BETWEEN THE SPECIES

Beyond Suffering:
 Commentary on
 “What (If Anything) Do
 We Owe Wild Animals”
 by Clare Palmer

ABSTRACT

This commentary acknowledges the fine contribution Palmer makes to distinguishing between the contextualist and consequentialist approaches to understanding human obligations to suffering in animals in ‘natural’ settings, and uses her examples to reflect on larger issues in evaluating how our species treats and responds to nature. Overall, this genre of philosophical reflection seems to have made little breakthrough conceptual progress in recent decades. Is this due to an increasingly ‘scholastic’ approach to the problems of animal sentience, rights, ethics, and obligations? I argue that a major problem may be the distinction, going back to Pascal if not earlier, between evaluation and decision making using logic and reason and the much more common and accessible ancient process of making immediate and intuitive evaluations and decisions based, in part, on emotional and affective processes entrenched in human nature. If this is true, and if we are concerned about the survival of wildlife on a rapidly changing planet, then the problem for philosophers (and legal systems) may be to move beyond purely ‘rational’ philosophical analysis and to incorporate the kind of moral and ethical evaluation processes that most human beings actually use, while also avoiding uncritical anthropocentric biases to which both philosophical and legal scholars are not immune.

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The best result of meetings such as this is that they make you think and, in my case, to go back to original sources. Since we had a power outage last night while I was putting my final thoughts together for this commentary, it was literally written by kerosene lantern light. Thus, in some respects these comments are more similar to Pascal's *Pensees*, rather than systematic rigorous discourse, though certainly not of similar profundity.

Clare Palmer provides a thoughtful analysis of two ways of dealing with wild animals: 1) considering their capacities in a consequentialist approach based on maximizing pleasure while minimizing suffering or 2) a contextualist approach in which we are only obligated to assist them if, in some sense, we are responsible for their vulnerability or suffering. It is a bit unclear to me if these human-related harms are direct or indirect, or if it matters whether the person or persons in a position to assist are themselves personally responsible, members of communities causing the harm, or just a result of humanity writ large. Apparently our responsibility fades as we not only become less of a causal agent, but also if we do not directly observe the abuse, harm, or suffering of an animal.

The contextual approach is a move in the right direction, and thus I largely agree with the end of Clare's presentation, and the various complications that arise in terms of responsibility. But I approach issues involving animals not as a philosopher or a lawyer, but as a psychologist and ethologist who has studied animals in field and lab, animals large and small, animals charismatic and reviled, animals domesticated or not, for more than 40 years. Furthermore, with each passing year, I appreciate more and more the essential wisdom in Thoreau's comment that in wildness is the preservation of the world, perhaps be-

cause wildness is disappearing and may soon be nothing but a tribal memory, engrained in our psyche as a Jungian archetype. So forgive me if I seem to intrude in matters I may, arguably, be unqualified to critique. While I will nibble at the edges of the elegant fruit Clare provides, I will take a big bite of a different fruit.

Although I am constitutionally unable to speak in either legalese or philosophese, I am concerned about a growing trend toward scholasticism in philosophical arguments on animal ethics, the parsing and overly fine distinctions that neither aid in resolving conundrums with animals in the real world nor reflect human cognitive biases and evolution. I see little essential progress since the competing 'ethical considerations' approach Herzog and I developed 32 years ago (Burghardt and Herzog 1980) and the overview of philosophical and animal research found in the Hastings Center Report on Animals, Science, and Ethics appearing a decade later (Donnelley and Nolan 1990). Variations of the utilitarian and deontological arguments of Singer and Regan were already out there. Controversy was in the air, marches in the streets with philosophers leading the pack, protests in front of labs, and boycotts of cosmetic companies were growing daily. Philosophers were gurus to activists; even many scientists and researchers were frequently involved in activism leading to, eventually, changes in animal welfare laws and the treatment of animals in research. Farmers were not so open to change in the USA, in spite of the much greater levels of animal use and suffering involved (Herzog 2010).

What does this have to do with scholasticism? In the 11th to 13th centuries Abelard, Duns Scotus, Aquinas, and many others used the excitement of rediscovered writings of Aristotle and systematic treatments of logic to argue with elegant reason-

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ing, fine distinctions, sometimes humor, sometimes withering sarcasm, the view of others. Disputations over the fine points of Christian theology, the trinity, transubstantiation, and other arcane, but then crucially important, topics were the target of all this intellectual firepower, though many other topics such as duties, natural law, and explaining miracles were also fair game. Some of this intellect had to be used to obscure aspects of an argument that might go a bit too far in challenging church doctrine. Nevertheless, winds could shift and William of Occam had to flee, books even by Aquinas were considered heretical.

And then, scholasticism as a major philosophical force was dead, though living on in some redoubts down to the present time. Why? It can be argued that it was the plague, the Black Death, the indiscriminate killing of a third or more of the European population, much more in some areas, for no fathomable reason. The leading intellects of the day, the scholastics, had no answers. But the flagellants did, just like those who blame abortion and gays for devastating floods in the Midwest or the 9/11 attack on the twin towers—disasters are God's messages to us for our sinful past. But slowly we have come to use the intellectual powers of reason and argument to study the world around us, nature, rather than unsolvable debates about supernatural processes about which we can never make real, universally accepted, progress in understanding. Scholasticism seemed of minimal use in identifying causes of events in the lives of everyday people. Sometimes I think this is where we are at today. Too often erudite discourse on pleasure, pains, suffering, costs, benefits, responsibility, and harms seems to be a search for a Holy Grail basal principal that can cover all or most ethical dilemmas and help us solve real ones. This is as true of the utilitarians as well as the deontologists. I am skeptical that

this is a path worth pursuing without major detours. The papers in this meeting may help us progress, but the legacy of history is perhaps too strong. In essence, we are dealing with the nature of the relevant level and conception of ‘community’ (Donnelley and Nolan 1990), a key word that is also problematic.

Dr. Palmer opens her talk with the examples of the hungry deer, hungry, and ill-provisioned horses. While noting that many people would claim it more ethical to intervene on behalf of the horses than the deer, she claims that the suffering of the deer is more salient than the hunger of the coyote, as s/he could always go elsewhere for prey. In fact, good reasons can be advanced for doing both. The specter of the question raised by Singer (1975), about intervening in ecosystems to eliminate predators that cruelly kill their prey had, I thought, been, at least at an intellectual and scientific level, answered many years ago. What would be Clare’s analysis if the question was whether to intervene in an insect caught in a spider’s web? This is something I confronted when I was a child concerned about such things. When once I tried actually to remove a struggling moth from a web I realized the folly of such efforts. Was I wrong or right for trying? Does the deer privilege the coyote? Spiders, like the snakes I love, are obligatory predators. They have to kill and eat other animals. Are they morally tainted as killers? These thoughts lead to several comments and suggestions of what discussions of these topics may need to incorporate in order to make progress.

1) Consider this quotation from one of the most important early writers in what was to become ethology—Jakob von Uexküll—“Our anthropocentric way of looking at things must retreat further and further, and the standpoint of the animal must remain the only decisive one.” (Uexküll 1909/1985,

223). Although this has many implications, a major one is that philosophers must deal with ‘the other’ as objectively as possible, and not sentimentalize one species over another without careful analysis or explicit grounds. This leads to the need for discussions of animals, including wild animals to recognize, if not adhere to *Critical Anthropomorphism* in their discussions of animals and their lives. Briefly, the notion is that we use the information we have on the perceptual worlds, nervous system, ecological context, life history, and other scientific knowledge about a species as well as extrapolations from our own life experiences (Burghardt 2009).

2) Wild animals are on the ropes world wide because, as Nick Robinson pointed out in his keynote address, the degradation of the natural environment and the ecological communities dependent on them is worldwide. There is no place where humans have not had indirect or direct impacts on animals—thus we are obligated to actually act using the best available information if we want to have morals or ethics to be more than parlor games. I do not exempt from this critique psychologists, including the new brand of morality psychologists, from falling into games of saving one person or 10, lifeboat ethical dilemmas, etc., which are set up as conundrums in which phrasing and wording effects seem most interesting to scientists.

3) Interestingly, psychologists, as well as philosophers, have given us a useful key for unlocking some of the problems. Blaise Pascal (1958), fervent opponent of Descartes, argued that we make decisions with two cognitive systems, the intuitive and the rational, almost mathematical and logical. David Hume and Adam Smith caught the point in their moral theories based on what they, unfortunately, called sentiments. Recent research, embedded currently in Kahneman’s (2011) best seller,

Thinking, Fast and Slow, is based on much work indicating that we have two systems for making decision. The fast, intuitive ‘cheap one, often based on unreflected decisions is frequently the most adaptive and derives from what evolutionary history, not our reason, has taught us. Thus, psychology took 350 years to confirm the insights of a philosopher!

How does this analysis help up us deal with the deer, coyote, or starving horses? When seeing an animal in distress I seriously doubt that any human is actually going to carefully evaluate the various schemes or scenarios that Clare and other philosophers propose before making a decision as to help or not. These are issues that seem mostly decided quickly and may also involve not just in pain, pleasure, suffering or other utilities, including ecological ones, and may be based on taste or repugnance. Was 19th Century opposition to slavery, certainly a moral issue, based on rational or utilitarian thinking? Does, however, the intuitive system also play a role in the contextualist response? The problem seems to be that philosophers, by their nature and profession, are adherents to, and followers of, reflective and costly reasoning. Are they thus not capable of appreciating, let alone incorporating, the unreflective intuitive process that, as in the example of the deer and coyote, underscore the very dilemma put forth for reflective analysis?

4) Discussions of when and how to intervene are just variations of the good Samaritan problem. My colleague, Dan Batson experimentally studied this problem in a series of papers titled “And who IS my neighbor?” (e.g., This is not clear at all in our own species, trying to solve comparable problems with other species seems to get caught on the same issues of familiarity and tribal allegiances (deer, coyotes, dogs, chickens, snakes, spiders, gorillas, etc.) as well as the added problem of

property rights and ownership, comparable to controversies on slavery. Do not people pay more solicitude to an ill companion animal over the suffering of other humans that are more remote geographically, socially, etc.? Consider the huge amounts of discretionary expenditures in this country for companion animal care. This is not a problem of insufficient philosophical moral theory, so much as a legacy of our evolutionary history and ecological theatre in which bonding and relationships outweigh abstract ethical reasoning.

5) Do I have an answer, a way of resolving the competing views raised by Clare and left unresolved at the end? No. Hal Herzog and I, in our 1980 article, listed in 4 headings what we viewed as suites of considerations that enter, consciously or intuitively, in how we value animals and thus the factors that effectively rationalize and justify what we do, perhaps want to do, for factors rather disconnected from the purported harms or assistance at stake. We grouped them into 4 headings and I will just read them. These were benefits and costs (e.g., food, transportation, research, recreation, disease), anthropomorphic factors (e.g., cuteness, humanoid appearance, size, disgusting habits), ecological issues (e.g., rarity, diversity), and psychological (e.g., habituation, aesthetics, variability.). Many of these involve non-rational quick decisions and others more rational deliberate ones, but both can be culturally dependent.

Consider the bias Palmer introduces in describing the predatory coyote. The coyote is a young and inexperienced killer and thus the fawn presumably suffers more than if killed by an experienced killer. This is an appeal to the anthropomorphic factor we termed 'goriness' and factor is evident here as a way to bias the reader. Whether 'suffering' and the goriness of a

death are related is an empirical question and may be morally irrelevant.

6) Neither in her paper nor in her book does Clare reference Charles Darwin, who I think is an essential source in dealing with animal ethics and the sentience issue that seems to take center stage in most discussions of animals and ethics. Is not philosophy, just as are biology and psychology, not greatly altered by the Darwinian revolution. Do we not need to move our conceptions beyond those acceptable in the days of Descartes and Kant? Is using Bentham on suffering as the starting point for their work in this area akin to those who take their biology from the design framework of William Paley and his predecessors?

One way this plays out is in Palmer's (and the field's general focus) on individual animals, not species or populations. Darwin, however, changed the game by moving the level of analysis to species and populations, not the more ephemeral individual animal or person. Individuals are important, but largely as sources of variation. Certainly we need to consider the life experiences of individuals, but, these may need to be embedded in a much broader context than she seems to allow, for our traits, including our emotions and capacity to suffer, are evolutionary products of the death and suffering of the ancestors of every sentient being. Once we accept this essential historical link and have to consider issues beyond the current individual, society, or species, then the game may be up. All the rest, as Aquinas would say, is straw. Or, as Ernst Mayr would put it, the platonic residues of predarwinian typological thinking. These are assertions with uncomfortable implications, but they need to be part of the conversation.

7) Perhaps underlying all these comments is whether sentience or suffering is really the major issue with which we should be concerned. Is this the primary basis for morality and how we treat other animals, wild or domestic? While classical utilitarians seem to make this claim, do we really have no moral and ethical obligations to the nonsentient? Can sentience even be meaningfully determined? I think we, in our hearts, know that sentience alone is not the only relevant currency. We praise the fireman who rescues the trapped cat. Is this a moral act? Certainly. Is it only because the cat is sentient? What about saving a pet hamster, goldfish, or tarantula spider? What about those who at great risk save priceless artwork and antiquities from being destroyed in wars or natural disasters? The artworks themselves are not moral agents, but can there not be ethical obligations to save them. Why? Because they can give pleasure and insight to future generations who will be able to see, appreciate, and study them. Saving such human creations also pay homage to the creative powers of those who made them. Was there not worldwide condemnation of the Taliban in Afghanistan for destroying the ancient towering Buddha statues? Was that act not a factor in some people thinking that yes, we need to go to war to prevent such vile acts from being perpetrated in the future? Do not people who wantonly destroy beautiful unique objects commit equivalent unethical, if not immoral, acts. If this is true for art and cultural artifacts, then what about mountains, rare butterflies in danger of extinction, the last remaining tigers, the limber pine trees being decimated in the Western United States? While Palmer's topic is, admittedly on what we owe to *wild* animals, can we realistically separate the wild animals from the wild?

8) This may eventually be expressed individually and idiosyncratically. Not too long ago there was a hearing in Knoxville

about the state approving mountain top removal in East Tennessee. I went and in my brief statement I mentioned something no one else had brought up—the devastation to lives resulting from destroying many acres of continuous ridges, valleys, coves, springs, and streams. Not the lives of those humans living next to or downstream from such areas and seriously compromised by floods, mud, and pollution, but the lives of non-human animals living in those areas, the salamanders, for example, that cannot just fly away like birds or move long distances as larger mammals. I pointed out that our area is the hot spot for salamander evolution and that mountaintops are similar to islands and each has their own genetic deck of cards, some so different they represent different species, species still being discovered! The point is do we not have an obligation to avert suffering on this scale, indirect suffering not overtly intentional but as morally and ethically suspect I am sure. We really need to sort through all of these issues in terms of their philosophical status, human psychological import, and consequences on enhancing both animal welfare, in general, and the environments on which all life depends.

Herzog and I ended our ancient paper with the assertion that ethical theory tinkering will not resolve issues and that “a consistent, universal set of principles to guide humans in dealing with members of other species” is impossible. Why? “There are too many competing biological and economic factors involved, and, more significantly, psychological demands often preclude rational resolutions of the issues” (Burghardt and Herzog 1980, 767). Thirty years of additional study have only raised the complexity of the task, not, as far as I can see, made substantial intellectual progress in resolving these fascinating, often discouraging, problems (Burghardt 2009; Herzog 2010). Actual improvements ‘on the ground’ in terms of better treatment of

research animal, regulations on farm animals, and wildlife conservation have been made, of course, but I do not think these have resulted from philosophical discourse as much as from scientific advances and societal changes.

In conclusion, this commentary is based on Clare's presentation, and not her book (Palmer 2010), which does raise many additional important issues, including those in environmental ethics. Indeed, as she has been a recent president of the Society for Environmental Ethics, my comments may only specific issues she raised in the presentation and not her broader views. Still, from the paper she read the main conclusion seems to be that if an object is not sentient in some (unspecified) sense, it cannot be harmed in a moral sense—a view that ultimately, I would argue, is not only anthropocentric, but, tends toward the uncritically anthropocentric. Perhaps morality, in this case, should be separated from ethics. Clare does point out that the wild/domestic distinction is becoming less valuable since the entire world is being impacted by us and is in the process of becoming domesticated. Consider invasive species removed from their native contexts and wreaking havoc in other places around the world. Cane toads in Australia, pythons in Florida, kudzu in Tennessee! In fact, when I drive by areas of forests being smothered by kudzu I am reminded that humans are the kudzu of the planet. Look out the window on flights over growing urban areas and see how we are creeping over everything, since we seem to take nothing as really sacred these days other than human sperm and eggs!

Finally, the implications of Clare's work and our commentaries for law are undoubtedly obscure. Perhaps, however, the legal profession is really an attempt to reconstitute the thinking fast and thinking slow process at several different levels, and

the kinds of concerns raised here may have some impact on an environmental law that incorporates a diverse environmental ethics.

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