



Universiteit  
Leiden  
The Netherlands

## **The Anthropomorphic Hegemony of Subjectivity: Critical Reflections on Law and the Question of the Animal**

Villiers, J. de

### **Citation**

Villiers, J. de. (2019, December 16). *The Anthropomorphic Hegemony of Subjectivity: Critical Reflections on Law and the Question of the Animal*. Retrieved from <https://hdl.handle.net/1887/82072>

Version: Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/82072>

**Note:** To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/82072> holds various files of this Leiden University dissertation.

**Author:** Villiers, J. de

**Title:** The Anthropomorphic Hegemony of Subjectivity: Critical Reflections on Law and the Question of the Animal

**Issue Date:** 2019-12-16

---

## CONCLUSION

To manifest oneself as a face is to *impose oneself* above and beyond the manifested and purely phenomenal form, to present oneself in a mode irreducible to manifestation, the very straight-forwardness of the face to face, without the intermediary of any image, in one's nudity, that is, in one's destitution and hunger.<sup>1</sup>

As with every bottomless gaze, as with the eyes of the other, the gaze called "animal" offers to my sight the abyssal limit of the human: the inhuman or the ahuman, the ends of man, that is to say, the bordercrossing from which vantage man dares to announce himself to himself, thereby calling himself by the name that he believes he gives himself. And in these moments of nakedness, as regards the animal, everything can happen to me, I am like a child ready for the apocalypse, *I am (following) the apocalypse itself*, that is to say, the ultimate and first event of the end, the unveiling and the verdict.<sup>2</sup>

What does it mean to be caught (naked) under the gaze of an animal? How can an animal look you in the face? What limits must I cross in order to stand in the truth of (my) being in front of an animal? In his remarkably rich and insightful autobiographical text *The Animal That Therefore I Am*,<sup>3</sup> Jacques Derrida recalls the unease and shame that he experienced when, following a morning shower, he unexpectedly discovered that he was being looked at naked by his companion cat who entered the bathroom to ask for her

1 Emmanuel Levinas *Totality and Infinity: An Essay on Exteriority* (trans Lingis A) (Martinus Nijhoff Publishers: The Hague, 1979) 200.

2 Jacques Derrida *The Animal That Therefore I Am* (trans Wills D, ed Mallet M) (Fordham University Press: New York, 2008) 12.

3 Derrida *The Animal That Therefore I Am*.

breakfast. Derrida is not focused on his personal awareness of the cat, but rather on the experience of “finding [himself] naked, [his] sex exposed, stark naked before a cat that looks at [him] without moving”.<sup>4</sup> This seemingly banal encounter has profound philosophical significance for Derrida, given Western philosophy’s refusal to acknowledge the address of the animal gaze and how this negation, which “could not be the figure of just one disavowal among others”, fundamentally “institutes what is proper to man, the relation to itself of a humanity that is above all anxious about, and jealous of, what is proper to it”.<sup>5</sup> Not surprisingly, then, this encounter leads Derrida to reflect on his own certitudes and what he considers to be the leading question of his body of work: *Who am I (following)?*<sup>6</sup> It becomes increasingly clear that Derrida is not raising the question with the intention of concretizing an answer. He is here more interested in determining the sense of this question, which opens onto his much broader concern with ontology and an exploration of the strong connection between our thinking concerning animals and our self-understanding.<sup>7</sup>

Derrida is somewhat perplexed by a lingering embarrassment. This “impropriety of a certain animal nude before the other animal ... [that] one might call ... a kind of *animalséance*: the single, incomparable and original experience of the impropriety that would come from appearing

4 Derrida *The Animal That Therefore I Am* 4.

5 Derrida *The Animal That Therefore I Am* 14.

6 Derrida *The Animal That Therefore I Am* 3-4. In formalizing philosophical responsibility as inescapably concerning the responsibility (and thus question) of *someone*, Derrida previously argued “I would say that for me the great question is always the question *who*. Call it biographical, autobiographical or existential, the form of the question *who* is what matters to me, be it in, say, its Kierkegaardian, Nietzschean, or Heideggerian form. *Who? Who asks the question who? Where? How? When? Who arrives?* It is always the most difficult question, the irreducibility of *who* to *what*, or the place where between *who* and *what* the limit trembles, in some way. It is clear that the *who* withdraws from or provokes the displacement of the categories in which biography, autobiography, and memoirs are thought. Abyssal question of the signature, but also signature of the question, the pledge pledged in the question”. Jacques Derrida and Maurizio Ferraris *A Taste for the Secret* (trans Donis G, ed Donis G and Webb D) (Polity Press: Cambridge, 2001) 41-2.

7 David Wood “Thinking with Cats” in Atterton P and Calarco M (eds) *Animal Philosophy: Essential Readings in Continental Thought* (Continuum: London, 2004) 129-44, 129.

in truth naked, in front of the insistent gaze of the animal, a benevolent or pitiless gaze, surprised or cognizant” not only invokes a reflex of shame, but also a certain shame for being ashamed.<sup>8</sup> It is the complexity of this shame, which Derrida finely traces back to a time before the Biblical fall,<sup>9</sup> and the alterity of the cat that evokes his reflections on (the nature of) animal difference(s). Being all too aware of the peril of neutralization and erasure, Derrida’s central concern is with multiplying the difference(s) in order to mark or avow the “unsubstitutable singularity” of his companion animal as “an existence that refuses to be conceptualized”.<sup>10</sup> Derrida is at pains to underscore that this encounter involves a *real* (rather than metaphorical or figurative) cat who, even before its identification *as* a cat, “comes to [him] as *this* irreplaceable living being that ... can encounter [him], see [him], even see [him] naked”.<sup>11</sup> This is not a primal scene of Man meeting Animal. On the contrary, it is precisely the Man/Animal binary opposition that has served to neutralize and erase the multitudes of differences that ground the possibility of the intersecting gaze that allows me to recognize the absolute alterity of my neighbor. The encounter that Derrida speaks of here is one of mutual recognition, embodied proximity, responsiveness, and responsibility that subsist in a dimension of radical singularity and irreducibility. It is a “naked” encounter with an Other before or outside concepts and proper names that designate and denote them. It is a face-to-face encounter.

Moving beyond the reductive thinking, conceptual hegemony, and actual violence engendered by the general singular category “Animal” towards an ethics of (multitudes of) difference(s) is imperative to the possibility of a face-to-face encounter with the Other. In this dissertation I sought to delineate a problematic counter-movement at the core of dominant models of animal rights that paradoxically defines animals in relation to humans and forecloses the possibility

8 Derrida *The Animal That Therefore I Am* 4.

9 See especially Derrida *The Animal That Therefore I Am* 3-23.

10 Derrida *The Animal That Therefore I Am* 9.

11 Derrida *The Animal That Therefore I Am* 9.

of recognizing and embracing the animal as (unsubstitutable, singular) Other. To this end I identified the metaphysics of subjectivity, specifically the way in which it solidifies and binds these theories to the very humanism they seek to displace, as the focus and critical point of departure for this project. The metaphysics of subjectivity is inextricably part of the history of the oppositional Human/Animal binary that has functioned to subsume and effect an erasure of the multitudes of differences on both sides of the divide and facilitate our subjugating position of mastery over animals. Drawing on philosophical resources, I have sought to foreground the importance of thinking *difference* differently, outside of- and beyond oppositional binaries. Inasmuch as the subordinating structure embedded in the Human/Animal oppositional limit bequeathed by the metaphysico-dialectic tradition continues to operate in the dominant models of animal rights theory and forecloses the possibility of openness to difference, I have situated my critical project at the borders of the Human/Animal opposition and specifically illustrated its constitutive functioning in relation to the construct of subjectivity. This inquiry grounds my thesis that there is essential congruence between (the subject-centered model of) law and animal subjugation and my sustained problematization of law as channel for animal liberation.

As explained in chapter 2, deconstruction aims to protect the ethical relation from being collapsed into symmetry and the Other from being denied her otherness. The ethical impulse implicit in deconstruction is excavated by Drucilla Cornell in her (re)conceptualization of the philosophy of the limit, allowing us to better understand its insistence on maintaining a divide between the system of rules that *is* and the future that *ought*, and situating the structure of subjectivity in relation to the difference between law and justice. Following Derrida, I illustrated that the human is constituted as subject through a carnophallogocentric schema of sacrifice and, in turn, I sought to demonstrate the deconstructive potential of veganism as a mode of being that exposes and resists the sacrificial anthropocentric character of this configuration.

In chapter 3 I introduced another thesis on the juridical register of animality by illustrating how a strategic support for welfare-based law reforms that condone the sacrificial property status of animals fundamentally counters the ideological foundations of the rights-based position, and I urged that the two paradigms be conceptually and strategically separated in order to preserve the possibility of recalibrating the animal's sacrificial status. Whilst the existence of an ideological purlieu separating welfare theory and rights theory is by no means a novel insight, I hope to have illustrated its profound significance for a positive political project and that a sustained engagement with the conceptual inconsistencies between the two models is vital to safeguarding a projected future of animal liberation from being deflected, and ultimately foreclosed, in the continuation of the present. A critical approach of slowness, which effects a de-privileging of the present, is apposite precisely because it allows us to acknowledge and reflect on the complexity of the question of the animal in law as being situated in the past, present and future, and to consider that a utilization of law may unintentionally solidify discourses, practices and modes of social regulation that are fundamentally anthropocentric and thereby produce more harm than good.

I employed a semiotic approach to offer a problematization of rights in chapter 4. My critical angle of engagement involved the philosophical conditions of existence of modern rights that inherently render them limitless and allows for the extension of rights to animals. By specifically focusing on the similarity principle, which is deeply rooted in a logic of binary opposition, I sought to illustrate how the animal rights model defines animals by virtue of their relative proximity to humans and thereby forecloses the possibility of embracing their singularity and otherness. The fundamental problematic here concerns the oppositional thinking that effaces differences and reverts to the homogenous. By thinking animal Being in light of shared substantive properties, animals are not recognized as phenomenologically symmetrical to humans. The animal is conceptualized as the Other to man and thus, ultimately, not genuinely other at all.

Chapter 5 aimed to position the anthropocentric ontology of similarity underlying rights theory in relation to a more foundational problematic that continues to situate the human as ground of intelligibility and relational center of all that exists. I turned my attention to uncovering the metaphysics of subjectivity as having effected a progressive subjectivization of human-Being (in opposition to animal-Being). This focus on man's becoming-subject allowed me to isolate anthropocentrism as a guiding thread of the metaphysical tradition and foreground its implications for discourses and institutions that employ the construct of subjectivity in service of animal liberation. The operational force of what I termed the anthropomorphic hegemony of subjectivity renders any evocation of the subject a (paradoxical) deepening or solidification of the very interpretation of man that lies at the core of animal subjugation. As such, I argued that a meaningful turn towards animal liberation requires a rigorous and sustained deconstruction of the underlying metaphysical support of rights in order to preserve the possibility of rethinking human-animal relationality from a non-anthropocentric, post-metaphysical space.

In chapter 6 I critically engaged with a landmark ruling by the highest court in South Africa in order to illustrate the profound hold that metaphysical anthropocentrism has over Western culture and the emanating difficulties accompanying efforts aimed at the recalibration of the animal's legal status as an object, even when animals are recognized as sentient beings with intrinsic worth. The ruling presented me with an opportunity to comprehend and articulate law's deep resistance to the concerns of animals against my thesis on the object status of the animal as a constitutive function of (the subject-centered model of) law, thus deepening my problematization of a pragmatic utilization of law as instrument of immediate resolution. The court's vacillation between two contrasting ideologies that respectively regard animals as utility objects and individuals with intrinsic worth relates to the anthropocentric limits inherent in legal discourse and institutions, or the animal as other to a subject-

centered system of law. At issue, as previously illustrated, is the way in which discourse on the subject continues to associate subjectivity with the human, even when it acknowledges that animals possess subjective consciousness, are capable of experiencing pain, and form an integral part of a rich social fabric. The question of the animal as subject of law thus re-introduces precisely what is put in question, and whilst this consequence might strategically be worth risking in certain circumstances, I regard it as crucial that we are forthright in acknowledging these types of risks when engaging law. As such, my discussion here prefigured my reflections on the notion of a risking law in the following chapter.

In my final chapter I reflected on the capacity of literature to problematize the authority of traditional philosophical and legal discourses and circumvent some of the theoretical and ethical constraints that I have foregrounded in the preceding chapters. Drawing on Mikhail Bakhtin's critical insights into the comprehensive critique of authority performed by the style and form of the polyphonic novel, I analyzed the stylistic and structural characteristics of J.M. Coetzee's novella *The Lives of Animals* in order to present a reading of this text as a very important counterpoise to not only the anthropocentrism embedded in law, but indeed law as a regulating authority of the social order. Insofar as the experience of the polyphonic novel, as aesthetic activity, can furthermore facilitate a "writing" of the animal and a "reading" of her response that is silenced by the law, my sense is that literature holds great liberatory potential for the animal. Whilst I interpret the dearth of scholarship exploring this alternative as a symptom of law's ever growing hegemony, it is precisely for this reason that I feel strongly that literature has a vital role to play in animal studies. Literature not only destabilizes the dominant binary mode of exclusively engaging (with) law to either resist legal changes that pose detriment to animals or utilizing law to promote the interests of animals, but also effects a de-centering of law that can radically alter our understanding of- and approach to law itself. It is in this sense that I consider the subversive

potential of literature as potentially gesturing what Karin van Marle terms a risking law that is humbled through the exposure of its conservation of both conceptual and actual violence, and realistically engaged as a strategy that not only inherently poses risk, but could potentially generate disastrous effects.

I hope to have persuasively illustrated that the question of the animal is an exceedingly nuanced one that necessitates a response more rigorous than the extension of any right(s) can effectuate. At the center of this complex problematic lies the construct of man as subject that has facilitated unbridled power for some and unimaginable violence for others.<sup>12</sup> I have been arguing that, in order for thought to progress otherwise in regard to animals, these very concepts of man, subject, and thus also animal, have to be subjected to sustained deconstruction. The fundamental issue at stake concerns the (im)possibility of a non-violative and non-relational alterity that is not assimilated into an economy of the same. Resistance to the collapse of difference into the register of the calculable and exchangeable is vital to preserving the possibility of “the singular coming of the Other”, or what Derrida also calls an event.<sup>13</sup> This challenge to responsibly think the alterity of the living relates to a thought exposed and responsive to the very un-conditionality and non-calculability that exceeds the order of the subject. My intention, then, was to think the conditions of possibility towards the *event* of what we so confusedly call the animal.

12 I recall here Theodor Adorno’s critique of the concept of Western subjectivity as complicit in the tragic events of twentieth-century history, arguing “it is not wrong to raise the less cultural question whether after Auschwitz you can go on living – especially whether one who escaped by accident, one who by rights should have been killed, may go on living. His mere survival calls for the coldness, the basic principle of bourgeois subjectivity, without which there could have been no Auschwitz; this is the drastic guilt of him who was spared”. Theodor Adorno *Negative Dialectics* (trans Ashton E) (Continuum: New York, 1973) 362-63.

13 See *inter alia* Jacques Derrida *Rogues: Two Essays on Reason* (trans Brault P and Naas M) (Stanford University Press: Stanford, 2005) xiv.