

HOW MEAT CHANGED SEX

The Law of Interspecies Intimacy after Industrial Reproduction

Gabriel Rosenberg

On the night of March 4, 2006, Alan Goats received a frightened call from his daughter. She had seen a man enter the fenced backyard and drag one of Goats's lambs into the small barn on the property (The Smoking Gun 2006). Goats rushed back to his residence on Catclaw Street, and there he found his neighbor of seventeen years, LeRoy Johnson, in a state of extreme intoxication, on the floor of the barn, pants undone, lying atop the lamb. An embarrassed Johnson stumbled back to his own home, where he stayed until Maricopa County sheriff's deputies arrived to arrest him later that evening. Johnson was reported to have said during the confrontation with Goats, "You caught me, Alan, I tried to fuck your sheep," an utterance mixing comic sexual impotence—he had *tried* but apparently failed—with the banal tragedy of alcoholic excess (ibid.).

The lurid scenario attracted national media attention. But if the citizens of Arizona were laughing at Johnson, they soon discovered they were equally the butt of the joke. Johnson was charged with only misdemeanor offenses for disorderly conduct, trespass, and public indecency. Many residents were surprised to learn that bestiality was not a crime in the state of Arizona. The law that once had criminalized bestiality-encompassing "infamous crimes against nature" had been amended to exclude bestiality and then, in 2001, discarded altogether. A judge ordered Johnson to receive counseling and to minimize his contact with animals but allowed him to keep his pet dog and turtles (The Smoking Gun 2007).

The Arizona legislature worked quickly to close the bestial loophole. Within months it had drafted and passed legislation recriminalizing bestiality. On May 26, then governor Janet Napolitano signed the legislation into law, officially making sex with an animal a Class 6 felony in the state of Arizona ("Gov-

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ernor Signs Bill to Ban Bestiality” 2006). The law seemed to be an unambiguous ban on “oral sexual contact, sexual contact or sexual intercourse with an animal” (Ariz. Rev. Stat. § 13–1411–A). But the legislature also included in Subsection C explicit exemption for veterinarians, artificial insemination technicians, or anyone else engaging in “accepted animal husbandry practices” (Ariz. Rev. Stat. § 13–1411–C). Artificial insemination is now a common practice in livestock breeding, particularly in swine and cattle breeding,¹ and requires intermingling of human bodies, animal genitals, and foreign objects and instruments in ways that statutes straightforwardly define as sexual contact. Arizona’s law was not a blanket interdiction on sexual contact between humans and animals. Instead, it exempted all sexual contact congruent with animal husbandry and, most of all, the production of meat. The law attempted to disaggregate illicit sexual contact (“bestiality”) from licit sexual contact (“animal husbandry” and artificial insemination), but it could not do so by describing bestiality with greater precision.

Infrastructures of meat production interweave humans and animals through reproductive governance such that we can no longer think bestiality and meat agriculture as separate phenomena, if ever we could. I make this point by examining the recent history of bestiality laws in the United States, giving special emphasis to how the most recent of these statutes exempt practices that occur in the context of industrialized meat agriculture. Without such exemption, the statutory language that legally defines bestiality would proscribe many acts of animal husbandry. Consequently, the article analyzes together two things that are usually thought apart: bestiality and meat production.

The scholarly privileging of the juridical interdiction against bestiality has been the primary way to understand intimate interactions between humans and animals. Conceptual reliance on such interdictions casts human-animal intimacy as a marginal and abnormal practice that is punished, repressed, and excluded from society. Dominant cultural and scholarly discussions of human-animal sexual contact tie it to backward, primitive, and premodern desires emanating from communities marked by spatial remoteness and distance from capital. Yet the capital-intensification of meat agriculture has produced a range of contacts between humans and animals indistinguishable from legal definitions of sexual contact. This fact is evident in the proliferation of agricultural exemptions, with the Arizona case being just one of many. Agricultural exemptions suggest that most sexual contact between humans and animals is entirely normalized and that an industry creating annual economic activity in the United States alone worth over \$800 billion hinges on that normalization (North American Meat Institute 2016).

The quality of our affective ties to the animals we rule generally distin-

guishes companion animals from meat animals: some we love; others we eat, because we do not love them. However, this article demonstrates that the pivotal question is less about the quality of our affect—be it love, desire, or cold apathy—and more about the relation of animals (and ourselves) to capital. Seemingly distinct categories such as “companion” and “livestock” are incoherent abstractions in this context. They are produced by legal and cultural structures dedicated to exceptionalizing the status of meat animals. (Alan Goats’s sheep—pet or livestock?—demonstrates that these categories are slippery to the touch.) These categories may suggest livestock are in the grips of a set of concerns, logics, affects, and sensibilities opposed to those that govern pets—as if pet owners had obtained a more enlightened perspective about how to feel about animals. Affective reactions to interspecies sex surely play an important role in its criminalization, codifying taboo, disgust, repulsion, and moral outrage. Similarly, an urge to disavow meat as the fruit of bestial coupling may also propel agricultural exemptions. I ask us to probe this disavowal and to discover the play of interests it conceals. Agricultural exemptions to bestiality laws demonstrate that the decisive difference between a bestialist and a farmer is about a difference in *relation to capital*, not in *relation to animals*. We see this difference in the juridical articulation of what constitutes licensed sexual acts for humans: the conditions under which bodies may be licensed to entwine. It is a biopolitical difference, and it directs the destiny of some animals toward companionship and others toward meat, just as it produces both farmers and sex offenders.

Infrastructures of meat-making overdetermine the affective terrain of our encounters with animals beyond the plate and slaughterhouse. I analyze animal-human intimacies—some determined to produce sex, some to produce meat, and some to produce affection—across law, public events, film, and social theory. This analysis addresses and extends a broader debate in biopolitics that is relevant to queer theory, and, in particular, queer analyses of animals, life, and intimacy. Biopolitical systems arraign a bestiary of creatures according not only to how they can be exposed to violence but also by how they can be opened to somatic contact. The cases of bestiality and the agricultural exemption for meat production illustrate how sexuality and capital come into relation and interarticulation through such exposures and openings. Whether we call it the “anthropocene” (Chakrabarty 2009), “capitalocene” (Moore 2016), or “chthulucene” (Haraway 2016), the transformation of human relations to the nonhuman world of the past two centuries is also reformatting sexual taxonomies, practices, and identities. The article first explores this observation through recent efforts to criminalize bestiality, which frame sexual contact with animals as categorically abusive. This rhetorical frame-

work transforms animals from conspirators in sexual transgression to passive victims of a penetrating human lust.

Next, I delve into what is usually left unsaid in those debates: concerns about sexual abuse apply only to the figure of the “companion animal” and not to livestock. This assumption is grounded in the faith that law can easily distinguish between already distinct and self-evident categories of bestiality and animal husbandry, much as the underlying discourse depends on the coherent separation of companion from meat. As the section details, far from reflecting an independent distinction between these two sets of categories, the laws produce them. In the wake of these distinctions, the logistics of meat production codify a set of identities organized around the normalcy of the farmer and the deviance of the bestialist. The interspecies entanglement of meat-making actively transforms human and nonhuman sexuality. Far from Michel Foucault’s ([1976] 1990: 54–55) suggestion that animal reproduction and human sexuality had “no real exchange, no reciprocal structuration,” we find the optimization of nonhuman reproduction redefining new sexual truths and norms.

As the article concludes, infrastructures of meat production govern not only what we can eat but also the possibilities for the social recognition of intimacy in ways that extend queer analyses of relational norms. This insight impels a reexamination of the stakes and contours of current biopolitical theorization around animals that has been taken up by queer theory (Mortimer-Sandilands and Erickson 2010; Livingston and Puar 2011; Chen 2012; Ah-King and Hayward 2014; Luciano and Chen 2015; Weaver 2015). In particular, the article’s final section offers an explication and queer critique of Giorgio Agamben’s ([2002] 2003) account of “anthropogenesis,” his theory of human speciation. The article notes that Agamben’s focus on thanato-politics—the exposure of the animal to wanton slaughter—as the decisive mechanism of speciation occludes the complexity of technologies of governance directed at animal bodies: the technologies that viscerally entwine, carve, and suture both animal and human flesh in the making of meat. A focus on death making conceals the gradation of pains and pleasures harnessed in the actual governance of animals, governance that obeys the call of biocapital reproduction more than it does the ritualized expression of the political theology of the exception. But beyond this, such an approach also hides precisely what is not yet foreclosed by that governance—the very thing bestiality law hopes to conceal, suppress, and exclude. Despite our insistent disavowals, the encounter of animal husbandry is inundated with intimate possibilities, fleshy entanglements, and visceral connections we might still name as sex.

New Laws for Old Sex

More than three and half centuries before LeRoy Johnson's ordeal, Plymouth Colony magistrates faced a "youth about sixteen or seventeen years of age" caught *en flagrante* with a mare (Bradford [1651] 1952: 320). Thomas Granger, the youth in question, admitted under questioning to having sex with the mare, "a cowe, two goats, five sheep, 2 calves, and a turkey" (*ibid.*). Eventually convicted of buggery, Granger entered history books as the first Anglo juvenile executed in the New England colonies. While Arizona authorities limited LeRoy Johnson's access to "innocent" animals, Plymouth's magistrates went to elaborate lengths to punish the animals with which Granger had copulated. Described by William Bradford in *Of Plymouth Plantation*, the investigation quickly devolved into "a very sad spectacle" (*ibid.*). Magistrates gathered many of the guilty animals from Granger's confession, but they found his ovine descriptions too vague and the sheep too numerous to subtract only the guilty from the flock. Legal authorities had all the sheep "brought before [Granger], and he declared which were they, and which were not" (*ibid.*). With the bestial bestiary assembled in Granger's presence, the magistrates killed each animal "before his face" (*ibid.*) and then hanged Granger until dead. Finally, "the catle were all cast into a great & large pitte that was digged of purposse for them," wrote Bradford, "and no use made of any part of them" (*ibid.*: 320–21).

Granger's ordeal fits unevenly into the history of power laid out by Foucault in *Discipline and Punish* ([1975] 1995) and *The History of Sexuality* ([1976] 1990). Granger's spectacular public execution lacked the sensational physical tortures suffered by Damien the Regicide, but it nevertheless exhibited an unusual form of psychological torture. It was not sufficient to kill the animals; they were killed before his face so that he could witness their deaths. Why did the magistrates execute the animals at all, let alone in this particular fashion? The trial of animals by both ecclesiastical and criminal courts had a long history in Europe (Evans 1906; Hyde 1916; Berman 1994; Ewald 1995; Girgen 2003), and, in cases of bestiality, "the animal was regularly put to death with the man" (Ewald 1995: 1905). Some colonists believed that human copulation with animals could result in monstrous hybrids, and they took steps to foreclose any possibility of interspecies procreation. Moreover, sexual contact between human and nonhuman was not merely a juridical problem but also a profound religious one: a grievous form of fornication. As is evident in Bradford's citation of Leviticus, colonists viewed it as a ritual impropriety that defiled both parties and tainted the meat of the animals (Murrin 1998; Godbeer 2002; Ben-Atar and Brown 2014). Wherever the contagion

of bestial lust originated, colonists placed it within an interspecies economy of desire, such that it could move between and among both humans and other animals. “This horrid wickedness polluted the very Beast,” proclaimed the Puritan minister Samuel Danforth in a eulogy for an executed bestialist, “and makes it more unclean and beastly than it was, and unworthy to live among [sic] Beasts” (Danforth, Sherman, Oakes, and Shepard 1674: 6). This transmission violated a speciative constitution established by sovereign power and “showed how fragile was the distinction between human and animal” (Godbeer 2002: 67). So ruptured, humans and nonhumans both stood forfeit and killable. Yet to kill the animals in Granger’s sight recognized a bond of affection that shadowed this trans-speciative contagion of bestial desire. Seeing their deaths would be for him a horror and a deprivation. Sovereign power excluded animals from human sex through prohibition, yet it recognized—and incorporated—human-animal intimacy in the punitive apparatus.

Did bestial acts undergo a transformation parallel to Foucault’s ([1976] 1990: 43) famous declaration that “the sodomite had been a temporary aberration; the homosexual was now a species?” As biopower accreted across the nineteenth century, did the bestialist go from the killable object of sovereign power to one of the many abnormal subjects to be treated and disciplined? For the European practitioners of Foucault’s *scientia sexualis*, it would seem so. The bestialist cohered as a perniciously abnormal subject, but an abnormal subject to be studied, categorized, and regulated. For Sigmund Freud ([1949] 2000: 14–15), for example, the bestialist usually chose an aberrant sexual object because a normal one was unavailable. By contrast, for Richard von Krafft-Ebing, the bestialist usually suffered from a psychopathic sexual urgency that demanded police intervention, although Krafft-Ebing (1894: 404–5) granted that it was sometimes the result of “low morality and great sexual desire, with lack of opportunity of natural indulgence.” In either case, the problem of bestiality moved from one defined by an intimate, if sinful, economy of acts among humans and animals—an interspecies conspiracy—to one dominated by the interiority of the human subject in which the sexual object was epiphenomenal and, thus, was passive and innocent of sex. “Under a great number of conditions and in surprisingly numerous individuals,” Freud ([1949] 2000: 15) remarked on bestialists and pedophiles, “the nature and importance of the sexual object recedes into the background. What is essential and constant in the sexual instinct is something else.” While bestiality as interspecies conspiracy had incorporated animals through punishment, biopower excluded animals as malformed sexual objects, like shoes, trees, widgets, and sidewalks. Foucault ([1976] 1990) defined biopolitics as a strategy of governance in which life

was both the means and the ends of politics, and Foucault identified sexuality as one particular biopolitical apparatus that orchestrated the reproduction of life with the truth and pleasures of the subject. The exclusion of animals indexes an underlying observation about Foucault's understanding of biopolitics in this definition: the life at the center of biopolitics was, for Foucault, always and only human life.

This is clearest in Foucault's ([1976] 1990) reference to animals in *The History of Sexuality*. In describing how sex came into discourse in the nineteenth century, Foucault distinguished between a human-centered "medicine of sex" (ibid.: 55)—what he ultimately describes as the *scientia sexualis* concerned with taxonomy, normalization, and ferreting out the "truth of sex"—and "a biology of reproduction" that claimed the simple mechanics of all life as its object of knowledge: that is, "the physiology of animal and plant reproduction" (ibid.). While this "biology of reproduction . . . developed continuously according to a general scientific normativity . . . a medicine of sex conform[ed] to quite different rules of formation," and there "was no real exchange, no reciprocal structuration" (ibid.) between this knowledge about plant and animal reproduction and the truth of human sex. To the extent they could be said to interact, it was when the trans-speciative "biology of reproduction" formed a sort of alibi for the *scientia sexualis*—"a blanket guarantee under cover of which moral obstacles, economic or political options, and traditional fears could be recast in a scientific-sounding vocabulary" (ibid.). The *scientia sexualis* addressed the truth of the human subject, and under these terms of discourse animals could never appear as coherent sexual actors, much less as desiring beings, but only as the objects of human lust.

In the context of the nineteenth-century United States, however, the malformation of bestial desire took on specific meaning in relationship to different sexual geographies than those that prevailed in France. In most US jurisdictions, "Crimes against Nature" (CAN) statutes criminalized bestiality along with sodomy and other forms of sexual transgress. CAN statutes were often holdovers from colonial-era statutes, like those used to prosecute Granger, and they tended to codify common law regulations as well as biblical injunctions. Just as in the Granger case, legal authorities sometimes punished animals along with humans, and they rarely, if ever, treated animals as victims of bestiality but rather as bystanders or conspirators. The statutes seldom parsed the relevant distinctions between the different categories of sexual transgress and, instead, exhibited broad, vague, and florid language consistent with nineteenth-century statutory construction (Eskridge 2008, [1999] 2009; D'Emilio and Freedman [1988] 2012). This breadth and ambiguity served a purpose. Although prosecutions for bestiality did occur, they were comparatively rare and tangential to the common use of the statutes. Prosecu-

torial discretion and customary enforcement meant that CAN statutes were most often used to prosecute sexual violence that fell beyond the purview of the period's limited rape statutes, particularly, sexual violence against boys (Freedman 2013).² Moreover, CAN statutes persisted well into the twentieth century—some still exist today—long after the purported heteronormalization of American sexuality.

Bestiality emerged as a major concern among rural reformers concerned with the effects of spatial isolation on family life and social reproduction. In particular, reformers identified bestiality as one unsavory outcome of constrained sexual choices and too much exposure to animal reproduction—a kind of “situational” interspecies sex usually practiced by unmarried young men without romantic hopes (see, e.g., Ross 1916; and Kinsey [1948] 1998: 675).³ Rural reformers also exhibited a very “real exchange” with the “biology of reproduction” in discussing this and other rural sexual dysfunctions (Foucault [1976] 1990: 55). Well versed in selective livestock breeding, and styling themselves as agriculturalists, rural reformers considered bestial desire as both a consequence and a cause of adverse breeding selection among rural populations and consequent rural degeneracy. Furthermore, reformers argued that rural sexual perversity was remedial through modern technologies and practices that annihilated the spatial and temporal divides between hinterlands and metropolis and produced infrastructures of pleasurable consumption beyond cities (Johnson 2013; Rosenberg 2015).

These “agrarian futurists” (Rosenberg 2015: 12) left an enormous footprint on popular depictions of both rural sexuality and bestial desire in American culture. Nonmetropolitan sexuality retains an anachronistic quality in popular culture. Agrarian futurism presents idealized rural family life as the natural organization of reproduction both before and after sexual modernity—how families and sexuality “used to be” and “must become again.” At the same time, nonheterosexual desire beyond the city is also vexed in popular discourse: queer rural bodies are bodies that stay behind and avail themselves of a set of choices that can lead only to failure. In Jack Halberstam's reading of *Brandon Teena*, for example, queer rural desire is all the more queer because it rejects the possible fulfillments of sexual pluralism coinciding with consumer choice and global capital formations in metropolitan spaces, what Halberstam (2005) and other scholars call “metronormativity” (Gray 2009; Herring 2010; Gray, Johnson, and Gilley 2016). Popular culture often presents sex with animals as emanating from rural, remote, and underdeveloped spaces, both domestic and global, where individuals lack access to the infrastructures of sexual and consumer choice that characterize life in the metropole.

If bestiality is perceived to be the residue of premodern sexuality, current prohibitions against interspecies sex are surprisingly recent. In the United

States, most statutes criminalizing sexual contact between humans and animals have been enacted since the 1970s, with seventeen passing into law since 2000. At midcentury, CAN statutes still criminalized sexual contact between humans and animals, but two waves of decriminalization disrupted this status quo and left bestiality punishable by only misdemeanor offenses in many states. The first wave broke around the American Law Institute's (ALI) influential Model Penal Code (1962) and the second around the Supreme Court's 2003 decision in *Lawrence v. Texas* (539 U.S. 558). The Model Penal Code, an effort by the ALI to modernize and systematize state penal codes, spurred legislative reforms in dozens of states that removed CAN and sodomy prohibitions (American Law Institute 1962; Schwartz 1963a, 1963b; D'Emilio 1983: 144). Deeming such laws barbaric and archaic, many legislatures removed them without recognizing the double duty the statutes performed: the statutes criminalized *both* same-sex *and* interspecies sexual contact. Courts evacuated several more CAN and sodomy statutes in accordance with the Supreme Court's holding in *Lawrence* that the laws violated the Constitution's guarantee of due process. In total, only ten states had laws criminalizing interspecies sexual contact continuously in effect from 1960 to 2017, and several of those states updated their statutes to be consistent with the rhetorical shift I describe later in the article.⁴

In the wake of both waves of retrenchment, efforts to recriminalize human-animal sex followed. Over three decades, these efforts were successful: by 2017, forty-two states had statutes criminalizing interspecies sexual contact, with criminalization efforts currently underway in Kentucky (Wolfson 2017). Nevertheless, the efforts were uneven and proceeded in fits and starts, usually linked to highly publicized incidents. In some states, legislators did not realize that bestiality had been legalized by sodomy reforms in the 1970s and were surprised to learn that human perpetrators could be tried only for misdemeanor cruelty to animals and public indecency offenses. In other cases, the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals actively brought the issue to the attention of legislators.

Advocates for recriminalization endeavored to frame the problem as the sexual abuse of animals, or as one influential criminological study deemed it, "interspecies sexual assault" (Bierne 1997). This framework recast animals as victims rather than conspirators and underscored the inability of animals to offer consent. "There is no consensual sex with an animal," explained Sheila Rilenge, executive director of the Missouri Alliance for Animal Abuse Legislation, in support of a 2000 Missouri statute that ultimately failed: "They are unable to speak out loud about this abuse" (quoted in Stern 2000). To deepen the emotional weight

of this argument, advocates emphasized the somatic vulnerability of animals and the wounds they sustained from sexual contact with humans. In 2001, for example, Deborah Clark of the National Federation of Humane Societies recounted in testimony to the Maine State Legislature “stories of cats destroyed by internal organ damage and of dogs and cows damaged by human sexual abuse” (quoted in Meera 2001: 1). The veterinarian Dana Bridges offered similar images of animals with internal bleeding to the Washington State Legislature in 2006 (quoted in Brodeur 2006). “Their bodies are not made to engage in this kind of activity,” explained Katherine McGowan of the Humane Society of Missouri in 2000 (quoted in Stern 2000). Ann Church, the Humane Society senior director of government affairs, encapsulated this rhetorical framework in 1999 when she stated, “The only people who would oppose a law against sexual abuse are those who are abusing the animals” (quoted in Knapp 1999).

This rhetorical framework casts animals as sexless, penetrated, and devoid of desire. It conflates two distinct concepts to render all sex with animals necessarily and categorically abusive: (1) an operational legal assumption of consent as speech and (2) the subjective experience of violation and pain that characterizes sex as abusive. Once conflated, this construction means that nonabusive sex with animals was impossible, even in a case where an animal experienced the sex as pleasurable and positive. This framing seamlessly slips from arguing that sex with animals should be treated as if it was abusive to the position that sex with animals was experientially categorically abusive. As a corollary to this assumption, advocates suggest that, like children, animals were sexless “innocents,” an assumption that confused speech with desire. Once confused with an inability to speak, this inability to express pleasure denies animals a desiring interior, even as it ironically predicates the harm of sexual contact on traumatic experiences that are interior and psychological. Animals can feel and express pain, but they can neither feel nor express desire. To the extent that harm from sex is exterior or somatic, it is coded as penetrative. This assumption forecloses the possibility that sex with animals could entail an animal penetrating a human, an odd assumption given that two of the highly publicized and sensational cases of bestiality that led directly to statutory changes—the Flagler, Florida, case of 2008 (Murphy 2008) and the Enumclaw, Washington, case of 2005 (Sullivan 2005)—both involved animals penetrating humans.

Such assumptions reflected “moral panics” (see Rubin 1984) that ascribed hyperbolic harms, frequency, and consequences to sexual contact between humans and animals, and such assumptions foreswore any benign sexual contact between humans and animals. This discourse connected sexual contact with animals to

sexual assault and violence against humans. Bestialists were “sexual predators” (quoted in Meera 2001) and “perverted souls” (quoted in Green 2008). “Every serial killer that anyone can recall has been an animal abuser as well,” claimed Florida state senator Nan Rich (quoted in *ibid.*). A Lake County, Indiana, detective warned the Indiana legislature that bestialists “don’t just stick to animals” (quoted in “General Assembly: Ban on Bestiality Clears House Panel” 2007). As sensationally, in 2001, the director of the Maine Animal Control Association told the state legislature that although he had only six documented cases of sexual contact between humans and animals in the last year, he improbably claimed that “50% of sexual offenders admitted to having previous sexual intercourse with an animal” (quoted in Meera 2001). Similarly, King County, Washington, prosecutor Dan Satterberg made the astounding claim that 96 percent of all juvenile sex offenders “started off abusing the family pet” (quoted in Brodeur 2006).⁵ My point here is not to deny any potential links between the abuse of animals and the abuse of humans (cf. findings in Abel, Osborne, and Twigg 1993). Rather, it is to note that criminalization advocates flattened a diverse range of human-animal sexual contact to fit one particular narrative that portrayed animals exclusively as victims of penetrating human desire. Furthermore, if not properly contained, any sexual contact between humans and animals formed a vortex of perverse and violent behavior.

The Agricultural Exception

Even in the grips of moral panics that might have otherwise lubricated legislative passage of statutes against bestiality, recriminalization often faced unexpected obstacles. Bestiality was so taboo that few legislators wished their names to be attached to the legislation. The Pennsylvania legislature failed to reenact a bestiality law for five years after removing a provision in a 1995 overhaul of the state’s “deviate sexual conduct” statute. When pressed to explain the delay, the counsel to the State Senate’s Judiciary Committee, Gregg Warner, explained that legislators “weren’t eager to introduce this legislation and have their name associated with this issue” (quoted in Singer 1999). When the Pennsylvania legislature did act, one legislative staffer told the *Philadelphia Inquirer* that it did so in a shroud of silence: “The legislators feel the less said about this, the better” (quoted in *ibid.*). Similar problems dogged Nan Rich’s efforts to recriminalize bestiality in Florida between 2008 and 2011, efforts that capsized in three successive sessions because, as one state representative put it, legislators “just don’t like to discuss sex and animals,” or, as another put it, “It is yucky” (quoted in Silva 2010).

One is tempted to take these disavowals at face value. But it is worth con-

sidering that other politicians were talking loudly about the menace of bestial desire, particularly in the context of debates about the constitutionality of sodomy statutes and, later, bans on same-sex marriage. Supreme Court justice Antonin Scalia (2003: 15), for example, claimed in his dissent in *Lawrence* that the same compelling state interest that permitted the state to proscribe “fornication, bigamy, adultery, adult incest, bestiality, and obscenity” also permitted laws against consensual sodomy. Similarly, Rick Santorum, in the aftermath of *Lawrence*, drew more direct parallels between same-sex marriages and bestiality: “It’s not, you know, man on child, man on dog, or whatever the case may be” (quoted in “Excerpt from Santorum Interview” 2003). As Foucault ([1976] 1990: 27) noted about the purported silence around the sexuality of children in nineteenth-century France, silence is never the absence of discourse but, rather, a kind of discourse. And just as one might document the centrality of children’s sexuality by examining the architecture designed to contain it, we can discover, in the strategic architecture of silence about bestiality, another salient concern: meat production. We might take seriously a joke from an editorial the *Kansas City Star* published in the wake of a failed law in Missouri in 2001: “That darned Man-Horse-Love lobby must be stronger than we thought” (Lokeman 2001). What if a bestiality lobby existed? What constellation of interests might it represent?

Missouri’s path to recriminalization is instructive. Two Missouri legislators, Catherine Hanaway and Kate Hollingsworth, proposed legislation in three successive sessions, 2000, 2001, and 2002. When the law never cleared the Senate Criminal Law Committee in 2001 and 2002, Hanaway fumed that it made Missouri “look like some kind of backward hillbilly state” (quoted in Stern 2000). What was the source of opposition to Hanaway’s law? The *St. Louis Post-Dispatch* reported that the powerful chair of the Senate Criminal Law Committee, Morris Westfall, had killed the bill in both sessions because he feared that it would allow animal rights activists to interfere with livestock breeding (“Down on the Farm” 2010). Westfall, a cattle farmer, worried that the law would be used to prosecute veterinarians and farmers who collected bull semen and artificially inseminated cows (Stern 2000; Lokeman 2001; Wilson 2001).

To understand Westfall’s concern, one must consider the evolution of meat agriculture in the United States. Capital-intensification in animal feeding, slaughter, and meat distribution, famously explored in William Cronon’s *Nature’s Metropolis* (1991), also extended to livestock breeding. Some of this capital-intensification took the form of genetic governance through directed breeding, the culling of “inferior” stock, and the disaggregation of breeding and feeding operations in the Corn Belt beginning in the late nineteenth century (Olmstead and Rhode 2008;

Rosenberg 2016). By the second half of the twentieth century, animal agriculture also involved the industrialization of reproduction through technologies of artificial insemination. For dairy cows, artificial insemination emerged as a ubiquitous practice in the 1950s. Artificial insemination was not widely practiced in swine breeding until the 1990s, but today it completely dominates the industry (Mizelle 2011; Smith-Howard 2013; Derry 2015).

The term *artificial insemination* is clinical and detached. It conceals the wide range of visceral contacts between humans and animals necessary to effect reproduction. These include the harvest of semen using manual human stimulation, mechanical vaginas, mounts, and electrical prostrate stimulators; the insertion of human hands into cow rectums to ease the entry of the breeding gun into the bovine cervix; and the variety of practices associated with arousing sows during artificial insemination—breeding technicians spray boar pheromones, pound sows' flanks, stroke utters, fist vaginas, and sit on the backs of sows—to “simulate” the presence of boars during insemination (Gordon 2004; Ball and Peters 2008; Hafez and Hafez 2013). As ethnographers of animal breeding make clear, humans go to elaborate and contradictory lengths to disavow the practices described above as sex, although some workers explicitly recognize it as such (Ellis 2011; Blanchette 2013; Vaught 2015, 2016).⁶

The Missouri law proscribed “sexual conduct with an animal” where sexual conduct encompassed contact both (1) between an animal’s genitals and a person’s body or genitals and (2) a person’s genitals and an animal’s body or genitals. Many basic practices of animal husbandry described above would clearly and unambiguously contravene the statutory definition of bestiality. To be fair, Hanaway had anticipated this objection and, by the second bill, had included an additional provision to exempt “accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices” (quoted in Lokeman 2001). This exemption failed to appease Westfall, and the bill did not pass the Senate committee until 2002, after which it was passed by both full chambers and signed by Governor Bob Holden (Lokeman 2001).

Nevertheless, showdowns between cattlemen and criminalization advocates were evident in other legislative battles. For example, the *Nashville Banner* reported that a 1997 Tennessee recriminalization bill faced opposition from veterinarians “who feared they might be arrested for artificially inseminating animals” (LaPolt 1997). The bill’s authors added language to clarify that only acts with “the purpose of sexual arousal or sexual gratification” were prohibited. This language earned the endorsement of the Tennessee Farm Bureau, but the bill never became law (*ibid.*). When Tennessee did recriminalize bestiality in 2007, it did

so with language identical to the Missouri law: “Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices” (Tenn. Code Ann. § 39–14–219). Similarly, in Nebraska, journalists struggled to account for why a law proposed by the Humane Society never gained traction, until anonymous legislators explained that their colleagues “wondered whether activities ranging from artificial insemination to pulling calves might not get people in trouble” (Knapp 1999).⁷

These fragmented, off-the-record, and silent objections by legislators acting on behalf of livestock breeders hint at what the larger evolving architecture of bestiality statutes makes explicit. In the last quarter century, nearly identical exemptions found their way into the final versions of nearly every recriminalization statute (fig. 1). Of twenty-one states since 1990 that have recriminalized human-animal sexual contact, eighteen states exempted practices occurring in the context of animal husbandry and veterinary medicine, usually in language identical to the language used in the Missouri statute. With exemptions included, recriminalization often received the explicit and vocal support of the agricultural lobby. Indeed, in Washington State, the Farm Bureau allied with animal rights organizations to provide major lobbying support for the legislation (Baker 2006). Such a legislative alliance would seem to cleave sexual contact with animals into two camps: bestial sexual abuse against companion animals and aseptic, desireless animal husbandry in agricultural contexts.

In fact, many of the laws in question, in the name of exempting animal husbandry, actually complicate the divisibility of those terms. For example, South Dakota’s prohibition was enacted in 2003. Its structure and language is characteristic of the laws in fifteen other states and is worth examining in detail:

State	Year	Agricultural Exemption
Ohio	2017	X
New Hampshire	2016	X
New Jersey	2015	X
Alabama	2014	X
Alaska	2012	X
Florida	2011	X
Kansas	2010	
Indiana	2007	X
Tennessee	2007	X
Arizona	2006	X
Washington	2006	X
Maine	2003	X
South Dakota	2003	X
Missouri	2002	X
Illinois	2001	X
Iowa	2001	
Oregon	2001	X
Pennsylvania	1997	X
Utah	1993	X
Delaware	1993	
Colorado	1990	X

Figure 1. Table of States Recriminalizing Human-Animal Sexual Contact since 1990. Sources: Ala. Code § 13A-6-220-221; Alaska Stat. § 11.61.140; Ariz. Rev. Stat. § 13-1411; Colo. Rev. Stat. § 18-9; Del. Code tit. 11 § 775; 720 Il. Comp. Stat. 5/12-35; Fla. Stat. § 828.126; Iowa Code § 717C.1; Ind. Code § 35-46-3-14; Kan. Stat. Ann. § 21-5504; Me. Stat. tit. 17 § 1031; Mo. Rev. Stat. § 566.111; N.H. Rev. Stat. Ann. § 644:8-g; N. J. Rev. Stat. § 4:22-17; Ohio R.C. § 959.21; Or. Rev. Stat. § 167.333; 13 Pa. Cons. Stat. § 3129; S.D. Codified Laws § 22-22-42—22-22-44; Tenn. Code Ann. § 39-14-219; Utah Code § 76-9-301.8; Wa. Rev. Stat. § 16 52.205

22–22–42. Bestiality—Acts constituting—Commission a felony. No person, for the purpose of that person’s sexual gratification, may:

- (1) Engage in a sexual act with an animal; or
- (2) Coerce any other person to engage in a sexual act with an animal; or
- (3) Use any part of the person’s body or an object to sexually stimulate an animal; or
- (4) Videotape a person engaging in a sexual act with an animal; or
- (5) Kill or physically abuse an animal.

Any person who violates any provision of this section is guilty of the crime of bestiality. Bestiality is a Class 6 felony. However, if the person has been previously convicted of a sex crime pursuant to § 22–24B-1, any subsequent violation of this section is a Class 5 felony.

22–22–43. Sexual act with an animal defined—Proof. For the purposes of § 22–22–42, the term, sexual act with an animal, means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act with an animal may be proved without evidence of penetration.

22–22–44. Provisions of § 22–22–42 not applicable to accepted practices. The provisions of § 22–22–42 do not apply to or prohibit normal, ordinary, or accepted practices involved in animal husbandry, artificial insemination, or veterinary medicine.

Although the law initially defines in Section 22–22–42 the offense as one limited to acts committed for “the purpose of . . . sexual gratification,” this caveat, ironically, invests acts of animal husbandry with the potential for “sexual gratification.” Sexual gratification is undefined within the law. Section 22–22–43’s articulation of proof requires no evidence of intent and only applies to the term *sex act* used in Sections 22–22–42–1, 22–22–42–2, and 22–22–42–4. (In fact, the provision most relevant to husbandry practices is clearly Section 22–22–42–3, which concerns sexual “stimulation,” not sex acts.) Regardless, if we follow the conventional principle of statutory construction eschewing surplusage (the assumption that a statute has no surplus, redundant, or meaningless words), we can reason that the South Dakota legislature intended Section 22–22–44 to exempt acts that are not encompassed by the caveat that opens Section 22–22–42: in other words, that “normal, ordinary, or accepted practices involved in animal husbandry,

artificial insemination, or veterinary medicine” could involve “purposes of . . . sexual gratification,” because, otherwise, Section 22–22–44 would be redundant and unnecessary. Rather than describe animal husbandry as absent sexual gratification, this reading of South Dakota’s law actually has the opposite effect: the presence of “sexual gratification” is not an adequate means to distinguish animal husbandry from bestiality. The distinction between bestiality and animal husbandry articulated here comes exclusively from the sovereign’s right to create an exception and not from the prurient nature of the act (S.D. Codified Laws, Section 22–22–42—22–22–44).

What should one make of this odd coupling between farm bureaus and animal rights organizations? As the major lobbying force for American agribusinesses, farm bureaus are typically at loggerheads with animal rights organizations on issues related to meat production, including animal cruelty statutes, bans on farrowing crates, and regulations of confinement feeding operations. Regardless of whether the alliance is opportunistic—as it likely is—its effect has been to establish a divide among animals in terms of how those animals are opened to or made available for sexual contact. That is, while sexual contact with animals is forbidden for the estimated one hundred and sixty million companion animals that live in the United States, agricultural exemptions explicitly permit forms of sexual contact for the more than nine billion meat animals slaughtered each year.

If we take the Humane Society at its word that these laws prevent the sexual abuse of animals, what is the operative definition of the sexual abuse of animals? Sexual abuse is not defined by the act alone, since the same act can be criminal in one context and merely agricultural in the other. Nor is it defined by the absence of consent, since meat animals are as incapable of legal consent as family pets. Nor is it defined by the presence of perverse intent on the part of perpetrator, since some laws recognize that such intents may be congruent with an act of husbandry. Nor, indeed, is it defined by the animal’s subjective experience of pain and violation, since injury, pain, and even death are commonplace in animal breeding, and swine and cattle are as cognitively capable of pain and trauma as cats and dogs. Instead, sexual abuse is defined exclusively by the nonrelationship of the sexual act to the reproduction of biocapital. This is a kind of revival of the logic of sodomy laws, but turned on its side. Sodomy was understood as nonprocreative sexual contact. The bestial interdiction with an agricultural exemption makes allowances for a kind of procreative sexual contact, but one that no longer conceives of procreation as confined rigidly by the boundaries of species. If fornication and sodomy laws sought to restrict licensed sexual contact to only those between wife and husband, these laws, read correctly, produce a new conjugal pair: animal and

husband. Just as the original conjugal pair ostensibly reproduced qualified human life, the conjugal pair of animal husbandry reproduces only flesh for pleasure.

Such exemptions produce the figure of the animal husband—or farmer—and the breeding animal as normal and sanctioned identities within a meaty economy of flesh and pleasure. By contrast, the perverse figure of the bestialist is marked for ruinous debility as one kind of sex offender and targeted with extreme forms of state violence (Fischel 2013). Regardless of how rare the instances of adjudicable interspecies sexual contact may be, the figure of the bestialist recalibrates the state's sexual taxonomies, and new layers of law and institutional violence accumulate around the instigating moral panic (Rubin 1984). The bestialist occupies the structural position of the abject and inassimilable that Lee Edelman (2004) designates as queer: a sexual contact that swears off any hope of reproduction; indeed, that grasps at reproduction that appears, like LeRoy Johnson, already doomed to failure by speculative difference. But it is inadequate to say that the state, through the sloppy surrogate of intent, aims merely to repress and punish bestial desire. Even as the state punishes bestialists, laws structured like South Dakota's "capture" an ambient bestial desire that acts in conformity to biocapital reproduction: the desire to breed an animal. What certifies the bestialist's queerness, then, is a cleavage defined by conformity to those processes of biocapital reproduction. The bestialist, farmer, livestock animal, and abused companion animal are coherent legal objects only within the context of the contemporary system of industrial meat production. And rather than figures of opposition, the bestialist and meat farmer are mutually constituting categories, figures distinguished not by their sometimes functionally identical relations to animals but, in fact, by their relations to biocapital reproduction.

The shortcomings of an intent-focused account of these laws become clearer if we consider the legal involvement of putatively innocent child workers in animal husbandry. In most jurisdictions in the United States, guardians can give permission for children as young as ten to engage in agricultural wage labor, and such labor is broadly exempted from regulation if it occurs on a farm owned by a child's guardian (Department of Labor 2007). Agricultural exceptions to child labor laws developed in recognition of the labor that children historically provided on small farms in the United States, including labor associated with animal breeding (Rosenberg 2015). Advocates of the exception proffered the rationale that farmers were best situated to determine the interests of their children, far better so than government agents. Even if children lacked the cognitive capabilities to understand the significance of consenting to wage-labor employment, laws permitted farmers to substitute their own judgment and, like prosecutors acting

for vulnerable animals, consent on behalf of their children. But sex is one of the few places where guardians usually cannot substitute their own judgment for the judgment of their children. Guardians and other adults in positions of power are exceptionally constrained from sex with minors in their care, even if the guardian determines that such sex would be pleasurable, nontraumatic, and developmentally healthy for the child. The prurient interests of the guardian in those cases make the guardian partial and, thus, inferior to government agents in weighing the harms of sex, particularly since the state usually takes the position that sex is universally harmful for minors (Rubin 1984; Fischel 2016).

With this in mind, we can see precisely that modern bestiality laws produce farmers and bestialists as funhouse-mirrored subjects, normal and abnormal. Say a guardian directs a ten-year-old child to place the child's hand or fingers into the rectum of an animal.⁸ In most jurisdictions, if done to a family pet, the guardian would be legally liable for a major felony under child sexual abuse statutes. The nonagricultural context produces an account of the desires of the guardian—it is sex, not farming—and that desire disqualifies the guardian from issuing consent on the child's behalf. By contrast, if the act occurs on a family-owned farm, it produces a set of desires that are assumed "economic" and "non-sexual" and compatible with the normal exercise of guardianship. In both cases, the relationship to biocapital reproduction is what is decisive. For the purposes of the law, intent and desire are both produced by the context and do not reside "inside" the subjects. The statutes already assume that the child cannot substantively distinguish between a sexual act and a nonsexual act, since it is precisely this assumption that prohibits children from offering consent in the first place. And if the child cannot distinguish between the two acts, the child's intent is irrelevant to the question of whether the act is sexual. The law could salvage the matter by examining the second order of intent of the guardian, but laws generally have weak *mens rea* requirements in cases of bestiality and sexual abuse. Most statutory rape statutes, for example, explicitly forbid defenses in which the defendant has mistaken the victim's age. Prosecutors maintain that the potential harm to innocent children is so grievous, and the state's interest in deterrence so powerful, that the absence of intent cannot exculpate the defendant. As the political theorist Joseph Fischel (2016) reminds us, the innocence of children exhibits an extraordinary political variability. The child's innocence allows contact statutorily defined as sexual in one context, but the child's innocence forbids it in the other. As I show through reading the film *Zoo* (2007) against the corpus of Giorgio Agamben's philosophy, discourses of innocence are as potently and productively plastic for ani-

mals as they are for children, with the biopolitical apparatus often overdetermining when innocence saves and when it lacerates.

Scars

We should reevaluate the assumption advanced through discourses of animal sexual abuse that the law now finally recognizes an enlightened sensibility about animals. Within bestiality law, as this assumption suggests, has the animal moved from its premodern role as conspirator in an interspecies sexual conspiracy to its current position as a vulnerable victim of sexual abuse? Two gestures are conjoined to this claimed enlightenment: the uncovering of innocent animal nature, never recognized by ancient laws; and the covering of the animal's body in the protective robe of the law. Given humanity's appetites, this robe looks a shabby thing. This move, in the name of an enlightened protection of innocence, was nothing but the residue of a ubiquitous and intensifying governance of animal bodies, configured to recognize both those animals we license for sexless intimacy and those animals we open to sex if it reproduces saleable flesh. The exception consumes the rule. And just as the exception consumes the rule, in bellowing that we will protect the animal's innocence, we prepare the animal's flesh for our pleasure.

In 2007 Robinson Devor produced a lyrical and strange film called *Zoo*—part documentary and part reenactment—about the 2005 death of Kenneth Pinyan. As the film recounts, Pinyan spent his weekends on a farm in rural Enumclaw, Washington. There he socialized, under the pseudonym Mr. Hands, with a group of men who self-identified as zoophiles, and he engaged in receptive anal intercourse with horses housed on the farm. Pinyan owned one of those horses, a stallion named Strut. In July 2005, Pinyan died from a perforated colon after sex with a stallion. Pinyan's death brought intense national media attention and police scrutiny for his circle of zoophile friends. Because Washington State had no statutes criminalizing interspecies sex and prosecutors could find no evidence that the horses were subject to criminal abuse, exposure of the "bestiality farm," as the national media dubbed it, resulted in only one conviction for misdemeanor criminal trespass. After the incident, Enumclaw state senator Pam Roach introduced legislation to criminalize interspecies sex, legislation that exempted animal husbandry and veterinarians. The film features a recording of Roach in which she likens animals to children, noting that neither can consent and both are "innocent."

Given this familiar declaration of animal innocence, what should we make of the haunting series of scenes that conclude the film? In those scenes, a horse

rescuer, Jenny Edwards, and Pinyan's brother journey to the Enumclaw farm to settle Pinyan's estate. They must take possession of Pinyan's stallion, Strut. Strut is being cared for by James Tate, a man Edwards correctly assumes is a member of the zoophile circle and whom she deems "creepy," like a "child molester." As she is attempting to load Strut into her horse carrier, a mini-pony trots up and begins to fellate the stallion. Edwards is disturbed by this explosive reminder of Strut's sex. She reasons that members of the zoophile circle might attempt to surreptitiously adopt the virile beast and then make continued use of his sex. She takes immediate action to geld Strut.

The film reenacts the gelding. Strut is given general anesthetic (fig. 2). His genitals are washed. He is suspended by a pulley and rail system and hauled onto an operating table. On the table he lays, his legs splayed, his body slack and visually indistinguishable from a corpse (fig. 3). A plastic tube is inserted into his throat and attached to a respirator (fig. 4). In this state of suspended inanimation, a veterinarian wields a scalpel and removes his testicles (fig. 5). Sutures are affixed to the wound, and all that will remain of this part of Strut's sex is a scar. This contact with Strut's genitals is, of course, fully legal. If done to a human, this contact would be reckoned as a grievous and profound form of sexual violence. But Washington does not yet have a law criminalizing contact with a stallion's genitals, and the law that it would eventually have makes specific allowances for precisely this kind of contact.

This castration suggests that Strut has been corrupted by bestial desire such that he is no longer "innocent." The zoos have miseducated Strut to desire interspecies sex, and the authorities lack a way to reliably eradicate this desire. To restore Strut's innocence it is necessary to close him to sex, and not merely through a juridical interdiction but through a surgical intervention. This surgical intervention is common for many animals in the United States, companion and meat alike. Male meat animals are castrated at a young age to ensure docility and meat quality. Similarly, the American Society for the Prevention of Cruelty to Animals estimates that, in the United States, 83 percent of all dogs and 91 percent of all cats are spayed and neutered (ASPCA 2016). Only a small fraction of both companion and meat animals are sexual laborers, although the nation's nine million dairy cows are, of course, continuously pregnant. The Humane Society, the leading critic of animal sexual abuse, is also among the most vocal advocates of systematic spaying and neutering of companion animals. The Humane Society considers spaying and neutering a tangible benefit to pets, owners, and society. Beyond justifications such as limiting surplus pet populations and potential (if contested) pet health benefits, Humane Society material describes spaying and neutering as



Figure 2. Strut is anesthetized. Courtesy Robinson Devor, director of *Zoo*, THINKFilm, 2007



Figure 3. Strut is suspended. Courtesy Robinson Devor, director of *Zoo*, THINKFilm, 2007



Figure 4. Strut is placed on a respirator. Courtesy Robinson Devor, director of *Zoo*, THINKFilm, 2007

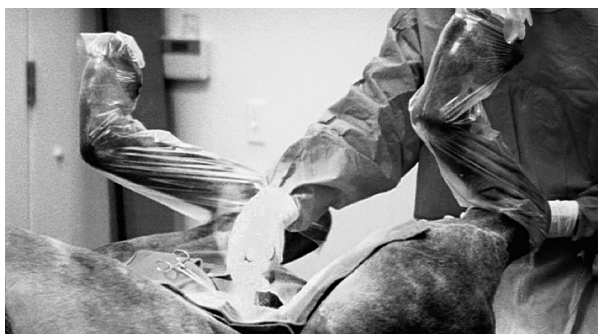


Figure 5. Strut is castrated. Courtesy Robinson Devor, director of *Zoo*, THINKFilm, 2007

a way to “curb undesirable behaviors” that “will not change [a pet’s] fundamental personality, like their protective instinct” (Humane Society 2016a). Whatever the boundaries of a pet’s “fundamental personality,” the Humane Society rejects the idea that spaying or neutering alters it. “Pets don’t have any concept of sexual identity or ego,” contends Humane Society literature. “Neutering will not change a pet’s basic personality. He doesn’t suffer any kind of emotional reaction or identity crisis when neutered” (Humane Society 2016b). Set aside the claim that pets lack “a *concept* of sexual identity and ego”; the terms of this formulation conflate the effects of neutering with its sufficient cause: pets should/will have a “fundamental” and “basic personality” to which “undesirable behavior” related to sex is an unnecessary supplement. In imagining the companion animal’s neutered body as coextensive with its true personality, the Humane Society’s position establishes a speciative asymmetry around relations to sex. In this formulation, humans retain the potential for sex—pleasurable or unpleasurable, healthy or abusive, normal or abnormal—but companion animals are innocent of sex such that sex can only be (1) categorically abusive or (2) “undesirable behavior” that burdens the true “personality” of the companion animal and from which it must be liberated.⁹

This production of speciative difference, however, hardly conforms to the familiar heuristic metaphors that organize contemporary critical theorization on the relations between speciation and biopolitics. Within the animal turn and biopolitical theory alike, the industrial slaughterhouse, not the breeding barn or the veterinary clinic, functions as dreadful synecdoche for the excesses of biopower. There is a dawning recognition that this incredible thanatopolitical organization could, with minimal changes, be reconfigured to consume human lives just as easily—indeed, that it may already have begun to do so. Technologies of death making are being optimized within the spaces of the slaughterhouses, and the speciative difference that excludes humans from violence is only a contingent, biopolitical effect and hardly timeless and universal. It is with that in mind that many scholars have begun to study speciation within the frame of biopolitical theory: that is, how the articulation of speciative difference has been consubstantial with the development of biopolitical capacity. Much of this work has derived its critical valence from Agamben’s influential work in the *Homo Sacer* series ([1995] 1998; [1998] 2002; [2003] 2005; [2007] 2011; [2011] 2013; 2014 [2016]) and *The Open* ([2002] 2003). Among his many insights, Agamben addresses the anthropocentrism at the heart of Foucault’s definition of biopolitics, noting that animality (and sometimes animals) play decisive roles in biopolitical formation.

Nevertheless, Agamben’s theory of anthropogenesis falls short of an adequately interspecies account of biopolitics and, instead, settles into a dyadic

articulation of the human/animal divide that veers into a consuming preoccupation with thanatopolitics. Agamben's focus on the killable/not-killable distinction elides important gradations of pleasure and pain that exist prior to slaughter and that, instead, dwell primarily within a variegated governance of animal reproduction. To fully grapple with the "biopolitical topology" (Murphy 2012: 11) of meat production, we need to do more than expose the horrors of the slaughterhouse; we also need to map how assemblages of animal reproduction are now distributed across and among humans and other animals (Franklin 2007; Haraway 2008; Chen 2012). This mapping reveals that animal breeding, as a moment of trans-speciative becoming, must be reckoned, to borrow Eva Hayward's (2008) and Donna Haraway's (2008) term, as *metaplasmic*: a space of becoming prior to political divisions of sign and referent, of material and semiotic, of voice and speech, and, decisively, of animal and human. It is a space where "the semiotic currency of animal signs and the carnal traffic in animal substance" (Shukin 2009: 7) run together, where fleshy entanglements are a forge in which both species and sex are being continuously undone and (a)mended. If slaughter firmly fixes the speciative boundary, as Agamben suggests, the trans-speciative distribution and entanglement necessary to biocapital reproduction blurs it. The law's bold announcement that animal husbandry and bestiality are discrete things is an obvious, untenable, and perhaps profoundly vulnerable fantasy—but, for the time being, it remains a pivotal fantasy on which massive biocapital accumulation hinges.

And, yet, for Agamben's influential theory of anthropogenesis, this fantasy could be simply explained as the continuation of the timeless and ritualistic disaggregation of human from animal. The seemingly simple process of disaggregating the human from the animal in Western thought, according to Agamben, actually proceeded through an "inclusive exclusion" or a "division of division" that "passe[d] first of all within man" (Agamben [2002] 2003: 79; see also [2000] 2005). Agamben ([2002] 2003: 13) notes that the separation of human from animal depends on a prior distinction between life (*l'animale*) from nonlife (*l'inanimato*). The included term (*animal*) of the first distinction (life vs. nonlife) functions as the excluded term of the secondary distinction (human vs. animal). The secondary distinction, in turn, turns on humans being something more than simply biological. Yet, by dint of the first inclusion, the human must also necessarily be biological. "Anthropogenesis," the articulation of the human, requires also the articulation of something that is animal within the human. The animal within the human is the exceptional part: the part of the human that can be excluded as merely its base substance, or "bare life." Rather than firmly and decisively establish *the human as itself*—coincident with itself—this "anthropological machine"

suspends humans within a “zone of indeterminacy” in which humans may not yet be themselves because they retain their animality, the very biology that grounds their initial inclusion as living (Agamben [2002] 2003: 37). Bare life as a product of the anthropological machine, Agamben ([1995] 1998: 181; [2013] 2014: 66) argues, is coincident with what “the state of exception” of *Homo Sacer* produces as the “originary political substance” of contemporary biopolitics. The animal is the included-excluded and the substantive term on which biopolitical operations are founded.

What are we to make of the anthropological machine in light of the juridical interdiction against interspecies sex? A facile reading of bestiality laws might lead us to the conclusion that they are part and parcel of anthropogenesis. Agamben names the divisions cut by the anthropological machine as “caesura” (cf. Foucault [1976] 2003: 255), the forced pauses or breaks of poetry, and perhaps this juridical interdiction cuts a bestial caesura to divide humans from animals along their sex. The juridical interdiction against interspecies sex, after all, operates according to a similar “division of division.” For the interdiction to exist at all, a biological commensality must exist that, in turn, permits sexual contact: a distinction between things closed to sex (the inanimate) and things open to sex (animals). It is only this latter category—things opened to the possibility of sex—that the bestial caesura cleaves. The bestial caesura makes a second division between humans and animals. This division proceeds according to a line of reasoning familiar to Agamben from Martin Heidegger’s ([1930] 2001: 177) declaration that “the animal is *poor in world*”: animals have voice but not language. They respond to environmental stimuli without being able to separate themselves from it and to take stock of a world beyond the immediate and sensual that captures their attention and entrances them. Animals can express—chirp, grunt, growl, and bellow—but this expression lacks a structure of signification that describes a world, and their expression exhibits what Agamben ([1985] 1995: 129) named elsewhere the “innocence of language.” Advocates for the bestial caesura set on one side humans that, in speaking, can consent to sex and, on the other side, animals incapable of speaking that cannot consent to sex. To see this as “a division of division,” we would note that the included term of the first division once again acts as the excluded term of the second division, establishing animals as creatures opened to the possibility of sex but forever closed to sex for want of a language capable of signifying sex’s meaning.

The legal treatment of animals in such an analysis bears close resemblance to the legal treatment of children and the cognitively impaired. Legal systems deny children the ability to consent to sex according to reasoning that parallels Hei-

degger's description of animals as "poor in world." Age of consent laws in the United States define children as lacking the cognitive ability to adequately gauge the meaning and consequences of sex. They may be able to "voice" consent—that is, to physically vocalize the word *yes*—but they are deemed to lack the abilities to judge the significance of whatever it is to which they are agreeing. The law, here and elsewhere, takes the position that consent is never merely voice but an underlying awareness of what vocalization signifies. And, indeed, Agamben's ([1978] 1993) analysis in *Infancy and History* depends on a similar move, albeit one that inverts the traditional privileging of signification over expression. Agamben defines the lamentable move from infancy into history as one of a movement from a pure language of expression to a bounded language of instrumental signification. Humans, unlike any other animal, must learn to speak and, in doing so, must accept the limited historical vocabulary of signification. They must learn to forget voice without signification—to speak using only the words that history has given them as instruments. This is a loss of potentiality for Agamben, insofar as it forecloses the infinite variations of expression in favor of a finite set of words. The juridical interdiction against interspecies sex, premised as it is on animal's innocent expression, confines humans to language. What is human in the human is the ability to signify, and what is animal in humans—what we must learn to forget to enter history—is innocent expression. This is what Agamben ([2002] 2003: 79) means when he says that the caesura "passes first of all within man." In announcing the animal as innocent, advocates of the bestial caesura cleave within the human an innocent animal from a signifying human.

But are animals just like innocent children? Should we understand the law as primarily concerned with the innocence of the animal's language and preoccupied with the animal's inability to adequately signify sex's meaning? It is precisely here that the "timeless" ontotheology of Agamben's analysis begins to wear thin (Wolfe 2012: 27; see also LaCapra 2009). This bestial caesura effects a strategic third cut. Of creatures opened to sex but closed to language (all animals), some creatures remain opened to sex (meat animals) and some creatures the law closes to sex through the juridical interdiction (companion animals). In both cases, the animals lack language but retain voice, and their categorical innocence cannot justify distinct treatment. To the contrary, animal innocence cuts in *precisely opposed ways* depending on the strategic location of the animal already within the biopolitical apparatus. For protected animals, innocence proves the abuse of sex: that an animal cannot speak is the proof that sexual contact must be abusive—that it must produce pain, harm, and damage. In lieu of the companion animal's inability to signify and consent, the law signifies for it, substitutes its own judgment, and

generates the conditions under which violence against animals can be reckoned as grievous—or grievable. To do otherwise would be to sever the intimate sutures that bind us to our companion animals. Without the grief of loss, our attachment to companion animals would mean nothing, and it is precisely the affective valence of our relationships that requires their innocence to close them to sex. Rather than identify *what is animal in human* as innocence of language, the juridical interdiction here identifies *what is human in animals* as a capacity to receive an intimacy that can be abused. The animal's innocence of language closes the companion animal to sex and levies a demand that the unspeakable abuse of animals be recoded and recorded as grievous injury—injury that speaks despite the innocence of the injured. The law produces not a bestial *caesura*, dividing human from animal, but a bestial *scar* that both separates and sutures: the traceable line of a violent separation that connects divisible flesh while, at once, marking historical difference.¹⁰

But the innocence of the meat animal's voice is precisely what justifies its availability for a violence that carries no meaning, including, but hardly limited to, the violence allowed by agricultural exemptions. It is because the cow's bellow signifies nothing (more than a bellow) that the destruction of a cow cannot be recognized as a grievable event, just as the cow's bellow signifies neither pain nor pleasure when it is artificially inseminated. Rather than an innocence of language proving the act abusive, the innocence of language proves the violence of the act meaningless and disconnected from history: a mere trifle identical to millions of other bellows precisely like it. Cows, in such a state, are orphans to history. They cannot speak to a past or a future. They are incapable of appearing as anything but already "massif[ed]" flesh destined for annihilation (Adams 2007: 24), or, in Judith Butler's (2006: 33) evocative phrasing about the unmournable in a different context, they are "lives [that] are already negated. But they have a strange way of remaining animated and so must be negated again (and again). They cannot be mourned because they are always already lost or, rather, never 'were,' and they must be killed, since they seem to live on, stubbornly, in this state of deadness."¹¹ It will not do to say that the meat animal, though it is positioned on the precipice of annihilation in the industrial slaughterhouse, is merely bare life as Agamben defined it in *Homo Sacer*: life that can be killed but never sacrificed. The condition revealed by agricultural exemptions is more complicated than this and requires strategic gradations of pleasure and pain not allowed by this formulation. These gradations, indeed, are foreclosed by a myopic focus on the grisly end meat animals face in the slaughterhouse, a focus that rewrites the history of the animal as always already destined to die. As bestiality laws make clear, meat animals are life opened to sex, but life that cannot be raped—flesh that can be touched but that

cannot be violated. It is life enfolded, vulnerable, fragile, and exposed. It is life that can neither express preference nor register pain within the circuits of pleasure and reproduction that govern it.

If our relationship to companion animals can be understood as a scar, our relationship to meat animals must be understood as a wound that will not close. It is a wound where flesh occasionally presses flesh, but a wound that continually breaks open and where the scar never seems to form. What kind of ethics might form a suture? Sutures require that we press flesh and bind it tightly. A vast reproductive economy of meat, entwining fleshed of multiple species, produces both agricultural exemptions and silence about those exemptions. It is this underlying reproductive economy that begs for critique precisely because it is the space in which humans and meat animals are still entangled and viscerally bound as life not yet irrevocably marked for annihilation. If livestock are orphans to history, it is only because humans have abandoned them to such. We might reevaluate a politics of revealing the horrors of the slaughterhouse as entirely insufficient to the task set before it. Perhaps we must begin to ask a different question than “How can we end this slaughter?” Rather, we must ask, “What care do we owe these *children* of humanity?” I do not mean a saccharine politics that reproduces humanity’s patriarchal domination of animals: that we owe animals the patronage a parent owes a dependent. I mean something more literal. Rather than reckon only with animal death, a death already constituted as ungrievable by the terms of our encounter with it, abject and massified, I contend we must struggle with the interspecies entanglement that reproduces so much life, if only life to die. We must reckon first with an entanglement that propels animals into life.

Notes

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1. Artificial insemination is also used to a much more limited extent in companion animal breeding, particularly among dogs and cats, and among work animals such as horses. Thoroughbred racehorses, however, must be bred without the use of artificial insemination.
2. See, e.g., the pleadings in the Indiana case of *State v. William Scott* (1820). The state indicted Scott for committing sodomy “with” a mare. The defense raised four arguments to challenge the indictment. The third argument contended that the indictment was invalid because the use of the word “with . . . expressed thereby [the mare’s] consent was obtained.” The indictment was dismissed, although it is unclear from extant records if this argument, in particular, prevailed (Defense Petition 1820).
3. On the productive contradictions of the concept of situational sexuality, see Kunzel 2002.
4. Those states are Georgia (Ga. Code Ann. § 16–6–6), Idaho (Idaho Code Ann. § 18–6605), Louisiana (La. Stat. Ann. § 14:89), Massachusetts (Mass. Gen. Laws ch. 272, § 34), Michigan (Mich. Comp. Laws § 750.158), Mississippi (Miss. Code Ann. § 97–29–59), North Carolina (N.C. Gen. Stat. § 14–177), Oklahoma (Okla. Stat. § 21–886), Rhode Island (R.I. Gen. Laws § 11–10–1), and South Carolina (S.C. Code Ann. § 16–15–120).
5. Satterberg was probably referring to Fleming, Jory, and Burton 2002. For a variety of reasons, his interpretation of the study is deeply flawed, not the least because he badly misstated the study’s finding. Among a sample of incarcerated juvenile males, 181 boys self-reported (a) sexual assaultive behavior. The study also found that 24 boys self-reported (b) sexual contact with an animal. Of (b), 23 were also among (a) (or 96 percent). But contrary to Satterberg’s assertion, only 12 percent of the boys admitting to sexual assault also reported sexual contact with an animal. More fascinating still, the study found that modal form of interspecies sexual contact was nonpenetrative and that four of the boys self-reported performing oral sex on an animal.
6. My own more limited ethnography of swine breeding operations confirms the conclusions that workers both recognize breeding as a kind of “multispecies sex work,” to quote Jeannette Vaught (2016), and work hard to repress that conclusion.
7. In fact, a 1977 bill made “indecent with an animal” a criminal misdemeanor with exceptions granted for “medical and health purposes” that might extend to husbandry. Presumably, the Humane Society was either unaware of the statute or wanted legislation that made sexual contact with an animal a felony (Neb. Rev. Stat. § 28–1010).
8. The Department of Labor prohibits minors under sixteen from working in “hazardous occupations” in agriculture. This includes work in proximity to “a bull, boar, or stud horse maintained for breeding purposes” (Department of Labor 2007: 5). Although this would prohibit minors below the age of sixteen from working in semen harvest, it would not limit their employment in insemination. In addition, the age of legal consent for sex is seventeen and eighteen in some jurisdictions, meaning that the law could

- permit a seventeen-year-old person to harvest semen from a breeding bull but forbid the same person to harvest semen from a consenting human.
9. I do not discount the claim that pet owners and neutered pets may have rich, complex, and profoundly intimate relationships (Rudy 2011). Moreover, I am deeply skeptical of the claim that the removal of genitals makes sex either impossible or categorically abusive. My purpose here is not to contest either of those claims but to note that the latter claim often functions as the condition for the former. This leaves open the possibility for Rudy's (2012) queer reading of human-pet relations in which various forms of physical and emotional companionship can be understood within the evolving constellation of sex.
 10. My use of scar here attends to the critical ambivalence of human-companion animal relations: it recognizes both the various forms of violence that make such relations possible in the first place *and* the intimacy, affection, and pleasure that such relations may produce.
 11. Butler is writing in the context of violence against human lives that are not normatively recognized as livable and not, properly speaking, on violence against nonhuman animals. However, as Cary Wolfe (2012: 18) notes, there is no internal warrant to Butler's argument that would exclude nonhuman animals from this politics of mourning.

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