

## **Decision-making under non-ideal circumstances:**

### **Establishing triage protocols for animal shelters**

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**Abstract (long version):** The staff of animal shelters are frequently confronted with challenging ethical decisions. They have to decide which animals to take in, which ones to provide with medical treatment, and which ones to abort, kill, or euthanize, as well as assessing which animals are likely to find a forever home. There are more animals in need than shelters can reasonably take care of. In this chapter, it is argued that some animal shelters fulfill the conditions that make triage protocols necessary: they operate with a limited financial budget, limited space, limited medical resources, limited time, and limited staff. It is suggested that requirements presented for triage in humans can be fruitfully extended and applied to the context of animal shelters, and it is shown what this could look like in practice. In particular, the focus lies on the following criteria: i) maximizing benefit; ii) justice; iii) medical criteria; iv) life-span considerations; v) fair decision-making; vi) patient will; vii) re-evaluation of triage decisions and changes in the therapeutic goal; and viii) burden of triage and staff support. The establishment of triage protocols for shelters will make the decision-making process less arbitrary, fairer, and more transparent. Furthermore, it is argued that in situations where conflicts and disagreement persist amongst shelter staff, an external ethics board could be called in to help analyze and potentially resolve some of the remaining ethical issues.

**Abstract (short version):** In this chapter, it is argued that some animal shelters fulfill the conditions that make triage protocols necessary, namely, the operation with limited financial budgets, space, medical resources, and staff. It is suggested that requirements presented for triage in humans can be fruitfully applied to the context of animal shelters. The focus lies on the following criteria: i) maximizing benefit; ii) justice; iii) medical criteria; iv) life-span considerations; v) fair decision-making; vi) patient will; vii) re-evaluation of triage decisions and changes in the therapeutic goal; and viii) burden of triage and staff support. The establishment of triage protocols for shelters will make the decision-making process less arbitrary, fairer, and more transparent. Furthermore, it is argued that in situations where disagreement persist amongst shelter staff, an external ethics board could be called in to help analyze and potentially resolve some of the remaining ethical issues.

**Keywords:** animal shelter ethics; triage; ethics boards; ethical decision-making; speciesism

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## **1 Introduction**

Free-roaming animals are a problem in many countries. Free-roaming animals are defined here as being either: i) stray animals, that is, animals who were once socialized and lived with humans but were subsequently lost or abandoned; and/or ii) members of companion animal species, such as cats or dogs, who were directly born on the street and who often are not socialized (henceforth: feral animals). Their living conditions are frequently harsh: many free-roaming animals suffer from preventable diseases caused by worms and parasites, as well as from malnutrition and thirst. Their health, welfare, and even life may also be threatened by traffic and extreme weather conditions, such as cold winters and hot summers. In addition, they may live in constant fear for their offspring and be distressed about finding food and defending their territory.

I start here from the assumption that sentient nonhuman animals (henceforth: animals) count morally for their own sake. I furthermore take as a premise that these animals have a claim for assistance and protection by moral agents. This is even more the case given the fact that humans often brought these animals into such miserable situations: it was humans who domesticated and bred them throughout history. However, many humans fail to properly take care of domesticated animals. For example, humans frequently buy a dog or cat as a companion from a breeder, but then abandon the animal for various reasons. As Clare Palmer has argued, if we create dependencies and vulnerabilities in animals, for example, by domesticating them and thus making them dependent on our care, then we also owe them special obligations in the form of assistance and help (Palmer 2010).

Many animal protection non-governmental organizations (NGOs), public authorities, and societies for the prevention of cruelty to animals (SPCAs) operate or establish animal shelters. They have different aims: to rescue animals from neglect and abuse; to take in relinquished and found animals, treat them for their ailments and reunite them with their owners or find a forever

home for them; to establish Trap-Neuter-Return-Maintain programs (TNRM) for feral animals who cannot be socialized; to educate the general public about issues related to animal welfare; and to publicly speak up about animal abuse and organize political campaigns about the legal standing of animals.

In an ideal world, all abused, lost found, abandoned and relinquished animals would find a loving home and be taken care of. However, the reality is different: there are often more animals in need than there is space in shelters and—ultimately—in forever homes. Furthermore, many SPCAs operate with restricted budgets, are understaffed, and do not have enough space for all the animals who need a shelter place and medical care. As a consequence, charity-based and not-for-profit animal shelters face many ethically challenging situations in their day-to-day operation. For example, decisions have to be made in a short amount of time about euthanasia, killing animals who cannot be adopted, abortions, expensive treatments for individual animals (such as dental surgery), and the like. However, responsibilities are frequently unclear, and diverging values and opinions amongst different groups (such as veterinarians, animal caregivers, the board of directors, etc.) may make it difficult to find agreement on specific situations. Under these non-ideal circumstances, there often does not seem to be one best solution, but rather many different options with apparently similarly bad outcomes. Nonetheless, shelter staff have no choice but to make critical life and death decisions in these highly non-ideal circumstances.

In what follows, I outline the diverse difficulties shelters face when making such decisions. I argue that these difficulties are similar in nature to those situations in medicine where triage is needed—that is, in situations with restricted resources, such as money, medical utilities, space, and trained staff. In order to resolve these issues, I propose that animal shelters should establish decision-making procedures with requirements similar to those outlined in triage protocols. In this article, I take a closer look at eight widely accepted morally relevant considerations for

triage protocols in human medical care. These are: i) maximizing benefit; ii) justice; iii) consideration of medical criteria; iv) life-span considerations; v) fair decision-making; vi) patient will; vii) re-evaluation of triage decisions and changes in the therapeutic goal; and viii) burden of triage and staff support (Jöbges et al. 2020). My aim is to flesh out how these requirements can be extended and applied to the context of non-profit animal shelters. Establishing such triage protocols will help to make ethically justifiable decisions which are acceptable (or at least comprehensible and transparent) for everyone involved. Finally, I outline how an external ethics board can support and improve decision-making in SPCAs, by providing external advice and help. That is, when specific decisions are the source of persistent conflict between staff members, consulting an external board of experts may help to shed light on the problems and rationales for the different options. Calling in external ethics advice may help staff members to better understand other points of view and to find a compromise or agreement on specific cases, without negatively affecting the work atmosphere.

## **2 Animal shelters and the challenge of making decisions under non-ideal circumstances**

Animal shelters are often non-governmental and non-profit organizations, which are financed by donations. Frequently, they operate with a limited budget or with a budget that is unpredictable and changes over time. Furthermore, shelters may lack space for the animals; there may be an insufficient number of staff members to feed, clean, and take care of the animals; there may be an insufficient number of veterinarians to undertake surgeries and medical procedures, or medical treatments may be too costly; and ultimately, there may not be enough foster homes and adoption families for all animals in need. For all these reasons, shelters commonly do not have the means to take in, treat, and feed all animals who need care.

A further issue is that *time* is also a limited resource: decisions about important issues have to be taken in a short amount of time. For example, shelter staff may need to determine whether individual animals should receive costly therapies, even though more animals could be saved

for the same amount of money. Or, decide whether and which animals should be saved and which ones should be killed (either because the shelter is overpopulated and has no space or because the suffering of an individual animal has become unbearable).<sup>2</sup> They also have to decide whether abortions are conducted to avoid overpopulation. In many cases, there is not enough time to extensively discuss all the options thoroughly. Instead, executive decisions have to be taken by, for example, the management or the head of the veterinary unit. That is, despite (or, in some cases, because of) this lack of resources (in particular, money, space, staff, and time), the staff of animal shelters face hard ethical decisions on a regular basis.

These are difficult decisions for various reasons. First of all, it is not always clear who is responsible for making decisions about a particular animal. In some cases, it is unclear who should take the decision and carry the responsibility and accountability. In addition, there may be disagreement about specific decisions amongst staff members and animal caretakers, members of the board of directors, and veterinarians. For example, animal caretakers may see the potential in a litter of feral cats to be socialized and rehomed with humans. The management team, on the other hand, may urge that these cats be killed because they occupy urgently needed space that could be occupied by cats who already are used to contact with humans and who could be adopted more quickly. Such diverging opinions may result in conflicts among staff, causing a negative or tense work atmosphere which is mentally strenuous for all involved. In short, often overworked staff members have to take decisions in animal shelters under absolutely non-ideal circumstances (i.e., situations of distress, with little time and not enough resources) about the life, health, and death of many animals.

To facilitate decision-making in animal shelters, basic guidelines should be in place. The benefits would be plentiful: such principles and guidelines would prevent continuous, exhausting debates amongst staff members about the right decision to take in similar cases;

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<sup>2</sup> I use here the term “euthanize” if death is in the best interest of an animal; otherwise, I use the term “kill.”

precious time would be saved that could be used for other purposes, such as caring for individual animals, lobbying work, educational campaigns, necessary administrative work, and the like; clear criteria for decision-making would also allow for the ethical use of resources in the shelter, as their allocation would be optimized and can be defended against potential criticism; and finally transparent and fair procedures and principles for decision-making would allow for the quick alleviation of animal suffering in emergency situations. That is, guiding principles would avoid to some degree debates about right and wrong in regularly recurring situations. In addition, decision-making guidelines would help to make responsibilities clearer and more transparent, and, along with them, accountability for decisions.

### **3 Triage: its importance and underlying principles**

There is another domain in which decisions about life and death have to be taken under similarly difficult circumstances: triage situations. The term “triage” comes from the French word “trier,” which means “to sort” or “to select.” The concept of triage is associated with the French military surgeon Baron Dominique Jean Larrey (1766–1842), who established a wartime system to sort soldiers’ injuries according to their gravity and urgency, regardless of morally irrelevant factors such as a person’s military rank or nationality (Blagg 2004; Skandalakis et al. 2006).

Triage guidelines exist in medical care and wartime hospitals to guide fair and transparent decision-making in times of highly limited means. Their aim is to optimize the outcome for all affected. Therefore, triage goes further than mere healthcare rationing. In everyday practice, healthcare practitioners have to decide which incoming patients they treat first and how far they go with their treatment. Imagine, for example, that two patients arrive at a hospital: first, patient A with a cold and a sore throat, then patient B, who was the victim of a severe motorcycle accident. Obviously, healthcare providers should first treat patient B, as her condition is much worse than patient A’s. That is, priority has to be given to the sickest patients. If the condition of patient B substantially deteriorates, doctors furthermore have to decide how many life-saving

procedures to use, and at what point all hope is lost and patient B's condition will not substantially improve.

Triage is a more extreme form of healthcare rationing. Healthcare rationing is about deciding whom to treat in what order, and how to best allocate medical resources. Triage, as I understand it here, is needed if “demand for essential resources surpasses availability” (Muensterer et al. 2021: 1). This is, for example, the case if there are more incoming patients with severe health issues than hospitals can admit and treat—because they are understaffed, lack precious medical resources, or space. That is, triage is rationing of care in what can be called “hard times” (Repine et al. 2005). During triage, decisions have to be taken about whom to save, whom to leave untreated, and whom to let die, which is not or only rarely needed during “normal” times in Western societies. In triage situations, some patients will not be admitted to hospital to receive treatment, because their prognosis is too negative or because they will likely survive even without medical assistance (Singer 2011: 205). This means that in triage situations, healthcare professionals sort patients according to the severity of their condition, and they care for those patients who are most likely to benefit from the treatment.

Triage protocols became a topic of public importance, attention, and urgency during the ongoing COVID-19 pandemic. The respiratory disease caused by the SARS-CoV-2 virus brought hospitals and healthcare providers worldwide to their limits. During the pandemic, many hospitals struggled (and, in some countries, are still struggling) due to a shortage of intensive-care-unit beds, of staff, and of medical equipment (such as ventilators and extracorporeal life support technologies, but also personal protective equipment for healthcare professionals). All of these would be necessary to adequately treat patients and thus to save lives. In many countries, governments and healthcare providers feared that the healthcare system would be overwhelmed and collapse. As Ehni et al. (2021: 126) note: “The scarcity of medical resources means prioritizing some patients over others, who then remain untreated and

in the worst case may die as a result.” The question is then: how can we ethically justify such choices about life and death? And how can we determine who receives treatment and who loses out?

Triage decisions face an inherent challenge, which is to maximize benefits while still respecting basic rights and avoiding discrimination:

Relevant principles and values may conflict with one another, such as maximizing benefits and respecting equal rights. From a consequentialist perspective, treating patients equally might be hindering when trying to achieve the best outcome. From a deontological perspective, maximizing benefits may lead to discrimination or violations of individual rights. The fundamental ethical problem is how to combine both perspectives and justify the best outcome as well as the procedures by which they should be achieved, while still respecting individual rights. (Ehni et al. 2021: 126)

That is, there is a conflict between maximizing benefit for as many individuals as possible (using resources as efficiently as possible) and respecting basic requirements of justice.

At the beginning of the COVID-19 pandemic, many countries lacked in-depth triage guidelines about what to do if hospitals were overwhelmed by an influx of patients. Medical associations and medical academies in many countries hastily had to either establish or improve and adapt their already existing triage protocols, because they proved insufficient for the situation in winter and spring 2020. To date, there is no general agreement on ethical triage principles. Instead, there are different guidelines in place in different countries.

What morally relevant considerations can be found in triage protocols? A good starting point are comparative literature reviews of triage protocols implemented during the COVID-19 pandemic. While these were specifically designed for the medical domain, an overview of the categories discussed in that literature provides a useful starting point for developing decision-making and triage protocols for animal shelters.

While there is a lot of disagreement about specific principles in triage protocols worldwide, there is also some basic agreement. Jöbges et al. (2020) reviewed triage guidelines from



Australia/New Zealand, Belgium, Canada, Germany, the United Kingdom, Italy, Pakistan, South Africa, Switzerland, the United States, and the International Society of Critical Care Medicine. The authors identify the following eight areas of agreement: i) maximizing benefit; ii) justice; iii) consideration of medical criteria; iv) life-span considerations; v) fair decision-making; vi) patient will; vii) re-evaluation of triage decisions and changes in the therapeutic goal; and viii) burden of triage and staff support.<sup>3</sup> I develop these criteria in the following section and show how they can be fruitfully applied to animal shelters.

#### **4 Extending triage criteria to animal shelters**

The eight categories of morally relevant considerations listed above can serve as a useful starting point to develop triage guidelines for animal shelters, where decisions frequently have to be taken under non-ideal circumstances similar to those that make triage necessary for human patients. However, before I outline what these considerations mean and how they can be applied in practice to improve decision-making in animal shelters, some remarks on the ethics of triage in animal shelters are necessary.

Animal shelters are in a situation which makes constant triage necessary, due to restricted means, time, staff, and space (see also Pepper, this volume, p. X). However, one may object that this is problematic, because it allows triage to become the norm in shelters, whereas, in human health care, it is limited to exceptional circumstances. That is, one may claim that I introduce here a double standard regarding the treatment of animals and humans and that my proposal is therefore speciesist—i.e., that I discriminate on the basis of a morally arbitrary criterion, namely species membership. After all, how can we justify “normalizing” triage guidelines for animals, while they remain an exception for humans?

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<sup>3</sup> Other bioethicists and medical doctors undertook similar reviews of triage protocols and focused on other categories, such as equity and ethical theories; triage criteria; respecting patients’ dignity; and decision-making and quality of care (Perin and Panfilis 2021). For a further review, see Ehni et al. (2021). However, for the purpose of this article I decided to focus on the requirements outlined by Jöbges et al. (2020).

To counter this argument, recall the fact that I am concerned here with decision-making under *non-ideal circumstances*. Ideally, animal shelters would only be concerned with rationing questions about the optimal allocation and use of resources, and questions about the killing and letting die of animals would never arise—this would be the ultimate aim. However, reality presents itself differently, and solutions have to be found for shelters operating in a speciesist world where animals are not yet treated as they should be. In order to avoid arbitrary decisions under the non-ideal circumstances shelters face, it is necessary to have some guiding triage principles. I outline these principles in the following.

#### 4.1 *Maximization of Benefit*

A first requirement in the triage context concerns the maximization of benefit. According to Jöbges et al. (2020: 949), this can mean many different things:

it could refer to saving as many people as possible, to saving the greatest possible number of life years, or to saving the greatest amount of quality-adjusted life years (QALYs), with the resources available. Depending on which criterion is applied, resource allocation will look quite different. Saving as many life years as possible would favour young people, whereas maximizing QALYs would favour those with a capacity to lead long, healthy, independent lives.

Which interpretation of “maximizing benefit” is promising for animal shelters?

A first interpretation of benefit maximization is *to save as many animals as possible*. However, note that the language of “saving lives” is misleading in the case of animal shelters. Animal shelters have to make triage decisions about a range of topics at different moments in time: how many animals can they neuter? How many abortions can they undertake? How many animals suffering from diseases or accidents can they treat? How many animals can shelters take in? How should the shelter decide which animals can be socialized to join a forever home and which ones may be too feral to be adoptable and may need to be killed? That is, in many cases, the challenges for animal shelters do not solely revolve around *saving* lives, but also around prioritization for care and treatment in the first place.

This may lead to an inadequate interpretation of “benefit maximization” in the case of shelter animals: animal shelters should not and cannot only “save” lives (understood as keeping as many animals as possible alive). Rather, they also have a further mission: they should think about what will happen to the animals *after* their stay at the shelter. For example, should some animals only be neutered and treated for minor ailments (such as parasites), but then be put back on the street? After all, they could die a few months later due to the bad living conditions on the street (such as harsh winters with no adequate food and water supply, injuries, or diseases). Might some feral cats be socialized in a way that makes them attractive candidates for adoptive families? On the other hand, if a shelter takes in a feral cat and improves her medical condition, but then shortly after kills her because there is not enough space or no potential foster or adoptive family, the cat may have been better off on the street. To weigh these different options can be challenging. That is, shelters cannot solely focus on *saving* as many lives as possible. Rather, they must keep the whole picture in mind, including the potential placement and welfare of animals *after* their time in the shelter.

A second interpretation of benefit maximization is to save the *greatest possible number of life years*. This would imply that *young* animals be given preference. However, this is morally problematic: some ethicists consider this to be unjustified discrimination based on age (called “ageism”), which is usually deemed unacceptable in the case of humans.<sup>4</sup> After all, some humans in the middle or near the end of their life could look forward to the prospect of many happy years if they received medical treatment. To prioritize the young in medical care *solely* due to their age and regardless of other, medical factors amounts to an unjustified form of discrimination.

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<sup>4</sup> For a discussion of some of the ethical issues related to ageism in triage during the COVID-19 pandemic, see, for example, Ehni and Wahl (2020) and Rueda (2021). I furthermore discuss life-span considerations regarding animals more in detail in section 4.4 of this article.

The same consideration should apply to animals: the focus should lie on individual animals and factors such as their medical prognosis and their likelihood of socialization, regardless of their age. Maximizing life years could lead to the counter-intuitive consequence that priority should be given to pregnant animals and abortions avoided, in order to save as many young lives as possible. However, while kittens probably have a higher likelihood of being adopted, there is still the risk that many will not find a home and thus eventually have to be killed or put back on the street.

A third, rather promising interpretation of benefit maximization concerns the *greatest amount of quality-adjusted life years* (QALYs). QALYs have been developed in the field of health economics to assess a year in relation to the quality of life experienced. That is, QALYs multiply the years saved with the *quality of life* experienced by a subject. This way, a QALY maximization approach would avoid a scenario in which humans (and animals) are saved who have many years left, but who would experience a rather low quality of life for their remaining years.

QALY maximization approaches have been criticized for several reasons (Bickenbach 2021). The most prominent criticism from an ethical perspective concerns the fact that QALYs may be discriminatory against both the *elderly* and the *disabled*. First, if *life years* count, then the elderly will lose out, because they do not have as many years left as a young person. As outlined above, the *exclusive* reliance on remaining life years to determine who should receive scarce medical resources, regardless of, for example, patients' physiological condition, has been criticized on ethical grounds (Harris 1987; Evans 1997; Rivlin 2000). Second, disabled individuals may have a good quality of life, but not so many years left due to an impairment—or they may have the same life expectancy as able-bodied individuals, but a lower quality of life. If we understand benefit maximization as maximization of QALYs, the disabled may find themselves disadvantaged in comparison to able-bodied individuals. That is, they may be

discriminated against due to a condition which is not their fault and over which they do not have any control, which seems unfair. In addition, our moral intuition may actually point us in another direction: that we should prioritize the worse-off (Parfit 1997). According to such a Priority View, “[w]e should not give equal weight to equal benefits, whoever receives them. Benefits to the worse off should be given more weight” (Parfit 1997: 213). That is, understanding benefit maximization as QALY maximization may be at odds with our moral intuitions. We typically regard it as highly unfair if those worse off through no fault of their own are deprioritized. Furthermore, we may even be convinced that we should prioritize the worse-off. However, note that Parfit does not defend the view that priority is absolute. Rather, it may be outweighed by sufficiently important benefits for the better-off (Parfit 1997).

A third problem of QALY maximization is that such an interpretation of benefit maximization may *indirectly* harm disabled individuals. The disabled are frequently the target of stigmatization and prejudice. This can involve false assumptions about their quality of life and health status, which in turn can lead to problematic consequences for them, especially in triage situations (Scully 2020). However, this problem can be overcome if more attention is paid to potential biases and false assumptions about the quality of life of the disabled during decision-making.

These ethical issues regarding QALY maximization also arise with respect to animals. Various studies investigating the health status and welfare of stray cats have shown that these animals frequently live with impairing conditions and diseases, such as ear problems, gingivitis, lost incisor teeth, blindness, underweight, cat flu, anemia, flea burden, viral diseases (including FIV infection and respiratory disease), and the like (Marston and Bennett 2009; Castro-Prieto and Andrade-Núñez 2018; Seo et al. 2021). Treating these conditions sometimes comes at a high cost or requires a substantial time commitment from veterinarians. Examples include dental treatments and teeth removals, as well as amputations. This means that staff at shelters will

have to face the challenge of deciding which animals will receive which treatment and what will happen to them afterwards.

In practice, this means that the staff in shelters have to weigh the short-term prognosis and benefits of a treatment for animals against the long-term health prognosis, which may be influenced by age and comorbidities. That is, it has to be determined how likely it is that an animal will actually benefit from a treatment in the short and long run. Furthermore, the likelihood of socialization and eventually adoption after treatment also has to be taken into account. In case adoption is not possible, it has to be assessed whether the animal is better off back on the street or whether killing the animal is the better option, because the hardship experienced on the streets would be too problematic.<sup>5</sup> This may vary from one situation to another.

In addition, the Priority View has further implications for shelter animals: it may in some situations be morally permissible to prioritize animals who are worse off from a health perspective. In many situations, humans caused the dire situation of animals. Humans breed some animal species and bring into existence offspring with impairments, but then fail to properly care for them, or even abuse them. In such cases, moral agents may owe a positive duty of compensation and reparation to these animals. That is, it may be ethically justifiable to prioritize animals with a history of abuse (group A) over other animals (group B) with similar or even better health prospects, if treatment and continued existence is in the best interest of group A—even if this does not maximize QALYs.

Further factors to be taken into account in shelters concern the number of staff and space available. Shelters can only operate with veterinarians and caregivers who treat, feed, clean, and socialize the animals. Moreover, the available space also determines how many animals

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<sup>5</sup> If the animal has to be returned to the street, steps could be taken to reduce hardship. For example, someone could be assigned the responsibility to feed and provide shelter for cat colonies.

can be reasonably hosted within a shelter. Overcrowding negatively affects the welfare of animals present in shelters (Turner et al. 2012; Karsten et al. 2017). In order to avoid over-occupancy of shelters, I suggest that shelters determine how many animals they can host under good conditions at a given time with the available staff members, space, and budget. This is a very specific number for each shelter and may vary over time. The needs of different animal species also have to be taken into account in this calculation. After all, some exotic animals (such as iguanas, turtles, and snakes) may need large, heated terrariums for themselves, and this has to be accounted for when assigning space and budgets for future animals.

Furthermore, for periods when shelters expect a higher number of incoming animals, they may fix a higher maximum number of incoming animals. This may be necessary for regions where there are national moving days once per year (such as Montreal, Canada) when people are more likely to abandon their companion animals because their new home does not allow for animals, or during summer vacation. By freeing up office space, more animals could be hosted, which, in turn, may make it possible to save the lives of more animals (for example, with the hope that people may adopt animals after vacation season). However, this would also mean that the animals and staff may be living and working under less ideal circumstances for a while. For the sake of the well-being of staff and animals already present, this number should not be exceeded at any point.

To sum up, maximizing benefit in the case of shelters does not mean “just” saving as many animals as possible: the bigger picture must be kept in mind, including what will happen to animals *after* they are admitted to the shelter. Furthermore, I argued that the maximization of benefit has some possible limits in shelters—namely, when it comes to animals with a history of abuse and neglect. In their case, it may sometimes be morally justified to prioritize them, although this may be at odds with the principle of maximizing benefit.

## 4.2 Justice

These considerations about the ethics of maximizing benefit bring me to the next point relevant for triage guidelines: justice. In the case of humans, the criterion of justice usually demands *equality* and *equity*. According to Jöbges et al. (2020), equality requires that individuals with relevantly similar medical characteristics and prognosis—regardless of the specific diagnosis—should have the *same access* to medical treatment during a crisis. Equity prohibits unjustified unequal *treatment* (that is, unjustified forms of discrimination) based on characteristics such as age, race, sexual orientation, socio-economic status, and the like.<sup>6</sup> I explain these two considerations in more detail in the following, and I outline how they can be extended to the shelter context.

Let us turn first to *equality*. Questions of equality largely depend on whether the shelter operates under an open-admission or a limited-admission policy. Open-admission shelters usually take in *all* animals who are brought to them or who are brought to their attention (e.g., animals suffering from abuse or neglect in a private home or on a farm). This means that open-admission shelters are usually not allowed to refuse animals and thus have to grant access to all animals in need. In turn, this implies that these shelters may need to kill some animals because of lack of space, lack of caregivers and veterinarians, the animals' medical condition, or because they are too feral to be socialized, which then raises issues about equity. Limited-admission shelters, on the other hand, select the animals they take in. That is, they may restrict themselves to animals of certain species and also may give priority to animals who have, for example, a high likelihood of being adopted (The Humane Society of the United States 2012). As a

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<sup>6</sup> Jöbges et al. (2020) note that concepts such as “equality” or “equity” are often defined differently in academic discourse. They explain these terminological differences in the following way: “Variation and at times a certain vagueness or unclarity was also prevalent in the guidance texts we studied. Many of them were put together quickly with a focus on practical utility, and terminology may not have been a prime concern” (Jöbges et al. 2020: 952).



consequence, limited-admission shelters do not need to kill animals as frequently as open-admission shelters.<sup>7</sup>

Equality may appear to be a particular challenge for limited-admission shelters. After all, they select the animals they take in and consequently make decisions about who will eventually be rescued. At the same time, though, these shelters may be specialized in some species and therefore may increase the chance of admitted animals eventually finding a forever home. Therefore, even though limited-admission shelters do not grant all animals equal access to a shelter space, this appears to be ethically legitimate at first sight.

But let us look a bit closer at this issue and turn to the role of *equity* in the shelter context. Equity demands that unjustified forms of discrimination be avoided: unequal treatment on grounds of morally irrelevant characteristics such as age, gender, sexual orientation, disability, or socio-economic status are not allowed.<sup>8</sup> If discrimination based on morally arbitrary features is ethically problematic, then the same is true for discrimination based on species membership—in short, speciesism. Different definitions of speciesism and its wrongness can be found in the literature (see, for example, Singer 2009; Horta 2010; Jaquet 2019; Horta and Albersmeier 2020). For the purpose of this article, I understand speciesism as the “unjustified disadvantageous consideration or treatment of those who are not classified as belonging to one or more particular species” (Horta 2010: 247). This definition is particularly useful for two reasons: first, it accounts for the fact that speciesism is an *unjustified* and thus morally problematic form of discrimination. Second, it shows that not only humans can benefit from

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<sup>7</sup> I do not take a stance here on the justifiability of open-admission and limited-admission shelters. They both serve important purposes, and neither is superior. They have different advantages and disadvantages and face different challenges.

<sup>8</sup> Admittedly, some of these factors may have an *impact* on the health status and thus prognosis of a person and lead, for example, to comorbidities. But taken *alone*, properties such as disability status or age should not be used as a proxy for prognosis and health status of a person.

speciesist discrimination: as Horta's definition outlines, individuals who do not belong to one *or more* particular species can be subject to unjustified discrimination.

In our society, some animals are frequently deemed worthier of moral consideration than others. For example, more publicly visible animals—such as companion animals—commonly benefit from better legal protection than more “invisible” animals, such as farm animals destined to be a source for food (O'Sullivan 2012). Animal shelters usually admit a wide range of different species. The question to be addressed now is: can species membership play a role when admitting new animals? Or is it always ethically illegitimate?

Some animal species—such as dogs—generally have a higher likelihood of being adopted than other species, such as large farm animals (e.g., cows and pigs) and exotic animals who need special settings, such as heating lamps and terrariums or salt-water aquariums. Furthermore, some animal species—such as dogs—benefit more from public appreciation than liminal animals (such as injured rats and pigeons) and feral cats, who are regarded as a nuisance in some regions.

The question is then: how can we decide who should be granted access to shelters in the first place, while avoiding arbitrariness, inequities, and speciesism? After all, for most animals, being admitted to an animal shelter is a valuable good: it may significantly improve their health and likelihood of survival, as they receive treatment, food, and care and can potentially find a forever home. While open admission shelters usually accept (or at least *should* accept) all animals in need, regardless of species, limited admission shelters can select the animals they take in. Is this an ethical problem? No. The reason lies in the distinction between speciesist discrimination and species-based discrimination. Speciesist discrimination is an *unjustified* disadvantageous consideration. Discrimination based on species-membership, on the other hand, can be justified in some situations. It seems legitimate that limited-admission shelters can freely choose which animals they take in. As argued before, shelters may refuse animals once

their occupancy is maxed out. Furthermore, shelters should, whenever possible, maximize the benefits for all animals concerned. Therefore, when they find themselves in the situation of choosing between taking in a stray animal of species X and a stray animal of species Y, and all other aspects (such as health status and chances of survival) are relevantly similar, then the shelter may give priority to the species with the *higher likelihood of finding a forever home* (thereby leaving new space for future animals).

This means that, contrary to the case of humans, the shelter context makes some inequities permissible. This is due to fact that shelters ought to maximize the use of resources. Saving animals with a very low likelihood of being adopted who then eventually have to be killed is often a suboptimal use of resources. Such unequal treatment of some species is not *per se* an instance of speciesist discrimination. The animals saved are not chosen because of their species membership *per se*, but rather because of their likelihood of adoption: there is more demand for adoption of certain animals, and shelters should optimize their use of resources. That is, given the non-ideal circumstances under which shelters operate, I deem it legitimate to save those species who are more likely to be adopted, in order to maximize benefit and to free up space for additional animals to be treated and saved.<sup>9</sup>

This view may result in even more drastic consequences: it can justify shelters' prioritizing those species who cause the least harm overall to other animals. Let us assume for the sake of the argument that farmed animals are killed to produce food for both humans and shelter animals, and this causes considerable harm to farmed animals. Assume furthermore that some species of domesticated animals—such as cats—are carnivorous and cannot as easily flourish on a plant-based diet than other species, such as dogs. If a group of dogs and a group of cats have the same medical prognosis and the same likelihood of being adopted, then, according to

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<sup>9</sup> This is in disanalogy to cases involving humans, in which equity must be respected. Note, though, that triage cases with humans rarely happen in a context in which a long-term placement plays a role. Therefore, they are not really comparable.

the view presented here—which does not preclude decisions based on species membership—it is ethically justified to prioritize dogs, the reason being that they can more easily flourish on a plant-based diet (for a more in-depth defense of this view, see Jaquet, this volume, p. X).

In sum, I have shown that decisions based on species membership may sometimes be justified in the shelter context, due to the non-ideal circumstances under which shelters operate.

#### 4.3 *Consideration of Medical Criteria*

Linked to the arguments listed above about justice is a third requirement for triage: consideration of medical criteria, such as prognosis and comorbidities. This means that *medical* criteria should be used to assess patients' mortality risk (Jöbges et al. 2020). Applied to the shelter context, it is useful to distinguish between short-term and long-term survival rates: while one may directly save the lives of some animals in the short-term by taking them into the shelter and providing them with the medical care they need, they may have a rather poor long-time prognosis, because they have further comorbidities and are thus unlikely to live much longer. If they are treated, the costs may be particularly high, which then takes away valuable resources from other animals with a higher likelihood of survival and a decent quality of life.

Conversely, an animal may have a rather negative short-term prognosis, but may lead a happy and long life afterwards, once means are invested into caring for her health. Therefore, short- and long-term prognoses have to be carefully balanced, while also taking into account the costs and living situations of the animal in the long-term. That is, not only the likelihood of being soon adopted counts, but also the general *medical* state of an animal both in the short and long term.

This may in some cases be a hard decision. After all, many stray animals live deplorable lives and are affected by impairing and debilitating conditions and diseases. However, instead of letting them just continue to face hardship on the street, eventually leading to their death, the

shelters may be justified in taking these animals in and killing those animals who have—due to diseases and comorbidities—a negative long-term survival likelihood from a medical perspective.<sup>10</sup> This is an option that is not too costly and at the same time saves the animals concerned from unnecessary long-term suffering.

#### 4.4 *Life-span Considerations*

Let us now turn to considerations about life span. Triage protocols regarding humans usually refrain from considering age *alone* as a criterion for triage decisions (Jöbges et al. 2020), as this amounts to ageist discrimination. However, age may be linked to other factors, such as comorbidities and a negative medical prognosis, which can be taken into account in decision-making.

What should we do with these considerations in the case of shelter animals? Elderly animals may still have a good medical prognosis and may lead happy and fulfilling lives in forever homes. Therefore, they should not be disadvantaged based on age alone. Some people may actually prefer to adopt an elderly animal with a shorter life span, because the animal is potentially calmer or because the adoption family does not want to commit to ten or more years of caregiving.

There is another reason why reliance on life span alone is problematic as a basis for decision-making in the case of shelter animals: life expectancy varies from one species to another and even within a given species. For example, small dogs have a longer life expectancy than larger dogs (Višak 2018). Turtles have an extremely long life expectancy (up to 100 years), while rodents, for example, have a shorter life expectancy. If age was used as a determinant for decisions in shelters, one would first need to establish which threshold counts exactly: the potential life span of the species? The life span of the specific breed? Basing decisions on life

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<sup>10</sup> Whether this amounts to euthanasia is an open question. For diverging views on this issue, see Pepper, [this volume, p. X](#), and Jaquet, [this volume, page X](#).

expectancy in animals would have the problematic consequence of potentially disadvantaging species with shorter life spans over others.

To illustrate this, imagine that a shelter has to choose between admitting an 8-year-old cat with a potential life span of 14 years and a large, 8-year-old dog with a life expectancy of 10 years. If life-span considerations count, then the dog would lose out, as he is older than the cat in relation to his potential life span. Such considerations may thus lead to unjustified discrimination against some animal species. For these reasons, it makes sense to focus, first and foremost, on the medical condition, the cost and efficiency of treatment, both the short- and the long-term prognosis, and the probability of adoption of the individual animal. Only if all these factors are relevantly similar should remaining life span potentially become a criterion for triage in the case of animals.

#### 4.5 *Fair Decision-Making*

A further consideration in triage is *fair decision-making*. This includes, amongst other things, transparency, respect for the patient's preferences, and an assessment of the burden of treatment and its potential benefits for the individual (Jöbges et al. 2020). Applied to the case of shelter animals, this may involve the regular assessment of the prognosis of admitted animals: does their condition and sociability improve or rather worsen? Treatment and therapy may be stopped if there are no benefits or if the harm-benefit ratio is negative and the burden clearly outweighs the potential benefits. In such cases, palliative care or killing the animals may become justifiable options.

I suggest that, if possible and available, two staff members, including a veterinarian, should be involved in decisions about the death and life of an animal. This reduces the risk of biases, personal preferences for individual animals, and it also respects the requirement of

transparency.<sup>11</sup> Decision-making should be conducted while keeping in mind *all* animals at the shelter, as well as further potential incoming animals. That is, opportunity costs also have to be considered. After all, it could be that another animal may benefit more from a specific treatment, a place at the shelter, and the care provided. In such a case, it is justified to withdraw treatment and a shelter place from an animal and to provide it to another animal. Furthermore, I suggest that the final decisions and rationales for them are communicated to the caregiving team, to secure transparency and allow team members to come to terms with decisions that affect animals under their care.

Two options are conceivable regarding end-of-life decisions: if animals are suffering and have a low quality of life, euthanizing them is justified. If the animal still has a rather good quality of life, but likely will not recover, palliative care in foster families may be justified. Palliative care for shelter animals is resource- and cost-intensive. Therefore, one may be tempted to eliminate it altogether. However, if it can be pursued by devoted foster families who otherwise would not take care of animals, it can be justified: it sends a signal to the general public that animals matter in their own right, even if they are terminally ill or afflicted with chronic diseases that cannot be treated. That is, foster families who provide a home for animals in palliative care can be seen as ambassadors who change the public norms and attitudes about animals (see also guidelines / Voigt & Giroux, this volume, p. X). Because space within shelters is restricted, I suggest that palliative care be exclusively conducted in private foster families, not at the shelter itself. This way, valuable space can be saved for those animals who have a higher chance of survival and eventually adoption.

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<sup>11</sup> One may argue that the reliance on two staff members to take decisions may make the decision-making process overly demanding and time-consuming. However, note that in the case of humans, medical cases are frequently discussed by several physicians. Given that I focus here on decision-making regarding the *life and death* of animals, I claim that fair and transparent decision-making in the case of animals requires at least a short discussion of the options and opportunity costs.

#### 4.6 *Respect for the Patient's Will*

A further requirement for triage in the case of humans is respect for the will of patients, for example, to withdraw from critical care. This requirement seems notoriously hard to apply to animals. After all, animals cannot give proper informed consent or write advance directives. However, there are two other ways in which the (presumed) will of animals can be respected. First, over the last few years, a considerable body of literature in animal ethics has emerged which takes the embodied agency of animals seriously. That is, there is the view that animals can assent and dissent *with their behavior*. Second, humans—for example, caretakers in the shelter—can act as surrogate decision-makers on the animals' behalf, as they usually know the animals quite well. I develop these thoughts in the following.

In recent years, the agency and self-determination of animals have received considerable attention in the literature (see, for example, Donaldson and Kymlicka 2011; Fenton 2014; Kantin and Wendler 2015; Donaldson and Kymlicka 2016; Healey and Pepper 2020). Many philosophers agree that animals can, with their actions and bodily reactions, show dissent and, in some situations, even assent. In the shelter context, this could mean that veterinarians and caretakers closely observe critically ill animals: how are they reacting to their treatment? Are they resisting therapy for several consecutive days? Are they apathetic over an extended period of time? Have they basically given up on themselves, such that they hide in a corner and react violently to any treatment? Or, after a few days, do they show both improvement and interest in the medication and therapy?

In addition, caretakers and veterinarians who have been treating and closely following animals, as well as their medical history in the shelter, can act as surrogate decision-makers on their behalf. That is, they can assess whether a treatment is really in the best interest of an animal or whether she or he is better euthanized (see Delon, this volume, p. X). Therefore, their voices



should, if possible, be heard when it comes to decisions about the life and death of individual animals.

#### 4.7 *Re-evaluation of Triage Decisions and Changes in the Therapeutic Goal*

A further requirement is to re-evaluate triage decisions on a regular basis and to restrict therapy if resources are too scarce. Note that withholding *some treatment* does not necessarily imply withholding *all therapy* (Jöbges et al. 2020). In the case of shelter animals, this may mean that more affordable therapy options for animals could be explored or that at least some of their suffering should be alleviated, if the medical resources available are not enough to provide treatment of all conditions. To illustrate this, consider expensive and time-consuming dentistry surgeries for cats. Stray cats frequently suffer from periodontal disease, gingivitis, and lost teeth, as studies from Japan and Germany show (Kalz et al. 2000; Seo et al. 2021). These conditions are rather painful, negatively affect the well-being of the animal, and are often “hidden” by the animal patient (Gengler 2013). In situations of scarce medical resources and space in the shelter, it should be evaluated whether it is proportionate to spend money on individual dental surgeries or whether the money is better spent on other (less expensive) procedures, such as sterilizations. This may imply that not all bad teeth conditions are treated, if they are too costly, but that other alternatives—for example, painkillers—are discussed.

Furthermore, sudden changes in the well-being of an animal patient also have to be considered. If an animal is doing better for a while, but then her condition suddenly deteriorates, it may be justified to withdraw therapy. That is, it may be justified to kill some animals (for example, those with extremely bad teeth conditions or those who do not react to therapy) to treat and save other animals. An additional option would be to find a palliative-care foster family for those animals whose treatment would be too costly, but whose suffering does not yet outweigh the benefits of being alive.

#### 4.8 *Burden of Triage and Staff Support*

A final consideration in many triage guidelines is psychological support for staff. In hospitals, for instance, the consequences of triage decisions can be psychologically burdensome for healthcare professionals. Therefore, many triage protocols recommend psychological support for medical staff (Jöbges et al. 2020). In animal shelters, the situation for caregivers, veterinarians, and the like may also be very challenging and involve occupational stress and mental exhaustion, also called “compassion fatigue” (Scotney et al. 2015; Andrukonis et al. 2020). To ease the mental burden of individual caregivers, to ensure cohesion necessary for the proper functioning of the shelter, and to minimize conflicts and power games amongst different departments and individuals, I suggest that the decision-making responsibilities be clearly distributed. In addition, frequent training sessions with professionals (such as psychologists) about how to deal with compassion fatigue may help the shelter staff to continue their work while staying mentally healthy.

Furthermore, in regular team meetings (for example, once per month), the caregiving team and veterinarians can inform each other about recent decisions, e.g., about therapy withdrawals, or about animals who had to be killed. This may improve the team spirit and cooperation amongst staff members and foster better understanding of decisions taken by different units. If possible and needed, caregivers should be allowed to spend time with those animals with whom they have formed bonds before they are killed.

So far, I have fleshed out how triage considerations proposed in the context of the COVID-19 pandemic can be fruitfully extended and applied to animal shelters, to ensure transparency, fairness, equality, and equity in decision-making processes. Note, however, that these are broad rules of thumb. Depending on the specific shelter conditions, abiding by them is possible and in some situations probably even necessary. If conflicts and fundamental disagreements about what to do in a specific situation persist, discussion with an ethics committee may be necessary

and useful to reduce tensions and conflicts amongst team members. I discuss this issue in the following section.

## **5 The Need for Animal Ethics Committees in Shelters**

Ethics consultation plays a rather minor role in triage protocols developed during the COVID-19 pandemic (Ehni et al. 2021). This is surprising, as there may be diverging opinions about what to do in specific triage situations in hospitals—as in animal shelters. In what follows, I suggest that animal ethics committees are essential in the case of shelters, in order to avoid and minimize disagreements and tensions among staff. Conflict among team members may impair the proper functioning of shelters. Furthermore, the more staff members suffer from occupational distress, burnout, and compassion fatigue, the more likely they are to quit their job (Rogelberg et al. 2007; Turner et al. 2012; Anderson et al. 2013). If there is no consistency among staff members, this may harm the proper functioning and communication process at the shelter, which ultimately is detrimental to animal welfare. Therefore, a good working atmosphere and transparency in the decision-making process are crucial for shelters.

Caregiving shelter staff—e.g. those working on a daily basis with animals, cleaning, feeding, walking and playing with them—may develop relationships with particular animals over time. They may form bonds with and affinities towards individual animals. If it is then decided that this particular animal does not receive a needed treatment for budgetary reasons, or will be killed to free up space for animals who will more likely benefit more from the care, this may result in bitterness and distress in shelter workers: after all, their work suddenly looks futile—all the care they provided was for nothing, as the animal could not be saved.

I argued before that decision-making responsibilities have to be clearly distributed. Decisions to withdraw or withhold treatment should be taken by at least two staff members (including a veterinarian) and should be communicated to the team in regular meetings. Nonetheless,

disagreements may arise within teams or even among decision-makers themselves. In such cases, it may be useful to bring in an independent ethics committee or ethics consultants.

I suggest that shelters form a *pro bono* ethics committee with a few members. Ideally, the committee members should be acquainted with both the difficulties under which shelters operate and ethical issues related to animals. The team could for example be composed of—minimally—an animal ethicist (or at least an ethicist) from a nearby university and an independent veterinarian. If needed, they can be called in to look closer at specific cases, discuss them with the team (online or in person), and outline the rationale and reasons for different decisional options.

There may be two worries related to ethics committees. First, shelter staff may be against an ethics committee, because such ethics consultation may create an additional workload and require more time for shelter collaborators. However, note that the ethics committee should only be brought in when the staff members find themselves in an *impasse* and deem an ethics consultation to be useful. That is, the committee should only be brought in when staff members need it for resolving actual conflicts. Reducing conflicts between groups with the help of an external committee may then save more time overall. A second worry is that the shelter collaborators are bound by the suggestions of the ethics committee. However, this is not the case. Importantly, the ethics committee should *not* have overriding decision-making power. Rather, the role of its members is to serve as *consultants* who may meet up with the team and discuss the different options at stake as well as their advantages and disadvantages. This may help to reduce some of the burden related to decision-making and disagreements and diminish tensions between different groups and individuals.

## **6 Conclusion**

In this article, I have argued that considerations used in triage guidelines in medical ethics can—with some adaptations—be fruitfully extended to animal shelters. After all, hospitals during

periods of triage and animal shelters share some similarities, namely, restricted resources such as money, medical equipment, staff members, and space for patients. The triage requirements put forward by medical associations in many countries during the ongoing COVID-19 pandemic prove a useful starting point for developing principles that can guide animal shelters in the decisions they have to take on a daily basis.

While I have argued that the considerations outlined here are necessary for guiding decisions at shelters, they are likely insufficient and probably should be complemented with other considerations. These may vary from one shelter context to another. Shelters often deal with highly complex questions: for example, what should be done with dangerous animals who need a lot of resources (e.g., training) over an extended period of time (Benedetti et al. 2019)? How should they deal with confiscated animals who need a lot of space, but cannot be adopted until a trial takes place? And how should the general budget be allocated to different activities, such as Trap-Neuter-Return-Maintain programs, prevention, and public awareness and education programs? That is, the requirements proposed here need to be complemented with further considerations, to be responsive to the context and complexities in which particular shelters operate.

One may, however, criticize my general proposal here. One may argue that within medicine, triage only happens in extraordinary situations, as for example during the COVID-19 pandemic. My suggestion of extending triage criteria to the shelter context, or so one may contend, normalizes the dire situation of stray and feral animals. One may thus argue that it is speciesist to apply triage guidelines in “normal” times to shelter animals, while in the case of humans, triage protocols only are used in rare circumstances. Furthermore, one may claim that it is speciesist that I advocate the active killing of some shelter animals due to restricted means, as we would never accept such a conclusion in the case of humans.

I already discussed this objection briefly at the beginning of section 4. Note that questions about letting die also arise in triage decisions about humans. If we accept that there is no fundamental moral difference between killing and letting die (Singer 2011), then my proposal may seem less provocative. I furthermore agree that decisions about which animals should be taken in, treated, aborted, killed, or euthanized in shelters should ideally become obsolete in a non-speciesist world (for an opposing view, see Donaldson & Kymlicka, this volume, p. X). Ultimately, the goal should be to reduce the numbers of unwanted animals in shelters by eliminating relinquishment, abandonment, mistreatment of animals, and irresponsible breeding practices (Turner et al. 2012). That is, people's general attitudes towards sentient animals have to be fundamentally altered. However, we currently live in a deeply speciesist society: animals are frequently deemed to have a lower moral status than humans. Therefore, in our current non-ideal society in which shelters operate with restricted means, staff members, and space, the considerations proposed here are urgently needed: they contribute to making decisions in a morally challenging situation less arbitrary, more transparent, and fairer for all involved—both humans and animals.

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