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Edited By: Steven Best, Chief Editor

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Introduction

Welcome to the sixth issue of our journal. You'll first notice that our journal and site has undergone a name change. The Center on Animal Liberation Affairs is now the Institute for Critical Animal Studies, and the *Animal Liberation Philosophy and Policy Journal* is now the *Journal for Critical Animal Studies*. The name changes, decided through discussion among our board members, were prompted by both philosophical and pragmatic motivations. Philosophically, we recognized that the phrase "animal liberation" is too narrow to describe our broad range of interests and the type of essays we have published. Pragmatically, in the bleak era of George Bush, the USA PATRIOT ACT, the Green Scare, and a renewed wave of academic repression, the phrase "animal liberation," unfortunately linked to "eco-terrorism" in the minds of many, was an obstacle to our organization's growth among academics.

Despite the name changes, nothing has changed in our mission, policies, activities, and goal, and we continue to be the only academic journal that welcomes scholarly analysis and radical perspectives on all facets and tactics of the animal rights/liberation movement. We continue to feature a wide range of perspectives, and impose no party line or doctrinal ideology.

By refocusing our work within the broader framework of "animal studies," we situate ourselves more generally within the growing movement in academia for scholarly historical, sociological, and philosophical studies of animals and human-animal relationships. This is reflected in the growth of the body of literature on animal issues, the number of academic conferences, and the organizations forming to study and promote animal studies. We think it is likely these trends will continue, that animal studies will gain ever-broader acceptance within academia, and that "animal studies" programs will take their place alongside Women's Studies, African-American Studies, and Chicano/a Studies.

As a *critical* animal studies, however, we seek to avoid the scholasticism, jargon-laden language, apolitical pretense, and theory-for-theory's sake style and mentality that infects so much academic writing, including the field of animal studies. A concept we have coined for an approach we hope to spread, "critical animal studies" takes shape in awareness of historically-constructed ideologies and systems of power and domination in which humans have oppressed and exploited animals. Rejecting the masks of objectivity and neutrality that in fact hide covert commitments and by default support systems of oppression, critical animal studies is informed by a normative commitment -- such as grounded in ethology, ecology, and the moral philosophy of animal rights -- to animal liberation. Critical animal studies has a broad and holistic understand of hierarchical power systems (e.g., racism, sexism, classism, and speciesism) and their intricate interrelationships, explores the systemic destructive effects of capitalism on all life and the earth, and views animal liberation and human liberation as inseparably interrelated projects. Most generally, critical animal studies uses theory as a means to the end of illuminating and eliminating domination.

This issue features two articles that deal with the ongoing debate over welfare vs. rights, reforms vs. abolitionism, and two regarding the government repression of the animal protectionist movement by demonizing it as a form of "domestic terrorism" or "eco-terrorism" and attacking it as part of the overall "war on terror" which has served as Bush's proxy-war against dissent and threats to the hegemony of neoliberalism and corporate hegemony throughout the world.

Katherine Perlo's essay, "Extrinsic and Intrinsic Arguments: Strategies for Promoting Animal Rights," is a provocative dissection of the contradictions and speciesist

biases inherent in efforts to promote animal liberation through appeal to “extrinsic” appeals (such as human health or ecology) rather than “intrinsic” appeals to what is good, just, and right for animals apart from any other consideration. Whatever the immediate benefit of persuading people to support animal rights because of the benefits it has for humans and the environment, Perlo shows how this leads to inconsistencies, ethical ambiguity, and speciesism. Instead, she argues, “We need to *tackle speciesism head-on*, instead of relying on less challenging extrinsic arguments – “widely-accepted and existing frames” ...which tacitly consign “animal rights” and its policy demands to a marginal, indeed “extreme,” position.”

From an important and original perspective, Perlo’s essay is clearly related to the larger debate within the animal advocacy movement about whether it is best to focus on the immediate reduction in the suffering of animals in a reform-oriented and compromised-based way, or to reject collaboration with corporations and watered-down moral ideals to pursue the long-term goal of the abolition of animal exploitation. In a lengthy and rigorously argued essay, “Animal Rights Law: Fundamentalism versus Pragmatism,” David Sztybel tries to undo any strict opposition between welfare and rights and argues that the “fundamentalist” rights approach urged by Gary Francione needs to yield to a more flexible “pragmatism.” Sztybel tries to map out a position that promotes welfare policies, without endorsing speciesist belief that humans are superior to animals; he thereby provides an interesting contrast to the arguments of Perlo and mounts a significant critique of Francione.

In “Unmasking the Animal Liberation Front Using Critical Pedagogy: Seeing the ALF for Who They Really Are,” Anthony J. Nocella, II provides a broad overview of the current “Green Scare” and the corporate-state demonization of the militant animal groups as forms of “domestic terrorism.” He critically analyses terms such as “terrorism” and “violence” and defends tactics such as taken by the Animal Liberation Front. This defense, however, will seem unfounded if one does not have a way to understand the ALF on its own terms. Thus, using a “critical pedagogy” method that tries to overcome the alienating distancing devices of “objective” methodologies, Nocella seeks to provide the context of understanding that could help bolster support for the ALF and other radical groups.

My own contribution, “The Animal Enterprise Terrorism Act: New, Improved, and ACLU-Approved,” discusses in more concrete terms how the corporate-state complex has attacked groups like Stop Huntingdon Animal Cruelty (SHAC) through the recent updating of the 1992 Animal Enterprise Protection Act. Within the broad context of post-9/11 USA and Bush attack on civil liberties and privacy rights, I discuss the motivations for the changes in this law, how it is used as a tool of repression, and how civil liberties defense groups such as the American Civil Liberties Union (ACLU) failed to mount an adequate challenge to the AETA and to understand its broader implications.

Finally, we feature reviews of *In Defense of Animals: The Second Wave* (edited by Peter Singer) by Matthew Calarco; Matthew Scully’s *Dominion: The Power of Man, the Suffering of Animals, and the Call to Mercy*, by Lisa Kemmerer; and *Terrorists or Freedom Fighters?: Reflections on the Liberation of Animals* (edited by Steven Best and Anthony J. Nocella II) by Lauren E. Eastwood.

Dr. Steven Best
Chief Editor

Introducing Critical Animal Studies

Steve Best, Anthony J. Nocella, II, Richard Kahn, Carol Gigliotti, and Lisa Kemmerer

The aim of the Institute for Critical Animal Studies (ICAS) is to provide a space for the development of a “critical” approach to animal studies, one which perceives that relations between human and nonhuman animals are now at a point of crisis which implicates the planet as a whole. This dire situation is evident most dramatically in the intensified slaughter and exploitation of animals (who die by the tens of billions each year in the United States alone); the unfolding of the sixth great extinction crisis in the history of the planet (the last one being 65 million years ago); and the monumental environmental ecological threats of global warming, rainforest destruction, desertification, air and water pollution, and resource scarcity, to which animal agriculture is a prime contributor.

Since the last decade, animal studies has emerged as a new and rapidly growing interdisciplinary paradigm, leading to a prolific development of centers, university positions, conferences, journals, books, e-lists, radio shows, and podcasts dedicated to studying how humans have conceived of and related to nonhuman animals. Although scholars working in animal studies have made significant contributions to our understanding of the historical, sociological, and philosophical aspects of human/nonhuman animal relations, the discipline is strangely detached from the dire plight of nonhuman animals, human beings, and the Earth.

Animal studies has already entrenched itself as an abstract, esoteric, jargon-laden, insular, non-normative, and apolitical discipline, one where scholars can achieve recognition while nevertheless remaining wedded to speciesist values, carnivorous lifestyles, and at least tacit – sometime overt — support of numerous forms of animal exploitation such as vivisection. In recent years Critical Animal Studies has emerged as a necessary and vital alternative to the insularity, detachment, hypocrisy, and profound limitations of mainstream animal studies that vaporizes their flesh and blood realities to reduce them to reified signs, symbols, images, words on a page, or protagonists in a historical drama, and thereby utterly fail to confront them not as “texts” but rather as sentient beings who live and die in the most sadistic, barbaric, and wretched cages of technohell that humanity has been able to devise, the better to exploit them for all they are worth.

In contrast to the dominant orientations of animal studies, as well as to tendencies prominent throughout the animal welfare and animal rights movements, we seek to develop a Critical Animal Studies that:

1. Pursues interdisciplinary collaborative writing and research in a rich and comprehensive manner that includes perspectives typically ignored by animal studies such as political economy.
2. Rejects pseudo-objective academic analysis by explicitly clarifying its normative values and political commitments, such that there are no positivist illusions whatsoever that theory is disinterested or writing and research is nonpolitical. To support experiential understanding and subjectivity.

3. Eschews narrow academic viewpoints and the debilitating theory-for-theory's sake position in order to link theory to practice, analysis to politics, and the academy to the community.
4. Advances a holistic understanding of the commonality of oppressions, such that speciesism, sexism, racism, ableism, statism, classism, militarism and other hierarchical ideologies and institutions are viewed as parts of a larger, interlocking, global system of domination.
5. Rejects apolitical, conservative, and liberal positions in order to advance an anti-capitalist, and, more generally, a radical anti-hierarchical politics. This orientation seeks to dismantle all structures of exploitation, domination, oppression, torture, killing, and power in favor of decentralizing and democratizing society at all levels and on a global basis.
6. Rejects reformist, single-issue, nation-based, legislative, strictly animal interest politics in favor of alliance politics and solidarity with other struggles against oppression and hierarchy.
7. Champions a politics of total liberation which grasps the need for, and the inseparability of, human, nonhuman animal, and Earth liberation and freedom for all in one comprehensive, though diverse, struggle; to quote Martin Luther King Jr.: *"Injustice anywhere is a threat to justice everywhere."*
8. Deconstructs and reconstructs the socially constructed binary oppositions between human and nonhuman animals, a move basic to mainstream animal studies, but also looks to illuminate related dichotomies between culture and nature, civilization and wilderness and other dominator hierarchies to emphasize the historical limits placed upon humanity, nonhuman animals, cultural/political norms, and the liberation of nature as part of a transformative project that seeks to transcend these limits towards greater freedom, peace, and ecological harmony.
9. Openly supports and examines controversial radical politics and strategies used in all kinds of social justice movements, such as those that involve economic sabotage from boycotts to direct action toward the goal of peace.
10. Seeks to create openings for constructive critical dialogue on issues relevant to Critical Animal Studies across a wide-range of academic groups; citizens and grassroots activists; the staffs of policy and social service organizations; and people in private, public, and non-profit sectors. Through – and only through — new paradigms of ecopedagogy, bridge-building with other social movements, and a solidarity-based alliance politics, is it possible to build the new forms of consciousness, knowledge, social institutions that are necessary to dissolve the hierarchical society that has enslaved this planet for the last ten thousand years.

Extrinsic and Intrinsic Arguments: Strategies for Promoting Animal Rights

Katherine Perlo Ph.D.†

Introduction

Animal rights campaigners disagree as to whether *empirical arguments*, based on facts such as those concerning nutrition, or *ethical arguments*, based on values such as the wrongness of hurting sentient beings, have greater validity and potential effectiveness. I want to address the issue in terms of “extrinsic” and “intrinsic” arguments – a distinction that corresponds only partly to the empirical and ethical couplet – and to make the case that animal rights campaigns are most effectively advanced through intrinsic appeals.

“Extrinsic arguments” are those that seek to promote an aim and its underlying principle by appealing to considerations politically, historically, or logically separable from that aim and that principle. “Intrinsic arguments” appeal to considerations within and inseparable from the aim and principle. In this case, the aim is animal liberation and the principle is the moral equality of species.

For example, the claim that vegetarianism (ideally, veganism) helps reduce animal suffering is an intrinsic argument, but it can also be justified on extrinsic grounds through appeal to its environmental benefits. You can separate vegetarianism from the benefit to the environment, since it is logically possible that the one might not lead to the other, and environmentalism is an independent political cause. But you cannot separate vegetarianism from the benefit to animals, since the word vegetarianism, whatever its etymology, is used to mean abstention from meat or from all animal products. You might say that “benefit to animals” is an independent issue in that there are other means of ameliorating animal suffering besides vegetarianism, or you might promote vegetarianism only for human health benefits. But in terms of animal rights campaigning, vegetarianism is advanced for the intrinsic reasons that it benefits the animals themselves.

The case for intrinsic arguments rests not on a concern for ideological purity, but on the need to reach a public that, although partly responsive to our ideas in some areas, has stopped far short of the acceptance needed to make significant breakthroughs. At some point in the encounter with us, the reaction sets in of either, “Yes, it’s terrible, but it’s justified if it saves human lives,” or, “Yes, it’s terrible and unjustifiable, but we have more important [i.e. human] things to worry about.”

We need to *tackle speciesism head-on*, instead of relying on less challenging extrinsic arguments – “widely-accepted and existing frames” in Yates’s (2006) formulation – which tacitly consign “animal rights” and its policy demands to a marginal, indeed “extreme,” position. Besides disowning animal rights, extrinsic arguments contain inconsistent or evasive implications that can leave the audience doubtful and confused without being able to pin down what is wrong.

It is true that extrinsic arguments have had some positive effect. If, for non-animal rights reasons, even one person has turned vegan or decided to oppose vivisection, while another has taken a small step in the right direction, such as by giving up “red meat,” there are nonetheless

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benefits for animals and the planet. But what is truly needed to free billions of animals is a *qualitative transformation* in people's thinking. Without a *moral paradigm shift*, the public may never be motivated to overcome either its own self-interest in using animals or governments' aggressive protection of animal-abusing industries.

Types and Sub-Types of Argument

In making this case I discuss, among extrinsic arguments, appeals to authority, the linkage of human and animal rights, and appeals to expediency. In relation to intrinsic arguments, I address appeals to compassion and attacks upon speciesism. The critique of speciesism has two main components: the assertion of moral equality, and the exposure and repudiation of the power-ethic. Of the myriad forms of animal exploitation and abuse, I treat only vegetarianism and anti-vivisectionism because they affect the greatest number of animals and thus are the most important areas to target.

In practice, extrinsic and intrinsic arguments are usually combined. The campaigner might wish to make an intrinsic point, but feels that it is inadequate and needs extrinsic supplementation. Lewis (2004) gives an example of the complications campaigners get into as a result:

It would seem to follow ... that animal rights activists would want to argue that the *similarities* between humans and fellow animals make animal experimentation unjustified. Nevertheless, when they employ scientific arguments, they claim just the opposite – animal experiments are wrong because other animals are *different* from us! ... they are reduced to making the argument that “We’re all similar, but not too similar.

This is a tenuous rhetorical position in which animals are just enough like us to merit a ban on experimentation while they are just different enough to make experimentation 100% inapplicable to humans. While this may or may not be true, it does not make for a strong, coherent argument.

In reality, this is the reverse image of the vivisectors' own confused claim, namely that animals are different enough to make vivisection morally acceptable, but similar enough to make the results reliable. Instead of exposing such confusion, some abolitionists unwittingly copy it. Yes, we are both like and unlike animals, but to the uncommitted and conservative public the argument sounds like a desperate attempt by abolitionists to profit from conflicting claims.

Extrinsic points may have their place within an intrinsic framework, for example as reassurance that vegetarianism or (vivisection) abolitionism can promote better health or medicine, but if these points are not assigned a clearly subordinate role, they can distort the real argument, which is intrinsic and moral. In any case, for the purpose of analysis, I treat the types and sub-types separately.

Extrinsic arguments

Appeals to authority

Campaigners often point to people like Leonardo da Vinci, Perce Shelley, George Bernard Shaw, and Mohandas Gandhi, not to mention pop stars and actors, who were or are vegetarian.

There are also numerous efforts to prove that Jesus was vegetarian (e.g. Regenstein 1991: 181; Akers 2000 throughout).

On this tactic, Walters and Portmess have commented: “the case for ethical vegetarianism is weakened rather than strengthened by uncritically claiming famous-named ‘proponents’ who at best penned an ambiguous line or two about diet” (2001a: x). But the argument would still be weak even if all the great names invoked were known beyond doubt to have been consistent practitioners, because for every famous vegetarian there are a hundred or more famous meat-eaters, and whom are you to follow? Even if you feel that the few vegetarians are more important, on the basis of their other beliefs or accomplishments, than the meat-eaters, are you then prepared to accept their views about everything? And if not, why accept their views about meat-eating – unless you shared those views anyway, for your own reasons?

The same questions apply to famous anti-vivisectionists such as Albert Schweitzer (Fadali 1996: 53), Victor Hugo (ibid.: 54), Cardinals Newman and Manning (Ruesch 1983: 315), Tolstoy, Mark Twain (ibid.: 146), and Helena Blavatsky (Page 1999: 174). For we can also find among abolitionists such dubious characters as Bismarck (Ruesch 1983: 146) and Carlyle (ibid.: 323), and we can hardly appeal to their authority when we agree with them but reject it when we don’t.

And the hidden inconsistency of the “famous-supporters” line arises from its irrelevance to the question of animal rights. It may inspire us, as convinced animal liberationists, to learn that humanitarians like Cesar Chavez and the wife and son of Martin Luther King are vegetarian, and certainly a person already considering giving up meat, for animal-related reasons, may be finally persuaded by the example of a worthy role model. But the speciesist is likely to dismiss the person’s vegetarianism as unimportant. However, it can be relevant to share a famous person’s apt turn of phrase on the subject, the words, rather than the individual from whom they came, being what matters.

Famous people who have helped both humans and animals

“Many anti-vivisectionists distinguished themselves for services to humanity,” writes Ruesch (1983: 54). Schwartz notes, “While it is true that there are people who love animals but are cruel to people, some of history’s greatest humanitarians were vegetarians” (1992: 238). These observations, aimed at refuting the charge that animal-rightists are misanthropic, not only depend upon the authority of famous people, but also implicitly accept human superiority by seeking to validate animal advocacy by associating it with support for humans.

Yet consider the marked absence of reciprocal claims by campaigners for human causes. Spokespersons for the child protection agencies do not feel obliged to protest that they care about animals. It is only animal rights people who point out that, both in Britain and America, the founders or earliest supporters of the children’s societies also started the SPCA in Britain and America (mentioned by Ruesch 1983: 54 and Linzey 1994: 37). It would not occur to either the UK or US Society for the Prevention of Cruelty to Children to call attention to this fact. Then why must we put ourselves on the defensive, tacitly accepting that our cause must be marginal and unpopular, by protesting that we care about humans?

The question is not rhetorical, because if we give our campaigning time to animals, we are indeed taking it from humans, except in the holistic sense that all good causes enhance each other,

so that helping animals does help human beings in the long run. It is true of any choice of how to spend one's time that one activity's gain is another's loss. A collector for Oxfam is taking time from the Respect party, and vice versa. But in the eyes of the public, that is all right because – although an individual might prefer one cause to the other – both types of beneficiary are human and thus morally equal.

Where animals compete for political resources, however, it is a different story; then we are told that it is “far from clear ... why so many British people appear to prefer to take up what they think to be injustice to animals rather than directing their energies to the needs of their fellow humans” (Trevor Parfitt, quoted in Hollands 1980: 117). If that attitude were taken to its logical conclusion, all the animal protection societies and laws would be abolished to free organizational and police resources until all human ills had been overcome. That conclusion is proclaimed almost literally in advertisements displayed on 10 January 2007 by the disabilities group “Enable.” This organization “wants the posters to show that animal charities attract almost twice as many donors as disability charities” (MacDonald 2007), and so to include “punch lines such as a disabled person saying ‘If I ate out of a dog bowl would you like me more?’” (Robins 2007).

Since we cannot deny that time spent on animals represents, from a narrow perspective, a political opportunity cost to humans, the proper response to remarks like Parfitt's is to assert the moral equality of humans and animals. To say “but we care about humans too; William Wilberforce opposed slavery, and I was on an anti-war demo last week,” is to offer “important” action as a token of mitigation for “unimportant” relevant action. So the argument, by going outside our real concerns, offers a concession to speciesism.

And as long as we allow this concession, the mitigation will never be good enough, for speciesists will argue that Wilberforce and we should have spent *all* available time on the human causes. Even though our aim is simply to redress the balance and achieve equality, and even though we feel that we are part of a total liberation project, opponents will still cry, “You care more for animals than for people!” To this we should answer, “In the sphere of public campaigning, yes we do, because their need is greater by virtue of their worse treatment, their helplessness, and their neglect by the political system.” We should respond in this vein instead of weakly insisting that we, and the celebrities whose names we summon in support, are really nice people who campaign for human causes also.

I don't mean that as animal advocates we should refrain from supporting those causes when they matter to us. But such actions, whether conducted by ourselves or by famous people, should not be offered as part of the animal rights case.

Linkage of human and animal rights

Similar to the “cross-species humanitarians” argument is the association of human with animal rights. True, some people have gone from human rights to animal rights campaigning by motives such as Henry Spira's:

To me, animal liberation means an expansion of human liberation. ...
Animal liberationists ... identify with the powerless and the vulnerable, the victims, all those dominated, oppressed, and exploited. And it is the nonhuman animals whose suffering is the

most intense, widespread, expanding, systematic and socially sanctioned. (Spira 1992: 338).

But although Spira is, for whatever biographical reason, uninfected with humanist bias, in the wider public the linkage may evoke only a limited, indirect-duty claim on behalf of animals, or entail that in a pinch, humans come first. Indeed, analogies with racism, sexism, slavery, the Holocaust, and human “marginal cases” (e.g., the comatose) often not only fail but are turned against us, as people express indignation at the comparison of human victims with animals. It is no use pointing out that the comparison is between *the oppression of* human and animal victims; speciesists quickly re-read it to suit their horror at any identification with non-humans.

Nor is it any use insisting that we are not downgrading humans, but only upgrading the animals, for that too is a threat to the differential on which the human being’s sense of worth has depended for millennia. Consider Blakemore’s defence of experiments on the great apes, in which he virtually extolled vivisection for its own sake. Along with a fig-leaf of concern for human health, he declared that he was opposed in principle to banning the tests

... because it muddles the boundary between people and animals. He said: “I worry about the principle of where the moral boundaries lie. There is only one very secure definition that can be made and that is between our species and others” (Anon. 2006).

Faced with such attitudes, we can only, very cautiously, see human and animal rights as co-existing “as long as human rights doesn’t include the ‘right’ to exploit animals in any way” (Lee 2006).

The “one struggle, one fight”, viewpoint, I fear, exists more in the rhetoric of animal rights activists (see Taylor 2005: 4), than in the minds of the public or of human rights campaigners. It was not manifest in the thoughts of Amnesty International when they accepted torture research done on pigs in 1977-78 (Noske 1997: 37), nor was it evident in the outlook of the group’s Spanish representative, Delia Padron, who “said she was ‘surprised’ by moves to recognize the ‘human rights’ of apes when many humans still lacked for those rights” (Deutsche Press-Agentur 2006).

When drawing the parallel between human and animal rights/liberation, campaigners must ask themselves to what extent they are hanging onto the coattails of the more respectable human rights movement rather than promoting their own.

Appeals to expediency

Arguments on behalf of vegetarianism and animal rights often appeal to “expedient” considerations such as human health, the environment, poverty, and world peace.

In earlier times, the monastic orders advanced the health argument for vegetarianism partly for reasons of survival, inasmuch as the Church had associated it with heresy, so that “ethical reasons for vegetarianism were eliminated, but health concerns were admitted as legitimate” (Akers 2000: 133). You can see the parallel with some modern campaigners for whom animal rights apparently has such disreputable connotations – medieval “heresy” parallel to modern “extremism” – as to make appeals to expediency seem more realistic, even safer.

Richard Schwartz argues for vegetarianism on grounds of health, compassion for animals, sharing, environmental protection (1992: 233), and peace. He appeals to peace insofar as world

hunger and environmental damage are both aggravated by meat production, and food scarcity can lead to war (1988: 64). On its home page, the vegetarian advocacy group, Viva! (2006), actually place the animals last:

Eating meat causes environmental destruction, damages human health, contributes to global hunger and inflicts immense suffering on billions of animals across the world. Viva! believes that the solution to all these problems is in our own hands: the best way to stop the destruction and the cruelty is to stop eating animals now.

Viva! does care primarily about the animals; its home page and campaigns against factory farming feature a flashing message that “Every 7 seconds a sheep has its throat slit in a UK abattoir.” A report on a successful “Veggie Roadshow” includes the comment, “I believe it indicates a fundamental change in people’s attitudes to animal cruelty, health and the state of the planet.” Here at least the animals are put first, but their suffering is not considered an adequate ground for justifying vegetarianism.

The literature of even the most ethically committed anti-vivisection campaigners may consist of lists of false positives and false negatives resulting from animal experiments and assertions from distinguished medical people that vivisection is unscientific. The slogan of the National Anti-Vivisection Society declares animal experiments to be “unreliable, unethical, unnecessary”-- as though the ethical claim were best sandwiched discreetly between human-centered considerations.

Noah Lewis mentions several anti-vivisection or animal rights organizations that promote mostly “bad science” claims, consigning the animal-centered ones to a lesser role. Even worse, he believes, are groups such as the Physicians Committee for Responsible Medicine who deny animal-related motives, base their arguments entirely on human health, yet reveal their true sympathies in various ways. The PCRM “have no problem frequently working with PETA ... many of their employees and members support animal rights” (Lewis 2004). Their behavior suggests both timorousness and duplicity, yet their elusiveness is in vain, since “[w]ithin the medical community, they are perceived as an animal rights group” (ibid.), or what I am tempted to describe as an animal rights front group. The appeal to human health can appear suspicious even – or especially – where the campaigner avowedly supports animal rights. When an organization founded to promote vegetarianism or to oppose vivisection on largely animal-related grounds triumphantly flaunts the latest pro-veggie health findings or harmful drug scandal, people understandably suspect an ulterior motive, and the movement loses some credibility.

Apart from seeming dishonest, expediency claims fail the “What if it were humans?” test. In this case, reference to human rights abuses can usefully expose a double standard on our part, in that we would not offer on behalf of oppressed humans the type of extrinsic arguments that we reserve for animals. As Lewis (2004) observes:

Although slaves were integral to the production of tobacco, abolitionists never resorted to explaining that we should not have slavery because it results in lung disease, yet this is exactly the line of reasoning followed by some animal rights activists. Similarly,

abolitionists probably never claimed that there was surplus cotton ...
(i.e., some slave labor, like experiments, was redundant).

Analogously, Proctalgia (2006) writes, “we wouldn't argue against experimenting on Jews because such experiments ‘didn't work.’ We'd be uncompromising in saying that even if experimentation on Jews produced valuable scientific data (it did: read up on Operation Paperclip) it was evil nonetheless.” Even if cruelty were mentioned first, an additional point based on the self-interest of the perpetrators would be seen as demeaning to the victims. Would anyone protest against boiling people in oil on the grounds that it was cruel *and also* that it wasted natural resources?

Yet Peter Singer (2006), after spending seven paragraphs reviewing the horrors of factory farming, adds two more showing that the practice is inefficient, making possible a headline giving equal weight to both facts: “Meat production is not just inhumane, it's inefficient.”

The British Union for the Abolition of Vivisection (BUAV) tells us that primates “quickly learn to fear laboratory technicians who may have previously hurt them. The stress this causes means they often have to be dragged screaming from their cages” (2006). But they then add that their new report “gives numerous examples showing how primates make crude – and often misleading – models for human conditions.”

Consider comments from the National Anti-Vivisection Society (2007) on Chinese dog-burning research, They begin by noting, “These are perhaps the cruellest experiments we have ever uncovered, these dogs must have been in almost unimaginable agony.” They then write, “*Worse still* [my emphasis], these animals suffered and died in vain, there are ways of conducting this research without animals, and dogs are simply a bad research model for human beings.”

Does the calf care whether factory farming is efficient, or the monkey whether vivisection works? Was the uselessness of the Chinese experiments really worse than the dogs' suffering? When we offer these expediency arguments, because of feeling impelled to go outside our own politically unpopular concerns, we unconsciously betray the animals in a way that human rights protesters, having a more socially secure status, would not betray their fellow species members.

George Bernard Shaw wrote: “If you attempt to controvert a vivisectionist by showing that the experiment he has performed has not led to any useful result, you imply that if it had led to a useful result you would consider his experiment justified. Now, I am not prepared to concede that position” (quoted in Ruesch 1983: 345). His challenge provides a second test: “What if the empirical claim weren't true?” – a question always lurking in the background. If meat-eating were found to be healthy, or if animal experiments were known to be efficacious, would you be in favor of either? If the answer is no, the expediency argument is redundant. If the answer is yes, you are not an animal rights supporter.

What about animal advocates who are genuinely concerned both with the effects of meat-eating or vivisection on human health, as well as with animal abuse? Despite these campaigners' sincerity, a problem remains with the argument, “Vivisection and meat-eating are cruel – and one is fraudulent while the other damages your health.” If the answer to “what if it weren't true?” is, “I guess experiments should be permitted but under much more stringent conditions,” or, “I guess I can eat meat but only if it's free range,” then, again, you are not an animal rights advocate, but rather a welfare campaigner with speciesist biases.

The ambiguity exposed by the Shavian test results from the campaigner's reliance upon contingencies outside our movement, rather than upon certainties central to it: the axiom that humans make animals suffer and our moral conviction that this should end.

And here is a third test of animal-focused vs. expediency arguments: How immediate and certain are the projected consequences in each case? There may be a connection between meat-eating and war, but at several steps removed. We have evidence that animal exploitation contributes to environmental damage, world hunger, and human illness. Most strikingly, the UN recently reported that "[l]ivestock are responsible for 18 per cent of the greenhouse gases that cause global warming, more than cars, planes and all other forms of transport put together" (Lean 2007). Periodically, there are similar findings concerning the use of arable land for grazing; the unhealthiness of meat; and adverse drug reactions resulting from misleading animal experiments.

Yet these are things that the public has to be told by experts, who often disagree with each other. In the case of any one of these evils, people, including experts, cannot be sure how long it takes for the animal abuse to produce it, or how long it would take for the evil to cease if the animal abuse were given up. The picture is further complicated by the other known causes of these problems.

By contrast, people can be certain that animals are suffering and dying right now for the sake of human food and medicine. People know that meat-eating, by its nature, must entail the killing of animals. They know that laboratory animals are killed. They know about factory farming, about the suffering of dairy cows and their calves, and of animals used for experiments. The animal abusers themselves admit all these things (e.g. government regulations on levels of allowable suffering), but defend them on speciesist grounds.

The animal factor, being intrinsic to the policies we promote, is neither remote nor uncertain, either in itself or in the public mind. Thus it offers a stronger basis for argument than the complex realms of war, environmental damage, poverty, and human disease.

It might be objected that those problems are also immediate and certain, in that they are unquestionably occurring now. And for a campaigner in those fields – including the animal rights campaigner who ventures abroad politically and dons a green, pacifist, or anti-poverty hat – or for a genuinely and exclusively scientific anti-vivisectionist, these issues are the source of intrinsic argument, and are determinant.

It is the connection of these projected non-animal outcomes with meat-eating or vivisection that is comparatively remote and uncertain; so within animal rights advocacy, they are less determinant than the animals' fate.

Intrinsic arguments

In regard to exclusively intrinsic arguments, one might object: "True, the animals must come first, but what's wrong with reinforcing that advocacy with additional valid reasons for pro-animal policies? Surely those reasons can only help." But because the addition of those other reasons conveys the message that the animals' suffering and death are not important enough to make the case, the appeal to extrinsic reasons in fact can be harmful. If we ourselves are not willing to

proclaim unequivocally, “To hurt or kill animals is wrong, regardless of any other considerations,” how can we expect the uncommitted public to believe it?

Still, one might argue, isn’t it tactless and thus counterproductive to suggest that people are behaving irrationally or unethically? Wouldn’t an indirect approach yield better results? Of course we cannot win hearts and minds by frontally criticizing individuals, but when addressing a group in an impersonal manner, as when we denounce certain social practices and deconstruct social attitudes, we allow our hearers or readers to reflect in private with their self-esteem intact.

Despite the lack of confidence betrayed by our reliance on extrinsic arguments, we are actually in a stronger position when sticking to our immediate subject. Speciesists, after all, are obliged to justify what even they would acknowledge to be *prima facie* wrong – namely hurting and killing animals – while we are not obliged to justify a policy of not hurting and killing them. The only obstacle to acceptance of our policy is the feeble case for human moral priority.

In regard to the intrinsic arguments themselves, they must first call attention to human abuse of animals, then attack speciesist excuses for it. The appeal to compassion is necessary because if we did not harm animals, which includes imprisoning and killing them, debate about speciesism or animal rights would be of only academic interest. Roger Yates (2006), in his plea for a philosophical animal rights stance, notes that arguments based on cruelty can be welfarist or tactically oriented. But if accompanied by a call for liberation, the exposure of cruelty is not welfarist, and in no case is it tactical in the sense of being insincerely manipulative.

On its own, however, compassion comes up against humanist barriers in people’s minds, especially where they feel their vital interests are threatened. So the attack upon human supremacism, though still implying an appeal to compassion, is indispensable. But the genesis and growth of our movement is rooted in the awareness of how humans make animals suffer and die.

Appeals to compassion

In keeping with Isaac Bashevis Singer’s well-known remark, we should be vegetarian out of concern for the health of the chicken, rather than for our own (Kanfer 2006). Although the argument from compassion is necessarily derived from emotion, its steps – from “these animals are suffering from human actions” to “we are suffering with them” to “we do not want to suffer” to “so we must stop these actions” (or in ethical language, “they are wrong”) – are rationally connected. In this way, sentiments are “the very building blocks of morality,” as ethologists Flack and de Waal (2002: 67) have concluded.

The usefulness of appeals to sympathy should not be dismissed. In a 1998 survey by pro-*vivisectionist* Americans for Medical Progress:

The only time when respondents were not convinced by arguments in favor of animal experiments was when nonhuman animal suffering was mentioned. Fifty-six percent were convinced and 39% were not convinced by the following statement: “Animal research is cruel to the animals and they are often mistreated. Additionally, the research often is duplicative and wastes even more animals. We need to protect the animals and not allow abusive testing on them.” (Lewis 2004)

True, the tripartite statement leaves the respondents' feelings slightly unclear, but two of the three parts suggest compassion as a motive for rejecting animal experimentation. More important is the fact that this statement was the only one in the survey to provoke a majority of anti-vivisection responses.

Thus the public should be made fully aware of the cruelties for which human beings are responsible. Nor should the natural empathetic response humans have to another's suffering be blunted by so-called objective language, or by sparing the public "offensive" pictures. To the animal, the gruesomeness and horror are the truth; inoffensive language is a lie, and the very opposite of "objective."

But we must go on to ensure that the plea for compassion is not blocked by human supremacist dogma, – an intrinsic consideration – since animal abuse could not take place without the support of speciesist beliefs. The attack has two necessary stages: the assertion of moral equality and the repudiation of the power-ethic that underlies inegalitarian claims.

Moral equality

PETA believes that animals have rights and deserve to have their best interests taken into consideration, regardless of whether they are useful to humans. Like you, they are capable of suffering and have an interest in leading their own lives; therefore, they are not ours to use – for food, clothing, entertainment, experimentation, or any other reason. (PETA 2006)

Here, since animals are declared to be ends in themselves, they are accorded moral equality with humans. It is not a factual assertion, since ethical values cannot be derived from facts, but rather represents a choice of policy (to treat all species with equal consideration); it is "prescriptive, not descriptive" (Regan 1988: 212, summarizing Singer's view). And it carries argumentative weight because it conforms to the culturally accepted *prima facie* value of non-harming sentient life. We can then point out that the speciesists' claims reflect the opposite policy choice, namely a willingness to harm, although they try to justify it with the fact that humans have some unique qualities.

That rationale contains two mistakes that we can expose. The first is the implication that the possession of certain qualities, such as intelligence, confers a right to exploit those who lack these traits. This is the aforementioned fallacy of basing a moral right upon an empirical fact. The second mistake is the attempt to confer moral status on the fact by claiming that human qualities are more valuable than animal qualities. This is erroneous because "value" here relies on the circular argument "Class A deserves more well-being because it has Quality X." By a happy coincidence, "Quality X confers merit because it is unique to Class A" – sometimes expressed as "This is what distinguishes us from the beasts." Eckersley calls it the "differential imperative," which involves "selecting certain characteristics that are believed to be special to humans ... as the measure of both human virtue and human superiority over other species" (1996: 283).

We can call attention to the motive behind such illogic, observing that "[w]e don't exploit them because they have no value: we give them no value so we can exploit them" (Currie 2006). And we can point out that the human qualities commonly labelled valuable are those that confer the

power to exploit: intelligence, organizational skills, language, etc. Birds can fly unaided; fish can breathe underwater; four-legged animals are faster and/or stronger than humans; but only in respect of power are humans objectively “superior” to all other animals. So we can show how inequalitarian claims, irrational to begin with, are used to promote a hidden ethos of might-makes-right that is inconsistent with our culture’s professed moral values.

Repudiation of the power-ethic

True, if someone openly avows a power-ethic and embraces its consequences, there can be no further dialogue. But if people profess our culture’s precepts of benevolence and altruism when dealing with other humans, they cannot reasonably become tyrants when dealing with animals. Currie (2006) urges his audience to ask themselves: “Do I want to live in a world in which the end justifies the means? Do I want to live in a world where the rules of right and wrong apply only to the select and the strong have the right to exploit the weak?”

It is not a case of threatening people with a fascistic world, for that would be a human-centered extrinsic argument, and one lacking in immediacy and certainty. It is rather a matter of arousing revulsion towards an unacceptable ground for the wrong treatment of animals, while exposing the use of a double standard – fellowship with humans, oppression of animals.

We can show that only human power enables the government to express such baldly discriminatory principles as “without animal testing it is highly likely that ... dangerous medicinal products would be tested in healthy volunteers and patients in clinical trials. This would be quite unacceptable” (Corbett 2006). We could demonstrate that only human power enables the media and the public to get indignant over animal rights violence while accepting or ignoring the greater violence done to animals.

While there is, of course, much more to an intrinsically based animal rights position than the few points I have suggested, these are the parameters within which we should argue. People will not be convinced right away or, in many cases, at all. They will often have counter-claims which we must answer. And since views are formed partly from personal experience, even the soundest argument may not by itself convince people, although it can influence their thinking where they are favorably disposed. But once they have been presented with an intrinsic case for animal rights, people will at least know what the debate is about. Without that as a starting point, there can be no progress towards the public pressure necessary to defeat exploitative industries and those industries’ governmental servants.

Let the animals establish an example. In a tenth-century document of the Ikhwan al-safa (“Pure Brethren”), the *Case of the Animals versus Man before the King of the Jinn*, the animals put humanity on trial, appealing to compassion and attacking the rationalizations of the powerful:

We were fully occupied in caring for our broods ... with all the good food and water God had allotted us, secure and unmolested in our own lands.God created Adam ... and made him his viceregent on earth. His offspring ... encroached on our ancestral lands. They captured sheep, cows, horses, mules, and asses ... and enslaved them They forced us to these things under duress, with ... torture and chastisement our whole lives long. Some of us fled to deserts,

wastelands, or mountaintops, but the Adamites pressed after us Whoever fell into their hands was yoked, haltered, and fettered. They slaughtered and flayed him, ... and put him onto the fire to be cooked Despite these cruelties, these sons of Adam are not through with us but must claim that this is their inviolable right, that they are our masters and we are their slaves ... – all with no proof or explanation beyond main force. (quoted by Foltz 2001: 5)

The Merits of Sticking to the Subject

Vegetarianism is separable from endorsement by famous people; from human rights; and from benefits to human health, the environment, world nutrition, and peace. But it is not separable from the benefit to animals, because the word is used to mean abstention from meat or other animal “products.” Anti-vivisectionism is separable from endorsement by famous people; from human rights; and from benefits to human health. But it is not separable from the benefit to animals, because the word is used to mean ending animal experiments.

When animal rights arguments are based on extrinsic features, or even include them prominently as supplements, the result may be inconsistency, concessions to speciesism, concealment of moral principles, unconscious double standards, ethical ambiguity, remoteness and uncertainty of projected outcomes, and the suggestion that animal-related considerations are not important enough to make the case on their own.

Intrinsic arguments that arouse compassion for animals and attack speciesism’s faulty reasoning and underlying power-ethic are the most consistent, honest, and supportive of a cause that has culturally accepted moral values on its side. There is “a real debate here about why human beings believe they have a right to inflict suffering on other species” (Coull 2006) and we cannot win that debate by talking about something else.

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Animal Rights Law: Fundamentalism versus Pragmatism

David Sztybel†

Abstract: *Animal rights law, both animal rights “fundamentalists” and animal rights “pragmatists” agree, consists of aiming for animal rights in the long-term. They differ, however, in their views of what is morally right and most effective for animals in the legislative short-term and long-term. I argue that animal rights law ideally involves trying to encourage animal rights, and that the best possible short-term laws may sometimes be so-called “welfarist” in character. I argue that a specific kind of pragmatism offers a more just and effective vision for animal rights law than that of philosopher Gary Francione, who seems to consider himself an animal rights fundamentalist.*¹

I. Introduction

The position of animal rights has been defended by various philosophers, including: Tom Regan, Evelyn B. Pluhar, Mark Rowlands, Paola Cavalieri, Gary Francione, Julian Franklin, and myself.² I will not try to substantiate animal rights on this occasion but assume, for the sake of argument, that in some strong form rights are the animals’ just due. I think that what we call “animal welfare” in standard cases is “animal illfare,” since in the meat industry and vivisection laboratories, for example, animals come to an ill-fate—a foreshortened life of intense suffering—as dominant and inevitable parts of these practices. However, I have defended the “animal illfare” label elsewhere and will not reproduce that defense here.³ I am not an “animal welfarist” in the standard, speciesist sense of oppressive disregard for animal interests, but rather an advocate of illfare-reducing laws in the short-term. Recognizing that we are still left with animal illfare in the short-term will help to reduce complacency that it is morally acceptable for society to stop short of legislating animal rights. Those who do not adhere to my animal illfare usage can substitute “animal welfare” in their own minds if they wish, and indeed I will often use “animal welfare” in quotation marks (following the usage of Joan Dunayer⁴) referring to speciesist animal illfare, just because it is not truly welfare overall as I argue. Now two chief concerns in animal rights law in the fundamentalism versus pragmatism debate is proposing laws that exhibit both *moral integrity* and *effectiveness* in not only relieving the suffering of animals, but in promoting the long-term goal of animal rights.

I make a distinction between *animal rights fundamentalists* and *animal rights pragmatists*.⁵ Animal rights fundamentalists (hereafter, “fundamentalists”) insist that animal rights is absolute and indeed a basic moral principle, and that anything inconsistent with such a principle is morally wrong. Animal rights pragmatists (hereinafter “pragmatists”), in contrast, advocate that we *ultimately* act for sentient beings, rather than *ultimately* for abstract principles such as rights (although animal rights are still worth promoting to animal rights pragmatists), and we will see this different theoretical orientation carries practical implications. Joan Dunayer is more of a fundamentalist than Gary L. Francione,⁶ since she rejects more proposed laws as falling short of animal rights. We can distinguish between “holistic fundamentalists” (who only demand perfect animal rights) and “partitive fundamentalists” such as Francione (who are not perfectionists and may advocate for parts of full rights as a next stage of animal law through “proto-rights”). Proto-rights is a term introduced by Tom Regan. We can distinguish (a) strong proto-rights which Francione exclusively advocates, which are not full rights but at least a whole animal interest may be

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protected, and (b) weak proto-rights, in which case there is interest protection, but there may only be a degree of an interest that is protected.

This distinction avoids the problem that pragmatism is often associated with amorality or utilitarianism because it advances a view that rights, although ideal, are not ultimate ends in themselves in a way that I will explain. I am not a philosophical pragmatist who argues for theories solely on the grounds of whether they “work,” but rather am using pragmatism solely in the context of legal and political reform. Moreover, I am not insultingly suggesting that fundamentalists do not have a practical program. I will now defend the idea that “welfarist” laws aiming to reduce animal suffering may be best morally and practically from a pragmatist perspective. However, I concede that Francione’s insistence on strong proto-rights exclusively (see below) may one day be appropriate once further progress is made.

II. Ethics : Animal Rights and Suffering-Reduction

People for the Ethical Treatment of Animals (PETA) exemplifies the approach that has a long-term goal of animals rights and that is why its motto is that “animals are not ours to eat, wear, experiment on, or exploit for entertainment,” and why it promotes veganism as the ideal diet. At the same time, PETA advocates suffering-reduction laws. These laws have brought PETA under fire by fundamentalists for being both immoral and ineffective. Banning factory farming is an example of a suffering-reduction law supported by PETA that falls short of animal rights as articulated by fundamentalists since on family farms animals would still be exploited and subject to speciesist discrimination.

From a fundamentalist perspective, we will see that Francione rejects legislative proposals that do not achieve at least a part of animal rights in the form of his version of proto-rights. He rejects “welfarist” legislation. However, the ethics of supporting “welfarist” suffering-reduction laws have not been clearly illuminated, and Francione only acknowledges one theorist, British political thinker Robert Garner, as having made any attempt to form a reasoned concession to “animal welfarism.”⁷

Key aspects of my own ethical stance here are: (a) dilemma reasoning, and (b) reflecting on what is ultimately morally right. The dilemma reasoning component is simply that there is perhaps no dilemma about what to advocate in the long-term—i.e., animal rights. However, in the short-term, important legislative dilemma options include:

- (1) No change in the law;
- (2) Cosmetic changes that do not significantly or even negatively affect animal welfare (cruelties can be made worse by creating the false impression that animals are “well off,” which may encourage more animal consumption, thus multiplying the misery);
- (3) Suffering-reduction laws which substantially improve conditions for animals under oppression by at least curtailing suffering without necessarily obtaining animal rights or proto-rights;
- (4) Suffering-reduction laws that *only* try to secure rights or strong proto-rights for animals, excluding all other forms of suffering-reduction laws;
- (5) Animal rights/vegan education as a short-term means of building long-term legal changes.

Laws that would satisfy the requirement of animal rights are generally not a possibility in the short-term for legislatures, although individuals or groups can indeed adopt an animal rights ethic.⁸ So pure animal rights law in the short-term is not a “better” choice if

it is not a choice at all. I agree with Francione that strong proto-rights may sometimes be best to demand as legal reforms (e.g., ending animal circus acts), but contrary to his option (4), I argue for (3) above that “welfarist” suffering-reduction may be acceptable or even superior to advocate in near-future contexts in which more stringent measures are unobtainable, which will often be the case. All animal rights proponents presumably agree with option (5). Or if some legal reformers do not agree, since they are afraid that any use of the terms “animal rights” or “vegan” will hurt their credibility as legal advocates, then I will have to disagree since we cannot fail to ask for anyone’s just due.⁹ Alternative (2) involving cosmetic changes is the worst choice since it may entrench speciesism but not benefit animals while option (1) that brings no legal changes is second-worst—no relief for animals can be found there.

How could option (3) be right if it involves speciesism which is morally wrong?

It may help to think of these options for the short-term as a dilemma in which none of the options deliver animals from speciesism, so we should choose the best one(s). Think of the classic burning house situation. In such a case, one can only rescue one animal from the fire, and so not everyone’s right to life can be satisfied. This is an important way in which a rights proponent accepts that rights cannot dictate the outcome of every single decision. Perhaps we can likewise only choose in the short-term among laws that fall short of anything strongly resembling rights.

Yet it can be argued that law-advocacy is not like the burning building. We can coolly decide whether to advocate (a) only animal rights or strong proto-rights in the law, since that is allegedly morally right, or else (b) strong proto-rights, and/or “welfarist” suffering-reduction laws (short of strong proto-rights) in the short-term, and animal rights in the long-term. Not all uses of dilemma reasoning are acknowledged as legitimate by animal rightists. Vivisectionists—contrary to animal rightists—often insist that we would save a human instead of a rat in a burning building, therefore we can use rats to find cures for human diseases. I agree that dilemma reasoning by itself is insufficient for justifying “welfarist” laws, and indeed no one to my knowledge has tried to use dilemma reasoning at all thus far for justifying legal reform strategies.

The opponent of “welfarist” suffering-reduction laws can say that we do not face a *moral* dilemma if option (3), which permits “welfarism,” is morally wrong “merely” to reduce animal suffering. This can be expressed in various ways. Fundamentalists might contend that (3), even if it *does* mean less suffering for animals, involves *complicity* (i.e., partnership in wrong-doing) with speciesists. Not every improvement of welfare, they would warn, is compatible with moral rightness. Theft might improve the welfare of a thief after all. Complicity allegedly leads to a co-opting of animal rights people by animal industries and speciesists more generally. Another way of stating the fundamentalist point is that there is a departure from what is morally right, as embodied by animal liberation, and therefore some proponents of suffering-reduction laws are morally wrong. Yet another way to express this idea is that certain suffering-reduction advocates such as PETA are part of the problem, not the solution of the abolition of animal exploitation.¹⁰

I can see too how this fundamentalist belief regarding what is morally right links to conceptions of what is effective. How can we eventually get to what is morally right through complicity with what is morally wrong? From this fundamentalist perspective, it would seem like veering off course from the morally right, or plunging into and entrenching corruption, not embarking on a promising road towards more ethical rightness than ever through, say, Francione’s very limited forms of incremental liberation. Adding to the seeming hopelessness of this situation, as perceived by fundamentalists, is that the wrong-doers with

whom one might collude are politically and socially dominant and so might be presumed to prolong this stopping short of animal rights indefinitely.

This is a powerful argument. It has strong emotional resonances since people often resent complicity in any form. But the complicity charge could never be fully made since the pragmatists' long-term goal of abolition is by all accounts not cooperating with speciesists but trying to convert them. Also, we accept complicity with governments by paying taxes even if we strongly disagree as to how some public monies are spent, or vegans may indirectly be complicit in the profiteering of grocers who traffic in animal corpses. I would argue that some "welfarist" suffering-reduction laws lead to a *lessening* of wrong-doing on the part of speciesists by curbing their cruelty. If I am right, such laws also help conduce towards eventually *removing the whole wrong of speciesism* (see III. below). However the question still remains: are animal rights pragmatists *themselves* morally wrong by getting involved in producing additional speciesist laws in the first place?

The crux of the issue I think lies in: what is ultimately morally right? If some "welfarist" suffering-reduction laws can be shown to be consistent with an ultimate principle of what is morally right, then such advocacy does not involve a partnership in wrong-doing or complicity but rather a cooperation with doers of right. If animal rights and anti-speciesism are ultimate principles of moral rightness, then perhaps complicity is occurring, and pragmatists simply condone what is morally wrong. As vegan advocate Howard Lyman writes regarding this very question: "anytime you join a team...of somebody doing something wrong, *you're* doing something wrong."¹¹

However, I argue that rights themselves are not fundamental, in the sense of things being ultimate ends in themselves. I argue that only sentient beings can be ultimate ends in themselves. Rights are at best means to an end. Rights secure goods and protections from harm, and that for me is their rationale. Anti-speciesism, I think, is really about avoiding systematic harms. Alasdair MacIntyre argues that rights are inventions from the Middle Ages, and rights appeals have no bearing on cultures before that time: it would be like using checks in the time of cave people.¹² I argue that the ultimate principle of moral right, as best as I can tell, is: *Produce what is best for sentient beings at all times*. We should wish our actions to have positive significance, but nothing has any positive or negative significance to nonsentient things. Therefore we must act ultimately for *sentient beings*, since we cannot do anything that ultimately has any significance to any nonsentient thing. Mere things include ovens and rocks, but also principles such as rights and anti-speciesism. We cannot rationally act ultimately for the sake of a principle, such as *abolition*. Nothing is of value to "abolition," and rather abolition is good for sentient beings. I call those who advocate ultimately acting for the sake of any nonsentient thing "nonsentientists." For some theorists, ethical principles simply emerge from intuitions,¹³ but no amount of intuition can change the fact that I cannot ultimately act for or against any mere thing. Becoming obsessed with principles is understandable, but it may distract from the pragmatic focus on what is ultimately important.¹⁴ Centering on human-made abstractions above all, instead of on the animals themselves as individuals is oddly anthropocentric. My way of thinking does not lead to the problem cited earlier of complicity with moral wrongness as a means to moral rightness, or moral corruption and veering off course, since there is here a defensible idea of moral rightness and no departure from it, and a systematic building of ever greater moral rectitude on a societal level even as what is best for individual animals—which includes reference to their welfare and freedom—becomes ever more possible and actual.

Of course, fundamentalist opponents of "welfarist" suffering-reduction laws may argue that they also favor what is best for sentient beings: it is best for animals to have rights

and not to be oppressed under speciesism. I concede this last is true in the “timeless” abstract: that is why rights are advocated to be entrenched as soon as can be. It is vital—although by no means easy—to distinguish between the best that is *conceivable/imaginable* and the best that is *really possible*. The latter is what is relevant in seeking what is best in a dilemma, since indeed there would *be* no dilemmas if the best we can fantasize were always really possible. Abolition is not the best that can be realized for animals in the concrete short-term, in terms of what is really possible, so doing nothing to affect current laws, or futilely advocating only rights or strong proto-rights, may sometimes be inconsistent with a sentientist ultimate principle of moral rightness: doing what is best for sentient beings. If the best that can *really* be achieved in the short-term is cage-enlargement, then that is what is best for animals in the short-term. It would be difficult to argue that it is actually *better* for animals in the short-term to suffer horribly cramped quarters, let alone *best* for that to be the case. Anything better is further progress towards what is best—the converse cannot be gainsaid, that what is worse is somehow progress towards what is best.

I also reverse the charge of complicity. I argue that there is tacit or passive complicity in *allowing* the wrongs of cruelty to continue without effective challenge, or permitting them to continue longer than necessary, or failing to do what is most conducive to animal *rights* by failing to advocate such “welfarist” suffering-reduction laws (more on this below). Indeed, by not favoring what is best for sentient beings at every turn, one is in danger of being complicit in wronging these beings. This is not to say that a pragmatist would automatically donate \$100 to groups promoting larger cages. I might give it to a group promoting veganism. But I would not criticize but rather support the United Farm Workers, founded by Cesar Chavez, who are trying to improve conditions for workers and animals alike.

Of course not everyone need agree with my ultimate ethical principle. Some people might act *only* for animal rights. But to me that is like idol worship—performing excessive homage to a mere thing. The “real” solution, to me, is doing what is morally right at every stage of personal and social development. Now Francione will say that not rights but “proto-rights” are best for animals in the short-term. So rather than urging tactics that “merely” *reduce* suffering, he favors measures consistent with *abolishing* suffering altogether. He is right that this *is* concretely best in the short-term *if it is possible*, but if it is not, I argue that “merely” reducing suffering may be the best for animals that can really be achieved. Less suffering is often better for animals than advocating a proto-right only that dies in a legislature, leaving in its wake a largely wasted campaign (save for its educational value—although it may teach wrong lessons about animal rights law unlike wiser campaigns).

It will be objected that of course *all* principles, including proto-rights, are advocated for the sake of sentient beings. However, one can agree that *any* ethical principle, including that of ethical egoism (which is hostile to animal rights¹⁵), ultimately has significance in relation to sentient beings. The real issue is: what is *best* for sentient beings? Again, it seems that—failing the obtainability of strong (proto-)rights—that option (3) which permits “welfarism” secures what is really best for animals in the short-term. I agree that animal rights laws are really as well as conceptually best for the long term. The issue under consideration here is *what is really best for the short-term*, and what is really best for the long-term does not settle that issue. As Paul Shapiro (formerly of the group Compassion Over Killing), wrote of banning battery cages for “laying hens”: “We should not be willing to abandon millions of animals to endure significantly worse cruelty than they have to.”¹⁶ By the way, when I speak of what is best for animals, and animal rights pragmatism, I do not advocate utilitarianism, or “optimal utility.” I speak of securing what is best for you, me, this

sentient being, that sentient being, up to and including all of the subjects of rights that there are rather than optimal utility.¹⁷ This vision is strongly suggestive of individual rights. For now, I have at least tried to clarify why there is no objectionable complicity, or partnership in wrong-doing, because rights themselves arguably get their justification from the supreme principle of moral rightness—doing what is best for sentient beings—and that supreme principle tells us that concrete options falling short of rights are in fact sometimes the best that can really be won for nonhuman sentient beings in the legislative short-term, or at least such measures may be significantly better than the status quo or other non-viable proposals.

We can move towards the goods named by animal rights (including freedom and welfare on my framework) by degrees. I favor short-term laws that approximate animal rights in the greatest degree. Laws permitting factory farming are *non-animal rights laws*. However laws banning factory farming may be *proto-animal rights laws* in my sense although not *necessarily* in Francione's sense (e.g., pragmatists may accept larger cages unlike Francione). Note that proto-forms need not even be much recognizable, like a redwood seedling or sapling may not be seen for what it will become. Thus proto-animal rights laws need not much resemble animal rights. Banning whole areas of exploitation such as animal circuses are by contrast very strong forms of proto-animal rights laws.¹⁸ *Securing maximum proto-animal-rights law* I argue is a goal of progressive animal rights law.¹⁹ Animal rightists must as surely be concerned with proto-animal rights law, even in certain cases modest degrees of it, even as farmers are concerned with proto-forms of plantlings before the harvest. Francione's proto-rights require *eliminating* suffering when suffering is an issue, but my proto-rights view allows substantial *reduction* of suffering as well. I will illustrate this contrast with examples later on.

I speak of animal suffering-reduction in the *shortest* term because animal rights will displace “welfarist” laws as soon as possible. I do not embrace “gradualism” in the sense that there is a right and proper series of stages short of animal rights to go through—by all means let us skip stages as we can. I argue that two single-minded approaches are morally indefensible in light of my arguments: (1) calling for animal rights—or parts of them—without suffering-reduction,²⁰ and (2) Bernard Rollin's profession of animal rights as a personal ethic but giving up on its political advocacy because he deems it to be a hopeless cause at the societal level.²¹

It may be objected that we do not propose abolishing child abuse by degrees or asking to make it merely “kinder.” However this is not an analogous case, since there are already laws and norms against such abuse. Even calling for the norm in child abuse cases means calling for its end, since that form of violence is normally unacceptable in modern societies. But calling for “normal treatment” of animals merely invites further abuse of these beings. Normal treatment of farm animals means confinement, tail-docking, other cruel treatments, and death at the slaughter-house. People can in effect shut down child abuse by exposing it, but exposing factory farms does not now lead to their closure. Ongoing calls for eliminating animal abuse still go largely unanswered. Anti-speciesism is morally right as a general ideal, but that ideal rightness does not make anti-speciesism a practical possibility to realize in the legislative shortest-term.

If we confuse the long-term and the short-term, and ultimate and subordinate ethical principles, there is a superficial appearance of inconsistency: acting in breach of animal rights. But there is no deep inconsistency if one acts in accord with a higher principle of moral rightness in the long- and short-terms. Now if speciesists attempted to be rigorously humane the world over, we should simply advocate strong (proto-)rights flat-out as the best thing for animals, but that is lamentably far from being the case. Francione may have

outlined a progressive insistence for later in history. What is best for animals is partially time-sensitive, for although abstract ideas of the best may to some extent involve timeless absolutes, concrete realizations of the best are dependent upon what is available in specific contexts.

Part of my framework is that full animal welfare can be a positive thing. Indeed, I argue that we should eventually, once speciesism is abolished, entrench a right to welfare (in the true meaning of this last word, without quotation marks) for humans and other animals. It throws out the baby with the bathwater to not designate a right to welfare out of misguided opposition to speciesist forms of “welfarism” as temporary measures, or out of opposition to utilitarianism (the purpose of which is to maximize welfare in a sense). It can be appealingly suggested that animals have a right to welfare if they have a right to respect. If we only grant animals a right to life and freedom, they may live long and roam widely but still be abused and made miserable. Welfare or well-being is rooted in the idea of the good. No one can respect anyone while negating their good.²² It would be odd to advocate an ethic that is unconcerned with the good of animals. There are degrees of well-being, and merely abolishing factory farming, while “welfarist” in a speciesist sense, would nevertheless bring the oppression of welfare that much closer to zero than no change at all. Something is often better than nothing.

We cannot disregard animal welfare any more than we can morally disregard human welfare. There is a continual storm over human welfare issues. The issues of a minimum wage, unemployment insurance, welfare payments, disability support, old age pensions, standards for treating prisoners, arbitration of labor disputes, job security, state-sponsored medical care and so on often have human welfare as part of their justification. On my reasoning, it would be speciesist to allow for human-centered, *truly* welfarist legislation but to disallow non-speciesist welfare in the case of other animals.

By contrast, Francione’s negativity about animal welfare is revealed when he takes exception to the following statement by abolitionist Zoe Weil: “Animal welfare *does* mean something good and positive.”²³ He just objects to this statement in passing, without indicating what is wrong with it, even though he himself explicitly supports what he calls “micro” animal welfare (see below). Perhaps he has a point if he insists that we should say that animal welfare *can* mean something good and positive, but it *does* not necessarily—depending on the sense of “animal welfare” being used. Weil might rightly respond that welfare always does mean something good and positive if we are discussing *true* animal welfare.

Francione is erroneous when he writes that “no form of animal welfare has ever challenged the basic assumption that animals are somehow ‘inferior’ to humans and that humans are justified in exploiting animals,”²⁴ and also in his claims that “animal welfare...though it comes in many different shapes and sizes, always endorses some version of instrumentalism, or the treatment of nonhumans exclusively as means to human ends.”²⁵ An animal right to welfare in a non-speciesist society easily belies Francione’s statements. He also points out that since the enemies of animal rights support animal “welfare,” therefore we should distance ourselves from that idea.²⁶ This commits the genetic fallacy of rejecting something based on its origin. We do not reject the use of money because Nazis used it. In fact it would be a travesty to leave the defining of “animal welfare” to the enemies of animal rights. Crucially, Francione fails in these above-cited remarks clearly to distinguish different senses of “animal welfare.”²⁷ Dunayer makes the point that if we have to choose between animal liberation and merely improving conditions for animals we should

choose the former.²⁸ I agree, but that is a false dilemma. I have argued that in some cases, strong “welfarism” in the shortest term *and* animal liberation in the shortest term is best.

III. Short- and Long-Term Effectiveness: The Example of Sweden

It is useful to distinguish between short-term and long-term efficacy. The two are ideally linked: short-term effects at their best will promote, or at least not negate, long-term goals—in this case animal rights. Short-term effectiveness means the aptitude to be *successful* in achieving the best possible immediate results while also striving for long-term goals. I do not think it is up for debate that in an intensely speciesist society, “welfarist” suffering-reduction law is more likely to be achieved in the short-term than Francione’s more ambitious proposed measures, which we will see aspire to either wholly protecting an animal’s interest (although actually, his proposals often amount to less than that) or abolishing a facet of animal exploitation. For Francione to argue that his proposals are more likely to be successful in the short-term, he would have to say either that achievability is not a factor in short-term effectiveness, which is unintelligible, or that his proposals are more realizable in the short-term, which is unbelievable.

Now for long-term effectiveness. Promoting kindness I argue is not a stumbling-block for animal rights. On the contrary, animal rights seems *ridiculous and contemptible* in an unkind society. In countries with no animal welfare laws, such as China,²⁹ there are few vegans and animal rights sympathizers.³⁰ Therefore there are fewer animal rights law advocates. Therefore, straightforwardly, there is far less democratic potential for animal rights law in a cruel culture. Kindness promotes a concern for animals’ goods such as freedom and well-being, and rights would protect similar goods. Therefore the opposite of animal rights is not animal “welfare,” but subjecting animals to unmitigated misery such as commonly occurs on factory farms or in nations without a broad culture of animal concern. Any significant kindness can enhance both the lives of animals and, to some extent, a culture of kindness towards animals. Animal rights advocates need to believe that kind—indeed very kind—culture is possible, although admittedly great social, economic, and political changes may be necessary first.

Yet Francione argues that the “kindness” approach of “welfarism” is futile. He writes that “because animals are property, the prohibition on the infliction of unnecessary suffering is wholly without meaning.”³¹ However pragmatists might point to the example of “welfarist” banning of factory farming in Sweden which is meaningless neither semantically nor in terms of its significance for animals. Sweden banned anti-biotics,³² which are a staple feature of factory farming since animals cannot survive in intensive confinement conditions without such drugs, and indeed the drugs are also used as de facto “growth-promoters.” As a result, Swedish law mandated that pigs have more room, better surroundings, less stress,³³ and straw bedding.³⁴ Sweden also banned the farrowing crate³⁵ which cruelly confines sows while they suckle their offspring. In general legal “welfarist” changes in Sweden mean that animals spend more time outdoors, have toys for mental stimulation, and have greater stall space.³⁶ As well Swedes have banned battery cages for hens³⁷ and *foie gras*³⁸ (force-feeding ducks and geese to promote a fatty liver). Sweden has also outlawed the leg-hold trap³⁹ and has signaled its intent to prohibit “fur farms.”⁴⁰ This last example shows a “welfarist” culture making progress towards banning animal exploitation. These laws were enacted for “welfarist” reasons. Francione can rightly point out that his proto-rights might support some of these bans such as banning the leghold trap.⁴¹ He notes that “incremental measures that are acceptable to welfarists and to rights advocates may very well overlap.”⁴² So why is

it that Francione's proposal is part of a potent movement for animal rights, but an astonishingly similar ban from a "welfarist" is futile?

Francione proposes various reasons why "welfarist" initiatives cannot work for animals so long as they are regarded as property. Still, he does not say that only rights advocacy leads to rights since instead he favors strong proto-rights as a precursor to full rights (elaborated in section IV). I will summarize his reasons why "welfarism" is useless in his view:

- (1) Such laws would create complacency that animals are well-treated and thus lead to more animal consumption;
- (2) Empirically it cannot be shown that "welfarist" laws have been good for animals;
- (3) So long as animals are property, only the owners' interests will be considered, such including how to exploit the property more efficiently;⁴³
- (4) Property (in this case animals) cannot have legal relations with owners or other property, so animals as property cannot have rights against mistreatment;⁴⁴
- (5) "So long as animals are viewed as property, if they have no market value, then they have no value at all,"⁴⁵ he argues, giving the poignant example that if a veterinarian negligently kills a cherished family pet, only the fair market value of the animal can be recovered⁴⁶;
- (6) A pen cannot have rights against its owner and animals are also property, so animals likewise cannot have their interests balanced against owners' interests⁴⁷;
- (7) there is a presumption that "animal property" owners "look after" animals or they would not be able to rear them for use⁴⁸; and
- (8) Animal "welfare" laws are not adjudicated in the animals' favor, penalties are minor, judgments in favor of animals are typically not enforced, anti-cruelty laws require proving cruel intent (it is almost impossible to prove a mental state)⁴⁹ and many species of animals are legally exempt from lawful protection.⁵⁰

I think that Francione has not demonstrated the futility in question given his reasons. Leaving aside (1), the complacency and increased consumption issues, for section VII below, we can respond to point (2) by way of the empirical example of the Swedes abolishing of factory farming, which occurred despite the pleas of animal proprietors; these measures were not passed using his proto-rights model but rather "welfarist" principles. The last example also disproves his contention (3) that only human interests are considered while animals are property since the animals' own interests are considered, such that animals are not merely subject to the will of owners. Moreover, it shows (4) possible legal relations between humans and animals-as-property, and debunks point (5), since animal interests are protected and valued in Sweden even if it means less profit for farmed animal industries. His pen analogy (6) is misleading since pens have no interests, but welfarists at times recognize interests in the case of animals.⁵¹ The Swedes did not presume (7) that owners "look after" their animals. In a country with a greater kindness culture, a pragmatist would expect, as regards (8), that animal welfare laws may become more fairly adjudicated, penalized and enforced. Fewer if any species of animals would be exempt from legal protection; such a culture could also reject proof of mental state requirements for anti-cruelty statutes. Francione cites many important complaints against contemporary animal law that do not demonstrate so much the futility of reform as the utility and *urgency* of needed reforms. He writes: "The status of animals as property renders meaningless our claim that we reject the status of animals as things,"⁵² but again, no such pessimistic exaggeration paralyzed the minds of the Swedes. Francione defines *legal welfarism* as that "which comprehends animal welfare as that level of animal care that will efficiently facilitate the exploitation of

nonhuman property.”⁵³ For example, animals will be kept alive and “well” enough for slaughter. Francione’s concept of legal welfarism is a clear misnomer, however. Swedish legislators succeeded in passing laws that constrained profit-making by protecting animal welfare to some extent.

The European Union’s abolishing of the battery cage will no doubt not respect hens’ full liberty of movement via, in effect, a lovingly designed bird sanctuary (only loving or at least “most caring” regard I find fully respects interests). Francione’s proto-rights seem to require respect for full liberty of movement. Yet it is *better for animals* to ban battery cages now—which is part of my version of animal rights pragmatism. As argued above, even “welfarist” laws can conduce towards animal rights by shoring up a culture of kindness rather than cruelty—an objective that is hardly futile. A culture of cruelty cannot take animal rights seriously, and there are more animal rights activists and advocacy groups in countries with laws requiring “animal welfare” in some form. We are by no means at the end of any test period which has shown the failure of advocating animal “welfare” laws as a partial means towards animal rights, especially since animal rights advocacy itself is relatively novel in historical terms. There are forward and backward strides, but overall one would expect incremental progress along animal rights lines in a kinder culture rather than a less kind one. Animal rightists *more than anyone else* need to believe that progress in all areas of animal law is possible, although euphemistic “humane” standards (as in the use of deceptive language) and lack of enforcement, for example, can present a discouraging picture at times.

Still, just because I favor laws that have the most concrete benefits for animals does not mean that I have to advocate the *language* used in certain laws and policies. Having long-term goal of *animal rights* means a certain dissatisfaction with suffering-reduction laws. Whole Foods is a commercial food chain operated by a vegan, John Mackey, who sells what is called “humane meat” using so-called “compassionate standards” for “meat production.” While legislatures cannot be made to pass animal rights law in the short term, nothing compels animal rights supporters to call meat-eating “humane” or “compassionate,” even if intentions along these lines exist.⁵⁴ Co-option of animal rights discourse need not be an option. We need not agree with wording of laws, but in any event the concrete short-term and long-term implications are more significant for animals than the words.

To be clear, animal “welfarist” laws do not play a “causal role” in abolition as Francione claims supporters of such laws believe. I do not know anyone who thinks that just creating “welfarist” legal reforms will somehow magically bring about abolition all by itself. Indeed, “welfarist” reforms do not even contain in them anything directly related to abolition, and therefore such laws are obviously insufficient *causes* to bring about the destruction of speciesism. Fundamentalists tend to consider causation in black and white terms. So if “welfarist” laws do not “cause” abolition, they are prepared to reject such proposals as doing more harm than good.

Here I make a relevant distinction between causation and what I call “conduciveness.” In causation, if A causes B, then A being present ensures that B will come about. In conduciveness, if A conduces to B, then A may make it more likely that B will occur, *in conjunction with other factors*, but does not guarantee its occurrence and in many cases one can have A without B occurring, or A at first leading to an improvement in the form of B and then a regressing even to a state worse than A. I am not saying that so-called “welfarism” causes abolition, then, but that “welfarist” norms *favorably influence* abolition to grow as I have argued above, like good conditions for growing a plant. Sunshine, water, air and soil do not *cause* a plant to be—these conditions can exist without any plants—but are *part* of what favorably conduces towards growth. A plant could still suddenly die of drought,

but this does not change the fact that the conditions aforementioned are generally favorable to plant growth. The plant can only come to be in a place by appropriate seeding or transplanting. Radical⁵⁵ abolition can only be caused by abolitionist tactics, not only by the “sunshine” of kindness to animals.

According to the principle of sufficient reason, a politically distinctive demand for abolition must eventually move the body politic to abolitionism for the cause to succeed. Abolition needs to grow in people’s minds using the seeds of education and to be transplanted into the minds of others. Conduciveness is admittedly a bit of a hit and miss matter. Still, it is not blind faith but what *tends* to work pragmatically that makes one put stock in what is conducive. Textbooks do not “cause” learning but often conduce towards it in concert with other factors. I have clearly argued above how “kind culture” is more conducive to animal rights and how unkind culture is conducive to the absence of animal rights in the long term.

IV. Francione’s Program of Incremental Reform Based on Proto-Rights

We now turn to Francione’s proposed program for acceptable legal changes for animals which incorporates both ethical principles and strategies for effectiveness. Although Francione fails to show that “welfarism” does not work, he nevertheless advocates incremental reforms based on what he calls “proto-rights,” which are supposed to have moral integrity in contrast to “merely” affording less suffering for animals. So Francione does not criticize activists for falling short of animal rights in the law but rather for failing at least to institute proto-rights in his sense. In fairness, he states that one can reasonably abstain from any sort of legal initiatives at this point in history.⁵⁶ Rather, one can mobilize to educate and engage in protests and boycotts,⁵⁷ but especially vegan education.

He notes that animal rights advocates will not gain “insider status” with governments and will not be taken seriously as reformers because they are too radical.⁵⁸ He calls insider-status-seeking “counterproductive” because it would mean having to give up animal rights advocacy,⁵⁹ which he calls essentially an *outsider* position. This need not be the case, however, since one can massively advocate animal rights in the short-term for individuals and animal rights law in the long-term as PETA does. He predicts the animal rights movement will lose its radicalism in proportion to how much it seeks “insider status.”⁶⁰ This implies a distancing from the entire legislative process.

He states that legal reform must be concerned with the interests that animals would have if they were no longer considered property,⁶¹ which go beyond the “welfarist” interest in reducing pain and suffering.⁶² Francione’s program seeks to “abolish the institutionalized exploitation of animals, the treatment of animals exclusively as means to ends,”⁶³ and insists on a “claim against *instrumental treatment*.”⁶⁴ Francione characterizes a right as a prohibition imposed “not to interfere with the right-holder’s interest protected by that right.”⁶⁵ Examples of interests that may be protected by rights which Francione discusses are bodily integrity and liberty of movement. He gives no complete list of interests to be protected by rights. So his proposals must be consistent with the inherent value of animals and not merely make the exploitation of animals more profitable, and the measures must not involve a substitute form of exploitation.⁶⁶

Important to Francione’s proto-rights thinking is that a *whole interest* must be respected. So for example confining fewer hens to a battery cage is not consistent with a hen’s “freedom of movement...appropriate to their species.”⁶⁷ Also, he rejects restricting vivisectionists from doing experiments with a certain rating on a “pain scale” since that “includes the implicit judgment that some forms and amounts of pain are acceptable.”⁶⁸

Another acceptable ban would be “a complete ban on experiments that cause pain in animals without complete and effective pain relief,”⁶⁹ which would *completely* respect the interest in not feeling pain. Now this would permit vivisection *with* anesthetics, violating bodily integrity, but he is only suggesting the ban completely protects one interest, in not feeling pain, not that it ensures all interests protected by rights. I add there would also be acute psychological or emotional pain resulting from confinement in laboratories— anesthetics cannot remove all pain. He would approve of banning dehorning and castration of bulls,⁷⁰ and while this would not completely protect the interest in bodily integrity of the bulls (these cows might still be branded for example and will be sent to slaughter), and thus may be seen as self-contradictory, it may still be consistent with his emphasis on banning particular activities or behaviors and his concern to prohibit insults to bodily integrity by concrete increments.

Other examples include banning vivisection involved in products-testing and drug-addiction experiments.⁷¹ Here again no interest of animals is completely guaranteed as in true rights, since other experiments would be allowed, but proto-rights proposals may be seen as consistent with achieving increments against animal exploitation or instrumentalization in a different way: a part of that exploitation itself is eliminated. So although Francione does not explicitly distinguish between these options, there are two ways he seeks to make legal increments against animal exploitation: (1) by prohibitions consistent with a complete protection of some interest(s) that rights would respect, e.g., freedom of movement; (2) chipping away at *kinds* of exploitation, e.g., drug-addiction experiments, although exploitation is not ruled out completely.⁷² So Francione at most protects whole interests only in a loose sense since he might only do so with respect to proscribing some practices within areas of exploitation (e.g., dehorning bulls) but not others, or with respect to banning some areas of exploitation (e.g., commercial products testing) but not similar kinds of utilization (e.g., medical vivisection).⁷³ In any event, Francione’s proto-rights are justified not only as an efficient means towards true abolition, but as being of constitutive value by achieving a piece of abolition in the present.

It may be thought to be speciesist to support the Great Ape Project, or according rights only to some apes, since socially, these animals will be preferred on speciesist grounds such as resembling humans in various ways. However, although this outcome would be inconsistent with animal rights, it may accord with *imperfect* proto-rights, because again a kind of exploitation is ended. Francione has since withdrawn his support of the Great Ape Project in early 2007 on Vegan Freaks radio since he believes it would use speciesist criteria of personhood. He supports pursuing great ape personhood at a later time when sentience can be used as a criterion. By then, I think, society would already accept animal rights. He is giving up an important achievable increment that is consistent with abolishing an area of animal exploitation, a general idea that he now accepts even if other speciesist exploitation persists. Here he is inconsistent, unpredictable, as well as spurning what is best for animals in the short-term. Asking for too much conduces not towards what is best, but at most leads to “too little, too late.”

Francione proposes the following criteria for the incremental eradication of animals’ property status rather than an incremental reduction of pain and suffering.⁷⁴ He intends this platform as a “conceptual rallying position”⁷⁵ for animal rightists:

(i) An incremental change must constitute a *prohibition*, meaning that it must prohibit some reasonably identifiable behavior or a particular practice⁷⁶ since merely demanding that animals be treated “humanely” or without “unnecessary suffering” has no content and “no

one is under any obligation to refrain from any particular action”⁷⁷ and in that case the property owners’ interests will normally prevail. Although not a true right, the proto-right prohibition would entail definite protection like a right.⁷⁸ He reserves “prohibitions” for these short-term incremental goals—which also meet criteria detailed below—and “abolition” for the long-term goal of animal rights.⁷⁹

(ii) The prohibited activity must be *constitutive* of the exploitive institution. It might be objected that banning dehorning is not constitutive of animal agriculture because the latter can carry on without dehorning, but again he is targeting particular practices with good reason, so what is “constitutive” of animal agriculture for Francione’s purposes will be particular practices rather than what is essential to any or all animal agriculture.

(iii) The prohibition must recognize and respect a *noninstitutional animal interest*. By “noninstitutional interest,” he means that there must be a protection of the animal’s interests that goes beyond merely maintaining the animal so that he or she can be (more) profitably exploited. Noninstitutional interests are those interests that the animal would have if not reduced to the status of property. For example, avoiding injury to animals just so that meat carcasses are not damaged is insufficient.⁸⁰ The “wise use” of animals is not enough, and typically, there will be an additional cost to the owner of the animal.⁸¹

(iv) Animal interests cannot be *tradable*, which means that the animal interest cannot be overruled or “balanced away” by a human benefit such as profit or use-value⁸² such as slaves’ interests being ignored “whenever they conflict with the interests of their master.”⁸³ Finally,

(v) The prohibition *shall not substitute an alternative, and supposedly more “humane,” form of exploitation*. An example would be forbidding vivisection on dogs and providing that pigs be used instead which would be speciesist⁸⁴ and be a “moral conflict with rights theory.”⁸⁵ The only exception to substitute exploitation could be an alternative arrangement that eradicates an activity constitutive of institutional animal exploitation through the full recognition of animal interests,⁸⁶ e.g., a fully generous hen enclosure. Not substituting exploitation is crucial since otherwise exploitation continues in a regulated or reformed way, and there is no chipping away at exploitation itself by taking out a whole piece of it.

He warns that these criteria are imprecise⁸⁷ and “imperfect because none will succeed in securing the basic right of animals not to be regarded as property.”⁸⁸ Rather he seeks “to approximate some moral idea in a sensible way.”⁸⁹ Primarily seeking to act for *ideas* rather than sentient beings is actually central to what he is attempting as I have argued in II. Still, his strategy allows an alternative to simply demanding an end to all animal oppression. Francione writes: “*the basic right not to be treated as property is a right that does not and cannot admit of degrees.*”⁹⁰ Yet he speaks of “trying to chip away at the property status of animals and move in the direction of establishing their personhood.”⁹¹ It may seem superficially inconsistent that the right not to be treated as property is not a matter of degrees and yet you can chip away at it—are not the “chips” themselves degrees? Francione can reply that rights are not a matter of degrees but proto-rights are. The entire right not to be considered property would include a number of subsidiary rights, e.g., freedom of movement and bodily integrity, etc., being protected at the same time. That is an all-or-nothing logic. But one can still chip away at property status by guaranteeing a single interest such as liberty of movement, even if one does not protect all of the interests that full animal rights would provide for.

We must be careful not to object to Francione's legal proposals because they are "welfarist" in his sense of merely regulating animal exploitation without abolishing it, or treating animals more "humanely" while instrumentalizing them. It is true that the animals are treated better, and there is no wholesale abolition. However, he does seek to contribute immediately and in the long-term to abolition with the particular prohibitions that he sets out, and also to strongly recognizing animal interests so that sentient beings are not treated as mere instruments. He does not pretend to perfect abolition or de-instrumentalization, but only to imperfect increments of a very particular sort.

V. Protecting Whole Interests: Would-Be Justifications and Objections

Francione oddly does not make complete interest-protection an explicit part of his five criteria for incremental reform, although we have seen it prominently figures into his thinking. Indeed, the issue of whole-interest-protection seems to crystallize the key area of contention between animal rights pragmatists and the fundamentalists who follow Francione. Both agree to proposals that are imperfect compared to animal rights, and the main issue is a contest over the size of "pieces of rights" that are acceptable. Noninstitutional animal interests are to be wholly respected according to Francione. Eliminating practices constitutive of exploitation and restricting against substitute forms of exploitation both ensure that specific types of insults to interests are gone and not replaced by practices that merely degrade the insulted animal interest(s) less. Proscribing "tradability" of interests does not allow degrading of an interest in question to any degree for human gain. So whole-interest-protection interweaves with his criteria of incremental reform.

Francione also devotes scant attention to *justifying* this key part of his thinking. He seems to take it for granted that his interpretation of animal rights law is uncontroversial:

I think that these aspects of rights theory are relatively uncontroversial—not, of course, in any absolute sense, but rather in that anyone who identified herself as an advocate of animal rights would probably agree that these are key aspects of rights theory and with the content of these assertions.⁹²

Among the assertions referred to here is that "we cannot endorse the sacrifice of fundamental interests of some animals today in the hope that other animals tomorrow will no longer be treated as the property of human owners."⁹³ Apparently, not sacrificing interests means respecting whole interests. However, this simply begs the question. Calling one's own position "uncontroversial" does not preserve it from controversy.

Consider now his claim that "the rights advocate cannot endorse the sacrifice of fundamental interests of some animals today in the hope that other animals tomorrow will no longer be treated as the property of human owners."⁹⁴ Suppose there is a "welfarist" law proposal prescribing larger cages. Pragmatists might intend this measure just for the sake of the animals now suffering under exploitation. The new law need not be seen as treating contemporary animals as a means to the end of serving future animals. Not treating others as a mere means, the core Kantian idea here, entails treating someone with substantial respect for their interests. However, suppose that demanding 100% of an interest protection results in no legal progress. This would not serve the interests of present-day animals. Indeed, *there is no better regard for the interests of an individual than doing what is really best for him or her at any given time.* More than the best possible no one could reasonably expect. So the "welfarist" need not treat animals today as a "mere means"—on the contrary.

A variation on Francione's assertion is that it is wrong "to disregard the rights of animals *today*...in the hope that some other animals will have rights *tomorrow*."⁹⁵ Pragmatist support for "welfarist" measures does not exclude animal rights. Animal rights pragmatists

also advocate animal rights today. Thus they do not “disregard” these rights. Asking for animal rights to be legislated a.s.a.p. makes a demand not just in the long-term but in relation to the present. However, pragmatists also have regard for what they perceive as a higher principle of moral rightness: advocating what is really (and not just conceivably or imaginably) best for sentient beings. If pragmatists advocate “welfarist” suffering-reduction laws this does not “sacrifice” animal rights in time frames in which such rights are not ours to gain in the first place.

Recall his claim that a pain scale which only rules out extreme pain is wrong because he said that would imply that other degrees of pain are acceptable. Thus the whole interest in not feeling pain must be legally protected. However, this criticism can redouble back on Francione’s own arbitrary and incomplete securing of protection for animals. If cows are not dehorned but still branded, does that not on this logic imply that branding is acceptable? Or if the interest in freedom of movement is respected but bodily integrity is not, does that imply that violating bodily integrity is condoned? Or if one area of exploitation such as drug addiction experiments is banned and others are not, does that imply that these other areas are legitimate? Francione cannot self-consistently deploy this argument against an incomplete protection of interests since his proto-rights proposals also leave interests unfulfilled. He does not approve of areas that are unprotected but neither do many animal rights pragmatists. So Francione’s strategies for justifying protections of only whole interests fail. Perhaps he rather has in mind an implicit justification which he does not come out and state. Fundamentalists may think it is self-evident that preserving whole interests are what rights do, and that rights are what we ultimately act for, and so anything else is wrong. Yet the findings of section II. above show that (as with so many aspects of this whole discussion) the case is not so simple.

Now here are 10 objections to his insistence on the protection of whole interests:

(1) Partial relief is *in the interests of animals* if entire relief for the frustration of a given interest is unavailable. *Rights themselves have no interest whatsoever in their own fulfillment*—they are implemented exclusively for the sake of sentient beings. Crucially, Francione agrees with Singer that “it would be better for ‘food’ animals if we adopted free-range farming and discontinued factory farming,” but Francione does not support all aspects of eliminating factory farming, such as replacing tiny enclosures with more generous ones, because he is “trying to approximate [the] moral idea”⁹⁶ of rights. He prefers what is “better” for rights in the unrealistic, timeless abstract to what is better for animals by his own admission. And this even though rights or strong proto-rights are often not even a *possibility* in the foreseeable short-term, although what is really better for animals might be possible. If animal rights cannot be obtained in concrete reality, then they are not a “better real option” if it is not a real (as opposed to merely conceptual or imaginary) option at all, or the best that can be realized in the immediate short-term. Rights are only part of what is really better if they are part of what is possible in reality, which they may be one day for legislatures but maybe not for now. Those who do not separate what is really better from what is conceptually/imaginably better are partly living in a fantasy world when it comes to reckoning the nearer future. We should not lose sight of reality in an obsession with ideals. While rights may one day help fully to secure true animal welfare by eliminating unnecessary suffering, reducing animal suffering short of rights now makes animals better off too. A larger hen enclosure respecting 80% of an interest—which runs afoul of Francione’s standard—can be *much* better for animals than continuing utter disrespect, as in factory farming. We must not treat animals as “mere means” towards animal rights, or omit to

secure their interests because we try misguidedly to serve timeless abstractions as wholes above all—like Plato’s Forms—more than animals. That is what Francione in effect does.

(2) Francione might think that rights activists by nature demand *strong* protection for prospective rights-holders, and whole interests are stronger than parts.⁹⁷ However, there is nothing weaker than futility. It is much stronger to achieve substantial progress rather than none at all in the short-term. I additionally have argued that unkind culture delays in precipitating the absolutely strong long-term goal of total liberation.

(3) Francione already accepts partial fulfillment of rights by only respecting some interests named by rights and not others (e.g., freedom of movement but not at all bodily integrity—part utopia and part utter distopia), or by only protecting rights-interests somewhat by prohibiting some practices that contravene the interest, say, in bodily integrity, but not others (e.g., by prohibiting dehorning but not branding of cows). If he already accepts these partial fulfillments of interests, why not a partial fulfillment in the sense of “merely” reducing suffering? There seems to be arbitrariness in accepting some partial fulfillment of interests but not others. Parts of interest-fulfillment are also part of rights, only they are smaller parts that may be more difficult to conceptualize precisely than the simpler formula of whole fulfillments of interests or whole lack of fulfillment of interests.

(4) Francione’s proto-rights can protect one interest but leave another completely unprotected (e.g., bodily integrity). So he will tolerate 100% of an interest not being respected. However, a pragmatist might support a “welfarist” measure that guarantees 80% of freedom of movement for hens. That implies the birds will lack 20% of free movement. Yet oddly, this missing 20% (which he will not abide) is a lesser imperfection to tolerate than the 100% (which he plainly accepts). I suppose he might reply that he does not accept partial fulfillment of interests because that is less like full rights-protection. Yet preserving part-interests also stake out part of rights-protection, and doing without the 100% is even more unlike rights protection. In any case, we cannot as rational agents ultimately serve rights, but only sentient beings. Progress for sentient beings can be assessed by the degrees to which their interests are served. “Welfarist” progress may not be part of rights in the way that one right is part of all rights, but generally animal rights cannot be had in the short-term anyway.

(5) Admittedly his way of falling short of pure animal rights may seem “neater” (i.e., more all-or-nothing) rather than going by degrees of interests that are ideally protected by rights, but rights themselves often progress by degrees of respecting interests anyway. Say the unemployed have a right to support from a modern welfare state. That support will fluctuate by degrees as different amounts and periods of compensation are legislated. So it appears dogmatic to declare that interests protected by rights cannot be a matter of degrees. A sophisticated understanding of rights already accepts full rights as protecting degrees of interests in the real world of political economy, which intrinsically involves negotiation. Let us say, then, that full rights-recognition refers to a range-property, which means that a set of possible protections may be acceptable. Not only proto-rights but rights themselves *already* involve degrees of protection of interests.

(6) We can use various analogies to illustrate that it does not make sense to disregard degrees of what is of value. Francione’s denial that we can make legitimate progress via protecting

degrees of interests associated with animal rights is like stating that, in assessing available water rations (partly analogous to precious animal welfare), only full bottles of water should count. Partly filled bottles are unworthy of either practical or theoretical attention. However, the water in the partly filled bottles may collectively be greater than the total quantity in one or even all of the full bottles. Likewise, partial recognitions of many interests may be “greater” than whole interest recognition in many cases in contemporary animals law (in which whole interests of animals are rarely respected). Maximal progress considers *all* degrees of progress, just as maximal savings in one’s bank account considers “small change.”

(7) Francione seems to assume that only laws containing part of animal rights in some sense—with full protection of interests—will lead to animal rights law, and that this will not happen with mere “welfarist” laws. However, this assumption is falsifiable. All that is needed for animal rights law is democratic support, or constituents who empower representatives to create such laws. A majority can create *any* kind of law, for better or worse. Thus far in history, our culture has given rise to many animal rights supporters *without* anything like strong proto-rights on the law books. Therefore, plainly, we can grow animal rights supporters without such laws. Laws are not induced mechanically due to the state of preceding law, as though people are mass-hypnotized by law books—which most people will never even read. Rather laws in a democracy are ideally determined by *people*. Saying we cannot go from, say, 70% of an animal’s interest being protected to 100% is just saying that people will never be convinced of animal rights if we secure animal “welfare.” This way of thinking seems unsupportable, as my next point will show.

(8) Francione would say that protecting 70% of an animal’s interest would be unacceptable because then no further progress would be made (soon enough) from there. So he would not advocate making things better for animals by a more modest increment. However, positive legal change for animals is largely a matter of public *motivation*. We need to be clear about what complete respect for animals would involve. It would involve: (a) protecting them against bad/harm, and (b) enhancing their good/benefits. Animal rightists to succeed need to inspire motivation to eliminate harms and to create great good for animals out of an abhorrence of harm and a love of the good. Respecting 70% of liberty of movement might eliminate harm but might not be as beneficial as possible. If we are **successful** in creating motivation for animals rights by inculcating a love of the good of animals, then progress upwards of 70% *will* be possible and indeed that is the only way we could ever get to 100% respect (i.e., by motivating people to have a sufficient love of animals’ good). We can also establish animal rights motivation *en masse* sooner by cultivating a kinder culture towards animals, including through progressive legislation. If we are destined to be **unsuccessful** (which I do not believe) in creating animal rights motivation, then 70% may be the best that humans could ever manage for animals and so on that scenario we should at least secure that. Either way (and thus the same applies if we are *unsure* of our ability to create animal rights motivation), it makes sense to aim for 70% in the short-term. We should not be afraid of “welfarist” successes or aim for the best only indirectly. Part of the fear of such success is the crucial problem of complacency (which I discuss in VII, Objection 2).

(9) Francione’s insistence on “imperfection” and “imprecision” with proto-rights is rather suggestive of the imperfect fulfillment of interests too. And finally:

(10) His own protection of whole interests is very loose and some would justifiably say not even truly the case (e.g., banning de-horning cows but not branding), so he may contradict himself in demanding only whole-interest-protection. He seems at times to advocate weaker proto-rights, in which only a degree of an interest is protected, after all.

Now let us reconsider Francione's key contention that we can only call for the complete protection of animals' interests. Recall his three justifications: that his stance is "relatively uncontroversial," that we cannot "sacrifice" animal interests today for animal rights tomorrow, and that a partial fulfillment of interests implies that partial violation of interests is morally acceptable. First I found that his three justifications fail; second, I raised ten relevant objections to his principle of whole-interest-protection. Therefore his principle should be rejected for the time being—although not necessarily for the future. One day, when there is sufficient public consensus against speciesism, it may be appropriate to insist that whole-interest-protection be legislated.⁹⁸ Until then, though, we should aim for strong proto-rights when possible, or else the best "welfarist" measures that can be obtained.

VI. Further Objections to Francione's Insistence on Strict Proto-Rights

Note that Francione objects to laws providing water to thirsty cows in slaughterhouses because that would condone animal slavery and exploitation⁹⁹ and presumably speciesism. However his own proposed laws, as amendments, would become a part of general agriculture laws which equally condone these same evils. So if speciesism and rights violations are still permitted, why not have a more imperfect approximation of rights through only *degrees* of protection of interests that would ideally be fully protected by animal rights?

Consider my example of a larger hen enclosure respecting 80% of the birds' interest in liberty of movement. The proposal might meet Francione's criteria (i) in that it is specific. It is not prohibiting a practice "constitutive" of exploitation, as in (ii), since it replaces the something with the same sort of practice only more generously. It respects a noninstitutional animal interest, as it costs money, as in (iii) although not fully, or not as though animals are no longer property as Francione would have it (respecting 100% of an interest). Animals interests are to some degree tradable, contrary to (iv), since limiting the size of the enclosure inevitably would take into account costs to exploiters at this stage in history. Finally, contrary to (v) this is indeed a substitute form of exploitation. The much larger hen enclosure contravenes the last four of Francione's criteria, although it reflects the good sense in (i) of requiring something specific. Yet the nature of this reform I have already defended ethically and in terms of effectiveness in earlier sections. It is only too easily possible to insist dogmatically on Francione's criteria, but it is not the most reasonable move or what is really best for animals as I have argued.

Recall that Francione considers "welfarist" laws futile to seek so long as animals are property. By the same logic, his stronger proto-rights would be even more fruitless to seek since they would be that much harder to obtain. (I am not saying his proto-rights, once achieved, would be futile in seeking animal rights—a different point.) In fairness to Francione, he seems to advocate abstaining from legal initiatives at this time in history. I argue however that such a strategy is not best for animals. Animals urgently need legislative relief right now.

Prohibitions are always negative, unlike regulations, although Francione illustrates that a prohibition can be used to secure something positive. One can prohibit that animals be deprived of water by vivisectors.¹⁰⁰ However he denies that giving treats to hens would

prohibit an activity that is constitutive of the hens' exploitation.¹⁰¹ This seems arbitrary. Part of their exploitation and being treated as a mere means is being deprived of positive benefits, and treats, amusements, or ways of relieving boredom can make animals considerably better off, which again is my bottom line, rather than exclusively Francione's abstract model of rights-realization, as important as rights are.

Francione's program of highly restrictive incremental reforms condemns substitute forms of exploitation. Yet although he supports a ban of the leg-hold trap and would not accept a substitute of a padded trap,¹⁰² the fur industry, if permitted to do so, will predictably turn to a substitute: fur-ranching. The animals and the exploiters would agree (if they were in a position to judge) that substitute exploitation is occurring in such an instance but not Francione. He writes evasively, "that the rights advocate cannot fairly be made to account for what others do to effect other types of exploitation."¹⁰³ He gives the example of ending child slavery in factories, noting that it would not be activists' fault if the children are forced into prostitution instead. Of course activists are not to *blame* and we would celebrate the banning of the leghold trap, but it does not alter the fact that fur-ranching may be a substitute form of exploitation *specifically* for the leghold trap: they are not relatively unrelated areas of exploitation unlike factory work and prostitution. He supports prohibiting chimpanzees being used in experiments so long as it is not specified that dogs will be used instead.¹⁰⁴ However, if experiments are prohibited for one species, experimenters will tend to use other species. Laws, their meaning, and significance have force due not only to what they say, but *what they do not say* (and thus do not prohibit). Thus certain laws which Francione approves passively encourage the substitute use of animals of permissible species.

VII. Fundamentalist Objections to "Welfarist" Laws

Now we turn from objections to Francione's incremental reform strategies to further consider his and Joan Dunayer's objections to so-called "welfarist" laws.

Objection 1: "Welfarist" suffering-reduction laws are inconsistent with animal rights and are therefore unethical to support.¹⁰⁵

Reply: I have already answered this objection but it may be helpful to recapitulate here: we cannot always use rights reasoning in moral dilemmas, such as in the legislative short-term, and strong proto-rights might not be the really best that can be secured for animals in all cases. My philosophy of pragmatic reforms is a self-consistent position that incorporates animal rights, and is consistent with Francione's own "burning building" reasoning. Also, since Francione is speaking of consistency with animal rights, he ought to favor not only what *causes* animal rights, but what is *conducive* towards animal rights. I have argued that current laws which permit any amount of cruelty, e.g., in factory farming, are not conducive towards kindness. Only a culture that is kind—if only by imperfect increments, such as the banning of factory farming—can be receptive to animal rights. A culture of cruelty finds animal rights to be ridiculous and an object of deprecation¹⁰⁶ and also is likely to produce fewer animal rights supporters. In summary, I have argued that Francione is inconsistent with maximum conduciveness towards animal rights. My philosophy is completely consistent with an ultimate principle of moral rightness which justifies rights themselves in the first place: what is really best, both in the short- and long-terms, for sentient beings (see Section II). Francione, by contrast, is very much at odds with this moral principle.

Objection 2: "Welfarist" laws make people too complacent that animals are well-treated.¹⁰⁷

Reply: Warnings against complacency are well taken. “Welfarism” may afford animals only a token good. However, how complacent people remain is in large measure due to how effective animal rights activism is, and the strength of the given community’s kindness culture. The unstated logical other half of the idea that “welfare” reforms lead to complacency is the shady notion that *not* improving animal welfare will help to *prevent* complacency. That is, specifically, when people see how cruelly animals are still treated, they will not rest easy and will call for reforms—perhaps even to the extent of demanding animal rights? This implication—which fundamentalists by no means *explicitly* support—cynically uses animals’ misery as a means towards animal rights or reformism and is more worthy of a utilitarian rather than a rights advocate.

Such a position is also misguided since legal changes tend to be conservative, and *keeping* conditions extremely cruel by not acting to change them will only likely inspire a next legal phase of less cruel laws, not strict animal rights law. Francione calls for consistency with animal rights but again he does not seem to promote maximum conduciveness towards animal rights. Animal rights advocates often rely on atrocity images now, and appeal directly to human compassion. However, when factory farming is no more, cruel conditions may not be as readily apparent except at the slaughterhouse. Then extensive philosophical dialogue rather than pointing to cruelty will be necessary to make progress for animal rights. We should not use severe cruelties as our crutch or means of easy appeal. Moreover, thinking of reforms shy of animal rights as illfare-reduction rather than as securing *animal welfare* will help to combat complacency, since no one can rightly be smug about illfare as an outcome.

Qualitatively, it is more wrong to be complacent with a worse state of affairs, such as contemporary factory farming, than to risk complacency with a better situation reflecting “welfarist” suffering-reducing reforms. *Quantitatively*, in terms of years needed for change to occur, “welfarist” animal suffering-reduction is a likely transition-phase before animal rights. So in a society progressively moving towards a kinder culture, the sooner we bring about kindness-positive suffering-reduction, the sooner the transition to something kinder. We need to risk complacency with “welfarism” anyway, since that will *always* be a legal option or risk on the hopeful road to animal rights, so we would do well to push through this particular risk of complacency sooner rather than later. This need to go through a “welfarist” suffering-reduction phase first, before animal rights, could only fail to be the case if we could somehow “pole-vault” from abject animal misery, such as the factory farming which now prevails, straight to animal rights. This is doubtful since a culture of cruelty is structurally incapable of taking animal rights favorably or even seriously. It would be complacent indeed to believe that we could go from cruelty to liberation in one gigantic leap. Francione does not wish to leave factory farming unchanged. Still, Francione’s limited set of incremental proposals might keep the culture of cruelty continuing longer since they may be unattainable and advocating unsuccessfully would inadvertently keep conditions just as cruel for longer.

We can also use Francione’s own reasoning once again to turn the tables. Suppose, for the sake of argument, that we *can* attain his kind of proto-rights reforms. We saw that many of them overlap with Sweden’s “welfarist” initiatives such as banning the leg-hold trap. So if it is predictably objected that Swedish “welfarism” will create too much complacency, then so will Francione’s proto-rights, since they are materially equivalent in many cases. Actually the proto-rights *discourse* may provoke even *more* complacency than materially equivalent but less impressive “welfarist” laws because people might in that case say: “It is as

though even *animal rights* are being met to some extent according to Francione—so why go further?”

In terms of law, it is really the fundamentalists who are complacent, in effect, with horrendous living conditions for animals in the short-term, and legislatively hesitating over this horror, in effect, is supposed to be conducive to animal rights in the long-term. Pragmatists themselves are continuously vigilant about making the conditions as livable as possible in the short-term, while at the same time facilitating what is best for sentient beings in the long-term.

Objection 3: People will consume more animal products if practices are made less cruel, and thus more animals will suffer and have their rights violated.

Reply: I offer ten objections to Objection 3: (i) Actually, Francione’s own legislative proposals coming to pass would boost animal consumption even more, since then people would say it is almost as if animals have rights, not merely increased welfare, so we can consume animals in better conscience once again. (ii) The kinder a culture gets, the more animal consumption might one day fall off as we approach a society that upholds animal rights. (iii) Many will continue to boycott animal products on animal rights grounds even given less cruel meat, and many more may convert to animal rights given increased media attention to the cause if, say, factory farming is outlawed. (iv) Less cruel meat might be more expensive which would help to discourage consumption. (v) While more rights to life may be violated with greater consumption, there may be enhancements along the lines of, for example, welfare and liberty. And what is life for in the first place but for having a good quality of life and freedoms? (vi) We likely cannot avoid an animal “welfare” phase before animal rights as discussed above, so the sooner we may risk increased consumption temporarily before ending animal consumption with animal rights, the better. (vii) This objection implies that we can make people consume fewer animal products by keeping conditions for animals very cruel, thus cynically using the miserable animals as a means. (viii) Banning factory farming would not *create* the choice to consume less cruel products derived from animals, since such products are already available and so there is even now a risk that some boycotters’ animal consumption will go back up. Finally: (ix) The objection seems confined to a fragmentary view, whereas we can more objectively evaluate from a comparative overview. There are three broad phases here: (1) extreme cruelty (such as right now); (2) substantially reduced cruelty, and (3) animal rights. On Francione’s approach that opposes the suffering reduction phase (2) due to a supposition of increased animal consumption (among other reasons), there would be a longer phase (1) which is undesirable, and a shorter phase (3) (because we can bring animal rights about sooner as I argue through a kinder culture) which is also undesirable. Phase (2) might last about the same amount of time on his and my approaches, or maybe his phase (2) would be even longer, since if a cruel culture is more firmly entrenched after being dragged on for his reasons, then animal rights might come much later. If he ends up with a longer phase (2) as seems reasonable on my arguments, then his scenario may again might (on his own reasoning that “welfarism” leads to greater consumption) risk an overall *greater* consumption of animals, and be worse in all three phases by dragging on (2) more than need be. But even if (2) is the same length on his scenario and mine, he makes worse phases (1) and (3) as I argued, rendering his overall proposal less desirable.¹⁰⁸

Objection 4: It is right to assist animal welfare on the “micro” level of relating to individuals, but wrong to institute animal welfare at the “macro” level of laws.

Reply: Despite his rhetoric at times noted above, Francione is no enemy of “animal welfare” per se. He thinks it is fine for an individual to give water to thirsty cows in stockyards and slaughterhouses, presumably if one happens to be in the vicinity, but it is wrong, he claims, to advocate a *law* to the effect that cows in these situations should get water. He calls promoting animal welfare on the individual level “micro” animal welfare, which he agrees with, and animal welfarism on the legislative level “macro” animal welfare, which he disagrees with.¹⁰⁹ The law would be unjust because it would supposedly “condone” animal slavery and exploitation, unlike the individual helper.¹¹⁰

Francione’s distinction between micro and macro “welfarism” seems incoherent or unsustainable, because if *everyone* should practice animal “welfare” at the “micro” or individual level that always adds up to a “macro” phenomenon. Perhaps “animal welfare brigades” could form near a slaughterhouse? The only remaining question is: *What kind or degree of “macro” concern with animal “welfare” may be endorsed?* The argument from dilemma reasoning holds that it is better for cows to have water in these facilities in the shortest term rather than no such improvement whatsoever. Recognizing the value in the best of sub-utopian practical options is compatible with advocating a just society on a two-tiered approach.

If PETA supports a law to provide water to these cows, it would show appallingly bad judgment or even insincerity to read this as a “sign” that PETA “truly” supports animal slavery or slaughter. PETA gives every sign of *not* approving of anything contrary to animal rights. Anyone taunting PETA that such a law “really” means that this animal protection group endorses speciesism merely betrays an ignorance of PETA. Rather, advocating such a law is a clear sign that PETA is *frustrated* in its abolitionist agenda, not that it lacks such a purpose. It is those who participate in the murder of animals who approve the killing and make it inevitable in the shortest term—no matter what PETA says—and no one else.¹¹¹ Francione’s own proposed amendments to animal laws would *equally* be part of laws that condone speciesism. As for the key question of whether PETA is wrongfully complicit in seeking macro laws, see again Section II, which uses a justification that is unavailable to Francione’s “condoning” since his proposals go contrary to the pragmatist principle of rightness but also contrary to his principles of animal rights and anti-speciesism.

Objection 5: Fundamentalists such as Francione charge that self-described animal rightists who support “welfarist” laws are really “new welfarists” and not, after all, animal rightists.

Reply: Francione calls “new welfarism” a hybrid position of animal “welfare” in the short-term but animal rights as a long-term goal.¹¹² He outlines five supposed characteristics of “new welfarists”:

- (i) They favor abolishing animal usage or tolerating it so long as animal interests are not devalued due to speciesism;
- (ii) They believe that animal rights theory cannot provide a practical agenda for activists seeking abolition;
- (iii) Animal welfare campaigns are pursued which are identical to traditional welfarists’ tactics¹¹³;
- (iv) Animal welfare regulations are seen as necessary and desirable on the road to animal rights, and most new welfarists see reformist measures as causally related to abolishing animal exploitation;
- (v) They believe that there is no moral or logical inconsistency perceived in “reinforcing an instrumentalist view of animals.”¹¹⁴

Francione uses “new welfarist” derisively, since he at times suggests a distinction between “rightists” and “new welfarists,”¹¹⁵ and he writes that new welfarists “purport to embrace animal rights at least as a long-term matter,” as if they are not sincere about their support for animal rights. In the practice of the movement, Francione and his followers often call themselves *animal rightists* and *abolitionists* but insultingly try to deny these terms to so-called “new welfarists.” He might say rather that animal rights do not *result* from new welfarism, but anyone who supports rights, even if we generously assume, for the sake of argument, that their strategies are mistaken, are rights advocates and are to be dignified as such. Francione likens the so-called “new welfarists” to reformers who tried to improve human slavery “by reforms such as recognizing the validity of slave marriages to prevent the hardships caused by breaking up slave families,”¹¹⁶ rather than seeking to abolish slavery altogether. In fact, escaped married slaves often took grave risks to free captive spouses, and the people cited often advocated abolishing slavery!

Now we will consider Francione’s five alleged features of activists who support animal “welfare” and will find that his description is prejudicial, unrealistic, and ultimately mistaken. He is objecting to “welfarist” laws of the sort that pragmatists would argue are better than no legislative changes at all, and therefore he is presumably keen to label these pragmatists as “new welfarists,” a label meant to embody such advocates. However I, for example, do not fulfill even *one* of his conditions for counting as a “new welfarist.”

First he claims that animal “welfarists” tolerate animal usage *so long as it is not speciesist*, but dilemma reasoning means that options are not necessarily recognized to be void of speciesism, especially if it is *impossible* to avoid such oppression. If we only have speciesist options to choose from dilemma reasoning may authorize us to recognize the best realistic option for the shortest-term, given the ultimate principle of moral rightness that I have posited as part of my pragmatist position. By way of self-contradiction, his own proto-rights amendments would also become parts of speciesist laws. Nonetheless a long-term practical goal of ending speciesism is clearly and unequivocally embraced both by animal rights fundamentalists and pragmatists.

Second, he claims that “new welfarists” say animal rights theory does not provide a practical agenda for activists to secure abolition. On the contrary, those who embrace pragmatic reasoning have insisted that advocating animal rights is *crucial* for dialogues *now* with individuals and groups and also key to the long-term goal of abolition and therefore of course such advocacy is part of the pragmatists’ “practical agenda.”

Third, he claims that animal rightists’ campaigns are “identical” to traditional “welfarism.” However, animal rightists only temporarily and conditionally recognize possible progressive merit in “welfarist” legislation, whereas traditional “welfarists” permanently and unconditionally support such laws. Animal rights advocates see such laws as *prima facie* morally wrong, unlike traditionalists who tend to see them as absolutely morally right. Animal rightists are not unconditionally “welfarist” or “anti-welfarist.” It depends on the meaning of “welfare” and the context of political action. It is not “identical” to traditional “welfarism” that PETA says animals are not ours to eat, wear, experiment on, etc. I even deny that the laws in question are truly *welfarist* and instead dub them illfare-reducing, which is hardly the same as traditional “welfarism.” Francione’s is really calling apples “oranges” and then denying that they are different.

Fourth, according to “new welfarism,” animal welfare leads to animal rights. Not only have I defended this possible link using the subtleties of conduciveness rather than the crudities of causation, I would make the further point that we legitimately can recognize laws

to benefit animals now suffering under drastic oppression, *without* any thought that these laws might directly or indirectly lead to animal rights laws some day sooner. (Conduciveness does not involve guarantees anyway.) The reform may be intended *just* for the specific animal(s) involved, or at least that may be a huge part of the reasoning. We cannot look at millions of animals in distress and dismiss them with the question: “What good is my helping you in furthering the cause of animal rights?” Again, ultimately we should act for *individual sentient beings*, as many, as often, and as well as we can.

Fifth, it is insulting for Francione to claim that “new welfarists” do not perceive any inconsistency between speciesist animal “welfarism” and animal rights. Of course they are different, as all animal rights pragmatists openly recognize. Dilemma reasoning in this case involves painful awareness that available short-term options usually fall short of animal rights. Also the *right to welfare* that I propose for animal rights pragmatism in the long-term goes far and away beyond any “welfare” available to animals under speciesist rule. However, I have argued that there is in any case perfect consistency between animal rights pragmatism and a higher moral principle than animal rights, i.e., doing what is best for sentient beings at all times. It is also worth emphasizing again that Francione’s amendments to animal agriculture and vivisection laws would “inconsistently” (according to his objection) become a part of laws that condone speciesism. Probably the new welfarist paradigm was in large part born from the thought that through complicity with wrong-doers, one becomes practically indistinguishable from those who do wrong, but I have already addressed the collusion question.

My analysis utterly undermines Francione’s characterization of “new welfarists.” Here is a case of *persuasive definition*, a fallacy in which a definition of a term is urged that is really designed to convince those who accept it of various conclusions—in this case all spurious. Even the name “new welfarist” is meant as a belittlement, because it falsely suggests a lack of difference between new and old. Thus he denies pragmatic animal rights supporters their rightful name. Not surprisingly, these faulty labels have infuriated many activists in the movement and have led to much needless division, alienation, lack of communication, and so forth. However, anyone aiming for abolition—which in the end *destroys* speciesist “welfarism”—is primarily, or overall, an *abolitionist*. And the “welfarism” recognized as progressive in the shortest-term does not define animal rightists so much as the society which may only practically permit speciesist suffering-reduction in the median-term between now and animal rights law per se. One day we will hopefully transcend the dilemma that helps to justify “welfarist” suffering-reduction laws. Come that time, when society better permits what is best for animals, we will be able to advocate (strong proto-) animal rights law as the next stage of animal law. Francione’s “new welfarist” label needs to be set aside not only as irreverent but irrelevant if we replace it with the much more apt term: “animal rights pragmatist.”

Objection 6: Joan Dunayer objects that people should not advocate anything that they are not willing to do themselves.¹¹⁷ Therefore, if people are not willing to eat meat, they should not advocate laws that permit meat-eating but make it less cruel.

Reply: The whole point of dilemma reasoning is that one cannot stop people from doing things that one would *never* do oneself, at least in the short-term, and the question remains about how to make the best of that (optimistically) short-term and indeed the long-term. If I were a speciesist, I might be willing to reduce cruelty to animals. I also would not willingly allocate as much monies as governments do to military expenditures, but as long as that is

carried on I believe that all of those allocations should be regulated. I think this objection really addresses the problem of collusion with wrongful practices (see again Section II).

Objection 7: It is not virtuous to eat meat and a vice to endorse laws which permit meat-eating (this objection I have not seen voiced, but anticipate it anyway).

Reply: The animal rights pragmatist strategy promotes more or less perfectly virtuous laws for the long-term, promising to bring them about sooner, and as-virtuous-as-possible laws for the short-term. To be virtuous one must not collude with wrong-doing, but again I deal with that key objection in Section II. By contrast, the fundamentalist approach would fail to produce more virtuous laws in the short-term, resulting in laws that are more vicious for the foreseeable future. Fundamentalist tactics also may delay bringing about wholly virtuous laws. We should indeed promote what is as virtuous as possible for individual behavior in oneself and others, and also address the virtues and vices of legislatures in the best possible way.

Objection 8: Animal advocates should never tell people to stop short of what is most ideal.¹¹⁸

Reply: Animal rights pragmatists do not *tell* people to stop short: they consistently demand animal rights. It is rather the *answer* of most of the populace to stop short of this demand. The aim is rather to prevent society from falling still shorter than it would without effective “welfarist” advocacy in many cases. We need to make the best of speciesists stubbornly falling short.

Objection 9: We should not send confusing messages of animal “welfare” and rights.¹¹⁹

Reply: It is clear enough to aim for animal rights in the long-term and the best possible “welfarist” measures in the short-term. Rather, it would be quite confusing not to distinguish between short-term and long-term strategies. Indeed, Francione’s unclear proto-rights criteria are more confusing than simply seeking to reduce suffering.

VIII. Conclusion

Animal rights law involves a long-term goal of animal rights, as fundamentalists such as Francione agree.¹²⁰ However animal rights pragmatism would argue that we must choose that which is closest to animal rights and best for animals in the short-term, and what is maximally conducive to animal rights in the long-term. Ushering in “welfarist” legislation plays with fire because the end result will still be morally wrong in terms of moral perfectibility, but it honorably passes on the torch of moral progress for animals. These laws are “progressive” not in the sense of making what is good better, but what is unjust less horrific. The majority of animal rights advocates the world over I suspect would be in agreement with this general strategy since something like it is deployed by mainstream animal rights groups such as PETA. A minority of fundamentalists, influenced by Francione, would disagree, and lodge predictable objections to my position, advocating strong proto-rights exclusively as permissible incremental reforms. I have considered these objections and shown that they fail to discover any flaw in the pragmatist animal rights law position. Indeed, Francione’s own ideas are logically faulty, and ironically, not maximally conducive towards animal rights. Fundamentalist objections themselves are objectionable. On the road to abolition, smaller but significant increments of progress may still be progressive in terms of both ethics and efficacy.

Francione falsely claims that hybrid theorists “sacrifice” animal rights today to gain such rights tomorrow, as if animal rights are now achievable. He insists that welfare reforms are somehow inherently futile so long as animals are considered property, ignoring, for example, the clear counter-instance of Sweden banning factory farming. He criticizes the idea that animal “welfare” laws somehow *cause* abolition. In this paper I have offered a much more realistic model according to which “welfarist” laws may *conduce towards* abolition. The concern that “mere” suffering-reduction laws for animals lead to complacency is well taken. However I have argued that pragmatists, far from being complacent, are constantly vigilant about what is really best for animals. It is also unlikely that allowing cruelty to persist without “welfarist” laws would lead to an emotional upset sufficient to ensure animal rights as the next stage of animal law, but rather just the same animal “welfarism” which fundamentalists propose to delay. Francione’s position may complacently promote pipe-dream demands that are doomed in the short-term and make matters worse by delaying long-term progress for animals. I have shown that his own proto-rights, if passed into law, significantly risk even *greater* complacency. His charge about increased consumption of animals may well be reversible. He suggests that pragmatists approve of speciesism when that is really not the case; meantime, his own proposed amendments would equally form a part of speciesist laws. He constructs a demeaning label, “new welfarist,” none of the specifications of which apply to the animal rights pragmatist position outlined in this essay. We would do well to replace “new welfarist” with “animal rights pragmatist.” All this I have argued.

Let me be clear that in contrast to legislative campaigns, it is often advantageous to promote animal rights and veganism directly, as: (1) the eating of animals is often the key area of animal exploitation to abolish in a person’s life; once this form of oppression is addressed, other areas tend to follow; (2) it can thoroughly be justified ethically; (3) it connects well with the passions and interests of animal rights supporters; and (4) it avoids the red tape, time-consumption, resistance, legislative watering-down, lack of enforcement, etc. often involved in securing animal-suffering-reduction laws. Dunayer points out that activists have limited time, money and effort, and she argues that we should devote every available minute and dollar to promoting veganism and animal rights.¹²¹ This paper has shown though that sometimes “welfarist” laws win *important degrees of goods for animals that cannot be won in any other way at this time*, contribute to a culture of kindness, and are conducive towards still further progress (e.g., Sweden). That Francione in the end recommends abstaining from any legislative initiatives in the short-term indicates a paucity of legal solutions for the foreseeable future. Francione would no doubt say that he promotes what is best for animals in the short-term and long-term. However, his recommendation that we abstain from any legislative initiatives in the short-term falls short of optimal efficacy in the near- and far-terms. People can respectfully disagree on what is most effective, but my paper is intended to show at least that it is not *immoral* to argue in favor of the occasional efficacy of “welfarism.”

Francione’s insistence on (proto-)rights only might become entirely appropriate one day, once animal rights activism and indeed “welfarist” initiatives have reached a certain level of progress for animals. As said, once animals’ interests are afforded greater consideration, there might be nothing pragmatically but to advocate either strong proto-rights (perhaps much as Francione construes them) or rights full-out. Proto-rights might well precede rights, although if any legislature can skip proto-rights and go directly to rights all the better for everyone. Francione may be right but at the wrong time. That he is ahead of his time does not mean that he is of no contemporary relevance. There is a vital role for visionaries

in any idealistic movement: they give us something to look forward to. Francione's approach is not *purely* visionary though, but rather short-sighted regarding what is best for animals in the short- and long-terms. Fundamentalist and pragmatist animal rights law strategies will converge at some point in the medium- or long-term, depending on the specific context, although Francione would not agree with that assessment. In rare cases though, legal initiatives can and do happen today that meet his criteria such as the banning of circus animal acts. In general, however, we must not allow our utopian dreams for the future to cloud our judgment as to what is really best for animals today. I hope the pragmatist approach incorporates the strengths of Francione's approach for the far-future without the dangers of fundamentalism for the short- and long-terms, even as I aim to have the strengths of allowing "welfarist" reforms without the weakness of omitting to advocate abolition. Still, there may be an indirect pragmatic benefit—although as I have said there are strong liabilities—in having a spectrum of demands, including those who ask for nothing less than the full recognition of interests, so long as that is a minority and "outsider" position as it is now. That outsider stance may make it more likely that a more modest proposal might pass due to fear of—or a positive desire to meet part-way with—something more radical. In the course of history, anti-speciesist irrationality may help to balance out speciesist irrationality.

In dilemmas, it is the most caring thing we can do to try to salvage the most good. Francione wrote a key work about animal rights movement strategy entitled *Rain without Thunder*, the idea presumably being that we cannot get the rain of animal liberation without the thunder of abolitionist activism. In this he is correct. Yet reducing animal suffering also plays an important part in seeding the thunder that shakes up the establishment before the day will dawn that wholly illuminates animal rights laws.

Notes

¹ This terminology originates with James M. Jasper and Dorothy Nelkin—see note 5 in this essay. Gary L. Francione, *Rain without Thunder: The Ideology of the Animal Rights Movement* (Philadelphia: Temple University Press, 1996), p. 40, describes fundamentalists rejecting instrumentalism in regard to animals as he does, rejecting the pragmatic view that "the instrumental treatment of nonhumans may in some circumstances be morally justifiable." On p. 26 he further characterizes fundamentalism as a position according to which rights are "accepted as a moral trump card that cannot be disputed....rights are considered non-negotiable." Francione agrees, and we will see he aims for rights wholesale but accepts piecemeal progress in securing rights in the short-term.

² Tom Regan, *The Case for Animal Rights* (Los Angeles: University of California Press, 1983); Evelyn B. Pluhar, *Beyond Prejudice: The Moral Significance of Human and Nonhuman Animals* (Durham: Duke University Press, 1995); Mark Rowlands, *Animal Rights: A Philosophical Defence* (London: Verso, 1998); Gary L. Francione, *Introduction to Animal Rights: Your Child or the Dog?* (Philadelphia: Temple University Press, 2000); Paola Cavalieri, *The Animal Question: Why Nonhuman Animals Deserve Human Rights* 2d ed., trans. Catherine Woollard (New York: Oxford University Press, 2001); Julian Franklin, *Animal Rights and Moral Philosophy* (New York: Columbia University Press, 2005); and David Sztybel, "The Rights of Animal Persons," *Animal Liberation Philosophy and Policy Journal* 4 (1) (2006): 1-37. My book on animal rights ethics is forthcoming.

³ Sztybel, “The Rights of Animal Persons,” pp. 5-6.

⁴ See generally Joan Dunayer, *Speciesism* (Derwood, MD: Ryce Publishing, 2004).

⁵ See James M. Jasper and Dorothy Nelkin, *The Animal Rights Crusade: The Growth of a Moral Protest* (New York: The Free Press, 1992) for a different sense of these terms. They distinguish pragmatists and fundamentalists from welfarists, too. Pragmatism in their vision may allow for human superiority although that is not what I am advocating in my version of animal rights pragmatism; still I see negotiation and legislation as a means in common with their reading of pragmatists. The fundamentalists reject any instrumentalist view of animals in keeping with how I am using the term in this essay. In my understanding of fundamentalism, rights are among the ultimate principles of moral rightness (an idea which I will soon explain) and that is not a requirement for Jasper and Nelkin. Francione, *Rain without Thunder*, p. 40, is upset that Jasper and Nelkin “without any argument whatsoever—...assume that fundamentalists, who reject instrumentalism, can use ‘pragmatic strategies,’” or can use reformist strategies although having the ultimate goal of abolishing animal exploitation. My own sense of animal rights fundamentalism and pragmatism is somewhat different (not to be confused with their sense especially of pragmatism) and relates to whether animal rights is a fundamental principle or a practical means towards a higher ethical principle as I shall make clear.

⁶ I invited Francione to the list-serve of the Toronto Animal Rights Society (TARS) on the animal rights versus “welfarism” question. There was a brief dialogue but Francione left before much could be discussed. The contents of this exchange can be viewed in the public archives of the Toronto Animal Rights Society for mid-September, 2006. To access these archives, please contact TARS (accessible on all internet search engines). I am grateful to David Langlois, as an extension of these TARS discussions, for interpretive insights concerning Francione’s work which are no longer featured in this essay, but which led to my removing some criticisms from the paper which were based on taking Francione’s most basic right not to be considered property too literally.

⁷ Francione claims, *Rain Without Thunder*, p. 124, that “the only attempt that I have seen thus far to employ rational discourse and argument in support of the central tenets of new welfarism” is in Robert Garner contention that the welfarist catch-phrase of only permitting “necessary suffering” will help people gradually realize that more and more animal suffering is not “necessary.” Francione, in my abortive debate with him on the Toronto Animal Rights Society list-serve already noted, failed publicly or privately to engage my new rational argument based in dilemma reasoning. However, although Francione condemns Garner’s line of reasoning in his 1996 book *Rain without Thunder*, Francione himself uses a very similar argument to Garner’s, without attribution, in Francione’s 2000 book *Introduction to Animal Rights*, p. xxiv, and on his website by arguing that traditional animal welfare does not live up to the ideal of avoiding unnecessary suffering. Yet in *Rain* Francione characterizes Garner’s welfarism as naïve because welfarism does not work so long as animals are considered property and immoral because welfarism contradicts animal rights. Still, perhaps Garner would not progress by protections of whole interests alone.

⁸ The viability of pure animal rights law in the short-term requires a majority endorsement not only by legislators, but also their constituents, lest a new election bring about the repeal of such laws.

⁹ Should we *wait* before advocating animal rights until society is more “ready” for that message? Society will never be ready for the message unless it is advocated. Abolitionists

cannot grow from a small minority to a large minority to a bare majority to a large majority to an overwhelming majority without a principled demand for the abolition of speciesism itself all along. In other words, we cannot get to these majorities without widespread humane education that includes animal rights. Scatterings of outreach by activist groups, although vital, are not enough. Such education needs to be systematic and part of the public system. Most people crudely understand animal rights as never using animals anymore, as though they can never be used as subjects for photography. Or they say that vegans merely use no animal products, as though babies should be given no breast-milk. Few people grasp what motivates animal rights, let alone how animal rights theory competes with standard ethical theories, including skepticism in ethics. We need an “educational critical mass” that no amount of advertising or corporate public relations can possibly overcome.

¹⁰ Howard Lyman, “Straight Talk from a Former Cattleman,” *Satya* (September 2006): 31, writes: “...when *we’re* involved in killing the animals, *we’re* part of the problem.” I do not dispute this statement, but rather argue that suffering-reduction is part of the long-term solution.

¹¹ *Ibid.*, p. 28.

¹² Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 2d ed. (Notre Dame: University of Notre Dame Press, 1984), pp. 67-68.

¹³ See for example Tom Regan’s reflective intuitionism in *The Case for Animal Rights*.

¹⁴ It might be objected that rights are still morally right so there is wrong in contravening them. However, rights are pragmatic on best caring ethics in the way that rules are on utilitarianism. Usually a rule utilitarian believes that it maximizes utility to follow rules, but that in some cases it is better to have exceptions to rules based in optimum happiness. Best caring ethics firmly rejects utilitarianism but insists on rights *whenever that is practical or applicable*, but in exceptional circumstances aims for what is best for sentient beings directly in cases where insistence on rights or proto-rights alone will not deliver what is best. This is arguably not morally wrong but organizing all actions using an ultimate principle of moral rightness.

¹⁵ See Regan’s treatment of ethical egoism, for example.

¹⁶ Paul Shapiro, “Getting Birds Out from Behind Bars: The Campaign to Ban Battery Cages,” *Satya* (September 2006): 37.

¹⁷ See “The Rights of Animal Persons.” I will also discuss this matter in my forthcoming book.

¹⁸ It might be objected that we cannot take it for granted that a ban on factory farming measures will lead to actual animal rights law, so we cannot assume that such laws are “proto-animal-rights law.” In reply, we cannot take it for granted that animal rights law itself will result either, but we still speak of animal rights law as an intended outcome. The same is true of proto-animal-rights law: it is an intended outcome regardless.

¹⁹ I agree with Francione that we must not be indiscriminate about supporting measures that support animals. For example, *Rain without Thunder*, p. 59, he criticizes Peter Singer’s claim that he supports any kind of measure so long as it helps animals as not being consistent with Singer’s utilitarian ideal of minimizing suffering.

²⁰ It may be objected that we always have a choice about what we advocate politically, and we can choose not to advocate suffering-reduction laws. We are not “forced” by any dilemma to advocate such laws. Or perhaps the least of evils is for animal rights advocates to ask only for animal rights, but to comment on others’ speciesist positions that it would be

better (more good and less bad) if they agreed to laws which reduce animal suffering even if they would not be truly morally *right*. Such a compromise position seems to allow one to preserve one's own morally integrity by only advocating animal rights, and lets speciesists make wrong speciesist choices if anyone is to do that. Such a view is attractive for obvious reasons. However, such a compromise position may fail to be what is best for *animals* in a very practical way. When campaigning for animal law, it can never be taken for granted how much public support exists for a given law. If animal rights advocates do not push for a "welfarist" suffering-reduction bill, it may make the difference between passing and not-passing, or passing faintly or resoundingly (which inspires more confidence in the law in social-democratic terms), and solely commenting on *others'* choices may therefore be insufficient. Even if most people favor what they call "animal welfare" laws, they may not turn out to vote in sufficient numbers for particular measures. So is it the least of evils to merely comment on others' choices? Rather, it seems the least of evils to ensure *the least suffering for animals*, and it is only the most pleasant for oneself to demand only those sorts of laws that are dearest to one's heart. Such a position may be other-regarding, but is not so in the highest degree. Rather, it is seemingly self-indulgent and may chance that animals receive no real protection at all just so that one can feel better about one's advocacy. That is, if there is no complicity in moral wrong-doing as I argue in this essay.

²¹ Bernard Rollin, *Animal Rights and Human Morality*, 2d ed. (Buffalo: Prometheus Books, 1992) starts out arguing for animal rights, but then decides that it is impossible to realize such a dream and so instead he advocates, for example, kinder forms of animal experimentation rather than abolishing vivisection.

²² Pluhar advocates a right to well-being in *Beyond Prejudice*, ch. 5. Regan, *Animal Rights, Human Wrongs: An Introduction to Moral Philosophy* (Lanham, MD: Rowman and Littlefield, 2003) seems to use a right to bodily integrity rather than welfare because he rejects animal welfarism, or making animals better off under slavery. However, we must also have respect for "mental integrity" too, and not merely integrity, or being left intact, but functioning, flourishing, or doing well, i.e., *welfare* or well-being.

²³ Zoe Weil quoted in Francione, *Rain without Thunder*, p. 33.

²⁴ Francione, *Rain without Thunder*, p. 11.

²⁵ *Ibid.*, p. 31.

²⁶ *Ibid.*, p. 79.

²⁷ As I wrote in "The Distinction between Animal Rights and Animal Welfare" in *The Encyclopedia of Animal Rights and Animal Welfare*, ed. Marc Bekoff (Westport: Greenwood Publishing Group, 1998), pp. 43-45, there are at least five distinct usages: (1) *animal exploiter's animal welfare*, which may be a harsh standard indeed and a verbal smokescreen to hide poor treatment; (2) *common-sense animal welfare*, which reflects the average citizen's concern with kindness or anti-cruelty (which means using animals but "kindly"); (3) *organized humane animal welfare*, which is more disciplined, principled and knowledgeable than the humaneness of the average citizen, but which may not reject most animal industries (fur and hunting, and the worst of factory farming and laboratory treatment may be occasional exceptions); (4) *animal utilitarian animal welfare* such as that of Peter Singer; (5) *new welfarism*, which we will see is Francione's own definition; and (6) *animal welfare-animal rights views*, as in Richard D. Ryder, "Painism: The Ethics of Animal Rights and the Environment," in *Animal Welfare and the Environment*, ed. Richard D. Ryder (London: Gerald Duckworth & Co. Ltd., 1992), p. 197 opposes all animal experimentation while noting that animal rights and animal welfare "both

denote a concern for the suffering of others.” I also distinguish a seventh sense of “animal welfare” in “The Rights of Animal Persons,” for I analyze traditional “kind” treatment of animals as still animal illfare rather than “welfare,” making the latter as it is usually used by speciesists into a misleading but widespread euphemism.

²⁸ Dunayer, *Speciesism*, p. 62.

²⁹ This fact is cited on the website of the group North Shore Animal League America. There are many Buddhists in China who would promote kindness to animals, but that is only a minority.

³⁰ Peter Singer and Bruce Friedrich, ‘The Longest Journey Begins With a Single Step: Promoting Animal Rights by Promoting Reform,’ *Satya* (September 2006): 12.

³¹ Francione, *Rain without Thunder*, p. 151.

³² <http://www.purefood.org/Toxic/eufactfarm.cfm>.

³³ *Ibid.*

³⁴ <http://www.alternet.org/story/14154/>.

³⁵ http://www.goveg.com/factoryFarming_pigs_farms.asp.

³⁶ <http://www.sierraclub.ca/national/programs/health-environment/food-agriculture/ilo-environment.shtml>.

³⁷ <http://www.hsus.org/farm/camp/nbe/>.

³⁸ http://www.hsus.org/press_and_publications/press_releases/chicago_wont_swallow_foie.html.

³⁹ <http://www.da4a.org/trappingfur.htm>.

⁴⁰ <http://www.respectforanimals.org/news/2001/221101.html>.

⁴¹ Francione, *Rain without Thunder*, p. 212.

⁴² *Ibid.*, p. 217.

⁴³ Francione, *Introduction to Animal Rights*, p. 51, he notes a strong tendency in law for the owners of property to be allowed to use property to the exclusion of everyone else. He cites, *Ibid.*, p. 54, William Blackstone: given “the right of property...one man claims and exercises over external things of the world, in total exclusion of the right of any other individual in the universe.” However, it is commonplace that one cannot use one’s umbrella to assault people, and it is conceivable that property cannot be used in ways that “needlessly” harm animals too, as in Sweden’s banning of factory farming. Francione, *Ibid.*, he notes that in the U.S. Constitution no property shall be taken for public use without just compensation, interpreting perhaps that property owners need to be compensated for any interfering with their profit-making. Thus if it is more profitable to exploit animals through intensive farming, U.S. law might be reluctant to interfere with that property right. However this is not impossible since legal change is always possible, and tax monies used for people with disabilities is not always in taxpayers’ self-interest.

⁴⁴ Francione, *Rain without Thunder*, p. 206.

⁴⁵ *Ibid.*, p. 68.

⁴⁶ *Ibid.*, p. 129.

⁴⁷ This is an analogy frequently given in Francione’s talks on animals, property and the law.

⁴⁸ Francione, *Introduction to Animal Rights*, p. 66.

⁴⁹ *Ibid.*, p. 63.

⁵⁰ *Ibid.*, p. 56.

⁵¹ In my own country of Canada, staff from the animal “welfarist” organization, the Toronto Humane Society, moved on to form animal rights groups such as Action Volunteers for

Animals and the Animal Alliance of Canada. Peter Singer's "welfarist" book, *Animal Liberation*, which is not abolitionist with regard to medical vivisection, gave rise to an Australian group, Animal Liberation, whose pamphlet said it would abolish all animal exploitation. Singer's book inspired many, including me, to become animal rights vegans. This was not because of "causation," but because his "welfarist" critiques are part of what is *conducive* towards animal rights in many people's lives.

⁵² Francione, *Introduction to Animal Rights*, p. 79.

⁵³ Francione, *Rain without Thunder*, p. 10.

⁵⁴ See generally the excellent issue of *Satya* (September 2006) for a discussion of this issue by numerous writers. James LaVeck, pp. 8-11, is particularly eloquent. He compares euphemisms for speciesist treatment with Orwell's "double-think" from *1984* which in essence is the acceptance of contradictory thinking.

⁵⁵ Note that "radical" etymologically refers to the "root" of things.

⁵⁶ *Ibid.*, p. 192.

⁵⁷ *Ibid.*, pp. 211, 171.

⁵⁸ *Ibid.*, p. 163.

⁵⁹ *Ibid.*, p. 171.

⁶⁰ *Ibid.*, p. 171.

⁶¹ *Ibid.*, p. 202.

⁶² *Ibid.*, p. 190.

⁶³ *Ibid.*, p. 190.

⁶⁴ *Ibid.*, p. 194.

⁶⁵ *Ibid.*, p. 193.

⁶⁶ *Ibid.*, p. 214.

⁶⁷ *Ibid.*, p. 210.

⁶⁸ *Ibid.*, p. 212.

⁶⁹ *Ibid.*, p. 89.

⁷⁰ *Ibid.*, p. 214.

⁷¹ *Ibid.*, pp. 196, 214.

⁷² Note that (2) here presupposes (1) in specific contexts, but (1) is not always tantamount to (2).

⁷³ Also, it is not plausible to believe that interest-violations do not holistically interrelate. So if I claim that a whole interest is protected but a whole other one is not protected, the area not protected might make incursions into the area I claim is protected. If I claim that liberty of movement is secured but not bodily integrity or freedom from suffering, the latter two types of misery will likely in turn reduce full liberty to express movement that is normal and healthy for a given species. However this may relate to his warnings, documented later on, that his criteria are imperfect.

⁷⁴ Francione, *Rain without Thunder*, p. 221.

⁷⁵ *Ibid.*, p. 191.

⁷⁶ *Ibid.*, p. 194.

⁷⁷ *Ibid.*, p. 193.

⁷⁸ *Ibid.*, p. 205.

⁷⁹ *Ibid.*, p. 194.

⁸⁰ *Ibid.*, pp. 199-200.

⁸¹ *Ibid.*, pp. 201-202. I do not know of examples of substantially alleviating animal suffering that would not cost money. However, if that were possible, I would not in principle be opposed to such a proposal if it made significant progress for animals.

⁸² Francione, *Rain without Thunder*, pp. 203-205.

⁸³ *Ibid.*, p. 205.

⁸⁴ *Ibid.*, p. 208.

⁸⁵ *Ibid.*, p. 211.

⁸⁶ *Ibid.*, p. 211.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*, p. 218.

⁸⁹ *Ibid.*, p. 192. My italics.

⁹⁰ *Ibid.*, p. 178.

⁹¹ *Ibid.*, p. 6.

⁹² *Ibid.*, p. 191.

⁹³ *Ibid.*, p. 190.

⁹⁴ *Ibid.*, p. 190.

⁹⁵ Francione, *Rain without Thunder*, p. 37.

⁹⁶ *Ibid.*, p. 192. This quote was featured also above.

⁹⁷ Dunayer makes a similar point, *Speciesism*, p. 158, that nonhuman animals need clarion calls for rights (a strong idea), not weak requests for “welfare”—as though animal rightists must only ask for one or the other and not both over time.

⁹⁸ His three justifications could also be used in relation to the more austere principle that all legal proposals must respect all interests of animals, but objections (1) and (2), (7)-(9) apply, with suitable adjustments, to that sort of strategy.

⁹⁹ Francione, *Rain without Thunder*, p. 176.

¹⁰⁰ *Ibid.*, p. 195.

¹⁰¹ *Ibid.*, p. 198.

¹⁰² *Ibid.*, p. 212.

¹⁰³ *Ibid.*, p. 213.

¹⁰⁴ *Ibid.*, p. 208.

¹⁰⁵ Tom Regan and Gary L. Francione, “Point/Counterpoint: Point: A Movement’s Means Create Its Ends,” *The Animals’ Agenda*, (Jan./Feb. 1992), p. 40. Francione writes, *Rain without Thunder*, p. 1: “To oversimplify the matter a bit, the welfarists seek the *regulation* of animal exploitation; the rightists seek its *abolition*.” He adds, *Ibid.*, p. 32, that animal rightists reject the view that animals are human instruments, or are human property, to do with as we will. He admits, *Ibid.*, p. 45, that animals have an interest in not suffering, but that they also have an “interest in not being part of the institutionalized exploitation that causes the suffering in the first place.” Peter Singer stresses animals’ interest in not suffering, whereas Tom Regan, in Francione’s interpretation, *Ibid.*, p. 199, also advocates an “interest in not being treated exclusively as a means to an end.” For animal rights advocates, Francione, *Ibid.*, p. 108, writes: “‘happy’ slavery is still slavery.” Francione, *Ibid.*, p. 41, considers it a dodge when animal advocates try to make a distinction between the moral goal of abolition on the one hand, and a welfarist tactic or strategy on the other. Implicitly, he is suggesting that our campaigns must be ethically defensible, as must be all of our actions. He is disturbed, *Ibid.*, p. 2, that the theory of animal rights is not reflected “in the social phenomenon called the

animal rights movement,” and instead notes, *Ibid.*, p. 3, that the movement advocates animal welfare entangled with animal slavery, exploitation, and a denial of rights.

¹⁰⁶ Still, do suffering-reducing laws, in terms of conduciveness, guarantee that a given cruel individual will become kind? No. Do they guarantee obedience of the law? No. Could laws regress? Perhaps.

¹⁰⁷ Francione points out, *Rain without Thunder*, p. 187, that making the slaughter of animals for food more humane may have the effect of promoting more meat-eating. Dunayer, *Speciesism*, p. 68, makes a similar point that changing methods of confining animals can make an animal-derived product more desirable. However, it is the burden of animal rights activists in any case to show that even meat-eating with reduced cruelty is undesirable. We should not “show” it is undesirable by keeping it all the more cruel. Francione points out, *Rain without Thunder*, p. 69, that although the U.S. Animal Welfare Act was amended in 1985 to create care committees to monitor animal experiments, and to require the adequate use of anesthesia or analgesia unless “scientific necessity” dictates otherwise, the measures are not enforced, and in fact he claims, *Ibid.*, pp. 94-95, that statistics show that the number of painful experiments has increased. Part of the problem is that scientists themselves determine what suffering is “necessary.” Thus, an illusion of progress is sometimes created as a result of animal “welfarist” measures: the public comes to believe that animal “welfare” measures are in place when this is not the case.

¹⁰⁸ I again consider it unlikely that we could pole-vault from (1) to (3), since even Francione’s does not propose that as likely given his hypothetical acceptance of proto-rights reforms.

¹⁰⁹ Francione, *Rain without Thunder*, pp. 141-142.

¹¹⁰ *Ibid.*, p. 176.

¹¹¹ This addresses a parallel point by Dunayer, *Speciesism*, p. 63, that to slaughter animals is to commit murder and so to advocate slaughtering them in any manner is to advocate murder. She makes the further assertion that “welfarist” guidelines and laws “re-legitimize” speciesist exploitation, give exploiters positive publicity, make critics appear unreasonable, keep abolition marginalized, encourage humans who care about nonhumans to continue to buy animal-derived products, and leave nonhumans in the power of abusers. Dunayer’s statement however is belied by more careful consideration. Positive publicity for progress for animals is not a bad thing. Critics who advocate animal rights do not appear unreasonable or marginalized if such rights are advocated in the long-term, and PETA does not encourage animal consumption but rather discourages it. Finally, animals are not simply “left” in the power of abusers, as though there is a choice about whether to leave most animals with speciesists or animal liberationists.

¹¹² *Ibid.*, p. 3.

¹¹³ Dunayer, *Speciesism*, p. 51 makes the similar point that animal rightists “conduct old-speciesist campaigns” against cruelty to animals.

¹¹⁴ Francione, *Rain without Thunder*, pp. 36-37.

¹¹⁵ *Ibid.*, p. 45.

¹¹⁶ *Ibid.*, p. 41.

¹¹⁷ Dunayer, *Speciesism*, p. 58.

¹¹⁸ This objection was voiced by doctoral student Valérie Giroux at a conference at Brock University March 16, 2007.

¹¹⁹ Again I attribute this objection to Giroux although I have heard it in other places.

¹²⁰ To me, animal rights law fully realized will involve constitutional rights for animals. Francione, *Introduction to Animal Rights*, p. 221, n. 3, denies that constitutional law is a helpful framework “because it suggests that animals should have the same constitutional rights as humans.” However, not all humans have the same constitutional rights if special provisions for people with disabilities are interpreted, for example, as part of general rights to liberty. Many humans cannot enjoy liberty without extra assistance. Similarly, liberty might not entail religious freedom for animals or some mentally disabled humans, but there is no reason why constitutions cannot catalogue special animal rights as part of extending special consideration to beings who are after all different from humans. Constitutional law will enable judges to strike down past speciesist laws as unconstitutional, and will provide a guide for future animal rights law, and animal liberationists cannot hope for less than this. I contend it would be a short-sighted and speciesist (whether or not this is intended) outcome to allow humans to have the benefits of constitutional law while denying such strong measures on behalf of animals.

¹²¹ *Ibid.*, p. 62.

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Unmasking the Animal Liberation Front Using Critical Pedagogy: Seeing the ALF for Who They Really Are¹

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We are a nonviolent guerilla organization, dedicated to the liberation of animals from all forms of cruelty and persecution at the hands of mankind.
—Ronnie Lee, ALF founder

Not to hurt our humble brethren is our first duty to them, but to stop there is not enough.
We have a higher mission—to be of service to them whenever they require it.
—St. Francis of Assisi

The current global political climate is steeped in fear and rhetoric about terrorism and security. The 21st century began with drastic shifts in U.S. policies in the name of national security, which has been used as a cover for the repression of nonviolent dissent and the violation of civil liberties. We have entered a neo-McCarthyist period rooted in witch-hunts against activists and critics of the ruling elites. The terms and players have changed, but the situation is much the same as in the 1950s: the terrorist threat usurps the communist threat, Attorney General John Ashcroft and Alberto Gonzalez donned the garb of Senator Joseph McCarthy, and the Congressional Meetings on Eco-Terrorism stand in for the House Un-American Activities Committee (Best and Nocella 2004). Now as then, the government informs the public that the nation is in a permanent state of danger, such that security, not freedom, must become our overriding concern. As before, the state conjures up dangerous enemies everywhere, not only outside our country but, more menacingly, ensconced within our borders, lurking in radical cells. The alleged dangers posed by foreign terrorists are used to justify the attack on “domestic terrorists” within, and in a panic-stricken climate the domestic terrorist is any and every citizen expressing dissent. Within this environment, the Bush administration has unleashed an unprecedented surveillance machinery to monitor the communications of all Americans.²

Political Repression and Animal Liberationists

As corporations escalate their bloody and destructive assault on animals, biodiversity, and the Earth, so the FBI ratcheting up its attack on activists who defend the rights of nature. This is not a coincidence, but a strategic attempt to silence voices that speak truth to power, with the state doing the bidding of petroleum, gas, timber, dairy, cattle, and vivisection industries. What is beginning to unfold is a mass political repressive environment whereby the state is targeting Earth and animal liberationists. Similar to the *Red Scare* of the 1950s, in which the U.S. government attacked communists, anarchists, and other political activists, there is currently a *Green Scare*, characterized by similar state tactics against those defending animals and the Earth from attack. History is repeating itself, such that one ideological scare is replaced by another, all ruses to protect capitalism from its critics and challengers.

It cannot be stressed enough that the *Green Scare* is being led not only by law enforcement agencies such as the FBI, but ultimately by corporations who are fearful of what these activists will convey to the public about their destruction and torture on the

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Earth and non-human animals. The Earth and animal liberationists are not going after people or the government, but rather they are going after the new super-power, the global capitalist market. They are conducting legal protests and illegal economic sabotage (the most dangerous but successful tactic against global giants such as Proctor & Gamble and ExxonMobil), engaging in tactics ranging from boycotting the GAP to breaking windows of McDonalds franchises. It is here that the FBI are mere street-line bureaucrats carrying out the job assigned to them by the U.S. Congress and their corporate paymasters.

As Congress is gathering up information on the Earth and Animal liberation movements to make their case to the public, other governmental agencies, and law enforcement in hearings, speeches, and press conferences, Earth and animal liberationists must counter-act and do the same. They must begin to undertake thorough research and critical analysis that examines the connections between corporations and Congress. They need to make those relationships as simple and clear as possible for the public, so when law enforcement agencies hunt down activists, people will not simply say that they are persecuting or framing activists, but also be able to grasp who are behind these acts of political repression and why.

Clearly, one of the most significant events of late and in the history of the animal liberation movement was the arrest and conviction of the SHAC7 (Best and Kahn 2004). In May 2004, police rounded up nonviolent activists Kevin Kjonaas, Lauren Gazzola, Jacob Conroy, Darius Fullmer, John McGee, Andrew Stepanian, and Joshua Harper. The government issued a five count federal indictment that charged each activist, and SHAC USA, the nonprofit 501 (c) 3 corporation, with violations of the 1992 Animal Enterprise Protection Act (changed in 2007 to the “Animal Enterprise Terrorism Act” [AETA]). That act was the first law explicitly designed to protect animal exploitation industries from animal rights protests. The AETA protects corporations that conduct business which tests on, kills for consumption (food or clothing), or uses for entertainment purposes nonhuman animals from public dissent.³

On March 2, 2006, the SHAC7 were found guilty of multiple federal felonies for advocating the closure of HLS. Today all are in prison.⁴ Many corporate industry hacks hope that convictions under the AETA will clear the way for the government to go after any activist that successfully campaigns against big business, regardless of the legality of their tactics. It is here again why we should focus on the relationship between corporations and Congress and not government and law enforcement. The Earth and animal liberation community must see and publicize the pivotal critique to capitalism that the SHAC7 and the Earth and animal liberation movements are addressing, it is not about turning people vegan or protecting the Redwoods as much as it is about conducting legal and illegal economic sabotage against animal and Earth exploiters and capitalism in general.

Where in the 1960s and 1970s, the FBI hunted down radical social groups such as the Black Panther Party, the American Indian Movement, and anti-war activists (Abu-Jamal 2000; Churchill and Wall 2002a; Churchill and Wall 2002b; Churchill 2003; Jones 1998a; and Jones 1998b; Peltier 1999; Shakur 1987), in the last decade or so they have begun targeting the animal liberation and environmental movements, particularly anyone supportive or suspected of involvement in the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF) (Best and Nocella 2004; Best and Nocella 2006), which the state has termed the top “domestic terrorist” threats.⁵

The ALF is an effective, decentralized, autonomous network that in its actions provide a clear and compelling critique of corporate capitalist society. The ALF is any individual or group in any area of the world who at any time decide to strike against animal

exploitation in the name of animal rights while following ALF Guidelines.⁶ Given the decentralized and anonymous nature of ALF actions, the ALF in principle is not about authority, ego, heroism, machismo, or martyrdom; rather, it is about overcoming hierarchy, patriarchy, passivity, and politics as usual so that creative individuals can dedicate themselves unselfishly to the cause of animal liberation. The structure and philosophy of the ALF thereby has some key affinities with anarchism and radical feminism.⁷

It cannot be denied that ALF actions have caused millions of dollars of damage in economic sabotage, and thus, the group represents a threat. A threat to what? A threat to business as usual, where people of color and the poor, non-human animals, and the non-domesticated world are exploited for the mighty dollar. The ALF represents no direct or overt threat to the U.S. government or to people, like the many right-wing groups that have virtually disappeared from the Department of Homeland Security (DHS) terror lists, despite their violent philosophies and tactics. Rather, ALF actions threaten corporate abusers of the land, water, air, and animals. Every time they act, the lies and inequities contained within our current system of economic governance are laid bare.

If one is looking for groups with which to compare the ALF, the proper choice is not Al Qaeda, but rather the Jewish anti-Nazi resistance movement and the Underground Railroad. The men and women of the ALF pattern themselves after the freedom fighters in Nazi Germany who liberated war prisoners and Holocaust victims and destroyed equipment—such as weapons, railways, and gas ovens—that the Nazis used to torture and kill their victims. Similarly, by providing veterinary care and homes for many of the animals they liberate, the ALF models itself after the U.S. Underground Railroad movement, which helped fugitive slaves reach free states and Canada. Whereas corporate society, the state, and mass media brand the ALF as terrorists, the ALF has important similarities with some of the great freedom fighters of the past two centuries, and is akin to contemporary peace and justice movements in its quest to end bloodshed and violence toward life and to win justice for other species.

A False Perception

For too long opponents of illegal political property destruction tend to uncritically define sabotage as violence and reject it as inherently wrong on this ground.⁸ Their argument assumes the form of a classic syllogism: (i) property destruction is violence, (ii) violence is always wrong, (iii) therefore, property destruction is wrong. These critics rarely define what they mean by “violence,” they dogmatically cling to the pacifist positions of Gandhi and King, and they make unqualified universal judgments that violence is always wrong and never works politically to achieve the goals of liberation.

Advocates of the principled critique believe that illegal actions and “violence” are unnecessary for a cause strong enough to prevail on the logical arguments supporting it. Peter Singer, for example, affirms “animal liberation” as a just cause, so long as it remains “nonviolent.” Violence can only beget more violence, he argues, recommending that animal liberationists emulate Gandhi and King in their goal to divest themselves of hatred, anger, and the will to revenge. Singer thinks that direct action is most effective when it brings results other tactics cannot, and uncovers evidence of extreme animal abuse that awakens public understanding about the plight of animals. As an example of a just and effective raid, he points to the ALF break-in at the University of Pennsylvania head injury research laboratory, which exposed a truth never meant to be seen by the public. Singer argues that to stop or reduce animal suffering “we must change the minds of reasonable people in our society. . . . The strength of the case for Animal Liberation is its ethical commitment; we

occupy the high moral ground and to abandon it is to play into the hands of those who oppose us. . . . The wrongs we inflict on other species are . . . [undeniable] once they are seen plainly; and it is in the rightness of our cause, and not the fear of our bombs, that our prospects of victory lie.”¹⁰

In Defense of the Animal Liberation Front

While Singer and many others appeal to the “minds of reasonable people,” the ALF believes that far too many are unreasonable and closed-minded, rendering the force of reason and moral persuasion insufficient. Industries and the state have strong institutional and monetary biases against justice for animals that no amount of debate or education is likely to change. Those who champion education and legislation as the sole tools of struggle project a rationalist belief that discounts the irrational forces often ruling the human psyche, the sadistic pleasure all too many derive from torture and killing, the deep psychological mechanisms human beings use to resist change and unpleasant realities, the mechanisms of detachment and compartmentalization that allow them to ignore the enormity of animal suffering, the vested interests they have in exploiting animals, and their identities as members of a species they believe is the preordained master of the Earth.

Unavoidably, animal liberationists are caught in a war of publicity and propaganda, and they must defeat the mendacity of the state and animal exploitation industries to fight for the hearts and minds of the people. While public opinion may indeed be secondary to the impact direct action can have on an industry, and potential negative media coverage should not deter activists from sabotage operations, it is a tactical mistake to act as if public thinking were irrelevant.¹¹ If negative images of ALF actions prevail, industries will win support, liberationists will lose sympathy, and few will protest when the state pounces on the ALF with fierce repression.

Unfortunately, many people believe that the ALF is a violent organization that grew out of anger and hate. In order to understand the ALF, one must sidestep this and other stereotypes, generalizations, and preconceived mindsets that for the most part have been developed and re-enforced by mass media, capitalist ideologues, and legal authorities. Through a more open and informed approach, one will find that the ALF grew out of love for all life, a perspective strongly supported by the “ALF Guidelines,” which state that it is crucial “...to take all necessary precautions against harming any animal, human and non-human.”¹² The misconception that the ALF is a “violent” group can be avoided by understanding the group’s origins and the reasons and motivations for their actions. I suggest a process the public can use to better understand the ALF and their actions.

Learning to Understand the Animal Liberation Front

To truly understand those labeled as “terrorists,” we must go beyond this fear and rhetoric of the “War on Terrorism” (which is nothing more than a war on ideas which resist oppression in all forms and global capitalism) propagated by the Bush and Blair administrations and seek a true understanding of these groups labeled as terrorists, in this case the ALF. We must seek to understand their goals and agendas, and to find out how to relate and engage in their struggle for liberation, which the powers that be fear and wish to destroy. The complex issue of terrorism in the 21st century calls for complementary approaches of analysis and transformation, therefore we must seek an optic that can unmask not only the ALF (to show its true motivations), but also dethrone and stand down the multi-billion dollar propaganda machine of the “War on Terrorism.” This method stresses Jacques Derrida’s point that language is a field of social control and to deconstruct it one

must understand the relation terms have to each other, for nothing exists separate and on its own. Derrida stresses the complexity and interconnectedness of this so-called “War on Terrorism” as being not a binary (of Good vs. Evil), but a multinary, - a plethora of perspectives that must be examined from a diversity of vantage points, for each position or lens will show and discover something new and important (Derrida 2001).

What better approach to fight and unveil the complex and interwoven lies of the global capitalist machine than one that fights for the oppressed, adopts a critical methodology, and promotes education as a non-violent form of radical social change. *Critical pedagogy* is a radical education method and process for liberation. (Freire 1997; Kanpol 1999; Kincheloe 2004; Lather, 2001; McLaren 2006). Critical pedagogy owes much to the founder of critical pedagogy, Paulo Freire, an internationally renowned educator who bridged the gap between revolutionary politics and the process/system education.

In examining Freire’s seminal book, *Pedagogy of the Oppressed* (1997), one can understand the importance of striving for an engaging educational experience in the classroom or even learning about the revolutionary/liberation groups, societies, and collectives. Critical pedagogy seeks ways for the “teacher” to step out of an authoritarian position, while holding onto a leadership role as a facilitator and facilitate a process of engaging social ideology and experience. This approach demands one to be critical of history, social organization, authority, mass media, advertising, and so on (Bigelow, 1990a, 1999b; Freire, 1985; Giroux, 1988; Giroux 1997; Herman and Chomsky 1988; Irwin, 1991; Kanpol, 1999; Kincheloe, 2004; Loewen, 1995; Parenti 1993; Shor, 1992; Zinn 1999; Zinn & Arnove 2004).

Furthermore, critical pedagogues stress the active and concrete rather than detached and abstract engagement of history, in order to understand the social construction of power and experience. Critical pedagogy is not merely about researching social problems, but also engaging them and fighting for social justice; therefore stepping out of the safety of the classroom (or ivory tower) with one’s students and into the streets (Gramsci 1989).

To understand radical groups like the ALF, it is best to engage in a critical pedagogy approach that breaks down the rigid barrier of “objectivity.” “Critical pedagogy’ is that form of education which emerges from critical compassion; a transcendence of the emotional and the intellectual; the heart and mind learn to see and know in new ways.”¹³ In examining Freire’s book, *Pedagogy of the Oppressed*, one will find that educating is not just a technique one applies to achieve certain results. Critical pedagogy involves the dissolution of formal boundaries between teacher and students and requires a relationship of sharing and dialogue. The formal roles of the “teacher” and “student” relationship are the “syllabus of experience.”

The ALF are unique in that they are decentralized and made up of disparate cells with their own organizational structure, ideologies, and socio-political positions. They have only one thing in common: their guidelines and goal to liberate animals. In understanding the ALF one must know that they do not act solely on emotions, but engage in critical thought to find the best step to achieve liberation; one sees, moreover, that they are motivated by an acute sense of justice that, in principle at least, informs Western “democracies.” To understand the ALF is to grasp their history, culture, and mission. When one understands not only his/her own position, but also the position of the ALF member, one will truly be able to understand the motivations and reasoning of why the ALF exists. This approach does not necessarily suggest that the actions of the ALF are right, but rather that if the person uses a critical pedagogy approach he/she is more likely to understand the ALF member’s perspective.

In addition, it is not enough to physically experience the “subject,” it also is important to have one’s mind and spirit involved in the experience. bell hooks notes that Vietnamese Buddhist monk Thich Nhat Hanh approaches this kind of pedagogy by emphasizing the union of mind, body, and spirit (1994). An infiltrator of the ALF might be in a cell for a number of years and feel that he or she understands the ALF, but the essence of critical pedagogy is what Hanh explains as the necessity of the union of the mind, body, and soul, which all have to be engaged in the experience of understanding. One can begin to understand and appreciate ALF actions either through an intellectual understanding of justice, an emotional understanding of animals’ suffering, or a spiritual understanding of the unity of all life. When all of these powers are engaged, critical pedagogy becomes possible.

Freire seems to suggest that critical pedagogy leads to the educator’s or researcher’s own liberation (Freire 1997; Freire and Macedo 1998; McLaren 2000; and McLaren 2006) through an experiential form of education that strives for enlightenment, or what Gandhi might refer to as the state of seeking truth. Gandhi believes that the search for truth is the ideal purpose of life. He explains that the struggle to free India was in fact a search for truth on a mass level, and he suggests that it is only possible to be in a state of truth if one is willing to give up one’s own freedom to stand up to an unjust act or law, or to save or free another being. Such people as St. Francis of Assisi, Henry David Thoreau, and Martin Luther King Jr. would also favor this perspective. Dr. King stated it best: “I became convinced that non-cooperation with evil is as much a moral obligation as is cooperation with good” (2001).

When the oppressed animals—to whom the ALF member is connected in a holistic and emotional manner—are freed, then part of the body and spirit of the ALF member is freed as well. For example, after a liberation by an ALF cell, not only do the animals experience freedom, the ALF members also experience emancipation—*from* fear, alienation, and perhaps guilt (over not doing enough), and *for* spiritual development. That is why it is common for a member of the ALF to cry with happiness after liberating an animal. The liberated animals and the ALF member all achieve a piece of the truth of wholeness and union.

The essence of performing an act in the name of the ALF is that love must be present in one’s heart. This love allows one to act with respect for all life (even those who exploit animals) and to use one’s intellect to its fullest potential. Have acts been committed in the name of the ALF by people in a negative or hostile state? Yes. Should activists in the wrong frame of mind be questioned by animal liberation and rights advocates? Yes. How would one prevent such acts? One should never let go of the true meaning of the ALF, which is to respect all life (the fundamental principle of the animal rights movement as a whole), to the extent that one feels oppressed due to another’s oppression. While many say that activists should use their anger and hate toward the enemy, I say it is better to emulate individuals like Jesus, Gandhi, Cesar Chavez or other great peacemakers, and redirect anger and hatred into a state of love.

But one should never confuse nonviolence with weakness. King and Gandhi, though promoters of nonviolence (King 2001; Gandhi 1993), did not favor cowardice or walking away from conflict. The ALF acts with strength and daring, yet stops at violence, because it acts from love. One should not be confused by the propaganda of media or law enforcement; the ALF promotes nonviolence and freedom for all. Their actions are revolutionary and sometimes “extreme” in resorting to property destruction and breaking the law. But to the right-thinking person these acts should pale in comparison to the truly extreme actions that involve injuring and taking life and profiting from killing and death—as

manifest in the routine actions of animal exploitation industries such as vivisection laboratories, zoos, circuses, factory farms, and slaughterhouses. It is only when all people understand that love will create love, and hate will only create hate, that all will be liberated. As the Quakers, Martin Luther King, Jr., Mohandas Gandhi, and the ALF believe, love will light the path to liberation (West 1992; King 2001; Gandhi 1993).

Motivated by Love and Acting Nonviolently

Resolved not to harm living beings, motivated by love, empathy, compassion, and justice, animal liberationists are the antithesis of the “terrorists” that government, industries, and mass media ideologues impugn them to be. They are not violent aggressors against life, they are defenders of freedom and justice for any enslaved species. They uphold rights not covered by law, knowing that the legal structure is defined by and for human supremacists. The goal of the ALF is not simply to liberate individual animals here and there; it is to free all animals from every form of slavery that binds them to human oppressors. The ALF, like the animal rights movement as a whole, is attacking the entire institutional framework of animal exploitation along with the domineering values, mindset, identities, and worldviews of the human species.

Thus, if one wants to understand the ALF, one must transcend the false rhetoric of “terrorism” and approach the real purpose of its struggle—animal liberation—through the method of critical pedagogy (Freire 1985). One can thereby strive to understand the liberators’ motivations as rooted in a concern for the suffering of nonhuman animals and for peace. For when you engage in understanding the ALF, you will understand the need for the liberation of all life.

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¹ Parts of this article have been taken from the Introduction of *Terrorists or Freedom Fighters? Reflections on the Liberation of Animals* (2004) co-edited by Anthony J. Nocella, II and Steven Best.

² <http://www.cnn.com/2005/POLITICS/12/17/bush.nsa/>, February 15, 2006.

³ <http://www.nal.usda.gov/awic/legislat/pl102346.htm>, February 15, 2006.

⁴ See www.shac7.com for more details.

⁵ http://judiciary.senate.gov/testimony.cfm?id=1196&wit_id=3460, April 10, 2006.

⁶ *Animal Liberation Front Guidelines* (reprinted from *The ALF Primer*)

- To liberate animals from places of abuse, i.e., laboratories, factory farms, fur farms, etc., and place them in good homes where they may live out their natural lives, free from suffering.

- To inflict economic damage to those who profit from the misery and exploitation of animals.

- To reveal the horror and atrocities committed against animals behind locked doors, by performing nonviolent direct actions and liberations.

- To take all necessary precautions against harming any animal, human and non-human.

- Any group of people who are vegetarians or vegans and who carry out actions according to ALF guidelines have the right to regard themselves as part of the ALF.

⁷ See patrice jones, 'Mothers with Monkeywrenches: Feminist Imperatives and the ALF', in *Terrorists or Freedom Fighters? Reflections on the Liberation of Animals* (Nocella and Best 2004).

⁸ <http://animalliberationfront.com/Philosophy/BringItToTheTable.htm>, February 16, 2007.

⁹ See Peter Singer, *Animal Liberation*.

¹⁰ *Animal Liberation*, pp. xii–xiii. Singer, of course, is a utilitarian, and so his main line of reasoning against ALF tactics logically would be that they could have negative consequences for the movement; thus he might push the pragmatic objection.

¹¹ “Our aim is to destroy property and force laboratories to close—publicity is neither here nor there.” Interview with a former ALF activist in “Terrorists or Altruists?” *New Internationalist*, Issue 215, January 1991.

¹² See *The ALF Primer*, www.animalliberation.net.

¹³ Ledwith, M. (2001). *Community work as critical pedagogy: Re-envisioning Freire and Gramsci*. *Community Development Journal*, 36(3), p. 181.

The Animal Enterprise Terrorism Act: New, Improved, and ACLU Approved

Steven Best, Ph.D.†

“Global terrorism means traditional civil liberty arguments are not so much wrong as just made for another age.” Tony Blair, August 2006

In the wake of 9/11, the US has entered a neo-McCarthyist period rooted in witch-hunts and political persecution. The Red Scare of communism has morphed into the *Green Scare* of ecoterrorism, where the demonized menace to society is no longer the communist but rather the animal right and environmental activist.¹ In a nightmare replay of the 1950s, activists of all kinds today are surveilled, hassled, threatened, jailed, and stripped of their rights (such as they tenuously have been and remain in corporate-dominated US society). As before, the state conjures up dangerous enemies in our midst and instills fear in the public so that people willingly forfeit liberties for an alleged security, thus facilitating the construction of a garrison society shrouded in secrecy, surveillance, and centralized power.

The dreadful days of COINTELPRO have returned with a vengeance. Between 1956 and 1971, the FBI operated a secret counter-intelligence program (COINTELPRO) whose purpose was to infiltrate, disrupt, and neutralize social justice movements and protest groups by any means necessary; their hard-ball tactics included phone taps, frame-ups, violence, and assassination.² Despite the condemnation of FBI and CIA policies in the Church Committee Report in 1976, these rogue agencies continued their war against dissent and it escalated dramatically after 9/11.

Hour by hour, day by day, our First and Fourth Amendment rights (among others) are hemorrhaging and bleeding away into the sinkhole of the military-corporate-state tyranny. The issue goes beyond Republicans vs. Democrats, as the latter hardly distinguished themselves on civil liberties since 9/11; Senator Dianne Feinstein (D-CA), for instance, co-sponsored the ominous Animal Enterprise Terrorism Act (discussed below).³ Given they are no less beholden to military and corporate powers than Republicans, we can expect little improvement from Democrats in the future, even if they control the executive and legislative branches of government.

Indeed, in the post-9/11 era there has been a *sea-change* in political culture. In the *age of terror* Western states – the US and UK in particular – inculcate fear in the public of

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constant threats to their safety posed by Islamic jihadists, and exploit tensions to create an authoritarian society where people are neither secure nor free.⁴ As evident most clearly in the UK and US state reaction to the growing influence of the animal liberation movement, dissent of any kind is now branded as “terrorist,” and thus is stigmatized and criminalized.

A profound case in point of the current assault on civil liberties is how the corporate-state complex pushed through new laws to criminalize a broad range of animal rights protest activities, such as resulted in the imprisonment of the “SHAC 7” activists. Unfortunately, human rights organizations – who do not understand or sympathize with animal rights in principle – have missed the broad significance of the new draconian laws unleashed by the state against “eco-terrorism.”

The Politics of Fear

“If this were a dictatorship, it would be a heck of a lot easier....just so long as I'm the dictator.” George W. Bush, “joking” at the Capitol, December 18, 2000

A tragedy for America, 9/11 was a blessing for the neoconservative agenda of the Bush administration, for it provided the perfect pretext to impose tyranny at home and pursue Empire abroad.⁵ A motley crew of cold-war hawks, oil barons, evangelical Christians, and dogmatic neocons, the Bush team seized advantage of the new climate of fear, intensified it in every way they could (through lies, hyperbole, false threats, and manufactured incidents), and declared a phony “war on terrorism” against amorphous enemies. In the name of Homeland Security, the government patched together existing laws with new statutes to create the legal framework – and greatest Orwellian acronym ever – for the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act,” or, the “USA PATRIOT Act.”⁶ The PATRIOT Act endowed government and police with unprecedented powers to surveil citizens, to access records and information, and to arrest and detain.

Just a month after 9/11, the PATRIOT Act, a 342-page tome was rammed through Congress. In the urgency of the moment, few politicians read it and fewer still dared to challenge it, fearful of being labeled as weak or unpatriotic in dire times – intimidation policies still in effect. Democrats caved in and handed Bush a political blank check. The mass media, compliant and uncritical, peddled propaganda, spread fear, and championed an ill-conceived and illicit war that incomprehensibly – except from the premise that corporations and neo-cons sought access to oil and territory -- morphed from battling the Taliban in Afghanistan to overthrowing Saddam Hussein in Iraq. From then to now, the Bush team has done everything in their power to confound the facts and to manipulate the public into believing that Iraq, not Al Qaeda, attacked America, and that the epicenter of the war against terror was in Bagdad and surrounding cities, not Kabul, Afghanistan, Pakistan, and elsewhere.

Signaling the tyranny to come, Bush proclaimed to the nation and world at large that, “If you’re not with us, you’re against us.” Before the rubble of the World Trade Centers had been cleared, the US took a qualitative leap toward becoming a police state whose enforcers had virtually unlimited powers matched by zero degrees of accountability. No one was spared. Thousands of foreigners were rounded up, jailed, and/or deported without evidence of wrongdoing. Thousands more abroad were corralled and herded into compounds such as Guantanamo Bay where they languished in legal limbo.⁷ Courtesy of Attorney General Alfred Gonzalez, torture policies were drafted, approved, and implemented, as the CIA

captured hundreds of “enemy combatants” – a nifty new label which stripped captives of all rights -- and detained them in secret torture camps throughout Europe, where many were killed or disappeared altogether.⁸ International treaties like the Geneva Convention were flouted.⁹ In October 2006, the Bush administration cajoled the Republican-dominated Congress to pass the Military Commissions Act, which gave the government unlimited powers to detain and torture suspect non-citizens without a fair trial and habeas corpus rights.¹⁰

Laws and agencies used to monitor suspected foreign spies and criminals (e.g., the Foreign Intelligence Surveillance Act) were redeployed for domestic policing. The government built massive surveillance systems to monitor the communications of every citizen, as Big Business fully cooperated with Big Brother.¹¹ Bush rejected even the most minimal review laws as obstacles to catching terrorists, and ordered illegal, warrantless wiretaps on countless phone and email communications.¹² Demonstrators and activists of all kinds became targets of surveillance and persecution, and dissent in many forms was criminalized (see below). While demanding open access to citizens, the government also cloaked itself in secrecy, by withdrawing presidential papers and historical records from the public domain and restricting citizen use of the Freedom of Information Act.

Recent documents obtained by NBC News, the American Civil Liberties Union (ACLU), and other organizations, for example, show that the Defense Department, the FBI Joint Terrorism Task Force, the Department of Homeland Security, and local police forces surveilled a broad spectrum of protest groups, including anti-war activists, environmentalists, animal rights advocates, and even vegetarians.¹³ Whether in the streets, military recruiting centers, classrooms, or churches, the state monitored a broad scope of legal political activity. FBI and police followed and harassed peaceful citizens, wrote down names and license plates, and entered volumes of information into massive databases, all organized under the rubric of national security threats.¹⁴

The state moved aggressively, in particular, against active underground, sabotage-oriented groups, by placing the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF) at the top of its “domestic terrorism” list for tactics of property destruction that inflicted hundreds of millions of dollars in damages to targets such as research laboratories and logging companies. While the ALF and ELF employ illegal tactics and therefore are legitimate marks for the FBI, elevating them to the nation’s top domestic terrorist threats is illogical and betrays the hidden agenda of the corporate-state complex, and raises two points.¹⁵

First, these groups attack property, never people, and consider themselves to be non-violent. The inclusion of property destruction in the definition of domestic terrorism problematic and controversial.¹⁶ The ALF and ELF see themselves as freedom fighters, and argue that corporations and governments which kill billions of animals and destroy the earth are the real terrorists. The ALF attacks “*species terrorism*,” whereby humans confine, torture, and kill billions of animals each year in slaughterhouses, fur farms, vivisection laboratories, and elsewhere.¹⁷ The ELF argues that if sabotage against corporate property is eco-terrorism, then the far larger eco-terrorist crime is the corporate destruction of the earth. Both movements underscore the mind-boggling hypocrisy that vilifies acts of property destruction as terrorism and sanctifies industries that kill billions of animals and destroy ecosystems.

Second, how is it that the ALF and ELF can be singled out as the leading domestic terrorist threats in a nation harboring far right-wing hate groups such as white supremacists, armed militia movements, neo-Nazis, and anti-abortion militants, all with a lengthy track record of violence and murder and armed to the teeth? Neo-Nazi Timothy McVeigh, not

the ALF or ELF, blew up the Oklahoma City federal building in 1995, killing 168 people. Since then, radical right-wingers have killed as many, and police have uncovered dozens of plots to assassinate judges, bomb synagogues, and destroy mosques.¹⁸ Members of the Christian Right and Aryan Nations are responsible for murder, fire bombings, death threats, bank robbery, hate crimes, and the manufacture of biological agents to murder police officers. Right wing extremism, racism, and anti-Semitism is on the rise.¹⁹

There is only one way to explain the irrationality whereby groups that are not armed, never attack people, oppose hate, and espouse democratic values are treated as a greater threat to society than violent hate groups. There is only one way to explain why convicted saboteurs receive longer prison sentences than many rapists, violent criminals, and murderers. Unlike right-wing extremists and neo-Nazis, vegan, animal rights, and environmental groups threaten the profits of agriculture, timber, and pharmaceutical industries – all vital to the growth of global capitalism. Taking advantage of their considerable power and influence in Congress, these industries have fought back against activists by setting government priorities, shaping official definitions of terrorism, and creating new anti-terrorist laws that protect their own interests by branding their opponents as terrorists and criminalizing dissent.²⁰ Let's turn to a significant case in point of how corporations appropriate the legal system to shield themselves from protest.

The Animal Enterprise Protection Act

In 1992, a decade before the passage of the USA PATRIOT Act, groups such as the National Association for Biomedical Research successfully lobbied Congress to pass a federal law called the Animal Enterprise Protection Act (AEPA). This legislation created the new crime of “animal enterprise terrorism” and laid out hefty sentences and fines for any infringement of its fiat. The law applies to anyone who “intentionally damages or causes the loss of any property” of an “animal enterprise” (research facilities, pet stores, breeders, zoos, rodeos, circuses, furriers, animal shelters, and the like), or who causes an *economic loss* of any kind. The AEPA defines an “animal rights or ecological terrorist organization” as “two or more persons organized for the purpose of supporting any politically motivated activity intended to obstruct or deter any person from participating in any activity involving animals or an activity involving natural resources.”²¹ The act criminalizes actions that obstruct “any lawful activity involving the use of natural resources with an economic value.”

Like the PATRIOT Act's notion of “domestic terrorism,” the AEPA strategically exploits semantic vagueness in order to subsume virtually every form of protest and demonstration against exploitative industries to a criminal -- specifically, *terrorist* -- act. Thus, the actions of two or more people can be labeled as “terrorist” if they leaflet a circus, protest an experimental lab, block a road to protect a forest, do a tree-sit, block the doors of a fur store, or, even organize an effective boycott.²² On the sweeping interpretations of such legislation, one imagines that Martin Luther King, Mahatmas Gandhi, and Cesar Chavez could today be vilified and imprisoned as terrorists, since the intent of their principled boycott campaigns was precisely to cause economic damage to unethical businesses.

There already are laws against sabotage and property destruction, so isn't the AEPA a redundant piece of legislation? The answer is no – not once one understands its hidden intent to cripple civil liberties. The real purpose of the AEPA is to protect animal and earth exploitation industries from protest and criticism, not property destruction and “terrorism.” The AEPA redefines vandalism as ecoterrorism, petty lawbreakers as societal menaces, protestors and demonstrators as domestic terrorists, and threats to their profits as a menace

to national security. Wielded by powerful forces such as the biomedical industry, it AETA is designed to intimidate anyone even contemplating protest against them, and, should protestors challenge their legal right to kill animals and devastate the earth, to dispatch their opponents to prison. As a sign of changing conditions defined by the *politics of nature* – whereby political dynamics shift from (but don't exclude) challenging the hierarchy of human over human to that of humans over animals and the environment -- the AEPA is an attempt of the corporate-state complex to single out animal/earth liberationists as a unique threat apart from other social movements.

Free Speech on Trial: The SHAC 7

Hovering over activists' heads like the sword of Damocles for over a decade, the AEPA dropped in March 2006, with the persecution and conviction of seven (eventually six) members of a direct action group dedicated to closing down one of the world's largest animal-testing company, Huntingdon Life Sciences (HLS) notorious for extreme animal abuse (torturing and killing 500 animals a day) and manipulated research data.²³ Activists from the Stop Huntingdon Animal Cruelty (SHAC) campaign ran a legal and highly effective direct action campaign against HLS, driving them to the brink of bankruptcy.²⁴

From email and phone blockades to raucous home demonstrations, SHAC attacked HLS and pressured over 100 companies to abandon financial ties to the vivisection firm. By 2001, the SHAC movement drove down HLS stock values from \$15/share to less than \$1/share. Investment banking firm Stephens Inc. stepped in to save HLS from bankruptcy, but eventually withdrew in response to activist pressure. SHAC even kept HLS off the New York Stock Exchange, a bold action that responded in charges of economic terrorism in a full page advertisement in *The New York Times*.²⁵

Growing increasingly powerful through high-pressure tactics that take the fight to HLS and their supporters rather than to corrupt legislatures, the SHAC movement emerged as a major danger to animal exploitation industries and the state that serves them. Alarmed indeed by the new form of animal rights militancy, HLS and the biomedical research lobby commanded special sessions with Congress to ban SHAC campaigns. It was thus no coincidence that on May 26, 2004, a police dragnet rounded up seven animal rights activists in New Jersey, New York, Washington, and California. Using the AEPA, HLS and the state successfully prosecuted the "SHAC 7," all of whom currently are serving prison sentences up to six years.

After the SHAC 7 conviction, David Martosko, the research director of the Center for Consumer Freedom (a corporate front group) and a fierce opponent of animal rights, joyously declared: "This is just the starting gun."²⁶ Indeed, the Center for Consumer [read: Corporate] Freedom has led a McCarthyesque witchhunt against all opposition groups -- not only underground groups but also aboveground, legal, and also mainstream groups such as People for the Ethical Treatment of Animals and the Humane Society of the United States, HSUS, tarring all opposition to animal cruelty with the same eco-terrorist brush. In a 2005 Congressional hearing on ecoterrorism, Martosko accused PETA and HSUS as being "front groups" for the ALF and SHAC, and urged Congress and the FBI to treat them all as one terrorist entity. In the post-9/11 environment, corporations and legislators continue to press for increasingly stringent laws against animal rights and environmental activism, while the Bush administration engulfs the entire citizenry within a vast web of fear, surveillance, intimidation, and oppression.²⁷

Repression Escalates

In September 2006, the US senate unanimously passed a new version of the AEPA (S3990), strategically renamed as the “Animal Enterprise *Terrorism* Act” (AETA). To prevent critical discussion of this repressive bill, the Senate fast-tracked it without hearings or debate, and delayed a vote just before adjourning for the Congressional election recess. In November 2006, the House approved the bill (HR 4239) and President Bush obligingly signed it into law.²⁸ Beyond the portentous change in name, the revised version extends the range of legal prosecution of activists, updates the law to cover Internet protest campaigns, and enforces stiffer penalties for “terrorist” actions. Created to stop the effectiveness of SHAC-style tactics that biomedical companies habitually complained about to Congress, the AETA makes it a criminal offense to interfere not only with so-called “animal enterprises” directly, but also with affiliated parties such as insurance companies, law firms, and investment houses that do business with them.

Thus, the Senate version of the bill expands the law to include “any property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise.” As journalist Will Potter notes, “The clause broadens the scope of legislation that is already overly broad.”²⁹ This problem is compounded further with additional vague concepts such as criminalize actions that create “reasonable fear” in the targets of protest, making actions like peaceful home demonstrations likely candidates for “ecoterrorism.”

Updated and fortified, the purpose of the AETA – reaffirmed and bolstered -- is to make it a terrorist crime to cause any “animal enterprise” (and its supporting companies) to suffer a loss of profit, whether through sabotage (“property damage”) or by legal activities such as peaceful protests, consumer boycotts, and media campaigns. AETA sentences first time violators up to six months in jail and \$10,000 in fines, and a second offense may earn one up to 18 months in prison and a \$25,000 fine. Seems non-violent, civil disobedience can be quite costly these days, earning burdensome fines, prison time, and the stigma of “terrorism.” The penalties escalate for acts that produce a “reasonable fear” of bodily harm or yield actual physical harm, even though the use of violence is unprecedented in the US animal rights movement.

"It's depressing to know that, just because of our beliefs involving animals, we are going to be branded terrorists if we protest," remarks Lori Nitzel, a Madison attorney and executive director of Alliance for Animals, a statewide group that pledges nonviolence.³⁰ As the Equal Justice Alliance aptly summarizes the main problems with the AETA:

It is excessively broad and vague.

It imposes disproportionately harsh penalties.

It effectively brands animal advocates as ‘terrorists’ and denies them equal protection.

It effectively brands civil disobedience as ‘terrorism’ and imposes severe penalties.

It has a chilling effect on all forms of protest by endangering free speech and assembly.

It interferes with investigation of animal enterprises that violate federal laws.

It detracts from prosecution of real terrorism against the American people.³¹

As a sign of post-9/11 politics and exploiting the semantic promiscuity of the T-word to thwart dissent, in December 2006, a Portland, Oregon fur store owner urged the state to use the AETA against protestors who “terrorized” him and threatened the high profit margins he earns from the blood of murdered animals.³²

An Army of One

A sole voice of dissent in Congress, Representative Dennis Kucinich (D–Ohio), stated that the AETA compromises civil rights and threatens to “chill” free speech. Alone in Congress for considering the victims rather than the victimizers, Kucinich said: “Just as we need to protect people’s right to conduct their work without fear of assault, so too this Congress has yet to address some fundamental ethical principles with respect to animals. How should animals be treated humanely? This is a debate that hasn’t come here.”³³

In response to Kucinich’s concerns, Congressman F. James Sensenbrenner (R-WI) stated that subsection (e) in the Senate bill, “rules of construction,” was added to protect First Amendment rights of peaceful protest. Kucinich failed to point out, however, that this minor clause hardly counters the overwhelming emphasis of the bill which criminalizes actions that cause “loss of profits” to any type of “animal enterprise.”

One finds a more trenchant critique in Potter’s analysis of the AETA, which underscores numerous evasions, disingenuous clauses, and logical inconsistencies. Addressing Sensenbrenner’s attempt to silence Kucinich on the question of First Amendment protections, Potter unravels the semantic chicanery and points out that:

[S]ome lawmakers adamantly maintained that “damages” means physical damage to physical property, and not the “loss of profits,” as defined by “economic damage.” If that’s the case, why does the penalty section spell out sentences for “non-violent physical obstruction,” and for a crime that “does not instill in another the reasonable fear of serious bodily injury or death” and “results in *no* economic damage or bodily injury”? If this bill only targets property destruction and violence, which by definition would have to cause economic damage or instill fear, how does the penalty section include sentences for crimes that do neither? ...Lawmakers could spell out the definition of “damage,” and note that ‘economic damage’ (including the loss of profits) only applies to the penalty section of the legislation. In other words, spell out that the offense must include physically damaging property, but penalties for that can take into account the amount of impact that property destruction had on a corporation’s “loss of profits.”³⁴

The ultimate intent of the law, in other words, is to stop *legal* not only illegal actions, to protect industry profits more than property, and to quell dissent in general.

ACLU Betrayal

One of the most unfortunate aspects of the AETA’s passing was the failure of the American Civil Liberties Union (ACLU) to challenge it firmly and in moral principle. The ACLU did indeed write a letter to Congress about the passing of the AETA in order to caution against conflating illegal and legal protests, but it failed to dispute the *real* terrorism perpetuated by animal and earth exploitation industries, and it ultimately consented to the validity of the speciesist and anthropocentric worldview.

In an October 30, 2006 letter to Chairman of the House Judiciary Committee F. James Sensenbrenner and Ranking Member John Conyers, the ACLU writes that it “does not oppose this bill, but believes that these minor changes are necessary to make the bill less likely to chill or threaten freedom of speech.” Beyond proposed semantic clarifications, the ACLU mainly warns against broadening the law to include legal activities such as boycotts: “Legitimate expressive activity may result in economic damage.... Care must therefore be taken in penalizing economic damage to avoid infringing upon legitimate activity.”³⁵

Thus, unlike dozens of animal protection groups who adamantly rejected the AETA *in toto*, the ACLU failed to challenge its speciesist assumptions and principles.³⁶ In agreement with corporate interests, the ACLU assures the government it “does not condone violence or threats.” Not surprisingly for a mainstream organization, the ACLU uncritically accepts (1) the corporate-state definition of “violence” as intentional harm to *property*, (2) the legal definition of animals as “property,” and (3) the use of the T-word to demonize animal liberationists rather than animal exploiters. By consequence, if not intent, the ACLU sides with the government against activists involved in illegal forms of liberation or sabotage, a problematic alliance in times of global ecocide. The implications of their failure to issue a deeper challenge of the law in defense of *animal rights and freedoms*, and not only human rights and freedoms, leads them toward supporting *the property rights* of industries to torture and slaughter billions of animals over the *moral rights* of animals to bodily integrity and a life free from human exploitation and violence.³⁷

Does the ACLU really think that their proposed modifications would be adequate to guarantee that the AETA doesn't trample on legal rights to protest? Are they ignorant and indifferent to the fact that the AETA was used to send the SHAC 7 to jail for the “terrorist crime” of protesting fraudulent research and heinous killing? And just where was the ACLU during the SHAC 7 trial, one of the most significant First Amendment cases in recent history? Why does the ACLU focus on violations of the Constitution only against human rights advocates? Do they not recognize that tyrannical measures used against animal activists today will be used against all citizens tomorrow? How can the world's premier civil rights institution be so blatantly speciesist and bigoted toward animals and their defenders? *Why will they rally to the defense of the Ku Klux Klan but not the SHAC 7?*

ACLU silence in the face of persecution of animal rights activists unfortunately is typical of most civil rights organizations in the UK, US, and elsewhere that are too speciesist and morally myopic to grasp the rights of animals and the implications of state repression of animal rights activists for human rights activists and dissent as a whole.

Dispatches from a Police State

“America is safer than it has been ... we're doing everything in our power to protect you.”
George Bush, August 2006

In the “home of the brave, land of the free,” activists are followed by federal agents, their phone conversations and computer activity is monitored, their homes are raided, they are forced to testify before grand juries and pressured to “name names,” they are targets of federal round ups, they are jailed for exercising constitutionally protected rights and liberties. This applies not just to the ALF and ELF, but also to legal groups like Food Not Bombs, student groups, anti-war demonstrators, and even vegan outreach organizations. In the post-9/11 climate, where the PATRIOT Act is the law of the land, activists are demonized as

terrorists, and citizens are advised to accustom themselves to the “new normalcy” of a post-civil rights, security-oriented garrison society.

Political repression has a long history in the US. From the Sedition Act of 1798 to the Red Scare during WWI, from McCarthyism to COINTELPRO, the US government has systematically violated the rights and liberties of its citizens.³⁸ The AETA thus takes its place alongside other forms of state repression, and as it *broadens* the attack to incorporate the newest – and for some time now, the most bold and dynamic – social movements to mount a challenge to corporate power: the animal rights and environmental movements. The growing effectiveness of these movements on numerous fronts inevitably brings a retaliatory response by the corporate-state complex, moving it to crack down on civil liberties, to keep pushing legal actions into the illegal and criminal – and now “terrorist” – zone, and crush serious opposition by any means necessary.

Corporate exploiters, Congress, and the courts have taken the nation down a perilous slippery slope, where a momentum that conflates lines between illegal and legal forms of dissent, between civil disobedience and terrorism, between PETA and Al Qaeda, and between liberating chickens from a factory farm and flying passenger planes into skyscrapers.³⁹ Politicians promote the corporate powers who pull their purse strings and stuff their pockets with favors and cash, the courts obligingly do their bidding, and police forces gleefully enforce the codes of corruption.

In post-9/11 America, the Constitution and the Bill of Rights are historical relics with little meaning to Bush’s cabinet, Congress, and the courts -- and apparently also for the apathetic herds and pro-“security” zealots among the citizenry-- and the Patriot Act is the new law of the land.⁴⁰ Time and time again, Bush has flouted the law – both national and international – to position himself as above and outside of it. Bush has subverted the Constitution’s mandate for a separation of powers, by arrogating political authority to the Executive branch alone.⁴¹ The words of James Madison are relevant here: “The accumulation of all powers, legislative, executive, and judiciary, in the same hands may justly be pronounced the very definition of tyranny.”⁴²

With Big Lies, manufactured data on Iraq’s alleged nuclear threat, and cynical manipulation of post-9/11 paranoia, the Bush administration has exploited the threat of terrorism in order to conjure up a nightmarish Hobbesian environment engulfed by a “war of all against all.”⁴³ From meaningless color-coded signs to warn the public they are in constant danger and their arrests of “dangerous terrorists” who were later released for lack of evidence (the fear-mongering accomplished nonetheless) to staging phony bomb threats (such as paralyzed the NYC subway in 2006), the Bush team has worked to keep fear alive and to convince the public they are safe only under the rule of the Republican Party.⁴⁴ Within this constructed, hyperreal environment thick with propaganda and disinformation, spewed with the assistance of a largely compliant media, Bush emerges as the Leviathan of bleak global landscape, exercising dictatorial powers over Congress, the courts, citizens, and the world at large.

This is terrorism, the *terrorism of “anti-terrorism,”* the willful spreading of fear and exploitation of a climate of fear, the intimidation and harassment of citizens, and the torture of murder of political prisoners throughout the world. Given that police states such as the UK and US function best when their citizens are fearful, Islamic extremists are Bush’s best ally in the War on Democracy. Just as Bin Laden suited Bush’s purposes, so Bush plays right into the hands of Bin Laden and other jihadists, as Bush’s war on Iraq and insults to Muslim culture were exactly the response to 9/11 jihadists wanted in order to foment resistance to the West and breed thousands of new suicide bombers and martyrs. Moreover, Bush and the

Far Right are carrying out another key goal of Muslim extremists by trying to destroy the last remaining vestiges of Western democracy, liberalism, and secularism.

The current geopolitical conflict is not a “class of civilizations,” as Samuel Huntington argues, but rather, as Tariq Ali suggests, *a clash of fundamentalisms*.⁴⁵ Whereas Bush constructs mythic binary opposites of Good vs. Evil, and Civilization vs. Barbarism, there are more similarities than differences between the Radical Right and radical Islam: both are grounded in fundamentalist religious views; both are authoritarian; and both seek to subvert modern Enlightenment, the democratic process, and the separation between Church and State. The best heritage of modernity – Enlightenment norms, democracy, civil liberties, and secular culture – is now threatened from both sides, such that Bush and the Christian Right pose as much a danger as Bin Laden and the Taliban. The Bush and Blair administrations, along with sundry contemporary authoritarians (such as paraded across the screen of FOX News), disdain defenders of democracy as “civil liberties absolutists” and people who “just don’t get it” – namely, that we live in dangerous and menacing times where security must trump liberty, where liberty *is* security.⁴⁶

Bypassing, ignoring, misunderstanding, and exacerbating the real sources of foreign attacks on the US, Bush’s “war on terrorism” is a farce, as evident with the cut and run strategy in Afghanistan (which allowed the resurgence of Al Qaeda) and the obsessive focus on Iraq rather than actual jihadist networks that lie elsewhere.⁴⁷ The massive police resources of the US state are being mobilized far more to thwart domestic dissent than to improve homeland insecurity. While the FBI and NSA surveil and shadow the citizenry, the airlines, railways, subways, city centers, and nuclear power plants remain completely vulnerable to attack.⁴⁸

The “war on terror” is a Trojan horse containing dirty bombs to drop on democracy and to unveil smoke and mirrors that distract from urgent social and environmental problems. While governments have a legitimate right and duty to protect their citizens from terrorist attacks, it is clear that Bush’s “war on terror” has focused more on stifling citizen dissent and protest. The *real goals* of the Bush administration, the far-right, and transnational corporations are not to make the world a safer place for its people, but rather to advance the neoconservative drive for Empire, to super-size corporate-state tyranny, to demonize and destroy democracy and dissent, and to divert attention from an ongoing war against the middle and lower classes.

To the extent that the new animal liberation movement threatens the profits and influence of corporations who thrive off animal suffering and death, they too will be branded as an enemy of the people and begin to feel the force of a corporate-state-system that stifles critical thinking, quells dissent, destroys opposition and stops at nothing to advance its growth, power, and profit imperatives. Like the backlash against other social movements such as feminism and black liberation, the counter to animal liberation is well-underway. But this is a sign of maturity, an indicator that the struggle against *human* supremacism has emerged as a serious challenger to the dominator culture. Fierce resistance to its moral message and political power is to be expected, and it is the Rubicon that the animal liberation ultimately must cross if it is to achieve its abolitionist goals.

Notes

¹ On the Green Scare and general documentation of state repression, see Steven Best, “It’s War! The Escalating Battle Between Activists and the Corporate State-Complex,” in Steven Best and Anthony

J. Nocella III (eds.), *Terrorists or Freedom Fighters? Reflections on the Liberation of Animals* (New York: Lantern Books, 2001, pp. 300-339, 2001.). Also see Will Potter's blog at: Greenisthenewred.com, and the "Greenscare" site at: <http://www.greenscare.org/>. For political rhetorical analysis and critical comparisons between anti-terrorism and anti-communism, see Rosemary Foot, "Human Rights and Counterterrorism in Global Governance: Reputation and Resistance," in *Global Governance*, July-September 2005, Vol. 11 Issue 3, pp. 291-310; Robert L. Ivie, "Evil Enemy Versus Agonistic Other: Rhetorical Constructions of Terrorism," *Review of Education, Pedagogy & Cultural Studies*, July 2003, Vol. 25 Issue 3, pp. 181-200; and Edward S. Herman, *The Real Terror Network: Terrorism in Fact and Propaganda* (Boston: South End Press, 1982).

² On the history of the FBI's war against democracy, civil rights, and social movements, see Robert Goldstein, *Political Repression in Modern America: 1870 to the Present* (Cambridge, MA: Schenkman Books, 1978); Ward Churchill and Jim Vander Wall, *Agents of Repression: The FBI's Secret Wars Against the Black Panther Party and the American Indian Movement* (Boston: South End Press, 1988); Ward Churchill and Jim Vander Wall, *Documents from the FBI's Secret Wars Against Dissent in the United States* (Boston: South End Press, 2002); and Athan Theoharis, *The FBI & American Democracy: A Brief Critical History* (Lawrence, Kansas: University of Kansas Press, 2004). There is a good collection of resources on the COINTELPRO operations at: <http://en.wikipedia.org/wiki/COINTELPRO>.

³ For Feinstein's capitulation to the Green Scare and her sordid alliance with neo-McCarthyite Senator James "Global Warming is a Myth" Inhofe (R-Okla.), see her press release at: <http://epw.senate.gov/pressitem.cfm?party=rep&id=262681>.

⁴ On the tenuous status of rights in the post-9/11 world, see Aryah Neier, "Did the Era of Rights End on September 11?," at: <http://www.crimesofwar.org/sept-mag/sept-neier-printer.html>.

⁵ On the global ambitions motivating the "war on terror," see Michel Chossudovsky, "America's War for Global Domination," at <http://www.informationclearinghouse.info/article5428.htm>. See also Amnesty International's monitoring of how nation states throughout the world are using the "war on terror" as a cover to suppress rights: "The War on Terrorism," at: [http://www.amnestyusa.org/Summer/Charting the War on Terrorism/page.do?id=1105423&n1=2&n2=19&n3=405](http://www.amnestyusa.org/Summer/Charting%20the%20War%20on%20Terrorism/page.do?id=1105423&n1=2&n2=19&n3=405).

⁶ On October, 2001, the PATRIOT Act passed in the Senate by a vote of 98 to 1, and in the House by a margin of 357 to 66. The Act had a sunset clause to ensure that Congress would need to reauthorize it, especially sections pertinent to the protection of civil liberties. It was renewed for another four years on March 2, 2006 with a vote of 89 to 11 in the Senate and on March 7 280 to 138 in the House, and subsequently signed into law by President Bush on March 9, 2006. Congress thereby extended some of the PATRIOT Act's most controversial provisions, such as which authorize roving wiretaps, secret warrants for books bought or checked out of libraries, and acquiring individuals' private records from schools, business, hospitals, and elsewhere. After Bush signed the reauthorization of the Act in a public ceremony on March 9, 2006, he then privately issued a "signing statement" (one among many he wrote) that freed him from complying with the Constitution if it conflicted with "security" concerns. The PATRIOT Act is available online at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ056.107. For a detailed overview of the PATRIOT Act, see: <http://www.answers.com/topic/patriot-act>. For critical analysis of the PATRIOT Act in terms of its violation of the Constitution and threats to civil liberties, see David Cole and James Dempsey, *Terrorism and the Constitution: Sacrificing Liberties in the Name of National Security* (New York: W. W. Norton & Company, 2002); Nat Hentoff, *The War on the Bill of Rights and the Gathering Resistance* (New York: Seven Stories Press, 2003); and Nancy Chang, *Silencing Political Dissent: How Post-September 11 Anti-Terrorism Measures Threaten Our Civil Liberties* (New York: Seven Stories Press, 2002). For online resources, see the Electronic Freedom Foundation (<http://www.eff.org/>), the Center for Constitutional Rights (<http://www.ccr-ny.org/v2/home.asp>), and the Bill of Rights Defense Committee (<http://www.bordc.org/>).

⁷ On the US government's treatment of non-citizens, see "A Deliberate Strategy of Disruption: Massive, Secretive Detention Effort Aimed Mainly at Preventing More Terror," November 4, 2001, *The Washington Post*, at: <http://www.washingtonpost.com/ac2/wp-dyn/A36356-2001Nov3>. Also see David Cole, *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism* (New York: New Press, 2005). An illustrative case in point of how the "enemy combatant" label works is the appalling treatment of Jose Padilla. A US citizen, Padilla was arrested in 2002 and charged with involvement in a terrorist plot to set off a dirty bomb in a major US city. Padilla was detained in a military brig without hearing charges against him and deprived of legal counsel. In April 2007, the government continued its prosecution against him, but dropped the enemy combatant charges for lack of evidence.

⁸ On the Bush administration's secret prisons and use of torture tactics as part of the CIA's "extraordinary rendition" program, see "Bush: CIA holds terror suspects in secret prisons," at: <http://www.cnn.com/2006/POLITICS/09/06/bush.speech/>; "United States of America: Below the radar: Secret flights to torture and 'disappearance,'" at: <http://www.amnestyusa.org/document.php?lang=e&id=ENGUSA20060404001>, and Amnesty International background reports at: http://www.amnestyusa.org/Torture/Reports_Statements_and_Issue_Briefs/page.do?id=1031034&n1=3&n2=38&n3=1052. Also see the ACLU's "Documentation of Deaths" report at: <http://action.aclu.org/torturefoia/released/102405/3128.pdf>. Trevor Paglen and A.C. Thompson have written a book-length study on recent CIA torture tactics in *Torture Taxi: On the Trail of the CIA's Rendition Flights* (Hoboken, NJ: Melville House Publishing, 2006). In his article, "American Prison Planet: The Bush Administration as Global Jailer," Nick Turse reports, "U.S. intelligence officials estimated that 70-90% of prisoners detained in Iraq 'had been arrested by mistake.' That was also 2004. The next year, it was revealed that, of the large majority of RNC arrest cases that had run their course, 91% of the arrests were dismissed or ended in acquittals" (<http://www.informationclearinghouse.info/article15495.htm>). Similarly, Washington DC reporter, Justin Rodd, notes that while the National Security Association "sifts through millions of phone records, and the FBI runs down tens of thousands of mostly useless tips, federal prosecutors have only fielded a few hundred cases since 9/11. And even those are mostly chump change: Of 510 cases brought by the Feds in the past five years, they've won only four convictions on terror charges, according to one study" (December 12, "Is the Bush Administration Ignoring War on Terror?," at: <http://www.tpmuckraker.com/mt/mt-search.cgi?search=domestic+terrorism&SearchCutoff=365>).

⁹ On the Bush administration's contempt for the Geneva Conventions, see the Human Rights Watch report, "Questions and Answers: U.S. Detainees Disappeared into Secret Prisons: Illegal under Domestic and International Law," December 9, 2005, at: <http://hrw.org/backgrounder/usa/us1205/index.htm>. Also see Kenneth Roth, "Human Rights, the Bush Administration, and the Fight against Terrorism: The Need for a Positive Vision," at: <http://hrw.org/editorials/2003/us091803.htm>.

¹⁰ The Military Commissions Act denies habeas corpus rights – which protect against unlawful imprisonment -- to all non-citizens suspected of being threats to national security. This act is part and parcel of the Bush administrations' attempt to flout the Geneva Convention and to give to itself the right to torture those whom they detain. Whereas the Military Commissions Act targets non-citizens, many legal experts believe that it also targets American citizens, authorizing the president to seize American citizens, declare them "enemy combatants," strip them of all legal rights, and throw them into a military prison. According to the *Washington Post* reports, "The Bush administration is developing a parallel legal system in which terrorism suspects -- U.S. citizens and non-citizens alike -- may be investigated, jailed, interrogated, tried and punished without legal protections guaranteed by the ordinary system, lawyers inside and outside the government say" (Charles Lane, "In Terror War, 2nd Track for Suspects: Those Designated 'Combatants' Lose Legal Protections," *The Washington Post*, Sunday December 1, 2002, page A1).

¹¹ On the cooperation of major phone and internet companies with the government's surveillance program, see Eric Lichtblau and James Risen, "Spy Agency Mined Vast Data Trove, Officials Report," *The New York Times*, December 24, 2005, at: <http://www.nytimes.com/2005/12/24/politics/24spy.html?ei=5090&en=016edb46b79bde83&ex=1293080400&pagewanted=print>. The state also worked with airlines to compile passenger information and placing many citizens on a "no fly" list. On the government's creation of a Terrorist Identity List with the cooperation of the major airlines, see William J. Krouse, "Terrorist Identification, Screening, and Tracking Under Homeland Security Presidential Directive," at: <http://www.fas.org/irp/crs/RL32366.pdf>,

¹² For a wealth of resources on Bush's use of illegal (warrantless) wiretaps and government surveillance on the whole, see: <http://www.bordc.org/threats/spying.php>. See especially the fact sheet at: <http://www.bordc.org/threats/nsamyths.php>. Also see the American Bar Association's critique of Bush's systematic attack on the Constitution at: <http://www.informationclearinghouse.info/article12294.htm>.

¹³ In December 2005, NBC News revealed details from a 400-page Department of Defense database document on domestic "threats" to its installations, detailing 1,500 "suspicious incidents" from a 10-month period (see Lisa Myers et. al, "Is the Pentagon Spying on Americans?," December 14, 2005, at: <http://www.msnbc.msn.com/id/10454316/>). Dozens of peace groups were on the list, with a special focus on military counter-recruitment activities. According to NBC News, the database "includes nearly four dozen antiwar meetings or protests, including some that have taken place far from any military installation, post or recruitment center." Though hundreds of incidents were discounted as a threat, their names and details remained in the database. Similarly, the ACLU has obtained numerous documents showing government surveillance of innocent Americans (see: <http://www.aclu.org/spyfiles>). The Pentagon documents obtained by the ACLU reveal that "counterterrorism resources were used to monitor American groups opposed to the war in Iraq and military recruitment." The Pentagon's Threat and Local Observation Notice (TALON) database describe as "threats" planned demonstrations at military recruitment stations (see: <http://www.aclu.org/safefree/spying/27459lgj20061121.html>). For additional information on government surveillance of citizens, see: "Documents Reveal Widespread Domestic Surveillance of Political Groups," at: http://www.opednews.com/articles/opedne_public_p_061122_documents_reveal_wid.htm, and The Bill of Rights Defense Committee reports at: <http://www.bordc.org/threats/spying-protesters.php>. Astonishingly, in June 2007, the CIA released its "family jewel" internal reports that secretly documented their surveillance tactics on social movements and progressives (the documents are available on the CIA website, at: <https://www.cia.gov/>).

¹⁴ For examples of how the PATRIOT Act has been used against law-abiding citizens, see Steve Watson, "Patriot Act Use Against US Citizens Extended," http://infowars.net/articles/december2005/091205Patriot_act.htm.

¹⁵ On the ALF and ELF, see Steven Best and Anthony J. Nocella II, *Terrorists or Freedom Fighters?: Reflections of the Liberation of Animals* (Lantern Books, 2004), and Best and Nocella, *Igniting a Revolution: Voices in Defense of the Earth* (AK Press, 2006).

¹⁶ See the Introduction to *Terrorists or Freedom Fighters*. Justin Rood and staff at Congressional Quarterly reported the ironies of elevating the ALF and ELF to the greatest domestic terrorist threat in their article, "Animal Rights Groups and Ecology Militants Make DHS Terrorist List, Right-Wing Vigilantes Omitted," at: http://www.cq.com/public/20050325_homeland.html. For an article on the capture of a truckload of deadly weapons possessed by one Aryan hate-group, see: Carol Robinson, et. al, "Militia raid targets weapons," *The Birmingham News*, April 27, 2007, at: <http://www.al.com/news/birminghamnews/index.ssf?/base/news/1177661759187830.xml&coll=2&thispage=1>. On the government's tolerance of right-wing violence in relation to their hysteria and fervent prosecution of "eco-terrorism," see "A Different Kind of Terrorism," discussed in *The Carpetbagger Report* blog, at: <http://www.thecarpetbaggerreport.com/archives/10638.html>. Note also

that right-wing extremists such as G. Gordon Liddy, Pat Robertson, and Ann Coulter can routinely advocate violence and assignation tactics against their paranoically-perceived enemies of the US, but the government seeks to put Rod Coronado in prison for years for an impromptu demonstration of how to make a firebomb:

¹⁷ See “Defining Terrorism,” in Best and Nocella, *Terrorists or Freedom Fighters*, pp. 361-377.

¹⁸ See Andrew Blegwas et. al., “Terror from the Far Right,” at: <http://www.splcenter.org/intel/intelreport/article.jsp?aid=628>.

¹⁹ For rise of the radical right and neo-Nazism in US politics and culture, see Sara Diamond, *Roads to Dominion: Right-Wing Movements and Political Power in the United States* (New York: Guildford Press, 1995); Chip Berlet and Matthew N. Lyons, *Right-Wing Populism in America: Too Close for Comfort* (New York: Guildford Press, 200); and Chris Hedges, *American Fascists: The Christian Right and the War on America* (New York: Free Press, 2007). Also see Michelle Goldberg, “Tyranny of the Christian Right,” at: <http://alternet.org/story/36640/>.

²⁰ Corporations, of course, determine social policy and law through funneling full-time lobbying of politicians, campaign donations, and outright bribes (see, for example, William Greider, *Who will tell the People: The Betrayal of American Democracy* [New York: Simon & Schuster, 1992]). The passage from corporations to the political and legal system occurs through a revolving door, where corporate heads create legislation and politicians and judges move up into the corporation world. A case in point is that before the arrest of the SHAC 7, a phalanx of corporate interests including pharmaceutical companies, researchers, and broad corporate front groups commanded the ear of Congress during a special session’ see Steven Best and Richard Kahn, “Trial By Fire: The SHAC 7, Globalization, and the Future of Democracy,” *Institute for Critical Animal Studies Journal*, Volume II, Issue 2, 2004, http://www.cala-online.org/Journal_Articles_download/Issue_3/Trial%20by%20Fire.pdf. For a detailed list of examples of the porous boundary between corporations and the state, see SourceWatch’s excellent study, “Government-Industry Revolving Door,” at: http://www.sourcewatch.org/index.php?title=Government-industry_revolving_door. On the revolving door between energy, coal, and oil companies such as ExxonMobil and the Bush administration, see Tim Dickinson, “Six Years of Deceit,” *Rolling Stone*, Issue 1029, June 28, 2007, pp. 54-59. Before being hired as the Chief of Staff for the White House Council on Environmental Quality (where his job was to censor reports on climate change), for instance, Phil Cooney worked for the American Petroleum Institute; upon leaving the White House once his censorship techniques were revealed, Cooney took on the position of corporate issues manager for ExxonMobil.

²¹ The text of the “Animal Enterprise Protection Act of 1992” is available at: <http://www.nal.usda.gov/awic/legislat/pl102346.htm>

²² In states such as Oregon and California, related legislation has already passed which declares it a felony terrorist offense to enter any animal facility with a camera or video recorder “with the intent to defame the facility or facility’s owner.” See Steven Best, “It’s War: The Escalating Battle Between Activists and the Corporate-State Complex,” in Best and Nocella, *Terrorists or Freedom Fighters*, pp. 300-339.

²³ For an overview of SHAC and the controversy surrounding HLS (including numerous undercover video exposes of lawbreaking, extreme animal cruelty, and bogus research), see: http://en.wikipedia.org/wiki/Stop_Huntingdon_Animal_Cruelty#External_links. For video documentation of HLS and details of the SHAC campaign, see: <http://www.shac.net/>. The SHAC 7 case was not the first time corporations and the state used the AEP(A) against animal activists (e.g., in 1999, Justin Samuel and Peter Young were prosecuted with it for a mink release), but it was the first major, concerted, and highly-publicized application of the law. For an example of a scientist calling for more aggressive use of the AEP(I)A, see Edward J. Walsh, “The Animal Enterprise Protection Act: A Scientist’s Perspective Brings the Law into Focus,” at: <http://www.naiaonline.org/body/articles/archives/animalenterprise.htm>.

²³ For a more detailed analysis of the SHAC struggle in the context of political economy, see Best and Kahn, “Trial By Fire: The SHAC 7, Globalization, and the Future of Democracy.”

²³ See John Cook, “Thugs for Puppies,” at: http://www.salon.com/mwt/feature/2006/02/07/thugs_puppies/. The SHAC movement and other animal liberation militants have abandoned the effort to change vivisection practices given the economic importance of the pharmaceutical-research industry (the third leading contributor to the UK economy), its powerful lobbying influence, and the strong support it receives by governments; see Best and Kahn, “Trial By Fire: The SHAC 7, Globalization, and the Future of Democracy.”

²⁴ For a more detailed analysis of the SHAC struggle in the context of globalization and political economy, see Best and Kahn, “Trial By Fire: The SHAC 7, Globalization, and the Future of Democracy.”

²⁵ See John Cook, “Thugs for Puppies,” at: http://www.salon.com/mwt/feature/2006/02/07/thugs_puppies/. The SHAC movement and other animal liberation militants have abandoned the effort to change vivisection practices given the economic importance of the pharmaceutical-research industry (the third leading contributor to the UK economy), its powerful lobbying influence, and the strong support it receives by governments; see Best and Kahn, “Trial By Fire: The SHAC 7, Globalization, and the Future of Democracy.”

²⁶ Martosko cited in “U.S. terror hunt targets animal activists,” *Toronto Star*, March 13, 2006.

²⁷ For an example of a scientist calling for more aggressive use of the AEP(T)A, see Edward J. Walsh, “The Animal Enterprise Protection Act: A Scientist’s Perspective Brings the Law into Focus,” at: <http://www.naiaonline.org/body/articles/archives/animalenterprise.htm>.

²⁸ For the text of S3880, the final bill that passed in both houses, see: <http://noaeta.org/bill.htm>.

²⁹ Will Potter, “Analysis of Animal Enterprise Terrorism Act,” at: <http://www.greenisthenewred.com/blog/aeta-analysis-109th>.

³⁰ Lori Nitzel, cited in Steve Watson, “Endemic: The Move to Label All Civil Disobedience ‘Terrorism,’” Friday December 1, 2006, at: http://infowars.net/articles/december2006/011206terror_legislation.htm.

³¹ “Why Oppose AETA” at: <http://noaeta.org/whyoppose.htm>.

³² “Struggling Fur Salon Owner Says ‘Eco-terrorism’ Legislation Should Be Used Against Protests,” at: <http://www.greenisthenewred.com/blog/2006/12/02/schumacher-act/#more-177>.

³³ Kucinich cited in <http://newstandardnews.net/content/index.cfm/items/3887>. Kucinich also challenged the AETA as being redundant and created a “specific classification” to repress legitimate dissent.

³⁴ Will Potter, “Analysis of Animal Enterprise Terrorism Act,” at: <http://www.greenisthenewred.com/blog/aeta-analysis-109th>. For Potter’s testimony before the House Committee on the Judiciary Subcommittee on Crime, Terrorism, and Homeland Security see: <http://www.greenisthenewred.com/blog/congressional-testimony>.

³⁵ The ACLU letter to Congress is available at: <http://www.aclu.org/freespeech/gen/25620leg20060306.html>.

³⁶ For a list of animal advocacy groups opposed to the AETA, see: <http://www.stopaeta.org/>.

³⁷ On the semantics of “violence” in relation to property destruction, and the debates surrounding the controversial tactic of economic sabotage, see the Introduction to Best and Nocella, *Terrorists or Freedom Fighters?*, pp. 9-63.

³⁸ See Robert Goldstein, *Political Repression in Modern America: 1870 to the Present*.

³⁹ On the promiscuous use of the T-word, such as the Department of Homeland Security employed to characterize activist tactics of flyer distribution and tying up phone lines, see Will Potter, “DHS Helps Corporations Fight Terrorism Like ... ‘Flyer Distribution?’” at: <http://www.greenisthenewred.com/blog/2006/04/14/dhs-flyer-distribution/>.

⁴⁰ While it is true that an 18th century document (the Constitution) written by elite white men does not hold all the answers for the complex times of the 21st century, we must not allow governments to use 9/11 to justify an evisceration of the enduring importance of the Bill of Rights. See Mark Graber, “Operating an Eighteenth Century Constitution in a Twenty-First Century World,” May 7, 2007, at: <http://balkin.blogspot.com/>. Not to paint too bleak or totalizing a picture of government power, there are of course some significant voices of dissent within the citizenry, such as mobilized against

the PATRIOT Act in cities and towns across the nation; see the Bill of Rights Defense Committee website at: <http://www.bordc.org/>.

⁴¹ Having won the battle for control of Congress in the 2007 elections, Democrats are trying to defend basic rights, assert their authority against executive power, hold Gonzalez and others countable, and challenge Bush and his war policies, possibly bringing about a Constitutional crisis and showdown before Bush leaves office. At the same time, the party has failed to use its power to cut off funding for the war on Iraq and many democrats like Hilary Clinton have demonstrated their own hawkish tendencies. The “sea-change” in US politics extends beyond the Republican Party and may last for some time.

⁴² James Madison, “47th Federalist Paper,” online at: <http://www.fortunecity.com/millennium/okehampton/377/47thfederalist.html>.

⁴³ In September 2006, the Senate Intelligence Committee released a four hundred page report that found no connections between Saddam Hussein and Al Qaeda, thereby contradicting the main justification the Bush administration used to invade Iraq and unleash a “war on terror” at home and abroad. See Adam Brookes, “Iraq Justifications Laid Bare,” *BBC News*, September 9, 2006, at: <http://news.bbc.co.uk/2/hi/americas/5329350.stm>. For the Senate report, see: <http://intelligence.senate.gov/phaseiiaccuracy.pdf>.

⁴⁴ Whenever Bush’s is credibility ratings were sagging or Democrats had gained in the polls, you could count on manufactured, phony terrorist threats, such as the baseless fabrication that paralyzed the NYC subway in 2006. In July 2005, House Republican leadership exploited the London subway bombings to ram through the House version of the USA PATRIOT Act reauthorization bill (HR 3199), and to reject several amendments allegedly to strengthen for civil liberties protections. In August 2006, with impending mid-term elections and polls showing Republicans in danger of losing control over both Houses of Congress, the government shamelessly exploited the capture of an alleged terrorist cell in London in order to keep fear alive and convince the public they are safe only under the rule of the Republican Party. There is an uncanny relation – whether one of regular association or cause and effect -- between the Bush campaign being down in some way, and terror alerts rising along with police raids of alleged targeted areas and arrest of “terrorist” cells. Perhaps coincidence, perhaps deftly managed propaganda and shameless exploitation of fear and the 9/11 tragedy. On Oct. 12, Keith Olbermann of MSNBC ran a story listing instances of the administration announcing possible terrorist attacks every time it experienced trouble (for video and transcripts, see: David Edwards, “Olbermann: ‘The Nexus of Politics and Terror’,” at: http://www.rawstory.com/news/2006/Olbermann_The_Nexus_of_politics_and_0815.html. On how Bush manipulates terror threats, see David Walsh, “The US media and the London terror scare” (<http://www.wsws.org/articles/2006/aug2006/medi-a16.shtml>); Barry Grey, “The politics of the latest terror scare” (<http://www.wsws.org/articles/2006/aug2006/terr-a15.shtml>); and Barry Grey, “Plan to attack New York tunnels: Yet another dubious ‘terror plot’” (http://www.wsws.org/articles/2006/jul2006/plot-j08_prn.shtml).

⁴⁵ Samuel Huntington, *The Clash of Civilizations and the Remaking of the World Order* (London: Simon & Schuster, 1997); Tariq Ali, *The Clash of Fundamentalisms: Crusades, Jibads and Modernity* (London: Verso, 2002).

⁴⁶ “Blair was not trying to buck us up and steel our resolve by saying that we’re at war and that we’ll have to pitch in and sacrifice our liberties for a while. He was saying that war has shown many of our liberties to be illusory. The ‘civil liberties’ we know do not bubble up from natural law or from something timeless and universal in the human character. They may be significant accomplishments, but they are temporal ones, bound to certain stages of technology or to certain styles of social organization. Maybe there was something like an Age of Civil Liberties, Blair was telling us, but it is over.” Christopher Caldwell, “The Post-8/10 World,” at: http://www.nytimes.com/2006/08/20/magazine/20wwln_essay.html.

⁴⁷ For detailed accounts of the failures of the Bush administration's abominable failure to take warnings of an imminent attack on the US seriously, while instead focusing on plans to invade Iraq, see Richard Clark, *Against All Enemies* (New York: Free Press, 2004).

⁴⁸ In the current climate of administratively managed fear, we must all pause and gain a critical perspective. Radical jihadists are a "security threat," but they are not our greatest concern. Since 9/11, as many Americans have been killed by terrorists as have been killed by lightning, accident-causing deer, or severe allergic reaction to peanuts. Sprawl, car accidents, chemical spills, and environmentally influenced cancers are bigger threats to the lives of average Americans than terrorism (see policy report). Certainly hunger, poverty, and environmental degradation cause far more death, suffering, chaos, and economic costs in the world than any terrorist could. According to scientific reports, far more people have lost their lives from the direct and indirect effects of climate change than terrorism (see articles). While politicians and the media perpetuate and pander to the politics of fear, crucial social issues are ignored. We need a *broad holistic concept of security*, one that recognizes the risks posed not only by weapons of mass destruction and terrorism, but also poverty, underdevelopment, national debt, militarization, and environmental problems such as global warming. See the Cato Institute (a conservative think tank) report, "A False Sense of Insecurity?" at: <http://www.cato.org/pubs/regulation/regv27n3/v27n3-5.pdf>.

In Defense of Animals: The Second Wave
Edited by Peter Singer
Published by Blackwell Publishing
August 2005; \$21.95US; ISBN: 1-4051-1941-1.
248 pages

Reviewed by Matthew Calarco*

In 1985 Peter Singer published *In Defense of Animals* (New York: Blackwell), a seminal volume in the field of animal ethics and politics that gathered together contributions from a number of leading theorists and activists to discuss the latest trends and ideas in the field. With *In Defense of Animals: The Second Wave*, Singer and the contributors to the volume seek to take stock of the developments in the movement that have occurred in the subsequent twenty years and measure the movement's growth and maturation. While the essays included in the volume are uniformly well argued, there are various ways in which the volume as a whole fails to take full stock of the second wave of animal defense—and I will try to indicate in this review a few of the more important ways in which I believe the volume comes up short.

Part I of the book, "The Ideas," contains chapters dealing with various theoretical approaches to animal ethics. The lead essay from Gaverick Matheny, "Utilitarianism and Animals," is a lucid recapitulation of the main elements of the utilitarian case for extending the principle of equal consideration of interests to animals first articulated by Singer himself in *Animal Liberation*.

Marian Dawkins's essay "The Scientific Basis for Assessing Suffering in Animals" follows Matheny's piece, and develops the empirical approach needed for assessing whether and to what extent animals do indeed have an interest in how they are treated. Dawkins's essay is the only reprint from the first version of *In Defense of Animals*, and, given the clarity and influential nature of the argument developed here, there is some justification for reprinting it. Dawkins makes a case for a series of collective physical criteria (physical health, physiological signs of distress, behavior) and tests (designed to determine preferences and aversions) that can be reasonably relied upon to assess animal suffering and quantify it in meaningful ways. (That this concern to determine animal suffering along empirical lines through testing, which in some cases requires invasive experimentation, is itself ethically problematic is a problem that Dawkins does not fully explore).

David DeGrazia's essay "On the Question of Personhood beyond *Homo sapiens*" provides a definition of the moral concept of personhood and inquires into whether personhood can be located beyond human beings. DeGrazia argues that the concept of personhood cannot be clearly and distinctly defined inasmuch as it comprises a cluster of properties including autonomy, rationality, self-awareness, linguistic competence, sociability,

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and so forth. But if we take this cluster of properties as roughly demarcating the contours of “paradigm” persons (the standard examples of which are adult human beings), then empirical evidence would suggest that certain animal species such as great apes and dolphins are “borderline” persons, and (the very few) animals trained to have advanced linguistic competence are, in fact, full persons. DeGrazia leaves open the question of whether personhood should mark the definitive limit of which beings have moral standing and suggests that further discussion of the relation between personhood and morality is needed.

Paola Cavalieri’s essay, “The Animal Debate: A Reexamination,” offers a broad historical overview of the moral status of animals and makes a case for analytic moral philosophy as being the most powerful tool for reforming our thinking. Cavalieri finds part of the inspiration for her more positive view of animals in pre-Aristotelian philosophy, and argues that Aristotle’s and Descartes’s respective writings on animals have combined to give us a reductive and, ultimately harmful, vision of animals and our moral obligations to animals. Recently, there has been some interest in the possibility that Continental philosophers such as Heidegger and Derrida, who have offered profound criticisms of the metaphysical tradition, might be used to contest that tradition’s views on animals. Cavalieri argues that no such critical or positive potential is to be found in either Heidegger or Derrida, and that the only direct and successful challenge to the metaphysical tradition is found in the analytic moral tradition. Here Cavalieri has in mind Singer’s utilitarian argument for animal liberation, along with the various criticisms that have been mounted against the anthropocentrism of virtue ethics, contractarianism, and Kantianism by analytic animal ethicists.

In the final essay of this section, “Religion and Animals,” Paul Waldau seeks to uncover the positive views of animals that can be found in various religious traditions and demonstrate how such views can be pressed into the service of better understanding and respecting nonhuman animals.

Although the essays in this section are all fairly strong at the level of argumentation, it would be misleading to say that they constitute anything like a second wave or development of the ideas behind animal ethics. In fact, the essays included here do little more than rearticulate well-worn positions in the field. In recent years, theorists have created novel versions of virtue ethics (Rosalind Hursthouse), contractarianism (Mark Rowlands), and Kantianism (Christine Korsgaard) (to name only the most prominent theories and theorists) in animal ethics that have opened up new theoretical and practical perspectives. None of these new developments are fully represented here, and the book would have benefited from being more inclusive of such positions. Furthermore, the burgeoning literature on the intersection of animal defense and feminism associated with important philosophers such as Carol Adams and Josephine Donovan is not even mentioned in the footnotes in this section. Although it would be unfair to blame Singer for not including representatives of all of these trends, it does seem that a better cross-section of new trends and developments in the field could have been included here.

Part II, “The Problems,” comprises essays on some of the leading issues in animal ethics and politics: experimentation, factory farms, welfare, and zoos. The two essays that lead off this section, Richard Ryder’s “Speciesism in the Laboratory” and Jim Mason and Mary Finelli’s “Brave New Farm?,” are exceptionally strong contributions. Ryder’s essay details the wide range of routine and extreme experiments done to animals in laboratories in

the US, UK, Europe, and elsewhere, and provides a host of useful empirical details that most animals activists will know about but that are not always readily accessible by the general public. Particularly important as well is Ryder's discussion of emerging humane alternatives to animal research.

Mason and Finelli's succinct overview of the historical formation and present conditions of factory farms is a superb place for students, academics, and interested laypersons to enter the debate over raising animals for consumption. The authors discuss the practices involved with raising and slaughtering a wide range of farm animals (broiler chickens and layer hens; dairy, veal, and beef cattle; pigs; ducks) and also take into account the massive number of aquatic animals that are killed for human consumption each year (a number that, even at the lowest estimates, dwarfs the number of farm animals killed each year). Mason and Finelli include an overview of recent developments in biotechnology and genetic engineering as it has been applied to farm animals, as well as the concomitant human health concerns associated with industrialized animal agriculture.

The manner in which some of these horrific and cruel practices have been contested and reformed through public pressure and legislation in the European Union is the subject of the third essay in the section, Clare Druce and Philip Lymbery's "Outlawed in Europe." Druce and Lymbery examine three specific reforms involved in rearing animals in factory farms: stalls used for raising pigs, crates used for veal production, and cages used for battery hens. In each case, the negative impacts of standard rearing practices on the welfare of animals have been recognized by law and steps taken to rectify them through sanctions. Although the full enactment of many of these reforms will not take place for several years, the authors nevertheless see the legal reforms as being "the most remarkable victory yet" for the animal welfare movement (130). (Whether such reforms should be the ultimate goal of people working in defense of animals is, of course, a hotly contested point of debate among activists. I will leave discussion of this issue to another occasion.)

Turning from experimentation and farm animals to zoos, Dale Jamieson's essay "Against Zoos" accomplishes exactly what its title implies: it makes a case for the complete abolition of zoos. After rehearsing the various arguments in favor of zoos (keeping animals in zoos provides amusement for humans, educational opportunities, research opportunities, and a venue for species preservation), Jamieson provides a series of counterarguments, making the case that zoos cause animals immense suffering, reinforce human exceptionalism, and ultimately treat animals as little more than tools for research and amusement. Dale Peterson's "To Eat the Laughing Animal" follows Jamieson's essay and takes up the issues associated with researching on, hunting, and consuming nonhuman primates. He argues, much like Jamieson, for a complete abolition of these practices.

What is perhaps most remarkable about the essays in this section of the book is that nearly all of them touch (either directly or indirectly) on the havoc that global capitalism wreaks on animal life and the manner in which global capitalism is poised to undercut many of the hard-won advances achieved by activists. For example, factory farming reforms (such as the ones discussed by Druce and Lymbery) instituted in one nation to protect animals can be undercut simply by importing animals from other countries where such regulations are lacking and where animal products can be produced more efficiently and less expensively. Or consider the fact that multinational corporations heavily invested in objectionable scientific practices using animals can simply move their research to another country if their

main countries of origin impose laws that make their research unprofitable. Such examples can be endlessly multiplied, and the authors in this section offer their own versions in their respective essays.

What is missing from this section, and from contemporary animal rights discourse more generally, however, is a careful and sustained analysis of how *global capitalism itself*, combined with specific modes of anthropocentrism, gives rise to these problems—which is another way of saying that one of the chief problems facing animals today *is* global capitalism. By focusing on specific reforms/abolitions of specific practices, as is done in this section of book, it is easy to lose sight of the fact that the spread of global capitalism is at the very heart of the problems under discussion here (namely, the growth of factory farms, invasive animal experimentation, and the more general marketing of animals). Capitalism is not a side effect of these practices or something that might potentially thwart reforms made in the name of animal defense; it is one of the chief causes of these problems as well as one of the main obstacles in the way of achieving and sustaining genuine reforms/abolitions. It strikes me as naïve in the extreme to believe that thoroughgoing changes for animals are going to occur without simultaneously developing alternatives to global capitalism. If animal defense activists decide to accept global capitalism as the only game in town, they should likewise decide to accept the fact that the fate of animals on this planet will only get increasingly worse in future years. It is high time, especially in this era of “second wave” animal defense, to confront squarely the problem of animals within global capitalism and to begin to imagine and enact alternatives to the current state of affairs.

Part III, “Activists and Their Strategies,” examines a few of the more common approaches to raising consciousness about animals and specific modes of direct action that animal activists have undertaken in recent years. Martin Balluch’s “How Austria Achieved a Historic Breakthrough for Animals” relates the story of how the Austrian Parliament was pressured to vote for a battery farm ban. Essential to this victory, Balluch suggests, was the concerted and united effort of animal advocacy groups to focus on specific targets (in this case, the ruling Conservative Party), attract media sympathizers, and push for specific, incremental legal changes through non-violent means. Balluch is particularly critical of the guerilla tactics used by the Animal Liberation Front and argues that they are not nearly as effective as the kind of reforms that activists have achieved through legal means in Austria. (I will address this point again briefly below.)

Pelle Strindlund, a Swedish activist, offers first-person narratives of his acts of civil disobedience on behalf of animals in “Butcher’s Knives into Pruning Hooks.” The acts related by Strindlund include the rescue of a laboratory dog and sabotage of a slaughterhouse, after both of which he turned himself into authorities. In addition to telling the story of his strategies and tactics, Strindlund offers his personal reflections on the most effective strategies for civil disobedience. It is notable, and notably frightening, that the two compassionate actions Strindlund describes for the reader would (although performed abroad several years ago) probably, today, be considered acts of terrorism by law enforcement officials in the United States under the Animal Enterprise Terrorism Act.

In “Opening Cages, Opening Eyes,” Miyun Park tells the story of how her animal advocacy group, Compassion Over Killing, did an exposé of a chicken factory farm in Maryland that was suspected of being exceptionally abusive. Park and her group captured evidence of the abuse of the chickens on videotape and in photographs, saved as many birds

as they could while on the premises (only eight from among the nearly 800,000 hens located at this factory farm), mounted a media campaign against the corporation that owned the farm, and received widespread national coverage.

Matt Ball's essay, "Living and Working in Defense of Animals," argues that the kinds of direct and investigative actions carried out by Strindlund and Park need to be supplemented by widespread and fundamental changes in our diets. Ball makes the case that, in terms of the sheer numbers of animals affected, there is no more important project for animal activists than finding ways to abolish factory farming and to convert people to vegan diets.

The final four essays in this section examine ways to make animal rights activism as effective and successful as possible. Bruce Friedrich's contribution, "Effective Advocacy," provides activists with a series of tips aimed at making activism attractive to individuals outside of the animal rights movement. In "Moving the Media," Karen Dawn examines how the media can be used, sometimes despite itself, to provide a forum for presenting progressive positions on animal rights. CEO of Whole Foods, John Mackey, is interviewed by Karen Dawn and Lauren Ornelas in "The CEO as Animal Activist," and explains his personal conversion to veganism and how Whole Foods has sought to support farmers who oppose factory farming. Finally, in "Ten Points for Activists," Peter Singer expands upon and explains a list of strategies for activists developed by well-known animal defense activist Henry Spira shortly before his death in 1998. All of these pieces provide cogent and pragmatic strategies that will certainly help to make animal defense more effective than it has been in past years.

As with the previous sections in the book, the essays here introduce some novel material into current debates in animal ethics and politics but leave out other important recent developments. In particular, this section leaves out a discussion of: (1) the relation between the animal rights movement and other progressive social and political movements; and (2) the debate over the use of violence in advancing animal defense. With regard to the first point, it is becoming increasingly clear that, if the animal defense movement is to be more effective politically, it is going to have to find ways to link itself with other progressive movements for social change. There are three main avenues along which such links are currently being formed: through feminist approaches to animal defense, through animal and environmental defense coalitions, and through the linkages being constructed between animal defense activists and the various alternative globalization movements. Exploration and further development of these kinds of political strategies and linkages will no doubt be essential to the future success of animal defense movements in an era of global capitalism.

Concerning the issue of violence, here, too, it would have been useful for Singer to provide space for a rigorous philosophical discussion of competing ideas about the use of violence on behalf of animal liberation. In his introduction to the volume, Singer defends his exclusion of this debate by suggesting that the animal defense movement is largely opposed to violence (by which he seems to mean primarily physical harm and intimidation of human beings rather than economic sabotage and property damage), and that the use of violence ultimately undermines the movement's ethical basis. He further suggests that violence is only effective in the short-term, and that education, persuasion, and non-violent civil disobedience are the best means for effecting change in democratic societies. Whatever merit one might grant to Singer's (problematic and contentious) position on this issue, his

arguments are far from being universally accepted. In view of the increasing and absurd criminalization of non-violent civil disobedience on behalf of animals (which is forcing more and more activists underground), and the rise of the strategic use of property damage, economic sabotage, and physical violence by animal activists, it seems that the question of violence is more central and more pressing than ever in this era of the second wave of animal defense.

Dominion: The Power of Man, the Suffering of Animals, and the Call to Mercy

Matthew Scully

St. Martin's Press, 2002

Reviewed by Lisa Kemmerer, Ph.D.†

Matthew Scully, a Christian republican who used to be the speech writer for Bush Sr., has taken on a cause almost exclusively linked with liberal democrats, and which attracts only very few brave and informed democrats. What moved this man to write *Dominion*?

Scully toured Smithfield factory farm, attended the 27th annual convention of the Safari Club International (SCI), and witnessed the 52nd annual meeting of the International Whaling Commission. *Dominion: The Power of Man, the Suffering of Animals, and the Call to Mercy* reports what Scully learned through his personal explorations of elephants, whales, and pigs, “not one of them... hidden from the Maker’s sight” (26). *Dominion* reports what is actually happening to animals, and calls Christians back to a common-sense understanding of what it means to be a Christian in a world where all beings were created by a loving and just God.

Dominion first examines Safari Club International, a high-powered extreme minority that he believes will eradicate elephants and rhinos, polar bears and buffalo once and for all. He describes video footage shown at the annual convention depicting men killing large mammals, he explains details of animal biology and behavior, and he quotes liberally from the safari hunters themselves. *Dominion* describes tender attentions adult elephants lavish on their young, and explains why rogue elephants are increasingly a problem for African farmers. We even hear of the importance of faith to safari hunters: “If the Lord is on your side, you’ll win. And hunting and fishing... it’s tough to go wrong... I believe in the Bible and everything in it... Every human being is a miracle. A miracle, the world created for you. You’re it” (71). One can almost feel Scully’s disgust. Readers can also depict the fear of large mammals as Scully describes people with guns lurking around essential water holes. His imagery forces readers to bear witness to these large beasts who tottered and fell to the ground far away, perhaps several years ago. We can envision them trying to rise once more, only to finally fall to the ground permanently.

Scully wryly notes that “[a]ny distinction there might once have been between a domestic animal and a wild creature roaming the remotest corner of the planet has vanished. It’s all livestock, and everything’s for sale” (72). He provides an insider’s ear to the voices of big game hunters as they explain how much they love the animals they kill, how they are helping the Africans, and how important safari hunters are to the preservation of the very animals they hunt. Without hunters, they explain, these animals would not be valued, and would not continue to exist in our world. The high price tags that these hunters are willing to pay *maintains* endangered species, they insist. Economics provide the bottom line, and these animals must be financially viable if they are to be preserved, and hunting preserves them so long as people are willing to pay big money for big game. Scully denounces economics as the bottom line:

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But I don't answer to inevitabilities, and neither do you. I don't answer to the economy. I don't answer to tradition, and I don't answer to Everyone. For me, it comes down to a question of whether I am a man or just a consumer. Whether to reason or just to rationalize. Whether to heed my conscience or my every craving, to assert my free will or just my will. Whether to side with the powerful and comfortable or with the weak, afflicted, and forgotten. Whether, as an economic actor in a free market, I answer to the god of money or the God of mercy. (325)

Scully next turns his gaze on sea life, exploring whale hunting for food and dolphin catching for entertainment. He explains the history of whaling, the cultural of whaling, and he describes the first footage of whale slaughter that reached the Western public in 1976. He relates his time at the whaling convention, offering colorful depictions of the players in this political game, and wry comments on the likely effects of their game-playing on the real-life pawns, the whales. He depicts the governments of anti-whaling nations as spineless and ineffective, even downright disinterested, as they “condemn commercial whaling in general while doing nothing in particular” (183). As with the elephants, he describes the behavior and biology of whales. He explores how whales rear their young, how they feed and what they eat, and he graphically describes footage depicting whales, like elephants, turning on their killers to protect their loved ones, only to die in crimson waters. “As the stricken creature heaves in a bloody convulsion, her companion turns violently... at the last moment sweeping around to charge [the whaling vessel]. He lunges upward, clapping his jaw as if to get at the harpooner, as the gun is aimed down and fired into his face” (154).

Dominion notes that many at the whaling convention turn a wary eye on Westerners who gobble up pigs and chickens yet shake their fingers at those who prefer to eat whales. In response, Scully reluctantly turns his pen to examine the meat industry. He notes the absence of human beings in the “meat production” facilities he visits; cheap meat is dependant on very few employees. A certain number of pigs are expected to die, and are simply removed when they become sickly... or after they perish. *Dominion* provides excellent statistics regarding the pig industry, including such details as dimensions of cages, breeding and birth methods, and age of slaughter. “[Y]our average pig today exists six months upon the earth from suckling to slaughter, and your chickens are hatched, tortured, and ready to serve inside two months” (243). Smithfield, Scully notes, kills a pig roughly every second. The author asks, how can that be done humanely? He describes his visit to Smithfield pig farm in detail. He found a plethora of sores and cancerous abscesses covering the flesh of many tightly confined, frightened—yet curious—pigs. He notes the look in the eyes of these “meat production units,” as they change after years of confinement, from terror to resignation. Scully was clearly saddened by what he witnessed. “It doesn't seem like much to us, the creatures' little lives of grazing and capering and raising their young and fleeing natural predators. Yet it is the life given them, not by breeder but by Creator” (43). Scully is reminded that animals in all their dependence and vulnerability “can teach us a lesson in humility. Take man in all his glory, man in all his brilliance and power and conquests, and what are we to Him but what they are to us?” (35).

Scully was not permitted to visit the slaughterhouse, where Smithfield pigs are shipped for final dispatch. Few who eat meat have ever visited a slaughterhouse, or even a factory farm, and it is becoming increasingly difficult to gain access. Scully notes that:

we think only of ourselves, our need to cut costs, our ambitions for higher profits, our taste for leanness, our desire for consistency. And them? In exchange for their service they get exactly nothing, no days of nurturing, no warm winds, no sights and sounds and smells of life, but only privation and dejection and dread.... We notice these places, many of us, only when the odors reach our homes and new subdivisions, affecting our own quality of life. We create these animals for our profit and pleasure, playing with their genes, violating their dignity as living creatures, forcing them to lie and live in their own urine and excrement, turning pens into penitentiaries and frustrating their every desire except what is needed to keep them breathing and breeding. And then *we* complain about the smell.... [N]o one who has seen how they are treated will ever again dare to use “pig” as a synonym for filth and greed and ugliness. (271, 277)

In one of the most scathing and sarcastic chapters of *Dominion*, Scully turns on scholars who question whether or not other animals can suffer, whether or not other animals can feel. He notes that this is a self-serving point of view in a world where we wish to use animals for experimentation and lunchtime snacks. He even attacks the animal liberation philosopher, Peter Singer, for failing to protect vulnerable human life—for taking his philosophy beyond the point of common sense, and for ignoring critical faith-based dimensions to the moral life. While Scully does not demonstrate a rich understanding of the depth and breadth of Singer’s work, he understands researchers who deny other animals basic commonality with humanity (the ability to suffer and fear) while choosing to experiment on these other beings *because* they are similar to human beings. He notes that the minds and feelings of nonhuman animals are “not entirely unknowable territory. It is just forbidden territory” (217). Theoretical explorations into the realms of possibilities regarding the minds of other animals would be fine, Scully adds, if it were not for their “practical application. They are what gives license to the vicious things that people actually do to animals.... Somewhere in Africa, meanwhile, some unphilosophical lout is tormenting and killing an elephant, that elephant is trumpeting in fear and rage, the calves are crying and scattering, and the law does nothing to stop it because we’re still not *quite* satisfied that the creatures suffer or that their suffering is meaningful or that they think or feel anything at all” (229).

Scully’s attention to the world of hunting, flesh industries, and science is done in the name of Christianity. “Either... suffering has moral value or it does not have moral value. Either there is a God or there isn’t. Either He cares about animals or He doesn’t. Either we have duties of kindness or we do not” (310). Intermittently, Scully turns to the Bible and Christianity, exploring creation in Genesis, parts of Psalms, Proverbs, Exodus, Numbers, Isaiah, Hosea, and also Matthew, Mark, Luke and John from the New Testament. He examines scriptural passages relating to sacrifice and hunting, mercy and the role of nonhuman animals. “The whole logic of Christianity” Scully notes, “is one of condescension, of the higher serving the lower, the strong protecting the weak, the last being first, and all out of boundless love and generosity” (97). How, Scully asks, can it be right by

God for us to treat animals as we do? He is profoundly disappointed that Christians care more for property rights and capitalism than they do about the creatures of the earth, or about the basic tenets of their own faith: justice, mercy, and a God-centered life. Those who exploit animals, Scully insists, demonstrate “a dominion only of power, with them and not God at the center, all grandeur and no grace” (11). “Kindness to animals is a small yet necessary part of a decent and holy life, essential if only as a check against human arrogance and our tendency to worship ourselves, our own works and appetites and desires instead of our Creator and His works” (99).

Dominion is powerful, informative, and disarming. Matthew Scully’s wry humor will make readers smile through anguish. Page by page, *Dominion* exposes Christian ignorance, ignorance that perpetuates the status quo—ignorance of what happens to other animals, and ignorance of what the Bible actually says. Scully has done his homework well, and he is intent on dispelling ignorance. He is not only after the Safari hunter, or the whaler, or the pig farmer—he is after all you: “The only way of winding down the factory farms is by withdrawing our weight, each person, one act of conscience after another, from the momentum of consumer demand” (127). But Scully is targeting Christians, and Christian salvation. “I am betting” he writes, “that in the Book of Life ‘He had mercy on the creatures’ is going to count for more than ‘He ate well’”(45). After reading *Dominion*, those who say grace over chunks of flesh will need to rethink their diet, or dispense with the hypocrisy of grace.

Terrorists or Freedom Fighters?: Reflections on the Liberation of Animals

Edited by Steven Best, Ph.D. and Anthony J. Nocella II

Lantern Books

377 pages

Review by Lauren E. Eastwood†

Best and Nocella's edited volume *Terrorists or Freedom Fighters?: Reflections on the Liberation of Animals* effectively engages in one of the more important discussions of our time, namely how it is that activist resistance is mediated and managed by ruling relations through the use of politically-loaded language. While this mediation and management takes myriad forms, Best and Nocella's book allows the reader to engage critically in one key way in which politically-loaded language has been used to discredit activist resistance. The term "terrorist" has historically been applied to resistance movements in order to attempt to disable the critical character of those movements. For example, we have seen this term applied by the South African government to activists who opposed South African Apartheid. Additionally, a similar move was used by the U.S. government in an attempt to discredit the Black Panther Party. While the term has always held particular political sway, it currently evokes a particularly visceral response in a post-9/11 world.

It is in this larger context that the particular subject area of Best and Nocella's volume should be viewed. While the contributions to the volume provide a wide range of information about the Animal Liberation Front (ALF), collectively they allow the reader to interrogate the ways in which the term "terrorist" gets used for larger politicized purposes. As various resistance movements are currently finding their actions monitored and managed by ruling relations, this is a crucial and topical debate to be having.

In addition to this larger purpose, the book also provides an important contribution to the literature on Animal Liberation itself. Regardless of one's position on the Animal Liberation Front as a movement, or on the subject of animal liberation, the book contains such a comprehensive variety of materials that any reader will come away more informed about the history and philosophy of the movement itself. This scope of contributions is unique and highly informative from the introduction on through the entire 377 pages. The informative nature of the volume is effectively set up by the Introduction by Best and Nocella, entitled "Behind the Mask: Uncovering the Animal Liberation Front," followed by contributions grouped under the subheadings of "History," "Liberation," "Motivation," "Perception," "Tactics," and "Terror." As is characteristic of Best and Nocella's publications, the volume contains contributions from a wide range of individuals, from activists to academicians.

Best and Nocella are clearly conscious of the wider implications of the animal liberation debate. It is for this reason as well as the wide range of contributions to the volume that *Terrorists or Freedom Fighters?: Reflections on the Liberation of Animals* represents such an important contribution to animal liberation literature.

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