

Editorial for special issue

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Animal experimentation has long been a topic of bioethical, philosophical, and legal debate.¹ The vast majority of argumentation against the practice proceeds through deontological and utilitarian premises that may be characterized as largely liberal in theoretical orientation.² These accounts highlight harms to animals through a methodology of rational argumentation and with a substantive focus on the interests of animals. Argumentation against experimenting on animals rooted in critical theoretical perspectives, i.e. theories that challenge or supplement these classic liberal theories such as ecofeminist and feminist care approaches,³ are considerably less prominent in the scholarship contesting animal experimentation.⁴

This undertheorization exists even though feminist mobilization against animal experimentation is long-standing. As several history of science accounts have demonstrated, women took a leading role in critiquing vivisection as it rose and became normative in scientific communities in multiple countries.⁵ This advocacy was often informed by feminist sensibilities about the links between the way animals were treated by the medical and scientific communities (and by society in general) and

¹ Aaron Garrett, 'Animals and Ethics in the History of Modern Philosophy' in Tom Beauchamp and RG Frey (eds), *The Oxford Handbook of Animal Ethics* (Oxford University Press 2012) 78.

² For classic accounts of these approaches in animal ethics see Peter Singer, 'Animal Liberation or Animal Rights?' (1987) 70 *Monist* 3; Tom Regan, *The Case for Animal Rights* (University of California Press 1983). For the prominence of deontological or utilitarianism in notable scholarly accounts or textbook treatments of animal ethics see, respectively, Gary Francione, 'The Use of Nonhuman Animals in Biomedical Research' in *Animals as Persons: Essays on the Abolition of Animal Exploitation* (Columbia University Press 2008) 170-185 and Angus Taylor, 'Is it Wrong to use Animals for Scientific Research?' in *Animals & Ethics* (Broadview Press 2003) 119-135.

³ JJ Ryoo and P McLaren, 'Critical Theory' in Penelope Peterson and Eva Baker (eds), *International Encyclopedia of Education (Third Edition)* (Elsevier 2010); Amy Allen, 'Emancipation without Utopia: Subjection, Modernity, and the Normative Claims of Feminist Critical Theory' (2015) 30 *Hypatia* 514-515.

⁴ For an explanation of intersectional analyses in animal studies see Robyn Trigg, 'Intersectionality – an Alternative to Redrawing the Line in the Pursuit of Animal Rights' (2021) 26 *Ethics and the Environment* 73. To see how feminist approaches are less mainstream in discussions of animal experimentation consider the overviews of these topics in Taylor (n 2) and also the volume *Vivisection in Historical Perspective*, ed Nicolaas A. Rupke (Routledge 1987). For examples of how animal experimentation is not a common topic in feminist animal studies analysis consider that only one chapter (authored by Deborah Slicer) discusses the topic at length in two recent edited feminist animal collections. See Erika Cudworth, Ruth E. McKie and Di Turgoose (eds), *Feminist Animal Studies: Theories, Practices, Politics* (Routledge 2023) and Carol J. Adams and Lori Gruen (eds) *Ecofeminism: Feminist Intersections with Other Animals and the Earth* (Bloomsbury Academic 2021).

⁵ Diana Donald, *Women against Cruelty* (Manchester University Press 2019) 1-2; Catherine Duxbury, *Science, Gender and the Exploitation of Animals in Britain since 1945* (Routledge 2021) 2; Mary Ann Elston, 'Women and Anti-vivisection in Victorian England, 1870-1900' in Rupke (n 4) 259-296.

the way women were.⁶ As these accounts further reveal, the *response* to anti-vivisection movements given the prominence of women were severely gendered. Activists and those who sympathized with their cause were often dismissed through misogynistic stigmas against sentimentality and compassion to the extent of pathologizing women as mentally unstable.⁷ In more contemporary activism through scholarship where feminists have discussed animal experimentation, we see concern with unmasking scientific claims to objectivity, arguing that conventional understandings of objectivity obfuscate the suffering of animals in laboratories and continue to stigmatize those who respond emotionally to suffering in laboratories.⁸ Feminist animal care scholars have sought to legitimate the role of care and compassion science and toward animals held captive in the name of science as well as in animal ethics discourse.⁹

This special issue seeks to augment feminist and other critical theorization, not to diminish the importance of the more classic deontological and utilitarian argumentation, but to consider further what different insights or emphases theories tied less to liberal starting points of reason and autonomy can offer. What new or different perspectives can critical theories educe in relation to the heretofore low impact of the 3Rs model (reduce, refine, replace)? This almost 65-year old paradigm has not stopped the acceleration or growth of animal research despite its early emphasis on replacing animal models altogether.¹⁰ The attention to critical perspectives may be especially opportune given the pace of new approach methods that are influencing the growth of alternatives (human cellular, computer, and other animal-free alternatives) to animal experimentation.¹¹ Additionally, the political and scientific momentum to once and for all replace animals in the laboratories and dispense with a widely ineffective and expensive model that can be traced back almost a millennium, inspired by continued public opposition and also the growth of better methods, is accelerating (though not as quickly as the animal-free technology itself).¹² Considering these technological and political developments for animals through critical approaches is a second welcome outcome of the pieces comprising this Special Issue.

⁶ Donald (n 5) 4-5.

⁷ *Ibid*, 9-10. This minimizing of women's advocacy also extended to their historic activism in favour of other animals. Donald (n 5).

⁸ Deborah Slicer, 'Your Daughter or Your Dog? A Feminist Assessment of the Animal Research Issue' (1991) 6 *Hypatia* 108-124; Maneesha Deckha, 'Non-Human Animals and Human Health: A Relation Approach to the Use of Animals in Medical Research' in Jennifer Llewellyn and Jocelyn Downie (eds), *Being Relational: reflections on relational theory and health law* (University of British Columbia Press 2012) 297-306.

⁹ Taylor (n 2) discussing Slicer (n 8).

¹⁰ Kathrin Herrmann, 'Chapter 1 Refinement on the Way Towards Replacement: Are We Doing What We Can?' In Kathrin Herrmann and Kimberly Jayne (eds) *Animal Experimentation: Working Towards a Paradigm Change* (Brill 2019), doi: https://doi.org/10.1163/9789004391192_002 at 4. For agreement regarding the poor impact of the 3Rs paradigm but a different view of what the original formulation of the 3Rs 65 years ago articulated see Nico Dario Müller, 'The 3Rs Alone Will Not Reduce Total Animal Experimentation Numbers: A Fundamental Misunderstanding in Need of Correction' (2023) 5 *Journal of Applied Animal Ethics Research* 269.

¹¹ Christopher R Cederroth and Jenny Sandström 'Editorial: Towards a new 3Rs era in experimental research' (2024) *Front. Behav. Neurosci.* 18:1404294. doi: 10.3389/fnbeh.2024; Asif Husain and others, 'A Review on Alternative Methods to Experimental Animals in Biological Testing: Recent Advancement and Current Strategies' (2023) 15 *Journal of Pharmacy & Bioallied Sciences* 165-169.

¹² A. J. van der Zalm *et al.*, 'A framework for establishing scientific confidence in new approach methodologies,' *Archives of toxicology*, vol. 96, no. 11 2865-2879, 2022, doi: 10.1007/s00204-022-03365-4 at 2866; L. J. Marshall, H. Constantino, and T. Seidle, 'Phase-In to Phase-Out-Targeted, Inclusive Strategies Are Needed to Enable Full Replacement of Animal Use in the European Union' (2022) 12:7 *Animals* 1-2.

We start with Josephine Donovan's opening commentary 'An Ethic of Care Critique for Induced Genetic Mutation in Animals.' The commentary centers a feminist care lens to comment on what is objectionable about gene modification of animals. As Donovan describes it, following previous descriptions in her pioneering work in this area, "(t)he feminist ethic of care is a dialogical ethics that requires paying attention to an animal's own feelings."¹³ It is further described "(a)s a an ethic of loving protectiveness (.) derive(d) from women's time-honored and nearly universal role in human society of caring for children and others."¹⁴ In her commentary, Donovan tells us that "such an approach requires a careful focus on the animal's reaction or, when that is not possible, use of the empathetic moral imagination to appreciate what that animal's reaction is likely to be"¹⁵ and therefore 'humility' as an attitudinal outlook.¹⁶ When we look at the issue of human-induced genetic mutation from this perspective, Donovan asserts, there is no choice but to stop genetic engineering. The risk to animals bodies and their dignity is too high. This would leave replacement as the only option in terms of the 3Rs.

On the latter technological note mentioned above, as to how the recent rise of animal-free technologies may revitalize the 3Rs and shape understandings about the ongoing "need" for animal experimentation and the ethics thereof, the article by Eva Bernet Kempers makes an intervention. Bernet Kempers argues that a "standard algorithm" that is a type of utilitarian calculus exists in jurisdictions with laws on animal experimentation (notably in Europe) despite the differences we can see across individual country approaches.¹⁷ Her analysis explores the regulatory landscape in Belgium, the Netherlands, and Switzerland. She connects this utilitarian algorithm to the "failure of the 3Rs to decrease the use of animals" and turns to feminist new materialism as well as feminist capabilities approaches and ecofeminism for better guidance on how animal experimentation could proceed until full replacement is achieved.¹⁸ These iterations of feminist theory and their endpoints for animals in terms of anti-exploitation protections have sometimes been in tension, as Bernet Kempers reviews. Bernet Kempers combines them into a merged approach from which she suggests alterations to current experiments that should reduce numbers, but also may "over the long run, help steer animal testing law in the right(s) direction."¹⁹

These two feminist contributions help us advance a critical lens to consider the future of animal experimentation in the face of a 3Rs paradigm that has had limited results in realizing replacement of animals or even refinements.²⁰ They add to the rich body of feminist analysis of legal issues pertaining to animals in general as well as the long tradition of feminist input into the question of animal justice.²¹

¹³ Josephine Donovan, 'An Ethic of Care Critique for Induced Genetic Mutation in Animals' (2025) *Journal of Animal Law, Ethics and One Health* (LEOH); Josephine Donovan, 'Feminism and the Treatment of Animals: From Care to Dialogue' (2006) 31 *Signs: Journal of Women in Culture and Society* 322; Josephine Donovan and Carol J Adams, *The Feminist Care Tradition in Animal Ethics: A Reader* (Columbia University Press 2007).

¹⁴ Donovan (n 11).

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Bernet Kempers (this volume).

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Herrmann (n 10) 4.

²¹ For recent interventions see Mathilde Cohen, 'Animal Colonialism: The Case of Milk' (2017) 111 *AJIL Unbound* 267; Maneesha Deckha, *Animals as Legal Beings: Contesting Anthropocentric Legal Orders* (Toronto: University of Toronto Press, 2021); and Jessica Eisen, 'Feminist Jurisprudence for Farmed Animals' (2019) 5 *Can. J. Comp. & Contemp. L.* 111-154. For a discussion of how feminist analysis has influenced animal legal analysis over the last fifty years in Anglo-American animal ethics and law see Maneesha Deckha, 'Fifty years of taking exception to

They also augment the critical scholarship discussing animal experimentation in the contemporary period where the elusive prospect of full replacement finally seems to be a viable policy and legal goal.

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human exceptionalism: The feminist-inspired theoretical diversification of animal law amidst enduring themes' (2023) 46:1 *Dalhousie Law Journal* 339-377, 343.

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