

# Are emotional support animals prosthetics or pets? Body-like rights to emotional support animals

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## ABSTRACT

Many philosophers have argued that prosthetic limbs are the subjects of some of the same rights as traditional body parts. This is a strong argument in favour of respecting the rights of users of prosthetics. I argue that all of the reasons to consider paradigm prosthetics the subjects of body-like rights apply to the relationship between some emotional support animals (ESAs) and their handlers. ESAs are integrated into the functioning of their handlers in ways that parallel the ways that paradigm prosthetics are integrated into the functioning of their users. ESAs are also phenomenologically integrated into their handler's lives in ways that parallel the phenomenological integration that prosthetic users experience. These parallels provide a strong reason to take the rights of ESA handlers much more seriously than we do now. I will highlight that the current treatment of ESA handlers presumes that they have no rights to ESAs at all. Even if ESAs are the subject of very minimal body-like rights, ESA handlers are having their rights violated. There are of course disanalogies between ESAs and paradigm prosthetics. Most notably, ESAs are alive and separate from their handlers. However, none of these disanalogies are relevant to the question of body-like rights. The differences between ESAs and paradigm prosthetics are in terms of what treatment is owed to them, not in terms of what rights their handlers and users should have. ESAs are not prosthetics, but they deserve some of the rights prosthetics do.

## BODY-LIKE RIGHTS

Some philosophers have suggested that prosthetic replacements to body parts should be the subjects of some of the same rights as traditional body parts.<sup>1-4</sup> This kind of thinking seems especially plausible because of the knee-jerk reaction many people have as to the inappropriateness of things like refusing to allow a person's prosthetic leg in a place they are allowed without a good reason,<sup>1 2</sup> and the parallels in how prosthetics and organic body parts are central for people's well-being. If the Transportation Security Administration were to start requiring prosthetic legs to be removed on airplanes, there would be a sense of privacy invasion much more intense than if they began requiring headphones or shoes to be removed. This is in part because of the role that prosthetic legs have as part of a person's functioning: that is, because they are prosthetics. One of the reasons for this is that prostheses, when they are performing body-like functions, seem to be the kind of things that should be objects of body-like rights. Implicitly, the argument seems to be that if being a body part earns something the status as object of a body right (in that we hold a high standard for depriving a person of the use of this and

we hold violations of this to be more presumptively more harmful than violations of property), then being body-like seems to confer body-like rights, which may not be complete but apply in situations in which the body-like-ness is relevant.

I will argue that some emotional support animals (ESAs) meet all of the criteria for being appropriate subjects of some body-like rights for their handlers. This is because, I will argue, some ESAs are body-like in all of the same ways that paradigm prosthetics are, and none of the (admittedly numerous!) differences between paradigm prosthetics and ESAs leads to a relevant disanalogy between the two. There are other ways to argue that ESAs should be more respected as an integrative part of a person's functioning if one does not accept that body-likeness confers body-like rights, and I think that many of these arguments are also convincing.<sup>5 6</sup> Many of these defences of ESAs focus on the similarities between ESAs and service animals, which are subject to more protections under US law.<sup>7-9</sup> I think that this comparison is apt, but I seek to defend a stronger comparison. I will argue that some ESAs (and, likely, service animals) are similar to paradigm prosthetics in the senses relevant to body-like rights. I will focus on ESAs because they are subject to less legal protections and are less socially accepted, and so the distance between how they are now treated and how I argue they should be treated is farther. This is not a legal argument, it is an argument regarding rights. This paper is expressing one more reason to take people's rights with regard to their ESAs seriously. ESAs are currently the subject of spotty and weak legal protections, especially in comparison with paradigm prosthetics.<sup>7-9</sup> There has recently been a large number of arguments that people using ESAs should be given more protections.<sup>5-9</sup> Several authors have suggested specific sets of legal rights that ESAs should be given<sup>8-10</sup> and specific standards that should be used to evaluate and certify ESAs so that they can be given these rights.<sup>1 5 6 11 12</sup> I think many of these proposals are fruitful, but I am not seeking to give a legal or procedural account of how ESAs should be protected. Instead, I am highlighting a philosophical framework under which ESAs should be taken very seriously.

Some thinkers will not find the argument (further worked out in the Body-like prosthetics section) that prosthetic body parts deserve some of the same

<sup>i</sup>This work is particularly useful because it allows clinical professionals to identify when ESAs are appropriate and warns people when ESAs are maladaptive. Taking ESAs seriously involves developing methods for evaluating them to help people make the right choices without unnecessary barriers to access.



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rights or treatment that paradigm body parts receive convincing. The rest of the paper only holds if the argument summarised in the Body-like prosthetics section seems plausible. I argue that if prosthetic limbs should be given body-like rights due to their body-like nature and their body-like function for their owners, then the range of medically necessary things to which these body-like rights should be granted must be expanded. I will not here defend in detail an argument for body-like rights to be conferred to paradigm prosthetic body replacements, although I will cite excellent versions of this argument. That assertion will be the jumping-off-point for a further thesis: that if we consider the body-likeness of paradigm prosthetics to confer them certain rights, these same rights should be affording to ESAs.

### BODY-LIKE PROSTHETICS

I will base this paper on the supposition that the following argument is intuitively plausible to most people or that people are convinced by one of the argumentative lines in its favour that I outline in this section. The general argument is this:

- P1: There is a certain set of rights [R] which applies to all Bodies [B]  
 P2: There is a set of things that are body-like [B][L] in the right way to which body-like rights apply [R][L]  
 P3: Prosthetic body parts [P] are body-like in the right ways [B] [L]  
 Therefore  
 C: Prosthetic body parts [P] are the kind of things to which body-like rights apply [R][L]

A fully worked-out argument for this claim is outside of the scope of this paper. I do not intend to mount a full defence of it. Instead, I will point out several versions of this argument to further motivate this possibility.

### Functional body-like rights

Japa Pallikkathayil follows a neo-Kantian line that bodily rights stem from a right to freedom.<sup>1</sup> As she points out, if freedom is taken to be freedom to perform the actions we have chosen, ‘some kind of right to control over one’s own body is... a precondition for engaging independent action’<sup>1</sup> p.5 and therefore body rights can be understood as grounded functionally. This means that for Pallikkathayil there are a class of prosthetics that replace the functionality of missing or non-functional body parts, and these should be treated similarly to the body. She says

Accommodating a wheelchair is not on a par with accommodating a mode of transportation, like a bicycle, but instead has the character of accommodating the person herself. One way of making sense of this involves taking a person’s rights to her wheelchair to be bodily rights rather than property rights.<sup>1</sup> p.18

A wheelchair is the subject of body-like rights, Pallikkathayil says, but nail clippings and bicycles are not.<sup>1</sup> This is because a wheelchair has a character that a mode of transportation or formerly attached waste does not: one of being body-like in the right way. In this case, being body-like consists of facilitating body-like functions that are otherwise impossible and necessary for the person in question to exercise their freedom. Nail clippings do not seem to be subject to these kind of rights, and this is a sign that having been connected at some point to the body is not relevant for body rights. Bicycles also do not, which is a sign that merely assisting us is not enough—body-like integration in functioning must involve being necessary for a particular freedom. Instead, body rights stem from function, and so body-like rights stem from body-like functions. Pallikkathayil’s view is a functional account of a justification for prosthetics being the subject of body-like right.

### Phenomenological body-like rights

Frédérique de Vignemont has an entirely different suggestion for where body rights might flow from, but she also comes to the conclusion that prosthetics are body-like in the right way to warrant body-like rights.<sup>3</sup> According to de Vignemont, the difference between a tool and a prosthetic is that prosthetics feel as though they are part of the body in the right way, that is, they are embodied. Being able to distinguish between a prosthetic and a tool is important for de Vignemont because prosthetics should be treated differently than tools. This unique phenomenology of a prosthetic can take the form of being factored into evaluations of body position, being the subject of affective responses when threatened or of one having the sensation that one can feel things happening to the prosthetic.<sup>3</sup> While de Vignemont is open to the idea that there are degrees of being deserving of bodily rights, which track how certain the sensation of embodiment and bodily ownership of a thing is,<sup>3</sup> at least partial bodily rights apply to many prosthetics. De Vignemont includes rubber hands and prosthetic limbs in this category.<sup>3</sup> She says that ‘one (necessary) condition for being a part of the body, is that the prosthesis becomes a knowing body part, in other words, something that is no longer a mere object attached to the body’.<sup>13</sup> p.124 De Vignemont therefore also sees bodily rights for prosthetics as stemming from a body-like property that prosthetics have. De Vignemont gives a phenomenological account of the body-like rights to which prosthetics are subject. For de Vignemont, a prosthetic leg is an appropriate subject of body-like rights because users of prosthetic legs feel that their prosthetics are part of them and treat them as part of their body in terms of how they integrate the leg into natural movement.

While the specifics may change, I take that these are the two broad-strokes options for characterising the kind of thing that gives a body bodily rights without running into problematic situations like having to claim bodily rights inherent in nail clippings (as would be a result of ‘previous attachment to one’s body’ or even worse, ‘having your genes’ being the standard) or losing rights over one’s finger the minute it is severed in an accident (as would be the result of a ‘current attachment to one’s body’ being the only standard’). Both a phenomenological and a functional requirement for bodily rights admit of the reasonable possibility that prosthetics could be body-like enough to warrant being subjects of body-like rights.

### EMOTIONAL SUPPORT ANIMALS

#### Therapeutic impacts of ESAs

ESAs can be extremely helpful to people with mental illnesses. The presence of ESAs has been shown to provide a uniquely helpful coping mechanism for anxiety. ESAs assist their handlers with generalised anxiety<sup>5 11 14</sup> as well as anxiety surrounding specific situations. They are more helpful than the presence of trusted humans or medication in helping their handlers control anxiety regarding seeking basic medical care.<sup>15</sup> Case studies also cite the use of ESAs as being instrumental in allowing previously housebound patients to go out in public and perform activities like grocery shop and eat at restaurants. It is not just that the process of growing close to the animal allows patients to leave their homes and brave medical procedures: when the animal is refused entrance to public spaces, the patients in these case studies uniformly return to their homes and face serious setbacks in trying again.<sup>16</sup>

In addition to anxiety management, patients also report ESAs allowing them to focus enough to perform everyday tasks, helping control disruptive panic attacks and helping control

debilitating major depression. It seems clear that ESAs allow their handlers to have capacities they would not otherwise have. They supplement or entirely replace vital functions that their handlers are not able to perform on their own.<sup>5 11 14 17 18</sup> In one case study, an ESA owned by a mental health professional is described as helping their handler manage sensory regulation by providing proprioception (ie, help with the knowledge of her body's location and movement).<sup>11</sup> In an interview-based survey, 70% of ESA users report their ESAs as having a calming effect, 40% of handlers report their ESAs helping them focus on the present moment enough to perform necessary tasks and 20% report needing their ESA to perform basic tasks.<sup>17</sup> All handlers of ESAs reported a close connection to the animal.

There is a developing consensus among mental health professionals that, as a result of these benefits, ESAs are extremely beneficial for people with mental illnesses.<sup>5 11 12 19 20</sup> No one accepted standard for suggesting the use of an ESA or evaluating the usefulness of an ESA has yet emerged, but several strong contenders have been suggested.<sup>5 11 12 21</sup> The exact boundaries of what constitutes a 'legitimate' ESA is outside of the scope of this paper, but there is a consensus that an animal 'trained' in some way to be minimally disruptive and who serves any of the purposes from the case studies I cite for a person who is diagnosed with a disabling mental illness is comfortably within the boundaries of a paradigm ESA. Going forward, I will be referring to such a case.

### ESA handler experiences

It is not then surprising that in one interview-based survey, 20% of ESA handlers refer to the animals as part of themselves.<sup>17</sup> Ninety per cent of ESA handlers report that the benefits of ESAs are gained by physical contact with the animal: it is not just the presence but the physical contact with the animal that assists in handlers performing the tasks they would otherwise be unable to. The handler of one ESA reported that her ESA performed proprioception tasks in order to help her with sensory regulation.<sup>11</sup> Forty per cent of ESA handlers called the use of their animal more helpful than medication, explaining that they are unable to perform the tasks that the ESA allows either by themselves or with the help of psychiatric medication. In at least some cases, the ESA is, according to the patient, the only solution to the problem they help solve.<sup>17</sup> Here, I would like to note that paradigm prosthetics need not be the best solution to a missing limb for us to accept them. One could imagine a many-jointed robot hand as a more 'effective' replacement for a missing hand than an immobile plastic lookalike, but this does not mean that we are suspicious of those who claim an outdated prosthetic is important to them and should be treated with as much respect as a state-of-the-art prosthetic.

### ESAs and body-like rights

The fact that a sizeable minority of ESA handlers report feeling as though their animal is part of them is not enough to prove that body-like rights should be extended to the animals. However, I would like to draw the following points of similarity between ESAs and more paradigm prostheses from the research on ESAs cited above.

1. These animals in some cases allow their handlers to perform vital tasks that they would otherwise be incapable of performing.
2. There is a significant physical aspect to this. In most cases, physical contact, close presence of the animals or pressure through a leash is required for these benefits.

3. Some ESAs provide physical assistance in navigating crowded spaces by helping their handlers with proprioception, managing responses to stress caused by environment, managing stimulation and motivation, all of which adds up to allowing their handlers to successfully navigate public settings.
4. Some handlers feel their ESAs are part of their cognitive functions or 'part of them' in some sense. This does not have to be literal to be significant: there just needs to be some special way that handlers feel about their animals that is self-like.
5. Most ESAs replace specific functions, which the handlers are not able to perform on their own, such as self-soothing, anxiety management, sensory management and focus, rather than generically make handlers feel better.

The list above runs a large gamut of body-like traits, which suggests that if things with body-like traits should have body-like rights, some ESAs should be given body-like rights. Some ESAs meet the requirements for functional body-likeness. They assist with functional aspects of their handlers' lives, allowing handlers the freedom to leave their homes or manage stress. Some ESAs also meet the requirements of phenomenological body-likeness. ESAs feel in some (metaphorical or literal) way like they are a part of their handlers, are part of how their handlers navigate the world and, most importantly, help with tasks like proprioception and managing stimulus response. Proprioception is in fact one of the examples de Vignemont gives of the phenomenological ways paradigm prosthetics are body-like.<sup>3</sup> ESAs therefore have the main body-like traits that are used to argue that paradigm prosthetics are the subject of body-like rights. However, there are obviously several disanalogies between ESAs and body parts. Before I outline what it might mean for some ESAs to be the subject of body-like rights, I will address these disanalogies and argue that none of these are relevant disanalogies.

### REPLACEMENT

It may be that ESAs supplement rather than replace capacities for their handlers, because their handlers sometimes did not have these capacities before getting an ESA. It is important to note that, just as handlers of ESAs may never themselves have had the ability to manage anxiety before their ESA assisted them, some people with prosthetics never had the ability to perform the tasks that prosthetics allow before gaining the prosthetic. People born without a leg presumably have just as much right to their prosthetic as people who lose a leg in an accident. 'Replace' here is in reference to a function, which medical professionals judge the handlers of the ESA/prosthetic is 'missing', a lacuna that an ESA or prosthetic can fill. 'Replacement' language may not be the best terminology all things considered—I here follow the literature on body-like rights in using 'replace' metaphorically to emphasise body-likeness rather than to mean anything literally or medically.<sup>3</sup>

### MENTAL PROSTHETICS

The most obvious disanalogy between an ESA and a paradigm prosthesis, like a prosthetic leg, is that an ESA does not replace the functioning of a body part directly. Rather than providing a physical analogue of a normative body part, which produces similar function, ESAs replace mental capacities: the capacity to handle the anxiety of medical visits, leave the house or to focus on tasks in order to finish them. I take it that it does not matter whether a prosthetic looks like what it replaces: no matter the colour of the prosthetic, we should treat the prosthetic the same.



The distinction must therefore be between providing physical and mental capacities. I will argue that the mental/physical distinction is not a clear or relevant one for determining how a prosthetic should be treated. Even for the functions that paradigm prosthetics serve, such as replacing a missing limb, measures of real functionalities involve both mental and physical aspects. Even if this mental/physical functioning distinction was to hold up, mental prosthetics meet all of the tentative requirements that I outlined earlier for prostheses.

There does not seem to be a strong enough dichotomy between assistance with mental functions and the assistance with physical functions that paradigm prostheses engage in to motivate the claim that ESAs are different than paradigm prostheses simply because ESAs support primarily mental functionalities. This is because many paradigm prosthetics also have mental aspects to their functioning, in addition to their physical functions. Much cutting-edge research on improving prosthetics has focused on allowing feeling in the prosthetic limbs: not for improvement in function, but because this is considered a better prosthetic and perhaps implicitly because it will allow patients who have lost limbs to emotionally adjust more fully.<sup>22–24</sup> Medical practitioners report that an important step in a prosthetic user adjusting to a new limb is to ‘transform the prosthetic limb from an ‘inert supplement’ or an ‘extracorporeal structure’ into a corporeal one’.<sup>25</sup> p.964 Even in paradigm prosthetics, mental integration improves function.

This is such a central factor of paradigm prosthetics that some thinkers define prosthetics by the non-physical functions they fill. As I described earlier, Frederique de Vignemont suggests that a feeling that a prosthetic is part of you is one of the things that separates a paradigm prosthetic from a tool.<sup>3</sup> I will not here evaluate whether non-physical functions are a useful way to differentiate tools from prosthetics, but the fact that non-physical functions are invoked as a possible part of a definition of a prosthetic highlights how common these functions are. If ESAs allow practical things to be done, such as leaving the house or focusing on everyday tasks, then it may be that they are in the same category as these ‘better’ prosthetic limbs that are hooked up to nerves to allow feeling: they allow practical tasks in the real world to be completed, and part of the way that they allow this in the best way possible is via mental aspects. Do ESAs provide a non-physical benefit to users, which is similar to what paradigm prosthetics provide? To answer this question, it might be helpful to try to imagine whether a brain implant or other physical addition to a user’s body that calmed a person or allowed them to focus would fall into this category. It seems to be that the answer is yes. There would be several differences between an implant and an ESA—most obviously, that the implant would be organically integrated to the person and that it would be internal. However, many (although not all) prosthetic legs are also ‘external’ in that they can be removed, and prosthetic legs are not generally organically integrated to their owners, although this is in theory possible.<sup>26–29</sup> If external and non-integrated prosthetic legs are deserving of the same rights as organically integrated bone-mounted prosthesis, the external/internal distinction does not have an impact on whether a prosthetic is the appropriate subject of body-like rights.

Even if a useful distinction can be drawn between the non-physical functions paradigm prostheses serve and those that ESAs serve, it is not clear that this distinction would mean that ESAs are less appropriately the subject of body-like rights than paradigm prosthetics. There is a significant group of philosophers who suggest that tools can replace mental processes, which have been lost to diseases like Alzheimer’s, and perhaps enhance

already existing mental processes. The extended mind hypothesis, first put forth by Clark and Chalmers<sup>30</sup> in their 1998 article *The extended mind*, suggests that humans can offload some of their mental processes onto physical tools. For example, patients with severe Alzheimer’s have been known to use notebooks and signposting in their homes to make up for their failing memory. Chalmers and Clark argue that this use of a notebook is indistinguishable from our normal memory: the process of accessing my memory of an address that I am not immediately thinking of is indistinguishable from the process of looking up an address I have written down in a notebook in every relevant way.<sup>30</sup> Some ethicists already talk about mobile phones as similar to prosthetics,<sup>4</sup> suggesting that invading our phones without permission is tantamount to a privacy breach into our brain.<sup>31</sup> Some philosophers seeking to define prosthetics think that the extended mind thesis is reason to refer to cognitive or mental prosthetics as merely one of several categories of possible prosthetics, whose functions are parallel but not identical to physical prosthetics.<sup>3</sup> If we accept either the claim that the physical/mental prosthesis distinction is not central to our understanding of prosthetics, the extended mind hypothesis, or both, the fact that ESAs provide replacement for emotional and mental rather than physical faculties should not be relevant to the question of whether ESAs should be considered to be body-like in the same way that prosthetics are. I will now examine the other major difference between ESAs and paradigm prostheses. Other than the fact that ESAs serve mental and emotional purposes for their handlers, the major difference between ESAs and paradigm prosthetics is that ESAs have their own separate lives.

## LIVE PROSTHETICS

The other main disanalogy between paradigm prosthetics and ESAs stems from the fact that ESAs are living creatures separate from their handlers. I anticipate three main ways in which a prosthetic’s status as a separate living animal might change the relationship between a person and their prosthetic—two in regard to what the handler of an ESA owes others, and one in regard to how others may treat an ESA handler in regard to their animal. In order to clearly address these three main objections to a living prosthetic, I will draw apart the difference between moral obligations we have with regard to a prosthetic and moral obligations that others owe us in how they treat the prosthetic.

### The moral obligations a handler of an ESA takes on

The use of an ESA invokes two different moral obligations for their handlers. The first kind of moral obligation relevant to a living prosthetic is due to the fact that there is a difference between how it is ethical to treat a prosthetic arm and how it is ethical to treat an ESA. It is clearly wrong to abandon an ESA, but beyond littering, there seems to be nothing wrong with abandoning a prosthetic arm because it is broken.<sup>ii</sup> There is undoubtedly an extensive list of ways it is immoral to treat an ESA that it is acceptable to treat a non-living prosthetic. We have moral obligations regarding how we treat animals, the exact specifications of which are outside of the scope of this paper. It is here enough to say that ESAs themselves have rights and are the appropriate subjects of the same moral obligations as other animals—many philosophers have examined what these rights are.<sup>32 33</sup> An even longer list of moral responsibilities could be relevant if this ESA

<sup>ii</sup>Some philosophers discuss the possibility that it is immoral to harm our bodies without reason, which is more analogous to ESAs than paradigm prosthetics.<sup>46–48 48</sup>

is especially intelligent. There may be animals that are ineligible to be ESAs for this reason.

With animal ownership also comes the responsibility to prevent an animal from harming others. ESAs are no different. Part of the relevant difference between ESAs and paradigm prosthetics is that not all parts of an animal function as a prosthetic: the animal fulfils dual roles, one as an emotional prosthetic qua the comfort, focus or orientation it provides and another as an independent animal qua it is life and everything else about it (eg, it is need for food, it is personality, it is instincts, it is capacity for pain).

I do not believe that either of these external obligations arising from the use of an ESA is the kind of external obligation, which could disqualify something from being the appropriate subject of body-like rights, in addition to any other rights an animal holds. These are obligations that the handler of a support animal takes on. They need not interfere with the ESA fulfilling a prosthetic role. Prosthetics that have, for example, bright flashing lights that might cause a seizure or expensive prosthetics have been paid for by others might induce in us moral obligations as to how to treat the prosthetic. If a prosthetic leg has a very bright flashing light on it, its owner has a moral responsibility to do everything possible to avoid giving someone a seizure with it. This moral responsibility might involve making sure others are warned about this light or covering it to stop it being so bright. If a prosthetic leg was sponsored by a rich donor on the condition that one treats it well, one might have an obligation to fulfil this promise and not to purposefully destroy it. Owners could in principle have responsibilities because of the nature of paradigm prosthetics that have nothing to do with the function of the prosthetic and do not diminish their rights to use of the prosthetic when it is necessary. Expensive sponsored prosthetics should not be the subject of less body-like rights than ones fully owned by their user. Prosthetics with lights should not be the subject of less body-like rights than simple rubber prosthetics, except that they should be kept away from people with photosensitive epilepsy.

I will note that the standards for it being 'safe' to bring an ESA into a space will be different than the standards for it being 'safe' to bring a paradigm prosthetic with a bright light into a space. The presence of a person with serious animal allergies might be reason to seek a way to avoid the animal and handler entering a restaurant, whereas the presence of a person with serious photosensitive seizures would be reason to seek a way to avoid a flashing prosthetic and owner entering a restaurant. It might be the case that animal prosthetics will not be 'safe' to bring into spaces more frequently than paradigm prosthetics. Admitting this need not change their status as appropriate subjects of body-like rights. It just means that ESAs will frequently raise complicated cases of balancing the needs of various people in public spaces.<sup>34 35</sup> This is an important avenue for future analysis.

It is true that I have described cases in which the owner of a prosthetic has a secondary moral obligation to a third party regarding their prosthetic rather than cases in which the owner of a prosthetic has a moral obligation to the prosthetic itself. It does not strike me as likely that who one owes a moral obligation to regarding one's prosthetic would change the status of the body-like rights a person has towards their prosthetic.

### The right to intervene between an ESA and their handler

Although the responsibilities an owner has due to owning their prosthetic do not change the rights they have that their prosthetic be respected, there are some traits of ESAs that do change the ways others should treat a prosthetic if it is an ESA. These are

real restrictions regarding an owner's rights with respect to their prosthetic. The relevant differences in how others are allowed to treat a person's ESA are in terms of the animal's other rights as a living being: it is reasonable for another person to step in and force a handler to feed their animal, to keep them from putting it in anxious-making situations for it or even take it away if the handler has proven that they cannot fulfil any of the moral obligations we have towards animals. However, the treatment of an animal qua it being a prosthetic should otherwise be the same. Barring a handler mistreating their animal, the fact of an animal qua it being a living being should not give a person the right to refuse an animal and their handler entrance to a public place in which it is safe and a paradigm prosthetic would be allowed in (such as a restaurant).

### MECHANISMS OF EFFICACY

Prosthetics provide replacements for body-like capabilities in many ways. Some of these mirror the mechanisms by which a body part might allow accomplishing tasks. For example, a prosthetic leg in many ways mirrors the mechanisms of a biological leg. However, some mobility aids do not. A wheelchair does not mirror the specific mechanism of a biological leg. It seems clear that wheelchair users have just as much right to their mobility aids as the users of prosthetic legs. Discussions of the precise mechanism by which prosthetics allow people to accomplish tasks have been set aside in discussions of body-like rights to prosthetics for this reason.

However, it will nonetheless be obvious that ESAs accomplish their tasks via a mechanism which may seem similar to two other categories of things that we do not generally consider to be the subject of body-like rights. These are important parallels to consider, in order to determine whether they undermine parallels to paradigm prosthetics. The mechanism by which ESAs provide their handlers with capacities may seem similar to the mechanisms by which pets and human aids improve people's lives.

Pets, as companion animals, have been shown to provide some of the same benefits that ESAs do. Although ESAs perform specific tasks, these specific tasks are not outside of the realm of pet behaviour. For example, an ESA may assist with proprioception by leaning heavily on their owner, something that pets also do. The difference between an ESA and a pet is that an ESA is trained to engage in specific behaviours at specific times, in response to their handler's needs.<sup>17 19 20</sup> Pets provide these benefits in a non-targeted way and are therefore not integrated into their owner's functionings and lives like ESAs. It is the functional and phenomenological integration that makes ESAs unique.

However, it may be the case that ESAs have a parallel mechanism of assistance to caretakers and aids. This is relevant because the language of having a body-like 'right' to another person's assistance may seem inappropriate (although one might have other rights—eg, to have their aid allowed to assist them in many situations). The main disanalogy here is that the reasons it would be impossible to have body-like rights to a human aid do not necessarily apply to animals. The reasons it is impossible to have body-like rights to a human aid seem to stem from aspects of an aid that are non-assistive. This would mean things like a person's own body-like rights to themselves, the way that an addition of another person might impact some situations, or claims that this is not an appropriate way to dispense needed care. For example, a person may not have an overriding right to bring a human aid into a place with limited safety equipment if there were not enough safety equipment for the aid. This is not because of

anything to do with the relationship between a person and their aid: it is due to the non-assistive aspects of the human aid. There may be many such non-assistive aspects of a human aid, which makes it impractical or impossible for someone to rely on them for some specific functionings. ESAs also have non-assistive aspects that will complicate their use. However, the non-assistive aspects of ESAs are not identical to the non-assistive aspects of human aids. I have given an account of the non-assistive aspects of animals and argued that these do not interfere with the claim that body-like rights apply to ESA handlers.

## THE PROBLEM

The question of how exactly a prosthesis of any type should be treated is one that is outside the scope of this paper. However, I feel I can make several claims relatively uncontroversial. Philosophers who think that prosthetics are the subject of body-like rights agree that there is some appropriate way to treat prostheses. The philosophers I cite likely have very different views of how to respect these body-like rights. However, a very minimal body-like right often referenced is the right not to have one's body parts (and by analogy, prostheses) taken away, even temporarily, without overwhelmingly good reason.<sup>12</sup> If some ESAs are similar to prostheses in the relevant ways and so are also subject to the same body-like rights, they should be afforded these protections. I do not need to specify what kind of reason would be enough to separate a person from their ESA or refuse its entrance to a place the person needs to go to make the claim that this is not how ESAs are being treated. I need not even specify which specific ESAs are appropriate subjects of body-like rights. All ESAs are currently subject to exclusion from spaces with no justification. ESAs are currently barred from some international flights, and the United States Department of Transportation is considering allowing airlines to ban all ESAs from flights entirely, with no specific reason necessary.<sup>11 36</sup> In the USA, where ESAs currently have the strongest legal protections, restaurants, stores and hotels may legally ban ESAs for no specific reason.<sup>16</sup> In these cases, there is no specific trade-off invoked to justify excluding ESAs. ESAs are not currently treated as though they are the subject of any body-like rights in these cases.

Handlers of ESAs frequently experience this kind of default exclusion. In one study, 30% of ESA handlers reported experiencing negative reactions to their use of the animal, and an additional 40% of ESA handlers worried about negative reactions to their use of the animal.<sup>17</sup> These negative experiences took the form of attempts to remove an animal from its handler, banning an animal from a location without specific reason or telling the handler to get rid of the animal. These get in the way of an ESA handler's ability to comfortably navigate situations and often involve threats to bar an ESA from an establishment, which prevents an ESA user from going there again. These negative reactions are not surprising—media accounts of ESAs are often negative and imply that these animals should not be allowed entrance to public spaces.<sup>6 10 12 37–40</sup> These negative reactions represent threats to violate the paradigm body-like right I cite earlier. As these negative reactions are often aimed at ESAs as a category, they threaten any ESA that is the subject of body-like rights.

In one case study, a woman who is only able to leave her home because of her emotional support cat describes being refused service at a restaurant because of the presence of her ESA. As a result, she immediately returned to the safety of her home. Recovery after this was extremely slow and painstaking.<sup>16</sup> If this high a percentage of paradigm prosthetic users were being

treated negatively without reason or being threatened with exclusion due to their prosthesis, we would consider this very inappropriate. We should consider this a similarly inappropriate treatment of ESAs.

It is not just an uninformed public who treat ESAs with disdain. Some academic treatments of ESAs treat them as a category in a way that is incompatible with taking any rights their handlers have to their presence seriously. A recent article explained that requests for ESAs by patients often represent a conflict of interest for psychologists, implicitly because the requests are often unreasonable.<sup>41</sup> Articles ostensibly seeking to explain how colleges should handle student requests for ESAs refer primarily to the risk of being sued as a reason in favour of allowing ESAs. These articles then examine in detail the potential complications of granting ESA requests by students. Some of these articles take the form of how-to guides for refusing ESAs to students or allowing a minimum of ESAs to avoid being sued and contain suggestions that allowing students ESAs would be a bad choice on the part of the college.<sup>39 42 43</sup> No serious suggestion that students have a right to have these animals is mentioned. Nor is the risk of preventing students who use ESAs from completing everyday tasks. This means there is little attempt to balance the needs of users of ESAs against any potential harms ESAs might cause. Surveys of school administrators and students have shown that even those who have positive attitudes towards ESAs are generally confused about the legal rights afforded to ESAs.<sup>44 45</sup> Benevolent confusion does not often result in scrupulous respecting of rights. None of the ways of talking about ESAs I describe are a violation of the minimal body-like right I propose, but they are an indication that discussions of how to treat people who use ESAs do not include discussions of these rights.

It therefore seems that ESAs are not being treated as the appropriate subject of minimal body-like rights in many situations. No ESAs are guaranteed minimal body-like rights (such as the right for handlers of ESAs to enter spaces and have their animals be unmolested) in restaurants, grocery stores, hotels or some airline flights. There is a possibility that this will soon extend to most airline flights. Handlers of ESAs are not treated as though they have a right to their ESAs in public. In addition, academic and popular discussion of ESAs still regularly dismisses the possibility that any ESAs are the subject of body-like rights for their handlers.

## SUGGESTIONS FOR THE FUTURE

If some ESAs are body-like in a way that means they are appropriate subjects of even some body-like rights, people who need these ESAs are routinely having these rights violated. If ESAs should be afforded the same or many of the same body-like rights as paradigm prosthetics, several things would need to change. To begin, the law would need to change, in order to require a consideration of the rights of those who need a body-like ESA to function. There are already legal discussions of what more stringent legal protection for ESAs would look like.<sup>7–9</sup> We would also have to recontextualise these ESAs as prosthetics, which would recontextualise being disrespectful about them as ableist. Academic and clinical discussions of ESAs would need to change in significant ways—discussions of ESAs would have to specify whether the ESA in question deserves body-like rights and take the implications of this seriously. One should not deny the users of ESAs rights without a robust justification.



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