Journal of Sustainable Tourism
Volume 29 Issue 2-3, 2021
0966-9582 (Print)

Routledge
Taylor & Francis Group

Journal of Sustainable Tourism

ISSN: 0966-9582 (Print) 1747-7646 (Online) Journal homepage: https://www.tandfonline.com/loi/rsus20

Tourism, animals and the scales of justice

David A. Fennell & Valerie Sheppard

To cite this article: David A. Fennell & Valerie Sheppard (2021) Tourism, animals and the scales of justice, Journal of Sustainable Tourism, 29:2-3, 314-335, DOI: 10.1080/09669582.2020.1768263

To link to this article: https://doi.org/10.1080/09669582.2020.1768263

Published online: 21 May 2020.

Submit your article to this journal

Article views: 1786

View related articles

View Crossmark data

Citing articles: 2 View citing articles

Full Terms & Conditions of access and use can be found at
https://www.tandfonline.com/action/journalInformation?journalCode=rsus20

JOURNAL OF SUSTAINABLE TOURISM
2021, VOL. 29, NOS. 2–3, 314–335
https://doi.org/10.1080/09669582.2020.1768263

Routledge
Taylor & Francis Group

Check for updates

Tourism, animals and the scales of justice

David A. Fennell[a] and Valerie Sheppard[b]

[a]Department of Geography & Tourism Studies, Brock University, St. Catharines, Canada; [b]Independent Research Scholar

ABSTRACT

Animals are used in tourism in many ways. Some uses are more benign such as ecotourism (e.g., viewing elephants in natural settings), while others induce significant levels of suffering, pain and distress with the denial of dignity and respect (e.g., elephants performing at a circus). What is missing is a comprehensive overview of how just these uses may or may not be. Justice, as a concept, is complex and controversial—even more so when applied to animals. In this paper, we propose a "scales of justice" framework for animals used in tourism (deep, intermediate, shallow, and no justice) based on two different normative ethics models. The first model is based on the conventional normative ethical domain that includes deontology and consequentialism (i.e., what we are told to do), while the second model is rooted in virtue ethics (i.e., what we ought to do as individuals). The intent is to "weigh" the just and unjust use of animals in the tourism industry based on these contrasting theoretical perspectives. Elephants are used as an example through the paper. We view this approach as a springboard for more intensive investigations on how animals are used in tourism in a variety of contexts.

ARTICLE HISTORY
Received 29 August 2019
Accepted 7 May 2020

KEYWORDS
Tourism; justice; animal ethics; animals; scales of justice; elephants

Introduction

In early November of 2019, the story surfaced of a teenage elephant named Kanakota, who died of exhaustion after being forced, with legs shackled, to give numerous rides to tourists in the Sri Lankan heat (New Zealand Herald, 2019). The story goes on to describe how young elephants are often taken illegally from their mothers who are typically killed in the "kidnapping", and how their spirits are broken or "crushed" through torture in an effort to train elephants to obey human commands. The fact that elephants are so badly abused seems lost on tourists who pay for rides and then post selfies on Instagram and other forms of social media. The parallel fact that elephants are not meant to carry such weight, nor die at the age of 18, rather than the usual life expectancy of approximately 60 years, is also lost on most tourists. But what should our collective response be to these sorts of occurrences? Is this simply business as usual? Are these issues of improper welfare or improper management of animals? Or do we struggle to understand why abuse continues to happen, and what represents justice for such animals? (see Sheppard & Fennell, 2019). Ethical theory offers considerable promise in helping tourism agents better understand and evaluate justice for animals that are used so frequently in tourism.

CONTACT David A. Fennell dfennell@brocku.ca Department of Geography & Tourism Studies, Brock University, St. Catharines, Canada.

© 2020 Informa UK Limited, trading as Taylor & Francis Group

Tourism is inherently a justice issue (Fennell, 2018; Jamal, 2019) because of the need to secure fairness, honour, and virtue (Hultsman, 1995), as well as to contribute to human wellbeing through peace, conflict resolution, and rights (Higgins-Desboilles & Blanchard, 2010), and the fair distribution of resources and benefits between and within societies (Jamal & Camargo, 2014; Mihalic & Fennell, 2015; Scheyvens, 2002; Smith & Duffy, 2003). Justice in tourism should also mean adherence to principles of sustainability (Issac & Hodge, 2011), especially given the emphasis placed on justice through the United Nations´ Sustainable Development Goals (SDG) for 2015 to 2030 (Fennell & Cooper, 2020). SDG number 16, *Peace, Justice and Strong Institutions*, articulates the need to promote "peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels" (United Nations, 2019). However, justice interwoven into these major global sustainability goals is almost wholly human-centred. Such is the case with the UNWTO Global Code of Ethics for Tourism where consideration of animal interests is almost entirely absent (Fennell, 2014).

While there is an emerging base of literature in tourism studies that discusses animal ethics from several theoretical positions (Fennell, 2012), our purpose here is to build upon this base by introducing justice as an important tool to enhance our understanding of animal ethics issues in tourism. We do this in four main parts. The first part contains a discussion of five traditional normative theories/approaches that have universal appeal in informing the discussion on justice (contractarianism, ecocentrism, welfare, utilitarianism, and animal rights). The second part involves a discussion of virtue ethics as a departure point for Josef Pieper's (1955) forms of justice (commutative, distributive and legal). The third part involves a synthesis of the preceding two parts in the development of a "scales of justice" continuum for animals used in the tourism industry. The fourth section provides more of a connection to tourism industry practices through the aid of the scales of justice framework according to what it means t be a good tourist or tourism practitioner, and our duties and obligations regarding fairness to animals used in tourism. Elephants are used as an example throughout the paper.

Approaches to justice: conventional normative ethical theories

Justice is a basic principle of the fabric of human life, and deeply embedded in the nature of our social groups. Its importance to human goodness has long been recognised through the four cardinal virtues (prudence, courage, temperance, and justice) espoused by Plato, Aristotle, the Bible, and other theological doctrines, of which justice is said to be the most important. A long-standing core definition of justice comes from the *Institutes of Justinian*—the sixth century codification of Roman law—which states that justice is 'the constant and perpetual will to render each his due' (Pojman, 1997, p. 549). From this general perspective, Miller (2017) argues that there are important considerations inherent in this definition. First, justice is essential in determining how individual people are to be treated, i.e., 'to *each* his due'. Second, that just treatment is something *due* to each person, so that claims can be rightfully advanced against a person or institution granting justice. Third, justice is impartial and so the opposite of arbitrariness. Finally, justice requires action (or inaction) to alter the circumstances of those drawn into an issue.

A survey of the academic literature illustrates that there is a breadth of theoretical views on the meaning and application of justice. Some of these include classical liberalism based on justice and limited state intervention (Friedman, 1962); libertarianism based on entitlement (Nozick, 1974); utilitarianism in the protection of liberty (Mill, 2010); liberal egalitarianism from the perspective of justice as fairness (Rawls, 1971); individual choice and responsibility in the distribution of justice (Dworkin, 1977); communitarianism based on why people view justice and resource allocation from their own particular social context (MacIntyre, 2013); feminist approaches (Nussbaum, 1996; Young, 1985); and the narrative around human rights as a guiding force around justice (see Ignatieff, 2003). This variability has prompted scholars to observe that there

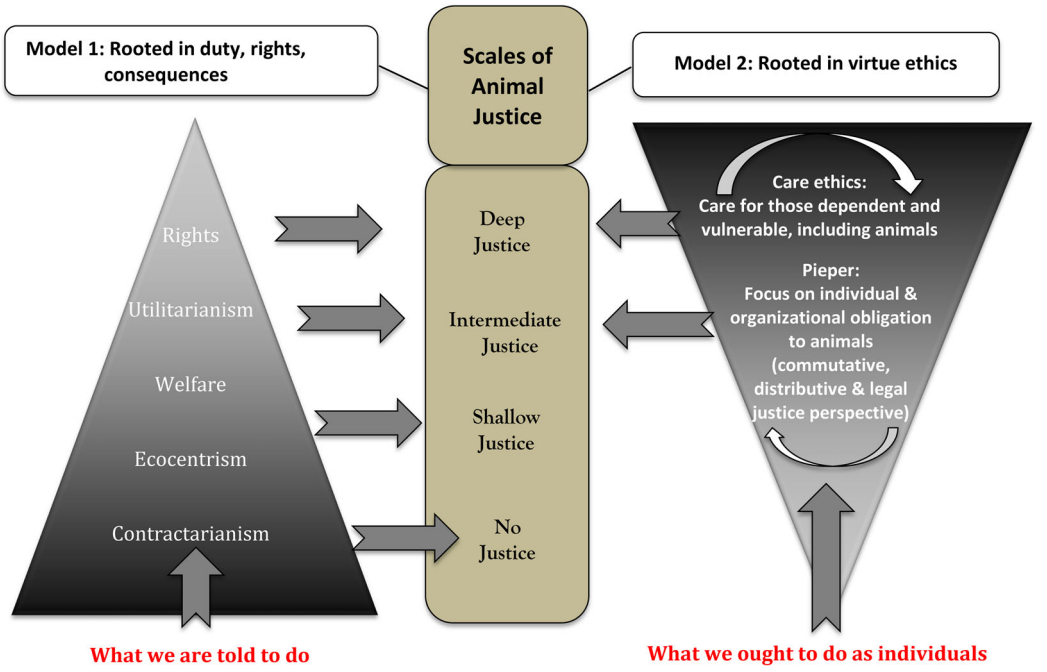

Figure 1. Contrasting theoretical frameworks for animals used in tourism.

is no single comprehensive theory of justice that can be relied upon to explain what justice requires us to do in all scenarios and circumstances (Miller, 2017; see also Regan (2004). An indication of how deep the justice discourse is may also be found in the sheer number of applications of justice in the literature and in practice. Examples of this depth include distributive justice, restorative justice, retributive justice, global justice, organizational justice, service recovery justice, procedural justice, justice as a virtue, recognition justice, and justice as the politics of difference (see Young, 2012).

In this section we briefly highlight a number of normative theories that have been the source of ethical guidance for hundreds of years, all of which have been adapted to address moral issues with animals. The focus with these theories lies in "What we are told to do" in deciding what is ethical or not. We order these according to what we judge as the level of justice that each offers to animals—from most basic, if at all, to the most advanced level. We provide only a brief overview of each within the confines of space, including the basic essence of these theories as well as some criticisms. Model 1 on the left hand side of Figure 1 reflects approaches based on duties, rights and consequences, while Model 2, which we discuss further below, is grounded in virtue ethics. As we argue below, the "scales of justice" framework provides guidance for the just and unjust uses of animals in tourism.

Contractarianism

Contractarianism follows from Hobbesian social contract theory, and assumes that because humans are largely self-interested, they will subscribe to a contract with others because: (1) it is the most rational way to maximise their chosen benefits; and, (2) we stand to benefit from entering into cooperative relationships (Narveson, 1988). Contractarianism has been used as an arena for justice, both human and animal studies, because it is premised on the notion that only rational individuals may enter this arena in deciding upon what principles of morality and justice are legitimate, i.e., what parties have agreed to, and therefore accept as fair (Mulgan, 2011). As

such, there is an element of reciprocity built into contractarianism as agents both give and take according to the roles and responsibilities within cooperative relationships.

The most important contemporary doctrine on social contract ethics comes from Rawls (1971), who argued that the best way to govern society would be to make decisions that are fair for all people in society by adopting an "original position", where one could choose principles to govern society under ideal conditions (ideal theory). Fairness emerges from a thought experiment referred to as the "veil of ignorance," where distinguishing characteristics such as gender, race, social class, wealth, are unknown to the decision-maker. While Rawls argues that it is wrong to be cruel to animals and to eliminate whole species, we should have "duties of compassion and humanity in their case … [but] … they are outside the scope of the theory of justice, and it does not seem possible to extend the contract doctrine so as to include them in a natural way" (p. 512). There is no element of reciprocity, as noted above, and only moral (rational) beings are able to receive justice because only moral beings can act upon principles of justice (Garner, 2012). As such, animals from the Rawlsian perspective, would not be recipients of the equitable distribution of societal goods (Jamal, 2019).

Contractarianism, as a theory for advancing justice for animals, fails to recognize the inherent and autonomous nature of animals. Rather, it relies upon the goodwill of humans to do so (Garner, 2012); (see Abbey, 2007 and Rowlands, 1997, who contend that direct moral status can be extended to animals through contractarianism; however, these accounts push Rawls' work into ways that he himself might not necessarily agree with).

Ecocentrism

With the onset of environmental ethics some 50 years ago, questions emerged over which entities in the natural world should possess moral value, i.e., do we protected the interests of individuals only or whole ecosystems too (Varner, 1998). Curry's (2011) framework on environmental ethics advances three levels of environmental ethics based on different values and priorities. The first, light green or shallow anthropocentric ethics includes enlightened self-interest where the main goal is to preserve a healthy natural world for the purpose of commerce, aesthetics, and human health (Humphrey, 2000). The second, mid-green or intermediate ethics, ascribes moral value to not to ecosystems, but rather to individual animals within these ecosystems (see Varner's, 1998 work on biocentric individualism). The third, deep green or deep ecocentric ethics places moral value at the level of whole systems and ecosystems (e.g., Aldo Leopold's (1970) land ethic).

A driving force behind Leopold's land ethic is the stringent belief that we may use animals and resources in a manner that we see fit if, in our use, there is no harm to the "integrity, stability and beauty of the biotic community" (p. 262). We can fish, hunt, trap, dig, dredge, cut, clear, and so on, as long as the resources that we use remain in a state that does not compromise this integrity. For example, if deer populations rise in the absence of an apex predator like the wolf, and as a result vegetation suffers from over-grazing, culling deer would be morally praiseworthy in returning a proper balance to the ecosystem. As such, the interests of individual animals are not the locus of concern. If justice for animals is a matter of the right to life, protection of individual liberty, and prohibition of torture (Singer & Cavalieri, 1993), another theoretical perspective would need to be adopted. Indeed, ecocentrism has been criticised because anthropocentric values guide decision-making (Rowe, 1997) in subordination of the welfare of other beings for the integrity of the broader community (Regan, 2004). Both criticisms have compelled animal liberation theorists to argue that ecocentrism is overwhelmingly informed by a utilitarian doctrine based on the greatest good for the greatest number (Garner, 2004).

Welfare

Welfare is logically conceived as a constellation of approaches, and not one theory (although it does correspond to several other moral theories like utilitarianism, or the maximization of welfare across society). The argument around welfare, as a form of justice, is not new. Gearey (2013) explored welfare from an egalitarian account of distributive justice through ideas around communal and individual autonomy over centralized bureaucratic and market-based approaches.

Animal welfare is defined as "the state of an animal as regards its attempts to cope with its environment" (Hill & Broom, 2009, p. 532), and it entails the use of an animal as long as measures are taken to ensure that basic needs are taken care of in this use. The Five Freedoms of animal welfare, developed by the Farm Animal Welfare Council in 2009 (see https://www.humanecanada.ca/five_freedoms_of_animal_welfare), is a popular benchmark of proper welfare in the care and handling of animals. These freedoms include freedom: (1) from hunger and thirst; (2) from discomfort; (3) from pain, injury and disease; (4) to express normal behavior; and, (5) from fear and distress.

Welfare is widely embraced because it has improved the lives of countless animals. It is rejected because it opens the door to significant human exploitation. Those who embrace animal welfare contend that possession of an animal does not always work in opposition to its interests, as animals may have no objection to being possessed and cared for (Cochrane, 2009). Cochrane argues that forcing a domesticated animal into labour is nothing like doing the same for an autonomous human. The concern related to the possession of animals, Cochrane (2009) adds, ought to be more about better "*regulation* of the system of ownership rather than its *abolition*" (p. 22).

Utilitarianism

This ends-based theory is focused around weighing the balance of good and bad for those involved, in comparison to some other alternative (Frankena, 1963). Actions that lead to more happiness and less pain for the greatest number are argued to be best. Utilitarianism is positioned around notions of universality (equality on the basis of the interests of all), welfare (defining what is good based on interests), and consequentialism (evaluation of what is good based on the satisfaction of these interests in the end) (Matheny, 2006). Along these lines, justice is associated with utilitarianism in consideration of the best consequences for all involved. So, a just society is equated with an increase in the overall quality of life for citizens.

Singer (2009) is the animal ethics scholar most closely tied to the utilitarianism tradition. His main premise has a strong connection to justice through the concept of equal consideration of interests: that which is judged to be good or bad is a function of all those affected by the action or decision—including animals based on the fact that they, like humans, experience pain and suffering. On this account, an interest like suffering does not depend on whose interest it is. Human and nonhuman animals all have an interest in not suffering and the avoidance of pain. As such, the like suffering of one being (human) must be counted equally against the like suffering of another being (animal), and an animal that suffers more ought to be extended a higher level of concern than other beings that suffer less.

Where utilitarianism is criticized is in the belief that it is not the right type of equality according to Regan (1985). It does not adequately explain why the abolition of something like factory farming would increase net wellbeing. Furthermore, utilitarianism does not value equal inherent value—it is the measurement of pleasure and pain (the *interests*) of the individual that counts, not the person him/herself. In this sense, because utilitarianism is an aggregative theory, it does not give proper regard to individual rights. The focus is on the reduction of suffering in animals, not on securing animal rights, and not on the elimination of the use of animals. Bigger cages are seen to be the better option for Singer if they take away suffering. Singer's position is more akin

to animal welfare in the eyes of rights-based scholars such as Francione and Charlton (2016), because animals can be used for the benefit of others, but "*only if* those benefits are greater than the loss inflicted" (Nozick, 1974, p. 37).

Rights

A right is "a moral or legal entitlement to have or obtain something or to act in a certain way" (Oxford Dictionaries, 2019). Entitlements mean that we have the wherewithal "to do, to demand, to enjoy, to be, to have done for us. Rights may also be defined as rights to act, to exist, to enjoy, to demand. We speak of rights as being "possessed, exercised, and enjoyed" (McCloskey, 1965, p. 117). Dworkin (1977) argued that rights are trumps over utilitarian reasoning that would place the interests of the collective over the interests of individuals, and institutions like government should treat individuals as equals on the basis of respect and dignity.

Regan (2004; 2003) argued that we have direct duties to animals because respect and harm ought to be integral components of our understanding of what it means to be just to animals. We should be egalitarian in our actions by extending the same respect equally, non-perfectionist where one individual is not better than others, we should not use others as means to our own ends, and we have a *prima facie* duty to protect victims of injustice from the actions of others (Regan, 2004). Regan extends these conditions to animals on the basis of consciousness, intentionality, and sentience, which render them subjects-of-a-life with inherent value.

Other rights-based theorists, such as Francione and Charlton (2016), argue that the most basic and important right that animals should possess is the right not to be treated as someone else's property (see also Francione, 1995). This will only happen if they matter morally, which means they are not viewed simply as things or resources for our use. Wyckoff (2014) contends that animals should be claimants of justice based on a radical abolitionism view. He takes this position by observing that the resource paradigm, defined as, "the cluster of beliefs, assumptions, and practices that take animals to be resources that humans may use in order to generate benefits for themselves and other humans" (p. 540), is manifestly unjust. It does not matter that we make the lives of animals better through welfare reforms. Animals are still slaves to humans.

Nozick's (1974) work on positive versus negative rights provides a different dimension to the discussion on justice for animals in tourism. Positive rights refer to the requirement of one to assist another in attaining their goals. We help a dog to better health, for example, by taking him or her to the veterinarian. By contrast, negative rights refer only to the fact that others must allow an agent to pursue their ends in a climate of noninterference. There is precedence for the implementation of positive rights in animal ethics based on work by Shooster (2017), who observes that positive rights need to be "expansive positive legal rights." In order not to be speciesist, Shooster argues, the same rights (e.g., provision of food, shelter, health) ought to be extended to animals that have many of the same needs as humans. On Shooster's account, governments must have a legal obligation to use all resources at hand to make the lives of animals (his focus was on wild animals) better. These rights should be extended even though they may be aspirational rather than achievable at the present time.

Where animal rights has be criticised is in the failure to recognise differences that exist between animals and humans (Garner, 2013). Furthermore, criticism comes from the illusion that each and every one of us ought to get something without regard to the costs that we would have to bear in attaining these things (O'Neill, 2000).

Virtue ethics for animals and justice

In this section virtue ethics is explored for the purpose of constructing an alternate model of animal justice (Model 2 in Figure 1). We enlist Josef Pieper's work on justice as a virtue in concert with care ethics, which has also been subsumed under the category of virtue ethics (Figure 2).

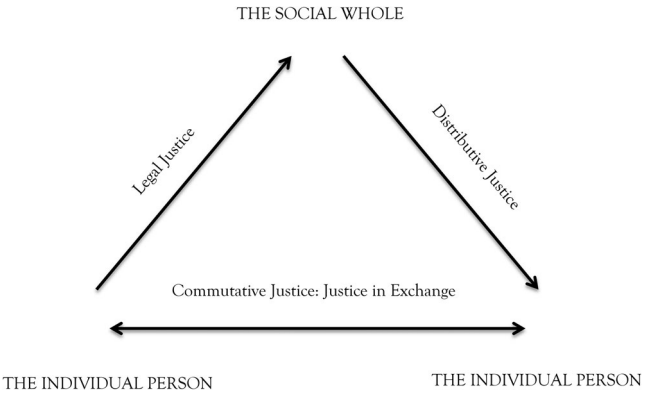

Figure 2. A schematic representation of the basic forms of justice (Adapted from Pieper, 1955).

Virtue ethics is focused not on what we are told to do, but rather on "What sort of person I should be." Virtues are positive traits of character such as altruism, compassion and loyalty, which, if practiced regularly in the proper shaping of our desires through reason and will, allow individuals to flourish (the Greek term eudaimonia). Negative virtues include stealing and lying (Garofalo & Geuras, 1999), or, in our case here, abuse and neglect of animals. The element of practice is important in virtue ethics because the qualities of a good person are not innate, but must be properly cultivated through habituation and training (Cooper, 1987). As such, lower order forms of happiness such as sex and popularity are typically short-lived and require others for their realization. Furthermore, although some pleasures are subjective and relative to certain cultures and individuals, eudaimonia ought to be pursued as an objective, universal good (Fennell & Malloy, 2007). There is thus an inherent ends-orientation consistent in virtue ethics in regards to the pursuit of the good life. The main criticism of virtue ethics is in trying to identify which character traits are virtuous and how they apply in different situations. Other normative ethical domains (deontology and teleology) are equipped with established sets of what is considered right and good without the necessity of deciphering characteristics that are indeed virtuous (Slote, 1992).

Pieper (1955) drew inspiration from the works of Aristotle and St. Thomas Aquinas on the four cardinal virtues (prudence, justice, fortitude, and temperance) as they relate to individuals, society and Christian religion. Although Pieper's treatise is highly theoretical, he makes an effort to explain these virtues in an applied sense, i.e., how do we realise the good in everyday practice because there are very few things in society that are not connected with justice, e.g., just wars, human rights, capital punishment, union strikes, and so on.

Pieper (1955) recognised that justice as virtue must be relegated to the scale of the individual within our families, organisations and state, because it is individuals who make decisions on behalf of these institutions. Furthermore, we build community through individual action. For example, the true character of a wrong or injustice, such as stealing some possession, is not the owner's loss of the possession, but rather "the implicit threat to the entire order of community life, affecting every member. Once this is recognized by everyone, justice can be said to prevail in that state." (Pieper, 1955, online version). Pieper argued that justice rules a community if three basic forms of justice are organised in the correct order (Figure 2, and right side of Figure 1). The first is commutative justice or justice in exchange (individuals and how they relate to each other), the second is justice as the fair distribution of resources (the relations of the social whole, or society, to individuals), and the third is legal or general justice (the relations of individuals to the social whole).[1]

Commutative justice

Commutative justice is nominally the form that we think of most because, at its foundation, it is premised on the assumption of equality between individuals entering into relationships. In the interests of equality each individual must take responsibility for accepting the burden of fairness within social exchanges. If we choose to cheat another by elevating the price of a product (taxi cab fare) or bargaining well below what is deemed proper for the sale of a souvenir, commutative justice has been violated. Restitution also falls within this realm and the expectation that if one cheats another, the perpetrator must make amends to the victim in efforts to right the ship.

Restitution is often considered through the restorative justice and service recovery justice literature. Restorative justice works towards repairing the harmful effects of actions between victim and offender, and efforts required in order to restore the relationship between both parties (Cossins, 2007; Gavrielides, 2007). It is also important as a mechanism to construct a better society for the present and the future (Marshall, 1999), as recognised by Pieper (1955). Restoring justice in our use of animals in tourism includes examples of the elimination of certain practices. Hughes (2001) argued for a shift away from viewing dolphins in captivity to viewing them only in the wild, which he reasoned was a structural shift in the nature of local policy.

In service recovery justice, consumers often evaluate an organisation's attempt to make things right, as being just or unjust. Those that are just strengthen the relationship between organisation and consumer (DeWitt et al., 2008). Furthermore, online rating organizations, such as TripAdvisor, have become an important vehicle for tourists who are dissatisfied with their service experience. Interestingly, while such rankings seem to be of concern to most tourism businesses, this appears not to be the case when it comes to animals. A case in point is the Namuang Safari Park in Thailand. One might assume the safari park would be encouraged by its TripAdvisor ranking (2.5 out of 5 stars overall) to take measures to remediate the consistently reported poor and inhumane treatment of animals over almost a decade (from 2010 onward). In other words, this park appears uninterested in service recovery, as long as tourists continue to patronize the business.

Distributive justice

If individuals were entirely responsible in their dealings with other agents we would not need other forms of justice. The fact of the matter is, as Piper reasoned, people are not entirely responsible, and so we therefore need other forms of justice to intercede. It is not the collective within our institutions that is not just or unjust, on Pieper's account, but rather the individuals holding power within these structures. Distributive justice focuses on who has more of something, e.g., money, food, health care, or natural resources, and the decisions around their allocation (Cohen-Charash & Spector, 2001, p. 279).

Most academic work on justice and tourism is grounded in distributive justice, as it signals the unequal allocation of tourism benefits among different stakeholders. Jamal and Camargo (2014) concept of the "Just Destination" places priority on an ethic of care, fairness, as well as equitable tourism policies that prevent marginalisation and peripherality of disadvantaged groups. Distributive justice has been also discussed in tourism in relation to greed over trophy hunting in Africa. Mkono (2019) writes that social media posts (by Africans) over foreign hunters to Africa demonstrates injustice not only because licences were being purchased by hunters outside the country (e.g., U.S.A.), but also that wealthy elites in Africa were realising most of the benefits. Mkono argues that the hunting industry is perpetuating unequal relations on territorial and cultural bases. What is subject to further consideration in Mkono's work is the belief that African local people "are considered the true owners and custodians of the wildlife resources" (p. 697). Somewhere lost in this issue is a more balanced debate around animals living free and not subject to contractarian discourses around ownership and servitude.

Legal or general justice

This third type of justice identified by Pieper (1955) refers to the relations of individuals to the social whole. Legal or general justice refers to the duties that we have to society in the creation of a better social whole. As such, when we as individuals focus too much on what is owed to us in a community, we fall short of understanding what our own duties are to society in creating a greater foundation of social justice. If all of us were to focus our energies on contributing to the common good, social justice would be much easier to attain. From this vantage point, Pieper (1955) contends that social justice should be more formally regarded as a matter of legal or general justice.

Some scholars argue that social justice advocates have not done a good enough job embracing animal rights as a core aspect of their activism (Jones, 2015; Shooster, 2015). Shooster makes this claim on the basis of the following three social justice values: (1) an opposition to arbitrary discrimination or justifying violence and inequality on the basis of sexism and racism, classism or speciesism; (2) the need to support the most severely marginalised or disadvantaged; and (3) respecting autonomy and individual rights. Regarding the third value, above, Jones (2015) argues that animals function as property or commodities that are freely and unconscientiously distributed amongst members of human society (see Mkono, 2019, above).

Legal justice is a problem in tourism practice because corporate justice does not often extend to areas where the rule of law and institutional oversight is weak (IPIS, 2014). Tourism companies operate around the world, in areas where rule of law and institutional oversight are weak and in areas where they are strong. Obviously, notions of justice are applied unequally to humans and animals. The fight to develop and strengthen the rule of law and institutional oversight for improving the welfare of animals is currently being fought by a number of justice-related organizations (see Author, in press).

While Pieper's views on justice are savoury, he maintains the long-standing Christian belief that it is only beings possessing a spiritual capacity (humans) that are owed justice:

> For stones, plants, and animals have also been created, yet we cannot say that they have their due in the strict sense of the word. For "being due" means something like belonging to or being the property of someone. A nonspiritual being, however, cannot properly have anything belonging to it; on the contrary it, itself, belongs to someone else, for instance, to man (Pieper, 1955, p. 47).

The Christian anthropocentric and instrumental tone used by Pieper cannot, therefore, be used exclusively to build a virtue ethics for animals. For this, we enlist care ethics and argue that merging the two—Pieper and care ethics—offers a new fortified approach to explaining how virtue ethics can be an agent in the pursuit of the good when it comes to animals used in tourism.

Care ethics

Gilligan's (1982) seminal work on moral decision-making represented a major paradigm change in diversifying the moral landscape. Gilligan argued that while men moralise according to normative, masculine concepts of rights, justice and law, women, by contrast, moralise according to responsibility and an ethic of care. For Held (2004), this means that empathy, responsibility and responsiveness may be more important as moral points of departure than abstract rules and principles. What is important from a relational standpoint are bonds of attachment rather than contracts between stakeholders (Robinson, 1997). While some contend that care ethics is independent of virtue ethics because the latter has a focus on the individual, and the former is concerned more with relationships (Held, 2004), there is consistency around care ethics as virtue because of the focus on addressing the needs of self and others. Care ethics as virtue surfaces as a motivational attitude towards empathy (Slote, 2007) or as a specific type of virtue ethics with care being the chief virtue (Halwani, 2003b). Care ethics benefits, Halwani (2003a)

argues, by being affiliated with a more comprehensive moral framework (virtue ethics), with reason playing a regulative role in framing intimate relationships. Furthermore, there is precedence for linking care ethics with animal justice through a number of important contributions. Adams and Donovan (2007) argue that feminist care ethics can inform the relationship between people and animals on the basis of love and empathy. Kheel (2008) argues for an enlargement of the space for care to involve individual animals and larger populations, and this includes listening to other forms of life no matter how different they are from us (Donovan, 2006; Vance, 1995).

Synthesis: animal justice in tourism

Construction and description of the framework

Our purpose in this section is to construct a framework based on the theories and forms of justice discussed above in the creation of a scale that depicts the degrees of justice afforded to animals used in tourism. The scale contains four levels, ranging from the highest level of justice (deep justice), to intermediate justice, then to shallow justice, and ending at the lowest level (no justice). While we acknowledge that our organization of the scale is subjective and could be reorganized based upon the nature of the circumstance in play, we believe our efforts lay the foundation for future research and better practice in this area.

The first part of the framework as presented in Figure 1 positions the five conventional theories of ethics (Model 1) on the left-hand side, and virtue ethics (Model 2) on the right-hand side. Specifically, Model 1 theories of justice are positioned to represent the various levels of justice in the form of fairness and protection they provide animals, positioned within the grey triangle to indicate the degree of moral consideration associated with each theory. Indeed, this part of the framework represents a hypothetical indication of the numbers of animals used in tourism and the degree of justice that is extended to them. For example, contractarianism, would provide the least amount of fairness and protection (arrow indicates association with no justice), whereas rights would offer the greatest level of protection (arrow indicates the association with deep justice). Here it is suggested that the vast majority of animals are extended no justice while only very few animals are extended deep justice as outlined by the peak of the triangle.

Virtue ethics, on the right of Figure 1, is built on Pieper's (1955) three forms of justice, as discussed above. The intersection of care ethics opens the door to the possibility of an extension towards more advanced levels of justice (intermediate and deep) for animals as a marginalized group who are dependent and vulnerable. Model 2 indicates that this intersection between Pieper and care ethics would, in the best-case scenario, eliminate the presence of no justice and shallow justice if what we ought to do as individuals involves care for animals. Simultaneously it would increase the number of animals that would receive justice as more individuals (tourists and tourism providers) act in the interests of animals as indicated by the inverted triangle. Situated between Model 1 and Model 2 is the scales of animal justice representation, which depicts four levels of increasing justice (no justice, shallow justice, intermediate justice, deep justice). We provide more discussion around each of these four levels of justice below. We also illustrate the move from theory to practice in Table 1 and attempt to answer the following questions: *What does it mean to be a good tourist or good tourism broker" How should governance structures act (good governance, policy, etc.) when it comes to the proper treatment of animals used in tourism? What are our duties or obligations regarding fairness to animals?* We focus on the treatment of elephants in the tourism industry in an effort to attain consistency as we move through each level of justice.

Table 1. Connecting theory and practice in the scales of justice.

Scales of justice	Model 1: Conventional normative ethics	Model 2: Virtue ethics	Description of interactions between humans & animals
No justice	**Contractarianism** Animals fall outside the arena of moral consideration because they are not rational and they are unable to be reciprocal. Therefore, no duty to provide animals with an equitable distribution of societal goods. Harm to an animal is harm to the animal's owner.	Tourists are oblivious and or uncaring to condition of animals. Development policy is strictly economically and anthropocentrically focused. No ethic of care in the way service providers treat animals. CJ: There is no level of commutative justice for animals. No equality between humans and animals, and any harm to an animal means restitution for the animal's owner. DJ: Only distributive justice is applicable at this level, where all the benefits go to humans, at the expense of animals. LJ: There is no level of legal justice for animals, as they are considered to lack moral status. Laws are circumvented through corruption, bribery, and deceit.	Animals kept in conditions that are insufficient in terms of their physiological and psychological needs. Entertainment and commerce are the sole purposes behind their captivity. **Example:** Namuang Safari Park (Thailand). Elephants and other animals are forced to perform humiliating and degrading tricks for the entertainment of paying tourists (personal communication with a park visitor).
Shallow justice	**Group focus: Ecocentrism** Moral value placed at the level of whole ecosystems, communities and species. Animals can be used (e.g., hunted) in any way as long as the integrity, stability, and beauty of the natural world is maintained. The interests of individual animals are not the locus of concern. Animals are considered a resource that is available for the use of humans, and decisions about their wellbeing is considered from an anthropocentric perspective.	The extension of virtue and care are not the focus of the human-animal experience. Knowing that species are healthy and robust may be the only concern for tourists. Operators are aware of the need to appear to care for animals, but this is done to reassure tourists and does not reflect what transpires back stage. Destination/ tourism development policy is anthropocentric in nature. CJ: There is no equality in exchange between humans and animals, only care at broader levels. DJ: Limited distributive justice with animals receiving care that has benefits primarily for human beings based on profit for organizations. LJ: Care is extended through laws and regulations that focus on population numbers, e.g.,	**Examples:** Pinnawala Elephant Orphanage (Sri Lanka). While the elephants live in better conditions than other establishments in Sri Lanka, the "orphanage" has a breeding program and photo opportunities for the benefit of tourists. The prime focus is on the profitability of the organization. (see https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/why-we-dont-support-pinnawala-elephant-orphanage). Disagreements over trophy hunting in Africa based on greed. Local people who are owners of the wildlife should benefit over foreign hunters and operators.

(*continued*)

Table 1. Continued.

Scales of justice	Model 1: Conventional normative ethics	Model 2: Virtue ethics	Description of interactions between humans & animals
		catch and release, or bag limits.	
Shallow to intermediate justice	**Individual & group focus: Welfare** The focus is on measuring the state of an animal used for tourism purposes through the Five Freedoms. This may mean, for example, the use of bigger cages, but it still means that animals will be used for human instrumental use.	Virtue and care demonstrated through welfare standards, rather than a direct, personal ethic of care on how animals ought to be treated. CJ: Bonds of attachment and responsibility from individuals towards animals based on welfare guidelines. DJ: Habitat provided for animals that may replicate natural settings. The commercial focus is primary with more benefits for humans over animals. LJ: Abolition of the use of animals is not in question, but rather better regulation of the system (e.g., laws, codes, certification) of ownership and use in the reduction of suffering.	**Example:** Mason Elephant Park & Lodge (Indonesia). While the Park has attained Gold Certification from Asian Captive Elephants Standards, the elephants are forced to perform unnatural behaviour and tricks (see https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/elephant-sanctuaries-which-we-do-and-dont-support).
Intermediate justice	**Utilitarianism** The focus is on the elimination of suffering and pain in animals from the perspective of equal consideration of interests. The like suffering of one being must be counted against the like suffering of another. It is an aggregative theory that does not recognise individual rights. The weighing of costs and benefits for all involved (animals and humans)	Bonds of attachment are built through love, empathy and responsibility towards animals, but there are questions about the value of such because of the aggregative level of utilitarianism. Sometimes the ends do not justify the means. CJ: Individuals work together for animals to minimize their pain and suffering, but human interests may prevail over animal interests in assessment of costs and benefits. DJ: Distributive justice is served if tourists believe elephants benefit from the money they have paid to see them. LJ: Legal advocates work to provide oversight to ensure the organizations and individuals are meeting minimum standards of care and providing the necessary resources.	**Example**: Millennium Elephant Foundation (Sri Lanka). This family run organization seeks to raise awareness of the plight of elephants and improve welfare (i.e. campaigning against the use of the howdah—rider's throne). Although the organization still permits tourists to ride the elephants, they also encourage walking beside the elephants as an alternative (see https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/elephant-sanctuaries-which-we-do-and-dont-support)
Deep justice	**Animal rights** We have a duty to	Bonds of attachment with individual animals based	**Example:** Ecotourism: elephant viewing in the

(*continued*)

Table 1. Continued.

Scales of justice	Model 1: Conventional normative ethics	Model 2: Virtue ethics	Description of interactions between humans & animals
	respect and protect individual animals because they are subjects-of-a-life (inherent value, sentience, and intentionality, among other qualities). We should be egalitarian, non-perfectionist and not use animals as means to our instrumental ends. The most just way to treat animals, but also the most radical.	on strong relational connection to animals through respect, love, empathy and responsibility. CJ: Individuals work together to better the lives of animals (individual and populations), in their natural conditions. DJ: Resources are distributed to ensure that animal interests are protected as a priority even if such may radically disrupt current systems. LJ: Individuals work within and through the legal system to argue for animal justice on a case-by-case basis. Legal advocates work to include animals in the justice system, as sentient beings, entitled to protection through law, expanding the circle of morality.	wild. There are several ethical tourism operators in Africa and Asia. While there is minimal disruption and interference in the lives of the elephants and to their habitat, there is still a commercial element connected with tourists viewing elephants and other wild animals. However, the animals are free to disengage from their interactions with humans, at their instigation.

No justice for animals in tourism

Our first category, no justice, emphasizes situations where ownership, dominance and control of animals are primary features of human-animal relationships, and where respect, sympathy, autonomy, and dignity are universally denied. Examples include elephants that are trained to work (e.g., carrying tourists), and trained to perform (e.g., polo matches, painting pictures or performing in circuses). Tourists who pay to see these spectacles are oblivious and/or uncaring of the animals' plight. Government policy is focused on tourism development as an economic driver, also without regard for the interests of animals. As such, there can be no justice for elephants who must perform humiliating tricks for tourists that underscore submission and ridicule, based on the needs of a patriarchal society (Bone & Bone, 2016).

As Figure 1 demonstrates, there is no evidence that any stakeholders' behaviour is reflective of a virtue ethics perspective. Rather, we link this category with contractarianism, because this theory does not recognize the inherent value and autonomous nature of animals. Since animals are not rational and cannot understand their duties within cooperative relationships, they do not possess direct moral value. Such beliefs make it morally acceptable to manage them in conditions and by measures that are entirely insufficient in regard to their physiological and psychological needs.

Circuses and unregulated safari parks that position elephants as performers is a case in point as the antithesis of justice because of an overwhelming focus on economic grow (see also the Namuang Safari Park, above). In the case of such parks, commutative justice is reflected in the failure of human handlers to explain to tourists the methods employed to control and dominate animals for commerce and entertainment (e.g., negative reinforcement). There is no fairness in human exchange, therefore, tourists are not aware of how animals are prepared for their experiential consumption. From a distributive justice standpoint, benefits, apart from the satisfaction of

basic physiological needs of animals, go entirely to human agents at a tremendous cost to animals. Legal justice is denied even if laws are present. In fact, measures may be taken to circumvent laws at every turn through corruption, bribery and deceit.

Shallow justice for animals in tourism

We view instances where animals are held in captivity, such as zoos, aquaria, and other commercial ventures, and where the focus is on providing entertainment for tourists as shallow justice. There is an instrumental element to this level: animals are captured and bred in captive environments. They are often traded and/or eliminated according to instrumental ends (Cohen & Fennell, 2016). To address growing public criticism against commercial operations displaying animals, many organizations seek out certification programs (see Box 1, below in reference to minimum standards). At this level, governments may involve themselves in the certification program, either encouraging business to pursue certification or holding them up as examples for other operators to follow; however, the certification programs often lack transparency and third-party checks. For example, as noted by Abraham (2019) in the context of the Thai elephant tourism situation:

1. The elephant trade in Thailand is controlled by people whose only interest is a desire to make as much money as possible;
2. There has been an increasing awareness among Western tourists about the abusive treatment of the elephants who work in the tourist trade;
3. This has led to unfavorable publicity which has cut into the revenues generated by elephants who service tourists;
4. In order to combat/refute the criticism/negative publicity a "certification" system/scheme has been developed by those owners who have the most to lose because they are the most abusive;
5. A for-profit company has been created who, for a fee that is paid to this company by the elephant camp owners, will "inspect" a trekking camp and then "certify" that it treats its elephants well.

We contend that ecocentric and a welfare approaches are both prevalent at this level, because stakeholder behaviour is not reflective of virtue ethics. Any care extended to animals is done to minimize rather than eliminate pain and suffering. For example, captive elephants are provided with the five freedoms, noted previously (see Box 1 where the emphasis is on wishing to ease the pain inflicted upon elephants, but not the willingness to end the practice). As Cohen (2009) contends, zoo and aquaria spaces are semi-contrived, where there is the appearance of wild, but where animals are tamed or habituated through contact with humans. Attention is paid to providing shelter that reflects their natural habitat, but elephants are on display mainly for entertainment purposes; although, there may be attempts made to provide educational, research and conservation components, entertainment and profits are still primary motivators (see for example ZooCheck New Zealand, n.d.). While many of these institutions claim a higher level of responsibility and care for elephants, they are essentially viewed as resources (the "resource paradigm" as explained by Wyckoff, 2014) that generate human benefits often at the expense of a good quality of life for the animal.

Commutative justice is constructed along assumptions of fairness between two parties, in this case the zoo as an organization and zoo visitors. Restitution, as part of commutative justice, was conceived as restorative justice in the discussion above. In the context of shallow justice this may simply mean that captive environments provide fairness (the provision of animals like elephants in a healthy state) for ocular consumption by visitors. It may also mean, however, the

removal of elephants from zoos in cases where elephants are not with their conspecifics, as advocated by the Detroit Zoo and the Toronto Zoo because of climate, space and improper natural conditions (Good, 2014). If distributive justice means that we ought to be concerned with the fairness of outcomes, removing animals from zoos where these conditions, above, cannot be met seems just. The problem is that most zoos will not part with their elephants. Legal justice, or the duties that we have to society in the creation of a better social whole, suggests that we ought not to expect the community to owe, but rather what we owe to the community in making social progress. Even in cases where animal welfare laws have been enacted, such as the Cruelty Prevention and Welfare of Animal Act, B.E. 2557 in Thailand, these are often heavily criticised for being inadequate in protecting the welfare of animals, and individual operators do not follow them in good faith in creating positive social change (Dorloh, 2017). Good governance in its application to animals, therefore, is a function of competing interests between justice and commerce and entertainment.

Box 1
Responsible Travel: One of our suppliers, who wishes to remain anonymous
"I would suggest banning the use of chairs, which can be cruel for the animals. This would stop elephants standing around in the chairs all day long and support those camps which allow their animals more freedom. If every tourist insisted, they would ONLY pay for a ride without a chair, this could actually bring a real and positive change far more quickly than simply avoiding camps altogether."
https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/our-stance

. Box 1
Responsible Travel: One of our suppliers, who wishes to remain anonymous
"I would suggest banning the use of chairs, which can be cruel for the animals. This would stop elephants standing around in the chairs all day long and support those camps which allow their animals more freedom. If every tourist insisted, they would ONLY pay for a ride without a chair, this could actually bring a real and positive change far more quickly than simply avoiding camps altogether."
https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/our-stance

Intermediate justice for animals in tourism

Intermediate justice is connected to utilitarianism because while utilitarianism actively moves towards the elimination of suffering in animals, at least equal consideration of interests when it comes to suffering, there are questions that surround the profit motive and poor practice in captive or semi-captive environments like sanctuaries. For example, even though sanctuaries have larger spaces than zoos or other captive environments, practices like elephant riding still persist. And because utilitarianism is an aggregative theory it is not necessarily the interests of individuals that matter, but rather polices that are developed for entire populations of animals held. Furthermore, the greatest good for the greatest number must certainly mean that humans must be factored into the pool of recipients. As such, benefits are more likely realised for humans in terms of pleasure and entertainment (tourists) and operators (profits), then for elephants. Box 2 demonstrates the utilitarian component of the relationship between humans and elephants given the urge to preserve the practice, because it provides on-going benefits to mahouts, as well as to communities that benefit from the money generated from elephant tourism. The example also shows that there is a willingness to remove elephant suffering, which is an

important component part of utilitarian reasoning for animal liberation, but under the conditions of human benefit.

In reference to Pieper's forms of justice, the cost-benefit calculation of utility (happiness) in utilitarianism, noted above, shows how the interests of humans take precedence over the interests of elephants (commutative justice). This scenario plays itself out over the heightened satisfaction that individual tourists experience by thinking that their money is going to happy elephants that are well taken care of through minimum standards (see PATA, 2019) as distributive justice. This is where utilitarianism takes on the appearance of welfare as noted by Francione and Charlton (2016), above, or even contractarianism in the absence of the willingness

Box 2
Bruce Haxton, from our supplier Starfish Ventures
"To say that 'elephant trekking is bad' doesn't pay consideration to the huge range of approaches. Whilst there are unfortunately those who don't treat their animals well, there are equally a huge number of mahouts who treat their elephants incredibly well and care for them as a member of their family.. the damage caused to these communities and their elephants could be immense..Rather than a ban we would suggest minimum guidelines. There needs to be a healthy dose of reality injected into the discussion in terms of what really would happen if elephant treks no longer take place."
https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/our-stance

of stakeholders to practice their individual duty in creating a better social world (legal or general justice).

It is also at this level where there is evidence of a virtue ethics perspective amongst stakeholders. Individuals and individuals within organizations acknowledge and accept their obligation to minimize the pain and suffering of animals. We see this in the Box 2 example where mahouts care for elephants as part of their immediate family. Whether this care is a function of empathy and responsibility is the subject of ongoing analysis in the face of the balance between "paternalistic protection and mutual exploitation in gauging responsible tourism (Sin & Minca, 2014). In the assessment of costs and benefits, from the utilitarian perspective, human interests triumph over animal interests.

. Box 2
Bruce Haxton, from our supplier Starfish Ventures
"To say that 'elephant trekking is bad' doesn't pay consideration to the huge range of approaches. Whilst there are unfortunately those who don't treat their animals well, there are equally a huge number of mahouts who treat their elephants incredibly well and care for them as a member of their family.. the damage caused to these communities and their elephants could be immense..Rather than a ban we would suggest minimum guidelines. There needs to be a healthy dose of reality injected into the discussion in terms of what really would happen if elephant treks no longer take place."
https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/our-stance

Deep justice for animals in tourism

Deep justice would provide the highest level of justice for animals. We view instances where animals are wild, free and not directly manipulated, controlled or owned by human interests as examples of deep justice (natural conditions that are completely unframed, according to Cohen, 2009) (see Box 3 below). Preservation (saving from use) is intentionally geared towards the well-being of individual animals, foremost, in addition to species and their ecosystems, so there is a direct attempt to make the lives of animals better. While traditional approaches to sustainability are largely anthropocentric in focus, deep justice would include protecting the interests of

animals on the same level of human interests in efforts to be more holistic and responsible. Rehabilitation centres designed to treat animals and then release them back into the wild as the only option, may be a component part of deep justice.

Using the example of elephants, a rights perspective recognises that elephants are conscious, sentient and in the possession of inherent value. We should, therefore, be egalitarian in the sense that Individual elephants deserve the same respect as humans equally, there is an element of non-perfectionism such that one individual does not have higher moral value than others, we should not use elephants as a means to our own ends, we should not harm elephants, and we have a prima facia duty to protect elephants from injustice (Regan, 2004). Garner (2013) provides another contemporary position on rights for animals on the basis of moral pluralism (i.e., the state must protect individuals' right to pursue their own conceptions of the good), and because of an "enhanced sentience position." This means animals have a right not to suffer, they have a vibrant interest in continuing their lives, and it is only significant human interests that may be justified in ending an animal's life.

From a tourism perspective, a rights perspective would suggest that elephants have the ability to live their lives in freedom and dignity, within natural settings. Currently, there are few tourism-animal experiences that would fall within this category; however, ecotourism would be an exception. Fennell's (2013) first principle of ecotourism is perhaps the archetype of this form of justice, where elephants are able to disengage an interaction with humans on their own level in the absence of captivity and manipulation.

Box 3
Responsible Travel: Jo Cary-Elwes, campaigns manager at Elephant Family
"Energies urgently need to be channelled into protecting wild populations, reducing the demand for elephants in tourism and making sure that the elephants that are in captivity are well looked after. But, in an ideal world people would visit national parks and see these animals in the wild, which is where they belong."
https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/our-stance

As part of the commutative approach individuals and individual organisations would work towards enhancing the quality of lives of individual (primarily) and populations of elephants in their natural conditions (secondarily) through exchanges that place value on the interests of elephants. The distribution of resources must include efforts, in whatever measure, to ensure that not only human populations are taken care of (most would argue as a first priority), but that efforts are also employed to spread benefits across the species threshold that matters here. The work of governments, NGOs, and corporations moving in this direction is paramount in widening of the circle of morality to include all animals that are in possession of the traits noted above (following Regan, 2004). New legislation on animal rights in Turkey for crimes against living things close to humans is a step in the right direction (Erdem, 2019). This means opposing inequality based on speciesism, the support of marginalised populations, and respecting autonomy and individual rights (Shooster, 2015). As moral agents, lawyers and justice-focused organizations, based on Nozick's (1974) concept of positive rights, or the requirement of one to assist another in attaining their goals, would define justice and argue for animal justice (within and beyond tourism), on a case-by-case basis. As legal precedence is established (Shooster, 2017), progress would be made in ensuring that animals receive a deeper level of justice.

. Box 3
Responsible Travel: Jo Cary-Elwes, campaigns manager at Elephant Family

"Energies urgently need to be channelled into protecting wild populations, reducing the demand for elephants in tourism and making sure that the elephants that are in captivity are well looked after. But, in an ideal world people would visit national parks and see these animals in the wild, which is where they belong."
https://www.responsibletravel.com/holidays/elephant-conservation/travel-guide/our-stance

Virtue ethics, including care ethics, would guide human-animal interactions and decision-making. For example, animals that are held in sanctuaries or semi-natural conditions (Cohen, 2009) may receive deep justice, where the "keeping" of animals in large open spaces attempts to replicate natural conditions. In the best sanctuaries, elephants are able to live with their own kind, are cared for in a superior way by workers, volunteers and tourists, are allowed to practice normal behaviours that enhance wellbeing, and live out their lives completely in the absence of suffering. The Elephant Nature Park in Thailand is said to be one of the best examples of this type of model (Elephant Nature Park, 2019).

Deep justice also opens the door to a discussion on personhood in animals. What this means is that some higher-order animals such as great apes, dolphins, elephants and corvids (crows and ravens) have sufficient intelligence, social skills and sentience to be granted legal rights. The Great Ape Project of 1993 is a case in point, whereby chimpanzees, gorillas, bonobos, urangutans would be extended basic legal rights around the right to life, protection of individual liberty, and prohibition of torture (Singer & Cavalieri, 1993). The Balearic Islands was the first political entity to grant legal personhood status to apes in 2007 (Rose, 2007).

Conclusion

Justice is felt to be the most important of the four cardinal virtues and, as such, it is internal to each and every one of us. We understand the value of justice as individuals and within our societies because we confront it in so many different circumstances: fairness, honour, and virtue (Hultsman, 1995); human wellbeing (Higgins-Desboilles & Blanchard, 2010); the fair distribution of resources and benefits (Jamal & Camargo, 2014); and its adherence to principles of sustainability (Issac & Hodge, 2011). Justice, traditionally, has been relegated to the human world only because humans have almost exclusively been acknowledged as the only species possessing reason, intentionality, and reciprocity—humans alone have a conception of what is justly owed to them. And with justice is a virtue, it follows that individuals must play a central part in the bedrock of more ethical communities, as the sum of individual attitudes and behaviours should lead to an expanded view of social justice. Indeed, when individuals are unjust in their actions, they contribute to the erosion of social justice (Pieper, 1955). The literature illustrates, however, that justice is more than just a virtue in consideration of the broad and detailed manner in which it has been used from deontological and teleological perspectives. Indeed, in this regard, it has been a difficult task here to harness all of these varying perspectives in the presentation of a conceptual framework.

Given the firmly entrenched beliefs around the roles that animals are made to play in our varying social contexts, and in consideration of historical to contemporary realities, it is unsurprising that justice eludes animals in almost any situation. A considerable barrier in moving the justice agenda forward for animals is the belief that if justice is to be extended to animals, it must be non-comparative. For example, we extend "justice" to animals by providing them with proper and adequate levels of food, shelter, water, and freedom from pain and suffering. Under this model there is still asymmetry of power according to direct versus indirect moral treatment, which is very much tied to the welfare paradigm. In other words, people first over animals (Miller, 2017). Indeed, there is an embedded paternalism around our treatment of animals based on a view in which "just" is a function not only of current scientific knowledge on animal needs, but perhaps more importantly on human economic priorities.

The complete absence of justice in animal studies and tourism is a marker. It signifies clearly the role that tourism continues to play in our lives. Writing in the midst of the COVID-19 crises, we see the devastation that the virus has had on global tourism economies. Animals will no doubt suffer the consequences of this pandemic as service providers struggle to put food on their tables let alone feed and sustain the tools (animals) of their trade. Only time will tell how animals have fared at the hand of so many disruptive influences like COVID-19, environmental crises, and chaos in markets and the economy.

In the previous sections we attempted to conceptualize the theoretical and practical conditions around the just and unjust uses of animals in tourism, as the basis for arguing for more empirical investigations on this topic. Welfare, while not the most ethical or virtuous approach, is the current benchmark for measuring our treatment of animals; however, contractarianism and ecocentrism are likely the most prevalent practices within tourism. We argue that it is in the interests of the tourism industry in these changing times to move towards heightened levels of moral action when it comes to the use of animals in tourism. Our main conclusion, therefore, is that we need to place considerable effort into moving forward the benchmark of what is ethical in the use of animals in tourism, and what is not. This will necessitate a nod in the direction of virtue ethics (Model 2) along with utilitarianism and animal rights (Model 1) for a deeper level of justice for animals in tourism to better inform our actions.

In consideration of the foregoing discussion, it would seem that moral pluralism (see Garner, 2013) provides fertile ground for further investigation based on what is proposed here, Garner's (2013) work on enhanced sentiency, as well as work by Nussbaum's (2004; 2006a; 2006b). Nussbaum's capabilities approach is built around the notion that different species have unique capabilities that allow them to flourish (Aristotelian eudemonia). Our treatment of animals may be judged to be right or wrong, therefore, according to how such treatment catalyzes the ability to flourish or constrains it. Dignity and respect for individual animals is the primary locus of analysis, not species, with priority for species that have higher capacities than others (e.g., chimpanzees versus sponges). As such, we need to set proper benchmarks or species-specific norms while at the same time acknowledging our own limitations to fully comprehend animal lives because of our ignorance. Nussbaum also contends that every world nation should include in its constitution principles regarding nonhuman animals "as subjects of political justice and to" treat "them in accordance with their dignity" (2006b, p. 6). There is an obvious connection to virtue ethics in the capabilities approach in the manner in which Nussbaum follows Aristotle's lead around eudaimonia. Nussbaum is also indebted to deontological thinkers like Kant and Rawls on the basis of the intrinsic worth of beings and the fair distribution of goods.

This paper sought to demonstrate how different ethical theories intersect in the development of a framework for assessing the level of justice for animals used in tourism. We believe this is a valuable first step that may stimulate more animals-in-tourism research and instigate a deeper level of dialogue amongst tourism stakeholders, especially tourism operations that use animals. What prevents the realisation of this deeper state, however, is history and culture that lock societies into inevitabilities that are resistant to change. Money and the promise for a brighter future compel people to use animals in the most inhumane ways imaginable (Agoramoorthy, 2004). Even conservation, usually an agent for positive change, is problematic for animals like elephants because NGOs often have representatives of large corporations sitting on their boards. This deliberate approach translates into a more neoliberal focus on "corporate-led" conservation (Kopnina, 2016) built according to the commodification of nature.

As tourism scholarship and practice slowly matures, questions around what is responsible and sustainable will hopefully provide animals with a representative voice at the table. We believe that the tides are beginning to turn in the court of public opinion. This is evidenced by the existence of new organizations fighting for animal, ecosystem, and global justice. While we wait for the tides to turn, there is a need to more fully investigate what animal advocates, generally, and tourism organizations, specifically, are doing to advance animal justice. This seems like promising

terrain for moving the tourism and animal ethics agenda forward. Indeed, the time is upon us to render each their due.

Note

1. There are differences between Pieper's commutative justice and communitarianism. While both move away from universal normative judgments, the latter equates virtue with community practices, i.e., the primary unit of analysis is the community over the individual (MacIntyre, 2007).

Acknowledgement

We wish to thank Dr. Tazim Jamal for her comments and encouragement of this paper, as well as the wisdom of three referees who helped to improved the paper considerably.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributors

David Fennell researches mainly in the areas of ecotourism, tourism ethics, and moral issues tied to the use of animals in the tourism industry. A major thrust of his research involves the use of theory from other disciplines (e.g., biology, philosophy) to gain traction on many of tourism's most persistent issues and problems. Fennell is the founding Editor-in-Chief of the Journal of Ecotourism and is an active member on editorial boards of many academic journals.

Valerie Sheppard, PhD, is a sessional instructor with the Justice Institute of British Columbia, Canada (vsheppard7@gmail.com). Her research interests lie in the areas of ethics and community sustainability and resilience. She is the associate editor for the field notes section of the Journal of Ecotourism.

ORCID

Valerie Sheppard http://orcid.org/0000-0003-0029-4339

References

Abbey, R. (2007). Rawlsian resources for animal ethics. *Ethics & the Environment*, *12*(1), 1–22. doi:10.2979/ETE.2007.12.1.1

Abraham, N. (2019). Personal communication, November 19.

Adams, C., & Donovan, J. (2007). *The feminist care tradition in animal ethics*. Columbia University Press.

Agoramoorthy, G. (2004). Ethics and welfare in Southeast Asian zoos. *Journal of Applied Animal Welfare Science: JAAWS*, *7*(3), 189–195. doi:10.1207/s15327604jaws0703_5

Author. (in press). Advocating for animal justice in tourism and beyond. *Tourism Recreation Research*

Bone, K., & Bone, J. (2016). The same dart trick: the exploitation of animals and women in Thailand tourism. In K. Markwell (Ed.), *Animals and tourism: Understanding diverse relationships* (pp. 60–74). Channel View Publications.

Cochrane, A. (2009). Ownership and justice for animals. *Utilitas*, *21*(4), 424–442. doi:10.1017/S0953820809990203

Cohen, E. (2009). The wild and the humanized: animals in Thai tourism. *Anatolia*, *20*(1), 100–118. doi:10.1080/13032917.2009.10518898

Cohen, E., & Fennell, D. A. (2016). The elimination of Marius the Giraffe: Humanitarian act or callous management decision. *Tourism Recreation Research*, *41*(2), 168–176. doi:10.1080/02508281.2016.1147211

Cohen-Charash, Y., & Spector, P. E. (2001). The role of justice in organisations: a meta-analysis. *Organizational Behavior and Human Decision Processes*, *86*(2), 278–321. doi:10.1006/obhd.2001.2958

Cooper, T. L. (1987). Hierarchy, virtue, and the practice of public administration: A perspective for normative ethics. *Public Administration Review*, *47*(4), 320–328. doi:10.2307/975312

Cossins, A. (2007). Restorative justice and child sex offences. *British Journal of Criminology*, *48*(3), 359–378.

Curry, P. (2011). *Ecological ethics: An introduction* (2nd ed.). Polity Press.

DeWitt, T., Nguyen, D. T., & Marshall, R. (2008). Exploring customer loyalty following service recovery: the mediating effects of trust and emotions. *Journal of Service Research*, *10*(3), 269–281. doi:10.1177/1094670507310767

Donovan, J. (2006). Feminism and the treatment of animals: From care to dialogue. *Signs: Journal of Women in Culture and Society*, *31*(2), 305–329. doi:10.1086/491750
Dorloh, S. (2017). The protection of animals in Thailand–an insight into animal protection legislation. *International Journal of Humanities and Cultural Studies*, *4*(2), 58–63.
Dworkin, R. (1977). *Taking rights seriously*. Duckworth.
Elephant Nature Park. (2019). *Welcome to elephant nature park*. https://www.elephantnaturepark.org/
Erdem, U. (2019). *Turkeys' animal rights legislation underway*. https://www.hurriyetdailynews.com/turkeys-animal-rights-legislation-underway-148870
Fennell, D. A. (2012a). *Tourism and animal ethics*. Routledge.
Fennell, D. A. (2013). Contesting the zoo as a setting for ecotourism, and the design of a first principle. *Journal of Ecotourism*, *12*(1), 1–14. doi:10.1080/14724049.2012.737796
Fennell, D. A. (2014). Exploring the boundaries of a new moral order for tourism's global code of ethics. *Journal of Sustainable Tourism*, *22*(7), 983–996. doi:10.1080/09669582.2014.918137
Fennell, D. A. (2018). *Tourism ethics* (2nd ed.). Clevedon.
Fennell, D. A., & Cooper, C. (2020). *Sustainable tourism: Principles, contexts, practices*. Channel View Publications.
Fennell, D. A. & Malloy, D .C. (2007). Tourism codes of ethics: practice, theory, synthesis. Clevedon, UK: Channel View Publications.
Francione, G. L. (1995). *Animals, property and the law*. Temple University.
Francione, G. L., Charlton, A. (2016). The case against pets. *Aeon*. https://aeon.co/essays/why-keeping-a-pet-is-fundamentally-unethical
Frankena. (1963). *Ethics*. Prentice-Hall.
Friedman, M. (1962). *Capitalism and freedom*. University of Chicago Press.
Garofalo, C., & Geuras, D. (1999). *Ethics in the public service: The moral mind at work*. Georgetown University Press.
Garner, R. (2004). *Animals, politics and morality*. Manchester University Press.
Garner, R. (2012). Rawls, animals and justice: New literature, same response. *Res Publica*, *18*(2), 159–172. doi:10.1007/s11158-011-9173-z
Garner, R. (2013). *A theory of justice for animals: Animal rights in a nonideal world*. Oxford University Press.
Gavrielides, T. (2007). *Restorative justice theory and practice: Addressing the discrepancy*. Criminal Justice Press.
Gearey, A. (2013). *Justice as welfare: Equity and solidarity*. Bloomsbury Academic.
Good, K. (2014). *One year later, former Toronto Zoo elephants are thriving at their sanctuary home*. https://www.one-greenplanet.org/animalsandnature/former-toronto-zoo-elephants-are-thriving-at-their-sanctuary-home/
Halwani, R. (2003a). Care ethics and virtue ethics. *Hypatia*, *18*(3), 161–192. doi:10.1353/hyp.2003.0063
Halwani, R. (2003b). *Virtuous liaisons: Care, love, sex, and virtue ethics*. Open Court.
Held, V. (2004). Care and justice in the global context. Ratio Juris. *17*(2): 141–155.
Higgins-Desboilles, F., & Blanchard, L. (2010). Challenging peace through tourism: placing tourism in the context of human rights, justice and peace. In O. Moufakkir and I. Kelly (Eds.), *Tourism, progress and peace* (pp. 35–47). CABI.
Hill, S. P., & Broom, D. M. (2009). Measuring zoo animal welfare: Theory and practice. *Zoo Biology*, *28*(6), 531–544. doi:10.1002/zoo.20276
Hughes, P. (2001). Animals, values and tourism: structural shifts in UK dolphin tourism provision. *Tourism Management*, *22*(4), 321–329. doi:10.1016/S0261-5177(00)00070-4
Hultsman, J. (1995). Just tourism: An ethical framework. *Annals of Tourism Research*, *22*(3), 553–567. doi:10.1016/0160-7383(95)00011-T
Humphrey, M. (2000). Nature' in deep ecology and social ecology: Contesting the core. *Journal of Political Ideologies*, *5*(2), 247–268. doi:10.1080/713682940
Ignatieff, M. (2003). *Human rights as politics and idolatry*. Princeton University Press.
International Peace Information Service (IPIS). (2014). *The adverse human rights risks and impacts of European companies: Getting a glimpse of the picture*. http://corporatejustice.org/documents/ahrri_report_final-2.pdf
Issac, R. K., & Hodge, D. (2011). An exploratory study: Justice tourism in controversial areas: The case of Palestine. *Tourism Planning and Development*, *8*(1), 101–108.
Jamal, T. (2019). *Justice and ethics in tourism*. Routledge.
Jamal, T., & Camargo, B. A. (2014). Sustainable tourism, justice and an ethic of care: Toward the just destination. *Journal of Sustainable Tourism*, *22*(1), 11–30. doi:10.1080/09669582.2013.786084
Jones, R. C. (2015). Animal rights is a social justice issue. *Contemporary Justice Review*, *18*(4), 467–482. doi:10.1080/10282580.2015.1093689
Kheel, M. (2008). Nature Ethics: An Ecofeminist Perspective. Lanham, MD: Rowman & Littlefield Publishers, Inc.
Kopnina, H. (2016). Wild animals and justice: the case of the dead elephant in the room. *Journal of International Wildlife Law & Policy*, *19*(3), 219–235. doi:10.1080/13880292.2016.1204882
Leopold, A. (1970). *A sand county almanac with essays on conservation from round river*. Ballantine Books.
MacIntyre, A. (2007). *After virtue*. Notre Dame University Press.
MacIntyre, A. (2013). *Who's justice? Which rationality?* Duckworth Books.
Marshall, T. (1999). *Restorative justice: An overview*. Home Office, Information & Publications Group.

Matheny, G. (2006). Utilitarianism and animals. In Singer, P. (Ed.), *In defense of animals: The second wave* (pp. 13–25). Blackwell.
McCloskey, H. J. (1965). Rights. *The Philosophical Quarterly*, *15*(59), 115–127. doi:10.2307/2218211
Mihalic, T., & Fennell, D. A. (2015). In pursuit of a more just international tourism: The concept of trading tourism rights. *Journal of Sustainable Tourism*, *23*(2), 188–206. doi:doi:10.1080/09669582.2014.943763
Mill, J. S. (2010). *On liberty*. Penguin.
Miller, D. (2017). *Justice*. Stanford University of Philosophy. https://plato.stanford.edu/entries/justice/
Mkono, M. (2019). Neo-colonialism and greed: Africans' views on trophy hunting in social media. *Journal of Sustainable Tourism*, *27*(5), 689–704. doi:10.1080/09669582.2019.1604719
Mulgan, T. (2011). *Ethics for a broken world: Imagining philosophy after catastrophe*. McGill-Queen's University Press.
Narveson, J. (1988). *The libertarian idea*. Temple University Press.
New Zealand Herald. (2019). *Teenage elephant collapses and dies after carrying tourists*. https://www.nzherald.co.nz/travel/news/article.cfm?c_id=7&objectid=12282104&utm_source=facebook&utm_medium=social&utmc_campaign=nzh_fb&fbclid=IwAR0-C5sF-eDHC4TlGZuY3g5hj74lau4kJBm6zLmYudnLv4Bwxs_o23Schak
Nozick, R. (1974). *Anarchy, state and utopia*. Basil Blackwell.
Nussbaum, M. (1996). Patriotism and cosmopolitanism. In J. Cohen (Ed.), *For love of country: Debating the limits of patriotism* (pp. 3–17). Beacon Press.
Nussbaum, M. (2004). Beyond 'compassion and humanity': Justice for nonhuman animals. In C. R. Sunstein & M. Nussbaum (Eds.), *Animal rights: Current debates and new directions* (pp. 299–320). Oxford University Press.
Nussbaum, M. C. (2006a). *Frontiers of justice: Disability, nationality, species membership*. Harvard University Press.
Nussbaum, M. C. (2006b). The moral status of animals. *The Chronicle Review*, 52(22), B6. https://www.chronicle.com/article/The-Moral-Status-of-Animals/25792.
O'Neill, O. (2000). *Bounds of justice*. Cambridge University Press.
Oxford Dictionaries. (2019). *Right*. https://www.lexico.com/en/definition/right
Pacific Asia Travel Association (PATA). (2019). *Elephant camp animal welfare and sustainability standard assessment initiative*. https://sustain.pata.org/elephant-camp-animal-welfare-sustainability-standard-assessment-initiative/
Pieper, J. (1955). *The four cardinal virtues*. Pantheon Books.
Pojman, L. (1997). Equality and desert. *Philosophy*, *72*(282), 549–570. doi:10.1017/S0031819100062410
Rawls, J. (1971). *A theory of justice*. Oxford University Press.
Regan, T. (1985). The case for animal rights. In P. Singer (Ed.), *In defense of animals* (pp. 13–26). Basil Blackwell.
Regan, T. (2003). *Empty cages: Facing the challenge of animal rights*. Rowman and Littlefield.
Regan, T. (2004). *The case for animal rights*. University of California Press.
Rose, T. (2007). *Going ape over human rights*. http://www.cbc.ca/news/viewpoint/vp_rose/20070802.html
Rowe, J. S. (1997). From reductionism to holism in ecology and deep ecology. *The Ecologist*, *27*(4), 147–151.
Rowlands, M. (1997). Contractarianism and animal rights. *Journal of Applied Philosophy*, *14*(3), 235–247. doi:10.1111/1468-5930.00060
Scheyvens, R. (2002). *Tourism for development: Empowering communities*. Prentice Hall.
Sheppard, V., Fennell, D. A. (2019). Progress in tourism public sector policy: toward an ethic for non-human animals. *Tourism Management*, 73(8), 134–142. doi:doi:10.1016/j.tourman.2018.11.017
Shooster, J. (2015). Justice for all: Including animal rights in social justice activism. *The Harbinger*, *40*(39), 39–44.
Shooster, J. (2017). *Legal personhood and the positive rights of wild animals*. https://was-research.org/writing-by-others/legal-personhood-positive-rights-wild-animals/
Sin, H. L., & Minca, C. (2014). Touring responsibility: The trouble with 'going local' in community-based tourism in Thailand. *Geoforum*, *51*, 96–106. doi:10.1016/j.geoforum.2013.10.004
Singer, P. (2009). *Animal liberation (re-print)*. Harper Perennial.
Singer, P., & Cavalieri, P. (1993). *The great ape project: Equality beyond humanity*. Fourth Estate publishing.
Slote, M. (2007). *The ethics of care and empathy*. Routledge.
Slote, M. (1992). *From morality to virtue*. Oxford University Press.
Smith, M., & Duffy, R. (2003). *The ethics of tourism development*. Routledge.
United Nations. (2019). *UN sustainable development goals*. https://sustainabledevelopment.un.org/sdgs
Vance, L., (1995). Beyond just-so stories: Narrative, animals, and ethics. In Adams, C. J., & Donovan, J. (Eds.), *Animals and women: Feminist theoretical explorations* (pp. 163–191). Duke University Press.
Varner, G. (1998). *In nature's interests? Interests, animal rights, and environmental ethics*. Oxford.
Wyckoff, J. (2014). Toward justice for animals. *Journal of Social Philosophy*, *45*(4), 539–553. doi:doi:10.1111/josp.12077
Young, I. M. (1985). Impartiality and the civic public: Some implications of feminist critiques of moral and political theory. *PRAXIS International*, *5*(4), 381–401.
Young, I. M. (2012). *Justice and the politics of difference*. Princeton University Press.
ZooCheck New Zealand. (n.d.). *Zoos = conservation*. Retrieved January 30, 2012, from http://www.wildlife.org.nz/zoocheck/cons.htm