In the United States, non-human animals ought to have legally protected rights

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Topic Overview

If there was ever a topic to go hard left, this might be it. The idea of human exceptionalism is so pervasive in our society that we no longer even realize it is there at all, because of this the debate will likely be saturated with the biased assumptions of the person you are debating, the person who is judging, and yourself. It is for this reason that a critical evaluation of this idea of human exceptionalism may provide you with a necessary foundation to make arguments that weigh the positive impacts for animals equally with positive impacts for humans. The neg has a couple of options for case strategy. The first, and most obvious, is to argue in defense of human exceptionalism. This strategy would only be effective if you pair it with arguments about why we still have an obligation to treat animals humanely in a general sense. The animal welfare vs. animal rights debate is essentially what you will find in the case I provide later in this brief. The other option is to evaluate the concept of “rights” as a whole, I suggest looking into Mary Ann Glendon’s book “Rights Talk: The Impoverishment of Political Discourse” for a more nuanced version of this argument, which essentially argues that the overuse of discourse regarding “rights” as solutions to our problems has resulted in a saturation of rights dialogue that ends up decreasing the effectiveness of the rights themselves this strategy is particularly effective for the neg because you may be able to sever out of the affirmative’s negative impacts of animal cruelty, because you will claim to solve those impacts better through an animal welfarist approach vs. an animal rights based one.

Affirmative Case

**I affirm the following resolution: In the United States non-human animals ought to have legally protected rights**

**Francione** 19**96** (Gary L.[Professor of Law and Nicholas deB. Katzenbach Scholar of Law and Philosophy, Rutgers University School of Law - Newark. Professor Francione is also co-director of the Rutgers Animal Rights Law Center.]"A Review of Beyond Animal Rights: A Feminist Caring Ethic for the Treatment of Animals"18 Women's Rights L. Rep. 95

**In the United States alone, over eight billion animals are consumed yearly** for food. These **animals are usually reared in extremely confined conditions known as "factory farming"** or "intensive agriculture." [n16](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n16) **They are subjected to extraordinary suffering throughout their lives, and the conditions of slaughterhouses today are only marginally better than those of the 19th century. Millions of animals are used yearly in experiments and for testing new consumer products; these uses often involve the burning, scalding, irradiation, or cutting of animals who receive no anesthesia** or post-procedure analgesia. [n17](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n17) Millions of animals are killed for sport and entertainment. For example, **every Labor Day, the town of Hegins, Pennsylvania sponsors an event in which eight thousand pigeons are released from small traps and shot at close range for "fun." Many of the pigeons are not killed by the bullets, and the town employs young children who kill the wounded animals by wringing their necks or repeatedly smashing the animals on the pavement or against a wall.**

Thus:My value for the round will be **Justice** and with this my criterion will be **deontology**

This framework supports the ideas that I present in this case, which are that animals should not have their interests sacrificed to further the desires of humans. Animals should not be a means to human ends, this is justified culturally by humans, but that does not make it just.

## **Contention 1) animals as property**

**Francione** 19**96** (Gary L.[Professor of Law and Nicholas deB. Katzenbach Scholar of Law and Philosophy, Rutgers University School of Law - Newark. Professor Francione is also co-director of the Rutgers Animal Rights Law Center.]"A Review of Beyond Animal Rights: A Feminist Caring Ethic for the Treatment of Animals"18 Women's Rights L. Rep. 95

**I have elsewhere argued that animal rights theory is the only way to alter the status of animals as property, or "things,"** and thereby eliminate the person/thing dualism that is the foundation of all institutionalized exploitation. [n7](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n7) **We can use animals for food, in experiments, for clothing or entertainment only because animals are things**; they have no interests that cannot be "sacrificed" if it is thought (correctly or mistakenly) to be in the interests of humans. This is precisely what it means to be property.

**SA) rights and property**

**Francione** 19**96** (Gary L.[Professor of Law and Nicholas deB. Katzenbach Scholar of Law and Philosophy, Rutgers University School of Law - Newark. Professor Francione is also co-director of the Rutgers Animal Rights Law Center.]"A Review of Beyond Animal Rights: A Feminist Caring Ethic for the Treatment of Animals"18 Women's Rights L. Rep. 95

Rights theory requires the abolition of the institutionalized exploitation of animals. Ecofeminism assumes the legitimacy of institutionalized exploitation as part of the normative context in which the ethic of care is to be applied. I concede that rules often provide only indeterminate normative guidance and that other values (including the ethic of care) may be useful or necessary to decide particular situations. But **the ethic of care is relevant to deciding whether we should eat this particular animal or use this particular animal in an experiment only if the institutional exploitation of animals in science and agriculture is accepted as a general matter. To put the matter simply, we must decide whether we are going to eat animals as a matter of social practice, whether we are going to use them in experiments and for clothing and entertainment. We must decide whether animals are beings who have no interests, a logically necessary prerequisite to any institutionalized exploitation.** For example, we could not have had human slavery without first deciding that it was morally permissible to treat slaves as "things," as human property, rather than as persons who have at least some interests that are protected from being traded away for consequential reasons alone (in this case, benefit for the slaveowners). **It would be absurd to say in the face of human slavery that the ethic of care could have supplanted rights and that we could have decided how to deal with slaves on a case by case basis, eschewing general notions and relying instead on the "relational ontology" that emphasizes "contextual relations" and the "particulars of a given situation" over general standards.** The slave is a social construction involving the notion of a human all of whose interests may be ignored if it is in the interests of the slaveowner to do so. Similarly, "food" animals, "laboratory" animals, "rodeo" or "circus" animals assume various social constructs of the "animal" other and all of these characterizations normatively assume that an "animal" is a "thing" that we can use for our "benefit." [n8](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n8) If such a normative characterization lacks some moral justification, then it represents nothing more than a restatement of the hierarchy of humans over animals. In the absence of any such justification, the dualism that ecofeminists supposedly reject is very much alive and well.**The theory of animal rights says that we can no longer treat animals as "things," or as property.** [**n9**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n9) **Rights theory is far less concerned with what rights animals would have were they no longer regarded as property, but is concerned more with the basic right of animals not to be regarded as property in the first place.** The general rules of rights theory are quite determinate and need no filling in: acceptance that at least some nonhumans are the sorts of beings who should not be treated instrumentally, i.e., that they should not be treated as beings who have no interests that cannot be sacrificed for human benefit, means that we can no longer justify the institutions of exploitation that necessarily assume the instrumental status of all animals. **Rights theory protects what I have called the "minimal conditions of "personhood'" in that to say that a being has any rights at all is to say that being is a person, a member of the moral community.** "Things" that have an instrumental existence alone cannot be members of the moral community. That is precisely what it means to be a "thing," or to be property. Whatever else a "person" may be, the [\*97] concept of "personhood" requires some notion that the being designated as a "person" has basic interests that cannot be disregarded simply because it is convenient or otherwise beneficial to do so.

**C2) Enforcement**

**Morrish 2014**(Lisa Marie "The Elephant in the Room: Detrimental Effects of Animals' Property Status on Standing in Animal Protection Cases" Santa Clara Law Review Volume 53 | Number 4 A)

**There are two major complications with state anti-cruelty laws** regarding their enforcement. First, **the laws are often not adequately enforced** in practice. [n42](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n42) **Enforcement** is unreliable and greatly **depends on the willingness of the prosecution to try the case.** [n43](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n43) Animal cruelty and neglect cases are a low priority for over-worked prosecutors. [n44](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n44)Prosecutions are generally only seen in the most reprehensible cases, [n45](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n45) while other violations go unprosecuted and unpunished. [N46](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n46) Secondly, **state anti-cruelty laws do not generally apply when the animal is used on a farm, in a factory for the production of food, or in a laboratory for medical or scientific purposes.** [**n47**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n47) **Animal exploitation in these areas often goes unregulated,** [**n48**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n48) **and cruelty against the animals there is common practice.** [n49](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n49) This distinction between animals kept as companions and those used for consumer goods clouds the overall concept of what animal protection and animal rights mean to people and the legislature. A major controversy in enforcement of animal protection laws is that it is often difficult to obtain standing in courts under the federal statutes. [n69](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n69) There is confusion as to when [\*1136] standing is available and when it is lacking. [n70](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n70) **A person suing under a federal statute must sufficiently meet each standing requirement, and if one is missing, that person may not bring the suit.** [**n71**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n71) **Animals on the other hand, have generally not been able to acquire standing in their own right.** [**n72**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n72) **These restrictions place a burden on the enforcement of the statutes**, and ultimately, on the rights of animals. **The status of animals as property affects how they are treated under the law,** [**n125**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n125) **and how their value and rights are perceived, by limiting their ability to have the protections that are created for them enforced and to have their interests be taken seriously. Designated as property, animals have no legally cognizable right, and thus cannot have standing to sue to enforce the laws designed to protect them.** [n126](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n126) This, in effect, minimizes the ability for enforcement of animal protection laws, leaving more animals unprotected.

## **C3) Human spillover**

**Livingston 2001** (Margit [Associate Dean for Research and Faculty Professional Development; Associate Dean for Research and Faculty Development; Vincent de Paul Professor of Law; Director, Center for Animal Law]"Desecrating the Ark: Animal Abuse and the Law's Role in Prevention" 87 Iowa L. Rev. 1 (2001)

Although the relatively light criminal penalties for animal cruelty and neglect and the underenforcement of existing laws may suggest that animal abuse is not a serious social problem, certain evidence indicates otherwise. **A growing body of social science literature reveals that there is a link between juvenile violence against animals and later adult violence against humans.** In other words, the rascally child prankster who burns his dog to death often develops into a spousal batterer, a child abuser, or even a murderer. The weight of this evidence should persuade lawmakers to modify laws to increase criminal penalties for animal abuse, to enforce existing laws more stringently, and to refer juvenile offenders for psychological evaluation and treatment more frequently so that the likelihood of later adult violence is reduced. **Modern social science data also support, at a minimum, the second view - namely, that animal interests and human interests are intertwined. More specifically, the data suggest that humans should take cognizance of cruelty to animals because such behavior often leads to violence against humans as well.** [n12](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.832606.4836129135&target=results_DocumentContent&returnToKey=20_T26226583897&parent=docview&rand=1499624533360&reloadEntirePage=true#n12) Taken as a whole, these studies bolster the legal reforms proposed in this Article. Although the more animal-protective third view suggests that animals are worthy of humane treatment because of their sentient nature, policymakers need not adopt that view to support the legal changes advocated in this Article. **The weight of the social science research concludes that there is a positive correlation between animal abuse and [\*6] violence against humans, and because of that correlation, investigation, punishment, and treatment of animal abusers foster human welfare.**

## **SA) Disease**

**Mercola 2013** (N/A [University of Illinois at Chicago - UIC 1972-1976, Chicago College of Osteopathic Medicine – Midwestern University 1978-1982, Chicago Osteopathic Hospital 1982-1985 Family Practice Residency. Chief resident 1984-1985, Board Certified American College Osteopathic General Practitioners July 1985, State of Illinois Licensed Physician and Surgeon] mercola.com)

According to the European Centre for Disease Prevention and Control (ECDC), **antibiotic resistance is a major threat to public health worldwide, and the primary cause for this man-made epidemic is the widespread misuse of antibiotics**.[**1**](http://articles.mercola.com/sites/articles/archive/2013/10/02/factory-farms-superbugs.aspx#_edn1)**Antibiotic overuse occurs** not just in medicine, but also **in food production.** In fact, **agricultural usage accounts for about *80 percent* of all antibiotic use in the US,**[**2**](http://articles.mercola.com/sites/articles/archive/2013/10/02/factory-farms-superbugs.aspx#_edn2) **so it's a MAJOR source of human antibiotic consumption.** According to a 2009 report[3](http://articles.mercola.com/sites/articles/archive/2013/10/02/factory-farms-superbugs.aspx#_edn3) by the US Food and Drug Administration (FDA) on this subject, factory farms used a whopping 29 million pounds of antibiotics that year alone. **Animals are often fed antibiotics** at low doses **for disease prevention and growth promotion, and those antibiotics are transferred to you via meat,** and even through the animal manure that is used as crop fertilizer. **Antibiotics are also used to compensate for the crowded, unsanitary living conditions associated with large-scale confined animal feeding operations** (CAFOs).

AFFIRMATIVE EXTENSIONS

## **Animal abuse is linked to interpersonal human violence**

**Plass 2010** (Stephen A. [ Professor of Law, St. Thomas University School of Law.] “EXPLORING ANIMAL RIGHTS AS AN IMPERATIVE FOR HUMAN WELFARE” 112 W. Va. L. Rev. 403

It is contended, for example, that the criterion for legal protection should be a living entity's ability to suffer, as non-human animals certainly can and do. [n5](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n5) It is further contended that non-human animals, like humans, are "subjects of a life" with beliefs, desires, emotions, identity, and other attributes of personhood that support the recognition of rights, and in that sense are equal. [n6](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n6) Another perspective explains that animal rights theory is grounded in principles of "justice," which reject the use of animals as property. [n7](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n7) That is to say animals have equal inherent value as humans and therefore are entitled to the same considerations as humans when decisions that affect their interests are being made. [n8](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n8)The second critical argument in support of more legal protection for animals posits that protecting animals from cruelty is also a way of protecting humans from interpersonal violence. Having concluded that people who abuse animals eventually become cruel to humans, it is argued that early identification and punishment of animal abusers also promote human interests. [n9](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n9) This argument is compelling, yet controversial.[\*405] Those who disagree with these claims have contested their theoretical foundations and accept the permissibility of animal exploitation. [n10](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n10) The claim that consciousness should be the baseline for legal rights has been challenged, [n11](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n11) and it has been argued that animals do not have comparable capacities of personhood to humans. [n12](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n12) These claims have produced harsh accusations from both sides. The willingness of humans to exploit animals for their benefit has been labeled homocentric, narcissistic, and parasitic, [n13](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n13) while animal advocates' preoccupation with animal rights has been called fanatical and misanthropic. [N14](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n14) But even the most casual contact with some animals can reveal that they are feeling, conscious beings with a sense of self and are capable of suffering. [n15](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n15) In fact, it is suspected that in some matters animals may even be more perceptive than humans. [n16](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.903808.5896157663&target=results_DocumentContent&returnToKey=20_T26252980882&parent=docview&rand=1500045567867&reloadEntirePage=true#n16) Why, then, do humans continue to treat animals cruelly?

## **Criminal penalties for animal abusers are too light**

**Livingston 2001** (Margit [Associate Dean for Research and Faculty Professional Development; Associate Dean for Research and Faculty Development; Vincent de Paul Professor of Law; Director, Center for Animal Law]"Desecrating the Ark: Animal Abuse and the Law's Role in Prevention" 87 Iowa L. Rev. 1 (2001)

Although the relatively light criminal penalties for animal cruelty and neglect and the underenforcement of existing laws may suggest that animal abuse is not a serious social problem, certain evidence indicates otherwise. A growing body of social science literature reveals that there is a link between juvenile violence against animals and later adult violence against humans. In other words, the rascally child prankster who burns his dog to death often develops into a spousal batterer, a child abuser, or even a murderer. The weight of this evidence should persuade lawmakers to modify laws to increase criminal penalties for animal abuse, to enforce existing laws more stringently, and to refer juvenile offenders for psychological evaluation and treatment more frequently so that the likelihood of later adult violence is reduced. Modern social science data also support, at a minimum, the second view - namely, that animal interests and human interests are intertwined. More specifically, the data suggest that humans should take cognizance of cruelty to animals because such behavior often leads to violence against humans as well. [n12](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.832606.4836129135&target=results_DocumentContent&returnToKey=20_T26226583897&parent=docview&rand=1499624533360&reloadEntirePage=true#n12) Taken as a whole, these studies bolster the legal reforms proposed in this Article. Although the more animal-protective third view suggests that animals are worthy of humane treatment because of their sentient nature, policymakers need not adopt that view to support the legal changes advocated in this Article. The weight of the social science research concludes that there is a positive correlation between animal abuse and [\*6] violence against humans, and because of that correlation, investigation, punishment, and treatment of animal abusers foster human welfare.

## **The affirmative is the first step to all other positive impacts for animals**

**Cupp Jr. 2007** (Richard L. [Professor of Law and Associate Dean for Research, Pepperdine University School of Law.] "A Dubious Grail: Seeking Tort Law Expansion and Limited Personhood as Stepping Stones Toward Abolishing Animals' Property Status" 60 SMU L. Rev. 3)

The generality of Wise's approach does not reflect a lack of ambition for his cause. Rather, he doubtlessly recognizes that the most important initial battle is over the question of whether rights should ever be extended to animals in any form. If any notion of rights for animals, however general, is accepted by courts, the consequences will be enormous, and the subsequent battles over which specific rights should apply and to which animals they should apply will entail much smaller legal and intellectual leaps. The asserted conceptual foundations of legal rights are manifold. Many debate what grounds rights in both the human and **animal** **rights** arenas, and there are even those who contend that the concept of rights should be jettisoned altogether. [n5](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n5) Review of this debate yields one obvious conclusion -- there is no consensus on the appropriate grounding of rights either concerning humans or animals.

##  **The affirmative is the only way to eliminate the person/thing dualism that exists**

**Francione** 19**96** (Gary L.[Professor of Law and Nicholas deB. Katzenbach Scholar of Law and Philosophy, Rutgers University School of Law - Newark. Professor Francione is also co-director of the Rutgers Animal Rights Law Center.]"A Review of Beyond Animal Rights: A Feminist Caring Ethic for the Treatment of Animals"18 Women's Rights L. Rep. 95

I have elsewhere argued that **animal** **rights** theory is the only way to alter the status of animals as property, or "things," and thereby eliminate the person/thing dualism that is the foundation of all institutionalized exploitation. [n7](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n7) We can use animals for food, in experiments, for clothing or entertainment only because animals are things; they have no interests that cannot be "sacrificed" if it is thought (correctly or mistakenly) to be in the interests of humans. This is precisely what it means to be property. Rights theory requires the abolition of the institutionalized exploitation of animals. Ecofeminism assumes the legitimacy of institutionalized exploitation as part of the normative context in which the ethic of care is to be applied. I concede that rules often provide only indeterminate normative guidance and that other values (including the ethic of care) may be useful or necessary to decide particular situations. But the ethic of care is relevant to deciding whether we should eat this particular animal or use this particular animal in an experiment only if the institutional exploitation of animals in science and agriculture is accepted as a general matter. To put the matter simply, we must decide whether we are going to eat animals as a matter of social practice, whether we are going to use them in experiments and for clothing and entertainment. We must decide whether animals are beings who have no interests, a logically necessary prerequisite to any institutionalized exploitation. For example, we could not have had human slavery without first deciding that it was morally permissible to treat slaves as "things," as human property, rather than as persons who have at least some interests that are protected from being traded away for consequential reasons alone (in this case, benefit for the slaveowners). It would be absurd to say in the face of human slavery that the ethic of care could have supplanted rights and that we could have decided how to deal with slaves on a case by case basis, eschewing general notions and relying instead on the "relational ontology" that emphasizes "contextual relations" and the "particulars of a given situation" over general standards. The slave is a social construction involving the notion of a human all of whose interests may be ignored if it is in the interests of the slaveowner to do so. Similarly, "food" animals, "laboratory" animals, "rodeo" or "circus" animals assume various social constructs of the "animal" other and all of these characterizations normatively assume that an "animal" is a "thing" that we can use for our "benefit." [n8](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.258529.13800008193&target=results_DocumentContent&returnToKey=20_T26226414294&parent=docview&rand=1499614397191&reloadEntirePage=true#n8) If such a normative characterization lacks some moral justification, then it represents nothing more than a restatement of the hierarchy of humans over animals. In the absence of any such justification, the dualism that ecofeminists supposedly reject is very much alive and well.

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## **Anti-cruelty law enforcement is failing**

**Morrish 2014**(Lisa Marie "The Elephant in the Room: Detrimental Effects of Animals' Property Status on Standing in Animal Protection Cases" Santa Clara Law Review Volume 53 | Number 4 A)

There are two major complications with state anti-cruelty laws regarding their enforcement. First, the laws are often not adequately enforced in practice. [n42](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n42) Enforcement is unreliable and greatly depends on the willingness of the prosecution to try the case. [n43](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n43) Animal cruelty and neglect cases are a low priority for over-worked prosecutors. [n44](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n44)Prosecutions are generally only seen in the most reprehensible cases, [n45](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n45) while other violations go unprosecuted and unpunished. [N46](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n46) Secondly, state anti-cruelty laws do not generally apply when the animal is used on a farm, in a factory for the production of food, or in a laboratory for medical or scientific purposes. [n47](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n47) Animal exploitation in these areas often goes unregulated, [n48](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n48) and cruelty against the animals there is common practice. [n49](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n49) This distinction between animals kept as companions and those used for consumer goods clouds the overall concept of what animal protection and animal rights mean to people and the legislature. A major controversy in enforcement of animal protection laws is that it is often difficult to obtain standing in courts under the federal statutes. [n69](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n69) There is confusion as to when [\*1136] standing is available and when it is lacking. [n70](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n70) A person suing under a federal statute must sufficiently meet each standing requirement, and if one is missing, that person may not bring the suit. [n71](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n71) Animals on the other hand, have generally not been able to acquire standing in their own right. [n72](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n72) These restrictions place a burden on the enforcement of the statutes, and ultimately, on the rights of animals. The status of animals as property affects how they are treated under the law, [n125](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n125) and how their value and rights are perceived, by limiting their ability to have the protections that are created for them enforced and to have their interests be taken seriously. Designated as property, animals have no legally cognizable right, and thus cannot have standing to sue to enforce the laws designed to protect them. [n126](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.983427.3203545475&target=results_DocumentContent&returnToKey=20_T26226565643&parent=docview&rand=1499623263602&reloadEntirePage=true#n126) This, in effect, minimizes the ability for enforcement of animal protection laws, leaving more animals unprotected. Today, only a scant majority of state jurisdictions provide for felony-level penalties for intentional animal abuse. [n7](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.832606.4836129135&target=results_DocumentContent&returnToKey=20_T26226583897&parent=docview&rand=1499624533360&reloadEntirePage=true#n7) In addition, anecdotal evidence suggests that police in many jurisdictions are not trained to identify and arrest animal abusers, [n8](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.832606.4836129135&target=results_DocumentContent&returnToKey=20_T26226583897&parent=docview&rand=1499624533360&reloadEntirePage=true#n8) prosecutors are hesitant to devote their resources to vigorous investigation and prosecution of animal cruelty offenses, which are [\*4] frequently only misdemeanors, [n9](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.832606.4836129135&target=results_DocumentContent&returnToKey=20_T26226583897&parent=docview&rand=1499624533360&reloadEntirePage=true#n9) and courts are often reluctant to enforce the available sanctions, [n10](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.832606.4836129135&target=results_DocumentContent&returnToKey=20_T26226583897&parent=docview&rand=1499624533360&reloadEntirePage=true#n10) particularly against juvenile offenders - perhaps on the theory that torturing a cat is nothing more than a childish prank

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## **EXTRA READING FOR AFFIRMATIVE**

**Morrish 2014**(Lisa Marie "The Elephant in the Room: Detrimental Effects of Animals' Property Status on Standing in Animal Protection Cases" Santa Clara Law Review Volume 53 | Number 4 A)

**Francione** 19**96** (Gary L.[Professor of Law and Nicholas deB. Katzenbach Scholar of Law and Philosophy, Rutgers University School of Law - Newark. Professor Francione is also co-director of the Rutgers Animal Rights Law Center.]"A Review of Beyond Animal Rights: A Feminist Caring Ethic for the Treatment of Animals"18 Women's Rights L. Rep. 95

**Cupp Jr. 2007** (Richard L. [Professor of Law and Associate Dean for Research, Pepperdine University School of Law.] "A Dubious Grail: Seeking Tort Law Expansion and Limited Personhood as Stepping Stones Toward Abolishing Animals' Property Status" 60 SMU L. Rev. 3)

**Livingston 2001** (Margit [Associate Dean for Research and Faculty Professional Development; Associate Dean for Research and Faculty Development; Vincent de Paul Professor of Law; Director, Center for Animal Law]"Desecrating the Ark: Animal Abuse and the Law's Role in Prevention" 87 Iowa L. Rev. 1 (2001)

**Plass 2010** (Stephen A. [ Professor of Law, St. Thomas University School of Law.] “EXPLORING ANIMAL RIGHTS AS AN IMPERATIVE FOR HUMAN WELFARE” 112 W. Va. L. Rev. 403

**Mercola 2013** (N/A [University of Illinois at Chicago - UIC 1972-1976, Chicago College of Osteopathic Medicine – Midwestern University 1978-1982, Chicago Osteopathic Hospital 1982-1985 Family Practice Residency. Chief resident 1984-1985, Board Certified American College Osteopathic General Practitioners July 1985, State of Illinois Licensed Physician and Surgeon] mercola.com)

NEGATIVE CASE

**I negate the following resolution:** In the United States non-human animals ought to have legally protected rights

My value will be **tangibility** and my value criterion will be **pragmatism**

In any debate in which there is suffering can be prevented or lessened the pragmatic action that produces tangible benefits should always supersede vague and unattached questions of morality, firstly because an answer to these questions may not exist and secondly because that answer may do nothing to actually better the situation of the subject in question

## **Contention 1 ) The issue with the concept of "rights"**

**Epstein** 19**92** (Richard A. [Columbia University B.A., Oxford University 1st, Yale Law School LL.B.] “BOOK REVIEW: RIGHTS AND "RIGHTS TALK". RIGHTS TALK: THE IMPROVERISHMENT OF POLITICAL DISCOURSE. By Mary Ann Glendon.” 105 Harv. L. Rev. 1106)

**Our rights talk, in its absoluteness, promotes unrealistic expectations, heightens social conflict, and inhibits dialogue that might lead toward consensus, accommodation, or at least the discovery of common ground. In its silence concerning responsibilities, it seems to condone acceptance of the benefits of living in a democratic social welfare state, without accepting the corresponding personal and civic obligations.** In its relentless individualism, it fosters a climate that is inhospitable to society's losers, and that systematically disadvantages caretakers and dependents, young and old. In its neglect of civil society, it undermines the principal seedbeds of civic and personal virtue. In its insularity, it shuts out potentially important aids to the process of self-correcting learning. All of these traits promote mere assertion over reason-giving

**Rhodes** 19**95** (Robert [Notre Dame Law School] “Rights Talk: The Impoverishment of Political Discourse and A Nation Under Lawyers (Book Review)” Scholarly Works. Paper 1093.

**The first part of her argument, that presented in Rights Talk, is that our current preoccupation with rights has made it impossible for us to give adequate attention to personal responsibilities or societal needs, or even to talk about them.** We have turned our political discourse, both in and out of court, into a clash of solipsisms. Either the irresponsible individual operates without restraint or the equally irresponsible corporation or government agency does so. Your right to your job may be so well protected that you cannot be fired for habitual drunkenness at work, and yet you can do nothing if your employer decides to move the whole operation to Hong Kong. Or **your right to the privacy of your home may be so well protected that you can get away with murder if the police do not have a search warrant when they find the murder weapon under your bed, and yet you can do nothing if the city decides to take your house by eminent**

Analysis: Establishing a right for an underprivileged class typically appeases them enough to calm discourse that they may have been previously having about their situation and allows the individuals at the top to wipe their hands of the situation, as they have now given this group the "right" they so badly wanted. However it is rare that lawmakers actually ensure that this new right is respected and therefore there is only a short façade of better conditions but no actually solvency is taking place and instead all that happens is a decrease in the dialogue that could've potentially lead to positive change. Here the author argues that our society has become so obsessed with the concept of "rights" that they have essentially become meaningless distractors from actual change.

Analysis 2: The first evidence I read also discusses the idea of correlative duties related to rights that are given. My opponent need to explain how this "duty" formula would work when animals are given rights, if they cannot explain this, not only do they not know what they are arguing for, but you will have no way of knowing what you are voting for.

## **Subpoint B) romance of rights**

**Lee 2013** (Nicholas H. [J.D. Candidate, Regent University School of Law] “IN DEFENSE OF HUMANITY: WHY ANIMALS CANNOT POSSESS HUMAN RIGHTS” 26 Regent U.L. Rev. 457)

**In today's new age**, which has arguably blossomed in the light of World War II and the Civil Rights Movement, [n3](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n3) **it seems almost every conversation and headline centers on one's rights. Mary Ann Glendon calls this allure of rights the "romance of rights" and contends that this new rights discourse focuses on influencing the courts rather than influencing society as a whole.** [n4](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n4) However, in this era of expanding rights, [\*458] "rights are not what they used to be." [n5](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n5) Glendon observes that the law talk permeating society today is far removed from traditional dialogue by its "simplicity, its prodigality in bestowing the rights label, its legalistic character, its exaggerated absoluteness . . ., and its silence with respect to personal, civic, and collective responsibilities." [n6](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n6) This dialogue of rights "has become the principal language that we use in Leepublic settings to discuss weighty questions of right and wrong." [n7](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n7) One of the most rapidly expanding fields in this new era of rights is so-called **animal** **rights.** [n8](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n8) This expansion is evidenced by, among other things, the relatively recent growth in the number of law schools offering courses on animal law [n9](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n9) and establishing **animal** **rights** centers, [n10](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n10) the number of journals focusing on animal law, [n11](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n11) the number of established Animal Legal Defense Fund chapters, [n12](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n12) and, perhaps most telling of all, the amount of money spent each year in **animal** **rights** activism. [n13](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n13) [\*459] Indeed, the **animal** **rights** discussion "has moved from the periphery and toward the center of political and legal debate." [n14](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n14) Consistent with society's increasing focus on rights, the core of this move is concentrated on gaining intrinsically human rights for animals. [n15](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n15) Suits are being filed regularly as activists try to utilize the courts to confer rights upon animals. [N16](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n16)

Analysis: the resolution proves this point perfectly, instead of debating about specific reforms for animal protections, the conversation goes straight to whether or not animals should have these rights, which again distracts from us educating ourselves and others on pragmatic solutions that would make tangible impacts in the life of animals

## **Contention 2) Animal Rights vs. Animal Welfare**

**Lee 2013** (Nicholas H. [J.D. Candidate, Regent University School of Law] “IN DEFENSE OF HUMANITY: WHY ANIMALS CANNOT POSSESS HUMAN RIGHTS” 26 Regent U.L. Rev. 457)

**Animal welfare societies have done much to further the prevention of cruelty to animals, but as Wesley Smith explains, "animal welfare and animal rights represent incompatible moral principles and mutually exclusive goals."** [n31](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n31) Citing animal law attorney Michael Schau, Smith lauds animal welfare, or animal protection advocacy, as having grown out of admirable "principles of humane care and treatment" for animals. [n32](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n32) Smith warns that these legitimate animal welfare activities, however, must not be conflated with today's **animal** **rights** movement because the moral principles and goals of each group sharply diverge after their shared general concern "with the way people treat animals." [n33](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n33) [\*462] Schau explains that **animal welfare advocates seek to improve animal husbandry methods, alleviate needless pain and suffering, and ensure that animals receive "essential food, water[,] shelter, [and] health care."** [n34](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n34) Smith adds that welfarists accept human exceptionalism and "believe we have a human duty to prevent *unnecessary* animal suffering." [n35](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n35) They do not believe that animals should be given human-type rights, and they "acknowledge that, assuming appropriate practices, we are entitled to benefit from animals in furtherance of human interests." [n36](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n36) Most importantly, however, is that **animal welfare advocates "do not seek to create a moral equivalence between human beings and animals."** [**n37**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n37)**Animal rights activists, on the other hand, do seek moral equivalence. They fervently "deny that human beings have the right to use animals to further any human purpose,"** [**n38**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n38) **period, and they zealously oppose "the idea that animals can ever properly be considered property."** [n39](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n39) Even Professor Gary L. Francione, a leading **animalrights** advocate and author, admits that today's "**animal** '**rights'** movement is fundamentally different from . . . the animal welfare movement" because it patently rejects the beliefs that animals are the property of humans and that animals may be used for human benefit. [n40](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n40) Additionally, he states that **animal** **rights** activists think that at least some animals should possess rights that absolutely insulate them from harm, just as human rights protect humans from harm. [n41](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n41) Thus, they demand the "abolition of *all* exploitation of animals, on the grounds that animals have inherent, inviolable rights" that are non-negotiable. [n42](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n42) Moreover, **animal** **rights** activists believe that animal welfarism is "per se [\*463] insufficient," [n43](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n43) "outdated and fundamentally immoral."

## **Subpoint A) The infrastructure for animal welfare based solutions already exists**

**Vayr 2017** (Bryan [J.D. Candidate, 2017, University of Illinois College of Law] “OF CHIMPS AND MEN: ANIMAL WELFARE VS. ANIMAL RIGHTS AND HOW LOSING THE LEGAL BATTLE MAY WIN THE POLITICAL WAR FOR ENDANGERED SPECIES” 2017 U. Ill. L. Rev. 817)

**While the animal-rights approach theoretically engenders potent legal protections for certain animals** to compensate for legislative inadequacies such as the Animal Welfare Act, **overcoming the political and jurisprudential mountain in order to create such protections promises a Sisyphean task which will do little to protect animals whose countdown** to extinction **is already ticking. In contrast, existing welfare-focused laws such as the Endangered Species Act already boast equally or near-equally strong protections.** Once the comparative ease of bringing more endangered species within the purview of the ESA is made apparent, a pragmatist seeking to secure the existence of critically threatened species would find little in the **animal-rights** litigation strategy.

**Grubbs 2010** (Kevin R. [J.D. from the Southern Methodist University Dedman School of Law in Dallas, Texas, in May 2010. He holds a B.A. and an M.A. in Political Science from the University of North Texas in Denton, Texas.] “SAVING LIVES OR SPREADING FEAR: THE TERRORISTIC NATURE OF ECO-EXTREMISM” 16 **Animal** L. 351)

Founded in 1954, **the Humane Society is the largest animal protection organization in the United States.** [n12](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n12) It boasts a membership of 11 million Americans. [n13](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n13) **Like the ASPCA, the Humane Society fights against animal cruelty, exploitation, and neglect.** [**n14**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n14) **The Humane Society operates mainly through "legislation, litigation, investigation, education, science, advocacy, and field work."** [n15](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n15) Additionally, the Humane Society strictly denounces the use or support of violence in furtherance of its goals. [N16](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n16) **Another organization prominent in the field of animal protection is the Animal Legal Defense Fund (ALDF).** [n17](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n17) The ALDF, established in 1979, **is an organization active in fighting against animal cruelty through the American legal system.** [**n18**](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n18) **It is supported by hundreds of attorneys and over 100,000 members nationwide.** [n19](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n19) While the ALDF does not directly participate in activism on behalf of **animals**, it does provide a set of basic legal principles that apply with respect to activism. [n20](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n20) In its Legal Guide for Advocates, the ALDF specifically notes that "acts of violence are never protected." [n21](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n21) Moreover, the ALDF - like the Humane Society - also lobbies legislatures to create laws [\*355] friendlier to **animals** and provide harsher punishment for those convicted of **animal** cruelty.

Analysis: Once a right exists there typically has to be laws put in place in order for that right to be protected and actually mean anything, passing laws takes massive amounts of time, especially in the United States, but add on top of that the fact that these laws are being created from scratch and the solvency of the affirmative doesn’t exist for years, decades. However if we take the route of modifying the animal welfare laws that already exist and increasing regulation and oversight we will see quicker, more effective results. This contention is also another example of rights being a distractor from real progress, lawmakers have enough on the docket as it is, if they are establishing new legal rights for animals, it is unlikely that they will also allocate time to improving preexisting animals welfare legislation.

NEGATIVE EXTENSIONS

## **Humans are key to rights**

**Lee 2013** (Nicholas H. [J.D. Candidate, Regent University School of Law] “IN DEFENSE OF HUMANITY: WHY ANIMALS CANNOT POSSESS HUMAN RIGHTS” 26 Regent U.L. Rev. 457)

Smith illuminates, therefore, that accepting Singer's theory--that being human "is irrelevant to moral value" and to protecting human interests--would mean the end of universal human rights. [n68](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n68) Dr. Alasdair Cochrane submits that universal human rights are grounded in the notion that "human beings possess dignity," and thus we have "direct [\*466] moral obligations" to every human. [n69](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n69) He highlights that the Universal Declaration of Human Rights recognizes this: "All *human beings* are born free and equal in dignity and rights." [n70](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n70) The United States Declaration of Independence is grounded in the same notion: "W[e] hold these Truths to be *self-evident*, that all *Men* are created equal, that they are endowed by their Creator with certain unalienable Rights." [n71](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n71) Furthermore, not only would this end human rights, "ironically it would preclude establishing a regime of **animal** **rights,** since an individual's value and the protection of his or her interests and preferences would be subject to change over time with increases or decreases in capabilities." [n72](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n72) Smith concludes that by arguing for a hierarchy based on cognitive capacities, in which beings with higher capacities have greater moral worth than those with lower capacities, Singer would create a rights system that doles out or takes away rights on a case-by-case, moment-by-moment basis. [n73](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n73) Smith deduces, therefore, that by inventing moral equivalency between all living beings, Singer's theory deprives so-called irrational or unaware humans of legal personhood. [n74](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n74) This creates an untenable paradigm that maintains "[s]ince neither a newborn human infant nor a fish is a person, the wrongness of killing such beings is not as great as the wrongness of killing a person."

## **Other organizations solve**

**Grubbs 2010** (Kevin R. [J.D. from the Southern Methodist University Dedman School of Law in Dallas, Texas, in May 2010. He holds a B.A. and an M.A. in Political Science from the University of North Texas in Denton, Texas.] “SAVING LIVES OR SPREADING FEAR: THE TERRORISTIC NATURE OF ECO-EXTREMISM” 16 **Animal** L. 351)

The **Animal** Liberation Front (ALF) traces its roots to the hunt saboteur movement that began in England in the 1970s, where groups formed to further **animal** protection by sabotaging hunters. [n36](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n36) One of these groups, the "Band of Mercy," later expanded to target other "**animal** exploitation industries." [n37](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n37) One of the leaders of the group, Ronnie Lee, was arrested in 1974. [n38](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n38) After his release, he founded the new organization: the **Animal** Liberation Front (ALF) in 1976. [n39](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n39) The ALF operates as an expansive series of small but loosely connected cells which independently plan, prepare, and execute attacks, but claim responsibility on behalf of the whole organization. [N40](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n40) Members of one cell often are unaware of the identity of members of other cells. [n41](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n41) Additionally, the group appears to have no official hierarchical structure. [n42](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n42) This organizational structure is neither new, nor confined to the United States. [n43](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n43) It has existed across history and national boundaries. By their own admission, members of the ALF strive to weaken industries, cause economic damage, and use intimidation to influence behavior. [n44](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n44) In order to join the ALF, individuals or small groups are required only to carry out an attack - what they call direct action - in accordance with group guidelines. [N45](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n45) The scenario described above - taken from United States v. Tankersley [n46](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n46) - provides a good example of activities typical of ALF and ELF members. [n47](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n47) In Tankersley, over a dozen individuals planned, organized, and executed dozens of acts of arson over the course of several years.

##  **Terroristic aspects of the animal rights movement**

**Grubbs 2010** (Kevin R. [J.D. from the Southern Methodist University Dedman School of Law in Dallas, Texas, in May 2010. He holds a B.A. and an M.A. in Political Science from the University of North Texas in Denton, Texas.] “SAVING LIVES OR SPREADING FEAR: THE TERRORISTIC NATURE OF ECO-EXTREMISM” 16 **Animal** L. 351)

According to the Federal Bureau of Investigation (FBI), **animal** rights and environmental extremists have committed more than 2,000 criminal acts since 1979. [n3](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n3) This has caused an economic impact of more than $ 110 million. [n4](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n4) But despite the seriousness of this type of extremism, FBI efforts since 2005 have produced indictments against only thirty individuals. [n5](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.314233.51213529694&target=results_DocumentContent&returnToKey=20_T26225507133&parent=docview&rand=1499544655930&reloadEntirePage=true#n5) While the FBI treats **animal** rights and environmental extremism of this sort as tantamount to terrorism, it is not clear to everyone that such behavior qualifies as terrorism under federal definitions. In fact, since 2006 and the passage of the **Animal** Enterprise Terrorism Act, many critics have surfaced, challenging the government's decision to label this type of activity as terrorism.

## **Animal welfare and animal rights are mutually exclusive**

**Lee 2013** (Nicholas H. [J.D. Candidate, Regent University School of Law] “IN DEFENSE OF HUMANITY: WHY ANIMALS CANNOT POSSESS HUMAN RIGHTS” 26 Regent U.L. Rev. 457)

Animal welfare societies have done much to further the prevention of cruelty to animals, but as Wesley Smith explains, "animal welfare and **animal** **rights** represent incompatible moral principles and mutually exclusive goals." [n31](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n31) Citing animal law attorney Michael Schau, Smith lauds animal welfare, or animal protection advocacy, as having grown out of admirable "principles of humane care and treatment" for animals. [n32](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n32) Smith warns that these legitimate animal welfare activities, however, must not be conflated with today's **animal** **rights** movement because the moral principles and goals of each group sharply diverge after their shared general concern "with the way people treat animals." [n33](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n33) [\*462] Schau explains that animal welfare advocates seek to improve animal husbandry methods, alleviate needless pain and suffering, and ensure that animals receive "essential food, water[,] shelter, [and] health care." [n34](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n34) Smith adds that welfarists accept human exceptionalism and "believe we have a human duty to prevent *unnecessary* animal suffering." [n35](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n35) They do not believe that animals should be given human-type rights, and they "acknowledge that, assuming appropriate practices, we are entitled to benefit from animals in furtherance of human interests." [n36](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n36) Most importantly, however, is that animal welfare advocates "do not seek to create a moral equivalence between human beings and animals." [n37](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n37)**Animal** **rights** activists, on the other hand, do seek moral equivalence. They fervently "deny that human beings have the right to use animals to further any human purpose," [n38](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n38) period, and they zealously oppose "the idea that animals can ever properly be considered property." [n39](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n39) Even Professor Gary L. Francione, a leading **animalrights** advocate and author, admits that today's "**animal** '**rights'** movement is fundamentally different from . . . the animal welfare movement" because it patently rejects the beliefs that animals are the property of humans and that animals may be used for human benefit. [n40](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n40) Additionally, he states that **animal** **rights** activists think that at least some animals should possess rights that absolutely insulate them from harm, just as human rights protect humans from harm. [n41](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n41) Thus, they demand the "abolition of *all* exploitation of animals, on the grounds that animals have inherent, inviolable rights" that are non-negotiable. [n42](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n42) Moreover, **animal** **rights** activists believe that animal welfarism is "per se [\*463] insufficient," [n43](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.438396.1505799327&target=results_DocumentContent&returnToKey=20_T26225580691&parent=docview&rand=1499551358152&reloadEntirePage=true#n43) "outdated and fundamentally immoral."

## **Rights, Capitalism, and the Law intersect**

**Kelch** 19**99** (Thomas G. [professor of law at Whittier Law School.] "The Role of the Rational and the Emotive in a Theory of Animal Rights" 27 B.C. Envtl. Aff. L. Rev. 1)

Why be concerned with the notion of rights? Legal protection may be given to animals without cloaking it in the rhetoric of rights. Indeed, utilitarian theory eschews rights for utility calculations. [N8](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n8) Those enamored of critical legal theory and feminist theory frequently deride rights as tools of repression and the status quo. Those taking this tack may, for example, point out that to say one has a right does not mean that this right is either enforceable or exercisable. [n9](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n9) To [\*4] be meaningful, rights must be positive; there must be an obligation in others to respect them and they must be enforceable. [N10](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n10) Critical legal studies scholars deride rights by asserting that rights merely protect entrenched interests in society. [n11](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n11) They choose to analyze the legal system from a position outside these entrenched views that include the concept of rights. [N12](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n12) Although there is controversy over the usefulness of rights in feminist literature, [n13](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n13) some of this literature views rights as simply part of the male way of viewing the world. [n14](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n14) In this view, rights are a means of male domination and exploitation of women, animals, and nature. [n15](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n15) Rights are necessary only because of the competitive and antagonistic system that has been created by made-dominated culture. [N16](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n16) To socialists, rights are capitalist ploys; those who are disadvantaged in the system are accorded certain rights, but these rights are not meaningfully exercisable by them, given their position in society. [n17](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n17) Rights may only be a pathology of capitalist society resulting from its underpinnings of competition and self-interest. [n18](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n18)Rights are necessary to sort out the inevitable conflicts created by a capitalist system. In a more benevolent society, the need for the supposed protection of rights might be lessened or non-existent. [N19](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.415258.3181475127&target=results_DocumentContent&returnToKey=20_T26225756671&parent=docview&rand=1499569658896&reloadEntirePage=true#n19)

## **The issue with the concept of rights**

**Kelch** 19**99** (Thomas G.[professor of law at Whittier Law School.] "The Role of the Rational and the Emotive in a Theory of Animal Rights" 27 B.C. Envtl. Aff. L. Rev. 1)

Closer to the animal **rights** issue, Mary Midgley has argued that the concept of **rights** is in conceptual trouble. [n20](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.284360.23348209425&target=results_DocumentContent&returnToKey=20_T26225802648&parent=docview&rand=1499574048276&reloadEntirePage=true#n20) She claims that the concept is too ambiguous to be truly useful, and, for this reason, cannot be effectively utilized. [n21](http://www.lexisnexis.com.ezproxy.lib.utah.edu/lnacui2api/frame.do?tokenKey=rsh-20.284360.23348209425&target=results_DocumentContent&returnToKey=20_T26225802648&parent=docview&rand=1499574048276&reloadEntirePage=true#n21) The ambiguity of terms like "**right,**" then, does not just express a mistake, but a deep and imperfectly understood connection between law and morality. This is why eighteenth-century [\*5] revolutionaries were able to exploit these ambiguities with such effect in their campaign for the **rights** of man. Obscure concepts can often be used effectively for reform in this way, so long as they are employed only on issues where their practical bearing is clear . . . . The actual word "**right,**" however, cannot, as far as I can see, be salvaged for any clear, unambiguous use in this discussion. It can be used in a wide sense to draw attention to problems, but not to solve them. In its moral sense, it oscillates uncontrollably between applications which are too wide to resolve conflicts ("the **right** to life, liberty and the pursuit of happiness") and ones which are too narrow to be plausible ("the basic human **right** to stay at home on Bank Holiday").

## **In an increasingly progressive society, animals rights is the next step**

**Posner 2000** (Richard A. [American [jurist](https://en.wikipedia.org/wiki/Jurist) and [economist](https://en.wikipedia.org/wiki/Economist), who is a judge on the [United States Court of Appeals for the Seventh Circuit](https://en.wikipedia.org/wiki/United_States_Court_of_Appeals_for_the_Seventh_Circuit) in [Chicago](https://en.wikipedia.org/wiki/Chicago) and a Senior Lecturer at the [University of Chicago Law School](https://en.wikipedia.org/wiki/University_of_Chicago_Law_School).] "Animal Rights" 110 Yale L.J. 527)

If Wise is to persuade his chosen audience, he must show how courts can proceed incrementally, building on existing cases and legal concepts, toward his goal of radically enhanced legal protection for animals. Recall the process by which, starting from the unpromising principle that "separate but equal" was constitutional, the Supreme Court outlawed official segregation. First, certain public facilities were held not to be equal; then segregation of law schools was invalidated as inherently unequal because of the importance of the contacts made in law school to a successful legal practice; then segregation of elementary schools was outlawed on the basis of social scientific evidence that this segregation, too, was inherently unequal; then the "separate but equal" principle itself, having been reduced to a husk, was quietly buried and the no-segregation principle of the education cases extended to all public facilities, including rest rooms and drinking fountains. That is the process that Wise envisages for the animal-rights movement, although the end point is less clear. We have, Wise points out, a robust conception of human rights, and we apply it even to people who by reason of retardation or other mental disability cannot enforce their own rights but need a guardian to do it for them. The evolution of human-rights law has involved not only expanding the number of rights but also expanding the number of rights-holders, notably by adding women and blacks. (Much of Wise's book is about human rights, and about the methodology by which judges enlarge human rights in response to changed understandings.) We also have a long history of providing legal protections for animals that recognize their sentience, their emotional capacity, and their capacity to suffer pain; these protections have been growing too.

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## **The only difference between humans and animals is species, which is arbitrary**

**Perz 2007** (Jeff [Master's degree in philosophy from McMaster University in Hamilton, Ontario, Canada. His Master's thesis is entitled Core Self-Awareness and Personhood] "ADULTERATING **ANIMAL RIGHTS:** JOAN DUNAYER'S "ADVANCING **ANIMAL RIGHTS**" REFUTED" 2 J. Animal L. & Ethics 123

In various eras and cultures, women and children have been the property of men. In other times and places, members of particular "races," states, or tribes have been enslaved. Today human slavery is illegal worldwide. "We do not regard it as legitimate to treat any humans, irrespective of their particular characteristics, as the property of other humans," Gary Francione notes. Morally, it's equally wrong to treat any nonhuman beings as human property. Currently, though, nonhuman slavery is universal...The principle of equal consideration requires that we treat similar interests in a similar way unless there is a morally sound reason for not doing so. Is there a morally sound reason that justifies our giving all humans a basic **right** not to be the property of others while denying this same **right to all animals** and treating them merely as our resources?...In the end, the only difference between them and us is species, and species alone is not a morally relevant criterion for excluding animals from the moral community any more than race is a justification for human slavery or sex is a justification for making women the property of their husbands. The use of species to justify the property status of animals is speciesism just as the use of race or sex to justify the property status of humans is racism or sexism.

## **EXTRA READING FOR THE NEGATIVE**

## **Perz 2007** (Jeff [Master's degree in philosophy from McMaster University in Hamilton, Ontario, Canada. His Master's thesis is entitled Core Self-Awareness and Personhood] "ADULTERATING **ANIMAL RIGHTS:** JOAN DUNAYER'S "ADVANCING **ANIMAL RIGHTS**" REFUTED" 2 J. Animal L. & Ethics 123

**Lee 2013** (Nicholas H. [J.D. Candidate, Regent University School of Law] “IN DEFENSE OF HUMANITY: WHY ANIMALS CANNOT POSSESS HUMAN RIGHTS” 26 Regent U.L. Rev. 457)

**Posner 2000** (Richard A. [American [jurist](https://en.wikipedia.org/wiki/Jurist) and [economist](https://en.wikipedia.org/wiki/Economist), who is a judge on the [United States Court of Appeals for the Seventh Circuit](https://en.wikipedia.org/wiki/United_States_Court_of_Appeals_for_the_Seventh_Circuit) in [Chicago](https://en.wikipedia.org/wiki/Chicago) and a Senior Lecturer at the [University of Chicago Law School](https://en.wikipedia.org/wiki/University_of_Chicago_Law_School).] "Animal Rights" 110 Yale L.J. 527)

**Kelch** 19**99** (Thomas G.[professor of law at Whittier Law School.] "The Role of the Rational and the Emotive in a Theory of Animal Rights" 27 B.C. Envtl. Aff. L. Rev. 1)

**Grubbs 2010** (Kevin R. [J.D. from the Southern Methodist University Dedman School of Law in Dallas, Texas, in May 2010. He holds a B.A. and an M.A. in Political Science from the University of North Texas in Denton, Texas.] “SAVING LIVES OR SPREADING FEAR: THE TERRORISTIC NATURE OF ECO-EXTREMISM” 16 **Animal** L. 351)