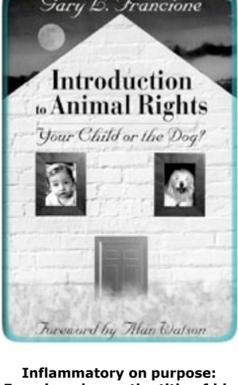


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September 7-14, 2000

COVER STORY

Animal Logic, part 2



Think animal rights is a crazy idea? Gary Francione, influential law scholar and dedicated troublemaker, swears he can change your mind.

by **Vance Lehmkuhl**

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Rude to Rudy

Not everyone is grateful to Ingrid Newkirk for telling them to stop drinking milk.

Take Rudy Giuliani, for example. The feisty New York mayor is still deciding whether to sue PETA for the "Got Prostate Cancer?" billboards which have appropriated his image and, some believe, made light of his serious disease. The billboard campaign has now removed the ads and Giuliani has gone out of his way to spotlight milk at his public appearances. Although Francione worked with PETA throughout the '80s, this type of campaign, he says, can only hurt the movement's credibility.

"I don't believe you should use morally problematic means to get to whatever ends you want to get to. That's exactly why vivisection is problematic, exactly why a lot of forms of animal exploitation are bad." Throughout a previous book (*Rain Without Thunder: The Ideology of the Animal Rights Movement*), and in parts of the current one, Francione argues that ends-justifies-the-means thinking is responsible for a lot of bad steps taken by both meat-eaters and animal activists.

"Look," says Francione, "whatever one wants to say about Rudy Giuliani, his prostate cancer is off limits. You don't make fun of a guy's disease and that sort of stuff, you talk about the fact that he's probably one of the worst things that's happened to New York City in the later part of the 20th and early part of the 21st century. But it's not because he's sick."

For her part, Newkirk (now managing director of PETA) does not believe the billboards made light of Giuliani's problem. "My own father had prostate cancer," she says, "and he died this year with numerous diet-related problems. If I could have put his picture on those billboards I would have, but nobody would have given a damn. This way, we've got a huge number of people now coming to our Web site and finding out about veal calves, slaughterhouses, all the other reasons they'd want to avoid milk."

In other words, the ends justify the means. "Everyone will hate us," she says, "but that's okay. Kill the messenger, but read the message."

Since that conversation, PETA has put a halt to the advertising campaign and apologized to Giuliani. Still, in Francione's opinion, the damage done by a first impression is difficult to overcome.

"I was once with Cleveland Amory," Francione says, referring to the animal-loving author of *The Cat Who Came For Christmas*, "and he walked up to a woman in a fur coat in front of the New York Hilton and said 'You know, you look fat in that coat.' And I wanted to crawl under a rock! I said, 'You know, Cleveland, you're fat even without a fur coat, number one, and number two, why do you have to make it about her being fat or not? You just lost her, you just made her basically think we're all nutcases. Sexist nutcases!'"

Francione's feminism is straightforward and frank, almost inevitable, because it's all about equal consideration. He sees the struggle against animal abuse as firmly analogous to fighting racism, sexism and homophobia. Our current "moral schizophrenia" and all of the forms of our intolerance are laid squarely at the feet of patriarchal culture. It's no coincidence that Francione stopped doing legal work for PETA at the time they launched the "I'd Rather Go Naked Than Wear Fur" campaign.

"Did it get people to look at billboards?" he asks rhetorically. "It sure did! They'd draw huge crowds, because people like to see naked supermodels. But what's the result? Well, many of these supermodels are now modeling fur, and whatever's happening to fur production in the US, fur production is going up everywhere else and indeed it's now being made in countries where it's being produced even cheaper!"

Happy Meals

But if Francione has disagreements with other animal rights organizations about how best to educate the public, they pale beside the essential issue: what to do about animals that are being used by humans. Two weeks ago, McDonald's made a big announcement: new regulations for its egg suppliers that require larger cages for the egg-laying hens and an end to the practice of starving the hens to induce molting (and increase egg production). The regulations also set the goal of eliminating the gruesome general practice of debeaking over an unspecified amount of time.

McDonald's, of course, didn't just come up with these out of thin air; PETA has been pressuring the company for two years on just these issues. So isn't this a victory for the animals? It depends on whom you ask. Peter Singer, who played a role in the policy change, says that "the McDonald's development is a good example of the difference between Gary and myself. I regard it as the most significant development for farm animals in the U.S.A. in recent years. For Gary, presumably, it is worse than useless."

Francione does not disappoint. "Giving them a few more inches [of cage space], stopping forced molting and stopping debeaking is, as far as I'm concerned, very little comfort for those animals, and what McDonald's gets in return is enormous. They are now seen as allies of the most 'radical' animal rights group in the country."

"No wonder people are confused," he continues, warming to the argument, "if I were thinking about this issue and I was saying, now PETA says animals have rights and we shouldn't eat them but PETA approves of these standards and praises them, I'm confused, does that mean I'm supposed to eat McDonald's products or I'm not supposed to eat McDonald's products? And if I'm sitting on the fence, I get in my car and take my kids to McDonald's, and I say 'Don't feel bad, you can eat your Babe happy meals with impunity: PETA loves these people! I think that's fucked up. As far as I'm concerned, that makes no sense. Now if [PETA] came out and said, 'McDonald's is adopting these standards and we say OK, less suffering is better than more suffering, but bottom line, nobody should be eating any of McDonald's products and we're going to drive them out of business!' — that's the right response."

Morally, maybe. But would that change the situation for chickens any sooner?

According to Singer, the bottom line is that now "millions of hens will be better off, even if only slightly so." But Francione counters that "you don't know and I don't know if those regulations are ever going to be implemented. As far as I know, most of those meat regulations from 1996 aren't implemented yet."

This may be where Francione gets his reputation as an absolutist. Jerald Silverman, the Hahemann veterinarian, offers that "if you're going to wait until you can right a moral wrong, a great many animals will have suffered in the meantime. You have to see this as like a salesman getting a foot in the door."

Another foot in Another Door

After clerking for Justice O'Connor, Francione had his own foot in the door. He moved to New York in 1983 to work for Cravath, Swaine & Moore, a Wall Street law firm. Here he was able to do regular work on the firm's cases by day and work pro bono for various animal causes. His first case there "as a real lawyer" was representing the ASPCA of New York against a small group of Santeria adherents who wanted to do their own animal sacrifices. The Santeros lost the case but appealed.

"So I was standing before this six-judge panel — I think it was six judges," Francione relates, "arguing that this practice must not be condoned. And one of the judges asked, now, this is different from kosher slaughter, right? And I said yes, judge, it is. I argued it on the point of regular USDA inspections, which kosher slaughter has to abide by and which they had no right to be exempt from. And let's be clear, that was legally correct. But it was not what I felt. There was nothing legally dishonest about the distinction I was making, but it was morally vacuous. That should tell you something about the relationship between the legal world and morality."

Although Francione underscores that Cravath was "a great firm that did a lot of great work helping people," they did, in his opinion, represent a number of animal-exploiting companies, and he began to be frustrated that his pro bono work for animal groups had a tendency to run up against conflicts of interest with some of the firm's clients. He became convinced that he could not do the kind of work he wanted to do as a lawyer in a large Wall Street firm, and turned toward academia — a world where ideas can bloom and blossom unencumbered by real-world obstacles.

At least that's the theory. In practice, of course, Francione's professorial days have seen him stirring up more controversy than ever.

By the time he began his assistant professorship at the University of Pennsylvania Law School, the Gennarelli head-injury lab had already been broken into and he had become involved as a central player in this groundbreaking case (see sidebar).

Francione represented Gloria Binkowski and Eric Dunayer, the first two veterinary students in the country to challenge the mandatory "dog lab." He also began teaching animal rights at Penn as part of his jurisprudence course. During the mid-'80s, Francione pushed his activist peers for more radical action.

"People were paying attention to what we were saying then, and I said we should grab the podium and take the position that none of this is justifiable and that it all must stop — which may have appealed to a very small number of people, but we would have gotten them." He pauses. "That's not what happened, of course. Instead it evolved into a movement of movie stars, rock stars, \$250-a-plate celebrity benefits and awards ceremonies for guys like G. Gordon Liddy and Hugh Hefner — the man most responsible for chattelizing women."

But Francione has not been completely demoralized by the spread of moral relativism.

"I have to say, begrudgingly, that my hope has been rekindled by some of the animal law students I've seen lately."

For example, Megan Metzelaar completed Francione's animal rights class, and completed her law degree, this spring.

"One of the things that made him a great teacher," she says by phone, "is that in law school, you're always reading cases, looking at the laws on the books, looking at precedent, whereas he wants you to look at what's really going on out there in the world and say, is it right? And if it's not, then get involved and do something about it."

Metzelaar, at 27, has already gotten involved, prodding the New Jersey SPCA to enforce animal cruelty laws in the case of the guard dog industry. She began her crusade after noticing the dogs guarding a vacant lot she passed on her way to class every day. When she asked Francione for advice, he told her to document the conditions with photos, videotape and sound recordings.

Metzelaar came up with the idea to build a Web page to post the photos and draw attention to the issue. She then created hosting for it and bought the domain name: www.newjerseyguarddogs.com.

Francione beams as he describes her initiative and tenacity.

"You know, the revolution might indeed be possible!"

And the march of time may be a partner: Humans' insistence on "separating" ourselves "from the animals" could be going out of style. The day after the McDonald's regulations were announced, a science journal reported that dolphins give themselves names in the wild and use the names to refer to each other. The more we learn about animals, it seems, the more we're forced to think about justice and ask how far it extends.

"You have to understand that Gary is a leader in a context of a changing society," says Newkirk. "George Washington University is starting an animal rights course. People are learning more about the issue. Our eyes are opening in our society. Judges are saying you know, maybe animals aren't just property."

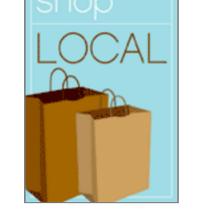
Meanwhile, Gary Francione is talking to the dog again, distracting Robert he's only getting a treat this time because it's necessary to stop him from telling us, explaining to the dog that he's part of a utilitarian equation.

I'm about to tell him to stop trying to explain such things to a dog, but I stop.

Because, hey, you never know.

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