

# MIRROR PRODUCTION

*of*

## Animal Rights Law: Fundamentalism versus Pragmatism<sup>1</sup>

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### Introduction

An example of an animal rights law would be providing total liberation for animals, such as mandating that no animals be killed for the eating of their flesh and being allowed to live out their lives in an animal sanctuary. By contrast, a "welfarist" law might be providing hens with 80% of absolutely full liberty of movement rather than living stuffed in tiny cages as most now do. Gary Francione has argued that it is both **immoral** and **ineffective** to advocate animal "welfarist" laws. Instead, he claims we can either abstain from advocating any laws at this point, or only laws that affirm either animal rights, or large parts of rights that he calls "proto-rights" after the usage of philosopher Tom Regan. What does proto-rights mean? It means a precursor to full rights. In the legislative short term, Francione would accept only either abolishing an entire area of animal exploitation (e.g., cosmetics tests) or else protecting an entire interest of animals that a right would protect (e.g., 100% liberty of movement). His type of strategy would eliminate prospects of humane reformers and animal liberationists from working together to a very large extent.

Francione is an animal rights fundamentalist. Animal rights fundamentalists believe that animal rights is a basic moral consideration, and that anything contrary to such a principle is always morally wrong. Animal rights pragmatists such as myself assert that the

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case is not so simple. Rather, although we are abolitionists with respect to animal exploitation, we should basically do what is best for sentient beings as our ultimate consideration. Therefore, we can affirm animal rights, but only as part of what is best for sentient beings. There is good reason for the pragmatist position. We cannot act ultimately for the sake of any mere thing, be it a rock, toaster, or even a principle. Nothing is significant to any mere thing, so if our actions are to have any positive significance, we must ultimately act for sentient beings. That is because things matter to sentient beings and only sentient beings. Animal rights are therefore not fundamental considerations but are part of what is best for sentient beings. However, are animal rights always what is really best for sentient beings? I argue that it is best to advocate animal rights for the legislative long-term, and that the best we can really achieve may be so-called “welfarist” laws in the short-term.

### **Ethics: Animal Rights and Suffering-Reduction**

Let us first assess Francione’s claim that it is somehow immoral, or inconsistent with animal rights, to support any “welfarist” law. In the short-term, we are faced with the following options:

- (1) No change in the law;
- (2) Cosmetic changes that do not significantly or even negatively affect animal welfare (cruelties can be made worse by creating the false impression that animals are “well off,” which may encourage more animal consumption, thus multiplying the misery);
- (3) Suffering-reduction laws which substantially improve conditions for animals under oppression by at least curtailing suffering without necessarily obtaining animal rights or proto-rights;
- (4) Suffering-reduction laws that *only* try to secure rights or strong proto-rights for animals, excluding all other forms of suffering-reduction laws;
- (5) Animal rights/vegan education as a short-term means of building long-term legal changes.

Animal rights law is not an option for the short-term for legislatures, although individuals and groups can adopt animal rights as a goal. No change in the law as in (1) is not any help, but (2)’s cosmetic changes is even worse because then things *seem* better but are not really, and grave problems remain. (3)’s “welfarism” permits laws that reduce cruelty and can be combined with (5) which is arguably always a good activity for animal rights advocates. (4) however is Francione’s option of exclusively advocating strong proto-rights for animals—along with (5) of course.

Francione would object to “welfarist” laws as speciesist, and part of the idea here is that collusion (i.e., partnership in wrong-doing) is occurring. Very simply, it is wrong to deviate from animal rights or anti-speciesism, and since “welfarist” laws go contrary to both of these principles, therefore they are wrong. If animal rights and anti-speciesism are ultimate ideas in ethics then perhaps collusion is occurring. However, if the ultimate principle of moral rightness is *doing what is best for sentient beings*, “welfarist” laws may sometimes be perfectly consistent with what is morally right. It is vital to distinguish between what is really best, and what is conceivably best. The best conceivable is animal liberation. However, in the short-term, that is not the best that is really possible, or what is really best, if it is not actually possible at all. Therefore, if a suffering-reduction law, say one

giving 80% of absolutely full liberty of movement to hens, is the best that can be managed for the birds in the short-term, then that is perfectly consistent with an ultimate principle of moral rightness. If the long-term goal of animal rights is maintained, then the reform may be ultimately consistent with animal rights too. Indeed, animal rights themselves arguably get their justification from the principle of doing what is best for sentient beings. We are sometimes permitted, in a moral dilemma, to choose options that are inconsistent with rights for all. For example, in a time-worn example that Francione himself gives, we can sometimes only pull one being from a fire. This means that not everyone's right to life is affirmed. We can ethically choose in the short-term, however, if our actions accord with a principle of moral rightness as I have argued animal "welfarist" laws sometimes might. Rather than partnership in wrong-doing, we find collaboration with people doing what is morally right. Something is not a "better choice" in the short-term if it is not a choice at all. However, we do indeed face a moral dilemma in the legislative short-term if we only have a choice of morally imperfect legal options.

It might be objected that we do not propose abolishing child abuse by degrees or asking to make it merely "kinder." However, this is not an analogous case, since there are already laws and norms against such abuse. Even calling for the norm in child abuse means calling for its end, since that form of violence is normally unacceptable in modern societies. But calling for "normal treatment" of animals merely invites further abuse of these sensitive beings. Exposing animal abuse does not mean shutting it down unlike human abuse. That animal abuse is morally wrong does not make its abolition possible in the short-term, and thus may not change what is really best to choose in the near-term. No less damning is the point that, metaphorically speaking, Francione only abolishes child abuse by degrees too: after all, he will protect some animal interests but others not at all, or accept banning some areas of animal exploitation though not others. That is more like eradicating degrees of child abuse than eradicating the whole thing. He does not notice that he is guilty of that which he denounces.

Observe how in this essay I have placed animal "welfare" laws in quotation marks. In this I follow animal liberationist thinker Joan Dunayer in her book, *Speciesism*. My own reasoning is that standard animal usages involve an ill fate for animals. We would say that a human being eaten, hunted, invasively experimented on, etc., however "kindly," came to an ill fate. So in non-speciesist terms, standard usage of animals is animal illfare overall rather than "animal welfare," even if there are attempts to be kind or humane. True animal welfare would involve only allowing good things for animals and no avoidable harm. Indeed, there is nothing wrong with a right to welfare. A human right to welfare would help us make sense of unemployment insurance, disability support, and other laws. If we are not speciesists, we would extend similar support of welfare to other animals than just humans.

In this section I have argued that Francione is mistaken in arguing that animal "welfare" laws are morally wrong or inconsistent with affirming an animal rights ethic in general. Indeed, the contrary can be argued, that failing to secure what is really best for animals in the legislative short-term is falling asleep at the switch, and allowing endless numbers of animals to awaken every day to a living nightmare of overcrowding and endless other insults. Francione objects, like myself, to treating animals like objects or instruments, or with a disregard for their interests. However, there is no better respect for animal interests than seeking to secure what is really best for them in both the short- and long-terms.

## Short- and Long-Term Effectiveness: the Example of Sweden

Recall that Francione's critique of "welfarist" laws is that they are unethical and ineffective. The first prong of his attack has been parried and reversed. It is unethical to fail to promote what is best for sentient beings, or to fail to substantially reduce their suffering using legislative means. If short-term success can be construed as the aptness to be successful in achieving the best possible immediate results while also striving for long-term goals, I think it is not difficult to argue that "welfarist" laws are more likely to succeed in the short-term than strong proto-rights laws. That is because in the short-term, legislatures will not pass the latter laws typically, although they may indeed pass the former. I have already argued that proto-rights laws are not really better as a choice if they are not a choice at all.

Now consider the issue of long-term effectiveness, or efficiency in promoting animal rights. Factory farming means utter animal misery. "Welfarist" laws might at least mean less suffering and perhaps some limited forms of animal contentment. This is undoubtedly kinder to animals than systems that Karen Davis, of United Poultry Concerns, has called going beyond what a sadist might design in terms of getting animals to suffer as much as possible for as long as possible. I argue straightforwardly that "welfarist" laws help to promote kinder culture, since they might exemplify and indeed require kindness. Kindness builds towards animal rights since it may have regard for all the goods of animals that animal rights does, although perhaps less stringently. In a crueller culture regarding animals such as China there are few vegans and animal rights sympathizers. Thus there is absolutely far less democratic potential for animal rights law in such an less kind culture (leaving aside the undemocratic nature of contemporary China). There is a reason for this. Animal rights seems *ridiculous and contemptible* in a culture that is so unkind to animals, but may well seem *interesting and plausible* in a kinder culture since there is the common ground of a positive regard for animals' goods. Thus animal "welfare" laws can be conducive towards animal rights laws in a very straightforward and clear way, and it would be difficult to controvert the statements that I have made here.

To illustrate this difficulty, I can list logical contraries of my statements that someone would have to verify as true in negating any part or the whole of my long-term-effectiveness model:

1. Kinder laws do not contribute to a kinder culture in general.
2. It is more likely for there to be vegan animal rights supporters in a crueller culture.
3. Animal rights will be taken seriously and be more highly respected in a crueller culture.
4. The number of vegan animal rights supporters in a society is irrelevant to that society's potential for animal rights law.
5. Animal rights law is more likely to emerge from a crueller culture than a kinder one.

I do not see how any of these absurd statements can be made good, and the examples of China and Sweden only serve to illustrate my model. So not only does animal rights fundamentalism lose on the short-term effectiveness front. Such an approach also comes up short in terms of long-term effectiveness in promoting animal rights.

Francione, for his part, disputes the effectiveness of animal "welfare" laws to the point of calling them futile. Because animals are property he claims prohibiting unnecessary suffering, as animal "welfare" laws purport to do, is "wholly without meaning." An obvious response to Francione on this score is that if seeking "welfare" laws is futile while animals are property, it must be even more futile or difficult to seek his more stringent proto-rights

measures. He does say one can abstain from legislative reform at this time, but as I have argued that would be a terrible missed opportunity.

Is “welfarism” futile? Sweden has enacted “welfarist” laws which are meaningless neither in terms of words nor significance to animals. Sweden banned anti-biotics, which are a staple feature of factory farming since animals cannot survive in intensive confinement conditions without such drugs. Thus pigs in Sweden by law need to have plenty of room, straw beds, access to outdoors, no cruel farrowing crates which confine pregnant sows, and more. The Swedes have banned the leghold trap and have signaled their intent to ban fur farming, thus providing an example of a kind culture working towards banning animal exploitation.

Francione provides the following reasons why animal “welfare” laws are supposedly futile:

- (1) these laws promote complacency and thus obstruct further legal progress and lead to increased animal consumption;
- (2) the property status of animals means that animals’ interests will not be considered but only those of property owners;
- (3) property owners are presumed to look after their property;
- (4) there are many legal obstacles such as species of animals being exempt from protection, minor penalties that are not enforced, etc.

The complacency and increased consumption objections are key but I deal with these in my objections section. His point (2) is refuted however since the interests of animals are considered in Sweden even though these creatures are still considered property. This is no minor counter-example since it is an entire Western nation. The Swedes made no assumption that farmers look after animals and legal obstacles that Francione mentions can also be overcome by legal reforms.

Francione often objects to promoters of “welfarist” laws by noting that they do not play a *causal role* in advocating the abolition of speciesism. However this is confused. I do not say that “welfare” laws *cause* abolition at all. For this to be true, simply creating “welfare” laws would bring about abolition all by itself. Rather, I have argued in terms of *conduciveness*. “Welfarist” laws may well conduce towards abolition in the way that I have explained. Similarly, sunshine does not by itself cause plant growth but may conduce towards it. Other factors are needed, just as more than “welfare” laws are needed for abolition: abolitionist activism itself is key. Francione’s claim that “welfarist” laws are necessarily ineffective seems refutable both in general terms and using specific examples such as China and Sweden. Francione’s approach seems not only ethically questionable, but is inconsistent with maximum conduciveness towards animal rights. I have shown that kindness culture is part of maximum conduciveness towards animal rights whereas cruelty culture is not. Yet we are left with cruelty culture when we either (a) play “outsiders” in relation to the legislative process, as Francione recommends, or else (b) advocate doomed because overambitious proposals such as (in most cases) Francione’s proto-rights. The important thing is to get the ball rolling for animal concern and to keep on pushing relentlessly until animal rights is achieved.

### **Francione’s Program of Incremental Reform Based on Proto-Rights**

Francione emphasizes repeatedly that the animal rights movement should reflect the ideology of animal rights, rather than something falling short of such a standard such as animal welfare. Rather than simply demand animal rights, however, he thinks it wise to ask for a “piece of rights” in the form of proto-rights. That is, part of the abolition of animal exploitation is achieving an end to a form of exploitation, and another part of abolitionist activism, he reckons, is the full protection of an interest an animal has such as liberty of movement or freedom from pain. He acknowledges these measures would be difficult to obtain, however, and therefore counsels that one can reasonably abstain from trying to change animal laws at this point in history. He calls animal rights an outsider position that will lose its radicalism insofar as it tries to achieve the “insider status” necessary to bring about legal change. The truth of this statement is doubtful, however, since People for the Ethical Treatment of Animals calls for an end to speciesism, with its motto that animals are not ours to eat, wear, experiment on or exploit for entertainment, but is an active agent in seeking legislative changes.

Francione used to support the Great Ape Project (GAP), which would accord rights to certain apes such as chimpanzees, gorillas, orangutans and bonobos. Now he rejects GAP since it is based on speciesist grounds such as resembling humans in various ways. Francione urges that we wait until apes can be granted rights because they are sentient. He could accept the Project as consistent with abolishing an entire area of animal exploitation but does not. Waiting until rights will be granted for sentience though is waiting until full animal rights can be achieved, and thus giving one of the most signal examples one could possibly give of a missed opportunity to save these marvelous creatures from hellish treatment, neglect, and quite possibly extinction.

Although Francione urges that people view animal rights as an “outsider” position, he indicates that anyone who pursues legal changes should conform to five criteria as a “conceptual rallying position” for animal rightists:

- (i) the change must constitute a *prohibition*, or it must target a particular practice since merely demanding “humane treatment” or restricting against “unnecessary suffering” has no content, and so the interests of property owners will prevail with no particular changes in practices;
  - (ii) the prohibition must be constitutive of the exploitive institution; he supports banning dehorning of cattle and it might be thought that does not necessarily constitute “farming” of cows, but again he is thinking of *particular practices* that now constitute the industry;
  - (iii) the prohibition must recognize and respect a *noninstitutional animal interest*, or protect an interest the animal would have respected if not regarded as property, and such protection would normally entail economic costs to owners;
  - (iv) animal interests cannot be tradable or “balanced away” to uphold a benefit to humans such as convenience or economic profit;
  - (v) the prohibition shall not substitute a more “humane” form of exploitation, such as mandating that pigs be used instead of dogs in vivisection.
- He warns that his criteria are imprecise and imperfect, so he cannot be criticized so easily for offering proposals that conflict with perfect animal rights.

### **Protecting Whole Interests: Would-Be Justifications and Objections**

Francione devotes scant attention to his principle that whole interests be protected, although in practical terms it seems to crystallize the difference between animal rights fundamentalists

of Francione's sort and animal rights pragmatists such as myself. Both approaches accept proposals for legal change that are imperfect compared to animal rights. The main issue is a contest over the size of the "pieces of rights" that are acceptable. Francione urges that whole interests must be protected, but pragmatists vouchsafe that for the time being, progress can be accepted in protecting degrees of interests.

Francione offers three justifications for protecting whole interests: (1) his idea is "uncontroversial"; (2) we cannot endorse "the sacrifice of fundamental interests of some animals today in the hope that other animals tomorrow will no longer be treated as the property of human owners"; and finally, (3) approving only a degree of protection of interests implies that one condones the other part of the given interest that is being violated, e.g., if only extreme forms of pain are ruled out in vivisection, this implies legitimizing lesser forms of pain.

However Francione's would-be-justifications seem to fail. With (1), his position is not uncontroversial as this paper attests. As for (2), how can one "sacrifice" an animal's interest if it cannot be protected in the short-term anyway? Ordinarily one thinks of sacrificing things that one either has or can obtain. Certainly one is not sacrificing the demand for animal rights, which is still insisted on as an ultimate goal. Present-day animals are also not "sacrificed" for future animals since again the best possible state is secured for present-day animals, even in some cases without regard as to whether this will one day lead to animal rights, so long as it is not contrary to that goal (as I have argued substantial reforms are not—on the contrary). His own proto-rights proposals also "sacrifice" parts of animals' interests that remain unfulfilled if pragmatists are also guilty of such "sacrifice," as I will soon illustrate in greater detail. As for (3), Francione cannot consistently use this argument since his proto-rights also afford only an imperfect protection of interests, and he would not wish to say that he "condones" what is not protected on his framework. For example he would ban dehorning, but does that imply that branding is acceptable if that is not also banned? Or he accepts the full protection of one interest (such as freedom of movement) but not another (e.g., bodily integrity), so does that imply approving of other interest(s) not being protected? Or if one area of animal exploitation is banned such as drug addiction experiments, does this imply that other vivisection is legitimate? Francione does not approve of these hypothetical neglected areas, but neither does the animal rights pragmatist regarding degrees of interests that remain unprotected. So Francione's given justifications of protecting whole interests demonstrably fail.

Moreover, there are several objections to insisting on such large pieces of rights as Francione's proto-rights as the only acceptable path:

(1) Rights themselves have no interest in their own fulfillment. Rights are for the sake of sentient beings. Again, it is best for sentient beings to make some progress in protecting their interests rather than none. No or less significant progress ensues by calling for a whole protection of an interest that is doomed in a given legislature for the time being. We need to separate what is conceivably best for animals from what is really best, otherwise we live in a fantasy world regarding the legislative short-term.

(2) Francione might insist on **strong** protection like rights, but nothing is weaker than futility, such as calling for the complete protection of an interest when that is typically unobtainable in the short-term, leaving an unkind culture in the campaign's wake and thus predictably *delaying* the coming of animal rights for the reasons given above;

(3) Francione already accepts partial fulfillment of interests by granting that some interests be protected but not others, or by accepting that some practices regarding an interest be

banned though not others (e.g., banning dehorning but not branding). Why not also accept partial fulfillment of interests by recognizing degrees of them? He is arbitrary on this score.

(4) It is odd he will tolerate 100% of some interests not being fulfilled, but not 20% of not being fulfilled such as if only 80% of bodily movement is guaranteed; so he necessarily tolerates a greater increment of interests not being protected than, say, 20% anyway;

(5) Even rights involve negotiation over degrees of fulfillment of interests such as in unemployment insurance. A range of respecting interests is debated over, i.e., different degrees of fulfillment of interests. So not only do proto-rights involve such degrees but rights themselves do on any sophisticated or real-world understanding of them.

(6) Maximum benefit to animals considers little parts, just as maximum water rations would consider partly filled bottles and maximum savings would include the quarters too.

(7) Francione seems to assume that only full protection of interests will lead to animal rights law, but all that is needed is a majority vote. And we do not need proto-rights enshrined in law to produce animal rights supporters as the contemporary scene amply proves.

(8) Francione seems to think that securing 70% of an animal's interest, which he rejects, would make further progress impossible from there. Consider though that progress hinges on motivation. If we are successful in motivating people to accept animal rights, then further progress will be possible. If we are unsuccessful (as I do not believe will ultimately be the case) then 70% is all that can be achieved and we should go for that. Or if we are uncertain of our success, again either road may lead to affirming the 70% for the time-being at least.

(9) His insistence on the imperfection and imprecision of proto-rights strongly suggests accepting the imperfect fulfillment of interests too. Finally:

(10) He contradicts his calling for whole-interest protection since banning de-horning but not branding is blatantly inconsistent with such a principle.

### **Fundamentalist Objections to “Welfarist” Laws**

Now we turn from objections to Francione's framework to his objections to “welfarism.” Here we move beyond general objections that it is necessarily unethical and ineffective.

**Objection 1:** “Welfarist” laws make people too complacent that animals are well-treated.

**Reply:** Complacency is a risk that should be examined on each occasion. However complacency is partly a question of how effective animal rights activism is. The unstated logical other half of the idea that “welfare” reforms lead to complacency is that not improving animal welfare will help to prevent complacency. However this uses cruelty to animals as a means towards animal rights, and that even though the response to prolonged cruelty at this stage of history will most likely be “welfarist” anyway. *Qualitatively*, it is worse to be complacent with a worse state of affairs, such as contemporary farming, by recommending that animal rightists remain “outsiders” to the legislative reform process or else advocating strong proto-rights proposals which will simply vanish in legislatures. *Quantitatively*, it is worse to delay animal rights out of concern with complacency, especially since “welfarism” will always be an option and so complacency will always be a risk, so pushing through that risk sooner brings on a kinder culture and the capacity for society to choose in favor of animal rights. It would be complacent indeed to think we could “pole-vault” from today's abject misery to animal rights in one fell swoop. But suppose we achieve his proto-rights. They will promote even *more* complacency than “welfarist” laws since then

people will say, “It is as though we have achieved part of animal rights,” which sounds like greater laurels to rest on than mere suffering reduction.

**Objection 2:** People will consume more animal products if practices are made less cruel and so more animals will suffer and have their rights violated.

**Reply:** I offer five objections to Objection 2: (i) Francione’s proto-rights might boost consumption even more than “welfarism” since then people will be satisfied that part of rights is achieved, which is more cause for satisfaction with progress than just reducing suffering; (ii) promoting kindness culture and animal rights may one day **end** animal consumption; (iii) many will still not consume on animal rights grounds, and “welfarist” campaigns will convert many people who learn about animals to animal rights; (iv) less cruel meat might be more expensive, thus discouraging consumption; (v) the objection seems confined to a fragmentary view, whereas we can more objectively evaluate from a comparative overview. There are three broad phases here: (1) *extreme cruelty* (such as right now); (2) *substantially reduced cruelty*, and (3) *animal rights*. On Francione’s scenario which delays (2) due to fears of increased consumption, there would be a longer phase (1) and a shorter phase (3), since unkind culture delays animal rights as I have argued, and this is a worse-case scenario than the animal rights pragmatist’s which would shorten the extreme cruelty phase and lengthen the animal rights phase by bringing it on sooner. Phase (2) might last longer on his approach too at the expense of animal rights, since (1) would be dragged on, entrenching a cruel culture, and on his analysis that would mean **more** risk of animal consumption with a longer “welfarist” phase, since cruel culture invariably retards the onset of animal rights.

**Objection 3:** Advocates of “welfare” laws condone speciesism.

**Reply:** Francione’s proto-rights laws (e.g., banning hot-iron branding of cattle) would equally be amendments that would become a part of speciesist laws so his accusation is reversible. PETA for example does not approve of animal slaughter for meat, as it says, and only approves of speciesist laws (as Francione also would) because *others* condone such atrocities and PETA is trying to make the best of that wretched state of affairs. It would be either insincere or ignorant to claim that PETA actually approves of speciesism. But again, if PETA does, then so does Francione.

**Objection 4:** Francione and his followers are true animal rights advocates and abolitionists, and those who advocate “welfarist” laws are not, and may be dismissed as “new welfarists.”

**Reply:** Francione outlines five supposed characteristics of “new welfarists”: (1) they favor abolishing animal usage so long as animal interests are not devalued due to speciesism; (2) they believe that animal rights cannot provide a practical agenda for seeking abolition; (3) animal welfare campaigns are identical to traditional welfarist tactics; (4) most new welfarists see their measures as causally related to abolishing animal exploitation; and (5) new welfarists believe there is no moral or logical inconsistency in “reinforcing an instrumentalist view of animals.” Although these five characteristics are meant to embody people such as myself, none of them apply to my version of animal rights pragmatism. For I favor choosing the best of speciesist options contrary to (1) (Francione also supports speciesist options such as only banning hot-iron branding of cattle, I might add); animal rights is very much a part of

my practical agenda as I have argued contrary to (2); my advocating abolition, etc. is not “identical” to traditionalists who wholly approve of speciesist animal “welfare” contrary to (3); I argue in favor of “welfarist” laws being *conducive* to animal rights in some cases, not as simply “causing” animal rights law contrary to (4); and finally I openly acknowledge that animal “welfare” laws are logically different from animal rights laws. “New welfarist” versus “abolitionist” has caused much division, alienation, lack of communication, and so forth. For instance, it is simply arrogant that Francione calls his website, “Animal Rights—the Abolitionist Approach.” [emphasis added] **Anyone** who aims for abolition is an abolitionist, especially since abolition will one day destroy all “welfarist” laws—so how could such advocates be primarily “welfarists,” only of a new stripe? Francione and his followers would ignorantly, in the strict sense, arrogate to themselves alone the title “abolitionist.” Also, Henry S. Salt, in late Victorian times, argues both for animal rights in the long term and animal “welfare” laws in the short term. So Francione is not contending with any “new” form of welfarism unless he means to characterize the Victorian age as somehow “new.”

**Objection 5:** Animal advocates should never tell people to stop short of what is most ideal.

**Reply:** Pragmatists in this contexts tell people to affirm animal rights. Only it is recognized that the answer to such a demand will be short of the ideal, and we must make the best of that falling short rather than the current animal misery. Francione’s proto-rights also stop short of what is ideal—animal rights—leaving whole interests neglected, or banning some speciesist practices or areas of exploitation but not others. So as I have found so often, animal rights fundamentalism runs afoul of its own typical complaints.

**Objection 6:** We should not issue confusing messages of animal “welfare” and animal rights.

**Reply:** Animal rights for the long-term, legislatively, and the best we can manage for animals in the short-term is a clear enough picture, unlike Francione’s proto-rights. For example, first he approves of the Great Ape Project and then not—results of his analysis are often patently unpredictable. It would be **more** confusing to fail to distinguish clearly between short- and long-term goals.

## **Conclusion**

Francione does not mind attending to animal welfare concerns at the individual level, such as providing water to thirsty cows at a slaughterhouse, but would oppose passing a law that such cows receive water since that would supposedly condone speciesism. Yet again his own proto-rights amendments, such as banning hot iron branding of cattle, would form a part of speciesist laws too. I have argued though that animal “welfare” laws are totally ethically consistent in the context of the best that can be secured for sentient beings in the short-term, more effective for animals both in the short- and long-terms, and are not necessarily problematic due to concerns about complacency or increased animal consumption. On the contrary, Francione’s proposals are ethically questionable as contrary to what is really best for animals, and are not maximally conducive towards animal rights as I have argued. Ironically, the concerns regarding complacency and consumption I have shown are more applicable to Francione’s own way of thinking. While advocating animal rights and veganism is key, we miss an opportunity by failing to improve animal law in the

near term by remaining “outsiders.” When animal welfare is truly substantially secure, then it makes sense to insist on animal rights or perhaps proto-rights, much as Francione conceives them, full-out. Until that day, suffering-reduction is usually the best that can be managed in the short-term, aside from occasional successes such as banning animal circus acts or marine animal acts in certain jurisdictions. Becoming buried in “welfarism” to the point of disowning animal rights discourse fails to ask for the animals’ just due, but also burying one’s head in animal rights to the point of failing to ask for what is really best for animals in the short term is another kind of failing. Animal rights pragmatism, on the basis of what I have argued, seems a more just and effective vision for the purposes of animal rights legal reformists.