

# Putting Cruelty First

## Exploring Judith Shklar's Liberalism of Fear for Animal Ethics

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This paper critically examines the extent to which the debate about animal ethics can be enriched by an exploration of Judith Shklar's liberalism of fear. Shklar's form of liberalism proceeds from the conviction that cruelty is the greatest vice. Even though Shklar did not write with animals in mind, her work is, *prima facie*, promising for theorists who are concerned with animals. A focus on cruelty provides an immediate and readily-understood avenue for liberals to recognize and criticize animal suffering. Putting cruelty first also connects with the way many animal advocates talk about human mistreatment of animals. Shklar's thinking about cruelty was powerfully shaped by Michel de Montaigne, whose essay "On Cruelty" is explicitly attentive to human cruelty to animals. Nonetheless, we need to be suspicious about how effectively a liberal conception and critique of cruelty designed for humans can be transposed to animals.

*Keywords:*

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### INTRODUCTION<sup>1</sup>

As Siobhan O'Sullivan observes in her discussion of advocating for animals within a liberal paradigm, whatever the problematic status of animals within that tradition, "the strongest claims for animal protection have developed using liberalism's own protective tools." (2007, p. 3; see also Sanbonmatsu, 2011, p. 27; Milligan, 2015)<sup>2</sup> The liberal legacy for animal ethics is evident in Peter Singer's *Animal Liberation* (1975), and Tom Regan's *The Case for Animal Rights* (1983). The publication of *A Theory of Justice* by John Rawls (1971) spawned an active debate about whether animals could be subjects of his form of contractarian justice, and this debate continues today. (For an overview of the debate, see Garner, 2012.) The very title of Robert Garner's 2013 work, *A Theory of Justice for Animals: Animal Rights in a Nonideal World*, manifests its engagement with Rawlsian liberalism. In *Frontiers of Justice: Disability, Nationality, Species Membership*, Martha Nussbaum extends her human capabilities approach, which she presents as a form of political liberalism, to animals (2006, pp. 325–407). Kimberly Smith (2012) likewise develops a form of political liberalism that includes animal ethics in *Governing Animals: Animal Welfare and the Liberal State*. In *Zoopolis: A Political Theory of Animal Rights* (2011), Sue Donaldson and Will Kymlicka bring Kymlicka's group-differentiated approach to liberal rights (Kymlicka, 1995) to bear on the question of animals.<sup>3</sup>

As these different, liberal-inspired interventions in the animal ethics debate indicate, contemporary liberalism is a plural school of thought,<sup>4</sup> nourishing several approaches to questions of rights, justice, and equality for humans and generating different angles on animal ethics. In this article, I examine how the debate about animal ethics can be enriched by yet another vein of contemporary liberalism—the liberalism of fear. First articulated by Judith Shklar and echoed by Richard Rorty,<sup>5</sup> this approach proceeds from the conviction that cruelty is the greatest vice from a liberal perspective (Shklar, 1984, p. 5).<sup>6</sup> Even though Shklar did not write about cruelty primarily with animals in mind, her espousal of a form of liberalism committed to minimizing cruelty is, *prima facie*, highly promising for those theorists who are concerned with animals. In her detailed and careful account of Shklar's political theory, Kamila Stullerova (2014) claims that putting cruelty first entails that "No victim should be ignored because their sense of suffering escapes the accepted convention of meaningless suffering or the prevailing norm of protection from harm." (p. 35) Although Stullerova does not take this step, her insight gestures toward a Shklarian conception of cruelty capacious enough to include animals.

Shklar's liberalism of fear offers a number of attractions to theorists of animal ethics. She acknowledges that victims of some forms of cruelty can themselves perpetrate cruelty on others, thus complicating our conception of what it is to be a victim. Shklar accepts that

putting cruelty first provides no simple solutions to complex political and ethical situations. Shklar's negative approach to morality, which focuses on avoiding harms rather than promoting goods, is especially helpful for animal ethics. Her expositions of ordinary vices like cruelty implicate personal character and disposition as much as public actions and practices, and thus have implications for both ethics and politics. In so far as Shklar provides a form of virtue ethics, it is virtue ethics ensconced within liberal political theory. Her focus on cruelty also provides an immediate and readily-understood avenue to recognize and criticize animal suffering in a way that a more conventionally liberal emphasis on rights or interests, for example, does not. It thus avoids the charge that ethic of care theorists level at other forms of liberalism for being too removed from how people feel about the mistreatment of animals and from what motivates them to act against it (Luke, 2007; Gruen, 2015). Putting cruelty first thus connects with the way many animal advocates talk about humans' mistreatment of animals and with how they understand their activism, which ethic of care theorist Brian Luke, for example, insists upon (2007, p. 132).

Shklar's own analysis of cruelty was powerfully shaped by Michel de Montaigne's attention to and critique of cruelty. Dubbing him "the hero" of her *Ordinary Vices*, she declares that Montaigne "put cruelty first, and it is from him that I have learned just what follows from that conviction." (Shklar, 1984, p. 1–2; cf. Shklar, 1989, p. 23) Montaigne is not, as Shklar readily concedes, a straightforwardly liberal or even proto-liberal thinker (1989, p. 23), and perhaps for that reason, most contemporary liberal theorists do not invoke him as a source for their thinking. Yet Shklar's retrieval of Montaigne as a progenitor for her reflections on cruelty enhances the value of her particular brand of liberalism for theorists of animal ethics. First, Montaigne's essay "On Cruelty" [*De la Cruauté*], first published in 1580,<sup>7</sup> is explicitly attentive to human cruelty to animals as well as to other humans. It thus avoids the human-centeredness of standard liberal approaches. Hassan Melehey (2006, p. 98) even suggests that by interspersing examples of human-on-human cruelty with those of human-on-animal cruelty, Montaigne is illustrating human kinship with animals. Both suffer agony caused by cruelty and the pain of both warrants attention. Second, Montaigne inspires Shklar to look at cruelty from the standpoint of its victims and heightens awareness of what she calls "negative egalitarianism" (Shklar, 1984, p. 29), which is attuned to the connection between cruelty and signifi-

cant power imbalances between its perpetrators and recipients. As I outline below, attention to such power imbalances is vitally important when theorizing human-animal relations.

Yet despite the many attractions that Shklar's liberalism of fear holds for animal ethics, we must also interrogate whether and how effectively a liberal conception and critique of cruelty designed primarily with humans in mind can be transposed to animals. As O'Sullivan (2007, p. 3) reminds us, mainstream liberalism has not shown much concern for animals and places human interests above those of animals. Any liberal conception of cruelty devised for and about humans must, therefore, to be handled with caution when applied to animal ethics. While most of this article enumerates the significant advantages of Shklar's approach for animal ethics, I conclude by acknowledging some of its drawbacks.

### SHKLAR ON CRUELTY

Cruelty for Shklar (1984) means "the willful inflicting of physical pain on a weaker being in order to cause anguish and fear" (p. 8). This prioritizes intentional and instrumental cruelty: the perpetrator willfully imposes physical pain "in order to cause" an adverse affective response in the recipient. Some acts of human cruelty to animals do satisfy this requirement of intentionality: the sort of horrific stories that spring up in the media about setting cats on fire, or putting pets in microwave ovens, indicate that the perpetrator intended this. But the human's goal might not have been the one that Shklar takes as definitive of cruelty. Creating "anguish and fear" in the animal is surely a consequence of such cruel actions, but the perpetrator's goal might have been to acquire or enhance a sense of power, to display their toughness to friends or, in some instances, to inflict psychological distress on other humans via the animal's suffering.<sup>8</sup> In any one case, the perpetrator's motives could, moreover, be multiple and mixed. People who hear of such acts of cruelty frequently assume that their perpetrator has a mental disturbance. Yet the evidence of mental disturbance is rarely independent of the act: the evidence is taken to be the act of cruelty itself. In contrast to this common reaction, one benefit of Shklar's definition is that it allows us to consider that cruelty can be motivated by a desire to see an animal suffer anguish and fear. But to stipulate that it must be is too limiting.<sup>9</sup>

Another limitation of Shklar's definition of cruelty when applied to animals is that much contemporary human cruelty is unintentional, or at least many of its beneficiaries are unaware of it.<sup>10</sup> The use of cows, sheep,

pigs, and chickens in industrialized food production amounts, in the eyes of many animal advocates, to institutionalized, large scale, intensive, systematic cruelty.<sup>11</sup> But we have to separate the humans implicated in such cruelty into two groups (cf. Engster, 2006, p. 530). Most are not the immediate agents of animal cruelty but are involved indirectly by being its beneficiaries, and by continuing to tolerate, or turn a blind eye to, it. Most of the beneficiaries of this cruelty, moreover, are ignorant of the amount and type of animal suffering involved in these forms of food production. These practices are out of sight and out of mind for most consumers who, nonetheless, benefit from and participate indirectly in the cruelty by purchasing animal-based products at prices lower than they would cost were humane farming methods employed.<sup>12</sup>

A second group of humans more directly involved in this cruelty are the factory owners, their employees, and those who design the industrial systems of food extraction and slaughter. But even in the case of this group who intentionally inflict cruelty on animals, Shklar's definition is limited because of its instrumental component. Many and perhaps most of these people are not motivated primarily by the desire to cause anguish and fear in the animals. The owners are driven instead by the goal of producing large amounts of animal-based food cheaply and quickly, and enjoying the profits thereof. The workers are motivated to earn their income through participation in this industry.

Although he is not writing with animals in mind, John Kekes (1996) is highly critical of Shklar's definition of cruelty and offers a number of valuable points about its limitations. Kekes says, for example, that

... to be a cruel person it is not necessary to know that the relevant action will cause pain to the victim, for the agent's indifference to the victim's pain may be so extensive as to preclude awareness of the misery the action inflicts ... Cruelty may thus be ascribed to human agents both when they know what they are doing and when they do not. The point of the condemnation involved in saying that an agent is cruel may be to assign blame for not knowing what the agent ought to know, namely, that his or her habitual actions regularly cause suffering. (Kekes, 1996, p. 837; see also p. 839)

By allowing for unintentional but culpable cruelty, Kekes's approach permits us to portray the use of ani-

mals in industrial food production as a matter of cruelty. It is easy to argue that any adult who consumes animal products "ought to know ... that his or her habitual actions regularly cause suffering." One benefit of such a portrayal is that many people who would not normally think of themselves as cruel towards animals might come to see that this is a form of cruelty and so be moved to end or reduce their complicity with these practices. Were more people informed, they could readily perceive this as an issue of cruelty and take steps—both in terms of consumer choices and of support for much tighter and more strictly enforced industry regulation—to diminish this form of cruelty. But as animal advocates point out, the massive animal suffering caused by industrial food production is widely concealed in contemporary western societies, and it demands effort and commitment to become informed about this. If this were cast as a form of cruelty, which is readily comprehensible as a critique of animal treatment to most people, more might be moved to learn more about the horrors of this mode of food production.

Bernard Rollin (2012, pp. 255–256) deems the charge of cruelty to be an inadequate approach to criticizing industrial food production because existing anti-cruelty laws require intention and protect actions deemed necessary for human welfare. Rather than stopping at the status quo, my suggestion is that we come to see cruelty in new or unfamiliar places, which seems highly compatible with Rollin's repeated insistence that theories of animal ethics must connect with and build upon existing sentiments (pp. 252, 256). And while I fully agree with Daniel Engster (2006) that this form of food production represents a failure to care for animals, the more active language of cruelty is both more accurate and more effective in urging change. Indeed, Engster likens this treatment of animals to "torture" (2006, p. 529), but as cruelty is already part of the established vocabulary for talking about humans' mistreatment of animals, there is good reason to deploy it here.

So Shklar's intentional, instrumental definition of cruelty is of some, but limited, utility for animal ethics. Its limitations do not, however, doom the significance of her liberalism of fear for animal ethics because many of the other implications she draws from putting cruelty first are not strict logical entailments of her definition.<sup>13</sup> Because the rest of her analysis is not powered solely by the definition,<sup>14</sup> other aspects of Shklar's analysis of cruelty are more valuable when confronting animal issues.

Although her definition of cruelty refers generically to "weaker beings," the examples of cruelty that pepper

Shklar's analysis suggest that she is imagining primarily its human recipients: she writes of cruelty to children and political foes (Shklar, 1984, p. 2), and of the cruelties of the wars of religion (Shklar, 1984, p. 5; 1989, p. 23). At one point, however, she couples animals and children as "helpless beings" upon whom "wanton pain" can be inflicted. Their pairing ends soon after, though, as Shklar reflects that having all been children once, we remember the vulnerability of that condition (1984, p. 24). Having never been nonhuman animals, we have no personal experience of their vulnerability to recall. This brief inclusion of animals as victims of cruelty appears, interestingly, shortly after she evokes a scene from a Nadine Gordimer novel in which a donkey is harshly beaten. She raises the possibility that the batterer is the real victim because he is oppressed by the apartheid system. Yet this sort of exculpation seems to illustrate for Shklar what happens when you fail to put cruelty first, suggesting that she is critical of mitigating the suffering human's mistreatment of the donkey. Shklar goes on to observe that putting cruelty first provides no simple solutions to complex political and ethical situations: "doubts and uncertainties" will and must persist (1984, pp. 22–23).

Two other points can be productively extracted from Shklar's comments on this vignette of animal cruelty. The first is that putting cruelty first encourages us to complicate the conception of victim. Individuals who experience some form of cruelty or oppression can also act cruelly towards others: there is no clear and distinct binary between doing and suffering cruelty.<sup>15</sup> From this perspective, the answer to her question—"Are the tormentors who may once have suffered some injustice or deprivation also victims?" (1984, p. 17)—must be "Yes." Indeed, those who continue to suffer injustice or deprivation can also victimize others—it does not have to be past victimization. It could even be the case that being, or having been, a victim of cruelty makes one more likely to treat others cruelly.<sup>16</sup> Putting cruelty first should alert us to all the contexts and relationships in which it can occur. But when another of Shklar's rhetorical questions—"may we not all change parts in an eternal drama of mutual cruelty?" (1984, p. 17)—is posed to human-animal relations, the answer must be "No." Because of the vast power imbalance between humans and animals, humans are not victims of animal cruelty. There is no opportunity for, or danger of, reciprocal cruelty here.

Although she is a liberal, Shklar's recognition of the ethical complexity that accompanies putting cruelty first should be welcomed by those animal ethicists whose work has been informed by the ethic of care tradition.<sup>17</sup>

One feature of this tradition is its framing of ethical dilemmas in terms of compromise and conciliation rather than employing clear formulae that apply in any and every case. Such theorists can welcome Shklar's concession that there are no simple solutions to complex political and ethical situations and that "doubts and uncertainties" must persist. Although in the current debate on animal ethics, theories influenced by liberalism and those inspired by an ethic of care tend to be at odds with one another, in this way Shklar's brand of liberalism represents a possible meeting ground between them.

Another way in which Shklar's approach can avoid some of the charges typically leveled by critics of liberalism appears in the fact that on her analysis, ordinary vices such as cruelty "involve our whole character" (Shklar, 1984, p. 2) and so trouble any strict or neat public/private separation. Instead, they call into question personal character and disposition as much as public actions and practices. Her demand that cruelty be eschewed on both the personal and the public fronts is directly relevant to animal ethics because reducing cruelty to animals of the wholesale and widespread type involved in the industrial production of food requires public action and legislative reform as well as change in individuals' characters. Animal suffering is so implicated in myriad small daily practices, habits, and routines that reducing that suffering demands change at the individual level in behaviors and attitudes. Even if laws change or acquire teeth, or until they do, in order to diminish cruelty, humans must become sensitive to and disturbed by the many and varied quotidian ways in which animals suffer because of our choices about what to eat, what to wear, how to travel, what cosmetics and cleaning products to buy, what to sleep on, what to sit in, and so on. But as intimated above, the character shift called for is not radical: many people in western societies already are distressed by animal cruelty, or profess to be. What is required is a more consistent and thoroughgoing application of this concern, allowing people to perceive animal cruelty in new, unfamiliar or hidden places, such as industrialized food production, circuses, bull fighting, and greyhound racing, to name but some.

Shklar reads Montaigne as rebelling against Machiavelli's praise of cruelty, and one compelling way in which he does this is by considering cruelty from the standpoint of its victims (1984, p. 11). This strand of her analysis is also detachable from her intentional and instrumental definition of cruelty because when cruelty is examined from the vantage point of its victims, the motivations and goals of the cruel seem less significant than

the pain and anguish of its recipients. Seeing cruelty as its victims do is yet another aspect of Shklar's account that is promising for animal ethics, or at least that branch of it which promotes empathizing with animals who suffer. For that branch of animal ethics informed by ethics of care thinking, the accent falls upon a compassionate and affective identification with the animal victims of human cruelty and imagining what their blighted lives are like. Consider Luke's insistence that

... rather than focusing exclusively on logic and considerations of formal consistency, we might better remember our feeling connections to animals, while challenging ourselves and others to overthrow the unnatural obstacles to the further development of these feelings. This process of reconnecting with animals is essentially concrete, involving relations with healthy, free animals, as well as direct perceptions of the abuses suffered by animals on farms and in laboratories. (1995, p. 312)

In emphasizing just this sort of empathy with those who suffer cruelty, we see once again how Shklar's version of liberalism creates a potential meeting ground between approaches to animal ethics that currently diverge from one another.

Looking at cruelty from the standpoint of the victims leads one of Shklar's interpreters to point out that these victims might be "silenced by pain." (Stullerova, 2014, p. 41) Any politics that puts cruelty first thus "necessitates the element of a vigilant agent ... who records and reports cruelty but is not directly subjected to it" (Stullerova, 2014, p. 41). This is also directly relevant to animal ethics, for animals are mute, politically speaking at least, whether in pain or not, and so require vigilant human agents to condemn the cruelty their fellow humans inflict upon animals. This also accords very closely with the way many animal advocates see their role, as lending political voice to those who have none.<sup>18</sup>

In her account of ordinary vices in general, and of cruelty in particular, Shklar is adducing what has come to be known as negative morality. Such an approach "begins with what is to be avoided." (Shklar, 1984, p. 5; cf. p. 4) As Jonathan Allen says,

We do not know what a perfectly just society would be like to live in, but we do know—some of us know from everyday experience—what it is to live in an unjust, or cruel, or humiliating society. There is thus a cognitive reason for sometimes assigning priority to nega-

tive morality over elaborating a theory of respect—it is often easier to identify evils than it is to recognize and understand goods. (Allen, 2001, p. 350)

While the distinction between reducing suffering and promoting well-being cannot, in the final analysis, be too sharply drawn,<sup>19</sup> in the case of animals, negative morality seems especially appealing both because of the enormity and urgency of the problem of animal suffering and because of the great variety among animals, both within and among species. Action to remedy and reduce animal suffering can be engaged in more rapidly and confidently than action to promote their flourishing. Indeed, beyond a certain minimum, it can be hard to say what each animal needs in order to flourish: inter- and intra-species differences must be taken into account. Beyond a minimum of food and shelter, the conditions required for a domestic cat to flourish, for example, differ markedly from those for a feral cat. Thus the epistemic benefit Allen attributes to negative morality – that it is often easier to identify evils than understand goods – applies *a fortiori* to the case of animals.

As indicated above, Shklar's definition of cruelty makes its victims "weaker beings" than its perpetrators, indicating that cruelty is not a vice that can be exercised *inter pares*. In the case of intra-human relations, "social distances create the climate for cruelty" (Shklar, 1984, p. 28), which explains why cruelty's human victims have disproportionately included children, slaves, and peasants. This connection of cruelty with a significant power imbalance between perpetrator and recipient is an especially valuable feature of Shklar's approach for animal ethics. Despite the occasional story of sharks and crocodiles eating humans, the power discrepancy between humans and animals is immense and grows ever larger with technological development. And whereas many power imbalances between humans can be challenged and perhaps modified over time, such as that of men over women, or the abolition of some forms of slavery, or peasant revolt, or worker uprisings, the power gap between humans and animals is less amenable to change in favor of animals. Animals cannot really be empowered vis-à-vis humans through their own efforts: improvement in their conditions is dependent upon humans committing to less cruel treatment of them.

Indeed, this facet of Shklar's definition of cruelty is at odds with its intentional component, because the greater the power imbalance between them, the less the powerful person, group, or species need even be aware of the effects of its actions on its victims. As Kekes

points out above, actions that when considered from the victim's perspective feel cruel need not have been intended as such by their perpetrator. The wide social or psychic difference between perpetrator and victim that Shklar refers to can obscure for perpetrators the harm that their cruelty does. So here again we see that her analysis of cruelty is not hobbled by her limited definition: while her definition of cruelty calls for intentionality, her attention to the wide power imbalance between perpetrator and victim makes this less imperative.

In paying attention to such power imbalances, Shklar is inspired by the negative egalitarianism she finds in Montaigne. As she portrays it, "negative egalitarianism is really a fear of the consequences of inequality, and especially of the dazzling effect of power, which frees its holders from all restraints. It is an obvious corollary of putting cruelty first." (Shklar, 1984, p. 29) One impact of liberalism on contemporary animal ethics has been to push many advocates to emphasize animals' equality with humans in some key respects, such as rationality, empathy, ability to know other minds, intra-species communicative skills, or moral capacity. But as ethic of care theorists Josephine Donovan and Carol Adams (2007) insist, "Animals are not equal to humans; domestic animals, in particular, are for the most part dependent on humans for survival—a situation requiring an ethic that recognizes this inequality" (p. 6).<sup>20</sup>

Whatever benefits have flowed to humans over the last few centuries from the liberal critique of arbitrary hierarchy, this critique has simultaneously disabled liberalism from thinking productively about the sort of enduring inequality that marks human-animal relations. Here we run up against a structural limitation of liberalism as a resource for animal ethics because liberals have traditionally been uncomfortable with the idea of any sort of natural or permanent hierarchy among humans. Yet because hierarchy is an insuperable feature of human-animal relations, the challenge becomes one of persuading or requiring humans to exercise their power over animals ethically. As Michael Allen Fox (2012) declares, "Humans are the responsible parties in the human-animal relationship, and ... the ones who ... will determine the nature and quality of moral space" (p. 209). One way of formulating this insuperable power gap is to say that humans represent a permanent aristocracy when it comes to animals. This, in turn, makes it more fruitful to pursue a version of *noblesse oblige* for their treatment—or perhaps to coin the idea of *powvoir oblige*.<sup>21</sup>

Unlike most forms of liberalism, the liberalism of fear is willing to think about how to ethically navigate chronically unequal relationships. Its negative egalitarianism demands an ethic of power that does not free "its holders from all restraints." (Shklar, 1984, p. 29) It is salutary therefore for animal ethicists operating within the liberal tradition to follow Shklar's example and worry about the effects of a great power imbalance and the many dangers to animals that arise from the insuperable inequality between them and humans. While this structural inequality is more visible in the case of companion animals and those killed in industrial food production, it also holds for wild and liminal animals. Destroying their habitats through deforestation or despoiling them through pollution is a form of cruelty<sup>22</sup>—even if not of the intentional, instrumental type. Because cruelty is already a commonly used term for condemning some human mistreatment of some animals, a vocabulary centered around cruelty is a good place to extend this campaign. Shklar's attention to enduring power inequalities also brings her brand of liberalism into direct conversation with the ethics of care tradition and its dedicated attention to dependency relationships.<sup>23</sup> So once again we see how Shklar's brand of liberalism creates a potential crossroads between approaches to animal ethics that currently diverge from one another.

### CRUELLY HATING CRUELTY

As is Montaigne's wont, his essay on cruelty does not deal directly with its stated topic until around half way through when he proclaims his hatred of cruelty [*Je hay, entre autres vices, cruellement la cruauté ...*]. He hates cruelty both because of his nature and on the basis of his judgement. Crowning it "the extreme of all the vices," his first explicit examples are, interestingly, animals used for food and sport. His hatred of cruelty engenders a weakness or softness [*mollesse*], leaving him disturbed by the sight of a chicken's neck being pulled off and by the groans of a hare in his dog's teeth. As this suggests, it was easier for someone in Montaigne's time to see cruelty in food production than it is for most westerners today who never witness the necks of the chickens they eat being broken.

The speed with which Montaigne's discussion turns to sexual activity, and the essay's earlier discussion of reason triumphing over the inclinations being applied to the act of sexual intercourse, indicates that animal cruelty is not his primary concern here. This impression is compounded by his ensuing discussion of human victims of cruel punishments and torture at the hands of

the state. Human cruelty towards animals is, nonetheless, a real feature of this essay. “De la Cruauté” wends its way back to a concentrated focus on animals when Montaigne recounts his displeasure at seeing an innocent, defenseless animal being pursued and killed by humans. He returns to the hunt to lament the exhausted and defeated stag who gives up and gives in, the stag’s tears imploring his pursuers for mercy. Montaigne admits that he usually releases any animal he catches, and cites Pythagoras that killing animals for food stains humans.

Montaigne speculates that nature has implanted in humans an instinct for inhumanity [*Nature, à ce creins-je, elle mesme attache à l’homme quelque instinct à l’inhumanité*]. As evidence for this he observes that humans prefer watching animals tear one another to pieces over seeing them play with and caress one another [*Nul ne prend son esbat à voir des bestes s’entrejouer et caresser, et nul ne faut de le prendre à les voir s’entredeschirer et desmambrer*]. The possibility that people are cruel by nature alludes to the essay’s opening meta-ethical reflections which explore rival conceptions of what makes behavior moral. Is it action that comes easily or, in a proto-Kantian vein, are we more moral the more we have to struggle against our inclinations? If Montaigne is correct that humans are naturally inhuman, then the second approach to ethics, which calls for overcoming natural dispositions, seems apropos. But as we have seen, Montaigne does not think of himself as naturally cruel, so he himself provides some evidence that some humans either do not share, or can overcome, this supposedly basic instinct.

Lest his softness and sympathy for animal suffering make him risible, Montaigne evokes Christian theology’s teaching that animals are also God’s creatures. Being members of the same family, humans should show “respect and affection” for their animal kin. The author of the *Essais* does not often invoke Christian teaching. Whatever his own personal religious orientation, my sense is that Montaigne repeatedly reaches back to the ancients for ethical counsel because at the time he was writing, Christianity was such contested terrain. He typically tries to carve out an ethical space largely untroubled by the ambient religious debates and controversy, constructing and exploring a self whose identity is not primarily construed in religious terms. Perhaps Montaigne breaks from this tendency and refers directly to theology on this occasion because he thinks that whatever their raging intramural doctrinal disputes, Christians should be sufficiently united around this belief in kinship with the animals as fellow creatures of God.

But Christian theology is not the only religious resource for conveying human kinship with animals. Montaigne draws on the “religion of our Ancient Gauls” which posited the possibility that humans would be reincarnated as animals. The animal one came back as was, moreover, influenced by divine justice to bear a relationship to the sort of person one had been. Thus the courageous recur as lions, the timid as harts or hares, the deceptive as foxes, etc. This reincarnation scenario should change the way humans view animals, for humans might have once been, and could again be, non-human animals. Montaigne’s compassion for the hunted hare seems rather less risible if his readers entertain the possibility that this is a temporarily transmogrified timorous person. His reincarnation scenario also contrasts with Shklar’s above-noted claim that having all been children, we remember the vulnerability of that condition, but having never been nonhuman animals, we have no personal experience of their vulnerability to recall. If we can imagine that we might once have been, and might again be, nonhuman animals, that should change our ability to identify with them and their suffering.

Although Shklar does not make this connection, one effect of both of these religious strands of thinking about animals—as fellow creatures of the same master [*un mesme maître*], or as creatures who have been, and will again be, human and whose form we ourselves might one day share—is to promote what she calls Montaigne’s negative egalitarianism. The vast power difference between human and animals could be reduced, and animals’ wanton treatment discouraged, when they are conceived of in either of these ways. Negative egalitarianism might also shed some light on why Montaigne is dismissive of those ancient and noble cultures which have made the error of deifying animals. (Again it is noteworthy what an uncharacteristic move it is for him to call another culture’s practices erroneous.) In place of animals’ deification, he prefers “more moderate opinions” which emphasize our close resemblance to them. He seems more interested in stressing humans’ horizontal connections with animals than in simply reversing the hierarchy between them. In light of these similarities, or family resemblances, Montaigne “willingly renounce[s] that imaginary kingship that we give ourselves over other creatures” [*[Je] me demets volontiers de cette royauté imaginaire qu’on nous donne sur les autres creatures*].

Montaigne concedes that even readers not persuaded by his portrait of human kinship with animals should accept that humans owe them “a certain respect and a general duty of humanity ... We owe justice to humans,

but grace and kindness to the other creatures who can receive it” [*un certain respect qui nous attache, et un general devoir d’humanité ... Nous devons la justice aux hommes, et la grace et la benignité aux autres creatures qui en peuvent estre capables*]. If we have to be kings rather than kin, it should be a benign and benevolent rule rather than any Machiavellian model of princehood. Once again, Montaigne’s remarks about humans’ proper status vis-à-vis animals further evidence what Shklar calls his negative egalitarianism as an antidote to cruelty as a prerogative of the powerful who believe in their superiority over others and consequent right to use them in unrestrained ways. This powerful idea that she extracts from his work to enrich contemporary liberalism is, therefore, just as active in his thinking about animals as it is about humans.

As his essay on cruelty concludes, Montaigne implicitly groups himself with those ancients who treated certain animals with kindness by including an image of himself submitting to his dog’s desire to play, even though the timing is unpropitious. This is probably the same dog who earlier snares a suffering hare in its teeth, which suggests that the possibility of eschewing cruelty is reserved for humans. (Although in the case of hunting, dogs are bred, trained, and urged by humans to harm their prey, so even if animals are capable of cruelty, this is not a good illustration of it.) Montaigne attributes his indulgence of his dog to the tenderness of his own childish nature [*la tendresse de ma nature si puerile*], evoking the image of two of God’s children playing together. But this is the sort of image we are not supposed to relish, if his earlier claim about humans’ inclination to inhumanity is correct. This vignette of Montaigne playing with his dog thus casts further doubt upon his speculation that nature has implanted an instinct for inhumanity in humans. It also recalls the essay’s opening material about meta-ethics by showing us a human to whom kind treatment of animals comes easily. We are left wondering if the proto-Kantian approach to morality adduced at the essay’s outset—a deed is only moral if it requires self-overcoming—is itself a form of cruelty that humans inflict upon themselves.<sup>24</sup> Or perhaps it is that by cruelly hating cruelty, Montaigne redirects the natural tendency to cruelty in a way that benefits, rather than harms, animals.

Montaigne recommends proper treatment of animals in a way that resonates with John Rawls’s words on human duties to animals at the end of *A Theory of Justice* (1971) nearly four centuries later.<sup>25</sup> Like Montaigne, Rawls argues that animals are not the “sorts of beings [who] are owed the guarantees of justice” (1971, p. 505).

But situating animals outside the sphere of justice does not license us to treat them as we like. Rawls avers that cruelty to animals is wrong and that humans have “duties of compassion and humanity” toward animals because of their sentience and sociability (p. 512). Yet this approach to animal ethics, which places animals outside the realm of justice but within that of morality by requiring their humane, respectful, and compassionate treatment, has been attacked as wholly inadequate by some theorists who insist instead that animals be included in the sphere of justice.<sup>26</sup> Another of the benefits of turning to Shklar’s work on putting cruelty first is that it subverts the justice/morality distinction, suggesting that we don’t have to choose between these options. Putting cruelty first requires both legal protections against cruelty as well as a change of ethical character to reduce the presence and power of this vice. As Gary Wihl (writing without animals in mind) observes, while her liberalism belongs squarely within the tradition of rights protection, Shklar’s “emphasis on fear, cruelty, and the ambiguous mixture of injustice and misfortune in ordinary life ... seeks a rather more nuanced and subtle framework of liberalism, one that is not reducible to strictly legal or constitutional definitions” (Wihl, 2001, p. 466).<sup>27</sup> Animal cruelty can and must be addressed through changes in the law—both by passing new laws and enforcing the existing laws more vigorously—but mitigating cruelty also requires changes in individual character for the reasons adduced above: it requires the reappraisal of a broad swathe of everyday habits and practices.<sup>28</sup>

## CONCLUSION

The benefits of Shklar’s approach to liberalism for theories of animal ethics are several. Whatever its shortcomings, one benefit of her definition of cruelty is that it allows us to consider that cruelty can sometimes be motivated by a desire to see an animal suffer anguish and fear. Although a liberal, she insists that cruelty is a character flaw that requires change at the individual level as well as action at the public and political level. She encourages us to consider cruelty from its victims’ standpoints. Her negative morality and negative egalitarianism train our gaze on avoiding harm and suffering, and staunching the consequences of asymmetries of power that could otherwise free the more powerful to treat the less powerful as they choose. Two other, related features of Shklar’s account can be added to this list of the ways in which her liberalism of fear might profitably be applied to thinking about humans’ relationships with animals. The first is that the cruelty is undeserved (Shklar,

1984, p. 24), while the second is that, in contrast to the case of the perpetrator, the moral character of cruelty's victim is irrelevant (p.19). Taking this latter approach would allow animal ethics to sidestep the question of whether animals are moral beings.<sup>29</sup>

Although I have focused on the benefits that Shklar's Montaigne-inspired liberalism of fear brings to the theoretical debates about animal ethics, there are dimensions of her approach that do not translate so well into the arena of animal ethics. She declares, for example, that "fear destroys freedom" (Shklar, 1984, p. 2; 1989, p. 29), yet it is not immediately apparent that a major harm done to animals by human cruelty lies in destruction of their freedom. This is especially the case with domesticated animals who are bound to be unfree. If one wanted to espouse a positive morality for animals and enumerate the good things that cruelty corrodes, other goods seem to be just as, if not more, threatened by human cruelty, such as confidence, happiness, security, well-being, comfort, and flourishing. In keeping with her emphasis on character and the traversal of the public/private boundary, Shklar (1984) adds that just as the vice of cruelty needs to be checked, so the habits of freedom need to be cultivated personally as well as politically (p. 5). How a human cultivating the habit of freedom is beneficial for an animal is unclear, in stark contrast to the suggestion above about the positive impact that humans curbing cruelty could have on animals' lives and deaths.

Shklar also connects cruelty with cowardice and advances courage or valor as the virtuous alternative to both vices (1984, pp. 6, 16, 24–25). Again, it is not clear that cowardice as such informs cruelty to animals. Such cruelty might, as suggested above, be motivated by different things but the idea that someone who hurts an animal is a coward seems strange. Is the implication that if dog fighters had more courage they would fight one another to the death instead of having their dogs fight? This might be a form of rough justice but it's hard to see it as an act of courage, and certainly not a virtuous one. It is also hard to square the connection between cowardice and cruelty with Shklar's aforementioned claim that cruelty is a luxury of the powerful who believe in their superiority over others and their right to use them in unrestrained ways. That outlook might be a failure of many things but it is not obviously a failure of courage. If the claim above is correct that industrialized food production is a form of systematic cruelty, it is hard to see how cowardice plays a role in that.

But even in enumerating its many promising contributions to animal ethics, my aim here is not to suggest that Shklar's liberalism of fear should displace or supersede other forms of liberalism when thinking about animal ethics. Any such ambition would be discordant with her own recognition, mentioned above, of liberalism's inner variety (see Wihl, 2001, p. 469). The aim, instead, is the more modest one of advancing consideration of how Shklar's liberalism of fear, heretofore neglected in the animal ethics debate, can complement and enrich this exchange. Moreover, as noted in several places above, Shklar's work can serve as a crossroads where some of the contending approaches, such as rights advocacy on the one hand and an ethic of care on the other, can meet.<sup>30</sup> In examining cruelty from the standpoint of its victims, she promotes an affective, empathic response to their suffering. She acknowledges the ethical and political complexities and uncertainties that her approach creates. She is insistently aware of power imbalances between the cruel and their victims, and so shares the ethic of care's attention to dependency relations. As Yack (1996) observes, Shklar also advances a form of liberalism that emphasizes attention to concrete particulars rather than abstract generalizations only, which should make her approach even more congenial to ethics of care theorists. The importance with which she invests particulars and sentiments perhaps explains the significance she attributes to literature as a medium for exploring cruelty. Shklar (1984) muses that the vices, and especially cruelty, may escape full rationalization and so require stories to catch its meaning (p. 6; see also pp. 228–229),<sup>31</sup> as evidenced above by her use of a vignette from a Nadine Gordimer novel. The return to Montaigne as a source for Shklar's brand of liberalism can, moreover, create a crossroads between Anglo-American scholarship on animal ethics and that which is more influenced by continental philosophy. All in all, Shklar's liberalism of fear offers some rich resources for the current debate among political philosophers about animal ethics.

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<sup>1</sup>I am truly grateful for the very helpful feedback generated by the journal's peer review process.

<sup>2</sup>Sanbonmatsu, however, goes on to enumerate liberalism's limitations in dealing with animal exploitation.

<sup>3</sup>For discussions of animal issues outside the Anglo-American or liberal traditions, see Atterton & Calarco (2004); Derrida (2008); Steeves (1999); De Fontenay (2012); Agamben (2004); Edelglass, Hatley, & Diehm (2012).

<sup>4</sup> On liberalism as a heterogeneous tradition, see Ryan (1993); Gray (2000); Shklar (1989).

<sup>5</sup> Abbey (2016) considers Rorty's approach to rights, its relevance for the animal ethics debate, and his views on cruelty.

<sup>6</sup> For robust critiques of this position, see Kekes (1996), Baruchello (2004). For a reading of Shklar's contribution that decenters the liberalism of fear, see Forrester (2011).

<sup>7</sup> Without suggesting that this is the only place where Montaigne's concern with cruelty, or with animals, appears. Nor do I claim to do full justice to the subtlety and richness of this essay. For a fuller discussion of Montaigne and animals, see Melehy (2006).

<sup>8</sup> Adams (1995) shows how violence, or even the threat of violence, to companion animals can be motivated by a desire to intimidate or hurt human family members. Cf. Smith (2012, pp. 150–51).

<sup>9</sup> As Kekes points out (1996, p. 836), Shklar's definition in "The Liberalism of Fear" essay is slightly different. It introduces the idea of inflicting emotional pain as a secondary goal of cruelty and becomes more open about the perpetrator's aims. But this somewhat wider definition remains intentional and instrumental—cruelty is still "the deliberate infliction of ... pain" and is done in order to achieve "some end, tangible or intangible of [sic]" its victim (Shklar, 1989, p. 29). So none of what follows is affected by this slight change in definition.

<sup>10</sup> On the invisibility of much animal suffering in contemporary western societies, see Luke (1996); O' Sullivan (2011, pp. 2–3, 6); Akhtar (2012, p. 24); Aaltola (2012, p. 2).

<sup>11</sup> This is commonly called factory farming, but as it is all factory and no farming, this dangerous euphemism collaborates in concealing what actually goes on.

<sup>12</sup> See Safran Foer (2009) on both the popular ignorance that allows industrial food production to persist and the increase in food prices that would result from the elimination or reduction of these methods.

<sup>13</sup> Indeed, Stullerova asserts that "What matters most is neither intent nor instrumentality of the harmful act." (2014, p. 35). A number of *Ordinary Vice's* first responders picked up on Shklar's less-than-analytical style of philosophy. See Baier (1986, pp. 156–159); Quinton (1984); Warnock (1987, pp. 230–31).

<sup>14</sup> Kekes, by contrast, proceeds as if Shklar's inadequate definition discredits her whole analysis. Some of the things added by Kekes are, however, considered by Shklar, even without forming part of her definition. These include a focus on the cruel person's disposition (Kekes, 2006, p. 837); that the pain is not deserved by its victim (Kekes, 2006, p. 838); and that cruelty be seen from the victim's standpoint (Kekes, 2006, p. 839).

<sup>15</sup> Feminist analysis can also reveal the absence of any clear binary of victim and perpetrator. Think, for example, of Mary Wollstonecraft's suggestion that women can be subjects of tyranny in both senses: they are on the receiving end of masculine tyranny and they often treat those below them—

children and servants—tyrannically. Jean Hampton's analysis (1998) of men from socially disadvantaged groups who are both victims of oppressive social structures and who engage in domestic abuse also illustrates this dynamic.

<sup>16</sup> We see this in the case of children who have been abused or have witnessed domestic abuse: some grow up to be abusive themselves.

<sup>17</sup> See, for example, Donovan & Adams (Eds.) (1996; 2007) and Engster (2006).

<sup>18</sup> Chapter 4 of Smith (2012) discusses forms of representation for animals. For a fuller discussion of this issue, see Suen (2015).

<sup>19</sup> As Walzer (1996) suggests.

<sup>20</sup> Donovan and Adams (2007, p. 6).

<sup>21</sup> Cf. Cornell (2012).

<sup>22</sup> Donaldson and Kymlicka point out the many ways in which human actions adversely affect these animal populations (2011, pp. 156, 179–180, 195–197, 201, 217, 221, 224, 243–45).

<sup>23</sup> On the ethic of care's awareness of dependency relations, see Engster (2006, p. 534).

<sup>24</sup> Surely Montaigne is satirizing this conception of virtue when he talks about its achievement during coitus.

<sup>25</sup> Melehy likewise argues that from Montaigne's essay we can derive the beginnings of an ethic of responsibility toward animals but not any doctrine of animal rights (2006, pp. 102–104). His interpretation seems broadly compatible with my remarks about *noblesse* or *pouvoir oblige*.

<sup>26</sup> See, for example, Garner (2013); Cochrane (2010); Nussbaum (2006).

<sup>27</sup> Cf. Forrester (2011, pp. 614–15, 619) on how Shklar's emphasis on cruelty connects with rights. This is explored in detail in Stullerova (2013).

<sup>28</sup> For a helpful account of the justice/morality distinction in animal ethics, see Cochrane, Garner, & O'Sullivan (2016).

<sup>29</sup> Recent examinations of this question include Rowlands (2012); Peterson (2010); de Waal (2009).

<sup>30</sup> Lekan (2004) also discusses ways in which the care and justice approaches can be harmonized.

<sup>31</sup> Wihl (2001) underscores the literary dimensions of Shklar's liberalism. This should appeal to scholars in the broader field of animal studies which evinces a powerful interest in the representation of animals in a wide swathe of aesthetic media.

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