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Wildlife Emotions: Animal Rights as Examined Through A Cognitivist Lens

By K. L. Schultz

Abstract: The aim of this article is to revisit and redefine the scope of a Kantian rights-based theory to include non-human animals. Generally, rights-based theories are predicated on a Kantian deontology that excludes all but rational subjects from possessing of basic rights. Historically, non-human animals—once thought to act on impulse and desire alone—have been excluded from rights-based considerations. However, more recent literature from emotions theorist Martha Nussbaum suggests an alternative picture for non-human animals. Cognitivist theories like Nussbaum's, alongside intensive scientific research, support the notion that non-human animals show signs of intentionality and possess the capacity to emote. If Nussbaum's theory is correct that emotions are indeed intelligent, potentially rational, evaluative judgments, then non-human animals are in fact rational agents. Therefore, non-human animals should be granted limited protections under a deontological moral framework. Ultimately, I shall detail what these limited protections might look like.

I. The Inner Lives of Non-Human Animals

Historically, there has been much debate over the cognitive capacities of non-human animals. Such inquiry often surrounds the following question: do non-human animals, as they experience the world around them, experience an inner life much like that of humans? Today, many researchers have found that non-human animals possess the capacity for innovation. For example, multiple studies suggest the guppy fish is an innovative forager. Furthermore, there seems to be a direct correlation between innovation and continued motivation. It was concluded that guppies that had shown innovative tendencies once were more likely to be innovative again, therefore suggesting a personality trait.¹ Interestingly, female guppies and guppies of smaller sizes tended to be more innovative, as perhaps both groups of guppies had more motivation to do so. For the smaller guppies, competition for the food source might have been a motivating factor, and for female guppies, a larger quantity of foraged food leads to successful reproduction.

The guppy fish is not the only non-human animal to show signs of innovation. Chimpanzees have been known to make their own tools using grass, twigs, and stones.² Dolphins, who are also known for being extremely intelligent, have been known to create and use tools as well.³ The bottlenose dolphin not only recognizes their own reflection in a mirror but, with training, they can also comprehend language and respond to vocal commands. Perhaps the most notable expression of bottlenose dolphins' creativity and intelligence is their innovative tool making. Bottlenose dolphins have been known to tear off sponges to use them as protection for their long snouts—or rostrums—when foraging for food.

Despite the evidence, however, there are those who still question whether these kinds of examples actually reveal that non-human animals have cognitive capacities like us. Followers of Rene Descartes, Immanuel Kant, and B.F. Skinner have held opposing views while nevertheless advancing theories that focus on the notion that non-human animals are not exactly rationally autonomous creatures, and that their behavior has been merely conditioned through prolonged exposure,

¹K.N. Laland and S.M. Reader, "Foraging Innovation in the Guppy," *Animal Behavior* 57, no. 2 (1998): 331-340.

² Christophe Boesch and Hedwige Boesch, "Tool Use and Tool Making in Wild Chimpanzees," *Folia Primatol*, 54 (1990): 86-99.

³Stan A. Kuczaj and Holli C. Eskelinen, "The 'Creative Dolphin' Revisited: What Do Dolphins Do When Asked to Vary Their Behavior," *Animal Behavior and Cognition*, 1, no. 1 (2014): 66-75.

leading them to respond to select stimuli.⁴ These theories paint a picture of the inner-lives of non-human animals as largely un-rational automatons, acting on instinct and conditioning alone. Still, even if non-human animals are for the most part acting on some combination of instinct and behavioral conditioning, what about emotions?

Charles Darwin was the first scientist to systematically study non-human animal emotions. He suggested that non-human animals do, in fact, share similar emotional experiences to humans and that there is perhaps a continuation between human and non-human animal emotions, one that is similar in kind, though different in degree.⁵ Darwin's pioneering work in *The Expression of the Emotions in Man and Animals* was a formal catalyst for rekindling the conversation on the age-old inquiry of the emotional lives of non-human animals.⁶

In more recent years, advancements in neuroimaging technology have made non-invasive research of non-human animals more accessible, and scientists have been able to gain a better understanding of what the inner-lives of non-human animals look like from a strictly objective and scientific standpoint. Field research has also played a huge part in collecting scientific data on non-human animal emotions in the wild. Wildlife biologists have observed not only what they take to be fear, anger, and joy in non-human animals, but also more emotionally complex expressions like empathy. Non-human animals have been found to empathize with members of their own species as well as with those belonging to a different species altogether. In one case, a lost woman, who suffered from poor vision, was rescued and protected by a herd of elephants. She was found with the elephants guarding her as "they had encased her in a sort of cage of branches to protect her from hyenas."⁷ Humpback whales have also been known to express cross-species empathy. In one documented case, a humpback whale swept a seal out of the water and onto its back to save it from being hunted by killer whales. Expressions of empathy suggest a strong disposition for emotionality in non-human animals, as empathy is seemingly more complex than the basic emotions such as fear, anger, and joy.

⁴Marc Bekoff, "Animal Emotions: Exploring Passionate Natures," *BioScience*, 50, no. 10 (Oct. 2000): 861-870.

⁵Charles Darwin, *The Expressions of the Emotions in Man and Animals* (John Murray, 1872).

⁶S Paul Ekman, "Darwin's Contributions to Our Understanding of Emotional Expressions," *Philosophical Transactions of the Royal Society London: Biological Science*, 364, no. 12 (Dec. 2009): 3349-3451.

⁷Simon Worrall, "Yes, Animals Think and Feel: Here's How We Know," *National Geographic*, July 15, 2015,

<https://www.nationalgeographic.com/news/2015/07/150714-animal-dog-thinking-feelings-brain-science/>.

This article attempts to establish an argument for non-human animal rights on a Kantian basis, despite the traditional rejection of such rights. In §II, I will paint a much more colorful picture of the inner-lives of non-human animals. I will point to how the empirical evidence for non-human animal emotions, when applied to Martha Nussbaum's cognitivist theory of emotions, logically entails that non-human animals are rationally autonomous, as they engage in cognitively evaluative judgments to which they act accordingly. In §III, I will provide a defense of cognitivism in light of some challenging objections to the theory. In §IV, I will examine a Kantian rights-based theory, ultimately suggesting that emotional cognitivism supplies the premises needed for a limited extension of basic rights to non-human animals. Lastly, in §V, I will discuss what this would mean for our ethical obligations to select members of the wildlife community, and consider what protections non-human animals should be entitled to.

II. Martha Nussbaum's Cognitivist Account of Emotion

If the empirical evidence explored above does show us that non-human animals emote, what else might this imply? In other words, what does it mean to say that an animal is emoting? Emotions theorist Martha Nussbaum's cognitivist revision of the Ancient Greek Stoic view offers a metaphysical account of emotions. On this account, Nussbaum argues that emotions are cognitively evaluative judgments that include, but do not necessarily require, an affective state in the agent who emotes.⁸ According to Nussbaum, when one is emoting, they are judging the evaluative quality of some object, and what ultimately gives rise to a particular emotional state is not the identity of the object we evaluate, but the way in which we evaluate it.⁹ Lastly, being eudaimonistic in nature, Nussbaum argues that emotions are in direct correspondence with the agent's flourishing.¹⁰ In *Upheavals of Thought*, she expands her cognitivist theory to include non-human animals, stating: "experimentalists give us reason to conclude that animals are emotional, and that their emotions, like ours, are appraisals of the world, as it relates to their well-being."¹¹

Nussbaum points to a few non-human animal case studies to strengthen her inclusion of non-human animal emotionality. One such reference points to the

⁸Martha Nussbaum, "Emotions as Judgments of Value and Importance," in *Thinking about Feeling: Contemporary Philosophers on Emotions*, ed. Robert C. Solomon (Oxford University Press, 2004), 273.

⁹Nussbaum, "Emotions as Judgments of Value and Importance," 275-276.

¹⁰Ibid., p. 277.

¹¹Martha Nussbaum, *Upheavals of Thought: The Intelligence of Emotions* (Cambridge: Cambridge University Press, 2001), 119.

philosopher George Pitcher, who has cultivated a large body of work in regard to the intentionality of human emotions. In *The Dogs Who Came To Stay*, Pitcher examines the colorful lives of his own dogs, Lupa and Remus, and argues that their actions and behavior seem to possess a similar intentionality. Nussbaum notes that the biography “pursues no theoretical agenda, although it displays the same observation capacities that are used to good theoretical ends in the philosophical work.”¹² In his findings, Pitcher suggests that dogs are indeed capable of a type of “unguarded and unqualified” love that even humans often don’t possess, as the conditionality of love is perhaps unique to the human experience.¹³ In his work, Pitcher is able to successfully make the distinction of how the bond with Lupa and Remus looks much different than an attachment that is purely instrumental as a means of survival.

Upon returning home, Pitcher is greeted with warm affection, and, when there is physical distance between himself and his canine companions, Lupa and Remus explicitly show signs of psychological distress. Beyond an outward expression of their own interests, they remarkably seem to have an investment in Pitcher’s wellbeing, as they actively try to comfort him when he is feeling low. This extension of compassion seems to exhibit intentionality and demands us to recognize their pursuits and evaluative judgments as intelligent and indeed other-regarding. The psychological work of other-regarding expresses intelligent intentionality, thought, deliberation, and care for another’s well-being, and stands on its own without room for human projection. If certain non-human animals have the mental capacity to extend beyond their own experience and possess the ability to make intelligent, evaluative judgments in terms of the well-being of others, then it is reasonable to assume that they have the capacity to make evaluative judgments regarding themselves. If Nussbaum’s cognitivist theory of emotion is correct, we must acknowledge that since members of the wildlife community have the capacity to actively make intelligent evaluative judgments towards both themselves and others, then they are capable of emoting in these ways.

III. Defending the Cognitivist View

The general public’s take on emotional experiences is typically intuitive in nature and looks very different than Nussbaum’s cognitivist theory. When people are asked to describe what an emotion *is*, their responses typically follow suit with the popular belief that emotions manifest themselves as *feelings*. It is also commonly entertained that emotions are whimsical in nature, even unpredictable

¹²Nussbaum, *Upheavals of Thought*, 120.

¹³Ibid., p. 123.

at times, as they seem to arrive out of thin air, appearing and disappearing effortlessly. Essentially, it is widely accepted that emotions, perhaps, are something we have little control over, expressing themselves through bodily sensations. Given the large body of diverse theories and the philosophical literature regarding emotions, it would be unrealistic to address them all. Nevertheless, in defense of the cognitivist theory, I will address some popular criticisms.

In the case of Lupa and Remus, one might raise the concern that perhaps Pitcher is anthropomorphizing the experience of his beloved dogs. In fact, Nussbaum herself cautions that we must refer to detailed histories of interaction and observation of the animal under study to ensure that our conclusions don't fall victim to the "twin pitfalls of reductionism and anthropocentrism."¹⁴ The absence of any self-reporting evidence with regards to non-human animal emotions does present a significant limitation and challenge.¹⁵ Nevertheless, as Nussbaum herself retorts, "there's always room for skepticism about these attributions of intelligence and emotion to animals. But at this point, it is useful to remind ourselves that our attribution of emotion to other human beings itself involves projection that goes beyond the evidence."¹⁶ Nussbaum seems to concede that the intuitive charge of anthropomorphism may be one that cannot be satisfactorily overcome at this time but we must also recognize that the very idea behind this objection applies to interpersonal claims of emotionality as well. Therefore, one cannot reject emotional cognitivism as mere projection without saying the same of interpersonal attributions of emotionality in humans. If we can take it for granted that other people really have emotional experiences, then the objection loses its force.

One might also object that a non-human animal, such as a dog, cannot be engaging in evaluative judgments, such as "fear," or what might be linguistically conveyed as the evaluative judgment, "I am in danger." This is because so many dogs exhibit what looks like fearful behavior in circumstances where they are clearly not in any actual danger. Imagine a dog that continues to bark with "fear" long after a stranger has innocuously walked across their yard. The dog begins frantically running around the house, searching every room and looking out every

¹⁴Ibid., 120. The potential oversimplification in non-human animal research, studying specific parts to create a larger narrative as well as human tendency to project our own values and emotions onto the experience of non-human animals, are two common challenges that scientists have to take into consideration when performing field studies.

¹⁵Acknowledging the communication barriers between non-human animals and humans that exist, wildlife biologists often have to rely on rigorous long-term observational field research to study the emotional life of non-human animals to supplement the absence of testimony.

¹⁶Ibid., p. 124.

window. Given the absence of any real threat, are we not just projecting our own evaluative judgments concerning danger onto a dog whose behavior looks similar to our own fearful behavior? If so, then what's really happening is nothing more than a prolonged affective state that is either instinctual or conditioned.

Nevertheless, this objection does not sufficiently preclude the possibility that the dog is, in fact, making such a cognitively evaluative judgment, albeit in its own comparatively ignorant way. We might consider how the dog keeps checking every room while tracing the perimeter of the house so as to convince itself that there really is no threat still looming in the area. Perhaps it just takes the dog longer to reach the evaluative conclusion that their territory is safe, ultimately allaying its fear. Thus, the objection is a non-starter. In fact, it bears its own anthropomorphic tendencies by projecting onto the dog an undue level of competence that should not be expected of them simply because we would expect it of ourselves.

Another significant challenge for the cognitivist account is the idea of recalcitrant emotions. Philosophers Justin D'Arms and Daniel Jacobson state that an emotion is recalcitrant when it "exists despite the agent's making a judgment that is in tension with it."¹⁷ In cases of recalcitrance, the individual emoting continues to do so despite an expressed belief to the contrary. A commonly cited example concerns cases where individuals show a recalcitrant fear of flying while being able to express the belief that flying is not, in fact, dangerous. So how could they logically be holding an evaluative belief that flying is dangerous and yet not dangerous at the same time? It must be that fear is not actually a cognitively evaluative judgment but some other tendency altogether.

Nevertheless, we can make sense of recalcitrant emotions on a cognitivist account. Recalcitrant emotion objections like this happen to consider circumstances that take into account statistical averages. However, the recalcitrant objection fails to acknowledge the distinction between the statistically normative assessments of danger and agent-relative assessments of dangers, which include a separate variety of factors in its overall assessment. So, for example, the prospect of dying in a car crash while commuting to work in Nevada might have a statistical average of about 1/10,000, which, barring all other considerations, seems extremely low to moderately low in terms of statistically normative assessments of danger. Nevertheless, take a situation where the statistical average is the same—say a 10,000-piece box of candies where you happen to know that one of the pieces of candies contains a lethal dose of cyanide. The prospect of just trying a piece of candy might suddenly induce the evaluative judgments of fear, in

¹⁷Justin D'Arms and Daniel Jacobson, "The Significance of Recalcitrant Emotion," *Real Institute of Philosophy Supplement*, 52 (2003): 124.

the agent-relative sense of the term, given one's own psychological profile, personal experiences, skills, prospects, and alternative interests that might factor into the equation. These factors can also explain why the opposite can hold in cases where the statistically normative assessments report that a certain activity is highly dangerous (e.g., high rise tight-rope walking over a certain distance), and yet, for some individuals with certain psychological profiles, personal experiences, skills, prospects, and alternative interests, the agent-relative evaluative judgment ultimately expresses itself with equanimity.

D'Arms and Jacobson present a case where an individual is afraid to fly despite being aware of the statistical data that flying is safer than traveling by automobile. Nevertheless, this recalcitrant fear of flying might be stemming from an agent-relative sense of the term that factors the agent's own psychological profile (perhaps a history of low self-confidence), personal experiences (perhaps they have a history of watching hours of terrifying plane crash footage), prospects (perhaps they lust for their own life more than the average person), and alternative interests (they enjoy driving). Therefore, an individual who knows what the statistics say about the dangers of flying might agree that flying is not dangerous in the statistically normative sense of the term, and yet still evaluate the prospect of flying as too dangerous for *them* in the agent-relative sense of the term. Granted, the judgment may seem odd, but it can't be considered the same as a simultaneous belief in *p* and *not-p*.

At the very least, this distinction requires more to be said of the agent's own thinking and personal experiences in order to explain their own agent-relative assessments in contrast to the statistically normative assessments. Lastly, these agent-relative conditions might also account for the effectiveness of exposure therapy, as the agent is able to temper their fear with more positive evaluative judgments that come along with enhancing their own sense of personal experience and self-confidence regarding the object in question, giving the individual a greater sense of control over the situation. Practicing tight-rope walking for years is, in one sense, a form of exposure therapy that can allow a person to make the kinds of agent-relative evaluative judgments that go beyond what they know is rationally considered to be safe in the statistically normative sense.

One might object to this response by considering an alternative case where the emotion of pride is expressed and where the agent has no good reason to believe that they have done anything worthy of merit. But in the face of judgment, people do not always give an honest self-report. Therefore, in cases of "pride," it is important to distinguish whether the expression is being deceptively performed or if it is, in fact, a genuine emotion, i.e., a cognitively evaluative judgment of one's personal achievements. Consider cases of success regarding individuals

who were born into “old money.” Are these individuals feeling prideful for their entrepreneurial accomplishments even though they seem fully competent enough to recognize that the stage had already been set for them at birth? It seems far more likely in this scenario that they are feigning pride to signal to others that they are socially deserving of their wealth. Furthermore, even in cases where the pride is sincere, it is not unlikely that someone who spends enough time telling themselves that their success has been self-made might come to suppress any fact to the contrary, thus leading to actual pride over time through temporally induced self-deception.

IV. Animal Rights on A Kantian Account

As an advocate of duty-based, or deontological, ethics, Immanuel Kant’s moral philosophy was concerned with the moral status of actions in-and-of-themselves, rather than their outcomes or consequences. Kant believed that morally right actions were to be distinguished from preferred actions and, therefore, the theory is attractive in the sense that it does not fall victim to arbitrary subjectivity. For Kant, morality is derived from what he took to be the uniquely human capacity for both autonomy and reason. From this, Kant concluded that moral principles of action are those that can be universalized without incurring a practical contradiction concerning rationally autonomous agents. In *Groundwork of the Metaphysics of Morals*, Kant presents the categorical imperative. There are three distinct formulations of this supreme principle that Kant offers, all of which he claims are logically the same. The principle worth noting for the purposes of this argument is Kant’s Formula of Humanity, which is his second formulation. This principle commands us to treat¹⁸ all rationally autonomous agents as an end-in-itself and never as a mere means.

Kant’s moral philosophy has been foundational for grounding some theories of basic human rights. This is because Kant’s Formula of Humanity provides an understanding of the moral right by which basic human rights—such as the right to life—can be grounded. However, given that Kant’s theory begins from first principles concerning autonomy and reason, it has often been assumed that non-human animals are not to be protected by right, as their instinctual and conditioned existence lacks the necessary rational autonomy to include them in the moral community. Kant himself once stated the following:

¹⁸Immanuel Kant, *Groundwork of the Metaphysics of Morals*, ed. Lara Denis, trans. Mary Gregor (Cambridge: Cambridge University Press, 2017).

The fact that the human being can have the representation “I” raises him infinitely above all the other beings on earth. By this he is a person...that is, a being altogether different in rank and dignity from things, such as irrational animals, with which one may deal and dispose at one’s discretion.¹⁹

Presently, our duties with regards to non-human animals reflect this traditional line of thinking, as any protections granted to non-human animals are indirect in nature. Non-human animals are still considered human property. For example, if someone poisoned another’s outdoor cat, it would be a violation of the owner’s property rights, not a violation of the cat’s rights. These same notions of property can be problematic in regard to non-domesticated animals as well. Wildlife living within the bounds of certain geographical coordinates are viewed as the “property” of a wildlife preserve, national park, or at times, even property of the state itself.

Nevertheless, as previously shown, there is empirical evidence that non-human animals emote. If this is so, and we apply this to Nussbaum’s cognitivist theory of emotions, then we can grant that non-human animals engage in cognitively evaluative judgments, which means that they have the capacity for autonomous reason.²⁰ For example, if an animal held against its will began to express fear, as well as the relevant corresponding behavior, then it cognitively possesses a judgment that might be linguistically interpreted as “my life is in danger” (i.e., fear), as well as the corresponding will to act accordingly. In other words, it is engaging with autonomous reason. Therefore, the rational nature of fear suggests that non-human animals hold a rationally vested interest in their safety, and thus imposing on this would violate the principle of treating such agents always as an end-in-themselves and never as a mere means.

Nussbaum’s defense of a non-human animal’s ability to emote suggests that non-human animals can make evaluative judgments as rational agents, allowing us to view cases of non-human animal fear for what it is: a cognitively evaluative judgment concerning some imposing threat, which can include, but is not limited to, the integrity of one’s own bodily autonomy. Therefore, given that non-human animals have rationally vested interests, as expressed in certain cases of fear on the cognitivist account, we can conclude on a deontological framework that non-human animals require limited-protections in the form of rights, as non-human animals possess all the qualifications necessary for consideration.

¹⁹See Kant, *Lectures on Anthropology*, 7, 127.

²⁰It’s worth noting here that unlike Tom Regan, whose deontological approach dispenses with the criterion of rationality, this argument aims to preserve this criterion. For more on Regan’s approach, see, Tom Regan, *The Case for Animal Rights* (University of California Press, 2004).

V. Moving Forward: What Does This Rights-based Inclusion Mean for Both Non-Human And Human Animals?

Inspired by a cognitivist account of emotion, it is not just human life, but emotionally cognitive life that entails the capacity for reason. This is because some non-human animals have the capacity for emotional behavior, leading to the rational effectuation of their will in accordance with evaluative judgments. Upon this recognition, we ought to change the way we currently view some non-human animals by acknowledging and respecting their moral agency as rationally self-determined ends-in-themselves. This will mean granting them the same moral grounds necessary for a limited scope of basic rights.

As rational agents that hold interests in their own bodily autonomy, it is only logically necessary that we extend the same moral basis for human rights in this regard to the arbitrary use and/or disposal of non-human persons. This revision of the moral status of non-human animals might suggest a legal abolishment of the use of animals for agricultural pursuits, ultimately making the institution of factory farming obsolete. Similarly, laboratory testing on non-human animals might also be banned, as using non-human animals as research subjects against their own will violates their rational autonomy. Lastly, trophy hunting would likely be prohibited as well, along with any hunting for purposes other than one's own impending survival.

These legal provisions would require a significant reconfiguration of our current agricultural, research, and recreational practices. Such changes would require immense federal effort as well as support in the public sphere both legislatively and monetarily to get things off the ground; this challenging reality does not go unnoticed. Nevertheless, a shift in our perspective towards viewing all emotionality as rational may provide us with the motivation to respect the dignity of non-human animal life.

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