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Nonhuman Primates, Human Need, and Ethical Constraints

by DAVID DeGRAZIA

The Ethics of Infection Challenges in Primates,” by Anne Barnhill, Steven Joffe, and Franklin Miller, is an exceptionally timely contribution to the literature on animal research ethics.¹ Animal research has long been both a source of high hopes and a cause for moral concern. When it comes to infection challenge studies with nonhuman primates (NHPs), neither the hope—to save thousands of human lives from such diseases as Ebola and Marburg—nor the concern—the conviction that primates deserve especially strong protections—could be much higher. While memories of the Ebola epidemic in parts of West Africa remain fresh and just a few years after the National Institutes of Health adopted the Institute of Medicine’s recommendations regarding chimpanzees, Barnhill and colleagues attempt to nudge the clarification and specification—one might say the evolution—of NHP research ethics and regulation. Well-informed and sensitive to the moral stakes on both sides of the issue, the article deserves careful consideration.

The authors propose this relatively demanding standard: “harmful primate research is justifiable only when it is integral to a research program that offers substantial benefits, in terms of human mortality or morbidity averted, over all ethically permitted alternatives, including conducting equivalent experiments with human volunteers or moving directly to field experiments with at-risk or affected humans” (p. 21). They clarify that NHP challenge studies “are not justified by marginal gains in human safety or by efficacy gains that are unlikely to translate directly into saving human lives or preventing morbidity” (p. 22). How, in turn, is their standard—which, although stringent, does permit causing NHPs to suffer and die for human benefit—to be justified? Not, as the authors note, by utilitarian reasoning, since such reasoning would also sanction the involuntary harming of human subjects for similar ends. Is there a cogent case for their position: strong rights for humans, weaker rights for NHPs?²

The authors present no explicit argument for their standard or broader position. Instead, they assert a “considered judgment” that limited NHP challenge studies to avert substantial harm are permissible (p. 24). But this begs the very question at issue: whether the standard, which permits such studies, is justified. The authors also

claim that the judgment would survive the test of reflective equilibrium (coherence with ethical and factual beliefs that hold up under critical scrutiny), but that is just another claim. Slightly more helpfully, they assert that a “valid ethical justification [will appeal to] the greater cognitive, emotional, and social sophistication of the human species” (p. 24). Less helpfully, they don’t explain how superiority in sophistication justifies superiority in moral status—as it clearly does not among members of our species. Least helpfully, they note parallels with Martha Nussbaum’s approach and quote her at length—but the quotation does not advance the article’s reasoning and risks confusing the reader with an unexplained (and, to my mind, out-of-place) appeal to the distinction between ideal and nonideal moral theory.

It doesn’t follow from my critique of the authors’ reasoning that I reject their standard. The truth is, I am ambivalent. But if we continue to use NHPs in research that harms them, I would hope that something like their proposal is adopted as a guideline.

Whether or not we continue to use NHPs in challenge studies or other invasive research,³ I would defend the exclusion of great apes⁴—(common) chimpanzees, bonobos (pigmy chimps), gorillas, and orangutans.⁵ The exclusion of these species would build on the recent development of virtually excluding chimpanzees from such research. After the NIH decided to phase out most chimpanzee research in 2013, the Fish and Wildlife Service reclassified chimpanzees as an endangered species—with the result that invasive research on chimpanzees would be permitted only if designed to benefit wild chimpanzees or enhance the species’ survival. The upshot, as I understand it, is that invasive research on chimpanzees *for human benefit* is no longer permitted in this country. On the other side of the Atlantic, the European Union banned virtually all research on great apes in 2010. We should follow suit, with possible exceptions for noninvasive studies that meet appropriate ethical guidelines.

What justifies the special protections currently afforded chimpanzees and the comparable protections I would favor for (at least) great apes? Genetic similarity per se is not a plausible basis. After all, genes are relevant only to the extent that they contribute to morally relevant phenotypical characteristics. Public concern for these animals might be a partial ground for special protections, but the public is not of one mind on this issue; and one would hope for a deeper reason that is consistent with the best

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thinking about moral status. The reason I suggest is that *great apes are extremely person-like*.

Persons have full moral status and the rights that accompany this status. Great apes, I submit, are so person-like⁶—and so similar in relevant ways to young human children—that we should extend research protections to them that approximate those that apply to human children who are too young to understand the purpose, risks, and possible benefits of participating in research. Although great apes do not naturally learn a complex language, they communicate extensively through gestures and vocalizations to social group members; they characteristically develop awareness of themselves in relation to group members and the social expectations that apply to them in their specific relationships; they exhibit through their behavior some ability to reason and plan in response to challenges and goals; and they apparently have extensive episodic memories, serving to keep track of previous transactions with associates.⁷ Although I do not assert that great apes are persons, I would not reject such an assertion out of hand. What I do assert with some confidence is that these animals are very person-like and, in many relevant respects, comparable in their cognitive and social capacities to young children. For this reason I believe that we should exempt great apes from invasive, nontherapeutic research.

Disclaimer

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views expressed are my own. They do not represent the position or policy of the NIH or any other part of the federal government.

1. A. Barnhill, S. Joffe, and F. G. Miller, “The Ethics of Infection Challenges in Primates,” *Hastings Center Report* 46 (2016): 20-26.

2. If we reserve the term “rights” for ethical requirements that may never be overridden, it makes no sense to speak of “weaker rights.” From the standpoint of this usage, the authors’ position is roughly describable as “rights for humans, utilitarianism for animals” (see R. Nozick, *Anarchy, State and Utopia* [New York: Basic, 1974], 35-42).

3. Although therapeutic research can be invasive, as with innovations in veterinary surgery, by “invasive research” here I refer to harmful, nontherapeutic research.

4. I would recommend the exclusion of cetaceans from research entailing captivity for similar reasons (see, for example, T. White, *In Defense of Dolphins* [Oxford: Blackwell, 2007])—and for the additional reason that we cannot possibly provide them adequate housing.

5. Other primates include the “lesser ape” species of gibbons and siamangs as well as monkeys and various nonsimian species such as lemurs and tarsiers.

6. For an analysis of the concept of personhood and some detail about relevant empirical evidence, see D. DeGrazia, “Great Apes, Dolphins, and the Concept of Personhood,” *Southern Journal of Philosophy* 35 (1997): 301-20.

7. See, for instance, J. Goodall, *The Chimpanzees of Gombe* (Cambridge, MA: Harvard University Press, 1986); F. de Waal, *Bonobo* (Berkeley: University of California Press, 1997); S. T. Parker, R. Mitchell, and H. L. Miles, eds., *The Mentalities of Gorillas and Orangutans* (Cambridge: Cambridge University Press, 1999); and A. Russon, K. Bard, and S. T. Parker, eds., *Reaching into Thought: The Minds of the Great Apes* (Cambridge: Cambridge University Press, 1996).

Other Voices

Beyond Primates: *Research Protections and Animal Moral Value*

by REBECCA L. WALKER

Should monkeys be used in painful and often deadly infectious disease research that may save many human lives? This is the challenging question that Anne Barnhill, Steven Joffe, and Franklin G. Miller take on in their carefully argued and compelling article featured in this issue of the *Hastings Center Report*.¹ The authors offer a nuanced and even-handed position that takes philosophical worries about nonhuman primate (NHP) moral status seriously and still appreciates the very real value

of such research for human welfare. Overall, they argue for an extension and revision of the recommendations regarding chimpanzee research offered by the Institute of Medicine in 2011.² The practical upshot of their argument would allow for infection challenge research for promising interventions for Ebola and Marburg virus diseases but not for smallpox or the common cold.

The IOM recommendations regarding chimpanzee research put in motion an exceptionalist policy for this great ape population that, according to Jeffrey Kahn, who chaired the committee, “impose[s] the strongest restrictions to date on the use of any animal species for research in the United States, a major change in animal research

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