

WHAT (IF ANYTHING) CAN JUSTIFY THE USE OF FUR?

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ABSTRACT

If we accept that non-human animals are beings who are individuals, who have agency and interests, who have feelings and suffer, then the most direct consequence would be to consider them members of the moral community and, subsequently, to treat them always as ends and not as means or resources. In this sense, many authors who support animal rights have argued that the use of animals as means for humans' ends cannot be justified from an ethical point of view (Regan, Francione, Donaldson and Kymlicka, Nussbaum and many others). If this is so, for example, as far as food is concerned, it seems that there are more reasons for clothes. It would be unjustifiable to use animals in the production of fur clothes or to hunt wild animals strictly for fashion-related reasons or to increase the profits of fashion companies.

Killing an animal to use her fur cannot be justified for various reasons. First, because it would deprive her of the right to life, without which the rest of rights are meaningless. Secondly, because it would mean not considering her a subject of the moral community, but a mere object. Thirdly, because it would be done for a frivolous and absolutely unnecessary end. The use of animals as parts of the fur production process cannot be justified. However, does there exist any use that can? Could we use the fur of an animal who, for instance, has died by natural causes after living a life with dignity? Would that respect her moral status? Would we do the same with human skin? In this paper the question of whether some use of fur can be justified will be analyzed. Furthermore, it will also be discussed whether, if the animal were to have lived a life with dignity and died naturally, using her fur still represents her consideration as an object rather than a subject.

KEY WORDS: Fur, hide, animal rights, moral community.

1. INTRODUCTION: ANIMALS NOT ONLY FEEL, THEY ARE ALSO MORAL AGENTS

Until recent times, the debate around animal rights had been tackled on two different fronts. One position is that which promotes regulation, meaning that we limit certain practices in order to minimize or eliminate animal suffering. The other position defends abolition, which seeks to eliminate relationships between humans and animals in order to precisely respect the latter's freedom. Recently, however, there has been a change in the approach that some authors call a political turn in the conversation on animal rights¹. This

¹ Tony Milligan, "The Political Turn in Animal Rights", *Politics and Animals*, 1 (1) (2015): 6-15.

change implies an understanding of animal rights that goes beyond the debate of regulation vs. abolition, recognizing not only their negative rights (e.g. the right to freedom) but also their positive rights (e.g. the right to benefits) and seeing animals' interests as part of a common good. This argument underlines the connections and relations of belonging, which goes a step further than simply saying that humans share with animals the ability to feel pain or pleasure, as traditional animal rights theories have defended (as Bentham, Singer, or Francione). This paper will try to reflect on the use of fur within the framework of a political conception of animal rights.

My starting point will be to analyze if the relationships between human and nonhuman animals are fair and to study the aspects of equity in that relationship. Therefore, I draw from the premise that animals are members of the moral community or, in other words, that a moral relationship with animals exists. Aranguren, a Spanish philosopher, used to distinguish between morality as structure and morality as content. According to his explanation, the human being is structurally moral. While for animals, different stimuli generate adequate responses, humans have to create responses and justify them². All human beings from any culture or religion share a moral structure and we judge actions as just or unjust. However, morality as content varies depending on each culture, time in history, religion, etc. We can see different moral theories with different content. We fill our moral structure with the content of a particular morality. The etymology of morality comes from the Latin word *mor, mores*, that means customs. Moral rule is a habit we learn from our social group. Those moral rules allow us to relate positively and negatively with other members of the group based on parameters - customs - that we have accepted. Furthermore, ethics is the philosophical reflection on moral rules, on morality as content. Following an ideal of justice, we consider moral rules to be fair or unfair. Morality is the content, while ethics tells us why we follow that content. Humans, which are reflective animals, are ethical because they have the ability to question, through critical thinking, different moralities and moral theories.

In consequence, when we say that nonhuman animals belong to the moral community we need to examine three concepts: morality as structure, morality as content, and ethics. Many authors, when defending animal rights, focus their cases in the ability of animals to feel pain. Nowadays, nobody could maintain that animals are things and not sentient beings. Animals feel pain, happiness, sadness, fear, stress... There is a moderate position that says that because they feel, we have certain moral duties regarding them; they are moral patients, recipients of our moral action. This stance does not see animals as part of the moral community and is common amongst lawyers in their discourse on animal rights. One consequence of this point of view is that in the case of a conflict between a moral right of a human and a moral duty to a nonhuman, the first one always prevails, since the real member of the moral community is the human. So, if we want to argue in favor of animals as moral agents, we need to examine those three concepts I introduced earlier.

Animals have the capacity to learn behaviors; this is the basis of the process of domestication. Not only do domestic animals learn, but so do non-domestic animals. They have the ability to assimilate some customs, *-mores*, and an understanding that some

² José Luis López Aranguren, *Ética* (Madrid: Alianza Editorial, 1979), 47-48.

behaviors are correct and others are not. It is true that humans have had a special relationship with certain groups of animals (domestic animals) and have taught them those behaviors. However, non-domestic animals have the ability to learn uses and distinguish between what is correct and what is not too. The limits between domestic and non domestic animals is not clear at this point. Bekoff and Pierce highlight chimpanzees, wolves, elephants and humans as animals with a higher developed moral ability, but they also speak of others³. Outside of the cities, animals have moral behaviors that they learn thanks to their interaction with other animals. This ability to distinguish between some correct and incorrect actions is possible since non-human animals have moral structures in their minds, just like humans do. Without morality as structure it is impossible to have morality as content. In consequence, we can contend that animals have the first two characteristics Aranguren explored: morality as structure and morality as content.

Do non-human animals have the ability to make philosophical reflections about moral contents? Do they experience ethical thinking? This question is difficult to answer. Some animals know that they have done something wrong, although they do not know why it is wrong. Their thought process might be similar to that of children ages 3-6. Animals, as far as we know, do not develop philosophical theories about the meaning of justice. They probably do not possess the third element (they are not ethical beings). However, this does not exclude them from the moral community because this community is formed for all those who have moral structure and who, thanks to it, can learn and follow moral contents. The same happens with children and some adults. At this point it is important to distinguish between morality and ethics. We share with animals morality and that is why they are agents of the moral community. However, we do not know if we also have in common ethical abilities. My point here is that animals are part of the moral community, not only because they are endowed with sensibility, which demands of us a moral duty to not make them suffer, but because they are moral agents who in addition to feeling, are capable of learning certain moral behaviors and rules. They possess a moral structure that makes them moral agents who know when they violate some moral rules, who manifest their intentions and interests and who are even able to negotiate some of the rules that we have taught them. Bekoff and Pierce⁴ uphold that the concept of moral agency (traced to Kant) must be reconceptualized because we cannot establish a clear line between moral agents and patients: "Animals are moral agents *within the limited context of their own communities*. They have the capacity to shape their behavioral responses to each other based on an emotionally and cognitively rich interpretation of a particular social interaction. [...] Animals actively make choices in their social encounters, including whether or not to help others. [...] Where there's flexibility and plasticity in behavior, there's choice, there's agency"⁵.

Can we say that all animals are moral agents? One of the questions is where the limits of the moral community lie. We most likely cannot answer this for certain now because we do not have enough knowledge about animals and their moral lives. Bekoff and Pierce talk about mammals but they do not exclude other animals from the discussion: "It would be premature

³ Marc Bekoff and Jessica Pierce, *Wild Justice. The Moral Lives of Animals*. (Chicago: The University of Chicago Press, 2009), 20.

⁴ Bekoff and Pierce, *Wild Justice*, 144.

⁵ Bekoff and Pierce, *Wild Justice*, 144-145.

to pronounce other species lacking in moral behaviors. We simply do not have enough data to make hard and fast claims about the taxonomic distribution among different species of the cognitive skills and emotional capacities necessary for being able to empathize with others, behave fairly, or to be moral agents”⁶. These authors hold that we cannot consider insects as moral subjects because their behavior patterns are rigid and they do not make choices.

Another question that appears when discussing morality is its universality. According to Kant, in his formulation of the categorical imperative, morality might be universal. In his own words: “Act only according to that maxim whereby you can at the same time will that it should become a universal law”⁷. However, the universality of morality contrasts with the different moral rules that exist in different cultures and historical moments. Moral relativism defends that it is impossible to find universal moral rules⁸. Although there are differences in the moral rules of different cultures, it is also true that we can find some common aspects in all of them, a group of values (dignity, freedom, equality, security, solidarity) that human rights try to protect; values that all moral rules of different cultures share although interpreted in different ways. This basic morality is something that humans share with animals. “Norms of behavior that regulate social interactions are found in humans and animals alike. And these norms seem to be universal: in those animal societies in which morality has evolved, we see a common suite of behaviors”⁹.

To have morality as structure (the ability to choose), a somewhat complex central nervous system is required. We cannot limit this to mammals as Regan¹⁰ did in his first book, although later extended to other animals like birds or fish. Even so, having a central nervous system does not equal having a moral structure. Moral structure is the result of adaptive processes, ways of adjusting to reality. As we do not have scientific evidence, we must abide by the precautionary principle and consider the central nervous system as the physiological basis that supports what we have been calling morality as a structure that allows for moral contents. All animals with central nervous systems are “subjects of a life”, in the words of Regan¹¹. They have interests and feelings, they can learn what is correct and what is not, and they are part of the moral community as moral agents.

As members of the moral community, animals have moral rights but if we want to talk about legal rights we must take a step further. Rights, in a legal sense, are institutions in society that regulate life. Although we may aspire towards universal rights, at the moment, which right one can defend and exercise depends on the State in which one lives. I accept what Spanish academia contemplates as the dualistic concept of rights. Rights are the institutions that include some justified moral claims that convey the moral values of dignity, freedom, equality, solidarity and security. We can only talk about rights in a legal sense if such moral claims can be included in legal rules in accordance with the criteria and characteristics of the legal system¹².

⁶ Bekoff and Pierce, *Wild Justice*, 9.

⁷ Immanuel Kant, *Fundamentación de la Metafísica de las Costumbres*, ed. L. Martínez de Velasco. (Madrid: Austral, 1996), 30.

⁸ Claude Lévi-Strauss, *Tristes Trópicos*. (París: Plon, 1955).

⁹ Bekoff and Pierce, *Wild Justice*, 148.

¹⁰ Tom Regan, *The case for Animal Rights* (Berkeley and Los Ángeles: University of California Press, 2004).

¹¹ Regan, *The case for Animal Rights*.

¹² Rafael de Asís, *Sobre el concepto y fundamento de los derechos: una aproximación dualista* (Madrid:

Nowadays we do not have global institutions that guarantee human rights at a universal level. Courts that protect rights at the supra-state level, such as the European Court of Human Rights or the Inter-American Court of Human Rights, operate as long as States have signed Treaties which accept their jurisdiction. The world continues to be divided into states, and law continues to be a predominantly state phenomena. If this is so, how can we recognize the rights of animals as members of the moral community? Undoubtedly, it will be the individual States that must do so, as is the case in all legal spheres.

Here Donaldson and Kymlicka's argument¹³ plays an important role in the debate on animal rights. Animal rights can only be recognized inside political communities. There are different political communities, and how rights are recognized and guaranteed depends on the configuration of the community. Rights arise from our relationships as members of the political community, relationships that are based on the interests and projects we share. We are a part of many traditions. Rights create a sphere of freedom and protect the interests of the community's members. This idea is particularly present in social rights or in the new generation of rights: solidarity-based rights that connect citizens amongst each other so that certain needs can be met, such as reciprocity, health care, education, housing or, concerning future generations, the right to peace or to a healthy environment.

This is why Donaldson and Kymlicka's criterion in recognizing rights is whether one is a member or not of the community in which said rights arise. The Canadian authors are not using a specieist argument, but a political one. To enjoy rights, it is necessary to be part of the political community, to be a citizen. Wild animals are not members of the political community. They have their own communities with their own moral rules. Those communities must be respected as sovereign communities that only in some circumstances require our help. Liminal animals live among us, live in our cities, but they “are not domesticated, and so do not trust humans, and typically avoid direct contact”¹⁴. They are not full members of the political community: “Liminal animals are co-residents of human communities but not co-citizens. They belong here among us, but are not one of us. Denizenship captures this distinctive status, which is fundamentally different from either co-citizenship or external sovereignty. Like citizenship, denizenship is a relationship, less intimate or cooperative, and therefore characterized by a reduced set of rights and responsibilities”¹⁵ (Donaldson & Kymlicka, 2011, p. 214). Domesticated animals are members not only of the moral community but also of the legal community, they are co-citizens and that presupposes a “level of sociability that makes possible reciprocal engagement, rule-learning behavior, and socialization”. Domesticated animals must have the same rights and the same legal duties of any citizen. They are full citizens.

Rights as institutions and not as moral claims exist in the context of a State. This means that depending on the State, the rights of citizens vary. This goes against the universal

Dykinson-Instituto de Derechos Humanos “Bartolomé de las Casas”, 2001).

¹³ Sue Donaldson and Will Kymlicka, *Zoopolis. A Political Theory of Animal Rights* (Oxford: Oxford University Press, 2011).

¹⁴ Donaldson and Kymlicka, *Zoopolis*, 214.

¹⁵ Donaldson and Kymlicka, *Zoopolis*, 214.

aspiration of rights. In fact, Cochrane¹⁶, for example, has criticized the division of animals depending on the political community defended by Donaldson and Kymlicka, because all animals have common needs and in consequence they might have the same rights: “My point is rather to show that Donaldson and Kymlicka’s privileging of the rights of the group “domesticated animals” is illegitimate [...] The rights of any particular animal are better determined via a cosmopolitan perspective that attaches rights to individuals primarily according to their capacities and interests, as opposed to their membership in different groups”¹⁷. Although this argument is very pertinent, especially when treating the topic of fur, as we will see later, there are certain rights, those closely linked to citizenship, which can only be guaranteed by state institutions. This is the context in which we live and these are the rules of the game. Our duty is to see how to use those rules to defend and improve the position of animals.

2. WHY THE USE OF FUR IS NOT JUSTIFIED FROM A POLITICAL POINT OF VIEW

If we assume this argument, there are three questions we must answer: 1) Can we use the fur of animals who are citizens?; 2) Can we use the fur of liminal animals?; and 3) What about the fur of wild animals? Before answering these questions, I would like to clarify a premise that follows the contention above. That is that all animals have the right to life (whether they are citizens or not). In no case or pretext is it justified to kill an animal to obtain her fur. The use given to that fur makes no difference at all; although, as we well know, the most common use lies in the fashion industry. The death of a being does not justify any good obtained from the fur. Any utilitarian argument is therefore rejected. The fur industry as we know it has no justification. The discussion below therefore concerns the fur of animals who have died naturally.

2.1. Fur of animal citizens

Following the distinction of different groups of animals presented by Donaldson and Kymlicka in *Zoopolis*, domesticated animals- animals that live nearer to humans- may be full citizens. However, we can say that nowadays not all domesticated animals are treated equally. In our culture at least, the fur of cats or dogs is not industrially used to make products (with the exception of Disney's *101 Dalmations...*). Other domesticated animals are not only used industrially as food (such as pigs, cows, chickens, etc.), but also, once killed, their skin is used in the production of clothes, pillows, parts of other objects, and so on. Although we may not always be aware of it, animal fur is present in many things we use on a daily basis.

When we talk about domesticated animals as citizens we are talking about creating a society where everybody cooperates and receives something in exchange for that cooperation. We have the right to health, housing, education or income, because we fulfill certain obligations. As it is well known, veganism and the abolitionist stance are against the use of animals or animal products. However, when we see these problems in the context of

¹⁶ Alasdair Cochrane, “*Cosmozoopolis: The Case Against Group-Differentiated Animal Rights*”, *Law, Ethics and Philosophy*, 1 (2013): 127-141.

¹⁷ Cochrane, “*Cosmozoopolis*”, 135 & 139.

citizenship and a cooperative society, we can accept that some animal products be used if certain conditions have been respected. In particular, these conditions are linked to labor rights, including access to adequate and sufficient food, rest, a comfortable place to live, time for play and leisure, and so on. Although authors who discuss animal rights have focused their attention on certain basic rights, such as the right to life or food, if we accept them as full citizens of society, the list of rights should be extended in order to include social and labor rights as well. In this sense -and in my point of view-, we would be able to eat the eggs of hens who have not been subjected to an industrial production process, for instance. This, of course, would increase the price of these products, something that goes against the neoliberal logic of producing more and more at a lower cost.

This assertion does not justify killing the animal to use it as food or something else. So, quality life or working conditions do not justify the killing of animals, no matter how good those conditions may be. And this is precisely what happens with fur. The use of fur necessarily involves the killing of a citizen to use her fur. It would mean they are not considered subjects of the moral community, but mere objects; not citizens, but slaves. What's more, the fur industry is characterized by its cruelty.

What about animals who die of natural causes? In that case, can we use their fur? At a first glance, we wouldn't be violating their rights: neither the right to live nor social or citizenship rights. However, if we want to be consistent in our answer, we must ask ourselves if we would also use the fur of our dog, cat, father or mother. Most people would probably answer that they wouldn't, although probably is not rational not using it when there is not life in that body. Having said that, a notion of dignity and respect carries us to bury or incinerate our loved ones and members of our community. Cemeteries are places where we show respect and affection for someone who is no longer with us. Domesticated animals, as full members of the community, deserve that respect, too.

In consequence, there are at least two good reasons to ban the fur industry and the use of fur. First, because it involves the violation of the most fundamental right: the right to life. Second, because there is a moral component that forces us to show some respect for the corpse of a dead citizen.

2.2. Wild animal fur

Apart from the hide taken from cows, pigs and other animals used in the food industry, a great deal of the fur we consume comes from wild animals. The way of obtaining this fur is not only through hunting, but also by capturing these animals and keeping them in captivity. In many countries that we would otherwise consider civilized and developed in the protection of human rights, there are farms used for obtaining the fur of wild animals. In fact, the fur industry is growing and in some countries it is an important part of the economy. As the food industry does with domesticated animals, fur farming goes against the principles of justice we defended earlier because the subjection to unsuitable environments frustrates their needs¹⁸.

¹⁸ Andrew Linzey, *Why Animal Suffering Matters. Philosophy, Theology, and Practical Ethics* (Oxford: Oxford University Press, 2009), 104.

In political terms, capturing a wild animal and confining her to a farm goes against the principle of sovereignty that must regulate the relations between sovereign and independent political communities. It is an interference in internal affairs that is not permitted by international law. Doing that violates the rules of international public law. Of course, we could add to this the other argument offered previously in relation to domesticated animals: If we consider the right to life in a moral sense, hunting or killing a wild animal for her fur violates this right.

In political terms, however, the problem here does not concern the legal rights of members of our political community that we are violating. No, the problem here is that a citizen of another State (that being the sovereign community of wild animals or each individual community of wild animals) is being detained, enslaved and slaughtered. Therefore, from a legal point of view, we have to examine this as a violation of the rules of international law.

Now, what about using the fur of animals who have died naturally and whose bodies we have come across? We said earlier that in the case of domesticated animals, not using their fur after their death is a sign of respect, the same respect we show by not using the skin of dead humans. As members of our family, we wish to hold on to the memory of their life amongst us in some way or another. In the case of wild animals, having it be that they are not members of our society and political community, this respect is not due. Considering the fact that wild animals and humans sometimes pass through each other's spaces, only in cases in which humans find the bodies of dead animals could their fur then be used for production. This probably makes the fur industry economically unfeasible. In liberal economies, companies need high levels of production that they can control. What we propose is to leave, in a certain way, at random the disposition of the raw material the industry needs. If a company would be willing to work in these conditions, the price of fur products would greatly increase, turning fur into an extreme luxury product.

2.3. Liminal animal fur

What about liminal animals? In *Zoopolis*, Donaldson and Kymlicka classify the legal situation of these animals as denizenship. For them, this model “provides security of residence to liminal animals while exempting them from the requirements of co-citizenship”¹⁹. In this model, the list of rights that these types of animals are entitled to is limited in comparison to the rights of domesticated animals. Of course, this does not mean that they do not have any rights whatsoever. The rights they do not have are those connected narrowly to the idea of citizenship (social and political rights). It makes no sense to recognize the right to education to a liminal animal who does not desire to learn social rules; or to recognize their labor rights when they do not wish to work alongside us. By the contrary, it makes perfect sense to recognize them basic rights such as the right to life, residency and, in some aspects, the right to health. They are not full citizens but they are members of our society. They are not objects like buildings or cars. “Liminal animals reside among us, and their presence must be accepted as

¹⁹ Donaldson and Kymlicka, *Zoopolis*, 227.

legitimate, but we have no right to socialize them into the practices of citizenship, and they have no claim to the full benefits of cooperative citizenship”²⁰.

As denizens, we cannot kill liminal animals to obtain their fur. However, what about when they die naturally? In this case, it is difficult to offer a final answer. On the one hand, we could offer the same answer as with wild animals. As we have not developed a close relationship with liminal animals and we do not feel the need to keep their remains in a sacred place, the use of their fur could be justified. The condition however must always be that the animals die naturally. In this case, I am not sure if this would allow for a liminal animal fur industry. There is a great deal of different species of liminal animals, including mice, rats, squirrels, raccoons, starlings, sparrows or gulls, among others. Some of these animals have fur that could be used, while others do not. I am not sure that the industry would be interested in producing, for instance, clothes items using the remains of these animals. On the other hand, although naturally deceased liminal animals may not have been full members of the political community, they have still been members on a basic level. We have shared with them our cities and we would have been obliged to take into account their interests in certain political decisions. This may mean, therefore, that their memory is just as deserving of a minimal level of respect.

3. THE USE OF FUR. AN EXEMPTION TO THE RULE

I have attempted to analyze the use of fur in the framework of an animal rights political theory. The first moral imperative is that it is not justified to kill animals to obtain their fur because life is the primary right. In consequence, the debate must concern the fur of animals who have died a natural death. Fur farming would be banned. The use that the food industry makes of the fur obtained from slaughtered animals for economic profit could also be banned for the very same reasons (and for a number of other reasons I will not go into now). Fur processing, if it were to be economically viable at all, would be limited to the fur of naturally deceased wild animals, and perhaps naturally deceased liminal animals.

A fundamental point here however is whether fur is a necessity in certain aspects of our lives. Nowadays there are products that historically were made with fur that are now made with synthetic fabrics or cotton. This type of production is not only cheaper but also respects the moral imperative of respecting life. Why, then, do we continue to use fur? Is there any case in which the use of fur is justified? Many people are not aware that some of the products they buy contain animal skin. As in the food industry, the way companies present their final products hide the entire animal suffering that goes into the process. I would guess that many people, if they were to be truly aware of all this suffering, would stop buying these products. In the past we needed fur to make our clothes and protect us from the cold. Nowadays this need no longer exists. So, why do companies continue with fur production? North offers some frivolous reasons. Apart from maintaining that wild animals are better off in cages than in their natural habitat, he defends the right to fur as a right to luxury: “One could go so far as to say that one of the great merits of the fur trade is that it precisely is a luxury trade, satisfying not

²⁰ Donaldson and Kymlicka, *Zoopolis*, 243.

the boringly basic needs, but far more interesting and vital ones. In an important way, wants are needs. A society which cannot give people what they want, will pall”²¹. First of all, not all wants are needs and not all wants are rights. I could want to be tall and handsome like Cristiano Ronaldo and this desire would not be a need and obviously not a right. Secondly, in the case that it were a right, these are not absolute. Rights end where others begin. If we draw from the premise, as I did in the first section, that animals are moral members of the moral community, their rights then necessarily limit ours. We could say, as North defends, that some people feel a need for luxury, but in our capitalist societies there are many luxury objects that do not attack the rights of other members.

In this respect we have argued that the only fur to be used could be that which has been obtained from wild animals who have died from natural causes and, maybe, liminal animals also naturally deceased. This, of course, limits the use of fur. If we admit this contention, fur would be a very scarce and expensive resource and it would be necessary to prioritize its use. The only use that would thus be admissible would be for medical purposes (e.g. skin transplantation).

In conclusion, from a political point of view concerning animal rights, we could only use fur from wild and liminal animals who have died from natural causes, for medical purposes. Thus, both the luxury and non-luxury fur industries might have to be banned. As we can imagine, many companies would oppose this contention with two types of arguments. First, the argument of freedom, since for them it would mean going against the free market. We could respond by saying that there exists no market free of rules and that different rights should govern these rules. If we defend the notion that animals have rights, the free market cannot be used to violate animal rights. In fact, although I cannot dwell on this now, there is a close connection between neoliberalism and the exploitation of animals. The second argument they would use in their defense would be the supposed need for fur. However, as we have discussed, nowadays fur is not truly needed for any of the uses it has traditionally been given. For this reason, only the medical use of fur acquired under the circumstances I expanded upon earlier could be accepted.

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²¹ Richard North, *Fur and Freedom. In defense of the fur trade* (London: IEA The Environment Unit, 2000), 26-27.

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