



The Animal Rights Movement in the United States. Some Thoughts About a New Ethics.

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Introduction.

The animal rights movement, with a strong philosophical and ideological background, although universal, old as humanity, and imported from England (where it started in the 19th Century), is considered a genuine American social movement. Why?

It is easy to find assertions of reputable scholars in the sense that the United States was the first country in the world to enact legislation aimed at protecting animals from cruel and abusive treatment. In fact, authors such as Emily Stewart Leavitt, and Diane Halverson have documented in their work *Animals and Their Legal Rights: A Survey of American Laws from 1641 to 1990* (1990) that, as early as 1641, the Puritans of Massachusetts Bay Colony forbade cruelty against “any brute creature kept by man.”

Nowadays, all fifty States have enacted some form of criminal statute to protect animals although with differences in the level of protection, in the species protected, or in the type of foreseen penalties (from small faults, “petty misdemeanors,” to serious offenses, “felonies.”) And, what is more important, only in America the proposal to suppress the

property status of animals has been seriously considered and even submitted to the ballot, as it happened in Rhode Island. This state submitted to the electorate the switching of the status of domestic animals from “ownership” to “guardianship,” and it became the first state in the US (in addition to the cities of Boulder, Colorado, and Berkeley, California) in enacting legislation recognizing individuals as guardians of their companion animals. Not owners. On the other hand, only some US Law Schools such as Harvard, Rutgers, or Georgetown (among others) provide courses on animal rights as part of the curriculum, and only in the US there is a current strong and serious debate at legal scholarship level about the implications of attributing legal personality and fundamental rights to animals, especially apes.

Demonstrations in the US and England against animal abuse

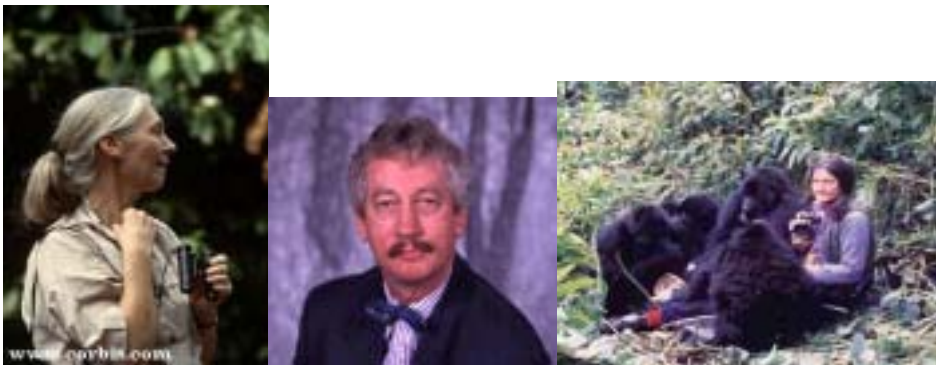


As a social movement (see the book *Social Movements: Readings on Their Emergence, Mobilization, and Dynamics*, 1997, by Doug McAdam and David A. Snow), only in its radical version (animal rights, not animal welfare) “it is ten million strong in the US and among the fastest-growing progressive causes in America” (Tom Regan). The activism of the animal liberation organizations is so strong and important, and, in many cases so radical, that some States like Illinois, Alabama, Louisiana, Massachusetts, Missouri, New York, North Carolina, North Dakota, and Oklahoma have enacted specific statutes against animal rights extremists, considering some of their activities, such as the destruction of research facilities (and releasing their animals) a criminal offense.

Another reason to consider this debate an American debate is that much of the base of the movement relies on serious scientific and philosophical grounds, covering, therefore, all areas of knowledge, the humanities, the social sciences, and the hard science. Besides, the researchers and spreaders of this ideology either are Americans, work for American institutions, or use the American media. The National Geographic

Society, the Public Broadcasting System, commercial TV channels, and even Hollywood have contributed to refine the animal rights debate as typical American (notwithstanding its current global character). The works and issues raised by Peter Singer, *Animal Liberation* (1975); Tom Regan, *Defending Animal Rights* (2001); Gary Francione, *Civil Disobedience as an Animal Rights Tactic*, and *Introduction to Animal Rights* (2000); and Steven Wise, *Rattling the Cage* (2000), are bestsellers that can be found in the best bookstores of the US. Moreover, the scientific developments about our pre- or para-human cousins reached the cover of *Time* magazine on July 23rd, 2001, and the animal rights debate has been the subject of monographic issues on topics such as vivisection by reviews like the reputable *Scientific American* (297th issue, February 1997). And, on top of all, the US scientists who devoted their lives to the scientific research of the emotional lives of animals like gorillas (Dian Fossey), chimpanzees (Jane Goodall), or bonobos (De Waal) are real media stars, sometimes more worldwide known than Nobel Prizes. And films such as *Gorillas in the Mist* (Michael Apted, 1988), *People of the Forest* (documentary by National Geographic), or PBS series like *Speaking With Koko*, or *In the Company of Whales*, are among the most popular in American cinematography.

Jane Goodall, Frans De Waal, and Dian Fossey



The animal rights movement, as the original debate on human rights during the 18th Century, and the debates on slavery or on women liberation during the 19th and 20th Centuries is not, in origin, a socio-political debate although it must be recognized that, similar to what happened with the three other social movements mentioned, ultimately the legal establishment reacted “giving form” to social pressures by introducing new notions about how the legal system has to be changed in order to enable the

correspondent social challenges. Once again, this “starting-to-move” of the always conservative legal establishment has taken place mainly (even only) in the U.S

In short, this intellectual renewal of the analysis in the way in which humans look into themselves, although universal by its very nature, can be considered one of the important contributions of American culture to the global society.

The movement is based on the idea that animals, or non humans (as many authors prefer to call them), at least superior mammals, are entitled to receive moral consideration from humans; cannot serve as means to an end; and must not be used as resources by humans. Regardless to say that they cannot be inflicted pain; “painism” expresses the idea that the mere fact that an individual suffers pain is enough to receive moral consideration even if we keep using them as commodities. As the Section on Scholars Debate shows, here lies the controversy between “animal welfare,” which focuses on avoiding unnecessary suffering, and “animal rights,” whose goal is giving to animals not only moral consideration but dignity and event basic rights (at least to superior mammals). Both, welfare and rights, denounce what has been called “speciesism,” a more radical version of anthropocentrism which, as other forms of discrimination such as sexism or racism, is at the core of the abuse of animals.

Brief history of the social movement; its birth in England.

The social movement Animal Rights has its origin in England in the 1700s. As described by Richard Ryder (*Animal Revolution, Changing Attitudes Towards Speciesism* [1989]), until then, the attitudes towards animals has differed following the different cultures. In Egypt, the existence of human-animal hybrids as gods was a very important cultural trait that showed the inter-relatedness of humans and nonhumans.



The Judgment of the Dead, in the Hall of Maat, and the Scales of Judgment. Both pictures belong to the Egyptian mythology.

In Mesopotamia, animals only had the property status, they were not respected, and did not play an important role. The Greeks were the first in the West to write about animal concern. It was a frequent topic in Greek philosophy, in many schools of thought at the time. The **animists** (Pythagoras, 530 B.C) considered that both, animals and people had soul; the **vitalists** (Aristotle, 384-322 BC), considered that humans are animals but they are on top of the scale, therefore humans can use animals on their own benefit (theory upon which anthropocentrism is based); for **mechanicists**, people and animals were both mere machines without soul. Romans were especially cruel to animals, although there were important humanitarian writers such as Pliny (*Naturalis Historia*), who wrote several stories about the intelligence and religiousness of elephants and the love of dolphins towards music and children, or Cicero, who wrote about the agonized trumpeting of some elephants when being butchered in the amphitheatre, raising the compassion of many spectators. Furthermore, Plutarch based his vegetarianism upon the conviction that it was not moral to kill animals for food, and that much of the world's cruelty came from eating meat (flesh).

The medieval years were basically anthropocentric. Although baiting and torturing animals kept being a regular norm, animals who worked had their place in their community. Authors like E.P. Evans (*The Criminal Prosecution and Capital Punishment of Animals*, 1906), and Steven M. Wise (*Rattling the Cage: Toward Legal Rights for Animals*, 2000) report that during the 1400's and the 1500's, in England, France, Germany, and other European countries animals could be responsible of crimes and, after the correspondent trial, they could be sentenced to exile or, more frequently, tortured to death. These cases have reminded many legal scholars that the issue of attributing legal personality to animals (although passively and without individual rights) is not new in the western world.

But, for sure, the most cruel years for animals was the 16th Century Elizabeth's period. Richard Ryder describes some practiced tortures. During the 17th Century the English society started to recover compassion for animals. The first attempt of enacting legislation to protect animals came from two different settings, the puritans and the Royalty, becoming England the leading country in the world in endorsing moral consideration towards animals. Although their status of property never changed, the Black Act of 1723 established that it was a big offense to destroy other's properties (animals included). The torturing of animals decreased.

During the 18th Century the mechanicism of Descartes was the prevailing idea: animals did not really exist; they were just machines reacting to instincts and reflexes: "the cries of animals are like the ticking of a clock, no more."(Descartes used to tap with nails the dogs' paws to a wooden board to "work" on them without anesthetics.)



The 17th Century French scientist and philosopher Rene Descartes. He used to tap with nails the dogs' paws to a wooden board to "work" on them without anesthetics

But notwithstanding this general "rationalist" approach, humanitarians such as Alexander Pope, Voltaire, Newton, Rousseau, Thomas Paine, Schopenhauer...etc. claimed against cruelty and suggested ethical treatment and moral consideration towards animals. Animal baiting and torture became issues only accepted by the lower classes, while intellectuals and the high society began to devote moral consideration, time, and money to the animal cause. This environment promoted the writings of the philosopher Jeremy Bentham (1748-1832) (*Introduction to the Principles of Morals and Legislation*, 1780) enabling the expansion of the animal welfare during the Victorian Era. The question for Bentham was not *can they reason?*, or, *can they talk?* but, *can they suffer?* His approach to the treatment of animals would be followed to its ultimate consequences, two centuries later, by the leader of the animal welfare ideology, Peter Singer, whose book *Animal Liberation* (1975) is considered the "bible" of the movement.

Regarding legal terms, the first attempt to enact anti-cruelty laws in England was made by Thomas Erskin and Richard Martin who, by linking this movement to the antislavery one, and after big efforts, managed to introduce a bill in the Parliament. In 1822 the first statute against cruelty to cattle was passed. As we see, not all animals were included in the beginning; not even some large mammals. It was a step by step process, adding slowly more and more animals to the list: cattle, bull baiting, domestic animals...etc.

Vivisection became the focal point during the 19th Century. Many humane writers and philosophers claimed against it. There were also many scientists, veterinarians, and doctors who rejected the animals' capacity of suffering (like Descartes), so they practiced it, without anesthesia until 1870. In 1824, antivivisection issues were brought for the first time before the House of Commons.

Also in 1824 the greatest success of the humane treatment took place: the founding of the Society for the Prevention of Cruelty to Animals (SPCA, becoming Royal, granted by Queen Victoria, in 1840). By those years, all educated, civilized, and respectable people supported ethical treatment to animals. Welfare reformers came from every group: Catholics, Puritans, Quakers, Methodists...etc., even women rights and civil rights became linked to the animal cause. Hunting, vivisection, and abusing animals was synonyms of frustration, maleness, repression, and domination. From now on, and during the mid 1900's, legislation on animal welfare in all aspects, such as sports, entertainment, farming, etc., kept growing in England until the "apathy years" between 1920 and 1960. In return, the 1960's, bound to the civil rights and the feminist movements, turned the most active. In 1971 the philosophers of the Oxford Group (the most important in England during the 70's) Stanley and Roslind Godlovitch and John Harris published the first book in the 20th Century fully devoted to ethical issues in human-non human relationship, *Animals, Men, and Morals*.

As we have seen, and to end this historical introduction of the movement, animal welfare and treatment has been an issue covered by almost every philosopher since the beginning of human history.

The animal rights movement in the US.

The animal rights movement in the US also dates back to the late 18th Century and early 19th Century in an effort, like in England, to abolish cruelty to animals, being New York (1828), Massachusetts (1835), Connecticut and Wisconsin (1838) the first States in passing anti-cruelty laws.

In 1866 the American Society for the Prevention of Cruelty to Animals (ASPCA) was formed. Years later, in 1892, the laws proposed by the American Humane Association were passed; laws prohibiting the repetition of experiments on animals with the purpose of teaching or demonstrating well accepted facts.

The American Welfare Institute and the Humane Society of the US were established in the 1950s, and in 1958 the first Humane Slaughter Act was passed with the purpose of avoiding unnecessary suffering to farm animals (eight billion farm animals are killed in the US every year). In the meantime, all States kept regulating their own use of animals under humane treatment statutes.

But, with no doubt, the most important law in the US regarding cruelty to animals, in particular the one that regulates the use of animals in research, is the Animal Welfare Act, signed by President Johnson in 1966.

Finally, during the 70s, the modern and current animal rights social movement emerged. This movement had implicit, since its beginning, American values such as the basing upon moral and religious grounds the relationship between nature and humans; other species rights; the right to control nature; and the establishment of responsibilities of the following generations. Although Americans are believed to hold an anthropocentric philosophy of nature, statistics show (*Environmental Values in American Culture*



[1995], by Kempton, Boster, and Hartley), that 87% of Americans are followers of the biocentric “Land Ethic” philosophy of Aldo Leopold: “We are part of nature; all

species have the right to continue; and nature has intrinsic values and rights.”

Aldo Leopold, the father of the Land Ethic and Game Management.
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Summing up, Americans primarily support that an instrumental protection of the environment, following anthropocentric values, without ethical and philosophical support, is not enough; that it is required an ethical and philosophical support.

Animal rightists and welfarists working together for the benefit of animals.

Regarding animal rights, the movement is divided into two subsections: the “animal rights,” *strictu sensu* a more radical biocentric consideration of animals which include ethical values, and “animal welfare” which supports an instrumental use of animals, with an anthropocentric philosophy, and in which the balancing of interests of both, people and animals is what is at stake. The Scholars Debate goes deeper into their main ideological constructions.

These two different positions divided the movement during many years. More recently, attempts to work together have flourished.

How do they work together? Rightists have realized that the only way of obtaining gains was to act more like welfarists. On the other side, welfarists have assumed that their final goal is not only to eliminate suffering to animals but to make them subjects of rights because, in many instances, this is the only way to have effective implementation of many of the laws and regulations already enacted. Welfarists have suppressed some of their instrumentalism and they have turned a little more philosophical in their concern for animals. They are learning that only treating animals humanely is not enough. That is only a first stage. The result of this mix, where American society is reaching consensus, is the modern animal rights movement, also known by “New Welfarism.”

Both theories, are complementary and non exclusive, although animal rights advocates must be alert because, in many cases, under animal welfare some of the biggest animal exploiters are under covered. For instance, the SPCA was, during years, the first provider of animals to labs for experimentation. Other industries, like research labs, usually want to comply with the law that prevents animals from suffering, so they try to build coalitions with some of the welfare groups in order to ensure that these animals receive a fair treatment during their exploitation or slaughter. Their main goal, obviously, is to prevent their products from getting discredited in the market. Another example is the hypocritical situations in which some important animal organizations are immersed under the cover of the “humane treatment” label. One of the biggest organizations, the Humane Society of the United States (HSUS) supports “humane” vivisection or humane animal farming.

And a final example of ambiguity is Animal Rights International (ARI) whose leader, Henry Spira, a famous advocate of the movement, joined the Foundation for Biomedical Research in its promotion of animals in labs but keeping in mind the three “Rs” that animal rights endorse: reduction of the number of animals, refinement of the experiments to minimize the pain, and replacement of animals with other non-animal models when available.



Vivisection. Left, dog burned alive to test burning remedy products. Right a monkey in a lab waiting for another experiment on him



Spira has also joined the American Meat Institute in the “improvement” of slaughtering methods. These examples show that in many cases, most animal rights advocates are willing to make concessions, that mean very loose improvements, as long as the concern in society keeps growing.

We can also say that one thing is the theory of animal rights (ideological and a little unrealistic) and quite another the animal rights movement, more pragmatic and realistic. The “new welfarism” assumes that animal welfare reforms do work, that there is an increasing number of regulations about ethical treatment to animals, and that animal rights (the radical part) is incapable of making a short-term program. They just have the long one of abolishing animal exploiting and freeing them of their property status.

In terms of their tactics, since both groups perceive that the issue of animal rights/animal welfare is, even as a whole, somehow unknown for most people, they prefer to make just one common front for the defense of animals. They appreciate the combination of both ideologies to make the defense strong, not to one another, but in front of the general public; in front of people who never thought that animals should also have their own interests/rights recognized.