The Animal Rights Debate: Abolition or Regulation?

Gary L. Francione and Robert Garner
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limited protection for animals and does not reduce animal suffering in any significant way. Moreover, there is absolutely no empirical evidence that welfare regulation will, as some claim, lead to either the reduction or the abolition of animal use. The animal welfare approach does, however, make the public feel more comfortable about animal exploitation; indeed, that is an explicit goal of many large animal advocacy organizations. The animal welfare approach has also resulted in the creation of a disturbing partnership between animal advocates and institutionalized exploiters.

In the third section, I respond to claims made by welfarists that the animal rights position is unrealistic because it rejects the notion of incremental change to reduce animal exploitation and does not provide any practical guidance for what we should do now to help animals. I argue that the animal rights position does offer a plan for practical incremental change that has ethical veganism, or the rejection on moral grounds of the consumption of animals as food and for other uses, as its foundation. The abolition of animal exploitation necessarily requires a paradigm shift away from the status of animals as property and to the position that animals are moral persons. Personhood is inconsistent with the property status of animals and with any animal use, however “humane.” Ethical veganism is itself a recognition of the moral personhood of animals.


Many animal advocates maintain that any rights/welfare debate is beside the point because these approaches are not inherently opposed, and a social movement concerned about animal ethics can accommodate both, simultaneously promoting both animal rights and animal welfare. That is, these advocates maintain that there is nothing confused or inconsistent in arguing that we should support abolishing or at least significantly reducing animal use but that we should also support reforms that supposedly make animal use more “humane.” For example, Professor Robert Garner argues that animal welfare regulation can serve as a means to the end of the abolition of animal use or at least to a significant reduction of animal use and animal suffering. I have previously described Garner’s position, which is embraced by many, if not most, of the large animal protection organizations, as the “new welfarist” position because it purports to combine the rights and welfare positions into a theoretically and practically consistent package.

The problem is that the welfarist and rights positions are in fundamental and irreconcilable tension both as a theoretical and a practical matter. The welfarist approach—however it is packaged or presented—regards the lives of animals as having less moral value than the lives of humans. The defining feature of the rights position as I defend it involves a rejection of the notion that animal life has a lesser value than human life. My position maintains that all sentient beings—human or nonhuman—are equal for the purpose of not being treated as resources, just as an intellectually gifted human and a mentally disabled human are equal for the purpose of not being used as a forced organ donor or as a non-consenting subject in a painful biomedical experiment.

This difference between the welfarist position and the rights/abolitionist position has important practical implications. The welfarist position maintains that it is acceptable for humans to use animals for at least some purposes for which we would never consider it acceptable to use any humans, as long as we treat animals “humanely” and do not impose “unnecessary” suffering on them. This position is implied logically by the view that animal life is of lesser moral value than human life. There are certainly differences between and among welfarists in that some are more progressive than others in what they view as “humane” treatment. But all welfarists share in common the belief that animal use and suffering
incidental to our using animals as our resources can be morally justified because animals matter less morally than humans.

In the first part of this section, I discuss the view present in welfare theory since its emergence in the nineteenth century, that nonhumans have a lesser moral value than do humans. I then discuss the rejection of this view by rights/abolitionist theory and the defense of the moral equality of human and nonhuman life.

**Animal Welfare**

Before the nineteenth century, animals were regarded as things.\(^6\) Neither our use nor our treatment of animals mattered morally or legally. There were some who, like French philosopher René Descartes, claimed that animals were literally nothing more than machines created by God. Descartes denied that animals were sentient; that is, he did not believe as a factual matter that animals were perceptually aware and able to have conscious experiences, including the experience of pain. For the most part, however, it was accepted that animals were sentient and had an interest in avoiding pain and suffering but that we could ignore animal interests and treat animals as if they were machines because they were different from humans in that they were supposedly not rational or self-aware, not able to think in terms of abstract concepts or use symbolic communication, incapable of engaging in reciprocal moral relationships with humans, or not in possession of a soul. However, regardless of whether humans regarded nonhumans as machines that were not sentient and had no interests, or as sentient and with interests that could be ignored because of supposed cognitive or spiritual defects, the bottom line remained the same: we could not have moral or legal obligations that we owed directly to animals. We could have obligations that concerned animals, such as an obligation not to damage our neighbor's cow, but that obligation was owed to the neighbor as the owner of the cow, not to the cow. The cow simply did not matter morally or legally.

In the nineteenth century, an ostensible paradigm shift occurred, and the animal welfare theory was born.\(^9\) Two primary architects of this theory were utilitarian philosophers Jeremy Bentham and John Stuart Mill. Utilitarianism is the moral theory that what is right or wrong depends on consequences; the right act or policy is that which will result in the most pleasure or happiness of all affected. In assessing consequences, we must be impartial and give equal consideration to everyone's happiness or pleasure without regard to race, sex, sexual orientation, intellectual or physical abilities, and so on. Utilitarians reject the notion of moral rights because, as we see as this discussion continues, rights protect the right holder even if the balance of consequences does not favor that protection.

Bentham and Mill maintained that the requirement of impartial consideration entailed ignoring the species of a being as a determinant of moral significance just as it required ignoring race. They argued that even if animals were not rational or self-aware or otherwise did not have minds that were similar to those of humans, these cognitive differences were irrelevant to the moral significance of animal suffering. For example, Bentham argued that although a full-grown horse or dog is more rational and more able to communicate than a human infant, "the question is not, Can they reason? nor, Can they talk? but, Can they suffer?"\(^10\) Humans and nonhumans may be different in many respects, but they are relevantly similar in that they are both sentient; they are perceptually aware and able to experience pain and pleasure.

Both Bentham and Mill were opposed to the race-based slavery that existed at the time on the ground that it violated the principle of impartiality or equal consideration by according greater weight to the pleasure or happiness of the white slave owners than to that of the black slaves. They were staunch advocates of the abolition
of human slavery. They saw a similarity between slavery and animal exploitation in that both slaves and animals were treated as things; that is, they were excluded completely from the moral community and were “abandoned without redress to the caprice” of their respective tormentors. Just as race did not justify our ignoring the principle of impartiality and according greater weight to the happiness of whites than to that of blacks, species did not justify our ignoring the suffering of animals.

Did this mean that Bentham and Mill advocated the abolition of animal use just as they advocated the abolition of human slavery? No, they did not. The fact that animals were supposedly not rational and otherwise had minds that were dissimilar to those of humans did not give humans a license to do whatever they wanted with animals, but it did mean that it was morally acceptable to use and kill them for human purposes as long as we treated them well. According to Bentham, animals live in the present and are not aware of what they lose when we take their lives. If we kill and cat them, “we are the better for it, and they are never the worse. They have none of those long-protracted anticipations of future misery which we have.” Bentham also maintained that we actually do animals a favor by killing them, as long as we do so in a relatively painless manner: “The death they suffer in our hands commonly is, and always may be, a speedier, and by that means a less painful one, than that which would await them in the inevitable course of nature...[W]e should be the worse for their living, and they are never the worse for being dead.” If, as Bentham apparently maintained, animals do not as a factual matter have an interest in continuing to live, and death is not a harm for them, then our killing of animals would not per se raise a moral problem as long as we treated and killed animals “humanely.”

Moreover Bentham and Mill opposed human slavery not only because it abrogated the liberty of humans who, unlike animals, had an interest in their lives, but also because the pain and suffering caused to the slaves outweighed any pleasure or happiness that slave owners derived from the practice. The same analysis did not hold for animals. It was, according to the welfarists, possible to minimize animal pain and suffering so that our pleasure would outweigh their pain. Mill argued that in balancing human and animal interests, it was important to keep in mind that humans had supposedly superior mental faculties so that they had a higher quality of pleasure and happiness; human interests had a greater weight in any balancing. For example, he maintained that in calculating pleasure and pain as part of any weighing process, we must take into account that humans “have faculties more elevated than the animal appetites,” and he expressed agreement with those ethical views that assign “to the pleasures of the intellect, of the feelings and imagination, and of the moral sentiments, a much higher value as pleasures than to those of mere sensation.” According to Mill, “[a] being of higher faculties requires more to make him happy, is capable probably of more acute suffering, and is certainly accessible to it at more points, than one of an inferior type...he can never really wish to sink into what he feels to be a lower grade of existence.” Animals lack a “sense of dignity, which all human beings possess in one form or other.” Moreover, humans have “a more developed intelligence, which gives a wider range to the whole of their sentiments, whether self-regarding or sympathetic.”

As a result, “[i]t is better to be a human being dissatisfied than a pig satisfied.”

So although the early utilitarians responsible for the emergence of the animal welfare approach maintained that the principle of impartiality required that we give serious consideration to animal interests when assessing the consequences of actions, they believed that animals did not have an interest in continuing to live and that their interests in not suffering had lesser value than
competing human interests. Because animals did not have an interest in continuing to exist, and because they supposedly had inferior sentient experiences, it was acceptable for humans to treat animals as property and to use and kill them for human purposes as long as humans treated animals “humanely” and did not impose “unnecessary” suffering on them. Bentham and Mill favored legislation aimed at preventing the “cruel” treatment of animals, and the anticruelty laws and other animal welfare laws that presently exist in Britain, the United States, and most other Western countries can be traced directly to the utilitarian philosophers of nineteenth-century Britain. But it is clear that the historical basis of the animal welfare approach is that animals have a lesser moral value than humans.

This notion about the supposed moral inferiority of nonhumans is also represented in contemporary animal welfare theory, the leading figure of which is Peter Singer. Singer is also a utilitarian and maintains that the morally correct action is that which will maximize the satisfaction of preferences (as distinguished from happiness or pleasure) of those affected, including nonhuman animals. But like Bentham and Mill, Singer very clearly regards animal life as having less value than human life. For instance, like Bentham, he maintains the following position:

While self-awareness, the capacity to think ahead and have hopes and aspirations for the future, the capacity for meaningful relations with others and so on are not relevant to the question of inflicting pain . . . these capacities are relevant to the question of taking life. It is not arbitrary to hold that the life of a self-aware being, capable of abstract thought, of planning for the future, of complex acts of communication, and so on, is more valuable than the life of a being without these capacities.

Singer also states,

An animal may struggle against a threat to its life, even if it cannot grasp that it has “a life” in the sense that requires an understanding of what it is to exist over a period of time. But in the absence of some form of mental continuity it is not easy to explain why the loss to the animal killed is not, from an impartial point of view, made good by the creation of a new animal who will lead an equally pleasant life.

That is, Singer, like Bentham, argues that because animals do not know what it is they lose when we kill them, they do not have any interest in continuing to live and, therefore, death is not a harm to them. They do not care that we use and kill them for our purposes. They care only about not suffering as a result of our using and killing them. Singer describes himself as a “flexible vegan” who will eat animal products when he travels, visits the home of others, or is in the company of people who would find his insistence on not eating animal products to be annoying or disconcerting, and he argues that as long as we take seriously the interests of animals in not suffering, our use of them may be ethically defensible:

If it is the infliction of suffering that we are concerned about, rather than killing, then I can also imagine a world in which people mostly eat plant foods, but occasionally treat themselves to the luxury of free range eggs, or possibly even meat from animals who live good lives under conditions natural for their species, and are then humanely killed on the farm.

Singer maintains that similar human and nonhuman interests in not suffering ought to be treated in a similar fashion, as required by the principle of impartiality, or, as Singer refers to it, the principle of equal consideration. He claims that because humans have “superior mental powers,” they will in some cases suffer more than animals and in some cases suffer less, but he acknowledges that
making interspecies comparisons is difficult at best and perhaps even impossible. That is, although Singer does not adopt Mill's more categorical position that the pleasures of the human intellect are almost always to be given greater weight, Singer's view about the relationship between "superior" human cognition and assessments of suffering comes very close and undercuts the ability to make impartial assessments of competing interests, virtually guaranteeing that human interests will always prevail.

Moreover, as a utilitarian, Singer is committed to permitting animal use at least in some circumstances. For example, if humans derive great satisfaction from eating animal flesh and animal products, and we were able to produce these with a minimal amount of pain and suffering, then he would be committed to the position that the institution of animal use would be morally acceptable, particularly if death is not a harm for animals. Indeed, given that utilitarians regard happiness, pleasure, the satisfaction of interests, and so on as good, and given that humans obviously enjoy animal use, it would seem that if we could provide a reasonably pleasant life and a relatively painless death for animals, we would be morally obligated to bring into existence as many animals as we could, kill them as quickly as we could, bring more into existence and kill them, and so forth, so that we could maximize the total amount of happiness, pleasure, or preference satisfaction in the world. In any event, like Bentham and Mill, Singer does not object to the use of animals, he does not advocate the abolition of the property status of animals, and he is a strong supporter of reforming and improving animal welfare through laws and voluntary modifications of industry practices.

Singer's view that nonhuman animals do not have an interest in their lives because they are not self-aware leads him to distinguish among species of nonhumans and to treat as special or privileged those animals who are closer to humans because they are at least arguably self-aware in a way relevantly similar to humans. Singer coedited The Great Ape Project: Equality Beyond Humanity, which proposed that the nonhuman great apes "have mental capacities and an emotional life sufficient to justify inclusion within the community of equals." Because these nonhuman animals are genetically and cognitively similar to human animals, Singer argues that they deserve greater legal protection than other nonhumans, who, along with Bentham and others, believes live in "a kind of eternal present."28

Finally, the position that animal life is of lesser value than human life is one that permeates the welfare position as it has been developed by utilitarian philosophers, such as Bentham, Mill, and Singer. But this position also surfaces in the work of rights theorist Tom Regan. Regan rejects both utilitarian moral theory and the theory of animal welfare. He maintains that we have no moral justification for treating at least adult mammals exclusively as means to the ends of humans, so he does not rely on the lesser moral value of nonhumans to justify animal use as did Bentham and Mill and as does Singer. Regan does, however, argue that in a situation in which there is a conflict, such as a situation in which we are in a lifeboat and must choose whether to save a dog or a human, we should choose to save the life of the human over the dog because death is a greater harm for the former than for the latter. According to Regan, "the harm that death is, is a function of the opportunities for satisfaction it forecloses," and death for an animal, "though a harm, is not comparable to the harm that death would be" for humans.29

In sum, although the welltarians, who are utilitarians, maintain that what is right or wrong is dependent on consequences and that in assessing consequences we should equally favor the equivalent interests of nonhuman animals, they believe it is permissible to use animals as resources for humans either because animals do not have an interest in their lives or because their interests generally are of lesser weight relative to those of cognitively superior humans. In other words, nonhuman animals, unlike at least normal adult
humans, do not have an interest in not being used as resources; as long as they have a reasonably pleasant life and a relatively painless death, we may continue to own and use them. We should, however, endeavor to do so in the most "human" way possible.

The welfarists are committed to the position that animal life is of lesser moral value than human life. The welfarists talk about the "luxury" of eating meat and animal products and about "flexible" use of nonhuman animals in situations in which we would never use humans. Given that welfarists do not talk about the "luxury" of killing humans or about being "flexible" when it comes to practices that involve the intentional killing of humans, they must maintain that there are morally relevant differences between humans and nonhumans that make the use of animals by humans morally justified. If they deny that there is a moral difference between human and animal life, then their support for animal use, however "human," is nothing more than outright discrimination based only on species.

Animal Rights

The welfarist position rests on the notion that there is a qualitative distinction between the minds of humans and nonhumans and that this qualitative distinction means both that nonhumans do not have an interest in their lives and that there is a morally relevant distinction between the sentient experiences of humans and other animals. As a preliminary matter, this notion ostensibly conflicts with the theory of evolution, which, at least according to Darwin, maintains that the differences between humans and other animals is a matter of degree and not of kind. On an almost daily basis, an article shows up, sometimes in a popular magazine or newspaper and sometimes in a respected scientific journal, about how animal minds are really like human minds. We can, however, concede for purposes of argument that given that humans are, at least as far as we know, the only animals who use symbolic communication and whose conceptual structures are inextricably linked to language, it is most probably the case that there are significant differences between the minds of humans and the minds of nonhumans. But the rights/abolitionist response to any such observation is, "So what?"

The rights/abolitionist position rejects the notion that any differences that may exist between human and animal minds mean that animals have no interest in continuing to exist or that the sentient experiences of nonhumans have a lesser weight than those of humans. It applies the notion of equal consideration to animal use and not merely to animal treatment and maintains that we cannot justify using nonhumans as human resources, irrespective of whether we treat animals "humanely" in the process. It is not necessary to come to any conclusion about the precise nature of animal minds or to be able to assess the welfarist view that death itself does not harm nonhuman animals because, unlike humans, they live in what Singer describes as an "eternal present." The only cognitive characteristic that is required is that nonhumans be sentient—that is, that they be perceptually aware. Sentience is necessary to have interests at all. If a being is not sentient, then the being may be alive, but there is nothing that the being prefers, wants, or desires. There may, of course, be uncertainty as to whether sentience exists in a particular case, or with respect to classes of beings, such as insects or mollusks. But the animals we most routinely exploit—the cows, chickens, pigs, ducks, lambs, fish, rats, and so on—are all, without question, sentient.

To say that a sentient being—any sentient being—is not harmed by death is decidedly odd. After all, sentience is not a characteristic that has evolved to serve as an end in itself. Rather, it is a trait that allows the beings who have it to identify situations that are harmful and that threaten survival. Sentience is a means to the end of continued existence. Sentient beings, by virtue of their being sentient, have an interest in remaining alive; that is, they prefer, want, or desire to remain alive. Therefore, to say that a sentient being is
not harmed by death denies that the being has the very interest that sentience serves to perpetuate. It would be analogous to saying that a being with eyes does not have an interest in continuing to see or is not harmed by being made blind. The Jains of India expressed it well long ago: “All beings are fond of life, like pleasure, hate pain, shun destruction, like life, long to live. To all life is dear.”

Singer recognizes that “an animal may struggle against a threat to its life,” but he concludes that this does not mean that the animal has the mental continuity required for a sense of self. This position begs the question, however, in that it assumes that the only way that an animal can be self-aware is to have the sort of autobiographical sense of self that we associate with normal adult humans. That is certainly one way of being self-aware, but it is not the only way. As biologist Donald Griffin, one of the most important cognitive ethologists of the twentieth century, notes, if animals are conscious of anything, “the animal’s own body and its own actions must fall within the scope of its perceptual consciousness.” We nevertheless deny animals self-awareness because we maintain that they cannot “think such thoughts as ‘I am running, or climbing this tree, or chasing that moth.’”

Griffin maintains that “when an animal consciously perceives the running, climbing, or moth-chasing of another animal, it must also be aware of who is doing these things. And if the animal is perceptually conscious of its own body, it is difficult to rule out similar recognition that it, itself, is doing the running, climbing, or chasing.” He concludes that “[i]f animals are capable of perceptual awareness, denying them some level of self-awareness would seem to be an arbitrary and unjustified restriction.” It would seem that any sentient being must be self-aware in that to be sentient means to be the sort of being who recognizes that it is that being, and not some other, who is experiencing pain or distress. When a sentient being is in pain, that being necessarily recognizes that it is she who is in pain; there is someone who is conscious of being in pain and who has a preference, desire, or want not to have that experience.

We can see the arbitrary nature of the welfarist assumption if we consider humans who have a condition known as transient global amnesia, which occurs as a result of a stroke, a seizure, or brain damage. Those with transient global amnesia often have no memory of the past and no ability to project themselves into the future. These humans have “a sense of self about one moment—now—and about one place—here.” Their sense of self-awareness may be different from that of a normal adult, but it would not be accurate to say that they are not self-aware or that they are indiff erent to death. We may not want to appoint such a person as a teacher or allow her to perform surgery on others, but at least most of us would be horrified at the suggestion that it is acceptable to use such people as forced organ donors or as non-consenting subjects in biomedical experiments, even if we did so “humanely.” Even if animals live in a similar “eternal present,” that does not mean that they are not self-aware, that they have no interest in continued existence, or that death is not a harm for them. A similar analysis holds for what Singer identifies as “any other capacity that could reasonably be said to give value to life.” Some humans will not have the capacity at all, some will have it less than other humans, and some will have it less than other nonhumans. This deficiency or difference may be relevant for some purposes, but it does not allow us to conclude that a human lacking the capacities that Singer identifies as giving value to life does not have an interest in continuing to live or that death is not a harm for her.

Moreover, to the extent that we, like Regan, regard death as a harm for animals, but as a lesser harm because animals have fewer “opportunities for satisfaction,” we also beg the question in favor of our own species. There is much about life that I enjoy, and I derive many satisfactions from life. But I cannot with any confidence say that I have more opportunities for satisfaction than does one of the...
rescued dogs who share our home, any more than I could say with any confidence that I derive more satisfaction from life than does another human.

Also arbitrary is the welfarist notion that humans have "superior mental powers" and that in assessing animal pain, or in trying to determine whether human pleasure or the avoidance of human pain justifies imposing pain and suffering on animals, we should keep in mind Mill's notion that "[i]t is better to be a human being dissatisfied than a pig satisfied." What, apart from self-interested proclamation, makes human characteristics "superior" or allows us to conclude that we experience more intense pleasure when we are happy than a pig does when she is happily rooting in the mud or playing with other pigs? Just as in the case about the harm of death, such an analysis works only if we assume what we are setting out to prove. The analysis works only if we commit the logical fallacy of begging the question.

The problem with the welfarist approach becomes clear if we restrict our analysis to human beings. Assume we have two humans: a philosophy professor and a factory worker who has no higher education and has no interest in having any discussions that would be regarded by the philosopher as intellectually stimulating. If we were to say that it is better to be a philosophy professor dissatisfied than a factory worker satisfied, such an assertion would, quite rightly, be viewed as arbitrary and elitist. Although there is certainly a tradition in Western thought that assigns a higher value to intellectual pursuits than to other sorts of activities, that tradition was shaped almost exclusively by academics and others who valued intellectual pursuits and was not the result of any democratic or impartial assessment of competing pleasures. The notion that nonhuman animals have pains and pleasures that are different from and lesser than those of humans is no different from asserting that the pleasures and pains of a less intelligent or less educated human are inferior to those of a more intelligent or better educated one.

To the extent that humans and nonhumans have different sorts of minds, those differences may be relevant for some purposes, just as differences between and among humans may be relevant for some purposes. Mary's greater ability at math may justify our giving her a scholarship over Joe, who lacks ability at math. The rescued dogs who live with my partner and me very much like to sit with us when we watch movies, but we do not consider their likes and dislikes in movies when we go to the video store because, at least as far as we can tell, they do not have any. So there are relevant differences between the minds of humans and the minds of nonhumans. Any differences, however, are not logically relevant to, for instance, whether we use dogs in painful experiments or kill them for other purposes, just as Joe's inability to do math is not relevant to whether we should take his kidney to save Mary or use him in an experiment to obtain data that may benefit Mary. We cannot claim that humans are superior based on their having more interests, or more intense interests, than nonhumans without begging the question and engaging in reasoning that, if applied in the human context, would quite rightly be seen as blatantly arbitrary and elitist.

The rights position, as I have developed it, rejects the notion that some nonhumans, such as the nonhuman great apes, are more deserving of moral status or legal protection than other animals because they are more like humans. The fact that an animal is more like us may be relevant to determining what other sorts of interests the animal has, but with respect to the animal's interest in her life and the harm that death constitutes to her, or her interest in not being made to experience pain and suffering, her being similar to humans is not relevant at all.

To be clear: if a being is sentient—that is, if she is perceptually aware—she has an interest in continuing to live, and death is a
harm to her. It is not necessary to have the autobiographical sense of self that we associate with normal adult humans. Moreover, we cannot say that her interests in her life or the quality of her pain or pleasure are of lesser moral value because her cognitions are not the same as those of normal adult humans. The fact that the minds of humans differ from nonhumans does not mean that the life of a human has greater moral value any more than it means that the life of a human who has normal mental capacities has greater moral value than the life of a mentally disabled person or that the life of an intelligent person has greater moral value than the life of a less intelligent one. Although the differences between humans and animals may be important for some purposes, they are completely irrelevant to the morality of using and killing animals, even if we do so "humanely."

As we saw earlier, the welfarist tradition does not challenge the property status of animals. Welfarists propose regulation that they maintain will raise the price of animal products and thereby reduce consumption (a matter that is addressed in the following section), but, for the most part, they do not propose the abolition of the institution of animal property. The rights position advocates that animals should have the right not to be treated as the resources of humans.

We should be clear here about the meaning of "right." A right is merely a way of protecting an interest; the interest is protected even if the general welfare would be increased or improved if we ignored that interest. To explain what a right is in these terms should make clear why utilitarians reject rights. As we saw previously, utilitarians are consequentialists; what is right or wrong depends on consequences. To say that an interest is protected by a right means that we must protect that interest even if the consequences would weigh against that protection. For example, to say that I have a right to my life is to say that my interest in continuing to live is protected even if using me in a painful biomedical experiment that would result in my death might lead to a cure for cancer. Many utilitarians would have no problem with using humans in biomedical experiments if it were reasonably certain that good consequences would ensue. Most rights theorists would have a problem with such use.

To say that a right protects an interest from being sacrificed for consequential reasons is not to say that the interest is protected absolutely. For example, to say that I have a right to liberty does not mean that I cannot forfeit my interest in liberty by being found guilty of committing a crime. It means only that my interest in liberty will be protected even if others would benefit from my imprisonment.

There is a great deal of controversy about what human interests ought to be protected by rights, particularly legal rights, which involve an interest being protected by the power of the state. But there is general agreement that humans have an interest in not being treated exclusively as the resources of another and that this interest ought to be protected by a basic, pre-legal right not to be treated as a slave. We certainly do not treat everyone equally—for instance, we often pay more money to people who are considered more conventionally intelligent or who are better baseball players. But for purposes of treating humans exclusively as the resources of others, as far as human slavery is concerned, we regard all humans, irrespective of their individual characteristics, as having equal inherent value. That is, we regard all humans as having a moral value that, though not necessarily requiring that we treat them all equally for all purposes, does require that we treat them equally with respect to their interest in not being treated exclusively as the resource of others. We protect this interest with a right in that we do not regard it as morally justifiable to enslave humans or use them as forced organ donors even if to do so would increase overall social welfare. Slavery involves letting another, the slave owner, decide the value of the fundamental interests of the slave, including her interests in life, liberty, and not suffering various forms of
pain and deprivation. Not being a chattel slave is a prerequisite to having other rights. The laws of every nation, as well as the norms of customary international law, prohibit slavery. This is not to say that chattel slavery does not still exist—it most certainly does—but no one defends it, and it is universally condemned. If animals matter morally, then we must apply the principle of equal consideration—the moral rule that we treat similar cases similarly—and ask whether there is a good reason not to accord the right not to be treated as property to nonhumans as well. Is there a justification for using animals in ways that we would consider inappropriate ever to use any humans?

The answer is clear. There is no rational justification for our continuing to deny this one right to sentient nonhumans, however “humanely” we treat them. As long as animals are property, they can never be members of the moral community. The interests of animal property will always count for less than the interests of animal owners. We can fall back on religious superstition and claim that animal use is justified because animals do not have souls, are not created in God’s image, or are otherwise inferior spiritually. Alternatively, we can claim that our use of animals is acceptable because we are human and they are not, which is nothing more than speciﬁcism and is no different from saying that it is acceptable for whites to discriminate against blacks because of differences in skin color or for men to exploit women because of differences in gender.

The animal rights position does not mean releasing domesticated nonhumans to run wild in the street. If we took animals seriously and recognized our obligation not to treat them as things, we would stop producing and facilitating the production of domestic animals altogether. We would care for the ones whom we have here now, but we would stop breeding more for human consumption, and we would leave non-domesticated animals alone. We would stop eating, wearing, or using animal products, and we would regard veganism as a clear and unequivocal moral baseline.

If we stopped producing domesticated animals, we would avoid the overwhelming number of conﬂicts that so trouble those who advance the animal welfare position. To put the matter simply, if we did not keep bringing domesticated animals into existence for our use, we would not have to worry about how we treat them and whether our standards are “humane.” There is no real conﬂict between a human who wants to eat a steak or drink a glass of milk and the cow who must be exploited to produce these products. There is a conﬂict only because we assume that the cow is there to be used as a resource. The cow is property, and there is a conﬂict between the property owner and the property sought to be exploited. Once we see that we cannot morally justify using animals—however “humanely”—then these conﬂicts disappear. Even if the use of animals in biomedical research beneﬁts humans—and this is highly questionable at best—there is no more a conﬂict between humans who would receive the beneﬁt and the animals whose use would provide any beneﬁt than there is a conﬂict between humans who would beneﬁt from the use of other humans as non-consenting subjects in experiments or as forced organ donors and those humans who would be used. The existence of the conﬂict between the humans and nonhumans in this context begs the question about the moral justiﬁcation of animal use in the ﬁrst place.

But what about the situation in which there is a genuine conﬂict? What do we do in the unlikely situation in which we are passing by the burning house that contains a human and a nonhuman, and there is time to save only one? If we would save the human over the nonhuman, does that not mean that we think that animals have less moral value? It would depend on the reason for the choice. If we thought that death was a lesser harm to the animal because humans are “superior,” then that decision would certainly reﬂect a judgment about relative moral value. If, however, we chose to save the human not because we thought that death was a lesser harm to the animal but because, as humans, we have a greater
understanding of the meaning and consequences of death for our own species than we do for other species in terms of disruption of other relationships and so on, this would reflect our own limitations of knowledge and not reflect any judgment about the moral value of the animal.

There are all sorts of situations in which we prefer the interest of one human over another, and this does not necessarily mean that we are making a negative judgment about the moral value of humans whose interests are not favored in these situations. Assume I pass by the burning house and see two humans therein—a very young person and a very old person—and I have time to save only one. I decide to save the young person because she has not yet lived her life, and the old person appears to be very near the end of hers. Does that mean that I regard older people to be of less moral value or that I can use them for experiments or as forced organ donors? Of course not. In any event, these hypotheticals are of little use because they invariably involve situations in which we will feel that we have failed morally no matter what we do; they are poor places in which to formulate moral principles that go beyond the actual situation.

**Conclusion**

There is a fundamental theoretical difference between the rights/abolitionist position and the welfare/regulationist position. The latter maintains that animal life matters less morally than human life and that it is acceptable to use nonhumans for human purposes, under at least some circumstances, as long as we treat animals "humanely." Death is not a harm for nonhumans. Animals do not care that we kill and eat them or use them for other purposes. They just care about how we treat them and how we kill them.

The rights position as I propose it maintains that death is a harm for any sentient being and that we cannot make meaningful distinctions between the quality of sentient experiences between humans and nonhumans that would justify imposing any pain and suffering on nonhumans incidental to our use of them as our resources, any more than we can make such distinctions between or among humans for the purpose of justifying slavery or otherwise treating humans exclusively as resources.

**Animal Welfare Does Not Work**

Animal advocates often claim that even if there is a theoretical difference between the rights and welfare positions, any such difference is without practical import. These advocates claim that the animal rights/abolitionist position is "utopian" and does not provide any practical normative guidance that we can pursue now to help animals and that we need to do something practical to address the enormous animal suffering that presently exists. That "something practical" is animal welfare regulation that, despite any limitations, still offers what Robert Garner claims is "a great deal of scope for reform." Proponents of welfare regulation claim three benefits. First, they argue that welfare reform will reduce animal suffering immediately by making exploitation more "humane." Second, welfare reform will reduce demand immediately by increasing production costs and making animal products more expensive. Third, welfare reform will help to raise consciousness about animal exploitation, and this will, in the future and gradually, lead us to stop exploiting animals altogether or at least will gradually lead to significantly reduced animal exploitation.

In the section following this one, we see that the rights/abolitionist position does, contrary to the claim just described, provide both practical normative guidance for the present and a strategy for the future. In this section, we see that the underlying assumption of the position that welfare reform is the only, the best, or even a desirable
strategy for animal advocates to pursue now is wrong. Putting aside matters of moral theory, as a practical matter, animal welfare regulation simply does not work.

Animals are property; they are treated as economic commodities with only extrinsic or conditional value. To the extent that we protect animal interests, we do so only when it provides a benefit—usually an economic benefit—for humans. As a result, the protection of animal interests is, for the most part, very limited. Regulation does not decrease animal suffering in any significant way, and it does not decrease demand by making animal exploitation more expensive. On the contrary, welfare reform generally increases production efficiency so that it actually becomes cheaper to produce animal products. To the extent that a welfare regulation imposes any cost on animal production, that added cost is not significant.

Moreover, welfare reform makes the public feel more comfortable about using animal products and makes curious bedfellows out of institutional exploiters and animal advocates. When an industry agrees to the reform, which is generally in its economic interest anyway, animal advocates praise the industry, allowing it to represent to the public that it cares about animal interests. Animal advocates can then use the "victory" against industry for fundraising purposes. And there is absolutely no evidence—none whatsoever—that animal welfare reform will lead to abolition or to significantly decreased animal use in the future.

Welfarists maintain that animal advocates should support welfare reforms because it is better to inflict less suffering on animals than more suffering. Putting aside the factual matter of whether welfarist reform actually does reduce animal suffering or may actually increase overall suffering and death by making the public more comfortable about supposed "humane" animal treatment, this argument is flawed. It is, for instance, better in one sense to torture someone for one hour rather than two hours; it is better not to beat a victim in addition to raping her or him. But that does not mean that we should campaign for more "humane" torture or more "humane" rape or give awards to perpetrators who inflict unjustified harm in more "humane" ways. We certainly do not do so where issues of human rights are involved. So even if welfare reforms were effective—and I argue that they are not—the promotion of welfarist campaigns necessarily assumes the notion discussed in the preceding section: that nonhuman animals have a lesser moral value than human animals.

**Animals as Property and the Economics of Welfare Regulation**

It is imperative to understand that animals are property. They are economic commodities; they have a market value. Animal property is, of course, different from the other things that we own in that animals, unlike cars, computers, machinery, or other commodities, are sentient and have interests. All sentient beings have interests in not suffering pain or other deprivations and in satisfying those interests that are peculiar to their species. It costs money to protect animal interests. As a general matter, we spend money to protect animal interests only when it is justified as an economic matter—only when we derive an economic benefit from doing so. For example, the Humane Slaughter Act in the United States, enacted originally in 1958, requires that larger animals slaughtered for food be stunned and not be conscious when they are shackled, hoisted, and taken to the killing floor. This law protects the interests that animals have at the moment of slaughter but does so only because it is economically beneficial for producers and consumers. Large animals who are conscious and hanging upside down and thrashing as they are slaughtered will cause injuries to slaughterhouse workers and will incur expensive carcass damage. Therefore, stunning large animals makes good economic sense. Of course, these animals have many other interests throughout their
lives, including an interest in avoiding pain and suffering at times other than at the moment of slaughter, and these other interests are not protected because it is not economically effective to do so. Moreover, the Humane Slaughter Act has not been interpreted to apply to smaller animals, including birds, who account for about 95 percent of the animals slaughtered for food in the United States. The reason for this exclusion is that given the number of birds slaughtered, and their relatively smaller size and lesser value, it has not been considered economically efficient to protect the interests of chickens in the same way as the interests of cows. But as we see later in this chapter, welfarists are campaigning for more "humane" poultry slaughter on the basis that recent studies in agricultural economics indicate that the proposed reforms would be economically beneficial to the producers of animal products.

There are laws that require that we treat animals "humanely" and that we not inflict "unnecessary" suffering on them. These laws, however, do not prohibit uses that are unnecessary; they supposedly prohibit only treatment that is not necessary to achieve a given use. For example, as I mentioned at the outset, we kill and eat approximately 56 billion land animals every year. No one maintains that it is necessary to eat animals to lead an optimally healthy lifestyle, and an increasing number of mainstream health care professionals tell us that animal foods are detrimental to human health. Animal agriculture is a disaster for the environment because it involves a very inefficient use of natural resources and creates water pollution, soil erosion, and greenhouse gases. The only justification that we have for the pain, suffering, and death that we impose on these billions of animals is that we enjoy eating animal foods or that it is convenient to do so or that it is just plain habit. Our use of animals in entertainment and for sport hunting also cannot be considered as necessary. The only use of animals that cannot be dismissed as transparently trivial involves biomedical research that will supposedly result in cures for serious human illnesses (most of which are related to our consumption of animal products), and even in this context, which involves a miniscule number of animals relative to our other uses, there are serious questions about the need to use animals.

Because animal welfare laws do not question use and purport only to regulate treatment, they generally explicitly exempt what are considered the "normal" or "customary" practices of institutionalized animal use, or courts interpret pain and suffering imposed pursuant to those practices as "necessary" and "humane." That is, the law defers to industry to set the standard of "humane" care. This deference is based on the assumption that those who produce animal products—from the breeders to the farmers to the slaughterhouse operators—will not impose more harm on animals than is required to produce the particular product, just as the rational owner of a car would not take a hammer to her car and dent it for no reason. The result is that the level of protection for animal interests is linked to what is required to exploit animals in an economically efficient way. And that allows for a standard of treatment that, if applied to humans, would constitute torture. Animal welfare provides little protection for animal interests.

**Contemporary Welfarist Campaigns: Reinforcing the Property Paradigm**

It is, of course, possible as a theoretical matter to achieve protection for animal interests that goes beyond what is necessary to exploit them as economic commodities; however, it is highly unlikely as a practical matter. We must remember that it costs money to protect animal interests and, to the extent that we spend that money and do not derive an economic benefit, we increase the cost of using animals, which generates powerful opposition from producers and consumers alike. Contemporary welfarist campaigns promoted by animal advocates demonstrate that animal welfare remains firmly
rooted in the notion of animals as economic commodities. 52 These campaigns do nothing to move animals away from the property paradigm or to accord value to animal interests that goes beyond their value as human resources. Here we examine several of what are literally dozens of campaigns that fit the same pattern.

Poultry slaughter: Animal advocates in the United States are campaigning to change the way that poultry are slaughtered. As mentioned previously, poultry are not included under the protection (such as it is) of the Humane Slaughter Act. They are slaughtered using a process that involves their being shackled upside down while still fully conscious and passed through electrically charged water that is supposed to stun them, and then their throats are slit. They are then "bled out" and placed into scalding water to facilitate feather removal. This method of slaughter risks injury and trauma to the birds as they are unloaded from crates and then shackled. Birds may suffer shocks before being stunned and are often inadequately stunned and conscious during the cutting, bleeding, and scalding processes. Animal welfare advocates are seeking to make poultry slaughter more "humane." The Humane Society of the United States (HSUS) filed a lawsuit to have the act apply to poultry, but the trial court rejected the challenge and the appellate court found a lack of standing. 53 HSUS, PETA, and other groups have been urging industry to adopt a method of slaughter known as "controlled-atmosphere killing," or "CAK." CAK involves either placing the birds, who are still in the crates in which they have been transported to the slaughterhouse, in a chamber that contains a nonpoisonous gas that is supposed to kill them by anoxia, or gassing them while they are still in the truck en route to the slaughterhouse. The dead birds are then shackled and processed. An alternative procedure, "controlled-atmosphere stunning," or "CAS," involves the birds being stunned but not killed, shackled while supposedly unconscious, and then killed by having their throats slit. 54

Not all welfarists are enthusiastic about CAK/CAS systems. For example, Bernard E. Rollin, a prominent animal ethicist and advisor to the American Humane Association's humane certification label program, claims that suffocation creates severe distress, and he does not accept CAK as a "humane method of euthanasia." 55 Other advisors to the American Humane Association, which describes itself as the oldest national organization dedicated to protecting children and animals, have expressed the view that it is not clear that the use of gas is any more humane than the stunning process if stunning is properly performed. 56 The American Humane Association states that "[b]ased on our scientific experts and existing evidence, we are not aware of any science-based conclusive evidence that the distress chickens, turkeys or other species experience in existing electric stunning methods is greater, or less than that with gas anesthesia induction." 57 Sociologist Roger Yates has collected sources showing that there is a significant amount of debate among poultry scientists as to the welfare benefits of CAK and CAS. 58 Researchers have noted that poultry exposed to gas are often not killed, and the birds exhibit signs of significant pain, suffering, and distress during the gassing process.

Putting aside whether the actual method of killing provides a meaningful welfare benefit and is not simply replacing one horrible process with a different one that is equally horrible, the claim made by CAK/CAS supporters that "[w]ith CAK, all of the abuses that chickens currently suffer are eliminated" is false and outrageously so. 59 It is simply untrue to maintain, as PETA does, that CAK/CAS involves a death free of pain, suffering, or distress. Given the realities of CAK/CAS, it is not accurate to describe CAK/CAS as a system that puts the birds 'to sleep' quickly and painlessly 60 or that "gently put[s] them 'to sleep.'" 61 It is also untrue to say that "[w]ith CAK, workers never handle live birds, so there are no chances for abuse." 62 Yates notes,
PeTA have themselves documented how workers sadistically treat animal property such as chickens: being trapped inside a transportation crate hardly protects one from all abuses and rights violations—and this is only half of the story in the first place. The chickens and hens have still to be taken from battery cages, cage-free facilities and broiler houses and placed in the transportation crates. They are still subject to rights violations at the farm end of the process.63

Although there is a great deal of uncertainty as to whether CAK actually provides any significant welfare benefit to the animals, there is considerable economic evidence that CAK can increase the efficiency of the poultry production process. According to an HSUS report on the economics of poultry slaughter, "Live shackling and electrical stunning reduce meat quality and yield. Rough handling during shackling and convulsions induced by electrical stunning cause broken bones, bruising, and hemorrhaging."64 Moreover, "During electrical stunning, chickens can defecate and inhale water, contaminating carcasses," and "These factors lead to carcass downgrades and condemnations, decreasing processors' revenue. In 2004, 5 million U.S. poultry were condemned, post-mortem, due to bruising and contamination, alone."65 Finally, "Shackling and electrical stunning take their toll on workers, as well. Slaughter facility employees suffer muscle strain, cuts from chickens' claws, and respiratory problems. The injury rates among poultry slaughterhouse workers are among the highest of any U.S. industry."66 HSUS proposes CAK as a "practical alternative to electrical stunning [that] is being adopted by many European processors."67 CAK will, according to HSUS, improve animal welfare. However, it will also help the economic bottom line.

Although CAK involves large capital costs in the purchase of gas stunning equipment," HSUS explains, this method "results in cost savings and increased revenues by decreasing carcass downgrades, contamination, and refrigeration costs; increasing meat yields, quality, and shelf life; and improving worker conditions."68 Moreover, it "results in fewer broken bones and less bruising and hemorrhaging" and "increases boning yield and deboned meat quality."69 In addition to less carcass damage, producers will benefit because "CAK increases the rate of rigor development [and] . . . results in faster carcass-maturation times and reduces handling, floor space, and refrigeration costs."70 Contamination costs are reduced because the birds do not inhale contaminated water as they can during the stunning process, and "CAK can improve worker conditions and safety, decreasing labor costs due to production line inefficiencies, injuries, and turnover from handling conscious birds."71 According to HSUS, "a plant that installs a CAK line at a cost of $1 million, with a capacity to slaughter 1 million birds per week, would have annual operating costs of between $265,200 and $436,800, and increased revenue of $1.87 million from increased meat yield. Payback would be achieved in less than one year, with increased profits thereafter."72 In the United Kingdom, "producers adopting CAK were able to recoup their capital investment in one year."73

Although PETA is considered more radical than HSUS, its analysis of CAK/CAS is remarkably similar in its emphasis on economic benefits for producers and consumers. PETA maintains that electrical stunning "has serious negative implications with regard to carcass quality, yield, and contamination."74 When the birds are dumped from the crates in which they are transported to the slaughterhouse and then shackled, they suffer "broken bones, bruising, and hemorrhaging, all of which lower carcass quality and yield."75 During the dumping and shackling process, the birds "scratch and peck at—and vomit and defecate on—each other . . . causing carcass contamination."76 Stress prior to slaughter "increases the acidity of their flesh, reduces tenderness, and increases drip loss."77 When the birds pass through the electrified water, they "often inhale pathogens in the electric water bath, causing carcass contamination."78
Birds who miss the knife that is supposed to cut their throat or who otherwise are not dead before going into the defeathering tanks where they are scalded to death defecate in the tanks, "contaminating all the birds submerged afterward." And "[b]irds who are scalded to death are condemned and cannot be sold, further lowering yield."  

The electrical stunning method also involves increased labor costs. The lighting in the areas used for dumping and shackling is kept dim to calm the birds, and this creates "a poor working environment." The terrified birds peck at workers and "flap violently during handling, kick up dust and debris, injure workers, and defecate and vomit on them. This increases illness and injury rates, lowering worker welfare and increasing costs for employers." These "poor conditions result in an extraordinarily high turnover rate among slaughterhouse workers, averaging between 75 and 100 percent annually."  

A PETA headline promotes CAK as a "Less Cruel, More Profitable Method of Chicken and Turkey Slaughter." Studies cited by PETA show that the use of gas results in fewer broken bones, less hemorrhaging, and reduced bruising. PETA notes that "each year approximately 400,000 to 1 million carcasses are condemned for bruises" and that "CAK would significantly reduce this problem, and the resulting reduction in bruising would have important implications for the producer because it would 'improve the yield and the value of products' and almost completely eliminate blood stains." The CAK method "further increases yield by eliminating the possibility that live birds will enter the scalding tank and be condemned. Even a small increase in meat yield per bird can lead to a significant increase in revenue." A plant processing 1.3 million birds per week "would earn an additional $2 million a year (3 cents per bird)." Producers also benefit from reducing the number of birds killed in the rough pre-slaughter handling incidental to the electric immobilization method, and "the significant rearing costs associated with each bird (e.g., feeding, housing, lighting, transport) are completely lost when a carcass is condemned or discarded. By increasing meat yield, producers who use CAK would be able to recoup these otherwise wasted costs, providing yet another financial advantage."  

Moreover, CAK, according to PETA, almost completely eliminates both external contamination, which is caused when the birds are bruised or scratched and become prone to microbial contamination or when they come into contact with feces from birds who defecate in the scalding water of the defeathering tank, and internal contamination, which results from the inhalation of water when the birds spasm in the electrified water bath. This has significant implications for producers since, according to the USDA… about 4 million chickens are condemned each year for being contaminated."

CAK further "provides producers with improved quality when compared to electric immobilization methods." In addition to reducing bruising and other problems, CAK provides "improved shelf life and quality, and unimpeded bleedout." PETA states that CAK "is also reported to produce more tender breast meat than when electrical stunning is used" and that "CAK produces better-quality meat that lasts longer—in terms of smell and color—than the meat of electrically immobilized birds." CAK results in "faster carcass-maturation times" and enables "early filleting," and this has "important financial benefits, as refrigeration can be significantly reduced, thus saving on storage, energy, and refrigeration equipment and maintenance costs." CAK provides further environmental benefits by reducing by-product waste and by using less water.  

According to the data presented by PETA, CAK results in considerable labor savings and improves conditions for workers, who "do not handle live, flapping birds." The dim lighting used in the dumping and shackling areas is not necessary, and "[[lx]ights can be kept bright." Further, "the air is not dusty with fecal matter and debris." Overall working conditions are improved, fewer
injuries are sustained by workers, and birds do not vomit or defecate on workers. Because the birds are dead when hung, CAK turns "hanging into a desirable job." PETA reports that slaughterhouses in Michigan, France, and Germany, as well as the Canadian Food Inspection Agency, have reported improved labor conditions, including "improved ergonomics," as a result of adopting CAK.

As for the expense of the CAK system, PETA maintains that "the initial cost of switching from electric immobilization to CAK can be offset and quickly surpassed by gains achieved from improving carcass quality and meat yield and from lowering costs by reducing the need for refrigeration, storage, labor, and environmental cleanup." Like HSUS, PETA notes that the cost of installing CAK can be recovered in about one year and also notes that even smaller producers will enjoy "an additional $1 million to $1.3 million in profit annually from improvements in meat yield alone when compared to an electric immobilization system." A large producer, such as Tyson Foods, which processes 150,000 birds per day in each of its forty plants, would recover the start-up costs in 1-1.6 years and would then enjoy a profit of $47-64 million per year depending on the sort of gas that was used, and this profit increase includes only a 1 percent increase in meat yield and ignores all other economic benefits. PETA concludes its analysis with "select poultry-industry endorsements of controlled-atmosphere killing." These endorsements emphasize the many economic benefits of CAK/CAS. PETA provides contact information for suppliers of CAK/CAS systems and gases.

Gestation crates: HSUS, in conjunction with Farm Sanctuary and other groups, is leading efforts in the United States to have conventional gestation crates for pigs banned in favor of larger individual crates or group housing systems employing an electronic sow feeder ("ESF") to reduce aggression at feeding time. HSUS argues that studies indicate that "[s]ow productivity is higher in group housing than in individual crates, as a result of reduced rates of injury and disease, earlier first estrus, faster return to estrus after delivery, lower incidence of stillbirths, and shorter farrowing times. Group systems employing ESF are particularly cost-effective." In addition, conversions from gestation crates to group housing with ESF marginally reduces production costs and increases productivity. HSUS cites one study showing that "the total cost per piglet sold is 0.6-percent lower in group ESF systems, while the income to the piglet farmer is 8-percent higher, because of increased productivity," and another showing that "compared to gestation crates, group housing with ESF decreased labor time 3 percent and marginally increased income per sow per year." HSUS claims that "savings at the sow farm can be passed onto the fattening farm, where the cost per unit weight decreases 0.3 percent." This will result in a decrease in the retail price of pork and a small increase in demand. HSUS concludes that "[i]t is likely that producers who adopt group housing with ESF could increase demand for their products or earn a market premium." HSUS claims that despite the greater efficiency of alternative production systems, pork producers in the United States are only slowly adopting these economically more desirable systems because of "inertia and producers lack of familiarity with ESF."

Industry agreement to more "humane" standards: As an example of "successful American campaigns," Peter Singer cites efforts by animal advocates and organizations, such as PETA, that led to agreement by McDonald's to "set and enforce higher standards for the slaughterhouses that supply it with meat" and to provide increased space to hens confined in egg batteries. Singer claims that these actions by McDonald's, which were followed by Wendy's and Burger King, are "a ray of hope" and "the first hopeful signs for American farm animals since the modern animal movement began." PETA claims that "[t]here's been a real change in
consciousness" concerning the treatment of animals used for food and praises McDonald's as "leading the way in reforming the practices of fast-food suppliers, in the treatment and the killing of its beef and poultry." The changes praised by Singer and PETA do not reflect any recognition that animals have interests that still should be protected even if there is no economic advantage to humans and do not in any way move animals away from the property paradigm. The slaughterhouse standards promoted by Singer and PETA were developed by Temple Grandin, designer of "humane" slaughter and handling systems. Grandin's guidelines, which involve techniques for moving animals through the slaughtering process and stunning them, are based explicitly on economic concerns. According to Grandin, once livestock—cattle, pigs and sheep—arrive at packing plants, proper handling procedures are not only important for the animal's well-being, they can also mean the difference between profit and loss. Research clearly demonstrates that many meat quality benefits can be obtained with careful, quiet animal handling....Properly handled animals are not only an important ethical goal, they also keep the meat industry running safely, efficiently and profitably.

In talking about stunning animals before slaughter, Grandin states, stunning an animal correctly will provide better meat quality: improper electric stunning will cause bloodspots in the meat and bone fractures. Good stunning practices are also required so that a plant will be in compliance with the Humane Slaughter Act and for animal welfare. When stunning is done correctly, the animal feels no pain and it becomes instantly unconscious. An animal that is stunned properly will produce a still carcass that is safe for plant workers to work on.

She maintains that "[g]entle handling in well-designed facilities will minimize stress levels, improve efficiency and maintain good meat quality. Rough handling or poorly designed equipment is detrimental to both animal welfare and meat quality."

In discussing as a general matter the slaughter and battery-cage improvements to which Singer refers, McDonald's states, animal welfare is also an important part of quality assurance. For high-quality food products at the counter, you need high quality coming from the farm. Animals that are well cared for are less prone to illness, injury, and stress, which all have the same negative impact on the condition of livestock as they do on people. Proper animal welfare practices also benefit producers. Complying with our animal welfare guidelines helps ensure efficient production and reduces waste and loss. This enables our suppliers to be highly competitive.

Wendy's also emphasizes the economic efficiency of its animal welfare program: "Studies have shown that humane animal handling methods not only prevent needless suffering, but can result in a safer working environment for workers involved in the farm and livestock industry." In a report about voluntary reforms in the livestock industry, the Los Angeles Times stated that "[i]n part, the reforms are driven by self-interest. When an animal is bruised, its flesh turns mushy and must be discarded. Even stress, especially right before slaughter, can affect the quality of meat.

Again, there is a question as to whether Grandin's reforms provide any significant welfare benefit. A slaughterhouse that complies with Grandin's guidelines is still a most hideous place, and many of the welfare benefits that Grandin touts are based on what she claims as her unique and almost mystical insight into animal cognition that comes from her being autistic. Moreover, even Grandin has expressed concern that the audit process, which is the...
central focus of her program, is meaningless and fails to prevent even the worst abuses of animals being slaughtered.  

Minor Increases in Production Costs

It is important, however, not to lose sight of the fact that even on the rare occasion that a particular welfare reform does not increase production efficiency and results in an increase in production cost not offset by better product quality, reduction in worker injuries, or other benefits, welfare reform is still not likely to impose any significant opportunity costs on animal use, and animals will never receive a significant level of increased protection. For example, the leading animal welfare campaign in the United States seeks to abolish battery cages in favor of what is essentially one large cage that is benignly called a "cage-free" barn. The organization spearheading this effort is HSUS. Although the cage-free system will not increase production efficiency by lowering costs, it will not result in any significantly increased cost to producers either. HSUS acknowledges that conversion to cage-free systems would "increase production costs 3 to 12 cents per dozen eggs" but points out that at the lower end of this range, this conversion would increase production costs less than switching to larger battery cages, which is promoted by the leading American egg-industry trade association.  

HSUS states that "[g]iven the marketing share of egg prices and the low price elasticity of egg consumption, cage-free producers more than compensate for increased costs through increased income. Consumers, in turn, increase their monthly average per capita expenditures on eggs by 4 to 24 cents." HSUS concludes that "it is little surprise that cage-free egg production is the fastest growing and most profitable segment of the industry." Indeed, according to an essay published by HSUS, even if welfare reforms involve an increase of costs at the farm level, given that farm costs generally represent less than half of the retail price of animal products, and given that the demand for these products is inelastic, any increase in retail price, which will be very small in any event given the modest nature of the most ambitious of welfare reforms, will be passed along to the consumer. If consumers purchased only free-range products, and even if those products increased production costs, average per capita spending for food would increase by only $3 per week.

Moreover, it is ludicrous to suggest that cage-free eggs represent any significant welfare improvement for the hens. Cage-free hens are crammed into dark, industrial sheds that are filthy and filled with toxic gases that accumulate from the waste of thousands of hens. There can be up to 30,000 birds in one barn. Like hens in conventional battery cages, cage-free hens have their beaks burned off at one day of age. This procedure, which is extremely painful, is not performed with any anesthetic. Like hens in conventional batteries, most cage-free hens are starved to force their bodies into repeated laying cycles. Like hens in conventional batteries, cage-free hens are considered useless or "spent" after eighteen months of age. They are then killed, often by being stuffed in a drum and then gassed. Roosters are killed—usually by suffocation—at birth because they cannot produce eggs. Interestingly, Paul Shapiro, Director of the HSUS Factory Farming Campaign, was critical of cage-free and free-range eggs before he became employed by HSUS. He now is spearheading the HSUS campaign for cage-free eggs.

It should also be noted that many consumers are willing to pay a premium for food that is perceived to be more wholesome or healthy, and what are characterized as higher-welfare products, such as cage-free or free-range eggs, are often marketed as being more healthy. Indeed, the market for these products is as closely related to concern about human health as it is to concern about animal welfare.