**Animal Law**
By Paul Waldau, Tufts University
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Animal law is one of the most prominent of the disciplines in the emerging field of human-animals studies. This article describes this new field and then outlines some of the most basic features of existing law as it impacts nonhuman animals.

Animal law covers much, ranging from the many ways in which legal systems have *in the past* dealt with nonhuman lives to the fascinating possibilities of how legal systems can *now* and *in the future* deal with animals. Since there are multiple options before each society, which one is chosen by any one society will say much about both its citizens' values and our human possibilities.

Animal law as an academic topic has exploded onto the legal education scene in the last decade. A key development was the decision of Harvard Law School to offer an animal law class in 2000 after years of student-led efforts made it clear that more than a hundred students supported such a course. Legal education in industrialized societies has, for more than a century, focused on the kinds of law that benefited businesses and the richer elements of society. Social justice concerns, however, became more and more prominent in the second half of the 20th century, thereby opening the door to a broader understanding of how law functions in a society.

Animal law requires one, much as does advocacy for the poor, women, environmental issues or other marginalized causes, to tap resources outside the normal realm of traditional legal education. In particular, studying how legal systems have treated nonhuman animals requires one to assess historical patterns, sociological realities and cultural differences (how law functions in small scale societies, for example, as it affects human-animal relationships is quite different from how law functions in large-scale industrialized societies).

The influential philosopher Immanuel Kant once observed that our concepts about the world will be *empty* if not informed at least in part by experiences of the actual world around us. Similarly, any study of animal law that goes forward without good information about the actual realities and lives of nonhuman animals will be empty—we need such information to assess what the character of our law has been and might in the future be. Unless based on such information, a law that impacts nonhuman animals can be harmful and unjust.

Without a sense of the particular past which we have inherited, we see less well both what is happening with our present laws and what might happen in the future. Further, without a sense of what other cultures have done regarding human relationships with other animals we fail to grasp our own possibilities and, as importantly, the nature of our own culture's views—are the views and laws we have inherited reasonable, or are they dysfunctional and unrelated to the realities of the animals we impact so heavily?

As an educational subject, animal law studies easily and well what, in fact, are the different options for human-animal relationships used around the world. Such a course of study is a superior vehicle for asking if the scheme now being used in our own society actually meets our present needs and desires, or can be replaced with something better and more compassionate.

Animal law as a subject is enhanced when it is informed by sciences such as animal behavior. Familiarity with the realities of nonhuman animals is needed for any number of reasons—for example, it helps one see how some animals suffer from contemporary practices. Many sciences have helped us recognize that nonhuman animals are diverse and sometimes exceedingly complicated in their social ways, intelligence, and daily realities. In fact, we now recognize that some nonhuman animals are, in some ways, surprisingly like humans. But, based on our sciences, we also recognize that many nonhuman animals are dissimilar from humans. A fundamental question in animal law is what place these similarities and dissimilarities might have in our actions and attitudes toward Earth's other living beings.

Further, animal law is best studied when the teaching institution promotes awareness of the pervasive educational biases that lead most academic work to focus heavily on humans alone. Other animals are, generally, very unsympathetically studied in many academic institutions, with the result being that they are poorly known. The upshot of this bias is that education rarely prepares contemporary students to notice and take seriously the rest of life on Earth—animal law can naturally and fully engage the ways in which law and other parts of the educational system help or hinder us in our understanding of nonhuman lives.

Legal systems reflect underlying political, social, economic, cultural and religious dimensions of a society. Studying these underlying dimensions is crucially important to understanding why so many people value nonhuman animals even as others and the general legal system dismiss them in countless ways.

Animal law thus focuses on not only what we are and have been doing in our relationships with other animals, but also what we (and, indeed, any human culture) can do in light of what we know through sciences and the humanities about the actual realities of other animals. For all of these reasons, animal law must be, if it is to accomplish its work well, deeply interdisciplinary. In fact, without constant engagement with those other disciplines that study nonhuman animals carefully and have accumulated bodies of knowledge about the world and its animals (human and nonhuman), animal law can become an empty recitation or catalogue of our society's dominance over other animals. To be a full exercise and relevant to the real world around us, animal law needs to be wide ranging in its assessment of how humans in their societies have been interacting with nonhumans, as well as frank about law's past and present elitisms.

Said simply, framing of laws that affect how we treat each other and the world around us is one of the ways humans shape their relationship with animals. The study of animal law

is a perfect tool for calling out the bias of past laws regarding animals and, more generally, the shortsightedness, greed, and lack of moral vision of past lawmakers. Human relationships with others (whether human or nonhuman) have been fraught with dishonesties and shoddy thinking—oppression in the form of racism, sexism, wars, and economic domination have been common. Oppression and domination of nonhuman animals rivals and perhaps even exceeds the moral bankruptcy of human-on-human oppression.

Noticing and taking seriously the nonhuman lives in and near our human communities is one of the ways to help us see how humans through their "law" have impacted, often on the basis of arrogance and ignorance, the diverse nonhuman lives with which we share Earth. The questions that animal law asks will be, then, somewhat provocative, that is, they will call out (the original meaning of the word "provocative") features of what we have been doing.

Once we see well what we have been doing, we can ask what we *might* in the future do. If the world is, as the remarkable thinker Thomas Berry has said, "a communion of subjects, not a collection of objects," we can ask how legal systems have impacted how we see this remarkable reality. Has law helped us see the world around us better? Or has law been the purveyor of greed, shortsightedness and fundamentalisms like "humans alone truly matter in this universe"?

The study of animal law thus has the capacity to open minds that have, for a very long time, been closed and empty of insights about the world in which we live. The upshot is that, when given its natural breadth and depth, animal law turns out to be more than just another legal field. It is a form of legal education that can proceed, unlike so many other legal discussions, with questions that challenge the human-centered biases that now prevail in most legal circles. When it does this, animal law can be the most pertinent of subjects, applicable to our real lives and exhilarating in the extreme.

Animal law can, of course, also be taught in typical law-school fashion, calling out only the human-centered norms that dominate our modern industrialized society. When it does the latter, animal law, like so many other law school courses that purport to talk about justice and dignity, fails—such teaching is both blind and empty.

The most basic features of existing law as it impacts nonhuman animals include the following features. Most legal systems in today's industrialized societies treat nonhuman animals as mere property, holding nonhumans to be mere "legal things" that can be owned, just as can a chair, a book or a computer. In a theoretical sense, relegation to this "legal thing" category is quite important since humans are put in the separate category "legal person." Legal persons are the holders of rights, whereas it is commonly asserted that legal things, because they are mere property, cannot hold rights.

The property status of nonhuman animals in the legal systems of industrialized nations reflects what the English philosopher Mary Midgley has called the "absolute dismissal" of nonhuman animals. It is true that there are some protections for some nonhuman

animals in some legal systems, such as anti-cruelty provisions, but there is an important debate over what such protections truly mean and for whose benefit they were enacted. Whatever the answer to such questions, these protections are often *not* enforced.

The fact that there are some existing protections makes it clear that legal systems *can*, if humans so choose, offer important protections for nonhuman animals. Legal systems can in fact offer several different kinds of protection. Offering specific "rights" to specific individuals is the best known possibility, but there are other tools in the legal tool box that can be used to protect nonhuman animals. An example of a non-rights tool is a prohibition on ownership—under such a law, even though the protected individuals do not themselves necessarily hold rights, fundamental protections are possible for nonhuman animals *if* this legal tool is enforced.

Various kinds of animals receive different kinds of protections depending on which general grouping of nonhuman animals they fall into. Wildlife is sometimes given, for example, protection from certain harms when the overall species is threatened with extinction. Farmed animals are given far fewer protections, though there often appear "on the books" various purported legal limits as to how the production animals can be transported and then slaughtered—but these protections are notoriously unenforced in many countries.

Research animals are the subjects of many laws, and in some ways this category can be understood as the most regulated of the categories mentioned here. But in the United States, for example, the vast majority of laboratory animals are excluded from legal protection by virtue of the exclusion of rats, mice and birds from the scope of the federal government's Animal Welfare Act. The legal issues affecting companion animals are dealt with in a separate article—that this category of animals is the subject of much debate presently raises the question of whether it is these animals' connections to humans or, instead, their inherent qualities that are the bases for the emerging legal protections of companion animals. If the former, one can wonder if laws purporting to protect "pets" is really just another manifestation of the overall legal system's preoccupation with *human* interests.

What we do to other animals is, simply said, virtually always a matter of choice. Careful study of animal law lays out what we as individuals and as human communities have done in the past to all of the Earth's other living beings, what we do to them now, and what we might possibly do to, with, and *for* them in the future.

### References

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