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EDITORIAL

Martin Kintzinger

Die Beiträge im Jahrbuch für Universitätsgeschichte spiegeln stets aktuelle Diskurse in den historischen Wissenschaften wieder. Im vorliegenden Band wird dies besonders deutlich: Die drei *Einzelbeiträge* beschreiben mit dem „animal turn“, der Raumgeschichte und der Institutionengeschichte der Philologie aktuelle Arbeitsfelder der Wissenschafts- und der Universitätsgeschichte.

Für die Zeitgeschichte des 20. Jahrhunderts untersuchen die acht Beiträge des *Themenschwerpunktes* in vergleichender Perspektive ein wissenschafts- und bildungspolitisch auch gegenwärtig brisantes Feld, die Entwicklung der Technischen Hochschulen und ihr Verhältnis zu den Universitäten.

In den *Berichten und Rezensionen* wird über die aktuelle Einrichtung eines islamisch-theologischen Instituts und das Ergebnis einer Umfrage an den deutschen Universitätsarchiven berichtet. Zwei Rezensionen, davon eine Sammelbesprechung, stellen neue Veröffentlichungen in kritischer Würdigung vor.

Der Dank der Herausgeber gilt Fritz Beise MA (Rostock) für die verlässliche Ausführung der Satzarbeiten und Dr. Thomas Schaber sowie Jasmine Karius vom Steiner Verlag für die, wie stets, konstruktive Zusammenarbeit.

Münster, November 2022

AUFSÄTZE

THE ORDER OF CREATURES

Conflicting Demarcations of Humans and Animals in the European Middle Ages

Marcel Bubert

Abstract: In the last decades, human-animal relations have increasingly come into focus of cultural studies. According to the diversity of disciplines, different approaches have been proposed. As the title of this article, which is borrowed from Michel Foucault's famous study on "The Order of Things", already insinuates, this paper approaches the subject of human-animal relations in the European Middle Ages mainly from the perspective of the history and sociology of knowledge. However, the question of whether there was a specific "order of creatures" in the Middle Ages remains highly ambiguous. The study intends to discuss how far the medieval distinctions of humans and animals were based on common epistemological premises, and, in particular, to which degree the demarcation was subject to conflicting interpretations and definitions. Which criteria were applied to establish a taxonomy of creatures and how far were they accepted or questioned? After a general introduction to the theoretical background and the contemporary debates on human-animal relations, the study will examine sources from different (learned) contexts of the European Middle Ages and discuss them against the background of current "conflicting demarcations".

I. THEORETICAL PRELIMINARIES: HUMANS, ANIMALS AND CONFLICTING DEMARCATIONS

Already before the appearance of human animal studies in the 1990s, the relation between human and non-human animals has been rediscovered as a subject of contentious debates in different scientific disciplines. In literary and cultural studies or history, research has turned its focus, for instance, on the interactions between humans and animals as well as to symbols and symbolic representations of animals in narratives, images or rituals.¹ From the perspective of philosophy and the history of

- 1 Nik Taylor, *Humans, Animals, and Society. An Introduction to Human-Animal Studies*, New York 2013; Forschungsschwerpunkt Tier – Mensch – Gesellschaft (Ed.), *Vielfältig verflochten. Interdisziplinäre Beiträge zur Tier-Mensch-Relationalität*, Bielefeld 2017; Clif Flynn (Ed.), *Social Creatures. A Human and Animal Studies Reader*, New York 2008; from the disciplines of medieval studies see for example: Mark Hengerer and Nadir Weber (Ed.), *Animals and Courts. Europe, c. 1200–1800*, Berlin 2019; Thomas Honegger and W. Günther Rohr (Ed.), *Tier und Religion (Das Mittelalter 12,2)*, Berlin 2007; Julia Weitbrecht, *Lupus in fabula. Mensch-Wolf-Relationen und die mittelalterliche Tierfabel*, in: *Tier im Text. Exemplarität und Allegorizität literarischer Lebewesen*, ed. by Hans-Jürgen Scheuer and Ulrike Vedder (Publikationen zur Zeitschrift für Germanistik 29), Bern 2015, pp. 23–35; Martina Giese, *Kostbarer als Gold. Weiße Tiere im Mittelalter*, in: *Farbe im Mittelalter*, ed. by Ingrid Bennewitz and Andrea

knowledge, however, one of the central aspects of this discussion is related to the question of whether or to which extent the categorial difference between humans and animals is biologically determined or to which degree this taxonomical distinction is also, at least in part, culturally constructed and, therefore, historically changeable. Needless to say, these issues raise very serious ethical and political questions which are still highly controversial.² In particular, these matters are disputed since there is still no agreement about the problem, by means of which criteria the demarcation between human and non-human animals should actually be established against the background of recent scientific results. Among other criteria, specific cognitive capacities of organisms have been suggested by several scholars that could function as markers of difference in this respect. Among them are a certain kind of consciousness, reasoning, intentional actions, and communication skills. Especially contentious in this context, however, is the application of these cognitive criteria for the purpose of defining “personhood”.³ For in this regard, the distinction between human and non-human beings is all the more disputable, since many of these capacities of course also apply to some non-human animals and will soon apply to robots and machines with strong AI. Accordingly, they would have to be considered as “persons”, whereas human organisms which do not meet these criteria, like a fetus (or a person whose brain is seriously damaged), for instance, could not be considered persons at all. The American philosopher Mary Anne Warren, therefore, has famously argued that abortion is acceptable since it does not involve the death of a person.⁴

Whereas these considerations are apparently to the disadvantage of fetuses and people with Alzheimer’s disease, however, the idea of expanding the notion of personhood to non-human animals like great apes, whales, and elephants, is on the other hand increasingly supported. Biologists and ethologists like Richard Dawkins and Jane Goodall, philosophers like Peter Singer, but also jurists like Laurence Tribe and Gary L. Francione, are leading figures in this debate.⁵ The Australian

Schindler (Akten des Symposiums des Mediävistenverbands 13), Berlin 2011, pp. 665–680; Martina Giese, *Der Adler als kaiserliches Symbol in staufischer Zeit*, in: *Staufisches Kaisertum im 12. Jahrhundert. Konzepte, Netzwerke, politische Praxis*, ed. by Stefan Burckardt et al., Regensburg 2010, pp. 323–360.

- 2 See the contributions in: Martin Böhnert, Kristian Köchy and Matthias Wunsch (Ed.), *Philosophie der Tierforschung*, 2 vol., Freiburg 2016; Robert W. Lurz (Ed.), *The Philosophy of Animal Minds*, Cambridge 2009; Dominik Perler and Markus Wild (Ed.), *Der Geist der Tiere. Philosophische Texte zu einer aktuellen Diskussion*, Frankfurt am Main 2005.
- 3 Hans Werner Ingensiep, *Der kultivierte Affe als ‚Person‘? Philosophische und wissenschaftshistorische Streifzüge zum Great Ape Projekt*, in: *Philosophie der Tierforschung*, ed. by Martin Böhnert, Kristian Köchy and Matthias Wunsch, vol. 2, Freiburg 2016, pp. 195–220; Volker Sommer, *Menschenaffen als Personen? Das Great Ape Project im Für und Wider*, in: *ibid.*, pp. 221–252; Charles Taylor, *The Concept of a Person*, in: *Philosophical Papers 1* (1985), pp. 97–114; Mary Midgley, *Persons and Non-Persons*, in: *In Defense of Animals*, ed. by Peter Singer, New York 1985, pp. 52–62.
- 4 The classical paper is: Mary Anne Warren, *On the Moral and Legal Status of Abortion*, in: *The Monist* 57 (1973), pp. 43–61; see also: Mary Anne Warren, *Moral Status. Obligations to Persons and Other Living Things*, Oxford 2000.
- 5 Most influential among the numerous publications were: Jane Goodall, *In the Shadow of Man*,

philosopher Peter Singer, whose book on “Animal liberation” of 1975 became the founding ethical study on the subject, has repeatedly backed up the views of Mary Anne Warren by stressing the personhood of chimpanzees and dolphins, in opposition to newborn children or dementia patients.⁶ In any case, it becomes clear at this point that the whole discussion is not only relevant for ethical concerns about animal treatment or the protection of species, but also for every consideration concerning the definition and treatment of human persons.

However, why is it important to address these issues in this article? The arguments which are produced in current debates on demarcation criteria, as we will see, can serve as a point of departure for the subsequent analysis of medieval discussions on the relation of humans and animals. For this purpose, I first want to take a closer look at the so called “cognitive criteria” of personhood as they have been defined by Mary Anne Warren. In her classical essay on the matter she lists five points: consciousness (of objects external or internal to the being), reasoning (the capacity to solve new and relatively complex problems), self-motivated activity (the ability to display coordinated and purposeful actions that are not motivated by external stimuli), the ability to communicate (by whatever means), and finally, self-awareness.⁷ As “self-motivated activity” can be understood as purposeful and goal-oriented action, this aspect is also related to the problem of intentionality and,⁸ therefore, the intentional actions or “agency” of animals.⁹ Insofar as (human) intentions are regarded by many authors as mental states which cause specific actions,¹⁰ this notion raises the questions of how to demarcate human and non-human consciousness and actions. While philosophers like Mary Anne Warren and Peter Singer wrote their fundamental statements mainly in the 1970s, however, more recent scientific results, above all the results of neuroscience, have put the whole discussion on an entirely new basis. In 2012, a group of leading neuroscientists published a collective statement, called the “Cambridge Declaration on Consciousness”, which demonstrates the viewpoint of natural science on consciousness:

Convergent evidence indicates that non-human animals have the neuroanatomical, neurochemical, and neurophysiological substrates of conscious states along with the capacity to exhibit intentional behaviors. Consequently, the weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Non-

London 1971; Peter Singer, *Animal Liberation. A New Ethics for Our Treatment of Animals*, New York 1975; Peter Singer and Paola Cavalieri (Ed.), *The Great Ape Project: Equality Beyond Humanity*, London 1993; Gary L. Francione, *Animals As Persons. Essays on the Abolition of Animal Exploitation*, New York 2008.

6 Peter Singer, *Rethinking Life and Death: The Collapse of Our Traditional Ethics*, Melbourne 1994; see Midgley, *Persons and Non-Persons* (note 3); Sommer, *Menschenaffen als Personen?* (note 3).

7 Warren, *On the Moral and Legal Status of Abortion* (note 4), p. 55.

8 On intentionality in general: John R. Searle, *Intentionality: An Essay in the Philosophy of Mind*, Cambridge 1983; Elizabeth Anscombe, *Intention*, Oxford 1957.

9 Sven Wirth et al. (Ed.), *Das Handeln der Tiere. Tierliche Agency im Fokus der Human-Animal Studies*, Bielefeld 2015.

10 Donald Davidson, *Essays on Actions and Events*, Oxford 2001.

human animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates.¹¹

It is important to understand, at this point, on which assumptions these arguments are actually based. The cited declaration of neuroscientists postulates mental states of animals on the basis of observed neurological processes which are considered as “correlates” of mental phenomena. How much this approach actually reveals about consciousness, however, remains of course highly ambiguous. In his famous and very influential essay “What is it like to be a bat?” of 1974, the philosopher Thomas Nagel has argued that despite the advanced possibilities to scientifically observe and describe the functionality of organisms, it still remains impossible to analyze the subjective conscious experience of a living creature.¹² We will never know what it is like to be a bat. Nevertheless, although this objection (concerning the subjective character of experience) is, of course, totally convincing, it still cannot be denied that the results of neuroscience and brain research have to a certain degree enforced a far-reaching reevaluation of the relationship between human and non-human animals in almost every academic discipline. For not only the consciousness of animals but also the understanding of the human ‘mind’, on which the demarcation of human beings was traditionally based, appears in a totally different light.

Against this background, research has often drawn quite radical conclusions. Whereas some philosophers, like already Thomas Nagel, have argued against the reduction of mental phenomena to physical processes,¹³ others have long ago dismissed and rejected the traditional notion of the human mind. In this context, the older concept of mind is often seen in the light of two major traditions of European intellectual history: On the one hand, the Cartesian dualism of matter and mind is rejected, insofar as the mind cannot be regarded as a “substance” anymore which exists independently from its physical environment, as was presupposed in Descartes’ substance dualism.¹⁴ Current researchers on consciousness, like the German philosopher Thomas Metzinger, consider mental states as simulations of the brain that can be reduced to neural correlates.¹⁵ On the other hand, brain researchers demarcate their scientifically advanced position from the theological doctrine of the (immortal) soul which is often regarded as a relic of a long-standing religious idea

11 Philip Low et al., *The Cambridge Declaration on Consciousness*, Cambridge 2012.

12 Thomas Nagel, *What Is It Like to Be a Bat?*, in: *The Philosophical Review* 83,4 (1974), pp. 435–450.

13 See the discussions in: John R. Searle, *Mind. A Brief Introduction*, Oxford 2005; Galen Strawson, *Mental Reality*, Cambridge MA, 2010; Markus Gabriel, *Ich ist nicht Gehirn. Philosophie des Geistes für das 21. Jahrhundert*, Berlin 2015.

14 Thomas Metzinger (Ed.), *Grundkurs Philosophie des Geistes*, vol. 2: *Das Leib-Seele-Problem*, Paderborn 2007.

15 Thomas Metzinger, *Subjekt und Selbstmodell. Die Perspektivität phänomenalen Bewusstseins vor dem Hintergrund einer naturalistischen Theorie mentaler Repräsentation*, Paderborn 2009; Thomas Metzinger, *Der Ego-Tunnel. Eine neue Philosophie des Selbst: Von der Hirnforschung zur Bewusstseinsethik*, München 2017; see also: Gerhard Roth, *Aus Sicht des Gehirns*, Frankfurt am Main 2003.

of man that has been overcome by present-day scientific results.¹⁶ This perspective on the theological tradition, however, goes oftentimes along with the assumption that particularly the theologians of the “Christian Middle Ages” had established a largely homogeneous doctrine of the human soul which then governed European thinking about the nature and dignity of man for centuries.¹⁷ On the basis of this doctrine, however, Christian theologians had supposedly created a metaphysical understanding of human nature, and, by doing so, reinforced an ontological difference between human and non-human beings that gave strict preeminence to human creatures. That the medieval period has apparently a rather negative image in this narrative can be shown, for instance, by the programmatic statements of Peter Singer who demarcates his utilitarian ethics from a medieval tradition: “The notion that human life is sacred just because it’s human is medieval”.¹⁸ In this perspective, the revaluation of human-animal relations at the end of the 20th century appears as refusal of a long-standing tradition of western thinking that was essentially shaped in the Middle Ages: “After ruling our thoughts and our decisions about life and death for nearly two thousand years, the traditional Western ethic has collapsed”.¹⁹

- 16 Gerhard Scheyda, *Die theologische Lehre von der unsterblichen Seele vor dem Hintergrund der Diskussion in den Neurowissenschaften*, Diss. Aachen 2014; see for instance the radical materialistic approach of Francis Crick, *The Astonishing Hypothesis. The Scientific Search for the Soul*, New York 1995; on Cartesianism and the theological doctrine of the soul as two major traditions which shaped western notions of the human mind, see also: John R. Searle, *Aussichten für einen neuen Realismus*, in: *Der Neue Realismus*, ed. by Markus Gabriel, Frankfurt am Main 2014, pp. 292–307.
- 17 The sometimes decidedly polemical stance towards the theological tradition and a religious notion of human beings is of course, at least in some prominent cases, related to the overall agenda of scientific “New Atheism”: One of the most influential proponents, the British Biologist Richard Dawkins, is also one of the best-known advocates for animal rights and has published on animal decision making (Richard Dawkins, *A Threshold Model of Choice Behaviour*, in: *Animal Behaviour* 17,1 (1969), pp. 120–133; for his criticism of religion see in particular: Richard Dawkins, *The God Delusion*, New York 2006 (German “*Der Gotteswahn*”, Berlin 2007); *The Greatest Show on Earth. The Evidence for Evolution*, New York 2009 (German: “*Die Schöpfungslüge*”, Berlin 2010); *The Blind Watchmaker. Why the Evidence of Evolution Reveals a Universe without Design*, New York 1986.
- 18 The comparison with the Copernican Revolution which Singer evokes in the context of this statement makes all the more clear that he intends to challenge a supposed medieval worldview: “That day had to come when Copernicus proved that the earth is not at the center of the universe. It is ridiculous to pretend that the old ethics make sense when plainly they do not. The notion that human life is sacred just because it’s human is medieval” (Peter Singer, *Killing Babies Isn’t Always Wrong*, in: *London Spectator* (16.09.1995), p. 20 <<http://archive.spectator.co.uk/article/16th-september-1995/20/killing-babies-isnt-always-wrong>> (27.05.2021).
- 19 Peter Singer, *Rethinking Life and Death. The Collapse of Our Traditional Ethics*, Melbourne 1994, p. 1.

II. A MEDIEVAL ORDER OF CREATURES?

Against the background of the demarcation of current scientific views from earlier traditions of thinking, in which the boundaries of humans and animals and the preeminence of man were supposedly unchallenged, the novelty of contemporary debates on these issues seems in fact radical. In the religious worldview of pre-modern centuries, in particular those of the Middle Ages, one might think, was no place for subversive debates of that kind. However, at first glance, there are indeed good reasons to believe that the premises of medieval authors concerning the human soul and the relation of humans and animals did in fact leave little scope for discussion but established a rather unambiguous and static order of things, an authoritative medieval order of creatures.

Fundamental for this theologically founded strict distinction between humans and animals in the Christian and Jewish tradition is, of course, the following passage from the Book of Genesis which provided a clear normative guideline for its medieval recipients:

Then God said: Let us make man in our image, after our likeness. And let them have dominion over the fish of the sea and the birds of the sky and over the cattle, and over all the earth and over every creeping thing that creeps on the earth (Genesis 1:26).

With this passage, two essential premises were established: a strict categorial distinction of humans and animals as well as a clear hierarchy between them. In the course of the Middle Ages, however, this biblical distinction and hierarchy has been further corroborated and supplemented by philosophical and scientific explanations. In the context of the reception of the writings of Aristotle (and in particular his work on the soul, *De anima*), from the High Middle Ages onwards, the established demarcation of humans and animals was effectively connected with Aristotle's theory of the soul. Aristotle had basically distinguished plants, animals, and humans by means of his theory of three specific faculties of the soul.²⁰ According to this theory, all living creatures including plants and animals in fact have a soul, as opposed to lifeless objects, yet with different particular faculties: Whereas plants dispose only of the vegetative soul, which allows for reproduction, animals possess, in addition to that, the sensitive soul, which enables them to perceive. Only man, however, who stands at the top of the *scala naturae*, features the intellectual soul, the *anima intellectiva*, and therefore, only man is capable for reasoning.²¹ In connection with the Aristotelian theory of the soul, the precise demarcation of hu-

20 Aristoteles, *Über die Seele*, ed. by Horst Seidl, Hamburg 1995; on this see: Hubertus Busche, *Die Seele als System. Aristoteles' Wissenschaft von der Psyche*, Hamburg 2001.

21 Aristoteles, *Über die Seele*, Buch 3, Kap. 4–7; on the reception by the scholastics: Theodor W. Köhler, *Grundlagen des philosophisch-anthropologischen Diskurses im dreizehnten Jahrhundert*, Leiden 2000; Paul Hellmeier, *Anima et intellectus. Albertus Magnus und Thomas von Aquin über Seele und Intellekt des Menschen (Beiträge zur Geschichte der Philosophie und Theologie des Mittelalters 75)*, Münster 2011; Odon Lottin, *Psychologie et Morale aux XII^e et XIII^e siècles*, 6 vol., Louvain 1942–1960; Gyula Klima (Ed.), *Questions on the Soul by John*

mans and animals could be reinforced by means of the human intellect and intellectual capacities which drew a clear line in the taxonomy of creatures. Numerous theologians have discussed the nature of man on the basis of these assumptions: In terms of genus (*genus proximum*), man was a sensual creature. Concerning the specific differentia (*differentia specifica*), however, a human being was marked by rationality.²² For Thomas Aquinas, consequently, man is defined as “animal rationale” which is distinguished from all other creatures by the *anima intellectiva*.²³

This specific “order of creatures”, which was based on Aristotle and theological premises, could, at first glance, be considered as more or less authoritative for medieval perspectives on human-animal relations. Furthermore, the ontological difference between humans and animals that was established in this order, seems to have basically prevailed until the modern era. In the long-term historical perspective, the strict distinction of humans and animals had been even more corroborated after the Middle Ages by René Descartes who considered animals as mindless robots that were incapable of thinking.²⁴ Afterwards, it was only Charles Darwin, according to this narrative, who set the stage for a totally different view in the 19th century. Darwin claimed that human consciousness and intelligence actually emerged from less developed states, which suggested a difference in degree, rather than a difference in kind (as in the traditions of Aristotle and Descartes).²⁵ After this fundamental challenge by Darwin and evolutionary theory, however, thinkers of postmodernism, like Jacques Derrida,²⁶ and utilitarian philosophers, like Peter Singer, finally questioned the distinction of humans and animals altogether, just before neuroscience and artificial intelligence basically abolished the traditional notions irretrievably.

The virtue of this narrative lies certainly in its simplicity. The history from Aristotle and the Aristotelian scholastics of the Middle Ages up to the deconstruction of the present allows for a relatively clear and unambiguous depiction of the long-term historical development.²⁷ From a medievalist perspective, however, the

Buridan and Others. A Companion to John Buridan’s Philosophy of Mind (Historical-Analytical Studies on Nature, Mind and Action 3), Cham 2017.

22 Richard Heinzmann, Thomas von Aquin. Eine Einführung in sein Denken, Stuttgart 1994, p. 34.

23 *Unde dicendum est quod nulla alia forma substantialis est in homine, nisi sola anima intellectiva* (Thomas von Aquin, Summa theologiae, I, Editio Leonina, vol. 4, Rom 1888, q. 76, art. 4c); siehe auch: Andreas Speer, Das Glück des Menschen (S.th. I–II, qq. 1–5), in: Thomas von Aquin: Die Summa theologiae. Werkinterpretationen, ed. by Andreas Speer, Berlin 2005, pp. 141–167, p. 159f; Rüdiger Feulner, Christus Magister. Gnoseologisch-didaktische Erlösungsparadigmen in der Kirchengeschichte der Frühzeit und des Mittelalters bis zum Beginn der Reformation (orientalia – patristica – oecumenica 11), Wien 2006, p. 231.

24 Markus Wild, Die anthropologische Differenz. Der Geist der Tiere in der frühen Neuzeit bei Montaigne, Descartes und Hume, Berlin 2006, pp. 173–259; Markus Wild, Tierphilosophie zur Einführung, Hamburg 2019, pp. 29–33; James Parker, Animal Minds, Animal Souls, Animal Rights, Lanham 2010, pp. 16–17.

25 Lance Workman, Charles Darwin. The Shaping of Evolutionary Thinking, Basingstoke 2014, pp. 177f.; Wild, Tierphilosophie (note 24), pp. 33–36.

26 Among the many writings of Derrida on animal philosophy see in particular: Jacques Derrida, The Animal that Therefore I am, New York 2008 (French: L’Animal que donc je suis, Paris 2006).

27 For the sake of brevity, I have skipped some important authors of the early modern period who have questioned the Aristotelian and Cartesian views even before Darwin, well known to histo-

question of whether the theological and Aristotelian premises of, admittedly, many medieval thinkers inevitably led to a coherent and homogeneous “order of creatures” in which humans and animals were in fact ontologically distinguished, is not altogether clear. Rather it seems, by contrast, that the perspectives of medieval authors on human-animal relations were by far more differentiated and diverse. The intellectual dynamics between conflicting interpretations, in this regard, could sometimes lead to quite surprising views. Because of such dynamics and conflicts, however, it seems that in specific social and epistemic contexts the rules of discourse, the rules of what was possible to say, were not as rigorously as one might think but could in fact allow for rather unexpected statements.

III. CONFLICTING DEMARCATATIONS AND THE AMBIGUOUS ORDER OF CREATURES

How the internal dynamics in contentious debates between conflicting scholars could stimulate this kind of contingency can be shown by the following example. In the 14th century, the English theologian Adam of Wodeham, who had studied at the university of Oxford in the 1320s and was a member of the Franciscan Order, discussed the problem of human-animal relations in his commentary on the Sentences of Peter Lombard.²⁸ In particular, Adam is interested in the question of whether animals have the ability to estimate, to judge, and therefore, to make ‘mistakes’ like human beings (in terms of judgements which are appropriate or not).²⁹ Although Adam concedes that we cannot actually know what happens inside the animal’s head (*scire non possumus*), he nevertheless recognizes the danger that would emerge if we dare to answer this question affirmatively: If we say that animals can make assessments and judgements of a certain complexity, however, we would be obliged to attribute to them a certain sort of “reasoning”, at least a “practical reason” (*ratio practica*). This, however, would force us accordingly to call them “rational creatures” (*animalia rationalia*), which is, as we have seen, the exclusive

rians of Western philosophy: Michel de Montaigne (1533–1592) and David Hume (1711–1776) have each ascribed to animals the capacity of thinking and reasoning (see: Deborah Boyle, Hume on Animal Reason, in: Hume Studies 29 (2003), pp. 3–28; Wild, Die Anthropologische Differenz (Note 24), pp. 43–134, 243–256); nevertheless, Darwin’s approach was certainly the most profound and long-lasting challenge to the anthropological “differentiation”.

28 On Adam of Wodeham in general: William J. Courtenay, Adam Wodeham. An Introduction to His Life and Writings, Leiden 1978.

29 On this discussion: Anselm Oelze, Animal Rationality. Later Medieval Theories 1250–1350 (Investigating Medieval Philosophy 12), Leiden 2018, pp. 123–129; Anselm Oelze, Können Tiere irren? Philosophische Antworten aus dem 13. und 14. Jahrhundert, in: Irrtum – Error – Erreur, ed. by Andreas Speer and Maxime Mauriège (Miscellanea Mediaevalia 40), Berlin 2018, pp. 179–194; Dominik Perler, Intentionality and Action. Medieval Discussions on the Cognitive Capacities of Animals, in: Intellect et imagination dans la philosophie médiévale, vol. 1, ed. by Maria Cândida Pacheco and José Francisco Meirinhos (Rencontres de Philosophie Médiévale 11,1), Turnhout 2006, pp. 72–98; Cyrille Michon, Intentionality and Proto-Thoughts, in: Ancient and Medieval Theories of Intentionality, ed. by Dominik Perler, Leiden 2001, pp. 325–342, pp. 325–327.

category of human beings according to Aristotle. As a result, this ascription would basically undermine the ontological difference of humans and animals altogether, as Adam demonstrates:

[But if that would be the case], it would be consequent to ascribe to them a practical reason (*ratio practica*), that is the practical assessment of choosing and refusing, of pursuing and avoiding. For so they would act if they had such assessment. And then I do not see why they should not be called rational creatures (*animalia rationalia*).³⁰

For Adam of Wodeham, this challenge to the established Aristotelian “order of creatures” went certainly too far. Because the consequences of that idea would be so subversive to the order of the world, Adam finally rejects the possibility of animal judgements at the end of his discussion. There he states that animals “neither deliberate, nor do they judge (*nec deliberant nec iudicant*). [...] Instead, this [the observed behavior] results in fact from a natural instinct (*ex instinctu naturae*)”.³¹

Besides some obvious doubts about the cognitive capacities of animals, Adams answer to the problem finally remains within the boundaries of the established Aristotelian paradigm. For him, reasoning and rationality are exclusive features of human beings. However, his answer did not really offer a satisfactory explanation for the observed behavior of animals which suggested that they do actually make a certain sort of assessment or judgment, at least in some specific situations. Consequently, a contemporary of Adam directly reacted to this unsatisfying answer by proposing an entirely different solution. Gregory of Rimini differed from the Franciscan Adam not only because he joined the Order of the Hermits of Saint Augustine, but in particular because he received his intellectual education at the university of Paris where he became a Master of theology in the 1340s.³² However, as he was especially interested in the recent writings of Oxford thinkers, like William of Ockham, for instance, he was also familiar with the works of Adam Wodeham, to which he reacted in his own commentary on the Sentences of Peter Lombard.³³

For Gregory, Adams opinion that the behavior of animals resulted completely from a “natural instinct” did not provide an adequate explanation. The behavior of

30 *Sed si hoc movere deberet, esset consequenter in eis ponenda ratio practica, id est dictamen practicum de eligendis et respuendis, prosequendis et fugiendi. Sic enim agunt si dictamen haberent. Et tunc non video quare non debeant animalia rationalia appellari* (Adam Wodeham, *Lectura secunda in librum primum sententiarum*, q. 4, vol. 1: Prologus et distinctio prima, ed. Rega Wood, St. Bonaventure 1990, p. 99).

31 [...] *nec deliberant nec iudicant*. [...] *Sed hoc est ex instinctu naturae* (Adam Wodeham, *Lectura secunda in librum primum sententiarum*, ed. Wood (note 30), pp. 99–100).

32 Stephen F. Brown, Gregory of Rimini (ca. 1300–1358), in: *Historical Dictionary of Medieval Philosophy and Theology*, ed. by Stephen F. Brown and Juan Carlos Flores, Lanham 2007, pp. 129–131; Christopher Schabel, Gregory of Rimini, in: *The Stanford Encyclopedia of Philosophy* (Fall 2015 Edition), ed. by Edward N. Zalta <<https://plato.stanford.edu/archives/fall2015/entries/gregory-rimini/>> (27.05.2021).

33 Perler, *Intentionality and Action* (note 29), pp. 89–94; Oelze, *Animal Rationality* (note 29), pp. 134–141; see also: Michon, *Intentionality and Proto-Thoughts* (note 29), p. 326.

animals, in some instances, could only be explained sufficiently when we attribute to them the capacity of judgement. When animals move towards a certain object, this move requires, according to Gregory, also a certain judgement on the relevance of that object:

This movement, as it follows the animal appetite and this appetite follows a (sensual) apprehension, requires in addition to the simple sensual apprehension a judgement (*iudicium*), on the basis of which was judged (*iudicatur*) whether the object is useful or necessary or whatever.³⁴

With this particular view, as Anselm Oelze has pointed out,³⁵ Gregory of Rimini is quite close to a position which in contemporary debates is represented by the American philosopher John Searle. Searle argues that although we cannot know whether animals have propositional representations of the world in terms of subject, predicate and object, they nevertheless do hold certain beliefs about the world which involve judgements of a lower degree.³⁶ However, the medieval philosopher Gregory of Rimini is, of course, entirely aware of the consequences which theoretically result from his answer to the question of animal judgement. The fear of Adam Wodeham that we would be forced to ascribe practical reasoning to animals and, consequently, would be obliged to classify them as “*animalia rationalia*”, does not seriously trouble Gregory of Rimini. The desire to refute the view of his opponent is so strong that he does not even shrink back from basically undermining the order of creatures. At least he is totally comfortable with calling animals rational creatures: “If you therefore want to call them rational beings (*rationalia*), you can do so, for words are supposed to appeal”.³⁷

Whereas the view of Gregory of Rimini is, of course, rather audacious and not representative for “the Middle Ages”, his principal direction of thinking is, nevertheless, not entirely unique. Several other medieval authors have thought about the cognitive capacities of animals and compared them to the intellectual abilities of humans. On the one hand, there are quite a few anonymous texts which use the

34 *Ergo motus iste, cum sit per appetitum animalem et talis appetitus sequitur apprehensionem, praesupponit praeter simplicem apprehensionem sensibilis iudicium quo iudicatur illud utile vel necessarium aut tale vel tale* (Gregory of Rimini, *Lectura in primum et secundum Sententiarum*, q. 3, ed. Damasus Trapp and Willigis Eckermann (Spätmittelalter und Reformation 6), vol. 1, Berlin 1981, p. 304).

35 Oelze, *Können Tiere irren?* (note 29), p. 192.

36 John R. Searle, *Animal Minds*, in: *Midwest Studies in Philosophy* 19 (1994), pp. 206–219; for Searle, many animals have “consciousness, intentionality, and thought processes” (*ibid.*, p. 206) which enables them to hold certain beliefs that are yet not necessarily propositional; this view is opposed by Donald Davidson who claims that “in order to have a belief, it is necessary to have the concept of belief” and “in order to have the concept of belief, one must have language” (Donald Davidson, *Rational Animals*, in: *Actions and Events: Perspectives on the Philosophy of Donald Davidson*, ed. by Ernest Lepore and Brian McLaughlin, New York 1985, pp. 473–480, p. 478).

37 *Si tamen velis illa etiam vocare rationalia, potes, quia vocabula sunt ad placitum* (Gregory of Rimini, *Lectura in primum et secundum Sententiarum* (note 34), p. 306).

word “*iudicare*” to describe the behavior of animals.³⁸ On the other hand, also more famous scholars, like the Dominican theologian Albert the Great, have elaborated on the subject. Albert goes of course not so far to attribute rationality to animals. For him, as for Thomas Aquinas, reason and intellect are distinctive features of humans. However, in a specific epistemic context, Albert too gets in a situation which encourages him to make some significant distinctions.³⁹ In his work on zoology, *De animalibus*, Albert was faced with a delicate taxonomical problem. For in his classification of all living creatures, he of course also had to account for the assumption of wondrous and monstrous races which were supposed to live in distant parts of the inhabited world. In a long-standing tradition, which goes back to Augustine and Isidore of Seville, these wondrous people were considered as natural parts of the divinely ordained creation, as they were obviously created “*divina voluntate*” as part of Gods overall plan.⁴⁰ However, they had to be distinguished from humans as well as from animals. Several scholastics of Albert’s time had discussed the question of whether the “monsters” like the cynocephali should be regarded as rational creatures, whether they were capable to hold religious beliefs or to act purposefully by means of using instruments and *artes*.⁴¹ For Albert, the most intricate case concerned the category of the pygmies. Although these wondrous people seem to act like human beings (in terms of riding horses, for instance), they nevertheless should rank among the animals (*animalia*), since they lack full rationality.⁴² However, as regards their supposed rational-like behavior, they were obviously more than ordinary animals. Faced with this problem, Albert proposes a subtle

38 As for instance in early treatises on Aristotle’s *De anima* from the Faculty of arts in Paris: Anonymus Artium Magister, *De anima et potenciis eius*, ed. René Antoine Gauthier, *Le Traité De anima et de potenciis eius d’un maître ès arts (vers 1225)*, in: *Revue des sciences philosophiques et théologiques* 66 (1982), pp. 3–55.

39 On this discussion by Albert see in particular: Theodor W. Köhler, *Homo animal nobilissimum. Konturen des spezifisch Menschlichen in der naturphilosophischen Aristoteleskommentierung des dreizehnten Jahrhunderts*, vol. 2/1, Leiden 2014, pp. 197–201; Theodor W. Köhler, *Homo animal nobilissimum*, vol. 1, Leiden 2008, pp. 441f.; Theodor W. Köhler, *De quolibet modo hominis. Alberts des Großen philosophischer Blick auf den Menschen (Lectio Albertina 10)*, Münster 2009; Theodor W. Köhler, *Sachverhaltsbeobachtung und axiomatische Vorgaben. Zur Struktur wissenschaftlicher Erfassung konkreter Äußerungsweisen des Menschlichen im 13. Jahrhundert*, in: *Erfahrung und Beweis. Die Wissenschaften von der Natur im 13. und 14. Jahrhundert*, ed. by Alexander Fidora and Matthias Lutz-Bachmann, Berlin 2007, pp. 125–150; Thérèse Bonin, *The Emanative Psychology of Albertus Magnus*, in: *Topoi* 19 (2000), pp. 45–57.

40 Marina Münkler and Werner Röcke, *Der ordo-Gedanke und die Hermeneutik der Fremde im Mittelalter: Die Auseinandersetzung mit den monströsen Völkern des Erdrandes*, in: *Die Herausforderung durch das Fremde*, ed. by Herfried Münkler, Berlin 1998, pp. 701–766, p. 725f.; Marina Münkler, *Die Wörter und die Fremden: Die monströsen Völker und ihre Lesarten im Mittelalter*, in: *Hybride Kulturen im mittelalterlichen Europa*, ed. by Michael Borgolte and Bernd Schneidmüller (*Europa im Mittelalter* 16), Berlin 2010, pp. 27–49.

41 Münkler/Röcke, *Der ordo-Gedanke und die Hermeneutik der Fremde* (note 40), pp. 750–757.

42 *Talia enim animalia, quae pigmei dicuntur, multi viderunt: et habent etiam equos valde parvos, super quos ascendunt et equitant: sed usum rationis non habent* (Albertus Magnus, *De animalibus*, VII, tract. 1, cap. 6, ed. Hermann Stadler, vol. 1 (*Beiträge zur Geschichte der Philosophie des Mittelalters* 15), Münster 1916, p. 521).

hierarchy in which the wondrous human-like creatures were posed between actual human beings and great apes according to their alleged intellectual capacity. The existence of an intermediate stage within this intellectual hierarchy, however, apparently motivates Albert to reflect on the cognitive capacities of the pygmies. As the differences between the stages in this model seem rather gradual, Albert says about the pygmies that although they do not have full reason, they still display at least “shades of reason” (*umbra rationis*).⁴³ However inferior, this *umbra rationis* enables them to participate in the principles of human rationality.⁴⁴ Moreover, like all other apes, they are also capable to produce at least “imperfect logical arguments” (*argumentationes imperfectae*).⁴⁵ In this perspective, the ability of reasoning appears less as an exclusive feature of humans but as something that gradually increases. For Albert, the difference both between *umbra rationis* and *ratio*, and between *argumentationes imperfectae* and *argumentationes*, seems to be a difference in degree rather than a difference in kind.

Compared to current debates in animal philosophy, Albert’s approach could be considered, at least in principal, as an argument in favor of “assimilation” (rather than “differentiation”). His assumption of an intermediate stage, however, which basically “bridges” the gap between humans and animals, was adopted by the French scholar Nicole Oresme (c. 1330–1382) in a similar epistemic context. In his taxonomical distinction, Oresme even reflects about several stages in the generation of man (*in generatione hominis*) which successively lead from sperm (*sperma*) at the beginning to the ultimate stages of apes, pygmies, and perfect humans.⁴⁶ As Rudolf Simek has noted with regard to this passage, the notion of gradual development appears almost “Darwinist”.⁴⁷

43 *Ratio enim duo habet quorum unum est ex reflexione sua ad sensum et memoriam, et ibi est perceptio experimenti. Secundum autem est quod habet secundum quod exaltatur versus intellectum simplicem: et sic est electiva universalis quod est principium artis et scientiae. Pigmeus autem nun habet nisi primum istorum: et ideo non habet nisi umbram rationis* (Albertus Magnus, *De animalibus*, XXI, tract. 1, cap. 2, ed. Stadler, vol. 2, p. 1328).

44 Köhler, *Homo animal nobilissimum* (note 39), vol. 2/1, p. 199; see also: Bernd Roling, *Drachen und Sirenen. Die Rationalisierung und Abwicklung der Mythologie an den europäischen Universitäten* (Mittelalterliche Studien und Texte 42), Leiden 2010, pp. 495–496.

45 Albertus Magnus, *De animalibus*, XXI, tract. 1, cap. 3, ed. Stadler, vol. 2, pp. 1331f.; Bernd Roling, *Syllogismus brutorum. Die Diskussion der animalischen Rationalität bei Albertus Magnus und ihre Rezeption im Mittelalter und in der Frühen Neuzeit*, in: *Recherche de théologie et philosophie médiévales* 78/1 (2011), pp. 221–275; Oelze, *Animal Rationality* (note 29), pp. 150–155.

46 *Dic quod in generatione hominis ista se sequuntur: primo est sperma, 2° est ut fungus terre, 3° ut animal quasi non figuratum ut narrat Aristoteles in 7 animalium quod est quoddam quod dubium est utrum sit planta vel animal et cetera, 4° ut symeus, 5° ut pigmeus, 6° est homo perfectus et cetera* (Nicole Oresme, *De causis mirabilium* cap. 3, ed. Bert Hansen, *Nicole Oresme and the Marvels of Nature. A Study of His ‘De causis mirabilium’ with Critical Edition, Translation and Commentary*, Toronto 1985, p. 238).

47 Rudolf Simek, *Altnordische Kosmographie. Studien und Quellen zu Weltbild und Weltbeschreibung in Norwegen und Island vom 12. bis zum 14. Jahrhundert* (Ergänzungsbande zum Reallexikon der Germanischen Altertumskunde 4), Berlin 1990, pp. 231–232.

IV. THE UNIVERSITY AND BEYOND: ANIMALS IN THE REAL WORLD

Up to this point, the medieval considerations of human-animal relations seem to be part of a rather theoretical discourse in which philosophers and theologians were speculating about the capacities of animals. Scholars in Oxford, Paris and Cologne have apparently seldom observed the behavior of great apes and pygmies. Against this background, it would be interesting to see what sources from the same time that are more based on empirical observation would have to say about the matter. Hunting treatises, for instance, at least claim to empirically describe natural reality. For that reason, these texts are often highly instructive concerning the underlying assumptions of the contemporaries about the supposed cognitive abilities of certain animals. Significantly, among these supposed abilities which are described in the treatises, we also find, at least occasionally, advanced forms of intentional actions – and therefore of capacities which are, as we have seen, currently discussed among the criteria of personhood. In his famous treatise on the “art of hunting with birds” (*De arte venandi cum avibus*), written in the 1240s,⁴⁸ the emperor Frederick II., for instance, describes the strategic behavior of animals in terms of complex intentional actions and consciously scheduled plans. In its careful tactics of diversion, the duck, for instance, is capable of deliberate strategical measures and arrangements which are motivated by specific intentions:

As concerns ducks and many other non-raptors, we have already observed that, when someone approaches their nest, they fake an illness and simulate (*fingebant*) that they could not fly. Then, they departed a certain distance from the eggs and the offspring and, by doing so, they were flying voluntarily badly, in order that they are believed to have injured wings or legs. [...] However, as the human was sufficiently far away from the place in which the eggs and the offspring were, they were flying perfectly and went off, which they all did for the purpose of distracting the human, so that he cannot approach the eggs and the young. And they realized many other inventions (*ingenia*), in order that they do not lose their offspring, which are shown to everyone who is ready to inquire and to experience (*inquirere et experiri*).⁴⁹

48 On this source in general: Martina Giese, The ‘De arte venandi cum avibus’ of Emperor Frederick II., in: *Raptor and Human. Falconry and Bird Symbolism throughout the Millennia on a Global Scale*, ed. by Karl-Heinz Gersmann, Kiel 2018, pp. 1459–1470; see also: Marcel Bubert, *Empiricism and the Construction of Expertise in Handbooks of the Later Middle Ages*, in: *Jahrbuch für Universitäts-geschichte* 21 (2018), pp. 43–52.

49 *Et iam vidimus de anatis et aliis pluribus avibus non rapacibus, quod, quando quis appropinquabat nidis suis, ipse, simulantes se egrotas, fingebant se volare non posse et aliquantulum secedebant ab ovis aut a pullis et sponte male volabant, ut crederentur habere alas lesas aut crura. [...] Quando vero homo iam erat remotus satis a loco, in quo erant ova aut pulli, tunc ipse perfecte volabant et abibant, quod totum faciebant, ut deviant hominem et non possent haberi ova neque pulli. Et alia multa ingenia faciunt, quod non perdant pullos, que patebunt inquirere et experiri volentibus* (Friedrich II., *De arte venandi cum avibus*, ed. Carl Arnold Willemsen, vol. 1, Frankfurt am Main 1964, p. 61).

These statements of Frederick II. and others are significant insofar as they indicate that contemporaries of the 13th century basically expected animals to be capable of purposeful and intentional activities. Though not philosophical in a strict sense, the basic assumption that animals can “think”, at least in their own specific fashion, was obviously shared by many contemporaries beyond the scholastic discourse. Regardless of philosophical terminology and learning, not a few people outside the universities would probably agree with Albert’s principal conclusion that despite all differences, humans were not the only *animalia* with the capacity of *cogitatio*.⁵⁰ Even when animals were not considered rational creatures per definition, they could still possess a certain sort of reason: In his work *De nugis curialium*, the 12th century English author Walter Map recommended to guide ourselves by the “reason” (*ratio*) of the unreasoning creatures, as it provides a better rule of life than our wisdom.⁵¹

Admittedly, there was neither a radical “deconstruction” of the binary opposition of humans and animals in the sense of Derrida, nor a “Great Ape Project” that demanded legal right and personhood for animals in the European Middle Ages. However, long before the results of neuroscience, the notion that “many species of animals have consciousness, intentionality, and thought processes”⁵² (which is entirely opposed to the early modern “mechanistic” view of René Descartes) was by no means absurd in medieval times. The reasoning behind this medieval notion is perhaps concisely expressed in a statement by the little-known English scholar Adam of Whitby who wrote that “even if brutes do not actually have reason, they still have a virtue that is similar to reason, by means of which they differentiate, think, invent (*ingenient*), and by which they sort of reason (*quasi racionantur*) and decide”.⁵³ Frederick II. and Walter Map would probably agree with that.

In this perspective, the advanced cognitive features which many medieval authors attributed to animals are certainly highly remarkable. However, expressions like “*quasi racionantur*” of course still imply the assumption of an ultimate and irreducible boundary between human and non-human creatures. Regardless of the supposed highly developed and even “almost rational” capacities of animals, none of the above-mentioned authors has granted animals an “intellect” in the sense of Aristoteles, and thus, *unrestricted rationality*. At least in this regard, there seems to be a final distinctive feature that clearly distinguishes human beings from the essentially “unreasoning creatures”. However, a closer look at sources beyond the scholastic discourse of the universities can be instructive in this regard as well. Not only

50 *Non autem sine cogitatione, ut diximus, omnino sunt cetera ab homine animalia* (Albertus Magnus, *De animalibus*, VII, tract. 1, cap. 1, ed. Stadler, vol. 1, p. 497).

51 *Sanius est ut irracionalium ratione regamur, quibus natura melius ordinem dictat quam nobis nostra sapientia* (Walter Map, *De nugis curialium*, dist. I, cap. 15, ed. Montague Rhodes James, revised by Christopher Brooke and Roger Mynors, Oxford 1983, p. 46); Walter had probably attended the schools of Paris, yet he was not a scholastic.

52 Searle, *Animal Minds* (note 36), p. 206.

53 *Habent enim quedam bruta etsi non racionem, tamen virtutem similem racioni, per quam discernunt, cogitant, ingenient et quasi racionantur et deliberant* (Adam of Whitby [et al.], *Quaestiones in secundum et tertium de anima*, Praha, Knihovna metropol. Kapituly, M 80, fol. 72vb, quoted by: Köhler, *Homo animal nobilissimum* (note 39), vol. 2/1, p. 388, note 1069.

hunting treatises seem to presume cognitive abilities of animals that are basically equal to those of humans with respect to intentional actions. In the account of his journey to India in the first half of the 14th century the Dominican Jordan of Severac (c. 1280–1230) reported extensively on the different animals which he had observed in the region. Already with regard to parrots, he excitedly stated that they not only seemed to live in a sort of “society” (*societas*) but that they also appeared almost like rational humans (*videntur quasi homines rationabiles*), as they were able to speak (*loquunter*).⁵⁴ However, Jordan expresses the greatest astonishment when it comes to his description of elephants. These wondrous creatures, he states, outmatch all other animals, not only by their magnitude and strength, but particularly by their intellect (*intellectus*).⁵⁵ This intellect, Jordan indicates, enables elephants to understand the words of humans: When their masters tell them what to do, they act accordingly. Given this remarkable intellectual capacity, elephants could apparently not be counted among brute creatures: For the Dominican Jordan, the elephant is certainly not a brute because “he uses reason” (*utens ratione*).⁵⁶ In this judgement, the rationality of elephants is by no means restricted. Based on his own observations in India, the author does not hesitate to attribute “*ratio*” to a non-human creature.

The reflections of medieval authors on the cognitive capacities of animals, however, have also implications for another phenomenon which is even closer related than hunting treatises to the practical dimensions of the perspectives on animals. In his monography “Das fremde Mittelalter” of 2006, the Austrian historian Peter Dinzelbacher has renewed the discussion about the alleged trials or legal proceedings against animals which are described in sources from the High Middle Ages onwards.⁵⁷ For the sake of brevity, this complicated issue cannot be discussed here in detail.⁵⁸ However, whereas some historians, including Dinzelbacher, believe these trials to have actually happened, others have questioned this assumption by

54 *Nam sunt ibi spittaci et papgaii in maxima multitudine, ita quod mille et plures videntur simul in una societate. Istae aves domesticae sic loquuntur in gabiis, quod videntur quasi homines rationabiles* (Jordan of Severac, *Mirabilia descripta*, ed. in: *Recueil de Voyages et de Mémoires par la Société Géographie*, vol. 4, Paris 1839, pp. 1–68, p. 45).

55 *Animalia autem per omnia similia, nec plus, nec minus, elephantibus exceptis, quos habent in multitudine maxima. Ista animalia sunt mirabilia; nam in magnitudine excedunt et in grossitudine, atque fortitudine, et etiam intellectu, omnia animalia mundi* (Jordanus of Severac, *Mirabilia descripta* (note 54), S. 48).

56 *Istud animal nihil facit nisi cum verbo; itaque magister suus non habet aliud facere nisi quod dicat semel sibi: fac hoc et facit; nec videtur aliter brutum, sed utens ratione* (Jordanus of Severac, *Mirabilia descripta* (note 54), S. 48).

57 Peter Dinzelbacher, *Das fremde Mittelalter. Gottesurteil und Tierprozess*, Essen 2006.

58 For a more detailed consideration, in addition to Dinzelbacher, see: Michael Fischer, *Tierstrafen und Tierprozesse zur sozialen Konstruktion von Rechtssubjekten*, Münster 2005; Rod Preece, *Awe for the Tiger, Love for the Lamb. A Chronicle of Sensibility to Animals*, New York 2002.

stating that the reports of such proceedings are probably entirely fictional.⁵⁹ However, only few historians have so far discussed this intricate problem in the broader context of contemporary discourses on the intentionality and agency of animals, as they appear in philosophical as well as non-philosophical sources or practical treatises. Even if animals were not regarded as rationally acting persons, many of the above-cited authors would most likely be inclined to consent that they are somehow responsible for their actions. In any case, it is interesting that the evidence for trials against animals basically coincides with the emergence of intensified reflections on this matter.

V. AMBIGUOUS HUMANITY: ACADEMIC ARROGANCE AND STRATEGIES OF DEMARCATION

Although the legal proceedings against animals are certainly a fascinating issue which merit further consideration in this context, however, the following chapter will tackle a different aspect which is not less relevant for the purpose of this study. In order to address this issue, however, it will be helpful to recall some considerations from the pages above. In the theoretical introduction at the beginning we have seen that in current debates, the mental capacities of particular animals have been reevaluated, insofar as neuroscientists and philosophers expect them to have conscious mental states, intentional behavior and a certain sort of reasoning, which would qualify them to be counted as “persons”. On the other hand, however, these cognitive criteria are equally applied, by some scholars at least, in order to dismiss the personhood of those individuals who do not meet them – either not yet or not anymore. What about this particular aspect in the Christian Middle Ages? Could a medieval author think of human creatures which still did not meet the criteria of being actual *human* persons?⁶⁰ Sure enough, there was no analogous debate about the concept of personhood with the socio-political implications (concerning abortion or euthanasia) that we are facing today. However, the virtue of this comparison is that it turns the direction of questioning from the humanity of animals to the

59 In particular: Eva Schumann, ‘Tiere sind keine Sachen’ – Zur Personifizierung von Tieren im mittelalterlichen Recht, in: Beiträge zum Göttinger Umwelthistorischen Kolloquium 2009–2009, ed. by Bernd Hermann, Göttingen 2009, pp. 181–207; just like other fictional processes were intended to introduce unlearned jurists to the principles of Roman law, Schumann argues, fictional legal trials against animals could also have served, for example, didactic purposes (ibid., pp. 195–198).

60 In our context, this question concerns of course the “natural person”, as opposed to the “legal person”. As is well known, the legal status of a “person” could be very different in pre-modern societies: In ancient Roman law, a slave was temporarily considered as legal object, not as person in terms of a legal subject; this, however, is not relevant here: Insofar as the demarcation of humans and animals is concerned, we are dealing with a zoological and ontological problem of taxonomy that is related to specific qualities and capacities of creatures, not to legal status (which is not only changeable, by way of freeing a slave, but pertains to a different taxonomical system). For the sake of clarification, however, it seemed reasonable to say that.

animality of humans: The crucial question of this chapter, therefore, must be if, or to which degree, the supposed humanity of “human” creatures could be undermined in the Middle Ages by way of *shifting the demarcation-line* with respect to specific criteria.

First of all, it is important to note that the criteria of personhood in late 20th century discussions were by no means restricted to the sphere of cognition and intelligence. Apart from cognitive abilities, Mary Anne Warren, for instance, has also listed “moral agency” as decisive criterion, by which she means the ability of a person to regulate its activities according to specific moral principles.⁶¹ As the British philosopher Mary Midgley has pointed out, the most common understanding of persons as moral subjects in Western societies, as basically worked out by Immanuel Kant in his *Foundations of the Metaphysic of Morals*, in fact raises intricate demarcation-problems since it does not per definition exclude animals or aliens.⁶² However, the moral criterion can be applied to exclude organisms which are genetically “humans”. As a result, an ontological distinction of humans and animals would, also in this respect, be effectively undermined.⁶³ Against the background of our problem, this principle consideration leads us to a first basic question with regard to the inclusion-exclusion criteria of humanity in the Middle Ages: Could a medieval author conceive of a (zoologically) human creature which does not meet the moral criterion of being “human”, and which therefore must be classified as animal?

Surprisingly, by all intends and purposes, a well-known “Christian” philosopher of the Early Middle Ages has articulated one of the most radical viewpoints of the whole period on the matter. In fact, what the Neoplatonist Boethius (died c. 525) has to say about the “ambiguity” of humanity in terms of morality, is at first glance hard to take literally, but seems rather allegorical or even as intended with a pinch of salt. However, his remarks on the essence of human nature have to be taken very seriously, as they stand in a specific epistemic context of Neoplatonic ontology which is crucial for Boethius’ whole philosophy. It is worth reading the passage from the beginning where he indicates the metaphysical background of his perspective:

You have already learned that all Being is essentially One, and that the One by itself is the Good. As a consequence, everything that is, is certainly also good. Against this background, however, it is clear that everything which abandons the Good also ceases from

61 Mary Anne Warren, *Moral Status. Obligations to Persons and Other Living Things*, Oxford 2000, pp. 119–121, 156–163; see the critical review of Warren’s approach by Robert P. Lovering, *Mary Anne Warren on ‘Full’ Moral Status*, in: *The Southern Journal of Philosophy* 42 (2004), pp. 509–530.

62 Midgley, *Persons and Non-Persons* (note 3).

63 Needless to say, the opponents of Warren and the Animal Rights Movement insist on the strict reservation of personhood for the biological species of humans as determined by genes; a prominent advocate of “human exceptionalism” is for instance: Wesley J. Smith, *A Rat is a Pig is a Dog is a Boy. The Human Cost of the Animal Rights Movement*, New York 2010; see also: John Noonan, *Deciding Who is Human*, in: *Natural Law Forum* 13 (1968), pp. 134–140; John Noonan, *Abortion and the Catholic Church: A Summary History*, in: *Natural Law Forum* 12 (1967), pp. 85–131, who starts by asking: “What determines when a being is human?” (p. 85).

Being. For that reason, the evil cease to be what they have been. Merely the semblance of the relinquished human body still indicates that they once had been “humans”. As they turned to malignancy, they have lost the human nature.⁶⁴

Boethius’ understanding of human nature is based on the metaphysics of Neoplatonism: Because of the metaphysical coincidence of the One and the Good, the essence of a being is intrinsically related to being good. Deprived of the Good, it ceases to be. However, if a former human being loses its human substance, it does not cease to exist at all. Deprived of the human nature, it pertains to another category. On the basis of his philosophical principles, Boethius draws the consequences of this transformation:

Thus, it follows that you cannot consider to be a human whom you see transformed by vices. [...] He is equal to hinds. Stupid and deedless he gazes. He lives like an ass. Frivolous and unsteady he varies his occupations. In nothing he differs from birds. Immersed in hideous and swinish desires, captured by his dirty lust he is. For that reason, who has lost his virtuousness and, therefore, has ceased to be a human being, transforms into a beast.⁶⁵

Against the background of his metaphysical premises, Boethius applies a moral criterion in order to exclude certain creatures with a “human body” from the category of actual humans, as they have lost “human nature”. Admittedly, only few thinkers of the European Middle Ages have followed up this rather radical perspective of Boethius. However, in late 11th and early 12th century England, the students of Anselm of Canterbury, like Ralph of Battle and Gilbert Crispin, for example, repeatedly showed an interest in “animal philosophy” and expressed views in a similar direction.⁶⁶ For Ralph of Battle (died 1124), human beings who perform actions that are incompatible with human nature were in fact at risk to be considered

64 *Omne namque, quod sit, unum esse ipsumque unum bonum esse paulo ante didicisti, cui consequens est, ut omne, quod sit, id etiam bonum esse videatur. Hoc igitur modo quicquid a bono deficit, esse desistit; quo fit, ut mali desinant esse, quod fuerant; sed fuisse homines adhuc ipsa humani corporis reliqua species ostentat. Quare versi in malitiam humanam quoque amisere naturam* (Boethius, *Consolatio philosophiae*, ed. Ernst Gegenschatz and Olof Gigon, Boethius: *Trost der Philosophie*, Düsseldorf 2002, p. 182).

65 *Evenit igitur, ut, quem transformatum vitiis videas, hominem aestimare non possis. [...] Cervis similis habeatur. Segnis ac stupidus torpet? Asinum vivit. Levis atque inconstans studia permutat? Nihil avibus differ. Foedis immundisque libidinibus immergitur? Sordidae suis voluptate detinetur. Ita fit, ut qui probitate deserta homo esse desierit, cum in divinam condicionem transire non possit, vertatur in beluam* (Boethius, *Consolatio philosophiae*, ed. Gegenschatz/Gigon, pp. 182–184).

66 On these authors see: Bernd Goebel, ‘So bringen wir ein jedes Geschöpf im Zorn gegen uns auf’. Anselm und seine Schüler über das Verhältnis des Menschen zu den nicht-rationalen Wesen, in: *Cardo* 18 (2020), pp. 20–29; I thank Prof. Goebel (Fulda) for bringing this study to my attention; see also: Bernd Goebel, *Im Umkreis von Anselm. Biographisch-bibliographische Porträts von Autoren aus Le Bec und Canterbury*, Würzburg 2017.

as animals, as their conduct resembles the nature of beasts.⁶⁷ On the other hand, Ralph also claims that animals sometimes seem to act according to moral principles. Although they are not “rational creatures”, they still display a certain kind of “charity” with regard to each other.⁶⁸

It seems thus not unreasonable to state that in terms of morality, the natural border between humans and animals could, at least in principle, be undermined and questioned in the Middle Ages. Apparently, the existence of creatures which had zoologically human bodies but did not meet the moral criteria of being human, was not inconceivable. However, in terms of cognition things looked quite differently. Beyond all doubt, the most important feature which demarcated humans from animals in the order of creatures was still rationality. The final question of this chapter, therefore, must concern the problem of the intellect. Is the *anima intellectiva*, as the *forma substantialis* of the *animal rationale*,⁶⁹ indeed the ultimate and unquestionable characteristic which distinguishes all humans without exception from the unreasoning creatures, or could this demarcation-criterion also be rearranged under specific circumstances to the detriment of certain zoologically human organisms?

In order to discuss this question, I will choose a particular approach. Whereas scholastic debates on the human soul have been primarily examined from the perspective of the history of ideas,⁷⁰ the following arguments will be based much more on sociological considerations. The theories and ideas, therefore, will be related to a specific social context. What does that approach look like? In a general sense, it could mean that the demarcation-lines in specific orders of creatures are not only due to the philosophical desire of establishing taxonomical truth, but can also serve very definite social and political purposes. This phenomenon, however, can appear in very different sources. For instance, we find the deliberate exclusion of zoologically human beings from the category of “rational creatures” in the context of inter-religious polemics. In the 12th century, Peter the Venerable (d. 1156) has denied the humanity of Jews by arguing that they would not possess human reason (*ratio*), as they did not understand the truth of Christ.⁷¹ Consequently, according to Peter, they lacked what separates humans from animals and beasts. There would be no reason, therefore, why a Jew should not be called “*animal brutum*”, “*bestia*” or “*iumentum*”.⁷²

67 Ralph von Battle, *De nesciente et sciente* I, cap. 4, ed. Samu Niskanen and Bernd Goebel, in: Ralph von Battle, *Dialoge zur philosophischen Theologie*, ed. Bernd Goebel, Samu Niskanen and Sigbjørn Sønnesyn, Freiburg 2015, p. 40.

68 Goebel, ‘So bringen wir jedes Geschöpf im Zorn gegen uns auf’ (note 66).

69 On this definition (according to Aquinas), see Chapter II.

70 As for instance by Hellmeier, *Anima et intellectus* (note 21); Köhler, *Grundlagen des philosophisch-anthropologischen Diskurses* (note 21); Lottin, *Psychologie et Morale aux XII^e et XIII^e siècles* (note 21); Klima, *Questions on the Soul* by John Buridan and Others (note 21).

71 *Hominem enim te profiteri, ne forte mentiar, non audeo, quia in te extinctam, immo sepultam, quae hominem a caeteris animalibus uel bestiis separat eisque praefert rationem agnosco* (Peter the Venerable, *Adversus Iudeorum inveteratam duritiem*, V, ed. Yvonne Friedman (*Corpus Christianorum. Continuatio Mediaevalis* 58), Turnhout 1985, p. 125).

72 [...] *in quo omnis ratio obruta est, dictum esse negare non potes. Cur enim non dicaris animal brutum, cur non bestia, cur non iumentum?* [...] *Audiet nec intelliget asinus, audiet nec intelliget Iudaeus* (Peter the Venerable, *Adversus Iudeorum inveteratam duritiem*, V, ed. Friedman

In a comparable fashion, this strategy of “animalization” occurs in the context of perceptions of non-European cultures in travel reports. The Dominican William Adam, for instance, who pretends to have travelled to Asia in the early 14th century, described the inhabitants of South Asian islands as non-rational creatures: “*non eos rationabiles extimem, sed homines bestiales*”.⁷³

Peter the Venerable’s stance against Jews is, apparently, not based on elaborate philosophical considerations but is primarily of polemical nature. However, from the 13th century onwards, in the course of the reception of the Aristotelian doctrine of the soul, new philosophical concepts and terminologies became available. The philosophical arguments which were produced in later medieval sources on human-animal relations with respect to the human soul, however, can also be analyzed in a “sociological” perspective. The view that I want to suggest here is that some philosophers in the context of the reception of Aristotle in the 13th century, particularly at the university of Paris, made a very peculiar use of the concept of the intellectual soul (*anima intellectiva*) which, as we have seen, was the distinctive feature of human beings according to Aristotle. In a specific situation, these authors basically instrumentalized the concept of the intellect in order to establish a highly idiosyncratic demarcation of humans and animals. This very specific interpretation, however, was related to a particular social context and social conflicts.⁷⁴

In the course of the 13th century, a group of philosophers at the university of Paris displayed an increasing desire to express and to distinguish their own social identity by way of demarcation from other groups of their social environment.⁷⁵ This marking of difference, however, was accomplished, for instance, by distinguishing the notion of a philosophical life (*vita philosophantium*) from the practical way of life, as pursued in politics or craft. For example, the question of whether a philosopher should be engaged in politics is answered by the master John Vath as follows:

It is to say no, for rulers have a lot of trouble in their affairs. A philosopher, however, does not care about these matters, but only about those which concern theoretical speculation.⁷⁶

(note 68), p. 125); on this passage see also: Hans Werner Goetz, *Die Wahrnehmung anderer Religionen und christlich-abendländisches Selbstverständnis im frühen und hohen Mittelalter* (5.–12. Jahrhundert), Berlin 2013, pp. 499–500.

73 William Adam, *De modo Saracenos extirpandi*, ed. in: *Recueil des Historiens des Croisades, Doc. Arméniens*, vol. 2, Paris 1906, pp. 519–555, p. 554.

74 On this argument see also: Marcel Bubert, *Das Tier, das denkt: Was ist der Mensch? Zur Funktion der anima intellectiva in den Grenzziehungen zwischen Mensch und Tier im Spätmittelalter*, in: *Archae Verbi. Yearbook for the Study of Medieval Theology* 17 (2020), pp. 113–134.

75 Marcel Bubert, *Philosophische Identität? Sozialisation und Gruppenbildung an der Pariser Artistenfakultät im 13. Jahrhundert*, in: *Zwischen Konflikt und Kooperation. Praktiken europäischer Gelehrtenkultur* (12.–17. Jahrhundert), ed. by Jan-Hendryk de Boer, Marian Füssel and Jana Madlen Schütte (*Historische Forschungen* 114), Berlin 2016, pp. 309–326.

76 *Consequenter queritur utrum philosophus debeat esse princeps in civitate. Dicendum quod non per se loquendo, quia principes multam curam habent de agibilibus; sed philosophus de talibus non curat, sed de his quae pertinent ad speculationem* (Johannes Vath, *Determinationes*, Paris, BnF, lat. 16089, fol. 75v).

This kind of symbolic demarcation between the speculative life of scholars and the political and practical life outside the university can be observed in numerous sources.⁷⁷ In some cases, however, this practice of demarcation became much more radical. The distinction strategies of some philosophers went so far that they declared that the possession of the intellect, the *anima intellectiva*, and, accordingly, the capacity of reasoning, was an exclusive feature of their particular social group. Thereby, they did not hesitate to draw the apparent conclusion of the fact that Aristotle had defined the intellective faculty of the soul as distinctive characteristic of human beings. The consequences were obvious: Only those who had acquired the intellect through the study of philosophy could be considered humans, whereas the individuals of the practical life, above all the townspeople, like craftsmen and merchants, had to be counted among the animals.

This rather specific demarcation of humans and animals occurs, for instance, in the works of Boethius of Dacia. Boethius was a contentious philosopher whose writing on the “eternity of the world” (*De aeternitate mundi*) had made him a target of censorship in the 1270s.⁷⁸ However, in his treatise *De summo bono* he polemicalizes against individuals which have not achieved to realize their intellect and, therefore, are counted among the animals. He cites an anonymous philosopher who is supposed to have said: “Woe to you, humans who belong to the category of the animals (*in numero bestiarum*), for you do not seek what is divine in you”.⁷⁹ Moreover, Boethius adds: “The divineness in humans, however, he [the cited philosopher] calls intellect”.⁸⁰

The fact that Boethius uses the word “humans” (*homines*) at the beginning of the quote for those mindless individuals which actually count among beasts (“Woe to you humans who belong to the category of the animals”), seems of course, at first glance, terminologically inconsistent. It can be explained, however, quite easily by considering a view that was widespread at the university at that time. A colleague of Boethius, the philosopher Aubry of Reims, had treated the problem of equivocation concerning the word “human”. In this context, he states:

77 More examples in: Marcel Bubert, *Kreative Gegensätze. Der Streit um den Nutzen der Philosophie an der mittelalterlichen Pariser Universität* (Education and Society in the Middle Ages and Renaissance 55), Leiden 2019; see also: Luca Bianchi, *Il vescovo e i filosofi. La condanna parigina del 1277 e l'evoluzione dell'aristotelismo scolastico*, Bergamo 1990, p. 157.

78 Malcom de Mowbray, *The De aeternitate mundi of Boethius of Dacia and the Paris Condemnation of 1277*, in: *Recherches de théologie et philosophie* 73 (2006), pp. 201–256; Paul Wilpert, *Boethius von Dacien – Die Autonomie des Philosophen*, in: *Beiträge zum Berufsbewusstsein des mittelalterlichen Menschen*, ed. by Paul Wilpert (*Miscellanea Mediaevalia* 3), Berlin 1963, pp. 135–152.

79 *Vae vobis homines qui computati estis in numero bestiarum ei quod in vobis divinum est non intendentes* (Boethius von Dacien, *De summo bono*, ed. Niels J. Green-Pedersen, *Boethii Daci Opera* VI,2 (*Corpus Philosophorum Danicorum Medii Aevi* 6,2), Copenhagen 1976, pp. 369–377, pp. 369–370).

80 *Divinum autem in homine vocat intellectum* (Boethius von Dacien, *De summo bono*, ed. Green-Pedersen (Note 79), p. 370).