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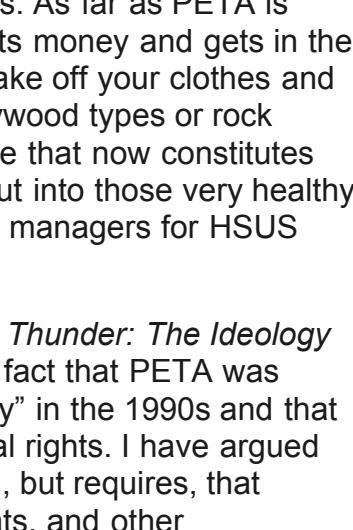
ABOLITIONIST ONLINE EDITORIALS

The Gary Francione Interview - Part II

By Claudette Vaughan

[Click here to read The Gary Francione Interview - Part I](#)

CV: The largest animal welfare organisation in the US today, the Humane Society of the United States (HSUS), for all its wealth, owns not one shelter for abandoned/neglected cats and dogs. The largest animal rights organisation in the US today, PETA, has a policy of killing pound animals. What went wrong Gary?



GF: The animal movement is primarily a business. As far as PETA is concerned, taking care of individual animals costs money and gets in the way of flying all over the world so that you can take off your clothes and go naked "for the animals," rub elbows with Hollywood types or rock stars, or engage in the other ineffective nonsense that now constitutes "activism." And having shelters would certainly cut into those very healthy six-figure salaries extracted as an "animal rights activist" supported by other large animal groups receive.

I should add that in my 1996 book, *Rain Without Thunder: The Ideology of the Animal Rights Movement*, I discussed the fact that PETA was killing healthy animals at its Aspen Hill "sanctuary" in the 1990s and that this represented a betrayal of the ideals of animal rights. I have argued that the rights position is not only consistent with, but requires, that resources be devoted to the care of the dogs, cats, and other domesticated nonhumans that we have brought into the world for our amusement, but my position has not been accepted. This is not to say that there are not individuals and some smaller groups and societies out there that are doing a most terrific job of helping individual animals, but these are not for the most part the large wealthy animal organizations. Indeed, PETA not only kills healthy animals, but opposes the efforts of those who do TNR ("trap, neuter, release") work with feral cat colonies. It is absolutely remarkable. Things have actually gotten worse since I wrote *Rain Without Thunder*, and that is something that not even I thought was possible.

CV: Is veganism in the realm of political activism for you?

GF: Not only do I regard veganism within the realm of political activism, I regard veganism as the primary form of political activism. There will never be any significant changes in favor of animals until there is a political base in favor of abolition. Veganism is the personal and practical expression of the abolitionist principle. I continue to be amazed by people who tell me that they are in favor of "animal rights" and criticize "animal exploiters" but who are not vegans. If you are not a vegan, you are participating in animal exploitation. It is that simple. One thing that I do not regard as within the political realm is violence. As I have stated before, I think that violence is reactionary and does nothing more than reinforce the very same patriarchal attitudes that we have gotten used to in this mess in the first place. I recently saw a news program in which someone characterized an "animal rights activist" supported killing animal exploiters. In my view, this sort of position has nothing to do with animal rights, and is only serving to facilitate marginalizing and dismissing the rights position.

CV: Can I draw you a picture and can you then tell me what's wrong with that picture from an animal rights perspective? True story: A Cuban farmer has spared a piglet's life after seeing it being suckled by a cow. Ermelino Rojas was fattening the pig up for his family Christmas dinner but he said he could not kill the animal after seeing it with its new mother. Mr Rojas said: "The cow was giving less milk and the pig was getting fatter by the day, so I decided to investigate and saw the moving scene. I was going to cook him for Christmas dinner but after that I couldn't do it."

GF: This illustrates very nicely what I call "moral schizophrenia" in *Introduction to Animal Rights: Your Child or the Dog?* On the one hand, we recognize that animals are nonhuman persons; that is, we regard them as beings with cognitive and emotional attributes, including the ability to love; as beings who are sentient and with many of the attributes that we associate with human persons. We respond to some animals, such as the companions with whom we share our homes, or the pig in Mr. Rojas's case, in an emotional way precisely because we see that they are persons. On the other hand, the law regards animals as property, such as tables and chairs, and we relate to most animals, including and especially the ones we eat, as mere things made to suffer and die for our selfish and trivial wants.

The story that you relate is similar to a recent story about a cow who escaped from a slaughterhouse in the United States and who was allowed to live because she captured the hearts of the slaughterhouse workers and the plant manager, all of whom will continue to slaughter other cows, and in the general public, which will continue to eat cows. Everyone responds charitably to this particular cow as a person, but continues to deny the personhood of other cows. For a species that regards itself as superior because of its rationality, human animals cannot think very clearly at all.

CV: Could you explain the doctrine of legal standing and whether, as some activists argue, expanding that doctrine would lead in the direction of animal rights?

GF: "Standing" is a complicated legal concept; in its simplest terms, standing concerns the status of being qualified to assert or enforce legal rights or duties in a court based on having a sufficient interest in the outcome of a controversy and being threatened with actual injury. In many legal systems, the only parties that have standing to assert rights and duties in connection with injuries to animals are the owner of the animal in question or whatever agency enforces anti-cruelty laws. Anticruelty laws are usually criminal laws and the interest being vindicated is that of the state and not the nonhuman who has been injured or killed. As a matter of law, animals are property and are not legal persons, such as humans or corporations, and do not have legal standing.

Some people argue that the problem with animal welfare laws is that they are not enforced vigorously enough, and that things would be much better for animals if we expanded standing and allowed others to bring cases for animals that they did not own themselves, and in situations where public agencies declined to take action. The usual candidate for this expanded standing is an animal advocacy organization or a "guardian" appointed for the animal. I do not think much of animal welfare laws in the first place because they only address animal treatment and not animal use per se. Moreover, they provide extremely limited protection for a very small number of animals (dogs and cats for the most part) in extremely limited circumstances (where harm is inflicted in a situation in which there is no recouping benefit). I think that to expand standing would not do much good and would probably result in legislatures and courts further restricting the limited scope of protection that already exists to eliminate any increase in litigation. As long as animals are property, the legal system will strive to protect the interests of property owners first and foremost.

CV: Do nonhumans have any rights at all under law?

GF: The short answer is "no." In a great deal to understand this, we need to focus on what a right is. There is an order of confusion surrounding the concept of rights, but for present purposes, it is sufficient to understand that a right is merely a way of protecting an interest. To say that a person has a right to do something—for example, to engage in speech—is to say that we protect her interest in expression even if it would benefit others were we to ignore that interest. We cannot ignore the interest simply because of consequential considerations.

As a general matter, we do not recognize that animal interests, including the interest in not suffering, should be protected irrespective of consequence. On the contrary, we say that any interest that an animal has can be ignored if there will be a sufficient benefit for humans. Usually, economic benefit is sufficient. There are laws that limit what we can do with animals, but these laws do little more than prevent the infliction of suffering on animals in situations in which there is no benefit to humans. As I argued in *Animals, Property, and the Law*, I do not think that it makes sense to talk about such laws creating "rights" for animals. It is, of course, possible that the law could change and become more protective of animal interests even if animals remain human property. For instance, animal welfare laws in the United Kingdom are arguably more protective of animals and purport to recognize that animals have certain interests that should be protected even if we could make a greater benefit by ignoring those interests. But the actual differences in treatment are minimal in my view, and probably do more to make the public feel comfortable with exploitation and further entrench it as part of our society than actually reduce the suffering of exploited animals.

I continue to believe that it does not make sense to talk about animals having rights as long as animals are property just as I think that it did not make sense about slaves having rights. It is theoretically conceivable that a legal system could recognize that property had interests that had to be protected no matter what, but economic, legal, political, and social realities make such recognition highly unlikely.

CV: In *Animals-Property or Persons?* (In Animal Rights (Oxford University Press 2004)), you discuss the "humane treatment principle." Can you articulate it for us here?

GF: Sure. That concept, which I also discuss in *Introduction to Animal Rights*, is the idea that we all accept that it is wrong to inflict "unnecessary" suffering on nonhumans and that they should be treated "humanely." I argue that since most of our animal use *cannot* in any way plausibly be described as "necessary," we suffer from moral schizophrenia. We claim to take animal interests seriously, but we do not. We claim to believe that it is wrong to inflict suffering and death on animals unless we have some need to do so, but, in reality, we inflict suffering and death on billions of nonhumans for what can be described as trivial reasons.

CV: In your view, how far off are personhood rights for animals?

GF: If by this you mean when do I think that the law will protect the interest of animals in not being doing, the answer is that this cannot happen unless and until substantial numbers of persons accept as a moral matter that animal exploitation ought to be abolished. That is, we must first accept as a moral matter that animals ought not to be treated as resources, as things for human use. And that *cannot* happen unless and until substantial numbers of people become vegans and accept abolition in their own lives. Only when there are more vegans will there be a base that can serve to support meaningful political and legal changes.

This is a tremendous source of confusion in thinking about this issue. Many animal advocates believe that the law is the place where we begin to seek change. It is not. The law very rarely leads in matters of cultural change—it follows. The law generally does not change until there is considerable social momentum. For example, we did not get civil rights laws in the United States until a significant number of people accepted as a moral matter that it was wrong to treat people of color in particular ways. Some so-called "animal lawyers" argue that the legal system can accommodate the personhood of animals without there being the predicate of a paradigm shift in social attitudes. That view is downright silly and indicates a failure to understand judicial or legislative process.

CV: Why have you suggested basing animal rights on sentience rather than freedom, intrinsic value, respect, equality, love, or something else?

GF: I argue that sentience is the only characteristic required for nonhumans to have morally significant interests. That is, I reject the idea that animals have be "like us" in some sense—other than being able to experience pain—in order to count morally or legally. In *Introduction to Animal Rights*, and subsequent writing (see, e.g., *Our Hypothesis*, in *The New Scientist*, June 4-10, 2005), I have argued that what I call the "similar-minds" approach is not morally justifiable. I do not think that great apes count as dogs or fish for purposes of not being treated as things. To require humanlike intelligence or other characteristics for personhood is speciesist base the moral right not to be treated as property on the principle of equal consideration. We do not protect humans from all suffering, but we regard it as wrong to inflict any suffering on them incidental to being used as chattel property. We all reject human slavery. The principle of equal consideration requires that we abolish the slavery of nonhumans as well. The fact that animals may not have humanlike cognitive characteristics is irrelevant to their basic right not to be treated as things or resources for humans. In *Introduction to Animal Rights*, I explain how all of this is connected to the concept of inherent or intrinsic value. To have inherent value is to have value beyond that of being a resource, a mere means to another's end. Because animals are classified as property, they have value only as resources.

CV: Gary, what are the differences between your theory of animal rights and that of Tom Regan.

GF: There are a number of differences. I will discuss five.

First, although Regan purports to reject perfectionism, or the notion that moral value depends on certain cognitive or other characteristics, his "subject-of-a-life" concept requires a type of preference autonomy. The only characteristic that I require for the right not to be property is sentience.

Second, Regan maintains that death is a greater harm to humans than to nonhumans. I not only reject that view as an empirical matter, I regard it as problematic for an abolitionist theory of animal rights as a general matter because if, as Regan claims, nonhumans have a qualitatively different interest in their lives (that is, if death is always a lesser harm for nonhumans), then there is a non-arbitrary way to distinguish between humans and nonhumans for purposes of differential treatment. Ironically, Regan's view that death is a lesser harm for nonhumans is similar to Singer's view that nonhumans do not have an interest in continued existence, which serves as the foundation for Singer's view that animal use is not per se morally objectionable. I pointed this out in an article that I wrote in 1995—it is a serious problem for Regan's theory.

Third, Regan does not think that principle of equal consideration can get us very far toward animal rights. I disagree. As I mentioned above, the principle of equal consideration requires that we treat like cases alike unless we have a morally sound reason not to do so. We do not treat humans as chattel property or exclusively as resources. There is no sound reason not to accord the same treatment to nonhumans. Therefore, I think that equal consideration can get us to the rights position.

Fourth, Regan does not focus at all on the status of animals as property. In my view, the institutionalized exploitation of nonhumans cannot be understood without recognizing this aspect of the problem.

Finally, I am not really sure of what Regan's theory is. Although Regan claims to be an abolitionist, he very actively promotes animal welfare. In the Postscript to *Rain Without Thunder*, I discussed how Regan flip-flopped on the 1996 March for the Animals in Washington, D.C., an event that was explicitly anti-rights and pro-welfare. Regan initially supported the boycott of the March, but then supported the March and disavowed the boycott. I should add that the 1996 March was a spectacular failure in large part because abolitionists did not support it. Regan's behavior in that matter was certainly disturbing and served as some indication that Regan did not practice what he preached, and it caused a rift between us.

But in recent years, Regan has really embraced welfarism in a way that is, in my view, completely inconsistent with what he claims to believe. For example, at his 2005 Compassionate Living Festival, Regan had as the keynote speaker John Mackey, CEO of Whole Foods Markets, Inc.—an upscale U.S. grocery chain that sells animal products. The event brochure describes Mackey as a "driving force behind higher standards in animal welfare." That is astonishing. Whole Foods is making a bundle of money out of selling "humanely" raised meat and other animal products, and promoting the insidious idea of "compassionate consumption." Regan, who claims to be an abolitionist, is not only not condemning this, but featuring Mackey as a keynote speaker! And it does not make things better that Mackey is a allegedly a vegan. It is arguably worse to be a vegan CEO of a business that exploits nonhumans than it is for a non-vegan CEO to do so. In the former case, Mackey knows better and chooses to continue to peddle animal products, and in any event trying to make people feel better about consuming them, is an evening there are many more examples illustrating the extent to which Regan has sold out to welfarism. When it is convenient, the arguments that we should have "empty cages" and "when it is not, his witness gears and promotes larger cages. No wonder people get confused.

CV: Why do you think that welfarist position is so popular?

GF: I think that most people—including many animal advocates—accept Singer's view that nonhumans do not have an interest in continued existence, and are concerned only with how they are treated by humans. That is, Singer does not think that our use per se of nonhumans raises a moral problem; it is only our treatment of them that matters. According to this view, animals do not care whether we use and kill them for our purposes; they care only about how we treat them in the process. This leads to the emphasis on making sure we better regulate exploitation so that we can decrease suffering and not on abolishing animal use altogether.

As I argue in *Introduction to Animal Rights* and elsewhere, I reject the view that sentient nonhumans do not have an interest in continued existence. Indeed, I regard that view as one of the most peculiar ideas in western thinking, and powerful evidence that our ability to continue to eat animal products can completely obscure our desire to think clearly. Most people—including many "animal people"—want to continue to consume animal products, and the view that nonhumans do not care about whether we use them but only about how we use them helps to justify their behavior and focuses the issue on "free-range" production, "consuming with compassion," or some other meaningless welfarist principle.

CV: What mistakes are made repeatedly concerning the interpretation of your work?

GF: There are three primary mistakes. First, my critics often claim that I regard that because animals are property, we cannot improve their treatment. I have never argued that. As I discuss above, what I have argued from the outset of my writing about the issue is that because animals are property, there are powerful legal, political, social, and economic forces that militate against better treatment. And the proof is in the (vegan) pudding.

I wrote *Animals, Property, and the Law* in 1995, and the welfarists all claimed that I was wrong and that animal welfare could be improved. Really? Take a look. It is more than a decade later, and things are not any better for animals. Indeed, I would argue that things are worse. Could we treat animal property better? Sure. Will we? It is not likely.

Second, my critics also claim that I do not believe in incremental change and that I want abolition overnight or nothing. That is so silly that I find it hard to believe that these people have actually read my work. As I argued in the first part of my interview with Abolitionist-Online, I made very clear in *Rain Without Thunder* that I endorse incremental change, but I argued that such change should be consistent with abolitionist theory. At this point, there is not a sufficient political base that favors abolition and that can make meaningful legal or political change possible, and abolitionist incremental change ought to take the primary form of veganism and education about veganism.

To the extent that advocates want to pursue legal or political campaigns, they ought to seek prohibitions that incrementally eradicate the property status of animals and not regulations that merely reinforce that property status. I do endorse incremental change—I just reject welfarist change that seeks to make exploitation more "human." As a moral matter, welfarist regulation does not recognize the inherent value of nonhumans; as a practical matter, animal welfare is an abysmal failure.

Third, some critics claim that the right not to be property is not sufficient because animals ought to have other rights as well. Again, these critics have not read my work very carefully. In *Introduction to Animal Rights* (see, e.g., pp. 92-102), I am very clear that the right not to be property is not to be a human resource. If we were to recognize such a right (initially as a moral/social matter and later protected by law), we would stop bringing domestic animals into existence altogether and we would thus eliminate 99.99% of the "conflicts" that exist between humans and nonhumans. There may be conflicts between humans and non-domesticated animals living in the wild, but our recognition that nonhumans have inherent value would require that we respect the environment of these nonhumans and that we give equal consideration to their interests.

CV: Can you provide any advice to activists facing the threat of defamation litigation and what are your thoughts on risk minimisation?

GF: Yes. Make sure that everything you say is accurate! That does not mean that powerful corporations will not bring legal actions to stifle the dissemination of information even if it is true. But activists minimize the risks by being scrupulously accurate in making any factual representations. It makes suits easier to defend and militates against plaintiffs bringing those cases in the first place because they do not want to call attention to accurate facts that may arouse further public criticism. The McLibel Case is a good example. My guess is that McDonalds wished that it never sued Dave Morris and Helen Steel. It is only brought more attention worldwide to how McDonalds treats nonhumans, their workers, and the environment.

CV: What mistakes do activists continually make in their approach to the law in your opinion?

GF: They believe that the legal system is the first line of social change. That is a mistaken view that is causing the movement to waste an enormous amount of time, energy, and resources. But I do agree that legal campaigns can generate a lot of money for the fund-raising efforts of large animal welfare organizations. A good case in point (although there are many) is the law that supposedly banned foie gras in California. Animal groups are proclaiming a "victory," and doing a great deal of fund-raising, concerning a law that not only does not ban foie gras but that immunizes the foie gras industry until at least 2012 (and probably will never come into effect). Indeed, the law was supported by the industry! In any event, this sort of thing illustrates why those who are serious about abolition should focus more on their own veganism and the public education about veganism, and less on legislation or court cases seeking better regulation of animal slavery.

CV: Are magistrates biased towards legal representation. They appear not to like activists representing themselves.

GF: As an American lawyer, I am not comfortable in discussing the Australian legal system. As a general matter, I think that judges do not like self-representation, particularly in criminal matters, because it means that the action will not be litigated as efficiently, and may be more prone to attack on appeal. As a matter of institutional norms, judges were once lawyers, and the major beneficiary of the legal system anywhere is the legal profession. If everyone represented themselves, there would be no need for lawyers, and that is an unacceptable position—for lawyers!

CV: It's been said before that once an activist thinks her case is a legal matter, not a political matter, or you already start to lose your case. What do you think?

GF: I agree completely. The animal issue is first and foremost a moral and social issue. I repeat: the law is there to protect property interests. As long as the movement fails to shift the focus to abolition, veganism, and rights as the moral and social matter, we can expect that the law will continue to protect animal exploitation. We must understand that if there is going to be any progress, we must change the political playing field. And we can do that only through building a base in favor of abolition, which requires that we focus on the importance of veganism as the indispensable element of a movement that is concerned about justice.

[Click here to read The Gary Francione Interview - Part I](#)

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