

**THE LEGAL EXPLOITATION OF FARM ANIMALS:
'UNNECESSARY SUFFERING' IN A NATION
OF ANIMAL LOVERS**

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Abstract

This article examines the necessity of farm animal suffering in the farm-to-fork process. Given the interdisciplinary nature of animal welfare, it covers a broad range of influencing factors, such as law, animal sentience science and the ethical dilemma of meat eating, including the 'meat paradox' and its effects on animal welfare. The current animal welfare law is outlined and the rise in veganism, thanks to social media, is discussed. The legal application of the term 'unnecessary suffering' is considered in detail, discussing whether the term, in its current form, is fit for purpose and the possibility of legal personhood for animals is also explored. Several factors are highlighted in relation to determining the necessity of farm animal suffering, such as human health, the environment and the coronavirus pandemic. Finally, the availability of plant-based options and the human biological preference for these products is also examined. These factors are then considered in relation to the extent to which they impact upon the legal necessity of the suffering of farm animals in the UK.

Introduction

Most people grow up surrounded by animals. Baby grows are adorned with ducks and rabbits, toddlers learn to speak with the names of farm yard animals and one of the most popular children's television programmes follows a family of pigs.² Yet these very animals are often being served up for lunch in the next room. Whilst this may be 'thoroughly ingrained in our culture, most of us do not want to be reminded that our meal was once

¹ Megan graduated in 2021 with a First in LLB (Hons) Law.

² Melissa Thompson 'How Peppa Pig conquered the world and became a \$1bn industry' *The Mirror* (London, 20 November 2014) <<https://www.mirror.co.uk/news/weird-news/how-peppa-pig-conquered-world-4658594>> accessed 30 April 2021.

alive and breathing, bearing close resemblance to ourselves and perhaps the pet dog sitting patiently next to us'.³

However, ignoring the fact that an animal must die for a human to eat a bacon sandwich gives people peace of mind, the animals continue to suffer. The resulting ignorance facilitates the death of more than 70 billion land animals every year,⁴ with approximately 80,000 of those deaths occurring in the United Kingdom (UK) every day.⁵ Sadly, the law in the UK facilitates this, with the term 'unnecessary suffering' acting as a legal loophole for this abuse, as the slaughter of animals is deemed necessary for food. However, 'unlike humans, animals cannot be the agency of their own liberation',⁶ so this paper seeks to discuss, and disprove, the necessity of farm animal suffering in the UK.

1.1 Defining Key Terms

'The most widespread and egregious forms of animal abuse and oppression surround the breeding and slaughter of animals for human consumption.'⁷ Whilst euphemisms used by the animal agriculture industry, now also commonplace at dinner tables around the country, work to separate the consumer from the animals on their plate, it promotes cognitive dissonance which this paper seeks to discourage. The mental separation between the cute animals that children learn to love and the slabs of flesh packaged and cooked into unrecognisable pieces of meat, enables humans to consume these animals which would otherwise be hard to stomach. It is therefore necessary that this article will refer to cows and pigs, rather than beef and pork, so as to prevent the transformation of 'animals, which are loved, into meats, which are eaten'.⁸

³ Liz Grauerholz, 'Cute Enough to Eat: The Transformation of Animals into Meat for Human Consumption in Commercialised Images' (2007) 31(4) *Humanity and Society* 334, 338.

⁴ Bas Sanders, 'Global Animal Slaughter Statistics And Charts' (*Faunalytics*, 10 October 2018) <<https://faunalytics.org/global-animal-slaughter-statistics-and-charts/>> accessed 1 May 2021.

⁵ Laura Parnaby, 'UK slaughterhouses killing more animals despite growth of veganism' *The Independent* (London, 27 January 2020) <<https://www.independent.co.uk/climate-change/news/slaughterhouse-kill-animals-meat-vegan-diet-plant-based-a9303386.html>> accessed 1 May 2021.

⁶ Kim Stallwood, 'Animal Rights and Public Policy' (Paper presented at the Animals and the Law Conference, Barcelona, 2011) <<https://kimstallwood.com/writer/writings/animal-rights-and-public-policy/>> accessed 6 April 2021.

⁷ Grauerholz (n 2) 335.

⁸ *Ibid* 334.

Cognitive dissonance is defined as ‘the state of having thoughts that are not consistent, especially relating to beliefs, behaviour and attitudes’⁹ which, in the context of animal consumption, has led to the development of the ‘Meat Paradox’. The meat paradox is ‘to like eating meat but dislike killing and harming animals’¹⁰ and is arguably the reason for animals’ continued suffering. If humans were to associate the meat on their plates with cute, friendly and intelligent animals in their full form, would the desire to protect these animals usurp the desire to eat them? The meat paradox will be explored in more depth in 3.2.

The UK is frequently considered a ‘nation of animal lovers’,¹¹ which may be due to the fact that over half of UK adults own a pet.¹² However, perhaps ‘nation of pet lovers’ would be more appropriate, given that 86% of people in the UK consume meat.¹³ Of the 1.2 billion land animals killed for food each year in the UK,¹⁴ this paper will focus primarily on cows, pigs, sheep and chickens, Britain’s favourite meats.¹⁵

It is also worth noting that the use of the word ‘cows’ in this dissertation refers to all bovine animals used in both the meat and dairy industries, as they are commonly known, rather than the precise term used in animal husbandry (defined as ‘the science of breeding, rearing and caring for farm animals’)¹⁶ which refers only to the mature females of the species.¹⁷

⁹ ‘Cognitive dissonance’ (*Oxford Learner’s Dictionary*, OUP 2021) <<https://www.oxfordlearnersdictionaries.com/definition/english/cognitive-dissonance>> accessed 23 February 2021.

¹⁰ Lars Ursin, ‘The Ethics of the Meat Paradox’ (2016) 38(2) *Environmental Ethics* 131.

¹¹ Joe Wills, ‘A Nation of Animal Lovers? The Case for a General Animal Killing Offence in UK Law’ (2018) 29(3) *King’s Law Journal* 407.

¹² PDSA, ‘PDSA Animal Wellbeing (PAW) Report 2020’ (10th Edition, YouGov PDSA 2020) <<https://www.pdsa.org.uk/media/10540/pdsa-paw-report-2020.pdf>> accessed 23 February 2021.

¹³ Georgia-Rose Johnson, ‘UK diet trends 2021’ (*Finder*, 12 February 2021) <<https://www.finder.com/uk/uk-diet-trends>> accessed 23 February 2021.

¹⁴ Viva!, ‘Number of Animals Killed’ (2021) <<https://viva.org.uk/animals/number-animals-killed/>> accessed 23 February 2021.

¹⁵ Nicholas Robinson, ‘Chicken or beef: top Sunday roast meat revealed’ (*The Morning Advertiser*, 4 October 2018) <<https://www.morningadvertiser.co.uk/Article/2018/10/04/What-is-the-most-popular-meat-for-a-Sunday-roast-in-Britain>> accessed 23 February 2021.

¹⁶ ‘Animal husbandry’ (*Collins English Dictionary*, Harper Collins Publishers 2021) <<https://www.collinsdictionary.com/dictionary/english/animal-husbandry>> accessed 25 February 2021.

¹⁷ Brent Huffman, ‘Cow’ (*Encyclopaedia Britannica*, 26 November 2019) <<https://www.britannica.com/animal/cow>> accessed 25 February 2021.

1.2 Animal Welfare Legislation

As the first country in the world to introduce animal welfare legislation,¹⁸ the UK has retained its position at the top of the global rankings for legal protections for animals.¹⁹ In 1822, Martin's Act was passed. 'It was the very first animal welfare law and it forbade "the cruel and improper treatment of cattle".'²⁰ This legislation led to the 'first known prosecution for animal cruelty in the world'.²¹ The term 'unnecessary suffering' has maintained its prevalence in animal welfare law since the 19th Century which raises questions about its continued use, considering the time that has elapsed since its inception. Since European Union (EU) law has recognised that 'animals are sentient beings',²² and with animal rights activism gaining evermore traction in the wake of social media,²³ perhaps it is time to re-evaluate the extent of the legal protection afforded to animals in the UK. This will be discussed below, alongside suggestions for expanding the term 'unnecessary suffering'.

The most prominent animal welfare legislation to date is the Animal Welfare Act 2006 (AWA), which makes it an offence to 'cause unnecessary suffering to any animal'.²⁴ Section 4 AWA states that a person commits an offence if they cause an animal to suffer as a result of an act or failure to act, and 'if the suffering is unnecessary'. This is problematic as the Act does not define what constitutes unnecessary suffering, leaving much scope for interpretation. Suffering is broadly defined as 'physical or mental suffering and related expressions'²⁵ but in reality, all circumstances are taken into account to be

¹⁸ 'Welfare law in the UK' (BBC, 2014)

<http://www.bbc.co.uk/ethics/animals/defending/legislation_1.shtml> accessed 23 February 2021.

¹⁹ Joseph Kiprof, 'Best Countries For Animal Welfare' (*World Atlas*, 28 November 2018)

<<https://www.worldatlas.com/articles/best-countries-for-animal-welfare.html>> accessed 23 February 2021.

²⁰ RSPCA, 'Our History' (2021) <<https://www.rspca.org.uk/whatwedo/whoweare/history>> accessed 24 February 2021.

²¹ Branch, 'Richard Martin's Act' <http://www.branchcollective.org/?ps_event=richard-martins-act> accessed 24 February 2021.

²² Consolidated version of the Treaty on the Functioning of the European Union [2016] OJ c202/54.

²³ Virginia Morell, 'Causes of the Furred and Feathered Rule the Internet' (*National Geographic*, 14 March 2014) <<https://www.nationalgeographic.com/animals/article/140314-social-media-animal-rights-groups-animal-testing-animal-cognition-world>> accessed 24 February 2021.

²⁴ Department for Environment, Food and Rural Affairs and Animal and Plant Health Agency, 'Animal Welfare' (*UK Government*, 19 January 2021) <<https://www.gov.uk/guidance/animal-welfare>> accessed 23 February 2021.

²⁵ Animal Welfare Act 2006, s 62(1).

decided by the courts on a case-by-case basis. It is arguable that this facilitates animal abuse of farmed animals in particular, whose suffering may be considered necessary for the production of food.

Farmed animals are also protected by the Welfare of Farmed Animals (England) Regulations 2007 (WFAER), which sets out minimum requirements and standards of care for each animal specifically. The requirements laid out in the AWA,²⁶ which subsequently formed the basis for the standards outlined in the 2007 Regulations, have become known as 'the five freedoms' (FF).²⁷ Whilst these freedoms are another step in the direction of improved welfare for farm animals, it does little to provide the animals with quality of life. The FF primarily impose positive obligations on farmers to avoid negative experiences for animals, such as ensuring the animal has a 'suitable diet' to avoid hunger.²⁸ However, the avoidance of negative experiences is not all it takes to create 'a life worth living'.²⁹ As a result, this article advocates for the introduction of positive experiences into the lives of farm animals, not only to avoid suffering but to actually enable enjoyment. Animal Sentience (AS) and the necessity of positive experiences will be explored below.

There has been a clear development in both social and legal thinking concerning animals and their ability to suffer from 'the idea of animals as "automata"³⁰ to recent cases 'with nonhuman animals named as plaintiffs'.³¹ This shift is notable in recent victories for animal protection such as the introduction of CCTV in slaughterhouses³² and Lucy's Law, which banned the third party sale of puppies and kittens.³³ A further example is the ban on animals being used in circuses,³⁴ as well as the recently enacted Animal Welfare (Sentencing) Act 2021, which imposes tougher penalties on those convicted of animal

²⁶ Animal Welfare Act, s 9(2).

²⁷ John Webster, 'Animal Welfare: Freedoms, Dominions and a "A Life Worth Living"' (2016) 6(6) *Animals* 1.

²⁸ Animal Welfare Act, s 9(2)(b).

²⁹ David J. Mellor 'Updating Animal Welfare Thinking: Moving beyond the "Five Freedoms" towards "A Life Worth Living"' (2016) 6(3) *Animals* 1.

³⁰ Ian J. H. Duncan, 'The changing concept of animal sentience' (2006) 100 *Applied Animal Behaviour Science* 11, 12.

³¹ Steven M. Wise, 'Animal Rights' (*Encyclopaedia Britannica*, 18 August 2016)

<<https://www.britannica.com/topic/animal-rights/The-modern-animal-rights-movement>> accessed 23 February 2021.

³² The Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018.

³³ The Animal Welfare (Licensing of Activities Involving Animals) (England) (Amendment) Regulations 2019.

³⁴ Wild Animals in Circuses Act 2019.

abuse.³⁵ However, these small steps forward are arguably not enough, particularly in relation to farm animals and the suffering caused by their place in the western food chain. This article will explore the potential for greater protections for these animals, until large scale slaughterhouses become redundant.

1.3 The Rise of Veganism

Animals have been used as food for human consumption for at least 2.6 million years,³⁶ so why is it seemingly only recently being called into question? Although there are many reasons for the reduction in support for the animal agriculture industry, this paper suggests that there are two key reasons which largely explain the downward trend in the consumption of animal products.³⁷

Firstly, the rise in social media has enabled animal activists to reach further than ever before and 'has had a big part to play in the role of the plant-based lifestyle'.³⁸ The behind the scenes of the meat and dairy industries used to be largely unknown, but social media has changed that. Animal activists can now post videos uncovering the mystery, and abuse, of the animal agriculture industry and reach the general public almost instantly. The ability to share the previously unseen harrowing footage of the suffering that animals endure is lifting the veil on where meat comes from. Seeing pigs being gassed or dairy cows chasing after their calves is undoubtedly partly responsible for the fact that 'almost 500,000 Brits gave up meat in 2020'.³⁹ In addition, the influence of celebrities on social media further aids the cause by spreading awareness to their millions of followers. This also helps to destigmatise the vegan lifestyle, making it 'a consumption trend for the

³⁵ Animal Welfare (Sentencing) Act 2021.

³⁶ Briana Pobiner, 'Evidence for Meat-Eating by Early Humans' (*Nature Education Knowledge*, 2013) <<https://www.nature.com/scitable/knowledge/library/evidence-for-meat-eating-by-early-humans-103874273/>> accessed 23 February 2021.

³⁷ Department for Environment Food and Rural Affairs, *United Kingdom Slaughter Statistics - January 2021* (17 February 2021)

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962271/slaughter-statsnotice-17feb21.pdf> accessed 2021.

³⁸ Lora Jones, 'Why are vegan diets on the rise?' (*BBC*, 2 January 2020)

<<https://www.bbc.co.uk/news/business-44488051>> accessed 24 February 2021.

³⁹ Johnson (n 12).

masses'.⁴⁰

Secondly, the increased availability of plant-based options makes avoiding animal products in the UK both easy and affordable. The growth of vegan food options in supermarkets and restaurants has been exponential, 'with sales of meat-free products in the UK up from £488m last year to £577m this year' and 'the global plant-based meat market alone is estimated to be worth \$35.4bn by 2027'.⁴¹ Furthermore, the technological advancements in this area have enabled the creation of lab-grown meat that is expected to, alongside plant-based alternatives, make up 60% of the meat that people eat by 2040.⁴²

The combination of the increased awareness of the suffering endured by farm animals, alongside the ease of choosing plant-based options in the supermarkets, is arguably behind the growth in veganism.

*'Veganism is a philosophy and way of living which seeks to exclude - as far as is possible and practicable - all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose; and ... in dietary terms it denotes the practice of dispensing with all products derived wholly or partly from animals.'*⁴³

This article advocates that the ability to eat plant-based alternatives to meat and dairy should not be overlooked when determining the necessity of an animal's suffering. Although the exploitation of animals is a systemic issue and therefore cannot simply be legislated to change overnight, the case could certainly be made for a system which begins to move away from the use and abuse of animals for food.

2.1 The Development of Animal Sentience

Animal sentience (AS) 'refers to the ability of animals to feel and experience emotions such

⁴⁰ Outi Lundahl, 'From a moral consumption ethos to an apolitical consumption trend: The role of media and celebrities in structuring the rise of veganism' (Doctoral Thesis, University of Vaasa 2017) 26.

⁴¹ 'UK giant Unilever bets on vegan food with "scary target"' (*BBC*, 18 November 2020) <<https://www.bbc.co.uk/news/business-54986315>> accessed 23 February 2021.

⁴² Damian Carrington, 'Most "meat" in 2040 will not come from dead animals, says report' *The Guardian* (London, 12 June 2019) <<https://www.theguardian.com/environment/2019/jun/12/most-meat-in-2040-will-not-come-from-slaughtered-animals-report>> accessed 25 February 2021.

⁴³ Definition of Veganism' (*The Vegan Society*, 2021) <<https://www.vegansociety.com/go-vegan/definition-veganism>> accessed 25 February 2021.

as joy, pleasure, pain and fear'.⁴⁴ AS can be mistakenly thought of as a novel concept, as the conversation surrounding animal rights has more recently grown in support and popularity. However, Duncan's article illustrates that there has been some recognition of AS for centuries.⁴⁵

Duncan explains that, 'by the time of the Renaissance, there is good evidence'⁴⁶ from works by people such as Leonardo da Vinci and Shakespeare, that AS was generally accepted. However, not all leading philosophers shared this view. Aristotle, Aquinas and Kant were among those who dissented, with Descartes 'singled out for special blame for introducing the idea of animals as "automata"'.⁴⁷ These arguments were challenged in the Enlightenment period, most notably by Bentham who stated 'The question is not, Can they reason? nor, Can they talk? but, Can they suffer?'⁴⁸ It therefore may seem surprising that AS, and the ability to suffer, is still up for debate, when the question was so perfectly phrased nearly 200 years ago. Bentham's focus on an animal's ability to suffer, rather than other more human-like qualities which may argue against the need for consideration, seems ahead of its time. Whilst AS research has discovered that animals are capable of feeling far more emotions than just pain, it serves as an important reminder that at the core of discussions surrounding levels of cognition and legal requirements, there is a sentient being that suffers as a direct result of human choices.

The 19th century saw developments of these ideas which, alongside Darwin's theory of evolution, brought animals, and their similarities to humans, under the microscope. Romanes also suggested that the pain and pleasure feelings that animals experience had developed for survival. This idea is later built on by Mellor, which is examined in 2.4. However, further exploration of instinctual emotional responses from animals was thwarted by Watson's behaviourism of the 20th Century. Behaviourism suggests that 'all behaviours are learned through interaction with the environment through a process called conditioning.

⁴⁴ Helen S Proctor, Gemma Carder and Amelia R Cornish, 'Searching for Animal Sentience: A Systematic Review of the Scientific Literature' (2013) 3 *Animals* 882, 883.

⁴⁵ Duncan (n 29).

⁴⁶ *Ibid* 11.

⁴⁷ *Ibid* 12.

⁴⁸ Jeremy Bentham, *An Introduction to the Principles of Morals and legislation* (Clarendon Press, Oxford 1823) 144.

Thus, behaviour is simply a response to environmental stimuli'.⁴⁹ This therefore discounts subjective processes such as feelings and thoughts, explaining behaviours as the result of learned habits.

Moving through the 20th century, ethology bridged the gap between behaviourism and the AS thoughts of today. Ethology is 'the study of the behaviour of animals in their normal environment'.⁵⁰ Whilst it focuses on the animals' observable behaviours, it also recognises states such as hunger and pain through its physically displayed behaviours. This, alongside notable publications such as *Animal Machines*⁵¹ and the Brambell Report,⁵² helped to bring AS into the 21st Century. It is important to recognise that the acceptance of AS has not been linear, and this may explain why the idea of sentience is still misused in reasoning given by those who eat animal products. The current views held on AS, and the science behind them, will be discussed later.

2.2 Speciesism

Whilst the development of ideas and knowledge surrounding AS has been gradually increasing, the progression appears to have stalled, and even regressed, at various points over time. It is therefore pertinent to explore why, as some such beliefs still linger today.

Humans all over the world exploit, torture and kill animals for their own benefit, whether that be for food, clothing, medical testing or even sport. As barbaric as it may seem when really considered, the majority of these practices are carried out in line with the laws of the respective country. This article will focus specifically on animals used for food in the UK, although the justification for farm animal suffering is largely applicable to industrialised animal suffering worldwide.

There are two primary reasons that humans use to justify their exploitation of animals:

⁴⁹ Dr Saul McLeod, 'Behaviourist Approach' (*Simply Psychology*, 2020) <<https://www.simplypsychology.org/behaviorism.html>> accessed 4 April 2021.

⁵⁰ 'Ethology, n' (*Collins English Dictionary*, Harper Collins Publishers 2021) <<https://www.collinsdictionary.com/dictionary/english/ethology>> accessed 5 April 2021.

⁵¹ Ruth Harrison, *Animal Machines* (Vincent Stuart Publishers Ltd, 1964).

⁵² Technical Committee to Enquire into the Welfare of Animals kept under Intensive Livestock Husbandry Systems, *Report of the Technical Committee to Enquire into the Welfare of Animals kept under Intensive Livestock Husbandry Systems* (Cmnd 2836, 1965).

animals' reduced ability to suffer due to lower intelligence than humans and the mere fact that they are animals. The latter has been labelled 'Speciesism', originally coined by Richard Ryder and 'subsequently popularised by Australian philosopher Peter Singer'.⁵³

Speciesism is defined as 'a prejudice or attitude of bias in favour of the interests of members of one's own species and against those of members of other species'.⁵⁴ In his book, *Animal Liberation*, Singer describes speciesism as an easy extension of other forms of discrimination such as racism and sexism, given that these also stem from a sense of superiority based on arbitrarily chosen differences. He also explains that his choice of title was deliberate. 'A liberation movement is a demand for an end to prejudice and discrimination based on an arbitrary characteristic'⁵⁵ and his book argues against the speciesist discrimination which allows animals to suffer at the hands of humans. In summarising Bentham's words, Singer clarifies the ability to suffer and/or feel happiness is what creates the basis for equality (or an 'interest'⁵⁶ as Bentham calls it). Therefore, if a being can suffer it should be considered equally as it has, 'at an absolute minimum, an interest in not suffering'.⁵⁷

Singer's book ultimately advocates for the end of animal suffering and he states that 'factory farm animals need liberation in the most literal sense',⁵⁸ which this article supports. He emphasises that in order to achieve this, 'Animal Liberation will require greater altruism on the part of human beings than any other liberation movement'⁵⁹ because animals cannot fight for themselves. Speciesism is arguably the biggest obstacle that the Animal Liberation movement faces, so it is necessary for humans to recognise their implicit bias against non-human animals before animal suffering will be considered unnecessary in the eyes of the law.

⁵³ Brian Duignan, 'Speciesism' (*Encyclopaedia Britannica*, 22 May 2013) <<https://www.britannica.com/topic/speciesism>> accessed 5 April 2021.

⁵⁴ Peter Singer, *Animal Liberation: The Definitive Classic of the Animal Movement* (40th Anniversary Edition, The Bodley Head, 2015) 35.

⁵⁵ *Ibid* 22.

⁵⁶ Bentham (n 47) 7.

⁵⁷ Singer (n 53) 37.

⁵⁸ Peter Singer, 'Animal Liberation' (*The New York Review*, 5 April 1973) <https://www.nybooks.com/articles/1973/04/05/animal-liberation/?lp_txn_id=1243560> accessed 2 May 2021.

⁵⁹ Singer (n 53) 356.

It is important to understand the concept of speciesism, as it arguably underpins the notion that animals suffer less than humans do, which is relied upon in justifying animals being used for food. Bentham's quote⁶⁰ emphasises the importance of the ability to suffer in determining AS, and Singer notes that pain is a feeling which can only be seen by others through the individual's external reaction to it. It would be hard to argue that the sounds of animals squealing and moaning in pain in slaughterhouses do anything other than evidence intense suffering, which suggests that perhaps the suffering argument is made on the basis of speciesism.

Chapman and Huffman pointedly pose the question 'why do we want to think humans are different?'⁶¹ Their article outlines various methods of testing used over the years to try to establish a distinction between humans and other species, such as language, memory or tool use. However, as knowledge of other animals continues to grow, these theories for differentiation continue to be disproven. A great example is the documentary which remarkably showed footage of an orangutan who saw a robot using a saw and was then immediately able to use the tool correctly herself.⁶² The authors suggest that if the hypothesis is continually disproven, then perhaps the hypothesis itself is simply incorrect?

Notwithstanding the many failed suggestions for human superiority over non-human animals, the search continues. Frans de Waal aptly draws attention to the anthropocentric nature of much animal research, in which animals are tested using human traits as the baseline, rather than on the merits of their own adaptations.⁶³ The quote relating to education, often attributed to Albert Einstein, is also fitting here: 'Everybody is a genius. But if you judge a fish by its ability to climb a tree, it will live its whole life believing that it is stupid'.⁶⁴ This may provide reasoning for the common misconception that certain animals lack intelligence, as the tests are often conducted in a manner which does not allow them to show off the skills specific to their species. It seems this is rooted in speciesism and anthropodenial, conducting research which judges other species by their ability to carry out

⁶⁰ Bentham (n 47).

⁶¹ Colin A Chapman and Michael A Huffman, 'Why do we want to think humans are different?' (2018) 3 *Animal Sentience* 1.

⁶² John Downer [Director], 'Spy in the Wild' [Television Broadcast] (BBC 2017).

⁶³ Frans de Waal, *Are We Smart Enough to Know How Smart Animals Are?* (W. W. Norton & Company, 2016).

⁶⁴ Richard Branson, 'Everybody is a genius' (*Virgin*, 22 March 2017) <<https://www.virgin.com/branson-family/richard-branson-blog/everybody-genius>> accessed 5 April 2021.

human tasks or feel human emotions. In order to gain a better understanding of other species, it is necessary to recognise the difference between human and non-human animals, so that humans are not used as a yardstick against which all other creatures are measured. The differences between species must be acknowledged so that their welfare can be tailored to their individual requirements, but this understanding will not be possible if people cannot consider other animals in their own right, without human comparison.

De Waal illustrates the problems with anthropocentric research, with the tool test on gibbons. Originally, it was concluded that gibbons were the least intelligent homonoids due to their inability to pick up a stick. However, when they were tested with a string tool which was better suited to their hands, that 'act more like hooks than like the versatile grasping and feeling organs of most other primates',⁶⁵ they were able to use it perfectly. This highlights the importance of species-relevant testing and the removal of speciesism when creating laws which govern the welfare of non-human animals.

De Waal created the term 'anthropodenial: a blindness to the humanlike characteristics of other animals, or the animal-like characteristics of ourselves'.⁶⁶ This aligns closely with Singer's aforementioned speciesism and the need, questioned by Chapman and Huffman, to draw a clear line between human and non-human animals.

The treatment of farm animals in the UK exemplifies the arbitrary distinction between species, not only between humans and non-humans but also between different non-human species. For example, if the reason for eating pigs is that they are not as intelligent as humans, then why do humans not eat dogs? In fact, people in the UK are repulsed by the Yulin dog meat festival in China, evidenced by the 11 million signatures on a petition to put a stop to it,⁶⁷ even though the science considers pigs as intelligent, if not more so, than dogs.⁶⁸

In reality, it appears speciesism is deep-seated and therefore comes through in the

⁶⁵ De Waal (n 62) 26.

⁶⁶ Frans De Waal, 'Are We in Anthropodenial?' (*Discover Magazine*, 19 January 1997) <<https://www.discovermagazine.com/planet-earth/are-we-in-anthropodenial>> accessed 5 April 2021.

⁶⁷ Charlotte Gill, 'Outrage over the Yulin dog meat festival shows Western hypocrisy at its worst' *The Independent* (London, 21 June 2016) <<https://www.independent.co.uk/voices/outrage-over-yulin-dog-festival-shows-western-hypocrisy-its-worst-a7093611.html>> accessed 5 April 2021.

⁶⁸ PETA, 'If Your Dog Tasted Like Pork Would You Eat Her?' (People for the Ethical Treatment of Animals, <<https://www.peta.org/features/dog-pig/>> accessed 5 April 2021).

legislation relating to animals and ultimate treatment of animals in the UK. However, when creating legislation, more thought needs to be given to the animal's individual requirements and their ability to suffer, without human comparison. Anthropodenial can have no place in animal welfare legislation because, as Philip Wollen explained, 'when we suffer, we suffer as equals and in their ability to suffer a dog, is a pig, is a bear, is a boy'.⁶⁹ This quote emphasises the irrelevance of speciesism when a sentient being is suffering. It highlights the subjectivity of suffering and how pain need only be considered from the perspective of the being experiencing it. Wollen's quote not only discourages anthropodenial but encourages humans to empathise with the animals when making decisions that cause them to suffer. AS research shows that animals feel pain, fear and sadness and this quote shows that there is no need for comparison between species, because suffering is a universal emotion. As such, this paper advocates for animal-centric legislation, which prioritises the animals concerned.

2.3 The Current Science

AS is often thought to refer to an animal's ability to suffer; however, this is a misconception as sentience is not limited to the negative states of emotion. For example, sentient animals can feel joy and excitement, as well as pain and sadness. Historically, AS research has revolved around the pain and suffering that animals experience and has therefore been the deciding factor in determining whether animals are sentient. This explains why animal welfare legislation is primarily focused on reducing these negative states. On the other hand, the emerging AS science of today is far more focused on the introduction of positive experiences for animals to facilitate a greater quality of life. As a result, this article suggests that animal welfare legislation should also require animals to be given the opportunity for more positive experiences to provide positive states of emotion, rather than solely focusing on the removal of negative states such as hunger and pain.

The notion that animals are sentient beings - 'the word sentient derives from the Latin verb *sentire*, which means "to feel"⁷⁰ - is now largely accepted by the scientific community and

⁶⁹ Philip Wollen, 'Animals Should Be Off the Menu Debate' (Speech at The Wheeler Centre, Australia, 16 May 2012) <<https://www.youtube.com/watch?v=uQCe4qEexjc&t=8s>> accessed 5 April 2021.

⁷⁰ Jane Kotzmann, 'Sentience: What It Means and Why It's Important' (*Sentient Media*, 8 April 2020) <<https://sentientmedia.org/sentience-what-it-means-and-why-its-important/>> accessed 6 April 2021.

general population.⁷¹ Years of testing and research have brought to light seemingly indisputable evidence to support this. Particularly revolutionary studies include the study on broiler chickens. During this study, lame broiler chickens were given the choice between two foods: one laden with pain killers and one without. The lame broiler chickens chose the medicated food far more than the non-lame chickens in the experiment and their consumption of the medicated feed increased with the severity of their lameness.⁷²

More recent studies have confirmed animals' sentience far surpasses the basic recognition of pain. An example is the study 'Sheep don't forget a face' which revealed how individual sheep 'can remember 50 other different sheep faces for over 2 years'.⁷³ Another study showed how a pig's environment and treatment can lead them to either feel optimistic or pessimistic.⁷⁴ This higher level of sentience must therefore translate into legislation, so that farm animals are treated in a way consistent with what the research shows - that they can suffer and feel pain, but they also have the capacity to feel positive emotions too.

2.4 Animal Sentience in Law

In keeping with the apparent level of animal cognition, the science behind AS suggests that 'welfare should be more than just the absence of suffering'.⁷⁵ As previously stated, AS has been recognised in EU Law⁷⁶ but, 'as a result of leaving the EU, animal sentience is no longer recognised in UK law'.⁷⁷ The recognition of AS in law is important as it influences the overall treatment of animals; it is logical to assume that animals who are legally recognised as being able to feel pain and joy would be subject to improved minimum welfare standards.

⁷¹ Jan Hoole, 'Here's what the science says about animal sentience' (*The Conversation*, 24 November 2017) <<https://theconversation.com/heres-what-the-science-says-about-animal-sentience-88047>> accessed 6 April 2021.

⁷² T C Danbury and others, 'Self-selection of the analgesic drug carprofen by lame broiler chickens' (2000) 146(11) *Vet Rec* 307.

⁷³ Keith M Kendrick, 'Sheep don't forget a face' (2001) 414 *Nature* 165.

⁷⁴ Catherine Douglas and others, 'Environmental enrichment induces optimistic cognitive biases in pigs' (2012) 139 *Applied Animal Behaviour Science* 65.

⁷⁵ Duncan (n 29) 16.

⁷⁶ TFEU (n 21).

⁷⁷ James West, 'Why does UK law not recognise animals as sentient beings?' (*Green World*, 22 January 2021) <<https://greenworld.org.uk/article/why-does-uk-law-not-recognise-animals-sentient-beings>> accessed 9 April 2021.

The current primary legislation pertaining to animal welfare (and farm animals in particular) in the UK is the AWA and the WFAER, the basis for which were founded on the Brambell Report⁷⁸ and the subsequent Five Freedoms (FF).⁷⁹ The FF are ‘internationally accepted standards of care’⁸⁰ which aim to provide freedom from: hunger and thirst; discomfort; pain, injury, or disease; fear and distress; and provide freedom to express normal behaviour.⁸¹ Webster states that the FF are successful because ‘at a very simple and basic level, they are comprehensive’.⁸² He also refers to the ‘elegant simplicity’⁸³ of UK animal welfare legislation. Arguably, however, this simplicity leaves room for discretion and ultimate uncertainty surrounding suffering.

In contrast, Mellor supports the view held in this paper by stating:

*‘the Five Freedoms do not capture, either in the specifics or the generality of their expression, the breadth and depth of current knowledge of the biological processes that are germane to understanding animal welfare and to guiding its management.’*⁸⁴

Furthermore, Mellor explains that negative states, such as pain and hunger, exist for survival, and ‘the temporary neutralisation of these survival-critical affects does not in and of itself generate positive experience’.⁸⁵ This should not be a surprising statement, because humans also have positive and negative experiences. Mellor gives some examples of ways to create positive experiences for animals, including: varied environments and social opportunities which encourage exploration and play; food sources with different tastes and textures; and an environment that is ‘stimulus rich’.⁸⁶ It is only logical to consider that the avoidance of negative experiences - which animal welfare legislation is primarily concerned with - does not in turn create a positive experience. It is the inclusion of active positive experiences which Mellor describes as creating ‘a life worth living’.⁸⁷

⁷⁸ Brambell Report (n 51).

⁷⁹ AWA (n 25).

⁸⁰ Animal Humane Society, ‘The Five Freedoms for animals’ (2021)

<<https://www.animalhumanesociety.org/health/five-freedoms-animals>> accessed 6 April 2021.

⁸¹ Ibid.

⁸² Webster (n 26) 2.

⁸³ Ibid 3.

⁸⁴ Mellor (n 28) 1.

⁸⁵ Ibid.

⁸⁶ Ibid 7.

⁸⁷ Ibid 3.

2.5 Social Perception of Animal Sentience

It is also important to consider the increasing recognition of AS and support for greater animal welfare in society. The development of science in this area is necessary to guide the details of legislation and regulations, but public support is also necessary to propel an agenda to the forefront. This is especially integral in the case of animal welfare, as 'most of the regulations and laws relating to animals is more about protecting our interests in what we do to them than in us defending them from our actions'.⁸⁸ This quote highlights the bias which must be recognised in order to improve animal welfare; legislation is designed to protect farm animals, only in so far as that protection still enables them to be a part of a system in which they are a product for human consumption. Society's growing interest in animal welfare therefore provides the potential for an unbiased advocate for improved animal welfare standards, given that the population in general does not stand to make a profit from their continued suffering.

Animal welfare in the agriculture industry is a topic that people get particularly passionate about, which is perhaps another reason that the UK is considered a 'nation of animal lovers'. In more recent years, the consideration for animal welfare appears to have sky rocketed. This is clearly evidenced in the diet people choose to consume, with approximately 14% of UK adults being vegetarian or vegan.⁸⁹

The empathy and open-mindedness of the upcoming generations brings potential change ever closer. It is important that animal agriculture is made even more transparent, particularly with advertising. This will enable people to make informed decisions when buying food, so the supply and demand of products can reflect the moral values that society holds but tends to ignore.

2.6 Legal personhood

Legal personhood is not easy to define; however, it is necessary to distinguish between the rights afforded to 'legal persons' and 'legal things'. The Nonhuman Rights Project (NhRP) has worked tirelessly to challenge an 'archaic, unjust legal status quo that views and treats

⁸⁸ Stallwood (n 5).

⁸⁹ Johnson (n 12).

all nonhuman animals as “things” with no rights’.⁹⁰

‘Legal persons may possess fundamental legal rights, including the right to bodily liberty; legal things, on the other hand, have no rights at all’.⁹¹ This was the basis for the NhRP’s first case on behalf of a chimpanzee named Tommy.⁹² The court in this case ruled that Tommy was not a legal person, based upon a ‘crucial error’.⁹³

The key area for dispute surrounded the definition of a legal person, which required that ‘an individual must be capable of bearing, not merely legal rights, but both legal rights and legal duties’.⁹⁴ The requirement for rights and duties here was the grounds for rejecting Tommy’s legal personhood, due to chimpanzees’ inability to bear legal duties. This raised questions about humans who are incapable of bearing legal duties, for example babies or people with illnesses such as dementia. The NhRP found that the court had misquoted the original source which they had relied upon. In fact, the requirement for a legal person was the ability to bear legal rights *or* duties. This mistake has been corrected in *Black’s Law Dictionary*,⁹⁵ which will now hopefully support future cases.

There have been some landmark cases in this area around the world. In Argentina, Judge María Alejandra Mauricio declared a chimpanzee named Cecilia a ‘non-human legal person’.⁹⁶ Also, in the State of Haryana, Judge Rajiv Sharma declared the entire animal kingdom ‘as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person’ and all citizens of the State were declared ‘persons in *loco parentis*’.⁹⁷

These rulings are revolutionary and provide hope that more animals around the world may

⁹⁰ NhRP, ‘A unique and vital mission’ (*Nonhuman Rights Project*, 2021)

<<https://www.nonhumanrights.org>> accessed 7 April 2021.

⁹¹ Spencer Lo, ‘What Is A Legal Person? Law Dictionary Corrects Decades-old Error’ (*Nonhuman Rights Project*, 25 June 2019) <<https://www.nonhumanrights.org/blog/legal-person-blacks-law-correction/>> accessed 2021.

⁹² *People ex rel. Nonhuman Rights Project, Inc. v. Lavery* WL 6802767 NY (2014).

⁹³ Lo (n 79).

⁹⁴ *Ibid.*

⁹⁵ Henry Campbell Black, *Black’s Law Dictionary* (Brian A Garner ed, 11th edn, West Group 2019).

⁹⁶ Lauren Choplin, ‘Chimpanzee Recognised as Legal Person’ (*Nonhuman Rights Project*, 5 December 2016) <<https://www.nonhumanrights.org/blog/cecilia-chimpanzee-legal-person/>> accessed 8 April 2021.

⁹⁷ *Karnail Singh and others v State of Haryana* CRR-533-2013 High Court of Punjab & Haryana At Chandigarh (2019).

be granted legal personhood. However, so far successful cases are few, and of those cases, most are primarily focused on great apes. This is unsurprising, given the closeness to human intelligence and the amount of research which has been carried out on these animals.

Whilst it is not possible to rely on these victories when considering other species, due to the clear speciesism which exists in society, the recognition of not only sentience in these cases but the entitlement to legal rights is encouraging. It seems likely that legal personhood will progress slowly down the hierarchy of animals that humans perceive to be most human-like. In this respect, it is probable that dogs will gain legal personhood before farm animals do, as their current treatment in society shows the arbitrary preference to these animals and their welfare needs.

There must also be consideration of the practicalities in granting legal personhood to farm animals. The above cases primarily granted legal rights to individual animals, whose life and treatment can more easily be adjusted to encapsulate their new entitlements. If animals such as pigs and cows were to be awarded these rights, the immediate change in their treatment would not be possible.

The use of animals for food is systemic and industrialised on a huge scale. As a result, the ability to move away from this exploitation must be gradual, to facilitate a reduction in the animal population, as well as a change in infrastructure, land use and farming. Whilst legal personhood is an ultimate goal for all animals, this article concedes that such legal status is not yet practical in the UK. Therefore, the focus for recommendations is one of improvement of current welfare standards, as well as ‘a continuation of an ongoing paradigm shift’⁹⁸ towards animal liberation.

3.1 Unnecessary Suffering

The term ‘unnecessary suffering’ is arguably the key to allowing, and legalising, the abuse that farm animals suffer on a daily basis in the process of becoming a food product. Whilst

⁹⁸ Choplin (n 95).

it is still only loosely defined in statute, Mike Radford's article⁹⁹ emphasises the evolution of its definition from the 'infliction of pain' to now incorporating mental suffering. It is also no longer required that the suffering be 'prolonged'.¹⁰⁰

Much like Webster's opinion on the FF, Radford argues that the strength of the term 'unnecessary suffering' is that its simplicity makes it more widely applicable.¹⁰¹ The broadness of the term makes room for judicial discretion, which means it can be applied to many situations, with context taken into account. On the other hand, this discretion also creates uncertainty and allows flexible interpretation of what constitutes necessary suffering. Radford states that applying this term is 'a balancing exercise'¹⁰² in considering factors such as 'the pain caused, the intensity and duration of the suffering, and the object sought to be attained'.¹⁰³ This article suggests that this uncertainty is facilitating the continued exploitation of farm animals in the UK, by allowing the objective of food production to tip the scales in favour of necessity.

Radford refers to the term 'unnecessary suffering' as 'the cornerstone of animal protection'¹⁰⁴ which highlights the need for this dissertation to consider it in detail. The term has been prevalent in law since 1849; however, that brings into question its continued relevance. Whilst some laws, such as murder, are unlikely to change much over time, animal welfare is an area of continued scientific development and increasing knowledge about animals' needs. 'This biologically more accurate understanding provides support for reviewing the adequacy of provisions in current codes of welfare or practice'¹⁰⁵ so that the updated science translates into the legislation, in order to provide animals with the best quality of life.

Along with the scientific evidence behind AS and animal welfare requirements, the social appreciation of AS and suffering has also increased. People are far more conscious of the abuse of animals all over the world, thanks to social media. Perhaps the legislation needs

⁹⁹ Mike Radford "'Unnecessary suffering': the cornerstone of animal protection legislation considered' (1999) *Crim. L.R.* 702.

¹⁰⁰ *Ibid* 704.

¹⁰¹ *Ibid* 703.

¹⁰² *Ibid* 705.

¹⁰³ *Ford v Wiley* (1889) 23 QBD 203, 218.

¹⁰⁴ *Ibid*.

¹⁰⁵ Mellor (n 28) 2.

to better reflect this new-found concern, with stricter rules to narrow the discretionary gap which animal abuse can legally fall through. This article agrees with Radford's suggestion that the current term could be extended to include 'likely to' cause unnecessary suffering, to increase current protections.¹⁰⁶

A noteworthy case which discusses the application of the term 'unnecessary suffering' is *R. (On the application of Gray) v Aylesbury Crown Court*.¹⁰⁷ The case highlights that in order to be convicted of an offence under s.4 AWA, the defendant must have known 'or ought reasonably to have known both that his or her act or failure would cause an animal to suffer and that the suffering was unnecessary'.¹⁰⁸ However, the notion that any animal suffering in the UK can be justified, and therefore deemed necessary, is the exact notion that this article seeks to disprove. Ultimately, it proposes that the suffering of farm animals used for food in the UK is unnecessary. The reasoning is based on three primary factors: the current state of the world, human health, and the availability of alternatives.

Firstly, the necessity of animal agriculture, and therefore the animal suffering that happens as a result of it, must be considered against the backdrop of the current climate, in both senses of the meaning. The environment is in crisis as a result of global warming, caused by harmful greenhouse gases (GHG) building up in the atmosphere.¹⁰⁹ Animal agriculture is particularly damaging to the environment and 'today's food supply chain creates ... 26% of anthropogenic GHG emissions'.¹¹⁰ In addition, a vegan diet is the 'single biggest way to reduce your environmental impact on the planet'.¹¹¹

Furthermore, the world is currently experiencing a pandemic. The virus 'is thought to have originated in bats' and spread via Pangolins to humans in wet markets¹¹² in Wuhan,

¹⁰⁶ Radford (n 98) 712.

¹⁰⁷ [2013] EWHC 500 (Admin).

¹⁰⁸ Ibid [24].

¹⁰⁹ WWF, 'What Are Climate Change and Global Warming?' (WWF-UK, 2021) <<https://www.wwf.org.uk/climate-change-and-global-warming>> accessed 1 May 2021.

¹¹⁰ J Poole and T Nemecek, 'Reducing food's environmental impacts through producers and consumers' (2018) 360 *Science* 987.

¹¹¹ Damian Carrington, 'Avoiding meat and dairy is 'single biggest way' to reduce your impact on Earth' *The Guardian* (London, 31 May 2018)

<<https://www.theguardian.com/environment/2018/may/31/avoiding-meat-and-dairy-is-single-biggest-way-to-reduce-your-impact-on-earth>> accessed 21 April 2021.

¹¹² A wet market is defined as 'a market that sells perishable items (such as fresh meat and produce) and sometimes live animals which are often slaughtered on-site'. 'Wet Market, n' (*Dictionary*,

China.¹¹³ Wiebers and Feigin state that 'it is human behaviour that is responsible for the vast majority of zoonotic diseases¹¹⁴ that jump the species barrier', due to the unnatural closeness of humans to animals.¹¹⁵ Whilst this may not be directly related to the use of animals for food in the UK, it gives a clear indication of the problems that can occur as a result of unnecessary interference with animals. This article agrees with the recommendations of the authors, who propose that all factory farming needs to cease. They also suggest that investing in 'plant-based agriculture to grow crops to feed humans rather than livestock for human consumption' would expedite this process.¹¹⁶ The COVID-19 outbreak is just the most recent example of zoonotic diseases which have caused human health problems. Given the harm caused to both humans and the environment, it could be argued that farm animal suffering is not only unnecessary - when considered within the context of global issues - but detrimental.

Secondly, an argument often proposed for the necessity of farm animal suffering is the requirement of animal products for human health. However, various studies, including 'one of the most comprehensive nutritional studies ever undertaken',¹¹⁷ have shown the health benefits of a plant-based diet. In addition, a wholefood plant-based (WFPB) diet has been shown to help prevent (or even reverse) some of the biggest killers such as heart disease, diabetes, cancer and Alzheimer's.¹¹⁸ *The China Study* also highlights the particularly damaging effects of dairy. 'Casein, which makes up 87% of cow's milk protein, promoted all stages of the cancer process'¹¹⁹ and 'adjusting the amount of dietary casein has the power to turn on and turn off cancer growth'.¹²⁰ Of course, it is not illegal for food to be unhealthy but it is useful to illustrate the lack of necessity for animal products in this instance. If meat

Merriam-Webster 2021) <<https://www.merriam-webster.com/dictionary/wet%20market>> accessed 26 April 2021.

¹¹³ David O. Wiebers and Valery L. Feigin, 'What the COVID-19 Crisis is Telling Humanity' (2020) 54(4) *Neuroepidemiology* 283.

¹¹⁴ 'Zoonotic diseases (also known as zoonoses) are caused by germs that spread between animals and people'. CDC, 'Zoonotic Diseases' (*Centers for Disease Control and Prevention*, 14 July 2017) <<https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html>> accessed 26 April 2021.

¹¹⁵ Wiebers and Feigin (n 112) 284.

¹¹⁶ *Ibid* 285.

¹¹⁷ T Colin Campbell, 'A History of The China Study' (*Centre for Nutrition Studies*, 2021) <<https://nutritionstudies.org/the-china-study/>> accessed 21 April 2021.

¹¹⁸ T Colin Campbell and Thomas M Campbell II, *The China Study* (Revised and Expanded Edition, BenBella Books Inc, 2016) 39.

¹¹⁹ *Ibid* 38.

¹²⁰ *Ibid* 197.

and dairy were essential for human health then farm animal suffering would certainly be considered necessary, but that is not the case. It simply shows how unnecessary the abuse and slaughter of farm animals is, given that the products are not only superfluous to the human diet, but can actually be harmful.

Thirdly, the availability of plant-based alternatives to animal products further proves the redundancy of animal suffering for food. The UK has plenty of options ranging from almond milk and coconut yoghurt to tofu nuggets and falafel pizza. The abundance of 'veganised'¹²¹ versions of traditional favourites is increasing exponentially, and will be discussed in more depth below.

These three factors could each, individually, be the focus of an entire dissertation. However, they have been touched upon here to succinctly highlight the essence of these issues and how they support the notion that farm animal suffering in the UK is unnecessary.

3.2 Meat Paradox

The meat paradox describes when humans eat animals, even though they love them and are upset by the idea of animal abuse. Ultimately, the meat paradox is the term given to cognitive dissonance in relation to people's moral ideas of how animals should be treated and the incongruous way their actions, in eating animal products, pay for animals' mistreatment.

Ursin's article¹²² discusses the internal tension that occurs as a result of the meat paradox. The dilemma of loving animals and indirectly paying for their death is often pushed aside to allow these behaviours to continue, without the need for an ethical debate at every meal. Loughnan describes a study where one group of people were given steak and another group were given nuts. After eating, the groups were asked to rate a cow's ability to suffer. The result showed that the meat-eating group 'restricted their moral concern for animals

¹²¹ Veganise is defined as making 'food suitable for vegans'. 'Veganise, v' (*Cambridge Dictionary*, Cambridge University Press 2021) <<https://dictionary.cambridge.org/dictionary/english/veganize>> accessed 26 April 2021.

¹²² Ursin (n 9).

and rated the cow as less capable of suffering',¹²³ highlighting people's need to protect themselves from subsequent negative feelings about eating meat. This is problematic, as the subconscious need to belittle the sentience of an animal in order to feel comfortable with human food choices could be influencing legislators and judges, when faced with questions of farm animal welfare. Ursin suggests that this dilemma is 'solvable in only two ways: to stop eating meat or to stop worrying about killing animals'.¹²⁴ Therefore, as long as meat eating continues, so too does the moral tension associated with the meat paradox and the potential bias which seeks to avoid recognising the suffering that animals face in the process.

There are many reasons for humans eating animals, which subsequently inform legislation in this area. Whilst speciesism is likely to be an underlying factor, there is also misinformation about human health requirements and AS, as well as lack of transparency about the farm-to-fork process. However, it would be wrong to overlook the power of convention.

Eating meat is 'still very much the norm'¹²⁵ with many Brits growing up with a roast dinner on Sundays and other traditional meals throughout the week, such as bangers and mash or fish and chips.¹²⁶ As a result, often little thought is given to what is on the plate. Add to that a sense of nostalgia around family favourites and it is not surprising that the convention of animal-based meals continues. This societal normalisation of the meat paradox is particularly problematic. The hypocrisy of eating animals that are loved is not questioned when everyone does it, and more importantly, does it without thinking. Eating animal products is a habit that needs to be broken and this article therefore hopes to shed light on the meat paradox, so as to ask the reader to confront their own cognitive dissonance and perhaps consider thinking before eating.

The distinction between the treatment of non-human animals is also associated with the meat paradox. Society's threshold for the necessity of suffering is seemingly much higher

¹²³ Steve Loughnan, Nick Haslam and Brock Bastian, 'The Psychology of Eating Animals' (2014).

¹²⁴ Ursin (n 9) 144.

¹²⁵ Melanie Hargraves, 'Should we all be going meat free?' (*British Nutrition Foundation*, 12 March 2018) <<https://www.nutrition.org.uk/bnf-blogs/meatfree.html>> accessed 25 April 2021.

¹²⁶ Steve Richmond, 'Britains Favourite Family Meals Revealed' *The Independent* (London, 9 March 2021) <<https://www.independent.co.uk/life-style/uk-favourite-family-meals-b1814446.html>> accessed 25 April 2021.

for pets than it is for farm animals. For example, if a puppy or kitten were to be bolt-gunned in the head or have their throat slit, then there would undoubtedly be a case for animal abuse. However, when comparing these 'examples of animal cruelty to their legal, acceptable counterparts for the sake of food',¹²⁷ the arbitrariness of the legal distinctions is clear.

A pro-vegan television advert in Israel went viral in 2020, which was originally seen by 35% of the population when aired during the series finale of a popular Israeli programme.¹²⁸ The advert shows a couple asking for fresh meat at the butcher's counter in the supermarket and being presented with a live lamb instead of the pre-prepared, dead version. The advert ends with the slogan 'make the connection'.¹²⁹ Since the airing of this advert there has been much discussion online with a lot of positive feedback.¹³⁰ It is hopeful that more of these adverts will make their way in front of audiences around the world and that people will be confronted by the harsh reality of their habitual, and often subconscious, food choices.

The UK population should be better educated about the scientific sameness of the animals they eat and the pets they dote on. Labelling, marketing and advertising need to be more representative of the process which farm animals go through before they end up as neatly packaged products in supermarkets. For example, the law was changed for cigarettes so that pictorial health warnings have been required on packaging since 2008.¹³¹ Studies have shown the downward trend in smoking as a result of this labelling change, demonstrated by the fact that 'smokers who received pictorial warnings were more likely to report a quit attempt'.¹³²

This paper proposes that a similar result could be achieved if this were to be implemented

¹²⁷ Chelsea Ritschel, 'Graphic Post Highlights "Hypocrisy" of Animal Treatment' *The Independent* (New York, 1 June 2018) <<https://www.independent.co.uk/life-style/vegan-animal-cruelty-facebook-post-viral-hypocrisy-animal-rights-a8379481.html>> accessed 26 April 2021.

¹²⁸ Plant Based News, 'WATCH: Pro-Vegan TV Ad Goes Viral In Israel' (*Plant Based News*, 16 September 2020) <<https://plantbasednews.org/culture/watch-pro-vegan-tv-ad-goes-viral-in-israel/>> accessed 26 April 2021.

¹²⁹ Vegan Friendly, 'Extra fresh - Survivor's finale commercial that everyone is talking about' (13 September 2020) <<https://www.youtube.com/watch?v=g2-mPJwBsBA>> accessed 26 April 2021.

¹³⁰ Plant Based News (n 127).

¹³¹ Tobacco Products (Manufacture, Presentation and Sale) (Safety) (Amendment) Regulations 2007.

¹³² Noel T Brewer and others, 'Effect of Pictorial Cigarette Pack Warnings on Changes in Smoking Behaviour: A Randomised Clinical Trial' (2016) 176(7) *JAMA Intern Med.* 905, 909.

for animal products. The reality of animal agriculture is that animals are suffering. Companies should not be allowed to mislead the consumer and perpetuate the meat paradox by distancing the purchasable product from its living origin. Grauerholz's article discusses the 'cutification' of animals: 'the process in which an object is made to appear cuter than it is in its normal state'.¹³³ This is often done by making animals appear more innocent, stupid or younger than they are in reality, which works to remove the representation of the animal from the animal itself.¹³⁴

By distancing the real animal from the one seen on packaging and adverts, the meat paradox is able to continue by making it easy for the consumer to stay ignorant to what they are purchasing. However, it is important that consumers know what they are buying, as they are in turn increasing the supply and demand for that product. Therefore, the law needs to change to facilitate truthful representation of the animal exploitation and abuse. Feeding the idea that animals do not really suffer allows the meat paradox to continue. There are rules surrounding false advertising, so perhaps showing happy cows, rather than the crying, maimed and dead ones of reality, needs to be more closely examined by law makers.

3.3 The Alternative: Plant-based Diet

The availability of plant-based alternatives is, arguably, the strongest case for supporting the notion that the suffering of farm animals in the UK is unnecessary. The plant-based industry is booming, and it seems the availability of products is growing exponentially. How can the suffering of sentient, intelligent beings be justified if there is a vegan option in the next aisle at the supermarket? If in order for suffering to be legal it must be necessary, then arguably farm animal suffering should no longer pass this test.

An argument often given for continuing to eat meat is 'that it's "natural" for humans to consume animals'.¹³⁵ However, whilst it is true that our hunter-gatherer ancestors did occasionally eat meat that they hunted themselves, the majority of their diet was WFPB.

¹³³ Grauerholz (n 2) 339.

¹³⁴ Ibid.

¹³⁵ PETA, 'Are Humans Supposed to Eat Meat?' (*People for the Ethical Treatment of Animals*, 2021) <<https://www.peta.org/features/are-humans-supposed-to-eat-meat/?v2=1>> accessed 25 April 2021.

Humans have soft nails, rather than sharp claws for ripping flesh. Human teeth are also designed for chewing with the flat back teeth and sideways action of herbivores, with relatively blunt canines, when compared with the canines of carnivores. In addition, humans have a long intestine. This allows for the slow digestion of fibre and nutrients from plants, as opposed to short intestines which are designed to expel decaying meat.¹³⁶ So whilst human ancestors may have eaten a small amount of meat, that was in a time of survival. The human body is far better designed to eat plants, and as food can now be bought rather than hunted, human biology suggests a preference for a predominantly plant-based diet.

Furthermore, not only are human beings physically better suited to plant-based diets, but also mentally. Emotionally, humans in day-to-day life do not like the idea of hurting or killing an animal (the meat paradox). This explains why people have developed many ways to distance themselves from the reality of animal agriculture, such as cutification, anthropodenial and ignorance in general. The mental distaste for animal abuse can be evidenced by the physical reaction humans experience when confronted with animals in their living form. A person sees a rabbit and will want to stroke it, not start salivating at the thought of killing it. A lion, on the other hand, will see a snack. Human instinct is to protect animals rather than rip them limb from limb, so without the need to kill animals for survival, there seems to be no reason to inflict this suffering on farm animals for food purposes.

It is clear that a well-planned plant-based diet can be as healthy, if not healthier, than the standard western diet which includes animal products.¹³⁷ It also aligns with human instincts and morals: to cuddle rather than kill animals. It is imperative that this knowledge is more widely known by the population in general, but also by judges, so that they can be better informed when applying the term 'unnecessary suffering'. The benefits of plant-based nutrition need to be taught in schools and publicised in the media, alongside better transparency of the animal agricultural process. With vegan options widely available, and no health requirements to consume animal products, the suffering of farm animals in the UK really is unnecessary. Therefore, the necessity element of the unnecessary suffering

¹³⁶ Dr Justine Butler, 'Are Humans "Designed" To Eat Meat?' (*Plant Based News*, 24 January 2021) <<https://plantbasednews.org/opinion/are-humans-designed-to-eat-meat/>> accessed 25 April 2021.

¹³⁷ Jan Deckers, *Animal (De)liberation: Should the Consumption of Animal Products Be Banned?* (Ubiquity Press, 2016).

test cannot be fulfilled.

Conclusion and Recommendations

Overall, it is indisputable that farm animals in the UK suffer in the process of becoming food products for human consumption. Social media has made this all too clear in videos showing cows trying to reverse out of the single file kill line and pigs jumping free from trucks bound for slaughter. This nation of animal lovers is waking up to the realities of the farm-to-fork process and the necessity of farm animal suffering is subsequently reducing. The law needs to harness this momentum, in order to propel the UK towards a plant-based agricultural system that no longer exploits sentient animals.

The centuries of scientific and philosophical development have culminated in humans holding the most knowledge they ever have about AS. Most importantly, it is clear that farm animals do feel pain but, whilst their ability to suffer is no longer up for debate, 'our legal systems haven't yet caught up to what we know about them'.¹³⁸ It is also evident that their level of sentience far surpasses the basics of pain recognition. Sheep recognise the faces of their friends and family, pigs use experiences to determine whether they are feeling hopeful or pessimistic about a future event, and chickens know when they need medication and how much. These few examples merely stand to represent the breadth and depth of cognition and emotional intelligence that farm animals have, making the idea of their abuse, confinement and slaughter even more abhorrent.

Whilst there is legislation in place to attempt to minimise the suffering experienced by animals in the agriculture industry, there is certainly room for improvement so as to minimise suffering further. The term 'unnecessary suffering' is longstanding and not without its merits. However, there has been significant progress in both AS research and the development of plant-based alternatives, which dramatically affects the extent to which animal slaughter is still necessary in the UK. This article strongly advocates that the suffering of animals can no longer be deemed necessary or acceptable, but concedes that there must be consideration given to the time it will take to move away from an animal

¹³⁸ Lauren Choplin, 'It's Time to Recognise Elephants 'Personhood And Rights' (*Nonhuman Rights Project*, 13 November 2017) <<https://www.nonhumanrights.org/blog/personhood-rights-elephants/>> accessed 30 April 2021.

agricultural system to a plant-dominant one. As a result, Radford's suggestion for an extension of the term to include 'likely to' cause unnecessary suffering, may be a way to improve animal welfare in the meantime.

In addition to broadening the scope of the unnecessary suffering term, there is also room for improvement with regard to the FF. The FF provide a decent framework for basic animal welfare needs; however, the science is now moving towards the necessity of incorporating positive experiences to give animals a life worth living. The FF have a 'minimalist focus on the basics for survival'¹³⁹ which only seeks to avoid negative states. The suggested inclusion of a more stimulating and varied environment, as well as greater opportunity for socialising, would help to provide a better quality of life for farm animals. Again, these recommendations aim to improve welfare standards whilst the transition towards a plant-based system takes place.

The suggested adjustments to animal welfare legislation are important for reducing the suffering experienced by animals in the current system. However, changes are also required in the education and advertising sectors to enable more ethical decision making by the consumer. Nelson Mandela famously said that 'education is the most powerful weapon which you can use to change the world'¹⁴⁰ and education around this topic could help bring about much-needed change for the environment and the animals. In order to minimise the underlying speciesism that seeks to find reasons to put humans above other species, this paper proposes that AS and plant-based nutrition should be included in the curriculum. Nutrition education is already insufficient, seemingly evidenced by the fact that obesity rates increase during school years.¹⁴¹ Teaching the benefits of a WFPB diet would allow the upcoming generations to make more informed food choices and recognise that animals do not need to suffer for those choices.

It is hoped that better education about other species, as well as the ability to eat and live healthily off a vegan diet, will work to prevent the meat paradox. However, this education

¹³⁹ Mellor (n 28) 6.

¹⁴⁰ Paul Ellis, 'Changing the world through education – how Nelson Mandela created the conditions for success' (*Cambridge Assessment International Education*, 28 March 2019) <<https://blog.cambridgeinternational.org/nelson-mandela/>> accessed 30 April 2021.

¹⁴¹ Kelly Rose, 'Why Are School Lunches Still So Unhealthy?' *The Independent* (London, 21 August 2019) <<https://www.independent.co.uk/life-style/food-and-drink/kids-children-school-lunches-canteen-unhealthy-a9072816.html>> accessed 30 April 2021.

must be supported by improved transparency in the advertising and labelling of animal products. Labels and adverts, such as the one shown in Israel, need to remind customers that they are purchasing body parts of an animal that has been killed for the sole purpose of their meal. Although unlikely, if pictorial images of the slaughtered animals were put on packaging rather than cutified, unrealistic cartoons, the harsh reminder of reality would likely help the consumer confront their cognitive dissonance and perhaps choose the vegan alternative.

Not only is the human mind more at peace with eating plants, the human body also shows a preference towards a WFPB diet. With many biological traits closer to those of herbivores than carnivores, there is little standing in the way of the transition towards farming plants rather than tortured animals. The fake meat sector is growing exponentially and is set to be the primary source of meat in the next few decades. The abundance of plant-based options allows humans to flourish physically and mentally, without having to give up the foods that they enjoy.

With the science confirming AS, humans in emotional turmoil as a result of eating animals they claim to love and vegan options filling the aisles, there is no reason to support the idea that farm animal suffering is still necessary. The law must change to protect these sentient beings whilst the world catches up to the injustice which they suffer everyday by being killed for food. A preference for taste is not a good enough reason to justify the treatment of sentient beings as commodities, nor is it sufficient to make that suffering a legal necessity. However, the award of legal personhood does not yet seem achievable. Although this paper hopes to show that farm animals are deserving of legal personhood and the protection that would come with that status, the reality is that the industry first needs to change to accommodate such legal status. Therefore, improvements in their current treatment alongside improved transparency and public education are the primary, realistic recommendations of this dissertation.

'We should use the traits we are so proud of ... to create positive change'¹⁴² and help the other animals who inhabit this shared planet. Knowing the extent to which animals suffer, and that they are aware of their suffering, is heartbreaking. The increasing abundance of

¹⁴² Chapman and Huffman (n 60) 5.

plant-based alternatives shows that animal products are no longer necessary in the UK. On top of that, the environmental damage and zoonotic diseases caused by animal agriculture can be used to further support the need to step away from killing animals and towards eating plants. Although farm animals will continue to suffer unnecessarily for years to come, the end of that suffering may be on the horizon and 'so long as we can live without inflicting miserable lives on animals, that is what we ought to do'.¹⁴³

¹⁴³ Singer (n 53) 351.