

## Book Reviews

### ***Animal Law and Welfare: International Perspectives***

Edited by D Cao and S White (2016). Published by Springer, 15-17 Tiergartenstrasse, D-69121, Heidelberg, Germany. 296 pages Hardback (ISBN: 978-3-319-26816-3). Price £71.73, US\$99.00.

While there are several useful references that describe the regulatory framework in place in a variety of countries that are designed to protect animals, the book, *Animal Law and Welfare: International Perspectives* takes a different tack that is both informative and provocative. Rather than providing a review of the animal protection laws and regulations in place around the globe, the authors dissect out where they perceive there are gaps in animal protection, illustrating their views with examples from agriculture, wildlife conservation and canned hunting, captivity of marine mammals, as well as other animal welfare concerns, against a backdrop of the legal systems in different countries. The contributing authors include established scientists, doctoral candidates (ie the next generation of scientists) and experts in law. This diversity of perspective is quite unique to a text on this subject and results in the depiction of areas where welfare is improving and where the authors propose work is yet to be done across disciplines.

The stage is set for the discussion of specific perceived regulatory successes and shortcomings in different countries through four chapters that examine, more generally, the evolution and future of the field of animal welfare law; the influence of consumer pressure on trade and laws; the linkage among animal welfare science, animal ethics and the law; and a proposal for an international animal welfare treaty. Using sentinel examples from different countries, such as Australia, South Africa, Israel, Brazil, the United States and China, several common themes emerge regarding contributors to deficits in animal protection — some with obtainable solutions (eg enhanced education efforts directed at the public), and others presenting more of a challenge to address (eg overcoming potential conflicts of interest in regulatory agencies, obtaining international congruency in securing animal welfare).

Those readers interested in the field of animal law will find the chapter addressing the ‘second wave animal law’ (P Waldau) an informative review of how animal law could be developed beyond the first wave of animal law (based on traditional law school methods and reasoning) and will be intrigued by the proposition that there are intrinsic limitations associated with a legal preoccupation with companion animals, with the more cognitive animals, and the focus on activism in the courts and legislature. The argument is made that the current legal system (in many countries) distinguishes distinctly between legal persons and legal things, with animals belonging to the latter, and in so doing the animal’s interests and ‘realities’ are not acknowledged. The second wave of animal law would address this disparity by

ensuring non-human animals experience legal protection because of their intrinsic importance, rather than their similarity to human beings. Waldau proposes the legal profession becomes a leader of this fundamental social change and is quite critical of the veterinary medical profession, suggesting that veterinarians are complicit ‘in harming non-humans’. Yet, he advocates for an interdisciplinary approach to achieve this utopian-like state of legal protection for all non-humans. His analysis of how different types of law (eg criminal law, constitutional law, tort law, property law, etc) will change with time to better support animal protection is a carefully constructed forecasting to underpin the proposed objective of equivalent legal protection across animal species.

Professor Donald Broom describes the potential impact of consumer choice and trade pressures to shape animal welfare internationally. He articulates deftly the premise that consumer concern for how animals entering the food chain are managed can improve animal welfare. The case is well-made that consumer pressure is often more effective than legislative mandates (eg exemplified by some European countries banning the use of calf crates). This is an empowering chapter that fully illustrates how public opinion can influence trade agreements and enhance animal welfare. Yet the point is appropriately made that in some instances (eg whale hunting), the public has not yet flexed its collective muscle adequately to prevent the use of inhumane practices with some species by advocating against the trade in certain animals or their products.

This concept of public morality influencing trade and animal welfare is expanded upon by Verrinder *et al* who propose in the chapter on ‘Science, Animal Ethics and the Law’ that ethics should ground animal welfare research and decisions made based on that research. The authors articulate a theme that appears in other chapters in the book — that pressure exists to publish scientific results and the potential for a funding agency’s interests to unduly influence research outcomes, or at least the portions of data published. A potential for conflict of interest is also touched upon as an inherent failing in regulatory oversight by Schaffner in her discussion of agency oversight of marine mammals (Chapter 11) and by Goodfellow in his discussion of regulatory agencies acting more in the interests of the industry being regulated than in the public’s best interests (Chapter 10). Verrinder *et al* (Chapter 4) contend that animal welfare science is limited in its utility in terms of translation into better practices without ethics serving as the compass for interpreting the scientific results and making welfare decisions. They endorse the thinking that moral judgment can be developed with exposure to higher education in general and, more specifically, by teachers who encourage students to consider moral issues. In this manner, they define a path forward for enhancing awareness of animal welfare issues. The premise that education is a key component to improving animal welfare is reiterated by

Shaffner (Chapter 11) in her description of the impact the movie *Blackfish* had on the public by highlighting the orca's complex social behaviour and cognitive skills and again by Cao (Chapter 12) in her commentary that many Chinese people did not know that the removal of ivory from an elephant involved killing the animal. In this manner, the weaving together of public morality with the need for enhanced public education regarding animal welfare suggests there is a multinational, perhaps even global, moral stance regarding animal welfare that can be harnessed to address perceived welfare gaps.

A common thread throughout the book is the uniqueness of each country's laws and regulations pertaining to different aspects of animal welfare, despite some common principles, such as the consideration of animals as property. Favre (Chapter 5) notes that the absence of international consensus regarding animal welfare leads to disparate treatment across countries. Again, the veterinary community does not fare well in this discussion, as Favre opines that the standards issued by the World Organisation for Animal Health (the OIE) have 'significant limitations'. While it is a fair comment to note that the OIE does not have enforcement authority for its standards, the 180 Member Countries that adopt the standards are expected to incorporate the standards in their regulatory frameworks, and as Favre notes, the OIE standards are recognised by the World Trade Organisation. As an alternative, he proposes a treaty mechanism that would be buttressed by specific animal welfare protocols. Favre notes that a country could be a signatory of the treaty, but not adopt all the protocols (for example, only be required to adopt one protocol), thereby encouraging developing countries to improve over time through the adoption of additional protocols. The flaws in this process are discussed honestly and openly, to include a very low bar for animal welfare initially being set to encourage more countries to adopt the treaty, and it appears that Favre is realistic in his assessment that the prospect of an animal welfare treaty being adopted is not likely for the foreseeable future.

The second part of the book highlights 'developments in animal protection in different jurisdictions'. Collectively, these chapters offer insight to a spectrum of animal welfare issues that are iconic for the specific country. They include canned lion hunting, force-feeding of geese and ducks, bull-fighting, battery cages, captive whales, and the ivory trade. Discussions regarding how animal welfare legal frameworks have evolved in different countries may provide important lessons for developing nations as they go down the legal path of addressing animal welfare. Of note is the contrast between Brazil, which has conferred legal status on animals as subjects (not property) in its constitution; the Israeli court that has referred to animals as having a soul; and other countries exemplified by the discussion of Australian law (Chapter 6) wherein over time, as societal opinions change, the laws protecting animals gradually expand. Some of the chapters (eg those pertaining to South Africa and Brazil) reflect back to a key concept, made by Waldau (Chapter 2), that an important next step in animal welfare is the consideration of the individual animal, and not just the population.

Some positions taken in this part of the book are seemingly deliberately provocative. For example, Bilchitz (Chapter 7) downplays the role of science in promoting animal welfare, preferring to rely on ethical judgments. Yet, he does not engage in addressing the question regarding whose ethics should provide the appropriate direction for animal welfare. In several instances, language is used that is biased and even inflammatory. For example, Waldau refers to research animals as 'tools', Wolfson (Chapter 8) refers to hens as being imprisoned, and Schaffner introduces her chapter regarding captive marine mammals by dramatically telling the story of Tilikum in the first person as a young orca being captured in the wild and his subsequent life in captivity. These approaches detract from the points the authors are attempting to make.

A theme that resonates across several chapters is the influence politics has on the adoption of laws aimed to protect animals as compared to the court's interpretation of existing law. An example of this is provided by Goodfellow (Chapter 10) in describing how plans to establish an Inspector-General in Australia for animal welfare, designed to audit the live animal export trade, was never introduced to Parliament because the political party promoting the position lost the Federal election. In contrast, Wolfson's discussion (Chapter 8) regarding court rulings on various animal welfare issues illustrates the independence of the Israeli court system from politics. However, an even more prevalent observation throughout the book is the fact that public opinion holds tremendous sway over the protection of animals. Such real-world examples are useful reminders of the numerous priorities and perspectives that must be taken into account when determining the method to advance an animal welfare cause.

In summary, this book provides a view of the animal protection laws in place in divergent parts of the world, and how those laws began and have evolved to the level they are today. An interesting contrast is drawn among countries that have used the constitution, the courts, or regulations to protect animals. The diversity of animal welfare issues across the globe is underscored by examples highlighted in chapters featuring the legal system in different countries. The book offers some key lessons that could have real-world implications for enhancing animal welfare. Primary among these is the need to educate 'the public' about animal behaviour and animal welfare. As Cao (Chapter 12) illustrates so well in her discussion of the ivory trade, in many countries the public is not well-informed about animal welfare, the harvesting of animal body parts, or even the ecological and species conservation implications of remaining uninformed. Similarly, Schaffner provides an excellent example of how educating the public (ie through a documentary film) about a particular species can result in signal changes that improve animal welfare. Importantly, the book underscores the value of sharing 'lessons learned' across animal welfare disciplines.

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