

LIVING TOGETHER: PROMOTING COMPANION-ANIMAL AGENCY THROUGH THE CO- CONSTRUCTION OF DAILY LIFE

A paper proposal for consideration for Martha Nussbaum's Balzan Project: "Animal Capabilities, Ethics, and Law: New Directions"

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Living Together: Promoting Companion-Animal Agency Through the Co-Construction of Daily Life

A few years ago, I was eating at the dinner table and my dog, Gracie, was sitting close to my knee, staring intently, with the aim of getting me to give her some of my food. In other words, she was “begging.” After some time, frustrated by not having yet been given any of my food, she did something she had never done before – she tapped my knee with her paw. Many dog trainers would, no doubt, have instructed me to ignore or “correct” her behavior, and, under no circumstances “reward the behavior” with a piece of my food.¹ Thankfully, I was never very good at taking that stance toward her. On the contrary, I thought this little tap on the knee was marvelous. In that instant, she had initiated a new way of expressing herself – of not only making her desires known but making a direct request of me. I could either respond to that request with what she wanted, and thereby enhance her agency, or I could ignore her, and thereby deny it. I gave her what she wanted. And I have come, in hindsight, to see this as constituting a remarkable turning point in our relationship – the beginning of a gradual but significant shift in our dynamic, in which her agency has been more fully present. It was, in some ways, the start of a journey – a journey still ongoing – toward a more genuinely dialogical relationship in which Gracie plays more of a role in shaping our ongoing interactions and thus the shape of our life together. My question for this paper is: where should this journey take us, and how do we get there?

In her recent book, *Justice for Animals*, Martha Nussbaum offers a compelling argument that we should take the Capabilities Approach to justice in our relations with animals – an approach which, as I discuss further below, has at its core a respect for, and commitment to, individual agency in the pursuit of flourishing. What I want to show in this paper is that such a commitment takes on a distinctive, and distinctively demanding, form from the point of view of those who live with, and are responsible for, a non-human animal companion. On our relationships with companion animals, Nussbaum writes:

“If affection and respect are there, and if humans really learn to think of the companion animal as an independent being with its own ends, not just a toy or instrument, all the rest will follow.”
(Nussbaum 2022, 219.)

I think this is both deeply true and ripe for further thought. My question about where mine and Gracie’s journey should take us is a question about *what*, exactly, might follow from this commitment to one’s companion as an end in herself. I want to describe some of what it looks like to aspire to this commitment from “on the ground,” as it were, in the context of day-to-day life with a companion animal – in my case, a dog – and some of the theoretical and practical difficulties that arise here. What exactly does such a commitment look like, and how does it play out in daily life, in the intimate social space between a human and her companion animal?² I want to tentatively (for now) suggest that what

¹ At least, those dog trainers associated with a school of dominance theory, in which the human should act as “pack leader,” would generally speaking advise against “rewarding” the behavior. These “dominance” approaches are not backed by an accurate understanding of dogs or dog behavior. There are many more progressive, and very good, dog trainers and behaviorists who would actually take no issue with giving a dog what she is asking for in such cases, and in fact focus on promoting dogs’ agency in human-dog relationships.

² Nussbaum does elaborate on this, in reference both to George Pitcher’s relationship with his dogs, which he describes in *The Dogs Who Came to Stay*, and Barbara Smuts’ relationship with her dog, described in her “Encounters with Animal Minds,” both of which are instructive (Nussbaum 2022, 219, 262-266). Sue Donaldson and Will Kymlicka also offer

we should be striving toward in these intimate human-animal relationships is the “co-creation of daily life,” and that what this requires of us is a kind of “radical empathy.” Part of my task in the paper will be to flesh out these notions.

My focus will be specifically on relationships between humans and their dog companions, for a couple of reasons. First, this is where my experience and expertise lie. Second, human-dog relationships are the most common relationships of the kind that I am most interested in – that is, relationships in which the human and companion animal cohabit and thus share the bulk of their daily lives together, in which the companion animal is dependent on the human for meeting most if not all of her needs, and in which meeting these needs requires a relatively “hands-on” approach from the human (for example, taking a dog for a walk rather than simply opening the front door and letting her roam).

The Capabilities Approach

The Capabilities Approach (CA) to justice asks: what is each individual “actually able to do and to be?” (Nussbaum 2022, 86; 2011, 14.) The CA “is about giving striving creatures a chance to flourish” (Nussbaum 2022, 81), where such creatures are understood as “active beings seeking a flourishing life that they themselves create” (Nussbaum 2022, 87). Thus, a “capability” – what the CA seeks to secure as a matter of justice – is “a real, substantive freedom, or opportunity to choose to act, in a specific area of life deemed valuable” (Nussbaum 2022, 86).

Agency is absolutely central to this picture, in (at least) two respects. First, that we are “active” and “striving” beings underpins the whole approach, as demanding a certain kind of response: striving creatures should be treated as ends, not merely as means, for “they have a dignity ... which deserves respect.” (Nussbaum 2022, 92.)³ “The basic goal” of the CA “is that all animals would have the opportunity to live lives compatible with their dignity and striving, up to a reasonable threshold level of protection.” (Nussbaum 2022, 100.) The list of central capabilities to be secured as a matter of justice is, for both humans and other animals, meant to ensure such a life for each individual.

Second, the *exercise* of agency – living a life “that they themselves create” – is central to the flourishing of such beings. Agency is not merely instrumental to flourishing in ensuring the appropriate outcomes for any given individual; rather, agency is (also) intrinsic to flourishing – it is an essential *feature* of a flourishing life.⁴ As Nussbaum notes, “[a]ll creatures want the opportunity to make some key choices

some discussion of this issue in their book *Zoopolis* (Donaldson and Kymlicka 2013, 108-112.) My paper is intended to pick up from these discussions and develop them further.

³ Nussbaum writes: “the pursuit of valued goals by an animal, all by itself, entitles the striving animal to end-like treatment: it has a dignity, not just a price.” (Nussbaum 2022, 96.) As Amy Linch and Breana Holland put it, in their paper “Cultural Killing and Human-Animal Capability Conflict”: “[Non-human animals] dignity is apparent in their striving, and it warrants the freedom to continually respond to the circumstances of their lives as they seek their own form of flourishing.” (Linch & Holland 2017, 314.)

⁴ On the importance of agency for non-human animals, see also Delon 2021. A further role of agency in the CA is that it is through careful and attentive observation of individual animals exercising their agency that we come to understand each species form of life – including “a set of important goals toward which” individuals of that species “tend to strive” – and the particular obstacles they face in doing so, and thereby the particular list of capabilities that ought to be protected for that species, and how to go about protecting those capabilities. (Nussbaum 2022, 96-99.) This is not to say that all members of a species will want exactly the same things; rather, as in the human case, a capability is “a real,

about how their lives will go, to be the makers of plans and choices” and “all animals seek types of control over their material and social environment” (Nussbaum 2022, 102). Thus, practical reason is one of the “key capabilities” on the list, “organiz[ing] all the others and suffuse[ing] them, coloring everything else” (Nussbaum 2022, 219).⁵ I take it that “practical reason” is basically, at least for non-human animals, equivalent to agency, which we might understand roughly as “the ability to have some level of control in our environment and be able to make choices that result in a desirable outcome” (Bender & Strong 2019, 27).⁶

I think Nussbaum’s application of the CA to the issue of justice for animals, and the ethical and moral approach to animal life that underpins it, including taking a stance of wonder and respect towards individual animals and their species forms of life, and humility in learning about them, is generally very compelling. The purpose of my paper is not to critique this application of the CA to the question of justice for animals – on that I am strongly inclined to agree – but rather to offer a further development of these central ethical commitments, to individual animals as striving beings and as ends in themselves, to the issue of our relationships with *companion* animals in particular. Specifically, I ask how these ethical commitments should translate to our relations with such animals not just as *co-citizens* but as, what we might call, *family members*. My thought is that within this context of intimate co-habitation – of *living together* – one’s commitment to the other as an end in herself, and the concomitant respect for and responsiveness to her agency, takes on a distinctive form.

Wild Animals, Domesticated Animals, Animal Companions

When thinking about our relations with animals, it helps to make a couple of distinctions. First, between wild and domesticated species. Domesticated animals are inherently dependent on human beings in a way that wild animals are not (even if we grant that there is no such thing as “the wild” as a place that is free from human interference)⁷, and this is because we have made them so. Thus, we cannot think of their flourishing independently of human society, and this will give rise to particular kinds of demands under the CA. As Nussbaum puts it, such flourishing is “symbiotic” (Nussbaum 196). Moreover, when working toward just relations with domesticated animals, we do so under the shadow of historical relations of exploitation and domination – domesticated animals are inherently dependent on us because we made them that way in order to use them to serve our interests.⁸ We

substantive freedom, or opportunity to choose to act, in a specific area of life deemed valuable” (Nussbaum 2022, 86), which does not presuppose any particular way of acting within that sphere of freedom, and nor does it assume that each such opportunity will be act will be chosen. Thus, the CA “respects individual creatures . . . by creating protected spaces for them to seek flourishing, each in their own way” (Nussbaum 2022, 107 (I take it that “spaces” will sometime be applied literally in terms of actual protected extensions of space (land, water, sky) but is also meant to signify something more general, like “spheres.”)

⁵ Nussbaum is explicitly referencing the human list here, but I take that that the same goes for non-human animals.

⁶ For my purposes I am taking it as obvious that many non-human animals are agents in this sense. For a more detailed philosophical defense of this, see for example Delon 2018.

⁷ Nussbaum notes that, while there is no such a thing as “the wild” as a place free from human domination or influence, we can nonetheless imagine a flourishing life of a wild animal as one that is free from human interference (Nussbaum 2022, 196).

⁸ In their book *Zoopolis*, Sue Donaldson and Will Kymlicka distinguish four features of domestication. First, the *purpose* of domestication is to serve human interests or whims. Second, the *process* of domestication involves deliberate human intervention to manipulate breeding outcomes. Third, the *treatment* of domesticated animals is that they are maintained by

might say that somebody is dominated when decisions or actions concerning her are made without considering her interests and/or without accounting for her expressed preferences, or voice – that is, without giving her a say in the matter.⁹ Having brought domesticated animals into relations of dependence with human beings, justice requires that they be given the status of citizens, thereby giving them a voice at the level of political decision-making (Donaldson and Kymlicka 2013, Nussbaum 2022, 202-207.)

A second distinction is between those socio-political human-animal relations just discussed, on the one hand, and the personal, intimate relationships between particular human beings and their particular (domesticated) animal companions, on the other. The two are of course interrelated. Human-animal companion relationships will be conditioned by socio-political relationships, insofar as citizenship provides domesticated animals with certain entitlements enforceable against the human “guardian” on the animal’s behalf. And, conversely, domesticated animal citizenship is enabled through collaborative guardian relationships (Nussbaum 2022, 202-207, Donaldson and Kymlicka 108-112). Nonetheless, it is helpful to think of human-animal companion relationships as belonging to their own sphere, or as a distinct kind of relationship.

Indeed, it is the relationships between individual humans and their individual animal companions that organize the animal’s daily life and determine the bulk of their day-to-day experiences, and while domesticated animal citizens would be dependent on the political community as a whole, animal companions are most immediately dependent on their specific human guardian. As such, these relationships raise distinctive ethical questions. Moreover, the nature of the human-animal companion relationship can be largely independent of the wider socio-political status of animals. Thus, the ethical demands of that relationship are ones that we can try to implement in the here-and-now, under non-ideal socio-political conditions.

Living Together with a Companion Animal

In human-companion animal relationships, the human ultimately has control (within the limits set and enforced by the political community) over basically every aspect of the companion animal’s daily life. I can decide, for example: when, what and how much Gracie eats; when, where, and for how long we will go for walks/outdoor time; whether or not, and with whom, she will socialize; what kinds of activities will be available to her in the house, and when she can engage in them, etc. Because of her dependence on me, and through the act of adopting her and thus making her dependent on me in particular, I have acquired special responsibilities toward Gracie – responsibilities to give her a flourishing life. (See Burgess-Jackson 1998, Nussbaum 2022, 207-209.)

We might spell out these responsibilities in the following kind of way, in terms of my providing her with such things as: nourishing food; opportunities to exercise, socialize and play; access to medical care; a sense of safety and shelter, etc. However, I could, in principle, do all of these things within a

human beings. And fourth, domesticated animals are *dependent* upon human beings for care. (Donaldson and Kymlicka 2011, 74-75.) On domestication as domination see also Francione 2007 and Milligan 2017.

⁹ This rough characterization of domination is based to some extent on the republican conception of domination as republican unfreedom, put forward by, for example, Elizabeth Anderson (2017). See also Claudia Hogg-Blake, “Loving Gracie: An Account of Human-Animal Love,” *The University of Chicago Proquest Dissertations Publishing*, 2022, 141-142.

relational dynamic in which I am the active carer and Gracie is the merely passive recipient of care. What this model cannot, I think, properly account for is agency – which is, indeed, a central feature of a flourishing life. Thus, respecting Gracie as an agent, and promoting her agency, gives rise to a special kind of demand – a demand for a particular kind of *relational dynamic*.¹⁰ Indeed, another way of framing the demand for a specific kind of relational dynamic is to point out that a relationship of non-domination requires not just that you fulfil your companion animal's *needs/interests*, but also that you give your companion animal a *voice* (agency) and respond to that voice (agency) appropriately – which is a requirement for a particular relational dynamic.

Recall that, according to the CA, agency infuses all of the other central capabilities, and, moreover, the CA is called for precisely in response to this potential for agency – that is, in response to striving creatures. Thus, just as I must provide Gracie ample opportunities for exercise, stimulation, and play, I also ought to ensure that she has some level of agency during those opportunities. One way that I can do this, for example, is by letting her take the lead on walks, stopping to sniff when she wants to, etc. But it doesn't stop there: just as Gracie's being a striving creature – an agent – is something that defines all aspects of her being, so the demand to promote her agency is something that permeates all aspects of our lives together. It's not just that she gets a certain number of hours of outdoor time each day, for example, that are also marked as her “agency” time. What is called for here is not the doling out of discreet instances of agency (though that would perhaps be better than nothing). What is demanded, rather, is something more universal: that Gracie has some kind of ongoing control over the shape of her daily existence; and that means, to some extent, having control over the shape of *our* (mine and hers) daily existence.

It is this “universal” nature of agency, along with the wide nature of a companion animal's dependency, that makes it a distinctively demanding requirement from the point of view of someone who is responsible for and lives with a companion animal. What this means is that the exercise of companion animal agency is something that, in large part, the human and her companion animal must do *together*.¹¹ For example, Gracie exercises agency on our walks, as I have learned to largely let Gracie lead the way, stopping to sniff whenever and for however long she wants, following her as she meanders, and letting her choose where we go. But this requires my constant cooperation – by following and keeping the leash loose, I am *facilitating* her exercise of agency. And this is not easy – it requires a great deal of patience, a kind of giving myself over to her. And it is not just *on* the walk that I must cooperate in this way. Rather, this cooperation begins at home, since, for her to go for a walk at all (assuming she cannot just go wandering the city streets by herself), *I must go with her*, and thus for her to have control over deciding *when* she will go for a walk, I must often stop what I am doing and yield to her wishes.

The more that we generalize this commitment to promoting companion animal agency, across all of the central capabilities and across time – giving agency as much of the time as is possible, rather than

¹⁰ This demand is implied by the CA, insofar as (a) one of the capabilities is *agency* (or practical reason), and this infuses all the other capabilities; and (b) the CA is called for precisely in response to the potential for agency – that is, in response to striving creatures. It is also, I think, a demand of love – which arises insofar as the animal-guardian relationship is, as many are, a loving relationship – since love is at odds with domination.

¹¹ This is more true the more dependent the animal is for exercising her agency, which depends on the general living environment. This demand is particularly pressing, I think, in an urban context in which the human and companion animal do not have access to private land on which the animal can be simply left to do her own thing for much of the time.

discreet instances at specific set times – the more that we approach a genuine *co-construction* of daily life between human and animal companion. Rather than trying to simply fit the companion animal’s needs into one’s own schedule, the shape of daily life is, to as much of an extent as practically possible, negotiated between human and animal – a genuinely collaborative enterprise. This will involve the human being (willingly, cooperatively) subject to the whims of her companion animal a lot of the time – rather than, as is the case now, it being almost entirely vice versa. What exactly this social space looks like, or what it should look like, will be developed in the paper. I want to pay particular attention to the way in which the “co-construction of daily life” might be analogous to Donaldson and Kymlicka’s notion of citizens as “co-creator[s] of the community” (Donaldson & Kymlicka 2013, 103) but at the level of the personal relationships that shape the bulk of day-to-day life. To move into this space requires, I want to suggest, a kind of “radical empathy” in which, despite the other’s being in various important aspects quite different from oneself, one really sees the other as a locus of experience and initiative and responds appropriately.¹² (This stance is perhaps quite similar to the notion of wonder on which Nussbaum draws.)

To return to the story I started with: Gracie’s front paws are now known as her “whackers,” and she makes demands with them often. The more she communicates, the more I learn to respond, and the more, in turn, her communication develops. As I have, over the years, reflected on the moral and loving demand to promote her agency, I have learned to give myself over to her more and more often. I am more willing to stop what I am doing and give her what she asks for, when she asks for it, even if it turns out to be time consuming, and even if it requires a change of plans. (For example, yesterday I wanted to go to a departmental event, but as I was making to leave the house, Gracie sat at the door, expecting, or requesting, to go on a walk. I decided to take her on a walk instead, though it meant missing the event, not because she needed the exercise – she had already had multiple walks that day! – but simply because she wanted to, and it is important for her to have agency.) This commitment to promoting her agency is always against the backdrop of an awareness of her dependency on me – a dependency for which I am, at least in part, directly responsible. It is a clunky and imperfect development, and it is hard, but it is also exhilarating to feel our dynamic change, to sense the possibilities for its development, to feel more and more like we are living our lives *together*. In the process, Gracie shows more of herself, and I learn to see her more – and somehow my already abundant love for her grows. My question is, how far can, and should, we take this? The relational shift that is required – departing from the currently accepted norm for such relationships – is, I think, quite radical.

Working Bibliography

As I write this paper, I want to draw on several areas of literature, including: work on the Capabilities Approach to animal ethics; the work of Sue Donaldson and Will Kymlicka on citizenship for animals, and related work on the problem of domination for domesticated animals; work on “dependent agency” in the philosophy of disability (e.g. Kittay, and others, many of whom are cited by Donaldson & Kymlicka); work on the importance of agency for dogs, from the point of view of trainers and

¹² This is something we see in the disability literature too. For example, Eva Kittay quotes the words of one of the carers of her severely intellectually disabled daughter, Sessa, as she realizes how this caregiving role will work: “Thank you for being my teacher, Sessa. I see now. Not my way. Your way. Slowly.” (Kittay 1999, 165.)

behaviourists, including work on “enrichment” (which is, interestingly, very similar to the Capabilities Approach). I include here a brief selection of those materials.

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