

'Personhood' Redefined: Animal Rights Strategy Gets at the Essence of Being Human
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Philosophers have grappled with these questions for millennia: What is the essence of a human being? What is the difference between a person with comparatively underdeveloped cognitive abilities and a primate? Now, relying on the difficulties posed by such inquiries, some animal rights activists have embarked on a crusade to define animals as worthy of certain "personhood" rights.

The movement aims to incrementally grant rights to animals that could redefine the way humans use and relate to them. Among them is a potentially revolutionary concept: giving animals the right to not be viewed as human property.

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An example of the increasing success of what has been termed the "animal personhood" movement is the adoption by some jurisdictions of "pet guardian" laws, under which the term "guardian" is used interchangeably with the word "owner." Supporters argue that use of the "guardian" term will result in greater responsibility and respect for pets without changing their legal status, while opponents worry that the change in legal terminology might be setting the stage for frivolous lawsuits and, ultimately, a legal challenge to the status of pets as property.

The connotations such efforts hold for research involving animals are great, as Frankie Trull, founder and president of the Foundation for Biomedical Research (FBR), points out. If the "personhood" movement gathers momentum and results in more stringent animal research laws, research facilities will be subject to an increased number of lawsuits, says Trull. "The second thing that will happen is that some species, such as non-human primates, probably won't be allowed to be used for research at all." Such scenarios would carry extraordinary cost implications, and the country's already financially strained teaching hospitals and medical schools would not be prepared to fight these battles, she adds.

"We live in a litigious society, we live in an animal-loving society, we live in a society that is largely scientifically uneducated and doesn't really understand the role that laboratory animals play in improving the quality of life of people - and, I might add, other animals," says Trull. "This is a very emotional issue, and it is driven by the heart, not the head. That's what has eluded the scientific community since the very beginning."

Matthew Penzer, legal counsel at the People for the Ethical Treatment of Animals (PETA), says that animal personhood laws are simply a "reflection of social ideals." "We value kindness and compassion as ideals of our society, and there's no reason why the law shouldn't reflect those ideals for animals," Penzer says. "These laws are not necessarily a recognition that animals are entitled to the same rights as people. Nobody would argue that a dog is entitled to the right to

vote, or to marry, but certainly as living, feeling, fearing beings that are capable of suffering and knowing pain, they should be protected under the law."

The animal personhood movement has the support of some legal luminaries, including Harvard law professor Lawrence Tribe, who argued for Al Gore in the Supreme Court case against George W. Bush, and civil rights and celebrity lawyer Alan Dershowitz. "Animal rights or animal legal courses are being taught now in something like 26 U.S. law schools, and there are more added to that list every year," says Trull. "We are also seeing chapters of animal rights law in a number of state bar associations, as well as the introduction of related resolutions within the American Bar Association that are being brought to the house of delegates."

While these efforts have not yet gained considerable traction, Trull believes there's cause for concern. "We've seen this in other aspects of this movement where what appeared to be a 'ridiculous' proposal was brought forth and everybody said that it was going nowhere, and the next thing that happened was that it did go somewhere, and we were left standing, asking 'what happened?'"

Michael Socarras, a partner at Greenberg Traurig, LLP, who has represented research interests in several animal rights cases, agrees. "There is a very important shift under way in the manner in which many people in law schools and in the legal profession think about animals," says Socarras. "This shift has not yet reached popular opinion. However, in our country, social change has and can occur through the courts, which in many instances do not operate as democratic institutions. Therefore, the evolution in elite legal opinion is extremely significant and raises an important challenge for the future of biomedical research."

At the root of the animal personhood philosophy are questions that likely cannot be answered empirically. "There's a wide range of learning and thought on why human beings are different from animals arising in the fields of philosophy, religion, and ethics," says Socarras. "The approach to that question viewed from the standpoint of the humanities and philosophy is very different from how you would approach it as a natural scientist. The important point as far as biomedical research is concerned is that its moral justification comes down as a humanities, religion, philosophy, ethics argument, and less so out of natural science. At the end of the day, it's impossible to prove empirically that there's such a thing as unique human dignity or that it's absolutely certain that human culture has always been based on that belief."

Attempting to answer these questions using arguments about human cognition and rationality can be problematic, as researchers themselves know. Studies have shown the ability of many primates to remember past events and to have an idea of the future. Scientists have taught chimps to communicate in sign language, use tools, and solve problems, behaviors that have been traditionally associated with humans.

Unwelcome comparisons

Despite such scientific findings, the American public has not welcomed all comparisons between animals and people. PETA launched a controversial campaign earlier this year titled "Holocaust on Your Plate," comparing the plight of Jews and other groups during the Holocaust to the

suffering undergone by slaughter animals. The campaign incited the fury of Jewish groups, and one of its commercials was banned in many TV stations around the country.

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In the TV ad, the world is seen through the slats in the side of a truck, as a man's voice intones, "They came for us at night. Beat us. We cried out in the darkness. With no food, no water, and barely air to breathe." The ad ends with the tagline, "Each age has its own atrocities. End the animals' holocaust. Please become a vegetarian."

PETA's campaign also consists of an exhibition of eight 60-square-foot panels, each showing photos of factory-farm and slaughterhouse scenes side by side with photos from Nazi camps.

A PETA statement said that the organization "wants to stimulate contemplation of how the victimization of Jews, Gypsies, homosexuals, and others, characterized as 'life unworthy of life' during the Holocaust, parallels the way that modern society abuses and justifies the slaughter of animals." Another PETA statement explained that such comparisons were the only effective way to make people understand and relate to the suffering of these animals. "We have no recourse but to compare the barbarity inflicted on animals with similar and more familiar extremes of human suffering in the hope that it will finally become comprehensible to all and inspire action."

Animal personhood advocates have made similar comparisons between domestic violence, slavery, and animal abuse. "The fact that such comparisons have even been made would make the vast majority of American women indignant," says Socarras. "Most people would rapidly agree as a matter of common sense that violence against a woman is not remotely on the same level as violence against an animal, even though both are completely unacceptable. The dignity of a woman as a human being is infinitely superior and not simply a matter of degree."

Commenting on the related comparison concerning slavery, Socarras opines that "African Americans would be right to be offended by the comparison between the mistreatment of people on the base of race and the mistreatment of animals."

Why use animals in research?

"The human is the ultimate animal model, but in this society, as a result of the Nuremberg Code and the Helsinki Declaration, we do not use humans first - we use them last," explains Trull. "So the process is such that when you can use a non-animal methodology and in vitro technique - whether that'd be a computer model, a mathematical model, a cell culture, or a tissue culture - you do so prior to pursuing an investigation into a whole living system.

"There are quite a few in the know who believe that the governance of animals in research is more stringent than the governance of humans in research," Trull continues. There are a number of laws and federal regulations in place that oversee the use of animals in biomedical studies, and every AAMC member involved in animal research has to comply with them, she explains.

One such regulation is the Animal Welfare Act, which applies to all research facilities using animal species designated by the US Secretary of Agriculture. The species that are currently designated are guinea pigs, rabbits, hamsters, gerbils, dogs, cats, nonhuman primates, marine mammals, farm animal species, and warm-blooded wild animals. Birds, mice, and rats are not covered.

Despite the sensitivities and controversies surrounding such practices, many scientists continue to hold that animal research is the best means to achieving a very worthy end. "Science currently agrees by consensus that using animals in this manner is important for the development and dissemination of therapies to treat human illnesses," says Socarras.

Animal research has led to the advancement of our knowledge of the human body and its processes, and the development of vaccines for smallpox (the world's first vaccine), polio, and yellow fever, among many others. The use of rats, rabbits, and hens in research resulted in the development of hormonal treatment for cancer, while research with dogs, rabbits, and fish led to the discovery of insulin and the mechanism for diabetes.

Scientists are currently using and developing alternative research methods that don't rely on animal use, but many areas of study depend on the use of animal models. Efforts to change the legal status of animals and to consequently outlaw their presence in all types of research could have dire consequences for science, according to Trull. "While this may seem far-fetched, it's a very real issue and a very major potential problem for the research community," she says. "There comes a point of no return, when it becomes cost prohibitive and time prohibitive to turn a situation around.

We need to ensure that these efforts get stopped in their tracks early or otherwise there will soon be no research with animals."

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