

## Chapter 1 DOLPHINS: THE PHILOSOPHICAL QUESTIONS

Tales that reach back to ancient Crete tell of a band of unusual beings that inhabit a mysterious world far from human habitation. Little is known of them, but the fact that they would appear out of the dark to help lost travelers and even save drowning sailors led some ancients to believe that they were gods. These beings are curious about humans and seek contact with us, but we still do not understand the strange sounds they make as they communicate with each other. They can do things with their biological senses that we cannot achieve with our most advanced technology. Some say they have the ability to heal. Some claim these beings are telepathic. Others go further and say they are highly advanced spiritually and have a wide range of psychic abilities. Whatever they are, they remain enigmatic subjects of human fascination.

Who are these exceptional entities? Buddhist monks living in the farthest reaches of Nepal? A tribe of Native Americans who practice the ancient wisdom of their forebears? A colony of aliens transplanted from the cosmos? Hardly. They are dolphins – beings who are related more to Flipper than to the Buddha and whom we can meet daily at aquaria and theme parks.

While dolphins are neither divine nor extraterrestrial, they are very different from humans and surprisingly complex. And, most important, the fact that dolphins have such advanced traits raises a number of philosophical – and especially ethical – questions. Are dolphins so advanced that they should be considered nonhuman “persons”? If so, what does this say about our behavior towards them? Dolphins die daily as a result of human fishing practices, and hundreds are held in captivity. Is this morally justifiable given their unusual nature?

### “Human” versus “person”

You might be surprised to encounter the question, “Are dolphins persons?” because in everyday language, most of us use “human” and “person” interchangeably. But philosophers distinguish between the two, seeing “human” as a *scientific* concept and “person” as a *philosophical* concept. *Human* refers to any member of the biological category *homo sapiens*. *Person* refers more to the combination of advanced traits by which we define ourselves – things like self-consciousness, intelligence and free will.

A variety of complicated theoretical issues are connected with personhood, but it has one especially practical implication: persons get better treatment than nonpersons do. It’s acceptable to hit a punching bag, but not your spouse. Persons are seen as having rights – to life, liberty, equality, and the like – that nonpersons like chairs, tables, trees or amoeba lack. And most of us think that if we treat persons no better than we treat nonpersons, or if we violate a person’s rights, we’ve done something *wrong*. In

other words, what starts as a theoretical discussion in metaphysics quickly migrates to the applied world of ethics – the part of philosophy concerned with matters of right and wrong.<sup>1</sup>

### Human, person and ethics

The ethical significance of the human/person distinction surfaces first in the question: *Is every human also a person?*

This question regularly comes up in the world of medicine, when we find situations in which it's not always clear that a human is also a person. For example, someone who is irreversibly "brain dead," but being kept alive by a life-support system, is still a human life. But what made that individual unique is no longer present in that body. Accordingly, if we ended life-support for that patient, most of us wouldn't call it murder because, in essence, the *person* was already dead.

The human/person distinction also surfaces in the abortion debate. Many defenders of abortion claim that, particularly in the early stages of pregnancy, only one person exists – the mother. Even though they concede that abortion ends some sort of human life, they contend that it isn't murder. The only *person* involved is exercising her right to choose what happens to her body. And so the abortion isn't wrong. Many opponents of abortion take the opposite tack. They argue that a fetus is, at the very least, a potential person. And this means, they say, that it has a basic right to life that must be respected no matter what the circumstances. The situation, then, involves a clash between one person's right to choose and another person's right to life. And since a right to life is seen as being primary, abortion is denounced as wrong.

However, the human/person distinction also implies another question: *Are there persons who are not human?* After all, in theory, any being with self-consciousness, intelligence and free will, for example – no matter what the species – would qualify as a person. It's this question that led me to study dolphins, because many of the stories we hear about them suggests that we've come upon a person who isn't human.

The existence of nonhuman persons would fly in the face of everything our species has believed about its uniqueness for thousands of years. Indeed, we've gotten so used to thinking that humans are the only beings with advanced intellectual and emotional traits that we use "human" and "person" as synonyms in everyday speech. This attitude is also reflected in how we refer in ordinary conversation to "people" versus "animals" – conveniently ignoring the fact that humans are as much a part of the animal kingdom as lions and tigers and bears. But if an "animal" like a dolphin actually has all of the traits of a "person," it would call for as fundamental, dramatic

---

<sup>1</sup> I want to make it clear from the outset that I am not claiming that personhood is the sole, or necessarily the most important ground for nonhumans to have moral standing. However, if it is possible to establish that dolphins are nonhuman persons, I believe that even the most anthropocentric humans would have difficulty defending the way humans currently treat dolphins. I have chosen to stress the concept of personhood in this inquiry, then, primarily for strategic reasons.

and unsettling a shift in how we see ourselves as abandoning a geocentric view of the heavens did. In the same way that Earth no longer occupied the center of the universe, neither would humans. It would also call for a shift in how humans treat dolphins – and, very likely, many other nonhumans.

### Philosophical Ethics

The ultimate question we're investigating in this book is: *Does our species currently treat dolphins in a way that's ethically justifiable?* We all know from everyday conversations that as soon as we start saying that something's "right" or "wrong," it's easy to be misunderstood. So let's be clear about what's involved in a philosophical approach to ethics.

Even in ordinary conversation, ethics is actually simpler than it seems. Despite the different meanings each of us may give to words like "right," "wrong," "moral," "immoral," "ethical" and "unethical," in the end, all we're saying is that something is, more or less, either *acceptable* or *not*. That is, when we use words like "right" and "wrong," we're saying how well something (usually an action, but sometimes a belief, idea or intention) measures up against some sort of "ethical yardstick."

Much of the disagreement and confusion in everyday discussions about ethics comes from the fact that people use so many different yardsticks. For some, it is the laws of a society. For others, it's the norms and traditions of a culture. A large number of people use religious teachings. Many individuals prefer a more personal yardstick – the fact that they deeply and sincerely believe that something's right or wrong. And some people put together a yardstick from so many different sources that it's a veritable patchwork.

A *philosophical* approach to ethics takes the one element we have in common – our humanity – as the basis of its yardstick. Philosophers take the position that – just because of the nature of the cloth from which we're cut – there are two things that all humans need in order to have a rudimentary sense of satisfaction in life, and to be able to grow, develop in a healthy way and flourish. First, our basic physical requirements must be met – food, shelter, safety, health and the like. Second, we need to be treated in certain ways. That is, there's something about the way that human beings are constituted that, no matter what, being treated unfairly, being discriminated against, being manipulated, being lied to and the like go against our grain and are deeply troubling. We may be able to handle bad treatment and deprivation. But we'll never find it truly satisfying. To say that an action is *right* from a philosophical perspective, then, is just a shorthand way of saying that it makes it more likely that we'll get these needs met. To say that something's *wrong* means that the action in question is going to get in the way of our getting these needs met.<sup>2</sup>

---

<sup>2</sup>The idea that human beings have these general types of needs (basic material needs of life and appropriate treatment) is a common notion that surfaces in discussions of "basic human rights." From this perspective, we have a *right* to something because we *need* it. Virtually every description of "human

## Ethics and nonhumans

But what does any of this have to do with dolphins?

Many people believe that only humans can think and feel. Scientific research in the last few decades, however, has shown that many more nonhumans than most of us are aware of have sophisticated nervous systems and some level of intellectual and emotional abilities. This means that a variety of nonhumans feel more pain at our hands than scientists had originally thought. And this raises the question of whether it is unethical for us to cause such pain in these beings and to use them for our convenience when there are other ways that we could achieve the same ends.

A full discussion of the “animal rights” controversy and the central question of what kind of consideration other living beings are entitled to is beyond the scope of this book. But research on the so-called “higher” mammals suggests that primates, elephants and cetaceans are more like us than most humans would probably like to think. That is, these beings may very well have enough intellectual and emotional sophistication to qualify as *nonhuman persons*. And this means that when we hold an ethical yardstick against human actions that lead to the death, injury and emotional suffering of at least these beings, it’s a new game. As philosophers put it, these beings may be entitled to “moral standing.” And their interests would have to be taken into account in a moral calculation. That means that our species is now confronted with a series of difficult questions that stem from the stark clash of human and dolphin interests.

- A certain way of fishing for tuna produces important benefits to humans, while harming dolphins. Some dolphins die; some are injured; others are simply harassed. Is any or all of this wrong? Does the good to humans outweigh the harm to dolphins? Are the dolphins entitled to better treatment? How do we determine which rights they have in this situation?
- Captive dolphins provide humans with entertainment. Research on dolphins lets us learn about and maybe help them. There are also therapeutic uses of captive dolphins. Is captivity wrong? If the dolphins are well cared for, are they actually being harmed? Does it matter whether they’re being used for entertainment, research, therapy or military purposes? Again, are there dolphin rights that we’re obligated to respect in these situations? And what about competing human rights?

This investigation also challenges our species to think in new ways. Marine scientist Diana Reiss has referred to dolphins as “an alien intelligence,” and she has observed that, “The dolphin is a superb model for helping us formulate ways of

---

rights” – the United Nation’s Universal Declaration of Human Rights, for example – is based on the assumption that what makes something a basic human right is that humans *need* it in order to experience a sense of basic satisfaction with our lives and to grow and develop in a healthy fashion.

describing and understanding intelligence in nonhuman species.”<sup>3</sup> The idea that dolphins are probably the closest thing we have on the planet to an “alien being” is an intriguing and different way of looking at things. It’s also a surprisingly accurate perspective.

### “Alien intelligence”

The idea that dolphins are, in relation to humans, *alien* beings is a surprisingly effective conceptual model. Not only does this bolster the conceptual foundation for the idea that dolphins might be nonhuman persons, it also suggests that even such important concepts as “the self” and “intelligence” might manifest themselves in fundamentally different ways in humans and dolphins.

The possibility that dolphins are so different from us that they’re *alien* also helps guard against the dangers of anthropocentrism in our investigation. *Anthropocentrism* means looking at the world through a strictly human perspective, which then leads to *speciesism* – inappropriately (even if unintentionally) applying standards that are grounded in one species to make judgments about other species. Many environmental ethicists argue that speciesism is as wrong as racism and sexism. They claim that using the traits of our species as the standard by which to judge all other species is as blatantly a matter of irrational prejudice as it is to claim that the traits of one race or sex determine the norm for the entire species.

Reiss’s idea that dolphins represent an *alien* intelligence, then, helps us avoid anthropocentrism by suggesting a new and important set of questions. How do we make sure that our evaluation of the intellectual and emotional abilities of dolphins doesn’t assume that “different” means “inferior”? Are traits like *intelligence* best defined in a way that is specific to different species? Is *person* the best concept to use in such an investigation? Is there another concept we can use in our investigation to ensure that our characterization of dolphins is free of unintentional species bias?

In particular, what is the significance of the profound differences between humans and dolphins when it comes to evaluating the ethical character of current human/dolphin contact? Recall that philosophers typically understand the concept of personhood to imply a specific set of rights: life, health, freedom from harm, liberty, privacy, respect for the dignity of the individual person, and the like. However, if we think about dolphins as alien beings, we encounter the possibility that differences in the nature of human and nonhuman persons might be so fundamental that humans and dolphins might have different rights – or, at least that there are major differences in how we’d have to behave to respect a specific right in the life of a particular species. Take the right to be free from harm, or to have one’s dignity respected. Is it possible that what counts as harm could differ between species? Is it possible that we have to behave differently to respect the dignity of persons of different species? Violating the privacy

---

<sup>3</sup> Diana Reiss, “The Dolphin: An Alien Intelligence,” in *First Contact: The Search for Extraterrestrial Intelligence*, eds. Ben Bova and Byron Preiss (New York: NAL Books, 1990), p. 32

of a human person, for instance, is generally considered to be ethically questionable. But why should we assume that's also the case with a nonhuman like dolphins? Observing the public character of dolphin sexual behavior leaves one wondering whether dolphins have any need for privacy, that is, whether it served any purpose in their evolution. Is it possible that respecting the dignity of dolphins requires us to behave in a way that isn't necessary in our interactions with humans?

In other words, thinking about dolphins as an "alien intelligence" should help us be more alert to the differences between our species and more sensitive to their philosophical – and especially their ethical – significance.

### Two questions

This book ultimately boils down to just two questions: *What kind of beings are dolphins?* And, *What does our answer to the first question say about the ethical character of human/dolphin contact?* Chapters 2 through 7 tackle the first question; chapter 8 handles the second.

We'll start with basic information about dolphins – their anatomy and physiology, including the dolphin brain (Chapter 2). Then we'll proceed to the type of consciousness and intelligence this brain makes possible (Chapters 3-5). Once we have a sense of what the scientific research suggests, we'll explore the philosophical questions that this picture raises: *What kind of beings are dolphins? Are dolphins nonhuman persons?* (Chapter 6) *Given what we now know about dolphins, is the current state of human/dolphin contact ethically defensible?* (Chapter 7).

This investigation will primarily be grounded in current scientific research, but it will occasionally include some nonscientific elements. We'll consider anecdotes I've been told as well as my own personal experiences that I've found philosophically suggestive. And we will see where the notion that dolphins are an alien being takes us.

All I ask is that you approach this with an open mind.