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Dolphins: Concerning an Ethical Question

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One of the best pieces of news in recent weeks regarding animals has been the Indian government's prohibition of building new aquatic parks where dolphins or other cetaceans are used in shows or exhibitions.[1] This prohibition carries the order for closing parks which use captive dolphins, whales or orcas to entertain the public, such as the one in Kerala, conceptualised by the Indian government as "morally unacceptable". With this decision, the Indian government joins Costa Rica, Hungary and Chile, which have previously adopted measures to the same effect.

The news has been widely echoed in the global press,[2] and constitutes one further step towards abolishing a practice that contributes towards the suffering of animals with high cerebral development that enables them (as the relevant science has demonstrated and the Indian government specifically cited in the text of the regulation) to recognise themselves, establish specific means of communication that vary and are modified, construct both strong family bonds and their own culture. For this reason, the Indian government declares that dolphins should be considered "nonhuman persons" and must have their own specific rights.[3]

This affirmation echoes the Declaration coming from the Helsinki Conference (Finland) on 22nd May 2010,[4] which counted on the participation of highly respected scientists such as Lori Marino (Emory University, USA), Thomas White (Loyola University, USA) and Paola Cavalieri, editor of the prestigious international review "Etica & Animali". Since then, the movement in favour of respect for dolphins and other cetaceans, as much social as legal, has continued to grow and has been received in increasingly bigger forums focused on putting an end to a form of diversion that leads only to illness and stress for these animals. A reflection on this affirmation is the 2010 Oscar-awarded documentary "The Cove", annual slaughter of dolphins in Taiji Park (Japan), which I dealt with in this same section.[5]

Both a moral question being raised and the recognition of dolphins as "nonhuman persons" in a legal regulation can stimulate the controversy among those who, albeit erroneously, think that the term "person" belongs, in its own and natural right, to human beings. I need only to recall that the term "person" is applied, for example, to anonymous societies, and I am sure, these cases of "legal person" are spoken of in a peaceful and unchallenged way (which is without doubt a "non natural" denomination and civil, that is, legal) to who both rights and responsibilities are attributed, as much as the actions exercised by such "legal persons" through their legal representation. For many centuries, nobody seems to have reacted against the application and use of the term "person" for entities with which humans have little in common (a bank, a dry cleaner's, a brick factory, etc.) even though humans may be involved in the actions of the denominated "legal person".

Put briefly and, I hope, clearly: person is a term that comes from latin and signifies

“mask”. It denominates a form of presenting oneself in society, in public; for this reason, “persons” (masks) were used in Antiquity in as much the theatre to represent the personalities of the characters (something similar occurs in the Japanese kabuki), as for showing the different forms of action (of representation) during funeral processions manifested by the deceased during their lifetime. The law makes use of this versatile, rich and neutral term in order to indicate that an individual, a product, an action, or a collection of actions can be attributed rights and obligations, and in summary, can be considered a subject – a “person” – within the legal system. Nothing more, nothing less. Person, in other words, is a legal category that simply indicates what an individual, an entity, a *caput*, represents within society within which it lives and, for this, the Law conceptualises and treats it in accordance with what it represents. This being said, I ask myself if there is any inconvenience of the technical-legal type in the term “nonhuman person” being used for referring to animals and, in particular, to certain types of animals. Clearly not.

That laws have – or should have – a direct connection with individual and public behaviour and ethical principles, is – to put it lightly – obvious. The law is something more than just a form of legislating efficiently, for organising a social group; the Law accepts the ethical principles attributed it by the consensus of society – an indelible value. If such moral principles are, for example, based on respect for nature, the surroundings that we have been given, for the beings that inhabit it, it is understood that States could attribute a moral value to the existence and respect animals for their own sake. This is what the Italian, German, Austrian and Swiss Constitutions have declared, without circumlocution. This is also what the Minister for the Economy, Agriculture and Innovation of Holland has just proclaimed in a fascinating document: that animals are, for the Netherlands, a “public good” and that, as such, their “interests” must be respected.[6]

Speaking about the interests of animals is a technical form of alluding to the basic elements that animals themselves require for a dignified life. Making reference to the “interests” of animals is a way of alluding to those behaviours that animals, each one, each species, needs in order to fully express its nature. These interests are in contrast with suffering, hunger, thirst, lack of space for expressing their natures, and panic, or fear; everything that is covered, from a scientific basis, in what are known as “The Five Freedoms”, [7] which for centuries now, have become incorporated into animal protection legislation in Anglo-Saxon countries and, most specifically, in the animal welfare legislation of the EU relating to production animals.[8]

Ultimately, it’s about nothing more than applying these core and unquestionable ideas settled on by a Law that is respectful and observant of these ethical principles to legislation relating to animals.

It would delight me to think that these reflections offer a basis for reviewing certain laws of ours. This is what I hope, and most of all for dolphins.

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[1] [Complete text of the regulation](#): F. No. 20-1/2010-CZA(M) DATE: 17.05.2013

[2] External links [dw.de](#), [dolphinsproject.org](#), [earthisland.org](#), [npr.org](#).

[3] F. No.. 20-1/2010-CZA (M): "Whereas cetaceans in general are highly intelligent and sensitive, and various scientists who have researched dolphin behavior have suggested that the unusually high intelligence; as compared to other animals means that dolphin should be seen as "non-human persons" and as such should have their own specific rights and is morally unacceptable to keep them captive for entertainment purpose"

[4] Full information on this event and the Declaration of Rights for Cetaceans: Whales and Dolphins can be found at [cetaceanrights.org](#)

[5] T. Giménez-Candela, [internal link](#)

[6] Ministry of Economic Affairs, Agriculture and Innovation, Ethics in Policy: weighing values with sense and sensibility (Nederland 2013).

[7] Vid. especially at [fawc.org.uk](#)

[8] Vid. [Welfare Quality Project](#).