

## Using Interest Convergence to Win Animal Rights

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## **Introduction**

Although the term “vegan” first appeared in 1944, the idea of a plant-based diet for ethical reasons is nothing new. Over the centuries, occasional ethicists and empaths sensitive to the suffering of other beings have foregone the gustatory pleasures of carnism, but these bleeding hearts are most often viewed as oddballs. After all, who cares what the animals feel? As the apex predator of today, we humans can rightfully take our place at the throne and dispense whatever cruelties our hearts – and stomachs – desire.

Even a casual observer knows that this view is under challenge. Nearly every restaurant menu now has vegetarian or vegan options, fast food chains are increasing their plant-based offerings, soy milk is ubiquitous, and newspapers are printing recipes for “Meatless Mondays.” How did we get here? It was only a short time ago that anyone seeking a plant-based diet had little choice but to settle for the occasional accidentally vegan side at restaurants or get to cooking oneself. From humble beginnings in the annals of philosophy books, it has been purely human interests that have won the recent victories for the animals.

While a few religious figures or philosophers have pointed out the health benefits of a vegetarian diet since ancient times, it took the counterculture of the 1960s and 1970s to push the idea beyond a tiny fringe. More recently, the world has begun to face the threat of climate change and the havoc it may wreak on human life. While much of the criticism centers on fossil fuel-consuming industries, many scientists now emphasize the outsized role that animal agriculture plays in contributing to greenhouse gas emissions. And in the last year, a different threat has taken center stage: COVID-19. The threat of animal-borne disease passing to humans is nothing new – we all know about bird and swine flu – but it has taken a severe global

pandemic for people to finally take a more serious look at the link between animal consumption and the spread of novel diseases.

Taken alone, each of the above-mentioned reasons is sufficient cause to reconsider eating animals, but they all have one major trait in common: they do not take animal interests into account at all. While it may be disheartening that the philosophical arguments based on alleviating suffering have largely fallen on deaf ears,<sup>1</sup> change may be in the wind. As animals of habit, humans can train themselves to behave differently, and the impetus for such change does not appear to matter as much as the change itself. Harnessing the power of interest convergence, the cart can properly be put before the horse. As history has shown, people are willing to make even difficult behavioral changes when it is in their best interest. But after the change arrives, the power of human habit continues and breaks down the wall that separates human and animal interests. This change should provide reason for both consequentialist and deontologist to rejoice; as animal suffering is reduced for any reason, people awaken to the truth that animals are individuals deserving of rights.

Part I of this paper will briefly describe the utilitarian arguments against causing animal suffering and for animal rights. Part II will show how the increasing awareness of the nutritional harm of meat – and the corresponding health of a plant-based diet – has become the central argument for many modern adopters of a vegan diet. Part III will discuss the newer and still evolving push to reduce meat consumption for environmental reasons. Part IV will take a look at the cutting-edge and urgent argument against animal agriculture: animals are vectors for disease.

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<sup>1</sup> Four main reasons are frequently given as justifications for the continued eating of meat, dubbed the “four Ns”: 1. It is natural to eat meat, 2. Eating meat is necessary for human health, 3. Eating meat is normal in our society, and 4. Meat tastes nice. Christopher J. Hopwood, et al., *Development and Validation of the Motivations to Eat Meat Inventory*, to be published in *APPETITE*, <https://thebrooksinsitute.org/sites/default/files/article/2021-03/MEMI%20Article%20-%20To%20Accompany%202021-03-22%20Digest%20No.%2077.pdf> (last visited Mar. 27, 2021).

My thesis is that interest convergence in the realm of veganism is the most important tool for increased acceptance of animal rights. In the short term, anyone switching to a vegan diet should be seen as a consequentialist win, and in the long term, adopting a vegan diet for any reason will change the frame by which people see the world and make them more amenable to the entire suite of reasons that animals deserve individual rights.

### **Part I: The Utilitarian Push for Animal Rights**

The most robust philosophical support for both reducing animal suffering and affording them affirmative rights comes from utilitarianism. The father of utilitarianism, Jeremy Bentham, famously advocated for the rights of animals by suggesting that suffering should be the criterion by which we should assess whether a being deserves rights.<sup>2</sup> He pointed out that other potential criteria such as intelligence would result in the absurd conclusion that it is acceptable to strip the rights from those who lack those traits like children and adults with certain disabilities.<sup>3</sup> Succeeding generations of philosophers built on utilitarianism, but the animal rights question largely fell by the wayside until relatively recently.

In 1975, Peter Singer published *Animal Liberation*, which brought animal rights back into the forefront of the philosophical debate and prompted much hand-wringing over animal suffering and the part it should play in human judgment.<sup>4</sup> Singer relied heavily on Bentham's hedonic calculus, whereby an attempted calculation of negative suffering is offset by positive

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<sup>2</sup> JEREMY BENTHAM, AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION, 143-44 (Jonathan Bennett ed., 2017).

<sup>3</sup> *Id.*

<sup>4</sup> PETER SINGER, ANIMAL LIBERATION 5 (2nd ed. 1990).

pleasure to calculate the net impact that an activity has on overall wellbeing.<sup>5</sup> The problem for those who would like to ignore harm to animals is that utilitarianism does not distinguish between human and animal suffering.<sup>6</sup> Singer expanded on Bentham by pointing to many ways in which we cause animal suffering in modern society, but he focused particularly on animal experimentation<sup>7</sup> and factory farming.<sup>8</sup>

While society has made improvements in welfare terms for both of these categories of suffering – especially experimentation – Singer’s continuing argument is that it is relatively easy for the net wellbeing to increase if we humans would simply *stop* doing some key activities.<sup>9</sup> Singer, however, recognized that resistance to change is the human way,<sup>10</sup> which is where rights come in. Tell someone that it is bad to hurt an animal, and he is likely to agree with you up to a point. Tell him that the animal has a legal right not be harmed, and he begins to really listen.

Singer’s shallow pond analogy is applicable here.<sup>11</sup> Deviating somewhat from the original, the thought experiment proceeds as follows: Imagine that it is a nice day, so on your way home, you decide to take the long way home and walk through a local park. In the middle of the park lies a shallow pond, only about four feet deep. As you round the bend, you notice a splashing sound and are alarmed to see a small child who appears to be struggling near the

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<sup>5</sup> *Id.* at 8. I use “wellbeing” here as a more colloquial synonym for the widely misunderstood “utility.”

<sup>6</sup> *Id.* at 7. It is pure anthropocentrism to ignore the fallacy underpinning the angst – humans sit squarely in the animal kingdom, so it should be no surprise that we feel pain very similar to that of our distant kin.

<sup>7</sup> *Id.* at 25.

<sup>8</sup> *Id.* at 95.

<sup>9</sup> *Id.* at 159.

<sup>10</sup> *Id.* at 213.

<sup>11</sup> Peter Singer, *Famine, Affluence, and Morality* 1 PHIL. AND PUB. AFFS. 229, 231 (1972).

middle of the pond. You glance around hurriedly and see no one else around. The problem is that you are coming home from a semi-formal event and are wearing an expensive suit, which will inevitably be ruined if you enter the pond to retrieve the child. The child has gone quiet and disappeared beneath the water, so you know there is no time to take off the suit before saving the child. Do you do so?

Most everyone agrees that one has a moral obligation to ruin the suit and save the child.<sup>12</sup> Singer's original analogy was a call for wealthier nations to contribute more resources to problems caused by poverty,<sup>13</sup> but it applies more broadly. The suit-wearer certainly was not purely motivated by money, she also thought about how much she liked the suit and how much of an inconvenience it would be to save the child. These issues harken to the most common reasons that people continue to eat meat – “I could never give up X” or “I do not know what I would eat” – that thinly veil “I like the taste of meat” and “It would be inconvenient for me to change my diet.” But from the utilitarian perspective, these arguments fall just as flat as the desire not to muddy one's favorite suit.

Despite the compelling arguments of Singer and his many followers, the challenge of actually winning animal rights has been slow. Legislatures have enacted some animal welfare legislation such as the Humane Methods of Slaughter Act<sup>14</sup> and the Animal Welfare Act,<sup>15</sup> but

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<sup>12</sup> It is a rare person who is sufficiently callous or deft enough with rationalizations to argue otherwise. A relatively common objection from the left is that veganism is colonialist because it encourages those whose traditions involve eating meat to abandon or alter their practices. This objection is beyond the scope of this paper, but I would encourage anyone interested in the topic to refer to Maneesha Deckha's work. A professor at the University of Victoria, B.C., she has written an article dealing with exactly this topic. Maneesha Deckha, *Veganism, Dairy, and Decolonialization*, 11 J. OF HUM. RTS. AND THE ENV'T 244 (2020).

<sup>13</sup> Singer, *Famine, Affluence, and Morality*, *supra* note 11 at 231.

<sup>14</sup> 7 U.S.C. §§ 1901-1907.

<sup>15</sup> 7 U.S.C. §§ 2131-2160.

actual rights for animals have been elusive. Several authors have proposed ways to rectify this problem. Some, such as David Nibert<sup>16</sup> and Steven Wise<sup>17</sup> have echoed Singer's call for animal "liberation" by analogy to the women's liberation movement of the 1960s. Others, like Robert Garner<sup>18</sup> and Gary Francione<sup>19</sup> have advocated for using direct action as both a method of alleviating suffering and drawing attention to the issue. But like the early prophets of centuries past, these thinkers win few converts. When faced with a plate full of steak, it is difficult for a person habituated to meat consumption to recall his syllogisms and refrain.

Change has instead mostly resulted from what Derrick Bell has identified as the interest convergence principle.<sup>20</sup> Bell's application focused on obtaining racial changes when it suited the interests of white people,<sup>21</sup> but the concept can easily find other uses, although the principle takes on a different quality when so adapted. Where Bell's interest convergence was descriptive in pointing out that black and white interests converged at a key moment that led to many of the changes seen during the Civil Rights Era,<sup>22</sup> the intentional use of the principle as a guide for how to achieve a particular goal such as animal rights is something else entirely. As the following sections show, both forms of the principle are at play here; the beginnings of the vegetarian/vegan movement has largely been a result of interest convergence, but the efforts that

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<sup>16</sup> See generally DAVID NIBERT, ANIMAL RIGHTS/HUMAN RIGHTS: ENTANGLEMENTS OF OPPRESSION AND LIBERATION (2002).

<sup>17</sup> See generally STEVEN WISE, RATTLING THE CAGE: TOWARD LEGAL RIGHTS FOR ANIMALS (2000).

<sup>18</sup> ROBERT GARNER, ANIMALS, POLITICS, AND MORALITY 231-57 (2004).

<sup>19</sup> See generally GARY L. FRANCIONE, ANIMALS, PROPERTY, AND THE LAW (2005).

<sup>20</sup> Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980).

<sup>21</sup> *Id.* at 523.

<sup>22</sup> *Id.*

are pushing for animal rights rely on the targeted selection of interests that invisibly converge already.

## **Part II: Dietary Health and Veganism**

### **A. Ethical Vegetarianism Through the Years**

Plant-based diets are nothing new. The earliest advocates of vegetarianism were probably Jains.<sup>23</sup> To this day, the Jains maintain a policy of nonviolence – *ahimsa* – that dates back to the founding of the religion and includes vegetarianism as one of the ways in which a believer can avoid doing violence.<sup>24</sup> In the fifth or sixth century A.D.,<sup>25</sup> Tiruvalluvar, a Jain poet, wrote a text on morality that specifically called for abstaining from meat.<sup>26</sup> Other religious groups such as Buddhists, Jews, and Hindus have all had small groups of followers who abstained from meat for ethical or purity reasons, but they are the exception. The rule was meat consumption, which, considering the omnivorous nature of humans, is understandable. Despite the occasional philosopher – described in Part I – who advocated for a plant-based diet on ethical grounds, it has taken a much different concern, health, to popularize plant-based diets.

### **B. Beginnings of Vegetarianism as a Health Trend**

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<sup>23</sup> Umakant Premanand Shah, *Jainism*, ENCYCLOPÆDIA BRITANNICA (Nov. 11, 2020), <https://www.britannica.com/topic/Jainism>.

<sup>24</sup> Ahimsa, ENCYCLOPÆDIA BRITANNICA (Feb. 19, 2015), <https://www.britannica.com/topic/ahimsa>.

<sup>25</sup> Some claim dates as far back as the first century B.C. *Tirukkural*, ENCYCLOPÆDIA BRITANNICA (NOV. 25, 2013), <https://www.britannica.com/topic/Tirukkural>.

<sup>26</sup> Norman Cutler, *Interpreting Tirukkuraḷ: The Role of Commentary in the Creation of a Text*, 112 J. OF THE AM. ORIENTAL SOC'Y 550 (1992).



Vegetarianism in the United States started being taken seriously in the counterculture of the 1960s and 1970s.<sup>27</sup> Its start was as a “loosely knit movement” that centered mostly on the West Coast and comprised hippies and radicals who saw the period as a time to reconsider many of the well-accepted notions of the past.<sup>28</sup> Importantly, Frances Moore Lappé’s wildly successful *Diet for a Small Planet*, published in 1971, condemned the American diet and its negative impact on the environment in its first half, then gave practical advice and a collection of recipes in the second half.<sup>29</sup> Across these two decades, more and more plant-based restaurants and grocery stores popped up, and plant-based cookbooks made it ever easier to make the switch.<sup>30</sup>

While advocating a plant-based diet also drew force from other movements of the day, such as feminism<sup>31</sup> and environmentalism, it was ultimately health concerns that registered the largest gains. In the decades after the success of Lappé’s book, bestsellers from the 1980s brought continued attention to plant-based diets. These books, such as *The McDougall Plan* in 1983<sup>32</sup> and *Diet for a New America* in 1987,<sup>33</sup> tended to focus more exclusively on the health aspect of vegetarianism, leaving ethical or spiritual aspects by the wayside. Quickly, the conversation became about diets, with concerns for animals becoming only secondary.

### C. Continued Popularity

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<sup>27</sup> KAREN IACOBBO AND MICHAEL IACOBBO, *VEGETARIAN AMERICA: A HISTORY* 169-93 (2004).

<sup>28</sup> *Id.* at 172.

<sup>29</sup> *See generally*, FRANCES MOORE LAPPÉ, *DIET FOR A SMALL PLANET* (1991).

<sup>30</sup> Iacobbo, *supra* note 27 at 174-77.

<sup>31</sup> *Id.* at 181-82.

<sup>32</sup> JOHN A. MCDUGALL, *THE MCDUGALL PLAN* (1983).

<sup>33</sup> JOHN ROBBINS, *DIET FOR A NEW AMERICA* (1987).

The trend of advocating for a plant-based diet for health reasons has become so prominent that “vegan” is often seen as a synonym for “healthy.” While it is a fallacy to equate them,<sup>34</sup> vegetarian diets in fact are on average healthier than ones containing meat. Vegans have significantly lower rates of obesity<sup>35</sup> and have a 12% lower mortality rate than meat eaters.<sup>36</sup>

Most meat is simply unhealthy. Red meat consumption has been shown to increase the risk of colon cancer by 28%, and consuming processed meat increases the risk by 20%.<sup>37</sup> Meat eaters have higher risks of “heart disease, pneumonia, diverticular disease, colon polyps and diabetes.”<sup>38</sup> Consuming a modest daily portion of processed meat imparts a “44% increased risk of developing dementia.”<sup>39</sup> And meat is not the only culprit. Eggs, even consumed in moderation, increase the risk of premature death.<sup>40</sup>

Concerns such as these have led to a vast increase in the availability of plant-based alternatives. Anyone paying attention has noticed that restaurant menus now commonly indicate

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<sup>34</sup> For example, many popular junk foods like Oreos and Coca-Cola are vegan.

<sup>35</sup> Nico S. Rizzo et al., *Nutrient Profiles of Vegetarian and Nonvegetarian Dietary Patterns* (June 11, 2013), <https://jandonline.org/action/showPdf?pii=S2212-2672%2813%2901113-1> (presenting statistical data that vegans have an obesity rate of 9.4% compared to nonvegetarians at 33.3%).

<sup>36</sup> *Vegetarian Diets Associated with Lower Risk of Death*, JAMA NETWORK JOURNALS (June 3, 2013), [https://www.eurekalert.org/pub\\_releases/2013-06/tjnj-vda053013.php](https://www.eurekalert.org/pub_releases/2013-06/tjnj-vda053013.php).

<sup>37</sup> *Red Meat and Colon Cancer*, HARVARD MEN’S HEALTH WATCH (Jan. 2008), <https://www.health.harvard.edu/staying-healthy/red-meat-and-colon-cancer>.

<sup>38</sup> Denis Campbell, *Eating Meat ‘Raises Risk of Heart Disease, Diabetes and Pneumonia’*, THE GUARDIAN (Mar. 2, 2021), <https://www.theguardian.com/food/2021/mar/02/eating-meat-raises-risk-of-heart-disease-diabetes-and-pneumonia>.

<sup>39</sup> WHOLEFOODS MAGAZINE, *Study Links Dementia With Processed Meat—But Not Red Meat* (Mar. 23, 2021), <https://wholefoodsmagazine.com/grocery/news-grocery/study-links-dementia-with-processed-meat-but-not-red-meat>.

<sup>40</sup> Pan Zhuang et al., *Egg and Cholesterol Consumption and Mortality from Cardiovascular and Different Causes in the United States: A Population-Based Cohort Study* (Feb. 9, 2021), <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1003508>.

which items are vegetarian- or vegan-friendly. The increased demand caused more than half of chefs in the United States to add a vegan menu item in 2018 alone.<sup>41</sup> Large faux meat businesses like Beyond Meat<sup>42</sup> and Impossible Foods<sup>43</sup> are making significant changes at both the local supermarket and at fast-food restaurants, with contracts with big players like Burger King<sup>44</sup> and McDonald's.<sup>45</sup> Because of this shift in offerings, plant-based eating is no longer a niche option available only at specialty businesses or in a home kitchen; it is available everywhere. The health craze of the past has entrenched itself firmly in the present and is now preventing countless animals' suffering through non-meat choices.

### **Part III: Environmentalism**

Environmentalism does not inherently converge with animal interests. Early American environmentalists, like John Muir, were concerned with preserving natural spaces, including the animals that inhabited them.<sup>46</sup> Theodore Roosevelt, famous for his conservation efforts, is equally famous for his big-game hunting.<sup>47</sup> The early prompt to protect the environment was

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<sup>41</sup> Sarah Von Alt, *New Study Finds 51 Percent of Chefs Have Added Vegan Menu Items in 2018*, CHOOSEVEG (Sep. 6, 2018), <https://chooseveg.com/blog/51-percent-of-chefs-add-vegan-menu-items>.

<sup>42</sup> BEYOND MEAT, <https://www.beyondmeat.com> (last visited Mar. 23, 2021).

<sup>43</sup> IMPOSSIBLE FOODS, <https://www.impossiblefoods.com> (last visited Mar. 23, 2021).

<sup>44</sup> *Impossible Whopper*, IMPOSSIBLE FOODS, <https://impossiblefoods.com/burgerking> (last visited Mar. 23, 2021).

<sup>45</sup> BEYOND MEAT, *Beyond Meat Announces Strategic Global Agreement with McDonald's* (Feb. 25, 2021), <https://investors.beyondmeat.com/news-releases/news-release-details/beyond-meatr-announces-strategic-global-agreement-mcdonalds>.

<sup>46</sup> Matt G., *A Brief History On Environmentalism* THE GREEN MEDIUM (Sep. 2, 2015), <http://www.thegreenmedium.com/blog/2015/9/2/a-brief-history-on-environmentalism>

<sup>47</sup> GEORGE A. CEVASCO & RICHARD P. HARMOND, eds., *MODERN AMERICAN ENVIRONMENTALISTS: A BIOGRAPHICAL ENCYCLOPEDIA* 444 (2009).

increased pollution from the Industrial Revolution and its attendant health consequences.<sup>48</sup> It is a relatively new perspective that animal agriculture is contributing to the planet's degradation.

### A. The Harms of Animal Agriculture

Mentioned briefly in Part II, Frances Moore Lappé's *Diet for a Small Planet* was the first major book that linked animal agriculture to environmental concerns.<sup>49</sup> Lappé was concerned with the massive amount of resources required to raise animals for food, stating that "the value of raw materials consumed to produce food from livestock is greater than the value of all oil, gas, and coal consumed in this country."<sup>50</sup> This massive consumption is due to the inefficiency of converting food for animals into meat. "For every 16 pounds of grain and soy fed to beef cattle in the United States we only get 1 pound back in meat on our plates."<sup>51</sup> Different animals have better grain-to-meat ratios, but all entail massive loss of resources during production.<sup>52</sup> All this production also uses "about one-half of our harvested acreage."<sup>53</sup> Use for this purpose has resulted in a loss of one third – four billion tons – of United States topsoil.<sup>54</sup> The water required to grow the grain to feed these animals accounts for fifty percent of that consumed in America.<sup>55</sup>

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<sup>48</sup> Lorraine Elliott, *History Of The Environmental Movement*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/topic/environmentalism/History-of-the-environmental-movement> (last visited Mar. 27, 2021).

<sup>49</sup> FRANCES MOORE LAPPÉ, *DIET FOR A SMALL PLANET* (1991).

<sup>50</sup> *Id.* at 66.

<sup>51</sup> *Id.* at 69.

<sup>52</sup> *Id.* at 70. Pigs have a 6:1 ratio, turkey 4:1, eggs 3:1, and broiler chicken 3:1. *Id.*

<sup>53</sup> *Id.* at 67.

<sup>54</sup> *Id.* at 80.

<sup>55</sup> *Id.* at 76. Lappé cites food geographer Georg Borgstrom in saying that "a 1-pound steak requires 2,500 gallons of water" and that producing animal products accounts for 3,360 of the 4,200 gallons of water required per day for the average American's diet. *Id.*

The animals themselves produce two billion tons of waste per year, which “leach[es] into the groundwater beneath the soil or run[s] directly into surface water.”<sup>56</sup>

Lappé’s observations are decades old, but animal agriculture is still causing these problems today. One simply cannot avoid the grain-to-meat ratio problem and its attendant water consumption, but direct pollution remains a problem as well. Regulators routinely fine animal raising operations for such offenses; recent examples include two businesses that received fines of \$60,000 and \$190,000 for either directly discharging manure into public waterways or for allowing their manure storage to overflow, which has the same effect.<sup>57</sup> These problems are so pervasive that some are calling for a cessation of factory farming altogether.<sup>58</sup> However detrimental these local problems are, an even greater environmental problem looms: climate change.

## B. Climate Change

Climate change has been emerging as perhaps the greatest threat to human habitation of Earth as we know it. We are all aware that climate change is being driven by higher average temperatures that result from increased abundance of greenhouse gases in the atmosphere.<sup>59</sup> While many sources emit greenhouse gases, animal agriculture is a big one, accounting for at

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<sup>56</sup> *Id.* at 84.

<sup>57</sup> Sharon Roznik, Redtail Ridge Dairy in Malone fined for discharge pollution that contaminated waterways, killed fish, FDL REPORTER (Feb. 24, 2021), <https://www.fdlreporter.com/story/news/2021/02/24/redtail-ridge-dairy-fond-du-lac-county-fined-polluting/4573153001>; Colleen Kottke, *Two dairy farms, cheese plant assessed \$190,000 penalty for violations*, WISCONSIN STATE FARMER (Feb. 19, 2021), <https://www.wisfarmer.com/story/news/2021/02/19/two-dairy-farms-cheese-plant-assessed-190-000-penalty-violations/4497128001>.

<sup>58</sup> *Iowans Demand Legislative Action on Factory Farm Moratorium*, FOOD AND WATER WATCH (Feb. 10, 2021), <https://www.foodandwaterwatch.org/2021/02/10/iowans-demand-legislative-action-on-factory-farm-moratorium>.

<sup>59</sup> *The Causes of Climate Change*, NASA (Mar. 25, 2021), <https://climate.nasa.gov/causes>.

least ten percent of all emissions.<sup>60</sup> When the behind-the-scenes energy uses are taken into account, some experts, such as former Energy Secretary Steven Chu, believe that raising animals for meat is worse for the climate than power generation.<sup>61</sup> This should not come as a surprise considering that “[a]gricultural production uses the equivalent of about 10 percent of all of the fossil fuel imported into the United States.”<sup>62</sup>

The solution to the climate change problem is obviously a massive one that will require many systemic changes. One relatively easy step would be to reduce or eliminate meat consumption. The contribution of animal agriculture to climate change is so great that, unless the U.S. severely reduces meat production, it may be impossible to meet climate goals such as those of the Paris Agreement.<sup>63</sup> Because of the dire nature of the situation, prominent individuals like Bill Gates have encouraged rich nations to make the switch to non-meat alternatives.<sup>64</sup>

Fortunately for Gates, the average grocery store now offers many promising alternatives to meat. Part II discussed well-known imitations such as Beyond Meat and Impossible Foods.<sup>65</sup> Other creative imitations are emerging as well, such as jackfruit-based “meats” that mimic the

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<sup>60</sup> *Sources of Greenhouse Gas Emissions*, EPA, <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions> (last visited Mar. 27, 2021).

<sup>61</sup> Jeff McMahon, *Meat And Agriculture Are Worse For The Climate Than Power Generation, Steven Chu Says*, FORBES (Apr. 4, 2019), <https://www.forbes.com/sites/jeffmcmahon/2019/04/04/meat-and-agriculture-are-worse-for-the-climate-than-dirty-energy-steven-chu-says>.

<sup>62</sup> See LAPPÉ, *DIET FOR A SMALL PLANET*, *supra* at 74.

<sup>63</sup> Liam Giliver, *Meeting Paris Agreement ‘Impossible’ Unless Meat Production Is Reduced, Says Expert*, PLANT BASED NEWS (Feb. 17, 2021), <https://plantbasednews.org/news/environment/paris-agreement-impossible-unless-meat-production-reduced>.

<sup>64</sup> Anna Keeve, *Bill Gates Says Rich Nations Should Shift to Plant-Based Meat for the Climate*, THE BEET (Feb. 17, 2021), <https://thebeet.com/bill-gates-says-rich-nations-should-shift-to-plant-based-meat-for-the-climate>.

<sup>65</sup> *Supra*, notes 42 and 43.

texture of animal protein.<sup>66</sup> Such meat imitations are attracting record levels of investment,<sup>67</sup> and non-dairy alternatives are beginning to replace the bovine sort.<sup>68</sup> But most promising of all is cultured meat.

Cultured meat is created by taking cells from a living animal, then coaxing it in a lab to reproduce, creating a sheet of muscle cells that is, for all intents and purposes, meat.<sup>69</sup> The advantages of such production are striking. Cultured meat uses much less space, much fewer resources, emitting much fewer greenhouse gases, all while existing outside of a conscious being, eliminating welfare concerns.<sup>70</sup> Because it *is* meat, it also satisfies the craving many have for flesh.

The cultured meat that has been produced so far has been far from perfect; it is very expensive and tends to not taste quite right due to cellular homogeneity. But progress is rapid. Canadian researchers have come up with a new production method promising “more natural flavor and texture,”<sup>71</sup> 3D printing technology is attempting to produce steaks,<sup>72</sup> and “regenerative

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<sup>66</sup> Jack & Bry, *the Jackfruit Meat Replacement Startup from London Lands £1.25M Funding*, UK TECH NEWS (Feb. 4, 2021), <https://www.uktech.news/news/jack-bry-the-jackfruit-meat-replacement-startup-from-london-lands-125m-funding-20210204>.

<sup>67</sup> Rod Addy, *Plant-Based Meat, Egg and ‘Dairy’ Investment Trebles*, FOOD MANUFACTURE (Mar. 19, 2021), <https://www.foodmanufacture.co.uk/Article/2021/03/19/Plant-based-meat-egg-and-dairy-investment-trebles>.

<sup>68</sup> Anna Starostinetskaya, *Consumers Keep Replacing Dairy with Vegan Milk, Says USDA*, VEG NEWS (Feb. 2, 2021), <https://vegnews.com/2021/2/consumers-replacing-dairy-with-vegan-milk>.

<sup>69</sup> MAASTRICHT UNIVERSITY, *What Is Cultured Meat*, <https://culturedbeef.org/what-cultured-meat> (last visited Mar. 27, 2021).

<sup>70</sup> *Id.*

<sup>71</sup> MCMaster UNIVERSITY, TECHNOLOGY NETWORKS, *Novel Cultivated Meat Created From Sheets of Cells* (Jan. 20, 2021), <https://www.technologynetworks.com/applied-sciences/news/novel-cultivated-meat-created-from-sheets-of-cells-344720>.

science taken . . . from drug development” is being used to create cultured steaks that have “a similar texture to a real beef steak but can stay bacteria-free for a much longer period of time.”<sup>73</sup>

Such projects are not only attracting a great deal of attention, they are securing major investments from those who desire entry into the market. A project to create cultured animal fat raised £2.7 million,<sup>74</sup> and another to create cultured chicken raised \$26.75 million.<sup>75</sup> These innovations and the investments they have been attracting promise to play a major role in the reduction of the environmental harms that stem from animal agriculture and to eliminate much of the suffering of farmed animals. In the short term, the adoption of meat alternatives is a promising avenue, and the choice to not eat animals is much more feasible than it was only a few years ago..

## **Part IV: Transmissible Disease**

### **A. Zoonotic Diseases**

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<sup>72</sup> Agnieszka De Sousa & Ivan Levingston, *Sirloin Steaks from a 3D Printer as Fake Meat Goes High-Tech*, CHICAGO TRIBUNE (Feb. 18, 2021), <https://www.chicagotribune.com/business/ct-biz-plant-protein-meatless-steaks-20210218-nhljh75iwzg2hh7xtbxrie7ktq-story.html>.

<sup>73</sup> Sarah Wells, *This Futuristic Lab-Grown Steak May Solve 1 Major Problem with Meat*, INVERSE (Mar. 3, 2021), <https://www.inverse.com/innovation/new-type-of-lab-grown-meat>.

<sup>74</sup> Steve O’Hear, *Hoxton Farms Raises £2.7M Seed to Produce Animal Fat Without Animals*, TECHCRUNCH (Feb. 9, 2021), <https://techcrunch.com/2021/02/09/hoxton-farms>.

<sup>75</sup> Megan Poinski, *Future Meat Technologies Makes Cell-Based Chicken Costing \$7.50 and Gets \$26.75M Funding*, FOOD DIVE (Feb. 1, 2021), <https://www.fooddive.com/news/future-meat-technologies-makes-cell-based-chicken-costing-750-and-gets-2/594240>.



When a person is infected with Ebola virus, a period ensues during which the virus multiplies rapidly in the body's cells followed by progressively more severe symptoms.<sup>76</sup> It begins with flulike complaints and weakness.<sup>77</sup> A few days later, the patient develops “vomiting, diarrhea, nausea, low blood pressure, headaches, and anemia.”<sup>78</sup> In the final stage, only a little over a week after symptoms begin, the patient will bleed internally and externally, which eventually leads to coma and death.<sup>79</sup> Where did Ebola come from? Most likely, it was originally transmitted to humans via contact with the blood or body fluids of “bats or nonhuman primates.”<sup>80</sup>

While Ebola is the most extreme current example, there are many other examples of zoonotic diseases – those that jump from animal to human – such as rabies, malaria, plague, and HIV.<sup>81</sup> Looking at that list, it is obvious that human contact between animals has historically been and remains a major source of human disease. The Center for Disease Control and Prevention (CDC) estimates that a full 60% of all infectious diseases are zoonotic in origin.<sup>82</sup>

It is therefore reasonable that we would want to limit our interactions with animals that can transmit disease to us. As so many diseases – like Ebola, above – are transmitted through

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<sup>76</sup> Amanda L. Chan, *What Actually Happens When a Person Is Infected with The Ebola Virus*, HUFFINGTON POST (Dec. 26, 2017), [https://www.huffpost.com/entry/ebola-symptoms-infection-virus\\_n\\_5639456](https://www.huffpost.com/entry/ebola-symptoms-infection-virus_n_5639456).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *What Is Ebola Virus Disease?*, CDC (Dec. 1, 2021), <https://www.cdc.gov/vhf/ebola/about.html>.

<sup>81</sup> Kimberly Hickok, *What Are Zoonotic Diseases?*, Live Science (Apr. 25, 2020), <https://www.livescience.com/zoonotic-disease.html>.

<sup>82</sup> *8 Zoonotic Diseases Shared Between Animals and People of Most Concern in the U.S.*, CDC (May 6, 2019), <https://www.cdc.gov/media/releases/2019/s0506-zoonotic-diseases-shared.html>.

contact with animal body fluids like blood and sweat, regular forms of animal exploitation such as factory farming and fur collection that involve high amounts of this sort of contact should be avoided. The interest humans have in not contracting disease neatly aligns with less exploitation of animals.

Apart from the comparatively old diseases mentioned above, a constant brew of zoonotic disease simmers under the surface of the gene pool. Every few years, a new strain of a – usually familiar – infectious agent or surfaces. In 2009, a severe swine flu outbreak sickened thousands.<sup>83</sup> Notable bird flu outbreaks occurred in 2014, 2016, and 2017.<sup>84</sup> 2003 brought severe acute respiratory syndrome (SARS),<sup>85</sup> and 2014 brought Middle East respiratory syndrome (MERS),<sup>86</sup> both of which are coronaviruses. However, since early 2020, we have been preoccupied with a different coronavirus.

## B. COVID-19

The low-level threats of recent decades did not pose the kind of risk that should prompt a sharp response. But the historical examples described above should have served as a warning. We *knew* that, as biological creatures, we were susceptible to a novel and particularly virulent disease. The successes at treatment of lesser diseases and the relatively efficient containment of more frightening illnesses like Ebola, may well have lulled us into a sense of complacency. All it

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<sup>83</sup> *2009 H1N1 Pandemic (H1N1pdm09 virus)*, CDC (June 11, 2019), <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html>.

<sup>84</sup> *Past Outbreaks*, CDC (Apr. 10, 2017), <https://www.cdc.gov/flu/avianflu/past-outbreaks.htm>.

<sup>85</sup> *Severe Acute Respiratory Syndrome (SARS)*, CDC (Dec. 6, 2017), <https://www.cdc.gov/sars/index.html>.

<sup>86</sup> *Middle East Respiratory Syndrome (MERS)*, CDC (Aug. 2, 2019), <https://www.cdc.gov/coronavirus/mers/us.html>.

took was a particular matching of the variables to give us something much more dangerous in the form of COVID-19.

Despite rumors that Chinese scientists created Covid in a lab and that it somehow escaped, likely due to human error,<sup>87</sup> little evidence supports this possibility.<sup>88</sup> Instead, it is almost certain that this virus, like so many from the past, was transmitted to humans via an intermediary animal vector.<sup>89</sup> Early reports indicated that the virus was transmitted to humans via a bat that was sold at a “wet market” – where live animals are sold – in Wuhan, China.<sup>90</sup> However, later investigation found that the market served as the location of a superspreader event, not its source.<sup>91</sup> It is important to note that this finding does not rule out the animal origin of Covid. Because so many diseases have been transmitted from animals to humans previously, zoonotic providence is still high on the list of possible explanations.

Regardless of whether this particular virus’s origin was an animal, the impact of the meat industry on its transmission is clear and provides a vivid illustration of how the practices of the meat industry encourage such contagiousness. The close quarters and circumstances of ready exchange of body fluids and air make for ideal transmission conditions. From the beginning of Covid’s arrival in the United States, the meatpacking industry has been a major source of rapid

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<sup>87</sup> Frank Diamond, *Idea That COVID-19 Began as a Lab Leak Spreads*, INFECTION CONTROL TODAY (Jan. 5, 2021), <https://www.infectioncontrolday.com/view/idea-that-covid-19-began-as-a-lab-leak-spreads>.

<sup>88</sup> Michael Marshall, *Did Coronavirus Come from a Lab?*, NEW SCIENTIST, <https://www.newscientist.com/definition/coronavirus-come-lab> (last visited Mar. 23, 2021).

<sup>89</sup> Jeremy Page et al., *Coronavirus Likely Came From Animal, Not Leaked From Laboratory, WHO Says*, THE WALL STREET J. (Feb. 9, 2021), <https://www.wsj.com/articles/coronavirus-most-likely-spilled-over-to-humans-through-intermediate-animal-says-who-11612868217>.

<sup>90</sup> James T. Areddy, *China Rules Out Animal Market and Lab as Coronavirus Origin* (May 26, 2020), <https://www.wsj.com/articles/china-rules-out-animal-market-and-lab-as-coronavirus-origin-11590517508>.

<sup>91</sup> *Id.*

transmissions.<sup>92</sup> During April of 2020, roughly three percent of all workers in meat processing had been infected.<sup>93</sup> At a plant in South Dakota, over 17% of all workers were infected at that time.<sup>94</sup> A CDC report indicated that, over April and May of 2020, 16,223 workers in the meat processing industry tested positive for Covid, which represented over 9% of those reporting.<sup>95</sup> By February 2021, almost 50,000 had contracted the virus.<sup>96</sup>

Far from being simply a product of the cramped circumstances that did not allow for prevention measures like social distancing, the inaction of the managers of the meat plants might make them liable for the harm that befell their employees. Several investigations and lawsuits to that extent have already begun. For example, the Occupational Safety and Health Administration (OSHA) is seeking information about “‘ineffectual’ enforcement of safety standards under former President Donald Trump.”<sup>97</sup> Additionally, two complaints have targeted Tyson Foods, the largest chicken producer in the United States, for Covid deaths of employees.<sup>98</sup> And a California processor, Smithfield Foods, was fined \$100,000 for violations stemming from the pandemic.<sup>99</sup>

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<sup>92</sup> Ryan Secard, *CDC: Over 4,000 Meat Workers Have Contracted COVID-19*, INDUSTRY WEEK (May 1, 2020), <https://www.industryweek.com/covid19/article/21130321/cdc-over-4000-meatpacking-workers-have-contracted-covid19>.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Michelle A. Waltenburg et al., *Update: COVID-19 Among Workers in Meat and Poultry Processing Facilities — United States, April–May 2020*, CDC (July 10, 2020), [https://www.cdc.gov/mmwr/volumes/69/wr/mm6927e2.htm?s\\_cid=mm6927e2\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6927e2.htm?s_cid=mm6927e2_w).

<sup>96</sup> Abigail Abrams, *House Democrats Launch Investigation of OSHA, Meat Plants Over COVID-19 Outbreaks*, TIME (Feb. 1, 2021), <https://time.com/5935089/democrats-investigation-meatpacking-coronavirus>.

<sup>97</sup> *Id.*

<sup>98</sup> Complaint, Hari Buljic v. Tyson Foods, Inc., No. 6:20-cv-02055 (N.D. Iowa Nov. 18, 2020); complaint, Fernandez v. Tyson Foods, Inc., No. 6:20-cv-02079-LRR-KEM (N.D. Iowa Nov. 11, 2020).

<sup>99</sup> Tom Polansek, *Smithfield Foods, Subcontractor Fined \$100,000 for COVID-19 Violations in California*, REUTERS (Nov. 16, 2020).

Many more such suits and investigations might follow, and the level of misconduct appears to be striking.<sup>100</sup>

The public health problem of Covid thus converges with many of the objectives of the animal-rights movement. The solutions proposed range from eliminating meat consumption altogether to increasing standards that would reduce the incidence of abuse. Somewhere in the middle of this spectrum is the view advocated by Senator Cory Booker, who has called for the banning of factory farming.<sup>101</sup> Booker's statements make the interest convergence between human and animal interests clear. After pointing out that factory farms are "breeding grounds for infectious disease," he said that "[e]nding the cruel practice of factory farming can help prevent future pandemics."<sup>102</sup> While its prospects seem small, if the bill passes, it would require the elimination of factory farming by 2040.<sup>103</sup>

### C. The "Big One"

While Covid upturned the world, society's concern should not only be how to deal with the fallout of this pandemic but how to prepare for the next one. Put simply: Covid could have been worse. The health impacts of Covid were reduced substantially by medical treatment and control efforts, and still millions of people died. Millions more would have died if a vaccine had not been rapidly produced. Efforts like those of Senator Booker are the correct approach, though

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<sup>100</sup> See, e.g. Katie Shepherd, *Tyson Foods Managers Had a 'Winner-Take-All' Bet on How Many Workers Would Get Covid-19, Lawsuit Alleges*, WASHINGTON POST (Nov. 19, 2020), <https://www.washingtonpost.com/nation/2020/11/19/tyson-foods-waterloo-bets-covid> (detailing claims that managers at a Tyson Foods facility placed bets on how many employees would contract the virus).

<sup>101</sup> Liam Giliver, *US Senator Cory Booker Says Factory Farming Ban Should Be 'High On The Agenda'*, Plant Based News (Jan. 25, 2021), <https://plantbasednews.org/culture/politics/cory-booker-says-factory-farming-ban-is-high-on-the-agenda>.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

the interest convergence extends beyond them; so long as we continue to breed animals for our use, the risk of an even greater pandemic will loom on the horizon.

Like the “Big One” of California earthquakes, this hypothetical future is not so much a matter of “if” but “when.” Scientists are constantly trying to stay ahead of evolution’s genetic mutations that will inevitably invade our species, but it is impossible to stay ahead forever.<sup>104</sup> Most immediately, Covid is not finished yet. The virus continues to mutate and might easily become more virulent.<sup>105</sup> This possibility should be reason enough to take steps to prevent future pandemics, but Covid did not have a particularly high case fatality rate as far as pandemics go.<sup>106</sup> If it were higher, people would clearly take personal and community safety more seriously,<sup>107</sup> but we should not hesitate much longer. From a historical perspective, we know that a bigger threat will eventually arise.

Future pandemic threats will come from many different places, but one thing is certain: using animals for human purposes has historically been and will continue to be the greatest among the threats. Covid and other coronaviruses can and do infect other animals including dogs and cats,<sup>108</sup> where they can mutate into novel strains that make it back to humans. But apart from

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<sup>104</sup> See *Stopping the Next One: What Could the Next Pandemic Be?*, BBC, <https://www.bbc.com/future/article/20210111-what-could-the-next-pandemic-be> (last visited Mar. 23, 2021).

<sup>105</sup> Andrew Joseph, *Covid-19 Deaths are the Highest They’ve Ever Been — and the More Infectious Variants Could Make Things Much Worse*, STAT NEWS (Jan. 14, 2021), <https://www.statnews.com/2021/01/14/more-infectious-variants-could-make-things-much-worse>.

<sup>106</sup> Katie Dangerfield, *‘The Big One’: WHO Warns Future Pandemics Could be Worse Than Coronavirus*, GLOBAL NEWS (Dec. 29, 2020), <https://globalnews.ca/news/7545830/coronavirus-pandemic-big-one-who>.

<sup>107</sup> Scott Sumner, *Could it Have Been Much Worse?*, THE LIBRARY OF ECONOMICS AND LIBERTY (July 12, 2020), <https://www.econlib.org/could-it-have-been-much-worse>.

<sup>108</sup> Jason Braverman, *CDC: More Than 100 Pet Dogs, Cats Have Had COVID-19 in the US*, KING-TV (Mar. 7, 2021), <https://www.king5.com/article/news/health/coronavirus/dogs-cats-get-covid-19/85-e8c4db97-16c8-4ebf-838b-5ba7dc52d915>.

Covid, many ongoing threats illustrate the background conditions that produce a pandemic. Over just the last few months, millions of animals have been culled due to separate bird flu outbreaks that have hit Sweden,<sup>109</sup> France,<sup>110</sup> and Japan,<sup>111</sup> and a swine fever outbreak in Malaysia.<sup>112</sup> The fur industry has made similar culls on mink farms.<sup>113</sup> The avoidance of these diseases and a future pandemic strongly overlaps with avoiding animal contact, especially the kind that is associated with the worst conditions and their attendant suffering.

## **Conclusion**

Many reasons support endowing animals with legal rights. But a roadblock stands in the way of that recognition; we are a culture of carnivores. When confronted with reasons to change our ways with regard to animals, we are apt to come up with defensive justifications that enable upholding the status quo. So long as a person remains behind the wall of habitual practice, they remain closed off to the litany of reasons to join the opposite side: that of not exploiting animals for food or any other human purpose. The hammer which can break down that wall is interest convergence.

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<sup>109</sup> *Sweden to Cull 1.3 Million Chickens After Bird Flu Hits Farm*, TRIBUNE INDIA (Jan. 26, 2021), <https://www.tribuneindia.com/news/world/sweden-to-cull-1-3-million-chickens-after-bird-flu-hits-farm-203951>.

<sup>110</sup> *Bird Flu Outbreak in Southwest France 'Under Control', Say Authorities*, WION (Jan. 21, 2021), <https://www.wionews.com/world/bird-flu-outbreak-in-southwest-france-under-control-say-authorities-358369>.

<sup>111</sup> *Thousands of Chickens to be Culled in Japan's Ibaraki Prefecture Amid Bird Flu Outbreak*, ANI (Feb. 2, 2021), <https://www.aninews.in/news/world/asia/thousands-of-chickens-to-be-culled-in-japans-ibaraki-prefecture-amid-bird-flu-outbreak20210202100941>.

<sup>112</sup> Anuradha Raghu, *Malaysia to Cull 3,000 Pigs After Finding First Swine Fever Case*, BLOOMBERG NEWS (Mar. 2, 2021), <https://www.bnnbloomberg.ca/malaysia-to-cull-3-000-pigs-after-finding-first-swine-fever-case-1.1570781>.

<sup>113</sup> Ben Kessler, *Here's Why Denmark Culled 17 Million Minks and Now Plans to Dig Up Their Buried Bodies. The Covid Mink Crisis, Explained*, NBC NEWS (Dec. 1, 2020), <https://www.nbcnews.com/news/animal-news/here-s-why-denmark-culled-17-million-minks-now-plans-n1249610>.

Interest convergence rearranges the deck in such a way that it is so undeniably in a person's self interest to change that they have little choice but to make the shift, however difficult it might be. For animal rights, the first step is to break the spell of carnism. This paper outlined but a few of the most striking converging interests: health of plant-based diets, the negative environmental impact of animal agriculture, and avoidance of disease. After society steps away from animal consumption and breaks the habit of viewing animals as tools or food, the flood of reasons for affording animals the rights they are due will rush in. Far from being a cheap way to win points for the animals, these converging interests are the escape hatches to a better future for humans and animals alike and are the back roads to the world envisioned by the idealistic lonely philosopher whose goal is respect for all sentient beings.