

Vegan Freak Interview: Gary Francione Returns to Vegan Freak Radio (January 30, 2007)

Transcribed by David Stasiak

Bob: It is our great pleasure to have professor Gary Francione back on the show. Gary Francione is a professor in the school of law at Rutgers University in New Jersey. And professor Francione was on the show back in November, December, and the response we got from the show was one of the greatest responses we have every had. Many you have some objections to things he said, some of you agreed, many of you had questions. And so professor Francione has very graciously agreed to come back for a second run on Vegan Freak radio to answer your questions. So this show is about answering all your questions we've received from people out there and we're much looking forward to it. Thank you for coming on to the show.

Gary: Well thanks for having me on Bob and Jenna, it's always a pleasure. And I got a tremendously positive response from my last appearance on your show and so I'm looking forward to this one.

Bob: So why don't you tell us a little about this class you're teaching with Anna Charlton about animal rights and human rights?

Gary: Well you know this class – let me explain the evolution of our teaching efforts. I started teaching animal rights theory in 85 when I was at the University of Pennsylvania and I was teaching jurice prudence and I introduced animal rights to that then. And then in 1989 I moved to Rutgers and in 1990 with Anna Charlton, we started the Rutgers Animal Rights Clinic. Which was the first thing of it's kind in the country where students were getting six academic credits for learning animal rights theory in a seminar that we had every week but also working with us on cases involving the rights of student to not use animals in the classroom or the rights of prisoners to get vegan food and other sorts of cases that we did. The rights of people to protest and to not be charged huge amounts of money for licenses by the police et cetera. And so we closed the clinic in 2000 largely because the animal rights movement in the United States had become so welfarist. We were finding it harder and harder to find interesting cases that interested us that were consistent with the abolitionist philosophy. So we switched our efforts to focusing exclusively on our classroom teaching and continuation of our course in animal rights. And last year we developed a new course called 'Animal Rights and Human Rights' where we talk about the relationship between various forms of discrimination against humans and discrimination against non-humans and what these things share in common. So have sort of a general theoretical introduction where we introduce the students to different types of moral theory and then we talk about things like civil rights and women's rights and homophobia and abortion and the war on terror and things like that. And then we relate this all to how we commodify, objectify and discriminate against non-humans. And this semester we've got 65 students in that class –

Bob: Wonderful.

Gary: - which is a remarkable enrolment. And we're very happy and they're just terrific students. I have to say that we're two weeks into the semester and I have to say that the students are just marvelous. And they're really engaged. It's very clear to me that young people (and I hate to sound like my father here) are reawakening to moral issues. I think we're coming out of a period (at least I want to hope that we are so perhaps this is wishful thinking on my part) of moral nihilism and of a lack of concern about moral issues and I think students are getting more and more interested in moral issues. And when I see the level of engagement I'm getting from the students in my class, it's clear to me that there seems to be a re-awakening and a re-emergence of interest in these issues. And so I'm really excited that we're having a very very good time with the students and I'm looking forward to tomorrow. I teach tomorrow. Actually I am looking forward to it. And the two of you are relatively young academics. I have to tell you I'm now in my 23rd year of teaching and it's really something to say "I can't wait until I get to class tomorrow". After 23 years you don't often feel that way. And I'm really excited about what's going on in that class and we're having lots of fun.

Bob: That's cool because I've just spent the week – I'm working on a book right now – writing about these shared systems of oppression and how they function structurally within economy, within society. I'm very happy to hear that students are coming around to that because when I introduced that notion to one of my classes there was so much resistance to it. It was absurd.

Gary: One of the problems with the modern animal rights movement is that it is reluctant to want to focus on another political issues.

Bob: Absolutely.

Gary: In an effort to make sure that it's donor base is as broad as possible and so as not to offend anybody, the modern animal rights movement stays away from political issues. But as I've been saying for 20 years now, you can't stay away from political issues. These things are all inter-related.

Bob: Absolutely.

Gary: And you can't say that the issue of animal oppression can be looked at in any sensible way apart from it's connection to other marginalized groups in the society. You simply can't do that. I remember some years ago I was invited to speak – there used to be, I don't know if there still is, but there used to be an event every summer, I think it was called the summit for the animals. It's where the leaders – I hate that word – of the animal rights movement gathered to discuss their common issues and common problems and whatever. And I was invited one year to come and talk about the relationship of speciesism to sexism, racism and homophobia. And I showed up at this event, which as I recall was being held in Boston. And I gave my talk about how speciesism, homophobia, racism were all inter-related. And I had a room full of blank faces looking

at me saying “Look we don’t really want to get into these issues at all; our issue is the animal issue and we don’t really – I remember specifically Cleveland Amery who has now passed this mortal coil. And Cleveland said “We don’t have a position on sexism any more than we have a position on the rights of Palestinians”. And I said “No no I disagree, I think we have a position on the rights of women, I also think we have a position on the rights of Palestinians. That is, they all have rights, none of them should be commodified and that as long as we’re commodifying humans in any sense we’re going to have the problem of commodifying non-humans”. And it really was an interesting event because it was very clear to me that nobody really wanted to sort of have that discussion. I think that in large part they thought what I was advocating was that we had to go to everybody else’s rallies or whatever and I was saying no I’m not saying that. I’m saying that what our baseline position ought to be is that we’re opposed to discrimination against human animals for any reason whatsoever and therefore we are opposed to sexism, racism, homophobia, the genocide of the Palestinians. Whatever it is, we are opposed to those things. Put it this way: it was a hard sell. But that’s a consequence of the fact that the animal rights movement is really not a political and social movement, it’s a business. And any sort of discussion of anything serious is an opportunity cost no one wants to incur because it runs the risk of alienating a potential donor out there and nobody wants to do that. So the movement tries to be ‘all things to all people’ so as to maximize the donor base. And it ends up being nothing to anyone because its positions are content less.

Bob: I absolutely agree. I mean I don’t want to get too far into this but what I think that what the movement suffers from is a fetish on animal suffering and a lack of concern for any other type of suffering. From my perspective there is suffering and that suffering should be examined across the entire spectrum.

Gary: I agree with you. I mean years ago when I was involved – many people may not know this but through the 80s and into the early 90s I was very very much involved with People for the Ethical Treatment of Animals. I did an enormous amount of legal work or legal projects with them. And one of the reasons why – there were several reasons – I ended up parting company with PETA was when they started the ‘I’d rather go naked than wear fur campaign’ which I thought was sexist. I blogged on the issue of PETA’s sexism last week. I think it has only gotten worse but in 1990 it wasn’t great. And when that started I remember having discussions with people at PETA and being told “Well sexism isn’t our issue” and I said “No no no I’m sorry but if speciesism is wrong because it is like racism, sexism and homophobia and other forms of discrimination, that logically implies that we think that racism, sexism and homophobia and other forms of discrimination are wrong”.

Bob: Absolutely.

Gary: And so this notion that we fetishize animal suffering to the exclusion of everything else is not only morally problematic, but it’s logically inconsistent with the idea that speciesism is bad because it’s like these other forms of discrimination.

Bob: Right on.

Jenna: Indeed.

Bob: You just talked about your website.

Gary: Yes.

Bob: Maybe you could tell our listeners a little bit about it as well.

Gary: Well for those folks who don't know, we have a website at www.animal-law.org [now obsolete] which is the URL of the website that we used to have when we had the animal rights clinic which we closed as I mentioned before in 2000. And there is also a blog at <http://garyfracione.blogspot.com> [now obsolete – new website is www.abolitionistapproach.com] which you can access on our main website page. On our main website page we have four movies or whatever you want to call them, basically: the theory of animal rights, the problem of animals as property, animal rights vs animal welfare and animal law. And viewers can watch those as Flash presentations. And then they can go to the blog for discussion and further topics. But we launched that in early December – actually it was after I was on your show the first time. And I am amazed at the response we are getting. We're getting about 700 visitors a day from all over the world. I'm getting so many e-mails I simply cannot keep up with them. They're very useful to me and I'm encouraging people to write to me because I am choosing my topics for my blog based on the sorts of emails I'm getting. But the response is remarkable. And it's so great they we now are doing translations into French, Spanish, Portuguese and German.

Bob: Wonderful.

Gary: And I'm very very excited about it. And I am not a techno sort of guy Bob and Jenna. I am what one might call a Luddite and I'm being dragged, kicking and screaming, into the internet age. As I mentioned I think the last time I was with you, I think that the internet is important because it's allowing us to communicate with each other, we don't have to communicate through the organized groups anymore, through the corporate welfare organizations anymore. We can now communicate through this thing called the internet which lowers the opportunity cost of communication and make it possible to talk to each other in a way that we were not able to do so before. I didn't even understand the extent to which that I possible now until we launched this website and I'm getting a lot of responses from all over: from western Europe, from Asia, from India, from all over the place, from Mexico, from all over the place from people who are saying "Look I agree with you. The way we're conceptualizing the problem is wrong. These organizations are all doing this the wrong way and we really do need to form an international grassroots approach to this which is abolitionist and represents a coherent opposition to all forms of discrimination and that sees veganism as the baseline of the abolitionist movement with respect to the animal issue. So I'm very very excited. And it's become – I had no idea it was going to be as popular as it is and that people were going to respond to it as

enthusiastically as they have. But it's exciting, but it's also a lot of work, you have a site so you know this –

Jenna: Yes we do.

Gary: This is new to me and it's very exciting and I'm really looking forward to how it's going to expand. And as I say we're doing these translations and we're very very excited about that.

Jenna: That's wonderful. And besides the teaching and the website, you also have a new book coming out from Columbia University Press.

Gary: I do. It's called 'The Personhood of Animals' [book was published in 2008 under the title 'Animals as Persons: Essays on the Abolition of Animal Exploitation;]. It is going to be out I hope late spring, late summer. I'm just about to send the manuscript off to Columbia so if my editor at Columbia is listening, I'm sorry it's late, I apologize, I've been working hard on it. But it's almost done. And it's a set of essays which, sum of which I have published before and some of which are new essays, but focusing on the concept of the personhood of non-human animals and the notion that as long as an animal is sentient (by which I mean is subjectively aware), that animal has a right not to be treated as property. I'm hoping to follow this book up with another book in which I am going to be debating with a defender of animal welfare from Britain in which we're going to have a debate about animal rights vs animal welfare. But this book is going off I hope next week and I will start work on the next book, which is going to be called tentatively 'Animal Rights vs Animal Welfare: The Debate'. So that will be I think an exciting project.

Bob: Well congratulations on finishing that up I'm very much looking forward to reading that.

Gary: Thank you.

Bob: So maybe what we should do now is move into some of these questions, we have a bunch of questions from listeners out there and I just think we should just run right at them head on. Is that alright with you?

Gary: Yeah I just want to say, you put out a request for questions from your 'freaks' – is that what you call your people or? Is that the right noun for people who are adherents or subscribers of your site? And I have to say I am very impressed by the quality of the questions I have gotten, they are really excellent questions, excellent questions.

Bob: We have smart listeners.

Gary: Well I don't doubt that, I mean these are high quality questions.

Bob: Glad to hear that. So maybe Jenna you want to start?

Jenna: Sure. The first one we got in several different forms from several different people and it has to do with the very end of our show you'd called back last time to talk about your views on violence to other humans and property. So some people I think wanted you to expand upon that a little bit. We have a question from Texas Cat Chick who asks: "In the last podcast when Gary called back at the end of the show to emphasize that the AR or abolition movement should be considered part of the peace movement" and wondered if you thought that open rescues were a peaceful and affective tool. And then Mango continued on to say (to think about what is in an abolitionist online article), she'd like to know how Gary would evaluate whether direct actions further hinder or further the cause. And so could you talk about that?

Gary: Well yeah sure. Let me say first of all there were some people who had questions – they used the expression 'direct action'. Let me just clarify something. For many years I have been saying that veganism is direct action. And so I want to make clear when I talk about direct action I include veganism in that. So what I would like to focus on right now is violence to humans and property. I have a serious problem with that for a number of reasons. First of all I think it's morally problematic. The history of humankind is an endless cycle of violence and violent reaction and more violence and more violent reactions. What I see this movement as is a reaction to all that in saying "No, let's put an end to all of that". I think there's something morally problematic with violence. I believe very very strongly in non-violence, very very strongly in non-violence". And I don't think we're doing to win by yet another justification for violent action. I am horrified when I hear the sorts of things that Jerry Vlasic says or Rod Coronado says. I find that absolutely horrifying. I don't think that's the solution to the problem. I think that's part of the problem. Really when we look at it I think we have to see that what we're objecting to is patriarchy and violence. And we're not going to solve that with more machismo or more patriarchal violence, I don't think that's going to work. People have sent me emails saying "Well what if we could blow up a research facility and not injure anybody". That's silly. That's a silly hypothetical. You cannot engage in that sort of activity without presenting a risk to humans and to non-humans. I mean it's a completely unrealistic hypothetical. I don't find it interesting to even talk about 'well what if we could blow up a building and not hurt any non-humans'. The answer is: no sorry folks, that's an impossibility.

Bob: Well what about for example, one of the people who was asking the question quoted something from an article in the abolitionist online which was saying – they talk about the ALF raids. And it says internationally the ALF have made great strides in making these forms of exploitation as unprofitable as possible –

Gary: That's nonsense.

Bob: – while simultaneously exposing the horrors of their function to the general public through footage captured during raids. I mean those examples they're not blowing up a building.

Gary: I know but I mean first of all, I'd like to know what his proof is for the position that ALF activities are imposing opportunity costs that are resulting in industry changing its decision making process. I mean that's crazy, that's absolutely wrong. I don't think that's true at all. So I disagree with that. I also think that in addition to the moral problems Bob and Jenna I also think that there are some strategic problems here in terms of – I think that the way of doing things here is strategically stupid. I mean think about it. These actions only have meaning insofar as there is a cultural context that gives them meaning. There isn't. We live in a culture in which 99.9999% of people out there eat animals and animal products. And the best justification for doing that is that they taste good, i.e. we don't have a justification for doing that. People impose horrible pain, suffering and death on zillions of animals every year for no good reason. Many of the activities – let's just take an example of direct action understood as violence to humans and property, not as veganism, against people who are involved in research. How are people going to understand that? We live in a society in which people think it's alright to impose suffering and death on animals because it tastes good. When you have people who are doing research on animals and they say "This research is resulting in benefits for humans". I think that's nonsense but that's what most people believe. Does anybody really think that we are going to be communicating with members of the public by saying "Well we're trying to stop biomedical research". Most people think it's alright to kill animals for no reason whatsoever, they certainly think it's okay to do it when there are benefits, when there are really, what they perceive, are important benefits. So it seems to me that there is no context for these activities to have any meaning whatsoever. I think it's strategically a very very unsound thing to do because – in addition to being morally problematic I think it's strategically problematic in that I really think it's doing anything except convincing people that the movement is crazy. That there really is sort of a disconnect between us and reality. And I'd like to say I've received a lot of emails from people who are very concerned about the Animal Enterprise Terrorism Act. Well let me tell you something: when you've got people like Jerry Vlasic out there saying it's alright to kill people and people like Rod Coronado saying it's alright to blow buildings up – I mean we're dealing with an age of government overreach. You've got a government that is happy to be involved in overreaching and doing all sorts of things to affect our civil liberties and you've got a population that's paranoid about violence that they think is terrorism. So when you've got people like Jerry Vlasic saying on Sixty Minutes that it's okay to kill people and that people like Rod Coronado giving seminars about how to blow buildings up, you have handed them the Animal Enterprise Terrorism Act. The idea that anybody thinks that is a sensible thing to do is just incredible to me. Fourth, I don't think that these sorts of activities accomplish anything. You shut down one lab, the work gets transferred to another lab. If you shut down the Huntington Laboratories, so what? Does anybody think that's going to stop any sort of – it's not going to stop anything. That activity is going to be transferred to another laboratory someplace else. You take an animal out of one place, the animal gets replaced immediately. It's not clear to me why anybody thinks this is doing. In addition to situations which involve humans or violence that threatens humans or nonhumans, I'm not sure what anybody thinks this is doing. When you are releasing two thousand mink as happened some years ago, what's going to happen to those animals and what's going to happen to the environment in which those animals are released. Is anybody doing any favor for those animals? I'm not sure. It's an

unclear question in my mind. But the bottom line is, I think the most important form of action is veganism. And I want to go back to the point that I always go back to: we've got limited time, we've got limited resources. We have got to make a decision about how best to use our time and our resources. And there is no doubt in my mind that our becoming vegans and our educating others about veganism is a much better use of our time. And encouraging non-violence. And educating people about non-violence and veganism is a much better use of our time. I have a very, very serious problem with this notion that violence is either morally acceptable or strategically wise. I received an email from someone who said that there are ALF people who are not vegans, they're vegetarians but they're not vegans, I'm not exactly sure what that means, I guess they eat some animal products. But they're not vegans. And they think that it's better to be an ALF person who's a vegetarian than to be a vegan. Now I'm not exactly sure what that means and how that makes sense. So let me see if I can get this clearly: we're going to go and we're going to liberate animals and then we'll go celebrate and eat cheese pizzas and icecream and celebrate by eating animals that have been tortured in other ways. I mean none of this makes any sense to me. And it seems to me that at this point in time, reasonable minds cannot differ. There's going to be no progress until we build an abolitionist movement, there can be no abolitionist movement without here being a strong, clear, coherent, vegan movement. And this idea that it's alright to engage in any sort of violence against humans or violence which threatens humans or non-humans is simply does not make any sense to me both on a moral ground and on a strategic ground.

Bob: Wow.

Jenna: It seems to me that veganism really best gets at the root cause of it. Like if you have heart disease, you can take a pill, and it might get rid of a few of your symptoms, but the best thing to do is to eat better and to take better care of yourself and get at the root cause of the heart disease. It seems to me veganism is like doing that.

Gary: That's right.

Bob: Maybe we should move on to another question here. This one came from James, and James wants to know what you think of the GRASP campaign, which is the Great Ape Standing and Personhood Campaign, of Friends of Animals in ... (30.02)

Gary: Okay. Well I guess the way I understood that question was... refers to the fact that Friends and Animals has embraced this position that we ought to promote the personhood of non-human great apes and I assume (although I don't know) the reason why they're getting on board with this is because Lehold works with them as the founder of this organization Great GRASP which stands for Great Apes Standing in Personhood. The basic idea is that personhood should in some way be linked to human-like cognitive characteristics. It's the position that animals who are more 'like' us matter more than those who are less like us. This is also the position of the Great Ape Project. Look, I don't care what you call it. You can call it GAP, you can call it GRASP, you can call it Project R&R which is what the New England Antivivisection Society calls its campaign for chimpanzees. I don't agree with that approach. I think that the only characteristic that

matters is sentience. Or subjective awareness. If a non-human is sentient, then it is my view that that non-human has the right not to be treated as a human resource. Please don't misunderstand me. I certainly don't think that we should be exploiting non-human great apes, I don't think we should be exploiting any sentient non-humans. And I think it's dangerous to single out a single species and say that they are entitled to special treatment because they are more like us than other animals. It's like saying we're against slavery but we're going to start by liberating light-skinned slaves or those who have an eighth of a quarter African blood or something, I don't agree with that. I think that GAP, GRASP, or whatever you want to call it, I think that position is speciesist, I think it's hierarchical, and it can't help but further enforce the view that humans – it can't help but re-enforce the view that the line is between humans and animals like humans and all other humans. And the bottom line is, the non-human great apes form a very small percentage of the number of animals that we're exploiting. So what worries me is what we're doing is establishing a new hierarchy, and what we're trying to do is move some group of animals over to the protected side, but it's going to leave a vast number of other animals unprotected. Now, I do want to say, I was one of the original contributors to GAP. Which was a book – the Great Ape Project came out in 1993 by Peter Singer and Paula Cavalieri and I had an essay in that book. But even in 1993, I argued that sentience was the only characteristic that was necessary for membership in the moral community, no other characteristics were required. I drew a line in my essay in 1993, I said 'Well you know, sentience is all that's necessary. However the fact that the great apes have sentience, plus they've got all these other characteristics, that's surely sufficient for membership in the moral community'. But in the years that followed, I came to see that you really can't make a distinction here. To say that characteristic X is necessary but characteristic X, Y, Z is sufficient is basically a position which in a speciesist society is going to result in X, Y and Z being necessary for full membership in a moral community and equality. And actually I have to say – I've said this in writing and I'll say it again now on your show – I regret my participation in GAP. It was a mistake on my part. I mean even though I said in 1993 sentience is all that was necessary, what I didn't realize in 1993 was that by saying that the characteristics, the cognitive characteristics of the great apes were sufficient for personhood, even though they weren't necessary for personhood, was in essence a position that was not a good distinction. I mean it was a logical distinction, it was a logically good distinction but in terms of the way that distinction is interpreted in a speciesist society, it's going to result in reinforcing the idea that characteristics X, Y and Z (namely characteristics beyond sentience) are going to be required for moral personhood. So I disagree completely with the GAP, GRASP approach. By 1999, when I wrote Introduction to Animal Rights, I came out very strongly against that whole GAP approach and I've been writing about it ever since. I mean I have articles in New Scientist, I have an article in the Journal of Animal Law and Ethics, and I have an essay coming out in(35.17) next month actually in which I talk about the Spanish effort – there's an effort in Spain right now to try and get personhood for the great apes. And what I'm arguing is 'Why are we focusing on the great apes?', I mean we're worrying about the personhood of the great apes while we're sitting there eating our steaks and our fish and whatnot and that there's something fundamentally wrong with that. I have to say I looked at Lee Hall's essay on the web about why GRASP is not hierarchical. And this is a quote: she says "GRASP is not based not on hierarchy. That is where we diverge from

the Great Ape Project. But on the reality that people already view other ape communities as clearly self-aware and members of cultures”. In other words I guess what she’s saying is ‘GRASP is based on the fact that people already see apes as like us and look at the situation hierarchically so we ought to look at it hierarchically. Which makes absolutely no sense to me whatsoever. And I also note on the website that I read that GRASP is supporting the campaign for personhood in Spain, which is explicitly based on the fact that apes have human-like characteristics. So it’s hard for me to understand in what why GRASP and GAP differ. And the bottom line is they don’t. I do want to say, a couple of people in direct response to that GRASP position, have asked me, there seems to be some view or belief that Lee Hall teaches animal rights with me at Rutgers. That is absolutely false. Anna and I had Lee some years back as a lecturer in our course, and we decided to discontinue her in part because we didn’t really think she understood rights theory. And this whole GRASP business is a good example of that concern. So no, I don’t agree with what Friends of Animals is doing here and I certainly don’t agree with the analysis that GAP is not hierarchical. I think these efforts to distinguish some animals – this whole ‘some animals are better than others’ approach is really no different to me than saying that after emancipation there were still rules about, you know, if you had certain levels of African blood, you couldn’t live in certain neighborhoods. I think it’s the same sort of thing. Emancipation is emancipation. The idea that emancipation starts with light-skinned blacks is crazy.

Jenna: Definitely. Let’s see. Our next question comes from several people.

Bob: A whole bunch of people.

Jenna: A whole bunch of people. On our forums and through email. And they wanted to know what your views are on abortion.

Gary: I get asked that all the time. Well, you know, I’ve written about this both in “Introduction to Animal Rights” and in an article that I wrote, I think the book was called “Women and Animals”, it was published by Duke University some years ago, I think that’s the title. Let me say –

Bob: It’s “Animals and Women”.

Gary: - I’m a strong advocate for choice. And a lot of people have problems with that, and let me try to explain it. Let me first talk about sentience. As far as I’m concerned, if a being is not sentient, then that being doesn’t have any interests at all, and I don’t think that being can be a morally significant being. Whether fetuses are ever sentient in the gestation process is a matter that’s open to debate. I mean, fetuses certainly react to things, but so do plants, and I don’t think plants have subjective awareness. I mean, I don’t know whether fetuses are sentient. I certainly don’t think that apart from the Christian right, anybody believes that fetuses in the early part of gestation – in the first trimester, and into the second trimester, that they’re sentient. And as far as I’m concerned, fetuses – and by the way, that’s where most abortions occur. You know, in the first and early part of the second trimester, where no one is really arguing that those that

those fetuses are sentient. And if they are sentient – I don't have religious views about the ensoulment. But the bottom line is, as far as I'm concerned, if the fetuses aren't sentient then I don't think they have any interests at all. But let's assume. I mean, you know, the interesting philosophical question is "Well, what if fetuses are sentient?" or "What about people who get abortions late in the gestation process where fetuses might be sentient?". Again, I'm not conceding that they're sentient. I don't know whether they're sentient or not. But let's assume for philosophical, for argument purposes, that at some point in time in the gestation process, fetuses are sentient. Alright fine. Is that a problem for me? Yes, I'm very concerned about that. If fetuses are sentient at any point in the gestation process then I am concerned about that. However, I would say to you this: if you have a situation where you have a fetus that's sentient, you've got this very weird situation which is replicated nowhere else in nature. Let's assume this fetus is sentient, and let's assume that the fetus is a right holder. You have got one right holder living inside the body of another right holder. You have only two choices: you either let the decision about that right holder be made by the primary right holder in whose body the secondary right holder exists, or you let that decision be made by some white male legislator or judge who isn't going to get pregnant anyway. And I'm not comfortable at all with that decision. Particularly in a patriarchal, sexist society like this, I am very uncomfortable with that decision being made by anyone other than the primary right holder, that is, the women in whose body the secondary right holder exists. And you can't analogize abortion, in my judgment, to a situation – people say to me "What's the difference. If the fetus is sentient, then why do you think that the women should have the right to make that decision, whereas you think it's perfectly alright for us to stop the vivisector from using the animal in an experiment. And the answer is – the distinction is clear to me. With vivisection you've got two independent beings, you've got the animal and the vivisector, they are two independent beings. Can I intervene in the exploitation of the dog by the vivisector without interfering in the body of the vivisector? The answer is yes of course. The only way I can regulate the relationship between the primary and the secondary right holder in the abortion context is for me to intervene and tell that woman she has to use her body in a particular way. And my view is simple. If there is a God, that decision is between that primary right holder and God. And I am very very uncomfortable given that the world that I live in is a world of patriarchy and sexism. I am very uncomfortable with anybody but the primary right holder making that decision. If I lived in a world, if I lived in a non-patriarchal, sexist world, I might feel differently about the regulation of that event, but I don't live in that world, and I'm not likely in the time I'm on the Earth to live in that world. I mean, remember something: we are still in a world in which people are saying "Are we ready for a woman as president?". I mean, the idea that we are not sexist, the idea that we are not patriarchal, that's absurd. We're sitting around saying "Are we ready for a woman? Are we ready for a black? Are we ready for a Hispanic?". And we don't even realize when we ask those questions that those questions are racist, those questions are sexist, those questions are patriarchal, we don't even realize that. And so I'm not likely at age 52 to ever live in a world that is not sexist. I don't even know what a world that's not sexist or patriarchal would like to be honest with you. But I'm not going to live in it. Whatever it looks like, I ain't going to get there. And so I don't feel comfortable with deciding that conflict of interest which is very peculiar, because which is like I say, you've got one right holder looking inside the body of another right holder. That doesn't

replicate itself anywhere in nature. All the other conflict situations we have are situations where there are independent – I mean, you know, if you take a parent and a child, a parent and a 5-year-old, and there's a question about whether or not the parent is abusing the 5-year-old, the state can step in, intervene, and protect the interests of the child without intruding on the body of the parent in the way that intrusion is necessary. The intrusion is qualitatively different when you're talking about abortion. You're saying that you are forcing that woman. Basically, it's a form in my judgment, of slavery. You are basically forcing her to use her body in particular ways. I don't feel comfortable doing that, but as I say, this is a short answer, and I understand it's probably not going to be satisfactory for some people, but go and read what I write about this in "Introduction to Animal Rights" and in "Women and Animals", it's a book of reading, I didn't write the book. It's an edited book, I believe Carol Adams edited the book and I have an essay in there about this. But look, it's not that I don't regard abortion as a serious issue, particularly if fetuses are sentient, I don't know whether they are, they may be, particularly later on in the gestation process they may be, I don't know. But I certainly think it's a serious issue. One thing I do want to say is that I think this raises serious questions and I want to emphasize most women regard abortion as raising serious questions. The notion that women regard abortion as no more than birth control or they look at it as a trivial act of whatever I believe is part of sexist mythology. I know a lot of women who have had abortions, and the women I know who have had abortions, and as I say I know a lot of them, have thought about the issue very seriously. To me the question is "Who makes the decision between the primary and secondary right holder in a situation that is unique and peculiar in our moral landscape?"

Bob: Excellent. Another question that kind of deals with this conflict of –

Gary: Before we go onto that, do you think I'm on solid ground there Bob and Jenna?

Bob: I believe you are –

Jenna: Oh yeah –

Bob: – absolutely on solid ground –

Jenna: Completely.

Bob: – we were talking about this right before we did the show. We took the dogs for a walk and we were talking about the abortion issue, and we actually said there's really no way in which you could talk about the right of a fetus as being separate from the rights of a mother, and I mean, at least in the first two terms. You know, the first two trimesters.

Gary: Let me tell you something else. If men got pregnant, abortion would never be a problem. [laughter].

Bob: I'm sure it wouldn't be.

Gary: We wouldn't be having this discussion if we had babies Bob, it's only because women have babies.

Jenna: Yeah.

Gary: But anyway, go ahead.

Jenna: We were also saying on our walk that I think the reason this question came up so much is that it is hard for a group of people who are so concerned about the welfare of others to just come up with – well we have the fetus, we have the mother, so how do I work that together into one theory. So I think people sometimes just have a hard time conceiving of “What do I think about this?”. If I agree that life is important, life of others, but I think what you said about the two rights being in that one strange situation that we don't have anywhere else.

Gary: I mean I can't think of another situation, I can't think of another moral situation, in which you've got a conflict which is of that sort. All other conflicts involve conflicts between two independent beings. And in most cases, particularly when we're talking about animals, we're talking about conflicts that are fabricated. We create the conflicts in the first place. But we create conflicts between humans and non-humans that are separate and independent actors and existors. And so but the abortion context raises very very weird sort of moral situation: you've got one right holder living inside the body of another right holder. Ok fine. Who decides how we're going to deal with the conflict? The woman in whose body the fetus resides, or some guy on Capitol Hill who ain't never going to get pregnant in the first place? You know. Or some judge whose never going to get pregnant in the first place in most cases. So who makes that decision. And even if the judge happens to be a woman, it doesn't really matter because the bottom line is, is we're in a patriarchal, sexist situation. And I don't feel comfortable with the law making the decision as to how we decide the resolution of that conflict.

Bob: Well let me ask you about another kind of conflict, completely different, I think it falls into the kind of conflict that you would find more clear-cut. But this is from someone on our forums named Snowboard Bunny. She asks how you feel about humans getting organ transplants from animals or heart valve replacements from animals to save their own lives or lives or the lives of humans. She says that she would reject such a transplant but she's had arguments with other people about it and she's just wondering if she's crazy to say this. So what do you think of this idea?

Gary: Well, I mean, I don't think that we should be using animals in transplants any more than I think that we should be using marginalized humans in transplant. I empathize with...is it Snowboard Bunny?

Bob: Snowboard Bunny, yes.

Gary: Snowboard Bunny. I empathize with her because I actually get this question a lot. And I don't know, someone once told me, I don't know if this is true or not, but someone

once told me that, Jane Goodall's mother got a pig valve heart transplant or something, and that she thought this was a great thing and what not, and she was indebted to animals because her mother lived because some pig died or something. Now I don't know if that's true, this is what I've been told, I've been asked this question in various fora in which I have been speaking. But I don't think it's morally justifiable. I don't think it's anymore morally justifiable than the use of humans to save other humans. What I frequently have asked is "What if it's necessary?" – this is a question I get all the time and I'm not exactly sure what the thinking is. But I get this question "What if it's necessary to save a human's life, to kill an animal? If we can kill an animal and save a human's life, isn't that, if it's necessary to do so, isn't that justified?". And the answer is: no. First of all, let me say this: I have an article coming out some time this Spring I think in a journal called "Law, Medicine and Ethics" in which I examine the concept of the necessity of animal use in a biomedical context. It's interesting to me that the only use of animals that we make, the only thing we use animals for, that is arguably necessary, is for these sorts of purposes. Because certainly the use of animals for food is not necessary. We eat animals because we like the taste, there is nobody who maintains that we need to be eating animals for human health. Indeed, it's probably killing us. But we don't need them for food, we don't need them for entertainment, we don't need them by definition, we don't need them for clothing, we don't need them for sport, we don't need them for hunting, we don't need them for any purpose whatsoever. There is no plausible necessity claim except for one possible use of animals for biomedical purposes. And what I do in this article is I explore that the claim of necessity even in this context is really problematic. For example, given that we use animals for the development of every single procedure that we have, we aren't in a position to say that we would not develop those procedures or even better procedures if we didn't have animals to rely on. We don't have any control, there's no way to sort of tell whether or not we would have developed those things if we didn't have animals. So I sort of go through – the first part of the article is basically a set of arguments about why the necessity claim is problematic. And in the second part of the article I say even *if* the animal use is necessary it's not morally justifiable. But the bottom line is, in response to Snowboard Bunny's question, did I get that right?

Bob: That's right.

Gary: In response to that person's question, let's just refer to this person as bunny. [laughter]. In response to Bunny's question, I don't see that question as any different from saying "Is it alright for us to use poor people for transplant to help rich people or to use dumb people to help, for smart people?". I don't see that question as really any different and I think that what Bunny needs to do when Bunny is asked that question is Bunny needs to say "How is that any different from saying it's alright to sacrifice one person for another person". The fact that the persons involved may be human or non-human persons is irrelevant.

Jenna: Exactly.

Bob: Absolutely.

Jenna: And that sort of relates to the next question. We talked a little bit about this last time you were on the show. But Tim asks “Can you explain more about what a right is?”.

Gary: Ahh, Tim and the question about rights. I’m going to be blogging about this on Wednesday. Because the concept of what a right is, it’s generated a lot of confusion. And I have a blog that I’m going to be putting up on Wednesday (as soon as I finish writing it, I’m in the process of writing it). But the current title I think of the blog is “A Clarification of Rights”. And what I want to do in that blog is try to demystify the concept of rights. Look, a right is something more than a way of protecting an interest. We all have interests. Some are protected with rights, some are not. To say that I have a right is simply to say that a particular interest I have is protected in a particular way. What is that way? It means that interest is protected against being sacrificed or ignored. Even if the consequences of ignoring it or sacrificing it would be good for other people. So to say that “I’ve got a right of free speech”, what does that mean? Well, I’ve got an interest in free speech, I’ve got an interest in expressing myself, I have an interest in participating in what some people may call ‘stupidly andnevertheless call it ...Marketplace of ideas’,. But I have these interests. To say that I have a right of free speech is to say that my interest in expressing myself or my interest in participating in the marketplace of ideas is protected even if other people would benefit from my being silent. And a right is simply a way of protecting an interest. There’s nothing mystical about a right, I mean a lot of people think that a right, the concept of a right, is metaphysical. That’s nonsense. It’s a very logical, practical term. There are only two ways of protecting an interest: consequentially and non-consequentially. And when we protect a right non-consequentially we call that a right. And I submit that we need – every moral system, and I would argue even utilitarian moral systems which claim to reject rights altogether – protect certain interests against being sacrificed. For example, the right to equal consideration, or the interest in equal consideration, which is a fundamental interest in utilitarian philosophy, even though the utilitarian philosophy rejects rights, the utilitarian philosophy holds very strongly to this notion of equal consideration. I would say that if the interest and equal consideration can be sacrificed for collective reasons then that presents some serious problems for utilitarians. But in any event all I can say is tune in – what’s the date on Wednesday Bob, do you have a calendar there?

Bob: Ah, let me see, give me a sec. I do, it’s on the computer. Popping up right now. Wednesday would be the 31st.

Gary: The 31st.

Bob: Of January.

Gary: When is this podcast going up?

Bob: Today...uh, the 28th of 29th.

Jenna: Woops.

Gary: Alright, well on the 31st, I encourage you all to come to, what is the? It's garyfrancione.blogspot.com, whatever my URL is –

Bob: We'll put a link to it.

Gary: I'm sorry I don't know [laughter].

Bob: We'll put a link.

Gary: What is it? It's garyfrancione.blogspot.com.

Bob: That's right.

Gary: You will see the answer to this penetrating question. But there's nothing mysterious about rights. And there are some people who are concerned about the foundation of rights and blah, blah, blah, but the bottom line is a right really is a concept of logic, not a concept of metaphysics. And I hope to explain that in a couple of pages, although it ain't easy [laughter]. In my blog on Wednesday. So tune in on the 31st and I will give you my answer on that.

Bob: Excellent. And from this one we have James. James wants to know what you think of Joan Dunayer's claim that your theory, especially your five conjunctive criteria in the chapter of "Rain Without Thunder" entitled "Rights theory: an incremental approach", what do you think of this idea that what you have to say is welfarist.

Gary: Well, I think that it's silly and I think that if Dunayer were being honest, she would admit it's silly as well. Let me preface my substantive response with some background that I hope will explain Dunayer's comments. In January of 2004, Dunayer wrote to me, and she told me that she had read "Introduction to Animal Rights" and she thought it was a great book. And she asked me if I would write the foreword to "Speciesism". Yes, it's odd but true, I still have the letter. She asked me to write the foreword. So I agreed to look at her book and so sent me the manuscript and I still have that here and you can look at it for yourself, it does not contain one word of criticism of my theory, not one. In fact, she said a great many nice things about my work. But the problem was that I couldn't see how what she was saying was very original. The book was basically an elaboration of points I've been making for about twenty years now about the property status of animals, and the distinction between rights and welfare, and the problem with requiring human-like cognition for full membership in the moral community. The GAP approach which is being picked up by others such as Friends of Animals we talked about in one of the earlier questions. So I wrote Joan a forward that basically said the truth. That she had made some interesting observations about various things that I had developed and, you know, I thought some of her observations were interesting, and that's what I said in the foreword. I did point out that she had certain views about the importance of law in regulating animal exploitation and that I disagreed with her views on that issue, but by and large, he positions mirrored mine. Joan got very angry, and she proceeded to take out all of the favorable references to me, and many of

the citations to my work. And then she added a great many distortions and misrepresentations of my work. So it's all quite clear, all you have to do is compare the two copies of the book. It's unfortunately in my judgment a matter of intentional misrepresentation.

Bob: There's also the claim in there that you use speciesist language, which I find really...

Gary: Yes, yes, it's interesting, because she on one hand claims that "Introduction to Animal Rights" is a great book when she asked that I write the foreword, and then she comes back and says that she thinks that it's speciesist. I think that's silly. I mean it's interesting, on the jacket of the book she had some quotes Professor David Nybird and Wittenburg University and Professor Michael Elemsfox from Queens in Canada and Steve Safons from Cal state [names to be checked 1:02:01]. And when the book came out, Nybird and Fox wrote to Denayer and told her they wanted her to take their endorsements off the book because of her misrepresentations of my views. And Safons asked her to modify his endorsement, and Denayer refused to honour the request. But anyway, with respect to the substance, I think the idea that my views are speciesist are silly. She not only claims that the language is speciesist, which I reject, but she also claims that my theory is speciesist because she claims that I require more than sentience for full membership in the moral community. I mean that is absolutely wrong. A central theme of my work for years has been that we shouldn't require anything more than subjective awareness for full membership in the moral community. If you're sentient, you have the right not to be treated as a resource, you have a right to equal consideration. And that has been a very clear and central point in my work for years. Asked to reclaim that my work is welfarist, that's bizarre. For twenty years I have been attacked by the animal welfare movement because I am a relentless critic of animal welfare and now Dunayer claims that I am a welfarist. My work is clear Bob and I think you know this. I think animal welfare is a dreadful failure and animal welfare is structurally unsound. It requires that we balance the interests of humans, who have rights, particularly property rights, against non-humans who have no rights and who are property. And I think those who are serious about abolition ought to become vegans, they ought to engage in non-violent abolitionist vegan education as a way of shifting the paradigm away from the property status of animals. And I have been very critical of perusing legislation or regulation because I don't think it works, I don't think that we're ever going to see the law providing any significant protection to animal interests as long as we don't have a strong and significant abolitionist base that will support prohibitions that really do in really significant ways move animals away from the property paradigm. So I've been very skeptical of regulation for a very long time. I don't think it can work. I mean and that's why I think if you look at animal welfare, what you see is a history of campaigns that simply fail and what most animal welfare campaigns do is make animal exploitation more efficient. They make it more beneficial for the animal exploiters. It doesn't really do anything to move animals away from the property paradigm. Indeed, it makes the exploitation of animal property more efficient. These ideas, the ideas I've just described, are ideas that basically show up in everything that I write. But they were essential focus of my 1996 book that you mentioned before, "Rain Without Thunder", which is about

why abolitionists should reject animal welfare altogether. Now, in chapter seven of that book, I say that if advocates want to pursue legislative and regulatory campaigns, they ought not to pursue the welfarist regulation that was being promoted in the 1990s, and is still being promoted now, the free-range this, and the compassionate that. They should at least try to make sure that the campaigns don't reinforce the property status of animals. That is, if we're going to pursue these campaigns, I'm very skeptical of them. I say that they should at least pursue those that represent an incremental eradication of property to the extent to they can because this is consistent with the ultimate goal of abolition. And in this context, in chapter 7 of "Rain Without Thunder", I offer in a very preliminary matter, five conjunctive conditions. And I say at the outset of the chapter, I say "I'm offering this analysis in a preliminary way to get the discussion going within the movement about why welfare doesn't work, and that if we're going to pursue legislative and regulatory campaigns that I'm skeptical about as a general matter, I think they at least ought to try to incrementally move away from property status". And I say that "If you want to do that, the campaigns should at least have the following characteristics". And I have five conjunctive, that is, they all have to be satisfied, five conjunctive characteristics. First you have to have a prohibition. Secondly, the prohibition has to be of a significant institutional activity so that it's not just a minor prohibition but it's a major prohibition. And I acknowledge, these are imprecise terms. That the third characteristic be that the prohibition explicitly recognizes that animals have inherent value. The fourth condition is that the prohibition recognizes that the animal interest to be protected can't be sacrificed for economic reasons because the interest will be sacrificed for economic reasons. And five, that the prohibition not in any way substitute a more humane form of the same practice, and that the prohibition, the campaign for the prohibition, be coupled with a clear call for the abolition of *all* animal exploitation. So I have some pretty heavy duty conditions that a campaign would have to satisfy in order to represent in my view a sufficient departure from the property paradigm. Now, I also make it clear in chapter 7, that I don't think a campaign that meets all these characteristics would have a snowballs chance in hell of succeeding because animals are property. And that any campaign that was this clear about the rejection of property status, the incremental rejection of property status, would not stand a very very significant chance of succeeding in a society in which animals are property and the economic interests that people have in animals is significant. I also say, even if such a campaign would succeed, it would be imperfect, because it's not going to result in all animals being free from exploitation, it's not going to result in abolition, it will result in an incremental step towards abolition, it will result in an incremental step toward eradicating property status, but it will not be a perfect situation because it will still leave a lot of animals in the system of exploitation. Because it's by definition an incremental step here. So the idea was simply to say "Look, I'm skeptical of all these regulatory, legislative campaigns, I just say we just ought to focus on veganism, creative vegan abolition, lawful boycotts, those sorts of grassroots activities which will result in building a social and political movement which will support abolition as steps later on, that we don't have enough political and social support for abolition now, and that these legislative and regulatory campaigns are invariably going nowhere. The empirical proof is clear. And what I say is that if you want to pursue these things, at least pursue things that incrementally move away from property status. However, be aware folks, that I don't think that these things can work now, because even if – any campaign

that has these characteristics will probably be resisted mightily by the animal exploiters and people who consume these animals who will not support these measures. And Denayer looks at chapter 7 and she ignores the fact that the conditions have to be conjunctive and she ignores the skepticism that I have about these things, and she basically says “I’m advocating regulatory measures. Now, I’m not doing that. I’m saying “I don’t like these things”. If you want to pursue them, then you ought to pursue certain sorts of measures that move away, that attempt to move away from the property paradigm. And interestingly in the version of the book that she sent to me, and apparently other, to look at, she understood this completely, she understood what I was saying completely. And then when I would not write the foreword she wanted, she proceeded to add all this stuff that I was really in favor of regulation. And really ironically, she says in her book, she’s in favor of regulatory campaigns that fall short of abolition. And her analysis ends up being much more restrictive than mine. So she supports campaigns that would not satisfy the criteria that I articulated in “Rain Without Thunder”. But I want to tell you, I am not a welfarist Bob. And by the way, Jeff Purz, who’s a philosophy graduate student who’s written an analysis of Denayer’s work is at www.speciesismreview.info and it’s published in the “Journal of Animal Law”. And I think he’s working on something else of Dunayer’s analysis of my work, bt if you’re interested you should go to that website or to the “Journal of Animal Law” and see what Purz has written. It’s unfortunate that Dunayer is trying to confuse matters for her own purposes, but I’m pretty confident that anyone who’s familiar with my work knows that she’s both ripping off my ideas and then intentionally misrepresenting me. It’s unfortunate. What are you going to do?

Bob: I have a quick question for you though. I was just, keeping in line about talking about these regulatory campaigns, I’m wondering what you think about the recent gestation crate campaign.

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