

**August 29, 2007.** Guest hosted by Michael Smerconish. Original audio version is [here](#). Kindly transcribed by Ryan Watters.

**Michael Smerconish:** I'm Michael Smerconish from Phillie with the privilege of pinch-hitting for Bill O'Reilly. In studio with me is Professor Gary Francione. He's a distinguished professor of law at the Rutgers University School of Law. Now, how cool is this: in the same edition of the Radio Factor, both the Motor City Madman, Ted Nugent, and Professor Gary Francione, who is an animal rights activist and whose next book is titled, *Animals as Persons*, and it'll be published by Columbia University Press this fall. Hey Gary, it's great to see you.

**Gary Francione:** Thanks, it's great to see you Michael.

**MS:** So you've, uhh, you've really caused some reverberations—if that's the right word—with a piece that you've penned recently titled "We're All Michael Vick." What do you mean by that?

**GF:** Well, what I mean by that is... people are quite rightly upset about what Michael Vick did. I mean, dog fighting is really horrible and I want to make it clear from the outset I condemn that. I think that that is an absolutely atrocious thing to do. However, I think we're being a little bit selective here. The reason why we don't like what Michael Vick does is because he's inflicting suffering and death on dogs for no good reason. He's doing it because he enjoys it, because he gets amusement out of it. And, what I would suggest is ninety-nine point nine-nine-nine percent of our use of animals generally in this society can be said to be characterized the same way. For example, we are killing ten billion land animals every year in this country for food, ten billion alone in this country. These animals are raised and slaughtered under circumstances which can only be described as torture. It is not necessary to eat animals. Indeed, increasingly, mainstream healthcare people are telling us that eating animal products are dangerous for us—

**MS:** What do you eat, Gare?

**GF:** I'm a vegan. I am a vegan, I've been a vegan for twenty-five...

**MS:** Did you eat lunch today?

**GF:** Yes I did.

**MS:** What'd you have?

**GF:** I had a, actually, very large salad with some beans and some tofu and, um, some croutons and things like that. Very, very healthy, Michael.

**MS:** Man, I'm just sitting here thinking what did I--? I had a corn beef special. I guess that doesn't-

**GF:** Yeah, there you go. You're rotting your arteries out, causing yourself heart disease, cancer, etc., etc.

**MS:** Ahh, I could get hit by a truck today.

**GF:** And animal agriculture is an environmental disaster. It takes between six and twelve pounds of plant protein to produce one pound of flesh. It takes a thousand times more water to produce flesh than it does to produce potatoes. And I would just suggest Michael that many of our activities--rodeos, does anybody think that rodeos are any more humane than dogfights, because if they do, they're wrong. Much of our animal use can be characterized as barbaric and as resulting in torture and all I am saying is that, Michael Vick, what he did was wrong, but let's not, let's face the facts here--

**MS:** But let's be even more direct. You're saying that a guy like me, with three dogs at home--I've got two, uhh, miniature dachshunds and I've got a gorgeous Labrador eleven years old going on twelve, and I love my dogs. But I ate a corn beef special for lunch today in Philadelphia and you're telling me I'm a, uhh, essentially I'm a--you're a nice guy, but you're saying to me, "You're a hypocrite."

**GF:** Michael, you're a hypocrite. There's no difference between the dogs you love and the animals you...

**MS:** How far do you take this? How many dogs do you have?

**GF:** Ahh...I currently have five. We had seven, two d-Well, actually, no, I'm sorry, we lost one last week so we're down to four...

**MS:** I'm sorry to hear that, I know what that's like.

**GF:** And, but they're all rescues from a shelter...

**MS:** If you get a tick on one of your dogs, what do you do with the tick?

**GF:** I take the tick off; if the tick is still alive I put the tick outside and...

**MS:** You won't kill a tick?

**GF:** Well, you know Michael, I don't know whether ticks are sentient, and I think the really important thing...

**MS:** What does that mean? Feel pain?

**GF:** Yeah, I don't know whether insects feel pain. I err in favor of not killing them, but I think the really important thing is, whether ticks are sentient or not, the one thing we do know—the fish, the chickens, the pigs, the cows—all of those animals that we eat—the deer—they are all sentient, whether the ticks are, whether they're not. So, I tend to sort of think let's worry about the ten billion animals and the multimillion fish that we're killing that are sentient. One day when we all start having tick roasts I'll confront that issue (laughs).

**MS:** Is that, so is, I'm mean is that really that fundamental issue for Professor Gary Francione—the issue of "does that living thing feel pain if we kill it to eat it?"

**GF:** Yeah, I mean, I think that we would all agree that if a bee—and I don't think this is controversial, Michael. I think most of the people who are listening to this show right now would agree, whether they agree that animals have an interest or a right to life apart from what I'm saying now—and that's another, that's an interesting philosophical discussion we can have—but I would imagine everybody who's listening to this show would agree to the proposition that it's wrong to inflict unnecessary suffering or death on animals. Now, if that principle means anything it means we cannot inflict suffering or death on animals for reasons of pleasure, amusement, convenience, or tradition...

**MS:** But I don't want to be, you know, Bill Clinton "it depends what 'is' means," but I guess it depends what "necessary" means. But I know the people listening to the Radio Factor are going to say "it's necessary for our survival to eat beef."

**GF:** That's absolute...But necessary in what sense? It is increasingly clear that eating—first of all, eating any animal product is not necessary for your health. Indeed, as I was saying before, increasingly, mainstream healthcare people are saying that animal products—animal flesh, dairy, eggs, things like that—are not only not necessary for you to eat to lead an optimally healthy lifestyle, but those products are dangerous for us, they're killing us. They're increasing our chances of cancer, cardiovascular disease, diabetes and all sorts of other illnesses.

**MS:** I know...let me anticipate one question and, yes, we're going to take questions from the Radio Factor audience at 1-877-9-NO-SPIN. Gary Francione is one of the nation's foremost animal rights activists and he's in studio here at the Radio Factor. He's a distinguished Professor of Law at Rutgers University. He's got a new book coming out titled *Animals as Persons*—you sure that shouldn't be people?

**GF:** No, it's *Animals as Persons*.

**MS:** Well, never my strong suit—don't go by me; *Animals as Persons*. I know someone calling into the Radio Factor is going to say you must be pro-life as opposed to pro-choice because if it all comes down to feeling pain and so-forth—

talking about a fetus that's viable, non-viable. What's your position on abortion, have you thought it through from an animal rights perspective?

**GF:** Well, yes, I've actually written on the topic of abortion. My position on abortion is this: most abortions occur in the first trimester and there is very little if any evidence to suggest that fetuses are sentient in the first trimester...

**MS:** But you're giving the tick the benefit of the doubt.

**GF:** But, wait a minute, wait a minute. With abortion you've got a very peculiar situation, Michael. Let's assume—just for purposes of argument—that the fetus is a person and that the fetus is a right holder. So, let's assume that the fetus is a moral person and that the fetus is a right holder. You've got a very weird situation in which you've got one right holder living inside the body of another right holder. Now, the question is who's going to resolve that conflict? The person in whose body the subservient right holder exists or some political figure—generally a judge or a legislator who will generally be male and...

**MS:** Alright, let me give you a quick response. Alright?

**GF:** Yes, go ahead.

**MS:** I got a pond behind my house

**GF:** Yes.

**MS:** It's stocked with trout.

**GF:** Yes.

**MS:** They've got their rights, I've got mine. They're in my pond, I'm fishin' and eating them. Gotta take a break. Stew on that for just a moment. ....

**MS:** Lot's of folks in the Radio Factor Audience want to chat with Professor Francione. Hey, Daniel in Blountstown, Florida. Welcome, sir, and go ahead.

**Dan:** Thank you, thank you both for taking my call. I just gotta question and when I ask this, it's not in a bad way, I'm just curious. Are you an atheist and, if not, is there a particular religion that your beliefs... that you adhere to.

**GF:** Ah, no, I'm not an atheist because I don't believe you can, in any dispositive way, prove the nonexistence of God. I think I would probably identify myself as a Medieval [Cathar Dualist](#). The church thought they had killed us all by the twelfth century but some of us escaped and I think that's the way I would describe myself (laughs)...

**MS:** Is there a foot note that comes with that answer? Do I need to look it up somewhere?

**GF:** Well, you could look it up on the internet. I would probably take me too long to explain what a Cathar Duelist...

**MS:** I guess what he's wondering is there a religious foundation to how you approach this issue?

**GF:** Well, I mean, I could say...Christian, but not traditional Christian because I don't subscribe to any traditional Christian beliefs, but I believe very, very strongly in the message of nonviolence that was promoted by Jesus and by other religious leaders. I mean, there have been a number of religious leaders who have been opposed to violence. I am opposed to violence...I see my veganism and my views on this subject as being very, very much part of that. Let me just say one thing, Daniel, before we get off. I want to refer you to Genesis, the first chapter of Genesis. Chapters... verses twenty-nine and thirty: "And God said, 'See, I have given you every herb that yields seed, which is on the face of the earth and every tree who's fruit yields seed. To you it shall be for food. Also, to every beast of the earth, to every bird of the air, and to everything that creeps on the earth in which

there is life, I have given every green herb for food.' And it was so, and God saw that it was good," very, actually, very good it says. And so I would suggest...

**MS:** Must have been the tofu. Right? (laughs)

**GF:** Well I would suggest to you that in Genesis, the first book of Genesis, it's very clear that humans are not eating animals and animals are not eating other animals. It's only when the covenant is breached and we are driven from the Garden of Eden and so, I just wanted to remind you of that...

**MS:** This is Brad. He's in Hannibal, Missouri on the Radio Factor. Hey, Brad, how are you?

**Brad:** Good, good, thanks for taking my call.

**MS:** Yeah.

**Brad:** I'll tell you a couple of things right off. Umm, I used to when I was a kid and I do still now even with my own kids, umm, smash lightning bugs on fingernails and act like they're for rings because...I, I don't know, I was raised having fun outside like that. I've seen myself, as well as kids shoot sparrows for target practice. Would I ever harm a dog? No. I mean, there's so many ways of looking at this, umm, and it all has to do with what limits...where do I find the slippery slope inside myself? Do I want to wonder what I'm capable of? Because when you shoot a sparrow out of a tree...you really have very little impact on the rest of the world.

**MS:** Look, Brad, you're speaking for me as well because I've got that same sort of dichotomy—Professor Francione would say inconsistency—in my world. I love my dogs, and yet I want to ring the neck of Michael Vick. Gary, let me ask you this question. Brad, thanks for the call. You may have heard me describe in Philadelphia this week a problem that I've got literally in my own backyard—four baby skunks. I was reading the Sunday paper last weekend. At my feet—I thought it was one of my dogs—it is a foot long, baby skunk. What am I to do with that, with that issue?

**GF:** There are Havahart traps that you can use that can trap those animals without harming them.

**MS:** Did it. Now what do I do with them. Bring them to your house?

**GF:** You relocate them out into an area where they're not going to come in contact with people. It's very easy, Michael. I mean, I've had that problem and I've dealt with other people who've had that problem. That's a very easy—Michael, were all problems that easy to solve?

**MS:** This is Jengis(?) in Nacogdoches, Texas. How did I do with your name and that town, Jengis?

**Jen:** Pretty good. How you all doing? I just, uhh, I-I don't, I do see some inconsistencies in Mr. Francione's opinion about abortion. Whether you're religious or not, I can tell you for a fact, uhh, from my own... as a physician that eight-week babies do have feelings. You can tell when you listen to a baby's heart beat. And if the mom is excited, you can see the baby's heart get excited. It's not just from judgments in blood flow, it's almost a fact, I can't, nobody can say for a fact, that's why the studies that say babies that are under twelve weeks can't feel anything are... I don't understand how they can determine that either. So I think if you're gonna have an opinion about animals... honestly I don't, I don't think it's just, I don't think it's uh, I think it's uh, an against, being against, being a h--, against humans. I think...

**MS:** Right, you think that he's got an inconsistency. Take thirty seconds and answer this before our break. Go ahead.

**GF:** Even if fetuses were sentient, as I've said before, you've got a very, very strange situation of a conflict that doesn't replicate itself anywhere else in nature. I would also suggest to you that the evidence is quite overwhelming that fetuses under twelve weeks don't have sentience. And I would say a good argument can be made that fetuses aren't sentient period because what possible reason as a matter



of evolution would it serve for a fetus to be sentient? Fetuses can not escape noxious stimuli. There are very good reasons to believe that sentience is something that occurs after birth.

**MS:** Gary, I am a dim bulb, alright, in your realm...

**GF:** Michael, you are not a dim bulb.

**MS:**...I don't know what the hell that means. How does a trout feel pain if a fetus doesn't?

**GF:** Well, Michael...

**MS:** Can we hold it? Until we come back?

**GF:** Sure.

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**MS:** Hey, Gary. Tonight, I'm going to go watch the Phillies—hopefully—put a third straight night of hurtin' on the New York Mets. What occurs to me is it's got to be difficult being you with your philosophy just going through daily rituals of life. For example, if you were at the ball park with me tonight...you know, to your left is a guy eating a cheese steak, to your right is a guy eating a hotdog, all around...Does that get to you?

**GF:** Well, I mean, I prefer not to see it, but I live in a world of people who—of carnivores—I mean, I've gotten used to that, I deal with it, and I see a good deal of my role in life is to educate people about that and if you're hostile to people, you'll never educate them, so I try to talk to everybody who's interested in talking about it.

**MS:** Charlene is in Saskatchewan, now a part of the Radio Factor. Thanks for your patience Charlene, Hi.

**Charlene:** Hi, thanks for taking my call.

**MS:** Yeah.

**Charlene:** You've kind of been talking about it with the abortion factor and that's just something that I think, um, when I listen to animal rights activists, that's the part that I have the most difficulty with—that they show more compassion for, you know, a moth than they do for a fetus. And I, for the life of me, I just can't buy that explanation that they feel no pain in the womb...

**MS:** And a lot of people are calling to say the same thing. Anything else you want to say on that issue, Gare.

**GF:** I think, respectfully, that's a simplification of the situation. I think you're talking about a very, very complicated matter in which you've got a conflict between a woman who has got something in her body and the issue is, "Can she control her body or can she not control her body." In a patriarchal society I think that raises some complicated questions and I do believe that the evidence is extremely scant that fetuses are sentient.

**MS:** Randy in Cincinnati, very quickly for Professor Francione. Go ahead.

**Randy:** Gentlemen, how you doing? Uhh, two questions real quick. Doctor, if you have dogs, what do you feed them?

**GF:** I feed them vegan food. I feed them a mixture of lentils, grains, and vegetables.