

AN INTEREST-BASED ACCOUNT OF POLICE SERVICE DOG LABOUR RIGHTS

by

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For Katie.

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Abstract

Police Service Dogs play a valuable role in promoting important public interests.

However, rarely do we consider our moral obligations to them, and whether or not they are owed certain goods and protections in virtue of the risks that they incur in service to their communities. This project seeks to address these important issues. I argue that Police Service Dogs, along with many other sentient beings, possess rights to life, liberty, and freedom from suffering. Importantly, I also argue that Police Service Dogs have a strong claim for citizenship status, and the scheme of rights and liberties that such a status entails. Lastly, I argue that Police Service Dogs ought to be accorded a set of labour rights, which render their use as Police Service Dogs as compatible with their status as co-citizens and as beings with rights to life, liberty, and freedom from suffering.

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O.B

Chapter 1: Introduction

The use of Police Service Dogs (henceforth PSDs) provides an interesting test case for political theories of animal rights. It is one of the non-trivial ways that we use animals. That is, PSDs provide important services to society, many of which promote and protect vital community interests. This contrasts with many of the more trivial ways that we use animals, for example, to provide us with non-essential food and clothing variety. Often, it seems that PSDs are recognized and even valorized for the services that they provide. Memorials for fallen PSDs are erected across Canada. Also, in Canada, PSDs (and other service animals) have a special law dedicated to their protection (Allison, 2017), with other countries attempting to follow suit (British Broadcasting Corporation [BBC], 2018).

However, the mere fact that PSDs provide a valuable service, and the fact that this service is often recognized as valuable, really does not tell us a lot about whether or not we are justified in using them. The life of a PSD can be burdensome or costly: minimally, their service is marked by continued training as well as being exposed to potentially dangerous situations. In the following chapters, I will argue that the use of PSDs is morally justified. However, this does not entail the further claim that we are justified in using them in any way we see fit. For, as we will see below, PSDs are also entitled to strong protections, including citizenship status and a comprehensive scheme of labour rights – this will be the topic of discussion in chapter four. First, however, a brief overview of chapters two and three are in order.

Chapter two contains an overview of the use of PSDs. It has three general subsections, the first of which considers some of the important relationships that PSDs have. In this section, we consider the ways that PSDs relate to their handlers, the police

services that employ them, and the community writ large. Each of these relationships is complex. The relationship between a PSD and their handler is particularly important, and, as we will see, multi-faceted. This relationship will become even more relevant in the fourth chapter when we consider labour rights for PSDs, which includes a discussion of ‘dependent agency.’

In the second section, we consider three important aspects of PSD use: the potential dangers they face, their utility, and the protections accorded to them as service dogs. It is clear that PSDs face certain dangers on the job. However, as we will see in chapter four, two of the most dangerous aspects of PSD use (involving negligent handlers or apprehending suspects) may be ameliorated by the implementation of an adequate scheme of labour rights.

While some of the work that PSDs do is dangerous, their utility in protecting vital community interests is evident. Their superior senses of smell make them excellent trackers. Additionally, their speed and other natural physical attributes make them an effective means of force when apprehending suspects (Finlay, 2017). As mentioned above, harnessing the abilities of PSDs, and focusing them on serving a public interest has earned PSDs a special place in the public eye, and even in legislative matters (Allison, 2017).

The last things to consider in chapter two are the breeding and selection methods for PSDs. This focus of the third section is important moving forward because, as we will see, the moral permissibility of using PSDs (and the citizenship and labour rights they ought to be accorded) are informed by their interests. The interests of PSDs are intimately connected to both their genetic makeup, and the fact that they have successfully

navigated the training program necessary to become PSDs. Only the dogs that display the highest degree of the specific traits necessary for doing police work are bred by any given police service or supplier, and, among the offspring of these dogs, only a fraction develop the aptitude (and the willingness) necessary to become PSDs. That is, they are naturally disposed to do (and want to do) the type of work that PSDs do – their natural abilities are nurtured and developed to a high degree, rather than being forced and moulded from the ‘top down.’

With this basic overview in place, we move on to chapter three, where we consider three theories of animal rights: the abolitionist approach, championed by Gary Francione, the citizenship approach, put forth by Sue Donaldson and Will Kymlicka, and Alasdair Cochrane’s interest-based approach to animal rights. Ultimately, I argue that all three approaches, in their current forms, fail to adequately capture our obligations to animals.

On the abolitionist approach, the use of PSDs is morally impermissible. Abolitionists argue that the relationship between domesticated animals and humans is inherently exploitative (Francione, 2012). We have rendered domesticated animals dependent on us for all of their most basic needs, and thus, our relationships with them are irredeemably unjust. For the abolitionists, the only way forward is to seek to abolish the existence of domesticated animals all together (Francione, 2012). Crucially, though, the abolitionists are not advocating for the killing of all of our currently existing domesticated animals. Rather, we have moral obligations to (i) cease bringing any new domesticated animals into existence, and (ii) take care of the domesticated animals that we currently have (Francione, 2007).

The abolitionist approach has been widely criticized within the animal rights literature (Garner, 2013; Cochrane, 2012; Donaldson & Kymlicka, 2013), and I will have little to add to these criticisms. However, I will detail one of the most forceful criticisms against this position, put forth by Donaldson and Kymlicka. They argue that the abolitionists misunderstand the nature of dependency, and that the fact that domesticated animals are dependent on us does not mean that they cannot have good lives (Donaldson & Kymlicka, 2013, p. 83). Rather than eliminate the existence of domesticated animals, we have a moral obligation to restructure these relationships so that they are just (Donaldson & Kymlicka, 2013, p. 89).

However, Donaldson and Kymlicka's theory faces its own criticisms. First, Donaldson and Kymlicka claim that domesticated animals are owed citizenship in virtue of the fact that we have brought them "into our society, and deprived them of other possible forms of existence" (Donaldson & Kymlicka, 2013, p. 101). Arguably, this premise is (at least in part) alluding to the historical injustice of domestication. Donaldson and Kymlicka liken the case of domesticated animals to the plight of slaves or indentured labourers who, after being forced to enter our society, are owed citizenship for both themselves and their descendants (Donaldson & Kymlicka, 2013, p. 101).

However, it is not at all clear that our current domesticated animals can (or need to be) compensated for an historic injustice given the fact that their very existence is dependent on this historic injustice, and the fact that many do (or at least *can*) have lives worth living. This is what is known as a 'non-identity problem' and I will argue that it undermines this premise of Donaldson and Kymlicka's citizenship approach. However, in chapter four it will be argued that PSDs do have citizenship rights, albeit not because they

are the product of an historic injustice, but rather, because they have interests in citizenship that are strong enough to generate obligations in others.

The second criticism we consider pertaining to the citizenship approach is the fact that in its current form it lacks the means to derive a more specific set of rights for animals in any given situation. Donaldson and Kymlicka adopt a strong animal rights position to underpin their citizenship approach. On this account, animals have universal and inviolable rights in the same sense that humans do. For proponents of the strong animal rights position, this entails rights to life, liberty, and freedom from suffering (Donaldson & Kymlicka, 2013, p. 40). That is, it is argued that all sentient beings have rights to these goods in virtue of the fact that they are “vulnerable selves” (Donaldson & Kymlicka, 2013, p. 39). As vulnerable selves, their most important interests ought to be protected with the same urgency as the important interests of humans (Donaldson & Kymlicka, 2013, 39). Furthermore, as citizens, we can infer that domesticated animals’ interests would be taken into consideration on a basis equal to the interests of human citizens when determining the public good.

While certain rights follow from an individuals’ status as a co-citizen, and as a putative bearer of inviolable rights, they underdetermine what our obligations are to animals in more particular contexts. For example, while the citizenship approach entails the claim that the interests of domesticated animals ought to count in the determination of the public good, it does not tell us what these interests are. This is a task that Donaldson and Kymlicka willingly forgo, arguing that we must first enable and observe the agential capabilities of domesticated animals before being able to fully determine which rights they ought to have in any given situation (Donaldson & Kymlicka, 2013, p. 122). That is,

in order to discern the types of things and activities that are truly important to domesticated animals, they must first be free to express what is most important to them, which they can only do once they are freed from oppression (Donaldson & Kymlicka, 2013, p. 122). What seems to be at issue here, then, is determining what *interests* domesticated animals have, for this is a vital component in determining what rights they ought to be accorded in any given circumstance (for example, as PSDs). Empirical inquiry is surely an important aspect of determining the interests of domesticated animal citizens. As we will see in chapter two, however, and as will be argued in chapter four, there is much we can already determine about the interests of PSDs, and the rights that they ought to be accorded do not clearly follow from their status as ‘vulnerable selves’ and citizens.

It seems then, that perhaps a more promising area to consider is the interest-based approach to animal rights. However, the interest-based approach put forth by Cochrane (2009, 2012, 2017) has its own issues. For Cochrane, the rights of animals are derived from their interests. In order to have a right to X, an individual must have an interest in X that is sufficient, all things considered, to generate obligations in others (Cochrane, 2012, p. 41). Crucially, though, while rights are derived from interests, not all interests translate into rights (Cochrane, 2012, p. 42). A central task for Cochrane, then, is to determine which animal interests translate into rights.

In order to do this, Cochrane appeals to a Kantian conception of autonomy, arguing that non-autonomous beings have no right to be free because they lack the ability to frame, revise, and pursue their own conception of the good (Cochrane, 2012, p.19). Additionally, Cochrane argues that non-autonomous beings have a weaker interest (and

thus, right) to continued life compared to those that are autonomous in the Kantian sense (Cochrane, 2012, p. 68).

There are multiple criticisms to consider here. First, the interest-based approach is premised on the idea that we can actually determine the interests of rights bearers.

Arguably, a central aspect of determining the interests of animals is by observing what matters *to them*. Without freedom, this important aspect of the interest-based approach is undermined. That is, without freedom, accurately determining the interests of animals is going to be an even more difficult task.¹

Second, for Cochrane, non-autonomous beings have a weaker right to life in virtue of the fact that they are not autonomous (Cochrane, 2012, p. 68). A consequence of this line of argument is that, for example, young children and persons with cognitive disabilities have a weaker right to life than non-autonomous beings - this is perhaps a controversial claim. However, this does not, on its own, tell us whether or not we ought to reject it. However, Cochrane himself seems to undermine the plausibility of his own conclusions, arguing that non-autonomous and autonomous beings have equal rights not to be killed in experimentation (Cochrane, 2012, p. 71). Crucially, this is a conclusion that does not clearly follow from his interest-based account, but rather, by appealing to the problematic consequences of denying non-autonomous humans an equal right to life (Garner, 2013, p. 100).

Lastly, and relatedly, it is not clear why it is open to Cochrane to appeal to the problematic consequences of killing non-autonomous humans to justify their equal right

¹ Of course, having an interest entails more than a mere subjective desire (Cochrane, 2012, p. 53). As such, this criticism is premised on the (I think, reasonable) assumption that there is much we can learn about the *objective well-being* (i.e., interests) of animals through observing them freely interacting with others and their environments.

to life. For, some of Cochrane's other conclusions also have (arguably) problematic consequences for non-autonomous humans. For example, Cochrane claims that non-autonomous beings have no right to not be "owned, used, and exploited" (Cochrane, 2012, p. 2). Surely, however, the ownership of human beings is a conclusion that many would reject. And so, the line of reasoning Cochrane uses to justify his claim that we are not permitted to kill non-autonomous humans for experimental purposes, also seems to compel us to reject his claim that we can "use, own, and exploit" (for example) young children or Alzheimer's patients (Cochrane, 2012, p. 2).

What we need, then, before considering labour rights for PSDs, is a more robust account of animal rights. In the fourth chapter I adopt a revised version of the interest-based approach as my starting point, arguing that an interest-based approach, free of any appeals to Kantian autonomy, justifies rights to life, liberty, and freedom from suffering for animals (and many more humans than in Cochrane's account). Furthermore, it will also be argued that domesticated animals have strong interests in citizenship. However, crucially, not all interests translate into rights. And so, what we need is a way of determining who ought to be included in this set of beings that have both an interest in citizenship, and some other relevant features that facilitate the translation of this interest into a right. With regards to humans, there are numerous examples that support the claim that we owe citizenship to those that incur personal risk while protecting the communities that they serve. I argue that this consideration ought to be extended to PSDs.

Ultimately, then, the argument is this: By adopting a revised interest-based account of animal rights, I argue that we owe PSDs citizenship, and that they have rights to life, liberty, and freedom from suffering. Crucially, these rights are consistent with

their use in law enforcement, so long as their important interests are protected. One way that we can ensure that their interests are protected is by according them a scheme of labour rights that accurately reflect their moral status as beings with a stake in their own lives, and as our co-citizens. Our first step in reaching this conclusion is more carefully considering some of the empirical realities of PSD use, including their important relationships, their duties, and the dangers that they face on the job – this is where we turn next.

Chapter 2: A General Introduction to PSD Use

Before moving on to consider what PSDs might offer in terms of insights into current animal rights theories, we need a fuller understanding about what PSDs are, what kind of work they do, and how they relate to the officers they serve with, as well as the communities that they protect. It is important to note, however, that the ways in which PSDs are employed varies depending on the police service, and so, the introduction below is intended to be general, as specific facts of the matter may be slightly different depending on where you look. Nonetheless, a look into the empirical realities of PSDs use will allow us to evaluate, in later chapters, the moral permissibility of their employment, and serve as an important test case for political theories of animal rights, in particular, the integrated interest-based citizenship approach that I will ultimately defend.

Here we will consider the ways that PSDs relate to humans across multiple dimensions. First, we will consider perhaps the most important relationships that PSDs have - their relationships with their handlers. These relationships are complex. Ultimately, the complexity of this relationship points to the strength of the bond between PSDs and handlers. Second, we consider the way that PSDs relate to the institutions that employ them. In some ways, police services treat PSDs as though they are members of the police service. However, in other more important ways PSDs are treated in a manner inconsistent with the way that a member of the police service ought to be treated – chapter four outlines a set of labour rights that, if implemented, would help ameliorate this inconsistency.

Third, we consider the problematic ways in which police officers (and police services more generally) sometimes interact with nonhuman members of the broader

community. This is important because there seems to be a manifest difference between the ways that PSDs are often respected and valorized and treated as members of the police service by their colleagues and employers, and the seemingly problematic ways in which police services deal with dogs that they encounter while on the job. Fourth, we will consider the potentially problematic ways that PSDs interact with community members in order to foreground the discussion in the following section which examines, among other things, the multifarious ways in which police services employ PSDs. And, lastly, we consider the ways in which dogs become PSDs, examining both the genetic components of the PSD selection processes, as well as the training process, in order to foreground a later discussion about PSD interests and rights. First, however, we will consider the complex relationships that PSDs have with their handlers.

2.1. PSDs and Their Handlers

PSDs are not generally thought of as companion animals or pets (Calgary Police Service [CPS], n.d). Indeed, in some respects (such as the treatment of fallen PSDs) it seems as though PSDs are treated as members of the police services that employ them (CPS, n.d.). However, there also seems to be aspects of this relationship that track with the relationships that humans tend to have with companion animals that do not clearly occur between human officers. For example, PSDs live with their handlers, often from the time they begin official training until the time of their death (CPS, n.d.). This gestures towards a relationship that is somewhat similar to the relationship between a human and a companion animal – that is, shared living quarters and certain duties of care. Indeed, many police services require that handlers keep their PSDs with them at their own personal residence, fully integrating them into their family unit (CPS, n.d.). Additionally,

like civilians and their companion animals, an officer can be held criminally responsible for the actions of his PSD. For example, in *Rosario v. Canada* (Royal Canadian Mounted Police [RCMP]), the judge found for the plaintiff (Rosario), ruling the officer guilty of failing to control his PSD after the plaintiff was unlawfully attacked (Canadian Insurance Law Reporter, 2000).

In a separate incident in 2016 a PSD escaped from the backyard of his handler in Calgary and seriously injured a 12-year-old boy that was playing nearby. The officer was charged with one count of an animal running at large, and one count of an animal attack causing serious bodily harm. The dog was taken off active duty, and sent to the United States, where multiple agencies have shown an interest in acquiring him (Clough, 2016). The rationale behind removing the PSD from the Calgary Police Service was not necessarily because the PSD was seen as a risk to public safety, but rather, it was determined that the it was in the best interests of both the dog, and the public (Clough, 2016). Again, ultimate responsibility for the PSD's behaviours fell on their handler, much as it would have if it was a companion dog attacking a passerby.

There are also aspects of the relationship between a PSD and their handler that we might expect to find in both the relationship between two human officers, *and* the relationship between a companion animal and their human. For example, we might think that two human officers that are partners ought to offer a certain level of companionship, and contribute in some ways to the well-being of their partner, perhaps through friendship or a simpler good-natured relationship. Likewise, with having a companion dog – many of us have experienced the benefits of receiving the affection and companionship of a dog. Indeed, a study from Hart et al found that, of the 255 PSD handlers studied,

“[a]lmost all officers frequently played with, talked to, petted, and brushed their dogs and believed the dogs benefited their health and well-being” (Hart et al, 2000, pg. 190). The authors also found that the officers spend a large quantity of their off-duty time at home with their PSDs, “having them as constant, supportive companions and spending time with them in play and extra training” (Hart et al, 2000, pg. 191).

Additionally, PSDs can provide important emotional support for their human partners – this is something else that we might expect from both a companion animal, and a human police partner. In 2016, a British police constable by the name of Dave Wardell was pursuing a robbery suspect when both he and his PSD Finn² were stabbed. Though both survived, Wardell suffered from post-traumatic stress disorder (PTSD)³ following the incident. He told reporters that Finn, who also suffered serious injury from the attack (a large knife was plunged into his chest), turned from PSD to “therapy dog” after the incident, and that it was Finn who “dragged them both back to work” (Senkul, 2018).

Lastly, like human officers, PSDs are meant to protect their partner – this was one of the original motivations for employing PSDs; to protect officers patrolling at night (Allsop, 2012, p. 21). Indeed, PSDs *are* their handlers’ partner. Some officers even claim that a PSD is the “best partner you could ask for” (Pace, 2018). However, this sort of protective behavior is something that we might also expect from a companion animal, or indeed, a close companion or family member more generally.

We are left with a somewhat unclear space: PSDs are treated as members of the police service in some ways, but in other ways it seems as though they are more akin to

² This incident led to the development of ‘Finn’s Law’, which is roughly the UK equivalent of ‘Quanto’s Law’ discussed below. It prescribes a harsher punishment for injuring or killing service animals. Unlike Quanto’s Law, however, Finn’s law failed to be passed into law (BBC, 2018).

companion animals, despite explicit claims that they are not the latter (CPS, n.d.). To further complicate things, there are aspects of the relationship between PSDs and their handlers that track with important aspects of both professional relationships between two human officers, and the relationship between a companion dog and their human, such as the support and protection that they provide for their handler.

However, the fact that the relationship between a PSD and their handler is multifaceted need not be problematic. Rather, it may point to the importance of the relationship: the fact that the lives of PSDs and their handlers are deeply interwoven – a feature of many important professional and personal human relationships (which can also be multifaceted). For example, family members may also be close friends, while also splitting labour responsibilities. The sharing of labour is, of course, a feature of many relationships between work colleagues, but it is also part of many other deeply connected human relationships. Similarly, a work colleague may double as a friend and confidant, as might a neighbour. And so, when we consider PSDs and their handlers, the fact that their relationship is complex need not be problematic. Rather, that their relationship is so multifaceted may speak to its importance, just like in exclusively human cases, where the more closely connected people are, the more complex the relationships tend to be. We will consider this relationship again in chapter four when we discuss PSD labour rights and dependent agency.

2.2. PSDs and Police Services

The relationships that PSDs have with their handlers are in some ways separable from the

³ Finn also suffered from PTSD (Senkul, 2018). PTSD in PSDs is a topic we return to in chapter four, with a discussion of PSD labour rights.

relationships that they have with the police service that employs them both. For example, often, upon retirement, the handler takes sole responsibility for their PSD, purchasing⁴ the PSD from the police service (CPS, n.d.). However, the relationship between a PSD and their handler is, of course, intimately shaped by the influence of the police service.

The relationship between a PSD and a police service starts early – often very early. This relationship begins, in many cases, right from birth or shortly thereafter. Becoming a PSD is a highly selective process. Police services go to great lengths to obtain dogs with a certain genetic makeup (Allsop, 2012, p. 40), some services even make each potential PSD undergo various X-rays to ensure the structural soundness of their hips, back, and knees (Vancouver Police Department [VPD], n.d.). Even once a dog and handler reach the basic training stage, the process is still very selective. Although their basic training program is only approximately four months long, “training never really ends as daily practice is required to maintain a high level of physical and mental fitness” (RCMP, n.d.). This highly selective process for developing PSDs is an important point to consider when determining their interests in doing police work - we will return to this below.

In certain respects, as mentioned above, police services treat PSDs as though they are members⁵. Just recently a video was posted online of a badge presentation ceremony for three new PSDs with the Halifax Regional Police (Pace, 2018). The three PSDs sat quietly next to their handlers, surrounded by news cameras and members of the public,

⁴ It is worth noting here the property status of PSDs. For Donaldson and Kymlicka, it seems as though the property status of animals will likely have to change, for, it is likely inconsistent with their putative status as co-citizens. Cochrane, however, explicitly denies that animals (indeed, non-autonomous beings writ large, including many humans) have a right to not be owned (Cochrane, 2012, p. 2).

⁵ While often treated as members, it is important to keep in mind that, as indicated above, PSDs are not actually *members*, but rather, *property* of the police service.

and, with badges around their necks, the chief of police read aloud a statement touching on the strong relationship between these PSDs and their handlers. One of the new PSDs was actually named after a late Halifax Regional Police PSD handler, as a sign of respect (Pace, 2018). However, it is perhaps most obvious that PSDs are treated as members of the police service when they are killed in the line of duty,

If a dog is killed in the line of duty he is treated like a fallen officer. Canine members from across Canada and some of the States, send representatives to these memorials. The canine would then be, "Honored" as part of the Canadian Police Canine Memorial, located in Innisfail, Alberta at the R.C.M.P. training center (CPS, n.d.).

The Vancouver Police also recently added a bronze memorial outside of their new training facility to honor the eight PSDs that have died in service to their city (VPD, n.d.). Sometimes, police services go even further in ensuring the memorialization of their fallen PSDs. In 2011, the remains of 'Cloud II', a former PSD with the Ontario Provincial Police, were exhumed in a public ceremony. At the time, Cloud II was buried outside of a police detachment which was set to close in North Bay, Ontario. Current Staff Sergeant Rob McDonald told reporters that they "didn't want to leave him behind" (Hopper, 2011). What makes this case especially interesting is that Cloud II died almost 40 years ago, after being shot in the head while pursuing an escaped prison inmate. Cloud II's former handler, now aged 76, attended the ceremony. The remains of Cloud II will be cremated, and become part of a special exhibit in his honor at the Ontario Provincial Police headquarters in Orillia, Ontario (Hopper, 2011). It would be hard to make sense of these examples without acknowledging that PSDs hold a special place in the lives of their

handlers, and police services writ large - they are not merely ‘tools’ or pets, but members of the police service.

It seems, then, that the relationship between a PSD and the institution that employs them are less complex than the relationships they have with their handlers – they are members of the service. PSDs are often bred and selected by police services to be trained alongside a human police officer, combining the talents of the two to create a unique team that provides a valuable service to the community that the institution, the officer, and the PSD serve.

However, the fact that police services sometimes treat PSDs as members of the police service does not mean that they are *always* treated as such. For example, it is common for most human members of the police service to earn a pension, and be represented by a labour union – goods that are not typically accorded to PSDs⁶. Another obvious point is that the PSDs are legally *owned* by police services, whereas human officers are not considered the *property* of their employers.

The key point, then, is this: PSDs are sometimes treated as members of the police service by the organization. In some senses, they are treated as members ought to be treated (e.g. being valorized for dying in the line of duty). However, in other important ways, there are discrepancies between the way police services treat their human members, and the way that they treat PSDs. As we will see in chapter four, one way to ensure that PSDs are treated in a manner more consistent with their status as members of the police service is by according them a comprehensive scheme of labour rights.

⁶ An interesting exception is the Nottinghamshire Police Service, who accords a £500 per-year pension to their retired PSDs (Pleasance, 2013).

2.3. Police and Non-PSD Animals

With this in mind, it is perhaps worthwhile to note the different relationship that the police (speaking about both officers and the institution writ large) have with civilian animals, in particular civilian dogs. The United States Department of Justice estimates that a staggering 10,000 civilian dogs are shot by law enforcement representatives each year (Friedersdorf, 2017). Some of these shootings have led to litigation and successful prosecution of the officers involved. In a particularly noteworthy case, a city in California was ordered to pay 1.8 million dollars in damages to the family of two Hells Angels after police shot and killed three of their dogs during a raid (Carter, 2012).

This is a problem that is not unique to the United States. For example, members of the Peel Regional Police (Ontario) shot and killed 14 dogs during raids from 2010-2015 (Rosella, 2015). However, a more interesting example in the Canadian context is an alleged dog slaughter carried out by the RCMP and Quebec Provincial Police that is claimed to have had a political motive. From the 1950s through the 1970s, RCMP and Quebec Provincial Police killed thousands of Inuit sled dogs in northern Quebec (Dean, 2013). A topic of much debate, the RCMP conducted an internal investigation in 2005, publishing a report a year later in which they exonerated themselves of all wrongdoing (CBC, 2006). One glaring omission in this report is the lack of testimony from the Inuit community members affected by the slaughter. In response, a former Quebec judge was commissioned to conduct his own report, which was submitted in 2010. Judge Jean-Jacques Croteau found that the RCMP and Quebec Provincial Police were liable for the harms incurred by the Inuit communities, whose livelihoods and cultures are deeply (perhaps inextricably) linked with their sled dogs. The government of Quebec paid a

three million dollar settlement as reparations for the incident (CBC, 2011). What makes this case of importance politically, was the alleged motive behind the slaughter: to aid in pushing the relevant Inuit communities away from their traditional mode of being, and integrate them into southern Canadian society (CBC, 2011).

We might notice an interesting comparison here: the Inuit sled dogs were an integral part of their community, as is the case with PSDs in contemporary Canada. Furthermore, it seems as though in both cases part of the value bestowed upon the dogs was largely due to the labour they performed. The Inuit sled dogs were important culturally, to be sure, but they were also of pragmatic value as a means of travel and obtaining sustenance (D'Aliesio, 2012). When it comes to PSDs, their labour, as we will see below, also contributes to the public good, albeit in perhaps a less pervasive way than the Inuit sled dogs.

A more general point to consider here regarding the difference in treatment between PSDs and civilian dogs is the potential moral obligations that police services (and the officers they employ) have towards the civilian animal community. As we have just seen, there is arguably a serious problem when it comes to how the police sometimes deal with civilian nonhuman animal property. Now, surely in some cases the violence inflicted upon civilian animals is justified, for example, if the animal in question poses an immanent and serious threat to an officer on scene. However, it seems just as likely that in other cases, there are options available to deescalate the situation in a nonviolent way. Indeed, some postal services have begun giving their employees training to avoid being attacked by potentially dangerous dogs (Ferguson, 2015). Given our later concern with animal citizenship, something to flag at this point are the potential obligations police

services may have towards domesticated animals *as citizens*. We might well think that domesticated animals have a right to fair and equitable treatment by law enforcement. And so, we might also think that police services have an obligation towards members of the community they serve (in this case, the community of nonhuman animals) to have some sort of training (perhaps similar to the training provided to postal workers) so as to lessen the probability that violence will need to be employed as a means to resolve a problem. In any case, it seems as though police services tend to treat civilian dogs in ways that are importantly different than the ways that they treat PSDs.

This differential treatment seems to track with the different, and seemingly contradictory, ways in which we often treat animals in general. That is, the animals that we have the strongest relationships with tend to be treated the best, whereas animals that are at a distance (literally and/or figuratively) from us are regularly treated abhorrently.⁷ For example, in Newfoundland under the “canid collections program,” killing a coyote could result in receiving a small payout from the government (CBC, 2018). However, trapping and killing a domesticated dog (a close relative of the coyote) will likely land the offender in serious legal trouble. This type of *moral flexibility* in deciding which animals to value based on how we relate to them is perhaps also present in the differential value bestowed upon PSDs by police services and officers as opposed to regular domesticated dogs.

When it comes to the allocation of certain rights, our relationships are sometimes relevant. In the case of citizenship, for example, as we will see below, the fact that we have a particular type of relationship with domesticated dogs generates special

⁷ To say that we tend to treat some animals *better* than others, does not entail the further claim that those animals are treated adequately well.

(relational) obligations on our part to provide the dog with certain goods and a particular scheme of rights that we are not obligated to extend to the dog's coyote relatives.

However, crucially, there are some obligations that are not relational, and that apply equally to both the dog and the coyote. As will be argued below, much of these *universal rights* pertain to the important interests shared by many sentient beings, such as an interest (and corresponding right) to continued life. This distinction between relational and universal rights is true in the strictly human case as well. While a citizen of country X has a right to vote where non-citizens do not, both individuals have an equal right not to be made to suffer (Donaldson & Kymlicka, 2013, p. 22). That is, citizenship demands certain rights in virtue of a particular relationship, but some rights are not relational, but rather, *universal*. As will be argued below, the important interests of civilian animals, such as their interests in continued life, are a universal, rather than a relational right. And thus, the discrepancy in the treatment of PSDs and civilian dogs cannot be cashed out by considering their different relationships to police services.

So far we have examined the relationships that PSDs have with their handlers, and the institutions that employ them, as well as the difference in treatment that PSDs seem to receive from the police writ large compared to civilian domesticated animals. In the next section we will consider the actual ways that PSDs are employed, including the important public interests that they protect. In order to foreground this discussion though, we must first consider the potentially problematic ways in which PSDs interact with civilians.

2.4. PSDs and Public Concern

As indicated earlier, not all PSD interactions with the public are unproblematic. Since PSDs are associated with police services, we might consider the harm that they can cause

to members of the public in any given incident through the lens of the ‘use of force continuum.’ The use of force continuum is a general (but not standardised) guideline that many police services employ to provide officers with guidance on the acceptable use of force against a civilian in a given scenario. Although specifics vary, the use of force continuums tend to range from ‘officer presence’ all the way to ‘deadly force’ (Dorriety, 2005, p. 91). Unsurprisingly perhaps, it has been shown that PSD bites inflict more damage on their victims than the bites of regular domesticated dogs. The reason for this is both the type of dog used for policing (normally the German shepherd and Belgian malinois), and the specialized training that they receive (Meade, 2006).

While PSD bites have resulted in death, “the risk of death is extremely low, almost nonexistent (Dorriety, 2005, p. 96). However, where exactly PSDs will fit on the use of force continuum may depend on the apprehension technique that they are trained to execute. Generally, there are two different techniques that may be employed: the ‘circle and bark’ (also referred to as the ‘bark and hold’ technique) or the ‘bite and hold’. A PSD trained to circle and bark will, upon deployment by their handler, find the suspect, circling them and barking until their handler arrives and gives them the command to stand down (Dorriety, 2005, p. 94). However, the PSD will attack if the suspect attempts to escape and/or tries to attack the PSD or someone else (Dorriety, 2005, p. 94). In contrast, PSDs trained in the bite and hold technique, once deployed, will (as the name suggests) bite and hold the suspect until they receive the command from their handler to release them, regardless of whether or not the suspect has surrendered (Dorriety, 2005, p. 94).

Given the fact that PSDs trained in the bite and hold method make it more likely that a suspect will be bitten, Dorriety argues that they ought to be placed on the use of force continuum in the category just above PSDs trained in the circle and bark method (Dorriety, 2005, p. 96). In this order, he concludes that PSDs ought to exist on the use of force continuum just below the use of deadly force, in the category ‘intermediate weapon control,’ which would also include other means of force such as pepper spray, batons, and tasers) (Dorriety, 2005, p. 96).

The distinction between the circle and bark and the bite and hold methods, as they pertain to the use of force, has more recently become a topic of debate in British Columbia, after a report released by Pivot Legal Society found that,

Every two days someone in British Columbia is injured by a police dog. Police Service Dog (PSD) bites are the leading cause of injury at the hands of municipal police, exceeding by a factor of six injuries incurred by all other forms of non-lethal force, including batons, pepper spray, fists, and Arwen rounds (beanbags)⁸. Unlike other police impact weapons such as fists and batons, police dogs are unique in their tendency to inflict permanent injury (King, 2014, p. iii).

Among the recommendations made by the author of the report, are to only train PSDs in the circle and bark apprehension method, and to create a new classification along the use of force continuum specifically for PSDs, categorizing their deployment as the use of a ‘hard’ weapon (King, 2014, p. 29). As we will see in the next section, suspect apprehension appears to be dangerous not only for the suspect being pursued, but also for

⁸ ARWEN is an acronym for ‘Anti Riot Weapon ENfield’. It is non-lethal, and can be used to launch gas canisters, or other forms of non-lethal projectiles (CBC, 2010).

the PSD. If that is right, it would seem that both PSDs and those pursued by PSDs have an interest in police services training PSDs in the circle and bark, rather than the bite and hold, method. The counter-argument to this point is that the bark and hold method leaves the human officer in greater danger than the bite and hold method (King, 2014, p. 4). We will return to this question in chapter four when we consider what labour rights PSDs ought to have, including their putative right to a healthy and safe work environment. Suffice it to say, for now, that the bark and hold method is perhaps safer for the suspect and for the PSD, while the bite and hold method is the better option for the protection of human officers.

Summing up, then, PSDs bare interesting relationships with handlers, the police services that employs them, and the community that they serve. The relationship that PSDs have with their handler is not easy to characterize. As we have seen, in some ways the relationship shares salient features of the relationships between companion animals and their humans. However, the relationship is not seen as one between an owner and a companion animal. Rather, PSDs themselves are often treated as members of the police service – often by both their handlers and the organization that employs them. They are trained on government money, and treated as ‘fallen officers’ if killed in the line of duty (CPS, n.d.). Additionally, PSDs relate to their handlers in ways that parallel with the relationships civilian humans have with their companion dogs *and* the relationship between two human police officers – they protect the humans they are with, and provide companionship and even encouragement when faced with adversity. The fact that the relationship between a PSD and their handler is multifaceted need not be problematic, and instead, points to its depth. In exclusively human cases, we often find that some of

our more important relationships are complex (e.g. co-workers can double as friends and confidants, as could a neighbor or a family member).

However, as we have also seen above, the respect and affection that handlers, and other members of a police service, have for their PSDs, may not always be extended to civilian animals. There are seemingly high numbers of civilian animal deaths at the hands of law enforcement. As suggested, one way in which this may be remedied is by considering the obligations that police services have towards animals in the community – to arm their staff with the tools and knowledge necessary to deescalate a potentially violent situation to avoid unnecessary harm or death. A good that, as citizens, domesticated animals would be likely be entitled to.

Perhaps the underlying thread that unites the concerns above is the fact that PSDs are working dogs. The work that they do shapes, in important ways, their relationships to those directly responsible for them – their handlers, and, to a certain degree, the police service. It also influences the ways in which they interact with the public. With the above considerations in mind, we can now consider, in more detail, the actual work that PSDs do.

2.5. Utility

As the title suggests, this section is primarily concerned with considering the multiple ways that we employ PSDs. As we will see below, PSDs help bring justice or closure to victims and their families alike by locating suspects or cadavers. Additionally, some PSDs contribute to the process of justice by aiding victims and witnesses in court, acting as a calming and therapeutic presence, and thus enabling the capacities of victims and witnesses to provide important testimony. All of this is in addition to their more

traditional uses, including but not limited to, their ability to detect illegal drugs and weapons.

As indicated above, one of the ways in which we employ PSDs is to search for deceased humans. The abilities of these cadaver dogs are truly phenomenal. While many PSDs are able to detect human remains, cadaver dogs are able to locate human remains that are years (or even decades) old, deep underwater, or underground (Oke, 2016). In 2016, the RCMP got their first cadaver dog, a five-year-old purebred German shepherd named 'Doc.' Originally trained to sniff out drugs and explosives at the Halifax airport, Doc and his handler received special training, which entailed the use of real donated human remains in various stages of decomposition. He is able to detect decomposed human remains more than 60cm underground (Mcmillan, 2016).

Cadaver dogs are a relatively new arrival in the PSD profession (Vass et al, 2003, p. 3). They possess the ability to differentiate between alive and recently deceased persons, and between human remains at varying levels of decomposition (Vass et al, 2003, p. 3). They can even tell the difference between human remains and the remains of other deceased animals (Vass et al, 2003, p. 3). Interestingly, Arpad Vass, a leading expert in the science of odour in the decomposition of human remains, contends that scientists still cannot fully explain exactly why cadaver dogs are able to detect human remains with such accuracy (Oke, 2016).

As indicated above, this particular service that PSDs provide helps serve a public interest in providing closure to families, and getting justice for victims. After all, it is a terrible plight to not know the fate of a missing loved one. If foul play was involved in

the events that led up to the disappearance and eventual death of an individual, locating the body is a key step in a criminal investigation.

Not only are PSDs able to reliably detect human scents, but also a range of potentially dangerous items. Specially trained PSDs can be used to locate a wide variety of things from currency and drugs, to firearms and explosives. When it comes to explosives, PSDs boast a 90% success rate in detection (Allsop, 2012, p. 59). Like those trained in explosive detection, PSDs trained in drug detection are often deployed at airports and border crossings (Allsop, 2012, p. 65). PSDs trained in drug detection and weapon recovery also often accompany their handlers on home searches (Allsop, 2012, p. 65).

These detection services made possible by the use of PSDs undoubtedly serve a public interest in community safety. However, this is by no means the only way in which PSDs interact with the community - their use in community outreach for police services is pervasive. The Edmonton Police Service provides a particularly interesting look into the very public nature of using PSDs, and the role they play in the community. Upon request, the PSD teams with the Edmonton Police Service may come and put on a demonstration at a community event, even providing coloring books for young children. Additionally, they offer comic books, trading cards, and even put out a yearly Christmas card, which features a photo of the Edmonton PSDs (Edmonton Police Service [EPS], n.d.). Other examples include the Vancouver Police Service, whose popular canine unit enjoys a new training facility because of a generous donation from a private citizen. Included in this new facility are sets of bleachers, and an area where public demonstrations can take place (VPS, n.d.). This is not unique to the Vancouver Police

Department however, as both the Calgary Police Service (CPS, n.d) and the RCMP (RCMP, n.d) have similar setups.

Many police services even have social media accounts dedicated to their canine units. It is quite common to find birthday wishes for PSDs, often accompanied by a picture of the ‘smiling’ canine, messages of support for fallen PSDs in other departments, and short videos demonstrating the abilities of the PSDs in the department. Some canine units reach out to the public (in particular, school children) to name new dogs entering their training programs. For example, in 2018 the RCMP reached out to children across Canada to name 13 new puppies, the only restriction - the name had to begin with ‘L’. They received over 15,000 entries, and the winners were announced at the RCMP Police Dog Service Training Center in Alberta (RCMP, 2018a). The Vancouver Police Department has also done this (CTV, 2014).

Arguably, crucial that a police service has a good relationship with the community they serve. At the very least, it seems uncontroversial to say that the type of policing that we ought to have is predicated on a strong relationship between the police service and the community that they serve. PSDs seemingly help to support this important aspect of policing. Police services capitalize on the (general) value that we place on dogs as a society in order to connect with the community, as a way to engage community members by appealing to a mutual feeling of care and interest towards dogs.

Some police agencies are able to further capitalize on the positive impacts that dogs have on humans in a more formal role: providing victim services to the community. Somewhat recently, Canine Assisted Intervention Trauma Dogs (CAI, for short) have been trained and employed at multiple police agencies in Canada. CAI dogs tend to be

Labrador retrievers, a breed also commonly used for drug and explosives detection (CBC, 2015a). Officials from the Pacific Assistance Dog Society say that Labradors are the best breed for this particular job, due to their calm disposition and their non-intimidating demeanor (CBC, 2015a).

Training for CAIs is extensive, lasting two years (CBC, 2015a). They are trained to stay calm during chaotic and stressful situations that involve screaming and crying, which one might expect from victims of a recent trauma (Gilles, 2017). Their training is so comprehensive that they are able to carry out their duties even without a handler present, which is especially important given the fact that some interview situations may not permit the presence of a third party, such as a canine handler. The first few hours after a traumatic event has occurred are crucial for police investigations, however, unfortunately, answering questions from an investigating officer after experiencing a trauma is extremely difficult. CAIs are meant to be used in situations such as these, especially for young victims who are required to make video statements, which may be even more difficult because their parents or guardians may not be permitted to be present during this process. Police have found that sometimes children direct their answers toward the CAI in the room, rather than towards the officer. CAIs are even allowed in the courtroom in order to comfort victims, particularly those who have experienced sexual violence, be they young or old (Gilles, 2017).

Just this past year a CAI with the Calgary Police Service named 'Hawk' was granted permission by a trial judge to accompany two young witnesses when they testified in a sexual abuse case. The two witnesses (a seven year old girl and her nine year old brother) met Hawk for a few 'play-dates' before testifying in court. During the

hearing in which the judge granted the prosecutors motion to allow Hawk to accompany the witnesses, he addressed Hawk directly, saying “you might be the first dog in Canada, Hawk, to be a court-ordered comfort dog” (Grant, 2014).

Much like PSDs that search for cadavers and apprehend suspects, CAIs play an important role in getting justice for victims. Victim and witness testimony are integral components of criminal justice proceedings. By enabling victims and witnesses to provide their testimony, CAIs help to serve a public interest in convicting offenders, and getting justice for their victims. One feature to note about CAIs is the fact that they seem to be enabling the capacities of the humans that they work with. As we will see later, a key feature of domesticated animal citizenship is enabling the capacities of our domesticated animal co-citizens so as to allow them to actively participate in our society. It is interesting to note, then, the reciprocity here: not only can we enable the capacities of many domesticated animals, but some domesticated animals enable the capacities of humans, in very important ways. As Donaldson and Kymlicka argue, these types of inter-dependent symbiotic relationships are of the utmost importance when considering what it means to be a citizen (Donaldson & Kymlicka, 2013, p. 58).

However, as indicated above, the fact that PSDs play an important role in protecting certain public interests really does not tell us a lot about whether or not we are morally justified in using them. For, PSD work can be quite dangerous. Indeed, one of the more common ways in which PSDs are used is particularly dangerous. To illustrate this concern, we will consider the ways in which PSDs are employed to track and apprehend suspects in conjunction with other dangerous aspects of PSD use.

2.6. The Dangers of PSD Work

Many PSDs are used in tracking and apprehending suspects. Tracking and apprehending suspects is one of (if not *the*) most dangerous job that PSDs do. For example, all 12 of the PSDs memorialized by the Canadian Association of Police Canines (Canadian Police Canine Association, n.d.), and all five of the fallen Edmonton Police Service PSDs, died tracking and apprehending suspects (EPS, n.d.). As indicated above, we will return to this question in chapter four when we consider the putative labour rights of PSDs.

PSDs that track and apprehend suspects help get justice for both regular civilians and human officers. In May 2018, a police officer in Halifax was stabbed and injured by a teenager after stopping her and another teen under suspicion that they were operating a stolen vehicle. The officer escaped his attackers and survived. In order to find and apprehend the suspects, the Halifax Regional Police employed one of their PSDs, locating the suspects shortly thereafter (The Globe and Mail, 2018).

Injury as a result of tracking and apprehending suspects is not the only danger that PSDs face. Drug detection has recently taken on a new and potentially dangerous element since the increasing ‘popularity’ of the opioid fentanyl. In British Columbia, which has been hit particularly hard by fentanyl abuse, there were 2,200 fentanyl related deaths from 2016-2018 (British Columbia Coroner Service, 2018). In the United States, over 20,000 people overdosed from fentanyl and its analogues in 2017 alone (National Institute on Drug Abuse, 2017). PSDs, with their exceptional olfactory abilities, are a natural choice to help combat the trafficking and production of fentanyl. However, given the rather rapid increase in fentanyl deaths, no training techniques for PSDs were available until 2017.

Developing a training program was complicated because fentanyl is so dangerous to ingest, making it a difficult substance with which to train for both handlers and PSDs. The RCMP was the first to develop a secure way to train PSDs to detect fentanyl, being honored at the Homeland Security Awards in New York for their efforts (RCMP, 2017). Essentially, the RCMP diluted pure fentanyl into liquid form, allowing PSDs and handlers to train with the scent of fentanyl, without facing the risk of inhaling it (RCMP, 2017). However, when conducting actual searches, PSDs (and their handlers) risk coming into contact with fentanyl in its inhalable form. Indeed, relatively recently, in Florida, three PSDs overdosed (but survived) when they came in contact with fentanyl during a drug search. The situation may not be quite so serious for dogs, though, given the fact they are 20 times more resistant to fentanyl (by bodyweight) than human adults. Additionally, many handlers have started carrying naloxone, the antidote for opioid overdoses, and are being trained by veterinarians and private interest groups on how to administer the antidote to their PSDs through intramuscular injection. While experts agree that there is no PSD fentanyl overdose epidemic, the risks of overdose are still real, and deserve to be treated as such (Cima, 2018).

Another perhaps less obvious way in which PSDs are put into danger is by working with inept and/or neglectful handlers. Indeed, for PSDs, this has proven to be a much more dangerous venture than fentanyl exposure. In particular, there have been a staggering amount of PSD deaths in the United States resulting from handlers leaving their canines locked in hot vehicles. In 2015 alone, out of the 26 PSDs that died while on duty in the United States, 11 were the direct result of being left in a hot car by their handlers (Ingraham, 2015). Indeed, a media review conducted by a subsidiary of USA

Today found that 46 police dogs have reportedly died from this cause in the United States from 2011 - 2015 (Rodewald, 2015). However, this is by no means a problem unique to American law enforcement. In 2011, a British police sergeant was relieved from his post after two PSDs in his care died while locked inside his cruiser. Years prior, this same officer was responsible for the death of another PSD, for the exact same reason (Greenwood, 2011).

Now, this certainly runs counter to the claims made above about the strength of the bond between a PSD and their handler, and the value bestowed upon them as companions and coworkers. Leaving a PSD in a hot car to die certainly betrays an attitude of neglect, and exploitation. As mentioned in the beginning of this chapter, though, the best we can hope for here are rough generalizations. That is, PSDs are going to be treated differently depending on the society in which they work, including institutional and handler attitudes towards them. While the neglect of PSDs is a problem in some places, other institutions take precautions specifically to avoid similar issues. To use one example, the Edmonton Police Service canine vehicles come equipped with a 'hot dog' system that monitors the temperature in the vehicles, lowering windows and sounding alarms if it becomes dangerously hot. Additionally, their vehicles have non-slip mats, and built in water dishes (EPS, n.d.). Furthermore, as indicated above, the relationship between PSDs and their handlers is a complex one, perhaps in many ways it is akin (but not equivalent) to the complexity of many human relationships. And, all too often in human relationships, especially those that are particularly complex, we find things like neglect, and other harmful aspects. When it comes to PSDs, though, a comprehensive scheme of labour rights would, ideally, help ameliorate this disparity in

treatment that results in the needless death of PSDs. Though this last point will be explored at length in chapter four, as we will see below, concern for the well-being of PSDs has also been the driving force behind certain legislative changes.

2.7. Protections

The dangers faced by PSDs, and the valuable service they provide to communities has not gone entirely unnoticed by the government and the population writ large. Indeed, in Canada, there is a stiffer penalty for killing service animals than there is for killing a non-service animal⁹. This law was introduced following the death of a Canadian PSD. In 2013, PSD Quanto was stabbed to death in Edmonton while chasing a fleeing suspect. Quanto had been with the Edmonton Police Service for three of his five years, and was responsible for over 100 arrests. At the time of his death, there was no special law in place protecting police animals, canine or otherwise. The man responsible for Quanto's death plead guilty to six charges, including an animal cruelty charge, receiving a 26 month sentence (Allison, 2017). After this incident, new legislation was passed making it illegal to specifically kill service animals (including police horses, military, and private service animals). While its official title is the 'Justice for Animals in Service Act', it is commonly referred to as 'Quanto's Law'. If someone is found to have intentionally violated this law, they face a minimum prison sentence of 6 months, and a maximum sentence of five years (Lagerquist, 2017).

Interestingly, however, not everyone was in favor of Quanto's Law. To see why, we might briefly refer back to a study mentioned above, regarding the use of PSDs in

⁹ To the best of my knowledge, there have been no negligent police handlers charged under Quanto's Law.

British Columbia, and the distinction between the ‘circle and bark’ and the ‘bite and hold’ methods of training. One Ottawa reporter argued that, since many PSDs are trained to bite and hold, people being apprehended by PSDs do not always have an adequate chance to surrender, as they would if they were being apprehended by a human officer (CBC, 2015b). And, consequently, when attacked by an animal, especially an animal with prior training, it is not unreasonable to think that an individual would naturally respond by trying to inflict violence upon the attacking animal, so as to free themselves from the pain of being attacked (CBC, 2015b). We might think, then, as we saw above, that the bite and hold method puts both the PSD and the suspect at greater risk of injury.

At first glance it might seem as though the aforementioned reporter is appealing to a person’s right to self-defence here to rebut Quanto’s Law. However, the line between self-defence and resisting arrest is, regrettably, sometimes difficult to discern. And so, determining which cases are self-defence and which cases are resisting arrest by harming a PSD likely can only be determined by considering individual situations. In any case, as mentioned above, the distinction between the bite and hold and the bark and hold methods seems to be an important one, not just for the suspects that are being apprehended, but also for the PSDs involved – this will be an issue discussed in chapter four when we consider the potential labour rights for PSDs, including a right to a healthy and safe working environment.

With this general introduction to the realities of PSD use, we can move on to what is another important take away from this second chapter: the highly selective process that produces PSDs. We have yet to consider, in any depth, the arguments for, and against the use of PSDs, and our discussion here will be brief and descriptive, returning to the

relevance of PSD breeding and selection in the final section, after a theoretical framework has been properly outlined in order to allow for a moral evaluation of the use of PSDs, and what they may be able to illuminate about political theories of animal rights.

2.8. PSD Breeding and Selection

There are two components to consider here: the genetic makeup of PSDs, and the process of identifying and selecting which dogs will become PSDs from a pool of genetically adequate candidates. A premium is placed on obtaining dogs with proven lineages. Indeed, part of the motivation for police services to operate their own breeding programs for PSDs is to ensure knowledge of the dog's lineage, something that is not always possible when importing dogs from overseas (Winnipeg Police Service, 2017). In-house breeding programs are popular among some Canadian police services. The RCMP, for example, ramped up its breeding program since its inception in 1999. In its inaugural year, the program produced three litters, for a total of 16 pups. In 2007, eight years later, they produced 21 litters, for a total of 122 pups (Benoit, 2008). The males used for breeding tend to already be working PSDs, while the females¹⁰ are not. However, crucially, the female dogs used for breeding “show those traits required of working police dogs” (Benoit, 2008). The RCMP highlights some of these required traits on their website, PSDs “must have particular personality traits which make them suitable for

¹⁰ It extends beyond the scope of this thesis to discuss potential issues of sexism in PSD breeding. However, it may be reasonable to consider here a potential (and somewhat obvious) reason for why working male PSDs are often used for breeding and why female working PSDs are not. The act of reproduction entails a far greater physiological and time commitment from female dogs as opposed to males. In order for working female PSDs to breed, then, it would likely require that they are taken off the job for an extended period of time, whereas no such demand needs to be made of male PSDs.

police work: even temperament, hunting instinct and sound character are essential” (RCMP, n.d.).¹¹

However, this is not a comprehensive list of desirable traits. For example, one study found that “desire for work was related to an increased likelihood that a dog would successfully complete training” (Maejima, Inoue-Murayama, Tonosaki et al, 2007, Discussion section) Indeed, the authors argue that the desire for work might actually be a *necessary* aptitude for working dogs to possess (Maejima, Inoue-Murayama, Tonosaki et al, 2007, Discussion section) . Another study found that “police dogs scored markedly higher in the characteristics of ‘courage’, ‘hardiness,’ ‘prey drive,’ and ‘defence drive’ than public German Shepherds” (Wilsson & Sundgren, 1997 p. 294). These personality traits and the selection of PSDs are often preceded by a close physical examination of the candidate dogs. The RCMP lists as a necessary requirement that their PSDs must be “in perfect physical condition” (RCMP, n.d.).

Given these stringent requirements, it seems reasonable to expect that even candidate dogs with proven genetic lineages will sometimes (or even *often*) fail to meet the training requirements¹². Indeed, the RCMP claims that, of the genetically qualified candidate dogs that begin their training program, only 17% become PSDs (RCMP, n.d.). In Japan, as little as 30% of the dogs that enter their drug detection program are successful (Maejima, Inoue-Murayama, Tonosaki et al, 2007, Introduction section). The

¹¹ This need not entail the claim that ‘sound character’ is entirely genetically determined. Rather, only the weaker claim that two parents with desirable character traits perhaps make it *more likely* that their offspring will have a genotype that, when exposed to the right environment, could potentially yield similarly desirable character traits.

¹² Of course, this is not to say that the offspring to two parents that have desirable traits will necessarily develop similarly desirable traits. For, their offspring may not inherit some of the genetic material necessary for developing similarly desirable traits. Or, alternatively, the offspring may inherit the relevant genetic material, and yet fail to have that genetic potential manifest due to any number of environment factors.

fact that the selected dogs must have a high ‘prey drive’ or ‘hunting instinct’ seems to imply that salient features of PSD work capitalize on the natural instincts and disposition of any candidate PSD, channeling these instincts, including their willingness to participate and work with humans. Indeed, as alluded to above, the willingness to work might even be a necessary precondition of developing a successful PSD.

These aspects of PSD selection and development will become more relevant in chapter four, when we consider the putative interests that PSDs have in doing police work, given the type of beings that they are. That is, given the fact that PSD are bred and trained to be the type of dogs that excel doing police work, it is in their interests to do it. Or, at least, it is not obvious that they have a strong enough interest in not doing police work to justify a general prohibition on using PSDs to do police work. However, this is not to say that they may be used as police dogs for any and all purposes. For, as will be argued, PSDs are owed certain protection in the form of citizenship status and labour rights.

2.9. Chapter Summary

So, where does all of this leave us? We have seen that the relationships that PSDs have with their handlers are complex. That is, handlers and PSDs relate to each other on multiple levels. In some ways they are certainly colleagues. But other aspects of their relationships track more closely with aspects of animal companionship. In any case, what this ultimately points to is the strength of the relationship between PSDs and their handlers. For, as we have seen, in the human case, often our closest relationships seem to be those that are similarly complex – friends can (and often do) share some labour responsibilities. Family members can be friends, share labour responsibilities, and

provide protection in dangerous situations. The strength of this relationship will become more relevant when we consider labour rights of PSDs and their status as co-citizens, for, I will later argue that their handlers can and ought to play a crucial role in protecting the basic interests of PSDs, given the intimacy of their relationships.

We have also seen that the relationships that PSDs have to the police services that employ them are, in some ways, inconsistent. Police services sometimes treat PSDs as if they were members of the police service. Indeed, police services often go to great lengths to ensure that PSDs are treated and seen as members of the police services. However, PSDs are also treated in importantly different ways than the human members of the police service. For example, minus a few cases, PSDs are not usually entitled to funding for their retirement, nor are they accorded representation by a labour union that could be a valuable service in protecting some of their most important interests – these are questions that we return to in chapter four when we consider labour rights for PSDs.

Also in chapter four, as indicated above, we will consider what role the interests that PSDs have in determining whether or not we are morally permitted in using them. Part of determining their interests will depend on getting a general idea of how dogs come to be PSDs, which is largely dependent on being physically and mentally willing and able to do the job – something we have briefly considered at the end of this chapter. Before considering our moral obligations to PSDs, though, we need to outline a theory of animal rights. As I will argue in the next chapter, all three theories of animal rights that we will consider fail in their current form. Ultimately, I argue that synthesizing the citizenship approach to animal rights, and the interest-based approach to animal rights yields an integrated interest-based approach to animal rights that overcomes the

shortcomings of each theory in their current forms. This will properly foreground our discussion in the fourth chapter where we consider whether or not we are morally justified in using PSDs, a question that I answer in the affirmative.

Chapter 3: Animal Rights Theory

As indicated above, PSDs contribute to human societies in a multitude of important ways. They are deeply connected to their handlers and the institutions that employ them, as well as the communities that they serve. Indeed, it seems as though they are revered for the work that they do and the sacrifices that they make, as evidenced by the memorials erected across the country to honor those PSDs that have died in the line of duty. Many of the services provided by PSDs serve important public interests, such as our interest in limiting, as far as possible, the trade in, and use of, illegal narcotics, weapons, and explosives, and seeking/pursuing justice and closure for victims and families.

As key contributors and valued members of our community, then, a good place to start when considering the moral permissibility of using PSDs is with political theories of animal rights. The question to be asked is this: given that we possess the power to control the fate of PSDs, how do we exercise this power justly? Perhaps, the answer to this question is that justly exercising our power over dogs means that we do not use them to do any police work, for it is perhaps too dangerous and/or demanding. Indeed, a prominent theory of animal rights commonly referred to as the *abolitionist approach* would prescribe just this: an outright ban on all uses of animals, including PSDs. The primary focus with positions such as this tend to be the *negative* rights of animals. As we will see below, though, this type of reasoning fails to take into account salient features of our relationships to animals – mainly, that relationships with animals are not *necessarily* harmful and exploitative (Donaldson & Kymlicka, 2013, p.81).

Political theories of animal rights, by contrast, move beyond considering putative negative rights for animals to include potential positive rights (Donaldson & Kymlicka,

2013, p. 6). Two prominent political theories of animal rights to be considered below are the citizenship approach defended by Donaldson and Kymlicka (2013), and the interest-based approach championed by Cochrane (2009, 2012, 2016).

Donaldson and Kymlicka's citizenship approach argues that, in virtue of the fact that we have brought domesticated animals into our society, and effectively closed off other possible forms of existence to them, we ought to accord them a set of citizenship rights on par with those accorded to humans. Importantly, these rights extend beyond universal human or animal rights, and include things like the right to shape the public good, and a right to residency (Donaldson & Kymlicka, 2013, p. 101). That is, we must also consider what animal co-citizens are owed based on their *relationship* to humans and the territories on which they reside.

Cochrane's interest-based approach argues that, as sentient beings, animals have interests, some of which are strong enough to generate obligations in others (i.e. they have corresponding rights) (Cochrane, 2012, p. 19). We "work out" what rights animals have by considering the interests of animals and determining whether, "all things considered", these interests are sufficient to impose duties on others to uphold the corresponding right (Cochrane, 2012, p. 19).

Yet, both theories are problematic. For the citizenship approach, appealing to the historic injustice of animal domestication to help justify a right to citizenship is undermined by the non-identity problem. As will be argued in chapter four, however, an interest-based approach can rectify this issue, though, to succeed, it will have to escape the challenges that can be directed at Cochrane's interest-based approach. For Cochrane, autonomous and non-autonomous beings have interests, which, on his account, means

that they are also rights bearers. However, as we will see, his appeal to Kantian autonomy as a means by which to delineate rights to continued life and freedom is problematic for multiple reasons. First, however, let us consider the abolitionist approach in order to foreground our discussion of the two political theories of animal rights that will be our main focus in this chapter.

3.1. The Abolitionist Approach

The process of domesticating animals has been, historically, a bloody one. The abolitionists argue that there is no way to rectify these past wrongs, and so we ought to seek an end to all human and domesticated animal relations. This position does not entail that we abandon all of the domesticated animals currently in our care (Francione, 2007). Rather, we have a moral obligation to restrict the reproduction of the already existing domesticated animals, so as to prevent any more from coming into existence (Francione, 2007). For Francione, a key proponent of the abolitionist approach, the plight of the domesticated animal is so terrible, that he “explicitly denies that domesticated animals have a right not to be coercively sterilised” so that the existence of domesticated animals may be abolished (Palmer, 2016 p. 161).

Francione largely attributes the plight of domesticated animals to their status as property, but he also explicitly denies that, even if animals were no longer considered to be property that there could be a just relationship between humans and domesticated animals (Francione, 2007). He claims that the process of domestication itself has altered the way that we interact with domesticated animals in such a way that it is simply not possible to create a truly just relationship (Francione, 2007). Crucially, he claims that:

Domestic animals are dependent on us for when and whether they eat, whether they have water, where and when they relieve themselves, when they have sleep, whether they get any exercise, etc. Unlike human children, who, except in unusual cases, will become independent and functioning members of human society, domestic animals are neither part of the nonhuman world nor fully part of our world. They remain forever in a netherworld of vulnerability, dependent on us for everything that is of relevance to them. We have bred them to be compliant and servile, or to have characteristics that are actually harmful to them but are pleasing to us. We may make them happy in one sense, but the relationship can never be “natural” or “normal”. They do not belong stuck in our world irrespective of how well we treat them (Francione, 2007).

The state of dependency and vulnerability that we have induced through generations of selective breeding for human purposes has, in effect, left domesticated animals with no opportunities to live good lives. And, since there is no way to create just relations between humans and animals (i.e. because domesticated animals cannot – purportedly – live good lives), we are morally obliged to seek the abolition of all domesticated animals by refusing to allow more to come into existence.

Donaldson and Kymlicka rightly point out that the claim that domesticated animals cannot have good lives because they are dependent and somehow “unnatural” is simply untrue (Donaldson & Kymlicka, 2013, p. 81). They invite us to reflect on (as one example) rescued farm animals who have been relocated to sanctuaries, and seem to derive deep satisfaction from interactions with their cross-species farm friends, and the

social atmosphere they find themselves in (Donaldson & Kymlicka, 2013, p. 81).

Donaldson and Kymlicka argue that Francione's position on domesticated animals is rooted in a fundamental misunderstanding about states of dependency and vulnerability (Donaldson & Kymlicka, 2013, p. 83). They rightly point out that we are all dependent and vulnerable to varying degrees. Even for humans that are "acutely dependent and vulnerable" (e.g. the severely cognitively disabled, individuals with Alzheimer's and infants), there is nothing inherently undignified about their station. Rather, the indignity arises in one's response to the dependency and vulnerabilities of others, not in said dependencies or vulnerabilities themselves (Donaldson & Kymlicka, 2013, p. 83).

Even if we accept the argument (contentious as it is) that no domesticated animals currently have good lives, there is no reason to think that it *must* be this way. Political theories of animal rights, such as those outlined by Donaldson and Kymlicka and Cochrane, offer us a way of pushing beyond putative negative rights for domesticated animals and urge the inclusion of a comprehensive scheme of positive rights, the realization of which would render the relationships between humans and animals just, and, plausibly, make it much more likely that they will have good lives.¹³

Crucially, political theories of animal rights do not deny that animals ought to also possess negative rights. Rather, they seek to extend beyond these negative rights, and recognize the fact that not all relationships between humans and animals are unjust, or, at the very least, that they need not be this way. Contra the abolitionists, Donaldson and

¹³ It is quite plausible to argue that there are some domesticated animals that do not have opportunities to live good lives, or even lives worth living, and that humans are responsible for their condition. We might consider the plight of broiler chickens, who, as a result of being selectively bred to maximize their growth rate, suffer a multitude of health problems (Bessei, 2006, p. 455). It seems quite reasonable to claim that in cases like this, some domesticated animals might have lives not worth living. However, it is equally as plausible to claim that many domesticated animals do (or at least *can*) have lives worth living – it is this category of animals that we are most concerned with here.

Kymlicka argue that the way to rectify the wrongs suffered by domesticated animals is to extend to them citizenship status. (Donaldson & Kymlicka, 2013, p. 101). Given the historic injustice of domesticating animals, and the fact that many present-day domesticated animals have no feasible opportunities for alternative existences, it is argued that “we owe them and their descendants membership, in the form of citizenship” (Donaldson & Kymlicka, 2013, p. 101). We now find ourselves in a society in which there exists billions of domesticated animals. Animals who, as a result of the process of domestication, have no alternative but to exist in human societies. But, does the causal role played by humans in the creation of domesticated animals really generate any moral or political obligations on our part? Contra Donaldson and Kymlicka, no. To understand why, a brief outline of the citizenship approach to animal rights is in order.

3.2. The Citizenship Approach

Donaldson and Kymlicka’s starting point is what they refer to as the “strong animal rights position” (Donaldson & Kymlicka, 2013, p. 39). Essentially, the strong animal rights position is this:

...animals should be recognized as vulnerable selves with inviolable rights (against those who would restrict basic rights to humans), and that these protections of selfhood should be extended to animals without being watered down, or displaced by other moral priorities (against those who would place animals and nature lower than humans in a hierarchy of moral standing, or advocate a moral standing for animals that disregards the importance of selfhood) (Donaldson & Kymlicka, 2013, p. 39).

The starting point for this theory is a recognition of the moral relevance of sentience. Sentient beings are those that have a subjective experience of the world - things can go better or worse *for them*. For Donaldson and Kymlicka, sentient beings “have a distinctive subjective experience of their own lives and of the world” (Donaldson & Kymlicka, 2013, p. 24). Sentient beings experience vulnerability – to pleasure and pain, to frustration and satisfaction, to joy and suffering, or to fear and death” (Cochrane, 2012, p. 25). To be sentient, on Donaldson & Kymlicka’s account, is different than being merely alive, it requires a subjective experience, for, “[o]nly a being with a subjective experience can have interests, or be owed the direct duties of justice that protect those interests” (Donaldson & Kymlicka, 2013, p. 36). Beings that are merely alive (but lack a subjective experience) do not qualify as rights bearers (Donaldson & Kymlicka, 2013, p. 36).

Crucially, the strong animal rights position entails the claim that animals have *inviolable* rights¹⁴ (Donaldson & Kymlicka, 2013, p. 19). Donaldson and Kymlicka understand the principle of inviolability to be “conditional on the circumstances of justice, but where those circumstances exist, it provides firm protection for basic rights, even (and indeed especially when) sacrificing the interests of the few could benefit the

¹⁴ There are perhaps two ways to read Donaldson and Kymlicka’s view of inviolable rights. First, it seems as though Donaldson and Kymlicka may have an unconventional understanding of inviolability (i.e. that inviolable rights are sometimes violable, as in the case of self-defence). There is, however, another possible reading to consider. For, included in their definition of inviolability is reference to the ‘circumstances of justice.’ For Donaldson and Kymlicka, we cannot violate the inviolable rights of animals, so long as we are in the circumstances of justice with them. If, however, we are not in the circumstances of justice with animals (say, in cases of self-defence) then there is no inviolable right that is violated when we kill the attacking animals, for, we are no longer in the circumstances of justice with that animal. That is, in cases of self-defence, on this reading, we are not violating an inviolable right by using lethal force against the animal. Rather, we cannot refrain from killing the animal without seriously undermining our own chances at survival – which is to say that we are not in the circumstances of justice, and thus there is no right to continued life for the animal. I interpret Donaldson and Kymlicka to be saying the latter (Donaldson & Kymlicka, 2013, p.40 – 45).

many” (Donaldson & Kymlicka, 2013, p. 44). That is, the basic interests¹⁵ of animals in say, not suffering, cannot be sacrificed for the good of others (Donaldson & Kymlicka, 2013, p. 19). The basic idea is this: many animals are sentient. Sentient beings have a special moral status in virtue of their sentience because they “experience the world from the inside” – they have a subjective experience of the world (Donaldson & Kymlicka, 2013, p.31). That an animal’s life can fare well or badly from their perspective matters morally. After all, this is the primary motive of anti-cruelty legislation, and condemnations of cruelty, in societies like our own. Since this is the case, we have direct moral obligations to sentient beings. There are no morally relevant differences between humans and animals that would permit protecting basic human interests (from birth to death) but not the relevantly similar interests of sentient animals. Since we accept that humans have inviolable rights (which protect these basic interests), we must also accept that sentient animals have relevantly similar inviolable rights.

Crucially, however, Donaldson and Kymlicka argue that, beyond these universal rights owed to all sentient animals, we have group-differentiated rights, based on our historic and ongoing relationships with some of these animals (Donaldson & Kymlicka, 2013, p. 6). When it comes to domesticated animals, Donaldson and Kymlicka argue that they ought to be accorded citizenship. However, traditionally, citizenship status presupposes a certain set of capacities that seem, at first glance, to exclude animals (Donaldson & Kymlicka, 2013, p. 103). Generally, it has been thought that there are three capacities that are essential for being considered as a citizen: the capacity to (a) have and

¹⁵ Donaldson and Kymlicka’s primary concern here is domesticated animal citizenship, not an interest-based approach to rights. As such, while they do speak about animal interests, they do not provide a robust definition of what constitutes an interest.

express a subjective good, (b) abide by social norms and engage in cooperation, and (c) co-author laws (Donaldson & Kymlicka, 2013, p. 103).

It is somewhat contentious to claim that animals possess these first two abilities, but it is especially controversial to claim that they possess the ability to participate in the co-authoring of laws. However, Donaldson and Kymlicka do not want to dispose of this list of necessary capacities for citizenship, but rather, they want to reinterpret it (Donaldson & Kymlicka, 2013, p. 103). While these three capacities are generally argued to belong only to beings that are autonomous in a Kantian sense, Donaldson and Kymlicka argue that reinterpreting this list so as to include beings that are not autonomous provides a more robust conception of citizenship for us all (Donaldson & Kymlicka, 2013, p. 107). After all, each of us possesses (or lacks) these three capacities (traditionally construed) at different points across a life time (Donaldson & Kymlicka, 2013, p. 27).

However, the mere fact that domesticated animals possess the necessary (reinterpreted) capacities for citizenship does not really tell us whether or not they ought to be considered as citizens. Crucially, for Donaldson and Kymlicka, it seems that part of our obligations towards domesticated animals are rooted in our historical and ongoing relationships, including the causal role that we played in their domestication, that generates an obligation on our part to extend to them citizenship status and the scheme of rights that such a status entails. Their claim for domesticated animal citizenship, then, rests on these two premises:

- (1) Having brought such animals into our society, and deprived them of other possible forms of existence (at least for the foreseeable future), we

have a duty to include them in our social and political arrangements on fair terms. As such, they have rights of *membership* - rights which go beyond the universal human rights owed to all animals, which are hence relational and differentiated;

(2) the appropriate conceptual framework for thinking about these relational membership rights is that of *citizenship*. Citizenship, in turn, has at least three core elements: residency (this is their home, they belong here), inclusion in the sovereign people (their interests count in determining the public good), and agency (they should be able to shape the rules of cooperation) (Donaldson & Kymlicka, 2013, p. 101)

It is here that we can consider the first criticism of the citizenship approach, in its current state. Note that (1) seems to be, at least in part, a call for the redress of an historic injustice by extending citizenship rights to domesticated animals. Indeed, Donaldson and Kymlicka argue that the case of domesticated animals is relevantly similar

to the case of former slaves, indentured labourers, or foreign migrants who were initially brought into a community as a subordinated case, but who rightly demanded inclusion in the 'we' of the political community. When we bring newcomers into our society on a permanent basis, we owe them and their descendants membership, in the form of citizenship" (Donaldson & Kymlicka, 2013, p. 101).

However, as will be argued below, it is not clear that our current day domesticated animals have been wronged by the historic process of domestication because (a) they (let us stipulate) have lives worth living, and (b) without this process of domestication, would

not exist (i.e. there were no labradoodles in the wild 10,000 years ago). This is what is known as a non-identity problem.

Before we consider, in more depth, the reasons why this is problematic for the citizenship approach in its current form, we need an outline of the non-identity problem itself. Formulated by Derek Parfit (Parfit, 1984) and applied to the animal case by Clare Palmer in her 2012 paper “Does Breeding a Bulldog Harm It?”, the non-identity problem is, essentially, the following. Suppose X is pregnant with child X1. X, knowing full well the harmful effects of alcohol on fetuses, decides to drink excessively while pregnant. As a result, X1 is born with a disease that is the direct result of X’s choice to drink whilst pregnant. We may stipulate here that, even though X1 can be said to have a life worth living (a life where the intrinsically good states outweigh the intrinsically bad ones - see Palmer 2012, p. 159), that she was still harmed by X because X has made her worse off than she would have been, had X abstained from alcohol while pregnant. Now, suppose that there exists another person who wants to bear a child, call her Y. For whatever reason, Y wants to have a child with a disability (perhaps Y wants some sort of extra attention or something along these lines). To fulfill this goal, Y undergoes in vitro fertilization, and purposefully selects for a child that will be born with a disability. Call this child Y1. Now, as is the case with X1, we may stipulate here that Y1 also has a life worth living. However, unlike X1, and despite a strong intuition to the contrary, it does not seem like we can say that Y1 was harmed by Y’s action. This is because Y1 has a life worth living, and Y1 would not have been brought into existence had she not been selected for by Y. Any other child that Y could have brought into existence would have been non-identical to Y1. Thus, Y1 has not been made worse off by being selected for,

because if she had not been selected for, she never would have been brought into existence. Intuitively, we want to say that Y has harmed Y1. However, we tend to think of ‘harm’ as an act which makes an individual worse off than they would have been had they not been subjected to that act. Since Y1 has not been made worse off by Y’s action, contra our intuitions, we cannot say that Y has harmed Y1.

So, what does this have to do with the citizenship approach? Mainly, insofar as Donaldson and Kymlicka’s argument for extending citizenship to animals is premised on the idea of rectifying the historic injustice of animal domestication, it is undermined by the non-identity problem. Recall that, for Donaldson and Kymlicka, justice requires that we extend citizenship to domesticated animals in virtue of the fact that we have “brought such animals into our society, and deprived them of other possible forms of existence (at least for the foreseeable future)” and so “we have a duty to include them in our social and political arrangements on fair terms” (Donaldson & Kymlicka, 2013, p. 101). For it to be the case that we have acquired moral obligations to our current domesticated animals because of the historic injustice of domestication it seems that domesticated animals - those that exist in society today - must experience some harm from being born that has a causal relation to the process of domestication. Certainly humans have played a causal role in bringing these animals into existence. However, so long as these animals are stipulated as having lives worth living, it is hard to say that they have been harmed, seeing as the alternative was non-existence. That is, we cannot say that labradoodles would have been better off had humans never domesticated their ancestors, because (a) labradoodles have lives worth living and (b) without domestication, labradoodles would not exist. Thus, the harm that Donaldson and Kymlicka claim ought to be rectified by

extending citizenship rights to domesticated animals, seems not to be a harm at all. Therefore, there is no injustice in need of redress. Or, more accurately, there are no currently existing beings who can be compensated for these historic injustices.

There is an objection to consider here. It seems as though this line of reasoning could have potentially problematic consequences when extended to the human case. That is, it seems that applying the non-identity problems to cases of human historic injustices would mean that there is no basis for providing (for example) reparations to the descendants of victims of historic injustices. I lack the space here to fully explore the literature on this matter. Suffice it to say, for now, that the debate about historic injustice and the non-identity problem in the human case is by no means settled (for a helpful overview of the debate, see Roberts, 2009). It is important to point out, though, that if we accept the claim that there is no basis for providing (for example) reparations to the descendants of victims of historic injustices, we are not committed to the further claim that we cannot acknowledge and rectify current injustices. That is, the descendants of the victims of historic injustices are often victims of injustices perpetrated by modern iterations of similarly unjust institutions. Accepting the consequences of the non-identity problem in no way commits us to the claim that we cannot (or should not) work towards getting justice for current victims.

Indeed, this is true in the animal case as well. Suppose we cannot appeal to the historic injustice of domestication to help justify domesticated animal rights to citizenship. Many domesticated animals that currently exist in society are still subject to many of the harmful practices and structures that made the historic process of domestication unjust, and, as will be argued below, extending citizenship status so as to

include (and thus, protect) them, is a good that domesticated animals may be entitled to - a strong argument can be made for the claim that (at least some) domesticated animals have a strong enough *interest* in citizenship to be accorded such a status and the scheme of rights and protections that it entails – this is something we will consider in chapter four. However, for now, we can move on to consider the second criticism of Donaldson and Kymlicka’s citizenship approach – that it lacks the resources, in its current form, to delineate more particular sets of rights.

Certain rights follow from citizenship status. For example, the fact that someone is a citizen generally means that they have, among other things, rights to reside in a given bounded territory, and the right to have their subjective good count in the determination of the public good – these are functions of citizenship, as we currently understand it (Donaldson & Kymlicka, 2013, p. 55). However, citizenship status underdetermines the rights of citizens in more specific contexts. We can infer from the fact that citizenship (at least in a modern, democratic sense) does/ought to include (for example) equality before the law, that domesticated animals ought to be considered as moral, legal, and social equals to their human co-citizens. This blanket equality is useful for determining that *that* some of the important interests of animals (as co-citizens) ought to be protected. But it does not provide us with information about *what* many of those interests are, and thus, underdetermines which rights animal co-citizens ought to be accorded in a given context. Crucially for our purposes here, it does not clearly follow from a PSDs (putative) citizenship status that they are owed, say, representation by a labour union.

Now, for Donaldson and Kymlicka, as alluded to above, “formulating a fixed list of citizenship rights and responsibilities...is premature, since such a list can only be the

outcome of a process of enabling agency and participation amongst all co-citizens” (Donaldson & Kymlicka, 2013, p. 122). It seems, then, that on Donaldson and Kymlicka’s account seeking out the abilities and interests of domesticated animal citizens is an imperative¹⁶. These abilities and interests will inform the “fixed list of citizenship rights and responsibilities” that domesticated animal citizens will have in any given context, whether it be labour rights, health care, or political participation (Donaldson & Kymlicka, 2013, p. 122). And so, for Donaldson and Kymlicka, the list of rights that domesticated animal citizens ought to have is largely an empirical question to be answered after they have been given the opportunity to develop and express their agential capacities: after they have been freed from oppression.

Empirical inquiry into the abilities and interests of domesticated animal citizens certainly is, and will continue to be, an important factor in determining which rights they have in any given situation. However, as we will see in the next chapter, the interest-based approach provides valuable conceptual resources for determining the interests (and corresponding rights) for animal citizens in a given context (in this case, the use of PSDs). As we saw in chapter two, there is much that we already know about them, and deriving a set of labour rights based on this knowledge is possible through the application of the interest-based approach to animal rights. This will be a task left for chapter four.

¹⁶ I also endorse this aspect of Donaldson and Kymlicka’s citizenship model. As we will see below, I criticise Cochrane’s claim that animals have no interest in being free (Cochrane, 2012, p. 2) on precisely these grounds: that without freedom, animals will not be able to express behaviours that are important to them, and thus, it will be a far more difficult task to determine what is actually in their best interests, and therefore, which rights they ought to be accorded in a given context. While further empirical enquiry will help inform interest-based accounts of rights, as indicated above, there is much that we can already discern regarding the interests (and corresponding rights) of animals, in particular, PSDs. And so, my objection to Donaldson and Kymlicka here is not a criticism of their appeal to the necessity of empirical enquiry in the determination of animal interests. Rather, I reject the claim that a more specific list of animal rights (in this case, PSD labour rights) cannot currently be delineated. For, the interest-based account provides resources for just such a task.

First, however, we need to outline the interest-based account of animal rights provided by Cochrane, and the challenges it faces.

3.3. Cochrane's Interest-Based Approach

For Cochrane, sentient¹⁷ beings have a moral status – they are beings to whom we have moral obligations (Cochrane, 2012, p. 20). Sentient beings, as we saw above, are beings for whom things can go better or worse. They have a subjective experience of the world – they can experience pleasure and pain, frustration and joy. As Cochrane puts it, “to be sentient is to be able to feel and to experience the world” (Cochrane, 2012, p. 21). For Cochrane, the moral importance of sentience is what it signifies: a capacity for well-being, which plays a prominent role in ethics and normative theorizing (Cochrane, 2012, p. 25). While having a moral status and being a rights bearer are logically separable, Cochrane wants to argue that “just as well-being is the necessary and sufficient condition for the possession of moral status, so it is the necessary and sufficient condition for the possession of rights” (Cochrane, 2012, p. 28). Essentially, the claim is that sentient beings have the capacity for well-being, which is to say that they have interests. They are the types of beings for whom things can go better or worse. We have direct moral obligations towards these types of beings, who can also properly be considered as rights bearers (Cochrane, 2012, p. 29).

Applying a definition of interests given by Joel Feinberg, Cochrane claims that “to have an interest in x is to stand to gain or lose depending on the condition of x”

¹⁷ Cochrane by his own admission, “assumes that sentient animals have moral status” (Cochrane, 2012, p.20). For, he is more “concerned to get on with outlining *what* obligations we have to animals, rather than becoming entangled with the intricacies of *whether* we have any at all” (Cochrane, 2012, p. 20). I take a similar stance towards discussions of sentience in chapter four.

(Feinberg, 1984, p.33-4; Cochrane, 2009, p.662). To “gain or lose” for Cochrane (and Feinberg) means that the condition of one’s well-being in some way hinges on the satisfaction or frustration of their interest in x (Cochrane, 2009, p.662). We determine the rights of putative rights holders by determining if their interests in a particular good are sufficient, all things considered, to create obligations¹⁸ for others (i.e. to generate a *right* to that particular good) (Cochrane, 2012, p. 41). In other words, using the formulation put forth by Joseph Raz: “X has a right if and only if X can have rights, and, other things being equal, an aspect of X’s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty” (Cochrane, 2012, p. 41).

For Cochrane, well-being is an objective, prudential value (Cochrane, 2012, p. 37). Prudential in the sense that well-being refers directly to the well-being *of an individual*, and objective because it is also possible (indeed, necessary) to make *objective value judgements* about that individuals well-being. For example, we can imagine that there exists an individual that would very much like to harm themselves (Cochrane, 2012, p. 53). On Cochrane’s definition of well-being, we are not committed to claiming that this individual actually has an *interest* in doing so. For, despite the fact that this individual desperately *wants* to harm themselves, we can say, objectively, that self-harm is not well-being conducive, and thus, not in their interests (Cochrane, 2012, p. 53).

Crucially, while rights are derived from interests, not all interests generate rights (Cochrane, 2012, p. 42). The interest has to be of sufficient weight, “all things considered” to hold another under obligation (Cochrane, 2012, p. 19). And so, it is consistent with the interest-based approach to recognize that someone has an interest in a

¹⁸ For Cochrane, it seems as though ‘duties’ and ‘obligations’ are synonymous with one another, and that each duty/obligation has a corresponding right (Cochrane, 2012, p. 19).

particular good, perhaps even a rather strong interest, without being committed to the claim that this interest is sufficient to generate an obligation in others. For example, I certainly have an interest in being paid a large sum of money for not doing any work. That is, being wealthy, in this scenario, confers a great deal of *well-being*. It is not merely a *want* – it is an *interest*. However, even though this is a strong interest of mine, it is not sufficient to generate obligations for others. In order to accurately appraise whether or not an interest translates into a right, we must also take “all other relevant considerations” into account (Cochrane, 2012, p. 42). Some of the other relevant considerations we ought to weight when considering an individual’s interests are the strength of any competing interests at stake and the weight of the burdens imposed on duty bearers (Cochrane, 2012, p. 43). And, since these ‘other relevant considerations’ are going to differ depending on the situation, we can see the importance of context for the interest-based approach (Cochrane, 2012, p. 43).

To further elucidate the importance of context for this interest-based approach, we can consider the distinction between “*prima facie*” and “*concrete rights*”. For Cochrane, “*prima facie* rights are not ‘all things considered’” they “exist at a more abstract level outside of specific circumstances” (Cochrane, 2012, p. 45). These are rights that we derive from considering, in the abstract, whether or not an individual’s interest in X is strong enough to generate obligations in others (Cochrane, 2012, p. 45). Importantly, for Cochrane, *prima facie* rights can and do conflict with each other (Cochrane. 2012, p. 45). To determine what ought to be done in any situation in which there are conflicting *prima facie* rights, we need to pay close attention to ‘all other relevant considerations’ in order to determine whether one of the parties has a concrete right (Cochrane, 2012, p.

45). Unlike prima facie rights, concrete rights do not conflict - they are the final determination of what ought to be done when we have a conflict of prima facie rights (Cochrane, 2012, p. 45).

In order to determine whether or not an interest is sufficient to generate obligations in others, Cochrane outlines a few criteria. First, the strength of the interest needs to be established. Generally, the strength of an interest can be determined, says Cochrane, by considering two main components: the well-being conferred by having this interest satisfied, and the psychological continuity that an individual has with the future version of their self that has a given interest satisfied (Cochrane, 2012, p. 53). The well-being conferred by the satisfaction of a particular interest is quite straight forward – it makes the life of a sentient being go better to have access to clean water and good food, for example.

However, the psychological continuity criterion is a little less clear. Essentially, psychological continuity refers to those “psychological connections that link us over time” such as memories or feelings of anticipation for future states (Cochrane, 2012, p. 53). Cochrane argues that psychological continuity varies considerably. For example, an infant has a very low level of psychological continuity with themselves at age ten compared to, say, the level of psychological continuity a 20 year old has with themselves at 25. The stronger one can identify with ones future self who will obtain a particular good (i.e. the stronger their psychological continuity), the stronger their interests in obtaining that good (Cochrane, 2012, p. 54).

However, as indicated above, the strength of an interest is not sufficient for establishing a right. For, there are many interests that clearly do not generate obligations

for other. In particular, we might imagine cases in which someone has a particularly strong interest in something rather nefarious, for example, an interest in something that harms someone. Or, alternatively, we can imagine someone having a very strong interest in something trivial, yet extremely demanding on others. And so, Cochrane claims that once the strength of an interest is established, we must weigh that interest against competing interests, including the potential burden to duty bearers, and the strength of competing interests (Cochrane, 2012, p. 42).

With this overview of Cochrane's methodology, we can move on to consider the conclusions that Cochrane reaches regarding animal rights to life, liberty, and freedom from suffering. This task is important because in chapter four I argue for citizenship for PSDs, and a set of labour rights. Both citizenship and labour rights will be predicated on rights to life, liberty, and freedom from suffering. For, it is hard to imagine a legitimate instance of modern liberal democratic citizenship that did not include rights to these three goods. Additionally, given the intimate connection between ownership, exploitation, and forced labour, it is also unlikely that a legitimate scheme of labour rights can be delineated without first considering whether or not animals (and, in particular, PSDs) have a right to freedom. Ultimately, it will be argued below that Cochrane correctly analyses our moral obligations to animals as they pertain to animal suffering, but he fails to adequately assess animals' rights to life and liberty. To begin, then, we start with animals' interest (indeed, their right) to freedom from suffering.

3.4. Cochrane on Animal Suffering, Continued Life, and Liberty

As Cochrane points out, suffering is, by its very nature a bad experience (Cochrane, 2012, p. 55). Sentient animals, as beings that can experience pain, quite clearly have a

strong interest in avoiding suffering. That is, being free from suffering is something of great value to sentient beings. However, we might also consider, as Cochrane does, the strength of this interest compared to human interests in not suffering. For, if autonomous humans have a stronger interest in not suffering, then their corresponding right may also be stronger. And, if there is a context in which a genuine conflict between the autonomous human interest in not suffering and an animals' interest in not suffering arises, then the human interest may outweigh the animal interest. Ultimately, however, Cochrane rightly concludes that there "is little chance" of determining whether or not humans or animals suffer more (Cochrane, 2012, p. 55). And so, he rightly argues for an equally strong right to be free from suffering for both humans and animals (Cochrane, 2012, p. 64). As indicated above, I share Cochrane's view on this point – we will return to putative animal rights to be free from suffering (and to continued life, and freedom) in chapter four.

For Cochrane, only beings that are autonomous in a Kantian sense can have an inherent interest in freedom, and thus, non-autonomous beings do not have the right to be free (Cochrane, 2009, p. 661). Non-autonomous beings, on the other hand, lack the ability to frame, revise, and pursue their own conceptions of the good, and thus have no intrinsic interest in freedom (Cochrane, 2009, p. 661). And, of course, without an interest in freedom, they have no right, for, on Cochrane's account, as we have seen, rights derive from interests. However, this is not to say that we can necessarily confine or abuse animals. For, animals, like humans, have an interest in not suffering, and so their liberty can only be limited insofar as it does not infringe on their right to be free from suffering and their (putatively weaker) interest in continued life.

Crucially, though, since non-autonomous beings do not have an interest in being free, they also do not have an interest in being unowned, traded, sold, or exploited (Cochrane, 2009, p. 661).

However, as indicated above, this account of animal freedom problematically relies on the notion of Kantian autonomy. One reason that we ought to be wary of denying animals (and non-autonomous humans) a right to freedom is that, if we operate on the claim that non-autonomous humans and nonhuman animals have no interest in freedom, we risk stifling whatever capacities for choice that they *do* have. Arguably, being able to express one's capacities for agency is an important aspect of determining their interests in a given context. Determining the interests of a rights bearer seems to be a central component of the interest-based approach. Since we lack the ability to communicate with animals with the same ease and depth that we can often communicate with many humans, a large part of how we are going to discover and understand what is well-being conducive for animals is through observing how they act, and the ways that they choose (or choose not) to interact with humans, other animals, and their environment. Without a right to freedom, this important aspect of the interest-based approach, as it pertains to animals (and, indeed, non-autonomous humans), is in jeopardy.

We can next consider what is perhaps one of Cochrane's more contentious claims: that animals have a weaker right to life than most humans (Cochrane, 2012, p. 67). It might strike some as odd to refer to this claim as contentious. For, within the population, it is generally accepted that not only do humans have a stronger right to life, but that animals do not have a right to life at all. However, I describe this claim as contentious because, by appealing to Kantian autonomy to delineate rights to life, Cochrane's

argument also applies to many non-autonomous humans, not just animals. It is a consequence of Cochrane's argument, then, that (for example) young children have a weaker right to life than autonomous humans.

The mere fact that this argument is contentious does not, of course, tell us much about whether or not we ought to accept or reject it. However, it seems as though Cochrane himself is well-aware of the problematic conclusions that follow from his claims regarding non-autonomous beings. For example, he argues that

[e]ither we regard the interest in continued life of both human and nonhuman nonpersons as insufficient to ground the right, making permissible deadly experiments on animals, infants, and individuals who are severely mentally disabled, or we regard the interests of both as sufficient to ground the right, making such deadly experiments impermissible. In keeping with most people who consider such a choice, my judgment is in favor of the latter. As such, I claim that animals have a moral right not to be killed by experimentation (Cochrane, 2012, p. 71).

Crucially, this conclusion does not clearly follow from his interest-based account of rights to continued life (Garner, 2013, p. 100). Rather, he justifies this claim by appealing to the consensus regarding the value of the lives of non-autonomous humans. This appeal seems to undermine the plausibility of his claim that we ought to accord a weaker right to life to non-autonomous humans.

Indeed, it is not entirely clear why it is open to Cochrane to make this appeal. As has been argued, other aspects of his theory (in particular, his views on animal freedom) also have problematic consequences for humans who are not autonomous in a Kantian

sense. That is, the claim that there is no moral injunction to grant non-autonomous beings a right not “to be used, owned, and exploited” (Cochrane, 2012, p.100) by autonomous beings is surely not “[i]n keeping with most people” and their views on the matter (Cochrane, 2012, p. 71). And so, by appealing to the negative implications for non-autonomous humans in order to make a point about continued life, he opens up the rest of his theory to a similar line of reasoning. Here is what I mean: one of Cochrane’s main points is that we can have “animal rights without liberation” (Cochrane, 2012, p. 15). That is, that animals have no right “to be free from being used, used, owned or exploited” (Cochrane, 2012, p. 2). As has been argued, this also means that non-autonomous humans have no right to be free, or to not be used, owned or exploited – a conclusion that many would plausibly reject. To return to a prima facie right to life, if it is open to Cochrane to appeal to the negative implications for non-autonomous humans in order to make a point regarding continued life, then it seems that we can also appeal to this line of reasoning and apply it to his claims regarding freedom: because we think it is morally wrong to own, use, or exploit other humans (especially if they have limited cognitive functioning), so too ought we to not do these things to animals. And so Cochrane’s account seems to face a dilemma: either abandon his appeal to negative implications for non-autonomous humans, or have it applied uniformly across the subjects targeted by his theory. If the former, then he must come up with a different argument for why, on his account, we are not justified in painlessly killing non-autonomous humans and animals for experimental reasons in order to benefit autonomous beings. If the latter, then it seems that one of his central points collapses.

And so, if we find the above at all convincing, we might think that the interest-based approach to animal rights is seriously undermined. However, the above issues do not arise from commitments intrinsic to the interest-based approach per-se, but rather, they are rooted in Cochrane's appeal to a conceptually and morally problematic concept: the relevance of Kantian autonomy in delineating human and animal rights. As we will see in the next chapter, the interest-based approach to animal rights is a useful resource for determining which rights animals ought to have. Indeed, it will be our starting point in considering an integrated interest-based approach to animal citizenship and labour rights for PSDs.

3.5. Chapter Summary

So, where does all this leave us? As we saw above, abolitionist approaches to animal rights seem to misunderstand salient features of human and animal relationships – mainly, that domesticated animals can indeed (and in many cases already do) have lives worth living. While many human and animal relations are currently unjust, they need not be unjust.

What we need to do in order to make relations between humans and animals just is to consider what obligations we have towards animals beyond negative rights. Political theories of animal rights provide a way of determining what these positive obligations may be. However, as we have seen, both of the theories we considered here are problematic. For the citizenship approach, it seems as though there are two problems. First, given that (many) domesticated animals (a) have lives worth living, and (b) would not be alive without the historical process of domestication, they have not been harmed by it. Therefore, insofar as Donaldson and Kymlicka's account relies on rectifying the

historic injustice of domestication, domesticated animals are not owed citizenship as a means of redress. Ultimately, though, in chapter four it will be argued that domesticated animals do still have a right to citizenship, albeit a right that is justified by appealing to their *interests*, not in an attempt to rectify an historic injustice.

Second, while certain rights do follow from citizenship status, the citizenship approach does not provide us with the means to determine, in a particular context, which rights animals should have. As mentioned above, this is something that Donaldson and Kymlicka willingly forgo (Donaldson & Kymlicka, 2013, p. 122). However, given our focus here on moral permissibility of using PSDs and their potential labour rights, we need a method by which to delineate our obligations towards them. As will be argued in chapter four, focusing on the interest-based approach ameliorates this concern, and allows us to derive a set of labour rights for PSDs.

However, Cochrane's interest-based approach faces issues of its own. Cochrane argues that animals are sentient, sentient beings have interests, and that having interests is a necessary and sufficient condition for properly being considered as a rights bearer, for, rights derive from interests (Cochrane, 2012, p. 19). Crucially, however, not all interests translate into rights. For an interest to become a right it needs to be sufficient to generate obligations in others, and needs to be weighed against "all other relevant considerations" (Cochrane, 2012, p. 42). Some of these considerations are outlined by Cochrane. For example, we must consider the strength of the interest itself, while also considering how demanding the interest is on potential duty bearers (Cochrane, 2012, p. 43).

As we saw above, Cochrane's claims that non-autonomous beings have a weaker right to life than autonomous beings and that non-autonomous beings have no right to

freedom were both undermined by his appeal to the negative implications for non-autonomous humans in order to justify rights not to be killed for experimental purposes. Additionally, without a right to freedom, it seems as though it would be an exceptionally difficult task to determine which rights animals ought to have in a given context. Determining the interests of a rights bearer is central to the interest-based account to rights, and thus, Cochrane's claim that animals have no interest in freedom ought to be rejected.

While both the citizenship approach and Cochrane's interest-based approach are problematic in their current forms, in chapter four we will consider a way in which these two theories can be synthesized in order to provide us with a more robust theory of animal rights, against which we may test the moral permissibility of using PSDs, and attempt to derive what labour rights they ought to be accorded. Ultimately, it will be argued that PSDs have an interest in being citizens that is, all things considered, sufficient to impose obligations on others. Furthermore, it will be argued that since they have an interest in doing police work, we are not necessarily prohibited from using PSDs. However, as citizens, and as sentient beings with their own well-being and interests, they ought to be accorded certain labour rights so as to ensure that they are adequately protected – this task will also be tackled in the fourth chapter.

Chapter 4: PSD Citizenship and Labour Rights

If we find the previous chapter at all convincing, we might recognize the need to outline an alternate theory of animal rights before considering, in more depth, our obligations to PSDs. As alluded to in the previous chapter, by synthesizing the interest-based approach and the citizenship approach, we will have a more robust theory of animal rights, against which we may test the moral permissibility of using PSDs, as well as derive specific labour rights for them.

My starting point will be a revised conception of the interest-based approach. Essentially, I argue that by removing the emphasis on Kantian autonomy which we find in Cochrane's account, the interest-based approach provides a strong justification for the claim that animals have rights to life, liberty, and freedom from suffering. Determining these basic rights is an essential step for our later task of determining citizenship and labour rights for PSDs. In other words, determining a basic set of rights for animals is necessary, but not sufficient, for working out more specific sets of rights – in this case, citizenship and labour rights.

I will then move on to consider whether or not domesticated animals ought to be considered as citizens. I argue that they have a strong interest in citizenship. However, given our primary concern here with PSDs, I stop short of addressing whether or not, for all domesticated animals, this interest is sufficient *all things considered* to generate an obligation in others. Ultimately, however, I argue that PSDs have an interest in citizenship that is sufficient *all things considered* to justify a right to such a status, and the scheme of rights that it entails. Crucially, as we will see, this interest is in *citizenship*, rather than mere *community membership*.

As we saw in the previous chapter, though, the claim that animals have rights to life, liberty, and freedom from suffering and the further claim that we owe domesticated animals citizenship does not provide us with many resources for deriving, in a particular context, which rights animals ought to have. And so, lastly, I will appeal to Cochrane's useful discussion on an interest-based approach to animal labour rights, and apply some of his conclusions directly to the case of PSDs, arguing that they have five fundamental labour rights, a right to: a healthy and safe working environment, a decent retirement, representation by a labour union, decent and fair remuneration, and rest and leisure (Cochrane, 2016).

4.1. The Interest-Based Approach Revisited

I assume, for the sake of brevity, that PSDs are sentient beings that have interests, and that this is sufficient to consider them as rights bearers. This is the same starting point that Cochrane adopts for his theory more broadly. Cochrane "assumes that sentient animals have moral status" (Cochrane, 2012, p. 20) and that just as well-being is the necessary and sufficient condition for the possession of moral status, so it is the necessary and sufficient condition for the position of rights" (Cochrane, 2012, p. 28). Cochrane takes this line because he "is concerned to get on with outlining *what* obligations we have to animals, rather than becoming entangled with the intricacies of *whether* we have any at all" (Cochrane, 2012, p. 21). As alluded to above (indeed, as I indicated in a footnote in the third chapter), I adopt a similar starting point here.

A good place to start when considering what rights follow from a sentient being's status as a rights holder are some of their basic putative rights: the right to life, liberty, and freedom from suffering. The interest-based approach explicitly seeks to identify the

important interests of animals, and justify their rights by appealing to said interests. However, the interest-based approach used here is importantly different than Cochrane's. And so, what we need to do first is apply a revised interest-based account in order to determine whether or not it is actually the case that an interest-based approach justifies ascribing rights to life, liberty, and freedom from suffering for animals. This is an important task, however, it will be a somewhat brief discussion, given that our primary concerns here are PSD rights to citizenship and the labour rights that ought to follow from their status as citizens, and as sentient beings that have a stake in their own lives. Some of the arguments employed here in an attempt to justify animals' rights to life, liberty, and freedom from suffering were alluded to in the previous chapter, but will now be made explicit.

Recall that, "to have an interest in x is to stand to gain or lose depending on the condition of x" (Feinberg, 1984, p.33-4; Cochrane, 2009, p.662). To "gain or lose" for Cochrane (and Feinberg) means that the condition of one's well-being in some way hinges on the satisfaction or frustration of their interest in x (Cochrane, 2009, p.662). Well-being, on the interest-based account, is understood as a prudential and objective value: it refers to the well-being of an individual, and we can make objective value judgments as to whether or not something is actually well-being conferring or not (Cochrane, 2009, p. 662, 663).

With this in mind, what interests do animals have in continued life? For Cochrane, those that can frame, revise, and pursue their own conceptions of the good (i.e. those that are autonomous) have a stronger right to continued life than non-autonomous beings (Cochrane, 2012, p. 67). However, as we saw above (and, indeed, as Cochrane

himself seems to acknowledge) the consequences of denying non-autonomous beings an equally strong right to life are highly problematic. And so, if we accept the claims that (a) autonomous beings have a sufficient interest in continued life to justify holding others under an obligation and (b) that the consequences of denying non-autonomous beings (which, of course, includes many humans – including young children) an equally strong right to life are too problematic to accept, then we might be convinced of the claim that autonomous and non-autonomous beings have equally strong rights to life.

However, while this line of argument may be convincing, it assumes that autonomous beings have an interest in continued life, and does not clearly justify the right to life for non-autonomous beings in the interest-based approach, but instead in the perceived problematic consequences of denying non-autonomous beings an equal right to life. We might ask, then, what interests do autonomous beings have in continued life, and do non-autonomous beings share this interest in equal measure?

Recall that, on the interest-based approach, a necessary and sufficient condition for being considered as a rights bearer is having a personal well-being (i.e. being sentient). To have an interest in a particular good it must contribute to one's personal well-being. Death results in the cessation of all continued experience, including experiencing well-being¹⁹. It seems then, that the continued life (for a given individual) provides the opportunity for continued states of well-being, whereas the alternative (death) does not. Therefore, except in cases where continued life necessarily entails greater amounts of suffering (sometimes referred to as having a 'life not worth living') than well-being conferring states, it seems as though sentient beings have an interest in

¹⁹ This, of course, assumes that there is no 'life after death.' I take this to be a reasonable assumption here, and one that extends beyond to scope of this discussion to engage with further.

continued life. Included in the class of sentient beings, are, of course (among others), PSDs. Note that Cochrane offers a similar line of argument regarding justifying a basic right to life for both autonomous and non-autonomous beings, but ultimately concludes that autonomous beings have a stronger general right – a conclusion that, as we have seen, he himself undermines (Cochrane, 2012, p. 71).

We can next consider rights to be free from suffering. Suffering is a broad term, and, as such, we might benefit from being clearer on how it is applied here. In short, suffering, as I use it here, refers to an experience that causes a significant enough amount of harm that it plausibly sets a limit to the amount of future well-being that an individual can achieve. As we have seen, Cochrane convincingly argues that animals ought to have a right not to suffer that is on-par with the rights accorded to humans. I take it as uncontroversial (as does Cochrane) that suffering is, by its very nature, bad. Of course, sometimes a certain level of suffering might be worth enduring if it generates a good that matters more to us (for example, the prevention of much greater suffering). However, in general, it is safe to say that suffering is bad for both humans and animals. Or, perhaps more accurately, a lack of suffering makes the lives of sentient creatures go better for them.

It is important, however, to consider whether or not suffering is worse for humans than it is for animals, and so justify saying humans have a stronger interest in not suffering. After all, many humans possess the ability to reflect on their own suffering, which might make suffering especially bad for humans. I think it is at least equally plausible to reject this view of the greater importance of human suffering. Since I am able to plan into the future, I can see sunnier days ahead: I have something to look forward to.

This can mitigate a sense of present loss or ‘experiential badness’ in a way that is not true for other animals, including, we can reasonably suppose, dogs. If that is right, it is not at all clear whether or not sentient humans or animals suffer more. At the very least, we can reasonably claim that not suffering is a strong interest that both sentient humans and animals share, and, as such, both ought to be accorded rights protecting this important interest.

To complete this explicit defense of the three basic rights mentioned earlier, consider a right to freedom. Recall, that one of the main theses of Cochrane’s interest-based approach, based upon his appeal to Kantian autonomy, is that animals have no right to be free. That is, since animals (purportedly) have no interest in freedom they lack a corresponding right (Cochrane, 2012, p.78). I want to argue that animals do have an interest in freedom. This is because freedom is essential for determining many other important interests that animals have. One of the merits of the interest-based approach is that it allows us to derive rights in particular contexts. In order to determine which rights animals ought to have in any given context (for example, as PSDs), they must be able to express their own preferences. The best way to ensure that they get to express their own preferences and preferred behaviors is by according them rights that allow them to do so. Of course, this argument depends on the assumption that having rights is something that animals have an interest in. Given the role that rights play in protecting the important interests of the rights bearer, and the fact that having an interest implies an interest in having that interest satisfied, I take it as a reasonable assumption that animals have an interest in having rights. However, it does not follow from these basic rights to life, freedom from suffering, and liberty that domesticated animals (in particular, PSDs) have

rights to citizenship. Given our adoption of the interest-based approach here, we can ask whether or not animals have an interest in citizenship that is strong enough, all things considered, to generate obligations in others. This is where we turn to next.

4.2. Domesticated Animals and Their Interests in Citizenship

I want to argue here that domesticated animals have a strong interest in citizenship. To reach this conclusion, I consider three central aspects of citizenship outlined by Donaldson and Kymlicka, and argue that each of these aspects is of importance to the well-being of domesticated animals, that is, they have an *interest* in citizenship. The three aspects that we will consider below are nationality, popular sovereignty, and democratic political agency (Donaldson & Kymlicka, 2013, p. 55) – I will address each in turn.

First, the ‘nationality’ aspect of citizenship functions as a way to “allocate individuals to territorial states” (Donaldson & Kymlicka, 2013, p.55). A key component of this feature of citizenship is a right to residency. This is clearly an aspect of citizenship that is beneficial to animals. After all, many domesticated animals are now dependent on us for their care. Since this is the case, they belong in human society – there is simply nowhere else for them to go (e.g. Chihuahua’s would, in all likelihood, not flourish if we decided to release them into the wild) (Donaldson & Kymlicka, 2013, p.101).

Indeed, in the human case, there is a compelling argument to be made for extending citizenship rights to those in our communities that have strong ties to a particular territory and have no feasible options to relocate. For example, consider the DREAM Act (Development, Relief, Education, for Alien, Minors, Act). The DREAM Act seeks to create a pathway to citizenship for young Americans who were brought to America, as minors, and have no feasible opportunities to go elsewhere. They belong in

America: they speak the language, their social support system is there, their identity is intertwined with existing in America (Anti-Defamation League, n.d) - deporting them to a foreign land that they may have no real relationship to strikes many of us as problematic. Essentially, their well-being is deeply connected to the country that they live in.

While the DREAM Act failed to pass into law (Anti-Defamation League, n.d), many of us find the moral imperative that it attempts to capture convincing - persons raised in a particular land from a young age, who have a strong connection to their surroundings, and who would struggle immensely if forced to live elsewhere, ought to have the opportunity to obtain citizenship – to be recognized for what they are; full and complete members of the community. Much the same can be said for domesticated animals—perhaps more so, as many domesticated animals could not survive without our help or tolerance. In light of their dependence on us for survival, such domesticated animals have nowhere else they can go. As such, we should recognize the vital interest that they have in this important aspect of citizenship.

The second aspect of citizenship to consider here is “popular sovereignty” (Donaldson & Kymlicka, 2013, p. 57). Popular sovereignty is the idea that the legitimacy of state power flows directly from the will and interests of the beings who are governed. That is, legitimate state power runs from the *people up* rather than from the *rulers down*. To be a citizen in this second sense means being a part of the “people in whose name the state governs” (Donaldson & Kymlicka, 2013, p. 55). Which is to say that citizenship entails having one’s interests taken into consideration in determining the public good.

Arguably, domestic animals have an interest in this aspect of citizenship. For, to have an interest in something implies an interest in having that interest satisfied and/or protected. Consider the following line of reasoning. We might understand anti-cruelty legislation as a state's attempt to protect some of the basic interests of other animals. But, of course, the state can play a much larger role in satisfying and protecting the interests of domesticated animals. Given that these animals are dependent on us for their care (and are vulnerable to our neglect), and many have nowhere else where they can go (and survive) (Donaldson & Kymlicka, 2013, p. 101), it would seem that we should insist on this larger role (if, that is, we choose to have them live among us at all). At least in this way, having their basic interests taken into consideration in the determination of the public good is a strong interest that domesticated animals have.

We might be convinced, then, that domesticated animals have strong interests in these first two aspects of citizenship. However, we have yet to consider the most controversial aspect of citizenship, as it pertains to domesticated animals: the exercise of political agency. What we need to do here, is consider two questions: (i) *can* domesticated animals participate politically? And if so, (ii) do they have an *interest* in doing so? As I will show, I basically agree with Donaldson and Kymlicka's answers to these questions.

First, let us consider the question of whether or not it is possible for domesticated animals to exercise democratic political agency. Historically, it has been thought that the exercise of democratic political agency requires an individual to have a certain set of cognitive abilities not found in domesticated animals (i.e. the ability to metacognize) (Donaldson & Kymlicka, 2013, p.103). More recently, however, this cognitivist

interpretation of political agency has been seriously challenged by disability theorists (Donaldson & Kymlicka, 2013, p.105). For, if citizenship requires the ability to metacognize, many of the most vulnerable members of our society would fail to qualify as citizens (for example, persons with severe cognitive disabilities and very young children. In effect, this would exclude many of those who would benefit immensely from the protection and political status that comes with being a citizen.

However, suppose that we argue in favour of a cognitivist interpretation of political agency while maintaining that it is not a necessary condition for being considered as a citizen. This is a claim that is also being vigorously challenged by disability theorists, and, indeed, by Donaldson and Kymlicka in the case of domesticated animals. For, the ability to exercise one's democratic political agency is an important aspect of what it means to be a citizen (Donaldson & Kymlicka, 2013, p. 58). In particular, exercising democratic political agency is an important way in which those who have traditionally been marginalized can work to challenge paternalistic laws and policies that systematically undermine their own unique capacities for agency (Donaldson & Kymlicka, 2013, p. 59). This is not to say that paternalism is *always* bad. However, what differentiates between morally acceptable and morally problematic instances of paternalism is whether or not the paternalistic actions are undertaken because they accurately reflect the *interests* of those who are subject to those actions. Consequently, unjust paternalism results from a failure to properly seek out and interpret (or an indifference to) the actual interests of those would-be subjects of paternalistic law and policy.

An important way in which we can avoid unjust paternalism is to seek to understand and protect the interests of those who lack the ability to metacognize. In the political domain, such protection can express itself in laws and policies. This intersects with what, in the disability rights literature, is described as ‘dependent agency.’ Dependent agency can be characterized as “‘supported decision making’ for ‘non-communicating citizens’” (Donaldson & Kymlicka, 2013, p.59). On this model, autonomous humans build trusting relationships with those who have cognitive disabilities, and work with them to interpret “their conception of the good life, drawing on both verbal and non-verbal expressions of preference” (Donaldson & Kymlicka, 2013, p. 60). It is argued that through models of dependent agency, those with cognitive disabilities are able to exercise this their democratic political agency, as citizens (Donaldson & Kymlicka, 2013, p. 60).

Donaldson and Kymlicka argue that these considerations can also be applied to domesticated animals (Donaldson & Kymlicka, 2013, p.60). As in human-human relationships, this would require the development of a trusting relationship between a person and a domesticated animal that would engender a deep understanding of the important interests of the domesticated animal, enable their ability to co-exist in the community within which they find themselves, and could inform a political process that seeks to reflect their interests as much as any other citizen. With sufficient sensitivity to, and commitment to respecting, their interests, domesticated animals can indeed participate in democratic political agency. As we will see below, this type of trusting relationship with a human seems to be something that PSDs, by necessity, have with their handlers.

Of course, the mere fact that domesticated animals *can* exercise democratic political agency, does not yet tell us whether or not they have an *interest* in doing so. However, quite transparently, domesticated animals do have an interest in exercising their capacities for democratic political agency for reasons similar to those outlined above when we considered their interests in popular sovereignty. To have an interest in X implies an interest in having X satisfied and/or protected. The political structures in place in any given society often play a pervasive role in the satisfaction and protection of any given interests of the community members. Therefore, members of any given society have a stake in having their interests count in determining the public good, because it makes it more likely that these interests will be satisfied. A crucial step in bringing these interests into the public forum is exercising one's political democratic agency. And, therefore, domesticated animals have an interest in exercising their democratic political agency. Indeed, in the case of domesticated animals, exercising their democratic political agency is acutely important because they face an increased risk of being subject to unwarranted paternalistic rule.

Despite the strength of these considerations, Cochrane's rejection of animal citizenship in favor of community membership (Cochrane, 2016) is worth briefly examining, as I can highlight further considerations that strengthen the case for animal citizenship. His rejection of animal citizenship is premised on the role of metacognition in political agency we critically discussed above.

This, as you can anticipate from my earlier discussion, is based on an impoverished view of citizenship. In addition to democratic political agency, citizenship is tied to nationality and popular sovereignty (Donaldson & Kymlicka, 2013, p. 55).

When seen in this light, even if it remained problematic to talk of animal political agency (though I have given reasons to think it is quite reasonable), domesticated animals clearly have strong interests in these other aspects of citizenship. They have an interest in belonging somewhere (nationality) and being a part of the community in whose name the state governs (popular sovereignty).

Furthermore, Cochrane's claim that animals lack the ability to engage in exercises of political agency seems to be in tension with another claim that he makes regarding animal labour rights. Cochrane defends the claim that a fundamental labour right that working animals ought to possess is the right to representation by a labour union. Now, a properly functioning labour union makes its decisions by considering the important interests of the individuals that comprise its ranks. Cochrane argues that, in the animal case, since they are unable to vote in any traditional sense, we must determine what interests animals have in order to determine what the labour union ought to do on any given issue (Cochrane, 2016). Presumably, determining what is in the best interests of animal workers in any given labour union will require a human to form a relationship with each particular animal and garner enough information regarding their interests that it can then be effectively used or accommodated in union negotiations. However, this sounds strikingly similar to the concept of dependent agency considered above, which, as we have seen, is arguably a better way to interpret democratic political agency than the traditional cognitivist interpretation because it more accurately captures our moral obligations to those who are unable to metacognize.

So, where does all of this leave us? It has been argued in this section that domesticated animals have important interests in three crucial aspects of citizenship:

nationality, having their interests count in determining the public good, and exercising democratic political agency. Additionally, contra Cochrane, domesticated animals have an interest in citizenship, rather than mere community membership. However, as we have seen above, while rights derive from interests, not all interests translate into rights. In order to determine whether or not a given interest is sufficient to generate obligations in others, we must take all other relevant considerations into account. And so, what we need to do next is consider whether or not this strong interest in citizenship is sufficient “all things considered” to justify a right to citizenship (Cochrane, 2012, p. 52).

4.3. PSD Citizenship

Given our primary focus on PSDs, I will not provide arguments either for, or against, the claim that *all* domesticated animals have a sufficient interest in citizenship to justify a right to such a status. This question extends beyond the scope of this project. Instead, I will only consider the case of PSDs below, arguing (as indicated above) that their interests are sufficient, all things considered, to justify according them citizenship.

As domesticated animals, PSDs have a strong interest in citizenship. However, a strong interest, by itself, is not enough to justify a right to a particular good. What we need to do, then, is take all other relevant factors into consideration (Cochrane, 2012, p. 42). In the human case, there are multitudes of factors that go into determining whether or not a particular human ought to be accorded citizenship in a given territory. For example, long-term residency and important personal relationships are often considered as relevant factors in determining who gets to be a citizen. While these are important consideration, given our focus on PSDs here, we might limit our inquiry to the consideration of whether or not the risks that PSDs incur by engaging in police work are

a sufficiently strong consideration in determining whether or not they are owed citizenship.

So, the more basic question to ask here is this: do we owe citizenship to those who incur significant personal risks in order to protect our fundamental security interests? Before considering the application of this question to PSDs, we might first consider the human case. There are multiple examples that suggest the importance of extending citizenship to those who play analogous roles to those played by PSDs. As our first example, consider the French Foreign Legion. After three years of service, members of the French Foreign Legion are eligible to apply for (and are usually granted) citizenship (Tweedie, 2008). The idea is that by joining the Legion, a recruit exhibits not only a willingness to integrate into French society, but, more importantly, provides a service to the country. The other way that a Legionnaire may acquire citizenship is sometimes referred to as the ‘bloodshed law’. Under this law, a Legionnaire that is wounded defending France’s interests in battle is accorded citizenship: they are ‘Français par le sang versé’ or ‘French by spilled blood.’ (Tweedie, 2008).

Another example we might consider here is non-citizen soldiers in the United States Army who, if killed in the line of duty, can be posthumously accorded citizenship. This can occur up to two years following their death (United States Citizenship and Immigration Service [USCIS], 2018). Indeed, the certificate of their citizenship is dated for the day that they die, so that they died American citizens (USCIS, 2018). This is quite clearly an instance in which the risks incurred (and sacrifices made) by non-citizen community members are recognized as exceptionally valuable. In recognition for such risks and sacrifices, we might properly think that these individuals are owed citizenship –

full inclusion into the community whose important interests they protect. This is also true in Canada, where persons who have served (or have served) in the Canadian Armed Forces are eligible for “expedited access to citizenship” (Pugliese, 2014).

There are also examples that extend beyond the military. In May of 2017, a Malian man named Mamoudou Gassama who had been living in Paris illegally, spotted a four year old boy dangling from the edge of a fourth story balcony. Gassama immediately jumped into action, climbing up the four balconies in order to save the young boy (Deutsche Welle, 2018). The entire incident was captured on video, and soon went viral. Shortly thereafter, Gassama was invited to meet with the French president, where he was given a medal for bravery, and offered both French Citizenship and a job with the Paris fire-brigade (Deutsche Welle, 2018). The central take-away for our purposes here is the fact that Gassama incurred great personal risks in an attempt to protect a fellow member of the public, and, rightfully so, was recognized for his actions by being accorded citizenship.

In January, 2015 a similar incident occurred. Another Malian man named Lassana Bathily heroically protected customers at a Kosher market in France after gunmen entered the store. After hiding as many customers as he could in a storage area, Bathily managed to escape the building in order to aid the police by providing the layout of the store, and information regarding the position of persons left inside. Bathily’s actions earned him some well-deserved praise, but also French citizenship (Deutsche Welle, 2015). Importantly, each of these examples is a recognition of the political status of those who incur risks on behalf of the communities of which they are apart. They are properly owed complete membership in our society for the risks that they take to serve important

public interests. As in the human case, it may be that the services provided by PSDs, and the risks that they incur in providing these services, are strong reasons to think that their interests in citizenship are sufficient, all things considered, to generate obligations in others.

When it comes to PSDs, the suggestion that they are owed citizenship is perhaps not as controversial as it might be to suggest that *all* domesticated animals are owed citizenship. For, the training, housing, and care for PSDs are already provided through government funding. Additionally, in order to fulfill our obligations to them as citizens who have rights to exercise their democratic political agency, the relationship they have with their handlers is a relationship of sufficient trust and understanding to facilitate the process of bringing their conceptions of goods into the political process. Furthermore, as we saw in chapter two, not only do PSDs provide a valuable service to the community, but in many cases, this valuable service is recognized as such. For example, in the case of Quanto and Finn, the death or injury of a PSD is followed by calls from the public for increased protections for PSDs, no doubt rooted in an understanding and appreciation for the service they provide and the personal risks they incur on behalf of the community they serve. And, getting the rest of the community on board with bringing on a new group of citizens is surely a relevant consideration in determining the feasibility of extending citizenship to PSDs.

As domesticated animals, PSDs have a strong interest in citizenship, or so I have argued. However, we have yet to consider an important potential challenge: do the general rights that PSDs have in life, liberty, and freedom from suffering generate obligations on our part to refrain from using them to do police work? If so, then it seems

that not only would it be impermissible to use PSDs, but the argument in favor of considering PSDs as co-citizens would also be seriously undermined. In the next section we will explore this question. Ultimately, I argue that we are justified in using PSDs for police work.

4.4. Are we Morally Required to Refrain From Using PSDs?

As alluded to above, we have yet to consider a fundamental question regarding PSDs: are we morally justified in using them? In earlier sections, it has been argued that PSDs have interests in life, liberty, and freedom from suffering that are strong enough to generate obligations in others. Does it follow from these general rights that PSDs also have a right to be free from being used to do police work? If so, it seems that my argument regarding PSD citizenship is seriously undermined, for, fundamental to their claim to citizenship is the fact that they incur risks in protecting the community.

Before answering this question, it is important to clearly identify the precise issue at hand. It would not, for example, make much sense to attempt to argue that PSDs have a positive right to do police work, for this seems to imply that they are somehow unjustly barred from employment. Rather, the important question here is whether or not there ought to be a general prohibition on the use of PSDs. That is, do all dogs have a negative right to be free from being used as PSDs? Is it the case that in all instances, it is unjust to have dogs doing police work?

Ultimately, I will argue that we are morally justified in using PSDs, so long as they are accorded a scheme of labour rights that work to ensure that their basic rights are protected. However, before reaching this conclusion, we must first consider why the use

of PSDs to do police work might be problematic. And so, to begin, we can ask this question: why might we be concerned, morally, about using PSDs for police work?

As beings that have rights to life, liberty, and freedom from suffering, the main issue surrounding PSD use is likely the issue of incurring risk and non-consent. Policing entails a certain amount of risk and police service dogs are the types of beings that cannot properly consent to incurring this kind of risk. Indeed, at first glance, we would seemingly want to reject the idea of subjecting non-consenting humans to situations that entail similar risks.

However, upon closer examination, the fact that a being is unable to consent to a risky situation in the traditional sense (a Kantian sense), does not mean that we cannot still act on their behalf. Indeed, this would be very morally problematic. For example, non-autonomous beings 'rely' on others to consent on their behalf to things that are plausibly in their best interests such as certain medical procedures, despite the fact that these procedures may carry varying levels of risk. The moral permissibility of acting on behalf of beings who cannot consent extends beyond important medical procedures and into the realm of labour. Consider the case of child labour – in many cases, it is problematic to say the least, for example, in cases where children are coerced and forced to work excessively long hours in exceptionally dangerous and socially impoverished conditions in exchange for very little compensation. However, this does not mean that children should never engage in labour. Indeed, we might think that having one's child engage in certain forms of labour is just good parenting. One relevant example might be child farm labour. If both the dangers of doing farm work and the potential for exploitation are mitigated against we might very well be justified in having one's child

engage in this type of labour. That is, this type of child labour can be justified as long as it is in the child's *interests* to do so - as long as it objectively confers well-being unto the child. For example, the child might develop a stronger work ethic that will aid them in their future ventures, and earn a little bit of extra money that they can spend on things that they like. The development of important life skills are things that are objectively *good for the child*.

What we need to consider in the case of PSDs, then, is whether or not doing police work can plausibly be said to be in their interests. Or, more accurately, we need to determine whether or not, in all cases, doing police work contravenes important interests that PSDs have. In chapter two, we considered a few factors that are important when determining which dogs actually become PSDs. Recall that PSDs are specially selected for their genetic makeup, which includes a predisposition to exhibit certain behaviors and a predisposition to develop into the type of dog that can withstand the physical demands of police work. Beyond this emphasis on genetic makeup, however, we also determined that police dogs need to actually go on to display these preferred behaviors and develop the physiques necessary for police work. Indeed, those dogs that do not have the behavioural disposition nor the physical robustness to withstand the rigors of police work are selected out of the process. Beyond having these necessary traits, one study argued that a willingness to do police work is perhaps a necessary feature of a successful PSD (Maejima, Inoue-Murayama, Tonosaki et al, 2007, Discussion section). In short, given the fact that PSDs are highly selected for (both in terms of genetic lineage and the actual development of necessary traits), in conjunction with the fact that only the PSDs that seem willing to engage in training actually become PSDs, it seems reasonable to

conclude that at least some dogs have an interest in doing police work. These dogs are specifically selected to be the types of dogs that flourish in these roles. Much like in the human case, we have reason to think that the fact that PSDs cannot consent to incurring the risks entailed by policing is not morally problematic because it can plausibly be argued that these are activities that allow PSDs to flourish, given the type of beings they are.

Just like in the child farm labour example used above, this is emphatically not to say that *any* use of *any* dog for police work is permissible. For, central to this account is the idea that it is actually in the interests of the PSD to do the type of work that they are asked to do. While it may be tiring, boring, and terrifying for some dogs to spend hours tracking through the dark woods, or to spend day after day practicing take-down drills, these may well be the exact situations in which many PSDs flourish. And so, to ensure that PSDs do indeed flourish in these roles, and to ensure that they are reasonably protected from harmful institutional structures that may put them at disproportionate risk of injury or death, PSDs, as co-citizens and beings with rights to life, liberty, and freedom from suffering, ought to also be accorded a comprehensive scheme of labour rights.

4.5. Labour Rights for PSDs

Throughout this paper, I have been critical of Cochrane's account of animal rights. Crucially though, I hope it is clear by now that what is problematic with Cochrane's account is not his appeal to the interest-based approach per se, but rather, his use of Kantian autonomy as a means to delineate animal interests, and thus rights. Indeed, there are many aspects of Cochrane's theory that are crucially relevant to the topic at hand, including his discussion of the interest-based approach to animal labour rights. Cochrane

outlines five fundamental labour rights that ought to be accorded to animals: the right to representation by a labour union, the right to just and favourable remuneration, the right to healthy, safe working conditions, the right to rest and leisure, and the right to a decent retirement (Cochrane, 2016). In this final substantive section, I seek to apply each of these rights to the PSD case in light of the above discussion. That is, as beings that have rights to life, liberty, freedom from suffering, and citizenship, what labour rights are owed to PSDs? I will consider each of the five aforementioned labour rights in turn.

To begin, we can consider what is quite plausibly the most important labour right that PSDs ought to have: the right to be represented by a labour union. As Cochrane points out, this labour right is perhaps the most important because it better ensures that their other important interests are respected (Cochrane, 2016). Traditionally, the right to be represented by a labour union has been a way to balance out the inherent power asymmetry between employers and employees (Cochrane, 2016). By banding together, members of a labour union have more bargaining power, which can be used to better ensure that their employer is fulfilling their obligations to the workers (Cochrane, 2016).

In the animal case, this power asymmetry is likely even greater than most power asymmetries between human workers and their employers. For, as Cochrane notes, animals lack the ability to organize themselves, or to resign and take up work elsewhere, should their employers neglect their obligations (Cochrane, 2016). Crucially then, in the case of PSDs, in order to properly fulfil our obligations to them as co-citizens, we must ensure not only that they have the right to a labour union, but that they are provided with the accommodations necessary in order to exercise this right. As we have seen above, it seems that the concept of dependent agency will be instrumental in this process. That is,

in order to combine their bargaining power to demand fair working conditions, PSDs need a human agent with whom they have a close and trusting relationship who can accurately interpret their important interests and adequately represent them in a process that also considers the important interests of other PSDs in their labour union.

Recall from chapter two that the relationship between a PSD and their handler is an important one. It is a relationship that requires high levels of reciprocated trust. That is, the PSD must trust that their handler is giving them the right commands for any given situation, and the handler must trust that they can rely on their PSD to complete a given command. Of course, this relationship extends beyond working hours, as many PSDs live with their handlers and their handlers families on a full-time basis, starting from when they are very young, until they retire and eventually die. As we have seen, this relationship is a complex one. This complexity, however, suggests that this relationship is important to both the handler and the PSD. With this in mind, it seems that the complexity and importance of the relationships that PSDs have with their handlers make their handlers excellent candidates for aiding in the process of dependent agency. More specifically for our purposes here, their handlers can play a crucial role in ensuring that PSDs can exercise their rights to representation by a labour union by interpreting their important interests and adequately representing them as described above.

The next labour right to consider here is the right to a just and favourable remuneration. It would, of course, be nonsensical to hand PSDs bundles of cash each year. As Cochrane points out, in the case of animal workers, it makes more sense to consider “just and favourable remuneration” in terms of “in-kind payments” (Cochrane, 2016). That is, we can properly compensate PSDs for the work that they do by

discovering and interpreting their important interests, and then compensating them by working towards satisfying those interests. Crucially, these are goods that they will be owed in virtue of their labour, not the more basic goods that follow from their rudimentary status as beings with rights to life, liberty, freedom from suffering, and citizenship.

Dependent agency will, once again, be central to this labour right. For, as alluded to above, in order to properly compensate PSDs for their work, their handlers need to be able to accurately interpret their important interests and either be the one who receives the funding to satisfy these interests or be the one who passes on this information to the relevant person. So, provisionally, what might some basic interests of PSDs be that could be satisfied as a means of in-kind compensation for their work?

Well, given the physical nature of their work, and their right to not be made to suffer, *extra* resources ought to be allocated to ensure that they are healthy and free from pain. For example, a certain amount of resources could be allocated to providing them with canine massage therapy, to help treat any aches or pains. Additionally, more resources could be provided to ensure that the enclosures that they are housed in at their handler's home have an adequate amount of space and provide the PSD with a certain level of comfort and stimulation. Furthermore, for the days in which they are not on duty, and their handler is busy, police services could provide their PSDs with a companion that could take them to do activities that are important to them if it seems that this is something that the PSD is clearly interested in doing. Lastly, PSDs can be compensated by taking extra care in determining what is best for them to eat to ensure their health and

longevity, and, if possible, giving them some choice (among the foods that are best for them) regarding what they most enjoy eating.

Third, we can consider a right to a healthy and safe working environment. Now, this labour right is particularly difficult in the context of PSDs because, as we saw in chapter two, police work for PSDs can sometimes be dangerous, and even deadly. However, recall that many of these deaths and injuries are perhaps preventable by considering and eliminating two major causes of PSD injury and death: the bite and hold method of suspect apprehension, and inept trainers. Let us consider each here.

Recall that the bite and hold method of suspect apprehension contrasts with the circle and bark method. The former refers to the process whereby the handler instructs the PSD to pursue and bite a suspect, holding on until the officer gives the command to release. The latter refers to the process by which the handler instructs the PSD to pursue a fleeing suspect, circling the suspect while barking until the officer gives the command to stop. As we saw in chapter two, the use of the bite and hold method is controversial for a number of reasons, including public safety. Crucial for our purposes here are the potential risks incurred by PSDs trained in the bite and hold method, as opposed to those trained to circle and bark. Indeed, many of the PSD deaths among Canadian police forces happen while the PSD is attempting to apprehend a suspect. Of course, even when the circle and bark method of apprehension is employed, the PSD still faces the risk of being attacked. However, in these cases, the PSD is only trained to attack if the suspect becomes violent with the PSD or others. When the bite and hold method is employed, it is much more likely that a suspect will actually be bitten. This, in turn, makes it more likely that the suspect will attempt to harm the PSD in order to free themselves from the pain that they

are experiencing. Indeed, as we saw above, one Ottawa reporter used this line of argument in an attempt to challenge Quanto's Law (CBC, 2015b). Training law enforcement officers in methods to reduce their own personal risk is something that we already do, and the same ought to be done with PSDs. Thus, we must consider switching to the circle and bark method of suspect apprehension, for this will mitigate some of the risks inherent to the job.

Second, recall from chapter two that a staggering amount of PSDs die on the job from being left in hot police cruisers by their handlers. Indeed, the statistics bear repeating. In 2015, 11 of the 26 PSDs that died in the line of duty in America died because they were left in a hot police cruiser by their handlers (Ingraham, 2015). This is in no way an isolated occurrence: 46 police dogs have reportedly died from this cause in the United States from 2011 - 2015 (Rodewald, 2015). While these statistics are deeply troubling, the silver lining is that these are risks that are not inherent to the job, and with the proper strategy can be, in effect, eliminated. The most obvious way in which these risks can be eliminated is by ensuring proper handler training or adequate punishments for those guilty of this kind of negligence. Another obvious point is something that we briefly discussed in chapter two: fitting canine police cruisers with equipment that ensures that the temperature inside the cruiser does not reach a dangerous level (these are sometimes referred to as 'hot dog' systems). Of course, these systems can malfunction, and so there ought to also be a concerted effort to ensure their proper upkeep. If we want to take the labour rights of PSDs seriously, then we ought to ensure that they are trained in ways that minimize their own personal risk, and also that those in charge of PSDs receive proper training.

The fourth labour right to consider for PSDs is the right to rest and leisure. As Cochrane points out, providing animal workers with rest and leisure is essential if we are to respect their right not to be made to suffer (Cochrane, 2016). Now, quite clearly, PSDs do not go to work without their handlers, and so, presuming that their handlers are accorded a fair amount of work (i.e. an amount of work that is not overly demanding) we might think that PSDs are accorded a fair amount of work also. This, of course, rests on the assumption that PSD work is equally as demanding as the work that their handlers do, and vice versa.

Before disputing that assumption, there are perhaps some reasons to think that the work that PSDs do is perhaps even less demanding for them than the work that their handlers do. Recall that PSDs are selected to do police work because they are the very types of beings that can flourish in these environments. That is, PSDs are selected because, among other reasons, they are physically robust, and they have high prey drives. And so, while it may be difficult labour for most humans (and perhaps even most dogs) to spend hours practicing suspect apprehension methods, or tracking through the woods, these are precisely the areas in which PSDs thrive. For this reason, we might think that the work that PSD do, while it is certainly labour intensive, is also something that can be good for them: something that is more akin to the behaviours they would choose to express anyways. It seems, then, that perhaps the amount of work that PSDs already do in many ways respects their important interests in rest and leisure.

However, fair working hours is not the only thing to take into consideration here. As Cochrane points out, rest and leisure does not necessarily mean inactivity (Cochrane, 2016). Indeed, in the case of PSDs, given their high energy levels, inactivity over long

periods of time is perhaps something that is more harmful than beneficial. Special care needs to be taken in order to determine, in each case, the types of things that a given PSD enjoys doing in their off time, whether it be socializing with other dogs and humans, or playing games and sleeping. Respecting their rights to rest and leisure means making reasonable accommodations for them to do the activities that are important to them in their off time – resources for respecting this right could be part of the ‘in-kind’ payments that they are due for the services that they provide.

Lastly, we ought to accord PSDs the right to a decent retirement (Cochrane, 2016). Cochrane uses an interesting example of the Nottinghamshire Police Service, who recently began providing their retired PSDs with state pensions (Cochrane, 2016). The justification for providing these pensions was that the PSDs in the Nottinghamshire Police Service were *owed* these funds because of the services that they provided (Cochrane, 2016). Again, much like the resources that PSDs are owed as a matter of fair remuneration, the resources they ought to be provided to ensure a decent retirement are going to be ‘in-kind’ payments. These may include ensuring veterinary access as needed, and any physiotherapy and message therapy needed to treat aches or potential injuries. It is vital that the resources from these goods come from the police service themselves, and that these costs are not shouldered by the PSDs handler. After all, it is important to not create any sort of conflict of interests when it comes to the care and resources that PSDs are owed in order to respect their right to a decent retirement.

I have argued here that PSDs ought to be accorded a set of labour rights that protect their important interests. I have drawn heavily on Cochrane’s work here. And, like Cochrane, I admit that this list is little more than preliminary (Cochrane, 2016, p.

31). Much more work needs to be done to in order to adequately assess the interests of PSDs, and the rights that they ought to be accorded. However, as we have seen, this does not mean that it is not possible to at least have this preliminary discussion in the hopes that it will spur further interest in this topic, and perhaps a more robust list of labour rights for PSDs.

4.6. Chapter Summary

We began this final substantive chapter by considering some of the more general rights that animals ought to be accorded. By appealing to a revised conception of the interest-based approach to animal rights, I argued that sentient animals have rights to life, liberty, and freedom from suffering that are on par with those accorded to humans. Crucially, these arguments marked a departure from Cochrane's conception of the interest-based approach which relies heavily on a problematic application of the notion of Kantian autonomy.

We then considered whether or not domesticated animals have an interest in citizenship. By considering three central aspects of citizenship (rights to nationality, popular sovereignty, and exercising democratic political agency) I argued that domesticated animals do indeed have an interest in citizenship. Crucially, this interest is in citizenship, not mere community membership. Being a citizen better ensures that their interests are taken seriously by affording them the opportunity to contribute to the political process through the exercise of their democratic political agency, which, as we have seen, ought to be reinterpreted so as to include members of our society that cannot metacognize.

Crucially, however, not all interests translate into rights, and so a central task of the interest-based approach is to determine which interests are sufficient to generate obligations in others. One of the ways in which we determine who ought to be accorded citizenship is considering the contributions they make to the community. In the case of PSDs, it was argued that the risks they incur in serving the community are sufficient, all things considered, to justify a right to citizenship.

Additionally, it was argued that there is not a general moral prohibition on the use of PSDs, for, given the types of beings that they are (i.e. beings that are physically robust and have, among other things, a high-prey drive) it can plausibly be argued that the policing environment is precisely the type of environment in which PSDs thrive. However, this is emphatically not to say that we can use PSDs for any and all purposes. Rather, we must pay close attention to their interests, and accord them a set of labour rights that accurately reflect said interests, so as to properly respect their rights to life, liberty, freedom from suffering, and citizenship.

Chapter 5: Conclusion

By appealing to a modified version of the interest-based approach to animal rights, it has been argued here that the use of PSDs can be morally legitimate, if their important interests (and the corresponding rights) are respected. The way to best ensure that their rights are respected is by according them citizenship status, and a full scheme of labour rights, some of which were sketched in the fourth chapter.

Beginning in the second chapter, we saw that the relationships that PSDs have with humans are complex. The relationships that they have with their handlers are multifaceted, which suggests that the lives of both the handler and the PSD are deeply interwoven. The relationship that PSDs have with the police service that employs them is also somewhat complex, and often inconsistent. That is, PSDs are treated as members of the police service in some ways (such as when they die in the line of duty), but, in other important ways, they are not treated as full members (for example, they are not compensated for their labour, and are still considered as property). Also in the second chapter, we saw that the work that PSDs do serve important public interests, from tracking and apprehending dangerous suspects, to supporting and enabling victims to testify in court.

However, the work that PSDs do is often dangerous. This motivated my discussion in chapter three, which discussed three theories of animal rights: the abolitionist approach, championed by Francione, the citizenship approach from Donaldson and Kymlicka, and Cochrane's interest-based approach. Ultimately, it was argued that all three theories inadequately capture our obligations to animals. Crucially for our purposes here, it was argued that the Donaldson and Kymlicka's account of

domesticated animal citizenship was undermined by the non-identity problem, and the lack of resources that their framework provides for delineating particular rights for domesticated animals. Furthermore, Cochrane's interest-based approach problematically appeals to Kantian autonomy as a resource for delineating animal rights.

Ultimately though, these problems can be ameliorated by appealing to a revised version of the interest-based approach that does not appeal to Kantian autonomy. In the fourth chapter, we saw that this revised conception of the interest-based approach justifies animal rights to life, liberty, and freedom from suffering. Crucially, it was also argued that domesticated animals have a strong interest in being accorded citizenship status.

However, on the interest-based approach, having an interest in a particular good (even a strong interest), does not necessarily mean that that interest translates into a right. In order to determine whether an interest is sufficient, all things considered, to generate obligations in others, we must take other relevant considerations into account. It was argued that given the risks incurred by PSDs while serving important public interests, their strong interest in citizenship ought to generate obligations in others.

As citizens with rights to life, liberty, and freedom from suffering, are there morally legitimate ways in which we can use PSDs for police work? I answer this question in the affirmative. However, this is emphatically not to say that we can use PSDs for any and all police uses. What we need is a way to ensure that their important interests are protected. The way that we do this in a labour context is by providing them with a scheme of labour rights that respect their important interests. By appealing to Cochrane's useful discussion (Cochrane, 2016), I argue that PSDs ought to have (at least)

five fundamental labour rights: a right to representation by a labour union, a right to fair remuneration, a right to a healthy and safe work environment, a right to rest and leisure, and a right to a decent retirement (Cochrane, 2016). Crucially, this list of labour rights is preliminary – much more is yet to be done. Donaldson and Kymlicka are right to point out that much of the important information to garner regarding the potential rights of animal citizens needs to be done after they are given the freedom to express their important preferred behaviors (Donaldson & Kymlicka, 2013, p. 122). However, as we have seen, this does not mean that we cannot at least make a preliminary attempt to determine which rights PSDs ought to be accorded as citizens, by considering their interests and their rights to life, liberty, and freedom from suffering.

One of the central goals of this project has been to challenge two established political theories of animal rights. Ultimately, an interest-based approach to domesticated animal citizenship was defended. Before closing, however, we might consider two potential implications of this theory moving forward. First, this approach²⁰ allows for the possibility of developing a more comprehensive scheme of labour rights for both PSDs, and other working animals that incur personal risks in the defence of their communities. The labour rights for PSDs outlined here are, as indicated above, preliminary. And so we might feel compelled to develop a more comprehensive scheme of labour rights that could potentially be brought into a more mainstream public debate.

However, PSDs are not the only animals that incur personal risks in service to their communities. For example, quite plausibly, military dogs face many dangers on the job. Additionally, other animals besides dogs are sometimes used for police work. For

²⁰ This is something that would also be possible on Cochrane's interest-based account. However, as we have seen, there are reasons to doubt the strength of his arguments.

example, police in the Netherlands have begun training rats to sniff out, among other things, drugs and gunpowder. One such rat (his name is Derrick) boasts a 98.8 success rate “in all cases” (Durr, 2013). It seems entirely plausible that the arguments outlined above also ought to apply to these working animals.

The second implication of the interest-based citizenship approach outlined above is that it allows for the possibility of determining who, among those that have a strong interest in citizenship, ought to be accorded such a status. For, on Donaldson and Kymlicka’s model, it seems as though there is no infrastructure in place to non-arbitrarily decide which domesticated animals ought to be accorded citizenship. However, it seems perfectly plausible to claim that it may be untenable to extend citizenship to *all* domesticated animals. And so, what we need is a way of determining who ought to be accorded citizenship.

In the human case, there are any number of reasons why someone might be accorded citizenship. As alluded to above, one important consideration is personal safety and security. That is, innocent humans fleeing unavoidable and imminent danger in other countries often have strong claims to take up permanent residency in a given nation, which may or may not eventually grant them (or their offspring) citizenship status. In other cases, merely being born within the bounds of a given territory is enough to justify according citizenship status. For some humans, having a parent that is a citizen of a given country justifies a right to citizenship. On this new proposed framework, all of these questions are open for debate in the animal case. What we need, then, is to take into consideration other relevant factors that go into determining who, among those with a strong interest in citizenship, are owed such a status.

Before concluding, we might briefly revisit a thought that we considered at the outset: although PSDs provide a useful service that is often recognized as such, this fact does not tell us whether or not we are morally permitted to use them. Hopefully the arguments presented here help provide some clarity regarding our relationships with PSDs, and what they are properly owed. Recall that, on the interest-based citizenship approach, PSDs are owed a strong set of protections. Among these protections are some important negative rights, such as rights to life, liberty, and freedom from suffering. However, much like other political theories of animal rights, it was also argued that PSDs also have positive rights. Some of these rights follow from their status as citizens. However, others do not clearly follow from their status as citizens, but rather, from their interests. Crucially, they have interests in, and corresponding rights to, a scheme of labour rights.

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