

Global Definition of Animal Law

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According to a widely shared opinion, Animal law is the field of Law protecting animals. This is a misperception.

Animal law of course encompasses provisions protecting animals against, for example, acts of cruelty or bad treatments but Animal law also includes many provisions protecting humans against animals, ruling hunting and fishing as well as provisions permitting certain practices under which animals may be tortured and killed in the name of traditions, culture or food.

Animal law is a very broad field of law overlapping with almost all other existing fields of law such as constitutional law, civil law, commercial law, consumer law, tax law, criminal law, environmental law, international trade law, transport law, intellectual property law, marine and fisheries law, hunting law.

Animal Law is rooted in constitutions, codes, statutes, decrees, ordinances and the jurisprudence or case law.

Animal Law can be defined as the field of law encompassing all legal issues that directly or indirectly may have an impact on non-human animals.

The emergence and the swift development of Animal law in the past thirty years stem mainly from the progress of science.

Since decades now, scientists have recognized that non-human animals (at least those having a nervous system) have sentience and capacities that are analogous to those of humans and, in particular, the capacity to feel pain.

Added to this is mankind's growing awareness of the abuses inherent in the exploitation of animals. As a consequence of scientific research progress, humans adopt higher moral standards and a new ethics.

Animal Law is continuously fed by the progress of science. Thanks to the article published on June 7, 2003 by the University of Edinburgh (« Do fishes have nociceptors? Evidence for the evolution of a vertebrate sensory system » by L. U. Sneddon, V. A. Braithwaite and M. J. Gentle), we know that fishes can feel pain. This discovery brought humans to reconsider their relationship to fishes and to think about protecting their sentience through the law.

Scientific research is the key for protecting other species than vertebrates and to stronger laws for all non-human animals (vertebrates and invertebrates) capable of feeling pain.

However, despite the fact that humans know that all vertebrates and some invertebrates feel pain, they do not adopt an equal treatment to all animals. The way the law protects animals depends largely from our attitude and the way we see these animals.

Some non-human animals, despite the fact that they are recognized as sentient beings, can be at the same time treated as *pests* and as *pets* (rats for example). Some others are strictly protected against acts of cruelty if they are held in captivity and can be tortured and hunted without any legal protection if they live in the wild (if not considered as an endangered species). It is all about morality, tradition, culture and economics. Animal law is mostly anthropocentric.

We should always keep in mind that the law is a tool created by humans for humans and that until very recently non-human animals were almost totally ignored or just considered as mere things. Animal law is the result of compromises and of constant political and legal battles between conservative and progressive citizens.

But the key to understanding what is animal law is first to understand what we mean by « animal ». There is no general definition of what is an « animal ». The term « animal » is only defined under a given statute and then only in respect with the object of the text and its provisions.

The term « animal » can be defined as all living beings other than humans and plants.

Furthermore non-human animals can be classified in different categories such as companion animals, livestock and domestic animals; for example, a horse can be considered as a companion animal, livestock and even as wildlife for mustangs.

The absence of a general definition of the term « animal » and the likelihood of confusion that can result from the various classifications of some animals makes it necessary for the legislator and lawyers to clarify these issues in order to have something that is coherent and understandable by those who are in charge of the implementation of legal provisions relating to non-human animals and for the general public.

Animal law may, in my opinion, be divided in three large sub-categories:

1. Animal law protecting animals from humans

This first sub-category encompasses:

- **animal welfare laws:** they deal with the « humane » treatment of sentient animals that are used by humans, for example for food (during the whole life cycle of animals from breeding, raising, shipping to their slaughter), for animal testing or for entertainment;
- **anti-cruelty laws:** they protect animals against acts of cruelty and bad treatments
- **animal rights law:** the promoters of animal rights seek fundamental rights for certain animals at least those having a high level of cognition and having a certain level of autonomy (mainly apes, elephants and marine mammals such as dolphins, orcas and whales); such fundamental rights include the right to freedom and autonomy.
- **wildlife protection laws:** they protect certain species against hunting or killing

2. Animal law protecting humans from animals

This second sub-category encompasses:

- **animal pest laws:** ruling the killing or « destruction » of species considered by humans as pest meaning they may cause damage to human interests especially economical interests or to human health;
- **dangerous dog laws:** banning certain dog breeds or classifying dogs who may be dangerous or aggressive (attack or defense dogs) who must be kept by their owner under very stringent rules to protect humans;
- **game regulation laws:** protecting human economic interests from damage caused or which might be caused by wild animals;
- **sanitary laws** authorizing the destruction of animals to preserve public health.

3. Other provisions organizing the general relationship of humans with non-human animals

This third sub-category is a very broad one encompassing all other legal issues regulating the relationship between humans and non-human animals. They include:

- **hunting and fishing laws:** ruling the practice of recreational hunting and fishing;
- **sale of pets laws**
- **animal testing laws**
- **farmed animals laws**
- **tort and insurance laws**
- **animal ownership laws**
- **divorce laws**
- **consumer laws**
- **intellectual property laws**
- **international laws on animal trade and conservation**

Conclusion

In the past decades, lawyers (practitioners, scholars) have been key players in the development of animal law and still are; however we must notice that very recently animal activists and sometimes even the general public have also played an amazing role in seeking through petitions and demonstrations stronger laws for protecting animals. Animal parties have been set up in several countries representing animals' own interests in politics. This is extremely encouraging but each step forward is opposed (sometimes successfully) by large and powerful lobbies who want less protection and less control of their activities.

Animal law is a tool that can be used in two different ways by lawyers:

- they may merely apply the existing provisions without any other purpose. This is what can be considered as a purely « legal technician » approach;
- they may take a different path and consider themselves as animal activists and seek new and stronger protection laws and even rights for animals. This is what can be considered as an « activist » approach.

Both ways are necessary for the development of animal law.

From my point of view the heart of the legal profession specializing in animal law is to do whatever is necessary and useful in order to enforce and strengthen animal protection laws, to fight for the inclusion of animal welfare provisions in state constitutions and seek fundamental rights for certain species.