More Than Human Rights

An Ecology of Law, Thought and Narrative for Earthly Flourishing

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Recasting Interspecies Care and Solidarity as Emergent Anti-Capitalist Politics

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1. Another Story of the Black Summer Fires

When catastrophic fires ravaged the east coast of Australia from the end of the winter of 2019 through the summer of 2020, they held Australians—and people around the planet—in captivated horror. A few short weeks after they ended, however, we experienced the first wave of a global pandemic and the first torrential rains of an extreme La Niña event that washed away entire towns up north and brought the wooded sides of hills down onto roads in the south-east. These other manifestations of ecological destabilization and

multispecies violence, coming with increasing rapidity, seemed to bury the terror, grief, and rage of the five long months of fire that devastated communities, destroyed ecological systems, and killed billions of animals.

In mid-2023, as people gathered in a community hall overlooking the bend in the great river that winds through this part of the land, memories and the emotions that twisted around and through them grew intensely present. As distinct from most of the other gatherings that the state, charities, and NGOs had sponsored to help communities "recover" from the fires, these had a specific and unusual focus: the people who had come together to rescue, care for, and sometimes help the animals who found themselves on the frontline of fires die, and on how to better support these human and animal communities in a future that will surely bring more—and worse—conflagrations. For them, there had been a double silencing: the first resulting from the turn of attention to the pandemic and floods; the second from a more structural silence about the reality and ethical and political significance of their multispecies solidarity.

In the preceding months, members of our team sat down to learn about the experiences of some of the people who came to the workshops. We heard stories about a woman bound at home looking after family members with disabilities, watching the calamity unfolding for animals as people sought support systems that did not exist, and decided to set up a social media–based animal rescue network. It connected people with large animals living on lands where the fires were rapidly approaching with others who had floats that could transport them, skills to calm terrified animals, and safe land where they could stay, resulting in hundreds of horses, donkeys, alpacas, goats, and others being brought to safety.

People who had accessed those networks described the hopelessness and rage they felt when they turned to official agencies for information, advice, or help, only to be told they had come to the wrong place or that, as private property, animals were their

individual responsibility. Some were told no, there was nowhere to evacuate them. Others received a positive response but then learned they would have to remain with the animals day and night, an impossible task for people whose homes and larger families and communities were also under direct threat. Some spoke about their grief at not being able to reach animals who remained on properties they had fled or left to go to work or to help someone else—animals now stuck on the wrong side—the fire side—of police barriers. Others recounted the profound sense of relief, solidarity, and even empowerment they experienced as their collective actions revealed the presence of an interspecies community of care, concern, and commitment.

Then there were the people whose horrified witness of the mass killing of wild animals and destruction of their habitats, food, and water sources impelled them to create new informal organizations that built, distributed, and monitored feeding and water stations in the charred bush where surviving animals might remain, now starving and exposed. Starting with a social media post calling a meeting at the local pub, hundreds of people, most of whom had no formal experience caring for wild animals, soon formed themselves into local chapters and networks of action. Some collected and sorted the mountains of food or money that poured in as donations from people whose more remote witness of the mass killing had moved them to act as they could. Others researched and then built feeding and watering stations that would be as safe and effective as possible for the diverse range of surviving animals—from reptiles to small and large marsupials and macropods, to a vast range of often-displaced birds. Others drove the provisions and equipment out and walked into the blackened, ravaged bushland, sometimes deciding to break the laws forbidding them from entering private property or national parks to reach (nonhuman) animals. They knew that by doing so, they might provide anyone who was left with nourishment that would keep them alive.

All of this occurred under conditions of emergency and in scorching temperatures when many of the volunteers were protecting their own homes and human and animal families. Further, they were faced with insufficient information and a dearth of existing research about how people can or should support wild animals in such extreme anthropogenic disasters, and against the background of a state that did not deem these battered animal lives as meriting an official emergency response. People again spoke to us of the strange mix of grief, desperation, and interspecies solidarity they felt, but also about the conflicts that arose among them because of the enormous pressure under which they were working, the lack of agreed practices or reliable information, and the complete absence of any preparation by or support from the organs of the state.

When people who had shared their stories looked across the circle and listened to one another during the community gatherings we facilitated, it was not only the unfathomable suffering of animals nor the vast trauma of what they had been through that once again became starkly apparent; it was that in the face of the extensive and unjust institutional neglect of the violence that climate-driven disasters wrought on other animals, they had created a counter reality. In their utopian vision of a *zoopolis*, Sue Donaldson and Will Kymlicka delineate the contours and principles of a political community that would formally recognize other animals as political subjects and subjects of justice.[1] The world we could discern in that room fell well short of a political utopia for people or animals; nevertheless, it represented a prefiguration of such a world. Already here, and in sharp contradistinction to the formal institutional structure of the state, were the foundations of an alternative set of norms, institutions, and practices.

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1 Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (New York: Oxford University Press, 2011).

The state and its "official story" of justice and the community to whom it has obligations and is answerable systematically excludes animals from the care it aspires (though always fails) to afford those impacted by climate-driven disasters. But the fragile norms and institutions at play here recognized and honored the reality that humans' lives are bound with those of the other beings with whom they live—sometimes in close proximity, sometimes at a physical distance, but always with a type of intimacy of care, concern, and even obligation that had, under the pressure of mass killing, come into sharp relief.

When people speak about the Black Summer, the story they habitually (and rightly) tell is about the unprecedented intensity and reach of the fires—across 80,000 hectares—and their devastating impacts on more-than-human beings and worlds. Those stories recount how the fires further destabilized complex and unique ecological systems that deforestation, climate change, extraction, and overdevelopment had already left precarious; that they killed billions or trillions of animals (depending on who and how you count)[2]; that as the world approaches the sixth mass extinction, and with Australia having the highest rate of mammalian extinction on the planet, they pushed endangered and threatened species several

2 The widely cited figure from Chris Dickman's study (Christopher R. Dickman, "Ecological Consequences of Australia's 'Black Summer' Bushfires: Managing for Recovery," *Integrated environmental assessment and management* 17, no. 6 (2021): 1162–1167), based on estimates of the number of animals in fire-affected areas, is 3 billion vertebrates. However, the team has recently clarified that they were referring to the number of vertebrates affected, many of whom would certainly have died given the intensity and reach of the fires. There was no count of the farmed, domesticated, and companion animals killed, and the figure of up to 120 trillion invertebrates is rarely cited. See Heloise Gibb and Nick Porch, "More than 60 billion leaf litter invertebrates died in the Black Summer fires. Here's what that did to ecosystems," *The Conversation*, June 7, 2023, https://theconversation.com/more-than-60-billion-leaf-litter-invertebrates-died-in-the-black-summer-fires-heres-what-that-did-to-ecosystems-207032.

steps closer to their permanent disappearance. Sometimes, they tell one to two of the myriad stories of individual devastation, death, and violence that the macro stories of more-than-human violence, injustice, and loss almost always conceal.[3]

In this chapter, we tell another story—a story about how, as the impacts of climate change and ecological devastation are intensifying, communities are enacting forms of interspecies care and solidarity that defy the normalized neglect and injustice of the state. As they do so, they are prefiguring radically different norms, institutions, and practices of community. They are, we argue, invitations to a re-articulation of the state whereby the more-than-human would be included within the reach of its obligations of care in a climate-changing world.[4]

In telling this story, we are not claiming that these incipient practices already constitute a present threat to dominant institutions: the flows of power, the distributions of resources, and the hold that capitalist forms of life still have on the "meaning" and possibilities of animals' (and humans') lives and relationships are still organized and fortified so as to deprive these alternatives of the legitimacy and nourishment they will need to thrive. Nevertheless, they signal waves of resistance to the pathological logics and practices of dominant institutions, and they refuse the invisibilization of the growing numbers, determination, and organization of people who, as the violence, neglect, and injustice of those logics and institutions

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3 Danielle Celermajer, *Summertime* (Sydney: Penguin Random House, 2021).

4 We note here that the transformation of the capitalist state in the ways we discuss—effectively, through ongoing crisis—toward non-capitalist states requires varying forms of contestation in, against, and beyond the spheres of production and reproduction. Our concern in this chapter is to focus on one emerging area of contestation: the claims multispecies solidarities might make upon the state and how these might contribute to this broader project.

become ever more evident, are refusing to step into line. Making them visible as existing alternatives and naming them as institutional forms and practices of justice and politics—as distinct from dismissing them as privatized, sentimentalized, feminized forms of "care"—is the first step in augmenting them. The next steps, which we signal here but do not elaborate on in this chapter, will be to transform the flows of resources and power and to build forms of solidarity between these emergent forms of multispecies justice and the other movements seeking to support entangled human—more-than-human life and justice in capitalist ruins.

In telling this story, we want to make clear that First Nations peoples of Australia, like Indigenous peoples across the world, have long, consistently, and creatively resisted the logics and institutional arrangements of the colonial-capitalist state and how it views, treats, commodifies, and extracts their more-than-human kin. Some of the people with whom we spoke in our project are Aboriginal, and many who are not nevertheless referenced Indigenous forms of care for Country as inspirational in their own orientations and practices. The forms of resistance and counter-institutional prefiguration we document here, however, largely emerged from and were sustained by non-Indigenous Australians. We see this as important because it signals that the extractivist and commodifying logics supposed to organize the colonial-capitalist state and its people are not ubiquitous; instead, the hegemonic aspirations of dominant discourses about the forms and functions of the state are only ever partially successful.

Of course, we know that capitalism requires forms of labor and solidarity that it officially forecloses to sustain itself. Using the terminology of materialist ecofeminism,[5] "free" socio-ecological reproduction of the conditions of production for capital (and the

5 See for example Mary Mellor, *Feminism and Ecology* (Cambridge: Polity Press, 1997); Ariel Salleh (ed.), *Eco-Sufficiency & Global Justice: Women Write Political Ecology* (London, New York: Pluto Press, 2009).

conditions of life for everyone else) is always performed by humans and the rest of nature in, against, and beyond capital. When it is opportune or profitable, capitalist systems may assimilate such reproductive labor into their own logics and systems for stability. In this regard, the forms and functions of any "state" represent the iterative crystallizations of battles over when and where to assert collective responsibility for maintaining particular forms of social and ecological reproduction. The trick here will be to uphold and increase the radical counter-logic of interspecies care and justice these practices foreshadow.

2. A State of Injustice

As estimates of the number of animals killed during the Black Summer fires escalated to a point that defied imagination, the word *tragedy* became a common trope. The word perhaps captures some of the emotions the suffering and dying provoked. Nevertheless, it is critical to understand both why what happened to those animals must not be called a tragedy and why, in the context of the dominant ethical, discursive, political, and legal systems, it was precisely this word that was produced and circulated.

It is now well documented that while bushfires are intrinsic to Australian ecosystems, the intensity and scale of the 2019–2020 fires were the outcome of a range of human interventions, as was the mass killing of animals and the destruction of ecosystems.[6] The most obvious contributor was anthropogenic climate change, driven by extracting and burning fossil fuel, massive deforestation, and industrial-scale animal agriculture, all of which the Australian colonial-capitalist state has excelled at creating permissive conditions for, and sustaining. Leading up to 2019, Australia had suffered several

6 Peter Christoff, *The Fires Next Time: Understanding Australia's Black Summer* (Melbourne: Melbourne University Publishing, 2023).

years of extreme drought, and in 2019, when the temperatures exceeded all previous records, the east coast was a tinder box ready to go up. Looking back further, over 200 years of colonization, intensively extractive land use practices had gravely undermined ecological integrity, damaged river systems and aquifers, depleted soils, razed and fragmented forests, and prevented First Nations peoples from practicing the forms of care for Country that had supported flourishing human—more-than-human worlds for tens of thousands of years. The intensity and range of the fires were a product of capitalism and colonialism, and responsibility for them lies with the people who have driven and benefited from these organizations of life.

Moving from the fires to the animals they killed and displaced, the impact of disasters on other animals is always (as it is for humans) a function of existing vulnerabilities.[7] For the most part, when analyzing species' vulnerability to climate change, "assessments . . . consider exposure, sensitivity and adaptability . . . [where] exposure is the magnitude of climatic variation in the areas occupied by the species . . . sensitivity . . . determined by traits that are intrinsic to species, is the ability to tolerate climatic variations, while adaptability is the inherent capacity of species to adjust to those changes."[8] What is missing from this analytic frame is the larger set of human interventions beyond climate change that heighten animals' sensitivity and diminish their adaptability. Wild animals confronted with catastrophic fires had already long faced the transformation—destruction, fragmentation, and damage—of their habitat, including

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7 Terry Cannon, "Vulnerability Analysis and the Explanation of 'Natural' Disasters," in Ann Valery (ed.) *Disasters, Development and Environment* (Chichester; New York: J. Wiley, 1994): 13–30; Kimberley Thomas, et al., "Explaining Differential Vulnerability to Climate Change: A Social Science Review," *Wiley Interdisciplinary Reviews: Climate Change* 10, no. 2 (2019): e565.

8 Michela Pacifici, et al., "Assessing Species Vulnerability to Climate Change," *Nature Climate Change* 5, no. 3 (2015): 215.

fences, roads, and other human infrastructure cutting across their territories. When the fires came, they had to shrink their range even further, constraining their options for escape or for finding alternative habitats and food sources once their already diminished territories had burned. For domesticated animals, literal external fences and the long-term erosion of capacities or knowledge about how to navigate extreme events combined to heighten their vulnerability.

In other words, humans' contributions to climate change as well as the larger vectors of ecological damage that contributed to the severity of the fire and to animals' vulnerability to climate-driven disasters' impacts, all have to be factored into the causal story of animals' deaths. When we use the word tragedy, however, it may seem we are talking about terrible events fated by some transcendent source beyond human control. To call the killing of the billions of animals during the Black Summer a tragedy is to erase the human responsibility for their deaths. Indeed, this linguistic erasure compounds the injustice of their killing.

Why, then, was it this term that fell so easily into circulation? The answer is familiar to the more-than-human rights project: within dominant ethical, legal, and political understandings, animals are not the types of beings who can be subjects in terms of justice or injustice. Indeed, with the exception of certain (and generally defeasible) protections for those native animals that are attributed particular cultural or biodiversity value, even their direct killing (let alone killing that comes at the end of a complex causal chain) is of no ethical, legal or political consequence.

Depending on the "classification" they fall into—companion, domesticated, farmed, wild, native, feral—animals may be, variously, private property; different types of commodities, whose value may derive from the market value of their flesh, milk, or coats, or the market value they have for tourism; outside exchange-value altogether; or appear as costs—to be removed in order for profit creation to proceed. Unlike (at least certain) humans, they are

attributed neither "intrinsic" value nor value derived from their citizenship or legal personhood, which would (at least formally) place on the state certain obligations of protection and prohibitions of harm. When entire herds of cows died from asphyxiation caused by the fires, what the state registered was a financial loss for the farmer. When billions of wild animals were killed when their forest homes burned, what the state registered was an impact on biodiversity. When dogs or horses were left on properties and could not be reached before they died, it was a private loss for their "owners."[9] Within this frame, the state has responsibility for neither animals' lives nor their deaths, no obligation to seek to prevent their deaths, and no reason to name those deaths, however many and however they came about, as anything other than a tragedy.

And yet, this state erasure of their deaths from within the realms of human responsibility did not and will never occupy the full field of meaning nor of experience. For the many people who dedicated their time, energy, and resources to the lives and deaths of animals during Black Summer, other animals showed up as both members of their communities of care and obligation and as subjects of justice. In their descriptions and actions, and indeed sometimes in their direct defiance of the directives of the state to leave animals to "their fate," animals' exposure to the fires and abandonment by the state showed up as wrongs they were obliged to prevent and resist.

3. Interspecies Solidarities and Counter-legitimacies

It would be a mistake to relegate the alternative understandings (and treatment) of other animals and their value that showed up under conditions of emergency as exceptions produced by the extremity of the situation and the emotions it provoked. They were, instead,

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9 Moreover, when people tried to reach animals on the wrong side of legally enforced barriers, they were subject to the carceral logic of the state.

heightened examples of the marginalized truth that many people habitually understand and relate to other animals in ways that do not conform with—and indeed defy—the rigid demarcations stabilized in the forms and functions of the state, which are maintained and reproduced through a range of material and ideological positions. For these people, as we repeatedly heard and witnessed, other animals are members of their communities, with whom they experience bonds of care and obligation. Moreover, other animals, whether companion, domesticated, or wild, people told us, are not only recipients of their care but beings who variously care for them, infuse their lives with meaning and value, and co-create the worlds that they call community and home.

The problem is that, within the dominant logics of capitalism, such bonds of solidarity must not be cast within political terms or the terms of justice or in any terms that directly challenge the constitutive devaluation of animal life and, thus, the maximization of profit. Indeed, to sustain the logics of capitalism, they have to be discursively delegitimated or permitted to show up only as (private, individual, and feminized) "love," "sentimentality," and forms of extra-political, voluntary affection. In this sense, the first step in fortifying these alternative logics and growing the institutions they subtend is to challenge this depoliticizing framing and lend them political legitimacy.

Once one resists the frames that privatize and feminize these relationships, and allows that the understandings and relationships practiced during the fires were indicative of a counter-political logic, they reveal a political contestation from within society of the institutional logics and practices stabilized through the state in its current form. For whereas through the latter, the commodification, historical discounting, and invisibilization of animals from the realms of politics and justice has been normalized, in the worlds substantiated by the counter-practices we documented, animals are (and, thus, ought to be understood and treated as) fellow living beings, subjects

of justice and political right, whose lives must be supported. The value of crises, and indeed what will become increasingly evident as crises intensify and multiply, is that they reveal the contingency of who is counted and supported through the forms and functions of the state. The state is not a black box nor a unitary actor but an array of socio-ecological relations constantly contested and iterated across time, and crises excel at revealing this fungibility.[10] While existing arrangements (in this case, the exclusion of other animals) have been so normalized as to naturalize the existing state of affairs, what we can see is that there remains serious contestation and a live aspiration for and commitment to a political geography of justice that includes other animals.

Still, even if one acknowledges that the forms of interspecies solidarity that emerged and multiplied during the Black Summer fires constitute a form of serious political contestation (and not admirable charity) and, thereby, lends them legitimacy, this is only the first step in the larger project of their accumulating sufficient power to challenge existing state forms and logics—thus creating strategic shifts within the broader society that constitutes the state. Hence, the question that must be answered is, "How do these forms of prefigurative politics become political movements of sufficient strength to actually contest existing logics?" Given that existing logics are normalized, legitimated, authorized, enforced, and policed by all sorts of institutional forms—from language to law to markets to infrastructure, displacing them will require significant organization. Here, we have two strategic suggestions.

The first is to insist that the state has an obligation to lend its support, through redirecting its resources and institutional

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10 Anna Sturman, "Capital, the State and Climate Change in Aotearoa New Zealand" (PhD diss., University of Sydney, 2021); James O'Connor, *Natural Causes: Essays in Ecological Marxism* (New York; London: The Guildford Press, 1998).

enablement, to the movements and networks dedicated to the protection of animal life, both those that emerged during the Black Summer fires and those that exist, albeit in a highly marginalized form, beyond emergencies. Doing so, critically, is not simply a matter of directing resources to "volunteer animal groups," easing the burden that volunteers carry, or recognizing the value of their labor. Rather, and from a formal and constitutive perspective, facilitating the flow of public resources—and hence collective responsibility—to multispecies communities effectively starts to rearticulate the state toward the recognition of other animals as subjects of justice and more expansive forms of socio-ecological reproduction.

Again, it is critical to situate this redirection within the language of justice and legitimacy. More specifically, the legitimacy of liberal democratic states rests on the twin claims of ensuring security for those to whom it acknowledges it has such obligations and affording them justice.[11] Yet, as is evident if one thinks about the expansion of the franchise or the recognition (in some states at least) of the entitlement to paid parental leave, the question of who falls within this circle of obligation—and what types of obligations are owed—is a historically contingent and contested matter. Previously disenfranchised groups, or groups whose specific claims have been historically neglected, won their political battles, in part, by insisting that they and their claims rightly fell within the shadow of obligation cast by the state's claim to legitimacy. By the same token, the argument here needs to be that denying other animals security in the face of climate-driven disasters and excluding them from the reach of the state's protective resources calls into question its claim to legitimacy as the guarantor of security and justice. In adopting this framing, one is thus also prosecuting the larger project

11 Critically, we are not arguing that any state actually affords security or justice to all of its citizens or that the affordance of security and justice is ever equal. We are speaking about the *claim* to legitimacy.

of rearticulating the boundaries of obligation and justice in the direction of more-than-human rights.

The second strategic suggestion involves going beyond direct advocacy concerning the political status of animals and more-than-human rights and thinking about how this particular project could be joined up with other social movements contesting the existing articulation of the state through ongoing climate crises. For, as we have argued, the exclusion of other animals as lives that merit the concern of the state—and the exclusion of the forms of social reproduction in which multispecies communities are involved—belong to a larger class of exclusions, a range of forms of social reproduction, and, for that matter, a range of forms of production. Animals and the people who already experience them as members of their communities of care and obligation are a subset of a larger class of groups experiencing different dimensions of exclusion, invisibilization, and neglect (as well as violence), for whom the promises of security and justice that ground the state's claim to legitimacy are clearly being broken. The success of their individual and collective contestation of the legitimacy of the state will rest, in part, on their capacity to weave their claims together as part of a larger contestation of the apparently normalized and naturalized forms of state obligation.

4. Concluding Thoughts

Climate change, on its own terms and as an accelerator of myriad other crises wracking our world, portends a full-system meltdown for the capitalist state as the mediator of increasing and conflicting demands from all quarters. The state will have to be radically reworked to underwrite the conditions for whatever comes next—whether the possibility of more extraction, death, and depravity for profit or the harder work of building systems of collective rejuvenation

and reproduction that genuinely sustain life. In the face of massive and escalating violence against the more-than-human, it is difficult not to train one's strategic attention exclusively on the institutions and logics that perpetuate, normalize, and legitimate violence and extractivist logics and to seek a fight on the terrain of the state on these terms. This work is critical.

Yet, in attending only to the pathological institutions and logics, there is a danger of—paradoxically—fortifying them by confirming the ubiquity that is so crucial to their claim to legitimacy and necessity. Such logics may dominate, but they are neither ubiquitous nor necessary. In this sense, noticing counter-hegemonic understandings and practices, where human communities are practicing forms of interspecies solidarity and care, as they did during the Black Summer fires, is a critical first step. Instituting these as forms of political contestation is the next. For them to pose a genuine challenge to the existing, well-fortified forms and functions of the state, however, will require redirecting the flow of collective resources toward them, insisting that affording security, care, and justice to more-than-human forms of life and social reproduction is a necessary condition for the state's claim to legitimacy. It is imperative to build new forms of solidarity among the many groups, human and more-than-human, whom that current, naturalized form of the state neglects, lets die, or kills.