**Redefending nonhuman Justice in Complex Animal Communities: A response to Jacobs**

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**Abstract:** *In response to my argument against Aristotle’s claim that humans are more political than other animals, Edward Jacobs counters that the evidence I use from cognitive ethology and my application of evolutionary principles fail to demonstrate that other animals are as political as humans. Jacobs furthermore suggests that humans are more political than other animals by pointing to the political variation in human communities. In this article, I defend my use of evolutionary principles and my interpretation of anecdotes from cognitive ethology, while challenging Jacobs’s assertion that human political variation implies that humans are more political than other animals.*

In his article “‘Aristotle and the *Zoon Politkon*’: A response to Abbate,” Edward Jacobs (2018) challenges my argument against Aristotle’s claim that humans are more political than other socially complex animals (Abbate, 2016). Jacobs’s fundamental charge is that the evidence I use from cognitive ethology and my application of evolutionary principles in support of my position “fall short of demonstrating other animals to be as political as anthrôpos” (Jacobs, 2018, p. 150). Jacobs furthermore attempts to support Aristotle’s claim that humans are more political than other animals by pointing to the political variation in human communities. In what follows, I respond to each of these claims, defending my use of the principle of evolutionary continuity and my interpretation of case studies from cognitive ethology, while also challenging Jacobs’s assertion that political variety within human societies is evidence for the belief that humans are more political than other animals.

# The charge of misapplication of evolutionary principles

Jacobs alleges that the evolutionary principles I use to challenge Aristotle’s account of political animals are “misapplied.” As I describe it, the principle of evolutionary continuity maintains that “differences between species are differences in degrees, and not in kind” (Abbate, 2016, p. 57). An implication of this view is that “whatever capacities or powers humans have, some nonhuman animals will have to *some* degree” (Abbate, 2016, p. 57). I use this principle to motivate the following claim: Because Aristotle assumes that a sense of justice is unique to man, his account of political animals is tainted by bad biology. Aristotle assumes that because other animals lack the capacity for speech, they do not have a perception of what is good, bad, just, and unjust. He thus holds the position that there is some mental capacity that is peculiar to man. But according to Jacobs, it is not anti-science, and more specifically, it is not anti-Darwin, to hold that humans have a capacity that all other animals lack. He appeals to the alleged fact that, when it comes to primates, humans are unique in their bipedalism. on his view, “among primates, *anthrôpos* stands alone in standing two-legged,” and thus “*anthrôpos* is either the only bipedal primate, or the most bipedal primate” (Jacobs, 2018, p. 150). Since, according to Jacobs, these claims are consistent with evolutionary principles, he concludes that the claim “*anthrôpos* is the only, or the most, political animal” is likewise intelligible and consistent with evolutionary principles.

 I begin my reply by noting that I do not deny that the claim “*anthrôpos* is the most political animal” is consistent with the principle of evolutionary continuity. Rather, my fundamental concern is with Aristotle’s *reasons* for asserting that humans are more political than other animals. This *underlying explanation*, and not the claim that “humans are more political than other animals,” is what violates the principle of evolutionary continuity. Aristotle (1998) assumes that humans are more political than other animals because, according to him, humans alone have “a perception of good and bad and just and unjust and other things of this sort” (1253a). But to claim that only humans have a perception of “good and bad and just and unjust” is to violate the principle of evolutionary continuity, or at least the principle of mental continuity. As evolutionary biologist and cognitive ethologist marc Bekoff (2011) points out, Charles Darwin’s view implies that “if we have something ‘they’ [other animals] have it too.” this seems especially true in the case of mental traits. Indeed, Darwin specifically emphasized mental continuity in both *The* *Origins of Species* and *The* *Descent of Man*. for instance, in *The Descent of Man* (1871/1998), Darwin writes:

Nevertheless the difference in mind between man and the higher animals, great as it is, certainly is one of degree and not of kind. We have seen that the senses and intuitions, the various emotions and faculties, such as love, memory, attention, curiosity, imitation, reason, etc., of which man boasts, may be found in an incipient, or even sometimes in a well-developed condition, in the lower animals. (p. 130)

 And in *The Origins of Species* (1859), he claims that “there is no fundamental difference between man and the higher mammals in their mental faculties.” for Darwin, and for those who advance what is called the “mental continuity claim,” the mental faculties that humans possess are beneficial to human survival. Thus they must have evolved gradually from ancestral forms, and we should, at the very least, expect to see their precursors across species (Andrews & Radanovich, 2012). Having clarified the central concern of my project, I now return to Jacobs’s discussion of bipedalism, which doesn’t seem to do the work that he hopes it will do. first off, since bipedalism is not a mental trait, we cannot move from the claim “*anthrôpos* is either the only bipedal primate, or the most bipedal primate” to the claim that it’s therefore consistent with the principle of evolutionary continuity to say that *anthrôpos* is the only animal with a sense of justice. While the mechanisms of natural selection *can* produce physical traits, physical capacities, and nonsocial behavior peculiar to one species, like the trait of bipedalism, mental traits may be different. Perhaps it is the case that there must be mental continuity across all group-living animals simply because mental traits evolved to support social life of group-living animals. If mental faculties are beneficial for the survival of group-living species, we should expect to find some degree of these faculties in nonhuman group-living animals. moreover, even if other primates do not walk exclusively bipedally, they still might possess a *degree* of bipedalism.1 Jacobs himself acknowledges that there are times when chimpanzees and gorillas stand on two legs in order to perform certain functions, such as when they carry food. Elaine Videan (2002) reports that the availability of portable food items increases the rate of bipedality in bonobos and chimpanzees, which lends support to the view that there are degrees of bipedalism. In addition, there is a documented case of a macaque who, after becoming ill, exclusively walked on her hind legs (Waldman, 2004). A similar case involving a chimpanzee who began to walk bipedally after he suffered a forelimb paralysis is recorded in the journal *Primate* (Bauer, 1977). At best, we can say that *anthrôpos* is the *most* bipedal animal. Yet, this statement does not challenge my argument, nor does it lend support to Aristotle’s claim that humans are the *only* animals with a sense of justice.

 Perhaps, though, it is better to say that it is *premature* of Aristotle to claim that only humans have a perception of justice, rather than accuse him of violating the principle of evolutionary continuity. We might say, absent an explanation, we should expect to see the faculties and traits that humans possess in other species, especially in primates, given our evolutionary kinship with them. As Bekoff and Pierce (2009) remark, “the principle of parsimony suggests the following hypothesis: a sense of justice is a continuous and evolved trait. And, as such, it has roots or correlates in closely related species or in species with similar patterns of social organization” (p. 115). If Aristotle is to argue successfully that only humans have a sense of justice, he needs to identify the specific conditions under which humans evolved that selected a sense of justice. What is so unique about human living that allowed humans, but no other animals, to develop a sense of justice? Why isn’t a perception of “good and bad and just and unjust” beneficial for the survival of nonhuman group-living animals? Aristotle does not provide a satisfying answer to these questions, and thus he ought to be criticized for prematurely claiming that having a sense of justice is peculiar to humans.

# ii. The Charge of “Over-interpretation”

The second charge against my project is that, according to Jacobs, the evidence I use from cognitive ethology fails to demonstrate that animals have a sense of justice. As he puts it, I “over interpret” case studies from cognitive ethology; my interpretations “exceed the evidence” (Jacobs, 2018, p. 152). The first alleged over interpretation occurs during my discussion of animal play, which I use to illustrate that some nonhuman animals have a sense of fairness. Important to note is that my interpretation of animal play comes from evolutionary biologist and cognitive ethologist marc Bakeoff, who has devoted his career to studying animal behavior, emotion, and morality. Bekoff and Pierce maintain (2009) that self-handicapping during play is evidence that nonhuman animals possess a sense of fairness (p. 121). Jacobs disagrees and advocates a so-called simpler explanation as to why animals self-handicap during play: self-handicapping makes play *fun*. Here, the claim seems to be that when animals engage in fair play, they are motivated by self-interest rather than a concern for fairness. As Jacobs suggests, during play, a dominant animal self-handicaps so that “the dominant’s partner retains an incentive to play, and so is more likely to continue” (Jacobs, 2018, p. 152). To say that animals obey the rules of play because “playing is fun and the animals want to keep playing” does not challenge the claim that animals have a sense of fairness. One can have a sense of fairness and attempt to play fairly, while being motivated by the reward of continued play. In my article, I do not argue that animals who engage in fair play are *motivated* by a sense of fairness, as Jacobs claims I do. My claim is merely that being fair to others during play demonstrates that some animals have a sense of fairness “in that they understand and behave according to implicit rules about who deserves what and when” (Bekoff & Pierce, 2009, p. 5). Bekoff (2004) himself acknowledges that play is fun for animals and that animals engage in self-handicapping to “maintain social play” (p. 503). Yet he also notes that, even when it comes to humans, moral behaviors are often motivated by self-concern. As Bekoff and Pierce (2009) explain, “We conform to norms of behavior because otherwise we face social sanctioning, in the form of ostracism, embarrassment, shame, and payback” (p. 19).

 Perhaps, though, I could have made a stronger case for nonhuman fairness if, instead of focusing on self-handicapping during play, I drew attention to the group-imposed punishments that group-living animals face when they break the rules of fair play. Bekoff and Pierce (2009, pp. 120–121) point out that “fairness has to do with an individual’s social expectations.” When there is a lapse in social expectations, those who violate them receive some form of punishment. And as I point out, “When [coyote] community members violate these rules of play, they are often completely ostracized from the group” (Abbate, 2016, p. 61). This indicates that those animals who do the “punishing” have a sense of fairness; they understand that animals who do not adhere to the rules of play violate social expectations, and thus they ought to be punished. Still, there are other problems with Jacobs’s support for his “parsimonious” explanation of self-handicapping during play. Jacobs contends that “during real conflicts with a subordinate mounting a challenge, a dominant coyote does not self-handicap, as you would expect to find if the coyote had a fairness-based aversion” (Jacobs, 2018, p. 152). But the fact that coyotes don’t self-handicap in times of “real conflict” hardly illustrates that coyotes altogether lack a sense of fairness. Given that one compromises oneself, or makes oneself vulnerable, when one self-handicaps, we would only expect that all animals, human or nonhuman, would refrain from self-handicapping in times of “real conflict.” Although I might self-handicap myself when play-wrestling with a child, I certainly wouldn’t self-handicap myself if that same child was to pose a serious threat to me, such as by pointing a loaded gun at me. Even in the sphere of human action, our desire to protect ourselves from serious injury or death, in most cases, trumps any disposition we have to handicap ourselves in the name of “fairness.” to say that a being possesses a sense of fairness is not to say that fairness is *always* the underlying motivator behind one’s behavior. Even the behavior of humans is motivated by fairness at some times, but not so much at other times. Consequently, it is possible that coyotes are motivated by fairness when they play, even though they aren’t motivated by fairness during real conflicts. Jacobs also takes issue with the dominant interpretation of Sarah Brosnan and frans de Waal’s (2003) inequity study, which reveals that some capuchin monkeys refuse to perform certain tasks only after they observe that other monkeys receive a more desirable reward for performing the same tasks. Jacobs claims that this study fails to demonstrate that capuchins have a sense of distributive justice and, moreover, he maintains that the uncooperative behavior of these monkeys can be explained in terms of envy. He goes on to conclude that this study illustrates that capuchins seem to be averse to inequity “only when the inequity is unfavorable to them.” Yet, there are a number of studies that illustrate that nonhuman animals are averse to inequity “only when the inequity is unfavorable to them” (Jacobs, 2018, p. 153) and perhaps I could have better supported my argument had I appealed to one of these examples. Nevertheless, this is an appropriate time to highlight a study that illustrates that some nonhuman animals are averse to inequity that is unfavorable to others. one such study was conducted by Hal Markowitz (1982) with Diana monkeys, who were trained to insert a token into a slot in return for food. When a male monkey witnessed a female monkey’s struggle to complete the task, he assisted her by picking up the tokens and putting them into the slot for her so that she would receive the food. As Bekoff (2004) notes, “his behavior seemed to have no benefits for him at all; there did not seem to be any hidden agenda” (p. 498). Bekoff and Pierce (2009) also point out that the male monkey “could have eaten the food, but didn’t” (p. 6). As I explain elsewhere, distributive justice “involves having the right attitude toward natural goods and only taking what one is owed” (Abbate, 2016, p. 58). By refraining from taking the food that was produced with the female monkey’s tokens, this male monkey demonstrates this very attitude that Aristotle would describe as a just attitude.2

**iii. Is political variety an indicator of heightened politicalness?**

Before concluding his response, Jacobs appeals to the political variety across human communities to defend Aristotle’s claim that humans are more political than other animals. After noting that Aristotle defines political communities as partnerships in the good, Jacobs goes on to claim that because humans have more variation in these partnerships than any other species, Aristotle is right to conclude that humans are more political than other animals. It is unclear why Jacobs believes that political variation, or having more variety in partnerships, makes a species more political. Indeed, there is a difference between variety and amount. For instance, consider the following: Person X is in possession of a $10 bill and a $5 bill, while person Y has one $20 bill. the fact that person X has a greater variety of bills than person Y doesn’t then mean that person X has a greater amount of money than person Y. likewise, even if humans have a greater variety of political partnerships than other animals, this doesn’t mean that humans have more politicalness than other animals.3  if a particular partnership is an effective means to pursuing the good for some species, why must we insist upon a variety of partnerships for this species in order to deem it highly political? Indeed, many political theorists assume that there is one ideal political community for humans, and, presumably, this is the sort of community that they prefer would be endorsed in every society. What value is political variation if there is one form of political community that would more effectively enable community members to pursue and achieve the good? it very well might be the case that political variation makes humans *less* political than other animals, because many of these so-called partnerships aren’t really partnerships at all, as they impair one’s ability to pursue and achieve the good. indeed, the human capacity to, as Jacobs puts it, “generate and grasp persuasive accounts” can be used for evil, as corrupt leaders can, and do, generate new “persuasive accounts,” which turn out to be ethically problematic (Jacobs, 2018, p. 155). Yet, these accounts are often mistakenly accepted as good, given the cunningness and persuasive ability of the speaker and the impressionableness of those deceived.

# iv. Conclusion

The fundamental problem with Aristotle’s account of the political animal is that it rests on the unsubstantiated claim that nonhuman animals are unable to have perceptions about justice. Despite what little research there is on animal morality, there are many anecdotes that cast doubt on this claim. These anecdotes demonstrate that there is a sense of justice present in complex group-living nonhuman animals, although nonhuman justice might differ in degree from the human sense of justice. Moreover, if we come to understand that moral behavior, including the capacity for a perception of justice, evolved in order to foster group stability, we have further reason to remain skeptical of Aristotle’s denial of nonhuman justice. Since traits like cooperation and fairness are important for forming and maintaining social relationships, we can expect that these traits played a role in the evolution of sociality, and thus, contra Aristotle, we can expect to see some degree of them in nonhuman group-living animals.

1. It’s also worth noting that Jacobs uses the bipedal example to support the claim that it’s possible that “*anthrôpos* has some *capacity* [emphasis added] that other animals, even our closest ancestors, lack.” he thus essentially moves from the claim “X doesn’t do Y” to the claim “X lacks the capacity for Y.” But there are many things X might fail to do although X has the capacity to do these things. Relatedly, it is problematic to assume that other primates altogether lack the capacity to be habitual bipeds just because they don’t always walk on two legs. Presumably, it is not useful for primates to stand or move on two legs at all times. But none of this entails that it would be *physically impossible* for primates, like chimps and gorillas, to function as habitual bipeds.
2. there is a wide array of more simple examples that can be used to demonstrate that nonhuman animals have a sense of justice in the Aristotelian sense, such as when wolves “pay close attention to one another’s needs and to the needs of the group in general” (Solomon, 1995, p. 141). Wolves moreover demonstrate that they respect the possessions of their fellow group members, such as when they do not steal food from others.
3. Thank you to Alastair Norcross for suggesting this line of response.

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