

# INTRODUCTION

## NATURAL BEHAVIOR\*

By

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Although Darwin began a new paradigm for the scientific study of animal behavior (invoking his law of continuity of mental experience) with the publication of *The Expression of the Emotions in Man and Animals*<sup>1</sup> in 1872, it has taken science nearly 140 years to begin where Darwin left off. Only in the past few years have animal scientists begun to look with some depth at the ethical implications of this continuity between humans and animals.<sup>2</sup> The impetus for this change has been pressure from the animal-rights movement and public interest, *not* the curiosity of animal scientists themselves.<sup>3</sup>

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\* The statements made in this Article do not necessarily represent the views of *Animal Law*. We hope to generate vigorous discussion and debate in the field of animal law. As such, we are excited to share this introduction written by Jeffrey Masson, a popular and eloquent writer and defender of animal rights.

\*\* © Jeffrey Moussaieff Masson 2009. Jeffrey Moussaieff Masson is the author of the *New York Times* best sellers *When Elephants Weep: The Emotional Lives of Animals* (with Susan McCarthy) (Delta 1996), *Dogs Never Lie about Love: Reflections on the Emotional World of Dogs* (Three Rivers Press 1998), and the recently published defense of veganism, *The Face on Your Plate: The Truth about Food* (W.W. Norton & Co. 2009). Mr. Masson has authored eight books discussing animal emotions. He was a Professor of Sanskrit at the University of Toronto and the Project Director of the Sigmund Freud Archives before turning his energy to the world of animals. He currently lives in New Zealand.

<sup>1</sup> The Complete Works of Charles Darwin Online, <http://darwin-online.org.uk/contents.html>; *select* The Expression of the Emotions, 1872, pdf (last updated Nov. 15, 2009) (last accessed Nov. 22, 2009) (images of 1872 edition). For a more recent printing, see Charles Darwin, *The Expression of the Emotions in Man and Animals* (U. Chicago Press 1965).

<sup>2</sup> Donald R. Griffin, *Animal Minds: Beyond Cognition to Consciousness* xi (U. Chicago Press 2001).

<sup>3</sup> Bernard E. Rollin, *The Unheeded Cry: Animal Consciousness, Animal Pain and Science* 167–71, 246–47, 256 (Oxford U. Press 1990).

The main considerations of animal science have undergone a sea change in the last few years. For example, animal happiness was often accorded little respect. It seems many people think a domestic animal is happy if “it” has sufficient food, shelter, and medical care. While all humans would like to have all three, no one would ever consider them sufficient for human happiness. We require far more: In a word, we desire “fulfillment.” That is, we wish to take advantage of all our god-given capacities and talents. If so inclined, we might like to raise a family, to enjoy the company of our children, to know the love of a close companion, to be free to travel, or to wander through beautiful landscapes.

This is just a beginning, of course, but why would we assume that *any* animal desires anything less than this? It seems obvious that chickens, pigs, cows, ducks, sheep, goats, and all other farm animals are social creatures who want exactly the same things humans, another social species, want. Since animals are routinely and thoughtlessly deprived of these basic requirements, we have falsely concluded that they do not require them at all. At the very least, we have given them no thought, driven perhaps by unconscious guilt.

As for that weasel-word animal “welfare,” the Brambell committee put it best when it demanded the five freedoms of animals, which lead to a recognition of the freedom to express normal behavior.<sup>4</sup> Well, if normal behavior includes a desire for happiness and fulfillment, it cannot be found on a farm but only in the natural ecological niche in which these animals evolved. To begin with, it is completely unnatural and abnormal for animals to be caged or even confined. This may not be what the Brambell committee had in mind, but I see no logical way in which we can deny the inherent ethical correctness of this position.

I am pleased to see the emerging acceptance of approaches to animal science that had previously been considered taboo by animal behavioralists: sentimentalism,<sup>5</sup> anthropomorphism,<sup>6</sup> and anecdotalism.<sup>7</sup> At least the last two have yielded to the arguments of such scien-

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<sup>4</sup> Great Britain Technical Comm. to Enquire into the Welfare of Animals Kept under Intensive Livestock Husbandry Sys., *Report of the Technical Committee to Enquire into the Welfare of Animals Kept under Intensive Livestock Husbandry Systems* 13 (Her Majesty’s Stationery Off. 1965) (suggesting that an animal should at least be able, “without difficulty, to turn round, groom itself, get up, lie down, and stretch”).

<sup>5</sup> See Donald R. Griffin, *The Question of Animal Awareness: Evolutionary Continuity of Mental Experience* 117 (Rockefeller U. Press 1981) (demonstrating scientists’ traditional avoidance of sentimentality in their work and their desire to “concern themselves only with observable behavior and shun any involvement with possible subjective qualities or mental experiences”).

<sup>6</sup> See *id.* at 124 (describing anthropomorphism as attributing human emotions and thought to animals).

<sup>7</sup> See B.A. Dixon, *Animals: Emotion and Morality: Marking the Boundary* 94–97 (Prometheus Bks. 2008) (anecdotal evidence traditionally shunned due to its unverifiable and seemingly unscientific nature).

tists as the late Donald Griffin,<sup>8</sup> who pioneered an entirely new field called “cognitive ethology”; Jane Goodall, who insisted in her numerous popular and scientific works that animals be named, not numbered;<sup>9</sup> and most recently the work carried forward by Marc Bekoff<sup>10</sup> and Jonathan Balcombe.<sup>11</sup>

My own books such as *When Elephants Weep*,<sup>12</sup> *The Pig Who Sang to the Moon*,<sup>13</sup> and others in a similar vein are more popular than they are scientific. They have reflected the general public’s interest in these topics and its passionately held belief that it is time for a reappraisal, in favor of animals, of some strongly held beliefs that seem to have outlived their usefulness. In these books, I have tried to defend the idea that popular animal writers are not being sentimental in the common use of that term (namely, an insincere emotion) but in the older sense of the term, namely that we feel sentiments about these topics, which indeed we do. And what, exactly, is wrong with that? Everyone has feelings on these issues, even scientists. It is just that most of them have feelings distinct from the rest of us. That is why I am so pleased to read the works of the scientists I mention above. They have no hesitation in talking about emotions in animals and their own emotions in studying these animals.<sup>14</sup> That is progress.

Post Brambell, it would seem that some scientists agree that “food” animals (what a strange term—not likely to form part of the mindset of any animal) must be allowed to lead a “natural” life and to engage in “natural” behavior. However, we have been reluctant to define “natural” in its application to farm animals. I think the reason for this deficiency is not far to find: “Natural” means living in a way that is simply not possible under the conditions of *any* farm, not just a factory farm. For if the term “natural” is to have any meaning whatsoever, it must refer to the ways in which animals evolved to live. No

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<sup>8</sup> Griffin, *Animal Minds*, *supra* n. 2; see also Griffin, *The Question of Animal Awareness*, *supra* n. 5 (Griffin’s treatise *The Question of Animal Awareness* was his seminal work, though rejected by most scientists at the time.).

<sup>9</sup> Jane Goodall & Marc Bekoff, *The Ten Trusts: What We Must Do to Care for the Animals We Love* 20 (HarperCollins 2003).

<sup>10</sup> Marc Bekoff, *The Emotional Lives of Animals: A Leading Scientist Explores Animal Joy, Sorrow, and Empathy—and Why They Matter* (New World Lib. 2007); see also Marc Bekoff & Jessica Pierce, *Wild Justice: The Moral Lives of Animals* (U. Chicago Press 2009).

<sup>11</sup> Jonathan Balcombe, *Pleasurable Kingdom: Animals and the Nature of Feeling Good* (Palgrave Macmillan 2006); Jonathan Balcombe’s forthcoming *Second Nature: The Inner Lives of Animals* (Palgrave Macmillan 2010).

<sup>12</sup> Jeffrey Moussaieff Masson & Susan McCarthy, *When Elephants Weep: The Emotional Lives of Animals* (Delta 1995).

<sup>13</sup> Jeffrey Moussaieff Masson, *The Pig Who Sang to the Moon: The Emotional World of Farm Animals* (Ballantine Bks. 2003).

<sup>14</sup> Bekoff & Pierce, *Wild Justice*, *supra* n. 10, at 87 (“[A]nimals are empathic creatures, with a large capacity for fellow feeling and behavior that reflects strong social attachments that endure over time.”); see also Dixon, *supra* n. 7, at 14 (quoting Jane Goodall: “Look into a chimp’s eyes . . . and you know you’re looking into the mind of a thinking, feeling being.”).

animal evolved to live in confinement. No animal evolved to live in a dark cage. No animal evolved to live for only a few weeks before being slaughtered. If we are truly serious that we want to give animals the happiest life possible, then they would never be used as food, and they would not be exploited in any way—not for their eggs, their fur, their skin, their milk, their young, or their flesh.

This is important because too often we heap praise upon people who do not take these self-evident truths (at least they ought to be self-evident) into account. Organic farmers who raise animals will often vouch for how much they care about the animals or will even go further and invoke our most sacred word, “love,” to describe how they feel about animals.<sup>15</sup> In my opinion, however, they are the Norman Mailer<sup>16</sup> of farmers: They talk of love even while they are killing the love object. In my dictionary, that is not the true definition of “love.” You do not kill the thing you love, animal or other. You cherish them, you protect them, and you make certain they are living the happy life they evolved to live. You do not, then, eat them, tear their children away from them, skin them, or do any of the other things we do not do to those we love. If we truly loved farm animals the way we love our human friends, we would keep them from these harmful events. When a chicken is eaten at six or eight weeks of age, it is sheer lunacy to speak of a “happy life.” You cannot be happy when 98% of your life has been taken from you. Baby calves? Lamb? Suckling pig (yet another dishonest or wildly bizarre euphemism)? All of these animals are killed long before their true life has even begun, simply for our taste. It does not matter whether they were raised on an organic farm or a factory farm. Their lives are equally short on both. To speak of happiness under these circumstances requires a complete disconnect with both our language and our emotions.

Dr. Temple Grandin, in her new and popular book, tells us “animals make us human.”<sup>17</sup> Yet she spends her time devising ways to kill them. Is that the way we thank our benefactors? One could argue that she has improved the speed or the comfort of the slaughter, but what a strange way to show gratitude. Would it not make more sense to spend one’s time trying to stop the slaughter altogether? What prevents her from doing so? Whatever we decide it is, we cannot in good conscience regard her as the savior of animals. Were they given a voice, would they choose to be disposed? Of course not. Suppose we learned at this late date that a guard in Treblinka devised a manner of delivering the

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<sup>15</sup> See Rosas Farm, *Meet the Rosas Family*, <http://www.alrosas.com/id26.htm> (last accessed Nov. 21, 2009) (claiming to raise cattle with “kindness and humanity”); see also Organic Prairie, *Home*, <http://www.organicprairie.coop/> (last accessed Nov. 21, 2009) (farmers declaring their “passionate commitment to humane animal treatment”).

<sup>16</sup> Robert Merrill, *Norman Mailer Revisited* 5–6 (Twayne Publishers 1992) (Mailer stabbed his wife and then published the following poem: “So long / as / you / use / a knife, / there’s / some / love / left.”).

<sup>17</sup> Temple Grandin & Catherine Johnson, *Animals Make Us Human: Creating the Best Life for Animals* (Houghton Mifflin Harcourt 2009).

gas that made death more efficient and quicker. Would we expect Israel to plant a tree in the Avenue of the Righteous in his honor? Why do we consider even thinking of such a thing as an exercise in morbidity but regard Grandin as a kind of saint for animals (People for the Ethical Treatment of Animals gave her a Visionary of the Year Award<sup>18</sup>)?

Consider this extraordinary passage:

I vividly remember the day after I had installed the first center-track conveyor restrainer in a plant in Nebraska, when I stood on an overhead catwalk, overlooking vast herds of cattle in the stockyard below me. All these animals were going to their death in a system that I had designed. I started to cry and then a flash of insight came into my mind. None of the cattle that were at this slaughter plant would have been born if people had not bred and raised them. They would never have lived at all.<sup>19</sup>

That seems to have pacified her conscience forever! One moment of true insight, when she cried, was quickly stifled by a dumb cliché. It is an argument used by many people who become very annoyed if you say that we wouldn't want our children born into a world where they would be murdered, no matter how humanely or painlessly, after having lived for just a few months or years.

Why do we honor Michael Pollan, another popular writer, for alerting us to the horrors of factory farming but find it acceptable that he can so casually describe (in *The Omnivore's Dilemma*) killing a wild boar (a sow, actually, who may even have had babies destined now to die without her care) and serving her to friends as if it were an act of moral courage?<sup>20</sup> Why is this not denounced as a ludicrous riff on subsistence hunting? Or when he describes killing chickens on the "ideal" organic farm as something one can easily get used to,<sup>21</sup> why are we not disgusted, as we would be were a soldier to tell us how easily he learned to kill "the enemy"? And the chickens are not even enemies! Pollan assures us that these chickens, and other animals, led happy lives.<sup>22</sup> He can do so only because he refuses to subject the term "happiness" to any kind of intellectually rigorous analysis. It is a bit like

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<sup>18</sup> People for the Ethical Treatment of Animals (PETA), *2004 Progy Awards*, <http://www.peta.org/feat/progy/2004/winners.html> (last accessed Nov. 21, 2009).

<sup>19</sup> Grandin & Johnson, *supra* n. 17, at 297.

<sup>20</sup> Michael Pollan, *The Omnivore's Dilemma: A Natural History of Four Meals* 352 (Penguin 2006). The book is immensely popular and continues to sell at astonishing rates, which is a testament either to Pollan's undeniable writing skills or to the intense interest right now of the American public in all things pertaining to animals and food or animals as food. While I can readily acknowledge Pollan's amazing ability to make corn and dirt interesting, I found the chapter on vegetarianism an immense disappointment not only because we come to different conclusions, but because he misses, it seems to me, an opportunity to take a deeper look at one of the most important moral issues of our time. The dilemma of the omnivore is one I am afraid Pollan has missed: namely that he or she need not continue to be an omnivore but could easily, healthily, and guilt-free live exclusively on plants.

<sup>21</sup> *Id.* at 232–33.

<sup>22</sup> *Id.* at 319.

the neighbors of serial killers announcing that they seemed like ordinary, friendly people.

Let me expand my dissent here by citing an oft-quoted passage by Michael Pollan in *Food with a Face*.<sup>23</sup> It tells us everything we need to know about what is wrong with the movement he has started:

Polyface Farm occupies 550 acres of rolling grassland and forest in the Shenandoah Valley of Virginia. Here, Joel Salatin and his family raise six different food animals—cattle, pigs, chickens, rabbits, turkeys, and sheep—in an intricate dance of symbiosis designed to allow each species, in Salatin’s words, “to fully express its physiological distinctiveness.” What this means in practice is that Salatin’s chickens live like chickens, like cows: pigs, pigs. To many animal rightists, even Polyface Farm is a death camp. But to look at these animals is to see this for the sentimental conceit it is. In the same way that we can probably recognize animal suffering when we see it, animal happiness is unmistakable, too, and during my visit to Polyface Farm I saw it in abundance. Salatin slaughters his chickens and rabbits right on the farm.<sup>24</sup>

Every sentence in this amazing passage is wrong in the deepest possible sense of wrong! On sentimentality, let me remind you of the Nazi attitude towards Jews, as expressed by German theologian Gerhard Kittel: “Kittel ridiculed empathy with Jews as the ‘sickness of sentimentality’ and claimed that expulsion had been inspired by reason, knowledge, and love. ‘God’s commandment to love does not mean he wants us to be sentimental.’”<sup>25</sup> The English novelist and essayist Brigid Brophy summed it up wonderfully in her widely quoted (but non-sourced) witticism: “Whenever people say ‘we mustn’t be sentimental,’ you can take it they are about to do something cruel. And if they add ‘we must be realistic,’ they mean they are going to make money out of it.”<sup>26</sup>

When groups of whatever persuasion call dead animals “humane” meat,<sup>27</sup> or “animal compassionate” meat,<sup>28</sup> or any other ridiculous euphemism, they choose to hide the ugly and violent truth. We must refuse to accept the subterfuge. These animals have not led happy lives nor have they been able to engage in natural behavior. We cannot change something until we know the true state of affairs. If we truly wish to give animals a happy life and allow them to engage in natural behavior, we will stop killing them. This means we cannot eat them. Or drink their milk. Or use their skin or fur. Or eat their eggs. If we

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<sup>23</sup> Michael Pollan, *Food with a Face*, in *Hungry Planet: What the World Eats* 162 (Peter Menzel & Faith D’Aluisio eds., Ten Speed Press 2005).

<sup>24</sup> *Id.* at 163.

<sup>25</sup> Claudia Koonz, *The Nazi Conscience* 62 (Belknap Press 2003).

<sup>26</sup> John Robbins, *Diet for a New America: How Your Food Choices Affect Your Health, Happiness, and the Future of Life on Earth* 73 (New World Lib. 1987).

<sup>27</sup> Andrew Martin, *Meat Labels Hope to Lure the Sensitive Carnivore*, 156 N.Y. Times A1 (Oct. 24, 2006) (available at <http://www.nytimes.com/2006/10/24/business/24/humane.html> (Oct. 24, 2006, updated Oct. 26, 2006) (last accessed Nov. 22, 2009)).

<sup>28</sup> *Id.*

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cannot take this step, then let us at least have the decency and the intellectual honesty to admit that these animals are not living the life nature meant them to live. They did not evolve to be somebody else's dinner.

Just as scientists, activists, and the general population are beginning to understand the importance of an emotional approach to animal issues, it is time for those in the legal profession to open their hearts as well. President Obama's recent nomination of Sonia Sotomayor reflected his desire to place an empathetic person on the Supreme Court.<sup>29</sup> Empathy and emotional openness will guide lawyers, politicians, and judges to make important ethical decision about our future relationship with the animal world.

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<sup>29</sup> CNN, *Obama Nominates Sonia Sotomayor to Supreme Court*, <http://www.cnn.com/2009/POLITICS/05/26/supreme.court/index.html> (last updated May 26, 2009) (last accessed Nov. 21, 2009).

