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Animals and the law: readings on animal rights law

From 7 March – 9 July 2023 the British Library Treasures Gallery has a small exhibition 'From the Margins to the Mainstream: Animal Rights in Britain', which follows the progression of animal rights from the enlightenment period until the present day.

To complement the exhibition, guest writer Kim Stallwood, a highly respected international figure in animal welfare, has written a series of four blog posts of his own thoughts and opinions on key themes connected with animal rights in Britain and around the world. The articles are based on his own reading and research, and aim to highlight some of the books held at the British Library that have helped shape his view. In 2022, the Library acquired the Kim Stallwood Archive and a few of the items from the collection are included in the exhibition.

The four posts in this series focus on 'Animals and the Climate Emergency', 'Animals and Feminism', 'Animals and the Law', 'Animals and Social Justice'.

Guest writer Kim Stallwood writes about books held at the British Library that have helped shape his understanding of the history of animal rights law:



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'Animals are considered as property only,' said one of our parliamentarians in a House of Lords debate about cruelty to farmed animals. '[T]o destroy or abuse them, from malice to the proprietor, or with an intention injurious to his interest in them, is criminal; but the animals themselves are without protection; the law regards them not substantively; they have no rights!' It is reasonable to assume this remark is from a recent debate, but you would be wrong. It was made by a former Lord Chancellor, Lord Erskine, in 1809. The occasion was the discussion of a bill he introduced to 'prevent malicious and wanton cruelty to animals.' That bill failed, but many laws on the treatment of animals have come onto the statute books since Lord Erskine spoke those still resonant words more than two hundred years ago.

Yet, do these laws protect animals? Or do they serve the needs of those who own them? Do laws stop people from cruelly treating and killing animals? Or do they give them a licence to use and abuse them? These questions are front and centre in the debate about animals and the law today.

Laws reflect society's values. The established hierarchy of human superiority over animals ensures the interests of the former prevail at the latter's expense. Every law throughout the world reflects human dominance over animals. The impact of laws relating to animals varies depending upon various factors, including the species addressed, the robustness of the enforcement, and exemptions excluding animals from the law's protection.



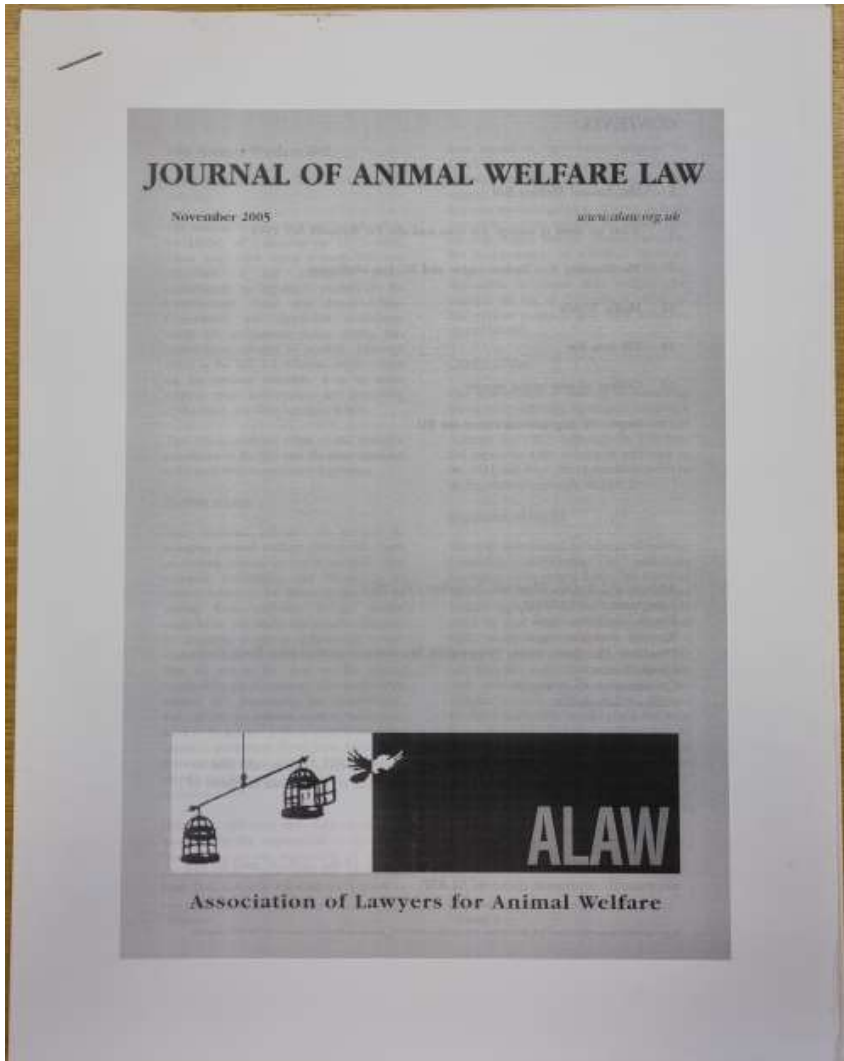
'ADDA: Defends the Animals' magazine, Special Issue No.1, 1992, Add MS 89458/4/31. Credit: Association for the Defense of Animal Rights (ADDA)

Some laws outlaw particular animal abuse. For example, the Fur Farming (Prohibition) Act 2000 banned raising animals for their fur in England and Wales in 2003. The European Union banned leg hold traps in 1991, sow stalls in 2001, and the marketing and testing of animals for cosmetics in 2013. But in the United States, the federal Animal Welfare Act regulating animals in research excludes the species most used (rats, mice, and birds), and the Humane Methods of Slaughter Act exempts chickens, the species most killed for food. This patchwork approach results in anomalies. Why should cats living in our homes receive greater legal protections than those in research laboratories? The laws relating to cats should be the same everywhere. Penalties for transgressing laws protecting animals are not meaningful and need strengthening to reinforce their role as deterrents. In cases of human-on-human violence, including spousal and child abuse, the perpetrator often has a history of animal cruelty.

What will the next 200 years bring for animals and the law?

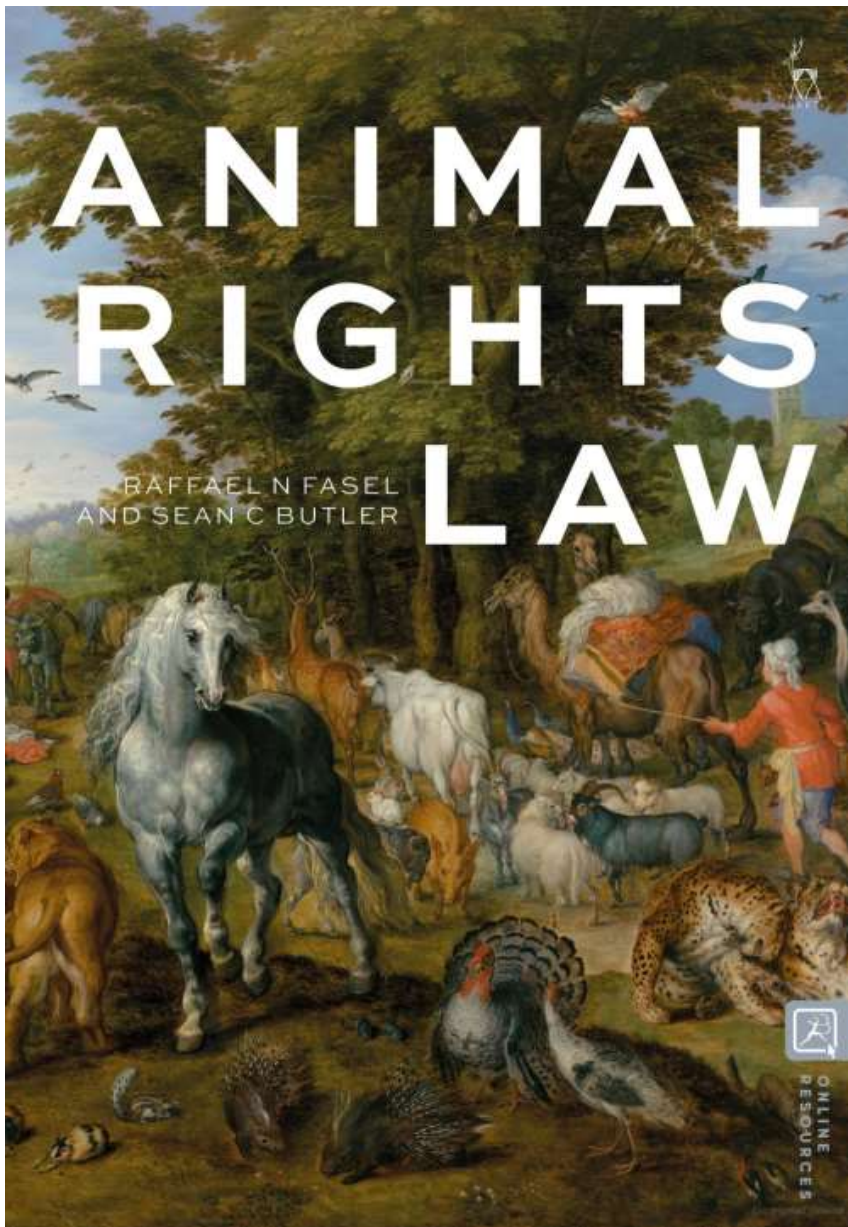
A fundamental shift in animal law is overdue. From a culture of laws licensing how humans can abuse animals, we need a new wave of legislation recognising animals as having moral and legal rights. The industries, institutions, and governments profiting from institutionalised, commercial exploitation of animals can no longer be the judge and jury over animals and the law.

The legal status of animals is as property, not as sentient beings with legal standing. But public opinion about animals is changing. Increasing numbers of protests against animal cruelty, louder calls for animal rights, and emerging consumer markets in all things vegan are exciting developments over the last few decades. A shift in public opinion and behaviour is underway. Further, the academic study of animal law is establishing itself as a credible, recognised field in the United States, Europe, and elsewhere. For example, Harvard, Stanford, and New York Universities all have animal law programs. The longest standing, the Centre for Animal Law Studies, is at Lewis & Clark Law School in Portland, OR, and was established in 2008. Tier im Recht (TIR), the animal law non-profit organisation in Zurich, Switzerland, was founded in 1995. Switzerland is unique in that it is the only country whose constitution recognises the dignity of animals. 'In animal law we ask fundamental questions about the nature of a legal right or interest,' writes Vanessa Gerritsen, an attorney with TIR. '[H]ow laws create or entrench (power) imbalances, and – most importantly – how those imbalances impact animals.'



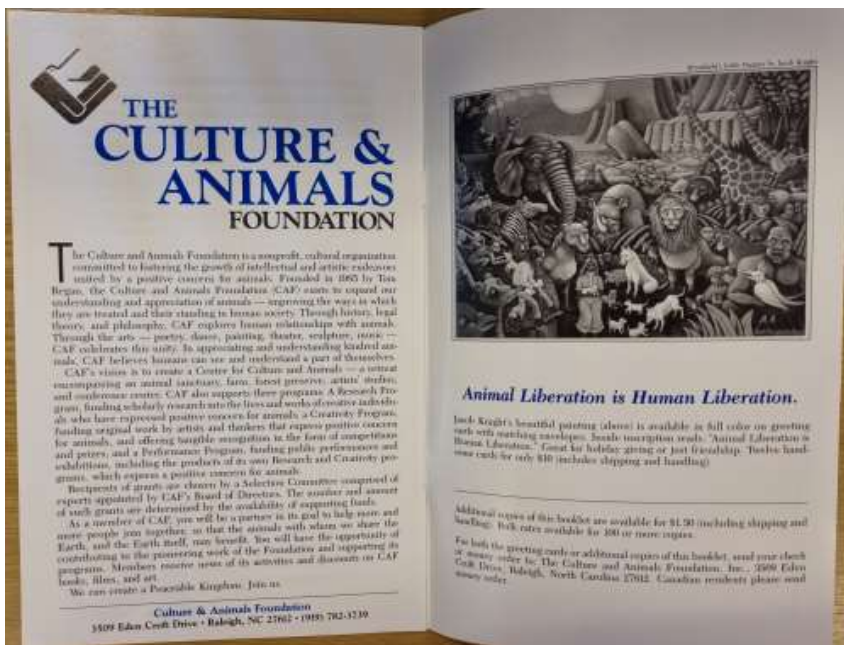
Journal of Animal Welfare Law, Association of Lawyers for Animal Welfare (ALAW), 2005, Add MS 89458/4/31. Credit: Association of Lawyers for Animal Welfare (ALAW)

Such initiatives as the Nonhuman Rights Project (NhRP) and the Cambridge Centre for Animal Rights Law (CCARL) are breaking new ground. NhRP is the only civil rights organisation in the United States dedicated solely to securing rights for nonhuman animals. It brings lawsuits on behalf of chimpanzees and elephants, to challenge the 'archaic, unjust legal status quo that views and treats all non-human animals as "things" with no rights.' CCARL is an 'academic centre of competence dedicated to the study of fundamental rights for non-human animals.' The centre's co-founders, Sean C Butler and Raffael N Fasel, are authors of a new textbook, *Animal Rights Law* (Animal Rights Law, Raffael N. Fasel, Sean C. Butler, Oxford: Hart Publishing, 2023, shelfmark DRT ELD.DS.750407) that I highly recommend. They write, 'this textbook is about whether and how the law should adapt to accommodate and enable the changes we are seeing in public understanding and opinion, in litigation and law reform proposals, as well as in legal education.'



Front cover of *Animal Rights Law* by Raffael N. Fasel and Sean C. Butler. Credit: Animal Rights Law, Raffael N. Fasel, Sean C. Butler, Oxford: Hart Publishing, 2023, shelfmark ELD,DS.750407

Lord Erskine spoke out again on behalf of animals in the Lords in a debate about another bill on farmed animal welfare that did become law. The Bill to prevent the cruel and improper Treatment of Cattle (aka Cruel Treatment of Cattle Act) became law in 1822. It is known as the Martin's Act after its sponsor, the Irishman Richard Martin, the MP for Galway. It became the first animal welfare law passed by an elected government. The Culture & Animals Foundation celebrated its bicentenary by producing, 'Martin's Act at 200', a six-part audio documentary. Martin was also present at a meeting of prominent humanitarians at Old Slaughter's Coffee House in London that led to the founding of the Society for the Prevention of Cruelty to Animals in 1824. The SPCA received its Royal patronage from Queen Victoria in 1840 and became the RSPCA.



Pamphlet from The Culture & Animals Foundation, 1992, Add MS 89458/4/78. Credit: The Culture & Animals Foundation

Public opinion is moving ahead of the law, waiting for governments to catch up and pass legislation. Sometimes parliaments act before the people make up their minds. The greatest challenge facing the animal rights movement is making the moral and legal status of animals a mainstream political issue. Going vegan and speaking out for animals are important steps for people to take. However, optional lifestyle choices must be complemented with initiatives that seek institutional, political, and legal change for animals.

Read books. Change the world. ”

CC-BY Kim Stallwood is a vegan animal rights author and independent scholar. The British Library acquired the Kim Stallwood Archive in 2020. He is a consultant with Tier im Recht, the Swiss-based animal law organisation, and on the board of directors of the US-based Culture and Animals Foundation.

References

Butler, S., Fasel, R. (2023) *Animal Rights Law*, Oxford: Hart Publishing, shelfmark ELD.DS.750407

Posted by Debbie Cox at 3:58 PM