

Animal Rights in the Shadow of the Constitution

In our article, we consider whether granting constitutional protections can improve animal welfare. To that end, we carry out a comparative analysis of legal systems that protect animal rights by constitutional tools, identify and analyze the ideas underlying those protections, and explore their adaptability. Focusing mainly on the Israeli case, we argue that constitutional law cannot provide adequate protections for animals and, contrary to the conventional wisdom, might even impair their protection. However, we suggest a normative theoretical approach, which supports making analogies to certain rules that derive from constitutional law in a way that could promote the welfare of animals without purporting to grant them constitutional rights. In this way, significant legal protections of animals could be achieved in a world where full recognition of animal rights is still unrealistic. The proposed approach, therefore, would enable to enjoy the benefits of using the rationales of some constitutional rules while avoiding the disadvantages of artificial and even harmful application of constitutional discourse.



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