

Personhood and animals: three approaches

Elisa Aaltola, Department of Philosophy, University of Turku, Finland
(elanaa@utu.fi)

Introduction

The paper concentrates on different aspects of animal personhood. It first analyses the ethics behind common claims concerning animal personhood, and investigates the views on animal minds. Secondly, it goes through three different approaches to personhood, which are the qualitative, ontological, and quantitative approaches. The claim is that out of these three, the latter is the strongest alternative. It implies that many animals can be considered persons, which again carries clear implications to how other animals ought to be treated.

The Ethics of Personhood

It is commonly argued that humanity has often been defined against the negative: humans exist in opposition to other animals. In the history of philosophy, ranging from Aristotle to Kant, matters such as “soul”, “language”, “consciousness”, “rationality”, and “self-awareness” have been repeatedly placed as the difference between the species. This tendency is obviously not found only in philosophy, but is often taken as a self-evident “fact” in any field of human inquiry. For instance, a source on anthropology of personhood takes its starting point in the claim: “But there is no getting around the fact that this essay ultimately presumes that the animals we call human beings share an identifiable and peculiar set of capacities and proclivities that distinguishes them significantly from other animals on this planet”¹. At the same time, “personhood” has been investigated against the negative, and once more, animals have usually played the part of “non-persons”. The conclusion is that “humanity” has come to embody “personhood”. As Mary Midgley says: “The question is quite a simple one; no tests are called for. The word ‘person’ just means a human being”². Similarly, S.F. Sapontzis argues that: “metaphysically, ‘person’ denotes all and only human beings”³. Thomas Keith has argued that human-only capacities have been sought for with an over zealous vigour: there *has* to be a capacity that distinguishes humans from other animals,⁴ which justifies using the term “personhood” only in relation to the former.

¹ Smith, Christian: *Moral, Believing Animals: Human Personhood and Culture* (Oxford: Oxford University Press, 2003).

² Midgley, Mary: “Is a Dolphin a Person?”. Susan Armstrong & Richard Botzler (eds.). *The Animal Ethics Reader*. (London: Routledge 2003), p. 167.

³ Sapontzis, S.F.: *Morals, Reason and Animals* (Philadelphia: Temple University Press 1987), p. 49.

⁴ Thomas, Keith: *Man and the Natural World. Changing Attitudes in England 1500-1800* (London: Penguin Books, 1983), pp. 30-31.

However, animal ethics has questioned this approach.⁵ Although not all animal ethics is “pro-animal”, the major works have shown that not only *individuality / personhood*, but the *individual value* of animals can be defended with strong arguments. Although the approaches vary greatly, the main tenet remains the same. They rely on *experientialism* in contrast to *perfectionism*⁶, and thereby argue that what matters are the experiences of an individual, rather than the possession of a capacity deemed valuable in its own right. It is the *primary basis of individuality*, rather than any *particular extension* of it, that is relevant. This primary basis is the *capacity to experience*, i.e. consciousness in the phenomenal sense. It not only enables individuality (we come to be an “I” at the moment we experience), but also is the basic value of most ethical theories: to put it bluntly, we tend to prioritise positive experiences. “Personhood” as a term is rarely directly discussed – however, the idea of animal “individuality” often implies personhood. This presents obstacles for the traditional accounts of animal personhood, as the suggestion is that neither species nor perfectionist capacities can be placed as the criterion.

Besides the “classics”, so-called postmodern philosophy has also often followed the same path. Especially language has been emphasized. For Heidegger, animals are “poor” in the world, where as humans (persons) “have” the world⁷. Wittgenstein famously underlined language as a means through which personhood comes into existence, and his quote “if a lion could speak, we could not understand it” is often taken to mean (perhaps wrongly⁸) that animals cannot be included. Later Levinas has argued that a dog, even if portraying all the signs of understanding and even empathy, cannot be a person, for she cannot “look back” at a human on the same level, which again requires the capacity for language.⁹ Similarly Lyotard argued that the animals’ incapacity for language means that they are not persons.¹⁰ Therefore, respect for “otherness”, “difference”, and “inhuman”, which the latter two philosophers have emphasized, is not seen to touch animals. Paradoxically, it is precisely the *difference* of animals that excludes them from the zone of *respect for difference*.

Surprisingly, we find a dualistic picture of the relation between humans and other animals. As Cary Wolfe claims, even for those that argue for a disruption of “identity” and “humanism”, an essentialist approach to animals remains the chosen option: “For Lyotard, we may not be us, but at least we retain the certainty that the animal remains

⁵ Philosophers include Peter Singer, Tom Regan, Dale Jamieson, Steve Sapontzis, Mary Midgley, Bernard Rollin, Evelyn Pluhar, David DeGrazia, and many more.

⁶ Bernstein, Mark H.: *On Moral Considerability: An Essay on Who Morally Matters* (Oxford: Oxford University Press 1998).

⁷ Heidegger thought that humans are separated from animals by an “abyss of essence” – for discussion, see “Introduction” in Matthew Calarco & Peter Atterton (2004) *Animal Philosophy: Ethics and Identity*. London: Continuum. Still, it has to be pointed out that Heidegger also tried to offer a non-anthropocentric understanding of reality, see Calarco, Matthew: “Heidegger’s Zoontology”, in Calarco & Atterton 2004.

⁸ R. W. Beardsmore ‘If a Lion Could Talk’ in Kjell S. Johannessen, Tore Nordenstam (eds.) *Wittgenstein and the Philosophy of Culture* (Vienna: Verlag Holder-Pichler-Tempsky, 1996).

⁹ A brief discussion, see Levinas, Emmanuel: “The Name of a Dog, or Natural Rights”, in Calardo & Atterton 2004.

¹⁰ See Wolfe, Cary: “In the Shadow of Wittgenstein’s Lion: Language, Ethics, and the Question of the Animal”. Cary Wolfe (toim.) *Zoontologies: The Question of the Animal* (Minneapolis: University of Minnesota Press, 2003).

the animal”¹¹. Wolfe refers to the “essential humanism regarding the ethical and the animal” as including not only a “taken-for-granted muteness of the animal”, but also “the theorization of the ethical community of ‘reasonable beings’ whose standing is grounded in the capacity for language”, finally claiming such a conception to offer “the clearest picture of a humanism that is otherwise sometimes hard to see” in postmodern philosophy¹². As Matthew Calarco and Peter Atterton argue: “...Continental philosophy has had an easier time denouncing what Descartes and Kant said about the human than criticizing what they said about the animal, an observation that naturally leads one to question whether the humanism it rejects is really quite so defunct after all”¹³. Hence, although traditional anthropocentrism is resisted in relation to humans, it is advocated in relation to other animals.

There is also a more positive strand in postmodern writing, which emphasises the value of animal otherness.¹⁴ The argument is that animals have to be accepted as they are, instead of demanding similarity in relation to humans; moreover, we are to cease trying to understand animals through human conceptions. For instance Steve Baker emphasises that: “The notion of letting the animal’s otherness be has links to those postmodern conceptions of the animal that try to avoid forcibly rendering it meaningful in human terms, thus reducing its otherness to sameness, and its wonder to familiarity”¹⁵. Baker points out that Deleuze and Guattari warn us against imitation of the animal, and goes on to argue that the postmodern project finds knowledge concerning the animal not only impossible, but also uninteresting. Hence, two elements are evident: 1) the animal cannot be *known*, and 2) the animal cannot be *similar*. On these terms, Val Plumwood has claimed that much of animal ethics is wrong in emphasizing similarity, for this is actually based on bias assumptions according to which it is really “us” who are the prototypes of moral value.¹⁶ Similar criticism has been offered by Deborah Slicer, who accuses the Singer-Regan approach for the fact that: “animals are represented as beings with the kind of capacity that human beings most fully possess and deem valuable for living a full human life”.¹⁷ Again, Lynda Birke argues that the Singer-Regan approach is “fundamentally anthropocentric”. There is an exclusionist demand for similarity: “The rights/justice position... expands the circle to include non-humans on the basis of sameness, or at least similarity; it thus ignores or downplays difference”¹⁸. Linda Vance also argues

¹¹ Wolfe 2003, p. 19.

¹² Wolfe 2003.

¹³ “Introduction”, in Matthew Calarco & Peter Atterton 2004, p. xv.

¹⁴ There are numerous postmodern philosophers with a more positive approach to animals. See, for instance, Derrida, Jacques: “An Animal That Therefore I Am”, in Atterton & Calarco 2004.

¹⁵ Baker, Steve: *The Postmodern Animal* (London: Reaktion Books, 2000), p. 160.

¹⁶ Plumwood, Val: “Nature, Self and Gender: Feminism, Environmental Philosophy, and the Critique of Rationalism.” *Hypatia* 6:1 (1991).

¹⁷ Slicer, Deborah: “Your Daughter or Your Dog?”. *Hypatia* 6:1 (1991) , p. 111.

¹⁸ Birke, L.: *Feminism, Animals and Science: The Naming of the Shrew* (Open University Press, Philadelphia, 1994) , p. 137.

that the most obvious manner in which humanity is emphasized is the demand for similarity: animals have to be “like” human beings in order to matter morally.¹⁹

However, again the dangers of the traditional dualism are present. It is presumed that the animal is so different from human beings that we cannot comprehend her at all in human terms, thereby making her categorically distinct. Now, it may be argued that such a tendency to avoid the “real” is a part of the postmodern in general²⁰, and hence has no implications specifically for animals. However, things are made worse by the fact that animals are also claimed to be uninteresting, and to be only of interest as a “disruptive” element in our conceptions concerning humanity (the animal reveals assumptions concerning human subjectivity). The animal plays a *structural* role instead of being important as *content*, very much like she has played a structural role in defining the “human” – that is, the animal is used as a vehicle to analyse humanity, and thereby gains only *indirect* value.²¹ Moreover, *similarity* is not *sameness*. Pointing out similar qualities between two beings is not to demand that one be the same as the other – a *shared* quality is not an *owned* quality,²² and it is neither anthropocentric, nor sheepcentric. Much animal ethics argues that humans share similarities with other animals instead of owning them. Paradoxically, the criticism here presumes that there is such an ownership: we cannot point to the capacities, for they are inherently human: mental capacities are categorically human only. Obviously, differences have to be respected, but similarities cannot be rejected.

What is needed, then, is an approach to animal personhood that does not overemphasise animal difference. Animal ethics points toward experientialism, but the claim often remains unclear: exactly what renders a being a “person”? “Personhood” includes more than “individuality”, for it carries a heavy moral implication. Persons are not only “individuals” in the sense of being unique, but are individuals with *individual value* – as Kant put it, they are beings that have to be treated “as ends in themselves”. It is most likely because of this that personhood has become the dividing concept between humans and other animals: the special value of human beings is guarded with a conceptual framework. Moreover, there is a need to give a differing moral *essence* to humanity. For instance, Lynda Birke claims that human beings are not a mere biological species, but something more akin to a *quality*, described in the term “person”: “‘human being’ may mean something to do with persons, it may have an existential tone (as in human being), or it may be used in the ‘biological’ sense to represent what is specific to our species. ‘Humanity’, moreover,

¹⁹ Vance, Linda: *Beyond Just-So Stories: Narrative, Animals, and Ethics*, in Carol Adams & Josephine Donovan (eds.) *Animals and Women: Feminist Theoretical Explorations* (Duke University Press, 1995).

²⁰ Following for instance Lyotard’s emphasis on “producing not the known, but the unknown” and his search for the disruptive element of the “inhumane” in our narratives and identities. See Wolfe 2003.

²¹ Baker talks of postmodern projects inside which the divide between the animal and the human may be blurred through the act of “becoming” an animal, or “flight” between humans and animals. However, this implies categories: we do not need a “flight” between animals and humans, if we do not have some distinct categories between which to fly. Even when the identity of a “true” animal is left open, the structure of the human – animal – dichotomy is where all investigations seem to begin.

²² See Aaltola, Elisa: “Other Animal Ethics and the Demand for Difference” *Environmental Values* 11:2 (2002).

means more than just a species; it also represents a quality”²³. Therefore, descriptive statements intertwine with normative claims, forming a “*moral ontological*” definition.²⁴ This means two things: 1) personhood denotes a moral difference, and 2) humans do not simply *have* different value, but *are of* different value: their essence puts them into a different moral category.

Therefore, “*human dignity*” is often seen as something that is “offended” by talking of animal personhood (many have seen it as offensive that there have been comparisons between racism and speciesism, or holocaust and “animal holocaust”). Even more commonly the *practical consequences* of admitting animal personhood are seen as dire (therefore, a researcher working on animals concludes of the campaigns for animal personhood that: “We need to ensure that these efforts get stopped in their tracks early or otherwise there will soon be no research with animals”)²⁵. Hence, three factors affect the morals behind many arguments concerning animal personhood: 1) understanding of “humanity”, 2) understanding of “human value”, and 3) practical use-value of animals. Particularly the latter factor is becoming increasingly important. As there have been legal efforts to introduce the idea of “animal personhood”,²⁶ especially those that use animals in science have struck back in the hope of lobbying against any legal challenges²⁷. Hence, animal personhood poses a threat: “Many people fear that elevating animal beings to persons would mean that the notion of personhood is tarnished, that it means less for humans”²⁸.

The claim often is that 1) animals cannot be persons, for animals cannot have individual value, and 2) since only humans are persons, only humans have individual value. Hence, the argument is often not only *preclusive* (animals cannot be persons, as “humanity” is made synonymous with “personhood”), but also *circular*. This tends to

²³ Birke 1994, p. 106.

²⁴ See also DeGrazia, David: *Taking Animals Seriously: Mental Life and Moral Status* (Cambridge: Cambridge University Press, 1996); and Sapontzis 1987, pp. 47-70. Sapontzis argues that often the concept is a vague “bundle”, as metaphysical (descriptive) and moral elements become intertwined. According to him, it is the incapacity to separate the two that leads to the assumption that only humans can be persons.

²⁵ “‘Personhood’ Redefined: Animal Rights Strategy Gets at the Essence of Being Human”, *The AAMC Reporter*, October 2003 (The Association of American Medical Colleges). See also the religious point of view in Nigel Cameron & David Short: *On Being Human* (Christian Medical Fellowship, 1991). According to the authors, the concept of animal personhood has to be resisted because it has 1) “upgraded the animals and downgraded mankind”, and 2) threatened medical research.

²⁶ See, for instance, Wise, Steve: *Rattling the Cage: Toward Legal Rights for Animals* (Perseus Books, 2001); and P. Cavalieri and P. Singer (eds): *The Great Ape Project* (New York: St. Martin's Press, 1994). Much of this discussion centres on the issue of animals as “property”, see Francione, Gary: *Rain without Thunder: The Ideology of the Animal Rights Movement* (Philadelphia: Temple University Press, 1996).

²⁷ See Steve Michael: “Animal Personhood – a Threat to Science?”, in *The Physiologist* 47:6 (2004). Often the debate gets rather heated. For instance Adrian Morrison, has argued that : “Granting “personhood” to animal species deemed to share qualities with us, such as cognition, autonomy and self-awareness, is not a benign campaign to protect animals. It is an effort to use the legal system as a tool to enforce a flawed ethic concerning the relationship between humanity and the animal world” (“Animals are Wonderful, But they are not Little People”, on the website of *Americans for Medical Progress*, see <http://www.amprogress.org/Issues/Issues.cfm?ID=395&c=13>, consulted 15/04/05).

²⁸ Bekoff, Marc: “Animal Emotions: Exploring Passionate Natures”. *BioScience* 50:10, 861-870, p. 15 (2000).

lead to frustration, and is perhaps the reason why many “pro-animal” ethicists are willing to dump the term altogether. Nathan Nobis argues that: “I think the question about whether any animals are persons is a harmful distraction for animal advocacy... I think very little, if any animal advocacy, should be done in terms of whether animals are persons or not”²⁹. Similarly, Steve Sapontzis claims that “personhood” is a morally “restrictive” and differentiating concept³⁰ that does not offer a fruitful ground for ethics. David DeGrazia also argues that personhood is a vague concept that should only be used in relation to beings that are “obviously” persons, and even then only rhetorically: it has no room in animal ethics.³¹ However, as Paola Cavalieri states, it is precisely the “obvious” nature of personhood in many contexts (also intra-human) that forces us to re-evaluate its use in relation to other animals: the common usage of the term has to be contested.³² Moreover, the fact that “personhood” today is used in a restrictive manner does not mean that we should not broaden it to include other animals, thereby making it “unrestrictive”.

There is a further important reason for advocating the term “personhood” in animal ethics. The “use-argument” against animal personhood rests on the idea of *contextual* value. Animals are given various types of value depending on the context of their use, whether it be *instrumental* (pigs as the source of meat), *partial* (wolves as part of species), *limited* (it is only pain that is to be taken into account), or *cultural* (different cultures can justifiably apply different values to animals). Ultimately, all these types refer to the common “meta-value”: that of contextuality. Not only can the value of animals depend on the context of use, but it is also *secondary* in relation to the context, and human motives. Often it is precisely the lack of personhood that enables this: in quite a circular sense, the personhood of animals is denied on the basis of lack of objective value, and objective value is denied on the basis of lack of personhood. That is, animal value is contextual because animals are not persons. At the same time, material objects such as stones and atoms remain objective. Objectivity, and existing as oneself, are based upon either *full personhood*, or *full materialism*, and it is the beings that fall in between that remain lacking of these qualities. This reveals the presumed nature of animals: they are “in between” people and material things – animality is formed of “in betweenness”, and hence lacks a permanent and independent quality. Animals can be made into whatever we want, ranging from cultural definitions into practical animal use – *animals are relative*. Ultimately, personhood is the criterion for any notion of “objectivity” or “universalism” in ethics – without it the being may be secondary, relative, or purely material. That is, in moral terms, *personhood equals existence*.

²⁹ See http://courses.ats.rochester.edu/nobis/animals/DeGrazia_comments.htm#_ftn1. (Consulted 15/04/05). Also Midgley argues that “We need new thinking, new concepts and new words... about our whole relation to the non-human world”. Midgley 2003, p. 170.

³⁰ Sapontzis 1987, pp. 47-70.

³¹ See, for instance, DeGrazia 1996, p. 265.

³² Cavalieri, Paola: *The Animal Question: Why Nonhuman Animals Deserve Human Rights* (Oxford: Oxford University Press, 2001), p. 122.

Defining animals

As Eileen Crist has argued, characterisations of animals are mediated by conceptual frameworks.³³ The concept of personhood is especially relevant: by automatically excluding animals from its sphere, the concept has led to the self-evident impossibility of individual animal value. This is a point that cannot be emphasised too much – as Joan Dunayer claims: “Deceptive language perpetuates speciesism”³⁴. Many with a traditional scientific viewpoint, such as J. S. Kennedy and (in the philosophical front) Peter Carruthers, view attributing minds to animals as anthropomorphism³⁵, and cognitive ethology as “new anthropomorphism”. However, as Dale Jamieson has argued, the crucial question concerns the attitudes of these critics, rather than animals. It has to be asked what type of a framework leads to the denial of animal minds.³⁶

In relation to animal minds, Crist uses the division by Peter Winch into *internal* and *external* descriptions of phenomena. The former explains behaviour through experiences of the animal, and concentrates on “ordinary language”, where as the latter favours “technical language”, inside which animal minds are objectively defined through scientific interpretations.³⁷ The method that is used dictates the outcome of research. For the external approach, the only matter that cannot be objective is the individuality of animals – individuality is conceptually excluded from the start. External understandings have been emphasized in much research into animal minds. Birke points out how both the North-American behaviorism and the European wild-life studies rested heavily on the idea of animals as mechanical beings (either through emphasizing conditioning, or instincts). Later, ethology has tended to underline “functionality” of given animal characteristics.³⁸ Different methods of knowledge-production tend to blur the idea of animals as individuals. Birke lists *reductionism* (for instance into biology) and *statistics* (for instance, into “norms” of the species) as such methods.³⁹ The claim is justified, as animals are often either defined through the *micro-level* (for example, genes), or through the *macro-level* (for example, species). Animals are bodies and species, leaving the subjective outside of definition: “the rat

³³ Crist, Eileen, *Images of Animals: Anthropocentrism and Animal Mind* (Philadelphia: Temple University Press, 1999).

³⁴ Dunayer, Joan: *Animal Equality: Language and Liberation* (Ryce Publication 2001), p. 1.

³⁵ Kennedy J.S.: *The New Anthropomorphism* (Cambridge: Cambridge University Press, 1992); Carruthers, Peter: *The Animals Issue* (Cambridge: CUP, 1992).

³⁶ Jamieson, Dale: “Science, Knowledge, and Animal Minds”, in *Morality's Progress: Essays on Humans, Other Animals, and the Rest of Nature* (Oxford University Press 2002).

³⁷ The strength of the external readings is exemplified in the manner in which even Wolfe argues that capacities such as “intention” and “consciousness” are “blind alleys” or vulnerable to “anthropomorphism”. Moreover, their existence is difficult to measure because of their radically quantitative nature. Ironically, Wolfe herself seems to be assuming just the type of humanism and essentialism that she sought to criticise. She assumes capacities that refer to the subjective to be anthropomorphic. Externalism becomes evident, when considering the manner in which Wolfe is searching for scientific knowledge of something more “clear-cut” than consciousness or intentionality: she does not want murky or vague capacities difficult to measure, but something that is more categorical.

³⁸ Birke, Lynda: *Feminism, Animals and Science: The Naming of the Shrew* (Open University Press 1994), p. 87-88.

³⁹ Birke 1994, p. 89.

body is one that stands for the species of rat”⁴⁰. Crist talks of “mechanomorphism” as opposed to “anthropomorphism”, and argues that the external descriptions lead into falsely identifying animals as mechanisms without inner experiences.⁴¹ Jamieson uses the term “philosophical monster” to refer to the idea of a “behaving body”,⁴² and Birke talks of “beast-machines”. Ultimately, other animals come to be defined as “acting biology”, thereby conceptually rejecting the idea of experiences and individuality. Experiences and individuality are not part of the definition of an animal, and as such they are something that need to be proven externally, rather than something that merely “is”.

Especially in the past, the approach to animal minds has tended to be anthropocentric. Animals have been expected to demonstrate capacities in a similar manner to humans without paying attention to matters such as species-specific traits.⁴³ Cognitive capacities have been defined through the human point of view, placing the human version of the capacities as the “prototype” for *any* capacities. Animals have also been studied in confined environments, and have been expected to have similar brain physiologies in comparison to humans⁴⁴. They have been expected to manifest given capacities to the full in each circumstance, thereby leaving no doubt as to whether or not they can really, say, reason – a criterion that would apply to few of us⁴⁵. As Daisie Radner and Michael Radner argue, animals have been expected to be “little scientists”, where as human beings are given “allowances” in their capacities: “When people fail to live up to this idea, we say they are all too human. When animals fail, they are said to be machine-like”⁴⁶. Moreover, for instance Colin Allen has pointed out that the view of the human “prototype” is mistaken, and has severely criticised anthropocentrism.⁴⁷ As Birke claims: “It is not just that humans are different from ‘other animals’; ‘every [kind of] animal is the smartest’ if you know how to ask questions of its intelligence that are appropriate to its way of life rather than questions dictated by beliefs in an underlying animal stupidity”...⁴⁸ “Other animals are not simply a package of territoriality or other ‘drives’, but complex, decision-making creatures engaging with their environment”.⁴⁹

⁴⁰ Birke 1994, p. 128.

⁴¹ Frans deWaal talks of “anthropodenial”. See discussion in Bekoff 2000, p. 48.

⁴² Jamieson 2002, 57.

⁴³ The crudest and most comical example being the expectation that primates ought to talk, and the most common example being the presupposition that animals have to have English-structured, analytical and propositional language in order to have any capacities. At the most extreme end, animals have been expected to fit human abilities to the extent that they have been brought up in families, and expected to behave like children (an example of this are the primates that were kept in research families, and some of which met gruesome fates in the end). Haraway, Donna: *Primate Visions: Gender, Race and Nature in the World of Modern Science* (Routledge, 1989).

⁴⁴ See also Bekoff 2000.

⁴⁵ An example of this is the recent discussion concerning the memory and pain capacities of fish.

⁴⁶ Radner, Daisie & Radner, Michael: *Animal Consciousness* (Prometheus Books 1989), p. 180. Birke points out how bias comes out in the manner in which animals are supposed to master language as if it was their “first language”, where as in fact it is only their “second”.

⁴⁷ Allen, Colin: “Animal concepts revisited: the use of self-monitoring as an empirical approach”. *Erkenntnis* 51:1 (1999), 33-40.

⁴⁸ Birke 1994, p. 94. Birke is quoting M. P. Bailey.

⁴⁹ Birke 1994, p. 112.

Birke borrows the idea presented by Barbara Noske, according to which instead of the external conception of animals, we should seek to find “anthropology of animals”. Cognitive ethology⁵⁰ has done such “animal anthropology”, and has illuminated the issue of personhood with new research into the question of mind.⁵¹ Many argue that animals ought to not only be viewed through individuality, but also studied from their individual point of view.⁵² As Marc Bekoff argues: “There are no substitutes for listening to, and having direct experiences with, other animals”⁵³. Approaches, which recognise differences in species constitution (such as sensory capacities), which take into account that the same functions can be maintained with different structures (therefore, brain physiology may differ, as may the structure of matters such as conceptual capacities), and which take into account the viewpoint of the animals (often in their own environments), have shed new light onto the minds of animals.⁵⁴ Capacity to experience, formulate concepts, beliefs, second-order beliefs, intentionality, and even self-consciousness, are just a few examples of animal mental capacities. Many ethologists have argued that the capacities by necessity imply that animals are to be viewed through individual terms, and that many common manners of using animals have to be re-evaluated.⁵⁵ This means that also animal personhood has to be re-thought.

Here the role of the *normative* comes to play. As seen, normative elements are by necessity linked with ideas of personhood, and a fruitful approach is to integrate a certain morality knowingly (rather than inadvertently) into the conceptions concerning personhood. Paying attention to which moral conceptions are the strongest will lead to stronger and more enlightened definitions. The claim is supported by the manner in which morality can *lead into*, rather than merely *affect*, knowledge. Dale Jamieson, somewhat radically, argues that the moral approach to animals should have an impact on how their minds are perceived.⁵⁶ Although we should not simply decide to attribute a mind to an animal on a moral basis, we may see the question of mind in a different light, if we give room for moral consideration. That is, the moral recognition may offer new *insight* into perceiving the animal. To borrow Martha Nussbaum’s argument: *knowledge* turns into *understanding* when affective responses are added⁵⁷, and moral concern may function as such a response. Therefore,

⁵⁰ It has to be acknowledged that there are two types of cognitive ethology: *weak* and *strong*. The former accepts mechanistic understandings, as it uses computer metaphors, and leaves out the affective aspect of cognitive processes. See Bekoff, Marc & Jamieson, Dale: “On Aims and Methods of Cognitive Ethology”, in Jamieson 2002.

⁵¹ See for instance Colin Allen & Marc Bekoff, *Species of Mind: The Philosophy and Biology of Cognitive Ethology* (London: MIT Press, 1997); Marc Bekoff, *Minding Animals: Awareness, Emotions, and Heart* (Oxford: OUP, 2002); Marian Stamp Dawkins, *Through Our Eyes Only? The Search for Animal Consciousness* (Oxford: OUP, 1998); Lesley J Rogers, *Minds of Their Own. Thinking and Awareness in Animals* (Westview Press, 1997); Rosemary Rodd, *Biology, Ethics, and Animals* (Oxford: Clarendon Press, 1990).

⁵² See for instance Bekoff 2002; Rogers 1997, pp. 181-195; Dawkins 1998.

⁵³ Bekoff 2000, p. 869.

⁵⁴ See Allen & Bekoff 1997.

⁵⁵ See for instance *Ethologists for the Ethical Treatment of Animals* (<http://www.ethologicaethics.org/>).

⁵⁶ Jamieson 2002.

⁵⁷ Nussbaum, Martha: *Love’s Knowledge* (New York: Oxford University Press, 1990).

recognition of the possibility of individual value of animals is needed when considering their minds.

Qualitative approaches

The *qualitative approach* to personhood underlines various perfectionist capacities. It gets two different forms, from which the first emphasises plurality of capacities, and the latter concentrates on one specific capacity.

Personhood has often been approached as a *complex condition*, which consists of various specific capacities. Some of this plurality has rubbed on to ethics, as for instance Tom Regan makes a long list of capacities that one would have to have in order to count as a “subject of a life”⁵⁸, and as Joseph Fletcher talks of capacities such as “minimum intelligence, self-awareness, self-control, a sense of time, a sense of futurity, a sense of the past, the capability of relating to others, concern for others, communication, control of existence, curiosity, change and changeability, balance of rationality and feeling, idiosyncrasy, and neocortical functioning, as the basis of personhood”⁵⁹. Similarly, David DeGrazia argues that personhood consists of “certain complex forms of consciousness” such as “self-awareness over time, rationality, and sociability”.⁶⁰ However, the mistake in such criterion often lies in treating personhood as a *condition*, which consists of various “symptoms”. Personhood becomes something that is not definable in itself or something that would have a clear basis and therefore also content, but rather something that is comprised and defined through various “signs”, which in themselves are hard to define. Hence, (comically enough) personhood comes to resemble an illness which has not yet been clearly defined. As DeGrazia has later argued, the down-side is that personhood is a “cluster concept”,⁶¹ which consists of complex capacities, the necessary degrees of which remain unclear – hence, personhood remains imprecise and un-analyzable.

Therefore, personhood does not *exist*, but rather *comes to be through definition*, which consists of a *list of parts*. This atomistic understanding of personhood easily loses sight of personhood as such: just as we cannot define an “art work” through listing various aspects that it ought to be comprised of (metal, paint, colour, what have you) without losing touch in the immediacy of “art”, “personhood” as most of us experience it in interaction with other beings, becomes lost. Another down-side of the “cluster theory” is that animal individuality is a matter of *degree*. Where as humans

⁵⁸ Regan, Tom: *The Case for Animal Rights* (Berkeley: University of California Press, 1983).

⁵⁹ On the latter, see Francione: “Personhood, Property, and Legal Competence”, in *The Great Ape Project*.

⁶⁰ DeGrazia, David: “On the Questions of Personhood Beyond *Homo Sapiens*”. Peter Singer (ed.) *In Defense of Animals*, 2nd Edition (London: Blackwell, 2004). Similar lists have been offered by, for instance, Joel Feinberg (see Pluhar, Evelyn: *Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals*, London: Duke University Press, 1995, p. 3); and on the legal side by Steven Wise, according to whom personhood is based upon having desires, intentionality, and some degree of self-awareness (Wise, Steven 2002. *Drawing the Line: Science and the Case for Animal Rights*, Cambridge, Mass: Perseus Books).

⁶¹ DeGrazia, David: “Great Apes, Dolphins, and the Concept of Personhood”. *Southern Journal of Philosophy*, 35 (1997); see also Cavalieri 2001, p. 119.

are persons *wholly* and through their *essence* – humans are “born into” being persons – animals may *acquire some* characteristics of individuality depending on their qualities. This leads to bizarre questions: if one has 14 out of 15 proposed capacities, is one a “person”, a “half a person”, or “almost a person”? Moreover, how much of various qualities is one supposed to manifest: is *some* self-awareness, consciousness, intentionality, rationality etc. enough, and if so, how much is “some”?

When it comes to a more singular understanding of personhood, matters such as theoretical reason, autonomy, and moral agency have been emphasised. Perhaps the most famous example is Kant, to whom personhood consisted primarily of autonomy, and later Harry Frankfurt has based his argument on “free will”. Today, a new addition is formed by various independent cognitive abilities, such as self-awareness, use of propositional language, and intentionality. For instance Daniel Dennett argues that the capacity to conceptually understand both the intentionality of oneself and another is the primary source of personhood, and furthermore presumes this to exclude other animals.⁶² Another common argument concerns moral agency, and for instance Carl Cohen and Roger Scruton have argued that in the absence of capacity for reciprocity, personhood cannot be applied. Carl Cohen claims that animals cannot have individual value or moral rights since they are not “*self-legislative, morally autonomous*”.⁶³

One problem is that claims of complexity rest on *perfectionist ethics*⁶⁴, which links the moral value of an individual to a capacity held valuable in its own right. For instance, Paola Cavalieri claims that intrinsic value is attributed to the mental capacities *themselves* rather than the individuals who possess them⁶⁵. Personhood is made *indirect* – John is valuable because rationality is valuable. What is lacking is a justification for why should the *value of a capacity* be the criterion for the *value of an individual*. Furthermore, it is unclear why perfectionist capacities would be morally relevant to begin with. It is already difficult to assert that mental capacities have relevance in situations of interest conflict (as James Anderson has claimed, it is questionable whether someone’s intelligence would grant her the right to override the interests of other beings),⁶⁶ and the moral treatment of individuals rests on many other things besides matters such as rationality.⁶⁷ It is especially difficult to assert that perfectionist capacities would be the criterion for personhood in general. Moreover, capacities such as rationality are of value to us (just as three-dimensional

⁶² Other criteria include rationality and the capacity to perceive others as rational, and self-consciousness. Dennett, Daniel: “Conditions of Personhood”, in Amelie Rorty (ed.) *The identities of Persons* (Berkeley: University of California Press, 1976).

⁶³ Cohen, Carl (& Regan, Tom) *The Animal Rights Debate* (New York: Rowman and Littlefield Publishers, 2001) p. 35; see also ‘Do Animals Have Rights?’ *Ethics & Behaviour*, 7:2 (1997); Roger Scruton, *Animal Rights and Wrongs*, (London: Demos, 1996); R.G. Frey, *Interests and Rights: The Case Against Animals* (Oxford: Clarendon Press, 1980).

⁶⁴ See again Bernstein 1998.

⁶⁵ Cavalieri 2001, pp. 24-25.

⁶⁶ Anderson, James C.: “Species Equality and the Foundations of Moral Theory,” *Environmental Values* 2:4 (1993); Bernstein 1998.

⁶⁷ Torture, imprisonment, etc. are not moral evils because of the subject’s rationality, but something more profound. Stephen R.L. Clark, *Animals and Their Moral Standing* (London: Routledge, 1997) pp. 76-77.

co-ordination is to birds), but why would they be of objective value? Perfectionism is often *anthropocentric*, for it is capacities centred on human beings that are seen to lead to objective value and personhood.⁶⁸ This means that *circularity* is often present: 1) humans differ from other animals in a morally relevant manner, 2) the morally relevant aspects can only be found from human-only capacities, 3) humans differ from other animals in a morally relevant manner. Furthermore, as the capacities are often *quantitative*, we would have to have an elitist scale for personhood, depending upon the level of rationality, autonomy, etc.⁶⁹ Moreover, an *abstraction* has been placed as the criterion. No one being is “rational” in all aspects of their life – in fact, every human being fails constantly on this task. Paradoxically, the very thing that we cannot achieve is placed as the criterion for our value.

Furthermore, in relation to moral agency, there is a distinction between “how” and “what”⁷⁰ – we do not have to *be moral* in order to *have moral value*⁷¹. Moral *content* has to be differentiated from its *origin*, if no justification for their connection is offered⁷². An unjustified equation between origin and content of a value is a logical fallacy, and can even be claimed to belong to the group of “genetic fallacies”.⁷³ Also, if read consistently, emphasis on moral agency (and other perfectionist qualities) would leave not only animals, but also many human beings outside personhood.⁷⁴ As the critic of animal personhood, Roger Scruton, writes: “There are great benefits attached to the status of a moral being, and also great burdens. Unless we are in a position to impose the burdens, the benefits make no sense”.⁷⁵ Since unfortunate humans cannot carry the burdens, their personhood becomes suspect. The only consistent answer is to accept this. For instance, R.G. Frey states that the argument from marginal cases does not imply the *inclusion of animals*, but rather the *exclusion of marginal cases*.⁷⁶ That is, where as the likes of Peter Singer understand the marginal argument to “raise” the value of animals, Frey claims that it actually lowers

⁶⁸ See, for instance, Pluhar 1995; Crist 1999.

⁶⁹ A “threshold” has been suggested, for instance by Donald VanDeVeer, ‘Interspecies Justice and Intrinsic Value’, *Indiana University: The Electronic Journal of Analytic Philosophy* 3 (1995); for criticism, see Mark Rowlands, *Animal Rights. A Philosophical Defense* (London: Macmillan Press Ltd, 1998), p. 26.

⁷⁰ Cavalieri 2001, p. 28.

⁷¹ In the context of rights, Regan talks of the difference between *making* and *having* a claim. Regan 1983, p. 283.

⁷² To give somewhat blunt examples, symphonies are not identical with their composers, and legal norms are not identical with the legislator.

⁷³ Although genetic fallacy refers to equating the truth-value of a proposition with the presenter of the proposition, and hence claims the *truth-value* to be dependent on origin rather than content, it is here claimed that another variant is *equating the content of x with the history of establishing x*. Hence, since only human beings have “invented” moral value, they are the only morally valuable beings.

⁷⁴ For an analysis of the “argument from marginal cases”, see for instance Pluhar 1995; and Daniel Dombrowski, *Babies and Beasts: The Argument from Marginal Cases* (University of Illinois Press, 1997).

⁷⁵ Scruton 1996, p. 32.

⁷⁶ Frey, R. G.: “The Case against Animal Rights”. Tom Regan, Peter Singer (eds.) *Animal Rights and Human Obligations* (New Jersey: Prentice Hall 1989); “Medicine, animal experimentation, and the moral problem of unfortunate humans” *Social Philosophy and Policy* 13:2 (1996).

the value of marginal cases.⁷⁷ The reply is deeply problematic for obvious reasons. Not only is it difficult to maintain exactly what level of given capacities is of importance (how much of a difference in moral agency or rationality leads to a difference in value?), but our intuitions also go against it. Few of us would be willing to consume what Dale Jamieson aptly terms “idiot-burgers”.

Ontological approaches

Erica Fudge points out how in early modern England the idea of personhood was based upon achievement: “Being human is not a given, it is achieved”⁷⁸, through such things as education and language. Today, however, the situation is different, as humanity has come to mean personhood. Humanity is defined as “being a person”, and personhood defined as “being human”, and hence animals are automatically excluded. Michael F. Goodman gives a good example of this in his introduction to an essay collection devoted to personhood. He suggests that, at least now: “Humans are persons and persons are humans”. This has not only semantic, but also obvious moral consequences: “Personhood can best be applied to beings who, as Tooley says, have a serious moral right to life”.⁷⁹ It has become a conceptual necessity that all and only humans are persons, and all other animals are non-persons.

The *ontological approaches* emphasise personhood as a category, to which a being essentially belongs on the basis of some inherent factor. Instead of *capacities*, what matters is the *essence* that you were born into. The possession of perfectionist qualities is secondary to the issue of humanity, and therefore a human will be a person even in the event that (s)he is not intentional, rational, moral, etc. For instance, Carl Cohen claims that: “Morality is an essential feature of human life; all humans are moral creatures, infants and the senile included (...) Rights are universally human, arise in the human realm, apply to humans generally”.⁸⁰ There is a strong ontological assumption involved, as the essence of humans is differentiated categorically from the essence of other animals.⁸¹ Hence, it is absurd to argue for similarity: 1) animals do not share human capacities, 2) even if they do, they cannot be “persons”.

Cohen thinks that the argument from marginal cases is mistaken, because it doesn't comprehend that agency is “not a test to be administered to human beings one by one”, since the “critical distinction is one of kind”,⁸² and a similar argument is offered by Scruton: “Infants and imbeciles belong to the same kind as you or me: the

⁷⁷ Dombrowski 1997.

⁷⁸ Fudge, Erica: *Perceiving Animals : Humans and Beasts in Early Modern English Culture* (Palgrave MacMillan 2000), p. 10.

⁷⁹ Michael F. Goodman (ed.) *What is a Person? Contemporary Issues in Biomedicine, Ethics and Society* (Humana Press, 1988), pp. 6, 8.

⁸⁰ Cohen 2001, p. 37, 53.

⁸¹ This is something that Pluhar (1995) has called the “full personhood view”.

⁸² Cohen 2001, p. 37. This is a turn often taken by the contractualists, see for instance Thomas Scanlon, *What We Owe To Each Other* (Belknap, 1999). Also Robert Nozick emphasizes membership of human species as a morally relevant factor, see ‘About Mammals and People’, *New York Times Book Review*, Nov 27, 1983.

kind whose normal instances are also moral beings”⁸³. What the claim amounts to, then, is an idea of *generic species-specific capacities*. Jon Wetlesen argues that even if not all humans have the active “ability” for moral agency, they all still have the inherent “capability”.⁸⁴ Being human makes us bearers of stereotypical human capacities, even if we do not possess them on the individual level. Still, this answer leaves a lot to be desired for. Most importantly, it sounds somewhat mystical to state that we all possess general capacities of our species even if on the individual level we do not have them. This becomes evident when we look at *other qualities* than moral agency. There are many ‘averages’ that are characteristic of human species, which do not belong to each individual (for instance, the fact that human beings in general master visual capacities does not mean that a blind person could argue to be able to see). We can’t claim that we possess a certain amount of given skills simply because that’s the *average* for human kind in general, and we can’t claim to possess a skill or capacity *to begin with* even if most humans do possess it. Whether the capacities are mental or physical, what matters is the individual level, not generalisations. As Evelyn Pluhar asserts: “Requiring individuals to be treated in accordance with the norm for their species rather than their own individual characteristics is outrageously unfair”.⁸⁵ Cavalieri talks of “the blatant irrationality of the view that individuals should be treated not on the basis of their qualities but on the basis of other beings’ qualities”⁸⁶, and the charge is well-founded. If the human species in general has generic capacities that are valuable, then we are entitled to value the *species* in general; to be valued as an *individual*, however, we need to possess the required capacities as individuals.

There is an interesting change of position at play here. Where as usually it is animals that are understood on the basis of their group characteristics (there is a tendency to “collectivise” other animals through animal stereotypes, species, the term “animals”, etc.) and humans that are defined through individual traits (John is not primarily “black” but an individual), here the claim is contrary (John is primarily human, not an individual, where as Scruffy has to pass the individual test of mental ability). Moreover, where as in relation to humans any group-specific moral notions are usually rejected as immoral, here they are emphasised without further justification. What remains unclear is why is it morally dubious to evaluate humans on the basis of their race, sex, gender, nationality, etc. whilst it is morally justified to evaluate humans on the basis of their species. There is a fundamental contradiction at play: in relation to other animals, humans are defined through *types*, not *individuality*, and in relation to other humans, humans are defined through individuality whilst types are rejected.⁸⁷

⁸³ Scruton 1996.

⁸⁴ Jon Wetlesen, ‘The Moral Status of Beings who are not Persons’, *Environmental Values*, 8:3 (1999).

⁸⁵ Pluhar 1995. p. 137. See also Tom Hoffman, ‘Animals, Mental Defectives, and the Social Contract’, *Between the Species* 9 (1993).

⁸⁶ Cavalieri 2001, p. 74; see also Rachels, James: *Created From Animals: The Moral Implications of Darwinism* (Oxford: Oxford University Press, 1990).
Created From Animals, pp. 186-187.

⁸⁷ On the question of “kinds”, see also Nobis, Nathan: “Carl Cohen’s ‘Kind’ Argument For Animal Rights and Against Human Rights”. *Journal of Applied Philosophy*, 21:1, 43-59.

Potentiality and *lost capacities* are also emphasised as the basis of personhood⁸⁸. This is something that Cohen seems to finally rest on, as he claims that: “Humans live lives that will be, or have been, or remain essentially moral (...) what humans retain when disabled, rats never had”. However, there is the problem of *drawing the line* at the amount of potentiality / “ex-agency” that matters (foetuses, fertilised eggs, or perhaps future generations? The permanently comatose, or even the dead?).⁸⁹ The argument also fails to see the difference between *actuality* and *potentiality / lost capacity*. The famous example is that even though we are all potentially dead, it does not mean that we ought to be treated as such – similarly, the fact that we once were children does not mean that we ought to be treated as such.⁹⁰ It is difficult to assert that our value is actual, if the content of the criterion is only potential or in the past – the *treatment we receive at the present* ought to depend on *our nature at the present*. A further problem is that marginal cases are given *indirect* value. For instance, small children are not valued for what they are at the present, only as what they can become. Moreover, there are human beings that never will be, and never have been moral agents.

Often the differentiation is *defined* rather than *justified* – humans have individual value and are persons, and justification for this essentialist argument is secondary. A very frank version of this view comes from Tony Lynch and David Wells, who claim that: “It is plain *humanity* which counts (or should count)... not any quality or ability usually associated with humanity”.⁹¹ Lynch and Wells recognise that it is indeed difficult to explain why humanity matters, but claim that no such explanation is needed: “Morally speaking, it is humanity that counts (...). Any effort at reduction on this point means abandoning morality itself”.⁹² Obviously, to justify such a refusal to offer explanation, something drastic has to be done. Lynch and Wells opt for claiming that we should forget about theory, and rather concentrate on practice. In practice they think most of us feel human beings have special value, and on the basis of this the question is solved: it really is humanity that matters. It is very difficult to understand why the argument ought to be accepted. Why should practice be prioritised, and theory ignored; does *this* not actually (contrary to their claim) lead to abandoning morality, for it is moral justification and reason that are denied importance? Also,

⁸⁸ Frey 1980, p. 157; Holland, Alan ‘On Behalf of a Moderate Speciesism’, *Journal of Applied Philosophy* 1:2 (1984) 281-91; Holmes Rolston, *Environmental Ethics*, (Philadelphia: Temple University Press, 1998).

⁸⁹ This is a subject most evident in discussions over abortion. Some argue that potentiality comes in degrees (Daniel Callahan, *Abortion: Law, Choice, and Morality* (New York: Macmillan, 1970)); some want to lay down a specific physical criterion, such as brain structure, talking of prior potentiality as “weak” (Baruch Brody, *Abortion and the Sanctity of Human Life: A Philosophical View* (Cambridge, MA: M.I.T. Press, 1975)); some emphasise the moment of conception (John T. Noonan, ‘An Almost Absolute Value in History’, in John T. Noonan (ed.) *The Morality of Abortion: Legal and Historical Perspectives* (Cambridge, MA: Harvard University Press, 1970)). There is also the difficulty of *comparing* the value of potential/ex agents to the actual agents (what, for instance, is the value of a foetus compared to that of the mother?). Pluhar 1995, pp. 146-150; Warren, Mary Ann: *Moral Status: Obligations to Persons and Other Living Things* (Oxford: Clarendon Press, 1997), pp. 205-208.

⁹⁰ On the latter, see Pluhar 1995, p. 147, 156; Lawrence Johnson, *A Morally Deep World: An Essay on Moral Significance and Environmental Ethics* (Cambridge, CUP, 1991), pp. 92-93.

⁹¹ Lynch, Tony & Wells, David: ‘Non-Anthropocentrism? A Killing Objection’, *Environmental Values* 7:1 (1998), p. 156.

⁹² Lynch & Wells 1998, p. 162.

why is reason abandoned precisely at this point – why is it the moral meaning of humanity, and not intra-human issues, that is to be accepted as given? ⁹³ Furthermore, why should we commit the *naturalistic fallacy*, and assume that what we value is what we *should* value? – after all, often our moral beliefs are based upon mistaken facts (concerning, for instance, the mental capacities of animals) and inconsistent claims.⁹⁴

Quantitative approaches

The *quantitative approaches* define personhood through various acts. The act of *narrativisation* has been emphasised in recent years, and personhood is described as the biographical⁹⁵. The definition rests on the tradition of seeing personhood in terms of continuity of identity, and the capacity to reflect on that continuity⁹⁶. Therefore, personhood is not dependent on any static quality or category, but is rather a project that rests on an *activity*, which forms a point of continuation for the being. Another possibility for a quantitative approach is *interaction*. As Mary Midgley has pointed out, “personhood” originally implied “a mask”, which is linked with a role in a play.⁹⁷ This understanding is prominent in virtue ethics, which emphasizes the role one has in relation to others – for instance Alasdair MacIntyre has argued that personhood is derived from the capacity to respond to other beings.⁹⁸ It is also prominent in contractual ethics, which is frequently used for criticism against the pro-animal arguments. This is because of the relevance given to moral agency: it is thought that one can only have a role in relation to others, if one is a moral agent. However, “roles” ought to be understood in a broader sense. As Midgley states, they refer to having a face, i.e. being *someone*. According to Cavalieri, this means that personhood is “a subject of relations”⁹⁹. She argues that these relations can be “self-relations” (self-consciousness being the criterion), or “hetero-relations” (relations to others being the criterion). Although the perfectionist tradition emphasises the former, the latter ought to be given more room: “Such a reading raises the question whether one may not in the end interpret the notion of ‘person’ in terms of the simple possibility of relating to other beings and, consequently, of the mere capacity for consciousness”¹⁰⁰.

For instance, Juan Carlos Gómez accepts the intentionality criterion offered by Daniel Dennett. However, what is relevant is not the capacity to conceptualise oneself or

⁹³ There is a clear danger of *circularity*. The argument sets humans apart from other animals on the premise that humans *have to be* different from other animals in respect to moral value, and this distinction is then used as a reason for excluding animals from the moral sphere.

⁹⁴ Moreover, in not basing “humanity” on any concrete capacities or qualities, Lynch and Wells argue for an “empty essence”, and thereby go against the famous Quinian argument: “No entity without identity”.

⁹⁵ This account has been advocated, for instance, by Martha Nussbaum, and specifically in animal ethics by James Rachels.

⁹⁶ This was relevant, for instance, to Locke.

⁹⁷ Midgley, M. (1985). “Persons and Non-persons”. Peter Singer (toim.) *In Defense of Animals*. Oxford: Basic Blackwell.

⁹⁸ MacIntyre, Alasdair: *Dependent Rational Animals: Why Human Beings Need the Virtues* (Open Court Publishing Company 2001).

⁹⁹ Cavalieri 2001, p. 120.

¹⁰⁰ Cavalieri 2001, p. 121.

another as an intentional agent in the first or third person sense, but rather in the *second person* sense. That is, instead of the capacity for *introspection* and a *theory of mind*, the personhood of others is experienced in direct interaction: I behave intentionally towards another, who behaves intentionally towards me. Personhood is *experienced* rather than *conceptualised*. The immediate recognition of one's own and others' intentionality is adequate, and comes in the form of "feeling the subjectivity of others", "relating to others" in, for instance, "face to face interactions".¹⁰¹ "Others are not understood as persons because we infer from their behaviour that they must have intentions and ideas about other people's intentions, but because we are capable of engaging with them in specific patterns of intersubjective interactions that include emotional and expressive behaviours... Persons are capable of representing others as 'second persons', i.e. as creatures capable of engaging in intersubjective encounters". Therefore, individuality is something that exists through interaction. Instead of capacities that can exist in isolation, "personhood" is built upon a relation to the world, and especially to other individuals: x is a person if she reacts to others, whom she understands to be reacting towards herself. Gómez claims that many animals master the capacity, and hence can be called persons – it does not matter if they cannot comprehend all this themselves, all that matters is that they behave like a person: "Being aware of being a person is a different phenomenon from being a person".¹⁰² Cognitive ethology offers support for animal personhood, as for instance play amongst social animals has been seen as an example of belief-formation concerning other beings¹⁰³, and interaction. Ultimately, the approach rests on the capacity to *experience* that is emphasised in animal ethics: beings that can have affective responses to the outside world and other beings can be called "persons".

In this, empathy plays an important role. Already Hume, for whom the relevant factor in morality was sympathy, argued that animals can be considered as persons.¹⁰⁴ Mary Midgley emphasises "empathy" of "identification" with other animals as one source of their value, and similar arguments have been offered by, for instance, Robert Solomon.¹⁰⁵ Identification rests on the capacity to "see what it is like" from the other beings point of view, and thereby is strengthened by interaction (we know the other being better, if we interact with her). The road goes two ways, as also interaction is strengthened by identification: we can better interact when we understand the other being's point of view. Hence, for Midgley, personhood is based on "emotional fellowship"¹⁰⁶.

However, there are possible difficulties with the emphasis on quantitative personhood. The problem of *simulation* has been invoked, as it seems that narratives of animal

¹⁰¹ According to Gómez, one of the manners of such an encounter is the eye-contact: we give attention to the other being's intention in a mutual act. Interestingly, it is precisely the "look" that Levinas criticised that is seen as the basis of animal personhood.

¹⁰² Gómez, Juan Carlos: "Are Apes Persons? The Case for Primate Intersubjectivity". *Etica and Animalia* (1998).

¹⁰³ See, for instance, Bekoff 2002.

¹⁰⁴ See Jamieson 2002.

¹⁰⁵ Midgley, Mary: *Animals and Why They Matter* (Athens: University of Georgia Press, 1983); Solomon, Robert: "Peter Singer's Expanding Circle: Compassion and the Liberation of Ethics", in Dale Jamieson (ed.) *Singer and His Critics* (Blackwell 1999). The role of "emotions" has been emphasised by many with a feminist approach, such as Brian Luke.

¹⁰⁶ Midgley 2003, p. 169.

lives would remain alien to human beings due to the incapacity to understand their experiences – hence, identification would be impossible.¹⁰⁷ *Anthropomorphism* poses a danger, as we may falsely take “an intentional stance” (to borrow Dennett) towards animals that projects human experiences onto the animal. Moreover, the model that emphasises interaction may be criticised for the fact that also plants, bacteria, and machines may respond correctly to other things/beings, and hence be capable of “interaction”. On a more theoretical level, the quantitative approach threatens to be overtly *contextual* and contingent – are we persons even when, for instance, we are not engaging in interaction with other beings; when there is no such capacity; when the quality of the interaction is poor, etc?

The problem related to simulation can be overcome by various “tools” with which to investigate experiences. Jamieson criticizes what he calls an “asymmetry view”, according to which we have to adopt different methods for understanding the minds of other animals than those used with other human beings. Often the reason for establishing differences is language – we are thought to understand other human minds through language. However, language can be both inadequate and misleading¹⁰⁸ as it can present false explanations of others and oneself. According to Jamieson, we interpret animal minds in a similar manner to understanding human minds, through gaining knowledge concerning their background, way of life, context, etc. In both: “We aim to fit their behaviour into a pattern, linguistic or otherwise, to find the ‘project’ to which it belongs”¹⁰⁹. That is, there are no categorical differences between humans and other animals. Moreover, if the tools suggest that animals indeed do have experiences, anthropomorphism (taken as a “*false* attribution of human-like qualities”) does not pose a threat. Secondly, it is suggested that there are clear differences between the interaction of, say, bacteria, and that of most other animals. These differences have to do with emotive aspects of behaviour – interaction is not only engaged in, but *affective attitudes* are also being formed (hence, interaction may be also irrational and negative, rather than always meaningful from the point of view of some function). Therefore, the capacity to experience distinguishes sheep and pigs from apple trees. Thirdly, it is argued that the contextuality of the approach can be overcome by emphasising the idea of a *viewpoint*: what matters is that the being relates to its surroundings and other beings from the perspective of interaction (x not only actively interacts, but views the world from that perspective even when being in a passive state). Therefore, constant or perfect interaction is not necessary, but rather the capacity to experience the outside world and relate towards it.

What ultimately matters, then, is the capacity to experience, and to relate to others through experiences. A pig feels the world as something, and relates to others around him as similar beings. It is here that we find the source of personhood. Individuality does not exist in solitude, but in relation to others: “I am a person in so far as I and another perceive and treat each other as persons”¹¹⁰. It is because of this that the role of moral concern toward animals should be adopted. Not only do they have

¹⁰⁷ Holton, Richard & Langton, Rae: “Empathy and Animal Ethics”, in Dale Jamieson (ed.) *Singer and His Critics* (Blackwell 1999).

¹⁰⁸ As Wolfe emphasises, even the Wittgensteinian approach argues that language constitutes differences – it is because of the different “language” that humans are not supposed to understand other animals.

¹⁰⁹ Jamieson 2002.

¹¹⁰ Gómez 1998.

personhood, but the capacity to recognize that personhood forms the grounds for *our own personhood*. Something is amiss in our capacities and very nature, if animals are viewed as mechanical objects: we are not individuals before we relate to other animals as individuals, too. Jamieson acknowledges that autism consists partly of the inability to “read the minds of others”¹¹¹. Perhaps not recognising animal experiences, and ultimately animal personhood, consists of “human-autism”, which leads to questioning our own capacity for personhood.¹¹²

However, it can be argued that personhood defined in this manner would not apply to other animals to an equal extent as it applies to other humans. This is because our interaction with other humans is different or greater. Lynch and Wells claim that, just as parents feel more toward their own children, humans feel more toward other humans,¹¹³ and Peter Wenz argues that the greater nature of our interaction with other humans leads to a different moral status¹¹⁴.

Again, difficulties emerge. Empathy does not depend on, say, class, gender or species, but on consciousness in the phenomenal sense – therefore, unlike Wells and Lynch argue, empathy is not restricted to humans, but includes also many other animals. As Midgley has pointed out, empathy does not exclude animals, simply because it is based on the capacity to experience rather than arbitrary similarities.¹¹⁵ Moreover, there is no categorical difference in the type of interaction we can have with other animals, and interaction with other humans. If the difference is understood to be quantitative, the question emerges, why would this matter – I do not have many relations with people from Australia, but this does not make their personhood any less in comparison to people from Finland. Moreover, as Pluhar has argued, we have extensive interaction with other animals, which is usually extremely negative from the animals’ point of view – we rear them in factory conditions, eat them, destroy their habitats, and keep them in cages for our own amusement.¹¹⁶ For Wenz, it is enough to have one-sided relations as it comes to humans, and if these relations are negative to the other party, there is *more*, not less, reason to give them value (he argues this in relation to third world countries). Therefore, we should not only give animals individual value and see them as persons, but actually owe them more than mere recognition: one-sided “interaction” and their personhood requires that drastic changes be made in how animals are perceived and treated.

The case is made more complex, when considering a claim made by Sherri Irvin, according to which mental capacities are partly *contextual*. She claims that the capacities of many animals are deliberately and harshly “stunted” in order to benefit humans.¹¹⁷ Therefore, the “personhood” of animals is directly affected by human

¹¹¹ Jamieson 2002, 64.

¹¹² It has to be acknowledged that moral concern is a part of *human* experiences of personhood. Hence, an animal can be a person even if she does not have moral concern for other persons.

¹¹³ Lynch & Wells 1998.

¹¹⁴ Wenz, Peter. 1988. *Environmental Justice*. Albany: State University of New York Press.

¹¹⁵ Midgley 1983.

¹¹⁶ Pluhar 1995.

¹¹⁷ Irvin, Sherri: “Capacities, Context and the Moral Status of Animals”. *Journal of Applied Philosophy*, 21:1, 2004. This idea is close to that offered by Martha Nussbaum, according to which we have to ensure the flourishing of beings “capabilities” instead of simply fulfilling their contextual preferences.

actions in, for instance, agriculture. What this implies is that the personhood of animals ought to be not only 1) acknowledged, and 2) respected, but also 3) *ensured* – it can be argued that there is a duty to enable the “flourishing” of animal capacities by offering animals contexts in which they can be “persons”.

Conclusion

Animals should be *approached as persons* when considering whether or not they ought to be defined as persons. For instance, Gordon Brittan has argued that we need to approach animals as beings that have a mind: “It is a question of ‘reading’ their behavior, in the same sort of way that we read a text. For just as a text does not stand to its author as effect to cause or conclusion to premise, requiring in either case that some sort of *inference* from the one to the other must be made and justified, so too the behavior of an antelope is an *expression* of its mind. It is all a question of interpretation.”¹¹⁸ Animals ought to be investigated through the point of view of a mind, rather than as beings we only later may grant some limited capacities on the basis of vigorous research. In a similar vein, Jamieson argues that we should not only adopt an “intentional stance” toward animals, but also an “affective stance”, which means seeing them as experiential beings. He criticizes the “inferential view”, according to which “all knowledge claims about animal minds are based on probabilistic inferences to hidden mental states from observations of behavior”¹¹⁹. He argues that such a view inevitably is skeptical about animal minds, for it requires evidence of something that conceptually cannot be fully proven. Jamieson claims that animal minds are not to be – at least not primarily – inferred, but rather simply *acknowledged*. Animal behavior should not be seen as evidence, from which to infer conclusions, but rather it should be seen as *expressing* something. That is, animal minds are not something that we rationally mediate, but something that are understood *directly*, as they are. He goes on to argue that animal minds can be seen as *perceptions*, and borrows Wittgenstein’s idea that when “we see emotion”, we do not “see facial contortions and make inferences from them”.¹²⁰ What is crucial is relating to animals as beings with minds, as we relate to other humans as “people” – inferences may be used, but perceptions are the key. The behavior of the animal answers directly whether she ought to be considered as a person. As Bekoff argues: “Animals are a way of knowing”¹²¹.

The individualistic approach serves as a “fitting” that can be changed, if it does not seem to be consistent with the empirical animal. Therefore, unlike the mechanistic definitions that are often maintained in defiance of empirical support, individual claims are not *fundamentalist*. The animals themselves ultimately show whether the extrapolation of mind is justified: “The text is not a ‘report’ on the author’s mind whose accuracy, in the nature of the case, can never be verified. In the same way,

¹¹⁸ Brittan, Gordon: “The Secrets of Antelope”, *Erkenntnis* 51:1 (1999).

¹¹⁹ Jamieson 2002, p. 57. Although behaviour is an important element of recognizing minds, it does not mean that minds are inferred – rather, minds are already recognized, and behaviour can be offered as a justification for the recognition.

¹²⁰ Jamieson 2002, p. 59. He acknowledges the possibility of false perceptions, but sees them to be often the result of contextual factors (such as prevailing attitudes) rather than necessarily a proof that perceptions simply do not work when discussing the mind.

¹²¹ Bekoff 2002, p. 9.

when we properly interpret some animal's behavior, locating it in a present environment and past history, there is little room for asking, yes, but does this *really* signify a mind? The behavior itself, contextually understood, answers the question."¹²² We try out their perspective to gain knowledge concerning the existence and nature of that perspective.

Ultimately, the paper suggests that all those animals that can experience are persons. This carries clear implications from the point of view of individual value of animals, the political concept of "animal rights", and the manner in which animals are used for different purposes (food, research, etc.). The personhood of animals implies *individual value*, which 1) is based on (an) intrinsic characteristic(s) of the animal, 2) confers direct obligations toward the animal as a whole, and 3) the consequences / obligations of which are experienced by the animal itself. Moreover, the basis of the suggested personhood provides new dimensions to animal ethics, as animal individuality is not described only through a given capacity, but also through various relations (to the animal herself, surroundings, other beings, the context, etc.). Most importantly, animals are not passive entities that are only to be "protected" (as "protectionists", or "welfarists", argue), but active individuals, whose activity needs to be acknowledged, respected, and ensured.

¹²² Brittan 1999, 68-69.