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Let Them Eat Hake? Nussbaum and Veganism

Josh Milburn
Loughborough University, UK

There's a tension at the heart of *Justice for Animals*.[1] Some humans, says Nussbaum, can realize important capabilities only through consuming certain animal products—through not adopting a vegan diet. Consequently, the entitlements of some humans conflict with the entitlements that the capabilities approach grants to the animals these humans (would) eat. After all, animal agriculture almost invariably involves killing animals, violating animals' bodily integrity, controlling animals' life prospects and affiliations, and limiting animals' ability to sense, reason, and play. Is this tragic conflict resolvable? Or must we accept that one group—certain humans or certain animals—lose out?

Animal advocates may challenge Nussbaum's claim that important human capabilities can require access to animal products. But let's imagine she's right. The worries that Nussbaum raises about vegan diets—i.e., the ways she thinks they conflict with the flourishing of some humans—concern health (169) and cost (172). She also worries about "massive change to crop growing" (184). This is surprising: feed conversion ratios mean plant-based food systems involve much less crop growing. Perhaps there are other conflicts, too. For instance, some might think of meat's cultural significance. Nussbaum rejects cultural expression as a legitimate reason to kill animals (189), but does allow that "a group can retain the value of a practice that holds the group together by … removing lethal means" (188).

To resolve tragic conflicts, Nussbaum looks to Hegel:

> Tragic clashes between two spheres of value, he argued, stimulate the imagination to think ahead and change the world: for it would be better if

Josh Milburn is a Senior Lecturer in Political Philosophy in the Department of International Relations, Politics and History, Loughborough University, Epinal Way, Loughborough LE11 3TU, United Kingdom (j.milburn@lboro.ac.uk).

[1]I first read *Justice for Animals* as part of a reading group with Daniel Breeze, Alasdair Cochrane, Maria Dede, Diego Expósito, and Jose Tarín. I thank them for their thoughts. Parenthetical references in the text are to Martha Nussbaum, *Justice for Animals: Our Collective Responsibility* (New York: Simon & Schuster, 2023).

> one could find a way to prevent the tragic choice from arising in the first place. The bad choice is before us, now; but the next time let's try to figure out how to prevent it. (175)

Rather than abandoning principles motivating one "side" of the conflict —i.e., rather than denying the value of animal-based foods or denying that harming animals for food is unjust—we should seek to "sublate" these problems, realizing both values (175).

Whether we can realize the values of animal-based foods without the injustices that go into its production encompasses two sets of questions: 1) For what kind of ideal food system should we aim? 2) How should we eat in today's non-ideal world? Nussbaum candidly discusses her own consumption of fish (halibut, not hake) and dairy (169), and advocates, as a transition towards a just future, the consumption of fish and free-range eggs (172). But she acknowledges the injustice in the production of these foods. "Humane farming" of fish is "not the final destination" (172); "the dairy industry at present is a moral horror" (220); and "the current commercial system of egg production is unacceptable" (221). These industries are indeed deeply unjust. They are not industries that advocates of justice for animals should support.

At least, supporting this violence must be a last resort. But, I suggest, there are other prospects for respectful animal products. I don't claim that these are the only possibilities, nor that they raise no ethical challenges. But I do propose that they are more consistent with Nussbaum's principles than some of the dietary practices she discusses. *These* products—not fish, eggs, and dairy—offer the prospect of a genuine Hegelian solution to human/animal dietary conflict. I offer three possible sources of animal protein that could be part of a capabilities-approach-compatible food system.

First, consider non-sentient animals. For Nussbaum, the possession of sentience is necessary for being "a subject of a theory of justice" (138). But some animals are non-sentient. We thus owe them no duties of justice. It sounds like they're fair game, as it were. Which animals are non-sentient is debatable. Nussbaum surprisingly lists elasmobranch fish (sharks, rays, etc.), but less surprisingly lists cnidarians (corals, jellyfish, etc.); sponges; and many insects (though not bees). With crustaceans, she errs on the side of caution (141–48). Other animals not mentioned—other molluscs, other arthropods, etc.—might also be non-sentient. The bodies of many of these supposedly non-sentient animals (e.g., oysters, sharks, conchs, whelks, crickets) are edible and protein-rich. In the conflict between animals and those humans with "high protein needs" who have "difficulty digesting lentils and beans" (169), non-sentient animals offer a Hegelian solution.

Second, consider novel food technology. When Nussbaum briefly addresses meat-eating in her exploration of Hegelianism, she endorses "artificial meat" (184). She seems unaware of plant-based meat's prevalence, reporting (dubiously) that it was "[v]irtually unknown" when she started

writing *Justice for Animals*, and (more dubiously) that "there is no artificial fish" for "those of us who love fish" (184). The relevance of loving (to eat) fish to the capabilities approach is unclear. She also notes, without discussion, that "laboratory grown meat" offers an exciting possibility (184).

By the end of the book, Nussbaum has realized the significance of plant-based/cultivated meat as potential "game changers" (301). Cultivated and plant-based meat (plus eggs, dairy, etc.) could be a central pillar to a Hegelian resolution of the conflict between humans and farmed animals. But while cultivated and (depending on their ingredients) plant-based meats can overcome Nussbaum's health concerns, what about cost? Following Nussbaum's ideal-theoretic perspective (281–83), the capabilities approach "maps a destination" (115). Surely, the Nussbaumian state could have policies to address pricing. If we're concerned with the non-ideal question of "how to get there" (115), perhaps we could start by recommending that the price of slaughter-based animal products reflects their true costs. We could internalize externalities; we could redirect farming subsidies to sustainable and animal-friendly foods.

Third, consider the prospect of genuinely humane farming. Could we imagine egg and dairy farming genuinely respectful of animals' capabilities? This would be slaughter-free farming. It wouldn't include mutilation, close confinement, or destruction of familial (and nonfamilial) bonds. Nor would it include complete control over animals' lives and time. It would be quite unlike (almost?) any commercial farming today. Labour, Nussbaum says, can be meaning-making for animals, even if they don't always enjoy work: "if on-balance work adds meaning and richness to the animal's life, then, as with all of us, the animal must accept the regular hours that a decent workplace requires" (218).[2] Something similar, Nussbaum briefly suggests (220–21), could be true of cows (and perhaps others) kept for milk, or chickens (and perhaps others) kept for eggs. The Devil is in the details—but perhaps genuinely humane farms could form part of a Hegelian solution.

Today, if certain humans can't realize their capabilities on a wholefoods vegan diet, they could eat plant-based meats (and similar) and non-sentient animals. Depending on geography, they could also eat the products of "cellular agriculture"—cultivated meat, or foods produced via precision fermentation. Though capabilities-respecting animal farming (probably?) doesn't exist, perhaps they could source eggs from backyard chickens. We could also ask about animal-based foods that would otherwise go to waste. After all, eating such foods does not negatively impact any animals' striving towards their flourishing, and may help humans strive towards their own

[2]Nussbaum is implicitly—unknowingly?—tapping into an emerging literature on animal work. See, e.g., Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, eds, *Animal Labour: A New Frontier of Interspecies Justice* (Oxford: Oxford University Press, 2019).

flourishing. Perhaps the capabilities approach will endorse eating leftover animal products, or collecting "roadkill." In an ideal world, conversely, there'd be no unjustly produced animal products to be left over, and our transport systems would be more animal-friendly.

There are important ethical questions to ask about each of these possible foods. I'm suggesting only that Nussbaum's Hegelian method offers options in today's world more attractive (by the lights of the capabilities approach) than the "humane" fish, "free-range" eggs, and dairy that she discusses.

Justice for Animals contributes to a surprising possible overlapping consensus beyond Nussbaum's hope for an overlapping consensus in favour of justice for animals (313). This is a consensus away from the abolitionism prevalent in animal rights theory. For abolitionists, a vegan future is the one we must hope for, and vegan practice is all we can accept today. This alternative to abolitionism is conciliatory, but not for compromise's sake—it holds that there are non-vegan diets and food systems that are acceptable (even preferable) according to the principles motivating justice for animals. This "new omnivorism"[3] is something I've argued for—though, admittedly, not in the language of the capabilities approach.[4] Perhaps, soon, "new omnivore" food systems and diets won't sound so strange, and philosophers won't find it difficult to endorse animal rights without (fully) embracing veganism. What's key is that the alternative to veganism is the right one. *Justice for Animals* points us toward the right alternative—but Nussbaum, I fear, doesn't see it.

[3]See Cheryl Abbate and Christopher Bobier, eds, *New Omnivorism and Strict Veganism: Critical Perspectives* (New York: Routledge, 2024).

[4]Josh Milburn, *Food, Justice, and Animals: Feeding the World Respectfully* (Oxford: Oxford University Press, 2023).