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PROTECTIONS WITHOUT RIGHTS  
A Liberal Indictment of Factory Farming

by

CONNOR K. KIANPOUR

Under the Direction of Christie Hartley, PhD

A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of

Master of Arts

in the College of Arts and Sciences

Georgia State University

2021

## ABSTRACT

I argue that factory farming should be abolished consistent with the principles of classical liberalism. To make my case, I first argue that anti-cruelty is a commitment of classical liberalism (Section 2). In Section 3, I explain how the commitments of classical liberalism, including a commitment to anti-cruelty, give us weighty reasons to abolish factory farming. Then, I consider and respond to the objection that the property rights of factory farmers override the strength of reasons for the abolition of factory farming (Section 4). Finally, I conclude (Section 5) by flagging some other possible implications of taking seriously a liberal commitment to anti-cruelty.

INDEX WORDS: Liberalism, Cruelty, Dependency, Factory farming, Animal ethics, Property

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2021

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A Liberal Indictment of Factory Farming

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May 2021

## **DEDICATION**

As light does with darkness, kindness resolves the trappings of cruelty. I dedicate this thesis to my friends and family—the bipeds and quadrupeds alike—for showing me kindness during this cruel and grueling writing process.

## ACKNOWLEDGEMENTS

This thesis would not exist were it not for the generous and patient spirit of my mentor and advisor, Dr. Christie Hartley. Nor would it be as compelling as it is, if it is at all, without the thoughtful comments of my committee members: Drs. Andrew I. Cohen and Andrew J. Cohen. Thanks, above all, to these three for helping me undertake this project. I would also like to thank Jess Flanigan, Jeff Carroll, Greg Robson, David Simpson, Sam Director, Bob Fischer, Mario Juarez-Garcia, Marcus Schultz-Bergin, Vanessa Voss, and my friends in the Department of Philosophy at Georgia State for reading and providing feedback on earlier drafts of my thesis. Every philosopher I have spoken to about my thesis has gone some way to improving it, so I would like to conclude by thanking all those who are not listed but who have nonetheless helped me clarify my views about cruelty and classical liberalism.

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## 1. INTRODUCTION

“The lamb misused breeds public strife  
And yet forgives the butcher’s knife.”

William Blake, *Auguries of Innocence*

Every second, nearly 300 land animals are slaughtered for food in the United States. Most of them are raised and killed on factory farms. Standard industry practices on factory farms which will be the central focus of this paper include cutting beaks off chickens, confining cows by the hundreds and shocking them with electric cattle prods, painfully removing the horns of rams, tearing off the genitals of piglets, and fitting the noses of newborn calves with spiked rings to prevent them from drinking their mothers’ milk. These practices are normally carried out without anesthetizing the animals.<sup>1</sup> The lamentable plight of animals on factory farms is well-documented and widely criticized.<sup>2</sup> Yet factory farming thrives, even in liberal societies where its most passionate detractors advocate on behalf of suffering animals.

As many have argued, factory farming should be abolished. Some have argued for this claim on the grounds that animals, like humans, have robust, enforceable moral rights (Regan [1983], Cochrane 2012, Garner 2013, Cochrane 2018). While there may be good reasons to believe this, many remain unconvinced that animals have such rights (Narveson 1983, Machan 1991, Machan 2002, Hsiao 2015, Hsiao 2017). Luckily, an argument for factory farm abolition need not hinge on the existence of strong animal rights and the moral equality of humans and nonhuman animals. Indeed, I think that all liberals should endorse factory farm abolition given their

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<sup>1</sup> I use the term “animal” to encapsulate nonhuman animals.

<sup>2</sup> See Foer (2009), Pachirat (2013), and Hannan (2019) for accounts of the treatment of animals on factory farms.

commitments provided they recognize that factory farmed animals have some minimal moral value and are dependent on factory farmers in an important way.<sup>3</sup>

In this paper, I draw on classical liberalism to argue that liberal states have weighty reasons to pass legislation protecting animals from standard industry practices used on factory farms. To be clear, although I look to classical liberalism to make my argument, I am not endorsing or defending classical liberalism. If I can show that classical liberals should abolish factory farming despite their usual grounds for resisting interference with the individual liberties of human agents, then I will be on strong ground for extending my argument to liberals of other stripes, although I do not explicitly do that here.

To make my case, I first argue that anti-cruelty is a commitment of classical liberalism (Section 2). In Section 3, I explain how the commitments of classical liberalism, including a commitment to anti-cruelty, give us weighty reasons to abolish factory farming. Then, I consider and respond to the objection that the property rights of factory farmers override the strength of reasons favoring the abolition of factory farming (Section 4). Finally, I conclude by indicating some other possible implications of taking seriously a liberal commitment to anti-cruelty (Section 5).

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<sup>3</sup> Convergence liberals may better be able to resist the force of the arguments put forth in this piece, but the reasons with which extensive legal protections are justified are generally compatible with both liberal perfectionism and political liberalism. Although cruelty is a vice and the moderation of vice by the liberal state is often associated with iterations of liberal perfectionism, it is a particular kind of vice that provides us with reasons for moderating it that can be justified to all.

## 2. A COMMITMENT TO ANTI-CRUELTY

In this section, I discuss the history, substance, and value of a liberal commitment to anti-cruelty. First, I show how figures who have influenced the classical liberal tradition have denounced cruelty. Then, I offer an account of anti-cruelty that classical liberals would endorse. Finally, I explain what role such a commitment plays in the liberal program.

### 2.1. A Brief Liberal History of Anti-Cruelty

Classical liberalism, for our purposes, is a political philosophical tradition that is normatively individualist<sup>4</sup> and takes liberty as noninterference<sup>5</sup> as the core political norm. As a result, most classical liberals tend to endorse very limited government interference in the lives of individuals (Mack & Gaus 2004). In particular, classical liberals tend to reject the use of state power to distort market forces absent some compelling justification since such distortions can negatively impact both consumers and producers in the market economy.<sup>6</sup>

However, even if limited government interference for the sake of individual liberty is at the heart of classical liberalism, classical liberals have other commitments as well. Anti-cruelty, I

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<sup>4</sup> Normative individualism maintains that individuals count primarily if not exclusively in assessments in political morality (Buchanan & Tullock 1965: 307–322).

<sup>5</sup> Liberty as noninterference is also what Isaiah Berlin (1970) would call negative liberty. One is at liberty in the negative sense when there are no obstacles, barriers, constraints, or interferences from others that stand in one's way in one's pursuit of some end (Carter 2016).

<sup>6</sup> Some may take issue with my sketch of classical liberalism. I implore these people to replace my use of the term “classical liberalism” with “a variety of liberalism that is committed to extremely limited government and, on its surface, is permissive of standard industrial animal agricultural practices to the extent that they help rather than hurt humans.”

claim, is one of them. Some philosophers outside of the classical liberal tradition, like Richard Rorty (1989) and Judith Shklar (1984, 1998), have argued that a commitment to anti-cruelty is alone constitutive of proper liberal governance (Abbey 2016a, Abbey 2016b). I do not make any such claim. Rather, I show that anti-cruelty is, and ought to be, one among the commitments of classical liberalism.

Many thinkers who have influenced the classical liberal tradition have also demonstrated an interest in denouncing, or at the very least mitigating, cruelty. In *Leviathan*, Thomas Hobbes claims that cruelty, or the tendency “to hurt without reason, tendeth to the introduction of Warre,” or those chaotic, anarchic conditions under which people in a state of nature would form a protective state ([1651]: 76). In *Some Thoughts Concerning Education*, John Locke stresses the importance of educating children to be sensitive to the suffering they may inadvertently cause animals, lest they grow up to be cruel to other humans ([1693]: 7.116).<sup>7</sup> Echoing Hobbes and Locke, Montesquieu is another philosopher associated with the classical liberal tradition who has been described as having a “political vision...centrally concerned with diminishing cruelty and violence in social life” (Levy 2000: 19).

Later utilitarian liberals (who, admittedly, are not *clearly* classical liberals but have nonetheless at least shaped the philosophical tradition) from the eighteenth and nineteenth centuries also expressed a concern with mitigating cruelty in society. For example, Jeremy Bentham proposed making cruelty to animals punishable by law on three grounds: The pain experienced by animals matters morally, animals who are treated cruelly are likely to attack

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<sup>7</sup> While *Some Thoughts Concerning Education* is not an overtly political work, it is plausible that Locke’s educational prescriptions are meant to serve “the end of producing citizens capable of participation in political government” (Brady 2005: 157). See also Tarcov (1984).

humans, and humans that treat animals cruelly are likely to treat other humans cruelly (Kniess 2019: 560–563). Therefore, says Bentham, the state ought to regulate how humans can treat animals.

For different reasons, Bentham’s protégé, John Stuart Mill, also opposed cruelty. In his *Principles of Political Economy*, Mill argues that the state should protect children against acts of cruelty committed by their parents on the grounds that children are entitled to protection from harm. Such acts of cruelty, according to Mill, range from “brutally ill-treating, and even from murdering...children,” to withholding education from a child (Mill [1848]: 290–291). Thus, Mill can be understood as an influence on classical liberalism who “extended the ideas of harm and cruelty to include the act of *neglecting to develop [a] child’s mental faculties*” (West 1965: 136, original emphasis). All of this is to say that a commitment to anti-cruelty abounds in the classical liberal tradition, whether that commitment is rooted in a concern for adults, children, or animals.

## 2.2. The Substance of Anti-Cruelty

What exactly is a commitment to anti-cruelty? To answer this question, I must first define cruelty. I will do so by establishing a test case for our concept of cruelty. Before doing so, I want to make one note: It may turn out that we have reasons to conceive of cruelty differently in private, interpersonal contexts, but my aim here is to flesh out an understanding of cruelty that can be placed at the center of a liberal political morality. If one gets the sense that my account of cruelty is minimalistic or rudimentary, it is for this very reason.

To find what is at the heart of cruelty, it will be instructive to consider the following case from Martin McDonagh’s *Three Billboards Outside Ebbing, Missouri* (2017):

*Officer Dixon:* Jason Dixon is a police officer who works under Chief William Willoughby.

Chief Willoughby had ongoing problems with a businessman named Red Welby. Chief

Willoughby commits suicide. Officer Dixon wrongly attributes Chief Willoughby's suicide to Welby. To avenge Chief Willoughby, Officer Dixon smashes Welby in the face twice with a gun, spits on him, throws him out of a window from the second story of an office building, and punches him in the face. Welby is left bloodied and dilapidated by Officer Dixon on the road outside of the office building he was thrown out of.

Surely, any account of cruelty worth its salt will recognize Officer Dixon's cruel act as such. What, then, can we say of cruelty? First, it is important to recognize that a cruel act is typically only cruel to the extent that its victim *does not desire it*. If Welby wanted to be beaten up and Officer Dixon knew this, we might even look upon Officer Dixon's actions favorably, as if he was doing Welby a favor. Part of what makes us look upon Officer Dixon's actions unfavorably is that Welby does not want to be beaten up nor does Officer Dixon have any reason to believe Welby does.

For an act to be cruel, the pain or deprivation associated with the act must also either be wholly undeserved or disproportionate to whatever, if anything at all, provoked the cruel act. In other words, the cruel act must cause *gratuitous* pain. In the case of Officer Dixon, it is clear that Officer Dixon's actions (though evidently unjustifiable) were provoked by Chief Willoughby's suicide. Cruel acts need not always be provoked, though. Indeed, a most egregious act of cruelty can be entirely random. Imagine a sadist who has a hankering for making a child feel pain, and so grabs a small boy and smashes his face into the pavement repeatedly. That this act is unprovoked makes it no less cruel. One might even argue that random acts of cruelty are particularly cruel.

Relatedly, the perpetrator of a cruel act must subject his victim to nontrivial and avoidable pains or deprivations for the act in question to be cruel (Kekes [1996](#): 837–838). Somebody who has been beaten, spit on, and thrown out of a window will certainly experience pain that is *nontrivial*. Officer Dixon can thus be understood to subject Welby to nontrivial pains and deprivations. Many would also agree that Officer Dixon did not *need* to respond to Chief

Willoughby's suicide in the manner that he did. If his goal was to bring Welby to justice somehow, Officer Dixon could have helped conduct an investigation into the death of Chief Willoughby. In other words, it was within Officer Dixon's means to *avoid* acting as he did.

At this point, the reader may inquire about what precisely it means for pain to be gratuitous, nontrivial, or avoidable. Does a coffee shop owner act cruelly when she upcharges a poor patron for being disruptive in her place of business? In other words, is the pain she causes her poor patron *gratuitous*? Is an overly sensitive man who regards an innocuous joke as an affront to his dignity a victim of cruelty? Is his pain, to wit, *nontrivial*? Can we say that a construction worker could have been reasonably expected to take his labor elsewhere when he found out that he would be asked to deforest a natural area? Could he have *avoided* acting as he did? These questions are all worth asking, though they are of little consequence to our present inquiry. My goal is to argue that liberals should be committed to the abolition of factory farming because it is within the purview of the state to regulate cruelty against individuals with a particular moral status. On any reasonable interpretation of the terms "gratuitous," "nontrivial," and "avoidable," factory farming, as it is described at the outset of this paper, is a clear instance of cruelty.

Now, let us examine some other candidates for necessary conditions of cruelty. Some have suggested that cruelty necessarily involves a power imbalance between the perpetrator of a cruel act and the victim (Shklar [1984](#): 8, Shklar [1998](#): 11, Coetser [2019](#): 4). The perpetrator must be somehow stronger—whether physically, politically, or what have you—than the victim. But this is not necessarily the case. Consider the case of a young woman who is fired by her male boss who happens to be an extreme powerlifter. The boss always treats his employees with respect, but recently had to lay off some of them because his business is in financial straits. The young woman believes that she has been fired without cause, and so decides to murder her boss in his sleep by painfully dismembering him. On almost all counts, the woman is significantly less powerful than

her boss. It seems, however, that we would still be justified in calling her cruel for murdering her boss, or at least by doing so in the way she did. Although acts of cruelty often involve power imbalances as in the case of Officer Dixon, it is not necessary.<sup>8</sup>

It has elsewhere been argued that cruelty is “the willful [infliction] of physical pain on a weaker being in order to cause anguish and fear” (Shklar 1984: 8). It does not seem necessary, however, for an act to be committed with the intent to cause anguish and fear for it to be an act of cruelty (Abbey 2016a: 26, Baruchello 2010: 177). As far as we know, Officer Dixon did not intend to cause anguish and fear when he beat and defenestrated Welby. He might have merely wanted to, for example, exorcise his grief over the loss of his close friend. It seems, then, that lacking motivation to cause fear and anguish would make Officer Dixon’s action no less cruel. Indeed, an act can be cruel even when the perpetrator is indifferent to the suffering she causes since she ought not be (Kekes 1996: 839). What matters for Officer Dixon’s action to be cruel is not that Officer Dixon intends to cause anguish and fear when he mistreats Welby, but that Officer Dixon willfully acts so as to subject Welby to undesired, gratuitous, nontrivial, and avoidable pains and deprivations.

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<sup>8</sup> Someone who is partial to Shklar’s account of cruelty may argue that the woman is *more* powerful than her boss in the relevant sense in that she is smart enough to overpower him when he is most vulnerable. This is plausible to me. However, I omit the power condition from the rudimentary account of cruelty I defend herein for two reasons. First, omitting this condition does not seem to eradicate what it is that makes certain actions cruel. Second, the power condition strengthens my argument considerably and I do not want to leave the reader with the impression that I am rigging my definition of cruelty such that it leads us to my preferred conclusion. Factory farmers have incontrovertible power over the animals they torture and slaughter on factory farms. If I can show that my argument for factory farm abolition goes through without relying on an account of cruelty that includes the power condition, then it will convince those who are skeptical of the power condition for whatever reason.



Cruelty, then, is multifarious in the sense that it need not be motivated by sadism, though it certainly can be. In the philosophical literature on cruelty, scholars often distinguish between *sadistic cruelty* and *brutal cruelty*. Somebody who is sadistically cruel delights in the suffering of his victim, whereas somebody who is brutally cruel fails to appreciate or is indifferent to the fact that his actions harm his victim. Furthermore, acts of cruelty can be either *active* or *passive*. Active acts of cruelty are acts of commission, whereas passive acts of cruelty are acts of omission or negligence (Hallie 1969: 29–31, Regan 1980: 533–535, Rowan 1999).<sup>9</sup> The man who cuts off the fingers of an infant one by one is actively cruel, while the man who fails to feed and bathe an infant under his care is passively cruel through neglect. Though these acts of cruelty are distinct in meaningful ways, they can still be properly regarded as cruel because they have the effect of inflicting a certain kind of pain or deprivation on the object of the act. Taking all of this in stride, I posit the following definition of cruelty for our purposes:

*An agent X is cruel to an individual Y when X willfully subjects Y, by act or omission, to an undesired, avoidable, nontrivial, and gratuitous pain or deprivation.*<sup>10</sup>

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<sup>9</sup> Hallie (1969) characterizes a passive act of cruelty as indirect cruelty and bifurcates active acts of cruelty into two distinct classifications: Sadistic and practical cruelty. Sadistic cruelty is self-gratifying, whereas practical cruelty is instrumental in some meaningful sense (22–24, Baruchello 2010: 177).

<sup>10</sup> It is important to note that my definition of cruelty may also classify failures to aid the global poor as acts of cruelty. This also, however, may *not* be the case. Cruelty likely involves directed attention to particular individuals that harm does not, and failing to aid the global poor does not seem to involve directed attention to particular individuals. Whether or not this difference is relevant to exempt failures to aid the global poor from being classified as cruelty is an open question. Fleshing this out in greater detail, however, is outside of the scope of this paper.

This understanding of cruelty identifies and accounts for the salient features we look for in paradigmatic instances of cruelty. It classifies Officer Dixon's actions as cruel, as well as many other acts that we would hope an account of cruelty would—most kinds of enhanced interrogation methods, police brutality, child abuse, child neglect, and hate crimes, among other things. Bearing this definition of cruelty in mind, a commitment to anti-cruelty is, therefore, a commitment to preventing individuals from being willfully subjected, by act or omission, to gratuitous pain or deprivation that is both avoidable and nontrivial. Classical liberals, I believe, are and ought to be committed to anti-cruelty understood in this way. After all, no classical liberal—or any liberal for that matter—would say that, say, Officer Dixon should be able to act as he does with impunity.

### **2.3. The Function of Anti-Cruelty**

Someone might argue that a state governed by principles of classical liberalism would protect its citizens from cruelty for reasons that have nothing to do with preventing or mitigating cruelty *per se*. This is because classical liberals are typically concerned with either (1) preventing and rectifying harms, or (2) prohibiting bodily rights violations of citizens, regardless of whether these harms or rights violations are, in addition, cruel. I will show how, on both of these understandings of classical liberalism, a commitment to anti-cruelty is nonetheless a valuable asset.

Let us first consider versions of classical liberalism that rely on the harm principle. The harm principle states that interference is warranted when an agent harms, or wrongfully sets back the interests of, another (Brink [2018](#)). To know that harms should be prevented and rectified is clearly not enough when it comes to determining how, if at all, harms should be punished. In the words of Andrew J. Cohen:

Though the harm principle tells us when interference is warranted, it is silent about *what sort of interference* is permitted. Plausibly, extreme physical force is permitted to stop a

murderer, but not to stop [a] thief [that steals] a single page from my notebook...But none of this follows from the harm principle directly (2014: Ch. 3, original emphasis).

We might distinguish how we may treat the murderer from the way we may treat the notebook thief, at least in part, by assessing the extent to which the perpetrator of each harmful action could have avoided acting as they did, and the extent to which the effects of a given action are undesired by the target of the action, gratuitous, and nontrivial. As discussed before, these considerations are part and parcel of a liberal commitment to anti-cruelty.

Additionally, this commitment places limits on the acceptable punishments that can be meted out by the state, further clarifying what appropriate interference would look like on a classical liberal view. For example, it would be wrong to punish larceny with a life sentence in prison, at least in part, because such a punishment presumably subjects the thief to undesired, gratuitous, nontrivial, and avoidable pains. While there might be other considerations or values that help us understand the parameters of permissible state interference, anti-cruelty is certainly an important one.

Consider the following two scenarios. Felix is operating a crane to move a boulder from one spot to another. Felix lifts and moves the boulder with the crane and is about to place it where he was asked to by his employer when he sees a cat plop down on the ground directly underneath the boulder. In the first scenario, Felix drops the boulder on and crushes the cat without even considering moving it a few feet to the left or right of the cat, where there is plenty of space to temporarily drop it. In the second scenario, Felix considers moving the boulder a few feet to the left or right of the cat to prevent crushing her, but realizes that a crowd of children has gathered around the cat. Felix decides to drop the boulder on the cat, because dropping it elsewhere would mean dropping it on a child.

These two cases lay the groundwork for showing the sort of determinacy that a commitment to anti-cruelty brings to classical liberalism. In the first case, Felix acts cruelly. He willfully subjects the cat to pains and deprivations that are undesired, gratuitous, nontrivial, and avoidable. In the second case, Felix does not obviously, if at all, act cruelly. Pain is unavoidable for some party under the specifications of the case, so one might have sympathy for Felix's actions even if they are judged to have been regrettable. It seems that this difference matters in determining an acceptable punishment for Felix's crushing the unlucky cat. The punishments it would be acceptable to mete out against Felix for crushing the cat in the first scenario, as compared to the second, are likely to be harsher. Thus, a commitment to anti-cruelty at the very least picks out a species of harm that warrants special attention from the classical liberal perspective.

Let us now turn to versions of classical liberalism that are concerned with prohibiting the violation of bodily rights. Just as was the case with the harm principle, a commitment to the protection of the bodily rights of citizens is not enough when it comes to determining how, if at all, rights violations should be punished. The general rule that the state *may* intervene to prevent and redress rights violations is silent on how, if at all, it *should* intervene in different scenarios. Asking questions about the extent to which the violation of an individual's rights in any case is undesired, gratuitous, avoidable, and nontrivial is helpful in determining what sort of interference is permissible when redressing these bodily rights violations. Hence, classical liberals benefit from a commitment to anti-cruelty because it helps them differentiate and sanction wrongs—be they construed as harms or as violations of bodily rights—that subject individuals to gratuitous pains or deprivations which are avoidable and nontrivial.

So far, I have shown that classical liberals have been committed to anti-cruelty, and there is good reason for this commitment. That it is such a commitment, however, does not itself offer

a ready justification for the abolition of factory farming. Applications of the commitment to anti-cruelty might normally be thought only to advance the interests of humans, not animals. How, then, can factory farm abolition be an expression of the liberal commitment to anti-cruelty, when this commitment is thought to protect humans?

### 3. PROTECTING ANIMALS FROM CRUELTY

In this section, I argue that the classical liberal state should abolish factory farming because doing so is what a commitment to anti-cruelty demands. Factory farmed animals are dependent upon humans in ways that give us weighty reasons to protect them from cruelty, even if animals are not and cannot be liberal citizens.<sup>11</sup>

Recall that our definition of cruelty in no way singles out only humans as those who can be treated cruelly. A commitment to anti-cruelty prohibits a potential perpetrator of cruel action from acting or failing to act in a way that subjects another to gratuitous pain or deprivation which is both avoidable and nontrivial. As was established at the outset of this thesis, many standard industry practices on factory farms are obviously cruel. Timothy Hsiao (2017) argues that factory farming is not cruel to animals because animals, unlike humans, do not experience morally salient pain. Hsiao argues that only beings with a rational nature are capable of experiencing pain that matters morally, and therefore “cruelty” against animals is not actual cruelty. It seems extremely implausible, however, to assert that the pain a puppy feels when she is kicked by her abusive owner

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<sup>11</sup> Some, like Donaldson & Kymlicka (2011), have argued that domesticated animals ought to be afforded protections as liberal citizens. We need not, however, be committed to this conclusion to be committed to the conclusion that the state can protect factory farmed animals from the perils of the standard industry practices described at the outset of this paper.

is morally irrelevant simply because puppies lack “a rational nature,” whatever that is. My pain is not significant only to the extent that I am capable of rational thought. Indeed, there are many humans who are incapable of rational thought whose pains demand consideration. Insofar as this is true, we have reason to set aside views like Hsiao’s.

Even if one were to deny that the moral status of animals is on a par with humans, it is hard to deny that animals have *some* moral value. They can fall victim to egregious acts of cruelty, after all. I do not mean to suggest that animals have moral value *because* they can be treated cruelly. To be sure, I will flesh out what grounds the moral value of the animals relevant to the present inquiry momentarily. Here, I simply want to make the point that the fact that animals can be treated cruelly is evidence that they have some kind of moral value. Granted, we may have disagreements about what it means for pains or deprivations to be gratuitous, avoidable, and nontrivial. But if the wanton mass castration and mutilation that often takes place on factory farms does not count as cruelty, then nothing does. Factory farming straightforwardly subjects animals to undesired, gratuitous, avoidable, and nontrivial pains and deprivations. Since animals can experience cruelty, there is no reason to believe that they are ineligible for protection from cruelty in principle.

I have established that there is no reason to think that animals cannot be protected from cruel treatment so I must now show why it is that some animals *should* be protected from cruel treatment. To understand this argument, one must understand the distinction that is commonly made between *moral agents* and *moral patients* in ethics. A moral agent is an individual capable of moral reasoning and who can, therefore, be expected to constrain her actions to the extent that doing so is what morality demands. A moral patient, on the other hand, is an individual whose

interests demand consideration in their own right and can place constraints on the actions of moral agents (Pluhar 1988).<sup>12</sup>

Adult humans of sound mind are typically understood to be both moral agents and moral patients. They are capable of moral reasoning and are owed respect by virtue of the nature of their interests. Non-rational individuals like infants, humans with certain cognitive impairments, and animals, however, are typically regarded as moral patients only. In other words, these individuals are not capable of moral reasoning but are still owed some level of moral consideration. Most would consider it morally impermissible, for example, to torment animals for no good reason because they have interests that demand our consideration.

Just as there are moral agents and moral patients, I maintain that there are *political agents* and *political patients*. Political agents are responsive to reasons and are thus full participants in the political order. That is to say, they can be held responsible for the benefits and burdens of social cooperation.<sup>13</sup> Political patients, on the other hand, are not responsive to reasons but have certain interests that demand the consideration of political agents. Since they are not responsive to reasons, political patients cannot be held responsible for the benefits and burdens of social cooperation. One cannot be held morally responsible for her actions unless she possesses certain faculties that enable her to revise her actions in light of reasons. Still, the interests of political patients are such that political agents can be obligated to offer certain kinds of protection to political patients.

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<sup>12</sup> I understand interests as Joel Feinberg does: “to have an interest in x is to have some kind of stake in x; and to have a stake in x is to stand to gain or lose depending on the condition of x...That is to say, an individual's life goes better or worse as a result of the state of x” (1984: 33–34).

<sup>13</sup> Pepper (2020) argues that political agents also enjoy things like rights to political participation that individuals who are only political patients do not.

Animals—more specifically, factory farmed animals—are, I argue, political patients who should, at the very least, be protected from the cruel actions of factory farmers.

To explain why animals should be protected by the state in this manner, I must motivate another feature of classical liberalism. Classical liberals will generally accept the following: If a person P acts so as to deprive a victim V of something in which V has a considerably strong interest and, in doing so, makes V dependent on P for V's safety or well-being, then P assumes a duty of special responsibility toward V with respect to the dependency P instantiates in V. Call this *the protection principle*.

Imagine that you are being taught how to swim by none other than Michael Phelps. If he tosses you into the pool without warning during one of your lessons and stands idly by as you drown, Phelps would be responsible for your fate. He deprives you of something to which you are entitled—i.e. bodily integrity—and renders you dependent on him to save your life, especially since he is uniquely in a position to jump into the water and save your life. Phelps can be justifiably punished by the state not only for pushing you in but also for failing to save you after doing so. Classical liberals, in particular, would endorse the protection principle in this and other circumstances because it identifies and compensates for the disvalue of certain kinds of human interference which threaten individuals' liberties. If Phelps could willfully, and with impunity, deprive me of something in which I have a considerably strong interest without being required to compensate me for this deprivation, surely this would be unacceptable.

The relationship between factory farmers and the animals they breed is similar to the Michael Phelps case in some important ways. Factory farmers bring animals like cows, chickens, and pigs into a life in which they are dependent on humans for their basic needs. Without the appropriate care of humans, these animals will suffer and die. And to the extent that these animals



have some moral value, such a consequence is wrongful. At minimum, factory farmers owe it to those animals under their care not to be cruel to them. Not being cruel to them involves, for example, giving them space to roam, food to eat, water to drink, and conditions under which they can create and maintain connections with other animals.

Of course, I should clarify what sort of dependency relationship is relevant to the present inquiry. Consider a human agent, Joel, and an individual dependent on him, Clementine. For Clementine to be relevantly dependent on Joel, must it be impossible for Clementine to exist without Joel's help? Probably not, since we can imagine circumstances in which Clementine could theoretically exist without Joel's help but would nonetheless wreak havoc on others without Joel's supervision, or where her quality of life would be so poor without Joel's efforts that we may hold him responsible for wrongfully hurting her. Perhaps Clementine is a rottweiler who is under Joel's care and affectionate only toward him, or she is Joel's small child. In either case we will regard her as dependent on Joel in the relevant sense.

Does this mean that any sort of reliance on a human constitutes an instance of morally relevant dependency? Again, no. Clementine might be an adult woman who relies on her boyfriend, Joel, for emotional support and validation that he is unwilling or unable to provide. Or maybe she is a wild, nocturnal animal who, in some loose sense, relies on Joel—who lives adjacent to her habitat—to moderate the amount of noise he makes during the day so that she may sleep in peace. In neither of these cases does it appear that Clementine depends on Joel in the morally relevant sense.

Clementine need not rely on Joel to exist in order to be dependent upon him in the relevant sense, nor can any instance of her reliance upon Joel constitute the kind of dependency we are concerned with in this paper. We should take the typical relationship between a child and her adult

guardian as a paradigmatic case of morally relevant dependency: A child of a certain age could theoretically survive without the help of parents but would generally be deprived of care that will afford her a minimally decent life. For human children, a minimally decent life involves things like access to food, clothing, shelter, education, healthcare, and security against bodily harms.

A comparable, though distinct, kind of care is required for many animals who have been brought into existence by humans. For farmed animals, a minimally decent life involves leading dignified lives for the kinds of beings they are. A cow, for example, needs food, space to graze, and security against brutalization, among other things, to be the kind of being that she is. Since humans are responsible for bringing into existence many a needy animal, it is appropriate for the state to require humans to provide care for those animals they have assumed responsibility for. Factory farmed animals are brought into existence having some moral value, and furthermore depend on the humans who brought them into existence for the satisfaction of their most basic needs. These facts about the relationship between factory farmers and their animals move us from the modest claim that it is merely wrong to subject these animals to cruelty, to the stronger claim that it is *unjust* to do so.

At this point, someone could argue that factory farmed animals are brought into the world for the sake of humans, whereas children and companion animals are brought into the world for different reasons that alter the nature of the dependency relationship we find ourselves in with them. It is important to remember, however, that human children can be and have been brought into the world for the sake of others. Many people have kids because they selfishly want to experience what it is like to be a parent. Some people have kids in a desperate attempt to save a failing marriage. More disturbingly, parents could have a child with the intent to harvest her non-

vital organs for the benefit of a terminally ill sibling.<sup>14</sup> That an individual is brought into existence for the sake of another does not mean that we can neglect her interests once she is brought into existence. In the words of Robert Nozick, an individual may have “claims, even against those whose purpose in creating him was to violate those claims” (1974: 38).

Taking the liberal commitment to anti-cruelty seriously requires that we strengthen legal protections for many animals in a way that obligates humans to provide care for those animals who are importantly dependent upon us. Anti-cruelty is a bare minimum obligation we owe others, animals included, and it is thus appropriate to appeal to when determining what kinds of enforceable obligations, at minimum, we have to human or nonhuman dependents.<sup>15</sup>

Since there are many animals who are made dependent on humans to lead minimally decent lives, the state can and should enforce obligations that certain humans have to not be cruel to certain animals. Requiring that people abstain from treating these animals cruelly does not mean that we concede in any way that animals are equal to humans, or that they have strong moral rights. We need only acknowledge that they are political patients, and that the liberal state ought to prohibit the willful subjection of political patients to undesired, gratuitous, avoidable, and nontrivial pains or deprivations.

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<sup>14</sup> Young (2001) discusses the first two instances of parental selfishness when he refutes the claim that procreation and overconsumption are distinct in that the former is altruistic whereas the latter is selfish (186–187). For a fictional account of the lattermost justification for having a child, see Picoult (2004).

<sup>15</sup> Whether or not we have duties to animals above and beyond the duty to abstain from cruel treatment is an important question, but I set it aside for the purpose of this thesis because other duties are likely to be more contentious and require a more sustained defense. See O’Sullivan (2007, 2011) for examples of additional duties we may have to animals within the liberal paradigm.

#### 4. THE PROPERTY OBJECTION

Thus far, I have shown that we have weighty reasons to abolish factory farming consistent with the principles of classical liberalism. In particular, factory farmers are obligated to abstain from being cruel toward factory farmed animals because they, the farmers, made these animals dependent upon them in a morally significant way. We might have similarly weighty reasons to disband all animal agriculture, but an additional argument would have to be made establishing “humane” forms of animal agriculture as cruel. Absent such an argument, one can only conclude that the commitments of classical liberalism militate against the permissibility of factory farming as it is described at the outset of this paper.

Even if the liberal state has weighty reasons to abolish factory farming, it might have weightier reasons still to permit it. For instance, the proponent of factory farms may insist that factory farm abolition violates the property rights of factory farmers. Under the current legal regime in liberal democracies, most animals are considered the property of humans that own them. There are many incidents associated with property ownership, such as rights to object use, modification, exclusion, transaction, and destruction to name a few (Honoré 1961). If animals on factory farms are the property of factory farmers and factory farmers have rights to use, modify, destroy, and transact their property as they see fit, then the abolition of factory farming would violate the property rights of factory farmers.

There are two ways to respond to this challenge. On the one hand, someone could respond that animals should not be eligible for ownership in the way that inanimate objects and resources are. For example, Christine Korsgaard argues that sentient animals, or animals that have subjective experiences of pleasure and pain, ought neither be regarded as property nor as persons (2013, 2018: 131–155). Alternatively, Marcus Schultz-Bergin argues that the legal status of animals as property

is illegitimate, and animals should instead be considered wards of their human guardians (2017). Similarly, David Favre argues that animals are self-owners in a limited sense, and therefore cannot be regarded as property (2000). In any case, it is plausible that animals should not be regarded as property in the first place, and so the abolition of factory farming violates no legitimate property claims of factory farmers.

On the other hand, someone could respond that even if animals are the property of their human owners, limits can be placed on the ways that humans can permissibly use animals as property. Since I am interested in showing how we can afford animals political protection without relying on contentious claims about their moral status, I will direct my attention to this response.

Under the current legal regime, companion animals like cats and hamsters are the property of their human companions. Nonetheless, people are generally amenable to legal protections for animals that prohibit pet owners from, say, microwaving their cats or wearing stiletto heels and stomping on their hamsters.<sup>16</sup> Typically, these sorts of protections are not understood as violations of the property rights of pet owners because property rights need not always entail exclusive and absolute control over an object. Presumably, there are facts about the sort of thing that is owned that can place limits on the way a property owner treats it.

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<sup>16</sup> Reality is stranger than fiction. In December 2007, two teenagers broke into a home in Camrose, Alberta and killed a cat by microwaving her for ten minutes (CBC News 2008). In October 2009, the Supreme Court of the United States heard a case where the respondent argued that criminalizing the sale and distribution of animal crush videos violated his first amendment rights. Animal crush videos depict the mutilation of small animals like hamsters for the purposes of sexually arousing the content watcher. In an 8-1 decision, the Supreme Court ruled that the production, sale, and distribution of animal crush videos is protected under the first amendment (*United States v. Stevens*, 559 U.S. 460). All of this is to say that people do indeed microwave cats and wear stilettos to step on hamsters. These examples are unfortunately not the product of a twisted imagination.

Surely, companion animals can be subjected to cruelty and the fact that they can matters morally. We need not believe that animals are morally on a par with humans or that animals have moral rights to acknowledge this. All we need to acknowledge is that animals can be subjected to gratuitous, avoidable, and nontrivial pains or deprivations, and that we should generally abstain from being cruel toward them.

This general and ordinary principle is reason enough to suggest that perhaps some incidents of property ownership—namely, the rights to use, modify, and destroy—are restricted when it comes to the ownership of companion animals.<sup>17</sup> If we can accept that anti-cruelty protections for household animals like cats and hamsters are not violations of the property rights of pet owners on these grounds, then we should also accept that the abolition of factory farming does not violate the property rights of factory farmers for these same reasons.<sup>18</sup>

Here it is worthwhile to briefly address what Alastair Norcross calls “The Texan’s Challenge.” One philosopher’s *modus ponens* is another philosopher’s *modus tollens*. While I am happy to say that we should abolish factory farming for the same reasons that we protect household animals from cruelty, others may not be so enthusiastic.

A Texan, says Norcross, might insist that we should allow factory farming to *persist* for the same reasons that legally protecting household animals from cruel treatment is *wrong*. The

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<sup>17</sup> Cochrane (2009b) makes this sort of argument.

<sup>18</sup> Someone may deny the existence of *ius abutendi* to distinguish these cases. Animal cruelty may be argued to be a waste, whereas factory farming may be argued to be an appropriate use of property because it produces goods that many purchase. However, it is not clear that factory farming is not wasteful just because it provides others with a desirable service. By that logic, organizing dog fights would be sufficiently not wasteful, which may not be a conclusion that somebody who seeks to draw this distinction wants to commit themselves to.

Texan might argue thus: Factory farm abolition and anti-cruelty legislation both represent instances of property rights violations. So, *neither should be championed*. After all, animals, unlike their human counterparts, have no moral standing and are, on a coldly realistic assessment, mere resources to be used at the discretion of industrious humans. Or so the Texan says (Norcross [2004](#): 236–242). I cannot stop somebody from biting this bullet. After all, there are few if any arguments that are persuasive to all people.

Nevertheless, I will draw out some of the problematic implications of The Texan’s Challenge. In particular, it seems to imply that all humans share some characteristic which makes them worthy of legal protection that no other animal possesses. What is this characteristic, though? Rationality? This cannot be it, since we afford political protection to infants and humans with certain cognitive impairments. Sentimental value? This cannot be it, since surely there are some animals that are valued immensely by their human companions and some humans that are valued by no one. Humanity? This cannot be it, since privileging an individual on the basis of species membership alone is as arbitrary and prejudicial as privileging an individual on the basis of race, sex, or sexual orientation. Whatever characteristic it is will either exclude some humans that we should concern ourselves with in matters of politics, or it will include some animals.<sup>19</sup> To the extent that depriving some humans of political protection is morally objectionable, we should be happy to use state power insofar as it exists to protect some animals.

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<sup>19</sup> These are not new arguments. For the sake of brevity, I do not rehearse the intricacies of each argument in excruciating detail. Those who are interested in seeing these “marginal case arguments” or “arguments from species overlap” worked out more fully should consult Regan ([\[1983\]](#), [1986](#)), Singer ([1993](#)), Pluhar ([1995](#)), Cavalieri ([2001](#)), McMahan ([2002](#)), Norcross ([2004](#)), and Horta ([2014](#)). Dombrowski ([1997](#)) also assesses the strengths and weaknesses of both proponents and opponents of arguments from species overlap.

I want to flag here that these remarks go no way to showing that it is logically impossible for Norcross's Texan to be a classical liberal. However, they do seem to show that there is some sort of hole in the Texan's political morality, revealing itself to be one that does not take seriously the interests of individuals who depend importantly on human agents. To the extent that a political morality should account for the interests of morally considerable beings and we have reason to think that the Texan's classical liberalism fails to do this in significant ways, we should probably discount the Texan's liberalism for its deficiencies.<sup>20</sup>

My goal here has been to establish that the liberal commitment to anti-cruelty is incompatible with factory farming. There is a further question about implementation. Should we immediately abolish factory farming, or abolish factory farming through a gradual phase-out? I do not take a stand on which of these strategies is preferable. It is worth noting, however, that one plausible thought is that implementation would require getting behind politicians who are willing to enhance protections for nonhuman animals in ways that will, over time, incentivize better agricultural practices. Crucially, these will need to be protections that can be further enhanced down the line, and they will have to be coupled with programs for agribusiness owners and

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<sup>20</sup> It is worth noting that classical liberals have recently suggested that animals can be permissibly protected from cruelty by the state. Loren Lomasky (2013), for instance, declares that "Because animals are morally considerable, cruelty to them may be properly condemned and even barred through legislation" (194). Somewhat ironically, this quote was lifted from a piece entitled "Is It Wrong to Eat Animals?" Even classical liberals who believe that humans are entitled to access meat insofar as it is provided by the market accept that the coercive power of the state can be used to protect some animal interests.



agricultural workers that incentivize transitions toward both humane farming and plant production.<sup>21</sup>

## 5. CONCLUSION

Cruelty persists in liberal societies more than perhaps we would care to admit. To the extent that anti-cruelty is a commitment of liberalism, we should direct much more of our attention to quashing cruelty when we can. Sometimes it is hard to identify a certain act as cruel. Other times, it is glaringly obvious that an action is cruel. Factory farming represents a cruel act of the latter, not former, kind. Given that even classical liberals, those liberals most likely to resist arguments for factory farm abolition, have reason to abolish factory farming, it is likely that liberals generally speaking should be committed to this end as well. After all, factory farmed animals, by the doing of humans, depend on humans for the prospects of a minimally decent life. Humans owe it to them not to place pain and suffering at the center of their existences.

It is important to note, however, that factory farming is not the only instance of cruelty in liberal society nor are factory farmed animals the only victims of cruelty. It may very well turn out that performing scientific tests on animals for cosmetic purposes is cruel to the animal test subjects. And if it is, a commitment to anti-cruelty gives us reason to cease any such testing. Taking a commitment to anti-cruelty seriously may also affect our understanding of policies that concern human dependents like children and those with certain cognitive impairments. This paper at least moves us toward answers to questions about what justice looks like for those who are uniquely dependent upon certain humans to lead minimally decent lives. In particular, I hope to have settled

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<sup>21</sup> My thanks to Bob Fischer for suggesting that I clarify my view in this way.

the question of what classical liberals, and liberals more generally, owe animals on factory farms. Factory farming must be abolished and replaced with compassionate practices that comport with a commitment to anti-cruelty.

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