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Interview with Sherry Colb

By OUR HEN HOUSE

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*Following is a transcript of an interview with **EMILY DESCHANEL** conducted by **JASMIN SINGER** and **MARIANN SULLIVAN** of [Our Hen House](#), for the [Our Hen House podcast](#). The interview aired on Episode 191.*

JASMIN: Sherry F. Colb earned an A.B. from Columbia College, where she was the valedictorian, and a J.D. from Harvard Law School, where she graduated magna cum laude. She clerked for Judge Wilfred Feinberg of the United States Court of Appeals for the Second Circuit and for associate Justice Harry A. Blackmun of the United States Supreme Court. Sherry was a member of the Rutgers University School of Law faculty in Newark when she joined the Cornell faculty and has also held the position of visiting professor at the University of Pennsylvania School of Law and Columbia Law School. Her research and teaching interests center on issues of constitutional criminal procedure, animal rights, sexual equality, and evidence. Sherry's scholarship has appeared in the *Stanford Law Review*, the *New York University Law Review*, the *Columbia Law Review*, the *Michigan Law Review*, and elsewhere. She has also published a book about the modern challenges of sex equality, *When Sex Counts: Making Babies and Making Law*. Her new book "*Mind If I Order the Cheeseburger? And Other Questions People Ask Vegans*" was recently published by Lantern Books.

Welcome to Our Hen House, Sherry!

SHERRY: It's great to be here!

JASMIN: So great to have you here. We are thrilled about your new book, which is not only full of great information but has such a compelling title: "*Mind If I Order the Cheeseburger? And Other Questions People Ask Vegans*". I feel like this book has a lot of mainstream appeal -- not just for folks like me and Mariann who would look at this book and say "Yeah! That's annoying, why do people ask that?" but also for people who might actually be well intentioned when they say, "Do you mind if I order the cheeseburger?" So I'm just really excited about this book -- and clearly the answers to the questions vegans get asked can be a bit more complex than we will be able to cover here but perhaps we'll ask you a few of the questions that we all get asked, and you can give us your elevator answer and then people can consult the book for more detailed responses, if that's cool with you.

SHERRY: That sounds great.

JASMIN: So let's start with a few questions from one of our favorite anti-vegans, Emily Meredith, who writes the Activist Watch column for the Animal Agriculture Alliance. She

recently wrote a column complaining about Farm Sanctuary's "Someone, Not Something" campaign. And – well, I'll let Mariann talk about it a little.

MARIANN: Yeah, so in that article which -- you know she says in the article that this column isn't for people who want to be vegan, but I think it's the perfect column for people who want to be vegan cause it's so entertaining in so many ways -- but in this column she managed to trot out a lot of the reasons people use for not considering veganism. So I thought maybe we would just get you to respond to a few of her comments, and one of the things she says "If you make..." -- and I'm not going to try to do her voice, 'cause I get in trouble whenever I try to do people's voices -- "If you make the choice to survive, other things have to die. Whether you eat alfalfa or chicken, everyone and everything has to eat. Humans since the dawn of the hominid have made the conscience decision to survive at the detriment of other living things." What would you say to that Sherry?

SHERRY: Well I think I would say that there's some truth to that in that just by living there are things that will die -- we take up space, we take up air -- but I think it's a really Hobbesian, sort of, sad view if you think that you need to kill animals just to exist. And alfalfa is quite different from a sentient being. I'd feel sad for someone who couldn't tell the difference.

MARIANN: Yeah. She goes on to say that in our evolution we have existed by finding food, whether that food is animal, vegetable, or mineral -- I'm kind of wondering what the minerals are, not many of us are eating rocks.

SHERRY: Yeah, maybe salt?

MARIANN: But it is something that comes up a lot, people say "What about plants?" How do you respond to that?

SHERRY: Well I think, I mean the first thing to do I think is to take a deep breath because the question can be a very frustrating one for vegans I think, and it just seems like, "How can they be serious?" But I think it's useful to respond authentically and honestly, and what I usually say is that from what we know, plants don't seem to have experiences, they don't appear to suffer and to feel pain and that really distinguishes plants from animals. And I think most people sort of get that -- if they're not engaged in a debate. They would make an effort not to step on a dog and they might not make that same effort not to step on a blade of grass. So, it just seems to me a very basic idea that people understand that animals and plants are different. And we sort of get it as children and then somehow as we get older we rationalize so much -- we're sort of the rationalizing species instead of the rational species.

MARIANN: I love that line! That is so true, especially when it comes to this issue. So Emily goes on to say -- so she's lumping plants and animals together -- but then she takes another turn and she says "My point being, regardless of whether a pig can play a video game, possesses a greater cognitive ability than a toddler, or whatever other factoid serves as this week's basis for an animal rights campaign, animals are not people." I think that brings up the whole human exceptionalism argument -- this is Emily's version of it -- but people are constantly bringing it up in one way or another. How do you respond to that?

SHERRY: Well I think that it's true, that animals are not -- well we are animals, so I guess people are animals but not all animals are people -- and you know that's true and I think that

the fact that a pig can play a video game, in a way it upsets me that we even feel the need to tell people that -- although once we know about it, it is interesting to tell people -- but I don't think that we should be measuring other animals by what we're capable of doing. 'Cause if we ask ourselves "Why do we show respect for other humans, why don't we kill and eat other humans, and hurt other humans?" That it's not because they can play video games or have any particular cognitive capacities, it's because they experience the world, and we don't want to make them suffer in that experience. So I think that in a way, the reason that we've come up with this video game experiment or whatever to talk to her about, is just to try to impress upon her that animals are not all that different and that we wouldn't have had to say that to begin with if she were sort of able to look at why we care about others in a more holistic way.

MARIANN: Yeah, I think that's a perfect response. And another thing that she brings up -- she manages in four paragraphs to bring up so many of the questions that people do get asked but -- she says "If you're one of the 97% of Americans that finds meat, milk, and egg products delicious then you're likely, and hopefully, not going to put a whole lot of stock in Farm Sanctuary's most recent ploy to grab your emotional attention." I think in spite of her being snarky here she does bring up this idea that veganism is the end of pleasure.

SHERRY: Yes. Yeah, I think that that's another -- I mean I have a chapter in my book about this, "What about pleasure?" -- and I think that for some of us, if someone says "Well what about pleasure? I love cheese." Some of us feel like saying "So what? So you love cheese? What if the only way you could have pleasure in cheese would be to harm animals, then we should give it up!" But I think we have an easier answer to that, which is "There are vegan cheeses!" and there are lots of vegan foods, it's just a delicious amazing thing. And when I come into Manhattan, I love to just go to vegan restaurant after vegan restaurant, the food is amazing! So it's not deprivation. So I think it's worth pointing out -- and as an ethical matter I don't really think we should really have to match cheese in order to get off the ground, but in fact we do, we can. So the fact that someone loves milk, meat, and eggs, is that an argument? No, it's not an argument. Some people really love dog fighting; some people really love bullfighting or stomping on animals. The fact that you love something is really not an argument for doing it; it's just why you want to do it.

JASMIN: So what *do* you say when someone asks you if you mind if they order the cheeseburger?

SHERRY: I hate when people ask me that! It's funny, even having written a book, I kind of wish I could -- I feel like saying "Well do you have an hour?" -- but what I usually say is "Do you really want to know?" And then they usually say no. Or they say "Oh, I guess I won't then" or "Obviously you don't want me to order it." So I think -- I don't think there's a really good sound bite answer, other than to say "You've asked me a really big question, even though you may think that you've just asked me a kind of politeness question like 'do you mind if I use the restroom?'" It's actually a big question because this is a really foundational ethical choice that we've made as vegans and so it's not like someone saying "Oh do you mind if I order gluten?" or something like that, cause we're not committed -- the whole gluten thing, it's like people are so confused. I'll say "Do you have anything vegan?" and they'll say "No, but we have something that's gluten free." And it's like well I'm not looking for something where you've subtracted an ingredient, I'm looking for vegan food! -- But anyways, I think that just making it clear that "Wow, that's a big question." If you're asking

whether I'll still eat with you, then the answer is yes. But if you're asking whether I'm indifferent, no, I'm not indifferent.

JASMIN: Yeah, I love that.

MARIANN: I love all of those responses! I'm going to write all that down.

JASMIN: I was actually -- I talked about this a few weeks ago on the podcast -- I was with someone who was telling a story about how he had gained this appreciation for eating steak and how he should do it slowly and really savor each bite. And his wife who was at the table kind of was like giving him the eye, like "Jasmin's at the table" and he stopped and was like "Should I -- I'm...should I -- ok tofu, I mean tofu! Should I not talk about -- like should I just stop my story now?!" And I just, I just sat there. I didn't even say anything and he just continued to have this fight with himself about whether it was ok to continue to have this talk about, like a carcass. It's funny what comes up when -- for people -- when we kind of reflect back onto them what they're doing.

SHERRY: Oh absolutely. I love your "Rising Anxieties" segment for that reason 'cause it really is true. It's like you walk in and suddenly all they can talk about is how much they love bacon or tell some kind of soulful, you know heart-felt story about their relationship with some piece of meat, and then you're not supposed to mind. I remember once someone told me, they said "I have a joke, and you're probably going to find this offensive, but just bear with me." And so like this unbelievable joke, that turned out to be offensive both as an animal rights person and as a woman and he's like "It is funny right?" And you know, I'm not laughing, I'm really not finding it funny. And it's like "Well do you want me to say it's funny?"

JASMIN: Yeah. It's like the whole "No offense, but you're really ugly...but no offense!" Oh, well you know, that would have hurt my feelings except you said "No offense" so...

SHERRY: It's like when people say "With all due respect" and you know that that means they think none is due.

JASMIN: Right, exactly. "I'm not racist, but..." It's all the same shit. But there seems to be a lot of confusion for vegans about how to use the health argument. Veganism -- it doesn't have to be healthy and if you start talking about the health benefits of veganism, you're talking about a diet that eliminates some of many people's favorite foods. Such as the plant based meats or sweets or oil, how do you approach the health issue without getting mired down in a nutrition debate? You mentioned gluten, I feel like this is sort of related a little.

SHERRY: Yes, I think -- I mean it's a tough question. It's a really good question. My view is that when I'm talking about veganism, I'm comparing veganism to the way -- the Standard American Diet -- and I'm not going to get anywhere if I start telling people "You know it's really important to get enough kale." They'll often say "Now what is that, what's kale?" To them their big green vegetable is the sprig of parsley on their steak. So I think that just to open people's eyes it's important to give people food that is delicious and satisfying and great. And then you can let people know that they might want to also be aware that there are other features to a healthy diet besides veganism. 'Cause I think veganism is healthier than the Standard American Diet, but I think it can be a *lot* healthier and that sort of depends on how far you want to go with that. And then I think there is an independent reason to be vegan, which is the compassionate ethical reason, regardless of whether

you're going to be a junk food vegan or whether you're going to be a nutitarian or whether you're going to be something in between. I teach an animal rights seminar, and every week I bake a pastry for my students.

JASMIN: Wow.

SHERRY: And obviously, if all they ate was that, that would not be an ideal diet. But I wanted to -- it's so hard to dislodge this image people have of vegan food as deprivation, and I think that is so important to do.

MARIANN: I feel like such a bad teacher now.

JASMIN: And I actually think I'm going to enroll in Professor Colb's class.

MARIANN: I waste all this time on doing such stupid things, and obviously what I should be doing is baking -- well maybe I should have Jasmin be baking for me, it would probably work out better.

So how do you deal with the people who point out the imperfections in veganism, shall we call them. And this kind of issue can rise for vegans too, who sometimes really embrace perfectionism a little more than anybody is really able to, because nothing is perfect and none of us is completely innocent in this world. Questions that people bring up such as animals who die when plants are harvested -- that's a big one -- and that organic agriculture uses manure. How do you address that none of us is really living innocently here?

SHERRY: Well it's a really important question and I think it's really useful to acknowledge that yes, we are not -- none of us is innocent, and none of us is perfect -- but what we're trying to aim for is better and that, yes, it's true that animals are killed when plants are harvested, but one thing that's useful to point out is that a lot more animals are killed when plants are harvested to feed animals, because so much of the land that's used right now is used to create feed for animals who are then going to be slaughtered. So you eliminate a lot of that by becoming vegan, unless you live exclusively on hunting, which I think very few people do. Having a field of alfalfa, or soy that's grown for cows -- all of that is -- that's killing animals in harvesting, and it's not to feed people.

And another thing I'd point out is that as more people become vegan, methods of harvesting and veganic farming become much more plausible economically. So, I'm not personally thrilled at all that way plants are grown now involves hurting animals, and I think that we can do better, but in order for us to do better, there have to be more vegans who care about this stuff. 'Cause we can't ask somebody who is creating grain in order to feed animals who are going to be slaughtered, we can't say "Well can you use a more humane combine?" It's just not going to make sense to them.

JASMIN: How do you address people who come at this from a religious perspective, who -- they maybe believe things such as that people are special in the eyes of God, or people have souls and animals don't, or maybe people tell you that they're kosher, which is what God requires.

SHERRY: Well I think that that's a really great question because I grew up, actually, Orthodox Jewish and so I know how that feels. Yes, animals are different, we're more advanced and so on, and I think one thing that's useful to do is to say "Yes, we have certain

capacities that animals lack and we are special, and animals aren't given commandments" and things like that but to quote, I guess Spiderman, "With great power comes great responsibility" -- I think Voltaire also said that. And I think part of being religious is being very conscious about what we do, and conscious about using our power in a way that's beneficial, because we really have the power to create -- and to destroy -- more than animals have the power to do either of those things. And you see, at least from -- and I think this is true of every religious tradition -- you see consciousness about animals, it's not animal rights per se but it's a sense of we need to care about them, like not working animals on the Sabbath, things like that. And I think that gives you a kind of a primitive sense of animals counting, and that if animals count, a lot more follows from that.

You look at the Bible and it talks about the animals and the slaves resting on the Sabbath and we can take from that that there shouldn't *be* slaves, not that we should have slaves but have them rest on the Sabbath. And so I think if we took some of the lessons from the Bible in the way that -- you know God communicates, to the extent that you believe in God, you believe there's some flaw in the human who's receiving the communication, and that's going to affect how it's recorded. So, I think that we see that with -- you know that some of the horrible things that various, that all religions -- every religion -- has something in there that even the most devout are going to say "Well I wouldn't do *that*." So I think we can be critical even if we're devout and that there are the raw materials for veganism in just about every religious tradition.

MARIANN: Yeah, I totally agree with you and I think it's one of the things that frustrates so many people in the movement, that religion seems to be largely untapped as a -- because people who are religious do live their lives according to ethical boundaries that are set by their particular faith, and most of them do allude to animals in some way, even if not exactly in the way that we would, and yet the behavior is not there yet. But the potential is enormous.

I know that there's -- a lot of these questions have something in common, and they can be very frustrating, and that's that a lot of times they don't really seem to be authentic concerns of people. People who obviously don't care at all about their health are suddenly worried about whether we're getting enough protein and people who just really don't care at all about plants are now worried about whether we're harming plants.

SHERRY: ...plant genocide...

MARIANN: Yeah. This happens to me too -- the same person will ask the same question over and over, clearly demonstrating that they have completely forgotten that they asked it and have completely forgotten my answer. So what's really going on with some of these crazy questions, are they always coming from an authentic place, or are there other issues that make people ask these nutty questions?

SHERRY: I think both of those things are true. I think that people -- I mean occasionally you'll have an unadulterated motive driving the question, like if somebody yells "Well you kill plants!" I don't think they're trying to open a dialogue and then you'll have somebody who's really curious and says "I want to go vegan but I've heard I don't get enough protein, how do I make sure that I do?" and that's completely open and honest and authentic. And then you get people I think mostly in between, where people are feeling somewhat defensive, like Jasmin was saying earlier about the -- you know they feel themselves reflected in you, you

serve as this mirror, suddenly eating meat becomes salient in a way that it wasn't before we walked in the room and they don't know quite how to deal with that but they don't want to feel guilty so they say things that will help comfort themselves and so they'll make their kind of half-baked arguments. And I think at the same time they are also curious, they also are thinking "Well is there a real argument that maybe this other person has that I might find convincing?"

And so my approach -- the approach I aim for -- is to try to see the curiosity and the open-mindedness in the question even though there may also be this frustrating kind of "gotcha" feature to it and then that way I can answer it in a less defensive way and they might receive my answer in a less defensive way too.

JASMIN: I think that's a really empowering way of looking at it. How much do you think that people really know about what's going on with animals? Because I'm wondering if the only folks who know are the activists and the industry. What about everyone else, if they don't know, why don't they know?!

SHERRY: I know, I think it's a great question. I think a lot of them don't know. I mean, I'm amazed sometimes when -- I still remember, I was attending a lecture at Cornell where I teach and somebody was talking about something that made me think of animals, which usually that happens anyway, and so I raised my hand and I said something about slaughter and how differently we treat different kinds of animals. So we would never be thinking about slaughtering dogs, but then we have slaughtering cows and it's horrific but people think it's okay because there's a law. And someone turned to me, one of my colleagues, and said "You mean they don't kill animals in a nice way?"

JASMIN: Oh my God!

MARIANN: Oh my God, yeah.

SHERRY: And I said "Well, what?" I was just sort of thrown because I didn't -- I assumed everyone knew that slaughterhouses are horror shows and he's like "Well they have laws right?" and I was just kind of stunned, but people really -- and this is an educated person, it's not just somebody who just walked out the door and had never met anyone before, this is a really bright, educated, sophisticated person but a lot of people don't know. And I don't know why they don't know, I think they sort of don't want to know, I think that's part of it, they don't want to know. And then the way they come back with the same question. Like Mariann was saying earlier, there's this one guy who says "Well why don't you eat dairy?" and then I'll explain it and then like a year later he'll say "Well what's wrong with dairy?" and I feel like saying "I think because of all the dairy you're eating you're developing dementia." So, I think that the best approach is to just not assume that people know -- to try to explain it in a very patient way so that maybe it sticks the tenth time they've heard it.

MARIANN: Yeah, it really is frustrating and it's hard to know why we can't get that knowledge to stick and even when we do, knowledge doesn't seem to be enough, even people who find out the truth -- they completely shut it down almost immediately. And I do find that my students come into my class not knowing anything -- I mean not all of them, some of them are animal rights activists -- but the ones who aren't animal rights activists are *shocked* to find out the truth. But even when -- unfortunately my students sometimes -- and other people find out the truth, they really often don't change. Aside from the ones who are

sociopaths -- not my students, none of them are sociopaths, I don't think -- who think it just doesn't matter what we do to animals, what process is at work there in people's minds -- even when they know they don't change -- how do they justify continuing to support factory farming?

SHERRY: It's a good question, I think that we, I think we make an assumption that we are run by principle and logic and knowledge -- that's kind of the story on humans and we kind of accept it -- but really we're very irrational creatures in a lot of ways, and we do things because we're used to doing them and people are very scared to change the way they live and the way they act. And so what happens is they find something out and then there's all this mobilization to figure out how that doesn't matter and how they don't need to change anything, so that they can keep living exactly the way they always have. I think that -- what's amazing to me, I have friends who became dietary vegans because they had high cholesterol and they really weren't thinking about the animals at all and then once they did stop eating them, they suddenly started noticing, and a friend of mine said to me "You know suddenly I'm noticing like why are these people talking about Mitt Romney putting his dog on top of the car and there they are eating animals?" and it was great to hear my friend say that because we hadn't talked about anything but this came right to her, that suddenly she saw -- and she said "And I'm looking at my leather couch and I'm thinking 'I don't like that my couch is made out of a cow's skin'." I think that there's a process when you live a certain way three times a day or more to try to rationalize that, and that if information comes through that's incompatible and it causes anxiety, their tendency is either to forget the information or to come up with some response -- however half-baked -- so they don't have to think about it.

JASMIN: One of the things you talk about in the book is what the animal rights movement can learn from the gay rights movement, can you expand on that?

SHERRY: Sure, I think that the gay rights movement has been as successful as it has in part because it's been out and proud, and I think that that's a really important, positive thing because I think back to when I was a law clerk at the Supreme Court and Justice Powell -- at the time he was already retired -- but he would say "I've never met a homosexual" and the thing was that that was not true. And the big joke was that he had more gay clerks than any other Justice, but he didn't know that, and so he couldn't -- he didn't evolve, at least while he was on the court, on that issue, because he didn't realize that he not only met but really cared deeply about people who were gay. And I think -- I mean it's understandable that people didn't tell him because they were worried that they'd lose their job, so it wasn't -- this is not at all a critique of that -- but just I think that familiarity allows people to feel empathy in a way that they otherwise couldn't. And suddenly you care about people -- I know people and so don't give them a hard time, because I don't want them to be discriminated against -- whereas before it was an abstract issue, it becomes much more concrete for people.

And I think that's true for vegans as well, before I knew any vegans it didn't really even cross my mind to be vegan, I'm not even sure I knew what it was. And then I met someone who was vegan, I met someone else who was vegan. And suddenly -- I mean I became a vegan eventually but in between there, there was "Well I've got to take this seriously because people I know and respect have made this choice, so I can't just dismiss it anymore, I can't just kind of make it an abstract thing." So, I think that the gay rights

movement has been very good at reaching out and saying “Look, I am that person that you’re assuming is some kind of boogie-man. It’s here, it’s just me your neighbor” and that that’s a really effective thing that vegans can do too.

MARIANN: Yeah I totally agree. I think the idea of being out as a vegan is easy -- all you do is get asked a lot of annoying questions, people generally don’t beat you up for it. So it’s easy and has so much power. I mean that is how people change, is because the people around them are changed. You also have published in the area of gender equality and I know that’s a strong interest of yours, and you’ve now published this book about animal rights. Can you talk about a little bit how those two movements are related?

SHERRY: Yes, I think they’re really very strongly related because -- and first you have this sort of general oppression framework where you have somebody who’s more powerful than somebody else and who exploits the less powerful and then commits violence and then comes up with a whole mythology about why the proper place of the weaker one is being at the receiving end of that violence, and we have that certainly if you look at sort of patriarchy and women’s oppression, the notion that women are properly in -- almost property, properly the property of men and that even now in the 21st century it’s still more difficult to get a conviction for rape when the woman has had a lot, a big sexual history, than it is if the woman is a virgin and I think that tells us something about women being valued as commodities -- as sexual and reproductive commodities -- rather than as equals. And animals too are in this position of well, we have the power to use them and to consume them and we tend to think of them as really just those consumer items. People see a pig, pictured on a barbecue restaurant and they’re like “Oh good I’m going to have some ham.” It’s sort of as though this animal is nothing more than a commodity. So it’s sort of an extreme version of the oppression that women have suffered.

And then more concretely, the dairy and egg industries are very much about exploiting female animals’ reproductive capacities in a very extreme way, and that mirrors the way in which female humans have had their reproductive capacities owned and manipulated and dominated, you know historically.

JASMIN: Well there are so many more questions that we want to ask you but I feel like this will be the longest podcast episode in the history of podcast episodes. You’re just full of so much wisdom and I love the way you communicate so I strongly encourage people to get a copy of *“Mind If I Order the Cheeseburger?” And Other Questions People Ask Vegans* which is published by Lantern Books. And Sherry, thank you so much for joining us today in Our Hen House and for helping us to work out some of these questions that every -- I’m going to just make a generalization -- everyone who listens to this gets asked, period. And I so appreciate you. It’s so validating to hear from you things that go through our minds all the time -- we don’t necessarily know if they go through other people’s minds, and now we do! Because it’s in your book *“Mind If I Order the Cheeseburger?”* So Sherry thank you so much, I so appreciate you joining us today.

SHERRY: Aw. Thank you for having me, this is great.

JASMIN: That was Sherry Colb, the author of *“Mind If I Order the Cheeseburger?”* and the publisher of that is Lantern Books.