

THESIS

ECOLOGICAL LIBERTARIANISM:
THE CASE FOR NONHUMAN SELF-OWNERSHIP

Submitted by

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ABSTRACT

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The field of environmental political theory has made great gains in its relatively short existence as an academic discipline. One area in which these advancements can be noticed is the strong discussion surrounding the foundations, institutions, and processes of Western liberalism and the relationship of these elements to issues of environmentalism. Within this discussion has manifested the bedrock assumption that the underlying components of classical liberalism – namely individualism, negative liberties, and instrumental rationality – preclude or greatly hinder progress toward securing collective environmental needs. This assumption has great intuitive strength as well as exhibition in liberal democracies such as the United States. However, in using this assumption as a launchpad for reconsidering elements of liberalism, scholars have inadvertently closed alternate routes of analysis and theorization. This thesis aims to explore one such alternate route.

Libertarianism, the contemporary reincarnation of classical liberalism, has been generally disregarded in policy and academic realms due to its stringent and inflexible adherence to self-interest, instrumental rationality, and individualism; in discussions of environment, these complaints are only augmented. These criticisms have been validated by a libertarian scholarship that emphasized nature as a warehouse of resources specifically suited for human use. But from where in libertarianism does this ontology develop, and is it correct? This thesis carries this

investigation through its overarching research question: can nonhumans have self-ownership within libertarian theory, and what would that mean for libertarian theory?

Part I of the thesis introduces us to the foundation, tenants, and overall logical structure of contemporary libertarian theory. Finding autonomy to be the key to moral standing, and finding autonomy to be a contested criterion, we discover the shaky ground on which the totality of libertarianism stands. After identifying the relationship of libertarianism and the environment – one of atomistic, instrumental, and anthropocentric utilization – we connect the current non-standing moral status of nonhumans in libertarian theory directly to criteria of autonomy. With autonomy acknowledged as a contested subject, we thus arrive at the conclusion that the lack of moral status awarded to nonhumans has arisen not through logical derivation but the reification of tradition. With libertarianism itself a theory set opposed to the rule of tradition, and with libertarianism’s strength residing in its logical consistency across issue areas, we thus find immediate need for the consideration of the criteria of autonomy. After addressing some potential criticisms and academic linkages, we set about this normative investigation.

Part II centers on the establishment of a proper framework for the task of evaluating libertarianism’s main criteria of autonomy. This framework is grounded foremost in the recognition of the inherent social embeddedness within libertarian theory; this embeddedness is founded in the necessary *reciprocation* of liberty protections through the principles of non-aggression and non-interference and, while acknowledged by libertarian theorists, remained a largely undernourished portion of libertarian theory. To counter anthropocentric bias – in effort to ward off the influence of tradition – additional ecological criteria are added to this framework, culminating in an open, non-anthropocentric framework. Afterward, the chapter examines the Naturalistic Fallacy. Finding our answer in the naturally morally pragmatic nature of Man, this

discussion finalizes our analytic framework by emphasizing the practical importance of moral reasoning.

Part III sets about the task of examining the criteria of autonomy utilized within libertarian theory. Two conceptions of autonomy – minimalist and prudentialist – are defined, with discussion showing libertarianism to rely, inherently and explicitly, on prudentialist forms of autonomy. The two primary criteria of prudentialism used, life-planning and reason, are then analyzed in turn; this analysis manifests the critique that in the practical usage of morality both criteria rely on and collapse into minimalism. Prudentialism as a standard is then examined to show its paradoxical reliance on pre-formulated conceptions of human lives, to the detriment of logical consistency and the virtues of negative liberty. Singer's criterion of suffering is then briefly examined, with discussion outlining its inapplicability within libertarian theory. Narveson's question of the moral egoist completes the chapter, with the linkage between nonhuman domination and human domination solidifying the argument that full nonhuman moral standing will reduce both to the advantage of libertarian society. From these critiques, then, we observe the critical failure of prudentialism to hold in praxis and see minimalist autonomy as the necessary foundation for libertarian theory.

Part IV outlines some consequences of minimalist autonomy within libertarian theory. The questions of reciprocity and nonhuman violence are examined, with discussions of complications and critiques following. These complications comprise the intersection of ecological libertarianism with extant issues within libertarian theory, such as Nozick's Principle of Rectification, the moral allowance of self-defense, and the question of the moral standing of children. Afterward, the broader conversation is considered along with specific consideration of the potential environmental impacts of an ecological libertarian theory. Lastly, some doors for

future theorizing are opened – namely the conceptualization of nonhuman labor and nonhuman property rights – for future critical investigation.

Through this thesis, libertarianism is shown to inherently rely on a dichotomous separation of humans and nonhumans that is not derived from libertarian logic but from reified tradition. Rejecting tradition as a suitable foundation, this thesis demonstrates the critical inapplicability of prudentialist autonomy within libertarian theory and the necessary reliance on minimalist autonomy. From this realignment we find not only greater consistency in libertarian logic but also a path toward to the inevitable goal of a libertarian society characterized by a lack of domination. Additionally, this thesis demonstrates a unique way in which libertarianism – and liberalism more broadly – can incorporate individual negative liberties as a means of protecting environmental agents; from this, the assumption of libertarianism and liberalism’s incompatibility with environmental causes can be recast as an accident of tradition rather than an entrenched logical incommensurability.

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These individuals helped shape, in some fashion and extent, my personal being, academic developments, and professional aspirations. As argued in the thesis, libertarians must acknowledge the social context in which they operate and the linkages between this context and themselves. These individuals, out of the myriad persons encountered in my life, have given numerous and meaningful interactions which molded me significantly as an individual. If it truly is 'birds of a feather,' then I know I am in a pretty great flock.

DEDICATION

I dedicate this thesis to Betty Christensen and Margaret Scholten, for teaching me what matters in life and to always be smiling; to my mother, Deanna Christensen, for setting high expectations and helping me achieve them; and to Nick the beetle, for inspiring numerous critical reflections.

TABLE OF CONTENTS

ABSTRACT.....	ii
ACKNOWLEDGEMENTS.....	vi
DEDICATION.....	viii
PART I – INTRODUCTION.....	1
JUSTICE FOR A POSSUM.....	1
LIBERTARIAN FOUNDATIONS.....	7
LIBERTARIANISM AND THE ENVIRONMENT.....	13
CONSTRAINTS AND CAVEATS.....	17
“Nonhumans”.....	17
Libertarian “Theory”.....	18
Ecological v. “Green” Libertarianism.....	18
RELEVANCE AND PURPOSE.....	19
PART II – ECOLOGICAL CONDITIONS.....	27
SOCIAL EMBEDDEDNESS/INTERCONNECTIVITY.....	27
FAIR ANALYSIS (ARISTOTLE’S AXIOM).....	30
KNOWN UNKNOWN AND UNKNOWN UNKNOWN.....	33
VARIETY AND NON-INTERFERENCE.....	35
MASSUMI’S SUPERNORMAL.....	36
CONCLUSION.....	37
THE NATURALISTIC FALLACY.....	37
PART III – CONCEPTIONS OF MORAL STANDING.....	42

AUTONOMY	42
LIFE-PLANNING AND MORAL STANDING.....	44
REASON AND MORAL STANDING	49
PRUDENTIALISM AND MORAL STANDING.....	53
SUFFERING AND MORAL STANDING	57
THE QUESTION OF EGOIST MORALITY	58
SUMMATION.....	63
PART IV – TOWARD AN ECOLOGICAL LIBERTARIANISM	67
FOUNDATIONS.....	67
Question 1: What Does NIP/NAP Protection Mean for Nonhumans?	68
Question 2: Nonhuman Violence and the NIP/NAP.....	73
COMPLICATIONS & CRITIQUES	76
Inter-Nonhuman Judicial Concerns	76
Rectification.....	77
Self-Preservation.....	78
Children.....	79
Pet Ownership.....	83
THE LARGER CONVERSATION.....	85
ENVIRONMENTAL IMPLICATIONS.....	86
PARTING WORDS.....	89
BIBLIOGRAPHY.....	90

PART I - Introduction

Justice for a Possum

“How would you feel if you killed an innocent duck and let a vicious goose waddle free?”
– Leslie Knope

Justice is many things, the origins, substance, and application of which manifest in myriad and variegated forms within political theory. While Western political theorists have formulated motley theories of justice, a common tradition of dividing humans and nonhumans pervades these otherwise profoundly polar conceptions of justice. This human/nonhuman dichotomy is present throughout Western political thought, with only recent advancements in scientific understanding and political theorizing questioning this longstanding division. Recently, these advancements have taken to questioning this division within liberal political theories; yet the rapid emergence of environmentalism and political ecology in the past several decades, and the accompanying alteration or reinterpretation of judicial theories, has largely neglected to impact meaningfully the structure and logic of libertarian political theory. With libertarianism representing an overbearing, if not radical, acceptance of classical liberalist principles in the modern age, it seems awkward for ecological considerations to stop short of libertarian analysis; If modern scholars¹ feel comfortable examining components of liberalism with an environmentalist lens, why do they turn from examining the most foundational of components as

¹ For examples of scholars examining environmental issues and liberalism, see Avner de-Shalit, *The Environment: Between Theory and Practice* (United States of America: Oxford University Press, 2000); Marcel Wissenburg, “Sustainability and the Limits of Liberalism,” in *Debating the Earth: The Environmental Politics Reader*, eds. John S. Dryzek and David Schlosberg, 163-190 (United States of America: Oxford University Press, Inc., 2005); and Robyn Eckersley, *The Green State: Rethinking Democracy and Sovereignty* (United States of America: Massachusetts Institute of Technology, 2004).

displayed within libertarianism? Wissenburg, in a seminal conference paper, recently began this herculean task, providing a summation of the libertarianism-environment relationship and the components of such a relationship;² however, he leaves innumerable questions unanswered and, perhaps more importantly, leaves uncertain the modes by which such conversation should be engaged and the potentialities of such a conversation. This project aims to continue and expand the conversation begun by Wissenburg. It is my hope that such questions will invigorate further deliberation for libertarian theorists, environmentally focused political scholars, and the everyday libertarian individual.

The subtitle of this project construes directly the central question examined: can nonhumans possess self-ownership within libertarian theory? As we shall see in Part III, many libertarian scholars answer negatively, and on similar grounds. Self-ownership is the cornerstone of most liberal theories of justice, and is a definitive requisite for consideration of moral claims within libertarian conceptions of justice. The practical implications of such a potential, of nonhuman self-ownership, are interestingly demonstrated through an episode of the popular television show *Parks and Recreation*.

In “The Possum,”³ protagonist Leslie heads a task force mandated to catch a notable possum, “Fairway Frank,” after the mayor’s dog was attacked on a public golf course. After capturing a possum, Leslie discovers additional possums living within the same area and becomes uncertain of the captured possum’s identity and guilt. Thereafter Leslie struggles with moral contemplation; repeated interactions with others – who largely support killing whatever

² Marcel Wissenburg, “The Concept of Nature in Libertarianism” (conference paper, Annual Conference of the Dutch and Flemish Political Science Associations, Amsterdam, the Netherlands, June 9-10, 2011).

³ “The Possum,” *Parks and Recreation*, The National Broadcasting Company (Denver, CO: KUSA, March 11, 2010).

possum was captured – cause Leslie to question her conception of justice and her morality. “Am I a murderer?” she asks, considering the implications of surrendering the innocent possum to animal control. After demonstrating the incapability of anyone to properly identify “Fairway Frank,” Leslie’s dilemma intensifies – she “can’t kill it because it could be innocent” but also “can’t free it because it could be guilty.” After researching similar instances of human-nonhuman judicial interactions – including a story of a duck killed due to attacks committed by a goose, from which this chapter’s opening quote arises – Leslie reaffirms her commitment to justice and, deciding against either freeing or killing the possum, gifts the possum to a local zoo. It can be noted that Leslie is not a libertarian, either self-avowed or externally acknowledged, and thus did not utilize a libertarian logic in her decision-making. However, the assumption of nonhuman self-ownership exuded by Leslie demonstrates accurately the new mentalities, interactions, and challenges which arise from acknowledging nonhumans to hold claims to justice – claims founded in self-ownership and individuality, the core principles of prominent Western liberal justice theories and libertarianism.

Readers aware of animal rights literature could recognize the preceding example as a reworking of the “goring ox” question as detailed by Steven M. Wise. A legal scholar focusing on nonhuman legal rights, Wise recounts the historical significance of the goring ox question throughout Western philosophical-legal thought and practice.⁴ A rough description of the question would provide the following information: It is several thousand years ago. A farmer owns an ox. The farmer walks the ox from the field toward the barn when lightening spooks the ox, leading it to run from the farmer. A stranger runs toward the ox – attempting to calm her and

⁴ Steven M. Wise, *Rattling the Cage* (United States of America: Da Capo Press, 2000): 23-34

return her to the farmer. Still frightened, the ox gores the stranger and, afterward, returns to the barn. The stranger bleeds to death and the farmer contacts the authorities. When the authorities arrive the question naturally arises of what justice means in this context. Should the ox be killed? Should the farmer be liable? Should it be considered an accident, with no liabilities? The possible judicial framings are numerous. Wise follows history's intriguing responses to this scenario, and positions the legal codes of the Mesopotamians and Israelites as the main rivals – Mesopotamians, with a quasi-modern focus on economics, answered that the farmer must compensate the stranger's family for their loss; Israelites demanded the stoning of the ox and potentially of the farmer.⁵ The principle difference between these societies, in this legal-philosophical context, was the perceived correct placement of man within nature, and the consequences of that placement. For Mesopotamians considered man an additional piece of nature, not hierarchically superior but qualitatively different, while the Israelites saw the world as crafted specifically for humans.⁶ Thus, the former society found the damages from the goring ox as needing reparations, but not as an affront to its ontology. The Israelites, conversely, saw the goring ox as an affront to the Great Chain of Being – the “natural” hierarchy of species which mirrors God's intended relationships – and thus demanded the unyielding ox to be stoned and uneaten. While these societal interpretations of man's placement within nature are interesting, and lend incredible clarity to modern legal considerations (the purpose of Wise's discussion) we are, at this time, not greatly interested in the specifics of these ontologies. Rather, what we seek is an understanding of how a modern libertarian, adhering stringently to her principles, would

⁵ Ibid, 27-29.

⁶ We can see this juxtaposition as demonstrating generally the philosophical difference between metaphysical naturalism (represented by the Mesopotamians) and metaphysical anti-naturalism (represented by the Israelites).

answer the question of the goring ox. Libertarians are economically inclined, and the astute observer is correct in acknowledging the perceived supremacy of economic concerns within the libertarian mind; indeed, most exposure to libertarian ideology comes in response or anticipation of socio-economic policies.⁷ But such is a misleading perception of libertarian theory – a common perception, shared even by self-avowed libertarians, but a misleading perception nonetheless. For beneath the economic rights and considerations of libertarian philosophy lie the requisite principles for identifying and protecting individuals within the moral community; this is a necessary first-step in the logical line to widespread property rights. And yet, when examining the foundational principles of libertarianism, as we will in the next section, the realization emerges that libertarian theory lacks a logically consistent foundation. Moreover, it can be seen that the apparent economic preoccupation of libertarians merely reflects widespread agreement on base assumptions, which logically build into a libertarian worldview: a view dominated by rational human interests, human-human interactions, and property-driven justice to facilitate such interests and interactions. However, as we will see from the next section, this traditional libertarian worldview rests on highly shaky grounds; the categorical separation of humans and nonhumans, and the subsequent dismissal of the latter’s interests and interactions, remains for libertarians founded in loose conceptions of Man and nature which neglect critical reflection and point to such categorical separation as a remnant of social tradition. And so, the modern libertarian’s answer to the goring ox question is inherently flawed by his failure to address the arbitrariness within his own theory of justice. I say this without identifying his actual choice to illustrate the severe impact such arbitrariness heralds for libertarian ontology and justice. Before

⁷ Wissenburg, “The Concept of Nature in Libertarianism,” 14.

considering the aptness of the libertarian's answer, we must first ensure such an answer arises from rational foundations and rational processes. Hence, at its core, this project encapsulates an imminent critique of libertarianism, its cosmology, and the judicial outpourings which otherwise rationally manifest. Tersely, then, we need the libertarian to consider the foundational criteria upon which his rational conception of justice is built before acknowledging his answer to the goring ox question as valid. Leslie saw her captured possum as an individual, possessing individual judicial claims and (to some unknown degree) rights. The question in lay terms, then, is if any divergence exists between Leslie's acceptance of nonhuman self-ownership and the libertarian judicial logic; Leslie sees the possum as an individual – why should a theory of justice derived from radical acceptance of individualism and individual rights differ, and how could it differ? The goring ox question requires, before consideration of appropriate justice, the definition of the actors involved in the situation and their cosmological relationship to one another.

To begin this task, the remainder of this chapter will examine the foundational precepts of libertarian political theory, discuss the relationship of libertarianism to the environment, and identify the constraints and relevance of this project. In Part II, we will examine the inherent social embeddedness of libertarianism along with ecological conditions that limit anthropocentric bias and mandate a reconsideration of the human/nonhuman dichotomy. We will then consider outlets of prudential autonomy within libertarianism in light of our ecological conditions, identify the critical flaws of prudentialism, and select minimalism as the necessary foundation for ecological libertarianism in Part III. Part IV will attempt a rough sketch of what an ecologically conscious libertarian political theory would comprise. With these analytic pieces culminate the hope that modern libertarians begin a serious dialogue concerning the theoretical foundations of their political ideology. It is to these theoretical foundations that we now turn.

Libertarian Foundations

Libertarianism is a child of classical liberalism; libertarianism's heavy focus on individualism, noninterference, and markets demonstrates this genetic connection. However, the child's intense, unrelenting focus on personal liberty distinguishes her from other liberal descendants and, indeed, marks libertarianism as a distinct category of classical liberalist theory.⁸ Bordering on anarchism,⁹ libertarianism argues for unperturbed individualism – a search for a Rawlsian conception of the good unmolested by foreign actors and actions. Nozick describes this ideal, arguing that for libertarians

...no moral balancing act can take place among us; there is no moral outweighing of one our lives by others so as to lead to a greater overall social good. There is no justified sacrifice of some of us for others.¹⁰

Thus, the ontological lens of libertarianism always focuses upon the individual; this separation of individuals formulates the “root idea” of libertarianism.¹¹ The prominence of individualism rests upon the significance of underlying values within libertarianism, and their relationship to quotidian considerations.

To begin, examine the figure below, which illustrates the linear relationship between criteria necessary to achieve individualist status within the libertarian framework. Beginning with conceptions of autonomy, libertarians award moral value to worthy individuals with the attainment of moral standing; individuals with such moral standing are acknowledged to posses

⁸ Robert S. Taylor, “Self-Ownership and the Limits of Libertarianism,” *Social Theory and Practice* 3(4), 2005: 465, note 1

⁹ Wissenburg, “The Concept of Nature in Libertarianism,” 7; The prime differentiation between anarchism and libertarianism lies in the latter's allowance of a monopoly of violence by a minimal state and the former's rejection of any such monopoly.

¹⁰ Robert Nozick, *Anarchy, State, and Utopia* (United States of America: Basic Books, Inc., 1974): 33; Emphasis in original.

¹¹ *Ibid.*

self-ownership and self-determination and are thus granted broad protections under the non-aggression principle (NAP) and non-interference principle (NIP).



This progression represents the logical flow of libertarian normativity: as A considers entity B to be autonomous – the requirements of which will be discussed shortly – A grants moral standing to B; now within the moral community, B is acknowledged as maintaining the propensities of self-ownership and self-determination; finally, A ensures self-compliance with the NAP and NIP to guarantee an unperturbed existence (by A at least) for B. Note that with B a member of the moral community, she must reciprocally acknowledge A’s self-ownership, self-determination, and protections under the NAP and NIP. In this way, individual status is a reciprocal phenomenon built upon adherence to the principles derived from conceptions of moral standing – this inherent social embeddedness is discussed further in Part II. Libertarian theorists overwhelmingly utilize criteria predicated on some notion of autonomy: Wissenburg identifies that “characterizations that combine choice with will, consciousness and rationality” dominate libertarian justificatory arguments.¹² Lipson and Vallentyne similarly pronounce the supremacy of autonomy within libertarian ontological foundations: “the only way in which [libertarians] have grounded moral standing is, somehow or other, in autonomy.”¹³ Yet, while libertarians find

¹² Wissenburg, “The Concept of Nature,” 10-11.

¹³ Morris Lipson and Peter Vallentyne, “Libertarianism, Autonomy, and Children,” *Public Affairs Quarterly* 5(4), 1991: 335; Emphasis in original.

solidarity in their utilization of autonomy¹⁴, they remain split on the necessities of being autonomous. To maintain coherent discussion, this work will utilize Lipson and Vallentyne's definition of autonomy as a launchpad for analyzing the split reactions of libertarian theory:

A being cannot be fully autonomous unless it has the capacity both to determine what many of its (at least immediate) desires are, and to act on the basis of (some of) them.¹⁵

This definition proves helpful in distinguishing the threads of minimalism and prudentialism within libertarian theory. The former maintains that the fulfillment of the previous definition suffices for the attainment of full moral standing, and the benefits such entails in a libertarian society.¹⁶ Prudentialism, by contrast, finds such minimal fulfillment of autonomy as guaranteeing minimal (or partial) moral standing, with some benefits of moral standing applying and other benefits withheld¹⁷; moreover, the attainment of full moral standing requires fulfilling additional constraints.¹⁸ These additional constraints differ between scholars and represent myriad potential threads of analysis. For example, Kane correlates the development of free will and self-formation

¹⁴ An important deviation from this solidarity is found in Narveson, who (erroneously) maintains that autonomy is not a value inherently appreciated by all humans and instead opts to place libertarianism on a foundation of a Gauthier-Lockean Proviso of non-interference (*The Libertarian Idea*, 175-177); with respect to Narveson, this transition seems inappropriate primarily because it appears to contradict to some degree the natural law logic inherent within libertarianism: Narveson declares the nature of man to be as a practical interpreter of socio-environments (*Respecting Persons in Theory and Practice*, 72-76) and Rothbard directly connects such pragmatics to the autonomy of individuals (*For a New Liberty*, 33); thus, it seems awkward and inappropriate to a degree to disconnect autonomy from the practical expression and utilization of that autonomy. Secondly, Narveson's founding in a generalized, contractual, Pareto-framed non-interference between individuals ignores the normative step of identifying individuals who may be considered within the confines of that contract and, without an explicit foundation in autonomy, finds itself trapped in circuitous reasoning. For these reasons, we may consider Narveson as an unwilling adherent of autonomy as the criteria for moral status regardless his apparent protests.

¹⁵ Lipson and Vallentyne, "Libertarianism, Autonomy, and Children," 339.

¹⁶ *Ibid*, 345.

¹⁷ For example, within prudentialism autonomy children would likely have protection from abuse/neglect but not protection against interference (forcing vaccinations, education, etc.)

¹⁸ *Ibid*, 339-40.

with the degree of moral standing obtained.¹⁹ And although Lipson and Vallentyne argue most prudentialist conditions would center around an individual's "capacity to reflect" upon present desires, rather than just identify and pursue them,²⁰ the variegated strands of such conditions does not constitute a necessary focus of this work. Part III will critically examine prudentialist criteria and argue for rational acceptance of minimalist autonomy within libertarian theory. Thus, we see that libertarian political theory holds autonomy as the foundational criteria upon which moral recognition and status are built.

After achieving moral standing, individuals are recognized as possessing self-ownership and self-determination and are granted protections under the non-aggression and non-interference principles by other individuals. Broad hallmarks of Western liberalism, self-ownership and self-determination constitute the capacities of autonomous individuals which, in greater society, justify mass adherence to the principles of non-aggression and non-interference. Succinctly described, self-ownership can be considered the application of stringently exclusive property rights to one's person. Utilizing A.M. Honoré's works on property rights²¹ one sees that such application generates negative freedoms for the individual vis-à-vis outside agents and interference.²² From self-ownership, then, emerges the freedom of self-determination: the "power to be the ultimate creator and sustainer of one's own ends or purposes."²³ Combined, these two rights present the overarching ideal of libertarianism, that of individuals free to

¹⁹ Robert Kane, "Libertarianism," *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition* 144(1), 2009: 36.

²⁰ Lipson and Vallentyne, "Libertarianism, Autonomy, and Children," 339.

²¹ Taylor, "Self-Ownership," 466-67. Taylor sums Honoré's theorizing on exclusive property rights as culminating in four distinctive aspects of exclusive property: first, one may utilize exclusive property at-will without restriction; second, one may exclude others from utilizing exclusive property; third, one may voluntarily transfer ownership of exclusive property; and finally, one cannot have exclusive property taken from them without consent.

²² Axel Gosseries, "Left-Libertarianism and Left-Hobbesianism," *Revista Portuguesa de Filosofia* 65, 2009: 201.

²³ Kane, "Libertarianism," 36.

associate and pursue happiness with full control over their bodies and lives. To ensure such an ideal, however, requires mutually reciprocal cognizance of and adherence to principles which protect the requisites of that ideal – namely, self-ownership and self-determination. To accomplish such protection, two chief principles within libertarian theory are utilized: the non-aggression principle (NAP) and the non-interference principle (NIP).

The recognition of an individual’s moral standing generates a moral boundary around her. Nozick describes a Lockean boundary set by an individual’s natural rights which limits the morally allowable interactions across the boundary by outside agents.²⁴ Such a boundary similarly surrounds individual property and limits its use by non-owners.²⁵ Interactions across these boundaries require consent; non-approved infringements require compensation (the formulation and criteria for which remain contested²⁶). In fulfilling the libertarian ideal of widespread individual self-ownership and self-determination, then, principles upholding the inviolability of such moral boundaries must be reciprocally adhered to by members of the community. For this purpose, libertarians utilize the NAP and NIP. The non-aggression principle holds that individuals must refrain from violence or intimidation against others, with the categorical exception of self-defense. While generally applying to quotidian considerations and market transactions, the non-aggression principle also argues against violence for potentially positive reasons; the NAP prevents the use of force to save someone from self-harm, for

²⁴ Nozick, *Anarchy, State, and Utopia*, 57.

²⁵ Rothbard nicely connects the right of self-ownership to property rights. After establishing the right to self-ownership, Rothbard continues to argue “...people are not floating wraiths; they are not self-subsistent entities; they can only survive and flourish by grappling with the earth around them. [...] Man, in other words, must own not only his own person, but also material objects for his control and use.” Rothbard, *For a New Liberty*, 37.

²⁶ For an example of such contestation, see David Sobel, “Backing Away from Libertarian Self-Ownership,” *Ethics* 123, 2012: 32-60.

example.²⁷ The non-interference principle, then, is a broad extension of the NAP as applied to the metaphysical. Whereas the NAP restrains force between individuals, the NIP restricts the interference of others' liberty. An adequate depiction of the NIP argues that

Libertarians hold ... such duties as: not to directly and significantly harm others (the NAP) or their property, to keep agreements, to refrain from lying and other sorts of deception, and to compensate those whom we wrong. ... we have a duty not to interfere with the liberty of others as long as they are fulfilling these duties.²⁸

In praxis, such a principle dictates the non-interference into otherwise morally contestable aspects of individuals' lives. Drug use, financial planning, healthcare decisions, decisions of lifestyle, and other facets of life are thus exempted from public persecution and interference, until such time as such activities interfere with the liberty of others. In a society of individuals whom mutually accept the NAP and NIP, then, individuals are left to act at-will and unrestrained within the confines and protections of these dual principles.

Thus the importance of moral standing within libertarian theory is manifest within the reciprocal protections granted by the NAP and NIP. Individuals not granted moral standing – not found to be autonomous – are either ignored by NAP and NIP protections or, in instances of partial standing, are granted incomplete protections by them.²⁹ For the libertarian society, autonomy proves the crucial standard by which individuals recognize moral value and grant protections from aggression and interference. It is no wonder, then, that Wissenburg correctly

²⁷ Nozick, *Anarchy, State, and Utopia*, 34.

²⁸ Lipson and Vallentyne, "Libertarianism, Autonomy, and Children," 333.

²⁹ Of potential interest for non-full standing in libertarianism is children – whose problematic nature is discussed in Part IV – and the mentally ill. Libertarianism grants full standing to the latter, resulting in labeling involuntary mental health hospitalization as a "crime against humanity"; Thomas S. Szasz, "Involuntary Mental Hospitalization: A Crime against Humanity," in *The Libertarian Alternative*, eds. Tibor R. Machan, 445-457, (United States of America: Tibor R. Machan, 1974).

describes the libertarian mantra as declaring that “autonomy trumps authority every time.”³⁰

Understanding the supremacy of moral standing, and the underlying contestation of the primary criteria – autonomy – within libertarian theory, one can undertake further analysis of how such foundational criteria relate to environmental and ecological considerations, as is the intended goal of this work. Before such theoretical analysis can commence, however, more detail on the current relationship between libertarian theory and the environment is necessary; it is to such details we now turn.

Libertarianism and the Environment

Libertarianism overwhelmingly focuses on issues of immediate salience; adherents often self-restrict to politico-economic questions of human politics.³¹ This can be traced to libertarianism’s anti-statist positioning, inasmuch as most political issues considered practical within the libertarian framework have been those that fit within the narrative of the individual versus the state. Thus, when considering libertarianism’s relationship to the environment, one is unsurprised to find a characteristic lack of linkages and considerations. Wissenburg accurately sums this reality: “If libertarianism and environment are mixed, it is almost exclusively to discuss [sic] and promote prudent use of limited natural resources.”³² The environment of libertarians has been one of raw resources, malleable by and for human interests. For Narveson, this ontological understanding is intentional; nonhumans lack objective value beyond that which is instrumentally-derived by humans: “[e]nvironmental concern that extends beyond concern for

³⁰ Wissenburg, “The Concept of Nature,” 2.

³¹ Ibid, 14.

³² Ibid, 4.

humans is not a matter of right or wrong, but a mere matter of taste.”³³ However, this apparent rejection of inherent nonhuman value hides yet another contentious ideological split within libertarianism. Distinguishing between left-libertarians and right-libertarians, Taylor describes the former as supporting redistribution of natural resources and the latter as supporting no redistribution.³⁴ Such distinction arose in response to the question of who owns nature at the onset: left-libertarians (such as Vallentyne) argue nature to be a communal good, whose value and use requires redistribution within the community; right-libertarians (Nozick, Narveson) argue nature to be unclaimed property, whose value is determined by whomsoever utilizes it.³⁵³⁶ Both sects, however, perceive the environment in atomistic and instrumentalist terms – an extension of human individualism.³⁷ Moreover, both right- and left-libertarians maintain a politico-economic focus vis-à-vis the environment, and both utilize the logical structure founded in autonomy as discussed in the preceding section. Yet, due to political and economic biases, libertarians rarely examine the contestable arena of autonomy in relation to nonhumans.

Wissenburg points out

...libertarians do not discuss most of what characterizes humans but focus only on those propensities and properties that directly support libertarian political philosophy. That humans are mostly bald, bipedal, and beakless is irrelevant.³⁸

Thus, in examining the foundation of libertarian protections – autonomy – libertarians rarely analyze its requisite criteria; however, such criteria support the totality of libertarian theory and thus necessitate analytic consideration. While scholars declare “[l]ibertarianism is concerned

³³ Narveson (1998) as cited in Wissenburg, “The Concept of Nature,” 7.

³⁴ Taylor, “Self-Ownership,” 465, note 1.

³⁵ Wissenburg, “The Concept of Nature,” 3.

³⁶ It should be noted, however, that both branches attempt to operate within different interpretations of the Lockean Proviso.

³⁷ Ibid, 14.

³⁸ Ibid, 10.

with human liberty; it is the liberty of humans that, morally speaking, matters”³⁹ and that “‘freedom’ refers solely to a relation of men to other men,”⁴⁰ we cannot accept such traditional reinforcement by accepting the human/nonhuman dichotomy; we cannot accept tradition as the foundational bedrock of libertarian logic because (A) libertarianism, as a normative theory of individual rights, was founded to counteract the tradition of state-sanctioned oppression and (B) acceptance of the human/nonhuman dichotomy precludes libertarianism from attaining a more consistent and solid logical foundation and (as we’ll discuss in Part III) prohibits the achievement of a true libertarian society.⁴¹

Before detailing further the relationship of libertarianism and the environment, it is necessary to delineate the intended meaning of *environment* within this work. For purposes of convenience, coherence, and reasonable ambition, this work restrains environmental considerations to that of humans and nonhumans, the latter defined broadly as individualized biotic entities which are born, maintain a capacity for animation, can be expected to die, and (of course) are not human. Thus, this work will neglect to focus on abiotic entities – such as rocks and air – as well as inanimate biotic entities – most noticeably plants.⁴² These excluded entities are not, I must state, beyond the realm of analytic deliberation or libertarian concern; on the contrary, their inclusion would simply exceed the workable confines of this analysis. Going forward, this work’s environmental focus is thus restrained to considerations of those entities

³⁹ Narveson, *The Libertarian Idea*, 15.

⁴⁰ F.A. Hayek, *The Constitution of Liberty* (United States of America: The University of Chicago Press, 2011): 60.

⁴¹ See “The Question of Egoist Morality” in Part IV for the discussion of this achievement; tersely, a “true libertarian society” is that in which domination between individuals is minimized for the maximal amount of individual liberty and flourishing.

⁴² One could chime that plants, through life cycle growth, engage in near-constant animation. And such is a valid argument. However, for purposes of our discussion animate refers to the capacity of an entity to physically relocate itself elsewhere at will. Thus, while plants grow, they cannot willingly move to another location – while a theoretical consideration of roots could circumvent such exclusion, such is beyond the scope of this work.

previous characterized; summarily, such entities comprise the category “nonhumans” as herein referred and examined. This clarification ensures that, in future discussions throughout this text, *nonhuman* categorically neglects nonhuman entities that are abiotic and/or inanimate.

Returning to the discussion at hand, then, we see throughout libertarianism, in its relation to the natural world, a split between humans and nonhumans seemingly founded on conceptions of autonomy. These conceptions formulate a gestalt “baseline” assumption within libertarianism that humans are rational, willful beings and nonhumans are not.⁴³ Recall that such a baseline, that nonhumans lack autonomy, prevents complete protection of nonhumans under NAP and NIP; while libertarians disagree over the criteria of autonomy and the scope of partial or minimal autonomy vis-à-vis nonhumans, the outcomes of this overarching rejection of fully autonomous nonhumans heralds the same overall result: nonhumans do not receive NAP or NIP protections. While the consequences of such can vary greatly – ranging with degree of moral standing allotted and perquisite criteria for autonomy – such is irrelevant to this work. Of immediate concern, rather, is the question of why libertarianism, at the macro level, maintains the dichotomy and, furthermore, if such a dichotomy is supported by the libertarian logical structure when confronted with the failings of prudentialist autonomy. The latter consideration forms the great majority of this work, with the results aiming at the discussion of an unprecedented ecologically conscious libertarian theory wherein both logical structure and foundational principles are left fundamentally unaltered. Prior to such efforts, however, is a necessary discussion of the limitations and relevance of such an undertaking. These concerns comprise the remaining portion of Part I.

⁴³ Wissenburg, “The Concept of Nature,” 12.

Constraints and Caveats

“Nonhumans”

The myriad categorical conceptualizations used by political theorists, environmental scholars, activists, and laymen to describe nature, the environment, and nonhumans could fill a tedious volume of technical adjustments and arduous categorizations. Earlier in this chapter I defined nonhumans as biotic entities that are born, maintain a capacity for animation, can be expected to die, and are not human. This is an extremely broad category; indeed, it encapsulates a majority of tangible life on Earth. It must be addressed, then, that many scholars whose arguments I consider do not necessarily agree with this conceptualization of nonhumans. Wise, whose legal argumentation provides a partial foundation for my arguments, argues exclusively for the moral inclusion of chimpanzees and bonobos. Although he acknowledges the potential for expansion of his arguments to other nonhuman animals⁴⁴, Wise in no way articulates such application as I provide here. Similarly, the arguments of many libertarian and liberal scholars apply directly to animals or directly to only specific animals (most commonly apes). Thus, when arguing for ecological consideration, utilizing my conception of nonhumans, within their arguments I am expanding the parameters of the initial debate. Although categorical mismatches between scholars’ “nonhuman” or “animal” categories and my “nonhuman” category exist, the wider breadth of my nonhuman category encompasses the small categories, strips their contrived categorical boundaries, and continues examining the question of nonhuman self-ownership. And so, whereas Nozick and Narveson contemplate strictly animals, our discussion will include

⁴⁴ Wise does expand his arguments to consider the evolutionary spectrum of cognition and, through this, includes nonhumans such as dolphins and parrots; Steven M. Wise, *Drawling the Line* (United States of America: Steven M. Wise, 2002).

broader categories of life such as insects; this wider categorical starting point emerges necessarily from our bottom-up contemplation of moral standing criteria.

Libertarian “Theory”

As with most political theories, libertarian theory has many diverging schools of thought.

Wikipedia holds information on twenty-eight such schools, ranging from libertarian communism to panarchism; surely, with all these nuanced variances, it would be difficult to attempt discussion of a singular libertarian theory. However, this difficulty does not apply to our discussion. For each of these varying schools of libertarianism adhere to the base logic outlined earlier in this chapter, and each school upholds the human/nonhuman dichotomy. While these different strands argue about proper interpersonal relationships, they spawn from the original thread of moral reasoning that blindly accepts the human/nonhuman dichotomy. And so while it would be somewhat concerning to generalize so greatly about a large bulk of theorization, this consistent foundation of moral exclusion allows our discussion to consider simply the overarching image of libertarianism.

Ecological v. “Green” Libertarianism

While we do not need to consider the tenets of each subgenre of libertarian theory, I find it necessary to make one paramount distinction abundantly clear. Some schools of libertarianism, namely *green libertarianism*, appear at conflict with my claims of novelty; why should there be an ecological libertarianism if green libertarianism is already incorporating environmental concern into the libertarian framework? The justification comes from the origination-perspective of the argument. All forms of libertarianism, at least that this author is aware of, accept the human/nonhuman dichotomy, and transition therefrom to arguments of appropriate human relations. Ecological libertarianism emphasizes rather the traditional foundational criteria of autonomy, the social embeddedness inherent within libertarianism, and the failures of

prudentialist autonomy. This is where an ecological libertarianism gains its radical placement and divergence from other libertarian theories. Green libertarianism, by contrast, simply argues for the incorporation of environmental concerns (global warming, resource depletion, etc.) into free-market and business practices – such is the ideological companion to free-market environmentalism. In praxis, this translates into a large conceptual divide: green libertarianism seeks to utilize the free-market to alleviate environmental ailments, while ecological libertarianism sees nonhumans as free agents morally unsusceptible to the ravages of trade – green libertarians may argue how to control animal populations through trade while ecological libertarians declare such trade barred on grounds of individual liberty. This is the distinction between an ecological libertarianism and extant libertarian schools.

Relevance and Purpose

The questions of purpose and relevance serve as primary conduits for the justification of this project's research and arguments. Many scholars, scientists, and activists have already moved for reinterpretation or renewed expression of political ideologies in conjunction with ecological and environmental knowledge and goals; moreover, philosophers have debated Man's placement within the universe for millennia. And so this work enters an already packed room of discussion. However, there is room for this project amidst the preeminent strands of theorizing. This section will outline a few nexuses of interaction between this project and extant theorizations and scholarly debates – the purpose of this project will follow such placement justification.

To begin, we can re-acknowledge the larger philosophical placement within which our discussion focuses. Although these loftier discussions are beyond this work's ambition, we can examine its placement within the larger context of Western liberalism. Thus, it may do some good to evaluate the direct relationships between this project and other liberal-environmental scholarship. In discussing political theory's relationship with environmental concerns, Meyer

identifies a primary concern to be the limits of liberalism in producing environmentalist benefits.⁴⁵ A great focus of contemporary political theory has arisen from such limitations in Western liberalism vis-à-vis environmental concerns. Some, such as Dryzek and Eckersley, have attempted reformulations of democratic theory – such as Dryzek’s discursive democracy and Eckersley’s “green state”⁴⁶ – to achieve environmentally beneficial outcomes. Some, such as de-Shalit, have argued for transformations in liberal structures and institutions to allow greater intervention on behalf of environmental concerns.⁴⁷ Others, such as Ophuls, see liberal limitations as facilitating a rise in authoritarian regimes (or authoritarian politics generally) to ensure humanity’s survival following environmental collapse.⁴⁸ Many strands of environmental political theory emerge from the now standardized foundation of liberalism’s inability to resolve environmental problems. These limitations, differently expressed as they are, generally focus on the core components of liberalism – individualism, instrumental rationality, and atomistic agents – as proving incapable of solving environmental problems. And so, this project questions these strands of theorization by questioning the true incapacity of liberalism to engage meaningfully with environmental concerns. More directly, the rejection of the human/nonhuman dichotomy within liberalism facilitates the questioning of theorizations which flow therefrom; for if liberalism is conceived as incapable of alleviating environmental problems, then rejecting the dichotomy within liberalism will drastically reconfigure the debate. If, as this project intends, the

⁴⁵ John M. Meyer, “Political Theory and the Environment,” *The Oxford Handbook of Political Theory*, eds. John S. Dryzek, Bonnie Honig, Anne Phillips (United States: Oxford University Press, 2008): 781.

⁴⁶ Robyn Eckersley, *The Green State: Rethinking Democracy and Sovereignty* (United States of America: Massachusetts Institute of Technology, 2004).

⁴⁷ Avner de-Shalit, *The Environment: Between Theory and Practice* (United States: Oxford University Press, 2000): 63-92.

⁴⁸ William Ophuls, *Plato’s Revenge: Politics in the Age of Ecology* (United States of America: The MIT Press, 2011).

human/nonhuman dichotomy may be rejected within libertarianism, then a new critical route for liberalism to achieve success in environmental issues will be manifest. Thus, in the first and most general regard, this project's relevance comes from rejecting the foundational assumption of disconnect between environmental goals and liberalism expressed among contemporary political theorists. Thus, we can see that the perceived limitations of liberalism may in the context of nonhumans be really the radical means by which such agents achieve greater outcomes than at present.⁴⁹ For the context of our discussion, however, the point may simply be made that in rejecting the human/nonhuman dichotomy, our discussion positions itself as opposite many contemporary liberal theorists – although the overarching environmentalist goals may be similar.

Viewing more specifically the placement of this work in context of environmental political theorists, we see a few of the myriad links that potentially may form. We can take a moment to appreciate some of these links. We can begin with de-Shalit's evaluation of liberalism and the environment.⁵⁰ De-Shalit's overall assessment maintains that liberalism provides great opportunities for the expression and development of environmental considerations, while inherently failing to provide substantially the avenues for collective action and state interventions on the environment's behalf. While a fair assessment, there remain a few specific areas for evaluation within de-Shalit's argumentation. Foremost, de-Shalit's conception of liberalism accepts the human/nonhuman dichotomy. Although acknowledging the potential for equal moral standing between humans and nonhumans within liberalism,⁵¹ de-Shalit nonetheless accepts (as have most liberal theorists) the human/nonhuman moral divide as a foundational aspect of

⁴⁹ These "greater outcomes" are considered in the context of human domination of nonhumans; this reduction in domination would be a necessary consequence of recognizing nonhumans to hold valid claims to negative liberties.

⁵⁰ De-Shalit, *The Environment: Between Theory and Practice*, 63-92.

⁵¹ *Ibid*, 65.

liberalism from which he may draw analyses. This project agrees with de-Shalit in that liberalism has room for nonhuman moral inclusion, but finds such agreement as prohibitive of accepting the human/nonhuman dichotomy.⁵² When considering the potential dissolution of this dichotomy, de-Shalit finds two general areas which prove problematic: first, that nonhumans cannot enter contracts and thus cannot receive contractarian moral status in liberal societies, and second that human-human obligations always supersede human-nonhuman obligations.⁵³

Bailey responds critically to the second consideration, arguing such obligatory prioritization as the result of Western culture not the result of biological impulses.⁵⁴ Identifying different cultural cosmologies, Bailey thus articulates the dichotomy as an iterative element of Western theoretical tradition; the privileging of Man above nonhumans is, following this critique, a result of continued anthropocentric bias in Western theorizing and not an inherent aspect of Man's existence.⁵⁵ This project accepts Bailey's critique and leaves the contractarian problem to other theorists (for the moment at least).⁵⁶

⁵² A brief note for clarification: while the human/nonhuman dichotomy is ultimately rejected as a result of the failures of prudentialist autonomy (Part III), we do not reject the basic tangible differences between humans and nonhumans; humans and nonhumans are dramatically different, but – as an underlying premise of this project – these differences are not morally relevant within libertarian theory.

⁵³ Ibid, 63.

⁵⁴ Bailey, Cathryn, "A Man and a Dog in a Lifeboat: Self-Sacrifice, Animals, and the Limits of Ethical Theory," *Ethics and the Environment* 14(1), 2009: 129-148.

⁵⁵ Narveson's emphasis on human nature as practical and normatively adaptive (*Respecting Persons in Theory and Practice*, 72-74; *The Libertarian Idea*, 118-120) supports the malleability of social norms and institutions argued here by Bailey.

⁵⁶ For the contractarian issue, we may consider whether cognitive awareness is necessary if the contract is nonetheless adhered to in praxis; keeping with Narveson's emphasis on practical moral reasoning and the critiques of Part III, we should find practical adherence as sufficient.

Wissenburg, conversely, argues that extant liberal theory can reasonably accommodate environmental concerns given particular understandings and framings of liberal ideals.⁵⁷ Arguing for a green liberalism, Wissenburg follows the logic of Rawls in generating a restraint principle that ultimately allows the continuation of liberal logic and ideals with the additional moral constraint for the public good of adequate environmental protection. Of course, this becomes problematic when defining public goods – particularly in the libertarian context, where *public* goods are scarce.⁵⁸ Wissenburg further acknowledges the potential for expanding human judicial concerns and status to nonhumans as a means of greening liberalism, but states that

...as long as humans can argue for the existence of relevant differences between themselves and animals, the status of animals as subjects cannot a priori be taken as part of our considered judgments.⁵⁹

Yet, this defeatist attitude need not bar or otherwise hinder discussions that reject the human/nonhuman dichotomy; indeed, such discussion readily denies the pessimism of Wissenburg's observation in favor of open, normative contemplation. Furthermore, Bailey's critique concerning the rational applicability of such differences as sufficient for moral criteria demonstrates the inherent need to disregard such hesitation in theorizing.⁶⁰ Wissenburg's contemplation on libertarianism's relationship to the environment begat the discussion which we

⁵⁷ Marcel Wissenburg, "Sustainability and the Limits of Liberalism," *Debating the Earth: The Environmental Politics Reader*, eds. John S. Dryzek and David Schlosberg (United States: Oxford University Press, 2005): 180-190.

⁵⁸ Many *public* goods would be framed as the amassing of individual goods – i.e. a community-wide security pact (a paramilitary force) would be the result of individual security associations (this is a partial argument for the development of the ultra-minimal state for Nozick)

⁵⁹ *Ibid*, 183.

⁶⁰ Bailey, "A Man and a Dog in a Lifeboat," 139; Of particular relevance is Bailey's articulation that "[the] animal/human polarization is not a given that is then enshrined in other norms and institutions; rather, the institutions and ongoing discourses elaborating animal inferiority are what creates and maintains the distance." Thus, rather than accept Wissenburg's defeatism and allow liberal discourse to continue upholding the human/nonhuman dichotomy, we should (as we are) endeavor to change contemporary discourses to better reflect reasoned argumentation.

continue, and it is apparent that Wissenburg continued the discussion in a vastly different (and more traditional) way.

Our discussion will also encounter Sagoff's consideration that within liberal societies and cultures individual preferences can be split along personal dimensions (primarily between consumer and citizen preferences) and are never truly unified.⁶¹ Moreover, Sagoff holds, these dimensional preferences may exist in broad formulations and varied contexts, and not all may be considered in terms of justice or equality.⁶² This reality outlines myriad internal conflicts and complicates the decision-making and considerations of individual moral agents; this irresolvable tendency toward internal conflict, born by the varying demands of individual personality and social dimensions, is a tremendous starting point for the analytic consideration of *preference generation* as a conduit to moral standing. For if the inability to calculate and interpret human preference generation and interaction is true, it quickly becomes questionable if such is sufficient to uphold the human/nonhuman dichotomy. Furthermore, the importance of preferences within libertarianism and liberalism broadly is paramount – it is by these preferences that individuals make choices, and the negative liberties of libertarianism promotes the freest selection of such choices and thereby the expression of these preferences. If Sagoff is correct, and human preferences are variegated, myriad, and complex, then difficulty emerges in maintaining the dichotomy; for, as will be discussed further in Part III, it is objectively impossible to trace behavior to a particular preference or mixture of preferences. This problem will in Part III push our discussion toward an acceptance of minimalist autonomy within libertarianism.

⁶¹ Mark Sagoff, "The Allocation and Distribution of Resources," *Debating the Earth: The Environmental Politics Reader*, eds. John S. Dryzek and David Schlosberg (United States: Oxford University Press, 2005): 147-162.

⁶² *Ibid*, 151.

Lastly, this project engages scholars such as Dryzek and Eckersley by questioning first their acceptance of the human/nonhuman dichotomy and second the potential consequences to their theorization should the dichotomy be abolished. At least superficially, it appears that their concerns and arguments – particularly Dryzek’s focus on expanding deliberation to include nonhuman voices – are, or could be, upheld by the full inclusion of nonhumans within the moral community; interestingly, an ecological libertarianism could concretize the moral status of nonhuman agents such as necessary to view their voice as requisite for a functioning, environmentally conscious liberal society – in this way, an ecological libertarianism could demonstrate the non-conflictual relationship between liberalism and environmentally beneficial reasoning and outcomes.⁶³ Perhaps this is an idealistic overstretching of this project’s potential. Regardless, this project finds tremendous placement within extant strands of political theory and contemporary environmental political theorists, in addition to the more esoteric relationships to libertarian scholars.

Beyond these linkages to extant political theorists, this project maintains two overarching and admittedly ambitious goals. First is the establishment of an immanent critique of libertarianism in pursuit of logical consistency and rational argumentation. As demonstrated earlier, the libertarian-environment relationship finds resilience primarily through tradition and adherence to quotidian questions of socioeconomics. Yet, tradition does not demarcate the existence of sound, informed reasoning and, as such, cannot suffice alone to uphold a political theory of proper inter-agent relations. The second primary goal of this project is the

⁶³ For example, incorporating nonhumans into the moral community necessitates a reconsideration of labor and property rights and their application to nonhumans – this can lead to interesting potential environmental considerations, such as whether trees planted by squirrels are exclusively their property and thus immune from harvesting.

contemplation of an ecologically sound libertarian political theory, which acknowledges nonhuman self-ownership in line with other extant libertarian ideals (such as the NIP and NAP) and theorizing. This secondary goal will manifest in Part IV, following further consideration of the need and significance of the first goal in Parts II and III. Important for these goals, then, is a brief consideration of what this work's goals are not. Following Ophuls's depiction of *politics* – “Politics ... is about the definition of reality: what epistemology, ontology, and ethic shall constitute our rule of life?”⁶⁴ – our discussion will not deviate into the minutiae of logistics, legality, or political structures. The purpose of this work is to identify and attempt to correct logical inconsistencies at the foundation of libertarian theory and envision the overarching adjustments necessary for libertarianism to maintain core components and principles. Moreover, and to that end, this work will identify hidden, foundational aspects within libertarianism that herald significance for libertarian theory – particularly libertarianism's inherent social embeddedness. As such, our discussion must be limited to the matters before us and should not be distracted by associated concerns. Questions of specific individual action, of morally ambiguous scenarios, or of correct personal lifestyles will not be considered. Thus, this project willingly avoids complex moral dilemmas and specific ethical guidance; such is both too narrow and too grand for the context of our discussion.

With these acknowledgements now complete, we may turn to consider specific ecologically conscious arguments and theorizing. These considerations constitute Part II, while their critical application to criteria of prudentialist autonomy within libertarianism comprises Part III, and Part IV discusses their incorporation into a theory of ecological libertarianism.

⁶⁴ William Ophuls, *Plato's Revenge*, 133.

PART II – Ecological Conditions

With the first chapter's discussion concerning libertarianism's foundation, logical structure, and relationship to environmental concerns complete, we can turn now to considering specific arguments pertinent to the discussion of nonhuman moral status. These ecological conditions construct the framework of consideration within which the original question of nonhuman self-ownership may be evaluated. Broadly, these conditions culminate in a framework centered on the inherent social embeddedness of libertarian theory and supported by non-anthropocentric reasoning. This framework will set the stage for an open consideration of the moral status of nonhumans within libertarian theory (Part III) and the development of an ecological libertarian theory of justice (Part IV).

Social Embeddedness / Interconnectivity

Perhaps the most antithetical condition to libertarianism is forcible coexistence; indeed, libertarianism appears to despise any notion that humans are not fully individual beings living lives is of potential solitude. Yet this perceived hostility is incorrect – not just on scientific and sociological/anthropological understandings of Man, but also on libertarianism's logical structure. For as we discussed earlier, NAP and NIP protections within libertarian society manifest explicitly in intersubjective norms of reciprocity. *A* only has liberty because *B* follows NIP and NAP, and *B* does so because *A* similarly reciprocates and grants liberty to *B*. Thus libertarianism is founded in a social context. This reality is acknowledged by Nozick, and serves

to explain the practical transitions from anarchy to a minimalist state structure.⁶⁵ Narveson similarly acknowledges the inherent social embeddedness of individuals within libertarian societies, going so far so admit that individuals’ “...very personalities are defined by relation to their peers, their acquaintances, their loved ones, and so on.”⁶⁶ Rothbard concurs as well: “...it is evident that individuals always learn from each other, cooperate and interact with each other; and that this, too, is required for man’s survival.”⁶⁷ Metaphysically, this embeddedness is meaningful and constructive to the individual, meaning libertarian theory doesn’t (and rationally cannot) “assume detachment” between the individual and their social context.⁶⁸ This hidden, oft-neglected foundation of libertarian theory is the area in which the consideration of nonhuman moral status must focus. For now the question, for a libertarian society, can be seen as “how should libertarians identify *moral individuals* when constructing their theory of justice?”⁶⁹ To focus on this question, which will be highlighted in the next chapter, we must first continue building our analytic framework. Foremost, based on our acknowledgement of social interconnectedness between human individuals, we must expand the scope of social interaction to consider the role of nonhumans. The best means of accomplishing this, in an ahistorical and transcontextual way, is to accept ecological interdependence within our libertarian foundation. We must engage in ecological thinking. Morton describes ecological thinking as acknowledging that

⁶⁵ Nozick, *Anarchy, State, and Utopia*.

⁶⁶ Narveson, *The Libertarian Idea*, 17.

⁶⁷ Murray N. Rothbard, *For a New Liberty* (United States of America: Ludwig von Mises Institute: 2012): 33.

⁶⁸ Narveson, *The Libertarian Idea*, 17.

⁶⁹ This phrasing is in line with Narveson’s conception of practical morality.

[e]xistence is always coexistence. No man is an Island. Human beings need each other as much as they need an environment. Human beings *are* each others' environment.⁷⁰

Without a particular frame or target, this thinking encourages us to broadly consider the realities of ecological interconnectedness within contemporary theorizing. Morton argues ecological thinking to be in stark contrast to libertarianism or “other right-wing sacred cows”⁷¹; however, as we just discussed, this is not true – or, if it is perceived as true, it need not be. Compassion ranks among the highest means of attaining an ecological mentality for Morton,⁷² and compassion is the unexpected backbone of a flourishing libertarian society. Higgs and Higgs acknowledge compassion as the undeniable trait necessary for a true libertarian society and its constituents to flourish.⁷³ This is no accidental nor trivial admission of libertarianism, but a signal indicative of libertarian logical reality.⁷⁴ They argue that even unilateral compassion, wherein the beneficiary makes no drastic change in response to assistance, is a virtue necessary for a functional libertarian society. And so, ecological thinking is not antithetical to libertarian logic; indeed, it flows directly from libertarian understandings of compassion and the realities of social coexistence. While not endeavoring to connect the totality of Morton’s ecological thought, its message of radical openness – “open forever, without the possibility of closing again”⁷⁵ – and broad consideration of interconnectedness serves a prime ecological condition for the evaluation

⁷⁰ Timothy Morton, *The Ecological Thought* (United States of America: Harvard University Press, 2010), 4.

⁷¹ *Ibid*, 129.

⁷² *Ibid*, 125-6.

⁷³ Robert Higgs and Elizabeth Bernard Higgs, “Compassion—a Critical Factor for Attaining and Maintaining a Free Society,” *The Independent Review* 19(4), 2015.

⁷⁴ While Higgs and Higgs don’t argue the following, their emphasis on empathy within libertarian society lends credence to the following argument: if social embeddedness and reciprocity are necessary for a successful libertarian society, and if compassion and empathy facilitate/encourage/increase adherence to these norms, then compassion is foundationally and logically necessary for the project of a libertarian society to succeed.

⁷⁵ Morton, *The Ecological Thought*, 8.

of nonhuman moral status within libertarian theory. And so, this condition calls us to remember in our analysis the truly (and paradoxically) social nature of libertarian theory, and consider this foundational reality when discussing nonhuman moral status. It is because of this hidden aspect of libertarian theory – and its true significance for libertarianism – that the question of nonhuman moral status may reasonably be considered.

Fair Analysis (Aristotle’s Axiom)

After acknowledging the social embeddedness within libertarian theory, and the impetus to reconsider the moral criteria utilized in determining the limits of such embeddedness, the first necessary analytic condition is that of fair analysis. While an obvious necessity for quality research, for our context *fair analysis* connotes a lack of anthropocentric bias. Thus, the first ecological consideration necessary for our discussion of nonhuman moral status within libertarianism arises in response to the phenomenon of Aristotle’s Axiom; succinctly defined, Aristotle’s Axiom is the tendency of individuals, when formulating hierarchical arrangements, to assign themselves to the highest category within the hierarchy.⁷⁶ Wise identifies how, in formatting these hierarchies, individuals utilize force or persuasion to justify others’ lower placement within the caste – “Soldiers like the first way; philosopher, legal writers, ... and priests prefer the second.”⁷⁷ And so, in responding to this narcissistic characteristic of humans, we have numerous routes of argumentation. For convenience of discussion, we will use only a selective grouping of these arguments which culminate in the ecological condition of *Fair Analysis*.

⁷⁶ Wise, *Rattling the Cage*, 13; “We’ll call it ‘Aristotle’s Axiom,’ and it is an axiom because no one ever, ever, assigns a group to which he or she belongs to any place in a hierarchy of rights other than the top.” Emphasis in original.

⁷⁷ Ibid.

Wise presents three analytic ‘rules’ to abide when evaluating claims concerning the assigning of rights conditional upon hierarchical arrangements. These rules state: first, it requires substantial effort to adequately place man within nature; second, arguments confirming human superiority must be met with analytic skepticism and analyzed intensely; and third, arguments must be analyzed fairly, and “special pleading” for human superiority must be ignored.⁷⁸ Similar to these rules are Massumi’s theses on animals to be avoided. These argue, collectively, for fair consideration in contemplating human-animal relationships. For our discussion, Massumi’s primary thesis – “Do not presume that you have access to a criterion for categorically separating the human from the animal”⁷⁹ – will suffice to bulwark Wise’s rules. When examining the moral status of nonhumans within the libertarian judicial concept, then, we will endeavor to abide these analytic constraints insomuch as they provide an open, fair marketplace of arguments. Moreover, from these constraints we see the burden of proof for argumentation as shifting to supporters of the human/nonhuman dichotomy rather than ourselves. This is a necessary transition.

Foremost, the burden of proof regarding nonhuman moral status must fall on dichotomy supporters to uphold the libertarian commitment to the sacrosanctity of individual liberty. Within the libertarian logic, it is individual liberty – rooted in self-ownership – which births side-constraints and necessary principles for a libertarian society. Moreover, it is this individual liberty that provides protection for individuals via the NAP and NIP. And so, in upholding the paramount crux of libertarian logic, supporters of the human/nonhuman dichotomy must be called to prove the non-liberty of nonhuman agents to justify the latter’s inaccessibility to NAP

⁷⁸ Ibid, 123.

⁷⁹ Brian Massumi, *What Animals Teach Us About Politics* (United States: Duke University Press, 2014), 91; This argument against special pleading is directly in agreement with Rothbard’s conceptualization of libertarianism’s commitment to logical consistency (*For a New Liberty*, 28).

and NIP protections. For when discovering a new form of life – let’s pretend Martian animals are discovered in the near future – the question of the goading ox reemerges; moreover, the question of obligations and permissions emerges. Historically, humans (at least in the West) have been terrible at answering correctly – cycles of oppression and reform, regarding human rights as applying to blacks, women, Jews, etc. demonstrate the retroactively corrective tendency of Western societies. That groups of humans deserved full moral status and political rights was not resultant of great evolutions – women did not ‘evolve’ so as to deserve political rights, society changed to recognize their true moral status. Parallels between human rights and animal rights have abounded, but libertarianism finds itself particularly open to such considerations. De-Shalit identifies perfectly the unnerving scenario underlying the necessity of placing the burden of proof with supporters of the human/nonhuman dichotomy:

The truth of the matter is that any calculation or assessment of the cost/value of animals’ lives is, at the end of the day, hypocritical and weird. What we should do instead is ask the animal to put a price on the value of its own life. Just as, in the case of human lives, we do not ask a murderer what the value of his victims’ lives are, but rather (so-to speak) ask the victims themselves, so we should do in the case of animals’ lives.⁸⁰

In shifting the burden of proof of difference to supporters of the dichotomy, what we are practically asking is for a justification of the dichotomy and the politics which flow therefrom. Essentially, where traditionalists argue that radicals must prove nonhumans to fit criteria *A*, *B*, and *C*, we respond by prompting the former to provide proof that these criteria are morally significant – in Part III, we will show how these criteria fail to function in praxis. And so, in shifting this burden, our project creates a wide net of inviolable rights as the foundation on which we may construct moral criteria and re-found the libertarian conception of justice. As criteria are

⁸⁰ De-Shalit, *The Environment: Between Theory and Practice*, 76-77.

applied, we may rationally justify the categorical separation of some entities from others, although such work is outside the bounds of this chapter.

And so, when Wissenburg declares, “only those who can be moral can design a criteria of morality,”⁸¹ we must question the intention of such a statement. Following the condition of *Fair Analysis*, we see such declaration as a reiteration of Aristotle’s Axiom and a violation of fair analysis of the question before us. From this primary ecological condition, then, we see the moral impetus for fair analytic consideration and the removal of traditionalist assumptions and logic for a non-anthropocentric rational argumentation.

Known Unknowns and Unknown Unknowns

Following our acknowledgment of interconnectedness and openness to fair analytic consideration, we can turn to considering known unknowns (KU) and unknown unknowns (UU). Following former US Secretary of Defense Donald Rumsfeld’s definitions,⁸² these terms refer firstly to that information which we understand to be missing and secondly to that information which we do not understand to be missing. Succinctly, these terms correspond with how we may understand our body of knowledge vis-à-vis the larger world around it. Considering the goring ox question, then, we see the motive of the ox as a known unknown – did it intend on murder, did it do so willingly or accidentally, or does it lack intentions altogether? Whether the event was an orchestrated display of strength by the ox to the farmer is an unknown unknown. While this evaluation may be somewhat superfluous, the real considerations pressed by the KU and UU are how we should proceed in our contemplation of animal capacities and their correlates to moral

⁸¹ Wissenburg, “Sustainability and the Limits of Liberalism,” 185.

⁸² Donald Rumsfeld, “Press Conference: by US Secretary of Defense Donald Rumsfeld,” (press conference, North Atlantic Treaty Organization, NATO HQ, Brussels, Belgium, June 6, 2002)

standing. Wise's work centers on connecting new scientific understandings to traditional understandings of law; while admirable, the question necessarily emerges of why such discoveries must predate consideration of moral status. Similar to the evolution of political and human rights, one may reply to Wise's undertaking by asserting that chimpanzees and bonobos likely did not lack such cognitive function for the past several centuries; rather, human science has evolved to understand such capacities as they existed. And so, the question becomes why nonhumans must wait upon human scientific advancement for moral consideration. Despite the nobility of Wise's work, then, this project pushes for consideration of known unknowns and unknown unknowns by asking what we, as humans, truly know about nonhuman capacities and livelihoods before assuming simplistic explanations which will be debunked scientifically years later. Morton's rhetorical question – "[a]re we sure nonhumans don't have a sense of 'I'?"⁸³ – is unlikely to be answered by contemporary science in a declarative manner. However, ignorance of an occurrence is not the erasure of the occurrence, and the lack of knowledge about something cannot rationally justify the tossing aside of that something: libertarianism must accept that, as humans, we will likely never know the true self-reflective capacities of nonhumans, yet such a known unknown cannot justify assuming animals lack any self-reflective capacity. This condition could be rephrased so as to state the following: what we do not know about nonhumans, and what we do not know we do not know about nonhumans, are not de facto justifications for the assignment of inferior moral status. And so, the condition of known unknowns and unknown unknowns presses for rational consideration of humanity's lack of knowledge in areas pertinent to the discussion of nonhuman moral status..

⁸³ Morton, *The Ecological Thought*, 114.

Variety and Non-Interference

Another pertinent condition for libertarianism to consider is the variety of lifestyles that are promoted by libertarian principles. In articulating that moral agents should not be aggressed nor infringed upon, libertarianism accepts a plurality of lifestyles that, so long as abiding the NIP and NAP, are permitted to continue unperturbed. Within this reality, then, we must question any apparent limitation regarding the form of lifestyle sustained. By considering the range of plausible livelihoods entertained by agents, then, we must consider if these lifestyles must befit any form of recognizable humanness, besides their adherence to NIP and NAP. For the Nozickean libertarian, an agent may fully withdraw from human society and receive protections within the NAP and NIP. And so the question manifests: should the form of life selected by an individual be useful in determining his candidacy for full moral status? We must find within libertarianism an ardent rejection of such conditional status. For the major promise of libertarian theory is that individuals may find maximal personal liberty by the mutual abstention of violence and interference. And so, the radicalness of one's lifestyle (within the confines of NAP and NIP) is not a disqualifying component of moral status, insomuch as such radicalness is the true display of the individualized freedom that is the true goal of libertarian theory. With this in mind, the condition of variety and non-interference requires us to realize the tremendous variety of lifestyles as not limited within the human realm, insomuch as any human could adapt the lifestyle of many nonhumans (be it in diet, habitat, behavior, or priorities) without need for explaining such a decision – it is within their freedom and free from interference. Noting this, we then turn to the final premise of this condition, which is as follows: the forms of life displayed by nonhumans are not morally significant within libertarian theory, and thus cannot suffice to judge nonhuman moral status. This condition is an extension of the crux of libertarian theorizing, which argues that any lifestyle not breaking NIP and NAP are morally permissible. For those

wondering how this condition can abide nonhuman violence, this will be addressed in Part IV's discussion of self-defense and self-preservation.

Massumi's Supernormal

The last condition necessary for our consideration of nonhuman moral status within libertarianism is Massumi's concept of the supernormal. Summed tersely, the supernormal is the tendency of individual organisms to surpass normal exertions of instinct and, in doing so, create opportunities for the transformation of the normal via evolution and mimicry.⁸⁴ The upshot of the supernormal is twofold: first, it demonstrates that "there is more to nature's ways than law-abiding behavior"⁸⁵; and second, it elucidates the means by which sentient entities develop across time. By articulating the individuation of responses, through which few novel responses may generate new average responses over time, Massumi's supernormal represents the very individualization of nonhumans proposed by ecological libertarianism. And so, when considering the moral status of nonhumans within libertarian theory, Massumi's supernormal presents a condition with the central demands of acknowledging dynamism within and between humans and nonhumans and also of acknowledging the necessary individualization of nonhuman entities (as well as humans) for behavioral and cultural evolution. Thus, when considering the question of nonhumans, Massumi's Supernormal reminds us that, by the default process of evolution, all animals cannot simply act the same – there is individuation and agency⁸⁶ to nonhumans.

⁸⁴ Massumi, *What Animals Teach Us about Politics*, 14-15.

⁸⁵ *Ibid*, 18.

⁸⁶ Without diving into the great controversies of defining *agency*, here it is shorthand for some degree of individual consciousness which permits decision-making. This is in line with the conception of minimalist autonomy as will be discussed in Part III.

Conclusion

When we began considering the question of nonhuman moral status within libertarian theory, we identified the contestation that surrounds the foundational conception of autonomy that sets the essential standard for moral personhood. At the onset of this chapter we identified the inherent social embeddedness within libertarian theory that necessitates the reconsideration of social-ecological context and agents in developing a libertarian moral community. This serves as the foundation of our analytic framework through which we may consider the original question of nonhuman self-ownership. The conditions that followed argued for open consideration of the question without anthropocentric bias; going forward, we will remember to consider the significance of countering Aristotle's Axiom, of the problem of known unknowns and unknown unknowns, of the loose limitations on lifestyle allowed by the NAP/NIP, and of the individuation and dynamism of nonhuman agents. With our framework set, we may now turn to considering specific criteria of moral inclusion as outlined by libertarian theorists. While not a perfect framework, these cumulative conditions should serve well to identify weaknesses within prudentialist autonomy and necessitate the acceptance of minimal autonomy within libertarian theory. Before turning to this primary task, however, a brief detour is required. As this project is concerned centrally with a normative theory of justice predicated on the consideration of nonhuman actors, the question of the distinction between *is* and *ought* must be briefly discussed so as to prevent analytic problems later on.

The Naturalistic Fallacy

Of the large debates within philosophy, the question and controversy of the apparent gap between *is* and *ought* today retains a large significance in the context of normative theorizing. Tersely, the question concerns whether, and how, normative/ethical *ought* statements can be derived from descriptive and factual *is* statements; logically, this may be formulated as an

apparent disconnect between “non-ethical premises” and “ethical conclusions”⁸⁷ – this disconnect has been titled the Naturalistic Fallacy due to criticism that metaphysically normative judgments cannot logically derive from physical reality. Essentially, then, at question is the logical creation of norms and ethical judgments in the natural realm. In the context of libertarian theory, we find resolution to the Naturalistic Fallacy through an understanding of morality as emergent through the naturally pragmatic nature of Man.

To begin moving beyond the Naturalistic Fallacy, and begin closing the *is/ought* gap, we can begin with Rothbard’s observation that utilizing a natural rights foundation for libertarianism has been “adopted by most of the libertarians, past and present.”⁸⁸ The argument for natural rights – such as the right to self-ownership – emerges from consideration of natural law.

Rothbard sums the argument of natural theory nicely, stating that

Natural law theory rests on the insight that we live in a world of more than one—in fact, a vast number—of entities, and that each entity has distinct and specific properties, a distinct ‘nature,’ which can be investigated by man’s reason, by his sense perception and mental faculties.⁸⁹

From this, the argument emerges that as a natural entity humans have a particular nature.

Rothbard characterizes this nature as one of conscious decision-making; with no “automatic instincts,”⁹⁰ Man must “learn about himself and the world, use his mind to select values, ... and act purposively to maintain himself and advance his life.”⁹¹ From this arises the need to mix labor with nature to survive, which is the foundational argument for property rights generally,

⁸⁷ Stephen Maitzen, “Closing the ‘Is’-‘Ought’ Gap,” *Canadian Journal of Philosophy* 28(3), 1998: 349.

⁸⁸ Rothbard, *For a New Liberty*, 32.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*, 33; On the specific argument that Man has no “automatic instincts” we must concede to the real existence of human instinctual reactions, such as the flight or fight response and the myriad instincts infants utilize to communicate needs. However, this acknowledgment does not diminish the larger argument concerning the practical moral nature of Man.

⁹¹ *Ibid.*

and the libertarian restriction on violence – “Violent interference with a man’s learning and choices is therefore profoundly ‘antihuman’; it violates the natural law of man’s needs.”⁹² Thus, we see the starting point of libertarian normative considerations as arising from Man’s natural inclination to self-sustain through conscious interactions with his environment. But this doesn’t alleviate the Naturalistic Fallacy; it does, however, lay the groundwork for doing so.

In considering a natural law theory of morals, Narveson expands upon the arguments of Rothbard in his consideration of the nature of Man.⁹³ Narveson characterizes the realities of Man as being that

People are built in familiar ways; they don’t last long in the absence of food, water, and ambient temperatures falling within a fairly narrow span; they have desires, interests, imaginations, reasoning capabilities, and a battery of skills and powers, innate and (mostly) otherwise.⁹⁴

From this expanded characterization of Man’s nature, Narveson develops a pragmatic linkage between *is* and *ought*. Declaring that morality is subjective and practical, he articulates the argument that individuals, in interacting with a social context, are naturally inclined to develop some moral precepts and rules – in this sense, he ensures social survival.⁹⁵ Narveson presents a

⁹² Ibid.

⁹³ Narveson, *Respecting Persons in Theory and Practice* (United States of America: Rowman & Littlefield Publishers, Inc., 2002): 72-76.

⁹⁴ Ibid, 73.

⁹⁵ Ibid. Of particular importance is Narveson’s declaration that “When we see how others are, what they can and can’t do, and more generally what they are like, we will discover that we are headed for trouble if we ignore them. So we back off, provided that others do likewise. We are then in a position to develop genuine moral rules ... which advise us to do or refrain from this or that thing that we might, given our druthers, have wanted and intended to do. Seeing that these have good results, we solidify these perceptions and abandon others. The result is confirmed, ‘corresponds with’ social and natural reality, by realizing our various ends as well as possible. “

sylogistic formulation⁹⁶ based on these arguments to close the is-ought gap.⁹⁷ Moreover, Narveson details what is meant by *practical moral reasoning*:

Morality is practical; the color of grass is practical only to those interested in it. [...] But a claim that something is right *is* a claim that there are some or other reasons for *doing* something, and moreover, something you may not otherwise have wanted to do.⁹⁸

The purpose of morality, then, is seen as being “lived out in the streets of ordinary life,” with an individual impetus on action in response to consideration of social context.⁹⁹ This leads us to conclude that the normative bite of moral philosophy lies “in the direction of reason” – through reflection and deliberation over reasoned arguments individuals would act on the rationally strongest moral argument(s).¹⁰⁰ Thus, we see that morality is constructed by individuals in pursuit of social cooperation, with the resultant morality dependent on the particularities of social environments. The *is* of Man – that is, his natural proclivity toward moral reasoning – directly closes the gap to *ought*, as the *ought* is generated in response to the *is* conditions of Man’s nature and social context.

When considering the Naturalistic Fallacy, then, and wondering from where the normative judgments may derive within libertarianism, we can respond by utilizing Narveson’s

⁹⁶ Jan Narveson, *Respecting Persons in Theory and Practice*, 67-70; Narveson argues a pragmatic morality syllogism, comprised of “three phases: (1) a premise asserting some kind of value, end, purpose, aim, object, or desire—asserting in the sense of entailing that it is *actually held* by the agent in question; (2) a premise that some outcome attainable by the agent would (probably) realize the value, achieve the aim, satisfy the desire in question; and (3) an appropriate action or tendency to act, as issuing from the combination of the two sorts of premises” can collapse the is/ought gap by applying a standard of generalizability to the practical deliberations of individuals; following this logic, we find that libertarians are dedicated to the value of maximum individual liberty (1), that the end of nonhuman domination by humans will help realize this value (2), and that the arguments of ecological libertarianism should motivate libertarians to engage (2) in the pursuit of (1).

⁹⁷ Ibid, 69; Following his syllogism, Narveson argues: “There is no ‘gap’ here of the is-ought type. Practical agents reason, well or badly, and which it is, is in general a subject on which there are tight constraints.”

⁹⁸ Narveson, *The Libertarian Idea*, 119; Emphasis in original

⁹⁹ Ibid, 118.

¹⁰⁰ Ibid, 126.

theory of practical morality. Morality arises due to the real social conditions that require moral reasoning for practical success. Considering our ecological conditions, then, we see how the incorporation of naturally descriptive statements may be utilized by human practical moral reasoning for the development of normative decisions. By acknowledging and incorporating the conditions discussed previously, we find ourselves merely carrying out our natural tendency toward moral reasoning; this tendency, as Narveson and Rothbard identify, requires interactions and interpretations of nature.

From this discussion on the Naturalistic Fallacy, we find not only a remedy for potential criticisms of the *is/ought* variety but also the final piece in our analytic framework. If the nature of Man is one that includes practical moral reasoning, then it is in the context of such practical reasoning that the criteria of autonomy must be examined. If prudentialism and its primary expressions – life-planning and reason – cannot serve well Man’s needs in practical moral reasoning, then it cannot suffice as the foundational criteria for libertarian theory. We shall see in the next section that this is the case. For those wondering how this project could survive in praxis in contemporary society or gain acceptance in libertarian scholarship, I offer some of Narveson’s guidance on the matter:

There is thus a question of what to do, as it were, with any ‘philosophical’ or ‘critical’ morality we might come up with—a view of morality ‘de jure’ rather than ‘de facto.’ But there is also an answer: one can *act* on it (morality) oneself. One can start criticizing people in the light of these possibly novel principles you have found to be more reasonable than the ones actually reinforced in your current society.”¹⁰¹

¹⁰¹ Narveson, *The Libertarian Idea*, 129-30.

PART III – Conceptions of Moral Standing

With our framework in place, we may now turn to the specific consideration of nonhuman moral standing within libertarian theory. This consideration will begin with an identification of minimalist and prudentialist autonomy. Afterward, the two prominent outgrowths of prudentialism – life-planning and reason – will be critically examined, with a summative argument identifying the critical flaws of prudentialism overall. A short discussion on Singer’s suffering criteria will follow, with the question of egoist morality finishing our critical analysis. From these sections, then, we will walk away acknowledging the theoretical necessity of minimalist autonomy criteria and prepared to construct an ecological libertarianism.

Autonomy

At the onset of our discussion, we identified the logical progression of individual rights within libertarian theory: an individual demonstrates autonomy, obtains moral standing, and is considered to be self-owning; this self-owning individual is self-determining, and thus receives NAP/NIP protections to enjoy their liberty. We may also recall that the criterion for autonomy serves as the filter of moral standing, insomuch as those failing to demonstrate autonomy fail to achieve full standing. Yet the proper criteria for autonomy are a contested subject. This contestability can be hidden, however, as libertarian scholars often default to the human/nonhuman dichotomy without considering the criteria upon which that dichotomy stands. Before examining the critical flaws with that assumptive default, let us first identify the two major conceptualizations of autonomy.

Lipson and Vallentyne provide tremendous overview of the question of autonomy¹⁰²; they identify the intuitive, general starting point of autonomy in stating that

A being cannot be fully autonomous unless it has the capacity both to determine what many of its (at least immediate) desires are, and to act on the basis of (some of) them.¹⁰³

From this general foundation, they describe two formulations of autonomy. Minimalism contends that any being that fulfills these general criteria are minimally autonomous and that only minimal autonomy is necessary for full standing. Conversely, prudentialism maintains that a being who fulfills these general criteria is minimally autonomous, but is not meriting of full moral status; additional criteria must be met to earn full standing. Scholars differ in their articulation of these additional criteria, but a common thread emerges as the possession of reflective or introspective capacity. Libertarian scholars default to prudentialism as a traditional byproduct of anthropocentric theorizing. By the end of this chapter, it will be demonstrated how prudentialism fails to abide our ecological conditions as well as the logic of libertarianism, and why minimalist autonomy is the logically necessary foundation for contemporary libertarianism. While not touching on the myriad and nuanced formulations of prudentialism, our discussion will focus on the two most prominent conceptions – life-planning and reason – as well as a critical flaw inherent to all formulations of prudentialism.

The culmination of these discussions will be the opening of libertarian theory – as well as larger theoretical perspectives, to some extent – to ecological consideration. From this opening, we will progress to pave the road for the contemplation of what form an *ecological libertarianism* could take.

¹⁰² Lipson and Vallentyne, “Libertarianism, Autonomy, and Children”

¹⁰³ Ibid, 339.

Life-Planning and Moral Standing

The primary expression of prudentialist autonomy within libertarianism, as well as liberalism to an extent, takes form in the concept of *life-planning*; the capacity to regulate one's life independently and meaningfully is often cited as necessary for the attainment of full moral standing. Nozick's moral side-constraints, his rational foundation for the NAP and NIP, flow directly from such a capacity:

A person's shaping his life in accordance with some overall plan is his way of giving meaning to his life; only a being with the capacity to so shape his life can have or strive for a meaningful life.¹⁰⁴

Rawls's second moral power, the "capacity for a conception of the good," similarly embodies an acceptance of such a capacity criterion, albeit in addition to other criteria; from mutual acknowledgement by citizens of such a capacity, then, flows citizen equality.¹⁰⁵ The significance of individual accountability and life unity for MacIntyre – forming in his view "the most basic distinction of all" between humans and nonhumans¹⁰⁶ – appears a subtle manipulation of this criterion; humans are accountable as authors of their individual life-narratives, such that they may intelligibly rationalize actions in the logic of their conception of their lives. The focus on accountability presupposes one's capacity to write their narrative, as justifications for one's actions require a life-narrative conception to already exist. Lomasky extends MacIntyre's arguments slightly, arguing the meaningfulness of life to be derived by lifelong commitment to projects which, by virtue of their indefinite and personal characteristics, explain fully the

¹⁰⁴ Nozick, *Anarchy, State, and Utopia*, 45; Emphasis in original.

¹⁰⁵ John Rawls, *Justice as Fairness: A Restatement* (United States of America: President and Fellows of Harvard College, 2001): 18-19.

¹⁰⁶ Alasdair MacIntyre, *After Virtue*, 209.

contexts of actions within an individual life.¹⁰⁷ Moreover, such projects help constitute one's individual identity and reflect the life-narrative overarching one's life; paralleling MacIntyre, Lomasky thus articulates the authorship of one's life-narrative as reflected and modified by one's commitment to projects.

Through these theorists runs a continued argumentative strand emphasizing the importance of one's capacity to self-formulate and pursue an individualized conception of the good for the attainment of full moral standing. While the subtleties and nuances of each theorist's argumentation could justifiably serve for analysis, their immense similarities – namely the significant attachment of moral standing to the capacity for meaningfully defining a life – allow the categorical grouping of such argumentation within the genre of the “life-planning criterion.” Summarily, then, this criterion takes form in the following statement: A being is fully autonomous if it can conceptualize a life-plan and attempt to actualize it. The underlying capacity for reason, often implicit within this criterion, will be discussed in the next section. Within this life-planning criterion, we find flaws that demonstrate the critical inapplicability of life-planning as a moral criterion within libertarian theory.

To begin, we can find immediate concern regarding the timeframe of life-planning. Nozick's articulation focuses on the greatest abstract – the meaning of life – and its long-term formulation as the purposive justification for moral significance¹⁰⁸; yet, his language fails to dictate when such formulation occurs meaningfully and, moreover, how long such plans must last (or predict to last) for moral significance. Similarly, Rawls points to one's ability to construct a long-term conception of the good life as a necessary pinpoint of moral personhood,

¹⁰⁷ Loren Lomasky, *Persons, Rights, and the Moral Community* (New York: Oxford University Press, 1987): 26.

¹⁰⁸ Nozick, *Anarchy, State, and Utopia*, 49-50.

yet fails to elucidate the logistics of such long-term plans.¹⁰⁹ Two brief theoretical cases will outline this theoretical-logistical problem.

First, imagine the following scenario: a man, Henry, spends thirty years achieving immense fortune on Wall Street only to undergo mid-life introspection and, afterward, dedicates his life to physically building homes in developing nations. After thirty additional years, Henry's adult life is split perfectly between the Avarice Phase and the Charity Phase. And so, when considering the timeline linearity of the life-planning criteria, the necessary question emerges: when was Henry a moral person? Following the condition of Variety and Non-Interference, we acknowledge that the lifestyle of each phase is irrelevant to the question of moral personhood. Assuming Henry to be rational throughout his life, we find the heft of analytic burden to be on the timeline of Henry's life-planning. Consider the question across possible timeline variants: if Henry changed his mind completely every ten years, would he consistently be a moral person? If he changed his mind every day? Nozick says that a hypothetical amnesiac, forgetting every memory every night, would not have the coherence to form a long-term conception of the good and thus is not entitled to full moral personhood¹¹⁰, yet he does not address if one constantly re-rationalizes varying forms of such long-term conceptions. And so, we see one complication of using life-planning criteria.

Unexpected deaths similarly cloud the practicality of using life-planning criteria. Every day, people encounter unexpected and untimely demises, stripped early of their life-potentials. Imagine Sally, a young law school student aiming at becoming a public defender. Sally dies unexpectedly in her first year at law school, and thus never had an opportunity to act as a public

¹⁰⁹ Rawls, *Justice as Fairness*, 18-19.

¹¹⁰ Nozick, *Anarchy, State, and Utopia*, 49-50.

defender. Was her long-term plan nullified by her inability to actualize such a plan? Surely not, as she did not (and could not have) anticipate such a turn of events; thus, her planning was entirely rational and reasonable. And so, when considering the life-planning criterion, we see additionally that the fulfillment of such a life-plan cannot be utilized as retroactive justification for moral personhood.¹¹¹

And so, when considering the life-plan criterion we find two immediate conclusions: first, the relative time engaged or committed to a particular life-plan does not justify moral personhood; second, the actualization of life-plans is not a significant factor in determining the moral personhood of an individual adhering to a life-plan. Thus, we are left with some confusion regarding how to understand the theoretical application of such life-plan criteria. From these two conclusions, however, we can outline a theoretical undercurrent beneath the life-planning criterion – the *commitment* to a life-plan. Why does this commitment matter? What we truly see in the articulation of the life-plan criterion is neither the realization of a life-plan nor the inflexibility of one's life, but the will to strive for such things – the *commitment* to the process of actualizing the life-plan. Perhaps even deeper, this commitment reflects an inherent choice in lifestyle which, by virtue of selection, reveals the traits and characteristics of each individual. But these choices and commitments herald no significance if constrained to the abstract of individual consciousness; actions display commitment, and so behavior serves to demonstrate true commitment to a life-plan – should Henry, in his Charity Phase, only *feel* more inclined to charity while still *acting* as miserly as during the previous Avarice Phase, his commitment to the

¹¹¹ Indeed, it would also be a pointless endeavor to have a system whereby one could retroactively lose personhood; what would that even entail theoretically or in praxis?

newer life-plan could reasonably be questioned; here, of course, the question still remains of his moral status in this scenario.

Enter into this discussion the condition of known unknowns and unknown unknowns, and we find a wide area for the inclusion of nonhumans within moral personhood under the life-planning criteria. Foremost, we can easily see the commitment to a life-plan as a known unknown, for humans and nonhumans. Whether a wild boar makes a meaningful commitment to life a particular way cannot be rationally known; whether a high school graduate in 2016 makes a meaningful commitment to become an astronaut cannot be objectively known. Only the behavior of these individuals can display their commitment to such lifestyles. Thus, the rationality underlying nonhuman commitment to particular life-plans, as a known unknown, cannot be utilized as a barrier to nonhuman moral personhood – such would violate fair analysis. Similarly, the form of life-plan selected by the wild boar cannot justify rejection of moral status, in accordance with the condition of variety and non-interference.

When considering the life-planning criterion in light of our ecological conditions, then, we find room for nonhuman moral status. This room is generated when we acknowledge that the normative bite of a long-term plan comes from the behavioral commitment created to pursue such long-term plans. Without knowing the conscious decision-making capacities of all nonhuman agents, we are thus left with a known unknown and cannot bar such agents from moral personhood; yet, we can identify behavioral consistency in the lives of nonhumans (and humans) which demonstrates a commitment to some form of life-plan. Since rejecting moral personhood based on life-plan actualization and time spent attempting such actualization are not allowed and rejecting moral personhood based on life-plan selected is not allowed, we are left wondering why such rejection could be allowed within the life-plan criteria. From our analysis

thus far, we see it cannot be. And so we see that under critical examination the first major articulation of prudentialist autonomy criteria, life-planning, collapses; with individuals only able to utilize others' behavior as a demonstration of the life-plan criteria, individuals are left without a solid foundation on which judgments of life-plan commitment may be made – thus, the ability of the individual to recognize moral agents collapses back onto reliance on minimalism.

Reason and Moral Standing

The second major expression of prudentialist autonomy criteria is the capacity for reason. This capacity is frequently utilized as a traditional barrier between humans and nonhumans and is implicit within the life-plan criterion; reason, it can be argued, is necessary for the creation and adjustment of one's life-plan. The argument that humans uniquely possess reason is easily made and frequently unquestioned. Wise examines the scientific evidence of such arguments, and builds the case for specific nonhuman animals to gain moral standing thereby. However, this argument appears somewhat lacking in critical rigor. While tiptoeing around the metaphysical debates concerning reason, our consideration of nonhuman moral status nonetheless requires a fair examination of reason, its place in libertarianism, and how it relates to moral standing.

To begin, we will adopt the formulation of reason described by Narveson as an “everyday, intuitively manageable concept of rationality,” as his argument that such an ordinary formulation is requisite for freedom finds great strength in the theorizing of scholars such as Nozick and Rothbard.¹¹² This intuitive conception finds strength in its minimalist understanding of individual action, inasmuch as there requires no philosophically taxing standard by which an individual must demonstrate the reasonability of his actions; such is directly in line with the

¹¹² Narveson, *The Libertarian Idea*, 14-15.

negative freedoms enshrined within libertarianism as no great justification is required by agents for their actions or lifestyles so long as they remain NAP/NIP compliant. Indeed, NIP protection ensures that, at least legally, individuals within libertarian societies need not explain their decision-making nor their behaviors. And so, when Narveson depicts a minimalist rationality, he relies upon an intuitive formulation that finds itself by stipulating primarily that individuals simply have reasons for their actions.¹¹³ An important aspect of individual freedom, according to Rawls, is the self-authenticating nature of individuals and their claims¹¹⁴ - individuals with freedom have the right to make claims which are axiomatically validated by their very proclamation; an individual declaring themselves overbearingly impoverished has, by virtue of their individual personhood, made a subjectively valid claim which cannot be invalidated objectively. In libertarian theory, this self-authentication is implicit within one's claim of self-ownership. Thus, when considering *reason* within our discussion, we will default to Narveson's intuitive conception. But what is the purpose of reason, and how does it relate to moral standing within libertarian theory?

Foremost, the purpose of reason in libertarianism appears to be the construction of a unified life-plan through which one may adopt, adjust, and abandon particular aspects of one's existence. The workability of such a life-plan vis-à-vis nonhuman moral status was discussed in the previous section, and so will not be resurfaced here. Narveson also identifies the creation and pursuit of intentions and interests as the prime application of reason within libertarianism; the *practical agent* – “the acting individual who has intentions and interests and makes decisions

¹¹³ Ibid, 26: “Here lies not the notion of a richly ‘rational’ self according to some philosopher’s special conception thereof, only of an agent whose actions are at all intelligible, so that we have at any rate *some* idea that she is indeed doing something”

¹¹⁴ Rawls, *Justice as Fairness: A Restatement*, 23.

with a view to bringing about what is intended” is the only entity that can be considered free or unfree.¹¹⁵ And so we see the utilization of reason which underlies the life-plan criteria, the transformation of intentions into behavior. Remembering the arguments of the previous section, we see that the behavioral component of this justification is insufficient inasmuch as the actualization and timeline components of such a life-plan and behavior are not satisfactory aspects for contemplating moral standing. Thus we are left critically to consider reason as it relates to the possession and transformation of intentions and interests. Yet, this task is somewhat implausible for a few reasons. Foremost, there are several problems manifest in dictating the possession of intentions and interests. Whether an individual possess a particular intention or interest, whether this possession is truly voluntary, whether this possession is clearly discernible, and how an individual navigates conflicting intentions are all issues for which there can be no objectively certain answer¹¹⁶; more specifically, it is impossible for meta-level consideration of others’ intentions to be objectively verifiable and, of more prominent concern, the intentions of others can only be directly known by subjective declaration which, by virtue of self-authentication, cannot be totally and objectively disproven. Moreover, Massumi’s concept of the supernormal within biotic agents demonstrates the individuality that permits evolutionary changes in behavior; these changes, sprouting from the individual level, allude directly to an interpretation of all biotic agents that shows room for individual agency that is founded in individualized intentions and interests. Narveson identifies concerns over objectifying intentionality and accepts whatever consequences flow from a cursory demarcation of rational

¹¹⁵ Narveson, *The Libertarian Idea*, 13; Note the similarity between Narveson’s characterization of the *practical agent* and Lipson & Vallentyne’s conception of minimalist autonomy.

¹¹⁶ Sagoff discuss some of these preference issues vis-à-vis environmentalism; Sagoff, “The Allocation and Distribution of Resources”

and irrational.¹¹⁷ In line with the critical aim of this work, we do not accept such theorizing. Thus we see *a priori* how reason fails to operate as a foundational criterion for libertarianism; moreover, when we consider the practical use of this criterion we see it collapse onto a foundation of minimalism in a similar fashion as we saw the life-planning criterion collapse.

When considering Narveson's formulation of reason and focus on actions, the question of discernibility appears primary. Narveson appears to dictate that we simply need "*some* idea" of the intentions underlying one's actions to discern whether such actions arise from the application of reason or, otherwise, merely arise as robotic responses to stimuli.¹¹⁸ Yet, the degree to which the intentions of actions must be discernible is ungrounded; does an educated guess suffice, or is scientific thoroughness a necessity? Going with Narveson's concept of reason, we are inclined to reject the latter and question how 'informed' the former must truly be. Yet, there is an objective limit of how informed any outside observer may be, inasmuch as the observer is not a subjective mirror of their subject but an alternate subject altogether. When considering the prudentialist criterion of reason, then, we must ask to whom the standard of discernibility falls. Narveson fails to identify an authoritative observer, but his conception of reason lends credence to the view that intentions must be discernible by other actors generally. While this view may hold in societal context, it is surely limited by cultural heterogeneity. Could a random American man understand the intentions of a random Japanese woman in any given scenario? It is doubtful, as both operate within different contextual understandings of particular gestures, actions, and interactions. Of course, base intentions (such as the drive for food/water) could be more readily discernible, but such base intentions are by default implicit within the behavior of all living things, including

¹¹⁷ Ibid, 14.

¹¹⁸ Ibid, 26; Emphasis in original.

nonhumans. And so, the question becomes who must be able to discern one's actions in order to declare one reasonable and thus deserving of full moral standing? Given the underlying social embeddedness inherent to libertarian freedom, we are inclined to accept that one's intentions must be somewhat discernible to those within the community, inasmuch as such is necessary to ensure reciprocal adherence to the NIP and NAP. Moreover, the objective indiscernibility of complex intentions within humans requires libertarianism utilize a minimalist conception of intentions to function – the simplicity of these intentions bars categorical separation between human and nonhuman, as all living entities display base intentions pertinent to survival.

Being as the intentions of moral agents cannot be objectively verified, we find any scientific argument regarding individual intentions as fundamentally incapable of aiding the discussion of reason and morality inasmuch as the former remains normatively unquantifiable within libertarian theory. And so, when considering reason and intentions, we find by necessity a reliance on only the simplest of intentions that are inherent to all biotic agents. Thus, similar to the life-planning criterion, the criterion of reason collapses under critical scrutiny due to its inevitable reliance on minimalist conceptions of intentions.

Prudentialism and Moral Standing

Beyond these main criteria is the broader theoretical question of the relationship between capacities and moral standing generally. For while every varied formulation of reason could be identified and faced with our ecological conditions, the overarching question concerning the moral significance of the relationship between these formulations and moral standing would remain wanting. And so, in this brief section we shall consider exactly this question.

When considering the original quandary of this project, can nonhumans possess self-ownership and acquire full moral standing, several logistical and metaphysical questions naturally arose – most notable among these are the questions of who decides, how they may

decide, and why they may decide. The question of why any individual may decide is particularly fitting of our libertarian focus, inasmuch as the anti-authority disposition of libertarianism calls to question any assertion of authority, particularly when concerning such core fundamentals such as individual liberty and political rights. These concerns are of paramount importance in light of our current contemplation. For while we have already discussed the main outgrowths of prudentialism, the capacities for life-planning and reason and their reliance on minimalism, we have faltered in explaining exactly why these conceptions (or any conceptions) should be considered worthwhile in the libertarian mindset. In praxis, there appears one prime rationale: individuals within libertarian society must conform (at the lowest level) to certain framework realities which constitute their reality; if pluralism regarding moral standing were permitted, no true system of justice could survive and individuals would question the supposed-to-be implicit reciprocity of their society, weakening adherence to NAP/NIP in the long run. Yet, when gathered to agree upon a set of criteria for moral standing, these libertarian individuals nonetheless may question the authority of these criteria. Traditionally, with the human/nonhuman dichotomy assumed, there was little need, either in real theorizing or imaginary town halls, to settle these questions. In the context of our discussion, however, these questions are unavoidable.

In the fecund diversity of life on earth, then, the question regarding the significance of specific capacities to moral standing may be reframed: why should one species possess the prerogative to declare the conditions for moral standing? Consider any pluralistic democracy with a decently heterogeneous population. Would it be permissible for one group – say, religious fundamentalists – to declare the specific capacity (religious adherence) required for moral standing? Abuses such as this by tyrants abound throughout history and form the righteous call-

to-arms of libertarians, particularly for Rothbardians. Indeed, the hefty authority of the individual within libertarianism is a direct counter to such abuses of societal authority. And so, when expanded to consider the immense biodiversity of our world, the question of authority vis-à-vis criteria selection remains unresolved.

More important than the question of authority, or rather the more immediate concern which offshoots this question, is the problematic question of why any particular criteria should appropriately signify an *a priori* relationship to moral standing. In using criteria founded in life-planning or reason, theorists declare such criteria as necessary for a worthwhile existence; indeed, Nozick directly questions the purposiveness of a life devoid of conceptual integration. The problem with this theorizing is that it intrinsically upholds as a standard of comparison a recognizably human life. Humans require capacity *A*, *B*, or *C* to have a meaningful life, it is argued; yet is this not tautological and anthropocentrically biased?

In light of this discussion, consider the myriad and variegated capacities of nonhumans that man uniquely lacks. The conscious perception of full sensory range is a dramatic example. Humans cannot, naturally, see many portions of the light spectrum, hear many frequencies of sound, or smell prey over a stretch of miles. Most readers and theorists will question what these capacities have to do with moral standing; they are irrelevant to human life and, further, don't *mean* the same to a human existence as does other capacities such as abstract reasoning. Yet it is precisely this inapplicability of the capacity-standing relationship to the human experience which illuminates the fundamental flaw of selecting anthropocentrically-fundamental capacities for moral standing. Whatever capacities we demarcate as explicitly meaningful for human existence will not, by default, apply widely to nonhumans. However, this does not validate the human

dichotomy; rather, it demonstrates the consequences of one isolated group self-selecting criteria based on their conceptions of the good life to the exclusion of other agents.

And so, when considering alternate capacities related to the attainment of moral standing not discussed here, the natural question manifests: why do these capacities truly relate to moral standing? Does a whale need possess an identifiably human existence before it may be considered a full moral agent? Why does one species get to lord its formation of life as superior to others, by virtue of selecting the criteria by which such superiority may be granted? It is dangerously circular reasoning; dangerous not only to open and fair analysis, but for the trillions (quadrillions?) of nonhuman individuals currently unprotected by libertarianism and (as we'll discuss shortly) the development of a libertarian society. This is the critical flaw of prudentialist autonomy within libertarianism: agents of full moral standing may choose whichever form of life they wish (within NAP/NIP confines) and thus are not *a priori* destined to select a recognizably human life; therefore, the use of criteria founded in the goals of such a human life are circularly anthropocentric and nonobjective – clear violations of the conditions of fair analysis and variety and non-interference. And so, with prudentialism critically impaired, we recognize minimalist autonomy as the necessary formulation for a logically consistent libertarian theory. Before exploring the integration of minimalist autonomy within libertarianism, however, we must sidetrack momentarily to discuss the most famous and seminal criterion relating to nonhuman moral standing – suffering – and its inapplicability within libertarianism. Afterward, a short discussion on egoist morality will present critical responses to the question of “even if I agree, why should I care?”

Suffering and Moral Standing

Singer famously argued in *Animal Liberation*¹¹⁹ that the capacity for suffering extends beyond humans to all living entities; in a utilitarian fashion, then, the suffering of all capable entities should be weighted equally so as to prevent undue suffering and pain. While these arguments helped found mainstream animal rights literature, the concerns of Nozick (originally aimed at Bentham) point to an inherent intractability vis-à-vis this capacity and individual moral standing. Foremost, Nozick – along with all libertarians by default – reject the non-rights utilitarian approach of Singer; the focus is intently on individual moral standing and the access to principles of justice such standing provides. From this individualized focus flow other concerns of Nozick which rightfully dismiss the capacity for suffering as a criterion of moral standing within libertarianism

Utilizing the dual thought experiments of the experience and transformation machines, Nozick points to the immense difficulty in determining what *matters* for a life as a rationale for rejecting the capacity for suffering. By employing the experience machine – a machine that could theoretically allow individuals to completely feel whichever life experience they wished – Nozick points that more contextual components to an event matter beyond the event itself.¹²⁰ An individual would likely not utilize the machine indefinitely as the experiences would lack the contextual holism of actually *doing* or *engaging* with an event. A transformation machine, which could alter individuals into the type of person they wish to be, would similarly lack incentive. What Nozick appears to hint at within these thought experiments is some form of unarticulated agency – the *will* to engage in such experiences and to change oneself matters significantly. This

¹¹⁹ Peter Singer, *Animal Liberation* (United States of America: HarperCollins Publishers, 2009).

¹²⁰ Nozick, *Anarchy, State, and Utopia*, 42-44.

is the disjoint between experiences endured and experiences created, a gap only identifiable when one can experience virtually the components of a life. In this way, a life spent in such machines would lack some form of meta-integration based on individual *commitment*. Considering the capacity for suffering, Nozick presses these contemplations toward the inevitable result: we don't know fully what matters for human lives (possibly some form of agency), so how can we declare what matters fully for nonhuman lives?¹²¹ Thus, rather than directly disqualify suffering as a requisite capacity for moral standing, Nozick asks for validation of why such a capacity fits best a framework of Lockean individual rights. Suffering is invalidated as a criterion, however, when one acknowledges that suffering inevitably collapses with reason and life-planning due to its similar practical dependence on behavioral/intentional analysis. Singer's conception of the capacity for suffering inevitably requires some criterion for determining suffering. Regardless the criterion selected for suffering (demonstrates discomfort, possess a nervous system, can cry, etc.) this criterion inevitably rely on some interpretation of behavior, thus falling prey to the criticisms earlier lodged at the criteria of life-planning and reason.

The Question of Egoist Morality

While the earlier sections identified faults in prudentialist autonomy, there remains still an apt terrain of conceptual consideration untouched. For, even if one was wholly convinced of the arguments laid forth thus far, there still remains one straightforward question: why bother? For a political theory solidified on the individuality of moral agents and their life decisions, where is the impetus, the call-to-arms, of why the previous considerations should be fully absorbed by a

¹²¹ Ibid, 45.

self-interested libertarian? Even if one agrees to the logic displayed here, one remains uncertain as to the bite of the normative consequences. When considering animal rights, Narveson posed this very question in the form of egoist morality.¹²² Egoist morality argues that morality follows a self-interested calculation similar to other forms of self-interested decision making – i.e. what is *moral* is determined by what is directly beneficial to the self-interested subject. Although not adhering to an egoist morality himself, Narveson is correct to identify this question as necessary for libertarian scholarship; as the predominant bastion of self-interested rationality, libertarianism may be the foremost contender for adherents to egoist moral judgments. And so, for a theory hell-bent on securing individual liberty above all other goods, the question of egoist morality is paramount. Why should the libertarian be convinced, personally, of accepting the logic and arguments laid forth in this discussion? In contemplating this dilemma, I have arrived at two responses.

The first response to the question of moral egoism concerns the true appropriateness of the question within the libertarian framework. While it may be rightly argued that the libertarian credo lends itself to egoistical rationality in the moral realm, the logical structure of libertarian theory suggests otherwise. Indeed, one characteristic distinction of this structure is its commitment to rational argumentation; Rothbard describes this commitment as central to the libertarian, who, by default, “sees his own position as virtually the *only* consistent one, consistent on behalf of the liberty of every individual”¹²³ The strength of the libertarian argument, for

¹²² Jan Narveson, “Animal Rights,” *Canadian Journal of Philosophy* 7(1), 1977: 161-178; Narveson, “A Case Against Animal Rights,” In *Advances in Animal Welfare Science*, eds. M.W. Fox and L.D. Mickley, 191-204 (Washington, D.C.: The Humane Society of the United States, 1986/87); Narveson, “On a Case For Animal Rights,” *The Monist* 70(1), January 1987: 31-49.

¹²³ Rothbard, *For a New Liberty*, 28; Emphasis in original.

Rothbard, arises from its adherence to logical consistency and rational argumentation; there is no exemptions of logic nor truly special cases which do not arise naturally from prevailing logical argumentation. Rothbard sums this further, arguing that “[t]he libertarian, in short, insists on applying the general moral law to everyone, and makes no special exemptions for any person or group.”¹²⁴ Other prominent libertarian scholars – Nozick, Narveson, Vallentyne – take particular care to ensure a consistent flow of logic to build their respective nuanced forms of libertarianism, each adhering to the same rigorous questioning of assumptions and accumulation of rational arguments. Indeed, Nozick’s *Anarchy, State, and Utopia*, can be viewed as a direct demonstration of such a logical adherence as mandated by Rothbard. And so, in considering the question of egoist morality, the first retort must be the exclusion of such moral calculation from the realm of libertarian theory. For the libertarian who, upon agreeing with new rational arguments, fails to consider such agreement as a self-generated impetus for change to maintain logical consistency within their worldview is not truly a libertarian in the academic sense. Of course, libertarians may disagree with the arguments of this work, as this work has disagreed with the arguments of other libertarian scholars; however, such is not the question at hand. A secondary characteristic, that of the inherent social embeddedness within libertarianism, also precludes the use of egoist morality; the necessity of self-restraint to adhere to the reciprocal demands of the NAP/NIP makes one incapable of utilizing a moral egoist calculation. *A* may find it advantageous to steal from or kill *B*, and the moral egoist may engage in killing for that benefit; however, in doing so *A* directly and completely surrenders the title of libertarian. Thus, when considering Narveson’s question of egoist morality, we may first respond that such a

¹²⁴ Ibid.

question should, by default, be exempt from libertarian theory as the libertarian's commitment to logical consistency and reciprocity should override uncontrolled self-interestedness. Were this not the case, Nozick would not have considered the far-reaching implications of his entitlement theory of justice nor acknowledged the admissibility of a Principle of Rectification within libertarian theory.

The second retort to Narveson's question of moral egoism speaks more directly to the question at hand, and ignores the concerns of the previous retort. For if we allow that libertarian theory permits such egoistic moral judgments, there remains a persuasive reason for the egoists to accept the arguments and tenants of ecological libertarianism. To unpack this reason, let us begin by refreshing ourselves to the primary goal of a libertarian society: mass adherence to the principles of non-aggression and non-interference, so as to allow maximum self-determination free from violent intrusion and control.¹²⁵ All libertarian societies demand peace and stability, so as to maximize free agents' realms of action, production, and trade. Violence and domination prove the ultimate sins for the libertarian, regardless enacted by individual persons or collective organizations.¹²⁶ And so the libertarian, in aiming to promote her self-interest and long-term objectives, promotes peace and stability over aggression and dominance. Yet, the reality of violence and egoist mindsets is such that, in promoting peace, libertarians are bound naturally to construct a minimalist state – this is the overarching claim of Nozick's *Anarchy, State, and*

¹²⁵ Hayek, *The Constitution of Liberty*, 57: Hayek spells out the intention of his entire book as being “that condition of men in which coercion of some by others is reduced as much as possible in society.”

¹²⁶ Rothbard, *For a New Liberty*, 33: “Since men can think, feel, evaluate, and act only as individuals, it becomes vitally necessary for each man's survival and prosperity that he be free to learn, choose, develop his faculties, and act upon his knowledge and values. This is the necessary path of human nature; to interfere with and cripple this process by using violence goes profoundly against what is necessary by man's nature for his life and prosperity. Violent interference with a man's learning and choices is therefore profoundly ‘antihuman’; it violates the natural law of man's needs.”

Utopia.¹²⁷ This aspect of libertarianism is fundamental to the actualization of libertarian aims.

Now, in response to the moral egoist, we may connect domination of nonhumans to this overarching goal of libertarian theory.

As Horkheimer and Adorno address in their *Dialectic of Enlightenment*, the major premise of Enlightenment rationality – the forbearer of classical liberalism and libertarian theory – was the demystification of the natural world; as scientific understanding progressed, man’s control over the environment exponentially grew.¹²⁸ Weather, agriculture, technology – gradually the collective facets of the world fell from the hands of deities into the hands of Man, with unprecedented developments resulting. Moreover, Man began to question himself – his psychology, his sociology, his politics – and began similarly working toward mastery of himself. In this way, the controlling nature of the man-environment relationship expanded into the relationship of Man to himself – leading inevitably to the horrific consequences of the Twentieth Century. As humanity began seeing Man as yet another object, it began contemplating the means by which that object may be manipulated and controlled. The Rothbardian libertarian would interject here that such dominance has historically been conducted by the State, and most libertarians and anarchists (the line which Rothbard walks) would be bound to agree. However, the state as a collective of individuals nonetheless demonstrates the corruption of individual men against other men. Similar arguments have been presented throughout U.S. legal history¹²⁹, with

¹²⁷ Nozick, *Anarchy, State, and Utopia*; Summarily, the establishment of a minimal state from a state of nature occurs due to the gradual aggregation of mutual protection contracts over time. As rational individuals come to utilize cooperation to overcome social-environmental hardships, these protections will come to establish a process of justice that is the institutional substance of the minimal state.

¹²⁸ Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment* (United States of America: Stanford University Press, 2007).

¹²⁹ For a detailed list throughout the United States over the past two centuries, see Brief for the Supreme Court of the United States of America as Amicus Curiae, *U.S. v. Stevens*, 559 U.S. 460 (2010),

courts frequently recognizing the relationship between man's treatment of animals and man's treatment of his fellows. And so the dominating relationship of man to nonhumans can be seen as linked to dominating relationships between men. Recalling the purpose of the libertarian society as generating a space of non-aggression and non-interference, we can see how directly the interests of ecological libertarianism tie to the fundamental interests of all libertarians. In pressing to remove the variables of violence and domination from society, the libertarian is remiss if not considering the foremost generator of such variables within society, Man's domination of nature. And so, it follows that a libertarian society truly enamored with its task of a maintaining a political environment of non-domination and maximum individual liberty would be required to reconsider Man's relationship to nonhumans. In expanding the cadre of moral agents to include nonhumans, a theory of ecological libertarianism would work directly toward increasing the likelihood of that idyllic libertarian society forming. This answers the question of egoist morality by expanding the limitations of self-interested calculations.¹³⁰ For one's domination of nonhumans for the purpose of food production would fulfill one's self-interested desires of particular consumption practices, ensuring a relative short-term gain; however, one's admittance of nonhumans as moral agents eliminates the base relationship of violence which permeates into human-human interactions. The apologist of egoist morality may balk at the consequences, arguing such to not truly benefit an egoist calculation, but this would again be a misjudgment. As discussed earlier, individual liberty within libertarian theory requires social

http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_07_08_08_769_NeutralAmCuAmeLawProfs.authcheckdam.pdf

¹³⁰ Narveson's support for Gauthier's "constrained maximization" rationality (*The Libertarian Idea*, 176-79; *Respecting Persons in Theory and Practice*, 195-96) would appear to support this extension of self-interested calculations.

reciprocation of the principles of non-aggression and non-intervention.¹³¹ Thus, the rational egoist, in aiming to maximize his individual gains while cognizant of this reciprocation necessity, must logically yield to the reality posited by ecological libertarianism: by cooperatively generating a society which abstains from human-nonhuman domination, the egoist guarantees himself a societal context which maximizes his individual liberty, inasmuch as the restraint from violence against nonhumans permeates into human-human interactions. In avoiding a paranoiac livelihood, which is a self-generated diminished liberty, the egoist would rationally agree to these terms so as to secure the greatest (in terms of individual liberty) environment for his own life. This argument is in line with Narveson's arguments concerning the individual generation and practical function of morality (discussed further in Part IV). And so, when entertaining the question of egoist moral calculations, we may respond that the ultimate benefit of adhering to an ecological libertarianism greatly outweighs the benefit of not so adhering, and thus the moral egoist would inevitably (if fully rational) commit to ecological libertarianism, even if for overwhelmingly selfish reasons.

The question of moral egoism is an important one for libertarians. Although libertarian theory mandates loyalty to rationality and logical consistency, the self-interested stigma of libertarianism permeates ideological discussions via questions of moral egoism. And so, while libertarians commit to consistency and rationality over egregious selfishness, the question nonetheless deserves contemplation even if only for persuasive reasons. When examining the long-term goals of a libertarian life, however, it becomes abundantly clear how the arguments

¹³¹ The curious reader may be wondering how "social reciprocation" can occur with nonhuman agents; while this topic will be examined more in Part IV, the terse answer is that nonhumans do reciprocate in praxis through their (admittedly non-cognizant) following of the right to self-defense and self-preservation.

and conclusions of an ecological libertarianism would be rationally accepted by libertarians, even if only for the selfish reason of creating an ideal libertarian reality in which one could enjoy maximal individual liberty.

Summation

In this chapter we discussed the failures of prudentialist autonomy and its two primary expressions, life-planning and reason; the inapplicability of Singer's concept of suffering within libertarian theory; the question of egoist morality; and, through these examinations made headway for the foundation of an ecological libertarianism. Before turning to the construction effort, however, it will likely do some good to survey the land we have conquered thus far. This section will briefly highlight the arguments of the previous chapters and take stock of the main points of our discussion.

At the beginning of this work, we identified the main tenants and logical structure of contemporary libertarian theory. Politics is comprised of the myriad interactions between individual moral agents. These agents must first possess autonomy to earn self-ownership and possess individual liberty and earn protection from interference (NIP) and aggression (NAP) from other individuals. Throughout libertarian scholarship, then, we saw that nonhumans were considered "economic land"¹³² and lacked moral status and individual liberty. We then discussed the conceptual uncertainty of autonomy as providing an opening for theoretical examination into the question of nonhuman self-ownership and moral standing within libertarian theory.

In Part II, we identified the inherent social embeddedness within libertarianism along with non-anthropocentric ecological conditions that culminated into a framework useful for

¹³² Rothbard, *For a New Liberty*, 42.

evaluating criteria of prudentialist autonomy within libertarianism. This framework served to create a rational and non-anthropocentric arena for argumentation that privileged no traditional assumptions accepted by contemporary libertarian scholars. Most importantly, these conditions arose directly in the interest of argumentative fairness as well as from undernourished portions of libertarian theory which, as we have shown, have great worth fundamentally.

In this chapter, we identified the main conceptualizations of autonomy – minimalist and prudentialist – and applied the ecologically conditioned framework to the two primary expressions of prudentialist autonomy within libertarianism. This application served to demonstrate the prudentialism’s critical reliance on minimalism in praxis; furthermore, it provided critical insights into the logical inapplicability of abstract capacities as criteria for autonomy within libertarianism, thereby demonstrating the necessarily minimalist nature of libertarian criteria. We then examined the well-known concept of suffering and its inapplicability within libertarianism despite its ecologically mindful foundation, and answered the question of egoist morality.

With our route through libertarianism now identified, we are set to consider the consequences of our argumentation and of nonhuman self-ownership. The final chapter is that consideration. We will discuss how, despite the radical nature of our discussion and critiques, an ecological libertarianism retains the great backbone and limbs of contemporary libertarianism theoretically despite the dramatic differences in praxis. After identifying the critical flaws in prudentialist autonomy criteria, we have come to the point where we must consider the impacts of founding libertarianism in minimalist autonomy.

Part IV – Toward An Ecological Libertarianism

Now that we have examined the critical flaws of prudentialist autonomy within libertarian theory, the time has come to identify and discuss the impacts of utilizing minimal autonomy within libertarianism; more directly, the time has come to discuss ecological libertarianism. This final chapter will begin by discussing what is entailed within minimal autonomy and what consequences follow. Next, we will examine some areas of complication and potential critiques against ecological libertarianism. Our discussion will conclude with connections to extant literature and a brief discussion of the avenues of future research opened by this project. From this rough sketching of ecological libertarianism, we find solutions to the question of nonhuman moral status, human judicial obligations regarding nonhumans, and a route for libertarianism to seriously (if indirectly) address important environmental issues.

Foundations

In discrediting prudentialist autonomy as a viable criterion for moral standing within libertarianism, we defaulted to utilizing minimal autonomy as the criteria by which moral standing may be decided. Recalling Lipson and Vallentyne's definition of minimal autonomy, we see the filter of moral standing as centering on the capacity to select and act upon desires, broadly speaking. In keeping with the conditions of Part II, we see vast room within this minimal standard for the attainment of full moral standing by nonhuman agents. But what does this mean for libertarian theory? Surprisingly, and paradoxically, the transition to minimal autonomy does little to the theoretical and logical structure of libertarian theory; yet, in praxis, this transition creates potentially the greatest transition in societal functioning and political understanding for libertarians.

The theoretical and logical structure of libertarianism, outlined in Part I as beginning with autonomy and ending with NIP/NAP protections, is fundamentally unchanged following our transition to minimal autonomy. Throughout our discussion particular focus was placed on critically functioning within this structure to identify the inconsistencies that surrounded the human/nonhuman dichotomy. Thus, although altering the criterion of autonomy at the base of this logical structure, all remaining aspects remain unaltered. This is good news. This is good news because when considering ecological libertarianism in reference to other schools of libertarian theory we can find immediate similarities that are both inherent and fundamental to libertarianism broadly. And so, we have not isolated ourselves from libertarian peers through our conversation; although the dramatic practical impacts may do the isolating for us.

While keeping the same libertarian structure, ecological libertarianism nonetheless provides drastic impacts on individuals and societies abiding by libertarian rationalities. Such is the natural consequence of expanding the moral community. However, these impacts may be among the greatest felt by contemporary human society; a great deal of our human existence is predicated on the domination of nonhumans. What does it mean, then, to accept the argument that nonhumans have full moral standing? There are two immediate concerns that arise, both of which center upon the NIP/NAP protections within libertarianism. First is the question “what does NIP/NAP protection mean for nonhumans?” Second is the question of “how can we reconcile NIP/NAP protection with non-predictable nonhuman behavior?”

Question 1: What does NIP/NAP protection mean for Nonhumans?

The application of the principles of non-aggression and non-interference is a relatively simple manner when within the realm of human-human relations. When expanded to encompass nonhuman agents, however, we see dramatic impacts on human society. To ease our understanding of these impacts, it will do some good to recall the negative liberties inherent

within these principles. When within the traditional non-ecological libertarian society, we see these principles as outlining a simple doctrine of negative liberty: *A* may not aggress against or interfere in the life of *B*, unless *B* aggresses or interferes with the life of *A* or *C*.¹³³ Considering nonhumans, then, we see essentially the extension of this doctrine beyond the human realm and into human-nonhuman relationships. And so, the first major consequence of ecological libertarianism is the disallowance of trafficking nonhumans.¹³⁴ This is obviously a massive and devastating impact of ecological libertarianism. Many will, at this point, question the rational applicability of this doctrine in light of this practical impact; surely, our evolution into omnivores demonstrates the large role of meat consumption within human life. The next section will address this apparent irreconcilability, showing this impact to drastically affect only the production aspect of human meat consumption (ranching, farming, etc.). The application of NIP/NAP protection to nonhumans thus brings about massive societal changes, by acknowledging nonhumans as self-owning agents with negative liberties. It should be noted, however, that impacts of similar magnitude are permitted within traditional libertarian theory as well. The permissibility of such dramatic impacts can be found in Nozick's Entitlement Theory of Justice.

Countering Rawlsian and other theories of justice which focus on end-state distributions throughout society, Nozick builds a theory of libertarian justice centered around just entitlements. For this, Nozick employs two primary principles; the Principle of Acquisition,

¹³³ Following Nozick's logic of the creation of the ultra-minimal state, we see rational allowance for combined retaliation of *C* and *A* against *B* for the protection of either *C* or *A*.

¹³⁴ Note that this disallowance follows, logistically and normatively, the contemporary normative disallowance of human trafficking, insomuch as the trafficking of nonhumans cannot find normative justification through judicial systems; we do not sell or consumer human offenders as a result of justice, and similarly we would refrain from doing so to nonhuman offenders. The question of what to do with nonhuman offenders is another story altogether.

which would theoretically outline the normative terms of justly acquiring property (such as not through theft, fraud, etc.) and the Principle of Transfer, which would outline the normative terms of justly transferring property between individuals. From adherence to these principles then, emerge a just distribution regardless any apparent disparities between individuals.¹³⁵ Thus, Nozick's conception of an entitlement-based theory of justice argues that, so long as property was acquired and transferred justly no distribution of property in society could be deemed normatively unsatisfactory. However, as history demonstrates, there can be cases where individuals neglect either of these just principles, and thereby commit an injustice. For this, Nozick briefly outlines a Principle of Rectification; this principle arises when an individual holds property that was attained unjustly (i.e. taken through violence, stealing, etc.).¹³⁶ This principle essentially maintains that societal redistribution is allowable to correct past injustices in either the acquisition or transfer of property between individuals. Nozick fails to elaborate greatly as to the logistics of such a principle, arguing vaguely that "past injustices might be so great as to make necessary in the short run a more extensive state in order to rectify them."¹³⁷ And so, whereas the impacts of NIP/NAP protections for nonhumans may be substantial, this is allowable within the libertarian framework of Nozick's entitlement theory of justice. Moreover, with libertarianism emphasizing a practical morality, it can be seen that such dramatic redistribution is already problematic within libertarianism before the advent of nonhuman moral status. For contemporary societies, should they suddenly and unanimously be compelled to abide libertarian logic, would be hard-pressed to find an adequate mode of rectification for current property

¹³⁵ Nozick, *Anarchy, State, and Utopia*, 151.

¹³⁶ *Ibid*, 152-53.

¹³⁷ *Ibid*, 231.

holdings – how would the United States rectify the gains stolen through centuries of slavery, for example? Indeed, Nozick backs away significantly from the normative and logistical considerations which surround the Principle of Rectification. With the liberties and lives of millions of individuals on the line, however, we cannot help but require a further unpacking of this Principle. Without pretense of accomplishing this gigantic feat, I can offer a one particular aspect of this unpacking which necessitate further investigation.

The question of the consequences of millennia of human-nonhuman interaction and its relevance to the Principle of Rectification are paramount. For while the initial argument of releasing nonhumans from captivity logically follows their attainment of moral personhood, there are nonetheless significant consequences of the relational history between humans and nonhumans. Nonhumans can, and have, vaccinate humans against various illnesses throughout time; of course, human control over nonhumans constitutes the largest ongoing eugenics project in history. With these factors known, how can we simply dictate that humans remove linkages to nonhumans – particularly considering the ‘discovery’ of social-ecological embeddedness within libertarianism? It seems paradoxical. Moreover, how could or would we *rectify* a millennia of manipulation? First, we must consider Narveson’s contemplation regarding slavery. In evaluating the normative content of a hypothetical reality, wherein slaves are genetically engineered (somehow) to enjoy their servitude, Narveson articulates that the initial transition into slavery, predating the full control over such slaves, necessarily involved injustice.¹³⁸ When the first slave was taken and altered to enjoy servitude, his autonomy was rejected and NIP/NAP protections unjustly rescinded. This similarly applies to nonhumans. While we may argue that

¹³⁸ Narveson, *The Libertarian Idea*, 28.

farm and labor animals have been bred specifically to enjoy (or at least permit) such use of their labor and bodies, this does not retroactively justify the removal of liberty first needed to accomplish this task. Just as the eugenics program of human slavery fails to justify slavery in the modern era, so too must the relationships between humans and nonhumans not become mired in eugenically-derived moral justification. Thus, we have doubled-down on the commitment to releasing nonhumans; but the question of how to properly *rectify* their unjust acquisition and transference as property remains. After acknowledging the moral impetus to rectify the situation, however, we are left with normative and logistical confusion. What do nonhumans *want*? Do they *want* anything as compensation? How would we know? Could we? The best sketch I can articulate at this time, in keeping with our ecological conditions, would be conscious restraint over the expansion of human society at the cost of nonhuman survival. This could be pragmatically expressed in two main ways. First, we can release all animals into the wilderness, restrain the growth of human civilization, and let the dynamic processes of nature figure out the ecological balance. This seems unsatisfactory, inasmuch as the theory which declares nonhumans to have moral standing would be sending great numbers of them to die in unfamiliar habitats. The second, and normatively more satisfying, route would be the creation of great sanctuaries. These sanctuaries would necessarily involve great resources, efforts, and oversight, and would serve only for previously captive animals (not as a repository for nonhuman nature). While this would appear an intensive effort, the history of political emancipation would suggest such intensity to be an integral aspect of such expansions of the moral community. While Nozick backs away from considering these aspects of the Principle of Rectification, this serves as a detriment to libertarians committed to the project of building a libertarian society which, by default, must address the very real and significant consequences of unjust acquisitions.

And so, when Rothbard asks “...will anyone deny full title to a horse to the man who finds and domesticates it,” ecological libertarians say yes. Nozick painted the target, and it is the task of libertarians, generally and in the context of ecological libertarianism, to take the plunge fully and highlight this hidden gem within libertarian theory.

Question 2: Nonhuman violence and the NIP/NAP

The cautious reader has likely questioned the extension of NIP/NAP protections to nonhumans at various points throughout our discussion. How can nonhumans be given negative freedoms when they are fundamentally incapable of abstractly reciprocating those freedoms? How can omnivorous humans ignore the benefits of and evolutionary drive for meat consumption? How can humans and nonhumans both have negative liberties and yet have the theory declared ‘ecological’? The answer to these questions lies within the libertarian discussion of self-defense and Nozick’s contemplation of innocent victims.

Throughout our discussion of libertarianism, there has been continued reliance on the simple doctrine of reciprocal adherence to the principles of non-aggression and non-interference. This simple doctrine has, in our discussion, carried continually the caveat of self-defense; that is, *A* may aggress or interfere with *B* in self-defense if *B* is originally aggressing or interfering with *A*. This is an intuitive categorical exception to the prohibitions of the NIP and NAP. Narveson details this right to self-defense nicely by connecting one’s self-property rights to the right to defend such self-property: “... the right to resist (violence) is precisely what having a right of safety of person is, if it is anything at all.”¹³⁹ Nozick similarly recognizes self-defense as an exception to NIP/NAP reciprocity, extending the conversation to include questions of innocent

¹³⁹ Jan Narveson, “Pacifism: A Philosophical Analysis,” *Ethics* 75(4), 1965: 269.

threats.¹⁴⁰ Individuals who threaten or aid in threatening an individual while not consciously intending to do so constitute innocent threats; Nozick describes the category nicely in the following situation:

If someone picks up a third party and throws him at you down at the bottom of a deep well, the third party is innocent and a threat; had he chosen to launch himself at you in that trajectory, he would be an aggressor.¹⁴¹

Nozick maintains that different rules apply for the consideration of these innocent threats, but nonetheless provides room within the right to self-defense for the use of force against them. Interestingly, this may lead to two individuals fighting as innocent threats mutually in self-defense. This is important for ecological libertarians, as the fight for self-preservation can be recast as a battle of self-defense between innocent threats. When considering the questions above relating to nonhuman adherence to NIP/NAP protections, we must seek our answer from within the libertarian exception that is self-defense. I contend that if we expand the category of self-defense slightly in the theoretics we find numerous pragmatic resolutions.

If we augment the category of self-defense so as to include a provision allowing self-preservation, the questions of NIP/NAP reciprocity and adherence begin to dissipate. Indeed, one could easily articulate Narveson's earlier connection of self-property rights and self-defense as emerging from a rational self-interest in self-preservation. The key, for this expansion, is to maintain a high standard for what self-preservation entitles. Just as the Confederacy could not utilize self-preservation to uphold slavery, libertarians cannot utilize self-preservation to maintain nonhuman enslavement or domination. Yet, where and when necessary, individuals

¹⁴⁰ Nozick, *Anarchy, State, and Utopia*, 34-35.

¹⁴¹ *Ibid.*

may consume nonhumans as necessary to maintain self-preservation.¹⁴² This right to self-preservation within self-defense is not limited in this manner, however; nonhumans would similarly be granted the acknowledged right of self-preservation when utilizing violence against humans. Thus, the question of how we may apply NIP/NAP protections to nonhumans while acknowledging the omnivorous nature of Man and the non-reciprocating (in abstract) nature of nonhumans is resolved by acknowledging both nonhumans and humans as maintaining a right to self-defense which includes self-preservation. Although nonhumans fail to abstractly or contractually agree to the terms, we see easy room for both parties' adherence in praxis. The large normative question, then, becomes distinguishing *dire necessity* for the purposes of consuming nonhumans. Put simply, the criteria for *dire necessity* would need to be founded in rational criteria of proven scarcity; there is a distinction between eating a deer for pleasure and eating a deer as the last gasp for survival – a distinction which requires a logical criteria to properly distinguish. This criteria will have to wait for future consideration, however. Another criteria which must be constructed in response to these arguments is that of distinguishing between proper recourses for self-preservation. If a man has the choice between hunting a deer, catching a fish, or shooting an elephant, how would he reasonably distinguish the moral difference between them? Is there a difference? The likely response will be that there is no difference normatively, and that choice will depend upon the context and reasoning of the individual.

¹⁴² In this framework, human cannibalism similarly finds acceptance only in times of dire necessity; however, intuition presses that humans would likely find cannibalism the final alternative should no other food source be available – this preference to consume nonhumans finds no normative justification, but a practical one of distinction between degrees of social connection.

Complications & Critiques

As with any political theory of justice, ecological libertarianism is not a theoretical panacea.

There are, of course, areas of imperfection and weakness in which scholars may find ample room for critique. We would be remiss if we failed to identify beforehand some of these areas, and how they could challenge the work attempted thus far.

Inter-Nonhuman Judicial Concerns

Foremost is the question of interspecies violence. For in articulating a libertarian theory which acknowledges nonhumans as moral agents, we have expanded dramatically the recipients of justice. With our slight augmentation of self-defense, we have provided a baseline guide for human interactions with nonhumans: *Human A* may not interfere with or aggress against *Nonhuman B* so long as *Nonhuman B* does not aggress or interfere with *Human A*, unless absolutely necessary to preserve the life of *Human A*. There are some other issues with this dictum, but for the moment we may focus on the necessarily differentiated nature of this interaction. We have a guide for how Man should interact with nonhumans. We have a guide for how Man should interact with Man. Yet, these guides clearly cannot function on issues between nonhuman agents. If chimpanzee *A* attacks chimpanzee *B* and violates the NIP/NAP, is there cause for judicial concern? How would such a concern be normatively and logistically guided? There appears to be only one route around this complication. Libertarianism cannot demand individuals protect one another, lest their individual freedoms be trampled at the onset. Nozick, Narveson, and Rothbard all contend, however, that individuals may freely choose to protect one another should such protection be warranted and welcomed. Considering inter-nonhuman violence and our ecological conditions, it seems rational for this category to be ignored entirely by human society. We cannot know the complexity of the social actions between nonhumans, where the standard of self-preservation sits in such situations, or what “justice” means for

nonhumans definitely.¹⁴³ While we have expanded the lens of libertarian judicial consideration, it would be a great overreach to examine such inter-nonhuman judicial concerns.

Rectification

While we previously identified the impacts of ecological libertarianism as theoretically allowable given Nozick's principle of rectification, we nonetheless have myriad logistical and theoretical issues surrounding the employment of such a principle. How do you compensate nonhumans? Do we simply open the pens and cages and wait for all nonhumans to find placement in the natural world? What of the consequences of overcrowding, overgrazing, and other impacts of suddenly flooding ecosystems with innumerable new nonhumans? What of the fact that many nonhumans are not indigenous to the areas that they inhabit? These questions are difficult for logistics already; the normative discourse surrounding such logistics would seem insurmountable. I have no answer to these questions. It is likely that there can be no true answer to these questions. However, I can point to these questions as merely extensions of the problems of Nozick's principle of rectification. Considering the end of slavery in the mid-19th Century brings about similar questions of high magnitude: how do we redistribute the wealth acquired through/stolen from slaves? This is clearly a field of libertarianism which demands further contemplation, the size and direction of which lie outside the bounds of this project. However, we can understand Nozick's reluctance to outline such a rectification program as a result of pragmatic focus. Narveson portrays libertarianism as a practical morality, built on individual reasoning and action; with the demands of the Principle of Rectification so large and complex, it

¹⁴³ Indeed, our acknowledgement of known unknowns precludes us from objectively ascertaining intentions and desires from nonhumans; moreover, the failures of prudentialist autonomy outlined in Part III prevent us from objectively ascertaining such from humans as well.

makes sense for theorists and lay libertarians to neglect attending to it. It is inconvenient and impractical to establish a temporary massive government structure to evaluate the unjust acquisitions and redistribute throughout society. However, as is the theme of our discussion, convenience and tradition are unsuitable foundations for a normative theory built upon the sacrosanctity of individual liberty. While we cannot finalize the logistics of the Principle of Rectification, we can nonetheless press for its day in the sun and for libertarian theory to recognize the radical message and consequences inherent within such a principle. Relative to the question of nonhumans, however, at present the best we can say is that the complexities and problems surrounding the Principle of Rectification within ecological libertarianism are merely the continuation of the inherent problems within the task of correcting NAP/NIP violations via redistribution.

Self-Preservation

Similarly, conceptual issues regarding the expansion of self-defense to include self-preservation¹⁴⁴ may plague those open to the tenants of ecological libertarianism. The superficial argument is appealing: we keep livestock to ensure our preservation therefore the current system is not morally culpable. While this is historically true, it nonetheless falters within the libertarian framework. Because libertarianism is the counter to utilitarianism, there is no sacrifice-driven justification that can suffice to allow the removal of self-ownership and negative liberties. This is the same reason slavery, regardless the benefits, cannot be permitted in a libertarian society.

¹⁴⁴ For this discussion, it may do us well to differentiate exactly what is meant by *self-defense* and *self-preservation*. While self-defense may be open to interpretation and context, in this discussion I am limiting it to one's right to respond to immanent threats to person or property; self-preservation, then, is one's proactive aggression to ensure survival. So, while self-defense typically states *A* has a right to protect herself from *B* if *B* attacks *A*, the inclusion of self-preservation states that *A* has a right to consume *B*, regardless *B*'s actions, if *A* does such strictly to ensure self-preservation (i.e. not starving).

Where then, does the standard of self-preservation lie? I posit the standard must be quite high. Nonhumans cannot have their liberties curtailed continually for unnecessary or potentially necessary reasons. Consider cannibalism. Throughout mainstream America, cannibalism is scorned and wholly illegal. Yet, in situations of dramatic necessity (such as occurred with the Donner party) cannibalism is tolerated; tolerated not of lifestyle differences or freedoms, but tolerated as a necessary and dire decision. Intuitively, then, cannibalism is allowed albeit with a very high standard. The standard for self-preservation as it relates to consuming nonhumans can be placed at a similar position. The practical implication of this placement is the disallowance of ranching and herding but the allowance of necessary hunting. Of course, individuals may argue over situational applications of this standard; I leave the logistics of those arguments and their resolutions to another time.

Children

Selecting minimal autonomy as the necessary starting point of ecological libertarianism presents a particular difficulty when conceptualizing the placement of children within the moral community. Lipson and Vallentyne discuss this difficulty in practical terms.¹⁴⁵ If a child refuses to go to school, do her parents infringe upon her liberty if she is sent there anyway? If a teenager runs away from home, are his rights trampled if he is returned involuntarily? Our necessary answers, by selecting minimal autonomy, is yes to both questions. How then, do we reconcile this with the natural tendency to control and develop one's children? Parental rights are nonexistent within the minimal autonomy framework as ecological libertarianism constructs it. At present, there is no simple reconciliation. And so, by freeing nonhumans we have complicated

¹⁴⁵Lipson and Vallentyne, "Libertarianism, Autonomy, and Children"

the status of young humans. Unfortunately, this critique must remain unanswered. The best response we can provide is simply that children, similar to the principle of rectification, are a troubled category for libertarian theory; for even when prudentialism is utilized the distinction of when one has attained the ‘proper’ level of reason to be autonomous is contestable. Nonetheless, there are some avenues for potential reconciliation that can be sketched briefly.

Foremost is Narveson’s odd public-interest conception of children. Arguing that the pains inflicted on children may impact their current and future well-being, Narveson paints a potential avenue through which the rights of children may be upheld by society.¹⁴⁶ This is furthered by Lipson and Vallentyne, who posit one conceptualization of children within libertarian theory as that of future rights-bearing adults. Narveson’s acknowledgment that children are “adults-in-training” who will fulfill the roles and needs of society as has every generation before them.¹⁴⁷ However, this is a problematic approach for two reasons. First, it fails to operate within a minimalist framework, inasmuch as the criteria for adulthood is clearly rooted in prudentialist conceptions of autonomy. Second, as a failure of prudentialist autonomy, this conception fails to capture the moment of transition into adulthood, and thus leaves us still questioning the normative judgments surrounding a teenage runaway’s rights.

An alternative route through the problem could perhaps be developed through the consideration of labor. Narveson identifies children as problematic for contractarianism and libertarianism, finding particular difficulty arising in the application of Lockean labor-based property rights.¹⁴⁸ For libertarianism broadly, it is the mixing of labor with nature which creates

¹⁴⁶ Narveson, *The Libertarian Idea*, 274.

¹⁴⁷ *Ibid*, 271.

¹⁴⁸ *Ibid*, 273.

property, and by the exertion of labor one acquires a title over the product of such mixing. Yet, this formulaic conception is problematized in the case of children; children are created through the mixing of labor, yet grow to produce individual subjectivity. We'll discuss briefly three potential routes through this problematic area, finding the solution to rely upon future critical considerations of what constitutes *labor*.

The first resolution to the problem of children within the property-rights schema is the simplistic assertion that parents own their children. Most libertarians will take issue with this resolution; if this is true, can there ever be liberty? Are you born to follow the authority of family until such family dies? Are you only free in old age? What is the purpose of autonomy, reason, or any capacity if we are nonetheless normatively bound to the declarations of our physical creators? This resolution is simply too distasteful and contrary to libertarianism to entertain seriously.

The second potential resolution may be through categorical exception. Is the conception, delivery, and raising of children similar to other mixing of labor and nature? Or is there something particular about children, as future adults, which distinguishes them from other categories of moral personhood within libertarianism? This logic would likely follow the mistaken assumption that humans are not natural, and thus reproduction is a pure mixing of labor with labor. However, this would assume a metaphysical anti-naturalism which is contrary to the arguments of ecological libertarianism. Moreover, it breaks with the Rothbardian emphasis¹⁴⁹ on logical constancy within libertarian reasoning. The fact that humans are natural entities, bound

¹⁴⁹ Rothbard, *For a New Liberty*, 28.

by similar reproductive functions to other nonhuman entities, casts serious doubts on this path as a means for resolving the problem of children within libertarian theory.

Finally, the question of children in libertarian theory may be resolved, or at least deferred, through the question of production. The mixing of labor with nature to create property has been argued as necessary for the survival and wellbeing of Man. Rothbard takes thread to establish property rights generally, arguing that “Man ... must own not only his own person, but also material objects for his control and use.”¹⁵⁰ Thus, we see a direct linkage between productive survival and property rights. Yet, children do no labor. They are provided for by guardians or they perish; hence the mammalian instinct of altruism. This is the crux of Narveson’s weak argument concerning the emotive concern for children and their care within human societies.¹⁵¹ Regardless the emotive content, there is clearly a definitive dependence upon others inherent within childhood.¹⁵² Perhaps, then, we may consider utilizing a criteria of human labor which distinguishes children from adults. This criteria would need to define *labor* in terms of survival and property rights and be able to neatly categorize dependent children and independent adults. While this would appear to fall with prudentialism, this criteria could actually serve well in concert with Narveson’s public-interest foundation and the social embeddedness within libertarian theory. Perhaps, then, the hope of resolving the problem of children within libertarian theory, particularly in light of minimalist autonomy, can be found in the generation of labor necessary to achieve desires. With human society metaphysically a natural construct, this would

¹⁵⁰ Ibid, 37.

¹⁵¹ Narveson, *The Libertarian Idea*, 270-71.

¹⁵² While some feral children could exist throughout the world demonstrating their lack of dependency, their exception to the typical and their low standard of thriving make an argument based on their existence difficult to entertain.

predicate the criteria of labor upon a societal conception of minimal labor necessary for survival. Thus, the issues before us can be resolved somewhat. Children, distinguished by their lack of survival labor, cannot work to achieve desired ends and therefore fail to hit the requirements of minimal autonomy. As the human environment continues to develop, the standard of survival labor within that environment will naturally change; consider a teenager seeking independence in 1910, 1960, and today, and we can see different levels of survivability. While this criteria rests on a socially constructed criteria, it nonetheless follows the logic of reciprocity within libertarian theory. Moreover, following Narveson's emphasis on the relate-ability of human children and our necessary restraint from considering inter-nonhuman judicial concerns, we find that this criteria can solely apply to human communities without making such an exception to libertarian logic.

While this final resolution appears a potentially promising route through the problem of children in libertarianism, greater analysis is needed before we can declare the case closed. While the question of children is complicated by accepting minimalist autonomy, we can see how the problem of children has plagued libertarianism well before such an expansion of the moral community.

Pet Ownership

Another area of potential contestation is the area of pet ownership. Thus far, we have argued against livestock ownership and other forms of animal enslavement as intolerable infringements upon nonhuman liberty. Must we, by extension, surrender our pets to the outdoors in hopes of reparation? Surprisingly, the answer is no.

First, recall that libertarians are not by default atomistic sociopaths. Libertarians are free to make friends and, furthermore, are free to self-limit their liberty in exchange for whatever they please. An individual may surrender financial control in exchange for financial stability, should

such a decision be made voluntarily, without coercion, and the decision does not violate NIP/NAP protections for others. Two individuals may surrender NAP/NIP protection in exchange for competing in an old-fashioned dual to the death. The point is that individuals, once granted NIP/NAP protections, may do a great many things within the confines of those protections for others. This greatly extends to friendships. Friends commonly lend property to one another and access property which only one individual has an actual claim over. This is a natural consequence of friendship if decided voluntarily. The elderly or infirm may voluntarily surrender self-ownership in certain cases (comatose, mental instability, etc.) to friends in exchange for certain decisions (DNRs, etc.). Thus, when considering pets, it could do some good to reframe the situation as one of interspecies friendship rather than interspecies ownership. Animals from decent homes (free of abuse, neglect, etc.) often return to those homes of their own volition. And, often in cities, animals will find and frequent individuals who provide food/shelter/love to them. While cognizant of the conditions in Part II, I find no reason why organic interspecies friendships should be terminated so as to secure the full liberty of either party. It would be tantamount to ending a happy human friendship so as to give your previous friend more liberty than they had while friends with you. Of course, this requires houses to provide well for their pets to mitigate the chances of the friendship being recast as domination. This undoubtedly will not suffice for the critical reader, who finds numerous questions manifest within this framing of pet ownership. However, at present this reframing serves well as a point of moderation between pet ownership as slavery on one hand and pet owners destroying the lives of their pets on the other. While admittedly unsatisfactory, it is yet another area which requires further contemplation.

The Larger Conversation

The implications of this project for the larger conversation within environmental political theory are numerous and significant. We will take some time now, at the end of our discussion to detail these implications and how they may be absorbed within the broader scholarly dialogue.

Foremost, our discussion served well to solidify the logical consistency of libertarian theory. By opening a contestable area to critical examination, this project cemented the spirit of libertarian negative liberties and the myriad forms of lifestyle which flow therefrom; this is a significant step toward reifying libertarianism as a rational, consistent, and worthwhile political theory within the marketplaces of political theory and ideas.

More significantly, our discussion has – through the development of an ecological libertarianism – demonstrated the flaw inherent to arguments regarding classical liberalism’s inability to mitigate environmental problems. The common launchpad of environmental theorizing, that liberalism, broadly, promotes self-interest and instrumentalism too greatly to allow for solving environmental crises, is dismantled when we see that liberalism’s modern champion of self-interest and instrumentalism, libertarianism, can be radically opened for the inclusion of nonhuman moral status. By expanding the moral community to include nonhuman liberty, we find libertarianism as promoting through self-interest and NIP/NAP reciprocity the resolution of environmental problems at least theoretically. Thus, a frequent founding assumption of environmental theorizing is eliminated as a non-starter. Nonhumans may find great negative freedoms through critical examination of libertarian doctrine; as a consequence, liberalism’s inability to tackle environmental issues comes immediately into question.

Additionally, the insights of this project provide an intriguing frame through which questions of democracy may be addressed. Dryzek’s contemplation regarding incorporating environmental or nonhuman voices within discursive democracy is not answered in totality by

this project; however, conceptualizing nonhumans through the ecological libertarian lens does allow for beneficial consideration of nonhuman desires broadly speaking. Of course, we cannot use this lens to articulate that nonhuman *A* agrees or disagrees with any particular policy option, yet we can utilize this lens to articulate that the negative liberties of nonhuman *A* cannot be trampled for anthropocentric gains; furthermore, when considering democracy in the vein of ecological libertarianism, utilitarian logic and policy is disallowed for nonhumans as well as humans. And so, while not solving environmental issues *per se*, the development of an ecological libertarianism does provide one conduit through which libertarians as well as other environmental theorists may conceptualize the placement of nonhumans cosmologically and politically.

Environmental Implications

Although we have taken some time already to discuss various areas in which the impacts of ecological libertarianism will be most notable, particularly in considering the Principle of Rectification and the role of children, we may take some time to briefly discuss another major area affected by ecological libertarianism: the environment. There are two primary frames through which we can identify the impacts of ecological libertarianism.

First, we can reexamine the previous split between right and left libertarian theory. Recall from Part I that left-libertarians maintain a communal relationship to the environment – resources are the property of all individuals to use for production and survival – while right-libertarians maintain a first-come, first-serve policy of acquiring resources. Should either camp accept the arguments of ecological libertarianism, these perspectives would require dramatic reconsideration. Left-libertarians would need to consider the scope and intentionality of sharing resources within the moral community. How much and of what resources is each nonhuman entitled to? What of scarcity? The questions abound. Right-libertarians are in similar discord,

insomuch as the expansion of the moral community necessitates a reconceptualization of labor. if a man finds a tree, and shapes it into a canoe it is his property solely. What labor do nonhumans accomplish, and what rights accompany this labor? Is the construction of an anthill a mixing of labor with nature to create property? What of beaver dams? Is there a line between *mixing labor with nature* and simply *survival*? Are human labor and nonhuman labor similar concepts, or completely different in praxis? These questions demand critical examination in light of the arguments of ecological libertarianism, and do not find room in our current analysis.

Additionally, the arguments of ecological libertarianism bring stark demands on the libertarian conception of the free-market. Rothbard cements laissez-faire capitalism as a cornerstone of libertarianism¹⁵³; it remains today an essential component and logical consequence of libertarian theory. What does ecological libertarianism mean for this necessary bulwark? As discussed earlier, the trafficking and captivity of nonhumans must end completely in the ecological libertarian society. Is this the end of capitalism? Hardly. Just as the ending of slavery did not halt the larger free-market, the acknowledgment of nonhuman moral standing will not either. However, it will stand in direct contrast to all other forms of libertarianism; green libertarianism, which aims to solve environmental problems through capitalism, will particularly be juxtaposed. For by expanding the moral community to include nonhumans, we are essentially removing them from the market. While this is a large portion of the contemporary market, it doesn't necessarily remove individuals' ability to trade in other natural resources. However, following the previous discussion, this trade would have to be constrained somewhat to recognize either nonhumans' communal right to resources or nonhuman labor and property. In

¹⁵³ Rothbard, *For a New Liberty*, 28.

this way, ecological libertarianism counters the claims of green libertarianism and other forms of free-market environmentalism¹⁵⁴, by twisting the traditional logic of those theories; whereas green libertarianism and free-market environmentalism generally claim to solve environmental problems via privatizing the environment, ecological libertarianism concurs and extends such privatization to include nonhumans as holders of property themselves.

The environmental implications of ecological libertarianism are interesting. Although we drew the analytic border between nonhumans and plants, for management of analytic scope, this border could (and should) be critically examined within the libertarian framework. In the meantime, we can find an interesting path to environmentalism through consideration of nonhuman property rights and concerns. If we cannot sell livestock, for example, we will remove pollution associated with the trade. Similarly, if we cannot sell the property of nonhumans then we likely will be restrained, to a degree dependent upon the conceptualization of nonhuman property, as to what natural resources we can sell. Of immediate interest is whether, for example, the planting of trees by squirrels or the pollination of plants by bees creates a system of property rights encapsulating the globe and destroying any trade of the most utilized resources in society. While likely not extending so far, the implications of ecological libertarianism vis-à-vis the environment are widespread and will bring previously unconsidered arguments and frameworks to the academic table.

¹⁵⁴ For a good overview of market-based environmentalism, see Robert Stavins and Bradley Whithead, "Market-Based Environmental Policies," in *Debating the Earth: The Environmental Politics Reader* (2nd ed.), eds. John S. Dryzek and David Schlosberg, 229-238 (United States of America: Oxford University Press Inc., 2005) and John S. Dryzek, "Leave it to the Market: Economic Rationalism," in *Debating the Earth: The Environmental Politics Reader* (2nd ed.), eds. John S. Dryzek and David Schlosberg, 121-142 (United States of America: Oxford University Press Inc., 2005)

Parting Words

At the onset of our discussion, there was great concern about the judicial claims of a captive possum in Pawnee, Indiana. As Leslie Knope attempted to seek a resolution for the question of the possum's guilt, she found no assistance and no framework through which to contemplate the situation. Nonetheless, she found the possum as carrying judicial claims and rights (to some degree) that protected it from wanton destruction. Similarly, the question of the goring ox identified the cosmological and political presuppositions and consequences that surrounded the allotment of culpability. Considering the arguments encountered within our discussion, we are left with guidance as to how to perceive these questions. As for Leslie's possum, there should have been no trial or judicial considerations. The possum was wanted for biting a dog, making the matter one of inter-nonhuman violence that humans should not (and logically cannot) enter. As for the goring ox, the question of who is culpable is somewhat a nonstarter. The farmer should not have enslaved the ox for labor to begin with.

Our discussion has hit many points, and libertarians of different leanings will likely come together in their rejection of it. It is my hope they do, and that from such combat libertarians will construct stronger arguments in the search for individual liberty. As this project comes to a quick close, I wish to leave by questioning broadly the goals of Man vis-à-vis the remainder of existence. After climbing the arduous hills of evolutionary, social, cultural, and technological development, why can we be so quick to ignore the plight of those still climbing? When inevitably we sit as gods atop our mastery of the physical world, will we rein as despots and malevolent authoritarians, or will we lead as libertarians those still struggling to find the light of liberty? To dominate those in progress is to deny the very freedom libertarianism fights to create; forceful rule over the weak is the historical trend which libertarians have since the onset continually attempted to dismantle.

Bibliography

Bailey, Cathryn. "A Man and a Dog in a Lifeboat: Self-Sacrifice, Animals, and the Limits of Ethical Theory." *Ethics and the Environment* 14, no. 1 (2009): 129-148.

Brief for the Supreme Court of the United States of America as Amicus Curiae, U.S. v. Stevens, 559 U.S 460 (2010),
http://www.americanbar.org/content/dam/aba/publishing/preview/publiced_preview_briefs_pdfs_07_08_08_769_NeutralAmCuAmeLawProfs.authcheckdam.pdf

De-Shalit, Avner. *The Environment: Between Theory and Practice*. United States of America: Oxford University Press, 2000.

Dryzek, John S. "Leave it to the Market: Economic Rationalism," in in *Debating the Earth: The Environmental Politics Reader* (2nd ed.), eds. John S. Dryzek and David Schlosberg, 121-142, United States of America: Oxford University Press Inc., 2005.

Eckersley, Robyn. *The Green State: Rethinking Democracy and Sovereignty*. United States of America: Massachusetts Institute of Technology, 2004.

Gosseries, Axel. "Left-Libertarianism and Left-Hobbesianism." *Revista Portuguesa de Filosofia* 65 (2009): 197-215.

Hayek, F.A. *The Constitution of Liberty*. United States of America: The University of Chicago Press, 2011.

Higgs, Robert and Elizabeth Bernard Higgs. "Compassion—a Critical Factor for Attaining and Maintaining a Free Society." *The Independent Review* 19, no. 4 (2015): 627-630.

Horkheimer, Max and Theodor W. Adorno. *Dialectic of Enlightenment*. United States of America: Stanford University Press, 2007.

Kane, Robert. "Libertarianism." *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition* 144, no.1 (2009): 35-44.

- Lomasky, Loren. *Persons, Rights, and the Moral Community*. New York: NY, Oxford University Press, 1987.
- Lipson, Morris and Peter Vallentyne. "Libertarianism, Autonomy, and Children." *Public Affairs Quarterly* 5, no. 4 (1991): 333-352.
- MacIntyre, Alasdair. *After Virtue* (3rd ed.). United States of America: University of Notre Dame Press, 2007.
- Maitzen, Stephen. "Closing the 'Is'-'Ought' Gap," *Canadian Journal of Philosophy* 28, no.3 (September 1998): 349-365.
- Massumi, Brian. *What Animals Teach Us about Politics*. United States of America: Duke University Press, 2014.
- Meyer, John M. "Political Theory and the Environment." In *The Oxford Handbook of Political Theory*, edited by John S. Dryzek, Bonnie Honig, and Annie Phillips. United States of America: Oxford University Press, 2008.
- Morton, Timothy. *The Ecological Thought*. United States of America: Harvard University Press, 2010.
- Narveson, Jan. *Respecting Persons in Theory and Practice*. United States of America: Rowman & Littlefield Publishers, Inc., 2002.
- . *The Libertarian Idea*. United States of America: Temple University Press, 1988.
- . "On a Case For Animal Rights." *The Monist* 70, no.1 (January 1987): 31-49.
- . "A Case Against Animal Rights." In *Advances in Animal Welfare Science*, edited by M.W. Fox and L.D. Mickley, 191-204. Washington, D.C.: The Humane Society of the United States, 1986/87.
- . "Animal Rights." *Canadian Journal of Philosophy* 7, no.1 (March 1977): 161-178.

-----, "Pacifism: A Philosophical Analysis." *Ethics* 75, no.4 (July 1965): 259-271.

Nozick, Robert. *Anarchy, State, and Utopia*. United States of America: Basic Books, Inc., 1974.

Ophuls, Williams. *Plato's Revenge: Politics in the Age of Ecology*. United States of America: The MIT Press, 2011.

Rawls, John. *Justice as Fairness: A Restatement*. United States of America: President and Fellows of Harvard College, 2001.

Rothbard, Murray N. *For a New Liberty* (large print ed.). United States of America: Ludwig von Mises Institute, 2012.

Rumsfeld, Donald. "Press Conference: by US Secretary of Defense Donald Rumsfeld." Press Conference, North Atlantic Treaty Organization, NATO HQ, Brussels, Belgium, June 6, 2002.

Sagoff, Mark. "The Allocation and Distribution of Resources." In *Debating the Earth: The Environmental Politics Reader* (2nd ed.), edited by John S. Dryzek and David Schlosberg, 147-162. United States of America: Oxford University Press, Inc., 2005.

Singer, Peter. *Animal Liberation*. United States of America: HarperCollins Publishers, 2009.

Sobel, David. "Backing Away from Libertarian Self-Ownership." *Ethics* 123 (2012): 32-60.

Stavins, Robert and Bradley Whithead, "Market-Based Environmental Policies," in *Debating the Earth: The Environmental Politics Reader* (2nd ed.), eds. John S. Dryzek and David Schlosberg, 229-238, United States of America: Oxford University Press Inc., 2005.

Szasz, Thomas S. "Involuntary Mental Hospitalization: A Crime against Humanity," in *The Libertarian Alternative*, eds. Tibor R. Machan, 445-457, United States of America: Tibor R. Machan, 1974.

Taylor, Robert S. "Self-Ownership and the Limits of Libertarianism." *Social Theory and Practice* 31, no. 4 (2005): 465-482.

“The Possum.” *Parks and Recreation*. The National Broadcasting Company, Denver, CO: KUSA, March 11, 2010.

Wise, Steven M. *Drawing the Line*. United States of America: Steven M. Wise, 2002.

-----. *Rattling the Cage*. United States of America: Da Capo Press, 2000.

Wissenburg, Marcel. “The Concept of Nature in Libertarianism.” Presented at the Annual Conference of the Dutch and Flemish Political Science Association, Amsterdam, the Netherlands, June 9-10, 2011.

-----. “Sustainability and the Limits of Liberalism.” In *Debating the Earth: The Environmental Politics Reader* (2nd ed.), edited by John S. Dryzek and David Schlosberg, 163-190. United States of America: Oxford University Press, Inc., 2005.