

DISSERTATION SUMMARY

Tarja Koskela: *Optimal protection of Animals in the Criminal Procedure and the Public Administration* (University of Eastern Finland, 2017)

Available at: http://epublications.uef.fi/pub/urn_isbn_978-952-61-2390-5/urn_isbn_978-952-61-2390-5.pdf

In my doctoral thesis, I study the optimal protection of animals in the criminal procedure and the public administration. By “optimal animal welfare” I mean that animals are treated well and they are not caused suffering, pain or distress unless it is absolutely necessary for the animal. Treating a sick or injured animal or ending the animal’s life may cause it suffering, pain, and anguish, but this is justified if refraining from treatment would represent obvious cruelty towards the animal. Optimal animal welfare should be evaluated from the animal’s perspective: what is best for the animal itself at any given time. My research is primarily focused on whether the purpose of the Animal Welfare Act and the objectives prescribed in the Act are achievable in the criminal procedure.

In my research, I go through the animal welfare process that begins with a suspicion of an animal welfare offence and ends with the judgement for an animal welfare offence and a control of potential ban on the keeping of animals imposed as a part of the sentence. The research questions of my thesis are: 1) under which conditions and by whose authority is animal abuse included in the criminal procedure? 2) how is expertise ensured or can be ensured within animal welfare criminal procedures? 3) are sentences and consequences for animal welfare offences commensurate with the gravity of the offence? and 4) does the register of persons banned from keeping animals improve the efficiency of monitoring bans on keeping animals?

An animal welfare offence beginning of *lis pendens* is based on a report of an offence made to the police. The report of an offence may be preceded by an animal protection inspection performed within the administrative process. An animal protection inspection may, within the same case, lead to both administrative and criminal procedures that proceed as independent judicial procedures. The administrative procedure concerns the legality of the administrative action taken as a result of the animal protection inspection. As for the criminal procedure, its function is the realization of criminal liability.

In my thesis, I have combined the doctrinal study of criminal law with empirical research, using both the doctrinal and empirical methods. The empirical knowledge I have acquired provides the basis for my criminal policy arguments. My research constitutes criminal policy oriented legal research. Based on the results of my research, I have compiled a fifteenpoint list regarding optimal animal welfare within the criminal procedure and the public administration. Achieving optimal animal welfare would require changes to both the proceedings of public authorities and legislation. Merely having the authorities use their jurisdiction would improve optimal animal welfare. To rectify passiveness, a prohibition of passivity should be included in the Animal Welfare Act together with procedures specifying how to interfere with the passivity of an authority. To clarify the roles of the animal welfare authorities, the duties of local animal welfare authorities should be centralized to just one authority. This task would most naturally be suited for the municipal veterinarian. Animal welfare control should be performed systematically and using a risk-based method, not just based on suspicions. Additionally, the regulation of control should cover the control of the ban on the keeping of animals. Optimal animal welfare within the criminal procedure would also be improved by having some police officers and prosecutors specialize in animal welfare matters. They would handle the animal welfare offences. The animal welfare cases should be centralized to certain courts and a veterinary expert added to serve as a judge. Additionally, during the judicial proceedings, expert witnesses should be heard concerning the rules of experience and their application to the case in point. For animal welfare offences, in 90 percent of the cases the sentence is a pecuniary penalty, the amount of which was 39 day-fines on average, according to my research. A penalty includes an expression of disapproval and thus the conviction and sentencing have a strong communicative function. Therefore, the punishments and the other consequences should more closely correspond to the blameworthiness of an act. Also in the criminal procedure, the standard of proof should not be set too high.

Keywords: animal protection, animal welfare offence, ban on the keeping of animals, criminal procedure, administrative procedure.