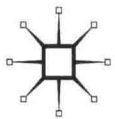


THE PALGRAVE MACMILLAN
Animal Ethics Series



POWER, KNOWLEDGE, ANIMALS

Lisa Johnson

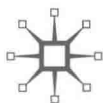


Power, Knowledge, Animals

Lisa Johnson

University of Puget Sound, USA

palgrave
macmillan



© Lisa Johnson 2012

All rights reserved. No reproduction, copy or transmission of this publication may be made without written permission.

No portion of this publication may be reproduced, copied or transmitted save with written permission or in accordance with the provisions of the Copyright, Designs and Patents Act 1988, or under the terms of any licence permitting limited copying issued by the Copyright Licensing Agency, Saffron House, 6–10 Kirby Street, London EC1N 8TS.

Any person who does any unauthorized act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

The author has asserted her right to be identified as the author of this work in accordance with the Copyright, Designs and Patents Act 1988.

First published 2012 by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

Palgrave Macmillan is the global academic imprint of the above companies and has companies and representatives throughout the world.

Palgrave® and Macmillan® are registered trademarks in the United States, the United Kingdom, Europe and other countries

ISBN: 978-0-230-28257-5

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
21 20 19 18 17 16 15 14 13 12

Printed and bound in Great Britain by
CPI Antony Rowe, Chippenham and Eastbourne

The Palgrave Macmillan Animal Ethics Series

Series editors: **Andrew Linzey** and **Priscilla Cohn**

In recent years, there has been a growing interest in the ethics of our treatment of animals. Philosophers have led the way, and now a range of other scholars have followed from historians to social scientists. From being a marginal issue, animals have become an emerging issue in ethics and in multidisciplinary inquiry. This series explores the challenges that Animal Ethics poses, both conceptually and practically, to traditional understandings of human–animal relations.

Specifically, the series will:

- provide a range of key introductory and advanced texts that map out ethical positions on animals;
- publish pioneering work written by new, as well as accomplished, scholars; and
- produce texts from a variety of disciplines that are multidisciplinary in character or have multidisciplinary relevance.

Titles include:

ANIMALS AND PUBLIC HEALTH

Why Treating Animals Better Is Critical to Human Welfare

Aysha Akhtar

AN INTRODUCTION TO ANIMALS AND POLITICAL THEORY

Alasdair Cochrane

POWER, KNOWLEDGE, ANIMALS

Lisa Johnson

THE COSTS AND BENEFITS OF ANIMAL EXPERIMENTS

Andrew Knight

POPULAR MEDIA AND ANIMALS

Claire Molloy

ANIMALS, EQUALITY AND DEMOCRACY

Siobhan O'Sullivan

AN INTRODUCTION TO ANIMALS AND SOCIOLOGY

Kay Peggs

SOCIAL WORK AND ANIMALS: A MORAL INTRODUCTION

Thomas Ryan

AN INTRODUCTION TO ANIMALS AND THE LAW

Joan Schaffner

Series Editors' Preface

This is a new book series for a new field of inquiry: Animal Ethics.

In recent years, there has been a growing interest in the ethics of our treatment of animals. Philosophers have led the way, and now a range of other scholars have followed from historians to social scientists. From being a marginal issue, animals have become an emerging issue in ethics and in multidisciplinary inquiry.

In addition, a rethink of the status of animals has been fueled by a range of scientific investigations which have revealed the complexity of animal sentience, cognition and awareness. The ethical implications of this new knowledge have yet to be properly evaluated, but it is becoming clear that the old view that animals are mere things, tools, machines or commodities cannot be sustained ethically.

But it is not only philosophy and science that are putting animals on the agenda. Increasingly, in Europe and the United States, animals are becoming a political issue as political parties vie for the “green” and “animal” vote. In turn, political scientists are beginning to look again at the history of political thought in relation to animals, and historians are beginning to revisit the political history of animal protection.

As animals grow as an issue of importance, so there have been more collaborative academic ventures leading to conference volumes, special journal issues, indeed new academic animal journals as well. Moreover, we have witnessed the growth of academic courses, as well as university posts, in Animal Ethics, Animal Welfare, Animal Rights, Animal Law, Animals and Philosophy, Human–Animal Studies, Critical Animal Studies, Animals and Society, Animals in Literature, Animals and Religion – tangible signs that a new academic discipline is emerging.

“Animal Ethics” is the new term for the academic exploration of the moral status of the non-human – an exploration that explicitly involves a focus on what we owe animals morally, and which also helps us to understand the influences – social, legal, cultural, religious and political – that legitimate animal abuse. This series explores the

challenges that Animal Ethics poses, both conceptually and practically, to traditional understandings of human–animal relations.

The series is needed for three reasons: (i) to provide the texts that will service the new university courses on animals; (ii) to support the increasing number of students studying and academics researching in animal related fields; and (iii) because there is currently no book series that is a focus for multidisciplinary research in the field.

Specifically, the series will

- provide a range of key introductory and advanced texts that map out ethical positions on animals;
- publish pioneering work written by new, as well as accomplished, scholars; and
- produce texts from a variety of disciplines that are multidisciplinary in character or have multidisciplinary relevance.

The new Palgrave Macmillan Series on Animal Ethics is the result of a unique partnership between Palgrave Macmillan and the Ferrater Mora Oxford Centre for Animal Ethics. The series is an integral part of the mission of the Centre to put animals on the intellectual agenda by facilitating academic research and publication. The series is also a natural complement to one of the Centre's other major projects, the *Journal of Animal Ethics*. The Centre is an independent "think tank" for the advancement of progressive thought about animals, and is the first Centre of its kind in the world. It aims to demonstrate rigorous intellectual enquiry and the highest standards of scholarship. It strives to be a world-class centre of academic excellence in its field.

We invite academics to visit the Centre's website www.oxfordanimalethics.com and to contact us with new book proposals for the series.

Acknowledgements

My sincere gratitude is extended to the following people for their support and guidance in the development of this project. A very special thank you to Andrew Linzey and Priscilla Cohn for their support and belief in this project. Also, I extend a most sincere thank you to Craig L. Carr, who read numerous drafts of this project and always provided helpful and insightful comments and guidance. Thanks also to Birol Yesilada, David Kinsella, Christopher Shortell and Michael Flower. Your comments and interest in my work were invaluable. Thanks also to Neal Johnson, who encouraged the production of this project for many years. Thank you to the University of Puget Sound and in particular to my colleagues at the School of Business and Leadership for providing the space for me to write. My sincere thanks also to Priyanka Gibbons at Palgrave Macmillan.

Contents

<i>Series Editors' Preface</i>	vii
<i>Acknowledgements</i>	ix
Introduction	1
1 The Essential Political Problem	5
A suggested perspective	9
Introduction to Foucaultian methodology and theory	11
Power	14
The "essential political problem"	20
Organization of the project	22
The animal as a subject	23
A Foucaultian perspective	24
Language and reality	26
What the term "animal" refers to in this work	33
Scope and limitations	37
2 Contemporary Discourses about Animals	39
The discourse of law	41
The discourse of lines	56
3 Insurrection	63
Organization of chapter	66
The subordination of knowledge of animals as <i>living beings</i>	68
Transmigration of souls discourse	74
Karmic discourse	76
Rational animals discourse	78
The potential de-legitimizing power of insurrection	82
Archaeology and the insurrection of buried discourse	83
The hidden truth of error (or, some knowledge should just remain buried)	96
4 On Blindness to Being	100
Discursive formations	101

Conceptual limitations	103
Subjugated discourse: a resistance	116
5 Parallelisms (Or, the Changeable Nature of Knowledge)	123
Parallel stories	125
The concept of man, and stories as supporting cast	134
Parallel discourse about women	142
A wildly speculative theorist with a visionary dogma	150
<i>Notes</i>	154
<i>Bibliography</i>	159
<i>Index</i>	171

Introduction

What I most want to say is that we should stop using animals. That is a simple enough assertion, but language is a funny thing. For any statement to be understood as a conveyor of truth, it must – among other things – align with other statements that are understood to be true: not perfectly, perhaps, but in such a way that the new statement is not seen as an error. The bare assertion that we should stop using animals is a statement that cannot yet stand on its own as “true.” So, a manuscript has been written, which should not be viewed as an argument in support of that statement. Instead, the work merely attempts to investigate the power-knowledge attached to statements that *are* understood to convey the “truth” about animals.

Michel Foucault did not address the question of the animal in his writings, but his works are a useful starting point when considering the changeable nature of “truth.” Certainly, the “truth” about animals today – the dominant paradigm of knowledge about them: that is, that they are there for human beings to use – is an understanding about animals that could be conceptualized as error. This work addresses the possibilities of reconceptualizing our ideas about animals. The knowledge and power associated with “truth” is always shaped by language. Through the emergence of new words and the falling away of old discourses, such a reconceptualization could occur.

The assessment of whether a new politics of truth can be constituted is “the essential political problem” – at least it was for Foucault (1980, p. 134). And such an assertion seems reasonable here, too, when examining what we think we know about animals – or, more

specifically, the *politics of truth* about animals. “Truth” is itself a funny thing – a slippery thing – that changes chameleon-like. Rather than being a function of logic, it is a consequence of conditions that give rise to what we may understand to be “true.” Though the “essential political problem” may be considered as it relates to the politics of truth about animals, a Foucaultian perspective does not allow a prediction in response, other than the recognition that change may occur. What is understood to be “true” about animals may change if the relationships between events that exist at a given time – these are the “conditions” mentioned above – require the emergence of a different way of knowing. So, it is immediately apparent that a bare assertion that we should stop using animals is not enough to make it so. Indeed, such a thing perhaps may not even be willed into being, and no amount of logic may create such a state of affairs. But, if the conditions that give rise to a way of knowing existed – specifically, that we should stop using animals – then such a statement would undoubtedly be understood as a statement that conveys “truth.” Indeed, if the conditions were just so, a manuscript would not need to accompany a statement that we should stop using animals. This work is a Foucaultian critique of thought about animals that examines the “truth” about animals as an historical contingency, variable according to the conditions that have allowed its production.

This work contributes to the development of a theoretical context of the politics of truth about animals. The politics of truth about animals is understood to be the push and pull of such knowledge, together with concurrent power apparatuses in support of that knowledge, as well as the ever present resistance to that power. By applying and extending Foucault’s theory of power – that is, that knowledge is a carrier of power, power is a perpetuator of knowledge, and all power relations have resistances – this work employs Foucault’s archaeological method to uncover dominant and subjugated discourses about animals and to describe the power-knowledge associated with statements about animals that are understood to convey true things. It describes the changeable nature of “truth” about animals and, necessarily, the politics of it, since the politics of truth is understood to be propelled by whichever knowledge and associated power is then dominant. Statements in “error” are also examined as resistance to power-knowledge about animals.

This work describes subjugated discourses about animals that have been understood in various times and places to have truth-telling powers – or, at least, to have been understood as “error” – which provided points of resistance to the dominant discourse. It describes the partial derivation of discourse about animals by examining dominant discourses: including the discourse of law and the discourse of lines, as well as subjugated discourses (e.g., animals are not personal property, karmic discourse, transmigration of souls discourse, rational animal discourse). Additionally, it describes similar statements about other referents (i.e., slaves, animals and women) that comprise various discursive formations understood at times to have had truth-telling power about different referents. Subjugated discourse sometimes emerges as a new “truth,” though no such prediction can be made. To illustrate the point, the project describes a new academic field related to the question of the animal, which resurrects – or draws from – some subjugated discourse (e.g., animals are not personal property).

Contemporary thinkers in moral philosophy, political theory and law have addressed the question of the animal, but in a manner far different from the present work. For example – and certainly this is an incomplete, but representative list – Nussbaum (2006) argues that animals should be permitted to flourish within each species’s capabilities, without negative interference from humans. Regan (1983, 2001) and Sunstein (2002) argue that animals have rights that should be recognized. Singer argues that the suffering of animals should be taken into account when making decisions about whether or not to use them for food or other human interests (2002). Francione (1995, 1996, and 2000) and Wise (2000) argue that the legal status of animals should change, so that they are no longer considered property – until such a change is made, animals will continue to be exploited. Steiner (2005) argues that the moral status of animals is on par with humans. Derrida (2008) and Agamben (2003) question whether the distinction between humans and animals is sound. Ackerman & Heinzerling (2002) and Batie (2008) criticize the use of traditional rational choice policy tools as inapplicable to questions concerning animal protection. Calarco (2008) argues that the animal issue should be a prominent point of focus among philosophers. DeGrazia (2006) argues that animals should be included in the moral community. Garner (2002) argues that animals should

not be treated inconsistently in law, if animal protection is the goal, though he argues that the status of animals as property need not be abolished (2002). Stone (1972) suggests that animals could be given legal standing.

This work does not enter the fray of the rights debate, but instead it provides the context for the emergence of the today's debate and discourse. So, while I might personally assert that we should stop using animals, the work itself is a meta-examination of how such statements might live or die in the web of things that we understand to be "truth."

L. Johnson
January 2012

1

The Essential Political Problem

Lawless beasts once roamed Europe. In 1396 at Falaise, a sow was convicted of murder most grim. The pig had eaten the face and arm of an infant boy in his cradle. After being convicted at trial, the sow was sentenced to public torture and execution for the crime, including an “eye for an eye” brand of justice – mutilation of her foreleg and face prior to the execution itself (Galeron, Brébisson & Desnoyers, 1826, p. 83). The task was carried out by the public executioner – no garden-variety livestock slaughterer – at the expense of the state (Langevin, 1814, p. 146). The executioner himself was afforded a new glove to perform his duty (D’Addosio, 1892, pp. 279; Evans, 1906, p. 140).¹ The affair was presided over by the Viscount of Falaise, who would have projected a commanding presence in a plumed hat, on his horse, with his fist at his side,² which we can only imagine was raised righteously. The sow herself was attired in men’s clothing, including a vest, breeches, stockings and gloves.³ No record exists as to why she did not wear garments more fitting for a female.

The event was memorialized by a publicly displayed painting – a fresco nonetheless – upon a wall of the ancient Church of the Holy Trinity near the public square, which had been the site of the execution. This mural – a residue of the execution – publicized the knowledge of what once befell a murderous pig in Falaise. Indeed, the knowledge of what would come to pass for other pigs that acted upon murderous impulses was there to consider – perhaps as a warning – or, perhaps, simply as a display of the mighty power of law. Consider Holland, for example, where public executions of convicted animals occurred as a deterrence to other animals against criminal behavior.

In 1595, the mayor and jury of Leiden signed acts attesting that a dog, having confessed without torture to biting a child, would be executed publically “in order to deter all other dogs and to set an example for each” (“tot afschrik van alle andere honden, en elk tot een exempel”) (Dinzelbacher, p. 410). Indeed, corpses of the convicted and executed animals were often placed on display as a deterrent to others of their species to avoid the path of crime (Srivastava, p. 135).

This knowledge – whether a warning, display of power, or simply art – was broadcast to all comers. It was broadcast, that is, until it was hidden. The fresco was whitewashed in approximately 1820.⁴ Only a few scattered words to describe its one time existence remain. Words written by the l’Abbe Pierre-Gilles Langevin in 1814 record its existence and, subsequently, mark its obliteration in approximately 1820 (Evans, 1906, p. 141). The blotting out of this *once-knowledge* is particularly illustrative of the focus of the present project, because it is an example of subjugated knowledge about animals. *Once-knowledge* is subjugated discourse that was once understood to convey truths about a subject but have since been suppressed by other discourse that makes different truth claims. Subjugated discourse or knowledge is hidden.

Before we incline our thoughts to believe that the event in Falaise was an isolated curiosity – perhaps, if so, reason enough to memorialize it – it behooves us to know that records of great numbers of similar happenings exist (*see e.g.* compilations from original texts by D’Addosio, 1892 and, separately, Evans, 1906). The accounts of felonious animals from France alone are numerous. Records of prosecutions of pigs occurred at least in Fontenay-aux-Roses near Paris, Caen, Falaise, Mortaing, Meulan, Rouvre, Pont-de-l’Arche, Abbeville, Labergement-le-Duc, Torchères, Bourgogne, Savigny-sur-Etang, Corbeil, Clermon-les-Moncornet, Charonne, Seves, Dunois, Dijon, Arcenau, Saint-Quintin, Moyen-Montier, Montoiron, and Viroflay. Similar criminal proceedings were carried out in Italy, Switzerland, Germany, Spain, Tyrol, the Netherlands, the Slavic lands, the United States, Canada, Russia, Switzerland, and Brazil (Dinzelbacher, p. 406; Srivastava, p. 128).

These events unfolded as legal processes, both by governments against individual animals charged with having committed criminal offenses and by church authorities in ecclesiastical courts against groups of animals charged with committing various atrocities

(e.g., damaging crops). If farcical, the records are utterly silent as to explaining the complicit behavior of the judges, attorneys, jurors, witnesses, church officials, owners of the accused animals, executioners, public torturers, and observers to the proceedings, not to mention the use of the public funds doled out for the trials, incarcerations, and the executions.

Accounts of criminally indicted, tried, convicted, and sentenced animals were recorded by people of some importance. Of course, the fact that important people said things about animals does not render the statements objectively true. Rather, the relevance of important people saying things about animals lies in the legitimization of "truth" within a particular way of knowing. Statements emanating from powerful people created what was understood to be knowledge. Here, that knowledge was that animals were appropriate subjects about which to discuss the application of criminal law. For example, in 1379, Duke Philip the Bold of Burgundy – son of one king, brother to two others – issued a pardon for the convicted but least guilty members of two herds of swine. He declined to pardon three other individual members of those herds that were the guiltiest, and they were executed per the judgment of the secular court (D'Addosio, 1892, pp. 277–278; *see also*, Evans, 1906, p. 342–343).⁵ This letter of pardon from a member of the French royal family – as do all records concerning criminal animals – contains vestiges of a way of knowing about animals that has since been suppressed by the emergence of other stories.

It is the blotting out of the fresco and other once-knowledge that principally attracts our attention here. That, and the manifestations of power – such as letters of pardon for pigs – represent artifacts of subjugated discourse – discourse that conveyed concepts understood to be true or not true within particular ways of knowing. Of course, once-knowledge that has been absolutely suppressed is unknowable, just as an ancient skeleton shattered to dust is at once unexcavable and unknowable. While absolute suppression of once-knowledge most certainly has occurred, it lies outside of our reach. However, not all subjugated knowledge has sunk so completely into the mire.

Indeed, to linger a bit longer on the example of the once-knowledge that animals were an appropriate subject about which to discuss the applications of criminal law – the procedural records for criminal animals are quite complete in certain cases. For example, in Savigny,

nearly eighty years after Duke Philip the Bold's pardoning of swine, the records indicate that a sow was indicted for the murder of a five year old boy, along with six of her piglets who were suspected as accomplices. The sow had been caught red-handed, so to speak (*en flagrant délit*).⁶ The mother pig was convicted of murder and sentenced to be hanged by her back legs until dead (Evans, 1906, pp. 347–348).⁷ Though circumstantial evidence existed that implicated the piglets as well – specifically, the blood smeared on their bodies – the prosecutor lacked positive proof in their participation of the crime (Evans, 1906, p. 153). However, they were brought before the court again three weeks later, at which time they suffered a dual setback: more evidence had surfaced regarding their complicity and their owner declined to attest to their future good conduct (Evans, 1906, pp. 153–154).

Lest we begin to look askance at the French intellect – an inclination surely fatal to the present project – let us bear in mind that the criminal prosecution of animals was not a rarity in Europe and elsewhere. These proceedings occurred as rather commonplace for centuries. The suspected animals were arrested, incarcerated, tried, and, if convicted, the animal was punished according to law.

Criminal punishment of animals is something quite different than disciplining an animal that behaves badly. In the contemporary West, we do not understand animals to be moral agents, or beings capable of understanding right from wrong. Today, if a dog behaves inappropriately, obedience training may be in store. However, in other places and at other times, a dog behaving badly might be considered to be a criminal and punished accordingly. Consider the 1906 case from Switzerland, in which a felony murder occurred during the course of a robbery. The crime was perpetrated by two men and a dog. All three were tried and convicted, and though the human criminals received life sentences, the dog was found to be the chief culprit and condemned to death (Evans, p. 334, n. 1). That animals were thought to be capable of understanding right from wrong is also apparent in a 1466 German case, where a horse was described as a murderer of a man ("*enen morder des mannes*") (Dinzelbacher, 2002, p. 407). In both cases, let us bear in mind that murder is homicide with malice. Homicide is a wrongful killing of a human being by a human's act. Malice is the requisite mental state for murder. Both elements of murder are required for murder to exist. For a horse