

Sports and games as models of interspecies justice

Abstract. Games and sports involving animals can respect and foster the agency of animals as participants in interspecies communities, in which animals are seen and treated as co-equal members. From normative powers—animals’ capacities to assent and dissent—we can derive certain rights, including to self-determination. Such rights circumscribe rights to and at play, analogous to rights to and at work. *Qua* domesticated animals, animals involved in games and sports are entitled to membership rights that extend beyond humane use: rights of equal codetermination of the community (pertaining to association, reproduction, control over environment, and what activities to engage in, but also rights to codetermine the framework of the practice (e.g., how dog sledding, frisbee, horse-riding, etc., are played). If games and sports foster skills and dispositions essential for membership, and presuppose agency, cooperation, association, fair play, and other competencies, they can model participation in an interspecies community. We should therefore promote game design geared towards the cultivation of those capacities that are essential to animal flourishing, which are also ways to cultivate more just relationships to nonhuman nature, broadly construed.

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I. Introduction

In recent years, animal studies scholars have underscored the positive role that work can play for animals, as an effective route to a range of goods: material goods, participation in socially cooperative activities, mutually rewarding relationships, the cultivation of new skills and interests, and of a sense of purpose and accomplishment, social standing, and recognition (Donaldson and Kymlicka 2020). Work as a site of injustice as well as a model of interspecies justice. There is a history of exploitation and oppression of animals as commodities and ‘beasts of burden’. However, the remedy for this injustice is not to abolish animal labor, but to offer opportunities for freely chosen and suitably designed and regulated work that can contribute to flourishing. (See contributions in Blattner et al. 2020)

This paper answers two questions 1: Do analogous considerations apply to sports and games? That is, do sports and games involving animals risk unjustly perpetuate their exploitation? 2: Should we strive for a post-work conception of interspecies justice, substituting gameplay for work? And more broadly, do sports and games involving *nature* have distinctive value that a post-work utopia would foster? I argue that games and play is a crucial, albeit overlooked, aspect of efforts to enact interspecies justice. Insofar as it centers on animal agency, interspecies justice should use games and play in the scaffolding of participation in an interspecies community. I start by laying out the framework within which questions of agency and interspecies justice arise. I then unpack the set of fundamental rights most central to interspecies justice. These are rights of self-determination. Such rights are especially important in the context of just domesticated relationships. Finally, I offer an outline of the place that sports and games involving nature and other animals could play in a just interspecies society, modeling the value of just interspecies relationships on a post-work utopia.

II. Membership and participation

According to Donaldson and Kymlicka (2011; 2016), domesticated animals (DAs) must be recognized as full citizens with a right to co-author the laws, institutions, and norms of the societies of which they are members. This has two main tenets:

- *DAs are members of a shared interspecies society.* DAs are capable of communicative, interdependent, trusting, and cooperative relationships with humans. They are suited, and entitled, to social membership.
- *Political citizenship tracks social membership.* All members of a society have a right to participate in shaping its norms, through citizenship. (Many critics accept the first claim but reject the second claim, e.g., Pepper 2021).

DAs have the right to shape “the very nature and purposes of our shared cooperative relations and activities, and the definition of community” (2016, 185); “it is tyranny to deny them opportunities to do so” (184). This right is expressed through two forms of political agency:

- *Sheer presence model:* e.g., presence of domesticated dogs in public spaces varies across societies. Their mere public presence can manifest and exert political agency through interactions with others in social space.
- *Negotiation model:* when domesticated animals conform to social norms and cooperate with one another and with humans—e.g., assistance animals, military and law enforcement, search and rescue, animals who cooperate with humans in sports. Continuous negotiation of the terms of cooperation (e.g., when, who they will work with, what, and so on).

Animals can express preferences and make choices about their environment at home, at the local park, or at work. We attend to their behavior and adjust ours and our private lives and social institutions accordingly. Presence is a *precondition* of political inclusion but *insufficient* as a form of meaningful participation. We need institutional mechanisms for soliciting animal voices and letting them shape collective decision-making. In recent work, Sue Donaldson has highlighted some limitations of Donaldson and Kymlicka’s work since their book *Zoopolis* (2011). Much of their focus had been on what “micro-agency”, but Donaldson argues that “macro-agency” is at least as important. This is where building gameplay into the structure of society, and what she calls “animal agora”, becomes relevant. Here is how Donaldson draws the distinction.

- *Micro-agency: Democratizing the existing landscape,* making the places and spaces where membership and participation are meaningful sites for the realization of citizenship. (Donaldson and Kymlicka 2016). However, “If animal voice/participation is limited to discrete and pre-existing social roles and social locations, then too much of the broader structure of society is taken for granted, locking in features of society that animals had little or no say in shaping.” (Donaldson 2020, 713)

- *Macro-agency: Building new public commons, or animal agora*, where animals are empowered to co-author the fundamental nature of political community alongside us. (718), spaces where “co-citizens can engage one another in spontaneous, unpredictable encounters, spaces they are empowered to re-shape together” (713), “that allow thinking outside the box of existing human-animal relationships” (724).

DAs are capable of leading different kinds of lives and have an interest in exploring and choosing amongst these different options. Both their capacities and their interests in exercising them tend to be neglected by a focus on negative rights as well as micro-agency, because both concerns take certain capacities for granted, when the very structures that raise the “micro” problems obscure or thwart the development of latent capacities. Donaldson thus writes:

The only way to discover these individual scripts of the good life is to provide a reasonable range of opportunities for animals, and then respond appropriately to their indicated proclivities, preferences, and choices. Humans play a key role in enabling this agency by creating and modifying different kinds of environments and opportunities in response to animals’ expressions of interest, preference, resistance, intent, and developing identity. (Donaldson 2020, 719)

Sports and games, I argue, when they restrict DAs to a limited and arbitrary degree of freedom explore, revise, and pursue their good, can violate their right to participation. Home and workplace are crucial sites to empower DA voices (Donaldson 2020, 722), but so are track, field, trail, beach, park!

Choice, to be meaningful, needs to be socially structured. It requires that individuals be socialized into particular norms and relationships that help to define the familiar and the trustworthy, and that provide a benchmark from which incremental alternatives become meaningful. (Donaldson and Kymlicka, 2016, 185)

Sports and games respond to such concerns by providing *structured opportunities* for socialization and for new preferences and skills to be expressed. Scaffolding choice within *and* outside of sports, at the level of both micro and macro-agency, can foster self-expression.

Scaffolding choice requires foundations or building blocks. Following Donaldson and Kymlicka, participation in sports and games both requires and fosters

- *basic socialization* into the rules that enable members of society to coexist, including “norms about appropriate physical contact, sharing space, regulating noise, avoiding dangers to oneself and others, and so on. These rules make it possible for people to flourish together, without imposing undue risks or burdens on others.” (2016, 186)

Games can and sports foster skills and dispositions essential for membership, and presuppose agency, cooperation, association, fair play, and other competencies. Thus, they can model participation in an interspecies community. Sports and games also contribute to forming another key element of just participation:

- *Stable social identity*: right to form an identity of one's own and preserve it—this includes routines, food, place (home, environment), relationships, and names.

Work but also sports and games can support and be a core part of an animal's identity. Charlotte Blattner writes this of valuable work,

Like humans, animals may be looking for interesting and challenging work, decision-making power at work, taking over responsibility, cultivating meaningful work relationships, learning new things, having opportunities for identity-building and self-realization, having options for growth, making important contributions to their community, being able to help others through work, having flexible working hours, being creative, and many more. (Blattner 2020b, 49-50)

Identity-forming work may include gameplay. Animals have a right to (not) work; they likewise have a right to (not) play. They should be protected from unjust work/play but also guaranteed opportunities to work/play should they choose to. Some examples of sports and games that animals could meaningfully participate in include sled dog racing, running with dogs (including cani-cross), disc dog, dog surfing, pigs swimming, goat playgrounds, truffle hunting with hog. With some caveats, horse riding, pack burro racing, obstacle courses, tracking, and herding could also be practiced justly. The caveats fall under the following concern: animals who are agents have fundamental rights of self-determination. Insofar as these sports and games are compatible (even better: foster) self-determination, they can be part of the building blocks of a just interspecies society.

III. Self-determination

An agent has a right to self-determination with regard to a particular domain or decision **D** when (1) they have an interest in determining the course of their own life with regard to **D** that is sufficient to ground duties in others, and (2) they are competent with regard to **D**. (Healey and Pepper 2021) DAs meet these conditions as agents who have a significant interest in determining what happens in a variety of domains. And because “self-determination has non-instrumental value for animals”, it cannot be replaced by simply providing for an animal's basic needs.

When animals are self-determining, it is they, through the exercise of their own agency, who shape the contours of their lives. We hold that having this kind of control can be an important *constituent* of a good animal life (Healey and Pepper 2021, 1227)

Who counts as an agent with self-determination rights on this model? The normative powers that ground the right to self-determination need not involve *consent* but *assent* and *dissent*. Animals assent “to an activity or interaction when they wilfully affirm it”; they dissent from an activity or interaction when they express refusal, reluctance or resistance.

Consistent with self-determination, the exercise of normative powers may *not* yield species-specific generalizations, for

DAs, like humans, are uniquely endowed individuals, with individual temperaments, talents, impulses and desires ... (Donaldson and Kymlicka, 2016, 184)

Some animals will be timid and risk-averse homebodies; others will be intensely curious and adventurous. We can be guided by these differences in deciding which risks to confront, and how much effort (theirs and ours) to put into scaffolding new opportunities. (189)

If DAs have rights to self-determination, they plausibly have such rights regarding their participation in work, sports, and games. These rights apply internally—rights *at* play—and externally—rights *to* (not) play, including right of exit. Just like we should prevent the right to work from turning into a *duty* to work, we should prevent the right to play from turning into a duty to play. Rights to self-determination thus apply *within* practices as well as concerning *choices* of practices regarding participation in such practices. (cf. Cochrane 2016; 2020; Blattner 2020a on work)

Restricting choice to the realm of micro-agency, to “the small or discrete details of a way of life that is defined by others” does not fulfill the desiderata of self-determination. For instance, training of dogs and horses focused on the mastery of skills. As Donaldson and Kymlicka put it, micro-agency is “too often it is used to rationalize a relationship in which DAs are presumed to exist (and indeed brought into existence) to serve the needs, interests and desires of humans.” (2016, 184.) A just society, on the other hand, engages animal agency *for the sake of the animal*. How might “appropriately structured interactions” be good for animals?

A dog might be able to develop specific skills (how to gauge the Frisbee direction on a windy day, how to activate a lever to turn on the TV or generate fresh water, how to signal when a scent trail has been broken and she needs a refresher, how to take the subway, or negotiate car-filled streets), and exercising these skills might lead to pleasure, satisfaction, confidence and possibilities for greater freedom. She might develop certain kinds of knowledge (the structure of her human companion’s social network or daily routines, the strange ways of cats) that enlarge her mental realm in meaningful and satisfying ways. And she might develop a range of social bonds and friendships that provide greater satisfaction than species-specific friendships. (188)

Such “training” is only compatible with citizenship against a backdrop of macro-agency, “the ability to shape the very nature and purposes of our shared cooperative relations and activities, and the definition of community” (185). Now, if given the chance to engage in existing as well as novel structured interactions, do we have reason to think that humans and animals would in fact choose to play together? In the last section, I answer this question (positively) by drawing on Suits’ idea of utopia.

IV. Utopia and Post-work

My argument has two parts. First, gameplay has intrinsic value and would therefore likely be pursued by agents, human and nonhuman, in a utopia where it is made readily available. Second, gameplay is likely to be central to multi-species commons, or a just interspecies society, in which humans and animals participate in joint endeavors for their own sake.

Let’s start with the idea of a *post-work society*, though. For children, cognitively disabled people, as well as for DAs, Donaldson and Kymlicka (2020) argue that “the emancipatory promise of work is being undercut by core features of the work society.” What is a “post-work society”?

In the post-work society, animals would not be compelled to work, either to support themselves or to contribute their fair share, since basic needs are met as a condition of citizenship. Animals would therefore be free to choose how they participate in society. This doesn’t mean that domesticated animals may not choose to engage in certain activities, including work, but they would choose activities based on their own interests—the pleasures of learning, cooperation, receiving esteem from others, and so on.

The idea of post-work society bears some resemblance to Bernard Suits’ conception of *utopia* (Suits 2005). In a utopia, Suits argues, with all needs being met, all meaningful activities, including some that previously were considered work, would involve gameplay. The utopia is a state of life where all activity is fully voluntary and intrinsically valuable; “game playing is what makes Utopia intelligible” (154). If so, gameplay is constitutive of utopias worth striving for. Suits’ work on games has spawned a growing literature. Here I want to make use of the notion of Colleen English’s idea of *ideal playgrounds*. According to English, these are “activities that provide highly likely play possibility. They are designed in such a way that participants in the activities are likely doing them of their own free will and primarily for intrinsic enjoyment. (2019, 404)

Ideal playgrounds have two important features:

- They are structured by constitutive rules. Because games are conventional, we can create *novel opportunities* for play.
- Games can (should) be done *freely* and for *intrinsic* reasons.

It follows from these features that, through rules and conventions, we could design ideal playgrounds that foster play possibilities, “manufacture the conditions for those experiences, create an environment ripe for play.” (408) *Game design* thus becomes an important part of a utopia or post-work society. *Corollary*: ideal playgrounds should include multispecies commons as part of a just interspecies society. In support of this corollary, consider these claims:

- gameplay can be *non-instrumentally valuable* for animals, since free agency is constitutive of their flourishing or enjoyable for its own sake;
- gameplay contributes to *shaping the political community*, e.g. by fostering relevant social skills and the expression of preferences, since games and sports presuppose basic socialization and can provide stable identity.

The core idea is this: games and sports can help to create new social worlds, especially novel sports (Krein 2008; 2014; Breivik 2019). These could be new “alternative sports” and, in some sense, they are also “nature sports”, where our faculties are not necessarily being tested against fellow human being but also, and sometimes only, against nonhuman forces, structures, obstacles, and here, agency. The potential for human-nonhuman sports has been explored by Kevin Krein, who writes:

Nature sports put people in positions in which they are forced to construct new worlds where nature plays a very different role than it does in most other worlds. ... When athletes participate in nature sports, they are in a position to see nature as active and self-sufficient, and as a presence with its own projects and goals independent from human use. (Krein 2008, 297-299)

Mutatis mutandis, sports involving animals as agents force us to see them “as active and self-sufficient”, and with “projects and goals independent from human use.” Such sports thus do double duty: they bring (nonhuman) nature, and its noninstrumental values, in contact with human projects, but they also serve as building blocks of a society in which the agency of nonhumans is respected and fostered for the role it plays in the good life of nonhumans. If, as Donaldson and Kymlicka have repeatedly argued, the freedom to exercise some capacities is essential to DA’s flourishing (also see Varner 2002; Delon 2018), some such capacities are crucial to democratic participation, and sports and games foster the free exercise of such capacities, they can be building blocks of animal citizenship.

The literature on games, especially since Suits’ contributions, emphasizes effort and arbitrary constraints as essential to games, broadly construed. On Suits’ analysis, games involve *voluntary efforts to overcome unnecessary obstacles*. As such, when combined with rights of self-determination, they secure the conditions of the expression of pre-existing latent capacities.

Another conclusion can be drawn now. If sports and games are essential to some DA’s flourishing,

it is not just *permissible* to let animals participate; we have a *duty* to bring them into spaces facilitating and encouraging gameplay, or at the very least to secure opportunities, in those spaces, for them to engage in gameplay if they want. As mentioned, this is no easy task and involves game design as part of our efforts to increase macro-agency. Such game design is itself “utopian” because it is implied by a utopia and because it is inevitably aspirational. But feasibility concerns aside, the important point is as follows. It is captured quite well in premise 1 of an argument by Christopher Yorke (2018):

Utopian game design thesis:

1. certain capacities can *only* be expressed via gameplay;
2. the expression of such capacities is essential to the project of realizing our best selves;
3. present gameplay is generally insufficient for the expression of such capacities
4. we ought to try to become our best selves if such is possible;
5. therefore, we ought to design a set of utopian games which correctly identify and elicit the expression of these crucial game-exclusive capacities. (Yorke 2018, 183)

Premise 1 captures the essentiality of some gameplay-related capacities to DA’s flourishing. Premises 2 and 4 can be adapted to refer to the stable identities that would be best aligned with an animal’s interests in a just society. Premise 3 is an empirical claim, but it should be clear that many forms of gameplay fall short of utopia, if only because, even at their best, they tend to focus on micro-agency. For reasons already noted, “nature sports”, including human-animal sports, are also good for humans, for their own sake and for the sake of cultivating better relationships with nature.

If we put the pieces of this paper together, we get to a similar conclusion: that we ought to design a set of utopian games and sports which correctly identify and elicit the expression of crucial gameplay-exclusive capacities. Insofar as such capacities are required by flourishing (premise 2), then gameplay is required, not just allowed, by a just interspecies society. The ideal playgrounds of the animal agora could lead us to discover in DAs new capacities. Through social, environmental, and institutional design we could create the conditions necessary to enhance DA’s abilities to engage in gameplay for its own sake while exploring their own potential and life scripts. Utopian games as a mode of expression of values and preferences critical to collective decision-making in a just interspecies society.

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