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Echoes of Medieval and Pre-Modern Animal Trials in the Interlude Declamatio sub forma iudicii (1735)

ABSTRACT: Declamatio sub forma judicii can be found in the Graudenz Codex (1731–1740). It is an interlude that jokingly reports an animal trial. The interlude is a humorous treatment of the historical trials on animals that continued from the Middle Ages to the eighteenth century. On the one hand, such eighteenth-century discussions of animal trials continued the medieval tradition. This would confirm the diagnosis about the existence of the "long Middle Ages", especially in Central and Eastern Europe, where the cultural trends could be somehow belated in comparison to those in the West. On the other hand, perhaps writing about animal trials in the eighteenth century was already a form of medievalism. High culture propagated anthropocentrism in its thinking about animals, while folk culture entailed anthropomorphism. In animal trials animals are treated as subjects to the same regulations as humans, which means that they were seen as very much similar to humans. The eighteenth-century interlude recreates this tradition, but it is a source of satirical laughter.

KEYWORDS: animal trials, human-animal divide, interlude, anthropomorphization

Medievalism is going to be understood here as "manifestations of the middle ages in postmedieval times" (Matthews, 2015: 1). The cultural phenomenon has had a long history. It may safely be assumed that it existed in all the historical periods that followed the Middle Ages, since there were returns to the cultural period from the Renaissance onwards; furthermore, even the late Middle Ages had its medievalisms. Although "medievalism can exist perfectly independently at any point in time", as Amy S. Kaufman maintains (Kaufman, 2010: 2), its versions were always marked by the cultural period in which they were created. It is debatable whether *Declamatio sub forma judicii* from the *Graudenz Codex* (1731–1740) is an instance of medievalism, defined by Thomas A. Prendergast

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and Stephanie Trigg as a form of return to the Middle Ages "activated by a desire to connect in some way with this period" (Prendergast and Trigg, 2019: 3). On the one hand, the tradition of holding animals on trial continued from the Middle Ages to the eighteenth century (Dinzelbacher, 2002; 405), and in Central and Eastern Europe the so-called "long Middle Ages" was observable, probably due to the belatedness of various cultural trends in the part of the world. This would mean that the eighteenth century continued the medieval tradition as far as animal trials were concerned. On the other hand, if medievalism "embraced playful, ..., imaginative and creative practice" (Prendergast and Trigg, 2019: 3). the interlude in question was a playful recreation of the historical animal trials and it imaginatively dealt with the tradition by showing it from the humorous perspective. The play thus both continued the historical animal trials and saw them from a more Enlightenment than medieval perspective, since Declamatio satirized the trials and returned to what was treated very seriously in the past, while this seriousness waned in the eighteenth century. The legal form of trials, which could otherwise be discussed as one of the many legal perspectives on animals, found its literary expression in this manner.¹

If we treat the play as a form of medievalism, this *intermedium*, as it is called in the text, returns to the medieval question of what the human-animal divide is like. The interlude presents an attitude to how humans and animals are similar to each other and how they differ. Consideration on the human-animal divide, also called the Great Divide, already started with Aristotle and his discussion of how humans differed from animals. Aristotle attributed a rational soul only to humans, while animals had a vegetative soul (Preston, 2019). The vision of animals as different from humans was continued by some philosophers, such as Francis Bacon, and inside the culture of the courts, while folk culture attributed human qualities to animals in the form of their anthropomorphization. Within the folklore part of the medieval and pre-modern culture it was believed that animals were not radically different from humans. This line of thinking was continued by another set of philosophers, with Michel de Montaigne as the most famous representative of the affirmative attitude to animals.

In the Middle Ages beasts lived closer to humans than animals do now and they had various practical roles to play in human lives. Susan Crane called the co-existence of humans and animals in this world "cohabitation" (Crane, 2013: 11–41). In the household the role of such insects as bees was invaluable, hence this is probably why they were introduced as characters into the eighteenth-century interlude. Horses were, on the one hand, an important workforce, but, on the other, their coexistence with humans in chivalry was theorized in manuals and

¹ For a different legal perspective on animals, i.e. the literary animal testaments that assumed that animals had the right to bequeath their bodily parts to other creatures, see: Taylor (2015: 270–290).

treatises, as they were deemed as the most noble of animal species.² In courtly literature they were seen as not subservient to humans, but similar to them in diverse ways. Various other species were domesticated, while the practice of pet-keeping became an established fact. At first hunting dogs started to be taken care of when they grew older. Already ancient philosophers, such as Lucrece (97–55 BC), saw that humans had a debt to pay back to dogs, since infirm dogs should be protected in return for their previous service (Preston, 2019). Medieval aristocracy, but not only them, started to protect their elderly dogs, which began the practice of pet-keeping.³ Affection was not attached to this pet-keeping yet, but it gradually changed, as the example of Chaucer's Prioress shows. Chaucer famously recorded Prioress's affectionate attitude to dogs as pets in his *General Prologue* to *The Canterbury Tales*. The Prioress was endowed with sentimentalism in the treatment of her lap dogs:

Of smale houndes hadde she that she fedde With rosted flessh, or milk and wastel-breed. (*CT* I: 146–147)

She treated her dogs as if they were her children. She fed them wastel-bread, the second in quality after *demeine*, the Lord's bread. Wastel-bread was a fine wheat bread, probably white, found only on the tables of the well-to-do (Bowden, 1967: 99). Giving roast meat to dogs was unthinkable at the time, as Muriel Bowden explains (Bowden, 1967: 99).

The type of pet-keeping that the Prioress practices is condemnable, but it simultaneously appears to be an inseparable part of courtly life in the Middle Ages. As a representative of clergy, the Prioress is chastized for the practice of pet-keeping, which was frowned on in the case of courtly ladies and forbidden in the case of nuns (Bowden, 1967: 98). The belief in the separateness of humans and animals was not an impediment in keeping close physical contacts with one's pets or the conviction that emotional contact with them was possible. Preston summarizes this by claiming that on the one hand "medieval minds" were anxious "in the pursuit of delineating the separation between human and animal", but on the other the physical closeness with animals led to the spiritual (and ultimately emotional) closeness (Preston, 2019). Animals were loved by medieval people, as the evidence of bestiaries and religious texts shows (Alexander, 2008: 15), whereas there existed prohibitions as to who should keep pets and how pets should be treated.

² For a discussion of many of the medieval sources on horsemanship see Anastasija Ropa's monograph (Ropa, 2019); also Jill Mann writes that "the relation of knight and horse is the most densely represented of all cross-species interactions" (Mann, 2013: 137).

³ Albrecht Classen discusses the situation of hounds and dogs in the life of a medieval court (Classen 2010: 27–28).

The folkloristic attitude to animals was different from the conventional courtly one, since anthropomorphization was permanently present in it. In antiquity the approach existed in beast fables. Aesop may have been a physical person who lived in Athens in the sixth century BC (Mann, 2009: 2), even though there are no texts composed by Aesop preserved. The first "Aesopian" collection was written in Latin in the first century AD by Phaedrus (Mann, 2009: 3). The function of beast fable was to warn against some action in a specific historical situation (Mann, 2009: 5). In the Middle Ages the tradition of beast fable was continued, among others, by Marie de France in *Fables*, while other authors wrote beast epics, bestiaries, animal debates (such as The Owl and the Nightingale), and animal narratives. All of them included elements of anthropomorphism. The texts about Reynard the Fox, written in "branches", were animal narratives, but not beast fables. They were first put down as the cycle Romans de Revnart (1175-1250) by various authors and some of them included the topic of putting the mischievous Reynart on trial. Jill Mann calls the whole cycle "the comic tales of Reynardian trickery (renardie)" (Mann, 2009: 221). In Jugement de Reynart he was to be punished for the sexual intercourse with a married she-wolf, and he went through the accusation and trial, at which he gave a defense speech (Dufournet, 1985).⁴ In Le siege de Maupertuis Reynart was to be captured and tried for his crimes, but it ended only with his victory and him hurting the lion who laid siege as king (Dufournet, 1985). The narrative humorously treated the question of how animals, behaving like humans, should be punished for their crimes. The historical animal trials were not humorous at all, but they evolved around the same question: how culpable animals were for what they did.

Animal trials undoubtedly belonged to folklore with its treatment of animals as similar to humans; hence it may be assumed that the folkloristic attitude did not consider the Great Divide to be valid. In the study *Premodern Animal Trials as Ritual Drama* Andrzej Dąbrówka lists four types of trials against animals. Animals were usually tried for murdering humans, bothering them as pest, and being subject to sexual intercourse by humans, which was known as the sin of *bestialitas*, bestiality (Dąbrówka, 2002: 23–24). The tradition of putting animals on trial did not start in the Middle Ages, but it developed at the time. Holding trials over animals started in the Greek antiquity, since already Plato in *The Laws* advised his readers to put animals on trial, execute them if they were guilty, and then dump their corpses behind the borders of the polis (Ossowska, 1983: 399). Then the tradition of animal trials was continued in the early Middle Ages, since in 824 AD in the Italian Aosta

⁴ The Vox and the Wolf from MS Digby 86 is a Middle English version of one of those animal narratives, Branch IV of *Le Roman de Renart* (Mann, 2009: 229) and yet another beast epic (Mann, 2009: 230).

region moles were sentenced to death (Dąbrówka, 2002: 23). Both secular and ecclesiastical trials were held. In the secular ones single representatives of the animal world were sentenced, while the ecclesiastical trials put on trial pest and insects as those which plagued humans.⁵ This is how Peter Dinzelbacher writes about them:

Two forms of animal trials must be distinguished. The first comprised lawsuits brought against domestic animals for wounding or killing a human being . . . [408]. The other form of animal trial comprised lawsuits against collections of noxious insects, mollusks, and rodents who were capable of large-scale damage to such victuals as grapes, fish, grain etc. These pests, among them locusts, leeches, rats, and mice were nearly always summoned before an ecclesiastical tribunal, which, after due deliberation, usually resorted to excommunication and exorcism. Contrary to secular trials, ecclesiastical ones never dealt with an individual animal (Dinzelbacher, 2002: 407–408).

The trials were utterly serious, since they were carried out by professional lawyers, validated by bishops, and then often discussed by university professors (Dinzelbacher, 2002: 406).⁶ Whether or not in the eighteenth century those trials, especially in Central and Eastern Europe, were "medieval" or "forms of medievalism" did not matter so much. What is more important is how high culture, in the form of theatrical pieces and texts that could be found in codices and other literary forms, responded to the phenomenon of animal trials later within this tradition. The historical trials had a specific reception in the world of creative writing, as literary texts on animal trials demonstrate it. Real-life trials were responded to by the later imaginary trials in literary texts. Over the two hundred trials held on animals echoed in the literary tradition (Dąbrówka, 2002: 23).

Declamatio sub forma iudicii is a macaronic literary text that reports such an imaginary trial. The *Graudenz Codex*, in which the interlude is preserved, can now be found in the Ukraine Library of Sciences.⁷ The text is an *intermedium*, i.e. a type of interlude that was to be played between other theatrical pieces. Its dating is late, but it undoubtedly echoes the earlier medieval tradition. Julian Lewański defines the Old Polish genre *intermedium* as a short independent scene, whose plot was comic and which could be inserted in the middle of acts or other parts of a drama (Lewański, 1990: 352). Other terms for the genre were *interludium*, *facetum interstitium*, and *scena iocosa* (Lewański, 1990: 352)

⁵ For other discussions of the historical animal trials see, for example, Evans (Evans, 2009).

⁶ Adam Krawiec discusses *bestialitas* as one of the *peccatum contra naturam* (sins against nature), which in this case was *ratione generis* (Krawiec, 2000: 233).

 $^{^7}$ The manuscript is signed as Bawor. 297 and the page numbers of the interlude are from 108 to 117.

and the terms signaled humorous nature of the plays with the concepts *facetum* and *iocosa*. In the Old Polish culture most of the interludes were written in the vernacular and the Latin ones were rare (Lewański, 1990: 353). The *interme-dium* from the *Graudenz Codex* distinguishes itself from this tradition since it uses the Latin and the Polish phrases interchangeably.

Declamatio (1735?) satirizes the trials that happened in the real world. The maccaronic play was a part of the larger corpus of serious and humorous trial reports. In Poland a similar collection was printed in 1611 under the title *Processus iluris Ioco-serius* (Dąbrówka, 2002: 33). In the interlude in question the trial is held against flying insects: flies, bees, and similar ones. This confirms that the tradition of ecclesiastical trials against insects was still widely known in the eighteenth century. The continuing physical closeness between humans and insects made writing about holding the insects on trial possible. In practical terms, the insects were a huge problem, even though among them there were species whose existence was very useful in the household, such as bees. Beekeeping, however, does not appear here as something valuable, since bees are grouped with other insects that bother humans.

The whole idea of excommunicating (and banishing) insects was unpractical, since this could not be done in real life. However, the historical animal trials did not take this into consideration, since even the terminology used in them was serious. As Dinzelbacher summarizes it, "[t]he terminology in the legal documents dealing with animals in identical with that used to describe the criminal offenses of humans" (Dinzelbacher, 2002: 407). In *Declamatio* the playwright uses the same terminology. The insects are sentenced to banishment, but before this happens there is a long procedure. Dąbrówka claims that the report is playful from the start and does not postulate any change in the situation in which flies, bees, and similar insects will fly around and bother humans (Dąbrówka, 2002: 33). The insects are catalogued, which shows the literary nature of the account. Already Homer's epics included numerous catalogues, not to mention such texts as Hesiod's *Theogony* or Virgil's *Aeneid*. The list in *Declamatio* does not derive from the tradition of court trials, but rather from literary texts that focus on listing various characters and creatures.

In the historical animal trials there were specific procedures to which the animals under trial were subjected: there was arrest, questioning with tortures, the duty to turn up, and a possible postponement of the trial. The animals could not only be executed or banished, but also declared innocent and freed (Dąbrówka, 2002: 34). The latter does not happen in *Declamatio*, but freeing the insects would be too close to life there: everyone knew that insects went where they chose to go instead of subjecting themselves to any form of human control. On the other hand, the closeness to life is visible in the figures that appear in this humorous account. They are the real-life figures from court proceedings: *Patronus* and *Iudex*.

The interlude is written in learned Latin, but Latin is not the only language there, since Latin was in retreat in the Polish literature of the time. The play was composed for Polish audience, since such phrases as Prosze Mospanie [I beg you, sir] appear there as well, as if in order to account for the reality of Poles speaking the vernacular at real-life trials. A lot of scope in the text is devoted to the defense of the accused. The defense is carried out by Patronus, a barrister. The trial is chaired by *Iudex*, a judge. All the procedure is carried out in accordance with *iustitia*, the law. The Latin phrases, such as *ex reiestri criminalium* [from the criminal register] authenticate the trial. It appears that the authentication is necessary in order to present the tradition, but what follows is a satire on such court proceedings. The historical trials are reworked into light entertainment, since the audience must be aware of the theatrical nature of what they observe. The interlude plays with the old cultural tradition and ridicules humans who think that they can fully control animals. Distancing oneself from the tradition of medieval origin is a form of medievalism and the element of play enhances this impression.

A play that includes the humorous account of an animal trial is yet another form of creative writing about animals, which are treated like humans. Jill Mann's list of medieval genres about animals has to be extended to plays about animals if we treat the text as belonging to the "long Middle Ages", and if it is a form of medievalism for us, then it does not extend the list, but creatively uses the medieval literary tradition in order to produce a more modern satire. Like in beast fable, beast epic, bestiary, animal debate, and narratives about animals, in Declamatio animals are treated as being similar to humans. Anthropomorphization of animals, which was so widespread in folklore that it even influenced medieval hagiography,⁸ is continued in this eighteenth-century humorous retelling of animal trials.⁹ The flying animals are found guilty of bothering humans. They resemble human outlaws in this sense. Banishment means that they acquire the status of outlaws in the human world. Outlawry that links humans and animals is also a concept of medieval origin. Medieval outlaws were described as those who could be characterized with the phrase gerere caput lupinum [bear a wolf's head]. According to Timothy S. Jones the phrase was "a legal synonym for out-

⁸ Various texts, including hagiographical ones, on animals as friends of humans, have been anthologized by Gabriela Kompatcher, Albert Classen, and Peter Dinzelbacher (Kompatscher, Classen and Dinzelbacher, 2010).

⁹ In Saints and Animals in the Middle Ages Dominic Alexander discusses various hagiographic instances of coexistence of humans and animals, some of which include a degree of anthropomorphization of animals (Alexander, 2008); for a classic anthology that included such hagiographic texts see: Waddell (Waddell, 1946); the question of relationships between saints and animals was summarized by Classen (Classen, 2010: 12–20); in the eighteenth-century culture, anthropomorphization of animals can be found in the beast fables, such as de La Fontaine's (De la Fontaine, 2007).

lawry in northern Europe, and the metaphor echoes throughout the English tales of outlawry as well as the other literatures of the North" (Jones, 2010: 27). Both the behaviour and the status of outlaws in the human society made them similar to ravenous wolves, which attacked humans and therefore had to be dealt with unscrupulously. In this case human outlaws got closer to animals and had to be treated like animals. In animal trials animals got closer to humans through their crimes against people and this is why they deserved a severe treatment on the part of the human legal system. The eighteenth-century interlude presents it as comic and departs from the idea that the animals can be blamed for doing harm to humans.

Both the historical animal trials and *Declamatio* as their eighteenth-century theatrical recreation were founded on the assumption that animals were endowed with reason, which had its consequences. In contrast, in De Animae Aristotle claimed that the rational soul was reserved to humans. The theory of the Great Chain of Being derived from this thinking, since it assumed that there was a hierarchy of beings, with God as the highest being, human in the middle, and animals as lower creatures (Lovejoy, 2001). The theory was in use from the Middle Ages to the eighteenth century, but there were specific cultural approaches with a folkloric background that went against it. Even though animal trials belonged to the same period as the belief in the Great Chain of Being, they placed animals on the same level as humans and assumed that animals were also reasonable. In contrast, medieval thinkers, such as John Moschus in Chapter 107 of Pratum Spirituale. Vita Abbatis Gerasimi, deliberated on the possibility of animals being reasonable, but ultimately abandoned the idea, since they thought that what looked like reason was obedience to humans (Alexander, 2008: 31). In the eighteenth century the Great Chain of Being theory started to assume a slightly different shape. Such philosophers as Leibnitz believed that there was a plan in nature and the plan was grounded in the mutual adjustment of all creatures to one another, hence the human was no longer thought to be superior to animals so considerably (Lovejoy, 2001: 144-182). The eighteenth century was the time when the theory reached its highest form: the links in the Chain started to be seen as existing not only for one another, but also for themselves, while the position of the human started to be seen in the middle of creation. On the other hand, there were philosophers, such as Henry More, who criticized the perspective on, for example, insects as low creatures (Lovejoy, 2001: 183-207). The eighteenth-century interlude does not look down on the flying insects that are under trial, either. They are not low in the hierarchy of beings, since they are seen as capable of some reasoning. After all, they chose to bother humans, and thus they are subjects to the same legal procedures as humans.

Dinzelbacher saw the ecclesiastical trials, such as the one satirized in *Declamatio*, as a cultural phenomenon that had "some precedent in the religious ideas

of pre-Enlightenment Christianity" (Dinzelbacher, 2002: 417). The satirical trial in the interlude, however, treats the questions of the human-animal divide more lightly and it needs to be stated that anthropomorphization of animals in this procedure is closer to folkloristic beliefs than to the Christian ideology of subservience of animals to humans. The Christian beliefs stemmed from the concept that humans were superior to animals. Yet, already Michel de Montaigne (1533–1592) discussed humans as those who should not be presumptuous in their treatment of other creatures. In Chapter XII of Book II of *Essai, Apologie de Raimond de Sebonde [Apology for Raimond de Sebonde]* he famously questions the concept of the Great Divide by writing:

> La plus calamiteuse et fragile des toutes les créatures c'est l'homme, et quant et quant, la plus orgueilleuse. Elle se sent et se voit logée ici parmi la bourbe et le fient du monde, attachée et clouée à la pire, plus morte et croupie partie de l'univers, au dernier étage du logis, et le plus eloigné de la voûte céleste, avec les animaux de la pire condition des trois: et se va plantant par imagination au-dessus du cercle de la Lune, et [191] ramenant le ciel sous ses pieds. C'est par la vanité de cette même imagination qu'il s'égale à Dieu, qu'il s'attribue les conditions divines, qu'il se trie soi même et sépare de la presse des autres créatures, taille les parts aux animaux ses confrères et compagnons, et leur distribue telle portion de facultés et de forces, que bon lui semble. Comment connaît-il par l'effort de son intelligence, les branles internes et secrets des animaux? par quelle comparaison d'eux à nous conclut-il la bêtise qu'il leur attribue? (Bjaî, Boudou, Céard, and Pantin, 2002: 190–191)

> [The most wretched of all creatures is man, and withal the proudest. He feels and sees himself lodged here in the dirt and filth of the world, nailed and riveted to the worst and deadest part of the universe, in the lowest story of the house, and most remote from the heavenly arch, with animals of the worst condition of the three, and yet in his imagination will be placing himself above the circle of the moon, and bringing heaven under his feet. 'Tis by the vanity of the same imagination that he equals himself to God, attributes to himself divine qualities, withdraws and separates himself from the crowd of other creatures, cuts out the shares of animals his fellows and companions, and distributes to them portions of faculties and force as he himself thinks fit. How does he know, by the strength of his understanding, the secret and internal motions of animals? And from what comparison betwixt them and us does he conclude the stupidity he attributes to them?] (Montaigne, 1569).

This discussion alludes to the Great Chain of Being as well, but the presumption of humans in treating themselves as equal to God is criticized. Humans place themselves high on the ladder of creation, but they are lower on it than they think and closer to animals, who are their "fellows and companions". Montaigne means here both the domestication of animals and the practice of pet-keeping. He rejects the religious concept of humans as the only ones with the rational soul. Instead, he famously proposes the image of a female cat that plays with us when we imagine that we play with her: "si elle passe son temps de moi plus que je ne fait d'elle" (Bjaî, Boudou, Céard, and Pantin, 2002: 191).

For Montaigne humans are an important part of nature, which makes them close to animals in their status. It is not only the physical closeness between humans and animals that makes them close, but also the similarities between the two groups. Such texts as *Declamatio* also stress this similarity: you can banish insects as much as you can banish humans, since animal outlaws are as dangerous for the society as human ones. Even if some of the insects can be useful, such as bees, they should be made controllable. If not, human justice, here in the form of an ecclesiastical trial, is able to deal with them radically, at least in theory.

The time when the interlude was recorded marks the end of animal trials. In the latter half of the eighteenth century industrialization by necessity imposed a different perspective on animals. Their role as a work force increased. Domestication of animals became widespread, perhaps also due to Sentimentalist ideas. At the same time ostracism was not directed against certain types of pet-keeping any longer. As Susan Crane writes: "What changed in the modern industrial era was the gradual dominance of affectionate pet-keeping over all other kinds of animal keeping and the ideological configuration of pet-keeping as a morally upright and socially prestigious behavior" (Crane, 2012: 178). Reception of medieval traditions that included animals acquired different forms. Animal trials became an oddity, since the thinking behind them stopped being understandable. Trials over animals as either a lasting tradition or a medieval tradition that kept returning with some cultural differences were gone once modernity had started for good.

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