Brian Schrag's Commentary on "The Gladiator Sparrow: Ethical Issues in Behavioral Research on Captive Populations of Wild Animals"

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Should Clarisse continue this experiment? The central moral issue in considering that question is whether the birds' interests should be taken into account in evaluating whether or how to conduct the experiment. If the answer is "No, their interests should not be taken into account," then, assuming the experiment is well designed and likely to yield useful results and hence is a good use of resources, there is no reason not to have undertaken it in the first place or continue the experiment If the answer is "Yes, the birds' interests should be taken into account," then one must determine what their interests are and what bearing consideration of their interests should have on a decision to undertake the experiment, modify it or continue the experiment.

Moral status of birds

To ask about the moral relevance of their interests is to ask about the moral status of birds. Are they the sort of entities that have moral standing, that is, entities that at least have interests of some moral importance and perhaps moral rights, or are they rather like rocks, which have no interests, no moral status?For an excellent introductory discussion of the various ethical theories that can be brought to bear on the issue regarding the moral status of animals, see F. Barbara Orlans, Tom L. Beauchamp, Rebecca Dresser, David B. Morton and John P. Gluck, The Human Use of Animals: Case Studies in Ethical Choice (New York: Oxford University Press, 1998), Chapter 1. Relevant to the question of the birds' status is whether birds can feel pain or suffering. If they cannot experience pain or suffering, then one central objection

to this experiment is removed. The birds cannot be harmed in this sense, so perhaps there is nothing wrong with the experiment. Historically some (the philosopher Descartes, for example) have held that birds (and other animals) do not experience pain. That view is not widely held in the scientific community, although there may be debate on the extent of pain and kind of suffering such animals experience. I will not focus on this view.

Even if one grants that the birds in this case experience pain and suffering during the experiment or later as a result of the experiment, one might take the position that such a fact is morally irrelevant to whether or not to conduct the experiment. One might hold, as did the philosopher Kant, that "animals are to be regarded as man's instruments, as means to [man's] ends.Immanuel Kant, Foundations of the Metaphysics of Morals (1785) trans. Lewis White Beck, (Indianapolis: Bobbs-Merrill Company, 1959), p. 47. One can admit that the birds experience some forms of pain and suffering, but argue that their pain is of no moral relevance whatsoever to the question of whether the experiment is morally permissible. Some in the scientific community may hold this position. The fact that we have and observe the Animal Welfare Act, however, indicates that most people agree that research animals' pain and suffering is somehow a relevant factor. Although this position raises important ethical and philosophical issues, since the locus of disagreement tends to be elsewhere, I will not focus on this view, either.

At the other end of the spectrum, some hold that both humans and other animals (at least animals with a sufficiently rich psychological life) have inherent value, that is, they have "morally significant value in themselves, apart from their possible usefulness to others and independently of the. . . overall status of their mental life." Tom Regan, "Treatment of Animals" in Lawrence C. Becker, ed., Encyclopedia of Ethics, (New York: Garland Publishing Company, 1992), p. 44. This article includes a good introductory bibliography to the ethical issues discussed in this commentary. This view, developed by Tom Regan and called "inherentism" holds that at least some animals have the same moral status as humans provided they are capable of having beliefs and desires and acting intentionally.Regan, "Treatment of Animals," p. 45. Consequently, they are not to be used merely as means for human ends. If this view is correct, there is no justification for using these sorts of animals in any scientific research. If birds fall in the category of animals with inherent value, there ought to be no balancing the interests of the birds against those of humans. Clarisse should not have undertaken the experiment and should discontinue it immediately.

As Regan himself admits, however, there are difficulties in determining which animals are psychologically rich enough to fall in this category.Ibid.

Even if one does not accept the inherentist position, a more common position holds that birds and other animals have some sort of moral status because they are sentient creatures, capable of experiencing pain and suffering. Sentience is the feature relevant to determining moral status. Humans have at least a *prima facie* duty not to cause any sentient being pain. The pain of any sentient creature counts, and the pain or pleasure of humans does not automatically override that of other animals. That is the utilitarians' view.

If one accepts this position on sentient beings, one still might argue that although the birds in this experiment experience pain, suffering, and death, those facts are irrelevant to determining what to do in this particular case. That is not because the birds' pain, suffering or death is morally irrelevant but rather because their pain and suffering was not causally connected to the experiment. Gladiator sparrows are aggressive. They attack and perhaps kill each other in the wild. If the same aggressive wounding and killing goes on in the wild at the same level as Clarisse observed in her cage, then one might argue that she had here a kind of natural laboratory. She was simply passively observing, in a convenient forum, what would have happened to these birds in the wild.

Indeed, Clarisse belatedly discovers from researchers and early reports in the literature that gladiator sparrows exhibit the intensity of aggression in the wild that she observes in her cage. If she were able to determine by literature search and field observation that the birds exhibited a level of aggression and outcomes that closely match what she later observed with her caged birds, then one might argue that she is simply a passive observer and that the experiment contributes nothing to the pain and suffering of the birds. Suppose she were able to determine by field observation in advance of the experiment that for every 30 birds in the wild, six to twelve would be killed and a number seriously injured during the first few weeks of the mating season. One might argue that her intervention had caused no harm and thus it would be acceptable to carry out and continue the experiment. On the other hand, if the aggression observed in the wild matches that in the cage but may not result in such serious injury or death because the birds under attack are not imprisoned with no chance for escape, then of course Clarisse's experiment has contributed to the pain and suffering of the animals.

Even if the levels of the birds' injuries and deaths in the wild match the outcomes in the cage, there are other considerations. The notion of the animal's "suffering" in this context typically includes tension, anxiety, stress, exhaustion, and fear. Do the acts of aggression in the cage create more of this sort of suffering since the birds under attack cannot escape? Do all the caged birds experience suffering in the capture process or when they discover they are trapped in an enclosure? If the aggression is learned behavior, will birds released from the cage have learned a higher level of aggression than their wild counterparts, and will they pass that on to the wild population, thereby raising the level of pain and suffering in the wild population? If any of these outcomes occur, then Clarisse's experiment has increased the birds' pain and suffering and her experiment is not merely a natural lab in which their pain and suffering is morally irrelevant.

One can of course debate whether birds are capable of emotions such as fear and anxiety or capable in general of experiencing the emotional pain of the events in this case. Some would argue that the basis for attribution of emotions in animals is as good as the basis for the attribution of pain.Orlans et al., Human Use of Animals, p. 19. Some would argue that we are as certain that some animals have emotions as we are that other people have emotions. "We are as sure that a bear is angry as that a spouse is angry."Ibid., p. 8.

Even if we grant, as it may be reasonable to assume, that the birds in this case experience pain and suffering in the cage that they would not have experienced in the wild, some might argue that, nevertheless, the experiment was morally justified in principle. The birds' pain and distress, although morally relevant, nevertheless, is somehow outweighed by the benefits of the experiment.

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Assessing the benefits of this experiment

The benefits of conducting the experiment may include the value of the knowledge we expect to gain as well as benefits to other stakeholders. Assume for the moment that the experiment is well designed and executed so that we gain maximal knowledge. It appears that the objective is to try to determine whether gladiator sparrows' aggressive behavior is largely innate or if significant environmental factors influence the development of aggressive behavior in the species. It is not clear if it is expected that the findings of such a study could be generalized to aggressive

behavior in all nonhuman animals or to aggressiveness in humans. One might argue that the more general the implications of the findings, the more valuable the knowledge gained in the experiment.

Suppose that the experiment indeed gives us some additional understanding of whether gladiator sparrows' aggression is largely innate or learned. What is the benefit of that knowledge? 1) This knowledge will not have any direct instrumental benefit to the welfare of birds in the study. It is not on the order of a therapeutic experiment to help those specific birds in the study. Given that there are no benefits to the subjects of the experiments, it is clear that the benefit to the birds does not outweigh the pain they experience. 2) It may have instrumental value for the promoting the welfare of the population or species if we learn something about their behavior that could be used in conservation strategies to protect this species. It is not at all clear that is an expected outcome of the experiment, hence it is not clear that one could argue that these birds' suffering is for the greater good of their population or species. From the birds' perspective, their burdens certainly outweigh the experiment's benefits for them individually or for the species. 3) Serious human interests are not at stake in this experiment in the sense that animal experimentation designed to find a cure for a human disease might be considered a serious interest. 4) The experiment appears to have some value in yielding information intrinsically interesting to humans; it satisfies our desire to know and understand the world around us. Clarisse assumes the experiment will have relevance beyond the question of whether aggression is innate in this particular species. She is challenging a prevailing view that aggression is innate in animals. If she is correct, that finding could be significant for our understanding of the issue. This experiment might contribute to our understanding of aggression in humans, although one must always ask whether bird behavior would be close enough to human behavior to be relevant.

The intellectual benefits to humans lie in the broad advancement of scientific understanding of aggression in animals. Aside from any knowledge we may gain, what are the experiment's other benefits? It provides a research project for a graduate student. It may be part of a grant project that generates income for the department. It may provide a research program or career opportunities for the graduate student and her professors. In this experiment, the humans assume all the benefit; the birds assume all the burdens.

Do such considerations justify continuing this experiment? We recognize that it is at least *prima facie* wrong to inflict pain and death on these birds. It would be wrong to kill them for our amusement or for trivial reasons. 1) That is why it would be wrong to wound and kill them in an experiment so badly designed that it yielded no benefits of knowledge. 2) That is why it would be wrong to kill and wound them in an experiment that yielded only trivial results. (Presumably the other personal benefits to researchers in conditions 1) and 2) would not outweigh the harm to the birds.) 3) That is why it would be wrong to kill or wound them in an experiment that could be alternately designed to substitute models or other means to obtain the same results. 4) That is why it would be wrong to use more than the minimum number of birds statistically required.

Even if all such considerations have been answered in this case (and, as the other commentator notes, it is not clear that all such considerations have been answered), should the study continue? The decision still comes down to weighing the knowledge gained against the birds' pain, suffering, and death that would not have occurred absent this experiment.

This call is perhaps closer than one might think at first. If considerations 1-4 are justifiable reasons for not conducting the experiment, it is not at all obvious that any significant knowledge automatically justifies conducting or continuing the experiment. Once one allows the moral significance of the birds' pain and suffering, one allows for the possibility that their pain and suffering could count for more than the value of the scientific knowledge gained by the experiment. There may be times when we might justifiably argue that some knowledge ought to be forgone or lost rather than inflict on animals the pain and suffering required by the experiment. Some ethologists have made that judgment in other experiments.The ethologist Mark Beckoff gave up the study of predatory behavior of coyotes because of the suffering of the coyote prey in a captive arena. See Marc Bekoff and Dale Jamieson, Reflective Ethology, Applied Philosophy and the Moral Status of Animals, Perspectives in Ethology, ed. P.P.G. Bateson and Peter H. Klopfer, vol. 9 (New York: Plenum Press, 1991), p. 26, note 20.

It is important to recognize that we are weighing the birds' highest interests in not suffering or dying against humans' less pressing interests in extending their knowledge. The difficulty is in weighing this tradeoff and, of course, humans are doing the weighing. In this case, it does seem to be a very close call.

It is not clear from this case if findings from field observations before the experiment or from the experimental results at the end of Year 1 would be adequate to allow Clarisse to design models that could be used to test subjects' behavior without harming them or to identify reliable indicators of aggression while permitting intervention before actual aggression occurs. If the experiment could be carried on without the actual pain and suffering of aggressive attacks, then perhaps the suffering due to capture, captivity, and threat of aggression might reasonably be judged to be outweighed by the knowledge gained. The experiment or its continuation as so modified might be justified.

To Clarisse's credit, she did do the literature research required, although perhaps not sufficient. She did attempt to match the habitat setting. She did get the animal use committee's approval. She did intervene to protect injured birds. She did reassess the experiment before the end of the year in an effort to reassure herself that it was a "natural lab." She did consider a modified program for Year 2.

It is worth noting that the Institutional Animal Care and Use Committee approved the experiment. It is not clear whether they required or considered a detailed ethical justification for the use of these birds or gave that question the same level of consideration they gave to the study's design or theoretical importance. The burden for such considerations ought not to lie solely with Clarisse. That fact has implications for the training and sophistication in ethical thinking one ought to expect from such committees as well as universities' responsibility to ensure appropriate levels of ethical training for such committees.

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