

Through which institutional structures should animal interests be addressed in democracies? A critical exploration of the SPCA Model in South Africa

In a ground-breaking judgment in 2016 (*National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* [2016] ZACC 46), the Constitutional Court of South Africa recognized that animal welfare laws are grounded in protecting the intrinsic value animals have as individuals. It also articulated a strong and powerful role for the National Society for the Prevention of Cruelty to Animals (NSPCA) which it described as 'a special guardian of this laudable norm' (para 59) and tasked with 'preventing ill-treatment of voiceless beings' (para 60). Yet, a major and significant missing link in the judgment was a deep engagement by the court with why the NSPCA was set up to perform this role and whether it is properly structured to be able to do so. This judgment raises wider and cutting-edge questions concerning which bodies in society should be established to represent and protect the interests of animals. If animals truly have intrinsic value, then we need to reflect this recognition in our institutions that govern them. How should a public body be set up that seeks to defend beings with inherent value that are sentient but cannot participate in ordinary democratic structures? In the first part of the paper, I reflect on some broad principles that any such structure must meet. The second part of the paper seeks to describe the current structure of the NSPCA in South Africa and its relationship with the local Societies for the Prevention of Cruelty to Animals (whose structure is also relevant). In the last part of the paper, I seek to evaluate the current structure of the NSPCA and SPCAs against these broader principles. That in turn opens up space for law reform. This paper will hopefully catalyse discussion of both of a normative and practical kind surrounding how animal interests should be protected within political communities.



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