

BOOK REVIEW
*CAPERS IN THE CHURCHYARD: ANIMAL RIGHTS
ADVOCACY IN THE AGE OF TERROR:*

IS THERE MADNESS TO THE METHODS?

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INTRODUCTION

To many in the animal advocacy movement, the story is familiar. The Darley Oaks Farm in rural Newchurch, England supplied guinea pigs to Huntingdon Life Sciences for use in biomedical experiments. In protest of Darley Oaks' role in supporting animal experimentation, animal activists carried out a lengthy campaign which included not only peaceful protest, but also cutting phone lines, throwing bricks, threatening employees and their families, destroying property and, ultimately, digging up the grave of a relative of the owner and holding her remains for ransom. In 2006, after much publicity, the perpetrators were sentenced to 12 years in prison for conspiracy to blackmail. This incident gives rise to the title of Lee Hall's¹ book, *Capers in the Churchyard*.²

Hall's thesis is essentially that the animal advocacy movement has evolved into two divergent paths: "welfarism" and militancy, with neither of these paths likely to lead to any meaningful change for animals. In the author's view, both means tend to focus on only the most egregious of problems at the fringe, rather than confronting the ethical roots of the dilemma, and therefore fail to effect any shift in the predominant paradigm of use and consumption of animals.

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¹ Hall is the Legal Director of Friends of Animals, an animal advocacy group based in Darien, Connecticut.

² LEE HALL, *CAPERS IN THE CHURCHYARD: ANIMAL RIGHTS ADVOCACY IN THE AGE OF TERROR* (2006).

In the case of militant advocacy, Hall's primary criticism is the moral inconsistency of using violence or harassment to convey a message of compassion and respect for all sentient beings. In addition, Hall argues, quite convincingly, that militant action can and frequently does alienate the public and lend support to reactionary "anti-terrorist" legislation that only serves to silence the meaningful debate that must occur for any real change for animals to happen.

For different reasons, "welfarism," including most agricultural reform efforts by groups such as the Humane Society of the United States ("HSUS") and People for the Ethical Treatment of Animals ("PETA"), is deemed equally unproductive. Recent campaigns to ban gestation crates in Florida and Arizona and encourage supermarkets to sell only "cage free" eggs, for example, serve only to increase society's comfort level with consuming animals.³ Hall argues that "the animal welfare concept . . . seeks to ameliorate the worst conditions of use rather than question a culture of dominion, [and] plays an integrated maintenance function in the established social order."⁴ Indeed, according to Hall, most current litigation and legislative efforts on behalf of animals, even if successful, are of little or no value in advancing the cause of animals.⁵

Indeed, both the welfare and militancy movements are characterized by a sense of urgency to accomplish something – sometimes anything – for animals now rather than at some indefinite time in the unforeseeable future. Hall and other animal rights advocates believe that neither the "welfare path" nor the "militancy path"⁶ will actually improve either the present or the future for the vast majority of animals.

I. WHY MILITANCY IS NOT THE ANSWER

The grave-robbing incident referred to in the title attracted much press attention, thereby permitting the guinea pig breeder to state on television

³ Hall is not the first to espouse this view. See GARY L. FRANCIONE, RAIN WITHOUT THUNDER: THE IDEOLOGY OF THE ANIMAL RIGHTS MOVEMENT 110-147 (1996) (discussing the defects of animal welfare theory).

⁴ HALL, *supra* note 2, at 136.

⁵ There is as much controversy surrounding the definition of an appropriate goal for animal advocates as there is in outlining the best means to the goal. In evaluating the efficacy of means, Hall assumes that the ultimate goal is to eliminate or at least reduce the use of animals for all purposes including food, experimentation and entertainment and not simply to improve conditions for captive and agricultural animals. See HALL *supra* note 2, at 61 (providing a "handy pull-out guide to animal rights and distinguishing it from humane welfare efforts").

⁶ Most groups advocating the "militant" path prefer the arguably euphemistic term "direct action."

that “this shows what kind of people *they* are.”⁷ But who are *they*? What Hall convincingly argues is that, to the general public, *they* include not only advocates of such “direct action” campaigns but *all* animal advocates. Thanks in part to such actions, all advocates for animals have been painted as *unbalanced or violent or both*. The publicity attendant to the crimes also helped lend support to a so-called “anti-terror” bill in the United Kingdom specifically directed at animal advocates.⁸

Hall draws a similar connection between “direct action” activism in the United States and the adoption and strengthening of animal and eco-terrorism laws at both the state and federal levels. Citing specific incidences of vandalism or threats, she convincingly argues that such actions not only shift the focus away from the propriety of the uses to which animals are put but also generate public support for legislation that further harms the cause by chilling free speech on the issue.

The book argues quite persuasively that advocacy for animals is properly part of a larger movement for peace and compassion in general. It follows then that any type of violence or intimidation is inconsistent with such a “peace” movement.

Although the book purports to be a response to the techniques of organizations such as Stop Huntingdon Animal Cruelty (“SHAC”) and the Animal Liberation Front (“ALF”), in reality, those who subscribe to militancy as an appropriate avenue for change are in such an extreme minority and their techniques have been so roundly criticized⁹ (and indeed have subjected them to federal criminal prosecutions)¹⁰ the book is more

⁷ HALL, *supra* note 2, at 117.

⁸ In addition, public opinion polls conducted in the United Kingdom since the widely-publicized incident have shown support for vivisection actually *increasing* from approximately 50% to about 70%. Philip Johnston, *Public Turns on Animal Terrorists*, THE DAILY TELEGRAPH, May 29, 2006, at 1. The vast majority thought the 12 year sentences imposed on the activists were “about right” (45%) or “too short” (40%) and most (77%) believed that they were properly characterized as terrorists. *Id.* Further, in 1997, when Tony Blair first came to power, the Labour Party attempted to stop animal testing, but, after the Darley Oaks activities, Blair wrote an article publicly condemning the “appalling campaign of intimidation” and signed an online petition in support of animal testing for medical research. Tony Blair, *Time to Act Against Animal Rights Protesters*, THE SUNDAY TELEGRAPH, May 14, 2006, available at <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2006/05/14/nrights214.xml>.

⁹ Even longtime advocates of direct action are changing their methods in light of the new threat of federal prosecution and lengthy prison terms. See *A Radical Change: The Satya Interview with Rod Coronado*, SATYA, Dec. 2006-Jan. 2007, available at <http://www.satyamag.com/dec06/coronado.html> (discussing Coronado’s shift in position on the use of direct action methods).

¹⁰ As of this writing, the convictions of the SHAC defendants for violations of the Animal Enterprise Terrorism Act are on appeal to the United States Court of Appeals for the

interesting, and far more controversial, in its critique of animal welfarism, probably the dominant school of thought in animal advocacy circles today.

II. WHAT COULD BE WRONG WITH ADVOCATING FOR BETTER CONDITIONS?

“Setting out to oppose what’s illegal and what’s spectacular is a deliberate decision not to make radical change.”¹¹

Hall advances the idea that graphic images of abuse and exploitation of animals in blatant violation of existing law motivate the public only to remedy abuses and, once remedied, the public’s concern is appeased. She sees this as a problem because “when animal-welfare groups focus on the horrendous, the cruel, and the barbaric, they aren’t attending to the underlying problem of domination; and in some sense they are ensuring that the everyday domination continues unnoticed.”¹² According to Hall, this type of approach does nothing to further the discussion of whether the animals should be subject to experimentation or bred for our consumption in the first place. As Hall states, “welfare lobbying agrees to elaborately codify the human right to use other animals, and commodified animals will always be rightless.”¹³

Hall’s criticism of the animal welfare movement has some merit but may be overstated. If, in fact, it can be established that incremental positive change is possible,¹⁴ it is difficult to argue that it is not worth pursuing unless you accept the premise that it actually renders large-scale change impossible, or at least substantially less likely. Lee does not offer empirical evidence for this view though, if it exists, it would substantially bolster the argument.

Based on public opinion polls, societal support for certain animal welfare measures is significant while support for living a vegan lifestyle (and presumably, therefore, granting animals any right not to be used and consumed) is currently infinitesimal.¹⁵ Today and every day, millions of animals will be born and live their entire lives in suffering, awaiting an

Third Circuit. See United States Court of Appeals for the Third Circuit Docket Nos. 06-4211, 06-4296, 06-4339, 06-4436, 06-4437, 06-4438 and 06-4447 (appeals of the so-called “SHAC 7”).

¹¹ HALL, *supra* note 2, at 137.

¹² *Id.* at 39.

¹³ *Id.* at 99.

¹⁴ Given that, for instance, the terms “cage-free” and “free-range” have no legal definition, there is significant concern that removal of battery cages or other confinement methods from the process does not actually materially reduce the suffering of the animals involved.

¹⁵ Jonathan R. Lovvorn, *Animal Law in Action: The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis for Legal Reform*, 12 ANIMAL L. 133, 137 (2006).

execution that may be neither swift nor painless. If something can be accomplished, through public advocacy or legislative lobbying to lessen that suffering, the HSUS and other welfare groups argue that it is simply irresponsible to wait for public opinion to swing toward veganism.¹⁶

Perhaps Hall's most strident criticism of animal welfare organizations is the argument that they are self-perpetuating organizations whose primary goal is to encourage an ongoing income stream to keep themselves in business.¹⁷ Referred to somewhat pejoratively as "professionalized advocacy," national nonprofits devoted to animal welfare are portrayed as simply wanting to accomplish meaningless "victories" as an excuse to ask for more donations. Promoting a vegan lifestyle, Hall argues, would remove the ability to apply consumer pressure because their members would not be consumers of the industries they sought to influence. Animal welfare groups are portrayed as locked in a virtual embrace with fast food giants and animal agricultural interests – with small-time advances bringing positive press attention and financial rewards to both.

III. WHAT WILL LEAD TO CHANGE?

The bulk of the book argues for a "third path" for animal activism that entails neither settling for welfare reforms nor resorting to threats or intimidation, but rather peacefully advocating a vegan lifestyle. Hall urges that truly radical activists should direct their attacks at the root causes of domination. In essence, she advocates sacrificing the minor victories that might be possible for today's animals for the sake of engaging in the kind of morally consistent, vegan-centric discourse that has the potential to change the destiny of future generations of animals. Hall argues that the only way to effect real change for animals is to refuse to support corporations that benefit from the use and consumption of animals and to educate and encourage others to engage in such a peaceful revolution. The notion of negotiating for what may be, at best, marginal improvements is wholly rejected.

Hall briefly diverges into a discussion of practical reasons why humane farming efforts are fruitless, espousing the growing view that there is simply no way to produce the quantity of animal products Americans currently consume "humanely" and without damaging the environment for both wild animals and humans. The unanticipated costs to wild animals, their habitat and the environment of free-range farming is a point that will likely gain attention in the coming years. Because of the emphasis, albeit brief, on

¹⁶ *Id.* at 139.

¹⁷ HALL, *supra* note 2, at 35.

preserving habitat for free-living animals, the book may be at least as interesting and relevant to environmental activists as animal groups.

IV. THE FUTURE OF THE DEBATE

Hall's criticism of the activists who choose threats and violence as means to a peaceful end is well-placed and effective. Press coverage of their exploits probably does lead, as the author argues, to increased public support for overly broad animal or ecoterrorism legislation which itself silences debate.

The choice to treat similarly those who peacefully lobby or fight in courtrooms for better treatment of animals within the existing system is more problematic. While the attempt to define animal rights and distinguish it from welfare efforts is a helpful categorization, it is not immediately apparent that the two approaches are quite as incompatible as Hall suggests. By way of example, the author's statement that "[m]ost of professionalized advocacy avoids taking seriously the point that animals are conscious beings and not mere things"¹⁸ is overbroad and unfair. Her critique and assumption that members of, for instance, PETA, HSUS and other animal advocacy groups, do nothing to promote a vegetarian lifestyle is just plain wrong.

Focus on particularly cruel and barbaric behavior may not, as Hall argues, take the focus off the underlying issue of domination, but rather may serve to bring it into the public consciousness and initiate the very dialogue Hall desires. Education campaigns which lead to Universities and grocery chains banning eggs from battery-caged hens may or may not lead to appreciably better lives for egg-laying hens¹⁹ but they do serve an educational purpose and reach a larger audience than is likely to be receptive to a message of pure veganism. In addition, anecdotally, many vegans report that they were motivated to remove animal products from their diet by the photos and videos distributed by welfare organizations.

While some animal welfare efforts, such as those that would require the use of more land for animal agriculture, may not be productive, this does

¹⁸ HALL, *supra* note 2, at 35.

¹⁹ Elimination of battery cages generally results in confinement of large amounts of hens on a barn floor, which may or may not provide some access to the outdoors. The term "free-range" has no specific, enforceable definition. Whether caged or not, egg-laying hens are still subject to painful debeaking and forced to travel long distances to slaughter with no food or water. Because they are useless for egg production and do not have the genetic makeup to produce sufficient meat to be a fryer, male chicks are killed shortly after birth. See Humane Society, A Brief Guide to Egg Carton Labels and Their Relevance to Animal Welfare, http://www.hsus.org/farm/resources/pubs/animal_welfare_claims_on_egg_cartons.html (last visited May 8, 2007) (discussing what each egg label means in relation to the treatment of egg-laying hens).

not mean that no animal welfare efforts have a place in a multi-faceted plan for change. If people accept that factory farming must be dismantled, they may next be convinced that, in order to make a more space-intensive model work, animal consumption must be drastically reduced. In addition, efforts to ban foie gras or horse slaughter come to mind as campaigns supported by primarily welfare-based organizations that should be able to support and complement a vegan-based grass roots effort. It is possible, although clearly not a certainty, that welfare movements can indeed begin the paradigm shift necessary to lead the majority toward abolition of animal use, assuming, of course, that this is the ultimate goal. Campaigns to highlight abuses serve to bring issues to the forefront that might otherwise remain permanently shielded behind a curtain of silence.

It is easy to agree with Hall's position that the animal advocacy movement should be broader and encompass compassion for all living creatures – human and nonhuman – and a concern for mutual respect, peace and justice.

The argument that those who advocate the abolition of animals as property must necessarily refuse to support welfare reforms requires much more substantive evidence that welfare advances actually harm the long-term interests of animals. A more detailed review of the factual underpinnings of the assertion that welfare efforts have historically impeded meaningful change would strengthen Hall's argument that a pure rightist perspective is the only way to advance the cause of animals.

Hall has put forth a provocative argument. Hall attacks hierarchies of all kinds – including among races and sexes – and makes a compelling argument that if our goal is to eliminate them, and the violence that so often accompanies them, we can neither employ violent-like methods ourselves nor simply accept the hierarchy of man over animals and lobby for a more benevolent form of domination. The next step to advance the discussion is for academics, both in law and social sciences, to study whether incremental animal welfare reforms actually lead to decreases in animal suffering or, perhaps more importantly, a decrease in the number of animals being produced and consumed.

Between the two poles of animal rights and rejection of all forms of “commodification” on the one hand and the daily fight for animal welfare on the other, the search for a way to harmonize the two approaches continues. Whether there is any way to accomplish that remains to be seen. The task of bridging the gap and translating it into an effective social movement is the challenge at hand, and *Capers in the Churchyard* is a worthwhile step in that direction.