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ANIMAL WELFARE, ANIMAL RIGHTS AND AGRICULTURE¹

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ABSTRACT

The past decade has witnessed a major revolution in social concern with animals. Philosophically, this revolution entails a significant revision in traditional ways of conceiving our moral obligations to other creatures. Therefore, it is necessary to understand the social and conceptual basis for what is widely termed "animal rights." The agricultural community has mistakenly tended to dismiss this new thinking as fringe and emotionally based. In actuality, it is a natural extension of earlier social thought. The case of new laws regulating biomedical research illustrates the rapidity of social change in this area, as do recent developments in European regulation of agriculture. The relevance of this new moral thought to what has hitherto been understood purely in economic terms must be assimilated by the American agricultural community before the agricultural community can respond appropriately and non-reactively.

(Key Words: Animal rights, Animal Welfare, Ethics.)

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The past decade has witnessed a major revolution, both in degree and kind, in social concern with animal welfare and the moral status of animals. Although animal welfare concerns, and their codification in law, date back at least 200 years, those concerns have been addressed almost exclusively at cruelty. The lowest common denominator ethic obtaining in society has traditionally been encapsulated in the anti-cruelty laws, which forbid willful, intentional, malicious cruelty or wanton neglect, and which are as much designed to protect society from sadists and psychopaths, who begin with animals and move to people, as to protect the animals. In these laws, harm done to animals or suffering inflicted on animals for human necessity—essentially defined in the broadest possible way as economic benefit or even recreational benefit—is by definition exempt from the anti-cruelty laws. Thus, agriculture, animal research, hunting, trapping, rodeo, all cannot fall under the cruelty statutes.

A nineteenth-century case (*Waters v. the People*) testing the Colorado statute, typical of all of these laws, underscores this point. Under the anti-cruelty law, suit was brought against a group of individuals involved in the release and shooting of tame pigeons. In dismissing the case, the judge declared that

not every act that causes pain and suffering to animals is prohibited Where the end or object is reasonable and adequate, the act resulting in pain is necessary or justifiable The aim of this section is not only to protect these animals, but to conserve public morals (Rollin, 1981).

Surprisingly, perhaps, this same thinking was dominant in the traditional humane or animal welfare movement, whose major categories were kindness to animals, cruelty to animals, and love for animals. This in turn led to the selective concern for animals that is manifest in the federal Laboratory Animal Welfare Act of 1966 (P. L. 89-544)—moral concern tended to be restricted to the cute and cuddly. The Animal Welfare Act was promulgated for anthropocentric reasons, i.e., to reassure pet owners who feared their pets would be kidnapped and sold to research laboratories (U.S. Congress, Office of Technology Assessment, 1986). For purposes of this act, a dead dog is an animal whereas a live

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mouse, rat, sheep or pig is not. By the same token, the humane movement devoted little attention to animal agriculture, save for concern about humane slaughter and cases of patent neglect, e.g., underfed or improperly sheltered livestock, and occasionally rodeo, which was perceived as involving unnecessary suffering. The "normal" raising of animals for food was not an issue for the vast majority of humane organizations, and very few advocated a vegetarian lifestyle.

The term "humane" bespeaks the idea that moral concern for animals is not an obligation for humans but a gift we bestow. It also led to an unfortunate tendency on the part of animal welfare people to stigmatize all those who cause animal suffering as *cruel people*—those opposed to animal research are forever characterizing scientists as sadists and psychopaths.

The basic principles of animal rights thinking are a major departure from these traditional categories of kindness and cruelty. First of all, most harm perpetrated on animals and most animal suffering is not a result of cruelty, but rather grows out of "normal" animal use. Thus most researchers are not cruel, they do not enjoy hurting animals; they are not sadists, they have high ideals and noble aims; yet they use millions of animals annually and cause a great deal of harm and suffering to them. Similarly, most agriculturalists, hunters and trappers are not cruel, yet their activities can result in suffering. This point was well understood by a New York State judge a few years ago who heard a case in which a group of animal rights attorneys attempted to prosecute the use of the steel-jawed trap for trapping under the anti-cruelty laws (*Animal Legal Defense Fund v. Department of Environment Conservation*, 1985). In dismissing the case, the judge remarked that were it within his power to do so, he would ban the steel-jawed trap today. But the way the animal cruelty laws are written, they do not cover things like the steel-jawed trap that are aimed at satisfying a human "need" (fur in this case) and at economic benefit. Therefore, he added, the only way to address such cases is to change the law through legislation. So one basic feature of animal rights thinking is to concern itself with animal suffering, whether or not the source of that suffering is cruelty, which typically it is not. This example also explains why a major thrust of rational animal rights thinking is toward new legislation, governing

the myriad practices involving animals to which the notion of cruelty is irrelevant and inadequate—paradigm cases are animal research and agriculture.

Second, and by the same token, the proper treatment of animals is seen in animal rights theory as a demand of *justice and fairness*, not as a matter of kindness or good will (Rollin, 1981; Regan, 1983; Sapontzis, 1987). (This is true even of philosophers who philosophically question the cogency of "rights" [Singer, 1975].) Just as the women's movement would not accept as a slogan "be kind to women," so, too, the new animal movement rejects kindness as the relevant category. The feeling is that moral obligations to animals follow logically as an inevitable extension from moral ideas we already have about people in society. In this way, animal rights is an extension of 1960s thinking, by which concern with the rights of minorities and women was seen not as a new idea being thrown out for discussion, but as necessarily following from ethical principles already taken for granted in society in our moral/legal system.

In my own work on animal ethics, I realized early that there is little point in trying to bully those who use animals, be it in science, agriculture, or some other discipline, into accepting my opinions. After all, why should they care about whether what I say is right or wrong? As Socrates said, philosophers cannot teach, only remind. In my own martial arts metaphor, I thus use *judo* rather than *sumo*, attempting to extract something like my ideas from my opponent's own assumptions, rather than attempting to butt heads with them (Rollin, 1990).

Far more effective than head-on collision is the ability to demonstrate that the seeds of the position one is attempting to press on one's opponent are, in fact, already contained in the opponent's own position, albeit implicitly and in an unrecognized way. I will briefly summarize this approach.

The first point to emphasize is that, despite an inherent tendency on our part to magnify and stress differences in the ethical positions among diverse persons in a society, the similarities and agreements in ethical principles, intuitions, practices and theories that obtain in society far outweigh the differences. This is true for many reasons. In our society, most of us are brought up and steeped in the same Judaeo-Christian, democratic, individu-

alistic heritage. In addition, we live under the same set of laws, which encode much of that morality in ways guiding and shaping our theories and practices. And finally, it is evident that we could not live and function together if we did not implicitly share a very significant set of moral guidelines. This point is typically unnoticed precisely because it is always there and it works. What is noted and remembered are the situations in which it doesn't work and in which we are greatly divided—issues like capital punishment or perhaps abortion, though abortion, in my view, involves more of a metaphysical dispute than a moral one, because all parties presumably would acquiesce to the same moral principles governing taking human life; the debate concerns what counts as human life.

In any event, we share something of a consensus ethical ideal for the treatment of human beings that pervades our thinking and that governs our laws and social policy. This ideal is not difficult to articulate in outline: In democratic societies, we accept the notion that individual humans are the basic objects of moral concern, not the state, the Reich, the Volk, or some other abstract entity. We attempt to cash out this insight in part by generally making many of our social decisions in terms of what would benefit the majority, the preponderance of individuals, i.e., in utilitarian terms, what is of greatest benefit to the greatest number. In such calculation, each individual is counted as one; thus, no one's interests are ignored. But such decision making presents the risk of riding roughshod over the minority in any given case, e.g., by suppressing an unpopular speaker. So democratic societies have developed the notion of individual rights, protective fences built around the individual that guard him or her in certain ways from encroachment by the interests of the majority (Dworkin, 1977).

These rights are based on plausible hypotheses about human nature, i.e., about the interests or needs of human beings that are central to people, and whose infringement or thwarting matters most to people (or, we feel, ought to matter). So, for example, we protect freedom of speech, even when virtually no one wishes to hear the speaker's ideas, say in the case of a Nazi. Similarly, we protect the right of assembly, choosing one's own companions, one's own beliefs, and also the individual's right not to be tortured even if it is in the

general interest to torture, as in the case of a criminal who has stolen and hidden vast amounts of public money. All these rights are not simply abstract moral notions, but are built into the legal system. Thus, the notion of human nature is pivotal to our ethic—we feel obliged to protect the set of needs and desires that we hypothesize as being at the core of what it means to be human.

The obvious question that arises is what this has to do with animals. The answer is simple. If one can show that there are no rationally defensible grounds for differentiating animals from humans as candidates for moral concern, we must logically bring to bear upon questions of animal treatment the entire moral machinery we use to deal with human questions. This does not force the conclusion that animals are equal to people in moral value, but rather that our treatment of animals must be judged by the same moral categories we use to judge our treatment of people, weighed by the same scales. In short, animal rights thinking attempts to extend our consensus social ethic to animals (Rollin, 1981).

As I have argued elsewhere at length, there are no rationally justifiable grounds for excluding animals from the moral arena, even as it has been shown that there were none for excluding such traditionally neglected humans as women, blacks, and children. None of the standard reasons offered up in the history of thought for excluding animals from the moral arena will stand up to rational scrutiny. Such allegedly relevant differences as the claim that animals lack immortal souls, do not reason, lack language, are inferior to humans in strength or intelligence, are evolutionarily inferior or are incapable of entering into contracts all turn out to be either false or lack the requisite degree of moral relevance that would justify not considering animals morally. For example, consider the claim that we can do as we wish with animals because we are superior to or more powerful than them. This claim amounts to "might makes right," and if we invoke it here, we also must accept the claim that the government has the right (not just the power) to do to us what it sees fit, or that the mugger or rapist is morally justified in exploiting his victim, because governments and muggers are more powerful than those they oppress (Rollin, 1981).

Equally important, one can argue that not only are there no morally relevant differences

for excluding animals from moral concern as we in society define it, there are significant morally relevant similarities that animals share with humans.

The same sorts of features that we find in people and that give rise to our talking about right and wrong actions with regard to people are also to be found in animals. The features to which I am referring that are common to people and to at least "higher" animals (and possibly "lower" ones as well) are *interests*—needs, desires and predilections, the fulfillment and thwarting of which *matter* to the person or animal in question. Cars have needs—for gas, oil, and so on—but they do not have interests, because we have absolutely no reason to believe that it matters to the car itself whether or not it gets its oil. That is why it is impossible to behave immorally toward cars—they are merely tools for human benefit. But animals with interests cannot be looked at as mere tools, for they have lives that matter to *them*.

There are, of course, categories of interests and interests that are common to all animals (including humans), such as food, reproduction and avoidance of pain. But even more significant are the unique variations on these general interests, and the particular interests, which arise in different species. Even as we talk of human nature, as defined by the particular set of interests constitutive of and fundamental to the human animal, we can also talk of animal natures as well—the "pigness" of the pig, the "dogness" of the dog. Following Aristotle throughout his writings, I like to talk of the *telos* of different species of animals as being the distinctive set of needs and interests, physical and behavioral, genetically encoded and environmentally expressed, that determine the sort of lives they are suited to live (Rollin, 1981). This is not a mystical notion. It follows directly from modern biology and genetics, and it is certainly obvious to anyone who is around animals and, indeed, is common sense (hence the song that tells us that "fish gotta swim and birds gotta fly").

Recall that we have argued that our consensus ethic for humans protects certain aspects of human nature deemed to be essential to the human *telos*, and shields them from *infringement* by the majority and even by the general welfare. If it is the case that one can find no morally relevant grounds for excluding animals from the application of that

ethic, and if animals too have a *telos*, it follows inexorably that animals too should have their fundamental interests encoded in and protected by rights that enjoy both a legal and moral status. In this way, we indeed illustrate that the notion of animal rights is implicit (albeit unrecognized) in our consensus social ethics.

Thus, to summarize, the animal rights view attempts to apply the moral notion we all share about people to animals, and to encode basic protection for fundamental aspects of animals' natures into law.

The effectiveness and influence of this new way of thinking about animals is manifest in new legislative changes all over the world. For example, consider the two new (1985) U.S. federal laws governing the use of laboratory animals, namely the so-called Dole-Brown amendments to the Animal Welfare Act (P.L. 99-198), and the so-called Health Research Extension Act (P.L. 99-158). In essence, these laws affirm the rights of laboratory animals to be free from pain and suffering not essential to a piece of research, and also affirm some other rudimentary rights for non-human primates and dogs: Dogs have a right to exercise and primates have the right to be housed under conditions that "enhance their psychological well-being." And it is my prediction that, eventually, husbandry of laboratory animals will be legislated so as to require accommodation of the animals' natures, for scientific as well as ethical reasons (Rollin, 1990). Similar laws for research animals have been enacted in Britain, Holland, and elsewhere.

Though application of this ethic has focused first on science in the U. S., its extension to agriculture is inevitable, and, indeed, this already has begun in Europe. The paradigm case, of course, is the new legislation in Sweden, which even uses rights language in its erosion of confinement agricultural practices we take for granted and in its granting cattle the *right* to graze (*New York Times*, 1988). But Sweden is not an isolated, deviant exception. Other legislative restrictions on confinement agriculture have been put in place elsewhere in Scandinavia, as well as in Germany, Holland, and Switzerland. The EEC and the Council of Europe have moved toward abolition of battery cages and other confinement techniques, and have devoted a great deal of attention to this issue (Grommers, 1988). In Great Britain, dehorning and castration without

anesthesia after 8 wk of age have been banned since 1981, and in January of 1987, the Minister of Agriculture announced an eventual ban on veal crates (Grommers, 1988). In Germany, a recent government report recommended that German society should move away from intensive agriculture for health and environmental reasons, as well as for reasons of animal welfare. Throughout the European legislative and parliamentary discussions surrounding this issue, emphasis was placed on the ethical dimensions, in accordance with the notion of matching environments to animal natures (Ewbank, 1988). This whole moral stance with regard to farm animals is perhaps best summed up in a statement made by the federation of EEC veterinarians (FVE), hardly a radical group, not long ago: "It is clear to us that changes in systems to benefit food animals may mean higher cost to consumers. That is the price a civilized society should be prepared to pay" (Grommers, 1988).

If the EEC does adopt restrictions on confinement, this could lead to a rejection of U.S. products not meeting these standards.

In the face of the patently moral basis of this new concern for animals in general and for farm animals in particular, it is a mistake—and a non-sequitur—to respond that confinement agriculture has produced cheap and plentiful food and economic efficiency. The animal rights advocate need not deny this (though some would cite environmental and health costs of confinement agriculture, currently a major concern in Europe). What they would argue is that these economic benefits have come at the expense of the animal, and this is wrong. Indeed, the rise of confinement agriculture—the application of industrial methods to animal agriculture—was a major stimulus to the development of animal rights thinking, especially in Britain. The advent of technology has allowed us to put square pegs into round holes, to keep animals under conditions to which their natures are not suited, without the wholesale devastation that would have occurred years ago before the technology was developed. But nonetheless, the animals pay a major price, in behavioral anomalies, production diseases, and disturbance and frustration of their *telos* (Fox, 1984). As we all know, moral values check profit and economic efficiency in many areas; we don't allow child labor and condemn child pornography even though they both may be very productive economically. And in the

universities, it is clearly more "efficient" to teach thousands of students via videotape and computer; what is lost is quality.

What the animal rights philosophy, and increasingly, society as a whole, are demanding is that moral concern for animals serve as a check on efficiency exacted at the cost of animal welfare. And society is willing to pay for it. It is estimated that enforcing the Animal Welfare Act for research animals alone costs \$500 million, with much more spent to satisfy NIH requirements. The traditional definition of "necessary suffering" as suffering that is *inconvenient* to alleviate is moving toward social redefinition as suffering that is *impossible* to alleviate.

What ought the role of the animal scientist be in response to the growing prevalence of the sort of ethic we have outlined? (Bear in mind that this sort of thinking seems to be becoming mainstream, not "fringe," and that it is to society as a whole that animal users must account.) In the first place, agricultural sciences should avoid the mistake made by biomedical science a decade ago when it responded to a burgeoning thrust for federal legislation protecting laboratory animals with a vigorous denial that there was any need for legislation. For example, in a debate with me before 1,000 people held at Colorado State University in 1981, Dr. Grafton, representing the National Society for Medical Research, resoundingly declared that "there is nothing questionable done to any animal in any medical or veterinary school in this country" (Grafton, 1981). NIH had no mechanism for enforcing its own guidelines nor any desire to establish one. Those of us in Colorado who, in 1977, had drafted the model legislation that eventually became the 1985 federal laws, were vilified. (Ironically, the majority of our group were laboratory animal veterinarians and researchers who saw clearly that the lack of any enforced regulation was morally, socially, and scientifically unacceptable.) I was called an apologist for lab trashers and an exonerator of the Nazis in the *New England Journal of Medicine* (Visscher, 1982). Of course, as public opinion developed and grew in favor of legislation and when the University of Pennsylvania head-injury tapes and other atrocities became public, the research community reversed itself, and was glad that we had articulated viable legislation based on enforced self-regulation.

Unfortunately, it is difficult for many animal scientists to relate to the evolving ethic on animals. In the first place, like biomedical scientists and most other scientists, they have been trained under an ideology that suggests that science is, and ought to be, "value-free," and thus ethical issues are not within the purview of scientists. (This is fully discussed in Rollin, 1989.) Suffice it to say that animal science, like all other sciences, is not value-free, but rests on many valuational assumptions, including moral ones; an obvious example in that it is morally justifiable to kill or hurt animals for food. Second, the socio-ethical demand that we back off from the search for ever-increasing efficiency flies directly in the face of the traditional mandate for animal scientists—that they develop the wherewithal to produce greater amounts of food efficiently and cheaply. To many animal scientists, this new ethic is thus tantamount to a repudiation of their life's work.

The key point, however, is that science is not value-free, but is driven and guided by social values. And, in my view, society is now demanding that efficiency be subordinated to the proper treatment of animals in accordance with the sort of ethic we have sketched and that this be encoded in law. It thus behooves the animal science community, as the scientific arm of animal agriculture, to provide society and legislators with the information pertaining to making rational, informed decisions on the issues relevant to such legislation. In this, the U.S. animal science community has lagged considerably behind other countries; in Britain and on the Continent, in Canada and New Zealand, extensive work has been done on farm animal ethology in relation to ethics. A vast and rich literature has been created abroad by scientists like I.J.H. Duncan, B. O. Hughes, M. Dawkins, G. Van Putten, W. Sybesma, R. Kilgour, A. Fraser and others. In the U.S., relatively few farm animal ethologists engage these issues and those that do are woefully under-funded.

Sweden is nor Mars; the Atlantic is a shrinking ocean that ideas cross with great speed. Recent laboratory animal legislation bespeaks the growing hold of the ideas we have outlined on mainstream thinking and demonstrates their ingression into the legal system. As long ago as the 1960s, the Brambell Commission in Britain essentially advocated some fundamental rights for farm

animals (Brambell, 1965) that are regularly violated in our confinement systems. U.S. society will soon demand that agriculture back off, at least to some extent, from confinement and pay greater attention to agricultural animal comfort and happiness, and encode this demand in legislation. It would behoove agriculture in general and animal science in particular to anticipate this and to use its expertise to help formulate such law, rather than to play Russian roulette with its future by placing the responsibility for legislation in the hands of those who are ill-equipped by background and training to formulate reasonable policy. This critical juncture should best be perceived not as a threat, but rather as an opportunity to reaffirm and re-emphasize the husbandry that is historically at the root of both animal agriculture and animal science.

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