

Food, Inc., the Capabilities Approach, and the Right to Healthful Food

Kami Daws

The truth about our nation's food supply has been concealed from American consumers by the food industry with the consent of United States government regulatory agencies, the United States Department of Agriculture (USDA) and the U.S. Food and Drug Administration (FDA). The USDA is responsible for developing and implementing U.S. federal government policy on farming, agriculture, and food. The FDA is responsible for regulating and supervising the safety of food in the United States. However, according to filmmaker Robert Kenner, both of these government agencies have catastrophically failed to achieve their purpose. Kenner develops his argument in *Food, Inc.*, a documentary film that exposes America's industrialized food system and its harmful effects on our economy, environment and health. In response to *Food, Inc.*, this paper will advance two related arguments based on the "capabilities approach" theory developed by Martha C. Nussbaum to justify the notion that society should secure basic entitlements for all sentient living beings. *Food, Inc.* provides an opportunity to expound Nussbaum's capabilities approach and her argument to extend, and consequently correct, the dominant theories of justice derived from the social contract tradition to include nonhuman animals. In addition, this paper will examine how Nussbaum's capabilities approach can be utilized to influence public policy changes to secure protection for nonhuman animals. Secondly, this paper will explore what it would mean to guarantee food security

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to all people, regardless of socioeconomic status. Ultimately, this paper will use Nussbaum's capabilities approach to argue that the social contract be expanded, and hence corrected, to include the assurance of all humans' right to consume safe and healthy food.

The Capabilities Approach, Animals and Public Policy

Approximately 10 billion animals are raised and killed for food production in the United States annually (*Food, Inc.*). According to Kenner's film, nearly all 10 billion are raised on factory farms under inhumane conditions. Although factory farming is a common practice in industrial animal agriculture, this method is considered inhumane because livestock are raised in total confinement at high stocking density (Humane Society). A feedlot, common in factory farming, is a small confined area used for the controlled feeding of animals. Essentially, feedlots operate to fatten animals to their optimal weight before slaughtering. *Food, Inc.* shows viewers the harsh reality of the atrocious conditions present in factory farms in the United States. Although most factory farmers refused to allow *Food, Inc.* to film inside their industrial feedlots for fear their contracts with multinational corporations would be terminated, there was one brave farmer, *Carole Morison*, willing to allow *Food, Inc.* to film inside her corporate-owned poultry feedlot. After the film was released, her contract with Perdue Farms, one of the nation's leading poultry companies, was terminated.

Kenner's documentary reveals the inhumane conditions of corporate-owned poultry feedlots. One particular coop, not the worst according to Carole Morison, was extremely dark and appallingly overcrowded. Furthermore, multinational corporations demand these factory farm chickens be injected with various hormones, steroids, and antibiotics that stimulate rapid growth, particularly in the breasts of the chickens. As a result, the chickens in this Perdue Farms poultry feedlot suffered skeletal problems because they were unable to support the weight of their unnaturally overdeveloped breasts. Additionally, many chickens are unable to breathe because of the added weight and die before ever leaving the coop. It is important to note these abhorrent practices are not unique to Perdue Farms; this kind of mistreatment is common among all major poultry company feedlots in the United States.

Food Inc. also provides insight into the inhumane practices of the

cattle industry. Although cattle are naturally designed to eat grass, the majority of the beef Americans consume comes from cattle that are grain-fed in factory farm feedlots in order to encourage fat in the animals' muscles. Consequently, utilizing grain as cattle feed has inadvertently been the cause of *E. coli* outbreaks in the United States; however, this realization has not interrupted this practice among cattle farmers in the U.S. Similar to poultry raised in corporate-owned feedlots, grain-fed cattle gain a substantial amount of weight in a short amount of time. Because of the rapid weight gain, the cattle are unable to support their weight making it extremely difficult for the cattle to walk; instead, cattle farmers push the cows with forklifts in order to transport them to be slaughtered.

Food, Inc. provides a compelling context in which to consider the inhumane treatment of animals in agriculture. Martha C. Nussbaum's *Frontier of Justice* addresses the social implications of the mistreatment of nonhuman animals. In her book, Nussbaum confronts three unsolved problems of social justice – disability, nationality, and species membership – whose exclusion from traditional social contract theories are especially problematic. Nussbaum argues that even the classical theory of the social contract in its best form, which in her opinion comes from John Rawls, cannot solve these three crucial problems (3-6). Even though, according to Nussbaum, Rawls's theory is particularly limited in these three important areas, she nonetheless uses it as her foundation, modifying and expanding it to include the disabled, non-citizens, and nonhuman animals. While all of these issues deserve attention, this paper will focus exclusively on the issue of species membership.

In *A Theory of Justice*, Rawls does address nonhuman animals, but he argues against including them in the social contract. Rawls believes that humans have duties of compassion and humanity towards animals. "Certainly it is wrong to be cruel to animals," he argues, and insists that we should be sensitive to their "capacity for feelings of pleasure and pain" (512). However, Rawls does not extend his theory of justice to include nonhuman animals. As he says, animals "are outside of the theory of justice, and it does not seem possible to extend the contract doctrine so as to include them in a natural way" (512). While Nussbaum does agree that humans have duties of compassion and humanity in

the case of nonhuman animals, she further argues that their treatment is, in fact, an issue of justice, not solely an issue of compassion or humanity (331).

In her sixth chapter, “Beyond ‘Compassion and Humanity’: Justice for Nonhuman Animals,” Nussbaum argues that her theory, the capabilities approach, can and should be extended to nonhuman animals. Nussbaum argues:

The capabilities approach provides better theoretical guidelines than do other approaches to the question of animal entitlements. Because it is capable of recognizing a wide range of types of animal dignity, and of corresponding needs for flourishing, and because it is attentive to the variety of activities and goals that creatures of many types pursue. (327)

The capabilities approach guarantees basic entitlements for nonhuman animals on the basis of their fundamental capabilities. These fundamental capabilities represent the ability of a living being to thrive based on: (1) life, (2) bodily health, (3) bodily integrity, (4) senses, imagination, and thought, (5) emotions, (6) practical reason, (7) affiliation, (8) other species, (9) play, and (10) control over one’s environment (77-78). Although Nussbaum acknowledges that aspects of the fundamental capabilities need to be interpreted differently for nonhuman animals, she asserts that her human capabilities approach can and must be expanded to include other species in order to guarantee justice for nonhuman animals. Such insight will ensure that nonhuman animals have basic entitlements that will guarantee their opportunity to flourish and discourage the inhumane treatment that causes them to suffer pain and indignity (2, 327).

In response to animal rights issues raised in *Food Inc.*, it is important to examine Nussbaum’s philosophy on the human uses of animals. While Nussbaum fails to elaborate at length on the issue of human uses of animals, she does argue that there may be cases where the perceivable mistreatment of animals is potentially justifiable, such as the killing of animals for food and the experimentation on them for medical research (402-04). Since research has not been conducted on the environmental impacts of consuming only vegetarian sources of protein, or how such a diet would affect the health of children,

Nussbaum elects to focus on high-quality treatment of animals during life and painless killing (402). While Nussbaum never explicitly states the killing of animals for food is justifiable, she implies that it is acceptable as long as the slaughtering is humane and painless for the animals (393-402). However, Nussbaum does argue “against killing at least the more complexly sentient animals for food” (393). In the case of medical experimentation of animals, Nussbaum clearly states that while research that inflicts the risk of disease, pain, or premature death on animals is immoral, it is possible that research to promote human health and safety is acceptable if experimentation is absolutely necessary and is done humanely (403-04). Since the use of animals in research is imperative to medical advances, Nussbaum encourages that more be done to improve the lives of research animals and promotes public and philosophical discussion of this issue (404-05). Nussbaum accepts human uses of animals as long as the treatment of them does not violate basic animal entitlements.

A major criticism of Nussbaum’s philosophy on animal rights is that this acceptance contradicts her capabilities approach. According to Anders Schinkel, the “possibilities of human uses of animals that Nussbaum wishes to retain and wishes to see as morally justifiable do not go together with her capabilities approach to animal rights. More specifically, they clash with the attitude towards animals that Nussbaum’s approach intends to foster in human beings” (44). Schinkel successfully argues that the human uses of animals that Nussbaum accepts, particularly the killing of animals for food, violate various elements of her capabilities approach. For example, Nussbaum’s first capability, life, is defined as “being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living” (76). In response, Schinkel asserts, “It is hard to see how an *entitlement* of animals to continue their lives is to be compatible with a justification of killing for food” (51). While there could be an argument made that animals raised for food are killed only after “one’s life is so reduced as to be not worth living,” this would imply that animals raised for the sole purpose of being slaughtered for food are “being used as a means to the ends of others, or of society as a whole;” a Utilitarian concept which Nussbaum rejects (Schinkel 52). Schinkel effectively disputes Nussbaum’s justification for certain

human uses of animals, specifically the killing of animals for food, by illustrating the inconsistencies in her philosophy on animal rights.

Ramona Ilea examines a different source of discrepancies apparent in Nussbaum's rationale for accepting certain human uses of animals. Ilea contends that Nussbaum's capabilities approach allows humans to hinder animals' capabilities, and even take away their lives, if it is for the benefit of other beings, even though Nussbaum clearly says that it is unjust to take one creature's capabilities away for the benefit of others (Ilea 556; Nussbaum 371-93). This contradiction insinuates that perhaps Nussbaum believes that some lives may be worth more than others; however, Nussbaum explicitly states that the capabilities approach does not need to consider the question of how much each life, human or nonhuman, should count in the social calculus (Ilea 557; Nussbaum 383). Although Nussbaum seems to recognize that there are discrepancies that need to be resolved, she is not clear about exactly how these variations should be remedied.

Regardless of the potential discrepancies in her philosophy on the human uses of animals, it is clear that Nussbaum would argue that the inhumane and painful killing of industrial livestock as portrayed in *Food, Inc.* is unjust. Furthermore, Nussbaum would argue that the inhumane treatment the animals receive while living in factory farms, as depicted in the film, infringes on the animals' dignity and their ability to flourish and consequently violates the capabilities approach. Nussbaum states, "We can admit that a large part of the harm we currently do to animals raised for food consists in the ways we treat them during their lives" (386). Moreover, she emphasizes that "such is the case with the brutal and confining treatment of animals used for food" (402). Nussbaum believes that as people acquire more information about the mistreatment of animals, they will gain the ability to make more informed consumer choices that will eventually lead to an increase in opposition to the cruel practices of animals used for food (391-92).

Despite the inconsistencies she finds in Nussbaum's philosophy, Ilea argues that the capabilities approach has the potential to influence social change, especially in the legal domain (559). According to her, it has the potential to be particularly helpful in assessing what legislative changes need to be made in order to improve the lives of animals used

in agriculture. Ilea contends that the approach can be used to argue for significant changes in public policy, including laws that affect factory farming in the United States, because factory farming makes “the advantages of the theory clear and demonstrate[s] how the capabilities approach can have a powerful impact in the public domain” (560). Industrial agriculture, in particular factory farming, restricts nearly all of the capabilities described by Nussbaum. While there may be some disagreement in the public domain concerning certain aspects of Nussbaum’s theory of justice for nonhuman animals, many who challenge Nussbaum’s methodology still oppose the mistreatment of animals in factory farms (561). According to Ilea, this sort of agreement provides a strong basis for political change, especially regarding the inhumane treatment of animals in agricultural food production.

In *Frontiers of Justice*, Nussbaum argues that in order to ban all forms of animal cruelty and eventually move towards a consensus against killing more complexly sentient animals for food, consumers must demand clear labeling of all meat to facilitate an increase in the opposition of cruel practices (391-92). If the labeling of meat included the conditions in which the animals were raised, Nussbaum believes consumers would gain the ability to make more informed consumer choices (393-94). Consumers currently lack adequate information on which to base informed consumer choices; therefore, the insistence of clear labeling of all meat may advance the goals of public policy (393-94). This objective is consistent with Kenner’s argument in *Food, Inc.* and can unquestionably be applied to large-scale agricultural food production in the United States. If all companies were required by the federal government to provide details on the labels of meat of the conditions in which the animals were raised, how the food was processed, and what specifically the meat contained, consumers would gain the ability to make educated choices. Furthermore, the ability to make informed choices would more than likely encourage opposition to the mistreatment of animals used for food. Even though Nussbaum does not expressly apply her argument for the clear labeling of meat to agricultural food production, her argument provides an ideal example of how the capabilities approach can be utilized to affect public policy change to secure protection for nonhuman animals.

The Capabilities Approach and the Right to Healthy Food

In addition to raising issues of animal rights and questioning the practices of factory farming in the industrial agriculture business, *Food, Inc.* also tackles the issue of what it would mean to guarantee all people the right to safe and healthy food. In the documentary, Kenner argues that all people, regardless of their socioeconomic status, should have the opportunity to consume safe and healthy food. However, currently in the United States, a sizeable portion of the population cannot afford to purchase healthy, unprocessed food. At present, as Kenner points out, soda products are less expensive than bottled water, hamburger meat is cheaper than fruit, and vegetables cost more than a bag of chips (*Food, Inc.*). Unhealthy food products continue to be the lowest-cost options at the grocery store because they contain subsidized ingredients. On the surface, the array of products at the grocery store appears to be diverse, but nearly all processed foods are made with refined grains, namely corn. For example, corn products include carbonated beverages, breads, breakfast cereals, condiments, desserts, candy, snacks, meat products, dairy products, and even batteries, charcoal, and medical drugs. According to Kenner, what appears to be an assortment of different industrial food products at the grocery store is actually only clever rearrangements of corn. This scheme reflects work of powerful multinational food and agricultural corporations that have successfully endorsed a system of corn subsidies.

Currently, federal policy allows corn to be sold below the cost of production. This policy is the result of the United States farm bill, a comprehensive or “omnibus” bill passed every several years by the United States Congress. The farm bill in its current form – the Food, Conservation, and Energy Act of 2008 – will remain in effect until 2012 (House Committee on Agriculture). The purpose of the U.S. farm bill is to address any and all regulations pertinent to agriculture, as well as any matter that falls under the jurisdiction of the USDA (Dept. of Agriculture, “2008 Farm Bill”). Specifically, the U.S. farm bill determines which crops the federal government will subsidize and at what level. This decision impacts both the price and availability of foods and determines how equally they are distributed (Center for a Livable Future).

In recent years, multinational food and agricultural corporations have spent an extraordinary amount of money to lobby Congress

in hopes of influencing the U.S. farm bill (*Food, Inc.*). According to the Center for Responsive Politics, the total amount of money spent annually on lobbying in the agribusiness sector totaled over \$133 million in 2009. Large-scale food and agricultural companies that manufacture industrially processed foods have a vested interest in buying these crops, specifically corn, below the cost of production. This system enables them to buy cheap corn subsidized by the U.S. government and in return ensures that industrial food products made from corn remain the lowest-cost options for consumers. This system widens the price disparity between nutritionally valuable food and nutritionally poor food products.

At present, industrially processed foods containing calorie-dense grains, fats, and sugars are far more affordable than lean meats, whole grains, and fresh vegetables and fruits (Darmon and Drewnowski 900-04). The resulting diets produce a hidden cost, since unwholesome calories contribute to a variety of health-related problems such as obesity, diabetes, and coronary heart disease (US, CDC, "Overweight"). The cheap shelf price of nutritionally poor, calorie-dense food is attractive to consumers in general, but particularly to lower-income families who cannot afford more healthy products.

Food, Inc. highlights the struggles of an American Hispanic family that is unable to afford nutritionally valuable food. In an interview, the mother, Maria Gonzalez, admits to feeling guilty about the food she provides her children; however, the family cannot afford the healthy alternative. She says, "When you only have a dollar to spend and you have two kids to feed, either you go to the market and try to find something cheap or you go to a drive thru and get two small hamburgers for them" (*Food, Inc.*). It is clear that low-priced food, either bought from the grocery store or from a fast food restaurant, is the family's only option. Cameras follow the family to a local supermarket where they are forced to choose between the high-priced, nutritionally rich food and the affordable, industrially processed food. In the produce section of the supermarket, their options are particularly limited. Mrs. Gonzalez says in an interview, "Sometimes you look at a vegetable and you say you could get two hamburgers for the same price" (*Food, Inc.*). According to Kenner, this is no accident. The least expensive supermarket products are the same products made from heavily

subsidized ingredients such as corn. Because it is inexpensive to feed agricultural animals subsidized corn, the price of meat has declined (*Food, Inc.*). As a result, a cheeseburger from a fast food restaurant or packaged ground beef from the supermarket is less expensive than fruits and vegetables. Because lower-income families simply do not have the resources to purchase nutritionally valuable food, the leading predictor of obesity in the United States is income level (US, CDC, “Overweight”).

Obesity, in turn, is linked to Type II Diabetes, which has become an emerging epidemic among the poor. Recent research shows that 23.6 million people in the United States have diabetes. Type II Diabetes accounts for 90 to 95 percent of all diagnosed cases (US, CDC, “Diabetes”). In recent years, more and more children are being diagnosed with either Type II Diabetes or Pre-diabetes. One of the major causes of Type II Diabetes is obesity (US, CDC, “Overweight”). As depicted in *Food, Inc.*, Mr. Gonzalez has Type II Diabetes. Although a nutrient-rich diet would improve his health and prognosis, the family has no other choice but to purchase the lowest-cost foods. This is a reality for a considerable portion of the United States population. *Food, Inc.* demonstrates the inaccessibility of healthy food. Grass-fed beef, antibiotic-free poultry, and organic produce are not readily available to the majority of Americans, and what healthy foods are available are extremely expensive, too expensive for the vast majority of people living in the United States. The industry blames obesity, and subsequent diseases, like Type II Diabetes, on a crisis of personal responsibility (*Food, Inc.*). However, the industry has deliberately engineered industrially processed food and has intentionally made these products inexpensive. Unsurprisingly, this conspiracy benefits multinational corporations that are profiting from the population’s deficient health. Essentially, Americans are being deprived of their right to have access to reasonably priced, nutritionally satisfactory food. This is a problem of justice that requires a restructuring of the social contract.

I advocate expanding the social contract to include the right to healthful food. In *Frontiers of Justice*, Nussbaum provides a list of the central requirements that are necessary to live a life of dignity (75). The capabilities approach is an account of minimum core social entitlements that Nussbaum believes must be guaranteed to all human beings so that

each person has the ability to flourish (75). The failure to secure these fundamental entitlements for all people results in injustice (Nussbaum 75). I think Nussbaum's second capability, bodily health, is particularly applicable to food security, by which I mean the availability of and access to healthful food. Nussbaum defines bodily health as "being able to have good health... to be adequately nourished" (76). Currently, this is not the case for a significant percentage of the American population. If people are persistently deprived of nutritious food, then they are most certainly being denied their right to have good health. According to Nussbaum, a "society that does not guarantee these [capabilities] to all its citizens... falls short of being a fully just society, whatever its level of opulence" (75). Because people in the United States are clearly being denied their bodily health, it is reasonable to assert that, at present, American society fails to attain justice. In order to correct this problem of injustice and assure people their bodily health, the social contract must be expanded to include this fundamental entitlement: the right to healthful food.

This restructuring of the social contract begins with United States regulatory agencies, specifically the U.S. Department of Agriculture and the U.S. Food and Drug Administration. As previously mentioned, the USDA is responsible for developing and implementing federal policy on farming, agriculture, and food, while the FDA is responsible for regulating and supervising the safety of food in the United States. However, both of these government agencies have been disastrously unsuccessful in fulfilling their responsibility to protect American citizens from unsafe food. This is largely because these government regulatory agencies are being controlled by the very companies they are supposed to scrutinize (*Food, Inc.*). For example, during the Bush Administration, Charles Lambert was appointed the Deputy Under-Secretary for the USDA Marketing and Regulatory Programs. Prior to being appointed to the USDA, Lambert was employed by the National Cattlemen's Beef Association where he worked as chief lobbyist for the beef industry for 15 years (*Food, Inc.*). Also under the Bush Administration, Lester Crawford was appointed Commissioner of the FDA, the highest-ranking position in the agency. Prior to being appointed by the President, Crawford served as the executive vice president of the National Food Processors Association, the organization responsible

for lobbying Congress on behalf of the food, beverage, and consumer products industry (*Food, Inc.*). In actuality, the U.S. government allows these multinational food and agricultural corporations to control its regulatory agencies. This has led to a tremendous lack of transparency in the oversight of the USDA and FDA. As a result, foodborne illness outbreaks have become increasingly more common.

A foodborne illness is any infection caused by the consumption of contaminated foods or beverages (US, Dept. of Health and Human Services). While there are many different disease-causing pathogens that can produce a variety of foodborne infections, the most commonly recognized foodborne infections in the United States are those caused by the bacteria *Escherichia coli*, typically referred to as *E. coli* (US, Dept. of Health and Human Services). The recent increase in *E. coli* outbreaks can be attributed to the high-grain diet cattle are fed in Concentrated Animal Feeding Operations (CAFO), the large beef feedlots used for the controlled feeding of cattle prior to slaughtering (*Food, Inc.*). Because cattle are not naturally designed to eat corn, a corn-rich diet causes increased acidity levels in their digestive tracts that allow bacteria, like *E. coli*, to survive and replicate. Therefore, a corn-heavy diet in cattle produces a higher incidence of *E. coli*, most notably the potentially deadly strain *E. coli* O157:H7 (*Food, Inc.*). The prevalence of *E. coli* O157:H7 among feedlot cattle is alarming. In 2003, research was conducted to determine the pervasiveness of *E. coli* O157:H7 among feedlot cattle in the four major feeder-cattle states in the United States (Griffin et al. 127-35). Researchers collected fecal samples from 73 feedlots throughout Kansas, Nebraska, Texas, and Oklahoma. The results concluded that 95.9 percent of feedlots had at least one positive fecal sample (Griffin et al. 127). To make matters worse, cattle constantly stand ankle-deep in manure while living on CAFOs; this amplifies the spread of *E. coli* among cattle. By the time the cattle are transferred to the slaughterhouse where the animals are processed for consumption, their hides are covered in manure. With the incredible number of animals being slaughtered per hour in industrial facilities, it is impossible to prevent the manure from contaminating the carcasses of the cattle that are processed and sold as food products (*Food, Inc.*). This is how *E. coli* proliferates and causes foodborne infection in the American populace.

In addition to beef, other crops, such as leafy-green vegetables, have been contaminated with *E. coli* O157:H7 due to the run off from factory farms – as evidenced from the 2006 outbreaks in spinach in the U.S. (Ajlouni et al. 232-37; *Food, Inc.*). While there have always been foodborne illness in the United States, occurrences have increased in recent years as a result of larger processing plants. In the 1970's, there were thousands of slaughterhouses in existence in the U.S. Currently, there are 13 slaughterhouses that process the majority of beef that is sold in the country (*Food, Inc.*). These larger industrial processing plants provide an environment that encourages disease-causing pathogens to spread. Additionally, the sheer size of large processing plants makes the inspection of carcasses impossible. All of these factors have contributed to food-related illness outbreaks in the United States, a number of which have resulted in death, mainly as a consequence of *E. coli* O157:H7.

Food, Inc. illustrates the severity of foodborne illness outbreaks in the United States through the portrayal of Barbara Kowalcyk and her two-and-a-half year old son, Kevin, who died from *E. coli* O157:H7. In late July 2001, Kevin contracted *E. coli* O157:H7 from a contaminated hamburger. Twelve days later, Kevin Kowalcyk died from Hemolytic Uremic Syndrome, a common outcome of *E. coli* O157:H7 in young children. The tainted hamburger meat that killed Kevin was not recalled until 16 days after his death. This delay in response is due to the lack of authority the USDA has in implementing recalls and closing contaminated processing plants.

Until the early 1990's, the USDA Food Safety and Inspection Service (FSIS) maintained the ability to implement microbial testing for disease-causing pathogens in industrial processing plants and shut down any plants that continuously failed to meet government limits on bacteria (*Food, Inc.*). However, in 2001, the Fifth Circuit Court of Appeals ruled that the USDA did not have the legal authority to close processing plants that continuously produce pathogen-contaminated food (*Food, Inc.*). After Kevin's death, Barbara Kowalcyk became an advocate of increased safety standards for meat and poultry. As a result of her advocacy efforts, the Meat and Poultry Pathogen Reduction and Enforcement Act, also called Kevin's Law, was introduced to the United States Congress in 2005. Kevin's Law requires the USDA to

perform microbial testing to identify pathogens that threaten human health and establishes performance standards to reduce the presence of these harmful pathogens in processed meat. Additionally, Kevin's Law affirms that the USDA has the authority to close processing plants that continually violate health standards (Eshoo). Despite the efforts of Barbara Kowalcyk, Representative Anna G. Eshoo and the 22 congressional co-sponsors, Kevin's Law was never enacted into law (*Food, Inc.*). The defeat of Kevin's Law reflects the tremendous influence the food conglomerates have over Congress. In an interview, Barbara Kowalcyk says, "You put faith in our government to protect us, and we're not being protected on a most basic level" (*Food, Inc.*). The Centers for Disease Control and Prevention estimates that 76 million American are sickened, 325,000 are hospitalized, and 5,000 die each year from food-related illnesses (US, CDC, "Foodborne Illness"). Nevertheless, the U.S. government continues to neglect food safety concerns, much to the approval of multinational food and agricultural corporations.

Although it is the responsibility of the U.S. Department of Agriculture and the U.S. Food and Drug Administration to protect American citizens from unsafe food, in actuality, these regulatory agencies do not possess the power to effectively fulfill their purpose. At present, the FDA only has the authority to request – not the authority to require – a recall. The powerlessness of the USDA and FDA can be attributed to a lack of active and effective food safety legislation in Congress. Because the majority of food safety legislation would result in added costs to multinational food and agricultural corporations, these companies lobby against it, and often successfully, as in the case of Kevin's Law. As a result, these regulatory agencies continue to be ineffectual, while the federal government remains apathetic and food conglomerates maintain their dominance. The outcome of this corrupt scheme is unsafe and unhealthful food that a vast majority of the American population has no choice but to consume. This is why a broadened social contract is needed, one that ensures consumer confidence and guarantees safe and nutritious food for all American consumers.

A Broadened Social Contract

The challenge to expand the social contract to include the right

to reliable and nourishing food necessitates a multi-faceted solution to a very fundamental problem. The social contract I am suggesting is primarily an agreement between the federal government and consumers; however, in order for this contract to be entirely effective, supplemental contracts involving multinational corporations and agricultural farmers are needed. The supply of and access to non-contaminated, nutritionally valuable food is ultimately the responsibility of the US government. Congress has the capacity to adopt legislation that enhances the authority of the USDA and FDA to more effectively implement and enforce health standards. If Congress generated more legislation to protect consumers from the unsanitary and often dangerous practices of these food conglomerates instead of ignoring food safety legislation to the benefit of these companies, there would be fewer food-related sicknesses in the United States. Rather than subsidizing unhealthy food, the government could support organic agriculture so as to ensure the accessibility of healthful foods to all people regardless of income-level. The most important aspect of this social contract is the accountability of the American government, specifically Congress, to protect its citizens and guarantee a safe and healthy food supply. It is, of course, we American citizens ourselves who are ultimately responsible for influencing policy-makers to adopt effective food safety legislation. This contemporary approach to the social contract requires elemental change in all aspects of the United State's food industry; however, these changes are possible with the consistent compliance of the actors involved.

This paper closely examined Martha Nussbaum's capabilities approach and its application to the system of food production in the U.S. In order for people to have good health, they must have access to nutritional food at reasonable prices. Despite various discrepancies in Nussbaum's philosophy of the human uses of animals, I argue that her capabilities approach can be utilized to affect public policy change to secure protection for nonhuman animals, especially in the realm of large-scale agricultural food production in the United States. Furthermore, I argue that the social contract be extended, and thus corrected, to include the guarantee of the right to safe and healthful food. There is always the possibility that consumers will reject nutritionally valuable food and opt to eat unhealthy industrially processed food.

But, with the guarantee of the supply of and accessibility to healthful food, consumers will at least have knowledge of what it is that they are eating as well as the opportunity to choose. These rights are currently denied to a sizeable percentage of the United States population.

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