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Evelyn B. Pluhar

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LEGAL AND MORAL RIGHTS OF SENTIENT BEINGS AND THE FULL PERSONHOOD VIEW

EVELYN B. PLUHAR

Penn State Fayette, The Eberly Campus

Joan Dunayer. *Speciesism*. Derwood, MD: Ryce Publishing, 2004.

Joan Dunayer is an unabashed champion of all sentient beings. In her latest book, *Speciesism*, she defends the equal moral significance of every entity capable of having experiences. She clearly spells out how our laws would have to be written if legal rights are truly to conform to moral rights. Dunayer's proposed code radically differs from current U. S. law, of course, because that law embeds every imaginable bias in favor of humans, giving only token recognition to a few other favored species. Dunayer raises her lance against those with such presumptions, taking on the legal system, the exploitation establishment, the various "animal advocacy" movements, and, fundamentally, the philosophies that ground all such attitudes and practices.

Her discussion of these philosophies is at times erroneous; however, corrections can be made without harming her overall thrust. It is this reviewer's belief that Joan Dunayer has largely succeeded in making a compelling case for the equal respect of all sentient beings.

First, I must point out a disagreement I have with her language. I will not be following Dunayer's usage of the terms *nonhuman* and *nonhuman animals*. She proposes that we consider beings to be "animals" if and only if they are sentient, that is, capable of having experiences. Dunayer argues that scientific evidence supports the sentience of beings with central nervous systems. She admits that biologists do not limit the animal kingdom to beings with central nervous systems, however (p. 126). She then further proposes to revise language by making *nonhumans* interchangeable with *sentient beings* (p. xii). I find this to be confusing and potentially off-putting. Imagine a typical meat-eater picking up her book and reading on the cover that "speciesism" is "a failure, in attitude or practice, to accord any nonhuman being equal consideration and respect." How easy it would be to toss the book aside! Many nonhumans—plants, bacteria, viruses, sponges, paramecia, and so on—are said to deserve "equal respect" with humans? I will, instead, speak of *sentient beings* in the sense that includes humans. When humans are excluded, I will speak of *sentient nonhumans*.

Dunayer's criterion of moral significance is the capacity of sentience. She dismisses those who offer different criteria as "speciesist." This criticism is fair if they are, unfair if they are not. To determine when it fairly applies, we need to define *speciesism*.

Dunayer opposes the familiar definitions of Peter Singer and Tom Regan, exemplified by Regan's definition: "Assigning greater weight to the interests of human beings just because they are human" (p. 3). She finds this unacceptable because "It is speciesist to give greater weight to the interests of humans than nonhumans for *any* reason" (p. 3). She argues for this contention by drawing a parallel: It would be sexist to give preference to males over females for any reason (p. 2). This is unsound reasoning, however. Is it sexist to give greater weight to a pregnant woman's choice about continuing a pregnancy than to the father's preference about the matter? Some differences between genders—and species—are morally relevant. True speciesists will take two individuals who are not morally relevantly different and accord preference to the one simply because she is a member of a favored species. Although Dunayer roundly criticizes Singer as a speciesist for saying this, he is correct when he says that it is not speciesist to hold that humans and members of other species differ in ways that would entitle humans to greater moral consideration (p. 4). If this were true, it would not be the fact of humanity that would ground the entitlement: It would be those morally relevant differences.

Dunayer's own definition of *speciesism*, "A failure, in attitude or practice, to accord any nonhuman being equal consideration and respect" (p. 5), is too broad and too narrow. It is too broad because the very concept of *species* is entirely missing. It is too narrow because speciesists may favor nonhumans over humans. For example, caretakers who give better care to their dog than to their human dependants on the grounds that "dogs rule, babies drool," are just as speciesist as those who would abandon a dependent dog (but not a child) at the first sign of inconvenience. I suggest the following definition of *speciesism*: "The attitude or practice of giving greater weight to the interests of certain individuals than to the interests of otherwise morally relevantly similar individuals, on the grounds of species membership alone." Perhaps Dunayer could accept this friendly amendment.

After offering her definition of *speciesism*, Dunayer addresses what she calls "Old Speciesism" and "New Speciesism." She discusses the philosophy behind each, then the laws that reflect or would reflect each set of philosophical claims; and finally, the so-called animal advocacy groups that actually accept the assumptions of old or new speciesism. Her final three chapters present nonspeciesist philosophy, law, and advocacy for the sentient beings enslaved by humans. I address each in turn.

Dunayer's discussion of "Old Speciesism," the view that humans alone are morally significant, is excellent.¹ This is indeed the standard human presumption, and it does not have a philosophical leg to stand on. All the various attempts to show that all humans differ from all nonhumans in morally relevant ways utterly fail. Each fails to include all humans or to exclude all nonhumans. My only concern with her chapter on "Old Speciesist Philosophy" arises from her unduly harsh, brief discussion of Judeo-Christian views (pp. 11-12). Biblical texts can be interpreted in many ways, as surely she knows, and there is no single voice in this matter. To be sure, St. Thomas Aquinas gave classic expression to religious homocentrism, and he is echoed by many others today. However, the Rev. Andrew Linzey (1987) has philosophically developed St. Francis of Assisi's alternative Christian perspective, arguing passionately that the central theme of the New Testament, the redeeming power of love, justifies attributing rights to sentient nonhumans. Jews and Christians are on both sides of the aisle on the nonhuman animal rights issue.

Dunayer's explication of "Old Speciesist Law" is horrifyingly good. Old speciesist law is our law. It is the law of the slave trade. The very cover of Dunayer's book is a reproduction of a rat behind bars in a laboratory. The rat clutches a bar and peers out in intense, recognizable distress. Nonhumans enslaved in laboratories, on farms, in circuses, in puppy "mills," "pet" stores, zoo -prisons, and aqua prisons, are all innocent victims of human arrogance, greed, and ignorance. Many sentient nonhumans in the wild are similarly and legally abused. She convincingly argues that many traditional "animal advocacy" groups try to amend some of these laws along the same speciesist lines, pushing for more "humane" conditions: bigger cages, more comfortable traps, larger tanks, sanitized slaughter. Yes, many sentient nonhumans would suffer less under these "kinder, gentler" provisions than they do now; however, the slaves remain enslaved. Dunayer's logic is undeniable.

Dunayer's discussion of "New Speciesism" also has much to recommend it. *New speciesists*, as she defines them, believe that the closer the resemblance is between a nonhuman species and the human species, the more moral significance that nonhuman species has. They hold that humans are at the top of an intellectual hierarchy, with moral significance growing as the hierarchy is scaled. Many newer so-called animal advocates are "new speciesists." (p. 77). They have not yet changed the laws; however, they have begun to try (Dunayer, chapters 6 and 7).

Of course, they do not consider themselves speciesist at all. They believe that "normal," "typical" humans are different from most nonhumans in morally relevant ways, such as self-consciousness, intelligence, "richness" of experience, a sense of past and future, a concept of death, and so on. However, they do not succeed in justifying their presumptions that such characteristics are morally relevant. With some exceptions (see below) Dunayer shows this very well.²

As badly based as these views are, however, their proponents are right about one thing: They are not speciesists. Dunayer calls them *speciesists* because, as she puts it, their "gold standard" is "normal human intelligence" (p. 87). This is true; however, what nevertheless prevents them from being speciesists is this: They accept the fact that their criteria exclude numerous humans (the very young, those who are mentally disadvantaged) while including some nonhumans (other apes being the most obvious examples). They are really proponents of what I have called "the full personhood view": They hold that reasonably autonomous agents hold optimum moral significance. However objectionable this view may be, it cannot rightly be called speciesist.

I fully join Dunayer in decrying the above view. It is not only unjustified but also is a danger to helpless nonhumans and humans alike. In fact, I have made considerable efforts to debunk it.³ I was thus dismayed to find myself portrayed as a "new speciesist" also (pp. 92-96). I would like here to set the record straight. My view is that any beings capable of caring about what happens to them, even if it is only in the simple sense of wanting pain to stop, are fully morally significant.⁴ Because it is enormously unlikely that any sentient being will not care about what next happens to him or her, I think that it is highly probable that the class of sentient beings is coextensive with the class of morally significant beings. My criterion of moral significance is equivalent to Joan Dunayer's.

Unlike full-personhood-view proponents, I have defended and continue to defend the view that all beings who care about what happens to them are equally morally significant, equally deserving of basic moral rights. I have explicitly rejected the alternative, which I have called "the unequal rights view" (Pluhar, 1995,

pp. 294-301; 1988). Yet Dunayer finds me guilty of defending an intelligence-based hierarchy of moral significance, largely because of a quotation that she takes seriously out of context (p. 94). I wrote that, "It is morally preferable for a human to kill and eat a fish than to slaughter and barbecue a chicken (let alone a calf, a monkey, or another human). It is also better to eat clams than fish" (Pluhar, 1995, p. 259). The context is a starvation situation where there is no vegetarian option.⁵ In such a case, we have the obligation to spare clear cases of sentient beings over less clear or highly questionable cases. In fact, even in the 1995 book she cites, I defended the equal moral significance of mammals, argued that we should give the benefit of the doubt (and basic moral rights) to birds, and suggested that we also extend the benefit of the doubt to less clear cases: reptiles, amphibians, and fish. Since then I have come to believe that all vertebrates, including reptiles, amphibians, and fish, can care about what happens to them and should, therefore, be extended basic and equal moral rights.

This takes us to the concluding chapters of Dunayer's book: nonspeciesist philosophy, law, and advocacy. Here she presents compelling scientific references to support the notion that most invertebrates, that is, those with central nervous systems, are sentient (pp. 126-134). This is one of the great services done by her book. If she is right, and I am inclined to think that she is, they too should be extended equal rights.

In her chapter on nonspeciesist law, Dunayer forthrightly offers a realistic scenario for change. If humans can be persuaded that all sentient beings should be respected rather than exploited, they will agree to constitutional amendments and legal changes that will protect the rights of these beings. These changes would not even be excessively onerous as they would necessarily evolve gradually. Her detailed picture of the possible future could be a blueprint for moral governance.

Such changes would only be possible if people can be persuaded of the wrongness of homocentrism and intellectual elitism. In her final chapter, Dunayer speaks about advocacy toward this end. It is not impossible or even onerous to live ethically. Indeed, Dunayer has made the case that it is obligatory.

NOTES

1. I have elsewhere termed this view *homocentrism*. Readers will find my own discussion of its failings in chapter 1 of my 1995 book *Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals*.

2. I also discuss several such views in chapters 3 and 4 of Pluhar (1995).

3. See, for example, chapter 4 of Pluhar (1995), which is entirely devoted to the demolition of Singer's preference utilitarianism.

4. Space prevents me from giving the complex argument that has this as its conclusion. I have not simply offered this criterion for consideration; I have tried to prove it. See Pluhar (1995, pp. 240-259).

5. She too believes it would be morally justifiable to kill a nonhuman animal in such circumstances; for example, if one were stranded in the arctic, it would be justified to kill a polar bear (p. 125).

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Evelyn B. Pluhar is professor of philosophy at Penn State Fayette, the Eberly Campus. She is the author of numerous articles concerning the moral treatment of nonhumans. Her major publication is her book, Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals. She resides happily in Uniontown, PA, with her husband Michael Adams, who is a fellow vegetarian and nonhuman-animal rights activist. They are honored to share their home with four rescued cats.