

Animals and the right to life: historical relativism, rights discourse and the law

One of the key assumptions in the field of animal protection law is that the painless taking of an animal's life does no harm and, therefore, is not subject to any prohibition. The aim of the present paper is to reassess the very basis of this assumption and, it is suggested, show that the evolution of modern animal protection law (in the form of the Animal Welfare Act 2006) perpetuates a view of what animals are, and what their capacities for conscious thought are, that has never been fit for purpose.

In essence, if we trace animal protection law through the centuries a clear and undisputable lineage appears and all scholars of animal law will be aware of how Richard Martin's Act of 1822 was added to, modified, amended and up-dated throughout the 19th century and that the culmination of this incremental development was the 1911 Animals Act. Equally clear is that the 1911 Act and its associated jurisprudence significantly influenced and underpinned the 2006 Act.

What is less clear, however, is what came before Martin's Act and how, from its conceptual beginnings, animal law has been blindsided by one of its most celebrated early advocates, Jeremy Bentham, and specifically Bentham's well meaning riposte to the Cartesian requirement of consciousness has, in fact and in law, led to a routine acceptance that animal lives can be taken from them with impunity.



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