

Equine Welfare and Ethics

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There is an ancient curse that is most appropriate to the society in which we live: 'May you live in interesting times.' From the point of view of our social ethics, we do indeed live in bewildering and rapidly changing times. The traditional, widely shared, social ethical truisms that gave us stability, order, and predictability in society for many generations are being widely challenged by women, ethnic minorities, homosexuals, the handicapped, animal rights advocates, internationalists, environmentalists, and more.

It is very likely that there has been more and deeper social ethical change since the middle of the twentieth century than occurred during centuries of an ethically monolithic period such as the Middle Ages. Anyone over forty has lived through a variety of major ethical changes: the questioning of IQ differentiation, the rise of homosexual militancy, the end of '*in loco parentis*' in universities, the advent of consumer advocacy, the end of mandatory retirement age, the mass acceptance of environmentalism, the growth of a 'sue the bastards' mind-set, the implementation of affirmative action programs, the rise of massive drug use, the designation of alcoholism and child abuse as diseases rather than moral vices, the rise of militant feminism, the emergence of sexual harassment as a major social concern, the demands by the handicapped for equal access, the rise of public suspicion of science and technology, the mass questioning of animal use in science and industry, the end of colonialism, the rise of political correctness – all provide patent examples of the magnitude of ethical change during this brief period.

It is arguable that morally based boycotting of South African business was instrumental in bringing about the end of apartheid, and similar boycotting of some farm products in the USA led to significant improvements in the living situations of farm workers. It is *de rigueur* for major corporations to have reasonable numbers of

minorities visibly peopling their ranks, and for liquor companies to advertise on behalf of moderation in alcohol consumption. Cigarette companies now press upon the public a message that cigarettes kill and extol their involvement in protecting battered women; forestry and oil companies spend millions (even billions) to persuade the public of their environmental commitments. The news station, CNN, reported that 'green' investment funds grew significantly faster than ordinary funds, and reports of child labor or sweatshop working conditions can literally destroy product markets overnight. Monitoring such societal ethical changes and operating in accord with them is essential for all professions, businesses, and governmental agencies.

Not only is success tied to social ethics, but even more fundamentally, freedom and autonomy are as well. Every profession – be it medicine, law, or agriculture – is given freedom by the social ethic to pursue its aims. In return, society basically says to professions it does not understand well enough to regulate: 'You regulate yourselves the way we would regulate you if we understood what you do, which we don't. But we will know if you don't self-regulate properly and then we will regulate you, despite our lack of understanding.' For example, some years ago, the US Congress became concerned about excessive use of antibiotics in animal feeds and concluded that veterinarians were a major source of the problem. As a result, Congress was about to ban extra-label drug use by veterinarians, a move that would have killed veterinary medicine as we know it. However, through extensive efforts to educate legislators, such legislation did not proceed to law. In the same vein, it is much more difficult to be an accountant, post-Enron, because of the proliferation of regulatory restrictions.

One major social ethical concern that has developed over the last three decades is a significant emphasis on the treatment of animals used by society for various purposes. It is easy to demonstrate the degree to which these concerns have seized the public imagination. According to both the US National Cattlemen's Beef Association and the National Institutes of Health (the latter being the source of funding for the majority of biomedical research in the USA), neither group inclined to exaggerate the influence of animal ethics; by the early 1990s, the US Congress had been consistently receiving more letters, phone calls, faxes, emails, and personal contacts on animal-related issues than on any other topic (C. McCarthy, NIH, personal communication; NCBA, 1991).

Whereas twenty years ago, one would have found no bills pending in the US Congress relating to animal welfare, the last decades has witnessed 50 to 60 such bills annually, with even more proliferating at the state level (A. Douglas, American Human Association, Washington, DC, personal communication). The federal bills range from attempts to prevent duplication in animal research, to saving marine mammals from becoming victims of tuna fishermen, to preventing importation of ivory, to curtailing the parrot trade. State laws passed in large numbers have increasingly prevented the use of live or dead shelter animals for biomedical research and training and have focused on myriad other areas of animal welfare. Eight states have abolished the steel-jawed leghold trap (HSUS, 2003). When Colorado's

politically appointed Wildlife Commission failed to act on a recommendation from the Division of Wildlife to abolish the spring bear hunt (because hunters were liable to shoot lactating mothers, leaving their orphaned cubs to die of starvation), the general public ended the hunt through a popular referendum. Seventy percent of Colorado's population voted for this as a constitutional amendment (*Denver Post*, 1994). In Ontario, the environmental minister stopped a similar hunt by executive fiat in response to social ethical concern (Animal People, 1999). California abolished the hunting of mountain lions, and state fishery management agencies have been taking a hard look at catch-and-release programs on human grounds (Laitenschloger and Bowyer, 1985).

In fact, wildlife managers have worried, in academic journals, about 'management by referendum.' According to a speech given by the Director of the American Quarter Horse Association, the number of state bills related to horse welfare filled a telephone book-sized volume in 1998 alone (Houston Livestock Show, 1998). Public sentiment for equine welfare in California carried a bill through the state legislature making the slaughter or shipping of horses for slaughter a felony in that state. Municipalities have passed ordinances ranging from the abolition of rodeos, circuses, and zoos to the protection of prairie dogs and, in the case of Cambridge, Massachusetts (a biomedical Mecca), the strictest laws in the world regulating research. There were in fact some 2100 state bills relevant to welfare promulgated in 2004, and everyone in the equine community is aware of how the public forced an end to equine slaughter. Britain has passed a quality-of-life law covering pets that went into effect in 2007. Ever-increasingly, horses are being viewed as companion animals, rather than as livestock.

Perhaps even more dramatic is the worldwide proliferation of laws to protect laboratory animals. In the USA, for example, the US Congress passed two major pieces of legislation (the Animal Welfare Act and the Health Research Extension Act) regulating and constraining the use and treatment of animals in research in 1985, despite vigorous opposition from the powerful biomedical research and medical lobbies. This opposition included well-financed, highly visible advertisements and media promotions indicating that human health and medical progress would be harmed by implementations of such legislation. There was even a less-than-subtle film titled 'Will I Be All Right, Doctor?' with the query coming from a sick child. The response from a pediatrician was, in essence, 'You will be if "they" leave us alone to do as we wish with animals.' With social concern for laboratory animals unmitigated by such threats, research animal protection laws moved easily through the US Congress and have been implemented at considerable cost to taxpayers. In 1986, Britain superseded its pioneering act of 1876 with new laws aimed at strengthening public confidence in the welfare of experimental animals (UK Home Office, 2003). Many other European countries have moved or are moving in a similar direction, despite the fact that some 90% of laboratory animals are rats and mice, which are not often considered the most cuddly and lovable of animals.

Many animal uses seen as frivolous by the public have been abolished without legislation. Toxicological testing of cosmetics on animals has been truncated by public aversion to it driving the science of alternatives (companies such as the Body Shop have been wildly successful internationally by totally disavowing such testing), and free-range egg production is a growth industry across the Western world. Greyhound racing in the USA has declined, in part for animal welfare reasons, with the Indiana veterinary community spearheading the effort to prevent greyhound racing from coming in to the state. Zoos that are little more than prisons for animals (the state of the art during my youth) have all but disappeared, and the very existence of zoos is being increasingly challenged, despite the public's unabashed love of seeing animals. And, as Gaskell and his associates' work has revealed (Gaskell *et al.*, 1997), genetic engineering has been rejected in Europe – not, as commonly believed, for reasons of risk, but for reasons of ethics, in part for reasons of animal ethics. Similar reasons (i.e., fear of harming cattle) have, in part, driven European rejection of bovine somatotropin (BST). Rodeos such as the Houston Livestock Show and the Calgary Stampede have, in essence, banned jerking of calves in roping, despite opposition from the Professional Rodeo Cowboys Association, who themselves never show the actual roping of a calf on national television. Some jurisdictions have banned rodeo altogether.

Agriculture has also felt the force of social concern with animal treatment. Indeed, it is arguable that contemporary concern in society with the treatment of farm animals in modern production systems blazed the trail leading to a new ethic for animals. As early as 1965, British society took notice of what the public saw as an alarming tendency to industrialize animal agriculture by chartering the Brambell Commission, a group of scientists under the leadership of Professor Sir Roger Brambell, who affirmed that any agricultural system failing to meet the needs and natures of animals was morally unacceptable (Brambell, 1965). Though the Brambell Commission recommendations enjoyed no regulatory status, served as a moral lighthouse for European social thought. In 1988, the Swedish Parliament passed, virtually unopposed, what the *New York Times* called a 'Bill of Rights' for farm animals, abolishing in Sweden the confinement systems currently dominating North American agriculture in a series of timed steps (*New York Times*, 1988). Much of northern Europe has followed suit, and the European Union is moving in a similar direction. For example, sow stalls must be eliminated by 2011 (European Union, 2001). Recently, activists in the USA have begun to turn their attention to animal agriculture and have begun to pressure chain restaurants and grocery chains to purchase only 'humanely raised' animal products. In 2007, Smithfield Foods, the largest US pork producer, announced it was phasing out gestation crates, and the US and European veal industries are eliminating confinement veal crates. Key referenda and legislative initiatives have abolished these procedures in a number of states, notably, Colorado, Arizona, and Oregon, with a very major initiative abolishing veal cages, sow stalls, and battery cages for laying hens passed in California in 2008. In a report released in May of 2008, the prestigious Pew

Commission on Industrial Farm Animal Production (www.PCIFAP.org) urged that all high-confinement agricultural systems be abandoned within ten years.

In what follows, I will explain the nature of the ethic informing these activities as well as what implications that ethic has for the equine industry. First, however, it is necessary to explain the concept of animal welfare.

There is one monumental conceptual error that is omnipresent in the animal industries' discussions of animal welfare – an error of such magnitude that it trivializes the industries' responses to the ever-increasing societal concerns about the treatment of agricultural animals. That error is the failure to recognize that the concept of animal welfare contains both empirical and ethical elements.

Societal concerns about animal welfare are emerging as non-negotiable demands by consumers. Failure to respect such concerns can essentially destroy the economic base for animal use. Whether one discusses farm animal welfare or equine welfare with industry groups or with the American Veterinary Medical Association, one finds the same response – animal welfare is solely a matter of 'sound science.'

Those of us serving on the Pew Commission, better known as the National Commission on Industrial Farm Animal Production, encountered this response regularly during our dealings with industry representatives. For example, one representative of the pork producers, testifying before the Commission, answered that, while people in her industry were quite 'nervous' about the Commission, their anxiety would be allayed were we to base all of our conclusions and recommendations on 'sound science.' Hoping to rectify the error in that comment, as well as educate the numerous industry representatives present, I responded to her as follows: 'Madam, if we on the Commission were asking the question of *how* to raise swine in confinement, science could certainly answer that question for us. But that is *not* the question the Commission, or society, is asking. What we are asking is, *ought* we raise swine in confinement? And to this question, science is not relevant.' Judging by her 'Huh?,' I assume I did not make my point.

Questions of animal welfare are at least partly 'ought' questions, questions of ethical obligation. The concept of animal welfare is an ethical concept to which, once understood, science brings relevant data. When we ask about an animal's welfare, or about a person's welfare, we are asking about *what we owe the animal*, and to *what extent*. Thus, when the Council for Agricultural Science and Technology (CAST) report on animal welfare, first published in the early 1980s, discussed animal welfare, it affirmed that the necessary and sufficient conditions for attributing positive welfare to an animal were represented by the animals' productivity (CAST, 1981). A productive animal enjoyed positive welfare; a non-productive animal enjoyed poor welfare.

This notion was fraught with many difficulties. First of all, productivity is an economic notion predicated of a whole operation; welfare is predicated of individual animals. An operation, such as one producing crated veal, can be quite profitable, yet the animals do not enjoy good welfare, since they are inadequately nourished, unable to exercise, and too weak to stand and walk on their own.

Second, as we shall see, equating productivity and welfare is, to some significant extent, legitimate under husbandry conditions, where the producer does well if and only if the animals do well, and square pegs, as it were, are fitted into square holes with as little friction as possible (as when pigs live outside). Under industrial conditions, however, animals do not naturally fit in the niche or environment in which they are kept, and are subjected to 'technological sanders' that allow for producers to force square pegs into round holes – antibiotics, vaccines, hormones, air handling systems – so the animals do not die and produce pounds of meat or milk. Without these technologies, the animals could not be productive. We will return to the contrast between husbandry and industrial approaches to animal agriculture.

The key point to recall here is that, even if the CAST Report definition of animal welfare did not suffer from the difficulties we outlined, it is still an ethical concept. It essentially says 'what we owe animals and to what extent is simply what it takes to get them to create profit.' This in turn would imply that the animals are well if they have only food, water, and shelter, something the industry has sometimes asserted. Even in the early 1980s, however, there were animal advocates and others who would take a very different ethical stance on what we owe farm animals. Indeed, the famous five freedoms articulated in Britain by the Farm Animal Welfare Council (FAWC) during the 1970s (even before the CAST Report) represents quite a different ethical view of what we owe animals, when it affirms the following (see www.fawc.org.uk):

The welfare of an animal includes its physical and mental state and we consider that good animal welfare implies both fitness and a sense of well-being. Any animal kept by man must at least be protected from unnecessary suffering. We believe that an animal's welfare, whether on farm, in transit, at market or at a place of slaughter, should be considered in terms of 'five freedoms.'

- (1) *Freedom from hunger and thirst* – by ready access to fresh water and a diet to maintain full health and vigor.
- (2) *Freedom from discomfort* – by providing an appropriate environment, including shelter and a comfortable resting area.
- (3) *Freedom from pain, injury or disease* – by prevention or rapid diagnosis and treatment.
- (4) *Freedom to express normal behavior* – by providing sufficient space, proper facilities, and company of the animal's own kind.
- (5) *Freedom from fear and distress* – by ensuring conditions and treatment which avoid mental suffering.

Clearly, the two definitions cited contain very different notions of our moral obligation to animals (and there is an indefinite number of other definitions). Which is correct, of course, cannot be decided by gathering facts or doing experiments – indeed, which ethical framework one adopts will in fact determine the shape of science studying animal welfare!

To clarify: suppose you hold the view that an animal is well-off when it is productive, as per the CAST Report. The role of your welfare science in this case will be to study what feed, bedding, temperature, etc. are most efficient at producing the most meat, milk, or eggs for the least money – much what animal science does today. On the other hand, if you take the FAWC view of welfare, your efficiency will be constrained by the need to acknowledge the animal's natural behavior and mental states, and to assure that there is minimal pain, fear, distress, and discomfort – not factors in the CAST view of welfare unless they have a negative impact on economic productivity. Thus, in a real sense, sound science does not determine your concept of welfare; rather, your concept of welfare determines what counts as sound science!

The failure to recognize the inescapable ethical component in the concept of animal welfare leads inexorably to those holding different ethical views talking past each other. Thus, producers ignore questions of animal pain, fear, distress, confinement, truncated mobility, bad air quality, social isolation, and impoverished environment unless any of these factors impact negatively on the 'bottom line.' Animal advocates, on the other hand, give such factors primacy, and are totally unimpressed with how efficient or productive the system may be.

A major question obviously arises here. If the notion of animal welfare is inseparable from ethical components, and people's ethical stance on obligations to farm animals or horses differ markedly across a highly diverse spectrum, whose ethic is to predominate and define, in law or regulation, what counts as 'animal welfare'? This is of great concern to the farm animal industries, worrying as they do about 'animal activists hell-bent on abolishing animal use.' In actual fact, of course, such concern is misplaced, for the chance of such an extremely radical thing happening is vanishingly small regarding food animals, though in all honesty it has happened on occasion – Prohibition is the most notable example. With regard to horses, however, abolitionist concerns should be seen by the industry to be a real and legitimate possibility. US society has witnessed this in a very dramatic way in the area of equine slaughter, which was halted completely in the USA by a groundswell of public opinion.

The differences between horses and food animals as objects of societal moral concern are patent. The vast majority of members of the public consume meat or other products derived from farm animals. On the other hand, a very small percentage is engaged with the equine industry. Of those who own horses, many see them as pets or members of the family – hence, the tension one finds in the legal arena between horses as companion animals and horses as livestock.

To the general public, the horse as an icon is irrevocably associated with the heroic figures of Silver, Trigger, Flicka, Seabiscuit, Black Beauty, Commanche, Mr. Ed, the US Cavalry, the winning of the West, Indian warriors, the wild mustang, Spanish Conquistadors, Genghis Khan, and the Mounties – the list could go on and on. The horse is, as it were, second only to the dog as America's sacred cow. Hence, our revulsion at eating horses or killing them for food, a revulsion not shared by most of Europe.

In the mid-1970s until the mid-1980s, this author was instrumental in drafting what became US laws for protecting laboratory animals, mandating among other things control of pain and distress stemming from their use in research (Rollin, 2006b). The research community opposed the law, and in some advertisements pointed out that 90% of the animals used in research were rats and mice, 'animals people kill in their kitchen.' This argument did not sway the public, nor did the threat that, if constraints were put on animal use, 'the research community would not be able to cure your children.' So strong was public support of this law across bipartisan lines that it was passed within three years of its introduction.

The relevance of this story to the equine industry should be transparent. If society cares enough about the pain of rats and mice to mandate its control, even when the health of children is threatened as a consequence of such legislation, it is easy to imagine the groundswell of concern that would emerge in the face of a well-publicized atrocity emerging from equine use. The public cares a great deal about horses, but very little about the equine industry, much of which is unknown or irrelevant to the average person!

In any case, let us return to societal ethics for animals. By and large, an ethic adopted in society reflects a *societal consensus* – what most people either believe to be right and wrong or are willing to accept upon reflection.

All of us have our own personal ethics, which rule a goodly portion of our lives. In our culture, such fundamental questions as what we read, what we eat, to whom we give charity, what political and religious beliefs we hold, and a myriad of others are answered by our personal ethics. These derive from many sources – parents, religious institutions, friends, reading books, movies, and television. One is certainly entitled to believe ethically, as do some PETA members, that 'meat is murder,' that one should be a vegetarian, that it is immoral to use products derived from animal research, and so on.

Clearly, a society, particularly a free society, contains a bewildering array of such personal ethics, with the potential for significant clashes between them. If my personal ethic is based in radical Islam, and yours is based in celebrating the pleasures of the flesh, we are destined to clash, perhaps violently. For this reason, social life cannot function simply by relying on an individual's personal ethics, except perhaps in singularly monolithic cultures where all members share overwhelmingly the same values. One can find examples of something resembling this in small towns in rural USA, where there is no need to lock one's doors, remove one's keys from the car, or fear for one's personal safety. But of course such places are few, and probably decreasing in number. In larger communities, of course, the extreme case being New York City, one finds a welter of diverse cultures and corresponding personal ethics crammed into a small geographical locus. For this reason alone, as well as to control those whose personal ethic may entail taking advantage of others, a *social consensus ethic* is required, one that transcends personal ethics. This social consensus ethic is invariably articulated in law, with manifest sanctions for its violation.

As societies evolve, different issues emerge, leading to changes in the social ethic. For example, for a long period in the USA, abortion was socially condemned, leading to back-street abortions, and unwanted and abused children. (I am not here taking a position on the morality of abortion; the above statement is factually documentable.) In the 1970s, however, society re-evaluated its position on abortion, relinquishing the decision as to its morality to individual women. Similar actions took place at that time regarding sexual behavior. Whereas, historically, the focus of control of behavior such as homosexuality was believed to reside in the state, the idea that, at least as far as consenting adults were concerned, what one did in the bedroom was paradigmatically up to individual personal ethics, began to rule.

These examples illustrate behaviors once thought to be subject to social ethical control relinquished to personal ethics. The opposite movement may also occur. Historically, to whom one rented or sold one's property was seen as a paradigmatic example of a matter of personal ethical choice. As it became known that this resulted in widespread injustice and unfairness, with people refusing to rent or sell to qualified minorities, society rescinded leaving that behavior to personal ethics. A similar transformation took place with regard to sexual harassment and the enforcement of parental authority over children.

My claim, then, is that, beginning roughly in the late 1960s, the treatment of animals has moved from being a paradigmatic example of personal ethics to ever-increasingly falling within the purview of societal ethics and law. How and why has this occurred, and to what extent?

If one looks to the history of animal use in society back to the beginning of domestication some 11 000 years ago, one finds very little social ethics dictating animal treatment. The one exception to this generalization is the prohibition against deliberate, purposeless cruelty, i.e., needless infliction of pain and suffering. This mandate is well-illustrated in the Old Testament, where many injunctions illustrate its presence. For example, one is told that, when collecting eggs from a bird's nest, one should leave some extant so as not to distress the animal. The requirements of kosher slaughter accomplished by an anatomically trained person using a very sharp knife were clearly intended as a viable alternative to the much more traumatic bludgeoning. (That is not of course to suggest that such slaughter remains welfare-friendly in high-throughput industrialized slaughter houses.) The rule of Kashrut prohibiting the eating of milk and meat – 'do not seethe a calf in its mother's milk' – seems to be aimed at avoiding loss of sensitivity to animal suffering.

In the middle ages, St. Thomas Aquinas provided a more anthropocentric reason for prohibiting cruelty, based in the prescient psychological insight that those who would abuse animals will inexorably progress to abusing humans. Aquinas does not see animals as direct objects of moral concern, but nonetheless strongly prohibits their abuse.

In the late eighteenth century in Britain, and in subsequent years elsewhere, the prohibition against deliberate, sadistic, deviant, willful, malicious cruelty, i.e.,

inflicting pain and suffering on animals to no reasonable purpose, or outrageous neglect such as not providing food or water, were encoded in the anti-cruelty laws of all civilized societies. While adopted in part out of a moral notion of limiting animal suffering, an equally important reason was the Thomistic one – to ferret out individuals who might graduate to harming humans; case law in the USA and elsewhere make this manifest.

In one revealing case in nineteenth-century Missouri, a man was charged with cruelty after throwing pigeons into the air and shooting them to demonstrate his skill. After killing the birds, he ate them. The court ruled that the pigeons were not ‘needlessly or unnecessarily killed,’ because the killing was done ‘in the indulgence of a healthful recreating during an exercise tending to promote strength, bodily agility and courage’ (State v. Bogardus, 1877). In discussing a similar nineteenth-century case of a tame pigeon shoot in Colorado, the court affirmed that ‘every act that causes pain and suffering to animals is not prohibited. Where the end or object in view is reasonable and adequate, the act resulting in pain is ... necessary and justifiable, as ... where the act is done to protect life or property, or to minister to the necessities of man’ (Waters v. The People, 1896). To the credit of the Colorado Court, it did not find that such tame pigeon shoots met the test of ‘worthy motive’ or ‘reasonable object.’ Even today, however, there are jurisdictions where tame pigeon shoots and ‘canned hunts’ do not violate the anti-cruelty laws.

It is certainly true that cruelty to animals is closely linked to psychopathic behavior – animal cruelty, along with bed-wetting and fire-starting, are the three cardinal signs of future psychopaths. The majority of children who shoot up their schools have early histories of animal abuse, as do 80% of the violent offenders in Leavenworth and most serial killers. Animal abusers often abuse wives and children. Most battered women’s shelters must make provisions for keeping the family pet, as the abuser will hurt the animal to hurt the woman. But these laws conceptually provide little protection for animals. Animal cruelty accounts for only a tiny fraction of the suffering that animals undergo at human hands. For example, the USA produces nine billion broiler chickens a year, and many have bruises and fractures or other musculoskeletal injuries. If even 1% of chickens are so injured (a ridiculously low number), then we have 90 000 000 suffering animals there alone – there is nothing like 90 000 000 incidents of cruelty in the USA per year, and those chickens are legally unprotected, not even subject to humane slaughter law!

Upon reflection, it is obvious that growing societal concern with animal treatment would not be content with the anti-cruelty ethic and laws, although society has raised animal cruelty to a felony in more than forty states. These laws are focused on deviant behavior, not on activities that are routinely and widely accepted as, in the word of one court, ‘ministering to the necessities of man.’ Thus such practices as steel-jawed traps or hot iron branding of cattle are invisible to the anti-cruelty laws.

A 1985 case in New York State vividly pointed out the need for ethical evolution beyond cruelty. A group of attorneys brought suit against the branch of New York

State government charged with administering public lands on the grounds that the agency's permitting the use of steel-jawed traps on public lands without a requirement for regularly checking the traps entailed violation of the cruelty laws, since animals so trapped were deprived of food, water, and medical care for injury. Although sympathetic to the moral point, the judge dismissed the case, reiterating that the cruelty laws did not apply to 'standard' practices such as trapping, which fulfill a legal human purpose – provision of furs and pest control. If the plaintiffs wished to ban steel-jawed traps, said the judge, they needed to go to the legislature, that is, change the social ethic, not to the judiciary, which is bound by the ethic encoded in the anti-cruelty laws (*Animal Legal Defense Fund v. The Department of Environment Conservation of the State of New York*, 1985).

We will discuss the nature of the emerging ethic shortly, but it is necessary to pause and point out that, while many hurtful practices in animal agriculture do not fall under the anti-cruelty laws, and these require a new ethic and laws following from that ethic, *a goodly number of practices in the equine industry could legitimately be seen as blatant cruelty under the traditional ethic!* These include, but are not limited to, the following:

- The use of severe bits, for example, those made of chain-saw (the so-called mule bit) or bicycle chain.
- The soring of horses (i.e., hurting their feet so they will step high) as done with Tennessee Walkers (this practice evoked federal legislation).
- Excessive whipping.
- Abusive training methods, such as 'tarping' (covering the horse with a tarp and beating him) or use of electroshock.
- Hotshotting (using an electric prod on the horse).
- Abusive cheating at horse shows, including use of firecrackers, whipping, electroshock and anal irritants to excite animals for some show uses, or bleeding, hanging, taping nostrils and even breaking ribs to make the horse appear relaxed.
- Severely cutting tongues in reining horses.
- A general macho attitude toward the horse in some quarters of the industry, often expressed as 'you must beat a horse to establish dominance.'

It is frankly incredible that the industry has escaped public flagellation over the proliferation of such practices. When I have shown a 'mule bit' to my friends not involved with horses, or even to friends who do have horses, but would not have occasion to use such a bit, they are invariably shocked and horrified! Media exposure of these sorts of practices could expose the industry as a whole to adverse publicity it can ill afford.

Let us return to the main thread of our argument. We have thus far argued that the societal ethic for the treatment of animals has moved well beyond a concern for deviant, unnecessary cruelty, which covers only a fraction of annual suffering at

human hands, to an ethic that is intended to cover all animal suffering or abuse, even that which is not the result of deliberate cruelty or neglect. We have also indicated that some treatment of horses comes very close to condemnation even by the anti-cruelty ethic. It remains for us to explain the new ethic and look at the applicability to the equine industry.

For the overwhelming majority of human history, until some three decades ago, the anti-cruelty ethic served as the only socially articulated moral principle for animal treatment. Except for a few sporadic voices following in the wake of Darwin's discussion of human–animal continuity, no one spoke of animals' rights, nor did society have moral concepts for animal treatment that went 'beyond cruelty.' The obvious question that presents itself is this: What in the last half-century has led to social disaffection with the venerable ethic of anti-cruelty, which does not cover most sources of animal suffering?

In a study commissioned by USDA to answer this question, I distinguished a variety of social and conceptual reasons (Rollin, 1995).

- (1) Changing demographics and consequent changes in the paradigm for animals. Whereas, at the turn of the century, more than half the population was engaged in producing food for the rest, today only some 1.5% of the US public is engaged in production agriculture (AMC, 2003). One hundred years ago, if one were to ask a person in the street, urban or rural, to state the words that come into their mind when one said 'animal,' the answer would doubtless have been 'horse,' 'cow,' 'food,' 'work,' etc. Today, however, for the majority of the population, the answer is 'dog,' 'cat,' or 'pet.' Repeated studies show that some 90% of the pet-owning population view their animals as 'members of the family' (The Acorn, 2002; Harris Poll, 2007), and virtually no one views them as an income source. Divorce lawyers note that custody of the dog can be as thorny an issue as custody of the children!
- (2) We have lived through a long period of ethical soul-searching. For almost fifty years, society has turned its 'ethical searchlight' on humans traditionally ignored or even oppressed by the consensus ethic – blacks, women, the handicapped, other minorities. The same ethical imperative has focused attention on our treatment of the non-human world: the environment and animals. Many leaders of the activist animal movement in fact have roots in earlier movements, such as civil rights, feminism, homosexual rights, children's rights, and labor.
- (3) The media has discovered that 'animals sell papers'! One cannot channel-surf across normal television service without being bombarded with animal stories, real and fictional. (A *New York Times* reporter recently told me that more time on cable TV in New York City is devoted to animals than to any other subject.) Recall, for example, the extensive media coverage a decade ago of some whales trapped in an ice floe and freed by a Russian icebreaker. It seems someone in the Kremlin realized that liberating the whales was a cheap way to curry favor with US public opinion.

- (4) Strong and visible arguments have been advanced in favor of raising the status of animals by philosophers, scientists, and celebrities (Singer, 1975; Rollin, 1981; Regan, 1983; Sapontzis, 1987).
- (5) Changes in the nature of animal use have demanded new moral categories.

In my view, although all the reasons listed above are relevant, they are not nearly as important as the precipitous and dramatic changes in animal use that occurred after World War II. These changes include huge conceptual changes in the nature of agriculture and a significant increase in animal research and testing.

For virtually all of human history, animal agriculture was based four-square in animal husbandry. Husbandry, derived from the old Norse word ‘hus/band’ or bonded to the household, meant taking great pains to put one’s animals into the best possible environment one could find to meet their physical and psychological natures – which, following Aristotle, I call *telos* (Rollin, 2006a) – and then augmenting their ability to survive and thrive by providing them with food during famine, protection from predation, water during drought, medical attention, help in birthing, and so on. Thus, traditional agriculture was roughly a fair contract between humans and animals, with both sides being better off in virtue of the relationship. Husbandry agriculture was about placing square pegs into square holes, round pegs into round holes, and creating as little friction as possible in doing so. So powerful is the notion of husbandry, in fact, that when the Psalmist seeks a metaphor for God’s ideal relationship to humans, he seizes upon the shepherd in the twenty-third Psalm:

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures;
He leadeth me beside the still waters; He restoreth my soul.

We wish no more from God than what the husbandman provides for his sheep. In husbandry, a producer did well if and only if the animals did well, so productivity was tied to welfare. Thus, no social ethic was needed to ensure proper animal treatment; only the anti-cruelty ethic designed to deal with sadists and psychopaths was needed to augment husbandry. Self-interest virtually assured good treatment. The logo of the ASPCA, the first anti-cruelty group in the USA, shows Henry Bergh, its founder, staying the hand of a carter who has beaten his horse to the ground, clearly counter-productive to his own self-interest.

After World War II, this contract was broken by humans. Symbolically, at universities, Departments of Animal Husbandry became Departments of Animal Science, defined not as care, but as ‘the application of industrial methods to the production of animals’ to increase efficiency and productivity. With technological ‘sanders’ – hormones, vaccines, antibiotics, air-handling systems, mechanization – we could force square pegs into round holes and place animals into environments where they suffered in ways irrelevant to productivity. If a nineteenth-century agriculturalist had tried to put 100 000 egg-laying hens in cages in a building, they all would have died of disease in a month; today, such systems dominate.

The new approach to animal agriculture was not the result of cruelty, bad character, or even insensitivity. It developed rather out of perfectly decent, *prima facie* plausible motives that were a product of dramatic significant historical and social upheavals that occurred after World War II. At that point in time, agricultural scientists and government officials became extremely concerned with supplying the public with cheap and plentiful food for a variety of reasons. In the first place, after the Dust Bowl and the Great Depression, many people in the USA had soured on farming. Second, reasonable predictions of urban and suburban encroachment on agricultural land were being made, with a resultant diminution of land for food production. Third, many farm people had been sent to both foreign and domestic urban centers during the war, thereby creating a reluctance to return to rural areas that lacked excitement – recall the song popular in the early 20th Century: ‘How ya gonna keep ‘em down on the farm after they’ve seen Paree?’ (Donaldson *et al.*, 1918). Fourth, having experienced the specter of starvation during the Great Depression, the American consumer was, for the first time in history, fearful of an insufficient food supply. Fifth, projection of major population increases further fueled concern.

When the above considerations of loss of land and diminution of agricultural labor are coupled with the rapid development of a variety of technological modalities relevant to agriculture during and after World War II, and with the burgeoning belief in technology-based economics of scale, it was probably inevitable that animal agriculture would become subject to industrialization. This was a major departure from traditional agriculture and a fundamental change in agricultural values – industrial values of efficiency and productivity replaced and eclipsed the traditional values of ‘way of life’ and husbandry.

The rise of large amounts of annual research and testing after World War II also superseded the relevance of cruelty-to-animal ethics. People also realized that biomedical and other scientific research, toxicological safety testing, use of animals in teaching, pharmaceutical product extraction from animals, and so on, all produce far more suffering than does overt cruelty. This suffering comes from creating disease, burns, trauma, fractures, and the like in animals in order to study them; production of pain, fear, learned helplessness, aggression, and other states for research; poisoning animals to study toxicity; and performing surgery on animals to develop new operative procedures. In addition, suffering is engendered by the housing of research animals. Indeed, one can argue that the discomfort and suffering that animals used in research experience by virtue of being housed under conditions that are convenient for us, but inimical to their biological natures – for example, keeping rodents, which are nocturnal, burrowing creatures, in polycarbonate crates under artificial, full-time light – far exceed the suffering produced by invasive research protocols.

Thus mid-twentieth-century developments in agriculture and research were a main vector in creating significant sources of animal suffering not captured by the anti-cruelty ethic, and new ethical concepts were called for.

Let us recall that we have argued that the notion of equine welfare must be discussed in terms of societal ethics dictating what we owe animals and to what extent. Thus, once we have described the new ethic, we will be in a position to apply it to the equine industry as a template for what society expects.

Ethical concepts do not arise *ex nihilo*. Plato taught us a valuable lesson about effecting ethical change. If one wishes to change another person's (or society's) ethical beliefs, it is much better to *remind* than to *teach* or, using a martial arts metaphor, it is better to use judo rather than sumo. In other words, if you and I disagree ethically on some matter, it is far better for me to show you that what I am trying to convince you of is already implicit – albeit unnoticed – in what you already believe. Similarly, we cannot force others to believe as we do (sumo). We can, however, show them that their own assumptions, if thought through, lead to a conclusion different from that which they currently entertain (judo). These points are well exemplified in twentieth-century US history. Prohibition was sumo, not judo – an attempt to forcefully impose a new ethic about drinking on the majority by the minority. As such, it was doomed to fail, and, in fact, people drank more during Prohibition. Contrast this with former US President Lyndon Johnson's civil rights legislation. Himself a Southerner, Johnson realized that even Southerners would acquiesce to the following two propositions: (1) all humans should be treated equally; and (2) black people are human. They just had never bothered to draw the relevant conclusion. If Johnson had been wrong about this point, if 'writing this large' in the law had not 'reminded' people, civil rights would have been as ineffective as Prohibition!

So society was faced with the need for new moral categories and laws that reflected those categories in order to deal with animal use in science and agriculture and to limit the animal suffering with which it is increasingly concerned. At the same time, recall that Western society has gone through almost fifty years of extending its moral categories for humans to people who were morally ignored or invisible – women, minorities, the handicapped, children, citizens of the Third World. As we noted earlier, new and viable ethics do not emerge *ex nihilo*. So a plausible and obvious move was for society to continue in its tendency and attempt to extend the moral machinery it has developed for dealing with people, appropriately modified, to animals. And this is precisely what has occurred. Society has taken elements of the moral categories it uses for assessing the treatment of people and is in the process of modifying these concepts to make them appropriate for dealing with new issues in the treatment of animals, especially their use in science and confinement agriculture.

What aspect of our ethic for people is being so extended? One that is applicable to animal use is the fundamental problem of weighing the interests of the individual against those of the general public. Different societies have provided different answers to this problem. Totalitarian societies opt to devote little concern to the individual, favoring instead the state or whatever their version of the general welfare may be. At the other extreme, anarchical groups, such as communes, give

primacy to the individual and very little concern to the group – hence they tend to enjoy only transient existence. In our society, however, a balance is struck. Although most of our decisions are made to the benefit of the general welfare, fences are built around individuals to protect their fundamental interests from being sacrificed for the majority. Thus, we protect individuals from being silenced even if the majority disapproves of what they say; we protect individuals from having their property seized without recompense even if such seizure benefits the general welfare; we protect individuals from torture even if they have planted a bomb in an elementary school and refuse to divulge its location. We protect those interests of the individual that we consider essential to being human, to human nature, from being submerged, even by the common good. Those moral/legal fences that so protect the individual human are called *rights* and are based on plausible assumptions regarding what is essential to being human.

It is this notion to which society in general is looking in order to generate the new moral notions necessary to talk about the treatment of animals in today's world, where cruelty is not the major problem, but where such laudable, general human welfare goals as efficiency, productivity, knowledge, medical progress, and product safety are responsible for the vast majority of animal suffering. People in society are seeking to 'build fences' around animals to protect the animals and their interests and natures from being totally submerged for the sake of the general welfare, and are trying to accomplish this goal by going to the legislature. In husbandry, this occurred automatically; in industrialized agriculture, where it is no longer automatic, people wish to see it legislated.

It is necessary to stress here certain things that this ethic, in its mainstream version, is not and does not attempt to be. As a mainstream movement, it does not try to give human rights to animals. Since animals do not have the same natures and interests flowing from these natures as humans do, human rights do not fit animals. Animals do not have basic natures that demand speech, religion, or property; thus, according them these rights would be absurd. On the other hand, animals have natures of their own (*telos*) and interests that flow from these natures, and the thwarting of these interests matter to animals as much as the thwarting of speech matters to humans. The agenda is not, for mainstream society, making animals 'equal' to people. Rather, it is preserving the common-sense insight that 'fish gotta swim and birds gotta fly,' and suffer if they do not.

Nor is this ethic, in the minds of mainstream society, an abolitionist one, dictating that animals cannot be used by humans. Rather, it is an attempt to constrain *how* they can be used, so as to limit their pain and suffering. In this regard, as Suther (1993) points out, the thrust for protection of animal natures is not at all radical; it is very conservative, asking for the same sort of husbandry that characterized the overwhelming majority of animal use during all of human history, save for the last fifty years or so. It is not opposed to animal use; it is opposed to animal use that goes against animals' natures and tries to force square pegs into round holes, leading to friction and suffering. If animals are to be used for food and labor,

they should, as they traditionally did, live lives that respect their natures. If animals are to be used to probe nature and cure disease for human benefit, they should not suffer in the process. Thus, this new ethic is *conservative*, not radical, harking back to the animal use that necessitated and thus entailed respect for the animals' natures. It is based on the insight that what we do to animals matters to them, just as what we do to humans matters to us, and consequently, we should respect that in our treatment and use of animals as we do in our treatment and use of humans. And because respect for animal nature is no longer automatic as it was in traditional husbandry agriculture, society is demanding that it be encoded in law.

Strictly speaking, in the eyes of the law, animals have the status of property and thus cannot have rights. But the functional equivalent of rights can be achieved by limiting property use. Thus I own my motorcycle free and clear, but I cannot ride it on the sidewalk, up a one-way street the wrong way, or at any speed I wish. Similarly, the federal laboratory animal laws do not deny that researchers own their animals, but nevertheless restrict how they are used. This explains why we have seen the proliferation of animal protection legislation we mentioned earlier.

It should be clear that I categorically reject the standard dualism rampant in agriculture and veterinary medicine between animal welfare and animal rights. In my view, animal rights, in the mainstream sense I described, is the form that animal welfare has taken in the face of unprecedented animal uses and the social changes described earlier. The notion that animals should have rights, i.e., legalized protections for their basic needs and natures while they are being used, is not the same as saying that animal use should be abolished. In fact, the vast majority of the public would affirm that animals should have rights in this sense.

How does this ethic apply to the equine industry? In varying ways – the industry is far from monolithic. But we can point up some issues which, if not dealt with by the industry, are prone to heavy-handed legislation.

In the first place, despite wishful thinking for some parties, horses are no longer viewed by the public as livestock. In other words, it is not part of their *telos* to be eaten. Hence the massive public sentiment against horse slaughter and shipping for food. This occurred despite the welfare problems inherent in the end of slaughter – slaughter in itself was simply inconceivable. I recently heard a veterinarian lament the waste of protein inherent in stopping equine slaughter in a protein-poor world. This may be true, but it has no more social traction than allowing surplus dogs and cats – a major social problem – to be disposed of as food! In the social mind, horses are akin to large dogs.

It is therefore doubtful that the anti-slaughter movement will be reversed, yet the abandoned, unwanted, horses will continue to proliferate. It is not inconceivable that society could move to stem this tide legislatively – for example, by compelling people to post a bond whenever they acquire a horse, the bond to be forfeited if the owner fails to properly euthanize or place the animal when it is no longer wanted.

Many areas of the equine industry are not in accord with the ethic we have described. Horse racing is an obvious example. Abusive, as opposed to 'natural,'

training, is increasingly anathema – revelations of abusive training could do major harm to the industry.

Similarly, drugging, nerving, confining the racehorse for most of the day, will no longer be acceptable to a public with a clear image of how horses should be kept and treated. Nor will trashing them when they can no longer run.

Exactly the same logic applies to horse shows and other equine pursuits. Hurting the horse for the sake of winning could create a groundswell of public opinion banning shows, even as dog-fighting has been societally rejected. Each industry should be courageous enough to address its own abuses and deal with them before that option is removed and the public takes matters into its own hands. As I said in my first talk to the American Association of Equine Practitioners (AAEP) in the early 1990s:

None of the equine suffering we have mentioned above is necessary – viable alternatives exist to the abusive practices we have mentioned. One can have racing without racing horses who are not biologically ready and without drug abuse; one can have horse training which works with the horse's nature, and not against it, brutally bending it to our will (such training is in any event more beautiful and elegant). One can have horse shows that celebrate and exhibit the horse's *telos*, not our skill at abusive artifice. One can enjoy the horse for what it is, and what we can perfect genetically and environmentally, not for our unfortunate skill in putting square pegs into round holes. In conclusion, I would argue that we should keep as our root metaphor what must surely have informed the ancient vision of the centaur, the symbiotic unity of man and animal, mutually interdependent, rising to heights neither could scale alone.

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