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Tierrechte ABC

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Animal Rights ABC: How can I assert my basic human rights to demand fundamental animal rights?

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How can I assert my basic human rights to demand fundamental animal rights?

1. Putting animal rights on their own feet

All the arguments against animal rights put forward by opponents of animal rights are based on constructs of assumptions about animals, as we find them in our societies and their historical backgrounds, shaped by the various (primarily) scientific, philosophical, and religious traditions of thought.

> *What has led to a negation of animals, animal being, animalness?*

When arguing for animal rights, we can by no means leave unmentioned what has led, on the one hand, to the cultivation and nurturing of assumptions about animals in human history that have deprived and denied animals any basis for *recognizing and protecting their being*. That is, we need to look closely at the image that has been generated about animals as living beings in the world by humans, in the context of humans' own image (Selbstbild), to understand how the rejection of animal rights functions and operates argumentatively.

> *Humans have formulated their rights without including the fellow world in a constructive way.*

On the other hand, it is not enough to copy the approach in the self-granting of rights, because the path to universal human rights is itself marked by an obviously ongoing history of injustice and wrongdoing, and the formulation of our own rights has been formed against a background characterized by a rather fundamental ignorance of the essential ethical connections of being human in the context of co-environment and environment.

Humans – against a background of severe hierarchical struggles of all forms and internal political tensions, conflicts and catastrophes – have built a foundation for

an understanding of rights which, however, has deficits with regard to the questions that now arise in the Anthropocene.

Because we first had to escape from our own conflicts, so it seems, that thus we can at all – provided with our own rights – also stand up for own, original rights of nonhumans *and* the nonhuman space (for a right to protection from encroachments on the part of humans and of 'mankind' on animals), *we should also be able to admit to ourselves where our own legal situations, concerning our human rights, reach their own limits at the same time*, and that we still have to readjust a lot at this point. Especially in the matter of animal rights our human rights show various specific deficits, but more on that later.

Viewed against the background of our history, it is therefore not enough to see ourselves as a neutral blueprint for all questions of rights and the understanding of rights – rather, legal concepts with which we protect nonhumans from humans must fundamentally correspond to *their problematics and to the new questions that arise on the basis of their problematics*.

To present animal rights in an oversimplified form and put them as a big demand in the debate-room still mostly implies that the *underlying causes* of the problematics are addressed too little or not at all. The transfer of the topic “basic rights” becomes so often the first stumbling block.

Animal rights activists risk to deepen communicative rifts between antispeciesism on the one hand and speciesism and animal objectification on the other hand by a too simplistic approach.

An example

“For example, animals do not need a right to religious freedom, but they do need a right to life and liberty, including physical and mental integrity.” (1)

Here we have a typical benign lack of sensitivity to the issues of biologisms, which very much play a role in relation to speciesism in the very large issues alluded to. Bridges would instead rather have to be built from human-centric connotated bulwark topics like ‘religion’, to questions of fundamental ‘spirituality’ (*spirit, thinking*), and then again interdisciplinary thinking would be needed towards questions of what ‘spirit’ would imply and what would also in turn imply ‘spiritual integrity’. It remains unmentioned why we are still so far away from an *understanding* of physical as well as mental integrity in the animal

question that we do not even line a demand for antispeciesistic legal formulations with the description of how exactly the extent and the *quality of the injustice* could be leveraged at all.

The demand stands naively in the room: If I do not name the injustice, it will be difficult for all of us to demand a clear definition of rights, as well as of limits of human “rights” in this case.

Everyday speciesism - a space without animal rights

The “everyday space” is composed as everyday speciesism, but this is not reflected much in the descriptions of injustice against animals. Even morally arguing vegans avoid expressing thoughts and feelings about injustice to greater detail, rather than opposing the other side with sole polemics (2). There is a difference between calling for compassion and denouncing injustice. Denouncing injustice is also possible in a space and context where legal rights for an affected group or subject are (so far) missing.

2. *Injustice to and towards animals (and their social and ecosocial contexts) and basic animal rights*

Can animal rights be formulated in derivation from human rights? (3) This is the general canon so far. This perspective on animal rights must go alongside the assumption that our current worldview forms a sufficiently progressive basis, and that we should not take another step back to look again, and more critically, at the cornerstones of the identities (as ideas we form about the ‘essence of a living being’) “human” and “animal”. Some animal liberation approaches, meanwhile, suggest that the troublesome issue of “rights” should simply be left out altogether, as a human construct that need not necessarily be applied to animals (4).

What do we mean by animal rights that they have such a much more difficult status compared to rights ‘by humans for humans’?

There are different points of view on how people conceive of animal rights – on the sides of those who advocate for them as well as on the opposing sides.

- It is not the *particular rights* in their applicability that matter with *rights* primarily.

A typical question would be something like, “Yeah, animal rights, what is it? Do you mean something like, do animals have something like human rights?” Of

course, it is alarmingly simplistic to say that what matters most about rights are *particular rights in their applicability* - that is, if I have rights, for example, in locomotion, in traffic, as a pedestrian, as a cyclist, or if I have my right to vote to elect parties to represent my interests, then these are in principle particular rights that derive from certain rights that are really fundamental.

- Particularist rights derive from fundamental rights

When we talk about *fundamental rights*, particularistic rights are not the most important thing at first. An example: people talk about species protection and about the term “species-appropriate” (“Artgerecht”). A term we find quite problematic in our group, because it does not encompass the ecological subtlety, the ecological fine-tuning of interaction between living beings, and is a strongly externally determining term. We do not go further into the problematic nature of this term at this point, but if we now talk about species protection, for example, we could say that this would be a *particularistic right, namely that certain animals have a certain right to certain habitats, or to a certain flora, to a certain ecological space, which must somehow be protected, recognized as their old or new habitat*, and so on, and so forth. (What is clear is: that adjacent, of course, are fundamental rights issues, namely, that animals removed from their habitats over long or extended periods of time must have contextual and ecosocial rights to their *new/old habitats*).

- Species protection, from an animal rights perspective, implies – in addition to fundamental rights issues – the issues of particularistic rights in its handling.

The issue at stake in animal rights, however, is essentially fundamental rights. What are and what would these basic rights be, and from what do basic rights derive – so that they can really counteract the prevailing injustice?

- The question of *what basic rights are, and what they should/could be based on* (this in fact needs to be re-declined!).

Exactly at this point the opinions are divided in regard to animal rights – as we have already stated above – and I think the sense of the matter is also not that we think we all have to share the same opinion. In the end, we don't always share the same opinions on human rights either.

- Human rights are probably not implemented according to their ideals

This statement about human rights would be related to the analogy comparison, described above as inadequate – in which we assume that human rights would represent an ideal constellation and ‘realization-possibility’ of rights, like an automatism, which we could adopt in a suitable and advantageous form precisely as a blueprint for animal rights. (We cannot do this without not being able to do justice to the problems).

What could constitute the basic rights in relation to animals in the specific instead?

For this, we believe, one must first of all raise the question of freedom-rights (Freiheitsrechte) and the (recognition of the) autonomy-ability (Autoniefähigkeit) independently of the comparison to humans. It is important that “man” is not the parameter (as an ideal or construct). This is a question of the conceptual choice of perspective.

Rights of freedom and autonomy are points in animal rights that are central to the question of fundamental rights, because they conceptually circumscribe the designated counterpart as a bearer of rights, taking into account the integrity of the designated subjects.

That is, *the first fundamental right presupposes (thus contains a precondition) that the opposite must be perceived in a special way and thus taken seriously, etc.* In turn, we as a society and as individuals should be able to critically ask ourselves *why we categorically deny freedom-rights to animals?*

- Freedom-rights and autonomy-ability

Why does the idea prevail that animals are somehow instinct-driven, guided by causalisms and that they would not have their own complex thought processes in their own ways, their own no less complex and possibly probably even more complex (and evolved) language and communication cultures, etc. etc.? Why do we derive everything from the human paradigm, in a hierarchical and negating way towards the diversity of animal subjects?

Why do we think that everything must initially be explicable in “our” (...) terms, when it comes to the question of rights of others – ‘others’, *through which our*

terms should actually experience a meaningful expansion? Animals are, in fact, such others that should make us think.

- The non-humans and the non-human co-world and environment do not have to be explainable according to our terms in order to become recognizable in the sense of their rights

Now, of course, a rather banal objection could be: “No, they are not ‘others’, they are just animals”. But at this point, the question of attitude plays a fundamental role in the discussion about animal rights. For us it should be a premise to be considered that in all important ethical matters we are actually always dealing with questions of stances and “positional/perspectival location” (Haltungen) of people. Thus, I can take the stance that I presuppose a priori that animals are reasonable, in their very autonomous and own ways, that *I do not have a definitional sovereignty over them, but that they nevertheless have rights, which can be derived from their capacity for freedom and their capacity for autonomy (both terms implicitly and logically indicate that exactly this can indeed be denied to them)*, and I can see the *dignity also founded in all this by conceding them all this in a recognizing way.*

I believe that if we fundamentally deny other beings everything that constitutes their specialness, then logically we can also not grant these other beings fundamental dignity, as an expression of recognition and the ‘benevolent’ perception of their existence. So it is also a matter of stance and perspective.

Thus, in general, the idea that we take the right to grant or (in principle) deny rights to others is also merely grounded in questions of my stances by which I impose my ethical ideas on others for better or for worse.

- *There is the option of the affirmative attitude in the recognition of rights, and with it concomitantly of the dignity of others, without presupposing a human collectivistic definitional sovereignty to substantiate it.*

A very beautiful approach has been described by the philosopher Syl Ko. In collaboration with the philologist Lindgren Johnson, she spoke of the species-subjectivist approach, in an accompanying text to an exhibition by artist Mooni Perry, which is set against an ‘objectivist perspectivity’. (5)

Animal rights are something as essential as human rights. They affect all of us. We all stand in some relationship to animals. This can be positive and negative,

more or less constructive or destructive, and it is definitely time to see animal rights not as a 'special topic', but they concern every human being.

Animal rights are ultimately about: how do I relate to the animals in my environment and to the animals in context of the political spaces shaped by humans in hegemonic ways as a whole, etc.?

3. One's own right in the context of the realization of animal rights

A problem of a special kind is that I, as a human being, do not have any effective rights that can be enacted in a direct way, to stand up for the nonhuman space *in an independent way from social animal-objectifying and "nature"-objectifying thinking* and the resulting ways of acting.

Among humans it is easier for humans to (typically) advocate for humans. This commitment is generally considered important in principle, although even here, from a sociological point of view, all kinds of obstacles act as inhibitors.

To stand up as a human being from the territory of being human as an "*unconditionally* solidarical community", in a commitment for animals (in a new perspective) and the nonhuman space (- 'because of its self' and not as a resource for "our" future, etc.) is usually not taken seriously. That is:

I, as a human being, endowed by society with certain rights, have no possibility to insist on the rights *which I might recognize, in my perception of animals* (whom on the ground of our conceptualizations, no effective rights have been granted so far), *and to thus claim them in a human-hegemonic space, as long as no basic rights for animals (...) have been mandatorily formulated and even thought of in human societies* (at which point a particular questioning about the issue of the negation of 'being an animal' and the 'negation of rights' could find its place). With respect to 'nature': a self-interest of the genus 'human' is thought to be a more important pivotal point *than a right of animals to 'nature-as-their-home/space'* would be allowed to be considered as central.

Even in the communication about animals I encounter obstacles that interlocutors, readers, listeners, do not have to take my point of view seriously in an essential way, because one can refer to *prevailing agreements in the general attitude 'man > animal'*, and doubt the relevance of the deeper questioning, without being accused of 'speciesistic/animal objectifying ignorance', etc. There is simply no

sensitization in society (not even in the more audible majorities of minorities) – no matter how it could have been formed.

In principle, my human-rights-as-an-animal-rights-advocate ends at the border, where I, as a human being, stand up for animals, in the sense that I have no right to put a view of animals up for disposition that strongly deviates from the social majority. The image about animals that we discuss must not diverge all too much from the conceptions that prevail in society – although these conceptions lead and have led to the fact that we simply (degradingly) objectify animals. My attitude towards animals must be somewhere within the spectrum that is somewhat familiar to us in society, as any one of the known attitudes towards animals.

If I call for a *free constructive approach*, there is simply no ‘free constructive’ space for it, in civil society’s thought-vocabulary for categories of social relevance. Thus, our explicit thematization of an anti-biologicistic animal sociology as an approach can only be contributed on a philosophical level. A social efficacy is not possible so far, “thanks” to the fixed external-definitions (Fremddefinitionen) about the non-human space.

So finally, we can say that “my” human rights are relativized as an animal rights activist. With the lack of rights – suffered and experienced by animals – my rights as a human subject equally topple. The conditionality of animal rights in their interrelations with the rights of the natural environment is the further decisive chapter, which, however, is so difficult to describe in perspective, precisely for the reason that the subject of “animals” is treated from the ground up in an *insufficiently reductive manner*.

Not only animals themselves and the non-human ‘natural’ world itself are subordinated to arbitrary human decisions, but also the basis of discussion about them is narrowly handled in the common discourses

4. Possible levels of action

However, since animal rights are effectively withdrawn in the form – also via the (civic) social level (and hardly, only distortedly or equally not at all considered), I have the possibility first of all *through the sociological level, by language and action*, to counteract the *cultural* mesh of the negation (which we observe and which we criticize). It should be noted that being aware of the resistances must become part of the case analysis.

Thus, apparently in the search precisely for how to circumnavigate the major social obstacles, philosopher Lori Gruen suggests that (but) instead of fighting out the legal situation with each other, we should rely on our moral compass. In this way, we would also be able to wisely avoid the hurdle of hierarchies (based on certain cognitive and sensory abilities and their proximity to humans) as we find them in the more popular animal rights approaches discussed to date:

Gruen states: “If we were to instead focus on what we owe each other and other animals, our relationships become a more central concern.”

And

“Focusing on how much other animals are like us forces us to assimilate them into our human-oriented framework; we grant them consideration in virtue of what we believe they share with us; rather than what makes their lives meaningful and valuable by their own lights.” (6)

However, Gruen almost seems to throw the baby out with the bathwater by considering rights in the non-human sphere as redundant *due to the potential for conflict*, which is illogical, since protection against human encroachment can only be realized on the legal level – just *as* with human rights, *which have developed differently in history*, encroachment by humans against animals and nature (...) can only be prevented by means of legal regulation and collective agreements.

The *negation* of ‘being-an-animal’ and ‘animality’ *and* the relegation of animal concerns to the ‘non-spaces of irrelevance’, *through the operational modes of terminologies of external-definition (Fremddefinition)* – which make exactly my right ineffective when I want to thematize contents and sue for rights *beyond the “human framework”* – are at the same time testimony to the fact that disenfranchisement *generates its effectiveness in society itself*.

And exactly at this point I can thus question society about the “why”, and should specifically draw boundaries to the approaches of “solidarity building” and “unanimity”, which rather tighten the net of misobservations and false conclusions about the human-animal relationship instead of dissolving it.

References

1. <https://animal-rights-switzerland.ch/themen-tierrechte/> (accessed 10/11/2022)
2. In social networks, it is repeatedly observed that vegans hardly couple moral accusations and demands with a discourse that raises questions about injustice and/or analyzes causes. Instead, a rhetoric dominates of demanded or demonstrated compassion/compassion-as-a-basis, altruism, sentientism (with biologicistic-reductive interpretation which does not address the negation of “thinking”, sociologized and deeper sentience diversity, ...), topics from the ‘environmental movement’ (that primarily divides animals into the categories of species conversation/diversity and “animal factories” (...)). Animals become solely to be understood as a ‘species’ [all domestication and experimentation issues are a huge elephant in the room here!], without facticity of own history and without own stories, language, thinking, etc.).
3. This includes arguments such as that of the comparability with humans, the divergence from ableist contractualism, analogical comparisons to human rights violations, such as in <https://www.tierimrecht.org/de/ueber-uns/publikationen/argumentarium/tierrechte/> (accessed: 11.10.2022)
4. Philosopher F. Schmitz states, “What an introduction of basic rights for animals would mean in practical terms and to what extent it could really protect animals effectively is unclear” in her text: Tierschutz, Tierrechte oder Tierbefreiung? (Animal Protection, Animal Rights or Animal Liberation?), page 95, available online at https://publishup.uni-potsdam.de/opus4-ubp/frontdoor/deliver/index/docId/9491/file/mrm2015_02_S87-96.pdf (accessed: 11.10.2022). To this rhetoric we wondrously ask: one would not ask this question in matters of (universal) human rights, why do we do so in the case of animals/animality (Tierheit)?!?
5. I have translated Syl's excellent text which she wrote in collaboration with Lindgren Johnson into German. The text is also published on our site in English. Both texts are also available in the catalog of the German National Library. German version: <https://d-nb.info/1234807912/34> ; English original version: <https://d-nb.info/1234872005/34>

6. https://simorgh.de/gruen/lori_gruen_sollten_tiere_rechte_haben.pdf, we have yet to archive the translation, the original English text is at <https://www.thedodo.com/should-animals-have-rights-396292655.html> (accessed: 11.10.2022)

Note: We cannot on the one hand taboo ethically analogy comparisons and on the other hand propose a formulation of (animal) rights that works through the vehicle of comparability without not stumbling over our hierarchy-thinking in either case, etc.

Note: the human-animal relationship is triangular in the least: as a human-human-animal relationship or also human-*humans*-animal relationship, furthermore also as a human-‘questionworthy-relation-to-the-non-human-world’-human-animal...-relationship. There is no neutral “human-animal-relationship” in the given situation.

In context

Tierobjektifizierung / Speziesismus und seine Spezifika, https://farangis.de/reader/e-reader_gruppe_messel_2022_6.pdf

Tierrechte: zentrale Begriffe und Begriffserweiterungen, https://farangis.de/reader/e-reader_gruppe_messel_2021_2.pdf

Focus: human rights in relation to animal rights:

Fokus Menschenrechte im Verhältnis zu Tierrechten: Tierrechte und antibiologistische Tiersoziologie: Der Tierrechtsdiskurs kann nicht weniger komplex geführt werden, als Diskurse über Menschenrechte, <https://simorgh.de/about/tierrechte-und-tierrechte/>

Gruppe Messel Reader <https://simorgh.de/about/gruppe-messel-reader/>

Die Identitäten „Mensch“ und „Tier“ > <https://www.simorgh.de/objects/what-is-an-animal/> > dieser Text auf Deutsch: Mensch-Maschine? Tierversunft!, S.7 > https://farangis.de/reader/e-reader_gruppe_messel_2021_7.pdf

Zum Thema Verschiedenartigkeit von Tierlichkeit > https://farangis.de/tas/tschoerdy_azadeh_und_saline_2022_3.pdf, S.3

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