

**ANIMAL LAW AND POLICY IN
AUSTRALIA
76033**

Animal Law – Seminar 1

Assessments Information

1. Collaboration and Class Participation
 - 30%
 - three parts – class participation/ online work/ presentation
 - Online discussion – engage with at least 2 out of the 4 posts
 - 2 responses to other students / two different discussion boards
 - one must be done by the 24th Dec, and the second by the 11th Jan.
 - ONLY TWO RESPONSES
 - 21st Jan – you submit one original post for marking and one response for marking
 - 24th one original due, 11th – other original + response. 18th – Response due
 - PART C → group work but marked individually – cannot speak for more than 5 minutes
2. Case Note – Contribution to the Animal Law Case book
 - Due 3rd Jan
 - 850 words
3. Research Essay
 - 50%
 - 10th Feb Due

TOPIC THREE

Discuss the status of animals under Australian law or some aspect of Australian law. What is this status and how does it affect their treatment? In your essay consider the arguments for and against changing the status of animals and the implications that such changes would have for the treatment of animals.

TOPIC FOUR

In his work, *Regulating Animal Welfare to Promote and Protect Improved Animal Welfare Outcomes under the Australian Animal Welfare Strategy*, (delivered at the International Animal Welfare Conference, Gold Coast, 1 September 2008) Geoff Bloom argues at pages 30-40 that animal cruelty and animal welfare should be treated as separate issues. Explain Bloom's approach and critically evaluate it using the treatment of farm animals in Australia as a case study. (Please note that Bloom's publication can be found in the workbook on UTSOnline).

Session 1

- Animal rights?
 - What sort of rights does an animal have?
 - What happens when animals start killing each other?
 - Right that are particular to an animal – where do you draw the line?

- Right to waive the right – power rested in the person to waive the right of their domestic animal?
 - Scientific research – humans have to consent to partake in research but how can animals waive their right?
 - Animal ethics committee
- Attempts to explain our divergent approaches to animals
 - Western Liberal Democratic Society
 - Based on the position that humans reason and differentiate themselves.
 - Animals are property? Not considered to be self-reflective/awareness
 - Animals are incapable of accepting moral responsibilities and duties towards humans and other animals
 - Utilitarian approaches – Singer, Posner
 - Singer is a preference utilitarian – actions judged according to the preference of any being affected by the action or consequences of the action
 - Singer follows Bentham – animals have an interest in avoiding pain and suffering and experiencing happiness. Limited to sentient beings
 - Equals consideration of interest of sentient beings – speciesism not a valid reason for determining whether animals should be exploited
 - Concept of preferences – human preference should not trump animal preference – equality
 - Rights approaches – Regan, Francione
 - Francione
 - Argues in favour of complete abolition of property-ownership paradigm and sentience prerequisite.
 - Differs from Regan in that:
 - No species hierarchies
 - No requirement for suffering
 - Although sentience not a pre-requisite if an animal is sentient – then that provides an unqualified right not to be property
 - Go back to slide 7 – what are the consequences of Regan's and Francione's views with respect to the matters referred to on the slide?
 - Wild Law
 - Page 65 – notion of wild law argues that humans are just one species on the planet that exists interdependently within a larger natural ecosystem.
 - Based on an earth-centric perspective.
 - Wild law would seek to invest animals with rights, not because of any inherent quality of the animals but simply because those animals form part of the ecosystem that should be protected.

Ancient Societies Greece

- Pythagoras
 - Vegetarian
 - Belief in transmigration of souls (similar to Buddhism)
 - Unthinkable to abuse an animal or eat its flesh
- Aristotle
 - Admired animals in the abstract but very pragmatic approach to their use
 - Plants exist for the sake of animals and brute beasts for the sake of humans – hierarchical ordering of plants and animals.

India

- Siddhartha Gautama – the Buddha
- Endless cycle – samsara for all sentient beings
- To kill an animal intentionally is to create heavy, negative karma
- Buddhism extends great care and kindness to animals

Middle Ages

- Synthesis of Aristotelian and Christian Philosophy
- All created things owe their existence to God
- Hierarchical order is God, humans and then animals
- Dumb or irrational animals lack reason – therefore activated by impulses.
- Because they lack rationality animals can be accommodated to the uses of others.
- If a person kills an animal belonging to another it is the theft of property not murder.
- See summary on page 14 of text
- Criminal trials and ecclesiastical trials
- Murder dealt with in criminal trials, other matters in ecclesiastical courts
- Strict procedure followed
- What purpose did these trials serve?
 - Biblical commands?
 - Irrational human actions?
 - Notions of Control, order and revenge?

Renaissance and Onwards

- Mechanical, geometric and mathematical view of the world
- Capacity for thinking and self-consciousness distinguishes humans and animals
- Equated animals to inanimate objects that could not think or feel pain
- Yet he loved his pet dog!
- Channelling of Cartesian ideas
 - towards commodification of animals
- Animals do not have any moral status, therefore no direct duties owed towards them
- Animals are merely a means to an end and that end is man
- Duties towards animals are indirect duties towards humanity.

- Must practice kindness towards animals for he who is cruel to animals becomes hard also in his dealings with men
- Analogous to welfare approach in so far as animals should not be treated cruelly
- Note page 23 of text – critique of Kant and internal contradiction of seeing animals as means to human ends and the possibility of treating humans in a similar manner.
- Betham → The question is not, Can they *reason*? Nor, Can they *talk*?, but, Can they *suffer*?
- Inclusion of the capacity to feel pain and sentience extends the guiding principles of ethical action.
- Bentham – utilitarian approach – the rightness or wrongfulness of an action is judged in terms of its consequences.
- Utilitarianism v Kant