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The Provocative Elitism of "Personhood" for Nonhuman Creatures in Animal Advocacy Parlance and Polemics

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Abstract

Animal advocates cannot allow the idea to take hold that only the great apes and certain other "higher" animals are fit to be "persons." Working to change the moral status of the great apes or sea mammals, for example, is a legitimate and important undertaking, but it should not be done at the expense of other animals. Such thinking is not only disconnected from real animals in the real world; it perpetuates the view that beings belonging to species deemed "nonpersons" or "merely conscious" are of lesser, or no, moral significance until or unless, through an institutionalized system of painful, stressful, and demeaning experiments over decades or centuries, some of them might "prove" themselves worthy of being called persons or semi-persons or sort-of-persons entitled to whatever privileges such designations may confer.

It is increasingly being recognized that other animals besides humans have complex mental lives. They not only can suffer pain, injury, and fear, but they are intelligent beings with rich and varied social and emotional lives including decision-making, empathy and pleasure. Based on the wealth of evidence, the great apes in particular – gorillas, chimpanzees, and orangutans – have been singled out for showing a range of mental capacities demanding that the moral boundaries we draw between them and ourselves must be changed. In 1993, *The Great Ape Project*, edited by Paola Cavalieri and Peter Singer, argued that the "community of equals" should be extended to include "all great apes" (Cavalieri and Singer 1993, 4). Currently, the Nonhuman Rights Project, founded by attorney Steven Wise, is working through the courts to change the common law status of some nonhuman animals from mere "things," which lack the capacity for legal rights, to "persons," who possess the fundamental rights of bodily integrity, liberty and other

legal rights to which "evolving standards of morality, scientific discovery, and human experience entitle them" (Wise 2014, 1). While focusing on legal rights for chimpanzees, the Nonhuman Rights Project suggests that expanding the moral and legal community to include these animals could initiate a larger break in the species barrier. For nonhuman animals, Wise says, "The passage from thing to person constitutes a legal transubstantiation."

While this is an exciting prospect, some animal advocates worry that the Great Ape Project and the Nonhuman Rights Project could reinforce the very attitudes and assumptions of elitism that have caused so much misery to animals in the world. In both projects, humans are at the top of the scale and the great apes follow. Below them some other mammals await consideration, and further down some species of birds may appear. Reptiles, fish and insects are either absent or at the bottom. In Peter Singer's book *Rethinking Life and Death*, the only beings who qualify conclusively as "persons" are the great apes, although he say that whales, dolphins, elephants, monkeys, dogs, pigs, and other animals "may eventually also be shown to be aware of their own existence over time and capable of reasoning. Then they too will have to be considered as persons" (Singer 1994, 182). Meanwhile, they may not be considered as such. The ability to suffer, which should elicit "concern," does not of itself confer personhood or admit a nonhuman animal or animal species to the "community of equals." Even to be a nonhuman "person" on the highest level, within this universe of thought, is to be a poor contender according to its standards of value: the vaunted chimpanzees rank with "intellectually disabled human beings," in Singer's view (Singer 1994, 183).

In the 2011 edition of his book *Practical Ethics*, certain other animals, including some wild birds, are said to perhaps be eligible to be granted some degree of personhood based on laboratory experiments and field observations suggesting that they possess a measure of "rationality," "self-awareness" and future-directed thinking and desires. However, a sentient "nonperson" or "merely conscious" being does not qualify for what Singer, citing contemporary American philosopher Michael Tooley, calls a "right to life, in the full sense" (Singer 2011, 85).

I argue that parsing the cognitive capabilities of nonhuman animals in this way relegates the entire animal kingdom, apart from humans, to a condition of mental disability that is totally incompatible with the cognitive demands exacted upon real animals in the real world. It illogically implies a cerebral and experiential equivalence between the mentally incompetent members of one species and the mentally competent members of other species. Rather than helping animals, this model is more likely to hinder the effort, since most people are not likely to care very much what happens to creatures whom even the animal protection community characterizes as mentally inferior and "disabled." Ranking animals according to a cognitive scale of intelligence is an aspect of cross-species comparisons that should be avoided.

I first expressed my concern about ranking animals in *Between the Species: A Journal of Ethics* (Davis 1988). In "The Otherness of Animals," I asked whether dogs and cats could be adversely affected if science (or "science") should decide that they are not as smart as pigs and porpoises. I thought about the dogs I grew up with, and about my Blue-fronted Amazon parrot Tikhon, who, I was told by a bird rehabilitator in San Francisco in the 1970s, was not "really" intelligent, but a creature of mere "instinct," and thus a kind of imposter who only seemed to be an intelligent, emotional and reciprocal companion of mine. In this view, I was a sort of dupe who couldn't distinguish fixed behavior patterns from conscious awareness in a bird whose ability to fool me depended on the fact that I loved her and needed to believe that we are were bonded.

In short, I wanted Tikhon to be intelligent; therefore she was. And since most people do not want chickens and other animals they eat to be intelligent, therefore they aren't. This being so, we need to consider, for example, whether we are helping "food" animals by elevating pigs above chickens, cows and other animals in the food producing sector by making pigs the, as it were, "great apes" of the farmed

animal advocacy project, as in Singer's assertion that of all the animals currently eaten in the Western world, "the pig is without doubt the most intelligent," endowed with an intelligence that is "comparable and perhaps even superior to that of a dog" (Singer 1990, 119). But what do we really know about the total mental capabilities of any animal that is so conclusive that we can confidently state, without doubt, that this one or that one is the most, or the least, intelligent? I would also ask what good it does to tell people that their companion dog may not be as smart as a pig, which raises the issue of pitting animals against one another, as if animal advocacy were an IQ contest of winners and losers.

Can science help us surmount our prejudicial attitudes toward nonhuman animals in order to attain a more just understanding of who they are in themselves, bearing in mind that "they" are not a monolithic entity ascending through Nature like the floors of a skyscraper from bottom to top?

Not long ago it was generally assumed "without doubt" that birds were mentally inferior to mammals. Twentieth-century studies upset this assumption. Among birds, in addition to Konrad Lorenz's pioneering studies of geese, jackdaws, and other birds he knew personally and wrote about, pigeons attracted significant scientific interest in the twentieth century due to their homing abilities and their use as messengers in war. Pigeons demonstrate an astonishing ability to handle complex geometrical, spatial, sequential, and photographic concepts and impressions, to solve all kinds of complicated problems, retain precise memories, and invent ways to communicate their understanding, intentions, and needs to human beings. In *Minds of Their Own: Thinking and Awareness in Animals*, Lesley J. Rogers summarizes pigeons' conceptual feats in tests that I personally would fail. Yet despite the evidence, Rogers cites a situation in which a scientist who demonstrated complex cognition in pigeons, including self-awareness, perversely insisted that "if a bird can do it, it cannot be complex behaviour and it cannot indicate self-awareness of any sort" (Rogers 1997, 30, 66-69, 72).

More recently, science investigator Irene Pepperberg, who held firm in a frequently hostile environment of skepticism toward her work, highlighted the intelligence of parrots, based on her years of laboratory experiments designed to coax certain cognitive responses from her African Gray parrot Alex, from the correct use of human verbal language to complex discriminations among shapes, colors, objects, and relationships (NOVA scienceNOW 2011). It may be assumed that these experiments, conducted mostly in windowless basements, and in which Alex was treated more like a kindergarten child than an adult individual, barely hinted at Alex's true range and specific nature of intelligence, but one hopes that they opened a door.

Current evidence suggests much more than merely that some birds display signs of intelligence. Parrots, pigeons, crows, wrens, woodpeckers, kingfishers, finches, seabirds, and other birds are now being acclaimed for their hitherto underestimated cognitive capabilities. For instance, it used to be claimed that birds could respond only to the immediate moment, without any sense of before and after. But as Alexander F. Skutch shows with many example in his book *The Minds of Birds*, "Birds are aware of more than immediately present stimuli; they remember the past and anticipate the future" (Skutch 1996, 13).

In particular, the ground-nesting birds known as galliforms ("cock-shaped") were traditionally denigrated by Western science as stupid "in spite of their fine feathers." Chickens, turkeys, pheasants, quails, peafowl, guinea fowl, and a host of other birds believed to have a common ancestor were dismissed without further ado as "unquestionably low in the scale of avian evolution" (Schorger 1961, 70). Among avian scientists, this assumption has been tossed. As bird specialist Lesley J Rogers writes in *The Development of Brain and Behaviour in the Chicken*, the information obtained from the research she cites in her book "is beginning to change our attitudes to avian species, including the chicken." She says that with increased knowledge of the behavior and cognitive abilities of the chicken has come "the realization that the chicken is not an inferior species to be treated merely as a food source," and that "it is now clear that birds have cognitive capacities equivalent to those of mammals, even primates" (Rogers 1995, 213, 217).

This claim is upheld by The Avian Brain Nomenclature Consortium, an international group of scientists whose paper, "Avian Brains and a New Understanding of Vertebrate Brain Evolution," published in *Nature Neuroscience Reviews* in 2005, calls for a new vocabulary to describe the various parts of a bird's brain, based on the now overwhelming evidence that the bulk of a bird's brain is not, as was once thought, mere "basal ganglia" coordinating instincts, but an intricately developed organ of intelligence that processes information similar to the way in which the human cerebral cortex operates (The Avian Brain 2005).

Other studies confirm that the avian brain is a complex organ comprising high-level cognition comparable to the cognition of mammals. For example, an article in *Science Daily* in 2013 states that birds possess a range of skills including "a capacity for complex social reasoning" and problem solving. Professor Murray Shanahan, a researcher from Imperial College London, explains that even though birds have been evolving separately from mammals for around 300 million years, they are "remarkably intelligent in a similar way to mammals such as humans and monkeys" (Imperial College London 2013). In "The Chicken Challenge," Carolynn L. Smith and Jane Johnson present the science showing that chickens "demonstrate complex cognitive abilities" (Smith and Johnson 2012, 76). They argue:

> The science outlined in this paper challenges common thinking about chickens. Chickens are not mere automata; instead they have been shown to possess sophisticated cognitive abilities. Their communication is not simply reflexive, but is responsive to relevant social and environmental factors. Chickens demonstrate an awareness of themselves as separate from others; can recognize particular individuals and appreciate their standing with respect to those individuals; and show an awareness of the attentional states of their fellow fowl. Further, chickens have been shown to engage in reasoning through performing abstract and social transitive inferences. This growing body of scientific data could inform a rethinking about the treatment of these animals. (Smith and Johnson 2012, 89-90)

Notwithstanding these findings – including proof that chickens possess empathy based on studies showing, for example, that mother hens develop stress upon seeing their chicks exposed to stressful situations (Bekoff 2011) – the privileging of the great apes, along with a very restrictive model of intelligence, continues to skew much of the animal advocacy and academic discourse about animal cognition. This privileging disturbs people who have come to know and care about birds and many other kinds of animals in the course of direct interactions with and careful observations of them conducted in sanctuary settings as well as in formal studies.

In *Minds of Their Own*, Lesley Rogers argues that while The Great Ape Project has raised critical issues, by placing the great apes above all other forms of nonhuman life, we are still saying that "some animals are more equal than others." She asks whether, guided by this cognitive-scale-of-being way of thinking, we are going to grant rights to "only our closest genetic relatives?" She exposes the fallacy of ranking animals according to their alleged intelligence or awareness, both of which attributes, she says, "are impossible to assess on any single criterion" (Rogers 1997, 194). Instead of ranking animals according to a simplistic IQ system, Rogers argues that we would be more accurate and just in our assessments if we recognized that "there are many different 'intelligences,' rather than ranking all species on the same scale of intelligence" (Rogers 1997, 57).

Even for humans, Rogers says there is no evidence to support applying the single term "intelligence" to a diverse set of activities; likewise, there is no evidence that different species use the same cognitive processes to carry out similar types of behavior. In short, there are no grounds for asserting *without doubt* that one group of animals is smarter than another. Ethologist Marc Bekoff agrees, stating that ranking animals on a cognitive scale and pitting them against each other as to who is smarter and more emotionally developed, or less intelligent and less emotionally developed, is silly and even dangerous,

considering how these comparisons can be used to claim that "smarter animals suffer more than supposedly dumber animals" whereby "dumber" animals may be treated "in all sorts of invasive and abusive ways" (Bekoff 2013).

As Malcolm Gladwell observes in "The Order of Things," in *The New Yorker*, "Rankings are not benign. . . . Who comes out on top, in any ranking system, is really about who is doing the ranking" (Gladwell 2011, 74-75).

Cognitive ranking also raises the quandary of anatomical diversity among animals. In the 1970s and 1980s, the ability of chimpanzees to use American Sign Language, or Ameslan, was news. If chimpanzees could learn this version of human language, then perhaps chimpanzees had a cognitive advantage over all other nonhuman animals, entitling them and their great ape cousins to a semblance of "human rights." Such ideas underlay the founding of The Great Ape Project in 1994.

An important fact about the chimpanzee's ability to use Ameslan, however, is that it depends upon an anatomical feature that resembles one of ours – manual dexterity. Thus, no matter how unique, intelligent, or willing they may be, any creatures with fins, paws, hoofs, claws or tentacles cannot learn to use (even if capable of understanding) Ameslan. Similarly, chimpanzees appear to be physiologically and anatomically unsuited to using (however competent of understanding) human verbal language, which is why researchers switched to Ameslan. But what about animals who for whatever reason cannot, or will not, communicate in our terms? Whose kind of intelligence is not our kind? Whose modes of experience elude us? Must "illiterate" animals forgo "human rights"? Must they be condemned for being who they are and how they are made to an eternal status of "non-personhood"?

Allied with the cognitive ranking of competent nonhuman animals – who is smarter, a lizard or a lion, a penguin or parrot, a chicken or a chimpanzee? – is the habit of comparing cognitively intact nonhuman animals not only with humans suffering from mental disabilities but also with children who are cognitively incompetent due to developmental immaturity. This type of cross-species comparison, in which adult nonhuman animals are infantilized, has attracted some animal advocates as a way of gaining public sympathy and support for nonhuman animals by placing them in the light of clever and cute yet vulnerable human youngsters. Indeed, there was an item on the Internet about a woman who said she hesitated to eat a ham sandwich because she had heard that a pig is as smart as a toddler.

Classifying competent nonhuman animals together with vulnerable humans, in order to gain legal recognition and protection of these animals' rights, which they cannot assert on their own behalf, is a necessary and just undertaking. As G.A. Bradshaw and Monica Engebretson urge in "Parrot Breeding and Keeping: The Impact of Capture and Captivity": "Science dictates that standards and criteria to assess and protect human well-being accurately extend to parrots and other animals" (Bradshaw and Engebretson 2013, 1). On these grounds, they argue that "a single unitary model of welfare and legal protection" would rightly include both human and nonhuman animals.

I agree with this argument, but contend that the effort to classify competent nonhumans with incompetent humans is misguided insofar as it exceeds the goal of equal legal protections for all vulnerable beings to foster the fallacy of an inherent equivalency between these two groups' actual mental development and functioning. Mature, unimpaired nonhuman animals are not tantamount to mentally defective and underdeveloped humans. Neither chimpanzees nor any other animals could survive let alone thrive in a complex social and natural environment if they could only think and function like toddlers. Children and mentally defective humans do not create and sustain stable societies. Let us ask: what does a mentally impaired adult human being who cannot live autonomously in human society have in common, neurologically and experientially, with a fully developed adult cockatoo carrying out complex ecological, social and parental responsibilities in her forest home? What does a two-year-old child have in common with a mentally healthy adult horse? As the eighteenth-century philosopher Jeremy Bentham observed,

paradigmatically: “a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day or a week or even a month, old” (Singer 1990, 7).

Having run a sanctuary for chickens for nearly thirty years, I am sometimes asked if I think the chickens see me as their mother and if I consider them my “babies.” In fact, I do not regard adult chickens as babies. As I explain in my essay, “The Mental Life of Chickens,” I see the ability of chickens to bond with me and be companionable as an extension of their ability to adapt their native intelligence to habitats and human-created environments that stimulate their natural ability to perceive analogies and to fit what they find where they happen to be to the fulfillment of their own desires and needs (Davis 2012, 20).

The inherently social nature of chickens enables them to socialize successfully with a variety of other species and to form bonds of interspecies affection and communication. But they are not humanoids. They are not phylogenetic fetuses awaiting human contact to stimulate their cognitive potential. They are neither failed nor inferior humans. An adult hen raising her chicks does not think like a six-year old. She thinks like a mother hen, in which respect she shares commonality and continuity with all attentive and doting mothers of all species.

Ranking animals according to a cognitive scale of mental and emotional development risks making excuses to violate any animals that scientists wish to tinker with, not only the supposedly “lesser” species, but also those regarded as “higher up” yet inferior to humans in their genetic endowment. At the 2013 Personhood Beyond the Human conference at Yale University, some presenters suggested that scientists might “engineer” animals genetically to be more intelligent than they already are, while others suggested that certain technological inventions of ours – the artificial intelligences – might eventually qualify for moral considerateness and even the status of “personhood.” Considering that we know almost nothing about the ways in which other animals’ intelligences relate to the totality of their being including their own well-being and sense of self, and considering that we are nowhere near to granting legal or moral considerateness or even a modicum of compassionate treatment, let alone “personhood,” to billions of sensitive and intelligent birds and other creatures suffering in laboratories and factory farms, these prospects prompt a legitimate concern.

In that an animal’s brain is an integral part of an animal’s body, the idea of genetically engineering other animals’ brains to “enhance” their cognitive capacities seems more like anthropomorphic arrogance than an advancement of ethics or empathy. The idea contradicts and subverts the Nonhuman Rights Project’s goal of obtaining legal recognition and protection of an animal’s fundamental right of bodily integrity and liberty.

The notion of a brain disconnected from the animal in whom it is situated is implicit in proposals to “enhance” the mental capabilities of other creatures via surgical or genetic manipulation. In “Brains, Bodies, and Minds: Against a Hierarchy of Animal Faculties,” David Dillard-Wright rejects the “decapitation” theory of consciousness as “a static entity or essence in-residence,” observing, rather, the intricate processes and intelligences of the body and the continuity of body and brain, the brain itself being a body part as much as our blood, lungs and kidneys are (Dillard-Wright 2012, 204). Biological situation of brains within and as constituents of bodies, which are themselves environmentally situated and interactive with their surroundings, integrates with all of the evidence we have of evolutionary continuity among animal species and a reasoned belief that other animals’ minds are not mere “precursors” of human ways of knowing but “parallel” ways of being mentally active and alive in the world (Dillard-Wright 2012, 207).

It might seem that proposals to enhance the cognition of nonhuman animals are in opposition to proposals to expunge their cognition in order to fit them “more humanely” into our abusive systems. Philosopher Peter Singer, agribusiness philosopher Paul Thompson, and architecture student Andre Ford are among those who have variously supported “welfare” measures which they claim would reduce the suffering of

industrially-raised chickens by inflicting injuries that include de-winging, debeaking, blinding, and de-braining them (Broudy 2006, Thompson 2007, Solon 2012). Proposals to enhance or expunge animal consciousness actually have much in common. Both proceed from presumptions of human entitlement to reconfigure the bodies and psyches of other creatures to fit our schemes and satisfy our lust for manipulating life to reflect our will. Both involve rationalizations that the animals targeted for these procedures are not victims but beneficiaries of the suffering (the injury, wound, harm, trauma) that our species sees fit to impose on them "for their own good."

It is not unreasonable to worry that robots could be granted a status of legal and ethical "personhood" long before, if ever, chickens and the majority of nonhuman animals are so elevated. The problem includes but goes beyond the quandary of nonhuman animal diversity in anatomy and physiology mentioned earlier. The minds and personalities of chickens, chimpanzees, and other nonhuman animals will never be able to compete against the dazzle of computers and digital wonders that intoxicate so many of the kinds of people whose power and ambition are charting the course of the planet. How can nonhuman animals, whose intelligences however "high" are deemed inferior to ours, even by many of their so-called defenders, compete with machines that so many enthusiasts tout as even "smarter" than we are?

At the same time as these worries loom over nonhuman animals, there are signs pointing in a different direction that could lead to a different conclusion. In "According Animals Dignity," published in *The New York Times*, Op-Ed columnist Frank Bruni draws attention to what he sees as "a broadening, deepening concern about animals that's no longer sufficiently captured by the phrase 'animal welfare'" (Bruni 2014, A27). Citing examples, including the Nonhuman Rights Project, Bruni argues that we are entering an era of "animal dignity" in modern society. The signs of this era, he says, are "everywhere." The attribution of dignity to nonhuman animals by a respected writer in a prestigious, internationally read newspaper is encouraging. It is one of the promising signs of which Bruni speaks, and I hope that his words are prophetic.

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