Speciesism: What is it? What Should We Do About it?

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Introduction

This project was inspired by my long-standing, but partially examined, view that it is morally wrong to eat animals or their secretions, or otherwise use their bodies to suit our ends. That is to say, I believe that we all ought to be vegans for moral reasons. This thesis represents the beginning of my philosophical thinking about this issue.

I have come to think about my opposition to animal exploitation in terms of speciesism, which can be understood, for now, as an unjust prejudice that wrongly justifies ignoring or overriding the interests of other animals. The aim of this project is to identify what we ought to do about speciesism, on the individual level. I will identify our minimal moral obligation to other animals, and I will consider some of the ways we might undermine speciesism. In order to do this well, we must first have a good understanding of the nature of speciesism (what is it?) and we must have a strong account of why other animals matter morally and what obligations we have to them.

This thesis will proceed as follows. There will be three chapters. In the first chapter, I argue that the dominant conception of speciesism, which is understood as a form of prejudice that wrongly justifies ignoring or overriding the interests of animals, fails to adequately capture the complex nature of speciesism. I argue that speciesism is better understood as a pernicious ideology that consists in widespread illusory beliefs about nonhuman animals. These have a profound impact on behavior, are often held for non-cognitive reasons, and serve to establish and stabilize the oppression of nonhuman animals. This conception is stronger than the dominant account because it not only identifies the problematic phenomenon (widespread speciesist beliefs), it also explains why these beliefs persist in the face of reason, and it provides us with reasons to reject it. In
the second chapter, I present three competing theories of animal “rights”—Peter Singer’s utilitarian theory of animal rights, Tom Regan’s deontological theory of animal rights, and Gary Francione’s abolitionist theory of animal rights. I conclude that Francione’s account is the strongest, and therefore it ought to be adopted, clarified and further developed. In the third chapter, I discuss our minimal obligations to other animals. Specifically, I conclude that we are morally obligated to opt out of animal exploitation to the greatest extent that it is possible to do so. That is, we ought to be vegans. I then briefly consider how we might reconceptualize our relationships with other animals. Finally, taking into account the ideological nature of speciesism, I explore strategies for combating it.
Chapter 1: Speciesism is an Ideology

1.1 Introduction

The aim of this chapter is to explain what speciesism is and to establish that we ought to reject it. Here is a preliminary and commonly accepted definition: Speciesism is an unjust prejudice akin to racism and sexism insofar as the interests of nonhuman animals are ignored or overridden based on their species membership alone. Speciesism is distinct from mere differential treatment between humans and nonhumans. As we shall see, differences between humans and other animals sometimes justify differential treatment.

Suppose we want to decide to whom we ought to grant a college scholarship: a dog or a human. In such a case, we would be morally justified in refusing to consider the dog for the scholarship, on the grounds that dogs lack the kind of cognitive abilities necessary to benefit from higher education. Since dogs are not the kinds of beings that desire to go to college or that could benefit intellectually from doing so, we are morally justified in categorically excluding the species *Canis lupus familiaris* from considerations about higher education admissions. Notice, however, that we are justified in excluding all dogs from being considered for higher education not merely because they belong to the species *Canis lupus familiaris*. Rather, in this case, species membership serves as proxy for other cognitive abilities. Now suppose, in a non-emergency situation, we want to decide whether to perform painful experiments on a dog or a human. Both dogs and humans have lives that matter to them, and each of their lives would be devastated as a result of being subjected to such experiments. That is, they both have an interest in not suffering as a result of being subjected to painful medical experiments. In this case, species membership is not a morally relevant factor and we would not be justified in refusing to consider the interests of the
dog. In this case, to override the dog’s interests on the sole basis that the dog is a dog would amount to speciesism. We should experiment neither on the dog nor the human.

The above two hypothetical scenarios are meant to demonstrate that sometimes the species to which an individual belongs is relevant to our moral thinking insofar as it serves as a proxy for other characteristics or abilities, but species membership itself is not typically relevant to our moral considerations. Just as an individual’s race ought not to factor into our moral thinking when race is a morally arbitrary factor, we ought not to factor in an individual’s species when species membership is morally arbitrary to whatever decision we are making. This claim—that we should not ignore the well-being of nonhuman animals just because they are nonhuman animals—is noncontroversial to most people. In fact, most people think we should never cause unnecessary harm to nonhuman animals. But as we shall now see, our actions do not match our attitudes.

Despite the fact that it is not nutritionally necessary for humans to consume the meats or secretions of nonhuman animals, The Humane Society of The United States reports that more than 9 billion nonhuman animals per year are killed for food in the United States alone.¹ This number includes cows, calves, hogs, sheep, lambs, chickens, turkeys and ducks. The vast majority of these animals are subject to horrendous conditions that cause extreme suffering. For example, in order to prevent cannibalism induced by close confinement, piglets have their tails cut off, or “docked,” and their teeth cut without anesthetic. Nonhuman animals used for dairy suffer just as much or more as animals used for meat. For instance, dairy cows are forcibly impregnated repeatedly over their lifetimes

¹ see Humane Society of The United States, Farm Animals Statistics: Slaughter Totals
so that they will continue to produce milk. This entails taking the cow’s calves away shortly after birth, which causes extreme and vocal anguish on the part of both the mother and her calves. Since male calves will never produce milk, they are sent to veal facilities where they are slaughtered after a period of confinement and starvation. Some females are also sent to veal facilities. After several rounds of forcible insemination, pregnancy, birth, and separation form her children, dairy cows are slaughtered at a fraction of their typical lifespans.

Painful use of other animals extends beyond the realm of “animal agriculture.” Hunting animals, using them as sources of entertainment or fashion, or using them for products testing and medical experimentation all represent unnecessary harms to the other animals. Hunters kill over 200 million animals annually in the United States alone. Hunted animals are often not collected. If they have not been fatally wounded, they are left to languish. We use millions more for the sole purpose of entertainment, in zoos and circuses, for example. We kill millions more for fashion. In the United States, we use millions of animals for biomedical experiments, product testing and education. We do this despite the fact that many experiments cause intense suffering to nonhuman animals and do not render valuable information. This should not imply that these tests would be morally permissible were it the case that they did provide valuable information or that any of these activities would be permissible if the suffering of nonhuman animals was reduced or even eliminated. My intent at this point is only to illustrate the gulf between our

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purported moral concern for nonhuman animals and how we actually behave in our everyday lives.

1.2 The Theory of Ideology

While the initial definition of speciesism I put forth is correct, it describes only one aspect of what it is, namely a problematic attitude among individuals. The conception I now wish to defend better captures the complexity of speciesism. Speciesism, on my view, is a pernicious ideology that consists in widespread illusory beliefs pertaining to nonhuman animals, which are often held irrationally, and which serve to establish and stabilize the oppression of nonhuman animals. This conception of speciesism is stronger because not only does it capture the fact that speciesism involves problematic attitudes, but it also helps to explain the gulf between our attitudes and our actions: it captures the reason that we ought to reject speciesism, namely, because the beliefs in question are illusory and harmful. This view of speciesism is aligned with Tommie Shelby’s conception of an ideology. In “Ideology, Racism and Critical Theory,” Shelby rehabilitates the Marxist theory of ideology, which has been widely criticized for being opaque. In order to both illustrate his conception of an ideology and to demonstrate its practical import, Shelby focuses on the ideological dimension of racism, particularly anti-black racism. In the remainder of this section, I will present Shelby’s theory, including some of the examples of racism he uses to illustrate it. Since, for most of us, racism is a more familiar form of oppression than speciesism, it might be helpful to first establish that racism is an ideology before I argue in the following section that speciesism is an ideology as well.
Shelby’s central task is to clarify what it means to say that a belief system is ideological. While the term “ideology” tends to have negative connotations, not all ideologies are pernicious. Feminism is an example of a positive ideology. According to Shelby, the term “ideology” has an evaluative sense and a non-evaluative sense. The non-evaluative sense is epistemically and morally neutral; it takes no stance on whether the ideology ought to be accepted or rejected. By contrast, the evaluative sense of an ideology imputes some reason to reject it. Shelby refers to the evaluative sense of an ideology as the critical conception of ideology. The critical conception has a weak sense and a strong sense. The weak critical conception implies that there is some unfortunate aspect about the belief system, but that that unfortunate aspect does not afford sufficient reason to reject it. For instance, arguably, supernatural ideologies, which contain beliefs in ghosts and the like, are ideologies in the weak critical conception. One might think supernatural ideology is unfortunate insofar as it premised on false beliefs, but nevertheless not oppose the ideology because it is not harmful. However, on the strong critical conception, the fact that a belief system is ideological is sufficient to reject it. As we shall see, Shelby thinks racism is an ideology in the strong critical sense. Shelby’s task is to develop a strong critical conception of ideology.

The object of Shelby’s analysis is belief systems. The charge of ideology, like racism, Shelby explains, is usually lodged against widely held beliefs, social practices or institutions (e.g. Jim Crow Ordinances and Ku Klux Klan demonstrations), and symbolic representation (slogans, jokes, speech acts and films). Shelby notes that it is not inaccurate to view social practices, social institutions and symbolic representations as ideological. However, because social practices, institutions and symbols can be seen as reflecting beliefs, Shelby thinks
that beliefs are analytically fundamental to ideologies. Shelby understands beliefs “as mental representations within the consciousness of individual social actors” and “these mental representations imply validity claims, that is, knowledge claims about the way the world is or about what has value.” More specifically, the beliefs Shelby is concerned with “can be understood as any subset of the beliefs of members of a historical era, geographical region, society, social strata or social group that has the following features:

a. The beliefs in the subset are widely shared by members in the relevant group; and within the group, and sometimes outside it, the beliefs are generally known to be widely held.

b. The beliefs form, or are derived from a prima facie coherent system of thought, which can be descriptive and/or normative.

c. The beliefs are part of, or shape, the general outlook and self-conception of many in the relevant group.

d. The beliefs have a significant impact on social action and social Institutions.”

Feature (a) is meant to emphasize that ideologies are forms of social thought. The theory of ideology is not concerned with the mental lives of individuals, but with beliefs that are widely shared and known to be so. For example, “if there were only two white Americans who believed that blacks are an inferior race, their common belief would be racist but it would not constitute an ideology.” Feature (b) emphasizes two things. First, an ideology is never an isolated belief but a network of beliefs. Single ideological beliefs are always part of a broader worldview.

The view that blacks are inherently of low intelligence is part of a wide-ranging and interconnected set of beliefs that includes, on the one hand, beliefs about the laziness, aggressiveness, and unreliability of black people, and on the other, beliefs about their natural musicality, athletic talent, and sexual prowess. Such beliefs are in turn based on the view

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4 Shelby, Tommie. *Racism and Critical Social Theory*. pp. 157
5 ibid 158
6 ibid 157
that these and other such socially significant characteristics are transmitted through biological reproduction. This black essentialism is related to the assumption about the continental origins and physical characteristics of various subpopulations of humanity, which are often treated as hierarchically ordered (according to some criteria or other) with blacks invariably on the bottom.\footnote{ibid 159}

Feature (b) also emphasizes that ideological beliefs have compelling explanatory and justificatory power for those who hold them. Scrutiny of such beliefs may reveal them to be ungrounded or unsound, as has been the case with proposed theories of racial inferiority, but the beliefs are are held nonetheless. Feature (c), Shelby says, captures the fact that ideological beliefs are so deeply entrenched that they appear commonsensical and “natural” to those who hold them, as Shelby describes:

\begin{quote}
within a society where racist ideology holds sway, nothing could be more ‘obvious’ than that there are different races with corresponding mental traits and behavioral tendencies ... and these beliefs are so ‘obvious’ and firmly held that they often fail to yield to criticism and counter evidence.\footnote{ibid}
\end{quote}

Given the entrenched nature of ideological beliefs, specifically racist beliefs, black people may struggle with feelings of inadequacy despite their awareness of the injustice of racism. Similarly, white people who are ostensibly anti-racist may nevertheless have implicit biases against black people.

Feature (d) is meant to highlight that ideological beliefs are closely tied to action and social practice. This is unsurprising given ideological beliefs shape the self-conceptions and general outlook of those who hold them. Ideological belief systems impact the actions of individuals by mediating social interactions. Ideological beliefs are part of “common meanings,” through which social actors live their lives and coordinate their actions. Shelby notes that, racist beliefs “have engendered a complex and sometimes subtle ensemble of
social symbols, codes, norms, and expectations; and these structure social conduct between
and within the so-called races.”9 One way this phenomenon finds material expression is
through implicit bias. For instance, it is well known now that implicit racial biases influence
hiring practices.10 Furthermore, ideological beliefs contribute to social problems such as
substance abuse. It is not very surprising that racism or other forms of oppression
perpetuate drug abuse, given oppressed individuals’ systematically limited life
opportunities and given that their self-conceptions have likely been fractured as a result of
being viewed as inferior.

Shelby notes that not every belief system engendering these four features is an
ideology in the strong critical sense, since such belief systems are not necessarily
epistemically and morally unsound. For instance, Shelby notes, the contemporary doctrine
of Liberalism in the United States satisfies these four criteria but this does not constitute a
reason to reject it. The strong critical conception of ideology must have some additional
negative characteristic or characteristics that distinguishes it from mere ideology. Shelby
refers to the non-evaluative sense of ideology as “forms of social consciousness" and he
refers to the strong critical conception simply as “ideology.”11 Before we specify the
characteristics that make a form of social consciousness ideological in the strong critical
sense, Shelby asks us to note several crucial things about forms of social consciousness.

First, Shelby says, the representational content of forms of social consciousness can
be almost anything.12 He notes, that while it might be helpful to specify kinds of forms of
social consciousness, such as racial forms, there are challenges to doing so. First, forms of

9 ibid 160
11 ibid 156-157
12 ibid 160
social consciousness might intersect and shade into each other to form a broader worldview. In fact, Shelby says, some ideologies are better able to perform their social functions when they mutually reinforce each other by forming a broader worldview. Second, forms of social consciousness are “dynamic systems” insofar as their representational content changes as social circumstances do. That is to say, the specific beliefs that comprise forms of social consciousness change. For example, “under conditions of plantation slavery, black slaves were thought to be docile, superstitious, easily satisfied and servile, while during the present postindustrial phase of capitalist development, blacks are more often viewed as parasitic, angry, ungrateful and dangerous.”

The second crucial feature of forms of social consciousness is that they may be held unconsciously. An individual might know whether she accepts a particular proposition, Shelby explains, but she may nevertheless be unaware that she is in the grip of a particular picture of the worldview. That she is in the grip of some worldview may only be implicit in her actions. Such belief systems may be “coherently articulable,” but they are usually “confused and may be expressed only in the form of stereotypes, clichés, and fragmented narratives.” Following Marx and Engels, Shelby says that the systematization of these “half-baked, diffuse, and crude ideas is typically performed, sometimes unwittingly, by professional ideologists,” such as politicians, theologians, philosophers, scientists, journalists, teachers and other individuals in positions of power.

Third, Shelby asks us to keep in mind the distinction between forms of consciousness and “phenomenal forms.” Forms of social thought, he says, “are based on

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13 ibid 161
14 ibid
15 ibid
16 ibid
ideas and theories that people actively construct and develop. As such, they are different from, though often related to, the misleading surface appearances,” such as racist institutions or commodity fetishism. Unlike ideological beliefs, phenomenal forms are not to be critiqued, but only explained.\textsuperscript{17}

With these general features of forms of social thought in mind, we are now a position to discuss the negative properties that make a form of social thought ideological in the strong critical sense. According to Shelby, ideologies have three kinds of properties: epistemic, functional and genetic.\textsuperscript{18} These properties capture the idea that ideologies are epistemically unsound, irrationally held and serve to justify the oppression of some group. I will now discuss each of these properties.

The epistemic component of ideology emphasizes that ideologies are epistemically unsound; they make claims about the world that are cognitively defective. Shelby uses the term “cognitive defect” to highlight the fact that ideological beliefs are not usually straightforwardly false. Rather, they involve cognitive errors such as inconsistency, oversimplification, exaggeration, circularity, false dichotomy, neglect of pertinent facts, hasty generalizations or misuse of “authoritative” sources. Ideologies work, Shelby says, “by presenting and inculcating a false or slanted perspective that arranges the facts in a misleading way or fails to mention certain facts or places them in an inconspicuous context.”\textsuperscript{19} Part of the reason these defective beliefs go unnoticed is that everyday experiences seem to confirm them. The following example illustrates this point.

Racist ideology underwrites the widely held view that most black women who receive welfare support are poor because they are lazy, irresponsible and promiscuous and that they pass on—through example and maybe genes—such tendencies to their children. Accordingly

\textsuperscript{17} ibid 161-162  
\textsuperscript{18} ibid 164  
\textsuperscript{19} ibid 166
black woman are not seen as deserving of public support but contempt. But many of the behaviors associated with inner city poverty are consequences of historical effects of racism ... but if one ignores these structural factors some of the conduct of the black ghetto poor can seem to conform to the stereotype of racist ideology and thus justify resentment toward welfare recipients.20

To highlight the cognitively defective aspect of ideological beliefs, Shelby refers to them as ideological illusions. While most ideological beliefs are not straightforwardly false, some of them are. For example, the belief that there are races that can be distinguished by significant genetic differences persists, despite extensive evidence to the contrary.21 According to Shelby the ideological illusion of “races” is the linchpin of racism.

The epistemic component of the ideology is imperative to forming a comprehensive theory of ideology. While the functional and genetic properties of a form of social consciousness might warrant suspicion, one cannot rationally reject it if it is not cognitively defective. Since forms of social thought purport to be forms of knowledge, we must have some compelling reason to reject that claim to knowledge.

The second property of ideologies is genetic. As the term suggests, this feature pertains to the origin of ideological beliefs. That is, this feature of ideology captures that people, for various reasons, fail to perceive their true motives for accepting ideological beliefs. This component refers not to the beliefs themselves but to the way in which the beliefs are held: irrationally. Shelby explains this phenomenon in terms of false consciousness: “An individual who suffers from false consciousness would likely believe she accepts a given belief system solely because of epistemic considerations in favor of it but as a matter of fact she accepts it because of the influence of noncognitive, motives that operate

20 ibid 165-166
21 See Blum, Lawrence. I'm Not a Racist but ... : The Moral Quandary of Race.
behind her back, without awareness. Beliefs held with false consciousness need not be straightforwardly false. For instance, I might rightly believe that standardized testing does not accurately and consistently measure intelligence. But if the reason I believe this is because I want to avoid the implication that my bad test scores reflect my low intelligence, and not because I have any sound epistemic reasons for thinking such, then I hold a true (or at least not straightforwardly false) belief with false consciousness. Because ideological beliefs can be true, a strong critical conception of ideology cannot be adequately captured and rejected purely on the basis that beliefs are held with false consciousness. The relevant beliefs must also be cognitively defective in some way. Shelby notes that false consciousness helps to explain two puzzling aspects of ideology.

First, recognizing the role of false consciousness in ideology avoids the unflattering view that many people are just stupid.

Given that ideologies suffer from fundamental cognitive defects and yet are widely held, it might seem that Ideology Critique assumes that most humans are quite credulous ... But if ideologies are held with false consciousness then this unflattering and elitist view of ordinary people need not be assumed.

It is a simple fact about humans, Shelby says, that we sometimes hold beliefs for reasons that have little or nothing to do with concern for truth or justification. Such reasons include unconscious interests, such as consolation, anxiety reduction, reduction of cognitive dissonance, confidence-boosting, cathartic relief, need for hope, or silencing a guilty conscience. For instance, Shelby notes that some white workers have embraced racist beliefs to cope with anxiety about the entrance of lower paid blacks into the labor market. Shelby describes this kind of scapegoating:

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22 Shelby, Tommie. Ideology, Racism and Critical Social Theory. pp. 170
23 ibid 171
The white working-class racist attacks blacks in a similar subordinate economic position and blames them for problems whose real causes lie elsewhere. But he blames blacks, not because he has good evidence for thinking that they are the source of his difficulties, but because, for example, he cannot bear to face the real causes of his misery, for this might, given his powerlessness, undermine his hope of overcoming it, or it might threaten his self-conception or his most cherished ideals.24

When such psychological factors are operative, Shelby says, it is easy to fall into epistemic error. Shelby suggests this may give rise to a kind of feedback loop problem: people may fail to recognize that their beliefs have social currency because they are widely held with false consciousness. The fact that the beliefs are prevalent then gives the mistaken impression that they are justified.

Second, recognizing false consciousness as a key feature of ideological beliefs helps to explain the fact that people express a strong reluctance to give up ideological beliefs. Even in the face of extremely strong reasons to relinquish ideological beliefs, some people refuse to do so. For example, some people believe in racial inferiority despite the fact that theories aimed at showing intellectual differences between races are largely meritless. This feature of ideology yields a crucial insight for those who oppose racism and oppression in general: because people are often motivated by noncognitive forces, we should not expect that evidence or logic-based criticism alone would dislodge ideological beliefs.

The third defining feature of ideologies (and the feature that is distinctly Marxist) is functional; it serves to establish or reinforce relations of oppression, such as labor exploitation, land and resource expropriation, political disenfranchisement and marginalization, social repression and exclusion, expulsion and genocide. The function of ideology is to justify the subordinate status of a certain group. For instance, Lawrence Blum argues that racist beliefs in the U.S. were adopted to justify slavery when religious

24 ibid
considerations could no longer adequately justify slavery. This is a remarkable feature of ideologies because it reveals that ideologies are not really about what they appear to be about. At the fundamental level, racism is not about race or genuine concern for the facts about race. Rather, racism is primarily a tool for concealing injustice, a cover story. This reinforces Shelby’s point that arguments that focus on race will not be sufficient to dislodge racism, or any other ideological belief system, from the social psyche, so to speak.

Shelby notes that a purely functional account of ideology is necessary but not sufficient to constitute a strong critical conception of ideology. On the purely functional account, we could not rationally reject even an oppressive social system unless something were epistemically awry. A functional component is nevertheless necessary because it “emphasizes something crucial: we should oppose and seek to subvert ideologies not just because they are rooted in illusion and irrationally held, but because of the oppressive social consequences of their widespread acceptance.”

Shelby further emphasizes that the illusory character and oppressive function of ideology are related: it is the former that makes the later possible. Ideology contributes to establishing and stabilizing relations of oppression in virtue of its cognitive defects. Ideologies perform their social operations by way of illusion and misrepresentation.

Moreover, Shelby stresses that there are many different kinds of ideological illusions that are capable of performing their oppressive social function in a variety of ways. Shelby gives us three such examples. First,

Moral ideologies usually perform through legitimization. They lead people to accept that relations of power that enable some to dominate and exploit others are not unjust and thus that the prevailing distribution of power should be respected or at least not interfered with.

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25 ibid 174
26 ibid
27 ibid 176-177
For example, media portrayals of blacks as morally and intellectually inferior gives the impression that blacks do not deserve the kind of opportunities and treatment afforded to nonblacks. While legitimation is the prevailing ideological illusion, Shelby stresses that it is a mistake to think that the only way an ideology can create or stabilize oppressive social relations is by making relations appear legitimate. For instance,

Reifying ideologies stabilize oppressive relations by creating the illusion that relations (or their causes), which are actually a product of historically contingent human actions or convention, are 'natural' and thus ineradicable, unavoidable and unalterable. Once reification occurs, it is easy for those in better circumstances to ignore their plight, for ameliorating their condition will be practically impossible.²⁸

Finally, some ideologies function primarily through metaphysical mystification whereby

the subordinate position of the oppressed or the dominance of oppressors is taken to have supernatural explanation. Relations of dominance are seen as a consequence of some mysterious act of fate, God's will or forces of the underworld. Those who embrace such ideologies insist their beliefs cannot be refuted by ordinary empirical evidence or reasoned argument.²⁹

The ideological component is crucial for sustaining oppressive social relations. However, it is that ideologies perform "their dirty work," Shelby says, all ideologies are alike insofar as they lead people, through illusions, to fail to recognize or properly appreciate that they are implicated in social relations of oppression. People fail to recognize oppressive systems for what they are and thus fail to work towards changing them.

This account of ideology provides us with a method, namely ideology critique, for establishing whether a form of social thought constitutes an ideology in the strong critical sense: a form of social thought is ideological if it satisfies the three necessary and sufficient conditions—epistemic, genetic and functional—of an ideology. This account of ideology has profound and daunting implications for advocacy. It promises to serve an emancipatory

²⁸ ibid 177
²⁹ ibid
function, and, at the same time, it also suggests that reform will be extremely difficult, if not impossible. On the one hand, it implies that exposing the cognitively defective beliefs of an ideology would render relations of oppression less stable, and thusly amenable to change. Exactly how much less stable, Shelby points out, will depend on many factors, such as the prevailing economic conditions, whether there are other structures that could be mobilized to reinforce the oppressive relations, whether there are functionally equivalent ideologies that could quickly fill the void, and the extent to which material and social incentives present insuperable obstacles to collective action for social change. On the other hand, as we have seen, there are formidable obstacles to dislodging ideological beliefs. In any case, understanding the nature of ideology gives us the leverage necessary to potentially subvert ideologies such as racism and speciesism.

I have implied that I endorse Shelby’s theory of ideology, but I want to make a couple of remarks now that make my endorsement explicit. Ideology Critique not only offers a clear account of what it is that makes a form of social consciousness ideological, but it also accounts for and explains many complex social phenomena, such as race relations, and it provides us with both reasons and tools to reject it. Ideology Critique comports with and explains why it is that racism persists in the U.S. The prevalence of racism in the U.S. indicates that the facts about so-called races alone are insufficient to abolish it. By “facts” I do not only mean the fact that there is no compelling evidence that there are any meaningful differences among peoples with different skin colors; I am also referring, in a loose way, to moral facts. For instance the notion that beings of higher intelligence are entitled to exploit beings of lower intelligence is widely rejected. Most people are outraged

\[30 \text{ibid 174-175}\]
when they hear of the abuse of a mentally disabled person or an animal. So when I say that the facts are not sufficient to abolish racism, I am referring to both the fact that there are no morally significant differences between the so-called races and to the fact that we think those differences should not matter anyway, at least with respect to harmful treatment.

While experience suggests that the facts alone cannot abolish racism, it seems clear that progress is possible, though it can be difficult to discern the exact extent of that progress, given that the content of ideologies can and does change over time. For instance, while blacks are no longer legal property, the fact remains that many remain in socially subordinate positions. For instance, many remain stuck in extremely low wage jobs that no doubt constitute another form of oppression. It has also been argued that incarceration is a modern form of radicalized slavery.\textsuperscript{31} Despite ongoing racial injustice, the fact that even a small percentage of blacks now hold positions of social power is an indication that at least some ideologies can be undermined to some extent. Moreover, the profound shift in social thought with regard to same-sex marriage suggests that some ideologies are amenable to change. With that said, there is no doubt, as Shelby acknowledges, that the account I have just presented is not a complete Theory of Ideology. For instance, as Shelby notes, the following questions must be answered: 1) what makes an ideology specifically racist or otherwise in character? 2) what are the origins of specific ideologies? 3) what is the current context and function of an ideology? 4) through what methods is it inculcated and reproduced? 5) to what extent can racism or other forms of social thought be reduced to ideology and its effects? 6) to what extent can ideology be explained in terms of economic

\textsuperscript{31} See Alexander, Michelle. \textit{The New Jim Crow: Mass Incarceration in the Age Of Colorblindness.}
factors? While these are big questions that I will set aside for the purpose of this paper, I do think each of them can and should be given rigorous philosophical treatment. For now, we have a cogent account of what it means to call a form of social thought ideological and that provides us with foundation for considering the possibility that speciesism is also an ideology.

1.3 Speciesism as an Ideology

In the remainder of this chapter, I will argue that there is ample reason to believe that speciesism is an ideology in the strong critical sense (henceforth “ideology”). In order to do so I will first establish that speciesism is a form of social thought. In so doing, I will swap the term “speciesism” for “species beliefs,” since “speciesism” is an evaluative term and at this stage my task is only to establish that it is a form of social thought. Second, I subject species beliefs to Ideology Critique, and I conclude that speciesism is an ideology because it satisfies the all necessary and sufficient conditions of an ideology.

Recall that a form of social consciousness “can be understood as any subset of the beliefs of members of a historical era, geographical region, society, social strata or social group that has the following features:

   a. The beliefs in the subset are widely shared by members in the relevant group; and within the group, and sometimes outside it, the beliefs are generally known to be widely held.

   b. The beliefs form, or are derived from a prima facie coherent system of thought, which can be descriptive and/or normative.

   c. The beliefs are part of, or shape, the general outlook and self-conception of many in the relevance group.

   d. The beliefs have a significant impact on social action and social institutions.”

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33 ibid 158
I will now argue that species beliefs meet each of these criteria and therefore constitute a form of social thought. I will focus on the beliefs of those in the U.S., although, my sense is that species beliefs are not significantly different in most places in the world. In order to establish that species beliefs meet criterion (a), that is, to determine whether the subset of species beliefs of the group are widely held and known to be widely held, we need to have an idea about what those beliefs are. I will propose a cluster of what I take to be widely held species beliefs. Keep in mind that my task at this point is not to evaluate the status of the beliefs—that is, whether they are true, or false, or cognitively defective—but to establish that these species beliefs are widely held and recognized to be widely held.

A ubiquitous species belief is the belief that humans are nutritionally required to eat animals and/or their bodily secretions in order to survive and/or thrive. This belief is reflected in everyday conversation and behaviors as well as in the prescriptions of authoritative organizations such as the U.S.D.A., which recommends eating dairy and seafood and regards meat as an appropriate source of protein. It is from this belief that many other species beliefs originate. For instance, given our supposed need to consume nonhuman animals and their secretions it is widely believed that it is morally permissible to use them as food sources, which can be confirmed by looking around most grocery stores. Presumably one of the reasons humans continue to eat nonhuman animal “products,” despite the fact that doing so requires the suffering and death of sentient beings and despite the fact that “animal agriculture” is responsible for up to 51% of greenhouse gases\(^\text{34}\) is because they believe it is necessary or “natural.” Moreover, many believe that

\(^{34}\) see World Watch Institute, *Livestock and Climate Change*. 
although humans need to eat nonhuman animal “products,” we should not cause nonhuman animals more suffering than necessary in the process of obtaining those products. The belief is often accompanied by a sense of moral responsibility to other animals, which yields the following belief: it is permissible to use nonhuman animals for food so long as they are raised and killed humanely. This sentiment is evidenced by the prevalence of humane treatment campaigns. Another species belief is that humans have used and eaten animals throughout history. It is widely believed that the domestication of nonhuman animals marked humankind’s ascent to civilized society. This belief is a part of common knowledge and it is reflected in educational resources, such as science exhibits and documentaries. This belief reifies the belief that eating and using nonhuman animals is “natural” and therefore acceptable. Another ubiquitous species belief is that nonhuman animals are not as intelligent as humans. Consequently, it is widely believed that they are not harmed by our using them as sources of entertainment and tools for education, so long as we treat them well in the process. Moreover, the lower intelligence of nonhuman animals is taken to justify our use of them for our own ends, as subjects in medical experiments or for product testing, for example. Remember that species beliefs need not be universally accepted. They only need to be widely accepted and known to be widely accepted. One need not endorse the above beliefs, but only to recognize that many other people do.

The above illustration of criterion (a) also illustrates criterion (b), which requires that the beliefs form, or are derived from, a prima facie coherent system of thought, which

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also see Food and Agriculture Organization of The United Nation, Livestock’s Long Shadow: Environmental Issues and Options. According to this report, animal agriculture is responsible for 18% of the global warming effect, which is a larger percentage than the transportation system, worldwide.
can be descriptive and/or normative. The constellation of species beliefs I have articulated form an outwardly coherent schema, which appears to be consistent with basic facts about the world. For example, the belief that humans nutritionally are required to consume nonhuman animals and/or their secretions seems to have normative implications. Given the belief that human health and survival are contingent upon eating nonhuman animals, it seems uncontroversial that it is permissible to do so. After all, as philosophers sometimes point out, it seems unreasonable to ask humans to stop consuming animals, if doing so will lead to death or illness. On its face, then, speciesism is a coherent system of thought.

Criterion (c) requires that the subset of beliefs are part of, or shape, the general outlook or self-conception of many in the relevant group. To see that species beliefs meet this criterion, consider that humans commonly invoke some version of the phrase, “I am not an animal!” in protest of human injustice. As Christine Korsgaard has pointed out there is a comparative thought at work here. Humans affirm their own value by appealing to nonhuman animal’s lack of it. To be called an “animal” is an insult to human dignity. Human self-conceptions are shaped by our supposed lack of animality. Criterion (d) requires that the beliefs have a significant impact on social action and social institutions. The vastness of the nonhuman animal industry, which I briefly discussed at the beginning of this chapter, should be enough to convince anyone that our species beliefs have a profound impact on social actions and institutions.

I have established that species beliefs meet all the criteria necessary to qualify it as a form of social thought. The task now is to show that this form of social thought is an ideology in the strong critical sense (henceforth simply “ideology”). I will now return to using the term “speciesism" in place of the non-evaluative “species beliefs." In order to
establish that speciesism is an ideology, I will argue that speciesist beliefs meet all the
criteria of an ideology: they are cognitively defective, they are often held irrationally, and
they serve to justify the oppression of nonhuman animals.

Like most racist beliefs, most speciesist beliefs are cognitively defective, or illusory
is some way. However, before we discuss these kinds of beliefs, there is one speciesist
belief that merits special attention because it is straightforwardly false and because it is
possibly the most fundamental speciesist belief insofar as it gives rise to other many other
defective beliefs. The belief I have in mind is the belief that humans are nutritionally
required to consume nonhuman animals and/or their secretions to survive and/or thrive.
The persistence of this belief despite extensive evidence to the contrary is indicative of its
ideological nature. Not only can humans survive and flourish on a plant-based diet, the
eating of “meat” and “dairy” is a relatively new human behavior. Modern humans have
existed for around 200,000 years and many scientists believe that humans were
vegetarians for the majority of this period, with the possibility of some scavenging of
deceased animals and small lizards. In general, sociologist David Nibert explains, “food and
other material resources were obtained by searching for edible plants, seeds, fruits, nuts
and other forms of vegetation, perhaps supplemented by the sporadic consumption of the
remains of recently deceased other animals, scavenged along the way.”35 One explanation
for this behavior, Nibert suggests, is that foraging was an efficient and effective way of
obtaining resources and hunting was not. Consequently, over tens of thousands of years,
humans became adept foragers. Nibert directs our attention to the fact that these historical
practices as well as other human traditions of food gathering are socially constructed:

35 ibid
Human experience determined where to search, what to look for, and how to use and distribute foraged resources. This experience-based knowledge was formulated into custom and was handed down from one generation to the next as learned behavior. It was and it still is, important for humans to teach succeeding generations how to survive in any given time because humans have little of what is called ancestral memory or instinct—that is, memory or knowledge about how to behave, possessed at birth. What is more, human animals not only create survival skills but also construct entire ways of thinking and behaving, as well as systems of social organization. The information is transmitted to each new generation in the form of culture and social structure. Culture is composed of common beliefs, values, language, customs, and norms; social structure refers to the ways humans are organized to coordinate actions and work toward established goals. Since human animals, interacting with one another, invent culture and social structure, we say these things are socially created. Throughout eons of human prehistory, the foraging life, with its rules, customs, and structure, was regarded as “natural” and right. Our prehistoric ancestors were unaware of any other way of relating to one other and to other animals.36

This view comports with anthropologist Matt Cartmill’s view that hunting is not natural in the sense of being instinctual for humans. In fact, he says, it is likely that most people who have lived never hunted. Some scholars think organized hunting began about 20,000 years ago. Many believe that this shift in human behavior was made possible after the Ice Age, when glacier movements expanded prairies and grasslands, accommodating the movement of large groups of nonhuman animals. This allowed humans to efficiently capture and kill nonhuman animals to eat them. When this practice became lucrative humans began to devote time to it. Nibert points out that humans desiring to remain in or migrate to colder areas became particularly adept at using the bodies of nonhuman animals, using their skin, hair, bones, horns, and sinews for food, clothing, tools and other necessities. This shift in human behavior, Nibert rightly emphasizes, was an “economically motivated behavior, cultivated as the potential for effective hunts grew. It was not necessary for human survival, as hominids had existed for the better part of five million years, but simply furthered nonessential interests.”37

37 ibid
If it were the case that meat eating was nutritionally required, we would have seen hunting behavior throughout human history. As we have seen, the practice of eating “meat” is socially constructed and historically contingent, yet “meat” eating and hunting are nevertheless viewed as a “natural” and necessary aspect of humanity. To suggest otherwise is often viewed as anti-social or even ignorant. This narrative, or ideological illusion, is reified through both intensive marketing campaigns sponsored by the animal exploitation industry and educational tools such as museum exhibits and depictions of human history in film. These depictions are not always straightforwardly false, but presented in a context that implies that consuming nonhuman animals and their secretions is a practice as old as humanity itself, and a prerequisite for human flourishing.

Until this point I have been asserting that it is commonly wrongly believed that consuming nonhuman animals is necessary to human survival and/or flourishing without specifying the meaning of “and/or.” Some people recognize that humans are not nutritionally required to use and consume nonhuman animals, but defend their right to do so on the grounds that the domestication of nonhuman animals catalyzed humankind’s ascent to civility. The idea seems to be that humanity is better off as a result of exploiting the labor and bodies of nonhuman animals and so to give it up now would be tantamount to rejecting human progress. Putting aside any problems with this type of argument, given the justificatory power of this belief, it will be a helpful digression to briefly consider the history of domestication. It will also help to show what is wrong with other speciesist beliefs.

38 The specific problem I have in mind is the concept of humanity being “better off.” What does it mean to say humanity is better off? What is Humanity? Does humanity have a well-being?
In “Animal Oppression and Human Violence: Desecration, Capitalism and Global Conflict,” Nibert offers a compelling critique of the hegemonic notion of domestication as benign partnership and a monumental step forward for humankind. He argues that domestication actually marked the beginning of large-scale systematic violence and the oppression of not only nonhuman animals, but also humans, particularly non-elites and women. He argues that before domestication, humans lived relatively peacefully in egalitarian societies. The domestication of nonhuman animals both spurred and facilitated large-scale violence. Large-scale warfare was not possible until humans began to use animals, such as horses, as means for transportation. Large-scale farming was and remains extremely resource intensive. Consequently, control of land and water was extremely important and these resources have been and are acquired at the expense of others, as Nibert explains.

Use of domesticated animals in the Americas both enabled and promoted large scale destruction, violence, displacement, hunger, and human enslavement... without the use of domesticated animals first as essential provision and then as instruments of war and labor, the European conquest of the Americas very likely would not have occurred ... a great deal of the bloodshed in the Americas was motivated by the desire to acquire land and water sources necessary to graze large numbers of animals ... Entire civilizations in the Americas were invaded and destroyed, and much expropriated land was converted to pasture.39

From this historical vantage point, Nibert says, “the idyllic-sounding, romanticized term ‘pastoralism’ should actually be seen as a “subsistence strategy often associated with territorial expansion, social stratification, and military aggressiveness.” Moreover, Nibert notes, most and probably all of the distinctive infectious diseases, such as small pox, TB, measles, influenza and malaria, transferred to humans from animal “herds.”40 In light of this, it is ironic that people often cite the arguably crucial role that medical experiments on

39 Nibert, David A. Animals Oppression & Human Violence: Domesicration, Capitalism, and Global Conflict. pp. 67
40 ibid 12
animals have played in combating these diseases, in order to justify medical experimentation on animals. My point in discussing Nibert’s view is not to offer a comprehensive account of the history of domestication but to show that the hegemonic view of nonhuman animal domestication as symbolic of human flourishing is controversial at best. Moreover, the fact that the reality of animal exploitation is masked by the pastoral view of animals further underscores the strength of the speciesist ideology. Furthermore, even if it is the case that, in some sense, humanity has flourished as a result of animal exploitation, the fact remains that we have no nutritional requirement to eat nonhuman animals, which calls into question the moral permissibility of exploiting them now.

When the relationship between humans and animals is more accurately contextualized, it becomes easier to identify the ideological illusions of speciesism as such. For instance, consider the belief that veganism, which is the practice of not eating any nonhuman animal “meats” or secretions, is unrealistic or unhealthy. Given the prevalence of nonhuman animal “products” in most grocery stores, and given that most of us have grown up eating nonhuman animals “foods” this is somewhat unsurprising. However, our social practices, as we have seen, are historically contingent rather than a reflection of the “natural” order of things, as might be assumed. While there are plenty of plant-based foods that do not require sacrificing palate pleasure, it can be very difficult to conceptualize what to eat or how or where to get it. We lack cultural precedent. This apparent difficulty is taken as evidence that veganism is unrealistic, difficult or even unhealthy. This belief explains why veganism is viewed merely as a lifestyle choice and not a moral issue: because veganism appears difficult it is often viewed as a supererogatory choice, rather than a minimal moral requirement of justice. The belief that veganism can be unhealthy is
compounded by the myth that plants do not contain much protein and that “meat” and “dairy” proteins are superior. Moreover, nutritional issues aside, becoming vegan can be difficult for some people. The extent to which this is the case partially depends on factors such as one’s geographical location and socioeconomic status. The point here is to emphasize that the belief that being vegan is difficult is an ideological illusion. It is not straightforwardly false. It can be difficult for some people, for various reasons, to be vegan. But this is not evidence that there is something amiss with veganism, as is often assumed. Rather, it is evidence of the extent to which society is shaped by speciesism.

Having highlighted the cognitively defective component of speciesism, I will now argue that speciesist beliefs satisfy the genetic component of an ideology. Perhaps a weakness of Shelby’s account is that the extent to which he thinks a form of social consciousness must be held with false consciousness is not clear. Presumably we would not want to say that most ideological beliefs are held with false consciousness. To hold a belief in false consciousness implies that the relevant beliefs have been considered at least to some extent. And since a hallmark of ideology is its apparent naturalness, we should expect it to be the case that many people will never have occasion to deliberate about their ideological beliefs, even unconsciously. If speciesism is an ideology, then speciesist beliefs should be so entrenched that they are invisible to some people to the extent that they never question the relationships between humans and nonhuman animals. Given this, Shelby’s requirement that ideological beliefs often be held with false consciousness must pertain only to that subset of people who have had occasion to consider their beliefs, either consciously or unconsciously.
With this consideration in mind, I will now argue that of those people who have had occasion to deliberate about their speciesist beliefs, many of them continue to hold their beliefs in false consciousness. That an individual is in the grip of false consciousness will be implied in her behavior. One possible indication that an individual holds his beliefs in false consciousness is inconsistency. Suppose Jack reports that he has given serious thought to the subject of invasive medical research on cats. He reports that while he thinks cats matter morally, they are less intelligent than humans. Therefore, he concludes, the purported benefits to humans that would result from the testing outweigh the injury that would be done to the cats. Jack, it turns out, would not endorse performing the same experiments on humans of the same intelligence level, such as babies or mentally disabled people, even in the case that they had no family and would not be missed. If this discrepancy is pointed out to Jack, he might abandon his belief and attribute his inconsistency to his speciesist upbringing and his subsequent desensitization to the well-being of nonhuman animals. But if Jack fails to produce another reason to justify his stance, and he refuses to give up his beliefs, then this is a strong indication that his motives for believing what he does are non-cognitive. One reason Jack might be reluctant to give up his beliefs is that he fears that recognizing the value of nonhuman animals would require him to alter many of his behaviors, which would compromise his sense of identity, his manhood. For instance, if he worries that if he becomes properly sensitized to the oppression of nonhuman animals, he would have to stop eating them. And this proposition terrifies Jack, for his manhood is closely tied to his meat eating. Moreover, he might fear that making a drastic change to his behaviors might alienate him from his family and friends. For instance, he fears that his fraternity brothers might reject him and that he would no longer be able to participate in
his family’s cherished Thanksgiving tradition.

Exaggeration might also be an indication that one holds speciesist beliefs in false consciousness. For instance, many people report that having tried to be vegetarian or vegan, they just felt too sick or they were always hungry. Of course, we can anticipate that this will be true in some cases, given that some people will not know what to eat or how to satisfy themselves. But the prevalence of people who report becoming sick, combined with the fact that it is very easy to get all the nutrients one needs from plant based foods, suggests that noncognitive motives are at work. Another possible reason one might be reluctant to give up speciesist beliefs is because doing so would compromise one’s worldview, which can be frightening. For instance, if one is a biblical literalist and believes that God gave nonhuman animals to humans to use as a means to their own ends, then the implications of giving up one’s speciesist beliefs are profound. It may call in to question the authority of one’s role models or involve potentially abandoning one’s church community. One need not be a biblical literalist to face a similarly frightening challenge to her worldview. Becoming aware of the injustice done to nonhuman animals can and should be a highly disturbing and emotional process that might shed light on similar forms of oppression in the world. This in turn might lead to a sense of hopelessness or it might cause one to reflect on one’s oppression or mistreatment, which one may prefer to avoid.

Yet another reason why someone might want to avoid abandoning his or her speciesist beliefs is because doing so might force us to confront our own mortality. As we saw earlier, human identity is often defined by our lack of animality. Of course, it is true that humans are animals. But we often distance ourselves from that fact by placing our lives in opposition to the lives of animals. To come to see animals as sentient beings who
ought to be treated with respect, might involve accepting that one is not so different from other animals. It might involve recognizing that humans and animals are equals in many respects. The implications of this equality might give us the sense that our lives are not unique and significant. This may seem like so much psychologizing, but as Shelby points out, it is a mundane yet profound fact about humans that we are sometimes prompted to accept beliefs for reasons that have nothing to do with concern for truth or justification.

I have argued that speciesism has both an epistemic and genetic component. I will now argue that speciesism has a functional component and therefore it satisfies all the conditions of an ideology in the strong critical sense. The functional component of an ideology gives us grounds to reject it. We ought to reject speciesism not just because speciesist beliefs are epistemically unsound and irrationally held, but also because they foster the oppression of nonhuman animals. Whereas racism is a moral ideology because it performs primarily by legitimizing the oppression of blacks through the dissemination of ideological illusions, speciesism is a reifying ideology because it performs primarily by stabilizing “oppressive relations by creating the illusion that relations (or their causes), which are actually a product of historically contingent human actions or convention, are ‘natural’ and thus ineradicable, unavoidable and unalterable.”41 The result of our speciesist beliefs is that there are hundreds of millions of nonhuman animals in captivity in the U.S. as I write this and billions more have suffered and been killed, for no reason except for our palate pleasure, convenience and entertainment. While some people are repulsed by the thought of drinking human breast milk after infancy, we are forcing millions of cows to endure several rounds of forcible impregnation and traumatic separation from their babies.

41 Shelby, Tommie. Ideology, Racism and Critical Social Theory. pp. 177
so that we can drink their milk. We are doing this while we teach our children that cows need to be milked so the cows’ utters do not hurt, when in fact we have subjected them to a relentless cycle of forcible impregnation and separation from their children, who will be killed in similarly despicable fashion as their mother, so that we can have their milk. To compound this tragedy, it turns out, that human consumption of cow’s milk is not only wholly unnecessary, there is also strong evidence that it is deleterious to human health.42 We are teaching them that sheep need to be shorn so that the sheep do not overheat, ignoring the fact that we have genetically modified them to produce this amount of wool for us. And we are failing to teach them that many sheep are subjected to violent sheering as oppressed workers, who are paid for each sheep that they shear and not hourly, rush to get the job done.

I have argued that speciesism ought to be understood as an ideology because it satisfies the epistemic, genetic and functional criteria of an ideology. This conception of speciesism is stronger than the conventional conception because it not only allows us to pick out what beliefs systems are problematic, it also explains why they are problematic, and it provides us with reasons to reject them. Moreover, it helps to explain social phenomena, such as how it is possible that so many of us fail to recognize that we are complicit in oppression of other animals. To my mind, the most profound implication of this view is the implication that reason or logical arguments alone will be woefully insufficient to dislodge speciesist beliefs. If a significant amount of people hold speciesist


beliefs for noncognitive, or affective, reasons, then we must identify what those affective reasons are if there is to be any hope of undermining speciesist ideology. Although facts alone will not be sufficient to undermine speciesism, having access to the facts is nevertheless a crucial component of undermining speciesism. These facts include scientific facts about other animals, and they also include moral “facts” about the nature of our obligations to other animals. It is important to have access to the facts for at least two reasons. First, not all people hold speciesist beliefs for affective reasons. Rather, they simply lack the proper information to make an informed decision. Second, it is important to be able to explain why it is that speciesist beliefs ought to be abandoned. The next chapter is devoted to identifying a strong account of why it is that we have obligations to other animals.
Chapter 2: Theories of Animal “Rights”

1.1 Introduction

One may have found the characterization of speciesism as an ideology compelling but nevertheless be unclear about exactly what constitutes a moral relationship between humans and other animals. Rightly so. The argument in favor of thinking that speciesism is an ideology does not yield an account of our duties to other animals. It only prescribes that our moral thinking about other animals ought not to be distorted by ideological beliefs. The aim of this chapter is to provide an account of our duties to animals. Although an account of our obligations to other animals alone will not be sufficient to undermine speciesist ideology, it is a necessary component for doing so. We must be able to counter speciesist ideology with considered arguments and scientific facts. Just as an account of human rights and access to the scientific facts about race is vital to the task of undermining racist ideology, it is vital to the task of undermining speciesism to have access to a strong account of animal rights and to the scientific facts about other animals.

In this chapter, I will present three competing accounts of animal “rights.” I put “rights” in quotations because not all theorists believe that other animals have rights in a sense that I will explain. For now, I use the term conventionally, as shorthand for views that maintain that we have direct obligations to other animals. I will present what I take to be the three dominant theories of animal rights: Peter Singer’s utilitarian theory of animal rights, Tom Regan’s deontological theory of animal rights, and Gary Francione’s abolitionist theory of animal rights. I argue that Francione’s theory is the most tenable. Consequently, I think we ought to adopt it, clarify it and further develop it. I devote considerable time to Singer’s theory for two reasons. First, although Singer’s view is not conceptually complex,
Singer is sometimes equivocal about his moral prescriptions. And although Singer’s theory has strong intuitive appeal, its implications are not always obvious. As a result, it requires careful exposition. Second, Singer’s view is seminal. It represents the dominant thinking in society and within animal rights movements. Both Regan’s and Francione’s positions are, to a great extent, direct responses to the Singer model of animal ethics. After presenting Singer’s theory, I will then discuss Regan’s theory and Francione’s theory.

1.2 Singer’s Utilitarian Theory of Animal Rights

The cornerstone of Singer’s view on how nonhuman animals ought to be treated is the assumption that suffering is inherently bad. Since suffering is a function of sentience, sentience is the fundamental criterion for moral considerability. For Singer, then, the objective of morality is to minimize suffering and to maximize the satisfaction of the preferences of sentient beings.43 Since animals possess the capacity to suffer and they have preferences, they necessarily fall within the scope of ethical concern. To ignore the suffering of a sentient being based on its species membership alone amounts to speciesism. Singer understands speciesism as a prejudice akin to racism and sexism in that it appeals to an animal’s species membership to justify disregarding or overriding his or her preferences, in situations in which species membership is morally arbitrary. In order to avoid this kind of unjust discrimination, Singer argues that our actions ought to be governed by The Equality principle, which stipulates that we take into account every sentient being who might be affected by our actions.

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1.3 The Case for Human Equality and The Equality Principle

In order to elucidate the case for animal equality, Singer enjoins us to examine the basis of our opposition to discrimination on the grounds of race or sex and to analyze our conviction that all humans are equal despite our differences. The claim that all humans are equal is a moral prescription for how we ought to treat one another that rests on the egalitarian idea that our moral concern for each other should not be based on what one is like, or what characteristics one possesses. Notice that the notion that all humans are equal is not an assertion of fact. That is, the case for human equality is not a claim that all humans have the same capacities or characteristics. Human characteristics and capacities vary widely among individuals, and some human characteristics and capacities warrant differences in treatment. For instance, we grant voting rights to adults but not to infants. This difference in treatment is not arbitrary; it is warranted because infants are not cognitively equipped to make political decisions. Similarly, feminists advocate for women’s right to abortion services but they do not maintain that men have the same right. This difference in treatment is also warranted; given that it is physically impossible for men to have abortions, they do not have an interest in receiving an abortion.

Other differences in treatment are not morally justifiable. Suppose Jack and Jill both apply to graduate school and the graduate admissions committee can only admit one candidate. Jack is accepted and Jill is not. A morally justifiable reason to choose Jack over Jill would be because he had a stronger academic record than Jill and he was a more promising candidate. A morally unjustifiable reason to choose Jack over Jill would be because the admissions committee believed that men make better academics than women. This rationale is morally noxious because sex is not an indicator of intellectual competence.
We have seen that there is nothing problematic *per se* about differential treatment so long as there is a valid basis for it. Differential treatment is problematic when it is justified by appeal to characteristics that are morally irrelevant to a particular decision. Racism and sexism are morally reprehensible because race and sex are taken into account in situations in which those characteristics are morally irrelevant. Notice that racism and sexism are problematic for at least two reasons. First, as a factual matter, it is not the case that one can infer morally significant information about someone’s character based on that person’s race or sex alone. It is a fact that individuals differ in various respects at the individual level. Some men have more expansive intellectual capacities than women and vice versa, and some white people have more expansive intellectual capacities than people of color and vice versa. But differences on the individual level should not be interpreted as evidence for inherent differences between the races and sexes as such.

The second issue is that even if it were the case that there were factual differences among races and sexes as such, “there is no logically compelling reason for assuming that a factual difference in ability between two people justifies any difference in the amount of consideration we give to their needs and interests.”44 For instance, there is no objective reason to think that intelligent people, muscular people or musically talented people are more important than anyone else. To underscore this point, Singer quotes Sojourner Truth, a black feminist who advocated for women’s rights in the 1850s:

> They talk about this thing in the head; what do they call it” [“intellect,” whispered someone nearby.] That’s it. What’s that got to do with women’s rights or Negros’ right? If my cup won’t hold but a pint and yours holds a quart, wouldn’t you be mean not to let me have my little half-measure full?45

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Because there is no reason to think that factual differences among humans should influence the amount of consideration that is given to their interests, Singer says, the case for the equality of humans should not rest on the truth-value of empirical facts about people’s capacities or characteristics.

We have seen that the case for human equality is not based on factual equality. And this is as it should be, for while there are vast differences among humans, with respect to phenotypic characteristics such as skin color, or differences in ability such as intellectual or physical strength, those differences do not matter morally. Rather, the case for human equality rests on the egalitarian idea that our concern for others should not be contingent upon what they are like or on what abilities they possess. The Principle of Equality is a moral ideal for how we ought to treat one another. It is a tool we use to explain, guide and evaluate our actions.

1.4 The Case for Animal Equality: The Sentience Criterion and The Principle of Equal Consideration

Having considered the case for human equality, we can now turn our attention to the case for the equality of other animals. The case for animal equality is simple. It does not require us to adopt any new principles. Rather, it requires that we extend The Equality Principle, a principle we already endorse, to other animals. It requires that we conform our actions to our own moral standards by expanding the moral community to encompass other animals. On Singer’s view sentience alone is sufficient for inclusion in the moral community. The ability to experience pleasure and pain is not special to any species. Rather, the ability to experience pleasure and pain is a function of sentience. Therefore, the
exclusion of sentient beings from moral consideration based on species membership alone is arbitrary. In order to avoid speciesism and to do what is morally right, we must extend The Principle of Equality to other animals, Singer says.

A clarification regarding The Equality Principle is now in order. The Principle of Equality is a formal principle. Formal principles set boundaries for what kinds of actions are permissible but they do not specify exactly which actions are morally permissible. For example, *The Categorical Imperative*, a Kantian formal principle, states that one ought to never act except in such a way that one could will that the maxim of one’s action become universal law. For instance, suppose one wants to consider whether to murder one’s annoying neighbor. Unless one would be willing to universalize the maxim, “kill people one finds annoying” then one ought not to commit the murder. Since the maxim, “Do not kill,” is derived from a formal principle and it indicates the value of a specific action, namely murder, it is a substantive principle. Kant, controversially, considered the maxim “Don’t lie” to be a substantive principle. People may disagree about the legitimacy of a substantive principle while accepting the formal principle from which it is derived. For instance, one might accept The Categorical Imperative but disagree about whether it yields the substantive principle that there is an absolute prohibition against lying when the principle is properly applied. The point of this example is to point out that The Equality Principle is a formal Principle and formal principles are open to interpretation. This is important, because, as we shall see, Singer’s interpretation of The Principle of Equal Consideration depends on the moral theory within he is working, namely utilitarianism.

Since The Equality Principle is a formal principle, it does not specify exactly which actions are morally permissible. It merely enjoins us to recognize that all sentient beings
have equal moral status (each counts for one, no more and no less), but it does not specify how we ought to treat sentient beings once we have recognized their moral status. Ought we treat all sentient beings exactly the same? According to Singer, it is not the case we should treat every sentient being identically. Different capacities give rise to different interests and corresponding prescriptions for treatment. Notice that this is a fact we already acknowledged in the example of feminists who do not advocate for the rights of men to access abortion services. As I noted earlier, this is as it should be, for men cannot have abortions and therefore they do not have an interest in having abortions. Because we have a morally sound reason to justify this instance of differential treatment of the sexes, this difference in treatment is not sexist. Likewise, animal advocates would not and should not advocate that other animals are entitled to access to higher education, because other animals do not have an interest in pursuing higher education.

As we have seen, The Equality Principle requires that we take into account the moral status of all sentient beings, but it does not require that we treat all sentient beings identically. Given this, Singer argues that we are entitled to derive The Principle of Equal Consideration from The Equality Principle. The Principle of Equal Consideration requires that we extend equal consideration to equal interests. To put it slightly differently, The Principle of Equal Consideration essentially “means that if an animal feels pain, the pain matters as much as it does when a human feels pain - if the pains hurt just as much. How bad pain and suffering are does not depend on the species of being that experiences it.”

The derivation of the Principle of Equal Consideration from the Principle of Equality is vital, because it specifies the object of our moral concern. It tells us not just we ought to consider

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46 This quote is from a debate between Singer and Posner in Slate Magazine in 2001.
other animals when we make choices that might affect them, but that it is their equal interests in particular that we ought to take into account.

Although The Principle of Equal Consideration is more precise than the Equality Principle, it is important to notice that it is, like The Equality Principle, a formal principle. It tells us that equal interests ought to be the target of our moral concern, but it does not specify exactly which interests are equal. Singer provides an example pertaining to the interest in avoiding pain, which offers some limited insight into the concept of equal interests:

If I give a horse a hard slap across its rump with my open hand, the horse may start, but it presumably feels little pain. Its skin is thick enough to protect it against a mere slap. If I slap a baby in the same way, however, the baby will cry and presumably does feel the pain, for the baby's skin is more sensitive. So it is worse to slap a baby than a horse, if both slaps are administered with equal force. But there must be some kind of blow – I don't know exactly what it would be, but perhaps a blow with a heavy stick – that would cause the horse as much pain as we cause a baby by a simple slap. If we consider it wrong to inflict that much pain on a baby for no good reason then we must, unless we are speciesist, consider it equally wrong to inflict the same amount of pain on a horse for no good reason. 47

Of course our choices are rarely as simple as deciding whether slapping a baby is worse than slapping a horse. The Principle of Equal Consideration might have helpful action-guiding power even in cases in which the harms are obviously incomparable. For example, it seems clear that you would not be morally justified in killing me for the five dollars in my back pocket. My interest in remaining alive, ostensibly, outweighs your comparatively trivial interest in having my five dollars. Singer does not provide us with a clear guide to adjudicate apparent conflicts of interests. What is important to take away from this discussion about equal interests is that Singer thinks that we ought to treat equal interests equally in decision-making processes. But deciding how to weigh these is a separate

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question, and as we shall see later, conflicts of interest are ultimately adjudicated by utilitarian considerations, on Singer's view.

1.5 Personhood and the Morality of Killing

Singer's views on personhood directly inform his views on the interests that sentient beings have in continued life, or to put it in negative terms, their interests in not being painlessly killed. As we shall see, Singer thinks that painlessly killing persons is morally impermissible, but painlessly killing nonpersons is morally permissible, at least in theory. I will now discuss Singer's views on personhood before discussing their moral implications for murder. Singer does not use the term “person” in the colloquial sense as referring to a member of the species *Homo sapiens*. Rather, a person is a rational and self-aware being. Given this definition, it follows that not all sentient beings are persons. Some members of the species *Homo sapiens*, such as infants or the severely mentally disabled, are not persons because they are neither rational nor self-aware. Likewise, some nonhuman animals, such as dolphins and chimpanzees, are persons because they are both rational and self-aware. I will now discuss persons and nonpersons respectively.

Nonpersons are conscious but they are not self-conscious. They are aware of the world around them but they are not aware of their own awareness of the world. Singer describes nonpersons as beings who live in a sort of perpetual present state of mind. While some of their actions, such as searching for food, may suggest an ability to plan for the future, they are only able to do this to a very restricted extent. When they lose consciousness, as in sleep, their desires desist—they have no expectations for the future.

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49 ibid pp. 86
And if they do regain consciousness, they have no sense of having previously existed. A dog is an example of a nonperson. Your dog may recognize you when she awakens, but she does not understand that she recognizes you or that you have a relationship that persists over time. When she awakens she is just there. For nonpersons, falling asleep and awakening is similar to dying and being born. As a result, nonpersons lack a sense of identity over time. Christine Korsgaard has aptly captured Singer’s conception of the experiences of nonpersons: “Because they lack any sense of their experience as extended in time, all their consciousness can be is a series of discrete, disconnected experiences, which can be painful or pleasant or frightening but only in a local way.”

Unlike nonpersons, persons are self-aware and rational. They are both conscious of the world around them and aware that they are conscious of the world. Unlike the experiences of nonpersons, the experiences of persons are connected, by memory or anticipation, to long term hopes or fears, as Korsgarrd puts it. The hopes, expectations and fears of persons do not desist when they become unconscious, as in sleep. The significance of Singer’s distinction between persons and nonpersons is salient in his views on the moral permissibility of killing, which I will now discuss.

According to Singer, there is no strong theoretical basis for opposing the painless killing of nonpersons: the harm of death is a function of the amount of opportunities for future satisfaction of interests on which it forecloses. Since, on Singer’s view, nonpersons cannot contemplate the future, they are incapable of having an interest in continued

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50 Singer says that we ought to give monkeys, dogs, cats, pigs, seals, bears, cattle, sheep the benefit of the doubt when it comes to personhood: see Singer, Peter. Practical Ethics: Third Edition. pp. 119-120. However elsewhere says that dogs are replaceable resources: see his commentary in J.M. Coetzee’s The Lives of Animals.
51 Korsgaard, Christine M. Interacting with Animals: A Kantian Account. pp. 94.
52 For Singer’s view on both personhood and the morality of killing both humans and other animals, see Singer, Peter. Practical Ethics: Third Edition. pp. 71-190.
existence. Exactly because nonpersons cannot have an interest in continued existence, they do not have an interest in continuing to live their lives. So long as they are killed painlessly, being killed does not constitute a harm to nonpersons; it is tantamount to falling asleep. While nonpersons do not have an interest in remaining alive, they do have an interest in avoiding pain. Nonpersons may resist being killed, but their resistance signals an aversion to suffering here and now rather than an interest in continued existence. Thus, Singer stresses that in order for a killing of a nonperson to be morally permissible, it must be done painlessly. While there is nothing wrong with painlessly killing nonpersons in theory, Singer notes, the painless killing of nonpersons may have negative indirect consequences that would call into question the morality of doing so. For instance, if the nonperson in question were a human infant or an infant chimpanzee, then killing that infant would be morally impermissible because it would cause intense suffering to the infant’s family and to other members of the moral community.

By contrast, Singer says, painless killing directly harms persons because it forecloses on the future opportunities to satisfy their interests. Because persons are cognitively disposed such that they have a sense of identity over time, which corresponds to an interest in continued life, painlessly killing persons is morally impermissible, as Singer explains:

*According to preference utilitarianism, an action contrary to the preference of any being is wrong, unless this preference is outweighed by contrary preferences. Killing a person who wishes to continue living is therefore wrong, other things being equal. That the victims are not around after the fact to lament the fact that their preferences have been disregarded is irrelevant. The wrong is done when the preference is thwarted ... Taking the life of a person will normally be worse than taking the life of some other being, because persons are highly future-oriented in their preferences. To kill a person is therefore, normally, to violate not just one but also a wide range of the most central and significant preferences a being can*
have. Very often, it will make nonsense of everything that the victim has been trying to do over the past days, months and even years\textsuperscript{54}.

On Singer’s view, the interests of persons in remaining alive will always outweigh any competing interest to end that person’s life. Moreover, there are often indirect harms associated with the killing of persons that compound the wrongness of it. For instance, the painless killing of persons will usually cause intense grief to the person’s family members. On Singer’s view, the preferences that persons have in continued life are sufficiently strong such that killing them, even painlessly, will never be justifiable. As we shall see later, it is not clear that Singer is entitled to this conclusion.

At this juncture, one might wish to propose a counter example to Singer’s argument that painlessly killing persons is morally impermissible. Suppose that painlessly killing a very depressed man, who has no family or friends and who wishes to die, would bring about good consequences. Suppose there has been a series of brutal murders. The townspeople are bereft and they want revenge. You and only you know that the murderer has died and you cannot prove he is the murderer. It would bring great solace to the townsfolk to see the killer publicly executed. Wanting to bring about the best consequences, you decide to frame the innocent depressed man. In doing so, you satisfy the depressed man’s preference to die; you do not bring about any indirect negative consequences, since the depressed man has no loved ones who would grieve his death; and you satisfy the preferences of the townspeople to see the murderer killed. In this case, we have brought about no suffering and we have even managed to satisfy many preferences. Would this painless killing be wrong? According to Singer, it would be wrong. Although we

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\textsuperscript{54} ibid 80
have avoided suffering and maximized preference satisfaction, killing the depressed man violates a morally salient rule, as we shall see.

In order to understand this seemingly inconsistent conclusion and to further elucidate Singer’s position, it will be helpful to briefly discuss the broader utilitarian theory in which he is working. Singer is a preference rule utilitarian. Preference utilitarianism might be best understood in contrast to hedonistic utilitarianism, which holds that the right action is the action that creates the most happiness. A common objection to hedonistic utilitarianism is that it not only permits but it requires actions that most people consider morally reprehensible. For instance, on the hedonistic utilitarian view, the brutal murder of a innocent person would be morally required so long as it were the case that the happiness produced by that murder outweighed the pain caused by it. Preference utilitarianism purports to avoid this pitfall by aiming not to maximize happiness but to maximize the satisfaction of interests, or preferences. The thought seems to be that preference utilitarianism would not permit the murder of innocents so long as it brought about the most happiness, because the preference of the person in question to not be killed would outweigh the happiness brought to a sadist.

Singer is also a rule utilitarian. That is, he believes that the best way to maximize the satisfaction of interests overall is to follow rules that have proven over time to maximize utility. This position contrasts with act utilitarianism, which states that the right action is the action that maximizes good consequences in any given situation. Singer thinks that act utilitarianism is too cumbersome because it requires that we perform complicated utilitarian calculations for every one of our actions. Moreover, it is very difficult to

\[\text{ibid 8-15}\]
anticipate the consequences of our actions. Therefore, Singer thinks that consequences are better maximized overall when we rely on rules that have proven over time to maximize overall utility.

We are now in a position to understand Singer’s seemingly inconsistent conclusion that killing the depressed man is morally wrong, even though doing so apparently satisfies the most preferences. Singer has argued that the interests of persons in not being killed are so strong that they will always outweigh competing interests in killing them. Since the depressed man has no interest in remaining alive, in fact he wants to die, and his killing would not have any indirect negative consequences, it seems like Singer ought not to oppose his painless killing. In fact, it seems like Singer ought to endorse his killing, given that doing so would maximize preference satisfaction. It seems that Singer would agree that this particular killing would not be morally objectionable in itself. But since we can safely presume that most painless killings would not be committed in secrecy against depressed persons who have a death wish, Singer would maintain that utility is maximized overall when we follow the rule that prohibits the painless killing of human persons, who normally do have an interest in continued life.

Having presented Singer’s view on personhood and the morality of killing persons and nonpersons, I will now discuss his views on killing humans. Singer argues that painlessly killing any human being, person or nonperson, is morally wrong under normal circumstances. As we have seen, Singer, in theory, opposes the painless killing of persons but not nonpersons. The same argument against killing persons obtains in the case of humans. But there is an additional reason to oppose painless killing when the killed person is a human. Not only would painlessly killing a person harm that person and distress that
person’s relatives, it would also be highly distressing to other humans who are not related to the person. Unlike nonhuman animals, humans can learn about events that happen all over the world. If the practice of painless killing were morally permissible, it would cause extreme suffering to people worldwide. For if people thought they might be killed at any moment, painlessly or not, they would be terrified. Therefore, the basis for Singer’s objection to the painless killing of human nonpersons is that the practice of doing so would have devastating indirect consequences that cannot be successfully morally justified. As one can easily imagine, the practice of painlessly killing infants or even the senile would be socially devastating. Given this, Singer thinks we ought to heed the utilitarian rule prohibiting the painless killing of all humans, persons or nonpersons.

1.6 The Replaceability Argument

Singer’s views on personhood and killing have, to my mind, shocking implications. Singer maintains that it is morally permissible to use nonhuman animals, who are not persons, as replaceable resources, so long as they are treated well.\textsuperscript{56} Notice that humans and persons are excluded from the category of beings who can be used as replaceable resources. This is because, as we saw in the previous section, they either have preferences in continued life that should never be overridden or their killing would bring about negative indirect consequences that cannot be morally justified. By contrast, since the experiential lives of nonhuman nonpersons are confined to a local awareness of the world, we can conceptualize them as mere receptacles of experience, mere locations where

\textsuperscript{56} ibid 104-119
experiences occur. Consequently, they are interchangeable: if a nonhuman nonperson dies, he or she can be replaced with other receptacles of experience.

On Singer's view, it is not permissible to painlessly kill nonhuman nonpersons unless that nonhuman animal is replaced with another one and the animals are treated well. While painless killing, according to Singer, does not constitute a harm against nonhuman nonpersons, their deaths would nevertheless be impermissible because the death of such an animal would subtract from the overall balance of good experiences in the world. In order to successfully justify the practice of killing nonhuman nonpersons for use as resources, we must avoid incurring a negative balance in the utilitarian calculus by ensuring that the animals in question are both treated well and replaced with another animal who will live a similarly happy life.

Singer notes that this argument, the replaceability argument, is purely theoretical. He expresses doubt that, in practice, animals could be killed painlessly. Moreover, he thinks that we should give farm animals the benefit of the doubt when it comes to personhood. That is to say, if there is any doubt about whether a being is a person, we should assume it is. It is worth mentioning that while Singer appears to be extremely skeptical that nonhuman animals can be used as replaceable resources in an ethical way (because he doubts that animals can be killed “humanely” and thinks we should assume farm animals are persons), he endorses humane treatment standards, as opposed to categorically rejecting the use of animals for food. One explanation for the discrepancy between Singer’s moral prescriptions and his actions, as we shall see later, is that the structure of utilitarian theory is such that it can always justify trade-offs of interests so long as doing so conduces to the best overall consequences.
1.7. Some Practical Implications of Singer’s View

Discerning the implications of Singer’s view is challenging because he equivocates about the stringency of his moral prescriptions. Singer sometimes appears to be opposed to using other animals for any purpose; however, we shall see that he is and can only be committed to improving the welfare of other animals. That is, Singer is not concerned that we use animals as means to our ends, but only with how we use them.

In theory, Singer argues that we are morally obligated to become vegetarians to the greatest extent possible, to end factory farming, to stop using other animals for clothing and sources of entertainment, to stop using them in medical experiments, and to convince others to do the same. However, he often says things that contradict these prescriptions. For instance, he says that using other animals for food is inconsistent with The Principle of Equal Consideration because suffering is inherent to farming practices both on a large and small scale. Yet he says that veganism is not morally required because it is possible to “buy animal products from animals allowed to graze outside.” Moreover, Singer acknowledges that eating meat is not morally different than eating other dairy products, but he prescribes vegetarianism and not veganism. Singer also argues that we ought not to use other animals as clothing or forms of entertainment, or for experimentation purposes. Yet, as we shall see in the “objections” section, Singer makes exceptions to these rules, which betrays a tension between his moral prescriptions and the structural constraints of utilitarianism. It is important to notice that, although Singer might appear to

59 ibid pp. 176
be categorically opposed to using other animals, in fact he is concerned only with how we use animals and not that we use them.

Putting aside concerns about Singer’s inconsistencies and the viability of Singer’s theory given the abovementioned tensions, I will now discuss some of his ostensible moral prescriptions. First, Singer argues that we ought to be vegetarian primarily as a form of boycott against cruelty.⁶⁰ Although the goal of vegetarianism is to reduce suffering, Singer argues, vegetarianism cannot be understood to represent a claim that one’s actions actually reduce suffering. The number of animals raised for slaughter depends on the profitability of the process and the anticipated profit depends on demand. Since one person’s consumer habits cannot by itself influence market demand, our obligation to become vegetarian cannot rest on the claim that our consumer choices directly reduce suffering. Rather, by becoming vegetarian, we set an example for others to do the same. Although we do not directly reduce suffering by becoming vegetarian, if we are successful in getting others to become vegetarian, then we will eventually reduce the suffering of future animals. Second, Singer says, we are obligated to becoming vegetarians because eating and using animals causes bias in our evaluations of the conditions under which animals are raised. That is to say, eating and using animals hinders our ability to accurately apply The Principle of Equal Consideration because it makes us more willing to overlook their interests.

According to Singer, extending the Principle of Equal Consideration to other animals also would involve ending factory farming, for the cruelty inherent in large-scale conditions of confinement is antithetical to the interests of other animals.⁶¹ Nonhuman animals’

⁶⁰ ibid 159-183
interests in avoiding the kind of intense suffering brought about by factory farm practices will always outweigh the interests of humans in consuming or otherwise using factory farmed nonhuman animals. Again, as we shall see, Singer equivocates about the stringency of this moral prescription.

Singer’s view on factory farming naturally gives rise to questions about smaller farms. While Singer (in theory) thinks that smaller farms are better because nonhuman animals suffer less, he expresses serious doubt that animals can be raised for food in a way that does not produce significant amounts of suffering. For instance, as I mentioned earlier, the process of obtaining milk necessarily involves causing cows significant pain. It is for this reason that Singer says that it makes little difference if one stops eating meat only to replace that meat with dairy products. The only species of nonhuman animal Singer thinks it might be morally permissible to exploit is free-range chickens. Singer claims that they can fare well in free-range conditions and do not appear to be distressed when their eggs are taken from them, in the face of evidence that hens are killed when they are no longer useful and male chicks are killed upon birth. The fact that some of the chickens will have a decent life appears, on Singer’s view, to mitigate the suffering caused by the eventual slaughter of the hens. Recall, though, that in order for the killing of chickens to be morally permissible, killed chickens must be replaced with similarly happy chickens.

On Singer's view, hunting is morally impermissible under normal circumstances because nonhuman animals who are hunted are not replaced with other nonhuman animals. He makes an exception for cases in which nonhuman animals, such as deer, are killed because they will otherwise starve to death as a result of overpopulation.
Singer is also opposed to animal experimentation. Not only are the results of animal experimentation generally unreliable, the suffering caused by experimentation cannot be successfully morally justified. The fact that humans would not be prepared to use human nonpersons for experimentation betrays speciesism. However, as we shall see in the following section, Singer equivocates on his views about nonhuman animal experimentation.

1.8 Objections to Singer

I will now present what I think are the strongest objections to Singer's view. On the surface, Singer's theory seems like the epitomical egalitarian theory: every being's like preferences count for exactly one, no more and no less. The problem is that The Principle of Equal Consideration is undermined by the utilitarian theory in which Singer is working. The structure of utilitarianism is such that it cannot provide animals, human or nonhuman, with the kind of protections that an adequate theory ought to, and the kind of protections that even Singer appears to want to offer. Recall that the Principle of Equal Consideration is a formal principle. It specifies conditions that valid substantive principles must satisfy but it is silent about the moral permissibility of specific actions. All that The Principle of Equal Consideration requires is that we register the equal preferences or interests of animals; it does not specify what treatment they are due once we have registered their moral status. In other words, the Principle of Equal Consideration is predistributive; it does not specify "conditions that must be met if the distribution of benefits (goods) and harms (evils) arising as of a given act or rule are just distributions."62 Although Singer appears to derive substantive principles, or rules, from the Principle of Equal Consideration, such as "Do not

factory farm nonhuman animals,” his utilitarian framework cannot support these
derivations. Nor, as a general matter, does his utilitarian framework allow for an
interpretation of The Principle Equality that guarantees protections to the most basic
interests of sentient beings, as we shall now see.

Singer gives the impression that he categorically opposes performing medical
experimentation on nonperson nonhuman animals on the grounds that the preferences of
those animals outweigh the preferences of humans to experiment on them. Singer cites our
unwillingness to perform invasive experiments on infants or mentally disabled people as
evidence that the practice of performing experiments on nonhuman animals is speciesist.
However, when enough pressure is put on Singer’s rules against certain activities—that is,
when it is taken to be clear that the overall consequences of overriding the preferences of
sentient beings would conduce to the greater good—he concedes that the rule ought to be
abandoned. For example, in a 2006 interview, Singer said that experimenting on one
hundred monkeys could be justified if doing so would help thousands of people recover
from Parkinson’s disease. In this case, the preferences of the monkeys are registered, but it
turns out that the preferences of the many outweigh the preferences of the few. Tom Regan
traces this issue to a problem with deriving the Equality principle from the Principle of
Utility:

The equality or inequality of the interests of two individuals, A and B, depends on how
important their respective interests are to them, A’s interests being equal to B’s if their
interests have like importance to A and B, respectively, as and B’s interests being unequal if
the case is otherwise. The equality or inequality of their interests cannot depend on how the
interests of other will be affected if A’s and B’s interests are considered as equal or unequal.
If this were so, we would be free to regard the same interests of A and B as equal at one time
and as unequal at another, because the interests of others happened to be affected
differently by regarding A’s and B’s interest differently at these different times. This is to
make shambles of the notion equality as it applies to interests. And yet this is precisely
where we are led in our understanding of equal interests, if the obligation to respect the
equality principle is derived from the principle of utility. For the utility of counting A’s and
B’s interests as equal can vary from case to case, even if their interest do not ... This is to distort the concept of equal interests beyond recognition. 63

It seems that the Principle of Equal Consideration *might*, in some cases, be able to protect preferences on the individual level. For instance, if we must decide whether we can perform invasive tests on one monkey in order to save a human from suffering from some disease, then we can conclude that we ought not to do so. For the monkey’s preference in avoiding suffering is just as important as a human’s. However, when our considerations involve more than two individuals, things change drastically, as the Parkinson’s case demonstrates. It turns out that the preferences of the very same monkey that we just decided could not be subjected to invasive experiments can be overridden when doing so conduces to the greater good. Moreover, this problem, let us call it the trade-off problem, is not special to considerations about nonhuman animals. On Singer’s utilitarian view, the preferences of humans could also be traded away in cases in which doing so would maximize utility. The trade-off problem is a problem with utilitarianism, which asserts itself in both cases involving humans and other animals.

While Singer’s theory might represent progress in our thinking about nonhuman animals in the sense that it requires that we recognize that animals have preferences that matter morally, it does not represent progress in any other respect. It does not guarantee that equal interests will be treated equally, as purported, nor does it provide any protections for the most basic preferences (i.e. not being killed) of sentient beings, humans or nonhumans. This problem is further compounded by the fact that it is not obvious that it is an empirical fact that the suffering on factory farms outweighs the interests of humans in exploiting them. Suppose it could be established that humans’ interests in eating

63 ibid p. 213
nonhuman animals or their secretions, or humans interest in not losing factory farm jobs as a result of their closure, outweighed the interest of animals in not suffering and dying and factory farms. If this were established, then, under utilitarianism, we would be morally required to override the interests of nonhuman animals in order to bring about the best outcome.

Moreover, Christine Korsgaard has pointed out that there is a conceptual problem with the concept of “best outcome, or “what does ‘the most good.’” 64 Korsgaard explains that for utilitarians, value is measured and accumulated by adding up pleasures or pains, or in Singer’s case, preferences.65 This aggregative process assumes that subjects of experiences are locations where pleasure and pain occur and not beings for whom experiences are good or bad. This aggregative process makes it possible to accumulate value by adding pleasures and pains across the boundaries between different subjects.66 The value of experience depends on the character of the experience and not the way the experience is related to the nature of the subject. The problem with this view, as Korsgaard puts it, is that given that the badness of pain or the goodness of pleasure is tethered to the subject who experiences it, those experiences cannot coherently be added or subtracted between subjects of experience. To put it differently, experiences are good or bad for some specific subject. When utilitarians aggregate the value of experiences, they cut the tether between subject and experience and thereby render the notion of “the greater good”

64 Rawls also points out this conceptual problem with the “most good.” See Rawls, John. A Theory of Justice. pp. 19-23.
65 Korsgaard, Christine M. Interacting with Other Animals: A Kantian Approach. pp. 95.
66 ibid 94-95
incomprehensible. For example, borrowing Korsgaard’s example, it is unintelligible to think that we can “do more good” by balancing the good of one subject against the good of another by taking pleasure away from Jack in order to give greater pleasure to Jill. This would be good for Jill and bad for Jack. But there is no one for whom the situation is better overall and therefore no sense in which it is better overall. This view of subjects as locations of experiences calls into question the soundness of Singer’s claim that death is worse for humans than nonhumans, as Korsgaard aptly explains:

The view that a subject relationship to experience is one of location is quite a general feature of utilitarianism and does not have anything special to do with nonhuman consciousness ... And this makes me wonder why Singer thinks that death is worse for us—or perhaps why he thinks it matters morally if it is ... Singer argues that because we are self-conscious and aware of our lives we are not replaceable in the way other animals are. Each of us has a desire to live that will not be fulfilled if we are killed. But self-conscious experiences of memory and anticipation are in themselves just more experiences. If a person is just a place where these experiences happen, then we can always replace one human being who experiences, say satisfaction at the thought that his plans have worked out, or worry about the fate of a loved one, with another human being whose experiences have similar content. And a person whose desire is not fulfilled may be replaced with a person who will develop a desire to live that will then be fulfilled.

To make the disanalogy of the harm of death between humans and nonhumans hold, Korsgaard says, Singer would have to argue that death is bad for us. And in order to argue that death is bad for us, Singer would have to abandon utilitarianism.

Gary Francione has posed another apt objection to Singer’s view on using nonhuman animals as replaceable resources. This may seem like a small point in light of Korsgaard’s more fundamentally devastating argument, but it is important nonetheless. Francione says that the idea that we can use animals as replaceable resources is “psychologically peculiar” because it conflicts with our common views about the value of nonhuman animals. For instance, Francione mentions that he has seven canine

68 ibid pp. 95.
companions. When one of them dies, he adopts another dog. However, he does not think of the new dog as replacing the old dog. When a nonhuman companion animal dies, we are not consoled when another nonhuman companion enters our lives. We grieve *that* particular companion. The way we value our nonhuman companion animals is not significantly different from the way we regard our human companions. We appreciate both our human and nonhuman companions because of who they are. We do not value them because they contain experiences. Rather, we appreciate them as individuals with their own unique characteristics and idiosyncrasies.

I have argued that Singer’s theory is inadequate. Despite the seeming promise of Singer’s view, his theory cannot provide adequate protections for even the most basic interests of animals, human or nonhuman. This should not imply a theoretical problem with The Principle of Equal Consideration. Rather, the problem is that the The Principle of Equal Consideration is largely powerless when it is beholden to a consequentialist structure. By conceptualizing sentient beings as mere receptacles of experience, rather than beings for whom experiences matter, utilitarianism fails to account for the value of the very beings who are the subjects of our moral deliberations.

2.1 Regan’s Deontological Theory of Animal Rights

Tom Regan’s *The Case for Animal Rights* is a direct response to Singer’s view. Unlike Singer’s view, which emphasizes the wrongness of treating nonhuman animals in ways that cause them to suffer, Regan emphasizes the wrongness of using animals as human resources. On Regan’s view, the institution of animal use is unjust and ought to be abolished. He argues that nonhuman animals have value that is independent of the
consequences. To put it differently, nonhuman animals have moral rights that should not be ignored or overridden when doing so would conduce to the best aggregate outcome.

One way to begin to conceptualize Regan’s richly detailed view is in terms of its main philosophical machinery: the moral community, the postulate of inherent value, the subject-of-a-life criterion, moral rights, and four Principles: The Respect Principle, The Harm Principle, The Miniride Principle, and The Worse-Off Principle. This discussion will be divided into four sections. In the first section, I will discuss the group of individuals that Regan believes have moral rights, namely members of the moral community. Members of the moral community, as we shall see, are such in virtue of having inherent value, which in turn is a function of being what Regan calls a “subject-of-a-life.” In the second section, I will discuss The Respect Principle and moral rights. According to Regan, members of the moral community have moral rights that command respectful treatment from moral agents. In the third section, I will discuss The Harm Principle, The Miniride Principle and The Worse-Off Principle, which further delineate the exact nature of our obligations to nonhuman animals. In the fourth section, I will discuss the implications of Regan’s view. There will not be a fifth section for objections because I endorse the objections posed by Francione, which I will discuss in my presentation of Francione’s view.

2.2 The Moral Community, The Postulate of Inherent Value, The Subject-of-a-life Criterion

According to Regan, the moral community is the collection of individuals who are of direct moral concern, or who have moral status. The moral community is comprised of moral agents and moral patients. Moral agents are “individuals who have a variety of sophisticated abilities, including in particular the ability to bring impartial moral principles
to bear on the determination of what, all things considered, morally ought to be done, and having made this determination, to freely choose or fail to choose to act as morality, as they conceive it, requires.” Moral agents are those individuals who can reasonably be held responsible for their actions. Normal adults are paradigmatic moral agents. Moral agents can do what is right and wrong, and they can also be affected by the right or wrong actions of other moral agents. In this way, moral agents have a reciprocal relationship with one another.

By contrast, moral patients cannot be reasonably held responsible for their actions, because “they lack the prerequisites that would enable them to control their own behaviors in ways that would make them morally accountable for what they do. A moral patient lacks the ability to formulate, let alone bring to bear, moral principles in deliberating about which one among a number of possible acts it would be right or proper to perform.” While the actions of moral patients can positively or negatively affect other members of the moral community, they cannot do what is right or wrong. For instance, when a bear attacks a human, she does something harmful, but she does not do something wrong. Young children and the “mentally enfeebled,” as Regan calls them, are paradigmatic moral patients.

Regan distinguishes between two categories of moral patients. Category (a) encompasses individuals who are conscious and sentient (i.e. they can experience pain and pleasure) but who lack other mental abilities. Category (b) encompasses individuals who are conscious, sentient and possess other volitional abilities such as belief and memory, or who have an emotional life, a sense of psychophysical identity over time, or who have

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69 see Regan, Tom. *The Case for Animal Rights*. pp. 151
70 ibid pp. 152
desires. Regan points out that while it is difficult or even impossible to draw a hard line between these categories, it is nevertheless clear that some human animals and some nonhuman animals belong to each of these categories. According to Regan, only individuals who belong to category (b) are included in the moral community. When Regan refers to moral patients, he is referring to members of category (b). So, the moral community is comprised of moral agents and moral patients from class (b). Members of the moral community are such in virtue of being individuals to whom moral agents have direct duties and because they satisfy what Regan calls the subject-of-a-life criterion. I will discuss this criterion after I discuss the postulate of inherent value.

On Regan’s view, justice involves viewing certain individuals as having inherent value. That is to say, certain individuals have value in themselves and independently of their utility to anyone else. Moral agents have inherent value, which is distinct from what Regan calls their “intrinsic value,” which “attaches to the experiences they have (e.g., their pleasures or preference satisfactions.” Consequently, Regan says, we cannot determine the inherent value of an individual by simply totaling the intrinsic values of their experiences. Regan uses a cup analogy to highlight the significance of the postulate of inherent value and to highlight the differences between his view and Singer’s utilitarian view:

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71 Regan’s views on animals awareness, which he discusses in the first two chapters informs his view on which animals qualify as moral patients. See Regan, Tom. *The Case for Animal Rights*. pp. 153.
72 Direct duties are duties that are owed directly to an individual, as opposed to indirect duties, which pertain to a certain individual but are not owed to that individual. Kant thought that humans only had indirect duties to animals. He thought that humans had a duty to refrain from torturing animals not because torturing animals is bad for nonhuman animals but because torturing nonhuman animals negatively affect one’s moral character.
73 ibid 235
74 ibid
On the receptacle view of value, it is what goes into the cup (the pleasures of preference-satisfactions, for example) that has value; what does not have value is the cup itself (i.e., the individual himself or herself). The postulate of inherent value offers an alternative. The cup (that is, the individual) has value and a kind that is not reducible to, and is incommensurate with, what goes into the cup (e.g., pleasures), but the value of the cup (individual) is not the same as any one or any sum of the valuable things the cup contains. Individual moral agents themselves have a distinctive kind of value, according to the postulate of inherent value, but not according to the receptacle view to which utilitarians are committed. It’s the cup, not just what goes into it, that is valuable.75

Inherent value is categorical insofar as it does not admit of degrees, Regan explains. For if inherent value admitted of degrees, there would have to be some basis for determining exactly how much inherent value one has. This basis could be anything, such as race or sex. Regan rightly notes that this view is dangerous, because it makes way for a theory of justice that would allow, for example, for those with less inherent value to be enslaved by those with more of it.76

Regan draws our attention to three features of the inherent value of moral agents that he believes makes it decidedly egalitarian. First, it cannot be earned. That is to say, one cannot acquire or lose inherent value based on their actions. Criminals and saints have equal inherent value, Regan says. Second, moral agents cannot acquire or lose inherent value depending upon the degree to which they have utility. For example, Regan notes, beneficent philanthropists and unscrupulous used-car salesmen have equal inherent value.77 Third, “the inherent value of moral agents is independent of their being the object of anyone else’s interests.”78 On this view, the inherent value of the most unloved or lonely people is not less than the value of the most personable and loveable individuals. According

75 ibid 236
76 The view Regan has in mind here the perfectionist theory of justice, whereby individuals who possess some morally arbitrary characteristic are viewed as superior to other individuals. This model of justice licenses objectionable social practices such as slavery. Regan details the grounds for objecting to perfectionist theories. see The Case for Animal Rights pp. 233-235.
77 ibid 237
78 ibid
to Regan, the postulate of inherent value allows us to avoid the unsavory consequences of utilitarianism, such as secret killings and killing innocent individuals when doing so would conduce to the aggregate good.

Up until now, I have only been discussing moral agents. But moral patients also have inherent value. On Regan’s view, as we shall see in the discussion of the subject-of-a-life criterion, moral agents and patients can be harmed in relevantly similar ways, and so to exclude moral patients from the moral community would be arbitrary and thus unjust. Both moral agents and moral patients possess equal inherent value, then. Here again Regan reiterates the necessity of postulating inherent value in order to avoid the negative implications of act utilitarianism. Namely, the postulate of inherent value avoids running the risk of denying the harm done to some individuals when doing so conduces to the aggregate good.

Before I discuss the subject of life criterion, two remarks on the postulate of inherent value are due. First, as Regan emphasizes, the postulate of inherent value is a theoretical assumption that competes with alternative theories about the moral standing of individuals. Second, the postulate of inherent value does not imply that individuals or entities (such as trees, or “natural” or cultural objects) do not have inherent value. There may be other beings or objects that have inherent value; however, the grounds for this value will be different than the account Regan provides for moral agents and patients.

Having defined the moral community and explicated the postulate of inherent value, I will now discuss the subject-of-a-life criterion. The subject-of-a-life criterion is foundational to Regan’s view because it identifies what Regan considers to be a non-

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79 Regan discusses these theories in Regan, Tom. *The Case for Animal Rights*. Chapter 5-6.
arbitrary criterion that holds between moral patients and moral agents. It demarcates the class of individuals who belong to the moral community and to whom moral agents have direct duties. To be a subject-of-a-life is not the same as being alive or merely conscious. Rather, to be a subject-of-life is to be an individual who has “beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference and welfare interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them, logically independently of their utility for to others and logically independently of their being the object of anyone else’s interests.” In order to possess all of these characteristics, Regan says, the agent must be a normal mammalian animal, aged one or more.\(^8\) In virtue of these characteristics, subjects-of-a-life have lives that matter to them. Regan rightly points out that we use language literally and not metaphorically when we speak of the good or welfare of subjects-of-a-life.\(^8\) Subjects-of-a-life have a kind of autonomy that makes it the case that they not only have interests in avoiding pain, but interests in expressing their autonomy by satisfying their preferences, as Regan explains:

Despite the importance of reducing animal suffering, it is essential that we recognize that not all harms hurt. Harms understood as deprivations detract from an individual’s welfare independently of their occasioning pain or suffering. As deprivation, these harms are to be understood as losses of benefits (e.g. losses of opportunities to develop or exercise one’s autonomy. In the case of both humans and animals, it was argued, what we don’t know can harm us, even if what we don’t know can’t hurt us. It is, therefore, no defense of consigning either humans or animals to environments that ignore their biological, social, or psychological interests, or that cater to some (e.g., the desire for food) at the expense of others (e.g., the interest in autonomy or social relations to claim that these individuals do not know what they are missing and so cannot be any worse off for not having it.

\(^8\) ibid 243
\(^8\) ibid 116
Harms, then, can take the form of both inflictions (of suffering) and deprivations. Regan offers an intuition-pumping example to render salient the harm of deprivation:

If I were to raise my son in a comfortable cage, in isolation from other human contact, and if, in all of my dealing with him, I went to considerable trouble to insure that he experienced no unnecessary pain, then I could not be faulted on the grounds that I was hurting him. However, I would have quite obviously harmed him and this in a most grievous way. How lame would be my retort that my son “didn’t know what he was missing” and so wasn’t harmed by me.

This view of subjects-of-a-life militates against killing them, even painlessly, for doing so forecloses on their opportunities to satisfy their interests and desires. Regan’s view of moral agents and patients is more robust than Singer’s insofar as it recognizes that they have interests that extend beyond their interest in merely avoiding pain.

2.3 The Respect Principle and Moral Rights

Regan notes that the notion that moral patients and agents have intrinsic value is not a moral principle because it does not specify what kind of treatment moral agents and patients are due. What kind of treatment subjects-of-a-life are due depends on how one interprets justice. Regan interprets justice as requiring that we treat individuals who have inherent value with respect. The Respect Principle, then, encompasses the notion that subjects-of-a-life are due respectful treatment. The Respect Principle is a formal principle; it is predistributive because it does not specify “conditions that must be met if the distribution of benefits (goods) and harms (evils) arising as of a given act or rule are just distributions.” Rather, The Respect Principle prohibits the possibility of arriving at any

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82 Regan conceives of harms as both inflictions and deprivations. See Regan, Tom. *The Case for Animal Rights.* pp. 94-99

83 Ibid 99-100
distribution that fails to recognize the inherent value of subjects-of-a-life. Regan elucidates the Respect Principle in negative terms:

we fail to treat individuals who have inherent value with the respect they are due, as a matter of strict justice, whenever we treat them as if they lacked inherent value, and we treat them in this way whenever we treat them as if they were mere receptacles of valuable experiences ... or as if their value depended upon their utility relative to the interests of others.\textsuperscript{84}

As one can see, this view is antithetical to utilitarian views. On Regan’s view, is it unjust to regard subjects-of-a-life in the way that utilitarianism requires, namely as locations of experiences, rather than beings for whom experiences matter.

According to Regan, the inherent value of subjects-of-a-life, along with the obligation to respect beings who have inherent value, yields a valid claim, or moral right, to respectful treatment.\textsuperscript{85} Moral rights are distinct from legal rights. Whereas legal rights can change and vary depending on location, moral rights are universal. The universality of moral rights implies that if some individual has a moral right, then all other individuals that are like it in relevant respects also have moral rights. As Regan indicates, what exactly constitutes relevant respects is debatable. But it is not debatable that morally arbitrary characteristics, such as race, class and sex, do not constitute relevant respects. Moreover, moral rights are equal insofar as they do not admit of degrees. If any two individuals have a moral right, they have it equally.

Regan conceives of moral rights as valid claims. A claim, Regan explains, involves a claim-to and a claim-against. To put it slightly differently, a claim is an assertion that one is owed something from someone. In this case, that something is respectful treatment and the someone is a moral agent(s). In order for a claim to be valid, that is to establish a right, the

\textsuperscript{84} ibid 248-249
\textsuperscript{85} ibid 266-329
claim must be validated as a claim-to and a claim-against. In order to validate X’s claim against Y to R, it must be the case that Y can provide X with R. That is to say, a claim is not valid unless it can be satisfied. For example, borrowing Regan’s example, it is no good for you to claim that you are due a vacation in Acapulco from me if I am not able to give you that to you. Moreover, in order for X to have a valid claim against Y to R, it must be the case that Y has a duty to provide R to X. For instance, X would not have a valid claim to respectful treatment against a lion, because lions are moral patients and therefore cannot have duties. To establish a right is not sufficient to establish a duty. Rights always correspond to a duty.

It is important to note now that, on Regan’s view, the duty of moral agents to respect those with inherent value is unacquired. Regan borrows John Rawl’s characterization of unacquired duties as duties that “apply to us without regard to our voluntary acts” and hold “irrespective of institutional arrangements.” For instance, the duty not to kill someone who has inherent value is a duty that one has in virtue of being a moral agent and not because one implicitly or explicitly promised not to kill someone. By contrast, acquired duties are duties one has in virtue of some voluntary act, such as promising, or some institutional arrangement, such as the duty of military members to follow certain commands.

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86 Regan notes that the validity of claims-to and claims-against partially depends on appeals to valid moral principles. If and only if the principles are valid, can a right be established. See Regan, Tom. *The Case for Animal Rights*. pp. 273

87 ibid
2.4 The Harm Principle, The Miniride Principle and the Worse-Off-Principle

The Harm Principle sets forth a *prima facie* direct duty not to harm either moral patients or moral agents. The Harm Principle is derived from the Respect Principle: moral agents and patients have inherent value in virtue of satisfying the subject-of-a-life criterion. Consequently, moral agents and patients command respect, as a matter of justice. To harm a moral agent or patient is to fail to respect their inherent value. Recall that harms can take the form of both infliction of suffering or deprivations.

The Harm Principle is *prima facie*. That is to say, it admits of exceptions. And this is as is should be, according to Regan, for there are some situations in which it is morally permissible to override the right to respectful treatment, that is, the right not to be harmed.\footnote{Regan details situations in which he thinks the right to be harm can be justifiably overridden. see Regan, Tom. *The Case for Animal Rights*. pp. 286-294.} For example, Regan argues that it is permissible to override the right not to be harmed in certain situations, such as in cases in which guilty people are punished (i.e. when an individual is imprisoned for a committing a crime), or cases in which an innocent person harms someone in self-defense. Regan notes that while it is sometimes morally permissible to override guilty individuals’ rights not to be harmed, it is never permissible to override the rights of innocents.\footnote{ibid 295-297} Unfortunately, Regan notes, there are situations in which harming innocents cannot be avoided. Regan derives two more principles to deal with such cases:

The Miniride Principle and the Worse-Off-Principle.

The Miniride Principle, or the "Minimize Override Principle," prescribes that

Special considerations aside, when we must choose between overriding the rights of many who are innocent or the rights of few who are innocent, and when each affected individual will be harmed in a *prima facie* comparable way, then we ought to chose to override the rights of the few in preference to overriding the rights of the many.\footnote{ibid 305}
Regan emphasizes that while this principle is utilitarian insofar as numbers matter, it is
grounded in rights considerations and derived from The Respect Principle. Exactly because
all moral agents and patients have an equal prima facie right not to be harmed, the
numbers count, as Regan explains:

when we are faced between choosing between options, one of which will harm A, the other
which will harm B, C, and D, and the third of which will harm them all ... Precisely because
each is to count for one, no more than one we cannot count choosing to override the rights of
B, C, and D as neither better nor worse than choosing to override A's alone. Three are more
than one, and when the four individuals have an equal prima facie right not to be harmed,
when the prima facie right not to be harmed is comparable ... then showing equal respect for
the equal rights of the individuals involved requires that we override the right of A (the few)
rather than the rights of the many (B,C,D). To choose to override the rights of the many in
this case would be to override and equal right three times ... when we could choose to
override such a right only once, and that cannot be consistent with showing equal respect for
the equal rights of all the individuals involved.91

The Miniride Principle provides a trouble-shooting guide for cases in which the harms
faced by innocent right-holders are comparable. The Worse-Off Principle is intended to
deal with cases in which the harms to innocent right-holders are not comparable:

Special considerations aside, when we must decide to override the rights of the many or the
rights of the few who are innocent, and when the harm faced by the few would make them
worse-off than any of the many would be if any other option were chosen, then we ought to
override the rights of the many.

Suppose now that we must choose whether to override the right of A not to be harmed or
the rights of B, C, and D not to be harmed. However, the harm faced by A is greater than the
harm faced by B, C, and D. In this case, according to The Miniride Principle, the numbers do
not count. For example, if we must choose between subjecting A to a short headache or
subjecting B to having her leg broken, then we must choose to override A's right not to be
harmed. In fact, we could subject an infinite number of people to a headache, because B's
broken leg is a greater loss than a headache is for anyone else. Likewise, Regan says, in a
situation of true emergency, when we have to chose between killing an animal, killing a

91 ibid
human, or letting them all die, we are morally obligated to save the human. According to Regan, the harm of death is a function of the opportunities on which it forecloses. Since, humans are more cognitively sophisticated than animals, humans are made worse off by death.

2.5 Practical Implications of Regan’s View

On the rights view, we ought not to support institutions that violate the rights of others. On the individual level, this means that have an obligation to lead a vegetarian (when Regan wrote, vegetarian meant vegan) way of life, regardless of whether or not others are doing so. The rights view not only prescribes that individuals cease to consume animal products, it calls for the total dissolution of the animal industry, including factory farms and small farms, hunting and trapping either for commercial reasons or pleasure, and using animals for toxicity testing and medical experimentation. All of these activities override the rights of animals to respectful treatment. All of these practices erroneously assume that the value of rights-holding animals is reducible to their utility relative to human interests. Moreover, the rights view does not grant privileged moral status to endangered species. It maintains that animals ought to be protected in virtue of being animals who have inherent value and not in virtue of belonging to an endangered species group. Lastly, Regan notes that legal property status must be called into question, because viewing them as property “implies that we cannot make sense of viewing them as legal persons.” Regan does not go into great detail about the legal property status of animals, but he suggests that it is inconsistent, on his view, to view other animals as such.

92 ibid 348.
3.1 Francione’s Abolitionist Theory of Animal Rights

While Francione agrees with Regan’s conclusion that other animals have rights and that our acknowledgment of their status as rights-bearers requires that we abolish, not merely regulate, the institution of animal exploitation, his view differs from Regan’s in at least four fundamental respects.\(^{93}\) First, Francione rejects that the class of protected animals ought to be restricted to those sentient being who satisfy the subject-of-a-life criterion. Francione links moral status directly to sentience. Second, Francione rejects Regan’s argument that it is an empirical fact that death is a greater harm to humans than it is to other animals. Third, Francione’s view focuses on the legal property status of animals. Fourth, Francione derives the basic right not to be used as someone else’s property directly from The Principle of Equal Consideration, and thus is much simpler than Regan’s argument.

The structure of Francione’s argument is relatively simple. He takes as his starting point our moral intuition that we ought not to cause other animals to suffer unnecessarily, emergency cases notwithstanding. This intuition is the content of The Humane Treatment Principle. He then points out that our actions run radically afoul from our moral conviction that we ought not to cause animals to suffer unnecessarily, as we saw in the first chapter. Francione attributes our moral inconsistency to the legal property status of animals. More specifically, he argues that the legal property status of other animals precludes our ability to accurately apply The Principle of Equal Consideration to other animal’s interests in not suffering.

\(^{93}\) see Francione, Gary L. *Introduction to Animal Rights: Your Child or the Dog?* pp. xxxiii-xxxiv.
Francione stresses that we have two and only two options with respect to the moral status of other animals. On the one hand, we can do nothing, and maintain the status quo by continuing to ignore other animal's interests in not suffering, and treating them exclusively as economic commodities. On the other hand, we can protect other animal's interests in not suffering by according them one right: the basic right not to be treated exclusively as the means to the ends of others. I will begin by discussing The Humane Treatment Principle. I will then discuss the problem with the legal status of other animals as property. I will then discuss basic rights and the grounds for extending them to other animals. And finally, I will discuss the implications of this view.

3.2 The Humane Treatment Principle: A Moral Rule and a Legal Rule

According to Francione, The Humane Treatment Principle encompasses two widely accepted intuitions: first, we can prefer humans to other animals in situations of "necessity." That is, most of us believe that in an emergency situation in which one is forced to choose to save the life of a human or another animal, it is preferable to save the human. For instance, suppose a building is on fire. Inside the building, a human and dog, neither or whom you know, are trapped inside. You have three choices. You can save the human, save the dog, or let them both die. The Humane Treatment principle preserves our intuition that it is usually preferable to save the human.

The Humane Treatment Principle also captures our moral intuition that it is wrong to inflict unnecessary suffering onto animals. This is because we recognize that sentient beings have subjective lives that matter to them, as Francione explains:

Like us, sentient nonhumans have an interest in not experiencing pain and suffering; that is, they are the sorts of beings who prefer, or desire, or want not to suffer pain.
Animals may have other interests as well, but as long as they are sentient, we know that at the very least they have an interest in avoiding pain and suffering. We regard such an interest as morally significant and we accept that we ought not to inflict any unnecessary suffering on animals.\(^4\)

Francione notes that the humane treatment principle has been an uncontroversial part of our culture since the nineteenth century. In addition to being a moral rule, the humane treatment principle is a legal rule: Animals welfare laws purport to prohibit us from inflicting unnecessary suffering onto animals. To determine whether a particular action is necessary, we balance the interests of humans and other animals:

If the balance tips in favor of humans—if human interests in inflicting harm on an animal are stronger than the animal's interests in not being made to suffer—we consider that the use or treatment is morally justified because it is necessary. If the balance tips in favor of animals, then the infliction of harm is not morally justified because it is considered unnecessary. This balancing ... is not a precise operation, and we may very well disagree in our assessment of the relative weight of competing human and animals interests in particular cases, as well as about what constitutes necessary suffering. But whatever differences we may otherwise have, we must agree that if the prohibition against unnecessary suffering is to have any meaning at all, it is morally and legally wrong to inflict suffering on animals merely for our amusement or pleasure. We must agree that there are some meaningful limits on our use and treatment of animals.\(^5\)

Although The Humane Treatment Principle is, on the surface, a widely accepted moral and legal rule, we routinely and systematically cause unnecessary suffering to other animals. Although most of us are outraged when we learn of the neglect or abuse of some animals, such as dogs and cats, our own actions are not any morally different. For instance, eating an animal is not morally different than kicking or beating an animal insofar as both actions cause unnecessary suffering. Animal products such as meat and dairy cannot be obtained without causing animals to suffer.\(^6\) While there might be a difference in culpability between the dog abuser who knows what he does is wrong and the “dairy”

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\(^4\) ibid xxiii
\(^5\) ibid
\(^6\) Francione details the reasons all of our institutional uses are unnecessary. See Francione, Gary L. *Introduction to Animal Rights: Your Child or the Dog?* pp. 9-49
consumer who does not know dairy is not necessary for human health, there is no moral
difference between beating a dog and drinking a glass of milk. Since we have no need to
eat or use the products of other animals, the suffering we cause them in the process of
obtaining their goods or services is entirely unnecessary. Indeed, according to Francione all
of our uses of animals facilitate nonessential humans desires—pleasure, amusement or
convenience—and therefore violate The Humane Treatment Principle. Francione stresses
that we wrongly treat most of our dealings with other animals as situations of emergency,
like the burning building scenario. We treat our dealings with other animal as though we
have no other choice except to choose between their interests and ours, but there is no true
conflict of interests.

3.3 The Problem: Animals as Legal Property

On Francione's view, the profound gulf between our beliefs and actions can be
traced to the status of other animals as legal property. As we shall see, the legal property
status of other animals impedes our ability to accurately apply The Principle of Equal
Consideration to other animals. Animal welfare laws fail because other animals are
regarded as things we own, “as economic commodities that possess no value apart from
that which is accorded to them by their owners—whether individuals, corporations, or
governments.” Since our respect for animal interests is contingent upon respect for
property rights, we wrongly emphasize the interests of the human owner over those of
animals. Animal welfare laws, which appeal to our intuitions regarding the interests of

99 ibid 51
other animals rather than the interests of animal-owners, are therefore ineffective and admit of legal loopholes. I will present four of the reasons Francione thinks that welfare laws cannot meaningfully protect animals.

First, anticruelty laws build in exemptions for specific uses of animals. For instance, “California provides that its anticruelty law is not applicable to activities permitted under the game laws, laws for the destruction of certain birds, the killing of venomous reptile or other dangerous animals, the killing of animals for food, or the use of animals in experiments conducted under the authority of the faculty of a regularly incorporated medical college or university.”

Second, even if the courts do not explicitly exclude some uses of other animals from scrutiny, they implicitly do so by interpreting statutes to permit “the infliction of even extreme suffering, so long as it is incidental to an accepted use of animals.” For instance, Francione points out that in cases dealing with the treatment of animals used for food, courts have held that pain and suffering inflicted on animals is necessary “[w]henever the purpose for which the act is done is to make the animal more serviceable for the use of man.”

Anticruelty laws distort the meaning of cruelty, as it is normally understood, to allow for excruciatingly painful but profitable treatments of animals.

Third, it is very difficult to secure a conviction. Anticruelty laws are criminal laws, and most criminal laws stipulate that the state must prove that a defendant engaged in an unlawful act mens rea (with a culpable state of mind). The state must prove beyond a reasonable doubt not just that the defendant imposed pain on an animal, but that he did so

100 ibid 56
101 ibid 58
102 ibid 59
103 ibid
maliciously. The problem, Francione points out, is that if the defendant inflicts pain onto an animal as part of an accepted institutional practice, it is extremely difficult to prove that he acted with the requisite malicious state of mind.\textsuperscript{104} For example, having been convicted of violating a state’s anticruelty statute for beating a dog, a man appealed, arguing that he had not intended to harm the puppy, but merely to discipline the puppy. The court maintained that the laws were “not intended to place unreasonable restrictions on the infliction of pain as may be necessary for the training or discipline of an animal.”\textsuperscript{105}

Fourth, animal welfare laws do not work because there is an erroneous presumption that property owners always take care of their property. That is to say, we assume that animal owners always act in their own economic self-interest and do not inflict more pain than is necessary to our efficient use of the animal as an economic resource. To do otherwise would be irrational: imposing pain onto animals would diminish their value and thereby diminish our own. In a system of private property, Francione says, it is generally assumed that “property owners are the best judges of the value of their property and allow them to use that property as they see fit. We assume that animal owner will not as a general matter ‘waste’ their animal property, just as we assume that most people will not light cigars with flaming $100 bills.”\textsuperscript{106} Francione emphasizes that this assumption is naïve, because there are strong economic forces that militate against better treatment. Overriding the interests of other animals can and does generate profound economic rewards.

\textsuperscript{104} ibid 64
\textsuperscript{105} ibid
\textsuperscript{106} ibid 67
As one can see, on Francione’s view, the humane treatment principle, as it is applied through law, does not provide meaningful protections to other animals. This is because, Francione says:

the law limits our use of animals only insofar as we must use animals for a "purpose." We must use them incidental to our accepted forms of institutionalized exploitation—for food, hunting, recreation, entertainment, clothing, or experiments—the primary ways in which we use animals as commodities to generate economic profit. The only time that our infliction of suffering on animals raises any sort of legal question is when we inflict that suffering outside the accepted institutions of animal use—when we inflict suffering in ways that do not generate property-related benefits and where the only explanation for the behavior can be characterized as torture “for the gratification of malignant or vindictive temper.”

On this view, so long as other animals are legal property, things to be owned, there can be no meaningful balancing of interests of humans and other animals. The legal property status of other animals impedes our ability to accurately apply The Principle of Equal Consideration to The Humane Treatment Principle, resulting in the infliction of unnecessary suffering to other animals.

Francione’s conception of the Principle of Equal Consideration is not different from Singer’s or Regan’s—it is a formal principle that requires that like interests be treated alike. Indeed, Francione points out that The Principle of Equal Consideration is a necessary component of any valid moral theory. Moreover, Francione directs us to notice that The Humane Treatment Principle is a moral theory that requires us to balance the interests of humans and other animals. Therefore, it must include The Principle of Equal Consideration. As we have seen, Francione attributes our failure to meaningfully apply The Principle of Equal Consideration to other animals to the legal status of other animals as property.

107 ibid 70
Francione notes that The Principle of Equal Consideration also failed in the context of human slavery, which allowed some humans to treat other humans as property. The structure of human slavery was identical, Francione explains:

Because a human slave was regarded as property, the slave owner was able to disregard all of the slave's interests if it was economically beneficial to do so, and the law generally deferred to the slave owner's judgment as to the value of his slave property. As chattel property, slaves could be sold, willed, insured, mortgaged, and seized in payments of the owner's debts. Slave owners could inflict severe punishments on slaves for virtually any reason. Those who intentionally or neglectfully injured another's slave were liable to the owner in an action for damage to property. As a general matter slaves could not enter into contracts, own property, sue or be sued, or live as free persons with basic rights and duties. The law supposedly required that slaves be treated 'humanely.'

While laws have been passed that ostensibly provided slaves with some legal protections, these laws were ineffectual for the same reasons that the laws that purport to protect animals are ineffectual: they both admitted of many exceptions and they were unenforceable. In the next section, Francione introduces the concept of a basic right and equal inherent value to reconceptualize our relationships with other animals. He discusses these concepts in the context of human rights before arguing that they ought to be extended to other animals.

3.4 The Basic Right not to be Treated as a Thing and Equal Inherent Value

According to Francione, if The Principle of Equal Consideration is to have any meaningful application to humans, then we must recognize that all sentient beings have an interest in not suffering at all as the result of their use as resources of others.108 We can express this idea in two different but related ways, Francione says. On the one hand, we can say that humans have a basic right not to be treated as a means to the ends of others. On the other hand, we can say that humans have equal inherent value that prevents them from

108 ibid 92
being valued strictly as resources. Both of these ideas express that we should not treat humans as mere resources; humans should be afforded basic protections against not suffering unnecessarily at the hands of others. Francione points out that this view of basic rights and equal inherent value does not entail any metaphysical commitments; it only requires logic: if the interests of humans have moral significance, then they cannot be mere resources. The interest of the individual who is a resource cannot be equal to the interest of the owner. I will now discuss basic rights, and then I will discuss equal inherent value.

A right on this view is a means of protecting an interest. A right protects interests from being abrogated because doing so would have beneficial consequences for someone else. While there is disagreement about exactly which rights humans possess, it is now nearly universally accepted that all humans hold a basic right not to be treated exclusively as a means to the ends of others. A basic right is a fundamental right because it is a necessary prerequisite for enjoying all other rights. For instance, the right to vote is largely meaningless if one does not also have a right not to be killed. Francione stresses that in order to effectively protect the interests of humans in not being treated as mere means to others ends, it is imperative that we use a right to do so. If one’s interests could be traded off when doing so would conduce to the aggregate good, “then, by definition, we will no longer respect the interest of those humans in being treated as ends in themselves, and those humans will be at risk of being treated as mere commodities.” Francione also stresses that the basic right not to be treated as a thing is limited. It offers basic protection

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109 ibid 93
110 ibid
111 ibid 95
but it does not guarantee any other rights. One could hold a basic right but nevertheless not be guaranteed protection from all unfair treatment. A basic right does prohibit, buying or selling humans, using them as unconsenting subjects in biomedical experiments, making shoes out of them, or hunting them for sport.  

To say an individual has equal inherent value is another way of expressing the idea that we protect the interests of humans in not being treated exclusively as the resource of another. Francione points out that the factual basis for equal inherent value is that all sentient humans value themselves even if no one else does. Even mentally disabled people and infants have an interest in not suffering even if no one else cares. Francione notes that the concept of equal inherent value is “integral to the structure of morality.” We must have a notion of equal inherent value underpinning our interactions with one another; otherwise even our most basic interests could be traded-away at the will of others or whenever doing so might conduce to the greater good. Equal inherent value is the minimal requirement for membership in the moral community. Francione, helpfully, analogizes the moral community to a theater:

Once you are admitted into the theater, you are guaranteed a space somewhere to watch the performance, but not necessarily the best seat or a particularly good seat, or even any seat at all. Maybe we will make you stand. But to be in the theater is to have some space in which to watch the performance; otherwise admission is meaningless. As a logical matter, admission to the theater for the purpose of seeing the performance means that you will have some access—however imperfect relative to that of those sitting in the front row.

This example underscores the idea that equal rights and equal inherent value do not imply that all individuals are due equal treatment. This is as it should be, for as we seen, the varying capacities and characteristics among individuals give rise to different prescriptions

\[\text{\textsuperscript{112} ibid 95-96} \]
\[\text{\textsuperscript{113} ibid 128} \]
\[\text{\textsuperscript{114} ibid 96} \]
\[\text{\textsuperscript{115} ibid 97} \]
for treatment. Moreover, one might think that it ought to be permissible to pay a brain surgeon more than a barista, even though they have equal inherent value. In summary, if we take seriously the human interest in not suffering as a result of being used as a mere resource, then we must heed The Principle of Equal Consideration, and inherent value by affording all humans a basic right not to be the property of another. The Principle of Equal Consideration, as on Singer's view, is a formal principle that captures that all sentient beings have moral status, but it does not specify what treatment they are due. As we shall see in the next section, unlike Singer and Regan, Francione derives the basic rights not to be the property of someone else directly from The Principle of Equal Consideration. According to Francione, what it means to have moral status is to have a basic right not to be property.

The Solution: Basic Rights for All Sentient Beings

As we have seen, the legal property status of other animals precludes granting equal consideration to their interests in not suffering. We treat other animals in the same way we treated slaves. The “hybrid system” that prescribed us to balance the interests of slave owners against the interests of slaves could not treat the interests of slaves as morally significant. Likewise, we cannot expect a hybrid system to treat the interest of other animals as morally significant. The moral universe, Francione says, is comprised of two kinds of beings: persons and things. We cannot have a three-tiered system, as we tried in the case of slavery, that recognizes a class of inanimate property, free persons and quasi-persons: “We eventually recognized that if slaves were going to have morally significant interests, they could not be slaves anymore ... they are either person, beings to whom

\[\text{\textsuperscript{116}}\text{ibid 98}\]
\[\text{\textsuperscript{117}}\text{ibid 101}\]
Principle of Equal Consideration applies and to whom we have direct moral obligations, or things, beings to whom The Principle of Equal Consideration does not apply and to whom we have no direct moral obligations.”

If we want to give content to our moral and legal prohibition against the infliction of unnecessary suffering to other animals, we have to heed The Principle of Equal Consideration by treating like interests alike. This means that we must extend the same protections that we accord to the human interest in not suffering to the interests of other animals in not suffering. That is, we must, at minimum, extend them the basic right not to be the property of others. There is no sound reason to accord a basic right to all humans, irrespective of their age, intelligence or any other characteristic, yet deny this right to all other animals. We must shift other animals out from the class of things into the class of persons, conceived as beings who have moral status.

The question about the moral status of other animals, Francione notes, is concerned with how we ought to treat other animals under typical circumstances and in situations of emergency, when there is a genuine conflict of interests. Francione ask us to notice that we inappropriately treat the overwhelming majority of our dealings with other animals as though they are emergency scenarios. We create false conflicts when we consider whether we need a leather jacket or to eat dairy or meat during a meal: “We bring billions of sentient animals into the world for the sole purpose of killing them. We then seek to understand the nature of our moral obligation to them.” Drawing an analogy from the burning-building emergency case, Francione says that we need to stop dragging animals into burning houses and then asking whether we ought to save the human or the dog.

\[\text{\textsuperscript{118}}\text{ibid}\]
On this view, what we ought to do is accurately apply The Principle of Equal Consideration to other animals. This involves ceasing to fabricate conflicts of interests. In the next section I discuss the practical implication of this view.

3.6 Practical Implications: The Total Abolition of Animal Exploitation

According to Francione, the abolitionist theory yields the following six principles, or practical implications.

1. Our recognition of the one basic right means that we must abolish, and not merely regulate, institutionalized animal exploitation—because it assumes that animals are the property of humans. We recognize that we will not abolish overnight the property status of nonhumans, but we will support only those campaigns and positions that explicitly promote the abolitionist agenda. We will not support positions that call for supposedly ‘improved’ regulation of animal exploitation.

2. The abolitionist approach sees abolition as the goal of animal ethics and sees creative, nonviolent vegan advocacy—and not welfare reform—as the means to that end. The abolitionist approach regards veganism as the moral baseline and maintains that we cannot draw a morally coherent distinction between flesh and other animal products, such as dairy or eggs, or between animal foods and the use of animals for clothing or other products.

3. The abolitionist approach links the moral status of nonhumans with sentience alone and not with any other cognitive characteristic. Sentience is subjective awareness; there is someone who perceives and experiences the world. A sentient being has interests; that is, preferences, wants, or desires. If a being is sentient, then that is necessary and sufficient for the being to have the right not to be used as a means to human ends, which, correlatively, imposes on humans the moral obligation not to use that being as a resource. It is not a matter of “humanely” using that animal. Although less suffering is better than more suffering, no use can be morally justified.

4. Just as we reject racism, sexism, ageism, and heterosexism, we reject speciesism. The species of a sentient being is no more reason to deny the protection of this basic right than race, sex, age, or sexual orientation is a reason to deny membership in the human moral community to other humans.

5. We recognize the principle of nonviolence as the guiding principle of the animal rights movement. Violence is the problem; it is not any part of the solution.119

The implications of this view are radical insofar as it calls for a drastic restructuring of society. But, as Francione notes, this view is conservative in that it follows from a moral principle we already accept—it is wrong to inflict unnecessary suffering on animals. If we accept that other animals have an interest in not suffering that ought to be protected by a basic moral and legal right, then we must abolish, and not merely regulate the use of other

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119 see Francione's webpage: http://www.abolitionistapproach.com/about/the-six-principles-of-the-abortionist-approach-to-animal-rights/#VT5VRdJvB8
animals as resources, and we must not use them in situations in which we would never use a human. We ought to shift away from the welfare paradigm, which is concerned with how we treat other animals, to a rights paradigm, which rejects the use of other animals as resources. What this means practically is that we have to extend legal personhood to animals. We can no longer use them for food, entertainment, sport, clothing, experiments or product testing.\(^{120}\)

I will discuss two implications of this view that tend to cast doubt on the plausibility of this position. I will first discuss the implication that we can never use other animals in biomedical experiments, then I will discuss the implication that animal rights advocates ought not to pursue any welfare reforms on behalf of other animals. I will close with a brief discussion of cases in which there is a genuine conflict of interests between humans and other animals.

One might think that using other animals for biomedical experiments in order to cure human diseases might constitute a case of genuine emergency akin to the burning-house scenario. But Francione points out that the “supposed conflict between humans animals in this context is no more real than a conflict between humans suffering from a disease and other humans we might use in experiments in order to find a cure for that disease.”\(^{121}\) We do not think it is morally permissible to use unconsenting humans in medical experiments, even though doing so would yield better results than the results that would be yielded from another species of animal. Our willingness to use other animals for biomedical experiments when we would never subject humans to those experiments betrays speciesism. The supposed conflict between humans and other animals with regard

\[^{120}\text{Francione, Gary L. Introduction to Animal Rights: Your Child or the Dog? pp. 165}\]

\[^{121}\text{ibid 156}\]
to biomedical experimentation is yet another fabricated conflict. Moreover, as Francione and many others have pointed out, it is not at all clear that biomedical experimentation on other animals positively impacts human health or improves “anything other than the bottom lines of corporations and grant-hungry universities.”

In *Rain Without Thunder: The Ideology of the Animal Rights Movement*, Francione argues that the abolitionist position is inconsistent with welfare reform. The term “animal rights” is used as a generic umbrella term to capture any view that pertains to the welfare of animals. To get an idea of the capaciousness of the term, consider that it includes individuals who advocate for the total abolition of animal exploitation and individuals who are directly engaged in animal exploitation but who nevertheless purport to be concerned with the well-being of their animals. Francione distinguishes between welfarists and rightists. Welfarists pursue welfare reforms, such as increased cage sizes for chickens. Some welfarists believe that welfare measures will eventually result in the abolition of animal exploitation. By contrast, rightists pursue only measures that represent some practice that is partially constitutive of the institution of animal exploitation. For instance, increasing the size of the cage of animals used in drug addiction experiments would represent an impermissible welfare reform, but ending drug testing on animals would represent an acceptable incremental step toward abolition.

Francione maintains that welfare reforms are inconsistent with the abolitionist view. I will briefly discuss three of these reasons. Welfare reforms are fundamentally inconsistent with the rights position because they involve sacrificing the interests of

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122 Ibid pp. 156.
also see Singer, Peter. *Animal Liberation: Updated Edition*. Ch. 2.
animals today for the interest of future animals.\textsuperscript{124} Welfare reforms take a long time to come into fruition. Therefore, when we advocate for reform and not abolition, we trade-off the interests of animals now for future animals. Second, rightists oppose welfare reforms because they reinforce the property paradigm, rather than undermining it.\textsuperscript{125} Indeed, Francione argues, welfare reforms may increase demand for animal products by implying that there is some ethical way to obtain them.\textsuperscript{126} Third, Francione emphasizes that there are strong economic reasons that welfare reforms have not and cannot make a meaningful difference.\textsuperscript{127} Moreover, supposed improvements in animal welfare are unstable, because they can easily be overturned by the next wave of politicians. Furthermore, Francione argues, animal exploiters would make welfare “improvements” anyhow, either because they would be economically beneficial, or because the industry would respond to decreasing demand for animal products by improving standards.\textsuperscript{128}

Francione also maintains that animal advocacy must be pursued on the grass roots level and take the form of educational initiatives. One reason this is the case is that big nonprofit organizations must seek insider status with lawmakers.\textsuperscript{129} This necessarily involves compromising an unequivocal anti-speciesist message, because big non-profit organizations must appear to be moderate to lawmakers. One result of this compromise is that animal organizations effectively end up partnered with animal exploiters, often suggesting welfare improvements that would be economically beneficial to companies, and further reinforcing the problematic property paradigm. Institutional exploiters are then

\textsuperscript{124} Francione, Gary L. \textit{Rain Without Thunder: The ideology of the Animal Rights Movement}. pp. 203-206
\textsuperscript{125} Francione, Gary L. \textit{The Animal Rights Debate: Abolition or Regulation?} pp. 29-40
\textsuperscript{126} ibid pp. 85
\textsuperscript{127} ibid pp. 27-29.
\textsuperscript{128} ibid pp. 45-47
\textsuperscript{129} ibid pp. 162-173
able to cite their willingness to work with these groups as evidence that their practices are morally justifiable. Unlike big non-profit organizations, smaller grassroots groups can maintain an unequivocal vegan message. Moreover, smaller grassroots groups can disseminate an unequivocal vegan message. They can do this because they do not have to appease their donor base by pursuing superficial welfare reforms to prove that they are making positive changes. Therefore, small grassroots groups are the appropriate vehicles for effective, creative and non-violent advocacy.

3.7 Conclusion

I have opted to give comprehensive accounts of these three theories because they have enormous sway over social thought and actions. The intuitive appeal of Singer’s view and of welfare reforms is so great that it is crucial to identify exactly what is wrong with it, and to offer an alternative account. As Francione points out, the welfarist view has dominated mainstream thinking for a long time and we have had anti-cruelty laws for over 100 years, yet the animal exploitation industry is thriving. While Regan’s rights theory represents an improvement in our thinking, insofar as it issues rights to many sentient beings, it nevertheless fails in important respects. He does not extend rights to all sentient beings and he erroneously appeals to the traditional moral hierarchy, in which humans are on top. In the remainder of this chapter, I will discuss four reasons that Francione’s rights theory is stronger than Regan’s. Because it is the strongest account, we ought to devote resources to clarifying and developing it.

First, Francione’s view is preferable to Regan’s because Francione does not restrict the class of protected animals to beings who satisfy the subject-of-a-life criterion. As we
have seen, whatever differences there may be among sentient beings, it is clear that they have an interest in not suffering.

Although it is easier to identify the constellation of qualities that Regan describes as present in normally developed mammals of a particular age, there is no doubt that chickens and other birds are intelligent, sentient being with an experiential life. And although most of us do not even think of fish as conscious of pain, researchers have concluded that fish “have subjective experiences and so are liable to suffer.”

Regan does not deny that beings who are not subjects-of-a-life have inherent value. Rather, he says that, if they do, they have it on different grounds than individuals who are subjects-of-a-life. Francione’s view, however, is preferable because it accounts for the moral status of all animals, and it does so without presupposing any metaphysical commitments. Whereas Regan’s view requires us to accept that rights are a feature of objective reality, which moral patients and agents possess in virtue of being subjects-of-a-life, Francione’s view only requires logic. Rights are simply a tool for protecting interests.

The second reason Francione’s theory is preferable to Regan’s is that Regan wrongly privileges subjects-of-a-life over other animals, in virtue of the human’s higher level of cognitive sophistication. This is evident in his prescription for adjudicating emergency scenarios, in which one must choose whether to save the life of a human or another animal, such as dog. Recall that, in situations of genuine emergency, we are morally obligated to save the life of a human, even over millions of dogs. Regan thinks that death is a greater harm to the human, because death forecloses on more opportunities for humans than it does for dogs. This is because, on Regan’s view, dogs are not as cognitively sophisticated as humans. But privileging cognitive sophistication is arbitrary. Francione points out that there is no reason, for instance, to think that lives of individuals who can do math are superior to the lives of individuals who can fly. This is not to say that we would not be

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130 Francione, Gary. *Introduction to Animal Rights: Your Child or the Dog?*, p. xxxiii.
justified in saving a human over a dog. However, if we do choose the human over the dog, it is not because it is an objective fact that human lives are more valuable than dog’s lives. Rather, we may be justified in saving the human’s life, because we know that human, or because we can better empathize with humans. On this view, we would also be justified in saving the dog.¹³¹

The third reason Francione’s theory is preferable is that it takes into account the legal property status of other animals, which, as we have seen, is an insuperable obstacle to recognizing their moral status. Francione’s view establishes that it is imperative to issue animals one basic right: the right not to be treated as property or a mere resource. The final reason that Francione’s theory is preferable to Regan’s is that it avoids Regan’s complicated rights theory by deriving the basic right not to be treated as resources directly from The Principle of Equal Consideration. As a result, Francione’s theory is less complicated and it has more explanatory power.

¹³¹ ibid xxxiii
Chapter 3: What Should We Do?

1.1 Introduction

Having established what speciesism is, and having identified strong grounds for our obligations to other animals, we are now in a position to consider what we should do about speciesism. The aim of this chapter is to discuss what minimal obligations we have to other animals and to discuss how we might begin to undermine speciesism, given its ideological nature.

1.2 Minimal Moral Requirement: Veganism

Regardless of whether one agrees with Francione that we ought not to endorse welfare reforms, respecting other animals’ basic right not be used exclusively as a means to someone else’s ends requires that we stop eating them and using them for reasons of pleasure, amusement and convenience. It requires, at minimum, that we be vegans. More specifically, we should abstain from eating or wearing animals, using them as subjects in medical experiments or for product testing, or holding them captive in zoos, or breeding them as “pets.”

I will now address two possible objections to the view that veganism is morally required. One concern that often arises from the argument that veganism is morally imperative is a concern about further disadvantaging disadvantaged individuals. Let us call this the privilege objection, which goes something like this: veganism cannot be morally required because not all people have the opportunity, time or money to be vegans. If veganism is morally required, then only privileged people can do what is morally right. Veganism cannot be a moral requirement because it entails wrongly morally condemning
individuals who are disadvantaged. I have two responses to the privilege concern: the first is factual and the second is conceptual. First, various studies have suggested that animal rights supporters come from various socioeconomic backgrounds. In fact, a vegan diet can actually be much cheaper than a standard American diet. But, for the sake of argument let us assume that it is more expensive to be vegan and that the majority of vegans are white and wealthy.

My second, and most important response to the privilege concern is that this concern can be allayed by appeal to the distinction between moral permissibility and moral culpability. Moral permissibility refers to the value of a specific action and moral culpability refers to the degree to which an individual is responsible for that action. For instance we tend to think that we are all morally obligated to refrain from murdering others. That, we tend to think murder is a morally impermissible act. However, we recognize that there are cases in which we should not hold an individual morally culpable for committing murder. For instance, in cases of genuine self-defense, we tend to think that murder is morally excusable.

Likewise, in the case of veganism, if a person genuinely cannot access vegan food or information about veganism, then she should certainly not be held responsible for consuming animal products. For instance, consider Mary, a single mother, who is dependent upon public transportation and state assistance. Not only are the grocery stores she has access to inadequate, she works 60 hours a week and does not have the time to

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contemplate the morality of her food choices. We should think of Mary as being in a state of socioeconomic emergency. If Mary knows that consuming animals is wrong but she does it because she does not have a viable alternative, then her actions are morally excusable. This does not imply that consuming animal products is morally permissible; it merely means that there are cases in which it is morally excusable to do so. If Mary’s situation were to change, then Mary’s level of culpability could also change. By contrast, consider Bob. Bob has access to all the resources necessary to obtain vegan food and information. Let us also suppose that he is not suffering from false consciousness with respect to speciesism. Bob knows consuming animals is wrong, and he has a genuine choice in the matter, but he eats animal products anyway. In this case, we would be justified in holding Bob morally culpable for his actions. Furthermore, it is absolutely crucial to recognize that the lack of opportunity, time and money that motivates the privilege problem stems from social and economic inequality, and it highlights the degree to which speciesism is entrenched in our society; it does not betray a conceptual problem with veganism or the idea that other animals have basic rights.

The next objection I want to consider is perhaps less of an objection to the notion that veganism is morally required, and more of a query about whether veganism requires the abolition of every form of animal use. That is, are there any uses of animals that do not constitute rights violations? Consider the following formulation of an oft-evoked counterexample to the notion that all uses are morally impermissible. Suppose other animals are no longer legal property. I have adopted a hen from a factory farm that has been closed. I intend to care for her for the rest of her life. Like most chickens bred in factory farms, she has been genetically engineered to produce a lot of eggs. The possibility
that I might be able to eat her eggs did not factor into my decision to adopt her. There are eggs simply laying in my yard. Would eating them constitute a rights violation?

It is not clear to me that this would constitute a rights violation. However, I think there are good reasons we should not eat eggs from rescued hens. First, I think it is problematic to think of eggs as appropriate sources of food. Just as we would not consider eating an amputated human arm that is just lying in the trash, we should not consider eating the products of the reproductive systems of hens. Second, the question about whether it is morally permissible to consume eggs from rescued hens ought to be considered from within the context of our speciesism-entrenched society. Within this context, eating eggs risks perpetuating the pernicious speciesist paradigm, in which animals are viewed as commodities. Even if it is the case that consuming eggs from rescued hens does not violate their rights, our consumption of eggs might constitute an affirmation of the permissibility of animal use. I will briefly expand upon the idea that animals are not things to eat in the next section.

For now, I will leave open the question about whether there is a class of animal uses that do not violate rights. It would be incomprehensible, I think, to maintain that every use of other animals is morally wrong. For example, merely resting one’s arm on one’s beloved rescued dog while watching television can be construed as “using” the dog. It would be strange to think that this action violates the dog’s rights. There is clearly a distinction between using other animals as a means and using them exclusively as means. But wherever the line is drawn between using other animals as a means and exclusively as means, it is clear that the vast majority of our uses will fall on the wrong side of that line.
Before I close this section, I want to make a note about the process of becoming vegan. Veganism itself is not difficult or complicated. Animal products are nonessential, so theoretically, there is nothing biologically difficult about ceasing to use them. However, as we have seen, we live in a world that is entrenched in speciesism. We have become dependent on animals products and we lack cultural precedent for living without them. For some people, it will be possible to become vegan immediately. For instance, an individual whose worldview is such that it can easily absorb anti-speciesist ideology, and who has a sufficient degree of control over her life, may be able to make the change with little ado.

Other people’s lives may be more complicated and becoming vegan might require more time or energy. For instance, suppose one has a demanding job and a family who would resist such a change. It does not seem right to hold that person morally accountable for not becoming vegan immediately. There ought to be a culpability grace period, so to speak. If one cannot immediately become vegan but recognizes the imperativeness of doing so, then what he ought to do is declare a moral state of emergency with a definitive date by which he will make the transition. For instance, one might commit (if one can) to taking time off, or to making other provisions to make the transition. What exactly this process should look like will depend on the constraints in an individual’s life. The point here is to highlight that while we should be unequivocal about the rights of animals, we should also support people in becoming vegan rather than being too preoccupied with determining the exact moment at which an individual is morally accountable for her actions.
1.3 Reconceptualizing our Relationships With Other Animals

The question about whether we ought to eat eggs, or any animal products, when doing so does not cause suffering and it does not constitute a rights violation, highlights a possible shortcoming of all the theories I have discussed. As Cora Diamond discusses in “Eating Meat and Eating People,” theories that appeal to suffering or capacities to ground rights or protections fail to explain why animals are not *things to eat*. They do not address our attitudes towards other animals. These theories do not explain, for instance, whether we ought to refrain from eating a cow who has been struck by lightning. Or whether it is permissible to buy a leather jacket from a thrift store. Appealing to interests or rights does not offer insight into the permissibility of these actions. Nor do we gain insight by appealing to the fact that we do not eat deceased humans. In fact, Diamond says, appealing to the fact that we do not eat our dead or use humans as food sources is not only unhelpful; it is self-destructive. This kind of argument, she says, does not defend animals; it attacks the significance of human life.\(^{133}\) According to Diamond, we need to understand what considerations are involved in our not eating our dead in order to understand why it is wrong for us to view animals as food sources.\(^{134}\)

Diamond suggests that one way to go about showing someone why he ought not to eat animals is by casting other animals as “fellow creatures,” not in a biological sense but as “fellows in mortality,” or independent beings who are subject to life’s contingencies, or “thy poor earth bound companion.”\(^{135}\) Diamond offers the following example to illuminate the significance of how we conceptualize other beings.

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\(^{133}\) ibid 471  
\(^{134}\) Diamond, Cora. Eating Meat and Eating People. pp. 468  
\(^{135}\) ibid 474
Compare the case Orwell describes, from his experience, in the Spanish Civil War, of being unable to shoot a half-dressed man who was running along the top of a trench parapet, holding up his trousers with both hands as he ran. ‘I had come here to shoot “Fascists,” but a man who is holding up his trousers is not a “Fascist,” but is visibly a fellow creature, similar to yourself, and you do not feel like shooting him.’ The notion of enemy (‘Fascist’) and fellow creature are there in a kind of tension, and even a man who could shoot at a man running holding up his trousers might recognize perfectly well why Orwell could not.\(^{136}\)

We categorize other animals in ways that impact how we view them: some are pets, some are vermin, others are food. If these categories are socially constructed, then they are mutable, and we might be able to reconstruct the way we view other animals. Diamond’s view suggests that we might be able to undermine speciesism by presenting people with alternative ways, or counter-ideologies, to conceptualize animals that might appeal to their affective systems. Perhaps we might be able to prompt people to see other animals in the way Orwell saw the so-called ‘Fascist’ man running while struggling to hold up his trousers. We might do this through literature, film, or by spending time with “food” animals. Before I leave this section, I want to note two things. First, I think that because abolitionist theory includes all sentient beings in the moral community, it can absorb a conception of other animals as “fellow creatures.” Second, I want to acknowledge that there is an implicit question lurking in this thesis about how much a given concept or theory ought to be able to do. How much should it be able explain? For the sake of this thesis, I am going to set this question aside, but I think that Sally Haslanger is right in noting that the strength of a concept or theory ought to be measured by what we want it to do for us. If we want to explain why we should stop exploiting animals, then Francione’s theory is successful. If we want to explain why we should refrain from eating “roadkill” it falls short.

\(^{136}\) ibid pp. 477
Undermining Speciesism

Francione maintains that we ought to combat speciesism through creative nonviolent vegan education. But if I am right that speciesism is an ideology, then educational initiatives alone will be insufficient to undermine speciesism. However, vegan education is a necessary component if there is to be any hope of eventually dismantling speciesist ideology. In order to make any structural changes, or to create counter-ideologies through books and film, we have to develop a critical mass of people who are committed to doing so. Given that not everyone holds speciesist beliefs in false consciousness, or that everyone who does hold beliefs in false consciousness will remain stuck in false consciousness, this should be possible.

As a strategic matter, our vegan educational efforts ought to be aimed at individuals who already hold anti-oppression worldviews. While there is no guarantee that, if they hold their speciesist beliefs in false consciousness, they will come to see speciesism as a form of oppression, it seems reasonable to think that people who already hold compatible worldviews would be more receptive to the message. Moreover, not everyone holds speciesist beliefs in false consciousness, so in some cases people simply need more information so that they can react appropriately by becoming vegan.

Advocates for animal rights also ought to seek clarity on two issues in particular. First, it is not enough to know that speciesist ideology is often accepted for affective (that is, noncognitive) reasons; we also should seek to understand what those reasons are. Second, it is not enough to know that speciesism serves the social function of creating and stabilizing animal oppression; we should also seek to identify whose interests are served by the oppression of the other animals. We may be able to draw on insights from other
anti-oppression movements, such as the gay rights movement, the feminist movement and the anti-racist movement. In fact, some scholars such as David Nibert, Carol Adams and Gary Francione view all oppressions as inextricably bound to one another. This is another area we ought to research. The view I have presented is unsatisfying in that it does not offer a clear path to abolition, but it is encouraging in that it identifies some clear starting points.

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