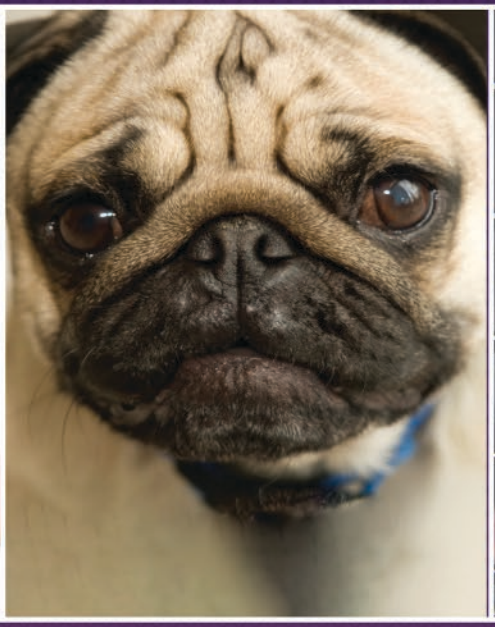
Ethics in Veterinary Practice

Balancing Conflicting Interests

Edited by

Barry Kipperman and **Bernard E. Rollin**



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In Memoriam—Dr. Bernard E. Rollin (1943–2021)

In 2002 I was suffering from conditions inherent to the veterinary profession and referral practice that regularly limited my capacity to help my patients. Having received no training in ethics in veterinary school, I wasn't prepared for this. I knew something was wrong, but I couldn't articulate it. As one would call a rabbi, priest, or therapist for help, I called Bernie. He commiserated with my circumstance, taught me about the concept of moral stress, and a friendship was born. I asked if he would be willing to participate in roundtable discussions on ethics at national veterinary meetings. It was Bernie's star power that opened the door to get ethics discussions on the map. These efforts changed my perspective from being a victim to feeling empowered.

Bernie inspired my interest in veterinary ethics, especially by his landmark books *An Introduction to Veterinary Medical Ethics* (2006) and *Animal Rights and Human Morality* (2006). He presented what I perceived as "doing the right thing for animals" in erudite, yet understandable and compelling language. Bernie supported my decision to pursue a Master's degree in animal welfare and ethics, writing a letter of reference, and being my faculty advisor for my dissertation. When I was appointed to teach ethics at UC Davis, my first call to share my elation was to Bernie. We collaborated on two research projects published in 2018 and 2020. In the fall of 2020, we decided to work together on a new ethics text. In addition to writing two chapters and editing, Bernie was instrumental in suggesting ideas for chapter topics and suitable expert authors.

Bernie became ill while this book was in the final editing stages, and he passed away yesterday, prior to its publication. Even though I understood that he was very ill, I cried when his wife Linda called me with the terrible news.

We were at a meeting in Las Vegas many years ago after an ethics session, when a student of his approached us to tell him what an influence he had on her life. I'll never forget that moment, as those of us entrusted with teaching can only dream about having such a profound impact on our students.

Bernie's life undoubtedly similarly touched many of this book's authors and readers. He was an iconic figure, a force in the animal rights movement, and a hero to many. His views validated those who questioned the status quo regarding how animals are treated. The animals have lost a brilliant, fearless, and persuasive advocate, and I have lost a mentor, colleague, and friend. For Bernie, ethics was an instrument to improve the lives of animals. He taught me that advocacy and ethics are complementary. I hope that this book honors and perpetuates his legacy.

Barry Kipperman
November 20, 2021

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Foreword

Ethical discussions among veterinary students or veterinarians sometimes center on our obligations to animals, animal owners, or on the societal responsibilities facing veterinarians. In these conversations, one frequently discovers that some practices are deemed essentially good and need to be perpetuated, while others are inherently bad and should be avoided. Until these discussions become more informed, veterinarians struggle with this dualist vision where it may be a challenge to find common ground on which to agree.

As we learn and think about these complicated issues, we are reminded of the wise words of Oscar Wilde: "The truth is rarely pure and never simple." It is soon clear that things are hardly ever black and white, and a broad range of colors permeates these discussions. When this first happens, we struggle to refine our answers, and finding a defensible position becomes a greater challenge. An understanding of veterinary ethics becomes fundamental in shaping these opinions.

Veterinarians deal with conflicting situations daily. We may be expected to conduct procedures we find objectionable because our hospital offers them. We deal with clients who make requests with which we disagree. We witness practices unacceptable in one species being done in others. We can improve the condition of a patient but may be prevented from taking care of them. Our responses to many of these circumstances have an ethical foundation. Unfortunately, traditional veterinary education models emphasize the mechanics of how to do certain things rather than how to decide whether it is a good idea to do them, and both questions are equally relevant.

It is in this context that *Ethics in Veterinary Practice* becomes an important academic resource for our profession. It offers critical background to pertinent issues that veterinarians frequently encounter, provides a framework for evaluating ambiguity, and discusses the implications of these relevant and critical decisions.

The introductory chapters focus on the relevance of ethics to decisions about animal welfare and the parallel that exists between ethics and the laws that regulate our interactions with animals. In the clinical ethics section, economic issues and medical errors are discussed; the authors also reflect upon the relevance of the social contract that veterinarians enter and how this impacts our professional behavior. This book includes chapters focusing on the main categories of veterinary practice so those interested in a particular species or niche can proceed to a deeper level in their reflection. Finally, the concluding chapters include an overview of current ethical issues, like animal pain and our responsibility in alleviating it, and our duty in defending animals from mistreatment. Included sections additionally explore issues associated with the use of

animals in education and the impact that cognitive dissonance and decisions conflicting with our personal values have on veterinarians' mental health.

Veterinarians have a commitment, dictated by our professional oaths, to ensure that the health and welfare of animals under our care are protected. Veterinarians must do this with integrity while juggling the interests of the client, the needs of their veterinary practice, and the concerns of society. It is easy to agree that, in doing so, veterinarians are involved in ethical decisions. *Ethics in Veterinary Practice* provides a necessary structure to help veterinarians navigate some of these difficult considerations. It is a must-read for veterinary professionals whom society entrusts with the care of our animals.

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Preface

It has been more than 15 years since Dr. Bernie Rollin published the last textbook on veterinary ethics in North America. Since then, the field of veterinary ethics has expanded internationally, resulting in a steady increase in papers addressing ethical concerns. This book incorporates this literature for those interested in veterinary ethics regarding longstanding concerns such as medically unnecessary surgery and what the profession should do to mitigate the consequences of economic limitations on veterinary care, and emerging issues such as the use of animals in veterinary education and ethics consultation services. Bernie and I are fortunate to have assembled an impressive array of global scholars and practitioners who have contributed to this effort. This book comprises four sections: fundamental principles and concepts that inform the remainder of the chapters; clinical ethical concerns relevant to all veterinary clinicians; ethical implications in the veterinary profession by practice type, so the practitioner can focus on issues relevant to their niche in the profession and so students can prepare for what they may encounter in practice; and the last section addresses emerging concerns in veterinary ethics. Dr. Rollin taught and wrote about veterinary ethics for over 40 years, and I have been fortunate enough to stand on his shoulders for the past 20 years. I hope this book encourages you to think about these issues, reminds you of your beliefs about the moral status of animals, and inspires you toward creating a more ethical veterinary profession.

Barry Kipperman

Introduction

When I prepared to write the first edition of my book *Animal Rights and Human Morality* in the late 1970s, it seemed clear to me that social concern about animal treatment, relatively embryonic then, would inevitably proliferate and become a major social issue. Since the publication of my book *An Introduction to Veterinary Medical Ethics* in 2006, much has occurred that is relevant to veterinary ethics. Public concern regarding farm animal welfare and confinement and the use of animals for research, testing, and education has increased dramatically, and with that public expectation of veterinary involvement in addressing these issues. A social movement for increasing the economic value of companion animals has steadily gained momentum, as have the demands for augmented legal status of these animals. Veterinary specialization continues to grow (including a specialty in animal welfare) as has veterinarian utilization of complementary and alternative medicine and hospice and palliative care. Concern with animal pain and distress and their control has proliferated beyond what I ever dared hope for, evidenced by the recent acknowledgment of veterinary professionals to prevent and alleviate fear, anxiety, and stress. Studies are documenting what common sense would suggest: that animals are stressed when visiting or staying in veterinary hospitals. All of these, of course, pose major ethical challenges for the veterinary profession.

This new textbook reflects these concerns, and contains new material on professionalism, ethical dilemmas, futile intervention, economic issues, medical errors, access to veterinary care, the welfare concerns of brachycephalic dogs, animals in zoos, aquaria, and free-ranging wildlife, corporate veterinary medicine, animal use in veterinary education, animal pain, animal maltreatment, death, moral stress, and the future of veterinary ethics. I hope this will help the veterinary community engage these issues.

I am often asked, "When will you retire?" My reply is when they carry me out. As long as I'm physically and mentally healthy, I will continue my battle for what Gandhi called the "most disenfranchised members of society." I have been blessed to have the opportunity to work in this area and would not have chosen any other path. I have seen many hideous and evil things, and I have seen enough good to balance it out. While much has improved, too much remains the same for billions of animals. Individuals can effect meaningful change and I hope this book inspires others to do so. There is no better legacy than diminishing the suffering one confronts.

Bernard E. Rollin

Acknowledgments

I'm thankful to my mother for fostering a reverence for animals, and to all my interns, associates, technicians, clients, and students for challenging me and asking tough questions during my career as an internist and instructor. To my friends and colleagues Dr. Larry Gilman for supporting me throughout my career and who texted me, "You've found your niche!", after attending one of my first lectures as an instructor, and Dr. Rene Gandolfi, a veterinarian by day and closet philosopher, who gave me the book *A Philosophical Basis of Medical Practice* 25 years ago, and who had the vision to initiate ethics discussions at local veterinary association meetings. I'd like to recognize Dr. Jose Peralta and Dr. Jim Reynolds for encouraging me to pursue specialization in animal welfare, and Dr. Fritha Langford at the University of Edinburgh for accepting me into the Master's program which inspired my transition from clinical practice to academia. I'm appreciative of the time, expertise, and knowledge of our contributing authors and to the editors at Wiley for seeing the book to its fruition. I wish to acknowledge Jerry Tannenbaum for his *Veterinary Ethics* textbook, which acted as my sole resource for many years when faced with ethical questions and who provided me with an opportunity to teach ethics as a guest speaker in his class at UC Davis. This book is dedicated to Dr. Bernard Rollin, one of the pioneers in the field of veterinary ethics.

Barry Kipperman

Linda Rollin on behalf of Bernard Rollin:
Because of the passing of Bernard Rollin while this book was in its final stages, he did not have the opportunity to write a section acknowledging those responsible for producing this book. Instead, as his wife of 57 years, who knew well to whom Bernie was grateful for their contributions to his work, I try here to express what I know were his feelings.

Bernie was grateful for the contributions to his work, this book, and those that preceded it, to many:

To every student he ever taught, including those in his classes and those in the gym who would listen to his ideas and provide some of their own.

To the graduate students who carried the torch to future generations of students and others.

To the academics from all over the world who came to Colorado to work with him, and who provided a global perspective to his ideas while giving him the opportunity to share his thinking worldwide, as well as those who translated his writings into many other languages, thereby broadening the influence of his ideas.

To every co-author or contributor to the books he authored, without whose work the books would have been diminished, and to those who crafted the clever ethical questions that provided a platform for him to teach by answering them.

To every layperson, mechanic, barber, or waitstaff who had no doubts that animals are sentient (unlike academics who would quibble over it), and who, upon learning what he did, agreed with his views, applauded him, and regaled him with their own stories.

To the farmers and ranchers who inspired his understanding of husbandry, and to those who took his ideas and ran with them, improving the lives of the creatures they raised.

To the editors who made his books better, even as they enraged him with their demands for footnotes.

To the innumerable veterinarians who offered their perspectives and insights, and who inspired his work to provide an ethical foundation for what they do.

To the representatives of the many organizations that invited him to talk to them, and who offered hospitality, whether near to home or in faraway places that he might otherwise never have visited.

To all those who cannot easily be categorized, who influenced and inspired, by happenstantial meeting, or by decades-long friendship.

Section 1

A Fundamental Basis for Veterinary Ethics

1

Why Do Animals Matter? The Moral Status of Animals

Bernard E. Rollin

Philosophers and Moral Status

Ever since human beings began to think in a systematic, ordered fashion, they have been fascinated by moral questions. Is moral concern something owed by human beings only to human beings? Twenty-five hundred years of moral philosophy have tended to suggest that this is the case, not by systematic argument, but simply by taking it for granted. An entity has moral status "If ... its interests morally matter ... for the entity's own sake" (Stanford Encyclopedia of Philosophy 2021). In other words, moral status relates to our duties, responsibilities, and obligations to others. Few thinkers have come to grips with the question of what makes a thing a moral object, and one wonders why. Surely the question of whether animals are direct objects of moral concern is a legitimate subject for inquiry. Yet, while examining the history of philosophy, there is very little discussion of the moral status of animals. What has prompted our ignoring of this question? Perhaps a cultural bias that sees animals as tools. Or, perhaps, a sense of guilt mixed with fear of where the argument may lead. For if it turns out that reason requires that other animals are as much within the scope of moral concern as are humans, we must view our entire history as well as all aspects of our daily lives from a new perspective.

Immanuel Kant (1724–1804) argued that only rational beings can count as moral agents and that the scope of moral concern therefore extends only to rational beings. He believed that only humans could entertain, understand, and formulate statements that are universal in scope, therefore only humans are rational. In contrast, animals were believed to be subject to stimulus and response reactions. Kant concluded that only rational beings are "ends in themselves": that is, beings that are not to be used as means to achieve some immediate or long-term goal. Animals had only instrumental value: any worth they had related to their usefulness to humans. The position linking rationality, language, and moral status may briefly be outlined as follows:

1) Only humans are rational.
2) Only humans possess language.
3) Only humans are objects of moral concern.

But if only rational and linguistic beings fall within the scope of moral concern, it is difficult to see how infants, children, the mentally disabled, the senile, or the comatose can be considered legitimate objects of moral concern. This shows that rationality and language do not represent a necessary condition for moral concern.

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In a tradition most frequently associated with St. Thomas Aquinas (1225–1274) and Kant and incorporated into the legal systems of most civilized societies beginning in the late eighteenth century, cruelty to animals (see Chapter 20) was vigorously proscribed, though animals themselves were denied moral status. Most legal definitions of cruelty involve three criteria: (i) expert evidence of physical or mental suffering beyond a reasonable doubt; (ii) the suffering was unnecessary, unjustified, or illegitimate; and (iii) an intention to cause harm. Aquinas and Kant argued that allowing cruelty to animals would have a pernicious psychological effect upon humans; that is, if people are allowed to be cruel to animals, they will eventually abuse people, which is socially undesirable. Therefore, humans had only indirect duties to animals.

Why can we not broaden the anti-cruelty ethic to cover other animal treatment? It is because only a tiny percentage of animal suffering is the result of deliberate, malevolent acts. Cruelty would not cover animal suffering that results from industrial agriculture, safety testing of toxic substances on animals, and all forms of animal research. People who raise animals for food in an industrial setting, or who do biomedical research on animals, are not driven by desires to hurt these creatures. Rather, they believe they are doing social good, providing cheap and plentiful food, or medical advances, and they are in fact traditionally so perceived socially.

This left utilitarianism (see Chapter 4) as the source of the only clearly articulated basis for a robust animal ethic in the history of philosophy before the 20th century. Profound and intellectually bold utilitarian thinkers included Jeremy Bentham (1748–1832) and John Stuart Mill (1806–1873), who based candidacy for moral status on sentience, the ability to experience emotions and feel pleasure and pain. Bentham famously affirmed that: "The question is not, Can they reason? nor Can they talk? but, Can they suffer? Why should the law refuse its protection to any sensitive being? The time will come when humanity will extend its mantle over everything which breathes" (Bentham 1996). Since animals can feel pain and pleasure, according to Bentham, they belong within the scope of moral concern.

This approach was appropriated by Peter Singer (1946–) in his revolutionary book *Animal Liberation* (Singer 1975), the first contemporary attempt to ground full moral status for animals. Singer argues that species membership alone should not determine moral status, and is speciesism, a form of discrimination no different than racism or sexism (Singer 2009). Singer has argued, for utilitarian reasons, that the only way to ameliorate the suffering of farm animals raised in industrial animal factories is to stop eating meat and adopt a vegetarian, if not vegan, diet. A moment's reflection reveals the implausibility of this suggestion. People will not give up meat even when counseled to do so by their physicians to improve their own health or even to save their own lives, so the chances that they will do so in the face of a philosophical argument are exceedingly small. In other words, not only must a successful animal ethic be logically consistent and persuasive, but it must also suggest real solutions that people can both advocate and adhere to.

The fundamental question for anyone attempting to extend all or part of our socio-ethical concerns to other creatures is this: are there any morally relevant differences between people and animals that compel us to withhold the full range of our moral machinery from animals? Answering this question occupied most of the thinkers who were trying to raise the moral status of animals. While most philosophers working on this question did not affirm that there is no moral difference between the lives of

animals and the lives of humans, there was a consensus among them that *the treatment of animals by humans needs to be weighed and measured by the same moral standards by which we judge the moral treatment of humans.*

On the other hand, there are a considerable number of thinkers who have tried to deny a continuum of moral relevance across humans and animals and have presented arguments and criteria that support the concept of moral cleavage between the two. Many of these claims are theologically based. Most famous, perhaps, is the omnipresent Catholic view that humans have immortal souls and animals do not. Such claims include the ideas that humans are more powerful than animals, are superior to animals, are higher on the evolutionary scale than animals, have dominion over animals, are capable of reason and language while animals are not, even that humans feel pain while animals do not. These arguments draw a hard and fast line between humans, who have thoughts and feelings, and animals, who do not. The superior position of humans does not serve as adequate grounds for excluding animals from moral concern. One can argue that humans are obligated to behave morally toward other creatures precisely *because* of their superior power. Just as we expect fair and benevolent treatment at the hands of those capable of imposing their wills upon us, so ought we extend similar treatment to those vulnerable to us.

Of all the philosophical arguments to exclude animals from the moral arena, the most damaging are those going back to Rene Descartes (1596–1650) that deny thought, feeling, and emotion to animals. This view perpetrated the notion that animals were nothing more than machines, devoid of souls. This paradigm justified live vivisection of animals without anesthesia or pain management. It is common sense that we cannot have obligations to entities unless what we do to them, or allow to happen to them, *matters* to them. Therefore, we cannot have direct moral obligations to cars. If I destroy your friend's car, I have not behaved in an immoral way toward the car but only toward its owner, to whom the condition of the car matters. For this reason, anyone advocating for higher moral status for animals cannot let claims about lack of sentience in animals go unchallenged and unrefuted.

In my experience, most people will acknowledge a continuum from animals through humans, as Charles Darwin (1809–1882) did. Most people will affirm that animals have thoughts, feelings, emotions, intentions, pain, sadness, joy, fear, and curiosity. Even more important to the inclusion of animals within the scope of moral concern is the point that most people share empathetic identification with animals, particularly regarding their pain and suffering. All forms of mattering to an animal are determined by what Aristotle referred to as its *telos*, or unique nature. Every living thing is constituted of a set of activities making it a living thing. How each living being actualizes these functions and fulfills these needs determines its *telos*. If we are to adopt *telos* as the basis for ethical obligations to animals, as our societal ethic has done for people, we can considerably broaden what is included in the scope of moral concern. For this reason, to enjoy moral status, an animal must have the kind of *telos* whose violation creates some *negative mode of awareness*. My contention is that animals have needs and desires flowing from their *telos*, which when thwarted, frustrated, or simply unmet, result in negative feelings and poor welfare. Consequently, entrance into the moral arena is determined by someone's being alive and having interests and needs that can be helped or harmed by a being who can act morally.

Evidence of Social Change for Animals

The past 60 years have witnessed a dazzling array of social ethical revolutions in Western society. Such moral movements as feminism, civil rights, environmentalism, affirmative action, consumer advocacy, pro- and anti-abortion activism, homosexual rights, children's rights, the student movement, and anti-war activism have forever changed the way governments and public institutions comport themselves. This is equally true for private enterprise: to be successful, businesses must be seen as operating solidly in harmony with changing and emerging social ethics. It is arguable that morally-based boycotting of South African business was instrumental in bringing about the end of apartheid, and similar boycotting of some farm products in the United States led to significant improvements in the treatment of farm workers. It is *de rigueur* for major corporations to have reasonable numbers of minorities visibly peopling their ranks, and for liquor companies to advertise on behalf of moderation in alcohol consumption. Cigarette companies now press upon the public a message that cigarettes kill and extol their involvement in protecting battered women; and forestry and oil companies spend millions (even billions) to persuade the public of their environmental commitments. Socially and environmentally responsible investment funds are ubiquitous, and reports of child labor or sweatshop working conditions can literally destroy product markets overnight.

Of importance to the veterinary profession, legal mandates that a veterinarian must be a member of Institutional Animal Care and Use Committees that provide oversight for animal research, the proliferation of veterinary specialists (including those in animal welfare and behavior), and the public's acknowledgment of companion animals as members of the family are testaments to the evolution of the moral status of animals.

Not only is success tied to accord with social ethics but, even more fundamentally, freedom and autonomy are as well. Every profession – be it medicine, law, or agriculture – is given freedom by the social ethic to pursue its aims. In return, society basically says to professions it does not understand well enough to regulate, "You regulate yourselves the way we would regulate you if we understood what you do, which we don't. But we will know if you don't self-regulate properly and then we will regulate you, despite our lack of understanding." For example, Congress became concerned about excessive use of antibiotics in animal feeds to promote growth and prevent disease and concluded that veterinarians were a major source of the problem. In 2016, Food and Drug Administration officials removed all over-the-counter access to antimicrobials that are both used in human medicine and given to livestock in feed or water. Those drugs now can be given only with veterinarian approval for disease-related reasons (Burns 2019).

One major social ethical concern is an emphasis on the treatment of animals used by society for various purposes. It is easy to demonstrate the degree to which these concerns have seized the public imagination. Legislators acknowledge receiving more letters, phone calls, e-mails, and personal contacts on animal-related issues than on any other topic.

Whereas 40 years ago one would have found no bills pending in the US Congress relating to animal welfare, recent years have witnessed dozens of such bills annually, with even more proliferating at the state level. Federal bills have ranged from attempts

to prevent duplication in animal research, to saving marine mammals from becoming victims of tuna fishermen, to preventing importation of ivory, to curtailing the parrot trade. State laws passed in large numbers have increasingly prevented the use of live or dead shelter animals for biomedical research and training, have abolished cage confinement of animals raised for food, and have focused on myriad other areas of animal welfare. Eight states have abolished the steel-jawed leghold trap, as have some 85 countries. When Colorado's politically appointed Wildlife Commission failed to act on a recommendation from the Division of Wildlife to abolish the spring bear hunt (because hunters were liable to shoot lactating mothers, leaving their orphaned cubs to die of starvation), the public ended the hunt through a referendum (Willoughby 2013). Now, most people in western states oppose spring bear hunting (NSSF 2019).

Interest in the welfare of horses has led to US federal laws that includes measures to stop the widespread doping of racehorses and increase track safety, keep horse slaughter plants shuttered, and boost funding to stop the cruel soring of Tennessee walking horses (Block and Amundson 2020). Municipalities have passed ordinances ranging from the abolition of rodeos and circuses to the protection of prairie dogs.

Even more dramatic, perhaps, is the worldwide proliferation of laws to protect laboratory animals. In the United States, two major pieces of legislation, which I helped draft and defend before Congress, regulating and constraining the use and treatment of animals in research were passed by the US Congress in 1985, despite vigorous opposition from the powerful biomedical research and medical lobbies. This opposition included well-financed, highly visible advertisements and media promotions indicating that human health and medical progress would be harmed by implementation of such legislation. There was even a less than subtle film titled *Will I Be All Right, Doctor?* – the query coming from a sick child, the response coming from a pediatrician who affirmed, in essence, "You will be if 'they' leave us alone to do as we wish with animals." With social concern for laboratory animals unmitigated by such threats, research animal protection laws moved easily through Congress and have been implemented at considerable cost to taxpayers. When I testified before Congress on behalf of this law in 1982, a literature search in the Library of Congress turned up no papers in the scientific literature on laboratory animal analgesia and only two on animal analgesia, one of which said, "there ought to be papers." A Google Scholar search now finds over three million papers and book chapters on animal pain (see Chapter 19).

In 1986, the UK superseded its pioneering Cruelty to Animals Act of 1876 (the first national legislation to regulate animal experimentation) with new laws aimed at strengthening public confidence in the welfare of experimental animals (HMSO 1986). Many other countries have moved or are moving in a similar direction, even though some 90% of laboratory animals are rats and mice, not the most cuddly and lovable of animals. Research on great apes has been truncated across the world. In 2021, the European Parliament voted overwhelmingly in favor of a resolution to phase out animal experiments (Block and Amundson 2021).

Many animal uses seen as frivolous by the public have been abolished without legislation. Toxicological testing of cosmetics on animals has been curtailed; companies such as The Body Shop have been wildly successful internationally by totally disavowing such testing; Orca performance exhibits at SeaWorld ended in 2016 in response to a documentary *Blackfish*, which highlighted their miserable conditions and confinement; and greyhound racing in the United States has declined, in part for animal welfare

reasons. In 2017, Ringling Bros. ended circuses founded on exotic animal acts after 146 years, and zoos that were little more than prisons for animals (the state of the art during my youth) have all but disappeared, and the very existence of zoos is being increasingly challenged (Pierce and Bekoff 2018) despite the public's unabashed love of seeing animals. And, as Gaskell and his associates' work has revealed (1997), genetic engineering has been rejected in Europe not, as commonly believed, for reasons of risk but for reasons of ethics: in part for reasons of animal ethics. Similar reasons (i.e. fear of harming cattle) have, in part, driven European rejection of bovine somatotropin (BST).

Animals in Agriculture and Research

Inevitably, agriculture has felt the force of social concern with animal treatment – indeed, it is arguable that contemporary concern in society with the treatment of farm animals in modern production systems blazed the trail leading to a new ethic for animals. As early as 1965, British society took notice of what the public saw as an alarming tendency to industrialize animal agriculture by chartering a group of scientists under the leadership of Sir Rogers Brambell, the Brambell Commission, which affirmed that any agricultural system failing to meet the needs and natures of animals was morally unacceptable (Brambell 1965). Though the Brambell Commission recommendations enjoyed no regulatory status, they served as a moral lighthouse for European social thought. In 1988, the Swedish Parliament passed, virtually unopposed, what the *New York Times* called a "Bill of Rights" for farm animals, abolishing, in a series of timed steps, the confinement systems currently dominating North American agriculture (Lohr 1988). The European Union has moved in a similar direction, banning sow stalls (gestation crates) for pigs and battery cages for egg-laying hens in 2013, and the European Parliament recently voted to ban the use of cages in animal agriculture by 2027 (Kelly 2021).

Although the United States has been a latecomer to progress on agricultural issues, things have moved rapidly. My own work attests to this tendency. In 2007, over two days of dialogue, I convinced Smithfield Farms, the world's largest pork producer, to phase out gestation crates. Most dramatically, I was able to broker an agreement between the Humane Society of the United States (HSUS) and the Colorado Livestock Association passing a jointly sponsored farm animal welfare law in Colorado in 2008, abolishing sow stalls and veal crates. In 2008, the Pew Commission, on which I served as the advocate for farm animal welfare, called for the end of high-confinement animal agriculture within 10 years, for reasons of animal welfare, environmental despoliation, human and animal health, and social justice. Citizen ballot initiatives pressed by the HSUS abolishing sow stalls, battery cages, and veal crates have passed in 12 states. Cage-free egg production is now proliferating across the United States.

Evolving societal values are the basis of this progress for animals. While 58% of US adults believe that "most farmed animals are treated well" (Anthis 2017), 77% of consumers noted they are concerned about the welfare of animals raised for food (ASPCA 2016). The agriculture community in the United States has been far behind societal concerns. There is one monumental conceptual error that is omnipresent in the agriculture industry's discussions of animal welfare – an error of such magnitude that it trivializes the industry's responses to ever-increasing societal concerns about the

treatment of agricultural animals. When one discusses farm animal welfare with industry groups or with the American Veterinary Medical Association (AVMA), one finds the same response – animal welfare is solely a matter of "sound science."

Those of us serving on the Pew Commission (2008) (better known as the National Commission on Industrial Farm Animal Production), which studied intensive animal agriculture in the United States, encountered this response regularly during our communications with industry representatives. For example, one representative of the Pork Producers, testifying before the Commission, answered that while people in her industry were quite "nervous" about the Commission, their anxiety would be allayed were we to base all of our conclusions and recommendations on "sound science." Hoping to rectify the error in that comment, as well as educate the numerous industry representatives present, I responded to her as follows: "Madam, if we on the Commission were asking the question of how to raise swine in confinement, science could certainly answer that question for us. But that is not the question the Commission, or society, is asking. What we are asking is, ought we to raise swine in confinement? And to this question, science is not relevant."

Questions of animal welfare are at least partly "ought" questions: questions of ethical obligation. The concept of animal welfare (see Chapter 2) is an ethical concept to which, once understood, science brings relevant data. When we ask about an animal's welfare, we are asking about what we owe the animal, and to what extent. A document called the CAST Report, first published by US agricultural scientists in the 1980s, affirmed that the necessary and sufficient conditions for attributing positive welfare to an animal were represented by the animals' productivity (Council for Agricultural Science and Technology 1981). A productive animal enjoyed positive welfare; a non-productive animal had poor welfare.

This notion was fraught with many difficulties. First, productivity is an economic notion predicated of a whole operation: welfare is predicated of individual animals. An operation such as caged laying hens may be quite profitable if the cages are severely overcrowded, yet the individual hens do not enjoy good welfare. Second, equating productivity and welfare is, to some significant extent, legitimate under husbandry conditions, where the producer does well if and only if the animals do well, and square pegs, as it were, are fitted into square holes with as little friction as possible (as when pigs live outside). Under industrial conditions, however, animals do not naturally fit in the niche or environment in which they are kept and are subjected to "technological sanders" that allow producers to force square pegs into round holes – antibiotics, feed additives, hormones, air-handling systems – so the animals do not die and produce more and more kilograms of meat or milk. Without these technologies, the animals could not be productive. We will return to the contrast between husbandry and industrial approaches to animal agriculture.

The key point here is that even if the CAST Report definition of animal welfare did not suffer from the difficulties outlined, it is still an ethical concept. It essentially says, "What we owe animals and to what extent is simply what it takes to get them to create profit." This in turn would imply that the animals are well off if they have only food, water, and shelter, something the industry has sometimes asserted. Even in the 1980s, however, there were animal advocates and others who took a very different ethical stance on what we owe farm animals. Indeed, the famous Five Freedoms articulated

in the UK by the Farm Animal Welfare Council (FAWC) during the 1960s represents quite a different ethical view of what we owe animals, when it affirms that:

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

1) **Freedom from Hunger and Thirst** – by ready access to fresh water and a diet to maintain full health and vigor.
2) **Freedom from Discomfort** – by providing an appropriate environment including shelter and a comfortable resting area.
3) **Freedom from Pain, Injury or Disease** – by prevention or rapid diagnosis and treatment.
4) **Freedom to Express Normal Behavior** – by providing sufficient space, proper facilities and company of the animal's own kind.
5) **Freedom from Fear and Distress** – by ensuring conditions and treatment which avoid mental suffering.

Clearly, the two definitions contain very different notions of our moral obligation to animals. Which is correct, of course, cannot be decided by gathering facts or doing experiments – indeed which ethical framework one adopts will in fact determine the shape of science studying animal welfare. To clarify: suppose you hold the view that an animal is well off when it is productive, as per the CAST Report. The role of welfare science in this case will be to study what feed, bedding, temperature, etc. are most efficient at producing the most meat, milk, or eggs for the least money – much what animal and veterinary science does today. On the other hand, if you take the FAWC view of welfare, your efficiency will be constrained by the need to acknowledge the animal's natural behavior and mental state, and to assure that there is minimal pain, fear, distress, and discomfort – not factors in the CAST view of welfare unless they have a negative impact on economic productivity. Thus, in a real sense, sound science does not determine your concept of welfare: rather, your concept of welfare determines what counts as sound science!

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

A major question obviously arises here. If the notion of animal welfare is inseparable from ethical components, and people's ethical stances on obligations to farm animals differ markedly across a highly diverse spectrum, whose ethic is to predominate and define, in law or regulation, what counts as "animal welfare"? It is to this issue we now turn.

What is the nature of the emerging new ethical thinking that underlies and informs the dramatic social changes I've discussed? Although society has always had an articulated ethic regarding animal treatment, that ethic has been very minimalistic, leaving

most animal conduct to people's personal ethic, rather than to the social ethic. Since biblical times, that limited social ethic has forbidden deliberate, willful, sadistic, deviant, purposeless, unnecessary infliction of pain and suffering on animals, or outrageous neglect, such as not feeding or watering. Beginning in the early nineteenth century, this set of prohibitions was articulated in the anti-cruelty statutes of the laws in all civilized societies (Leavitt 1978). But even in biblical and medieval times, the social ethic inveighed against cruelty. The Old Testament injunctions against yoking an ox and an ass together to a plow, or muzzling the ox when it is being used to mill grain or seething a calf in its mother's milk, all reflect concern with and abhorrence for what the Rabbinical tradition called *tsaar baalei chaiim* – the suffering of living things. In the Middle Ages, St. Thomas Aquinas (Aquinas 1956), while affirming that, lacking a soul, animals enjoyed no moral status, nonetheless, strictly forbade cruelty, on the grounds that permitting such behavior toward animals would encourage its spreading to human beings. Numerous serial killers have evidenced early abusive behavior toward animals.

For most human history, until some six decades ago, the anti-cruelty ethic served as the only socially articulated moral principle for animal treatment. Except for a few sporadic voices following in the wake of Darwin's articulation of human–animal continuity, no one spoke of animals' rights: nor did society have moral concepts for animal treatment that went "beyond cruelty." The obvious question that presents itself is this: what has occurred during the past 60 years that led to social disaffection with the venerable ethic of anti-cruelty and to strengthening of the anti-cruelty laws, which now make cruelty a felony in all 50 states?

In a study commissioned by the US Department of Agriculture (USDA) to answer this question, I distinguished a variety of social and conceptual reasons (Rollin 1995):

1) *Changing demographics and consequent changes in the paradigm for animals.*
   At the start of the twentieth century, more than half the population was engaged in producing food for the rest; today only some 1.5% of the US public is engaged in production agriculture (USDA). One hundred years ago, if one were to ask a person in the street, urban or rural, to state the words that come into their mind when one says "animal," the answer would doubtless have been "horse," "cow," "food," "work," etc. Today, however, for most of the population, the answer is "dog," "cat," "pet." Repeated studies show that most of the pet-owning population views their animals as members of the family (Ballard 2019) and virtually no one views them as an income source.
2) *We have lived through a long period of ethical soul-searching.*
   For almost 60 years, society has turned its "ethical searchlight" on humans traditionally ignored or even oppressed by the consensus ethic – blacks, women, the handicapped, and other minorities. The same ethical imperative has focused attention on our treatment of the non-human world – the environment and animals. Many leaders of the activist animal movement in fact have roots in earlier movements – civil rights, feminism, homosexual rights, children's rights, and labor.
3) *The media has discovered that "animals get clicks."*
   One cannot surf across the television or internet without being bombarded with animal stories, real and fictional (a *New York Times* reporter once told me that more time on cable TV in New York City is devoted to animals than to any other subject).