be compared with the "kind" of man, similar outcomes would yield for a member of the proletariat being compared to a bourgeoisie, in, say, their writing proficiency.⁷¹

⁶⁶ Arguments appealing to modal personhood might be contending a non-interspecies comparison, see Shelly Kagan's "What's Wrong with Speciesism?", *Journal of Applied Philosophy*, Vol. 33, No. 1, 2016, — see also David DeGrazia's rebuttal, "Modal Personhood and Moral Status: A Response to Kagan", *Journal of Applied Philosophy*, Vol. 33, No. 1, 2016, pp. 22–25. Any thorough scrutiny must defuse the strength in such arguments appealing to modal personhood, or valuing humans as essentially distinct. The basis of the entirety of humanity's potential to be persons, cannot hold against any reference to genetic configuration or post-darwinian theory.

⁶⁷ My stipulation of psychophysical and psychological identity over time as unimportant in favor for the animal's rights, could lead to a furtherance of rights for fetuses. However, as Judith Jarvis Thomson has argued in "A Defense of Abortion", *Philosophy & Public Affairs*, Vol. 1, No. 1, 1971, that since the fetus infringe on individuals' right to self-determination and bodily integrity, makes abortion a non-question for conflicting rights. Even if psychological identity (over time) is morally important, it is trifling for the determination of subjecthood.

⁶⁸ Wittgenstein, Ludwig, "Philosophical Investigations" (1945), von Wright, G. H., Anscombe, G. E. M., and Rhees, R (eds.), Anscombe, G. E. M. (trans.), Oxford, Basil Blackwell, (3rd ed.) 1958, note 650. See also note 250 in part 1. Logic.

⁶⁹ For further arguments in favor of a "kind" arguments separating humans and the animal see Thomas Scanlon's "What We Owe to Each Other", Cambridge, Harvard University Press, 1998, especially pp. 185–186, and Carl Cohen's "The Case for the Use of Animals in Biomedical Research", *New England Journal of Medicine*, Vol. 315, No. 14, 1986, pp. 865–870.

⁷⁰ Nussbaum, Martha C., "The Capabilities Approach and Animal Entitlements", *The Oxford Handbook of Animal Ethics*, Beauchamp, Tom L., and Frey, R. G. (eds.), Oxford, Oxford University Press, 2011, pp. 13 et seq. For an account of Nussbaum's species-specific essentialism see also "Human Functioning and Social Justice: In Defense of Aristotelian Essentialism", *Political Theory*, Vol. 20, No. 2, Sage Publications, 1992.

⁷¹ Cavalieri, "The Animal Question", p. 74.

Notwithstanding, "species are not 'natural kinds' with distinct essences",⁷² making species as relevant for the efflux and centrality of subjective rights as class and sex are — ergo, superfluous for the capacity of possessing rights. Furthermore, any individual is undoubtedly subjected to more than one "kind", and to pick out species as superordinated the rest is capriciously inconsistent.⁷³ What has so far been demonstrated, I conclude, is sufficient to illuminate the unanswered question of the animal; arguments often taken as unproblematic and "true" are vitiated by scrutiny, and subsequently cannot hold.

1.3 Method and Material

I employ a methodological approach grounded in a conceptual analysis, being optimistic in demonstrating the connection between moral rights as equivalent to "fundamental interest in x", or for "B to ϕ ". I regard subjectivity as closely interrelated, if not indivisible, to the fundamental interests of x; the ipseity of any x depends on its subjectivity and subjective consciousness of its interests. If S_x , meaning any sentient being, has an interests, that interest should weigh equal to all other individual interests ($S_1, S_2, \dots S_n$), and likewise, against them. Such egalitarian rationalizing frequenting within human rights discourse, is also why I will argue for a much needed future debate realizing the animal concern within human rights. Challenging the perceived anthropocentric nature of moral rights (seeing them as a humanism), I will draw from two distinct philosophical approaches: phenomenology and deconstruction. Furthermore, I am not merely attempting to question the foundations of an anthropocentric rights discourse, but to establish the possibility of an alternative, I will wherefore draw on deontological approaches towards rights and a philosophy of language to empirically corroborate the former claims.

Inspired by a myriad of eclectic scholarly practices, this loss in completeness (through not implementing one practice fully) is a benefit for the scope of the paper. The benefits of an

⁷² Kymlicka, Will, Donaldson, Sue; Andrews, Kristin, et al., "Proposed Briefed by Amici Curiae Philosophers in Support of the Petitioner–Appellant", Brief of amici curiae Kymlicka, Will; Donaldson, Sue; Andrews, Kristin, et al., in support of Plaintiffs–Appellees in Matter of Nonhuman Rights Project, Inc. v Lavery, 2017 NY Slip Op 04574 and in support of Petitioner–Appellant, 2018, p. 8.

⁷³ Nobis, Nathan, "Carl Cohen's Kind Argument For Animal Rights and Against Human Rights", Journal Of Applied Philosophy, Vol. 21, No. 1, 2004, pp. 50–1.

interdisciplinary research will help analyzing, deconstructing and reconstructing the question. Inferring a heterogeneous umbrella in which these philosophical inquiries can be executed is crucial; however, the umbrella is interdisciplinary in character and not without its disadvantages. In order to make the intersection comprehensible the analysis will be divided up into separate parts, mapping out one field before progressing into the other; intertwining them not in every single argument, but supplementing each other in the fuller picture.

Philosophy is, as Arthur Schopenhauer noted, closely interconnected with the use of concepts, since it aims to reflect these universally, abstractly and distinctly.⁷⁴ A phenomenological approach will consequently be employed in two ways throughout this paper, both to assert the umbrella as a prerequisite for a conceptual analysis, as well as to question the very nature of how things are perceived to be. A conceptual reductionist analysis will assist creating a framework — a so-called “a priori analysis of the higher-level concepts” — which correlates with my implementation of phenomenology.⁷⁵ If I am to presuppose subjective right-holding for possessing a right, delve into the meaning of Being-of-the-world in which subjectivity is conceivable is necessary. My aim is not to reduce an irreducible, i.e. consciousness,⁷⁶ but rather, when consciousness and intentionality is of something, that something in *x* can be reduced to consciousness or intentionality — the question thence would be one investigating what *something* in which *x* is reducible to consciousness.⁷⁷

My analysis will thus start with a phenomenological reduction into the nature of Being-in-the-world, to elucidate the (inter)subjective world-view.⁷⁸ Phenomenology will in my paper help to substantiate the world in which experiences are central,⁷⁹ by “going back to the things themselves”, e.g. the “*am*” of the Cartesian *cogito*.⁸⁰ Edmund Husserl’s definition of phenomenology is imperative in a reductionist approach, realizing:

⁷⁴ Schopenhauer, Arthur, “The World as Will and Representation” vol. i (1818), Haldane, R. B., and Kemp, J. (trans.), London, Kegan Paul, Trench, Trübner & Co, (7th ed.), 1909, §68.

⁷⁵ Margolis, Eric, and Laurence, Stephen, “Concepts”, *The Stanford Encyclopedia of Philosophy*, Zalta, Edward N. (ed.), 2014.

⁷⁶ For an account of the irreducible nature of consciousness see David Chalmers’ “Facing Up to the Problem of Consciousness”, *Journal of Consciousness Studies*, Vol. 2, No. 3, 1995, 200–219.

⁷⁷ Sartre, Jean-Paul, “Being and Nothingness: a phenomenological essay on ontology” (1943), Barnes, Hazel E. (trans.), New York, Washington Square Press, 1992, pp. 185–7.

⁷⁸ Husserl, Edmund, “Ideas Pertaining to a Pure Phenomenology and to a Phenomenological Philosophy” (1982), Kersten, F. (trans.), The Hague, Martinus Nijhoff Publishers, 1913, pp. 30–2.

⁷⁹ Moran, Dermot, “Introduction to Phenomenology”, London, Routledge, 2000, pp. 2–4.

⁸⁰ Bragg, Melvyn, et al., “Phenomenology”, *In Our Time*, Mulhall, Luke (ed.), BBC Radio 4, 22 Jan 2015.

that consciousness has, in itself a being of its own which in its own absolute essence, is not touched by the phenomenological exclusion. It therefore remains as the "phenomenological residuum" as a region of being which is of essential necessity quite unique and which can indeed become the field of a science of a novel kind: phenomenology. [Because what science needs] is a certain universal insight into the essence of any consciousness whatever and also, quite particularly, of consciousness in so far as it is, in itself, by its essence consciousness of "natural" actuality.⁸¹

By analyzing the essential consciousness of nature, Husserl's conception combats a non-poised and unreflective "I". Maurice Merleau-Ponty's work, building on Husserl, will substantiate the phenomenological "a priori" framework in which reduction becomes possible at all — in other words, reducing a phenomena to the signified x, x , to be referenced, has to exist as a plural signifier.

In the second part of my paper a more critical phenomenological, but especially deconstructionist, analysis will be implemented. The higher-level concept of consciousness, e.g. subjectivity, will have been established, and a critique of key concepts within the given framework can be executed. Making visible the non-structures perceived as structures is crucial, since their "fulfillment remains partial, fragmentary, or subjective, like, for example, social organization, art".⁸² Since human rights, as opposed to Human Rights, is conceived in nature as equivalent to moral rights, Human Rights have been excluded from this paper because of its non-natural-structured-ness; since rights for the animal and human rights for humans can be discussed both as moral rights. Making possible an analysis of reducing P_1 to P_2 , *iff* the set of truths within the use of the framework governing P_2 implies the same sufficient and necessary truths as the P_1 -framework.⁸³

When Simone de Beauvoir writes that "[r]epresentation of the world, like the world itself, is the work of men; they describe it from their own point of view, which they confuse with absolute truth,"⁸⁴ she differentiates between the the frameworks in which female and male experiences exists; critiquing the perceived world as structured around arbitrary concepts (a sort of *phallo mensura* as opposed to *homo mensura*). In the second part of my

⁸¹ Husserl, "Ideas", pp. 65–6.

⁸² Lévi-Strauss, Claude, "Structural Anthropology" (1958), Jacobson, Claire, and Schoepf, Brooke Grundfest (trans.), New York, Basic Books, 1963, p. 48.

⁸³ van Riel, Raphael and Van Gulick, Robert, "Scientific Reduction", *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.), 8 Apr 2014.

⁸⁴ de Beauvoir, Simone, "The Second Sex" (1952), Borde, Constance, and Malovany-Chevallier, Sheila, New York, Vintage Books, 2009, p. 196.

analysis will use phenomenology flaws in a non-questioned humanism can be criticized, by going back to Being itself. I will also make use of Judith Butler's work to make lucid the transitioning from establishing a world-view to its subsequent translation and the inherent ambiguities there-between. Since feminist phenomenology makes visible the same critique that I am setting out to do,⁸⁵ e.g. the *différance* between "Being"-in-itself and being as portrayed in society through a phallogocentric⁸⁶ institutional modus of sensation and perceiving the world.

Deconstruction is similar in the sense that using it one sets out to illuminate "ambiguities in meaning and text in one or more of its key concepts or themes to reveal the equivocations or contradictions that make the text possible".⁸⁷ The main purpose of deconstruction is to analyze a concept or entity, that is taken for granted and is integral to one's understanding of the world.⁸⁸ Jacques Derrida's work, and a general Derridean interpretation, should assist a deconstruction of "the animal" in binary opposition to the human, clarifying that which "we" take for granted in the animal cannot hold scrutiny. A deconstruction is made possible by what Ludwig Wittgenstein asserts when he expresses that "[a]t the foundation of well-founded belief lies belief that is not founded."⁸⁹ Especially drawing on *différance*,⁹⁰ (the intended misspelling of the French *différence*, albeit pronounced identically), the [a] of *différance* is in effect indexing the social binary opposition between two identical x's, wherein one has been given a prominent role within a given

⁸⁵ Feminist phenomenology commits the same mistake theorists like those which de Beauvoir criticizes a phallogocentric discourse of. By a phenomenological reduction of the "am" or Being, one can polemically oppose a phallogocentric view on the man as the *telos* of nature. Yet, de Beauvoir asserts that "[h]umanity is not an animal species: it is a historical reality", and I deem an anthropocentric analysis as differentiating too distinctly between humanity and the animal. For de Beauvoir's argument, see "The Second Sex", Ch. iii, "The Point of View of Historical Materialism".

⁸⁶ Furthermore, a carnophallogocentric world-view is a term denoting the identity in subjects as both closely interrelated to 'meat-eating' as integral to the "I" and the male as centrum for experience, see: Jacques Derrida's interview "Eating well" in *Who comes after the subject?*, 1991, London, Routledge. The term has also been interpreted within an ecofeminism of Josephine Donovan, but mainly given as a parallel narrative to the efforts of Carol J. Adams, see *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory*, (anniversary ed.), 1990, New York, Continuum, see especially pp. 5-7.

⁸⁷ Holland, Nancy J., "Deconstruction", *Internet Encyclopedia of Philosophy*.

⁸⁸ Spivak, Gayatri C., "'In a Word': interview", *The Second Wave: a Reader in Feminist Theory*, Nicholson, Linda, and Rooney, Ellen (eds.), New York, Routledge, 1997.

⁸⁹ Wittgenstein, Ludwig, "On Certainty" (1949-1951), Anscombe, G.E.M., and von Wright, G.H. (eds.), Anscombe, G.E.M., and Paul, Danis (trans.), Oxford, Basil Blackwell, 1969, note 253.

⁹⁰ Derrida especially repudiates the prominence given to spoken language, in the binary opposition to written. Asserting that logocentrism favored, unjustly, phonocentrism; objecting to such sentiments that Ferdinand de Saussure's proposed by writing "[t]he linguistic object is not both the written and the spoken forms of words; the spoken forms alone constitute the object. But the spoken word is so intimately bound to its written image that the latter manages to usurp the main role", in "Course in General Linguistics", Bally, Charles and Sechehaye, Albert (eds.), Baskin, Wade (trans.), New York, Toronto, London, McGraw-Hill Book Company, 1916, pp. 23-4.

framework. The *différance* between "right" and "right", as the animal and human, within the framework of moral rights, clearly has connotations of one being superordinated the other in a hierarchy.

For the last part of my paper, drawing on the unclarity and obscurity of further conclusions, I will attempt to demonstrate at least a few theorems which should make "reducing P_1 to P_2 " possible. For this reason, my paper will be focused on a deconstruction of key concepts, norms and generally accepted truths, but also a reconstruction of subjectivity (key concept), interests as integral for rights (norm), and that the animal possess subjective prudential interests (general truth). A deontological approach seems self-evident given that the scope of this paper is strictly concerned with moral rights and natural truths; although rejecting Kantianism, I will draw on the Kantian Christine M. Korsgaard's elaboration upon the nature of interests vis-à-vis legislation of law, and Joel Feinberg's account of the relevancy of interests vis-à-vis moral rights will prove as a foundation for the former. Furthermore, John R. Searle's reduction of speech acts (at least broadly understood), to consciousness, intentionality and desires, is also needed to interconnect the hitherto mentioned theses. Throughout this paper, arguments will be entangled with philosophy of language and linguistic aspects to cement the uncertainty inherent in the sweeping ostensible conceptual "the animal".

The analysis will thus be quadripartite, first and foremost establishing the world in which Being ontologically and phenomenologically *is*; secondly, deconstructing the given norms and differentiations between "us" and "the Other"; thirdly, deconstructing and reconstructing the animal as an Other-as-subject as responsive; finally, the fourth part contemplates on an implicit deontological reconstruction of the animal as subject, through the explicit critique of the accepted norms within rights discourse.

2 Analysis

2.1 Subjectiveness as Being

A disinterested account of subjectiveness, as reducible from the right–holder of moral (human) rights, needs to identify an a priori framework in which subjectiveness can exist, and in which moral rights find their footing. I contrast this with Kant’s account of subjectivity: a Kantian account conceptualizes around the person which has a free will and can experience.⁹¹ Kant’s freedom of arbitrary coercion is *the* right; free will is constrained only by another’s free will.⁹² Duties to ourselves and others takes shape in a Kingdom of Ends,⁹³ where law, emitting from rational agents, are legislated collectively.⁹⁴ We must respect rational beings, as ends in themselves,⁹⁵ as a categorical imperative, constituting a maxim of allowed conduct;⁹⁶ here Kant’s subjectivity is fixitied, as an intersubjectivity of applied ethics. Making Kant’s intersubjectivity, or subject for that matter, not one of “I”, neither is Kant’s rational person one of “I am I”, and therefore, irrelevant for the continent of my paper.

To offer an account of the Being–in–the–world (the nature of Being (*dasein*) and its relationship with (*mitsein*)): a non–dualistic worldview will be a polemical counter to the more static Cartesian *cogito*. Being–in–the–world is not a metaphysical binary system between object and subject. Merleau–Ponty clarifies the non–static relationship between object and subject through an entanglement in–between. The inconceivability of the strict opposition of subject and object becomes clear when one considers his example:

[W]ith my left hand, feel my right hand as it touches an object, the right hand as an object is not the right hand as it touches: the first is a system of bones, muscles and

⁹¹ Kant, “Metaphysics of Morality”, Gregor, Mary (ed. and trans.), Cambridge, Cambridge University Press, 1996, 6:442.

⁹² Ibid. 6:237.

⁹³ Ibid., 6:246.

⁹⁴ Wood, Allen W., “Kant on Duties Regarding Nonrational Nature”, *Proceedings of the Aristotelian Society, Supplementary Volumes*, Vol. 72, Oxford University Press, 1998, p. 193–5.

⁹⁵ Kant, Immanuel, “Groundwork of the Metaphysics of Morals”, Gregor, Mary (ed. and trans.), Cambridge, Cambridge University Press, 1998, 4:428.

⁹⁶ Korsgaard, Christine M., “Interacting with Animals: A Kantian Account”, *The Oxford Handbook of Animal Ethics*, Beauchamp, Tom L, and Frey, R. G. (eds.), Oxford, Oxford University Press, 2012, p. 105.

flesh brought down at a point of space, the second shoots through space like a rocket to reveal the external object in its place. In so far as it sees or touches the world, my body can therefore be neither seen nor touched. What prevents its ever being an object, ever being ‘completely constituted’ is that it is that by which there are objects. It is neither tangible nor visible in so far as it is that which sees and touches. The body therefore is not one more among external objects, with the peculiarity of always being there.⁹⁷

Hands do not suffice for “touch”, but they are fundamental, and necessary, for a hand to touch; neither does the “I” touch, but the phenomenal body.⁹⁸ Our body, is a projection unto the world at large, and is constituted as a spatial expression — an extension of space — our body is not in the world,⁹⁹ but “[i]nside and outside are inseparable. The world is wholly inside and I am wholly outside myself.”¹⁰⁰ The human-being can, capable of touching and being touched interchangeably and reversible, view itself as subject and object at the same time; moreover, the human-being views the world as subject and object.¹⁰¹ “[M]an is a part of the world” and at the same time, without contradiction, but through interweavement and chiasmic relationship, “he is the constituting consciousness of the world”.¹⁰² When Descartes concludes that “I am, I exist” is true because one thinks it,¹⁰³ the “I think” must instead be implicit in the “I am”.

Between body and mind, subject and object and in our being is “flesh”: between us is “a spatial and temporal pulp where the individuals are formed by differentiation”.¹⁰⁴ The flesh is not *materiae*, nor is perception of objects mere psychic representation, they are object and subject interchangeably;¹⁰⁵ moreover, our perception of the presence of the world is “its flesh to my flesh”.¹⁰⁶ Like subject and object through touching and being touched, so too is our perception and consciousness intertwined; a chiasmic relationship creates the realization of the flesh. Our bodied existence foretells of a reversibility which must reflect back on the

⁹⁷ Merleau-Ponty, “Phenomenology of Perception”, p. 105.

⁹⁸ Merleau-Ponty, Maurice, “The Visible and Invisible” (1946), Lefort, Claude (ed.), Lingis, Alphonso (trans.), Evanston, Northwestern University Press, 1968, p. 137.

⁹⁹ *Supra* note 97, p. 37.

¹⁰⁰ *Ibid.*, p. 471.

¹⁰¹ *Ibid.*, pp. 158–9.

¹⁰² Merleau-Ponty, Maurice, “Sense and Non-Sense” (1948), Dreyfus, Hubert L., and Dreyfus, Patricia Allen (trans.), Evanston, Northwestern University Press, 1964, p. 71–2.

¹⁰³ Descartes, René, “Meditations On First Philosophy”, *The Philosophical Works of Descartes* (1911 ed.), Haldane, Elizabeth S. (trans.), Cambridge, Cambridge University Press, 1641, p. 10.

¹⁰⁴ *Supra* note 98, p. 114.

¹⁰⁵ *Supra* note 97, pp. 137–9.

¹⁰⁶ *Supra* note 98, p. 127.

existence itself; the subject and object thus makes the flesh sensible.¹⁰⁷ The chiasm is an exchange between the subjective “I” through the phenomenal body vis-à-vis the objective extensional body, thus: spatial objects must be represented by states of consciousness, and as proven, so too must the reverse, by virtue of chiasmic relationship. In other words: “the essence of subjectivity [is ...] bound up with that of the body and that of the world, this is because [...] existence as subjectivity is merely one with [...] existence as a body and with the existence of the world”. Merleau-Ponty concludes that “the subject that I am [...] is inseparable from this body and this world”.¹⁰⁸

Derrida initially argues that “neither animals of different species, nor humans of different cultures, nor any animal or human individual inhabit the same world as another [...] [t]here is no world, there are only islands”¹⁰⁹ and even though it seems that all organisms inhabit the same world, cohabits it even, this is unbeknownst to us and them.¹¹⁰ However, by referring back to Merleau-Ponty’s intersubjective Being, this must be false, since synthesis forms at the object itself, and not in the subject.¹¹¹ For there to be any “I”, there must be a plurality: objects are not of sensory origins, but exists independently, and only comes to sensation when perceived. The “I”, as an absolute “I”, is impossible;¹¹² consciousness understood as non-dualistic, dependent upon the extensional phenomenal body, presupposes intersubjectivity which the “I” cannot control.¹¹³ When “... reflect[ing] on the essence of subjectivity, [...] it [must be] bound up with that of the body and that of the world, this is because my existence as subjectivity is merely one with my existence as a body and with the existence of the world, and because the subject that I am, when taken concretely, is inseparable from this body and this world”;¹¹⁴ thus, “I am of the world’ and [...] I am not it”.¹¹⁵ The phenomenal body is not somatically related to the mind, but is interconnected therewith.

¹⁰⁷ Ibid., pp. 127–130.

¹⁰⁸ Merleau-Ponty, “Phenomenology of Perception”, p. 475.

¹⁰⁹ Derrida, “The Beast & The Sovereign”, vol. ii, pp. 8–9.

¹¹⁰ Ibid., p. 265.

¹¹¹ *Supra* note 108, pp. 270–1.

¹¹² Ibid., pp. 208; 434.

¹¹³ Ibid., p. 520.

¹¹⁴ Ibid., p. 475.

¹¹⁵ Ibid., p. 127.

As I have demonstrated, intersubjectivity is self-evident; Jean-Paul Sartre makes a distinction between the *cogito* and the Cartesian *cogito* and concludes that, likewise, intersubjectivity is a prerequisite for subjectivity:

What the cogito reveals to us here is just factual necessity: it is found—and this is indisputable—that our being along with its being-for-itself is also for-others; the being which is revealed to the reflective consciousness is for-itself-for-others. The Cartesian cogito only makes an affirmation of the absolute truth of a fact—that of my existence. In the same way the cogito a little expanded as we are using it here, reveals to us as a fact the existence of the Other and my existence for the Other.¹¹⁶

The Other is ever-present to any subject, as “I” is an ever-present Other to the “I’s” of the “Others”.¹¹⁷ The absolute consciousness of the “I” is impossible, both because the “I” is an Other in myself, and since intersubjectivity presupposes the necessity of an impossible absolute “I”: “The possibility of the ‘I,’ of speaking and knowing the ‘I,’ resides in a perspective that dislocates the first-person perspective whose very condition it supplies”.¹¹⁸

I have mapped out the world in which Being(s) can be portrayed and said to exist (e.g. Being-in-the-world). The Other-as-subject is transcendental as a phenomenal embodied object, even if the “I” as consciousness is an irreducible phenomena. Further examination needs to be directed to, not the “am” of “I am”, but who the “I” *actually* is, or more precisely, who the non-“I” is not.

2.2 The nature of the “I”

First and foremost, Being-in-the-world and its exteriority presupposes the animal and human as *real*, immersed in the same “flesh of the world”.¹¹⁹ This can be asserted irrespective of defining any of the “I’s”, since the immersion, through perception, makes possible the sharedness between objects and subjects inhibiting worldliness. Instead, it becomes a question of phenomenological reduction qua the animal vis-à-vis humans.

¹¹⁶ Sartre, “Being and Nothingness”, p. 282.

¹¹⁷ Ibid., p. 281.

¹¹⁸ Butler, Judith, “Giving an Account of Oneself”, *Diacritics*, Vol. 31, No. 4, John Hopkins University Press, 2001, p. 23.

¹¹⁹ Merleau-Ponty, “The Visible and Invisible”, p. 114.

If the "I think" is implicit in the "I am", one has excluded the animal from the economy of subjects. I assert the "I's" as of a special kind, and to speak of them requires a self-reflection; the Lockean definition of intelligent beings constituting "I's" clearly says something of the nature of the self.¹²⁰ So, "[w]hen reason "observes", this pure unity of ego and existence [...] consciousness of reason finds itself" as an "I".¹²¹ To think, or speak, "I am I", one's self substantiates as Being, however, it would be anthropocentric idiosyncrasy to assume that this is the sole way of the episteme of Being: introspection and vocalization of the "I" are not *prima facie* exclusively engendering Being.

The "I" does not have to be reduced to prove the "I" in an Other, the "I" is irreducible. Pre-reflecting on the *cogito*, imagining the tacit cogito before the spoken one, is impossible.¹²² Words are necessary for reduction, and the "I", when contemplated upon, presupposes the rational "I".¹²³ In the same way you cannot "speak out against" reason without doing so from within its boundary, one cannot speak of the tacit cogito without words.¹²⁴

Without reducing the "I", the other side of the same coin makes the "I" susceptible for deconstruction, namely that no meaning can exist in nature (or more accurately: can but does not), since the same time it gets its meaning, its entrance into culture becomes a fact.¹²⁵ The "I" can only exist presupposed by culture — making consciousness itself irreducible, but not our interpretation thereof.¹²⁶ The "relation to the world is not that of thinker [thinking subject] to an object of thought";¹²⁷ in other words, an objective reality *is* — our constructed words attempting to reflect that reality can be criticized.

¹²⁰ Locke, John, "Second Treatise of Government" vol. ii (1698), Hackett Publishing, 1980, Indianapolis, p. 280.

¹²¹ Hegel, Georg Wilhelm Friedrich, "The Phenomenology of Mind" (1807), Baille, J. B. (trans.), Dover Publications, 2003, p. 799.

¹²² Spivak, Gayatri C., "Translator's Preface", in *Of Grammatology* (1967), Derrida, Jacques (ed.), Spivak, Gayatri Chakravorty (trans.), Baltimore, London, The John Hopkins University Press, (rev. ed.), 1997, p. lx.

¹²³ Merleau-Ponty, "The Visible and Invisible", p. 171.

¹²⁴ Derrida, Jacques "Cogito and the History of Madness" (1963), *Writing and Difference*, Bass, Alan (ed. and trans.), London, New York, Routledge, 1978, p. 42.

¹²⁵ Butler, Judith, "Sex and Gender in Simone de Beauvoir's Second Sex", *Yale French Studies*, No. 72, Yale University Press, 1986, pp. 39-40.

¹²⁶ Butler, Judith, "Bodies That Matter: On the Discursive Limits of 'Sex'", New York, Routledge, 1993, p. 171.

¹²⁷ Merleau-Ponty, Maurice, "The Primacy of Perception and its Philosophical Consequences" (1947), *The Primacy of Perception And Other Essays on Phenomenological Psychology, the Philosophy of Art, History and Politics*, Edie, James M. (ed. and trans.), Evanston, Northwestern University Press, 1964, p. 11.

2.2.1 "The animal" as abhominable

The "flesh" which all subjects and objects share is meaning-infused, and all objects and subjects therein, given that they are organisms, are part of a biological continuum. What creates the animal as an object, rather than subject, is a declaration of the animal's nature qua being reactionary, rather than responsive. I take the biological and phenomenological beliefs surrounding the animal to be wrongful assertions, and before delving deeper into the nature of the animal their discussion and enumeration is crucial.

Within the biological-continuum spectra the human has either been referred to as the rational animal¹²⁸, or as in custom within a phenomenological approach, as not an animal at all. An account of differences between the animal and its human counter-part can be described as induced with "overlapping and fission",¹²⁹ but the differences there-between are still such that the animal defines humanity, as well as the reversible.¹³⁰ By defining it thusly, it can be said that "man's natural behavior has become human ... human being has become his natural being, his human nature has become his nature".¹³¹ Animality and humanity has become two separate and homogenous crystallizations of their respective nature,¹³² a nature which, simply put, differentiates between one major aspect — that of consciousness in the latter, and its omission, or nihility, in the former.¹³³

By appeal to a phenomenological reduction which asserts the human nature as conscious and the animal nature as reactionary,¹³⁴ Merleau-Ponty, amongst other, ascribes intentionality to humans (*umweltintentionalität*). Whilst both humans and the animal possess an inner world, a so-called *innenwelt*; humans exclusively translates it into meaning in the

¹²⁸ Aristotle, "Politics", 1253a 2–14. ζῷον λόγον ἔχον, or *zōon logon ekhon*, loosely translated as "animal rationale", is a term commonly attributed to Aristotle. However, as Mary Midgley says, term was not employed by Aristotle explicitly, although any faithful interpretation of his texts points in that direction, see Mary Midgley's "Human Nature, Human Variety, Human Freedom", *Being Humans: Anthropological Universality and Particularity* Roughley, Neil (ed.), De Gruyter, 2000, especially pp. 56 et seq.

¹²⁹ Merleau-Ponty, "The Visible and Invisible", p. 142.

¹³⁰ Merleau-Ponty, Maurice, "Nature: Course Notes from the Collège de France", Sélgard, Dominique (ed.), Vallier, Robert (trans.), Evanston, Northwest University Press, 2003, p. 277.

¹³¹ Merleau-Ponty, "Sense and Non-Sense", pp. 129–30.

¹³² Merleau-Ponty, "Nature", p. 248.

¹³³ Merleau-Ponty, Maurice, "Structure of behavior" (1942), Fisher, Alden L. (trans.), Boston, Beacon Press, 1967, pp. 126–7.

¹³⁴ In "Nature" Maurice Merleau-Ponty differentiates between three distinct behaviors within different organisms: syncretic, amovable, and symbolic. The former is exclusively reactionary qua being evolutionary coding, the second is flexible reactions, and the latter, which only humans possesses is the only behavior which allows for a free will, reason, consciousness, etc., see pp. 103 et seq., especially pp. 103–4.

World.¹³⁵ This correlates with a Cartesian line of thought, since Descartes himself wrote in a letter that "the reason why animals don't speak as we do is not that they lack the organs but that they have no thoughts".¹³⁶

But the phenomenological humanism that allows such reductionism is *reductio ad absurdum*¹³⁷ — not only is reducing the animal experience to sole reactionary behavior impossible, but also the zenith of pre-Darwinian "arrogance".¹³⁸ Even if the capacity of the animal mind vis-à-vis the human have differences of the utmost gravity, it is "one of degree and not of kind".¹³⁹ Analyzing the human mind as distinct from everything else is absurd, because doing so one implicitly accepts the normative difference in the human physicality and *psūchē*. In effect one begs the question to discuss the human mind as part of the same "flesh" as Being-in-the-world, and at the same time presume that Being itself presupposes an anthropocentrism separating the flesh. Inquiring into the subjective state of the bee from within an anthropocentrism is deceitful, doing so is an anthropomorphism of "subjectivism".¹⁴⁰ As Friedrich Nietzsche makes lucid, that for humans:

It is even a difficult thing [...] to admit to himself that the insect or the bird perceives an entirely different world from the one that man does, and that the question of which of these perceptions of the world is the more correct one is quite meaningless, for this would have to have been decided previously in accordance with the criterion of the correct perception, which means, in accordance with a criterion which is not available. But in any case it seems to me that "the correct perception" — which would mean "the adequate expression of an object in the subject" — is a contradictory impossibility.¹⁴¹

¹³⁵ Merleau-Ponty, "Phenomenology of Perception", p. 270.

¹³⁶ Descartes, René, "René Descartes to William Cavendish, 1st duke of Newcastle" (1646), Adam, C., and Tannery, P. (eds.), Cottingham, J.; Stoothoff, R.; Murdoch, D., and Kenny, A. (trans.), *Electronic Enlightenment Scholarly Edition of Correspondence*, McNamee, R. V. (ed.), Oxford, Oxford University Press, 2008.

¹³⁷ Donald Griffin explains in "Animal Minds: Beyond Cognition and Consciousness", Chicago and London, University of Chicago Press, 1992 Ch. i., the impossibility of reducing animal behavior to mere programmed reactions. Any such reductionist account proves inadequate since given the infinite possibilities for contextual and conditional milieus, the finite possibility of genetic coding cannot possibly accommodate for all different variables in nature.

¹³⁸ Quoted in Rachels, James, "Darwin, Species, and Morality", *The Monist*, Vol. 70, No. 1, Oxford University Press, Animal Rights (JANUARY, 1987), p. 98, who in turn has quoted it from Clark, Ronald W., in "The Survival of Charles Darwin: A Biography of a Man and an Idea", New York, Random House, 1984, p. 178, from Charles Darwin's "Notebook 'C'"

¹³⁹ Darwin, Charles, "The Descent of Man, and selection in relation to sex" vol. i, London, John Murray, (1st ed.), 1871 p. 105.

¹⁴⁰ Nagel, Thomas, "What is it like to be a bat?", *The Philosophical Review*, Vol. 83, No. 4, Duke University Press, 1974, pp. 339 et seq.

¹⁴¹ Nietzsche, Friedrich, "On Truth and Lies in a Nonmoral Sense" (1873), *Philosophy and truth: selections from Nietzsche's notebooks of the early 1870's*, Breazeale, Daniel (ed. and trans.), Atlantic Highlands, Humanities Press, 1990.

As such, a further deconstruction of the animal is required. Assuming the "truth" as a consequence of an exclusive anthropocentric hegemony on interpellation and linguistic meaning is insufficiently "truthful". "The animal" in the spirit of a deconstructionist critique of key concepts must proceed, a static post-cultural meaning of a word, indexed towards "the animal", can be deconstructed to expose errors in the simulacrum of our unreflected norms. A deconstructionist approach should make lucid the relation betwixt a human's vocalization and the bombylious bee's phoneticism as diaphanous, differing less than ordinarily taken as feasible. Equating the bee's phoneticism with the reactionary knell of a bell at the end of a funeral (as coded *telos*) are wrongful assertions.

2.2.2 "The Other" as non-constituting normativity

We encounter the Other frequently: in mundane daily activities, and in places where one does not choose; furthermore, the Other gives meaning to the world, by engaging with us in it, that one's free will has no control over.¹⁴² Otherness is a fact; in other words, otherness (ontologically) *is* always for any self-perception, in ourselves and in others — this is the Other in which we are enslaved to.¹⁴³ Nonetheless, this Otherness, has a *différance*, in the sense that "the Other", can be the Other-as-subject, and the Other-as-object, both in ourselves and in any external Otherness. What differentiates between the Other-as-object and the Other-as-subject is "Being-seen-by-the-Other" as "seeing-the-Other" in the latter, whilst "nothingness" in its meaning *simpliciter* (i.e. omission in rationality — given that rationality has a normative value in the cultural state) is in the former as a mere inanimate object.¹⁴⁴ The Otherness that objectively exists as a subject in ourselves and in Others is not what is on trial here, rather, the normative force such projection of Otherness has when subjects wield performative actions in diverse power structures is what has to be deconstructed.

¹⁴² Sartre, "Being and Nothingness", p. 509.

¹⁴³ Ibid., "Being and Nothingness", p. 267.

¹⁴⁴ Ibid., "Being and Nothingness", p. 257.

The Other-as-subject creates and enslaves a meaning in another, which the one subjected to has no control over, Jean-Paul Sartre explains it thusly:

It is the reflection of my face. Often in these lost days I study it: I can understand nothing of this face. The faces of others have some sense, some direction. Not mine. I cannot even decide whether it is handsome or ugly. I think it is ugly because I have been told so. But it doesn't strike me. At heart, I am even shocked that anyone can attribute qualities of this kind to it, as if you called a clod of earth or a block of stone beautiful or ugly.¹⁴⁵

Logos has been constructed in opposition to “the Other”, to cement characteristics of the in-group, such as rationality, autonomy, or language.¹⁴⁶ The Other becomes an irrational alteration, as an Other-as-object, rather than subject, and thus enslaves, or colonizes, the Other through appeal to either the *phallos*¹⁴⁷ or *logos* (*carnophallogocentrism*). Jacques Lacan claimed that interpellation creates meaning (an *entrance-into-culture*), whence ever two subjects names an object, that object becomes “fact” or “truth”.¹⁴⁸ Through interpellation the Other-as-object can be asserted as opposite to the subject, and as such, Emmanuel Lévinas can declare femininity as the static Otherness, as opposed to the subjecthood of man.¹⁴⁹ Nietzsche notes that:

we obtain the concept, as we do the form, by overlooking what is individual and actual; whereas nature is acquainted with no forms and no concepts, and likewise with no species, but only with an X which remains inaccessible and undefinable for us.¹⁵⁰

To show how Otherness has been constructed throughout history it will help to highlight the parallel of interpellation constructing said Otherness. De Beauvoir argues against what Lévinas asserts, paraphrased as seeing the man as the static subject, and “the woman” as the

¹⁴⁵ Sartre, Jean-Paul, “Nausea” (1938), Alexander, Lloyd (trans.), Norfolk, New Directions, 1949

¹⁴⁶ Derrida, “The Animal that Therefore I am”, p. 211.

¹⁴⁷ Phallos, as the male form of phallus, is not to be understood as its embodied entity. Rather, through works of Sigmund Freud and Jacques Lacan, it is a signifier of the fear of castration in the man, and the envy of the male in the woman. In the preface to *Of Grammatology*, Spivak writes that it can “take the place of all signifiers signifying all desires for all absences”, pp. lxxv-lxxvi.

¹⁴⁸ Butler, “Bodies That Matter”, p. 109.

¹⁴⁹ Lévinas, Emmanuel, “Time and the Other”, Cohen, Richard A. (trans.), Pittsburgh, Duquesne University Press, 1987, p. 85.

¹⁵⁰ Nietzsche, op. cit.

eternal Other-as-object.¹⁵¹ Not only does said interpellation construct a hierarchy when binary conceptions are in an oppositional relationship, i.e. "the woman" vis-à-vis "the man", but it makes visible the constructed character of meaning all-together, "... the secret reality of the [Other-as-]object is what the Other[-as-subject] makes of it".¹⁵²

Firstly, the construction of "the woman", is the interpellation of subjects, in this case "the man". But, the interpellation is emitting, whenever performed, a power-structure inherent in the economy of languages.¹⁵³ The structures can have a "meaning", but the word, i.e. "the woman", is simply a reaffirmation of a norm;¹⁵⁴ a name, e.g. a word, becomes meaningless — an object reciprocally constructed incognito.¹⁵⁵ Judith Butler explains what constitutes "the woman" as a reiteration of norms, but this

repetition is not performed *by* a subject; this repetition is what enables a subject and constitutes the temporal condition for the subject. This iterability implies that "performance" is not a singular "act" or event, but a ritualized production, a ritual reiterated under and through constraint, under and through the force of prohibition and taboo, with the threat of ostracism and even death controlling and compelling the shape of the production.¹⁵⁶

Thence echoing de Beauvoir's iconoclastic expression: "one is not born, but rather becomes, a woman". The citationality of the woman ("the woman"), makes it reiterable, and the performativity of "sex", "the woman", or Sartre's "ugliness", creates the perceived meaning.¹⁵⁷

To deconstruct a "concept", it would be unintelligible to dissect it without realizing its cultural meaning as preordained its natural. Because pre-culturally, in the state of nature, value is omitted, since "the natural is construed as that which is also without value; moreover, it assumes its value at the same time that it assumes its social character, that is, at the same time that nature relinquishes itself as the natural".¹⁵⁸

¹⁵¹ de Beauvoir, "The Second Sex", p. 6.

¹⁵² Sartre, "Critique of Dialectical Reason: Theory of Practical Ensembles" vol. i, Sheridan-Smith, Alan (trans.), London and New York, Verso Books, p. 135.

¹⁵³ Butler, "Bodies That Matter", p. 109.

¹⁵⁴ *Ibid.*, p. 137.

¹⁵⁵ *Ibid.*, p. 117.

¹⁵⁶ *Ibid.*, p. 60.

¹⁵⁷ Butler, "Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory", *Theatre Journal*, Vol. 40, No. 4, John Hopkins University Press, 1988, p. 527.

¹⁵⁸ *Supra* note 153, p. xiv.

Ugliness, and womanness, are both constructed as an opposing Other, but, in an intersubjective World such notions are bad faith. The Other, regardless of what the citational "the Other" is interchangeable with, i.e. "the woman" or "the animal", is defined as a homogenous natural and static kind. The woman is seen as a natural group, but is only so conceived through ideological construction¹⁵⁹ Perceived as a homogenous class (and not individual subjects) the woman can bear and give birth to children, and correspondingly all values of Otherness therefrom derives.¹⁶⁰

The interpellation (between men) takes place within society and ascribes meaning to the woman. "I", understood as a reiteration of a system of norms,¹⁶¹ the "I" must be seen as the "I" performed — "masculine" and "human" it creates "feminine" and "animal(ity)", respectively, as abjections executed by force of exclusion.¹⁶² The performativity of the non-"I" cannot be seen as existential performativity; contrary, cemented norms created outside one's product of will confines one to act within certain frames. The meaning is decided upon "before one arrived on the scene", irrespective of freely willed actions, thence constituting some manner of essentialism.¹⁶³

Through enforceable projection of meaning, man comes to be defined as *the* human being, and the woman counterpart as "female": "Humanity is male, and man defines woman, not in herself, but in relation to himself".¹⁶⁴ The "modality of power as discourse" construct meaning in an Other, and transforms it through enforced performativity to an Other-as-object.¹⁶⁵ What has historically been denied to the woman, e.g. subjectivity, is an act of violent exclusion from a community of subjects, by appealing to power modalities within a *phallogocentrism*.¹⁶⁶ Entrenched Otherness in, say, the woman, transforms subject to object, and makes any claim for rights non-rights.

¹⁵⁹ Wittig, Monique, "One is not born a woman" (1980), *The second wave: a reader in feminist theory*, Nicholson, Linda (ed.), New York: Routledge, 1997, p. 265.

¹⁶⁰ Dworkin, Andrea, "Biological Superiority: The World's Most Dangerous and Deadly Idea" (1977), *Letters from a War Zone (1967–1987)* (1988), New York, Lawrence Hill Books, (2nd ed.) 1993, p. 113.

¹⁶¹ Butler, "Bodies That Matter", p. xxi.

¹⁶² *Ibid.*, p. xiii.

¹⁶³ Butler, Judith, "Performative Acts and Gender Constitution", p. 526. The essentialism I am referring to is distinct from the species-specific essentialism Nussbaum makes use of — being constructed makes it susceptible to deconstruction and it cannot be taken as *prima facie* "true".

¹⁶⁴ de Beauvoir, "The Second Sex", p. 26.

¹⁶⁵ *Supra* note 161, p. 139.

¹⁶⁶ MacKinnon, Catherine A., "Toward a Feminist Theory of the State", Cambridge, Harvard University Press, 1989, p. 131.

Unveiling the Other-as-object as historically and contemporarily misused through its entrance into a cultural discourse, hence creating an arbitrary meaning; by clarifying its misconstrued meaning it is easy to see parallels with other silenced groups. Continuingly, I will derive the same misuse of power and within the hegemony of language (I specifically mean the hegemony on the meaning of words and actions) regarding the veiling of "the animal", by its very same name.

2.2.3 "The animal" as "the Other"

I will hope to surmise sufficient evidence to demonstrate the metonymical and anthropomorphic lemma "the animal"¹⁶⁷ as obfuscating the "true" locution of any given "animal", through the same interpellation that relegates "the woman" to a static Other-as-object. Derrida's *différance* becomes central to understanding the place in which language and words through homogeneous definitions, preclude reflective meaning. This relegation is thenceforth a hinderance of some kind of *bona fide* nomenclature, whilst the perlocutionary act of "the animal" makes it, through performativity, a subsidiary category of its own — nebulous to what is portrayed by the cognomen.

The verbatim "the animal" is a word ideally meant to portray the veridical meaning (diachronically and synchronically) of what it is, and therein also what it is not. "The animal" as an epithet, is different (*différance*) from the protean animal. Les Animaux (*l'animaux*), e.g. "the animal" is different from the word "the animal", e.g. *l'animot*. Keeping the stem ani-, the suffix is to reaffirm its constructedness as a word, the English *word* is equivalent to the French *mot*. *L'animaux* and *l'animot* are pronounced the same (/a.ni.mo/), yet the latter is the word "the animal" and the former is all which it *is* in itself.¹⁶⁸ Insofar as the word is to be acceptable it would have to *sub specie aeternitatis*, from its homogeneity and singularity,

¹⁶⁷ For the etymological definition see Harper, Douglas, "animal", *Online Etymology Dictionary*, 2001–2018. The etymological meaning of "the animal" comes to represent all animals, with exception for the human animal, replacing the archaic "brute". In effect the nomenclative dog, bee, elephant, jellyfish, hawk, and ladybug are all proponents of the same lexeme, e.g. the lemma "the animal", which at once denotes every single nonhuman animal.

¹⁶⁸ Derrida, Jacques, "The Animal that Therefore I am (and More to Follow)", *Critical Inquiry*, Vol. 28, No. 2. University of Chicago Press, 2002, p. 416.

denote all the abhominable animals at the very same time (an intuitively complicated illocutionary act).¹⁶⁹

By reference to the same naming-processes, Lewis differentiates between the modern use of *conscious*, e.g. the states of subjectivity and experience of prudential interests, whilst the classical meaning of *consciuis* is two subjects aware of the same fact. The classical meaning is equivalent with Lacan's interpellation.¹⁷⁰ It has to be critically examined, since even if this definition can attribute *conscientia* to a thing (i.e. "the animal"), it can as easily be declined to such "things" by virtue of a refusal of acknowledging their Being. Nietzsche writes on the interpellation of ascribing meaning, through words, to the world:

If I make up the definition of a mammal, and then, after inspecting a camel, declare "look, a mammal" I have indeed brought a truth to light in this way, but it is a truth of limited value. That is to say, it is a thoroughly anthropomorphic truth which contains not a single point which would be "true in itself" or really and universally valid apart from man.¹⁷¹

The perceived essentialism and authenticity in meaning cannot exist in a pre-cultural state. "The animal's" properties are extrinsic and becomes equivalent to its being-seen through willful nescience and perverted "empirical authority".¹⁷² As the potentate in possession of might (whether physical or linguistic hegemony), tread through actions "on the sovereignty [...] of the others". The onus of justification becomes a non-question: implicit in the actions of might, might as its own form of rationale.¹⁷³

The animal Other-as-object echoes in de Beauvoir's conception of the woman as an Other, when she declares the woman as being seen as imitating the male whenever the woman attempts any *phallonormative* action.¹⁷⁴ Because, normally and in accordance with a perception of *l'animot*: "[h]umans are humans and gorillas are animals".¹⁷⁵ Whenever the perceived Other-as-object attempts, through itself or through discourse, to transition to an

¹⁶⁹ Ibid., p. 407.

¹⁷⁰ Lewis, C.S., "Studies in Words", London, Cambridge University Press, 1960, pp. 184–5.

¹⁷¹ Nietzsche, op. cit.

¹⁷² Derrida, "The Animal that Therefore I am", pp. 104–105; cf. p. 416.

¹⁷³ Derrida, "The Beast & The Sovereign" vol. ii, p. 279–80; Derrida, Jacques, "Rogues: Two Essays on Reason" (2002), Brault, Pascale-Anne, and Naas, Michael (trans.), Stanford, Stanford University Press, 2005, pp. 100–1.

¹⁷⁴ de Beauvoir, "The Second Sex", p. 482.

¹⁷⁵ Dawkins, Richard, "Gaps in the Mind", *The Great Ape Project*, Cavalieri, Paola and Singer, Peter (eds.), New York, St. Martin's Griffin, 1993, p. 81.

Other-as-subject, the "I" [is pitted] against an "Other" through violence.¹⁷⁶ The woman is not only said to be imitating the man, but whatever her actions they are seen as Otherness vis-à-vis the subjectivity of man.

Deconstruction should at the very least make clear the phallographic "truth" as a logocentric dogma. In much the same manner, the "anthropomorphic truth", which Nietzsche speaks of, is not an anthropomorphism of the animal's behavior as human-like, rather, it anthropomorphizes the qualities themselves. The distinction between "the animal" and human, is not sufficient to form the basis for a simple and linear differentiation of the human from the animal,¹⁷⁷ because much like the "I" must accept a plurality of "I's", so too must "I" make plausible the "I's" in the animal. "By constructing a homogenous Other", the voices of the perceived Other can be silenced, it is thus not only of importance to question the nature of the perceived Other-as-object, but also the ways in which the reiterable norm, potentially, silences any Other.¹⁷⁸ "The animal" generally understood as an Other-as-object is, to use the physicist Wolfgang Pauli's expression, is "not even wrong". Something which will become, a fortiori, clear in the following chapter whilst I discuss the nature of "language" or "phoneticism".

2.3 Subjectiveness as being-heard

The question of the "Other-as-subject" becomes a question of whether the Other can see "us", as being-heard, or being-seen as being-heard if "the gaze from an animal" is being-seen as being-heard.¹⁷⁹ To manifest the Other in the animal as a subject, which is a prerequisite to speak of them as an individual entity, or an "I"-in-you, first and foremost a discussion regarding the animal's gaze as receivable as being-seen is necessary.

Although language, reason, abstract thought, etc., are of moral significance, the difference between the animal "language" and human, does not allow for a clear cut in-

¹⁷⁶ Butler, "Gender Trouble: Feminism and the Subversion of Identity", New York, London, Routledge, (2nd ed.), 1999, pp. 183-4; cf 1990, p. 144.

¹⁷⁷ Derrida, "The Animal that Therefore I am", pp. 210-211.

¹⁷⁸ Spivak, Gayatri C., "Can the subaltern speak?" (1988), *Colonial Discourse and Post-Colonial Theory: A Reader*, Williams, Patrick, and Chrisman, Laura (eds.), New York, Columbia University Press, 1993, p. 84.

¹⁷⁹ Derrida, "The Animal that Therefore I am (and More to Follow)", p. 372.

between.¹⁸⁰ Albeit, the animal might not possess a language capable of mediating expressions formed within a social matrix,¹⁸¹ "the animal" by being signified in speech is already within an anthropocentric social matrix. Language is not heard through "real sound in the world", but rather "being–heard" is structurally phenomenal.¹⁸² Then, it seems more sensible to speak of a "semiotic–system", rather than a language.¹⁸³ So whilst an indexical speech–expression might easier be defined objectively as being being–heard,¹⁸⁴ this is not exhaustively thus for "being–heard–ness", (in other words, ostensive definitions — speech through interpellation — are not the only rendering visible of a being–heard–ness).

Being–heard, in other words, is not knowing "whether the animal speaks but whether one can know what *respond* means",¹⁸⁵ and separating within an action, a responsiveness from a reaction.¹⁸⁶ Inter–species communication (being–heard–ness) as impossible cannot be taken as an axiom. Although the difference between "yes" and "no" in speech is of importance, this is not because of the *spelled* difference between them, but the difference in what is attempted to convey; to look for a "yes" in the animal, should not be to observe if the animal can utter "yes", but if it can convey the affirmative meaning behind the word (a phoneme).¹⁸⁷

If one proclaims speech to be the only form of phonemes conveying meaning, since abstract thought is required for intentions, and complex syntax as proof of such thought, one begs the question. Furthermore, translating a response, through the monolingual language of man, to reaction — a fixity of codes — programmed not to respond to the world at large, but only to react to stimuli is a neo–Cartesian reduction of the animal speech to mere

¹⁸⁰ Derrida, "Eating Well", pp. 116–117.

¹⁸¹ Haslanger, Sally, "Resisting Reality: Social Construction and Social Critique", Oxford, Oxford University Press, 2012, pp. 124–127.

¹⁸² Derrida, Jacques, "Of Grammatology" (1967), Spivak, Gayatri Chakravorty (trans.), Baltimore and London, The Johns Hopkins University Press, (corrected ed.), 1997, p. 63.

¹⁸³ Derrida, Jacques, "The Beast & The Sovereign", vol. i, *The Seminars of Jacques Derrida (2001–2002)*, Lisse, Michel; Mallet, Marie–Louise, and Michaud, Ginette (eds.), Bennington Geoffrey (trans.), Chicago and London, The University of Chicago Press, 2009, p. 116.

¹⁸⁴ The logocentrism (e.g. the spoken *cogito* or the spoken language — characterized by a complex syntax) whatever the normative connotations is not per necessity something praiseworthy. Friedrich Nietzsche, for example (who criticises language), explains language as making possible the mendacious exclaim "I am rich!", for someone who is in fact poor. Whilst, Jacques Lacan asserts language as special in virtue of making lying about lying possible (while holding this normatively better than non–language). Language might impair our conception of "truth", but, it can still be said true of language that "the liar" by speaking lies is being–heard by the Other–as–subject. In other words, whether language is something "original" as Derrida asserts, or simply an evolutionary symptom as Darwin ascertained, is irrelevant. See "The Descent of Man and Selection in Relation to Sex", New York, Random House Modern Library Edition, see especially pp. 463 et seq.

¹⁸⁵ Derrida, "The Animal that Therefore I am (and More to Follow)", p. 377.

¹⁸⁶ Derrida, "The Animal that Therefore I am", pp. 282 et seq.

¹⁸⁷ *Supra* note 185, pp. 378–80.

senseless phoneticism (phōné). If one oppose the binary opposition of phonocentrism as primary over written language, subtended by logocentrism,¹⁸⁸ in the same manner, responsiveness could be viewed without spoken language as primary (as being–heard within a semiotic language) over what has been demoted to mimicry and nothing other than reaction.¹⁸⁹ Lewis makes clear on the nature of the non–primacy of language:

Language exists to communicate whatever it can communicate. Some things it communicate so badly that we never attempt to communicate them by words if any other medium is available. Those who think they are testing a boy’s “elementary” command of English by asking him to describe in words how one ties one’s tie or what a pair of scissors is like, are far astray.¹⁹⁰

Not only is logocentrism (the spoken grammatical language) not universal,¹⁹¹ but also flawed in conveying absolute “truth” and meaning; rather, phonocentrism is universal in both human–language, and throughout other lifeforms as well.¹⁹² This foretells language as not superordinated other systems of assertives; judging the animal’s qualities, i.e. subjecthood, by appeal to anthropocentric language is idiosyncratic anthropomorphism, except when tautologically begged.

Derrida asserted that Bentham’s leitmotif — “Can they suffer?” — “proposed changing the very form of the question regarding the animal”.¹⁹³ The cogito, although morally relevant in some aspects, is not *the* question, the capability to suffer, more than anything, goes to the heart of moral considerability.¹⁹⁴

Speech acts are subsidiary to intentionality, as a prerequisite for language,¹⁹⁵ and illocutionary acts.¹⁹⁶ Sentences are fungible intentions, writing and speaking are equal intentions in and of themselves, and as such intentionality in “human speech” is far easier to

¹⁸⁸ Derrida, “Of Grammatology”, pp. 11–14.

¹⁸⁹ *Supra* note 183, pp. 347–9.

¹⁹⁰ Lewis, “Studies in Words”, p. 214.

¹⁹¹ Noam Chomsky’s conception of language as (innate) spoken grammar is excluded from the paper. Instead, as Daniel L. Everett has shown in “Cultural Constraints on Grammar and Cognition in Pirahã: Another Look at the Design Features of Human Language”, *Current Anthropology*, Vol. 46, No. 4, 2005, some languages are coherent, yet without certain grammatical constructions. Such as the Amazonian language Pirahã, or sign–language.

¹⁹² Derrida, “The Beast & The Sovereign”, vol. i, pp. 347–9.

¹⁹³ Derrida, “The Animal that Therefore I am”, p. 72.

¹⁹⁴ *Ibid.*, pp. 73 et seq.

¹⁹⁵ Searle, John R., “Speech Acts: An Essay in the Philosophy of Language”, Cambridge University Press, 1969, pp. 46–48.

¹⁹⁶ Searle, John R., “What is a speech act?”, *Philosophy in America*, Black, Max (ed.), Itaca, Cornell University Press, 1965, pp. 226–228.

locate;¹⁹⁷ although, such sentiments does not equate with intentionality as missing from the animal mind, conclusions pointing in that direction are often symptomatic of the hierarchized binary opposition between the animal and human.¹⁹⁸ Intentionality is important to an understanding of desire, because for a desire to exist "something" must pick out that which one's desire intentions. Franz Brentano explains intentionality as characterizing every mental phenomena as involving direction towards an object: "every mental phenomenon includes something as object within itself, although they do not all do so in the same way. In presentation, something is presented, in judgement something is affirmed or denied, in love loved, in hate hated, in desire desired".¹⁹⁹ So, when I "think" of an object x, something in my mind is directed at object x, and if I speak x my speech refers to the very same x. In other words, intentionality is aboutness of our subjective mental states.²⁰⁰

Building on intentionality and speech acts, Searle discusses the heterogeneous multiplicity within the animal mind — therein subjective intentionality. First and foremost the animal has prudential interests and experiences and Searle enumerates on those states: in addition the animal has "subjective states of sentience and awareness", e.g. consciousness of pain (or other senses). Secondly, the animal has the ability to direct its mind to object's aboutness, e.g. intentionality translated into desire or belief. Finally, the animal has "temporal sequences of intentional states [...] systematically related to each other", e.g. thought processes guiding behavior.

Sentient beings, as beings with non-derivative interests for whom experiences can be prudentially good or bad,²⁰¹ have to be differentiated with the derivative interests belonging to a missile or a plant, they cannot have prudential experiences since they have no perspective of the world for which anything can be prudentially good or bad.²⁰² All sentient beings (humans included) receive, in one way or another, perceptual stimuli through a range

¹⁹⁷ Searle, John R., "Reiterating the Differences: A Reply to Derrida", *Glyph*, Vol. 1, Johns Hopkins University Press, 1977, pp. 201–202.

¹⁹⁸ *Supra* note 193, pp. 311 et seq.

¹⁹⁹ Brentano, Franz, "Psychology from an Empirical Standpoint" (1874), Kraus, Oskar (ed.), Rancurello, Antos C., Terrell, D. B., and McAlister, Linda L. (trans.), London, Routledge, (2nd ed.) 1995, p. 88.

²⁰⁰ Husserl, Edmund, "Logical Investigations" vol. ii (1901), Findlay, J.N. (trans.), New York, Humanities Press, 1970, pp. 586–90.

²⁰¹ Korsgaard, "A Kantian Case for Animal Rights", p. 5–6.

²⁰² Holtug, Nils, "Creating and Patenting New Life Forms", *A Companion to Bioethics*, Kushe, Helga, and Singer, Peter (eds.), Blackwell Publishing, (2nd ed.), 2009, p. 237.

of sensory receptors, and the brain produces, through a procedure, motor outputs in form of intentional actions.²⁰³ Searle exemplifies his theory by considering a hypothetical simulation:

Why is my dog barking up that tree? Because he believes that the cat is up the tree, and he wants to catch up to the cat. Why does he believe the cat is up the tree? Because he saw the cat run up the tree. Why does he now stop barking up the tree and start running toward the neighbor's yard? Because he no longer believes that the cat is up the tree, but in the neighbor's yard. And why did he correct his belief? Because he just saw (and no doubt smelled) the cat run into the neighbor's yard... The general point is that animals correct their beliefs all the time on the basis of their perceptions. In order to make these corrections they have to be able to distinguish the state of affairs in which their belief is satisfied from the state of affairs in which it is not satisfied.²⁰⁴

“True” and “false”, much like “yes” and “no”, are metalinguistic predicates; speaking a language is a prerequisite for uttering them. However true it might be, the epistemological *knowing* of the differences there—between is true *iff* the doxastic state of belief is connected with the articulated concepts themselves (and not exclusively for what the concepts attempt to convey).²⁰⁵

From Searle's example, thought processes, intentionality and consciousness can be deduced. Using its perception its belief fixated, and altered, determining its actions — they are doxically relevant. Metalinguistic predicates does not determine intentionality, consciousness, or thought processes, rather, it is metaintentionality.²⁰⁶ Merleau-Ponty's conception of perception cannot be denied to animals, nor can their subjectiveness, since their sensory experiences are their perception. The world becomes “the world” in light of a subject being able to distinguish between “true” and “false”.²⁰⁷ However, the dog can distinguish and reassess between “true” and “false”, and such reassessment does not require abstract thoughts or a complex syntax. Therefore, metalinguistics presupposes metaintentionality, but not the reverse: neither none of the discussed phenomena requires language. The dog knows of this world, because it *is* of it as a subject.

²⁰³ Searle “Animal Minds”, p. 209.

²⁰⁴ Ibid., pp. 211–2.

²⁰⁵ Ibid.

²⁰⁶ Ibid., pp. 211–4.

²⁰⁷ Wittgenstein, “On Certainty”, note 94.

Implementing the Cartesian *automata*²⁰⁸ one would answer "no" to Bentham's question, yet, this interpretation is clearly deceptive. Desire, belief, experience, and intentionality, as has been deduced, *is* regardless of language — language has no relevancy. Intelligent and coherent language, through a neo-Cartesian interpretation, cannot suffice to declare an entity as rational and sentient, "[b]ehavior, even linguistic behavior, is only relevant given certain assumptions about structure. That is why we attribute consciousness to humans and [the animal], with or without language, and we do not attribute it to radios".²⁰⁹ Goal-directed behavior *can* exist regardless of language in any separate individual, and language, it seems, is irrelevant for answering the question at hand. "The animal" is a way of anthropodenying the animal its "being-heard-ness".

2.3.1 "The question"

The question, then, "Can they suffer?", is truly *the* question. When I speak of being-heard, in this context, I allude to whether humans can "hear" the suffering which the animal experience, if the animal can sufficiently respond through actions "I suffer". So, when Bashevis Singer writes: "[i]n relation to them [the animal], all people are Nazis; for the animals, it is an eternal Treblinka",²¹⁰ he protrudes the meaning of "Can they suffer?". In the light of the animal action we cannot deny their suffering: lack of language is insufficient to deny them the capacity to suffer, "[n]o one can deny the suffering, fear or panic, the terror or fright that humans witness in certain animals".²¹¹

Voltaire asks: "Answer me, machinist, has nature arranged all the springs of sentiment in this animal that he should not feel?"²¹² Descartes defending vivisection, must forsake his

²⁰⁸ See his "Discourse on the Method of Rightly Conducting One's Reason and of Seeking Truth in the Sciences" vol. v (1637), Lafleur, Laurence J. (trans.), New York, The Liberal Arts Press, 1960, and his letter to Henry More, "From Letter to More, 5 February 1649" (1649), *Descartes: Philosophical Letters*, Kenny, Anthony (ed. and trans.), Oxford, Clarendon, 1970. He argues since the animal cannot speak it possesses no soul, and furthermore, the soul was needed to experience suffering and pleasure, and as such Descartes concluded that the animal cannot suffer.

²⁰⁹ *Supra* note 203, pp. 216–7.

²¹⁰ Singer, Isaac Bashevis, "The Letter Writer" (1968), *The Collected Stories of Isaac Bashevis Singer*, Bellow, Saul et al. (trans.), New York, Farrar, Straus, Giroux, 1982, p. 271.

²¹¹ Derrida, "The Animal that Therefore I am (and More to Follow)", p. 398.

²¹² Voltaire (Arouet, François-Marie), "A Philosophical Dictionary" vol. i (1764), *The Works of Voltaire. A Contemporary Version vol. iii*, Morley, John, and Smollett, Tobias (eds.), Fleming, William F. (trans.), New York, E.R DuMont, 1901, p. 299.

theory of automata, because there can be no doubt concerning the animal's intentional actions, the fish out of water on the deck of the boat, is acting in a way to convey the desire of being in the water and a belief the water will relieve it from suffering (and death). The animal can suffer, and it can, through metaintentional capabilities, correspondingly respond to those experienced states. The Other-as-subject, need not be human, because nothing inherent in the question itself makes it anthropocentric, any such attempts anthropomorphizes the question.²¹³ It would be anthropodenial to refrain from attributing the animal the capacity to suffer, as well as refusal to see them as subjects.

When Derrida is made aware of his nakedness through the gaze of his cat, the cat makes its presence as an "Other-as-subject" indisputable.²¹⁴ Emmanuel Lévinas does not, in Derridean terms, follow "the animal", when he explains in his novel how men had treated humans as the animal in a Nazi camp, and the only one who treated the prisoners as humans were a dog, named Bobby.

He would appear at morning assembly and was waiting for us as we returned, jumping up and down and barking in delight. For him, there was no doubt that we were men [...] This dog was the last Kantian in Nazi Germany²¹⁵

If men can treat other kindred as the animal, so too can the animal treat men as men, but, Bobby is "without the brain needed to universalize maxims",²¹⁶ and thus cannot be a Kantian.

However true that might be, *the* question is not whether the animal can be a Kantian or not. Lévinas acknowledges the animal as "being-seen", being subjected to the animal's gaze, making Bobby an Other-as-subject. Bobby and the Nazi camp prisoners represent a likeness between "the unspeakable human holocaust and the unspoken animal one",²¹⁷ but "the unspoken animal" cannot represent the impossibility for it to being being-heard; the nothingness of its unspokenness is anthropodenial (through anthropomorphizing speech).

Searle's and Lévinas' dogs are of this world, and inhibit (and exhibit) worldliness as objects and subjects. The dog, in this particular case, answers *the* question. The inability of

²¹³ Derrida, "Eating Well", pp. 112 et seq.

²¹⁴ *Supra* note 211, pp. 380-1.

²¹⁵ Lévinas, Emmanuel, "The Name of a Dog, or Natural Rights" (1963), *Difficult freedom: essays on Judaism*, Hand, Seán (trans.), Baltimore, Johns Hopkins University Press, 1990, p. 153.

²¹⁶ *Ibid.*

²¹⁷ Llewelyn, John, "Am I Obsessed by Bobby? (Humanism of the Other Animal)", *Re-Reading Lévinas*. Bernasconi, Robert, and Critchley, Simon (eds.), Bloomington and Indianapolis, Indiana University Press, 1991, p. 235.

the dog to be a Kantian is irrelevant concerning its eligibility for subjective rights (or interests thereof). The dog is an Other-as-subject qua being-seen by its gaze.

2.4 Subjecting the subject to rights

Orend's necessary and sufficient conditions for being a right-holder, previously demonstrated, are not adequate for a coherent picture of what a human right is. However, one must have a fundamental interest in what the right supposes, and this is a prerequisite for any other eventual criterion. The moral wrongness of an action, is dependent on an individual's interest in being exempt from such infliction, and likewise, what makes an action subjectively right, is interrelated with individual's prudential interest in achieving ϕ . A sentient being can have a right to x, *iff* it has an interest in x, or rather, can be capable of interests whatsoever. A being without interests cannot take x to be prudentially good, nor can it contemplate its desire for the omission of y, if it does not take y to be bad for itself.²¹⁸

An interest in not suffering, is *the* interest which must guide all other rights, the nidus of which rights originate. But whilst an interest in the omission of suffering is a prerequisite for rights (more specifically claim-rights), it is only thus *iff* the right-holder's interests can be represented; one cannot be represented if one lacks interests.²¹⁹ But as frequently reiterated, the animal can and does have interests; instead the question whether the animal's interests can be represented, as determining a right-holder's claim, must be retorted.

2.4.1 First objection: Subjective claim

The first counterargument against the animal possessing rights is their inability to be claimants, something which I will subsequently retort. A propositional claim is a right-claim which when A is uttering it, in the broad sense of utterance, claims that A has a ground to make a claim on. This interest in itself, drawing on Feinberg's work, should be sufficient and

²¹⁸ Feinberg, Joel, "The Rights of Animals and Unborn Generations", *Philosophy & Environmental Crisis*, Blackstone, William T. (ed.), Athens (GA), University of Georgia Press, 1974, p. 51.

²¹⁹ *Ibid.*, p. 49.

necessary for having a propositional claim.²²⁰ A wrong to anyone with interests, is an undignified treatment of its propositional claim towards the world at large. To first ascertain subjective interests as being–heard, the claim towards the world must necessarily follow, at least insofar as stringency requires of a coherent theory.

Furthermore, having a right–claim, is dependent on a propositional claim; potentiality for substantial and performative claims are sprung from the former propositional one — whether one realizes the performativity in a claim is irrelevant for its existence, its potential ontological existence is necessary for claiming to exist.²²¹ As stated above, an interest must be able to be represented as a claim–right: “Animals obviously cannot press their claims on their own, and so if they have rights, these rights must be assertable by agents”.²²² Notwithstanding the marginal cases, it must *prima facie* be *true* that agents can represent the interests of patients. As long as an interest exists, and it can be transmitted from the patient as being–heard to the agent, there should be no difficulty in representation. All human beings — whether lacking rudimentary agency or not *compos mentis* (i.e. children, represented by either a parent or *in loco parentis*) or refusal of representation of interests (i.e. defendants in court) respectively — can be, and frequently are having their rights represented.²²³

One might argue against such notions, not on account of the animal not having interests, but on the basis of interspecies representation as an impossibility. Even if they can be said to have a “claim–right”, for say, charitable duties, it is not the same as stating their claim–right as sufficient to constitute a legitimate coercion on our freedom (as Kant’s “One Innate Right”).²²⁴ Although the animal can being being–heard, without representation its claims on interests are not being–heard (and are at best provoking a *noblesse oblige*). The freedom is under restraint from other claim–rights, and absolute freedom, although inherently praiseworthy, is not a right in itself.²²⁵ Freedom (conventionally understood) is in conflict with justice, whereas the latter can constrain the former, egalitarian justice demands less

²²⁰ Feinberg, “The Nature and Value of Rights”, pp. 251–2.

²²¹ *Ibid.* pp. 252–3.

²²² *Supra* note 218, p. 49.

²²³ *Ibid.*, p. 48.

²²⁴ Kant, “Metaphysics of Morality”, 6:237.

²²⁵ Dworkin, Ronald, “We Do Not Have a Right to Liberty”, *Liberty and the Rule of Law*, Cunningham, R. (ed.), Texas A & M University Press, 1979.

freedom, understood thusly.²²⁶ A Hohfeldian rights–duty correlation,²²⁷ constituting rights of contractual character (right in personal) and negative rights of non–interference (right in rem),²²⁸ are all a form of rights–claim, as a valid claim, formulated as: A has a claim that B ϕ iff B has a duty to A to ϕ .²²⁹ The correlative duty, a constraint on one’s own conduct, requires further deliberation.

The objective and normative good, Korsgaard explains, is what we take to be personally and naturally good for ourselves through performative action. The prudential interests implicit in actions we ourselves take as important enough to perform, we confer objective value, on our choice as rational, through our subjectivity. However, what we deem as naturally good, is not our ”human” self, but the animal self. It is not the rational subject for whom we legislate law, instead legislation governs the animal subject.²³⁰ The animal self must be treated as an end in itself, since ”[w]e legislate since “[w]e legislate that the things that are good or bad for beings for whom things can be good or bad [...] should be treated as *good or bad objectively and normatively*”.²³¹

Subjectivity in the animal cannot derive from subjectivity in humans, because humanity is not what is immanent in rationality. Rationality is not the eidos of humanity: animality transcends humanity, which is a prerequisite for rationality.²³² Humanity presupposes animality — animality in the sense of sentience: experiencing what *is*. Likewise, humanity presupposes animality as *the* good for which we legislate law. The law cannot be homogenous in its extension, i.e. legislated law governing rationality. We take pain to be prudentially bad, but pain is not a correlative of rationality. The animal self, is the capacity to experience suffering — suffering is the general and homogenous moral law governing all other conduct: which later translates into protection of rationality in humans.

We *can* represent the animal interests — when we represent our own interests, or the interests of others–as–us; we are *already* representing the animal interests.

²²⁶ Dworkin, Ronald, ”Justice and the Good Life”, *The Lindley Lecture*, Department of Philosophy: University of Kansas, 17 April 1990.

²²⁷ Hohfeld, Wesley N., ”Fundamental Legal Conceptions as Applied in Judicial Reasoning”, *The Yale Law Journal*, Vol. 26, No. 8, The Yale Law Journal Company, 1917, p. 710.

²²⁸ *Ibid.*, pp. 718–9.

²²⁹ *Supra* note 220, p. 257.

²³⁰ Korsgaard, ”Interacting with Animals”, p. 106.

²³¹ *Ibid.*, p. 109.

²³² For a logocentric approach confirming my conclusions, see Allen W. Wood’s ”Kant’s Ethical Thought”, Cambridge, Cambridge University Press, 1999. A non–logocentrism as well as a logocentrism can accept a theory which presupposes humanity within animality.

2.4.2 Second objection: Subjective participation and agency

Secondly, I shall inquire further into the theatre in which moral agents and patients interact, and the supposed strength of their inter- relationally and correlative connection. Even if animality is important in a universal postulate of the natural good, some theoreticians propose rights and duties as necessary correlatives. In other words, to be a moral patient one must also be a moral agent.

A theory equating these, a so-called contractarianism, is, in my mind, best exemplified by Jacques Lacan who explicates how "we owe it to a privileged function: the subject-to-subject practice that inscribes our duties in the order of eternal brotherhood. Its rule is also the rule of every action that is permitted to us",²³³ and John Rawls further declaration: "[t]hese individuals are roughly similar in physical and mental powers; or at any rate, their capacities are comparable in that no one among them can dominate the rest".²³⁴ Prior to any contract, there are no moral obligations — only a state of "Warre, where every man is Enemy to every man [sic]" — and since animals cannot consent to contracts, the non-hypothetical war has continued against them.²³⁵ Consequently, the Kantian conclusion regarding the animal — no direct correlative duties — substantiates.²³⁶ A agree to respect the claims of B, if B agrees to respect the claims of A, this reciprocity creates the framework for the rights discourse.²³⁷

A necessary condition of reciprocity would circumvent what Korsgaard means when she makes clear "there is no reason to think that because it is only autonomous rational beings who must make the normative presupposition, the normative presupposition is only *about* autonomous rational beings."²³⁸ Entitlement to justice, is dependent on the individual's

²³³ Lacan, Jacques, "A Theoretical Introduction to the Functions of Psychoanalysis in Criminology" (1950) Presented at *the Thirteenth Conference of Franco-phone Psychoanalysts*, Cénac, Michel (ed.), *Écrits*, Fink, Bruce (trans.), New York and London, W. W. Norton & Co., 2002, p. 122.

²³⁴ Rawls, John, "A Theory of Justice", Cambridge, The Belknap Press of Harvard University Press, (rev. ed.), 1999, pp. 109–110.

²³⁵ Hobbes, Thomas, "Leviathan: or the matter forme and power of a commonwealth ecclesiastical and civil", (1965), London, Oxford University Press, Ely House, 1651, p. 96 [62].

²³⁶ Kant, Immanuel, "Duties toward animals and spirits", *Lectures on Ethics*, Heath, Peter, and Schneewind, J. B. (eds.), Heath, Peter (trans.), New York, Cambridge University Press, 1997, p. 239.

²³⁷ Korsgaard, Christine M., "Personhood, Animals and the Law", *Think*, Vol. 12, No. 34, Cambridge University Press, 2013, p. 29.

²³⁸ Korsgaard, "A Kantian Case for Animal Rights", p. 13.

conception of "good" and "justice",²³⁹ a theory revolved around "giving justice to those who can give justice in return".²⁴⁰ Rational beings legislate law, but does not presuppose their rationality, or any other analogous aspect, as being primarily and exclusively protected through legislation. Be it as it may, a contractarianism does not need to presuppose any such sentiments to take it as quintessential for reciprocity.

The animal cannot be a moral agent — it cannot be a moral subject, even if it can potentially be subjected to moral actions — resulting in its inability to "enter into contractual agreements, or make promises; [since,] they cannot be trusted".²⁴¹ Brokering an agreement with the animal, which both parts would be bound to uphold, is impossible.

Nevertheless, Schopenhauer convincingly differentiates between what reciprocity as foundational for citizenry participation surmounts to vis-à-vis a theory of ethics:

Here, then, it is declared, as explicitly as anything can be, that moral obligation rests solely and entirely on presupposed reciprocity; consequently it is utterly selfish, and only admits of being interpreted by egoism, which, under the condition of reciprocity, knows how to make a compromise cleverly enough. Such a course would be quite in place if it were a question of laying down the fundamentals of state-organisation, but not, when we come to construct those of ethics.²⁴²

A reciprocal theory fails to give a coherent account of the difference between moral agents and patients. Any contractarian theory, if it does not want to exclude a large group of humans (i.e. children),²⁴³ must take brute luck (vicissitude essentially decided upon) into consideration. Consequently disregard such notions demanding similar physique or mental capacity as Rawls proposes.²⁴⁴ A contract between A and B does not make A, nor B, a right-holder in the general — such conclusions are non-sequitur — notwithstanding, it can make those involved in the covenant subjects of right in personal, or becoming "citizens".²⁴⁵ The contract is a "giving-up" on your freedom of action, through your free will, and in return (as

²³⁹ *Supra* note 234, pp. 442–3.

²⁴⁰ *Ibid.*, p. 447.

²⁴¹ Feinberg, "The Rights of Animals and Unborn Generations", p. 4.

²⁴² Schopenhauer, Arthur, "On the Basis of Morality" (1840), Bullock, Arthur Bodrick (ed. and trans.), Cambridge, Swan Sonnenschein & Co., 1903, p. 163.

²⁴³ Norcross, Alastair, "Puppies, Pigs, and People: Eating Meat and Marginal Cases", *Philosophical Perspectives*, Vol. 18, No. 1, 2004, p. 244.

²⁴⁴ Rowlands, Mark, "Contractarianism and Animal Rights", *Journal of Applied Philosophy*, Vol. 14, No. 3, Blackwell Publishing, 1997, p. 238.

²⁴⁵ Kymlicka, et al., "Proposed Brief", p. 15.

promise) gain other institutional rights, i.e. rights adhering to protection.²⁴⁶ Materialized so, it creates institutional rights or practical protection thereof, but does not, in fact, alter the inherency of the moral rights. As de Beauvoir says:

A freedom which is interested only in denying freedom must be denied. And it is not true that the recognition of the freedom of others limits my own freedom: to be free is not to have the power to do anything you like; it is to be able to surpass the given toward an open future; the existence of others as a freedom defines my situation and is even the condition of my own freedom. I am oppressed if I am thrown into prison, but not if I am kept from throwing my neighbor into prison.²⁴⁷

Absolute freedom cannot exist (not in a pre-contractual state nor there-after), freedom understood in any such manner is a misunderstanding of what freedom entails. If one's "freedom" to consume the animal's meat is in contrast with the animal's right to live (or, e.g. freedom), insofar as freedoms collide, the original right to freedom is non-existent — in itself and because it is in fact not a freedom at all. If a contract governs a restriction of "freedom" on a third-party, that particular freedom is illicit, insofar as the freedom is moral and *iff* the third-party "freedom" does not in turn restrict another one's freedom.

What follows is the animal's non-duties to us, but not our exempt of duties towards it.²⁴⁸ When Sartre says that "man is responsible [...] for all men",²⁴⁹ this would refer to the contractual responsibilities, rather than the natural rights and their correlative duties. This is why we cannot condemn the lion of eating flesh, neither can we approbate the cow for being a vegetarian. It is, insofar as we know, only humans who can subject others of morally compelled actions, and subsequently, only humans can be denounced and extolled.²⁵⁰ In other words, actions are not only condemnable *iff* the actions are directed at other moral agents likewise capable of condemnable actions. Simply put: Actions are condemnable *iff* they are wrongful actions directed towards individuals whose interests can be wronged, regardless of their moral capacity.

²⁴⁶ Hägerström, Axel, "Om social rättvisa" (1931), *Socialfilosofiska uppsatser*, Fries, Martin (ed.), Stockholm, Bonniers, 1966, pp. 106–107.

²⁴⁷ de Beauvoir, Simone, "Ethics of Ambiguity" (1948), Gaitis, Dawn (ed.), Frechtman, Bernard (trans.), Secaucus, Citadel Press, 2006, p. 82.

²⁴⁸ Korsgaard, "Interacting with Animals", p. 103.

²⁴⁹ Sartre, Jean-Paul, "Existentialism is Humanism", (1946) *Existentialism from Dostoyevsky to Sartre*, Walter Kaufman (ed.), Philip Mairet (trans.), Meridian Publishing Company, 1989.

²⁵⁰ Gandhi, Mahatma, (Gandhi, Mohandas Karamchand), "The Moral Basis of Vegetarianism", Address to the London Vegetarian Society (20 Nov 1931), *The Moral Basis of Vegetarianism*, Ahmedabad, Navajivan Publishing House, 1959.

2.5 Discussion

To recapitulate: the conceptual analysis, undertaken throughout this paper, subsequently yields the prime intuition of a right as an inherent property meant to protect an individual's prudential interests; an interest as a metaintentional desire, or belief, is a conceptual truth about said interest, and; the animal's possession of interests can be empirically extracted. The deconstruction of the animal has illustrated the definition of "the animal" as impossibly including all animals, with exception of the human animal — and followingly, *in toto* there are no distinctions separating all humans as having interests and natural rights and at the same time exclude the animal from such discourse.

Human Rights, contemporarily conceived as institutional and judicio-political, does just that, and faces the problem of "the animal". Human Rights is extra tangible to the challenges of "the animal"; whether the doctrine incorporates the contentious animal question, or diverge from human rights as sprouted from natural rights, the challenge remains the same: the animal question must be given due diligence. Since, the potential wrongs are virulent and deleterious in character — when "we judge falsely about our fellows, we had better make all the more sure that our beliefs and judgments are [in fact] true."²⁵¹ The ambiguity between the concepts (and within them as well), must make our beliefs exigently susceptible to critical reflection.

The false judgments, insofar as they ipso facto are false, or the *modus of operandi* of human unreflected conduct (as utilitarianism for animals, Kantianism for people) should be reconsidered greatly. Greatly in the sense that it does not do to consider the matter as has been done up until today. In the same "spirit" as whence one of Fyodor Dostoyevsky's characters asks the other if she has read *Faust*, whereupon she answers "... not carefully"; she receives the reply: "That is, you haven't read it at all".²⁵²

In other words, the animal question, until fully and non-arbitrarily construed, has not been analyzed at all; rather, it has been misconstrued making killing and pain-infliction of, and on the animal non-criminal and wholly outside the discourse discussing direct moral responsibilities and duties. "The animal" is a misnomer of the animal, and not carefully read

²⁵¹ Feinberg, Joel, "Noncomparative Justice", *The Philosophical Review*, Vol. 83, No. 3, Duke University Press, 1974, p. 338.

²⁵² Dostoyevsky, Fyodor, "The Meek One: A Fantastic Story" (1876), Meyer, Ronald (trans.), Bungay, Penguin Books, 2015, pp. 6–7.

results in its unreflective meaning, what the animal signified means must correlate to its signifier — the animal rights debate (and human rights) have to address the incorrect correlation between the "the animal" as signifier and signified. When the performativity is inescapable essentialism (when the woman is a sexed body or "the animal" a homogenous subspecies) it becomes pernicious for amelioration and critical thought.

An ideology portraying the sole true meaning, is not only an ideology or culture creating meaning, it is something which determines "the mode of our everyday experience of reality itself",²⁵³ and as such, something which would not only cloud our judgments but also replace *the* question of suffering, by appeal to ideological misogyny, racism, or speciesism. Because contemporary interpretations of "the animal" are not only circuitous and different from the animal, but the word is also circuitously indifferent to the animal.

3 Conclusion

In conclusion, I have presented apparent deficiencies and problems within a conception of human rights as exclusively human — Human Rights, conceived thusly, will need further justification. Any argument based on generalizations of what x is based on what x is not, must come with the onus of justification on such actions, and even then the burden of proof must be quite substantial.

In effect, "the human" as conceived as what "the animal", ipso facto, is not, is caustic and problematic. Because, what "the human" *is* is inequivalent with what "the animal" is not; the animal conceived as a general concept of animality, whereas human's rationality has made it non-animal, begs the question by cherrypicking one arbitrary proponent amongst many. And in a world of the Other as immanent in the "I's", and subjects wielding power to coerce the "I's" freedom, the animal as an Other-as-subject demands moral consideration qua their interests constituting coercion on one's free will.

²⁵³ Žižek, Slavoj, *The Sublime Object of Ideology* (1989), New York, Verso Books, 2008, pp. 49–50.

The animal question needs further deliberation, and human rights theories must accommodate the criticism and weaknesses made visible by illuminating upon what "the animal" cannot be said to be. Either with regards to a further cementation of Human Rights as distinct from human rights (although I believe moral rights to be distinctly important), or by compromising (realizing human rights as not exclusively human and adapting the following legislation thereafter).

Regardless, the animal question is far from answered, any contrary perception is far askew. I suspect the forum in which the question would be most aptly addressed is within an egalitarian framework, contributing an increased egalitarian plateau, in which qualitatively different aspects in rationality, autonomy, etc., plays no part.

Lastly, in conclusion, I would want to further stress the non-instrumental character of the findings of this paper. Even if the practical implementation (and conceptual definition of "the animal") is oblique comparatively with the deconstructed animal and the moral rights inherent therein — the practical correction thereof, is not something which can be retorted here. Instead, empirical proof, insofar as this paper has proven, should indicate continued needed research. Any travesty of moral rights must be deterred, transcending the moral dichotomy of Human Rights and human rights.

As much as being-heard can be deconstructed, its correlative is as true — e.g. the infrastructure of being-heard as subjectiveness can be reconstructed. Incorporating this in the subsequent debates regarding Human Rights (as well as other rights discourse sprung, or justified, from moral rights), as either further arguments against such notions, or its intertwinement within the framework, is indispensable. Human Rights comparative to human rights is lacking univocally in completeness. The saliency of Human Rights is codependent upon the animal question — as a facet in the nexus of human rights; happen what may, the pellucid demand for increment moral consideration for the animal must be assimilated into discourse.

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