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Animals' right to privacy

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ABSTRACT

Since the dawn of time people have felt the need to protect their private lives. Contemporarily, the right to privacy remains one of the basic human rights. There are very few voices advocating that an individual shall be deprived of a possibility to keep any information about them in secrecy. Such views receive strong criticism as the majority of social groups and circles is likely to accept some constraints only due to the necessity to provide safety to communities. However, the issue whether other living creatures are entitled to be granted with the right to privacy does not remain a widely discussed matter. First signals pointing to the fact that functioning of animals may result in establishing some sorts of private spheres by them date back to as early as a few decades ago. They did not, however, bring about any wider interest whatsoever. Several years ago Brett Mills, Ph.D. raised the aforementioned question with regards to the manner in which the groups producing wildlife documentaries operate. His position stood up against strong opposition from numerous environments and backgrounds, including such ones acting in favour of animals. Animals' right to privacy remains an interesting issue and ought to be analysed in a more profound manner. My article aims to present in detail the issue of animals' right to privacy with special emphasis put over physical distance and the right to be let alone.

Keywords: animals' privacy, the right to privacy, right to be let alone, television wildlife documentaries and animals right to privacy

1. INTRODUCTION

The literature on the subject does not question the fact that the right to privacy remains tightly related to human beings [1], or possibly to a community of such persons, e.g. a family

or an organisation. The view stating that human beings functioning within societies have formulated the mechanisms serving for maintaining their separateness from the group, are able to evaluate whether a given issue tackles on their private spheres or feel uncomfortable if their physical and mental accessibility is infringed on is deeply grounded.

The concept regarding the right to privacy based on the assumption that privacy, as a value, is attributed to humans only received immediate criticism. As early as in XX c., fifty years after the most known definition had been formulated by Samuel D. Warren and Louis D. Brandeis, it was postulated that privacy was not the value to be attributed solely to humans for the notion of distance (territory) is regarded as one of its aspects. The mechanism of physical access limitation occurs in the world of animals as well.

The aforementioned assumption constituted a starting point for the considerations adopted by Brett Mills, Ph.D., a lecturer at the Film, Television and Media Studies at the University of East Anglia, on the right to privacy to be granted to animals.

Berett Mills's article, published in 2010 in the *Journal of Media & Cultural Studies*, dealt with the issue of animal privacy in the context of the manner in which film makers documenting wildlife of animals used to observe the said right. The article was supposed to commence a debate on whether animals should be granted with more respect from the filmmakers. Bearing in mind a multitude of press publications following the said article, it is justified to state that the issue of animals' right to privacy raises strong interest among various circles, not necessarily limited to such ones dealing with advocating the rights for animals.

2. PRESERVATION OF PHYSICAL DISTANCE

Individuals of many species establish the area within which they tend to function. The mechanism of dispersion aims to regulate the distance between individual animals of the same species. Crossing the territory occupied by a given individual of the herd makes it feel apprehensive and brings about the need to commence remedies in order to scare an intruder off. In extreme cases, infringement on the territory or limitation of animal space triggers aggression and makes an animal confront an individual that has made the infringement to happen. The said circumstances may lead to being aggressive towards other individuals as well, also within the same family (nest) or to the cases of self-destructive behaviours. The instances of suicidal behaviours or killing a partner or offspring by an animal which space has been limited to the minimum are also well-known. In line with the views expressed by Edward T. Hall and Alan Westin, animal behaviours aiming to establish by an individual or a group of individuals (family, heard) their intimate area strive towards the protection of their private sphere.

3. THE CONCEPT REGARDING THE RIGHT FOR PRIVACY ATTRIBUTED TO ANIMALS

Edward T. Hall in his book entitled "The Hidden Dimension", published in 1966, expressed the opinion that animals and human beings demonstrate several basic mechanisms which reveal their demand for being respected their privacy. A subsequent year brought the publication by Alan Westin "Privacy and Freedom", in which he proved that privacy is not

the domain of human beings only. He also pointed to the fact that representatives of many species function within herds or small groups and hence group privacy can be established therein. Such one refers not only to one individual but to a greater number of individuals as well. In his considerations, Westin specified also that small groups of animals are united by intimacy, which is a kind of bond characterised by the closest relatives.

The aforementioned thoughts refer to the infringement on the privacy of a single animal by the other animal of the same, or other, species. Bret Mills, however, in his article “Television wildlife documentaries and animals’ privacy” (2010) reports that infringements on animal privacy are more and more frequently brought about by the actions of man. Documentary film crews enter animal territories, install the camcorders therein and record activeness of animals event in the most intimate situations.

It is doubtful, however, whether such steps are ethical for the animals are unable to express their objections to being filmed or acceptance of the fact that their lives are registered by humans.

Mills has highlighted that animals, on a par with humans, function within two areas, a public and a private ones. The majority of their activeness occurs with the participation from other individuals of a herd. However, some actions are taken up alone, away from the community. Representatives of many species leave their groups in order to have a sexual intercourse, deliver the offspring or die. Filming them in such moments, even with the use of a hidden camera which does not disturb their functioning whatsoever, seems to be unfair [2].

4. ANIMALS’ PRIVACY AND “THE RIGHT TO BE LET ALONE”

One of the most widely known and common definitions of privacy has been formulated two Boston lawyers Samuel D. Warren and Louis D. Brandeis. In 1890 the Harvard Law Review published their article entitled “The Right to Privacy” [3], which commenced a wide discussion on the subject of privacy. Their concept was based the right to be let alone, the theory formulated by Thomas Cooley. In their opinion, privacy means the right to break up any contacts with others and to be free from any external interventions.

Samuel D. Warren and Louis D. Brandeis have focussed our attention to the fact that privacy requires intensified protection due to technological advances resulting in the devices to be used for invigilation, surveillance of an individual as well as recording and storing detailed information on them which can be later disseminated to a wider public. The regarded the press and image registration devices (cameras being so popular nowadays) as the most common instances of jeopardy. Hence, they focussed on the same privacy-infringing forms of human activeness as Brett Mills, Ph.D. in his article. Mr Mills stressed that filming, taking pictures and dissemination of documentaries remains detrimental to the private sphere. The only difference between the two aforementioned publications were the subjects of the rights to privacy.

While applying the above mentioned considerations to the subject of animal privacy it must be stated that animals, quite like people, strive towards being alone and far away at least from the individuals of a herd. It may be regarded as the strife to break up the contact. Hence animal nature demonstrates some aspects characteristic for the right to be let alone.

Another aspect of the right to be let alone, i.e. be free from external intervention, remains a highly controversial one. The assumption has received wide criticism. The literature

on the subject contains numerous views that it is impossible to be totally free from any external influence. An individual lives within a society. Correlations, mutual impacts of the society members are inscribed in human life [4]. In my opinion, reaching such a state is possible only if an individual lived within the society with its structure resembling primitive communities. Such a person would be able to leave a village and live alone. Within developed societies it is impossible not to be influenced by external factors even if noticeable steps and actions have been taken in order to achieve that state.

The problem seems similar in the world of animals. Each individual remains under the influence of a series of external factors generated either by a group within which it functions or by the environment where it lives. However, bearing in mind the fact that numerous species live in the wilderness one may assume that an animal may cut off from its herd, at least for some time, without such difficulties that humans beings have when they isolate themselves from their societies. Under such circumstances, the animal is protected, at least to a certain extent, against the interference from the members of its own species. The animal may avoid contact with other species as well and, hence, its functioning is not to be influenced by them.

5. CRITICISM TO ANIMALS' RIGHT TO PRIVACY

The questions raised by Brett Mills, Ph.D., received criticism from various environments, even such ones dealing with protecting the rights of animals. Such replies shifted from very terse ones, stating firmly that animals cannot be granted with privacy, to more substantive ones.

Individuals related to the circles of documentary production highlighted that, as a rule, animals are not be disturbed while filming wildlife. The entire process of recording is based on creating such conditions to make animals unaware of the fact that any strangers remain within their habitat. Only by providing such conditions can natural animal reactions be observed. It has also been advocated that it is impossible to evaluate whether an animal agrees to be filmed or not and that animals do not understand such circumstances as they do not have the sense of privacy [5-8].

It is surprising, though, that even PETA members did not notice any threats in filming the animals. The organisation spokesperson stated that filming animals does not do any harm to them. On the contrary, wildlife documentaries may play immense role to raise awareness and make people understand the ways various species function on the planet.

WSPA representatives did not notice the need to recognise the animals' right to privacy either. The notion of privacy remains strange to wild animals. On top of that, animals live surrounded by other individuals of a herd and various environmental impacts within their natural habitats. They influence them and therefore animals do not possess any privacy at all.

6. CONCLUSIONS

To sum up, one cannot disagree with Brett Mill's opinion saying that behaviour of animals prove that they want certain aspects of their lives to remain in secrecy and the animals do not want them to be in the centre of attention. Human beings, therefore, should not intrude on their habitats. Producers of wildlife documentaries must remember that everybody,

even an animal, ought to be given the right to hide their actions, especially such ones referring to the most intimate aspects of their lives. Potential filming of such moments should occur in a tactful manner and in the way to make the presence of human being unnoticed. Recognition of the animals' right to protect the private spheres of their lives may evoke numerous controversies in contemporary times. However, we cannot forget that perception of privacy has changed over the centuries so have the subjects entitled for such a right. It is not out of the question that we will remain under obligation to observe the right for privacy with regards to animals other than human beings.

Biography

Ewa Haratym Ph. D. candidate at University of Gdansk, specializes in privacy law, children's privacy and animals' right to privacy.

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