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### The Abolitionist Theory of Gary Francione

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Gary L. Francione is Professor of Law and Nicholas deB. Katzenbach Distinguished Scholar of Law and Philosophy at Rutgers University School of Law in Newark, New Jersey. Francione has been teaching animal rights and the law for over 20 years. He has lectured on the topic of animal rights throughout the United States, Canada, and



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Europe, and has been a guest on numerous radio and television shows. He is the author of *Animals, Property, and the Law* (1995), *Rain Without Thunder: The Ideology of the Animal Rights Movement* (1996), and *Introduction to Animal Rights: Your Child or the Dog?* (2000), as well as numerous journal articles, encyclopedia entries, and magazine articles concerning the rights of nonhuman animals. He is co-author, with Anna E. Charlton of *Vivisection and Dissection in the Classroom: A Guide to Conscientious Objection* (1992). Francione has provided legal representation at no cost to numerous animal advocates, grassroots animal groups, and national and international animal organisations.

Francione is well known throughout the animal protection movement for his criticism of animal welfare law and for his abolitionist theory of animal rights, as well as his theory of animal rights based only on sentience. In this interview, we focus primarily on the abolitionist aspect of his views, and his critique of animal welfare. In a subsequent interview, we will take a closer look at his theory of animal rights.

# Claudette: Do you think you have been ostracised by the animal rights movement?

**Gary Francione:** It depends what you mean by "the animal rights movement."

If you are referring to the large national animal welfare organisations in the United States-what I refer to as the "corporate movement"-yes, I have been ostracised. But I did write *Rain Without Thunder: The Ideology of the Animal Rights Movement*, in which I argued that those organisations for the most part had abandoned the struggle for animal rights and grassroots advocacy in favor of centralised corporate control by elites and what I called "new welfarism," or the idea that traditional welfarist reforms would eventually lead to abolition. I argued that there was no historical evidence to believe that welfare reform would do anything other than perpetuate animal exploitation. So I am not surprised that the corporate movement reacted as it did.

If, however, you are referring to the considerable number of people who still accept the abolitionist view and who understand that veganism must serve as a moral baseline for the movement, no I have not been ostracised. Those people continue to read my work, correspond with me, and, most importantly, to pursue abolition incrementally in a variety of nonviolent ways. Most of these people have been, like me, involved in the corporate movement earlier in our lives, and we have all come to see the futility of animal welfare and the importance of change at the grassroots level. But make no mistake about it-there are a great many of us.

Claudette: What do you mean by "pursue abolition incrementally"?

**Gary Francione:** Although my position is often misrepresented, I have never suggested that there is any possibility of the immediate abolition of all institutionalised exploitation and I have never argued that we should not pursue incremental change. What I have said is that we should not pursue traditional welfarist reform; rather, we should pursue abolitionist change that incrementally eradicates the property status of nonhumans and recognises that nonhumans have inherent value. As long as animals are property, there will never be a meaningful balance of human and nonhuman interests, just as there was no balance between the interests of slaves and those of slaveowners. This is the central thesis of my 1995 book, *Animals, Property, and the Law*.

As I argued in *Rain Without Thunder*, the rights position provides definite practical guidance as to incremental change on both an individual level and on the level of general social change. Indeed, it is the welfarist position, which maintains that we ought to pursue any measure that "reduces suffering," that fails to provide any practical guidance. Virtually *any* measure can be said to reduce suffering, and acceptance of the welfarist prescription has resulted in ineffective campaigns that, even when successful, do little or nothing to help nonhumans and generally result in a net loss to animal welfare because their primary effect is to make the public feel better about animal exploitation.

### Claudette: How do you pursue abolition on the individual level?

**Gary Francione:** The answer is simple: be a vegan. Veganism is the application of the principle of abolition to one's own life. I often encounter animal advocates who claim to be in favor or animal rights and to want to abolish animal exploitation, but who continue to eat animal products. I regard this as a form of what I call "moral schizophrenia" in my book, Introduction to Animal Rights: Your Child or the Dog? An animal "rights" advocate who is not a vegan is no different from someone who claims to be opposed to human slavery but who still owns slaves. And there is no logical distinction between meat and other animal products, such as milk or cheese. Nonhumans exploited in the dairy industry live longer than their "meat" counterparts, they are treated worse during that life, and they all end up in the same slaughterhouse after which we consume their flesh. There is probably more suffering in a glass or milk or bowl of ice cream as there is in a steak. In any event, it makes no sense to claim to embrace the rights or abolitionist position, and not to accept that veganism is the only morally consistent way to take immediate action to make that happen at least in one's own life. Veganism is the rejection of the property status of nonhumans and the recognition that nonhumans have inherent value.

There are some animal advocates who claim that veganism is a matter of "personal philosophy" and should not be identified as a baseline principle of the rights movement. They claim that it is "elitist" to insist on veganism as a baseline principle. But such claims are nonsense. If the animal rights movement cannot take a principled position on an activity that results in the suffering and death of millions of animals for no reason other than that we enjoy the taste of their flesh and their products, then the movement can take no principled stand on any institutional exploitation. And there is nothing more elitist than eating animal products, which involves the unjustifiable oppression and exploitation of nonhumans.

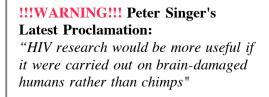
# Claudette: How about abolitionist change on the level of general social change?

**Gary Francione:** On the social level, the answer is again simple: talk about veganism to everyone with whom you come into contact and who will listen, and educate everyone you can about the many compelling reasons to abolish animal exploitation. If there is ever going to be any change in the status quo of relentless animal exploitation, it will come only after we have established significant social support for abolition, and a political movement that seeks abolition. This requires that we have a critical mass of vegans, which we do not have at the present time.





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I disagree with those who maintain that the legal system will be in the lead in the struggle for animal rights, or that significant legal change will occur in the absence of the development of a political and social movement in support of animal rights and the abolition of animal exploitation. In other words, there needs to be a paradigm shift as a social matter before the legal system will respond in a meaningful way. And at the present time, there is no organised abolitionist movement. There is only a "humane" movement run by a group of corporate elites who want to maximise contributions by promoting campaigns that will not challenge the status quo, and that is worse than nothing in my view. Indeed, most of the welfarist campaigns promoted by the corporate movement do very little if anything to help animals suffering now, and merely make the public feel better about animal exploitation, thus establishing the foundation for more exploitation.

Veganism and abolitionist education provide a practical and incremental strategy both in terms of reducing animal suffering now and in terms of building a movement in the future that will be able to get legislation more meaningful than the welfarist reforms that are promoted by the large national organisations. If, in the late-1980s-when the animal advocacy community in the United States decided very deliberately to pursue a welfarist agenda-a substantial portion of movement resources were invested in vegan education and advocacy, there would be at least 250,000 more vegans than there are today. That is a very conservative estimate given the tens of millions of dollars that has been expended by animal advocacy groups to promote welfarist legislation and initiatives. I maintain that having 250,000 more vegans would reduce suffering more by decreasing demand for animal products-and help to build a political and economic base that is absolutely essential necessary for more pervasive social change that is in turn the necessary predicate for legal change-than all of the welfarist "successes" put together and multiplied ten-fold. Animal welfare is an abysmal failure. There is limited time and there are limited financial resources available. It is not clear to me why anyone who seeks abolition as a long-term goal or who understands that the property status of animals is a most serious impediment to any significant change, would believe that traditional animal welfare is a practical choice-putting aside any considerations about inconsistencies in moral theory.

The corporate movement is unwilling to pursue veganism as a baseline principle, or abolitionist education, and instead promotes welfarist campaigns that are so meaningless that the exploiters often support them. There is a campaign currently going on in the States to get nonambulatory or "downer" animals regulated on the federal level-and the meat industry supports the efforts of the animal advocates. McDonalds supports the supposedly "humane" slaughter guidelines devised by Temple Grandin. Such campaigns are easier to package and sell, and they do not offend anyone or move society in the direction of meaningful and sustained change. That, however, is precisely the problem. No one disagrees with the principle that it is wrong to inflict "unnecessary" suffering, but, as 200 years of animal welfare have made plain, it is a principle without any content in light of the property status of animals. Moreover, if educational efforts are going to work, these must occur at the grassroots level, and that is inimical to control of the movement by the elites that run national organisations.

Claudette: What about those advocates who are intent on pursuing legislation, litigation, or the like?

**Gary Francione:** At least at the present time, there are compelling reasons for animal rights advocates to spend their limited time and resources on incremental changes achieved through various forms of education, peaceful protest, and boycotts, and to avoid most litigation or legislation campaigns. There are limited resources and there is limited time. The choice is not between pursuing welfarist reform or doing nothing. The choice is between whether we spend tomorrow promoting a law that will give battery hens an extra inch of space, or promoting abolitionist education by talking with groups in your community, or having a vegan food stand at a local event, or engaging in a peaceful demonstration or organising a boycott. In my view, we do more for the animals suffering now, and those who will suffer in the future, by reducing demand for animal products and encouraging veganism than we do by helping the egg industry to portray itself as "kind" and "compassionate."

If advocates nevertheless want to pursue change through legislation, regulation or litigation, those campaigns ought to be explicitly targeted at eradicating the property status of animals. In *Rain Without Thunder*, I tried to formulate criteria that would help to identify incremental legal measures that would diminish in meaningful ways the property status of nonhumans. Since no one incremental legal step will achieve abolition, identifying criteria for incremental steps in diminishing the property status of nonhumans will invariably be imprecise and to some extent involve quantitative rather than clearly or exclusively qualitative criteria. I presented in an admittedly preliminary fashion criteria that could be used to identify incremental measures that would necessarily fall short of abolishing the property status of nonhumans but would nevertheless represent significant steps away from property status.

These criteria involve prohibitions of significant institutional activities, as opposed to regulation or relatively minor prohibitions. For example, a prohibition on the use of any leghold trap is to be preferred over a requirement that any trapping be done "humanely," or with the use of a "padded" leghold trap. Moreover, the measure should be explicitly promoted as recognising that nonhumans had interests apart from their utility to humans and where the interest recognised was accepted as not able to be ignored when it would benefit humans to do so. This is important because the only way that incrementalist measures like this can be effective is if they serve as the foundation for further incremental change, and they cannot do this if they are not explicitly based on the inherent value of nonhumans and the non-tradability of at least some of their interests. Finally, I argued that animal advocates should never be in a position of promoting an alternative, more "humane" form of exploitation, and that any incremental legislative or regulatory measure ought to be accompanied by an unrelenting and clear call for the abolition of all institutional exploitation. An example of the sort of measure that would satisfy these criteria would be a prohibition on the use of animals for a particular sort of experiment, such as a ban on the use of all animals in psychological experiments based on the fact that animals have interests in not being used for such experiments irrespective of human benefits.

I want to emphasise that I think that at the present time, the sorts of prohibitions that I am talking about here would be most difficult to achieve either as a matter of legislation or through litigation. I reiterate that our limited time and resources are better invested in vegan abolitionist education.

#### Claudette: Does this mean that you do not think that the law has any role in helping animals at the present time?

Gary Francione: Not at all. I have been doing "animal law" now for well over 20 years. In 1990, Anna Charlton and I founded the Animal Rights Law Clinic at Rutgers-the only one of its kind in the United States or, as far as I am aware, anywhere else. Law students received six academic credits for working on cases involving animal issues, and they participated in a course in which animal rights theory was discussed. Although we closed the Clinic at least temporarily in 2000, we found that there was a great deal to that a lawyer could do that did not involve pursuing welfarist reform. For example, we represented animal advocates who were trying to educate the public about veganism and abolition and who faced various threats to their speech. We advised and represented animal advocates who were trying to organise boycotts. We did cases seeking access to information about animal experiments, as well as cases involving the right of students not to be forced to vivisect or dissect as part of their academic requirements and the right of prisoners to vegan food. We challenged hunts and the round-up of wild horses, and we advised individual advocates and organisations about virtually every issue that you can imagine, from their right to protest to questions about the operation of tax-exempt organisations. We even got the governor of New Jersey to "pardon" a dog that was to be killed under New Jersey's "dangerous dog" laws. We tried to choose cases that were consistent with our abolitionist philosophy. For example, we represented students who were absolutely opposed to any animal use in education, and not students who wanted their lab partner to do the cutting, or who wanted to make sure that surgery dogs were treated more "humanely." In any event, there are many animal advocates who are out there promoting the abolitionist message and who need legal help, and they often cannot get that help because "animal lawyers" are too busy doing veterinary malpractice cases, or are trying to get meaningless amendments to "humane" slaughter laws, or are trying to get battery hens an inch or two more cage space.



Claudette: You talk about incremental change in "nonviolent" ways. What is the role of nonviolence in your thinking?

**Gary Francione:** In my view, the animal rights position is the ultimate rejection of violence. It is the ultimate affirmation of life. I see the animal rights movement as the logical progression of the peace movement, which seeks to end conflict between humans. The animal rights movement ideally seeks to take that a step further and to end conflict between humans and nonhumans. I think that violence against others is problematic for several reasons.

First, it makes no sense as a theoretical matter. The reason that we are in the mess that we are in now is that throughout history, we have engaged in violent actions that we have sought to justify as an undesirable means to a desirable end. Anyone who has ever used violence claims to regret having to resort to it, but that some goal justifies its use. It is precisely that sort of consequentialist thinking that leads to more violence. For instance, vivisectors claim to accept that animal use raises a moral issue, but that animal use is a necessary means to the alleviation of human suffering caused by disease. Some animal advocates claim that although violence against vivisectors raises a moral problem, it is justified because it will help to end vivisection. The authorities claim that the protection of civil rights is important but that violating these rights is justified in order to stop the violent actions of some animal advocates. And so on and so on. It is important that the animal rights movement stand clearly and unequivocally for an end to the cycle.

Second, as a practical matter, it is not clear to me what those who support violence hope to achieve as a practical matter. They certainly are not causing the public to become more sympathetic to the plight of nonhuman animals. If anything, the contrary is true and these actions have a most negative effect in terms of public perception. The problem is that we live in a world where virtually anyone who can afford to eat animal products does so. In such a world, there is no context in which violence can be interpreted in any way other than as negative. Most of the violent actions of animal advocates focus on vivisection. Although I maintain that vivisectors overstate the claim that vivisection is "necessary" to achieve certain benefits for humans, vivisectors certainly have a more plausible necessity claim than do those who eat animal products. So if we have not gotten a significant number of people to the point where they reject the completely unnecessary suffering of nonhumans used for flesh, dairy, or eggs, what hope is there that violence in the cause of an arguably more "necessary" activity is going to resonate? There is simply no social context in which violence against others can ever be interpreted as anything but negative.

In my view, the most "radical" thing anyone can do is to become vegan and to educate everyone who will listen about why they, too, ought to become vegans.

Claudette: You have spoken in this interview about the necessity for peaceful protests. Do you think symbolic demonstrations of dissent and playing up to the media through pranks can significantly shake up the system ?

**Gary Francione:** I certainly believe that peaceful protests and other symbolic demonstrations can serve to educate the public about the need to adopt the vegan lifestyle and to otherwise support the abolition of animal exploitation. If by media pranks you are referring to having naked women sitting in cages at the circus or going naked rather than wearing fur, no, I regard those antics as positively harmful. Unfortunately, the corporate movement has decided to try to eroticise issues of animal exploitation, and I disagree with that approach because it does nothing but continue our commodification of women. That is wrong in itself and will only lead to continued commodification of nonhumans. To put it another way, as long as we continue to treat women as though they were pieces of meat, we will treat nonhumans as nothing but meat. Sexism and speciesism are very closely linked. But I do think that there are intelligent, dignified, and effective ways of educating the public about issues. Although I am not in favor of billboards that advertise that animal products decrease sexual performance, I am in favor of billboards that provoke people to think about animal exploitation. For example, I would very much like to see a billboard that highlighted our moral schizophrenia when it comes to animals-something like, "What is the difference between the dog you love and the cow you eat? Think about it."

Claudette: It is almost ten years on since the publication of RWT. Has anything changed in your view that would change your original opinions voiced in Rain?

**Gary Francione:** No. If anything, I think that things have gotten worse. The corporate movement in the United States has collapsed entirely into a welfarist movement that is no more progressive than the welfarist movement that existed in 1950. All you need to do is to look at the most recent campaigns in which animal groups are joining forces with McDonalds and other fast-food restaurants to make raising and slaughtering nonhumans more "humane." I understand why the corporate movement supports those types of campaigns-everyone who eats at McDonalds can feel good about contributing to so-called "animal rights" groups because these groups claim that McDonalds is "leading the way"-and that's a direct quote from PETA-in the "humane" treatment of animals. In my judgment, these campaigns will provide a great benefit to the meat industry and very little if any benefit to nonhumans.

Claudette: The most common word I have heard about your work is that it is "divisive" for speaking out against the "names" of the movement. Yet ten years on your ideas have built a momentum among people who once thought you divisive. Would you care to take this opportunity to respond to your critics?

Gary Francione: The animal "movement"-at least in the United States-is not a political movement at all. It is a combination of big business and religious cult. The leaders of the large groups decide policies that will best serve the economic interests of the groups. For the most part, these policies are focused on moderate welfare reforms. These policies are then declared to be in the "best interests of animals," and anyone who disagrees is labeled as "divisive" and any criticism is characterised as "hurting the animals." There is no discussion encouraged or dissent allowed. Criticism and discussion are bad for "business," so the corporate movement encourages its members to believe-in a cult-like fashion-that any expression of disagreement will actually harm nonhumans. If we really care about the animals, we must go with the program and support whatever meaningless welfarist reform is being promoted. But this sort of behavior by the corporate movement should not surprise anyone. What would be surprising would be if it were not this way.

An interesting example of the cult-like aspect of the corporate movement is illustrated in revelations in June 2005 that PETA is "euthanising"-I think the right word is "killing"-thousands of animals that they are getting from shelters and from veterinarians and that could have been adopted. The fact that there is not a national outcry over this bizarre and morally reprehensible conduct speaks volumes about the lack of critical thought in the "movement."

You are correct, however, to say that my critique is getting a certain momentum. I think that many animal advocates are beginning to see through the corporate movement and to understand what is really going on. For the most part, these people are involved in activities on the grassroots level, such as vegan education, fostering, TNR (trap, neuter, release) work, and other efforts to help individual nonhumans and they do not have much to do with the corporate movement.

## Claudette: Should grassroots abolitionists ignore the corporate movement?

**Gary Francione:** Absolutely. National groups gain wealth and influence because they encourage individuals to depend on them, to believe that only the large groups can produce results. Over the years I have encountered many people doing wonderful work on a local level with limited resources and with no involvement with the national groups. Corporations concentrate power; we need local activism. So yes, we should just ignore the national groups. Let them promote welfarist reform. If more and more us become vegan, educate others about veganism, and engage in other activities at the local level, the national organisations will become increasingly irrelevant as we build an effective political base that will support sustained and meaningful change.

Claudette: Some people accuse you of being too pure in your outlook on the rights front, while others claim you are a speciesist. What do you think?

**Gary Francione:** There is nothing in my work that can be described as speciesist. There are some people who intentionally misrepresent my work but my writing speaks for itself and is clear in its complete rejection of speciesism. Indeed, the central thesis of my book, *Introduction to Animal Rights* is that we should extend equal consideration to any sentient being, and that equal consideration requires the abolition of animal exploitation. As far as my being an absolutist about animal rights and abolition, I confess my guilt.

Claudette: There is a disturbing theme running through the modern-day movement and it is a cynicism that rights is utopian but hardly anybody reflects on why so many campaigns launched under the banner of rights, but that are in essence welfarist, have failed. Care to comment?

**Gary Francione:** It is essential for the corporate movement to create a false dichotomy: we either pursue the animal welfare reforms that they promote, or we do nothing and let animals suffer while we hope and dream of a utopia in which no animals are harmed. If that were really the choice, then welfarist reform would be more attractive. The problem is not that we are limited to doing nothing or, for example, trying to get pigs out of tethering situations or make the battery cages a bit larger. As I discussed earlier, the rights position is not utopian or ideal at all in that it prescribes a clear and realistic program for incremental change starting with veganism on an individual level and a political movement with veganism as a baseline principle on a social level.

You are correct to point out that many of the welfarist campaigns promoted by the corporate movement are failures. This is true even when they are "successes." For example, the corporate movement rejoiced in 2004 when California passed a supposed "ban" of foie gras. But the foie gras industry supported the law, which does not even take effect until 2012 and has the effect of legalising the industry until at least that time and probably beyond. Similarly, the corporate movement claimed victory over the Chimpanzee Health Improvement, Maintenance, and Protection ("CHIMP") Act, passed in 2000 in the U.S. The Act supposedly establishes a "sanctuary" for chimpanzees that have been used in government experiments. There are a number of problems with the Act, the most significant being that "retired" chimpanzees can be used in further invasive research if a particular chimpanzee has a unique medical history or if invasive research will serve an important "public health need." And these are the "success" stories! Imagine the ones that they lose.

In any event, I am a pragmatist. I have been doing animal law for over 20 years now and I can tell you without hesitation that the welfarist "successes" of that time period have been absolutely meaningless, both in terms of shifting the property paradigm and in terms of reducing the suffering of animals now. Indeed, I think that the welfarist movement has actually made the public feel more comfortable about animal exploitation.

Claudette: Over the years there have been several animal law symposiums and conferences and your name was not listed as a key speaker. Is this because you are not invited to these events or do you just do not want to attend?

**Gary Francione:** Most of these conferences are concerned with animal welfare. They focus on topics such as "humane" slaughter and "husbandry" or the welfare of "laboratory" animals. Sometimes I am not invited to these events-and I understand why-and sometimes I am invited and I politely decline. I have nothing to say about such topics except that I disagree with that whole approach.

Claudette: What is the difference between your work and Steven Wise's?

**Gary Francione:** There are many differences. Wise believes that the legal system will be an effective force for change in the absence of a prior paradigm shift in favor of abolition in the society as a general matter. For the reasons that I discussed above, I disagree. Wise does not see veganism as the central issue; I do. Wise thinks that animals have to be like humans intellectually to matter. He keeps the traditional hierarchy that separates humans from nonhumans but he wants to move certain animals, such as the great apes, dolphins, and parrots, over into the "protected" side, based on their having minds that are similar to those of humans. As I argue in my book, Introduction to Animal Rights: Your Child or the Dog?, sentience is the only characteristic that should be required for personhood. A dog many not be able to recognise herself in a mirror and a chimpanzee may be able to do so, but I fail to see why that ability gives the chimpanzee a greater claim to personhood status. As far as I am concerned, if a being is sentient, that is all that is required for personhood status and for having a right not to be treated as a thing. Wise's position is just another example of creating a different hierarchy of humans and certain "special" nonhumans over all other nonhumans. I am interested in getting rid of the hierarchy notion in the first place.

Claudette: You were a contributor to The Great Ape Project.

Gary Francione: Yes. In 1993, I wrote an essay entitled *Personhood*, Property, and Legal Competence that was included in The Great Ape Project and I was one of the original signatories of the Declaration on the Rights of Great Apes. I was the first legal theorist to propose a theory of legal personhood for the great apes. But I was very careful in my 1993 essay to make the point that although the great apes were cognitively and genetically similar to humans, that similarity was sufficient for their being legal persons but was not necessary. That is, I argued that the only characteristic that is required for personhood is sentience, or the ability to feel pain. If a nonhuman can feel pain, then we have a moral obligation not to treat that nonhuman as property, or exclusively as a means to our ends. If a sentient being has other interests, then we ought to accord equal consideration to those interests as well, but the basic right not to be treated as the resource of others should not be connected to any characteristic other than sentience. To put the matter another way: just because a cow does not have the same cognitive characteristics as does a chimpanzee means that it is OK to eat cow any more than the fact that the cow may have different characteristics from a fish means that it is OK to eat the fish. You have people like Jane Goodall arguing that we ought to encourage people in Africa to eat goats and not chimpanzees. I disagree with that approach. I will talk more about the relevance of sentience and the irrelevance of other cognitive characteristics when we discuss my theory of animal rights in the next interview.

### Claudette: What projects are you currently working on?

**Gary Francione:** I am working on a book that will be out in 2006 that will collect some of my previously published essays on animal rights and animal welfare, and I am working on several essays for journals.

I have been teaching animal rights now for over 20 years, and this coming fall, Anna Charlton, who has taught the animal rights course with me for over a decade now, and I will teach a new course called "The Rights of Humans and Other Animals" at Rutgers. We will focus on the connections between racism, sexism, homophobia, and speciesism. We are really looking forward to this course.

I am very excited about a website project that I am working on in which I am going to have interactive presentations of issues including animal rights, the differences between animal rights and animal welfare, the status of animals as property, and animal law. My goal is to present legal and philosophical material in an accessible way and to make it widely available. As soon as it's up and running, I will let you have the URL and other information.

And the best of luck on *The Abolitionist*. To say that we need more abolitionist forums would be the understatement of the millennium.

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