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## **The Case Against Animal Rights: A Literary Intervention**

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## II

### The Space of Allegory

#### *Demarcation through Correspondence*

#### 1. Introduction: Lobster Cooking

In April 2014, a Belgian chef called Piet Huysentruyt prepared a lobster for consumption on a live television show. He tore off the legs and claws of the animal while it was still alive, then cut it through the middle and threw it on the grill. “This way it will taste much better than when it is merely cooked alive,” the chef explained. The two guests on the show averted their faces in horror, and their response crawled out of the studio and spread to the public domain. A stir was born. The preparation of the lobster reached the national news in both Belgium and Holland and became a hot topic on social media. The representative of GAIA, the Belgian organization for the protection of animals, reacted furiously: “thousands of amateur cooks will follow this example. Piet Huysentruyt keeps the myth alive that animals have to suffer in order to taste good.” The representative of GAIA added that there were now machines on the market to sedate lobsters, which allowed them to die painlessly and declared that GAIA was planning to contact VIER (the Belgian Commercial Television Organization that broadcasted the program) “to charge them with a harrowing lack of ethics and to prevent this sort of barbaric television from being repeated.”

It was not the first time that the preparation of a lobster on a Belgian television show had caused public expressions of protest and outrage. In 2010, a candidate in another television show had trouble putting two living lobsters in the cooking pan and in 2011 a lobster was cut up, alive, on the *Masterchef* television show. In fact, after charges by GAIA on those previous occasions, the Belgian broadcasting channels collectively agreed not to make animals suffer needlessly on entertainment programmes anymore. In this respect, the response of VIER to the latest charge that was now brought by GAIA only worked to fuel the controversy: a spokesman for VIER stated that the preparation of the lobster on their television show did not constitute a breach of the agreement they had committed themselves to, because the show was not an entertainment programme. The chef himself, interviewed on another television show called *Reyers Laat* was arguably less cryptic in his comments: “I have prepared lobster in this manner for thirty years. If I am to believe social media I am a murderer. It

is hypocritical to say: I have eaten the best lobster ever, but I do not want to see them die. I will always prepare lobster in this way.”

A few days later, a meeting between the representatives of GAIA and VIER actually took place. Afterwards, both parties adopted an appeasing tone and stressed that their talks had been very constructive. A spokesman for VIER expressed their position as follows. “What has happened cannot be undone but we understand the position of GAIA and will take this position into account in our future programming. We hope our chef will want to consider alternatives.” A GAIA spokesman expressed himself as follows:

I wish to come to a sustainable solution as soon as possible and hope Piet Huysentruyt will be ready to consider an alternative that accommodates all interests, respect for animals, gastronomic quality and the ethical image of the station. If Piet Huysentruyt feels so disposed, GAIA offers to organize a demonstration with the *Crustastun*, a device which sedates lobsters and crabs and kills them painlessly, which is already being used by a number of chefs in Great Britain.<sup>56</sup>

On a very basic level, the Belgian lobster furore seems to confirm the claim of Siobhan O’ Sullivan that I discussed in the previous chapter, namely that there is a correlation between the visibility of animals and the way we tend to or wish to treat them. Effectively, the preparation of a lobster on a live television show presents us with the highest degree of visibility imaginable and, in that sense, could be said to occupy the extreme end of a spectrum, the other extreme end of which is factory-farming with its invisible animals. However, since within the journalistic coverage of the case no mention is made of the fact that the vast majority of lobsters – if not necessarily processed in Belgium – are factory-farmed and distributed across the world, the Belgian lobster furore to some extent renders the factory-farmed lobster invisible on a rhetorical plane as a result of the high visibility of the individual lobster under discussion. It shows that the allocation of animals in the categories invisible/visible does not neatly correspond with their pertaining to different species, but that this allocation depends on the way in which animals are treated.

In this respect, the film recordings on lobster farms by undercover PETA activists (People For The Ethical Treatment Of Animals) bears a striking resemblance to the preparation method promoted by the Belgian chef. In 2013, for example, when PETA investigated Linda Bean’s Maine Lobster Factory Farm, they uncovered that:

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<sup>56</sup> [http://www.nieuwsblad.be/article/detail.aspx?articleid=DMF20140429\\_01086502](http://www.nieuwsblad.be/article/detail.aspx?articleid=DMF20140429_01086502).

Lobsters' heads were ripped from their bodies and dropped into bins, along with their abdomens. Their antennae and legs continued to move after their bodies had been torn apart.

Workers slammed live crabs onto spikes to break off their top shells and shoved the animals' exposed organs and flesh against rapidly spinning brushes. The crabs were then tossed onto a conveyor belt and dumped – alive – into boiling water.<sup>57</sup>

With respect to both controversies, what the vast majority of protesters called for was the humane killing of the lobsters that we eat and a more respectful handling of the animals in the process. Indeed, it seems to be the case that discussions over the humane killing of animals – whether concerned with factory-farming, incidents as described above, or, for example, with the unsedated slaughter of animals for kosher and halal meat in Holland in 2011 – repeat themselves each time a discussion on animal well-being and animal rights fires up.<sup>58</sup> The central term in these debates appears to be cruelty, which not only must be avoided and replaced by a (more) humane treatment, but which is also regarded as a self-evident instance of excessive harm: as if the excess of harm such an understanding of cruelty embodies is so plain for everyone to see that the question of harm and its conceptual relation to cruelty no longer needs to be discussed. This notion of the self-evidence of cruelty in these debates appears to be paralleled by the way in which the notion of cruelty generally is conveyed in animal rights laws and statutes across the world. Indeed, the term harm is hardly ever mentioned and when it is mentioned it does not make up a conceptual legal term in its own right but is qualified as unnecessary and excessive suffering.

In the British Animal Welfare Act of 2006,<sup>59</sup> for example, the term harm surfaces in section four, which is called “Unnecessary Suffering,” as a heading that is entitled “Prevention of Harm.” In the remainder of this fifty-five pages long animal rights document the term harm is not used, except in one entry in section twenty-four, which concerns the right to search premises for the purpose of arresting a person who has inflicted unnecessary suffering as described under section four. If the term harm is virtually absent in the entire document and if harm only surfaces in section four as a heading of the entry “Unnecessary Suffering,” we may surmise that the harm is itself not conceptualized, at least

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<sup>57</sup> <http://www.peta.org/blog/linda-bean-gas-pump/>.

<sup>58</sup> [http://www.dutchnews.nl/news/archives/2011/04/ban\\_on\\_kosher\\_and\\_halal\\_ritual.php](http://www.dutchnews.nl/news/archives/2011/04/ban_on_kosher_and_halal_ritual.php).

<sup>59</sup> [http://www.legislation.gov.uk/ukpga/2006/45/pdfs/ukpga\\_20060045\\_en.pdf](http://www.legislation.gov.uk/ukpga/2006/45/pdfs/ukpga_20060045_en.pdf).

not but in the sense of the non-specificity of the term “unnecessary.” The subentry at the end of section four only confirms this suspicion. It states that: “Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.” This subentry draws our attention to the practice of factory-farming as embedded in a legal space where the relation between harm and cruelty is not conceptualized, and where even the self-evidence of cruelty suddenly appears to have its limits. In respect of the self-evidence of cruelty in both the popular and the legal sphere described above, it might not come as a surprise that my investigation of the entries of some of the seminal works within the animal rights debate and my going through numerous other animal rights and animal ethics handbooks that were published over the last twenty years has proved of no avail to historically ground a legal distinction between harm and cruelty whereby the latter concept would conceptually follow from the first.<sup>60</sup> In most of these works there is plenty of talk about ways to avoid the cruel treatment of animals, about avoiding needless suffering and excessive harm, but the term “cruelty” itself and its relation to harm is left unaddressed, let alone subjected to a critical analysis.

Yet the reason why it is so important to conceptualize this relation is that the framing of the element of cruelty as self-evident seems to register the arbitrary demarcation decisions the law has to make as more arbitrary than strictly necessary. It therefore calls for an exploration of the fundamental juridical underpinnings of this non-conceptualization. This takes on a sense of urgency if we want to investigate the demarcation problem an expansive model poses in light of the cruelty that I hinted at in the previous chapter. This is why in this chapter I wish to explore how a conceptual discussion on the element of cruelty and its relation to harm might inform demarcation decisions and how this relates to my provisional definition of cruelty as a wilful neglect of harm, both within and outside of the strictly juridical sphere.

The context in which I will discuss these issues differs from the context sketched in the examples above in that it is not primarily confined to the slaughter or humane killing of animals. Rather, I will address the issues the Belgian lobster case raises as inviting a reflection on the concepts of harm and cruelty as not self-evident in order to examine how they operate as markers of difference when it comes to demarcating humans from animals and certain

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<sup>60</sup> For some of the works and handbooks in which harm and cruelty are not conceptualized within the context of the shift from human to animal rights see: *In Defense of Animals, The Second Wave*, ed. Peter Singer, (Oxford: Blackwell Publishing, 2006); Clifford J. Sherry, *Animal Rights: A Reference Handbook* (Santa Barbara, California, ABC-CIO, 1994); Tom Regan, *Animal Rights, Human Wrongs: An Introduction to Moral Philosophy* (Oxford: Rowman & Littlefield Publishers, 2003).

animals from other animals. More specifically, taking my cue from the fact that the self-evidence of cruelty apparently reaches a limit when it comes to factory-farming, I will turn the practice of farming and the change this practice has undergone since the advent of factory-farming into a heuristic *modus operandi* for exploring the way in which harm and cruelty can be thought in relation to the problem of demarcation. This framework will allow me to think through how the concepts of harm and cruelty have fared both before and since the coming into being of an expansive model in order to offer a different angle on the problem of demarcation that it installs.

Before beginning to explore these issues, however, I will start this chapter with a positioning of the concepts of harm and cruelty within the context of the model from which the coming into being of an expansive model evolved, which is the model of human rights. Once I have addressed the implications of the shift from human rights to animal rights for the way in which the concepts of harm and cruelty operate, I will use George Orwell's *Animal Farm* as an object of study to think through the wider issues the Belgian lobster case raises.

To this end, I will take *Animal Farm* out of its context as an allegory of the Cold War and read it as a story about animals that are suffering from harm. More specifically, my allegoresis of *Animal Farm* as a story about animals suffering from harm draws on *Animal Farm* as an allegory of ideas and wants to reflect how these ideas have developed and where they stand today. Framing the element of harm in this way not only enables me to read *Animal Farm* as an allegory of ideas but also as an allegory of the expansive model. The analogy between the two is that within both allegories animals are subjected to a harm that topples over into cruelty. As I provisionally concluded in the previous chapter, the cruelty an expansive model incorporates constitutes a wilful neglect of those essentially nonhuman entities not granted legal personhood. In *Animal Farm* I identify the moment harm topples over into cruelty once the farmer starts neglecting his animals and the animals decide to rebel, a matter I will attend to in detail in what lies ahead.

My overall strategy here consists of reading *Animal Farm* in its classic mode as the allegory it is famous for, as a forewarning of totalitarianism. It does not mean I read totalitarianism as resulting from a synthesis between the systems of capitalism and communism, which, as Roberto Esposito has observed elsewhere, would be a gross simplification.<sup>61</sup> Instead, I choose to read totalita-

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<sup>61</sup> Roberto Esposito, "Totalitarianism or Biopolitics? Concerning a Philosophical Interpretation of the Twentieth Century," trans. Timothy Campbell, *Critical Inquiry* 34, Chicago Journals: (University of Chicago, 2008), 633-644. <http://www.jstor.org/stable/10.1086/592537>. Last accessed January 2014.

rianism as a juridical streak that has nested itself in the animal cruelty laws and that, at the same time, is constitutive of a much wider variety of disciplinary discourses that operate the biopolitical situation we now live in under globalization.<sup>62</sup> It does not mean I read globalization as totalitarianism. Rather, my strategy entails a proposal to explore the “cruelty” animals are subjected to today as resulting from their being subjected to a biopolitical regime that is characterized by a totalitarian streak wherein the human masses are not mobilized but the animal masses are fixed.

This totalitarian streak, I propose, has become most explicit with the advent of factory- farming, which marks a major change in the way we relate to animals that runs parallel to the emergence of an expansive model and the shift in political constellations that has occurred from the second half of the twentieth century onwards. This change can be read in both qualitative and quantitative terms. Qualitatively, we might consider factory-farming as the modern human practice that is concerned with the animals we are most directly involved with, the animals that we eat. Quantitatively, the historical novice of the practice of factory- farming can at least in part be attributed to the unprecedented scale on which the processing of ever-larger numbers of animals takes place. But also, as my brief reflection on the Belgian lobster case demonstrates, to the all-encompassing nature of this practice itself. I am referring here to the fact that our modern imagination of factory-farmed animals as say, poultry, pigs and cows (outnumbering other species of animals processed in this way) no longer holds, since basically any animal that we eat is now factory-farmed for the simple reason that mass consumption stimulates mass production.

In order to make my exploration fruitful, I understand the expansive model primarily in spatial and symbolical terms, as the emergence of a single discursive space. Anything moving about in this space is and can only take on meaning as a person answering to a conventional conception of personhood. In literature, the equivalent of such a discursive space would be allegory. I am deliberately using Angus Fletcher’s most simple definition of allegory here, i.e. that “allegory says one thing and means another,” to suggest that the allegory allows one domain to envelop another, which then comes to answer to the overall story the allegory conveys.<sup>63</sup> Since my preoccupation with allegory will be informed by a focus on its production of meaning within one discursive

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<sup>62</sup> For a very clear and precise introduction to biopolitical-philosophical thought in the context of animals through discussions of the work of amongst others Foucault, Agamben, Esposito, Arendt and Derrida see: Cary Wolfe, *Before The Law: Humans and Other Animals in a Biopolitical Frame* (London, University Of Chicago Press, 2013).

<sup>63</sup> Angus Fletcher, *Allegory, The Theory of a Symbolic mode*, first ed. 1964, reissued, (London: Cornell University Press, 1982), 3.



space, I intend to bring literary reading strategies into play to address the problems allegorical reading poses for the law. Within the expansive model under discussion, and in view of my provisional definition of the cruelty it generates, the most pressing issue I wish to explore in this manner is its demarcation problem. Concretely, I wish to clarify in which way the production of meaning within one discursive space relates to this demarcation problem. Conversely, I wish to explore whether breaking open single discursive spaces can provide ways of working my way around the demarcation problem and the element of cruelty that the expansive model incorporates.

## **2. The Conceptualization of Harm and Cruelty**

In the opening chapter, I explored the conventional conceptualizations of personhood and anthropomorphism in order to develop an argument for why expanding the juridical model to include animals without questioning the notion of personhood is unwarranted. As we have seen, within an expansive model, the uncritical transfer of personhood to animals is centred on an irreducible demarcation problem, because the decision regarding which animals are granted personhood takes effect on what must remain an arbitrary basis. By implication, those animals not considered fit to be attributed personhood would be subjected to a wilful neglect of harm, which I provisionally qualified as cruelty, because it would be sanctioned, and hence, legitimized by the expansive model. Here, I wish to deepen and complement my provisional understanding of cruelty by addressing the recurrent and as yet unresolved element of cruelty that I have now identified as symptomatic of the modern animal rights debate.

This exploration must begin by looking sharply at the context that has allowed the expansive model to take shape; that is, the context of human rights. The Human Rights Reference Handbook<sup>64</sup> conveys the historical antecedents of human rights as follows:

The origins of human rights may be found both in Greek philosophy and the various world religions. In the Age of Enlightenment (18<sup>th</sup> century) the concept of human rights emerged as an explicit category. Man/Woman came to be seen as an autonomous individual, endowed by nature with certain inalienable fundamental rights that could be evoked against a government and should be safeguarded by it. Human rights were

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<sup>64</sup> *Human Rights Reference Handbook* (Reykjavik: Icelandic Human Rights Centre, 2009).

henceforth seen as elementary preconditions for an existence worthy of human dignity. (3)

In the last sentence of the above passage the concept of dignity is invoked as that which inalienable human rights were meant to protect. As is well known, the concept of dignity can be retraced to Kant, who in *The Groundwork of the Metaphysics of Morals* (1785) claimed that only human beings have an intrinsic worth, a dignity, as constitutive of their personhood:

Humanity itself is a dignity; for a man cannot be used merely as a means by any man (either by others or even by himself) but must always be used at the same time as an end. It is just in this that his dignity (personhood) [*Persönlichkeit*] consists, by which he raises himself above all other beings in the world that are not men and yet can be used, and so over all things.<sup>65</sup>

In The American Declaration of Independence of 1776 the inalienable rights that needed to be protected materialized in the right to life, liberty and the pursuit of happiness. If the declaration did not literally mention the term dignity, I choose to interpret these inalienable rights as constitutive of an unarticulated conception of dignity for two reasons. First, because of the striking resemblance to Kant's terminology mentioned before. Second, because the same appeal to life, liberty and the pursuit of happiness as inalienable rights is voiced in the preamble of The American Declaration of the Rights and Duties of Man of 1948,<sup>66</sup> in which those rights are explicitly referred to as constitutive of human dignity.

The inalienable rights that the American Declaration of Independence voiced were taken up in the Bill of Rights of the American constitution and inspired several other constitutions that were drafted in Europe at the time, most notably perhaps the French constitution of 1793. In short, overlooking the historical context of human rights we can already begin to surmise what human rights might generally considered to be for: to protect the subject from the harm that would be caused if his inalienable rights – which together make up the indispensable constituents of its dignity – were infringed by the State and for the State to warrant a protection of the individual's dignity if those inalienable rights are tampered with by others. To avoid misunderstanding, I am not concerned

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<sup>65</sup> Quoted from Michael Rosen, *Dignity, Its History and Meaning* (Cambridge, Massachusetts and London: Harvard University Press, 2012), 80.

<sup>66</sup><http://www.oas.org/dil/1948%20American%20Declaration%20of%20the%20Rights%20and%20Duties%20of%20Man.pdf>.

here with concrete legal definitions of harm, such as injury or the infliction of pain, but rather with defining harm in its most basic sense, in its core rhetorical relation to the concept of human rights. In this most basic respect, we may surmise that the protection from harm that a personhood-based model guarantees pertains to all human beings equally and that it is centred on the protection from infringements on the person's dignity. The right to life, for example, implies the State must protect the right to life of human beings and sustain a juridical framework in the form of criminal law to punish murderers. For reasons that will become clear, it is important to observe here that this protection from harm does not primarily consist of the State protecting people from being murdered, but in protecting the right to life that sustains their dignity.

With respect to this issue, we can gather that to protect at least some animals from harm under the law of personhood, which is advocated by those in favour of animal rights, is more complex than the emergence of an expansive model suggests. In principle, this complexity may be attributed to the fact that at least since post-structuralism we have moved beyond essentialism and, as I argued in my first chapter, we must look upon the categories of the human and the animal as rhetorically installed. This implies that, today, there is no longer a sound academic position that can defend the notion of an absolute difference between the human and the animal. However, whereas any criterion installed for either attributing or denying animals legal personhood would have to be qualified as necessarily arbitrary in nature, the absolute difference between the human and the animal is still a juridical fact. To put this matter in a different way: Animals are not granted a legal personhood because the idea of animal dignity is foreign to the law.

In this respect, the call for a (more) humane treatment and a dignified and respectful processing of the animal that we use for food, such as we encountered in the Belgian lobster case, cannot concern the animal and its right to live, precisely because the dignity that is rhetorically invoked is a human dignity. Hence, the public expression of outrage and the resulting call to change the practices of preparing lobsters – if only on television shows – cannot be addressed from within the most basic legal conceptualization of harm, but would have to hinge on a certain conceptualization of cruelty from the start, because, for the law, animals, since they are not “bearers” of dignity, cannot be harmed but can only be subjected to cruelty. In short, once the *Crustastun* is employed as standard practice and the animal is processed and killed in what, at any given time, is considered a humane way, the killing of the animal can no longer be qualified as a cruel act. This sweeps away any notion of harm that could be implied with killing an animal.

If we look at what the public viewed as the inhumane cruelty inflicted upon the lobster in strictly legal terms, namely as an affront to human dignity, there is an implication that the cruelty at stake here concerns the infliction of harm on the chef rather than on the lobster. Since we can gather from the anger directed towards the perpetrator that this was obviously not what the public had in mind, we can identify a discrepancy here between the juridical and non-juridical sphere. In short, within the non-juridical sphere there is still a minimum potential for sensible identification with the lobster and the harm it is caused. Here, the concepts of harm and cruelty are in line with each other and bear a semantic relation whereby cruelty necessarily follows from harm. From a strictly juridical point of view, however, killing the lobster in a humane way implies no cruelty is done to the animal that is killed, whereas the question whether painless killing harms the animal cannot be articulated. In spite of this important difference, what ties both conceptualizations of cruelty together is a shared focus on humane treatment, which resonates with a Kantian outlook on human dignity.

In *The Lectures on Ethics* (1775-1780) Kant argued that we should not be cruel to animals for our own sake, to safeguard our human dignity:<sup>67</sup>

If a man shoots his dog because the animal is no longer capable of service, he does not fail in his duty to the dog, for the dog cannot judge, but his act is inhuman and damages in himself that humanity which it is his duty to show towards mankind. If he is not to stifle his human feelings, he must practice kindness towards animals, for he who is cruel to animals becomes hard also in his dealings with men. (240)

The problem, here, is different than the one posed by the law's dealing with harm and cruelty. Since the law cannot 'position' the concept of harm as long as animals are not attributed legal personhood, the concrete extent to which animals might be subjected to harm or cruelty has appeared to take on yet another level of complexity, in addition to the dynamic I sketched in my introduction. On the one hand, harm cannot topple over into cruelty because animals are presently not included within an expansive model. On the other hand, the cruelty that animals might be subjected to is only curbed within the

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<sup>67</sup> Immanuel Kant, *Lectures on Ethics*, trans. P. Heath and J.B. Schneewind, (New York: Cambridge University Press, 1997).

context of their humane treatment, which hollows out the protective measure itself and legitimizes their subjection to a harm that cannot be articulated under the law. It begs the question, firstly, where does the juridical conceptualization of cruelty originate from if it indeed does not complement the concept of harm as an excess of harm? Secondly, it invites us to explore whether the specific juridical conceptualizations of cruelty in animal cruelty laws can actually guarantee humane treatment and what those laws purporting to humane treatment consist of.

One notable exception to the trend in animal studies to take for granted that certain forms of harm cannot be articulated under the law which I briefly wish to touch upon to better position my argument is the work of Ted Benton. In *Natural Relations, Ecology, Animal Rights and Social Justice* (1993), Benton identifies a gap between what those in favour of animal rights aspire to, namely protecting animals from harm through legal means, and the reality that a liberal rights discourse cannot address the sources of harm animals are liable to in our modern world.<sup>68</sup> For Benton, the liberal rights view has a defective character because it is concerned with individual persons and the nature of their interests, while the sources of harm that animals (or humans, for that matter) are liable to are not reducible to the action or inaction of individuals. This is why he proposes that we also need to consider typical socio-economic sources of harm if we want to protect animals from harm by legal means. He lists as primary examples that are rendered unthinkable under liberal rights discourse, the sources of harm caused by corporations, the harms related to injuries of class and to natural disasters.

Benton argues that the conceptualization of person under a liberal rights discourse severely limits our understanding of harm, also if the context shifts from humans to animals. At the same time, however, his approach does not acknowledge the more fundamental issue that the law cannot articulate the category of harm as long as animal dignity does not come up for consideration, which might explain why he limits himself to broadening the scope of *sources* of harm. This is a problem that I believe should not be underestimated. First, because dignity necessarily pertains to all its “bearers” equally. This implies that if one animal were attributed legal personhood the practice of factory-farming – to mention but one poignant example – would have to be abolished as it would interfere with the right to life, which is arguably the most important constituent of dignity. Second, because if we agree that for the law dignity is effectively the last barrier that separates the human from the animal in absolute terms, the difference between the human and the animal would be blotted out once animals

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<sup>68</sup> Ted Benton, *Natural Relations, Ecology, Animal Rights & Social Justice*, Verso, London, 1993.

are granted legal personhood. This would not just be a counterintuitive step to take and a gross simplification of the complex Human-Animal relation, but it would also call into question the foundation of human rights on which our society has been built.

Thus, even though Benton's analysis rightfully points out the sources of harm that a liberal rights discourse cannot address, his solution is far from convincing. The reason is that he does not stop to reflect on the status of the word person and its relation to dignity within the law; rather, he takes person as an unambiguous given in need of adjustment. I assume this is why he neither explores, nor historically grounds the way in which we might think the relation between harm and cruelty, within a rights view on animals that is centred on personhood. Admittedly, this is not an easy task. For a historical grounding of harm as a concept we must go as far back as the utilitarian philosopher John Stuart Mill, who in *On Liberty* (1859) formulated the so-called "harm principle."<sup>69</sup> Promising as this may sound, it does not offer any basis for further exploration of the relation between harm and cruelty for our present concern with animals. In fact, Mill's harm principle, although he never mentions it, could stand as exemplary of Benton's critique: Mill never really defined harm other than as an action that is wrong when interfering with the freedom of others, those others indicating individual human persons and not animals.

In a sense, then, we are entering new terrain if we wish to explore the relation between harm and cruelty and its relation to the ambiguous status of person within the context of the animal rights debate. We can begin by establishing that the lack of critical reflection on the transposition of those terms from the human to the animal domain, which has characterized the debate so far, is centred on an equally uncritical transposition of personhood from one domain to the other. This lack might further be attributed to the practical absence of harm and cruelty as concepts that come up for scrutiny in their specific relation to animals within the history of the law. This can be illustrated with the following observation by Richard. A. Posner:<sup>70</sup>

Not until the end of the nineteenth century were laws enacted in the nations of the West forbidding cruelty to animals. The laws were full of loopholes – essentially they just forbid sadistic, gratuitous, blatant cruelty

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<sup>69</sup> John Stuart Mill, "On Liberty." In: *The Collected Works of John Stuart Mill, Volume XVIII - Essays on Politics and Society Part I*, ed. John M. Robson (London: University of Toronto Press, 1977).

<sup>70</sup> Richard A. Posner, "Legal, Philosophical and Pragmatic Perspectives," *ibid.* supra note 40, 51-77.

– but they still represented a dramatic change from the law’s traditional indifference to animal welfare. (53)

If before the nineteenth century animal cruelty laws were virtually non-existent, the positive change Posner describes effectively registers cruelty as excessive harm. There is no indication here, however, that this excessive harm is conceptually indebted to a legal notion of harm. Rather, it seems that what blatant cruelty connotes is the kind of cruelty that is open for everyone to see and is so clear in its excessiveness that it can be regarded as self-evident. Its legal underpinnings, then, do not flow from a conceptualization of harm but are reliant on a circular reasoning that presents blatant cruelty as self-evident *because* it only concerns those acts of cruelty that are regarded as self-evident.

Since the 19<sup>th</sup> century animal cruelty laws have varied across the globe, its regions and provinces. The fact that in some countries animals that are used for food, are considered pets in other countries will undoubtedly affect the nature of animal cruelty laws in different ways. In view of my present concern, however, I choose to limit myself to the overwhelming majority of animals, which are factory-farmed animals, and to draw on a comparative study of animal cruelty laws in the United States and on the European continent that was published by David J. Wolfson and Mariann Sullivan in 2004.<sup>71</sup> In this study, Wolfson and Sullivan explore the impact of animal cruelty laws in focusing on the lives of animals that are factory-farmed. The most conspicuous element of their detailed account of animal cruelty laws and statutes across both continents is that it shows a persistent pattern of those laws exempting factory-farmed animals from the protection from cruelty. This persistent pattern is accommodated by the manner in which the legal texts are drawn up. The texts either literally exempt some categories of factory-farmed animals or are conveyed in such non-specific terminology that they allow for the exemption of a great many categories of factory-farmed animals in an indirect way.

In the United States, Wolfson and Sullivan found that factory-farmed animals have even been made to disappear from the law altogether:

Certainly, making this many animals disappear from the law is an enormous task. It has been accomplished, in significant part, through the efforts of the industry that owns these animals to obtain complete control, in one way or another, over the law that governs it. While this is not an

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<sup>71</sup> David J. Wolfson and Mariann Sullivan, “Foxes in the Henhouse, Animals, Agribusiness, and the Law: A Modern American Fable.” In: *Animal Rights, Current Debates and New Directions*, ibid. 205-233.

unusual effort on the part of the industry generally, the farmed-animal industry's efforts have been exceptionally successful. The industry has devised a legally unique way to accomplish its purpose: It has persuaded legislatures to amend criminal statutes that purport to protect farmed animals from cruelty so that it cannot be prosecuted for any farming practice that the industry itself determines acceptable, with no limit whatsoever on the pain caused by such practices. As a result, in most of the United States, prosecutors, judges, and juries no longer have the power to determine whether or not farmed animals are treated in an acceptable manner. The industry alone defines the criminality of its own conduct. (206)

In the above passage, Wolfson and Sullivan point out that the animal cruelty laws in the United States are rendered ineffective as a result of a shift in jurisdiction. This shift has caused federal law and its primary animal cruelty statutes to become irrelevant:

The Animal Welfare Act, which is the primary piece of federal legislation relating to animal protection and which sets certain basic standards for their care, simply exempts farmed animals, thereby making something of a mockery of its title. (206)

As a result, The Humane Slaughter Act is the primary federal legislation affecting farmed animals. It requires that livestock slaughter "be carried out only by humane methods" to prevent "needless suffering." (207)

The problems with the Humane Slaughter Act, which Wolfson and Sullivan lay out, are manifold. Most astoundingly, perhaps, is that it exempts poultry, that there are no significant fines or penalties imposed for the violation of the Act and that its reinforcement is virtually non-existent. Hence, apart from the fact that the State in the United States has, in liberal fashion, retreated from the specific juridical sphere under discussion and can no longer judge what constitutes a cruel practice through a shift in jurisdiction, we can also establish that the implied conceptualization of cruelty within its central Humane Slaughter Act has nothing to do with the protection from excessive harm.

Effectively, United States animal cruelty laws, instead of protecting animals from cruelty, protect the industry from the State. As Wolfson and Sullivan point out in their analysis, if federal law is rendered ineffective, the laws of the separate states do not come to the rescue of the animals either:



Criminal anticruelty statutes are also generally worded in ways that leave the court extraordinary discretion. By including in the definition of *cruelty* the otherwise undefined requirement that the conduct must be unjustifiable or unnecessary, the law may invite the conclusion that a practice, though capable of causing great suffering, is not legally cruel if it is related, in any way, to food production. (211)

The European situation has not seen this complete shift in jurisdiction and, as a result, some of the standard factory-farming practices that are legal in the United States have been qualified as cruel by European courts and have actually been banned, such as battery egg production. For this reason, Wolfson and Sullivan are rather optimistic about the European animal cruelty laws and their effectiveness. However, a broader overview of European animal welfare legislation shows that the British Animal Welfare Act of 2006 appears to be no exception: the same conceptual gap between harm and cruelty emerges in the European situation as animals bear no dignity, factory-farming abounds and that which is considered a cruel practice does not stem from understanding cruelty as following from a conceptual understanding of harm in any juridical sense.<sup>72</sup>

In this respect, the exemption that was made in Holland for the unsedated slaughter of animals for kosher and halal meat is particularly telling: In 2011 – in a move which, arguably, caused the greatest animal welfare stir in Holland in the last few years – the Dutch Partij voor De Dieren (Party for the Animals) sent draft legislation to the Dutch upper chamber in which it called for a ban on unsedated slaughter. The Dutch government amended the draft legislation by including the provision that animals could still be slaughtered unsedated if it could be proven that unsedated slaughter was no crueller than conventional slaughter. Eventually, this criterion fell away as the right to religious freedom prevailed over the humane slaughter of animals and unsedated slaughter within the realm of religion continues to be protected under the Dutch law. The point here, however, is that within this European animal cruelty case, the amendment that was made to the initial draft legislation installed a criterion for a juridical definition of cruelty that was not centred on a framing of cruelty as conceptually related to harm. Rather, even though jurisdiction resided firmly with the State, the gap that a non-conceptual and self-evident notion of cruelty installed was

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<sup>72</sup> See: D.B. Wilkins, C. Houseman, R. Allan, M.C. Appleby, D. Peeling & P. Stevenson, *Animal Welfare in Europe, European Legislation and Concerns*, International Environmental Law and Policy Series, ed. David B. Wilkins (Cambridge: Kluwer Law International, 1997).

filled by an amendment that subscribed to the customary practice of factory-farming just the same.<sup>73</sup>

In other words, animal cruelty laws, whether or not drafted by the industry itself, are more often than not embedded in a juridical framework that sustains the practice of factory-farming as a customary practice. This renders such laws ineffective for the vast majority of animals. Hence, the conceptual gap between harm and cruelty turns cruelty into a situational issue that facilitates a juridical order in which the grounds for exemption are potentially endless and can even become the rule. This is not to say that animal cruelty laws are largely ineffective *because* of the juridical sphere within which they are embedded. Rather, the more fundamental point is that we cannot expect anticruelty laws to protect animals from cruelty, just like we cannot expect the right to life to protect human beings from being murdered. In fact, as long as factory-farmed animals have no right to life it would only seem fair to expect that anticruelty laws will be even less effective in preventing cruelty than criminal statutes on murder are in preventing homicide.

As we can now deduce from my analysis of Wolfson and Sullivan's study, animal cruelty laws not so much narrow the gap between the human and the animal but construct a difference between animals within the category animal itself because of the structural exemption for factory-farmed animals. Effectively, every animal cruelty law is bound to generate its own specific group of animals that can be excluded from the protection of cruelty. Hence, the inevitable problem of demarcation between the human and the animal we have envisaged to occur within an expansive model repeats itself in an a priori manner within the animal cruelty laws that are already in place today, namely as a problem of demarcation between animals. Of course, there is no easy solution to this problem. There are, however, solutions that might make matters worse because they allow any consideration of the suffering of factory-farmed animals to further retreat into the domain of invisibility. In fact, we may identify a similar demarcation dynamic in the modern effort to think through animal rights through the envisioning of an animal dignity. I consider one poignant example of this to be the capabilities approach devised by Martha C. Nussbaum.<sup>74</sup>

Without wanting to rehearse Nussbaum's entire argument, here, let me briefly bring into focus what the capabilities approach is about by drawing on Nussbaum's own words. After discussing the problems the theories of

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<sup>73</sup> Ibid. supra note nr. 58.

<sup>74</sup> Martha C. Nussbaum, "Beyond Compassion and Humanity, Justice for Nonhuman Animals," *ibid.* supra note nr. 40, 299-320.

contractarianism and utilitarianism pose to dealing with the animal question she states that:

The capabilities approach in its current form starts from the notion of human dignity and a life worthy of it. But I shall now argue that it can be extended to provide a more adequate basis than the two theories under consideration. The basic moral intuition behind the approach concerns the dignity of a form of life that possesses both deep needs and abilities; its basic goal is to address the need for a rich plurality of life activities. [...]

The idea that a human being should have a chance to flourish in its own way, provided it does no harm to others, is thus very deep in the account the capabilities approach gives of the justification of basic political entitlements. (305)

The capabilities approach enlists a number of central human capabilities. It then explores the extent to which these capabilities can provide a framework for sketching animal capabilities and how those capabilities can guide law and inform basic political principles on the way in which we should treat animals. In accordance with my immediate purpose, I will only focus on the first and, arguably, most important capability Nussbaum mentions; that is, the right to life. This is what Nussbaum states:

*Life.* In the capabilities approach, all animals are entitled to continue their lives, whether or not they have such a conscious interest. All sentient animals have a secure entitlement against gratuitous killing for sport. Killing for luxury items such as fur falls within this category, and should be banned. On the other hand, intelligently respectful paternalism supports euthanasia for elderly animals in pain. In the middle are the very difficult cases, such as the question of predation to control populations, and the question of killing for food. (314)

As for food, the capabilities approach agrees with utilitarianism in being most troubled by the torture of living animals. If animals were really killed in a painless fashion, and free – ranging life, what then? Killing of extreme young animals would still be problematic, but it seems unclear that the balance of considerations supports a complete ban on killings for food. (315)

We can see how in the same passage all animals are entitled to continue their lives whereas the killing of animals for food is not ruled out. This internal inconsistency is, to some extent, “resolved” by the rhetorical question in the second part of the passage: If animals were killed in a painless fashion and had a free-ranging life, what then?

To begin with, that would be the end of factory-farming. First, because the economic cost caused by the exponential growth of space needed to accommodate a free-ranging life for every individual animal would be enormous. Second, because the problem with killing extremely young animals – a problematic demarcation issue in its own right because it conflicts with the right to life – would not be resolved. Indeed, if, as Nussbaum seems to suggest, “the right to continue their lives” was, in some way, limited to an animal reaching maturity, the killing, for example, of factory-farmed chickens after six months instead of after six weeks, which is standard practice, would still render these chickens extremely young given that the average life span of chickens is eight years. Hence, it would not be an economically viable enterprise either.

The more important point I wish to make here, however, is that the focus on *all* animals and the concomitant exemption of factory-farmed animals effectively registers a vast quantity of animals as *other* than animals. This is not merely a huge practical problem but a fundamental problem as well because it raises the question of how we come to categorize the category animal as animal and what this means for the traditional demarcation between the human and the animal as a foundation for the concept of human rights in the first place. For now, suffice it to say that the way in which animal cruelty laws register a vast quantity of animals as other than animal seems to render future animal cruelty statutes that might be inspired by approaches such as the capabilities approach especially ineffective. Hence, before even beginning to consider the ramifications of the demarcation problem within an expansive model, we can establish that the customary exemption for factory-farmed animals within the law cannot be explained away as merely a juridical problem of the inability to conceptualize animal cruelty. Apart from the fundamental issues it raises, and to which I will attend in my final chapter, it is equally installed by a recurrent element of cruelty that is sublimated into a focus on humane killing that has captured both the popular and the legal imagination. Effectively, this focus has turned the humane killing of animals into a myth, not primarily because it might very well be impossible to kill animals painlessly, but because it cannot be done with the vast quantity of animals that are processed on factory-farms. This begs the question whether more law would help to protect animals from harm. My analysis of the operations of animal cruelty laws suggests to the contrary, since

every law installs its own categories to be excluded; this effectively legitimizes the cruelty inflicted upon those excluded categories.

In light of my analysis of animal cruelty laws, we can now surmise that the fact that rights are generally considered as instrumental in protecting subjects from harm does not necessarily imply, first, that rights are the best way to go about protecting animals from harm; and second, that it does not logically follow that the desire to protect animals from harm is what *motivates* the wish to grant animals rights as well. Of course one could ask whether it really matter what motivates the expansive model and the answer would be that, yes, it does. Not being predisposed to what motivates the expansive model offers a different perspective on the element of cruelty that it incorporates. This element of cruelty then no longer has to be understood as the unfortunate by-product of a well-intended and “just” model. Rather, it might also be read as intrinsically bound up with the expansive model and thus as symptomatic of the wider juridical sphere in which it is embedded. With respect to this, I choose not to read the expansive model as resulting from a desire to protect animals from harm, but primarily as motivated by the factual and actual outcome of a scientific discourse.

This scientific discourse, instead of being motivated by a concern with animal well-being, is the result of a not being able, a not seeing any reason not to attribute animals rights. This incapacity, this double negation, this “*not* being able *not* to” is “solved” by or “dissolved” into an affirmation, which takes the form of expanding the model instead of questioning it. Reading the expansive model as I do here, demands giving up on the more conventional urge to look at the expansive model as motivated by a desire to protect animals from harm, and raises the question which stakeholders carry an interest in the status quo of the scientific discourse that holds up the expansive model today. In what lies ahead, however, I will restrict myself to bringing the mistaking of effect for cause into play that confuses or, rather, substitutes, the desired result of the granting of rights to subjects – protection from harm – with its scientific motivation. Hence, I will examine what would happen if we really regard the premise that animals should be protected from harm as central to a future juridical model. To this end, and again with a focus on tropology, I will close read George Orwell’s *Animal Farm* and attempt to probe the scientific credibility of such a position.

### 3. Animal Farm and the Nature of Absolute Difference

*Animal Farm*, a book written by George Orwell between November 1943 and February 1944, was first published in August 1945, at the beginning of the Cold War.<sup>75</sup> It tells a story about animals on a farm who successfully rebel against their master only to see the Rebellion turn into a struggle for power that ends in tyranny. As Michael Shelden<sup>76</sup> has observed, Orwell got the idea for the book on his return from the Spanish Civil War, where he and his wife experienced the long reach of Stalinist influence and made a narrow escape from the communist purges that flooded the country. If this experience turned Orwell into an anti-Stalinist for the rest of his life, the book was not meant as anti-communist but as a warning against the mythical proportions of Stalinist Soviet communism, which had blinded Spanish revolutionaries and socialists elsewhere to the ugly side of Stalin's reign. On his return to Britain, Orwell experienced this blindness first hand when he initially had trouble finding a publisher for his book. No one wanted to hear any critique on Stalinist Soviet communism, especially now that Stalin had joined the allies against Hitler.

I will begin my close reading by providing my own plot summary:

The animals on *Manor Farm*, which is owned by Mr Jones, meet up one night to listen to Old Major, a white boar who has had a visionary dream that he wishes to communicate to all the other animals. He tells them that their lives on the farm are miserable and short and that Jones and his men steal the fruits of their labour. He assures them that the only way to put an end to the evil tyranny on the farm is Rebellion and teaches the animals a revolutionary song called "Beasts of England" to impel them to a spirit of brotherhood and comradeship. Soon after, when Jones takes to drinking and neglects to feed the animals, they break out of their cages and, in the resulting confrontation, they chase Jones away and take over the farm. The animals rename the farm *Animal Farm* and adopt the Seven Commandments of Animalism with "All Animals Are Equal" as the principle command. Two pigs that go by the name of Snowball and Napoleon naturally assume leadership and, at first, things seem to turn out

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<sup>75</sup> George Orwell actually coined the term Cold War. He first used it in an essay called "You and The Atomic Bomb." In: *Tribune* (London, 1945).

<sup>76</sup> For an excellent overview of the historical and political context in which *Animal Farm* was published and for Orwell's own comments on the spirit in which he wrote *Animal Farm* see: Michael Shelden: "Animal Story." In: *Orwell, The Authorized Biography* (London: Heinemann, 1991), 291-409.

well for the animals. As time passes, however, and as Napoleon gets rid of Snowball by using him as a scapegoat for everything that goes wrong on the farm, the animals find themselves working even harder than before under the ever more tyrannical leadership of Napoleon and the other pigs that figure as his accomplices. The pigs keep the milk and apples for themselves. The revolutionary song, “Beasts of England,” is replaced with an anthem glorifying Napoleon. The Seven Commandments of Animalism are secretly amended to make sure that the pig’s increasingly humanlike conduct can never be qualified as unlawful. Most importantly, the commandment “All Animals Are Equal” is changed into: “All Animals Are Equal But Some Animals Are More Equal Than Others.” In spite of their hardship, the animals are blind to the reality of their situation and even when Napoleon begins to purge the farm with his dogs, the animals remain loyal to the spirit of their revolution. The story ends with a dinner party to celebrate a new alliance between the pigs and the local farmers at which Napoleon insists on changing the name of the farm back to *Manor Farm*. When a row breaks out over cheating at cards and the other animals peep in to see what is causing the uproar, they can no longer distinguish between animal and man, at which point they finally come to realise that their Rebellion has been betrayed.

As we can gather from the above plot summary, *Animal Farm* is about the revolution of animals on a farm seeking protection from harm. Significantly, the first thing the animals do after the Rebellion is install the laws of Animalism to guarantee the protection from harm by way of rights. This implies that the story is about rights. In the standard reading of *Animal Farm*, as an allegory of Stalinist Soviet communism and its tyrannical aftermath, the animals are read as representing people. The story then seems to be about human rights. More specifically, because of its focus on harm, the text seems to make the liberal Cold War point that communism is detrimental to the rights of the individual. In this sense, the text dramatizes the tension between two forms of justice: the justice of the community – the farm – and the justice of the individual. It can be seen as opting for the last form since, ultimately, the revolution is betrayed.

It would be a gross simplification, however, to argue that *Animal Farm*’s allegorical structure impels us to read *Animal Farm* as conveying the message that communism or, more broadly speaking, communal justice does not work and that therefore the status quo under capitalism is the only feasible political alternative. The story, because of its predominant focus on the horrors the animals face after the Rebellion, can indeed invite such a reading, which

actually happened on various occasions after Orwell's death in 1950. The CIA, for example, used *Animal Farm* for propaganda purposes in a cartoon version that was adapted in such a way that the closing parallel between capitalist and the pigs' exploitation of the other animals was suppressed.<sup>77</sup> By contrast, Orwell was always very clear about his views on *Animal Farm* being a warning of communism as totalitarianism and of the way it was meant to convey the prospects of capitalism. This can be illustrated with a quote, part from Michael Sheldon's longer citation of Orwell on *Animal Farm* in a letter to Dwight MacDonald, the editor of the New York magazine *Politics* in 1946:

The turning-point of the story was supposed to be when the pigs kept the milk and apples for themselves. (Kronstadt). If the other animals had had the sense to put their foot down then, it would have been all right. If people think I am defending the status quo, that is, I think, because they have grown pessimistic and assume there is no alternative except dictatorship or laissez- faire capitalism [...] What I was trying to say was, 'You can't have a revolution unless you make it for yourself; there is no such thing as a benevolent dictatorship.' (407)

This caveat aside, the allegorical reading of *Animal Farm* as a story about human rights that informs these political readings is blocked by the text at several points. The animals are much more animal-like than a strict allegorical reading would demand. The chickens are chicken-like, the pigs are pig-like the cat is cat-like, etc. This element, albeit followed through consistently, becomes most apparent as each animal's work on the farm is either accommodated or hindered by its species-specific bodily disposition and character. The cat, to mention but one example, never works but only shows up at meal times where she affectionately purrs to convince the other animals of her good intentions. The traditional political-juridical reading, in order to be coherent, has to remain blind to this element. Yet, the effect of the text, the way in which it captures the imagination, depends on just these aspects, which are therefore more than a compositional adornment. In fact, this small but important friction opens up the possibility for another reading that I propose here and whereby the text is still about rights and the protection from harm, but now with regard to nonhuman animals. Hence, my reading will still be an allegory – or rather allegoresis – but the story is now explicitly framed as an allegory about animal rights. This framework allows me to use *Animal Farm* as a model for exploring the

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<sup>77</sup> Paul Kirschner, "The Dual Purpose of Animal Farm." In: *Orwell, Updated Edition, Blooms Modern Critical Views* (New York: Chelsea House, 2007), 759-786.



demarcation problem within an expansive model. More specifically, I will close read the way in which the difference between the human and the animal and between the animals themselves is thought through in *Animal Farm* and explore the effects this bears on the concepts of harm and cruelty in relation to accommodating animals within an expansive model. For this reason, I will begin my exploration with a comparison of how the difference between the parameters of the human and the animal is conveyed within *Animal Farm*, on the one hand, and within an expansive model, on the other.

The expansive model is centred on the negation of an absolute difference between the human and the animal. As I concluded before, there is ultimately no way of telling what the essentially human is, on account of which any proclaimed difference naturally takes on a gradual quality. By contrast, in *Animal Farm* the sense of an absolute difference is not denied, but implicitly conveyed at the very beginning of the book, just before the Rebellion is sparked. At this stage, before the Rebellion, the animals enjoy no protection from harm as they are subjected to the laws of the farm under Jones' reign. Their situation changes dramatically when Jones takes to drinking out of frustration with the law and wilfully neglects the animals trusted to his care, which is succinctly conveyed in the following passage:

Now, as it turned out, the Rebellion was achieved much earlier and more easily than anyone had expected. In the past years Mr Jones, although a hard master, had been a capable farmer, but of late he had fallen on evil days. He had become much disheartened after losing money in a lawsuit, and had taken to drinking more than was good for him. For whole days at a time he would lounge in his Windsor chair in the kitchen, reading the newspapers, drinking and occasionally feeding Moses on crusts of bread soaked in beer. His men were idle and dishonest, the fields were full of weeds, the buildings wanted roofing, the hedges were neglected and the animals were underfed. (18)

In view of the provisional definition of cruelty I have developed, I identify the dynamic described in the above passage as the moment when harm topples over into cruelty. On the one hand, Jones is described as a hard but capable master, which implies that under the old regime the animals were still cared for in a manner that never impelled them to rebel, because Jones exercised a minimum responsibility for the farm, which, for example, guaranteed their daily rations. In short, the animals might have been subjected to harm, but as long as they were subjected to the human laws of the farm and not ignored by them they were

safeguarded from the most blatant cruelty. On the other hand, when Jones takes to drinking the animals enter a lawless zone and are neglected as subjects under the laws of the farm that previously guaranteed them a basic protection against the most blatant types of cruelty, such as not being fed. Hence, the precarious situation the animals find themselves in and that this ignites the Rebellion may be read as a practical illustration of the implications that the wilful ignorance of those animals not granted legal personhood within an expansive model on a more theoretical plane could result in.

After the Rebellion, the absolute difference between the human and the animal that is conveyed at the beginning of the book is compromised. Indeed, the fact that the animals become legal subjects under their own laws of Animalism seems to flatten out what distinguished the humans from the animals on the farm in absolute terms, namely the having of rights. Strictly speaking, however, the laws of Animalism, albeit affording the animals some protection from harm prior to the amends made by the pigs, are surely not drawn up as an expansion of the laws under the regime of Jones. On the contrary, they are formulated very much in opposition to those laws; this confirms rather than effaces the absolute difference between the human and the animal. Admittedly, this oppositional demarcation still does not completely cancel out the idea of a species' overarching inclusivity, since the ground rule of Animalism – “All Animals Are Equal” – might very well be read as animals being entitled to rights just as much as humans. However, this would suggest that the oppositional manner in which the laws of Animalism are framed not so much *represents* a form of justice in terms of equality, but at best conveys the aspiration to upset the traditional opposition between the human and the animal in absolute terms in the spirit of Old Major's revolutionary song. In this light, the text can be said to appeal to the potential for interspecies solidarity while dramatizing the problems the legal codification of interspecies solidarity poses. This implicit potential, however, is cancelled out at the end of the story as the animals are subjected to the laws of what is no longer *Animal Farm* but *Manor Farm* and human reign is reinstalled.

Leaving this cancelled out potential aside, if only momentarily, the denial of the difference between the parameters of the human and the animal in the expansive model, on the one hand, and the focus on the oppositional nature of this difference in *Animal Farm*, on the other, suggests we might expect both allegorical models to differ from each other significantly with regard to the weight attributed to these parameters. Since in both models we come across laws that install a demarcation problem that turns on precisely the nature of this difference, we can now explore this issue in more detail.

Within an expansive model the demarcation problem necessarily remains an abstract matter, which hinges, as we have seen, on a conventional notion of personhood. In *Animal Farm* the demarcation problem is addressed in more practical terms when, after the Rebellion, a demarcation decision has to be made on whether or not to let the birds fit in within the other animals. After Snowball has declared that the Seven Commandments should, in effect, be reduced to the single maxim: “four legs good, two legs bad” and the birds object, he makes the following statement:

‘A bird’s wing, comrades,’ he said, ‘is an organ of propulsion and not of manipulation. It should therefore be regarded as a leg. (31)

This seemingly arbitrary way of demarcation invites us to explore, first, in which way the parameters of the human and the animal in *Animal Farm* inform the demarcation problem the birds are faced with. Second, it begs the question as to what the absolute difference the maxim “four legs good, two legs bad” installs amounts to and how this difference “translates” into the denial of an absolute difference on which an expansive model is centred.

The best way of investigating the workings of those parameters in *Animal Farm* is by zooming in on the moments the human world and the animal world intersect. This intersection is exclusively reserved for the cleverest animals on the farm, the pigs. At first, the contacts the pigs entertain with the human world are established through Mr Whymper, an intermediary third party, a solicitor, a lower species of the humans in that he is working for a boss and not bossing himself, as the pigs aspire to. At the end of the story, the pigs’ efforts to operate on a basis of equality with their human counterparts are brusquely betrayed: the unity between the two worlds collapses just before it seems to take shape and human reign is reinstalled. This collapse can be said to literally reinforce the sharp division between the human and the animal and to enact the fable’s moral lesson. This lesson is at one with the enigmatic rule that has so surreptitiously come to govern the story, namely that: “All Animals Are Equal But Some Are More Equal Than Others”. Any attempt to tamper with this ground rule will be met with tyrannical violence.

On the one hand, this rule can be read as demarcating the humanized pigs from the other animals; that is, if we momentarily read the pigs as symbolizing human beings. On the other hand, this rule can be read as demarcating some animals from others, which would suggest the demarcation problem that stems from the absolute difference between the human and the animal before the rebellion repeats itself in the form of a demarcation problem within the animal

species as constituted by higher and lower life forms. Let us now explore both reading possibilities and begin with the way in which this enigmatic rule performs an identity politics by focusing on the contradictory notion of difference implied within this rule.

The fact that the lower human (the solicitor) intersects with the higher animal (the pig) gives way to a notion of gradual difference, both between and within the species. At the same time, however, the collapse of this intersection at the end of the story testifies to an absolute difference between the species, as the suggestion of a gradual difference is betrayed and appears to have worked as a smokescreen. In short, if the notion of a gradual difference both between and across the species is sustained throughout the story, notions of absolute difference, albeit discernible – for example, through an analysis of the laws of Animalism as oppositional instead of expansive – remain rather implicit until the collapse at the end. The fact that all the different animals on the farm, despite their different and species-specific whining, lowing, bleating and quacking, can communicate with each other but not with the humans, stands as an example of this implicit notion of absolute difference. It suggests that there is only one overriding, essential, absolute difference, a rigid divide between the human and the animal.

On a character level, the horse Mollie operates on the axis of this divide. After the Rebellion, Mollie is the only animal that stubbornly persists in eating sugar cubes and in adorning herself with ribbons, which the other animals consider a token of human idleness. When another horse named Clover confronts Mollie with her unlawful behaviour she denies everything but cannot bring herself to look Clover in the face and runs off into the field. Clover, who has grown even more suspicious as a result of Mollie's evasive behaviour, decides to search her stall:

A thought struck Clover. Without saying anything to the others, she went to Mollie's stall and turned over the straw with her hoof. Hidden under the straw was a little pile of lump sugar and several bunches of ribbons of different colours. (42)

Clover never tells the other animals of his discovery and when, shortly after this incident, Mollie disappears from the farm none of the animals ever mention Mollie again. On the one hand, this unwritten code of silence over Mollie's behaviour both prior to and after her disappearance works to sustain the myth of Animalism through a self-invoked and collective censorship; on the other hand, this code of silence turns Mollie's stubbornness from a vice into a virtue because

it lends her desire, her indulgence, an apologetic aura of being a creature who is simply unable to resist the call of nature, answering – deep down inside – to higher, human laws. This “call of nature,” however, is not natural, but constructed by the other animal’s code of silence, which reflects their exceptionally mild reactions towards her humanlike behaviour. In total contrast to the death penalty awaiting the animals that do not strictly comply with the laws of Animalism, Mollie’s behaviour merely causes unease and the occasional reproach, but she is neither punished, nor banned from the farm. Moreover, it seems as if this mildness is informed by the animal’s general incapacity to understand Mollie as an individual because they are submerged in the collective myth of Animalism, which at once reduces the other animals to simpletons and makes their reactions take on a non-judgmental, non-condemning, justifying quality in yet another way.

Hence, whereas the other animal’s mild reactions towards Mollie’s behaviour seem to convey a non-understanding of a fellow creature that stems from a non-articulated accepting, an acknowledging, of Mollie as other, of who or what Mollie “is,” this acknowledgement is *not* the acknowledgement of Mollie as an individual. Rather, this acknowledgement conveys the other animal’s humble bowing, their answering to the human at the top of the hierarchy, which is constructed by a narrative strategy that poses this hierarchy as natural, as always already in place. If the other animals are banned from the farm or an even more cruel fate awaits them should their conduct conflict with the laws of Animalism, Mollie, once humanized, leaves the farm of her own free will and literally crosses over to the other side. It is precisely at this moment that the gradual difference between the human and the animal that Mollie’s character *operates* until her disappearance is made explicit and performed as absolute after all. The price of Mollie’s humanization, however, is her willing submission to the owner of the neighbouring farm, where absolute difference reigns and the “natural law” is still intact.

Now, if in *Animal Farm* notions of an absolute difference between the human and the animal remain rather implicit until the end of the story, there is one notable exception to this trend. This exception is formulated in explicit juridical terms and concerns the sheep’s repetitive bleating of the maxim “four legs good, two legs bad.” This maxim poses a rigid divide between the human and the animal, which appears to be centred on their different bodily constitutions. As we have seen, it is issued by one of the leading pigs, Snowball, after considering that the stupider animals, such as the sheep, hens, and ducks, are unable to learn by heart the Seven Commandments installed immediately after the Rebellion. At first glance, this maxim offers comic relief as it ridicules

the blind trust the animals display in their leaders through their exaggerated commitment to an ideological cause they cannot grasp. Yet, there is a more serious touch to this maxim in view of Orwell's comments on his having trouble finding a publisher for *Animal Farm* in Britain when he returned from the Spanish Civil War.

As Michel Shelden has observed, albeit without making the connection to the bleating sheep in *Animal Farm*, Orwell, in a preface for an English edition stated that the real enemy was not Soviet communism but the gramophone mind. Orwell was hinting at the fact that any ideology could encourage a state of mind such as was conveyed to him through the repetitive character of the explanatory excuses he got each time his manuscript was rejected. Roughly, publishers, each adding their different measure of pathos, rejected his manuscript on the grounds that Stalin was an ally of Britain and that Russian soldiers were dying on the battlefield. It all boiled down to any critique on Stalinist communism being either inappropriate or completely off the mark.<sup>78</sup> Reading the bleating of the sheep's maxim in this light, as an example par excellence of the gramophone mind, I will now take it seriously in my own way by focusing on the manner in which the maxim performs rather than delivers its four legs ideology in *Animal Farm*.

To begin with, the maxim "four legs good, two legs bad" informs the term Animalism as an "-ism," succinctly conveying, through a *four legs* ideology, the animal's strife for independence and their subsequent craving for a self-sufficient animal world after the Rebellion. The term Animalism formally denotes: the religious worship of animals, or, the behaviour that is characteristic of animals, particularly their being physical and instinctive.<sup>79</sup> In other words, the text not just induces us to read the word Animalism allegorically, as a specific way of interpreting Animality as opposed to Humanity, but at the same time invites us to activate these latter terms as parameters. The text itself, however, never explicitly mentions Humanity or Animality, which suggests that we perhaps should not judge the other animals too harshly for being fooled by the "gramophone record" the maxim of the sheep plays. Rather, we might raise our awareness to the fact that the same maxim installs an -ism that invites us to inscribe parameters that are not literally there, in the text. This is why I will now zoom in on the animal's maxim and explore this inscription in terms of the laws on *Animal Farm*.

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<sup>78</sup> Ibid., 400. Orwell made these comments in "The Freedom of the Press," *Times Literary Supplement*, 15 September 1972.

<sup>79</sup> OED. (Oxford, 2003).

The maxim “four legs good, two legs bad” substitutes all the other rules previously in place as it comes to regulate *Animal Farm*’s world by dividing it into two categories, the category of *two legs* and the category of *four legs*. It stands to reason that this is the most effective way of making sure no entity falls out of what we are invited to read as the categories of Humanity and Animality. Such categorization, succinctly condensed into a single rule of law, is not concerned with what the animals are or with what they do, but with isolating one from the other through an identity politics that defines this other as the two-legged human. In other words, the rule “four legs good, two legs bad” does not invite an interpretative gesture, but demands a demarcation decision. It begs the question, first, in which way this rule appears to call for interpretation while only demanding a decision. I would argue that this has something to do with Snowball’s intervention that names the bird’s wings legs. As much as this intervention seems to be an interpretative gesture, it does not interpret the rule, which is already in place, but the bodily constitution of the birds. Second, it begs the question as to how the oppositional demarcation rule “four legs good, two legs bad” works, which I will now explore by examining the way in which the opposition between four legs and two legs is performed.

In *Animal Farm*, in a world that acknowledges only two species (Animal and Man), four legs is the opposite of two legs as good is considered the opposite of bad. Yet, just as the opposition good vs. bad is more often than not a nonsensical simplification of reality, I propose that the opposition *two legs-four legs* must be considered a nonsensical opposition as well. Certainly, the mathematic doubling of the legs that informs the opposition lends the rule a scientific edge, but mathematically speaking, two legs do not stand in opposition to four legs. In fact, the irrational mathematics of the legs can be said to enact a conventional form of anthropomorphism since “the human” is commonly associated – synecdochically – with human person and hence, with walking upright, on two legs. More specifically, precisely because this irrational mathematics is reliant on a conventional form of anthropomorphism, the figure of the human is framed as a rational-scientific being. This figure of the rational-scientific human being is kept in place by the sheep’s repetitive bleating, no matter the temporal reversal of power relations after the Rebellion.

With respect to this issue, I consider the fact that the animals work out the maths as a foreshadowing of the collapse at the end of the story that works to affirm human leadership. More importantly, I understand this dynamic in terms of Judith Butler’s analysis of the difference between the constative and the performative, because it suggests that the hierarchical opposition between the human and the animal in *Animal Farm* is not a constative matter of fact but must

still be performed by those who master and who are mastered. This implies that the tyrannical power of the pigs is not an absolute given, but *constructed* as an absolute given.<sup>80</sup> Since the birds in *Animal Farm* are the first animals faced with the practical implications of the rigid categorization the maxim “four legs good, two legs bad” imposes, I will now shift my focus from the rule to the proceedings the birds are put through as a test case for examining if a *theoretical demarcation problem* – the impossibility of having an objective standard in place to determine the nature of the difference between the human and the animal – can be reconciled with the *practical demarcation decision* of fitting in the birds with the animals.

The birds, because they are only equipped with two legs, risk falling out of the category of Animalism. After Snowball’s consideration that “wings are an instrument of propulsion,” this problem is solved by making their wings count as legs as well, together with their two legs adding up to four and fitting them in with Animalism. The birds, then, are saved from becoming enemies of the animal order that has temporarily been installed through an unacknowledgement of their wings. Not coincidentally, those wings are what distinguishes them from the other animals in that all birds have wings. Consequently, the denial of their wings is the price the birds pay for being allowed to being subjected under the laws of Animalism. This denial enacts what I consider to be a captivating poetic cruelty, because it plays on a notion of freedom through the association of birds with their ability to fly. This poetic cruelty is significantly different from my provisional qualification of cruelty in the first chapter, which, let us recall, constituted the legitimization of a wilful ignorance of those entities not considered fit for inclusion in the system of legal personhood. Here, inclusion in the system installs a protection from harm but generates a poetic cruelty since it legitimizes the wilful ignorance of the fundamental otherness of the entity that is subjected.

Even though the birds are, through a substitution of wings with legs – which is, because it is a substitution, a matter of naming and thus, *not* as it would seem, a matter of attributing, as nothing is added – incorporated in the seemingly higher category of Animalism, the hierarchical opposition between Humanity and Animality is not undermined, let alone reversed.<sup>81</sup> Rather, and paradoxically, this hierarchy is reinforced. It is as if the animals are saving the humans the trouble of categorization here, by doing the categorization themselves. This is precisely what a totalitarian ideology would want: let the subjects do the subjecting themselves. The point here, however, is that the bird’s

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<sup>80</sup> Judith Butler, *Excitable Speech, A Politics of the Performative* (New York: Routledge, 1997).

<sup>81</sup> To attribute goes back to the Latin verb *Attribuere* from *add-to* + *tribuere* assign (OED 2003).



case not just complicates my provisional understanding of cruelty but also my earlier understanding of anthropomorphism, whereby I distinguished between a conservative form (attributing) and a strict form (naming). In a sense, the birds' case upsets and confuses these definitions, since the birds are *attributed* a characteristic, namely legs, through a *substitution* that *names* their wings legs. The attribution, at first glance, seems to constitute a conservative form of anthropomorphism because it can only be motivated by a hypogram, which Snowball invents when he defines wings as an instrument of propulsion and therefore as essentially animal.

Strictly speaking, however, the absolute difference between the human and the animal in *Animal Farm* is centred on an Animalism that we have been invited to read as Animality and not as Humanity, even if the animals within the allegory *Animal Farm* function as veiled human beings. By implication, we cannot qualify the attribution of legs as a conservative form of anthropomorphism because the legs are attributed to animals. Rather, given the momentary reversal of power relations the laws of Animalism symbolize, this attribution could, at best, be qualified as a conservative form of zoomorphism. Yet, it would be a simplification to read this zoomorphism as oppositional to anthropomorphism because the confusion of naming and attributing that takes place to fit in the birds within the allegorical model of Animalism is arguably different from the confusion that underlies registering entities as person within an expansive model. In short, the "attributing" here is not an attribution of some inherent quality, but operates on the body of the animal by a *taking away* of the birds' wings through a substitution with legs.

In this respect, the expansive model under the laws of Animalism in *Animal Farm* shows the impotency of the human-centred expansive model to register what is fundamentally other about the animal, its body; because doing so would upset the neat distinction between naming and attributing that it relies on to mask its performative operations as constative. To put this complicated matter in another way, the poetic cruelty the birds are confronted with installs a hierarchy that both nests itself in and is masked by an expansive model because it presents itself as a system of equality. Hence, the law's focus on abstract terms such as life, liberty and happiness as equally pertaining to all the entities it subjects might very well be read as conveying the universal values to which it aspires, but, paradoxically, these terms function as symbols that install a body-mind dualism, which it needs to survive as a system of demarcation.

The *practical demarcation problem* in *Animal Farm* has appeared not to be simply the result of the *theoretical demarcation problem*, of the impossibility to formulate absolute differences between the human and the animal. Rather, the

*practical demarcation problem* has surfaced in the guise of a *demarcation decision* to make the availability of an objective standard to measure those differences take shape in our imagination. The *practical demarcation decision* is produced by a categorization of difference that consists of activating the binary absolute/gradual through an act of anthropomorphism in the strict sense, which “takes as given” the human and the animal as parameters that can operate within the same discursive space without one enveloping the other. There is, however, only difference. Consequently, if within an expansive model a categorization of difference is embedded in a rhetoric of equality, which is centred on the premise that there is no such thing as an absolute difference between the human and the animal, I read *Animal Farm* as ridiculing this rhetoric of equality because it hilariously stresses its *rhetoric* of equality instead of the *equality* itself. This is exemplified by the enigmatic rule stating that: “All Animals Are Equal But Some Animals Are More Equal Than Others.” In short, it is the use of the terms human and animal as relevant parameters fostered by a categorization of difference throughout the story that reconciles a *practical demarcation decision* with the *theoretical demarcation problem*.

I have now read the categories *four legs* and *two legs* as products of a categorization of difference that strategically functions to extrapolate the parameters of the human and the animal. If the mathematical doubling of the legs points to an absolute difference, the common denominator *legs* complements the binary because it activates the suggestion of a gradual difference, as both creatures are legged. In short, the mathematical doubling of the legs is not just an irrational construction, because two does not stand in opposition to four, but also because the word *legs* here is used in synonymic rather than in homonymic vein. It is in both these senses that the binary *four legs-two legs* is exposed as a construction itself. My reading of the *practical demarcation decision* the birds are faced with, then, not just addresses the categorization of difference that reconciles the *practical demarcation decision* with the *theoretical demarcation problem*, but also points to the obvious but often overlooked fact of how the *practical demarcation decision* does not involve the establishing of categories, as the categories themselves must be in place *before* a demarcation decision can be effectuated. It shows how the *practical demarcation decision* is strategically informed by a particular identity politics, which can never be the result of either an absolute or gradual difference between the species. In other words, we may now observe that the *theoretical demarcation problem* belongs to the sphere of categorization, whereas the *practical demarcation decision* belongs to the sphere of naming. The relevance of establishing this difference is that it suggests that the demarcation problem on

which the animal rights debate turns cannot be solved by a scientific progress that attempts to probe deeper and deeper into the nature of animals. Rather, it suggests as a matter of principle that the demarcation problem is endless, precisely because it is hard to see how we can come up with objective criteria for naming. It seems the only thing we *can* do to get out of this polemic is revise our categorizations, a matter I will explore in my final chapter.

For now, my reading of the case of the birds has shown that the cruelty flowing from the demarcation problem within an expansive model not just concerns those entities not seen fit to be attributed personhood, but also the entities that do get to be incorporated within the model, a cruelty I have defined as a poetic cruelty. Both forms of cruelty concern the law's right to arbitrarily neglect what it considers essentially nonhuman entities without and outside of the model, whereby the poetic form of cruelty installs a hierarchy that is masked by equality. For both forms of cruelty to be inscribed within a juridical model in the first place, however, they would somehow need to be perceived as just, as not allowing for arbitrary neglect but as fostering non-arbitrary and objectively informed decisions. This begs the question how the seemingly arbitrary and subjective *practical demarcation decision* that the birds face, namely the substitution of their *wings* with *legs*, manages to come of as a non-arbitrary, legitimate decision. In short, this raises the issue of arbitrary chance versus non-arbitrary law and the illusion of non-arbitrary justice.

#### **4. Arbitrary Chance versus Non-Arbitrary Law: The Illusion of Non-Arbitrary Justice**

The answer to how the seemingly arbitrary substitution of the bird's wings with legs comes of as a non-arbitrary decision is as simple as it is puzzling: It is not the in(ter)vention – the substitution of *wings* with *legs* – that is judged, but the decision that is its result. Once the substitution of *wings* with *legs* has been effectuated, the rule “four legs good, two legs bad” no longer leaves any space for doubt. Effectively, the rule at this stage no longer functions as a text as it cannot be interpreted. It may seem to have been transferred the power if not to interpret then to measure – which would be a personification in its own right, of the rule as a ruler – but it does not interpret or measure anything, some specific capacity or characteristic, say, the imaginary number of legs of a bird. In fact, the rule “four legs good, two legs bad” does not function as a rule at all, as it cannot be broken. It does, however, match the description of a rule of law: “the restriction of the arbitrary exercise of power by subordinating it to well-defined

and established laws.”<sup>82</sup> In its capacity as a rule of law it restricts, or rather, neutralizes arbitrariness, because it is impossible not to fit in the birds with the category of the animals once the substitution of *wings* with *legs* has been effectuated. In other words, the *practical demarcation decision*, which is installed through a performative act, is not a decision because a decision requires choice and no choice is offered. Hence, this lack of choice makes the *practical demarcation decision* come off as a non-arbitrary decision because it generates the illusion of a supposed correspondence to the rule of law that happens to be in place, whereas what actually takes place is a demarcation through naming, which forces an entity into correspondence in an arbitrary way.

The kind of arbitrariness implied within this *practical demarcation decision* can be qualified as conservative, because it rests on the binary subjective-objective that equates to arbitrary <-> non-arbitrary. Since such a binary can only be sustained hierarchically, it will always need the suggestion of a higher truth, be it scientific, metaphysical, or no matter what, to justify itself. The law presents this higher truth as an “expertise in the unknowable,” whereas the creative option would of course be to try and reconcile an idea of truth with a fundamental un-decidability. In this respect, my exploration of the *practical demarcation decision* through the case of the birds points to a lack of responsibility on the part of the law, because it demonstrates how the predominant moral informing the arbitrary substitution of *wings* with *legs* has detached itself from the rule of law from which it supposedly flows. In short, the predominant moral of the substitution of *wings* with *legs* is, of course, that birds are, after all, animals. The rule of law, however, contrary to what the qualifications “good” and “bad” so cunningly suggest, presents neither a moral, nor a decision. More than that, I argue it does not present a moral *because* it does not ask for a decision. The only real decision the birds are faced with consists of the in(ter)vention of the arbitrary substitution of *wings* with *legs*, which begs the question what kind of arbitrariness, if any, it is that the rule of law “four legs good, two legs bad” neutralizes.

In this respect, I wish to observe that within a conservative understanding of arbitrariness, arbitrariness and non-arbitrariness form a binary that is morally charged. In short, non-arbitrariness is registered as informing objective and just decisions while arbitrariness connotes what is subjective, which automatically makes non-arbitrariness look good and arbitrariness look bad, unjust and suspect. In *Animal Farm*, however, the moral charge that is tied to either pole of this binary is not being followed through and appears to slip away: the law’s implicit claim to non-arbitrariness through the rule “four legs good, two legs

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<sup>82</sup> OED (Oxford: 2003).

bad” does nothing to prevent the birds from being exposed to a poetic cruelty, whereas it is the arbitrary, subjective substitution of *wings* with *legs* that eventually saves them from the harm of being neglected as legal subjects. In this sense, my reading of the case of the birds shows that cruelty cannot be avoided by a juridical system that is centred around a conservative form of arbitrariness. Rather, it might be sustained by it when the rule of law that happens to be in place is imagined as restricting and neutralizing arbitrariness, a “promise” on which it can never deliver.

As we can learn from the case of the birds, an understanding of arbitrariness in its conservative sense, and not (as I do) as a categorization, is what traps the law in a game that requires non-arbitrariness to take root in the concept of a higher scientific or metaphysical truth. It implies that the problem of cruelty is no longer to be viewed as a problem of arbitrariness as such, but of the way in which arbitrariness is understood in relation to truth and how truth itself is understood. If Christianity could claim non-arbitrariness by siding with god’s all knowing truth, today, at least in secular states, the law can no longer point to god. Consequently, the law has to find other vehicles for truth. Since arbitrariness is considered as something that has to be avoided within a system of justice, I consider one of those vehicles to be allegorical reading. However, as long as arbitrariness is understood in its conservative form, neither siding with god, nor allegorical reading works to avoid cruelty. On the contrary, because an adherence to a conservative form of arbitrariness is likely to result in the application of a strict form of arbitrariness, a “taking as given,” it might come to justify it. This problem of justification begs the question as to which claim to non-arbitrariness, in its conservative sense, installs or justifies the expansive model.

I propose the expansive model’s implicit claim to a conservative form of non-arbitrariness to be informed by the consensus posited by the philosophy of science or by the science of philosophy; that there is no absolute difference between the human and the animal. This consensus is paralleled by the consensus in *Animal Farm* that “All Animals Are Equal.” Both allegorical models perform the impossible exercise of bringing the parameters of the human and the animal within one discursive space, which results in a model that is hierarchically sustained. The naming that results from the predefined categories both models install is not a matter of interpretation, but is performed by an act of anthropomorphism that attributes a single name to an entity; or, reversely, attributes an entity to a name already in place, which strictly speaking is a form of naming and not of attributing, because nothing is added but everything is substituted. Since the entity cannot be both, nonperson and person, two-legged

and four-legged, there is only one way of reading. In other words, it is not the entity that is read but the allegorical code on how to read the entity, which *becomes* the reading of the entity.

By implication, the confusion of persons within an expansive model may not just be read as serving to cover up the law's inability to answer the question as to what a person and, hence, to what the human is. Rather, it must also be read as enacting the law's refusal to acknowledge this inability, and understandably so, because by acknowledging this inability the law would no longer be able to pose as the expert in the unknowable and face a serious authority problem. Hence, it would expose the idea of non-arbitrary justice as an illusion and perhaps force the law to operate in a different manner. The law, however, as it cannot afford to have its lack of "expertise in the unknowable" exposed, turns away from the abyss of the unknowable and adopts a strategy of indifference. This strategy of indifference consists of not questioning the nature of person at all, but in taking person as given, as synonymous with human person. In this way, the law shelters its authority, feeding into the illusion that what is given no longer needs to be questioned. This strategy of indifference, however, comes at a price as it legitimizes the various types of cruelty I have now identified.

With respect to this issue, the conventional confusion of persons within an expansive model can be read as operating an identity politics that veils what must remain an arbitrary attribution of personhood. The law, pretending to know an entity by naming it, imagines gaining access to a fundamentally unknowable body. This procedure can be qualified as perverse, first, because it at once equates naming with knowing and accessing and, thus, fails to respect the bodily integrity of the unknowable body. Second, because it enables the law to keep up its appearance, as an authority making non-arbitrary decisions through the objectification of the entities it subjects. Paradoxically, such an objectification of what the law considers to be an essentially nonhuman entity consists of granting a nonessentially human entity a conventional form of personhood, which is understood as essentially human and thus, somehow, as more than a name. In short, the expansive model treats the human person as a frozen metaphor, as an anthropomorphism, in order to sustain the illusion of non-arbitrary justice.

Parallel to the *practical demarcation problem* with the birds, the rule set by the expansive model can now be envisaged as follows: "person is good, nonperson is bad." Only an entity qualifying as person can be subjected. However, if we carry out a thought experiment and momentarily replace person with "two legs," it becomes clear that the law – contrary to what the expansive model through its activating of the parameters of the human and the animal suggests – treats person not as an identity, a substance bearing figure of

wholeness, but as a *trait* it can or cannot attribute to an entity. It does so by looking for other traits that *are* person, which it *names* person, since, for the law, to name is to be. In other words, the law treats itself as an abstraction and the abstraction person as a trait, whereas the abstraction is the floating signifier person and the trait the law, which is, or is not, attributed. Thus, the question finally has come back to how one can understand personhood and person in view of this ambiguous functioning of the name person within the law. It is necessary, consequently, to explore what becomes of the animals within an understanding of person as a *trait* and what the implications of those synecdochical dynamics are for my conceptualization of anthropomorphism as an act. These interrelated questions can best be addressed by zooming in on the description of the conventional form of anthropomorphism that I adapted in the opening chapter.

First, if an animal is attributed a certain trait that is qualified as human, say, intentionality, then this form of attributing can be understood as conventionally anthropomorphic, simply because something conceived of as essentially human is attributed to something essentially nonhuman. Strictly speaking, however, the status of “something human” is primarily attributed to the trait in question and *not* to the animal, which would raise the issue of intentionality as an essentially nonhuman trait prior to its attribution. This paradoxical dynamic illustrates that it takes a synecdochical operation for the animal to be defined by one of its supposed traits, as one of a potentially infinite number of supposed traits comes to stand in for the animal as a being, which only then can be understood as a being with substance, with wholeness and, hence, with a legal identity. Yet, if wholeness, or better, an idea of wholeness, is a prerequisite for the law to forge an identity upon an entity, the categories *two legs* and *four legs* that inform the birds’ case expose the categories person and nonperson that sustain the expansive model as problematic. Body parts clearly cannot not lay claim to wholeness without being subjected to a synecdochical operation. The legal fiction that they can may be visualized metaphorically as a “science fiction” of *two legs* or *four legs* walking around in a deserted landscape.

Within an expansive model, then, the law, through a conventional form of anthropomorphism, introduces a procedural synecdochical *pars pro toto*, which would potentially inform the granting of rights to an animal. The bypassing of the question of personhood, through its subsequent confusion of personhood with legal personhood, constitutes a *strict* form of anthropomorphism. This encapsulates yet another kind of conventional anthropomorphism, since rights are, or have been prior to the expansion of the model, strictly human. At the

same time, to qualify rights as traits as I have done now is problematic, since the animals that we are about to grant rights do not have rights prior to this attribution, do not possess those rights as traits. It begs the fundamental question in what sense an animal could be said *to possess* a trait, say, intentionality. It cannot. The trait of intentionality can only be attributed to the animal. For now, suffice it to say that what remains clear is that what is being attributed as a trait, whether it is intentionality or, subsequently, “rights,” serves to subject the entire entity, which points to another fundamental problem with the law’s identity politics; namely, its being centred on the illusion of wholeness, a matter I will explore in the chapters that lie ahead.

I have now distinguished three different forms of demarcation. First, the demarcation that operates on an absolute difference between the human and the animal. Within an expansive model this absolute difference is denied and within *Animal Farm* this difference is confirmed. In both cases, however, the absolute difference between the human and the animal appears to be sustained through the performance of a categorization of difference that imagines a continuum between the human and the animal. Second, there is the demarcation problem that surfaces once the laws of Animalism are installed. Here, there is still an absolute difference between the human and the animal while the potential for reading the ground rule “All Animals Are Equal” as animals being entitled to rights, just as much as humans, is not completely cancelled out. Third, there is the form of demarcation that follows from the amended ground rule of Animalism: “All Animals Are Equal But Some Animals Are More Equal Than Others.” It is here that within the category Animal the absolute difference between the human and the animal repeats itself as a gradual distinction between higher and lower life forms. On the one hand, we can now recognize this gradual distinction as a necessary element in the categorization of difference that sustains the overarching divide between the human and the animal as absolute. On the other hand, this gradual distinction invites us to explore the way in which demarcation between animals might come about.

As Sheryl N. Hamilton<sup>83</sup> has observed in her reviews of Canadian and American patenting cases, this issue is no longer merely a literary-rhetorical problem but has now turned into a practical and fundamental demarcation problem for the law as well. Let us, therefore, first pause a moment to reflect on this demarcation problem for the law as it stands today, in order to then read it through the lens of the rule that “All Animals Are Equal But Some Animals Are

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<sup>83</sup> Sheryl N. Hamilton, “Invented Humans: Kinship and Property in Persons.” In: *Impersonations: Troubling the Person in Law and Culture* (Toronto, Buffalo, University of Toronto Press, 2009), 105-142.



More Equal Than Others,” in order to address its implications for my specific concern with factory-farming.

## **5. Demarcation Between Animals**

According to Sheryl N. Hamilton, since the rapid advance of technology in the last few decades made it possible to modify the genetic structure of animals and even to clone entire mammals, there has been a growing public unease about our place as humans in the natural order of things. This unease is coupled with a legal anxiety over which animal life forms the law should allow to be patented. Reviewing court cases in Canada and the United States over the last twenty years, Hamilton convincingly shows that this anxiety may be attributed to the fact that the question of bio patenting, the patenting of life forms such as plants and animals, opens up the prospect of patented human life, which forces the law to think through the concept of an invented human being that can be owned and controlled.

To many of us this seems a horrifying idea due to the Frankenstein connotation it bears and not least because it inevitably calls to mind the Nazi experiments on humans during the Second World War. More principally, from a juridical point of view, the prospect of a patented human being would upset the mutually exclusive terms property and person that have marked the juridical scene since the official abolishment of slavery and the advent of human rights. Hence, the patenting of animal life, if legally permitted, for example for medical research, seems to demand a sturdy legal framework that can fend off the prospect of a patented human life if we want to avoid the haunting prospects of the past to return. It forces the law to flesh out a renewed and absolute demarcation of the human from the animal, but also to secure a demarcation within the category animal itself.

As Hamilton observes, these demarcations are more troublesome than ever before, precisely because the biological differences between the human and the animal hardly hold any currency since the advance of biotechnology. Indeed, Hamilton proposes that since the law can no longer resort to a biological vocabulary for demarcating the human from the animal the only obstacles to patenting human beings have become ethical and legal. Without wanting to rehearse Hamilton’s entire argument, the general thread in the court cases on patenting animals she discusses is that the law considers the highest life form the human being, whose commodification under patenting is viewed as an affront to human dignity. To protect this human dignity the law then tries to establish a

demarcation between higher and lower animal life forms whereby only the latter category may be subjected to patenting.

If this seems a logical procedure to ensure that the law does not set the precedent for the future commodification of human beings, the demarcation between higher and lower animal life forms presents us with yet another problem because, as I observed before, animals bear no dignity, which makes it impossible, first, to repeat the demarcation between the human and the animal within the category animal. Second, because if the biological boundaries between the human and the animal are already blurred, the demarcation between different animals cannot be accommodated within a biological vocabulary either. This problem of establishing a steady ground for demarcation within the category animal is evidenced by the general tendency within the court cases Hamilton discusses to present the demarcation between higher and lower animal life forms as self-evident, without being able to resort to arguments that hold sufficient scientific rigor to appear non-arbitrary.

In view of my immediate concern with factory-farmed animals, let us now use the amended ground rule of Animalism that “All Animals Are Equal But Some Animals Are More Equal Than Others” as a heuristic tool to explore whether the typical manner in which the law attempts to demarcate between higher and lower animal life forms in patenting cases can shed a different light on the exceptional status of factory-farmed animals as arguably lower life forms because of the way they are treated.

The patenting case that Hamilton presents as installing the demarcation discussion on higher and lower animal life forms was *Diamond v. Chakrabarty*. In 1971, the microbiologist Anandan Mohan Chakrabarty applied for a patent on a genetically modified bacterium that was potentially very useful for cleaning up oil spills. After the patenting office refused his application he successfully appealed to the United States Supreme Court, which, in 1980, decided to grant the patent. As Hamilton observes:

The court found that the bacterium, as a living organism, was a composition of matter, and therefore a human-made invention. Micro-organisms were more akin to chemical compositions than complex organisms, the justices felt. (113)

The description of lower animal life forms as “a composition of matter” that we encounter in the above citation appears to be a persistent element in all the other court cases Hamilton discusses. Effectively, the tendency of courts has been to register lower life forms as “composition of matter” in contrast to higher life

forms, which are typically more complex. The criteria courts put forward for showing enough complexity to qualify as a higher life form rather than as a “composition of matter” recur in a similar manner in all the subsequent cases Hamilton discusses. On the one hand, an animal is generally qualified as a higher, complex life form whenever science appears to be unable to fully control and reproduce the life form without an element of unpredictability. On the other hand, an animal is generally qualified as a lower life form whenever it can be produced and reproduced en masse because of its uniform properties and characteristics.

In this respect, I propose that we now read the amended ground rule of Animalism that “All Animals Are Equal But Some Animals Are More Equal Than Others” in a most literal manner. The animals that are ‘less equal’ are qualified as the lower life forms because they are more equal; that is to say, they are more uniform than other animals. The point here is *not* that such a categorization obviously must remain an arbitrary affair because, as we have seen, the law cannot operate in a non-arbitrary manner. Rather, the point is that the demarcation within the category animal here does not primarily rely on the nature of the animal in question but on the way it can be treated by technology. Furthermore, in light of the Belgian lobster case and my subsequent contemplation on the practice of lobster farming, the relatively recent optimization of the factory-farming of lobsters illustrates that this demarcation line has the potential to shift upwards because it is correlative to the advance of technology. In short, if lobsters used to be considered to be too complex for factory-farming because of the element of unpredictability cannibalistic lobsters introduced, this problem has now been overcome with a technology that monitors and controls lobsters at each and every stage to prevent their cannibalizing one another.<sup>84</sup>

This focus on treating the animal rather than on the supposed nature of the animal is always also a performative treating, a speaking about animals as lower life forms that becomes most apparent when we zoom in on the practice of factory-farming. The fact that pigs, cows and poultry, for example, are genetically engineered, produced and reproduced in horrifying conditions that cannot bear the light of day seems to have everything to do with the way they can be treated and talked about as uniform production units and, hence, as lower life forms. In this sense, factory-farmed animals are on the same side of the demarcation line as the bacterium mentioned before. The literal invisibility of

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<sup>84</sup> See: <http://www.norwegian-lobster-farm.com/wp-content/uploads/2013/05/Aquareg-presentation-Galicia-Spain-2007.pdf>. See also: <http://aquacomgroup.com/wordpress/2009/12/14/farming-lobsters-the-future-with-norwegian-technology/>.

bacteria is paralleled by the invisibility of factory-farmed animals in the public domain. And the technology that installs this treatment is as much a technology of science as it is a technology of language, which invites us to register language as a performative technology, a matter I will discuss in detail in my final chapter.

The point here is that if the level of complexity that animals are granted is installed through both a rhetorically operative technology and a technically operative rhetoric, the prospect of the patented human being continues to haunt us, not in spite of but because of the fact that our demarcations of animals into higher and lower life forms are installed by technology. The stage in which this anxiety is played out in our time is the practice of factory-farming, because it is here that a legal framework complements this technological rhetoric and rhetorical technology. This legal framework registers those animals as lower life forms through the consistent state of exemption that animal cruelty laws install. This effectively works to contain this anxiety by rendering the actors on the stage invisible. Such invisibility is not just a literal invisibility that withholds the practice of factory-farming from the public's eye to avoid the exposure to the cruelty that factory-farmed animals suffer. Rather, it may very well concern the more specific avoidance of the exposure to their genetically engineered bodies and life spans. This would call on us to rethink the traditional category of the animal and hence, the human by working through the haunting prospects of the past. In other words, the problem of the incomparable cruelty factory-farmed animals experience is not primarily a legal problem but an ethical problem that requires an ethical solution. This ethical solution must begin by recognizing that the invisibility of factory-farmed animals in our time requires us to think through our place in the order of things if we want to face up to the taboo on factory-farming that the prospect of the patented human being installs.

We have now seen that *Animal Farm* enables us to address the urgent juridical problem Hamilton attends to in light of the patenting discussion in a literary-rhetorical way. More specifically, the problem of demarcation between the human and the animal that has taken on a new sense of urgency in light of the law's focus on the demarcation between lower higher life forms has appeared to repeat itself within the category animal. Contrary to what might be expected now that the traditional biological vocabulary for demarcation has fallen flat, this repetition of difference has appeared to be not simply a matter of philosophical categorization but the result of allegorical readings that are sustained through different tropological operations. At the same time, reading *Animal Farm* as an allegory of the expansive model has raised our awareness to the change the concept of the farm has undergone. This change is marked by a

vast quantity of animals being qualified as other than animal, both within the strictly legal, technological rhetorical and rhetorical technological sphere.

## 6. Reflections on Allegory and Allegoresis

What makes *Animal Farm* of interest from a literary point of view and in the context and frame of juridical decisions is that it criticizes the allegorical reading strategies and the demarcation problems that follow from it through the very rhetorical mode it chooses, the allegory. In a sense, then, *Animal Farm*, whether read as the traditional allegory it has come to stand for, or as an allegoresis of animals suffering from harm on a farm, defies its own rhetorical logic and thereby the contents of its own mode of representation. In short, as readers we are invited to read allegorically but the text itself problematizes this attitude by offering a meta-reflection on the mode that sustains it.

In this respect, we may now observe that I have distinguished three different forms of allegorical reading. First, the metaphorical reading that has appeared to be sustained through conservative and strict forms of anthropomorphism. Second, the allegorical reading that is sustained synecdochically, whereby the part, the trait that is attributed, comes to stand in for the whole in order to forge an identity upon an entity. Third, the allegorical reading that pushes both of the previous forms to their limits and radicalizes them as a non-propositional form of naming, which is what happens, for example, when the name of the Farm shifts from *Animal Farm* to *Manor Farm*. Since allegory is generally defined as only the first of the tropological forces I have distinguished, namely as a sustained metaphor, I will now contemplate the implications of my findings on allegorical proceedings for my allegoresis of *Animal Farm*. The aim here is to see if we can tease out some of the structural problems allegorical reading poses for the law and its demarcation problem by doing justice to the complexity of the tropological dynamics involved in its readings of difference in terms of the correspondence of entities to predefined categories. Let us, therefore, begin with a brief reflection on how allegory is traditionally understood.

In literary theory, allegory is generally conceived of as a text in which the agents and actions, and sometimes the settings as well, are contrived to make coherent sense on the literal or primary level of signification and, at the same time, to signify a second correlated order of signification. Hence, allegory is the qualification of a text whereby the relation between the text and its meaning is assumed to be fixed. Here we can distinguish: (a) the political-historical allegory

and (b) the allegory of ideas.<sup>85</sup> The allegory *Animal Farm* offers a mixture of both, because the consensus as to what it is about leaves plenty of room for drawing either concrete or more abstract parallels.<sup>86</sup> As a political-historical allegory its characters and actions literally come to represent or “allegorize” historical persons and events; for example, the pig Napoleon – the cruel and paranoid leader of the animals – represents the historical figure of Stalin. If we choose to read *Animal Farm* as an allegory of ideas, the characters represent concepts and the plot allegorizes an abstract doctrine or thesis. Within such a reading the horse Boxer might stand in for the working class, depicted by Orwell as loyal and hard working, but also – rather unflatteringly – as stupid.

As I mentioned in my introduction, however, my particular reading of *Animal Farm* has been an allegoresis rather than an allegory, in the sense that I have *not* assumed the relation between the text and its meaning as fixed and thus as corresponding to one another. Rather, my interpretation of *Animal Farm* as a story about animals that wish to protect themselves from harm has challenged the traditional reading of *Animal Farm* as a story about the Cold War. By implication, the element of correspondence that a fixed relation between text and meaning is reliant upon has also been compromised. Yet, my reading of *Animal Farm* as an allegory of the expansive model still invokes a suggestion of correspondence between, for example, the laws of Animalism and the expansion of human rights under an expansive model. This would suggest that I have merely substituted one system of correspondence with another. This inescapable allegorical element in my reading, however, is different from the traditional allegorical reading of *Animal Farm* as a story about the Cold War because it has operated alongside this reading, rather than substituting it. More than that, it has been necessary to have the traditional allegorical interpretation of *Animal Farm* resonate throughout my interpretation to position the discussion on factory-farming in a (bio) political framework under globalization.

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<sup>85</sup> M.H. Abrams: *A Glossary of Literary Terms*, 7th ed., (New York: Cornell University Press, 1999).

<sup>86</sup> For an exemplary case study of *Animal Farm* as a political historical allegory and as an allegory of ideas see: Harold Bloom: *Animal Farm, Bloom's Modern Critical Interpretations* (New York: Chelsea House Publications, 2009). See also the Cliffs Notes study guide to *Animal Farm*, in which Orwell's comments on *Animal Farm* in a foreign language edition are paraphrased as follows: “Orwell says his main intention was to show how false the popular idea was that Soviet Russia was a socialist state: he wanted to save socialism from communism,” 9-10. In fact, throughout these Cliffs Notes we find the interpretation of *Animal Farm* as the allegory it is famous for, as might be illustrated with the following passage: “The two-year plan for building the windmill, and subsequent plans, are, of course, reminiscent of Stalin's Five-Year Plans,” 24. David Allen in: *Cliffs Notes on Orwell's Animal Farm* (Lincoln: University of Nebraska, 1999).

This persistent notion of correspondence in my reading can be attributed to what Sayre. N. Greenfield has suggested elsewhere, namely that the distinction between allegory and allegoresis remains fundamentally “untidy.”<sup>87</sup> This untidiness stems from the fact that both allegory and allegoresis are conceptually indebted to a reading of a literal or primary order of signification which corresponds to a second correlated order of signification. This element of correspondence effectively registers the text *Animal Farm* as a code, as a communicative device with metaphor as its structural property waiting to be deciphered through procedures of decoding. In short, the allegory *Animal Farm* carries the suggestion that there is a fixed relation between text and meaning because it poses as a communication system within which the text is only momentarily veiled by an encoding as its drowsy metaphor awaits awakening. Yet, a supposed correspondence in the text must always be “measured” by texts that operate outside of the allegorical space it installs. Hence, the longstanding success of the allegory *Animal Farm* is not primarily to be attributed to the skilful way in which correspondences are woven into the text, but to a widespread consensus that is forged through external texts that cohere and that are invested with authority. In this respect, doing justice to the story requires a heightened awareness of the fact that *Animal Farm* acquires its meaning in no other way than by *differing* from other possible interpretations of the same story, whether those be literal, allegorical, political or no matter what. This relation of difference brings about a fundamental arbitrariness as to what the text supposedly is (all) about, in spite of the consensus that *Animal Farm* is a story about the Cold War.

For heuristic purposes, I would like to start with qualifying this consensus – operating, as it were, outside the story – as a macro encoding, and the parallel characters and events – operating inside the story – as a micro encoding. The text on the back cover of my pocket edition clearly falls within the first category. It does not sketch a developing narrative, introducing characters and the unfolding of events, but limits itself to spelling out the allegorical code in unmistakable terms:

First published in 1945, *Animal Farm* has become the classic political fable of the twentieth century. Adding his own brand of poignancy and wit, George Orwell tells the story of a revolution among animals of a farm, and how idealism was betrayed by power, corruption and lies.<sup>88</sup>

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<sup>87</sup> Sayre. N. Greenfield, *The Ends of Allegory* (London: Associated University Press, 1999).

<sup>88</sup> *Animal Farm: A Fairy Story* (Middlesex: Penguin Books, 1983).

Encountering a macro encoding on a back cover might be a first indication we are dealing with a story that has acquired the status of allegory. The fact that the story's ending is given away is a second indication, as an allegory cannot bear open endings, unless it *states* it has an open ending. In short, the suspense in *Animal Farm* does not rely on the whodunnit variety, but on how it is done. By implication, the only space for the imagination the macro encoding leaves, is for its micro encoding – the personified characters, the historical events – to be interpreted in terms of adequacy, accuracy, or, if it were a play, by the quality of the performance. In other words, the consensus on what *Animal Farm* is about, its allegorical status, does not concern the story itself, since it does not thrive on an actual or factual correspondence between historical events and the events in the story. Rather, it is a consensus on the code that directs us towards how the allegory it has come to stand for should be interpreted.

In this way, *Animal Farm's* macrocode activates a semantic field of precision and accuracy that can only be *measured* by assuming a higher, imaginary objectivity. And the dynamic that works to reduce the readers of *Animal Farm* to ideal readers who interpret the characters, events and settings in both allegorical models, in terms of correspondences between a primary and secondary level of signification, is the same dynamic that helps judges to read the expansive model. The reading procedure – once exhausted – comes to substitute the story and eventually reduces the story to ever shorter summaries until only its title, the name *Animal Farm* or, alternatively, *Human Person* is left as the epitaph of a story on the brink of dying out. The issue here, as I deduced from my exploration of the demarcation problems that patenting cases pose for the law, is that if *human person* is a name on the brink of dying out, in that it does not correspond to its traditional definition anymore but becomes subsumed under the sphere of materiality, the traditional definition of the animal must also be under strain. This issue directs us to what has been conceptualized as the ornamental mode of allegory.

According to Craig Owens, allegory's ornamental quality is a historical mode that accommodates a preservative impulse.<sup>89</sup> Angus Fletcher distinguishes two further manifestations of this preservative impulse, namely allegorical syncretism and allegorical synthesis.<sup>90</sup>

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<sup>89</sup> Craig Owens "The Allegorical Impulse: Towards a Theory of Postmodernism." In: *Art in Theory 1900-2000* (Malden: Blackwell Publishing, 2003), 1025-1032.

<sup>90</sup> Angus Fletcher, "Allegory in Literary History." In: *Dictionary of the History of Ideas, Studies of Selected Pivotal Ideas*, ed. Philip P. Wiener, (Virginia: University of Virginia, 2003), 41-48.



Syncretism may be icono-graphically distinguished from synthesis, insofar as the former preserves the individual traits of the combining beliefs, whereas the latter would achieve a radical transformation of disparate cultural forces, until a single set among them came to dominate and control the assimilation of other sets as minor premises in the logic of the culture as a whole. (43)

In an effort to go beyond the commonplace explanations for why allegorical syncretism at times has appeared to out-favour allegorical synthesis, Fletcher inquires into possible motives for the occurrence of allegorical syncretism by making the following educated guess:

A higher motive, which is harder to define, is the conciliatory and accommodating desire to permit a diverse world of many faces and characters. This motive comes into play when rival world views meet at their borders, when the opposite impulse would, as with iconoclasm, seek to destroy the rival iconography. Allegory here becomes a diplomatic medium of thought. (44)

I take my cue from Fletcher, here, to contemplate the possible tension between allegorical syncretism and allegorical synthesis in *Animal Farm*. As an allegory of ideas, *Animal Farm* warns against the tyranny after revolution, resulting from the clash between the rival systems of capitalism and communism meeting at their borders. Reading *Animal Farm* from within a system in which the clash between communism and capitalism has been succeeded by an intensification of our biopolitical situation under the hyper capitalistic world of globalization, the preservative impulse *Animal Farm* accommodates can be said to condense in the concept of the farm. The “farm” in our globalized society denotes: “A place for breeding a particular type of animal or producing a specific crop.”<sup>91</sup> In other words, today, a farm generally deals with one species only and is categorized accordingly by the singular species name it has been allotted, say, either a cow- or pig- or chicken farm.

The farm in *Animal Farm*, however, is crowded with many different animals, whilst some of them, for example the cat or the crow, are not kept for breeding at all. In short, in its ornamental mode *Animal Farm* paints a picture of a past no longer existent and testifies at the same time to the way in which the concept of the farm has changed dramatically in the same decades that have

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<sup>91</sup> OED (Oxford: 2003).

witnessed a stepping up of the animal rights debate within a globalized world. Moreover, the fact that there are many animals on *Animal Farm* accommodates a preservative impulse in yet another way; it offers a perspective in which metaphor, whether or not sustained, is not the prevailing paradigm, simply because the animals do not stand in for something else as they cannot be subsumed under one name. Hence, the ornamental mode of allegory here directs allegory away from a discussion on metaphor and metaphoricity towards how things we now take for granted were done once and not so long ago. The comparison between the farm only half a century ago and the factory- farm today that *Animal Farm* instigates through its preservative impulse, not only demonstrates a major change in our relations with animals, then, but may also offer a changed perspective on the relation between human beings and animals, both within the collective imagination and within the modern juridico-political and scientific-philosophical understanding of this relation. This change manifests itself within an expansive model because it is based on a scientific discourse that understands the difference between humans and animals as no longer defined in absolute terms.

If the advance of science increasingly leads to a blurring of the boundaries between the human and the animal and if the expansive model is only one of the symptoms that makes this changing relation manifest, this can only be understood against the background of a biopolitical framework that has now moved into the area of separating not the human from the animal but life from life, whereby “equality” has appeared to take on a whole other connotation or, in a sense, is taken to its extreme. This I identified previously as the totalitarian streak of factory-farming. At the same time, this extreme notion of equality opens up to a different outlook on the place of human beings in the order of things, since it also affords a fragile basis for demarcation since the traditional framework that opposes the human to the animal is no longer in place. In this light, the practice of factory-farming calls upon us to rethink the way in which our traditional demarcation of the human from the animal relates to the way we envisage our current demarcation policies and the criteria that sustain those policies within the animal rights debate today, an issue I will explore in the next chapter.

## 7. Conclusion

A predominantly spatial understanding of the expansive model has provided me with a framework for an allegoresis of the allegory *Animal Farm* through a focus on the figure of harm. This has allowed me to explore the ways in which

an expansive model allows harm to topple over into cruelty and has allowed me to gain a better understanding of the element of cruelty within animal cruelty laws today. My close reading of *Animal Farm* has resulted, that is, in a better understanding of the way in which conceptualizations of truth and arbitrariness are framed within an expansive model. With respect to this issue, it has become necessary to further distinguish between a conservative and strict form of arbitrariness. The conservative form of arbitrariness bespeaks a supposed subjectivity, as opposed to an objectively defined truth, informing juridical judgement. The strict form of arbitrariness is concerned with the putting in place of categories without as yet acting upon those categories. When it comes down to real acting, the kind of arbitrariness involved might be defined differently, namely as taking arbitrary but responsible decisions. The *practical demarcation decision* has appeared to be neither a “demarcation,” nor a “decision,” but rather to constitute an act of naming.

My effort at reconciling the theoretical demarcation problem with the practical demarcation decision has demonstrated that demarcation is always a performative act that creates difference. In order to be effective it masks itself as constative as it invokes a difference that it poses as always already there prior to the practical demarcation decision, whereas this difference, which is meant to justify the practical demarcation decision, is only installed through this performative act. In short, it seems as if the problem with which *Animal Farm* starts, a situation in which the difference between humans and animals is such that the first are protected from harm and the latter not, is transposed to the animal world where the same conflict repeats itself. In other words, it seems that solving one demarcation problem automatically invokes another, which provokes the danger of an endless regression to be met by endless repetition. This shows that the practical demarcation decision can never be legitimized through a theoretical demarcation problem.

Reading the expansive model as an allegory, I have identified its macrocode as the negation of an absolute difference between the human and the animal. The expansive model has not just turned out to be a model one can choose to read allegorically, as I assumed in the opening chapter, but as a model characterized by such a profound allegoricity that any attempt at reading it differently immediately results in blowing it up, which is what happens when (the relevance of) its parameters are called into question. Since allegorical reading lays an implicit claim to a conservative form of arbitrariness – to objectivity as opposed to subjectivity – I have scrutinized the way in which this binary might relate to the cruelty that the expansive model incorporates. This strategy has proved an adequate tool for exploring both the construction of

authority within the expansive model and the way in which this construction relates to its identity politics.

My allegoresis of *Animal Farm* as an allegory of the expansive model has demonstrated that the expansive model sustains the parameters of the human and the animal as relevant parameters by operating on an unwarranted categorization of difference. Consequently, I have attempted to move away from those parameters and this categorization of difference and explored the way in which our qualifications of the interactions of trope might play a decisive role in sustaining the parameters of the human and the animal. This exploration has opened up the possibility of reading these interactions differently, which has appeared to destabilize these parameters in that they are no longer to be taken as given.

With regard to trope and its interactions I must now observe the following: In this chapter I have demonstrated that within an expansive model it is a conventional act of anthropomorphism, which is encapsulated by a strict form of anthropomorphism, that makes an entity qualify as a person. At the same time, I have ultimately come to understand the attribution involved in such a conventional act of anthropomorphism as performing a synecdochical operation, whereby the part (the trait that is attributed) comes to signify the whole, the entity, first as a person (conventional) and then as a *legal person* (strict). The synecdoche has appeared not just to work as a neutral figure of speech that can be identified in any given text. Rather, it has become clear that as a trope it is charged ideologically, because it presupposes that the substitution of part with whole and vice versa is possible. This ideological charge comes into play once the trait attributed as a “human trait” comes to signify the whole, the entity, as human. Thus, the nonhuman entity, the nonperson, acquires its wholeness only at the stage at which it transfers into (human) person. In other words, the entity, amorphous, unknown, nonperson, loses itself in the human, regaining a wholeness it never possessed. It is this loss that comes to determine its identity as a person.

The question as to how I can envisage animals as the potential subject of rights has been approached from a perspective that understands the expansive model not as primarily concerned with this issue at all, but with “doing justice” to what I have come to identify as its macrocode: the academic consensus that there is no absolute difference between the human and the animal. This framework has allowed me to renew my provisional qualifications of harm and cruelty. More specifically, my exploration of the dynamics of the first toppling over into the latter led to yet another outlook on cruelty, as I have now developed the notion of a poetic cruelty to point to a fundamental cruelty, both

within and outside of the expansive model. In the next chapter, the question of how a preoccupation with cruelty, as I have now come to understand this term, should inform a different juridical model, a model with a different identity politics, will be addressed by examining the capacity on which proponents of animal rights predominantly build their case, the capacity animals share with humans, namely their capacity to suffer.

