ARE ANIMAL RIGHTS DEAD MEAT?

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I. INTRODUCTION

While animal rights as a set of moral, legal, and political claims have been in circulation for decades, animal rights discourse no longer exists on the fringes as a marginal social movement. Animal rights have long been associated with scholars like Peter Singer, Tom Regan, and Gary Francione. However, more recently animal rights has taken an increasingly central role in the work of many liberal legal and political theorists who have viewed the extension of rights to animals as a logical next step in furthering the project of humanism. As the law has come to embrace and protect an ever-widening scope of human subjects, Nussbaum argues, "there is no reason why notions of basic justice, entitlement, and law cannot be extended across the species barrier."[1] Her metaphor of animals existing on the "frontier" of justice[2] suggests a perspective in which the language of rights comes to encompass an ever-widening circle of subjects in which animals exit at an edge waiting to be conquered by the law. The growing interest in the relationship between animals and the law is evident in the proliferation of scholarship, including legal journals, addressing the animal problem.[3]

In spite of this, scholars identifying with post-humanist perspectives have been critical of the increasingly utilization of rights-based language as a paradigm for increasing ethical and political consideration of animals.[4] From their perspective, as a set of calculable rules the rights-based discourse of animality always returns to or relies upon an ontological set of

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1. Martha C. Nussbaum, *Beyond "Compassion and Humanity": Justice for Nonhuman Animals*, *in* ANIMAL RIGHTS: CURRENT DEBATES AND NEW DIRECTIONS 299, 300 (Cass R. Sunstein & Martha C. Nussbaum eds., 2004)

2. *Id.*

3. *See, e.g.*, STAN. J. ANIMAL L. & POL'Y; ANIMAL L.; J. ANIMAL L.; J. ANIMAL L. & ETHICS.

4. CLAIRE E. RASMUSSEN, THE AUTONOMOUS ANIMAL: SELF-GOVERNANCE AND THE MODERN SUBJECT 100 (2011).

assumptions about the meaning of the categories of human and animal.[5] Specifically, post-humanist accounts note that the language of rights is entangled in a humanist discourse that promotes an ideal of subjectivity that has justified the exclusion of and violence towards not only non-human animals but also groups of humans considered to be subhuman.[6]

This essay argues that the actual practices of animal law as both litigation and regulation highlights many of the basic problems of rights-based strategies along three specific lines that are meant to be illustrative rather than exhaustive. This illumination presents several specific challenges to the politics of rights and legal equality that suggest the need for alternative strategies and discourses to undermine the relationships of power, hierarchy and violence that have necessitated social justice movements such as the animal rights movement.

II. UNPACKING PRACTICES OF LAW

Many of the analyses of rights-claiming in animality studies have focused on critiques of animal rights theories, examining the texts of animal rights theorists rather than the actual legal apparatuses that have emerged to protect, regulate, and manage animal subjects. In these discussions, the concept of rights operate in numerous different ways including rights as legal claims for consideration under the law, rights as political claims of recognition to rights as moral claims for ethical responsibility. In practice, these three elements of rights discourse are related. The invocation of animal rights is simultaneously a call for policy change to utilize the law to protect animals, a political claim about the power relationships between humans and a philosophical claim about our moral duties and obligations. In examining actual practices of bringing animals before the law we can identify three problems specific to rights-claiming strategies.

A. The Rationalization of Violence

One of the chief objects of the animal rights movement has been a reduction in the routine violence enacted on animals as a part of human practices including eating animals, experimenting on them, and utilizing

5. *See* CARY WOLFE, ANIMAL RITES: AMERICAN CULTURE, THE DISCOURSE OF SPECIES, AND POSTHUMANIST THEORY 32-35 (2003); RASMUSSEN, *supra* note 4, at 99-101; CARY WOLFE, WHAT IS POSTHUMANISM? 37 (2009); JACQUES DERRIDA, THE ANIMAL THAT THEREFORE I AM (Marie-Louise Mallet ed., David Wills trans., 2008); MATTHEW CALARCO, THE QUESTION OF THE ANIMAL FROM HEIDEGGER TO DERRIDA 19 (2008).

6. CALARCO, *supra* note 5, at 19.

animals for entertainment.[7] Numerous changes to legal and regulatory schemes have resulted including animal welfare laws that dictate rules for the treatment of animals in captivity and animal cruelty laws that punish the mistreatment of animals. A wide range of regulatory mechanisms now exist for the monitoring of research facilities, agricultural production, animal shelters, and private ownership of animals. Entire governmental agencies now exist to produce and ensure adherence to animal welfare guidelines. Activism on behalf of animals has proliferated the sites of interaction between animals and the law, heavily regulating interactions between humans and animals, especially in commercial settings. The goal has tended to be minimizing unnecessary animal suffering.

Cover's analysis of the relationship between law and violence highlighted the ways that the law can often conceal and legitimate violence by presenting it as the consequence of rational processes rather than seemingly irrational and unpredictable violence.[8] The law seemingly domesticates violence and in doing so often makes it invisible or, at least, palatable. We see these processes at work, for example, in the industrialized production of animals for human consumption. Even as regulatory apparatuses have generated rules governing the treatment of animals and has created vast administrative networks for monitoring and enforcing these laws, the actual consequences for animals has been mixed.[9] Setting bare minimum standards for the treatment of farm animals has not, for example, prevented the growth of factory farming nor has it reduced overall the number of animals raised and slaughtered for consumption. However, the idea of "happy meat," or marketing strategies that utilize the image of humanely raised and slaughtered animals have been effective in encouraging consumers to think of their meat as ethical even in the absence of any confirmation that the conditions under which animals are raised are, indeed, humane.[10] The law has not only failed to prevent or slow the increasing utilization of animal bodies but has actually enabled the emergence of "concentrated mechanisms of power," that work under principles of rational administration, efficiency, and regulation that both

7. RASMUSSEN, *supra* note 4, at 98, 109-10.

8. Austin Sarat, *Afterwords to* ROBERT COVER, NARRATIVE, VIOLENCE, AND THE LAW: THE ESSAYS OF ROBERT COVER 255, 255-57 (Martha Minow, Michael Ryan & Austin Sarat eds., 1992).

9. Matthew Cole, *From "Animal Machines" to "Happy Meat"? Foucault's Ideas of Disciplinary and Pastoral Power Applied to 'Animal-Centered' Welfare Discourse*, *in* MINDING ANIMALS: EMERGING ISSUES CONCERNING OUR RELATIONSHIPS WITH OTHER ANIMALS 83, 96 (Marc Bekoff ed., 2011).

10. *Id.* at 84.

enables and justifies killing.[11]

B. All animals are equal, but some are more equal than others.

A common critique leveled by animality studies contends that one of the problems with concept of "animal" is its lack of nuance. The category of "animal," generally juxtaposed with human, erases difference within the category of animal while simultaneously imposing a false unity on the category of human. The presumption is that something links the beings in the category of "animals" that also differentiates them from the category of "human," which also shares a presumed similarity. Quite often the difference is defined in ways that elevate a particular human quality that sets them apart as a class such as rationality or the use of language: "legal and philosophical defenses of animals typically take the status of the human as their starting points, asking whether animals are sufficiently like human beings. . .within this type of framework, animals are entitled to rights only to the degree they resemble the human, reinforcing the priority of a limited collection of values."[12] This move to differentiate between human and animal has been historically problematic for non-human animals as their perceived difference becomes justification for differential treatment. Equally so, the perceived lack of these qualities in specific human groups has also been problematic in demoting them from "humanity," such as in the perceived irrationality of women.[13]

Equally problematic, however, can be the tendency of the law to differentiate among animals in ways that reflect or echo claims of human superiority. The hierarchies we recognize between species that can often reinforce human exceptionalism and, in doing so, leave intact specific hierarchies among humans as well. Quite often the law comes to protect animals according to their similarities to human beings.[14] As a clear example of this, the laws governing animal experimentation establish a clear hierarchy among species that extends greater protection to those animals considered to have the greatest mental capacity for experiencing pain and discomfort.[15] Not surprisingly, primates, most similar to humans,

11. Dinesh Joseph Wadiwel, *Cows and Sovereignty: Biopower and Animal Life*, BORDERLANDS E-JOURNAL, (Nov. 2, 2002), http://www.borderlands.net.au/vol1no2_2002/wadiwel_cows.html.

12. Elizabeth Susan Anker, *Elizabeth Costello, Embodiment, and the Limits of Rights*, 42 NEW LITERARY HIST. 169, 170 (2011)

13. KELLY OLIVER, ANIMAL LESSONS: HOW THEY TEACH US TO BE HUMAN 25-26 (2009).

14. *Id.* at 32.

15. NATIONAL RESEARCH COUNCIL, GUIDE FOR THE CARE AND USE OF LABORATORY

require the most justification for use in animal research while rats and mice receive relatively little.[16] While these decisions are pragmatically based and reflect some consideration of the experience of animals, they are based on a projection from a human norm.

This pattern of man as the measure is also evident in other areas in which protection is extended to particular animals and not others. The law regulates the use and abuse of domesticated animals, for example, far more than wild animals.[17] Animal cruelty laws may extend some protections to wild animals, primarily in preventing or forbidding particular forms of human harm, but they also extend positive duties for human interactions with domesticated animals. Animals with direct value to humans, whether financially or emotionally, are more likely to be extended consideration.

However, while hierarchies among animals continue to reinforce the superiority of human animals in ways that justify the domination of animal bodies, animal rights can also be deployed in ways that reinforce particular human hierarchies. In particular, the idea that animals ought to be protected becomes a means of establishing a hierarchy among human groups based on the perceived "barbarism" of groups seen as treating animals poorly.[18] The clearest example of these processes can be seen in the interpretations of the utilization of animal bodies by non-dominant groups, especially racial or ethnic minorities who may use animal bodies in unauthorized ways in religious ceremonies or as food. Elder, Wolch and Emel, for example, explore the ways that particular animal practices are viewed as "savage, primitive, or uncivilized" leading to the groups being dehumanized for their transgression of appropriate behavior toward animals.[19] As examples they discuss cases of prosecution for and public outcry about members of ethnic minorities eating dogs, the practice of animal sacrifice in Santeria, and the sacrifice of a dog by a Hmong immigrant as a part of a religious ritual. In all of these examples, these criminalized behaviors toward animals themselves are not clearly distinguishable from acceptable forms of treatment ranging from the slaughter of farm animals to the euthanization of homeless shelter dogs.[20] The difference is not in the effect of these actions on the animals but interpretation of these acts by the dominant group that

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ANIMALS 29 (8th ed. 2011).

16. Birds, rats, and mice are explicitly excluded from consideration in the U.S. Animal Welfare Act of 1966 and provoke considerably less scrutiny for their use. *See* Animal Welfare Act, 7 U.S.C. § 2132 (2002).

17. *Id.*

18. Glen Elder et al., *Race, Place, and the Bounds of Humanity*, 6 SOC'Y & ANIMALS 183, 184 (1998).

19. *Id.*

20. *Id.* at 185-91.

authorizes some forms of animal deaths and not others. In the process, stigmatized groups are dehumanized and themselves become subject to legal sanction.[21] Legal protections therefore can often generate and justify new forms of hierarchy.

C. *Animals must be rendered before the law.*

One persistent dilemma within animal rights advocacy is the question of representation, legal and otherwise. Animals lack the ability to make rights claims on their own behalf, a fact that is sometimes used to draw analogies between animals and other classes of persons that must be represented such as children or disabled persons while in other cases it is viewed in itself as a reason for excluding animals.[22] The problem has made the question of standing—who has the capacity to make claims on behalf of animals—a central question in animal rights advocacy.[23] This legal question, however, is complicated by an even more difficult question about how to adequately interpret the legal interests of animals. One of the greatest barriers to meaningful protection of animals has been the enforcement of existing laws in which only a limited number of persons, usually the state, may have standing to bring claims on behalf of animals. Some legal scholars have suggested that the solution for this problem may be to widen the possible class of persons with the ability to bring suits on behalf of animals, enabling private citizens to play a role in the enforcement of existing animal regulations.[24]

While expanding the potential pool of litigants, to increase access to the law via intermediaries may not in itself overcome many of the problems of animals having to be rendered before the law by human representatives. Shukin utilizes the verb *to render* to describe the complex relationships between humans and animals in which human beings must represent

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21. Cary Wolfe & Jonathan Elmer, *Subject to Sacrifice: Ideology, Psychoanalysis, and the Discourse of Species in Jonathan Demme's Silence of the Lambs*, 22 BOUNDARY 2 141, 145-47 (1995). For a discussion of the metaphoric/metamorphic grid see also Colleen Boggs, *American Bestiality: Sex, Animals, and the Construction of Subjectivity*, 76 CULTURAL CRITIQUE 98, 112-13 (2010).

22. Cass R. Sunstein, *Standing for Animals (With Notes on Animal Rights)*, 47 UCLA L. REV. 1333, 1335 (2000).

23. *See* Christopher D. Stone, *Should Trees Have Standing — Toward Legal Rights for Natural Objects*, 45 S. CAL. L. REV. 450, 459-61 (1972); Sunstein, *supra* note 22, at 1333-34; Lauren Magnotti, *Pawing Open the Courthouse Door: Why Animals' Interests Should Matter When Courts Grant Standing*, 80 ST. JOHN'S L. REV. 455, 455-57 (2006).

24. *See* Jeff Leslie & Cass R. Sunstein, *Animal Rights Without Controversy*, 70 LAW & CONTEMP. PROBS. 117, 122, 137 (2007).

animals in order to act on and with them.[25] In one sense, to render is to represent or to create a likeness. Rendering also refers to the processing of the byproducts of animal carcasses into usable goods. This double meaning acknowledges the relationship between the figurative use of the animal as *a* if not *the* human other and the willingness to kill, modify, manipulate, commodify, and destroy animals at will.[26] The process of rendering an animal before the law is thus not a simple process of reflecting the transparent interests of the animal but one that both reproduces and creates a relationship of power.

To extend legal protection requires the drafting of rules that presume understanding of animal interests or desires that can be codified in the law. The regulation of bestiality demonstrates the problems of the projection of very human concerns onto animals when we render their interests in the law. In 2011, the State of Florida implemented an anti-bestiality law after several failed attempts to pass the measure as a part of a larger agricultural bill.[27] The law was prompted in part by two high profile cases, one in which a man slaughtered a goat in the process of obtaining sexual gratification, the second in which a man admitted having sexual relations with his service animal.[28] In the former case, existing animal cruelty laws could be used to prosecute the individual for direct harm to the animal.[29] In the latter case, however, the state was flummoxed by the lack of a legal mechanism by which to punish an individual who received sexual gratification from an animal without the apparent infliction of physical harm.[30]

While represented as a non-partisan consensus issue, the bill itself indicates the ways that the presumed protection of animal rights is often a project of very human anxieties. These legal practices may not only fail to extend significant protection to animals, but may in fact "[P]olicing the human-animal boundary through the regulation of animal practices is necessary in maintaining human identity and sustaining the legitimacy of

25. *See* NICOLE SHUKIN, ANIMAL CAPITAL: RENDERING LIFE IN BIOPOLITICAL TIMES 20, 21, 23-24 (2009).

26. *See id.* at 21-22.

27. Act of May 26, 2011, ch. 2011-42, 2011 Fla. Sess. Law, ch. 2011-42 (West), *available at* http://laws.flrules.org/2011/42; *see Anti-Bestiality Law Finally Passes in Florida*, CBS MIAMI, (May 5, 2011, 9:05 AM), [hereinafter *Anti-Bestiality Law*] http://miami.cbslocal.com/2011/05/05/anti-bestiality-law-finally-passes-in-florida/.

28. Blair E. McCrory, *2007 Legislative Review*, 14 ANIMAL L. 265, 296 (2007); *see Anti-Bestiality Law*, *supra* note 27.

29. FLA. STAT. ANN. § 828.12 (West 2006).

30. *See Anti-Bestiality Law*, *supra* note 27.

the dominant group's animal practices."[31] Embedded within the law was an exception in the law for "animal husbandry practices, conformation judging practices, or accepted veterinary medical practices,"[32] an exception that is required first because most domesticated animals, particularly farm animals, have their sexual and reproductive lives managed by human intervention that requires the sexual stimulation of animals. The law thus must differentiate between those practices authorized by their commercial purposes and those stigmatized by their sexual ends. Further, the phrase also indicates the ways that animal bodies are regularly subject to violence and violation in relationships of farming. While bestiality laws regulate a relatively rare practice that may or may not inflict physical or emotional harm on the animal, millions of animal bodies are regularly subject to confinement, pain, management and death in processes of farming.[33] The overwhelming consensus around passing the bestiality law is more indicative of a desire to protect human exceptionalism than a real desire to protect non-human animals.[34]

A second example illustrates the ways that the extension of legal protection of animals can, on the one hand, provide a tangible benefit to animals even as it can reinforce particular relationships of power that necessitate the legal intervention in the first place. In one of the more novel and effective instrumental uses of the law to animals, the case of the Vicktory dogs, the dogs that were seized from Michael Vick's Bad Newz Kennels after his indictment and conviction on dog fighting charges demonstrates the ways that the law can be a powerful instrument to protect animals.[35] In that case, for the first time a lawyer was appointed as a guardian/special master for the dogs who were considered property seized by the state.[36] As a part of an unprecedented civil settlement, Vick paid a fine of $ 928,072.04 that was applied toward the care and rehabilitation of the animals.[37] Their guardian was empowered to make decisions about the care of the dogs as well as dispensing the funds to cover their care.[38]

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31. Glen Elder et al., *supra* note 18, at 195.

32. FLA. STAT. ANN. § 828.126 (West, Westlaw, through 2011 1st Reg. Sess.).

33. *See* Wadiwel, *supra* note 11.

34. For further discussion see Michael Brown & Claire Rasmussen, *Bestiality and the Queering of the Human Animal*, 28 ENV'T AND PLAN. D: SOC'Y AND SPACE 158, 164, 165 (2010).

35. Huss, appointed the special guardian for the dogs, has detailed her experience in Rebecca J. Huss, *Lessons Learned: Acting as Guardian/Special Master in the Bad Newz Kennels Case*, 15 ANIMAL L. 69, 69, 71 (2008).

36. *See id.* at 70, 71, 83.

37. *Id.* at 73.

38. For a discussion of this case see Alexis C. Fox, *Using Special Masters to Advance the Goals of Animal Protection Laws*, 15 ANIMAL L. 87, 101-02 (2008).

As guardian, Rebecca Huss spent time with individual dogs and caretakers to determine the ideal plan of action for each dog according to their specific needs.[39] Most of the dogs have since gone on to permanent homes in sanctuaries or private homes and several have become media personalities, challenging public perceptions about the breed.[40] This remarkable legal intervention unquestionably saved the lives of the dogs who, many argued—including the Humane Society of the United States and PETA—should be euthanized. The notoriety of the dogs has also drawn attention to the problem of dog fighting and mobilized legal and financial resources for dog rescue.

However, the case also demonstrates the ways in which the resources afforded by the law requires pragmatic choices that may, in the long run, reinforce or reiterate existing power relationships. So, for example, the legal framework required the Vicktory dogs to be classified as property in order to first transfer ownership to the federal government and then to be placed under the care of a guardian.[41] This understanding of animals as property often extends them protection as domesticated animals often receive protections under the law as property because of their owner's vested interest in the welfare of the animal. By transforming animals into human interests, whether fiduciary or emotional, they become visible as objects with value under the law.

Second, the case also demonstrates the ways that rights claiming can often individualize political conflicts in ways that avoid or even redirect attention away from broader relationships of power and inequity. On the one hand, the civil settlement that "compensated" the dogs for the harm done to them was a creative use of the law to save the lives of these particular dogs. Again, their relative worth is contingent upon their relationship to humans, in this case their involvement in a high profile animal cruelty case. Even as these particular dogs were saved from euthanization, millions of animals are euthanized in animal shelters nationally because of a lack of homes and/or resources to care for them.[42] While the intervention of the law and the creative actions of the legal team assembled in this case made an enormous difference for these particular

39. *See* Huss, *supra* note 35, at 102.

40. *See* JIM GORANT, THE LOST DOGS: MICHAEL VICK'S DOGS AND THEIR TALE OF RESCUE AND REDEMPTION, at IX, 251-71 (Gotham ed., 2010). Several of the dogs have appeared in public media including on the covers of *Sports Illustrated* and *Parade* magazines.

41. The dogs were initially seized as a part of a Verified Complaint in Rem, or referring to the "status of a thing." *See* Huss, *supra* note 35, at 71.

42. *See Animal Shelter Euthanasia*, AM. HUMANE ASS'N, http://www.americanhumane.org/animals/stop-animal-abuse/fact-sheets/animal-shelter-euthanasia.html.

dogs, and perhaps may have galvanized attention to the problem of dog fighting and the fate of pit bull type dogs more generally, it may also have diverted attention and resources away from the more mundane and lethal consequences of the benign neglect of homeless animals.

More generally these concerns echo critiques of animal rights from ecological perspectives that argue that privileging individual animals or particular species more generally obfuscates broader political questions about the conditions that have placed animals in harm's way.[43] Advocating a more holistic world view, these arguments often posit that rights claiming strategies (whether for humans or animals) have a limited capacity to reconfigure relationships because of their subject-centered approach that cannot or does not account for broader relationships of power such as a more general reconsideration of the legal and practical precarity of domesticated animals, the privileging of the interests of domesticated over wild animals, and other examinations of the human responsibility to biological life more generally.[44]

III. CONCLUSION

Animal rights discourse calls for a greater extension of legal and moral consideration to animals. The movement itself has been successful in appropriating the language of rights as a politically salient rhetoric for challenging existing perceptions of who qualifies as a rights-bearing subject. Certainly this rhetoric has produced specific forms of legal and political change that has changed the relationship of humans and animals and that has, at times, challenged the presumption of a human right to exercise dominion over animals. In practice, however, the practices that have brought animals under the law via the mechanism of "animal rights" has had mixed results in transforming mechanisms of power that characterize human/animal relationships.

Yet the critique of animal rights is also a more general critique of

43. *See* Lucinda Cole et al., *Speciesism, Identity Politics, and Ecocriticism: A Conversation with Humanists and Posthumanists*, 52 THE EIGHTEENTH CENTURY 87, 88-89, 92, 96-97, 99-100, 102 (2011).

44. For a more general discussion of the tensions between ecological critiques and animality studies see Elisa Aaltola, *The Anthropocentric Paradigm and the Possibility of Animal Ethics*, 15 ETHICS & THE ENV'T 27, 29, 30, 32-33, 39, 40-41, 42 (2010); Lucinda Cole et al., *supra* note 43, at 89, 99-100; Jennifer Everett, *Environmental Ethics, Animal Welfarism, and the Problem of Predation: A Bambi Lover's Respect For Nature*, 6 ETHICS & THE ENV'T 42, 42-46 (2001).

rights-based discourse suggesting that the relationship between the rights-bearing subject and liberal individualism limits the transformative power of the law in several specific ways. First, rights-based strategies generally require claims of equality or analogies with existing rights bearers in ways that normalize dominant categories. So, for example, making rights-claims for animals often involves making claims that animals possess some sort of relevant quality that makes them similar to human subjects, whether rationality, language, or sentience these processes always take for granted the centrality of the category of "human" to which the analogy is made. This additive model of rights-claiming that simply assumes an ever-widening circle of consideration around a center that itself is never called into question. This problem is echoed across other critiques of rights that point out the ways that these kinds of equality claims assume and legitimate the "normalcy" of the dominant class.[45] For example, critics of marriage equality point out the ways that rights-claiming by same-sex couples assumes the normalcy of and a universal interest in the monogamous, nuclear family in ways that prevents imagining family different and further marginalizes those who fall outside of this perceived universal norm.[46]

The second problem highlighted is the relationship between rights-claiming and violence. Legal strategies may challenge certain forms of violence, but may also enable other forms of violence through processes of rationalization and bureaucratization that give the veneer of order because they are performed within rule-based structures. The violence of the law may be seen in the legal categories that place certain subjects as outside of the law, such as "illegal immigrants" or "enemy combatants." However, the law itself may enable particular forms of violence through the imposition of rules that regulate the processes of life and death.

Third, the question of animal rights highlights the ways that rights-based strategies must grapple with questions of representation and the attendant questions of agency and subjectivity. As with scholars in disability studies and children's rights, animal rights advocates must confront questions of how to represent particular groups to the law. Because the absence of agency, or the fact of dependency is often used to deprive particular groups of their status as rights bearing subjects the necessity of legal representation by others places these groups at a distance from the processes of rights-claiming that reiterates their status as non-agents, non-subjects, or as objects. Even more so, however, the belief in

45. *See* Priya Kandaswamy, *State Austerity and the Racial Politics of Same-Sex Marriage in the US*, 11 SEXUALITIES 706, 708, 710, 711, 721 (2008).

46. *See id.* at 706, 708, 716, 722.

the ability to render the interests of another for the purposes of the law reiterates the agency of the dominant subject, further marginalizing those who must be represented by others. Quite often this results in a legal structure that reiterates or reaffirms existing power relationships.

The aporias of the animal rights movement demonstrate the ways that rights based strategies exemplify "the historically and ideologically specific character of our juridical and political institutions and the picture of the subject of rights they provide."[47] These problems emerging from the practices of rights claiming show the need to interrogate the context in which rights claims are made and their contradictory effects. Animals are not on the frontiers of justice because they do not yet have a place within the structure of (human) rights but because rights themselves have participated in the production of these frontiers that must be interrogated, politicized, and challenged.

47. WOLFE, *supra* note 5, at 79.