Background to the Conference

Most democratic states are characterized by legal systems that draw a sharp distinction between those who hold fundamental rights which are protected by the state – humans; and those who do not - animals. South African law, for instance, distinguishes between persons and things: only persons may claim the protections of rights. After the horrors of the Holocaust, there was global recognition that all human beings, at least, should be recognized as bearers of dignity and rights-holders. This erected a sharp divide between humans, other animals and the environment more generally.

In 1970, scholars and activists began to critique this divide. They challenged the philosophical assumption that was used to justify the barrier between species and their concomitant legal protection, or lack thereof. This era is characterized by Peter Singer’s foundational argument that the unjustifiable, arbitrary premises underlying race or gender supremacy, were similar in nature to those that underpinned the hierarchy established between humans and animals. A new term – speciesism – was coined which provided a new and radical conceptualization of the structural and arbitrary privileging of the human in contrast with other animals. This work was a catalyst for forms of social activism which connected and challenged injustices against humans as well as those perpetrated against animals.

At the same time, there were also developments in environmental ethics with Christopher Stone’s seminal contribution on whether trees have standing and the resulting discussions that ensued. A strong conservation movement developed which sought to emphasise the human role in ensuring species were preserved. The development of thinking around Sustainable Development in the late 1980’s placed emphasis on the relationship between our present activities in relation to the environment and the well-being of future generations. Unfortunately, tensions developed between the environmental movement and animal rights movement. Nonetheless, both share a common concern for expanding the realm of protection beyond the human species.

As the activist impetus has grown, so too has the pressure for these developments to be enshrined in law. In the last few decades, these efforts have begun to bear fruit. Germany amended its Constitution to recognise that animals have interests that demand a level of constitutional protection and Switzerland recognised that living beings have dignity. In a 2016 judgment, the South African Constitutional Court, for the first time, recognized that the rationale for the protection of animal welfare lay not in human interests but the ‘intrinsic value of animals as individuals.’ It also recognized that conservation and animal welfare are intertwined. Similarly, the courts in India have in a number of judgments started to recognize
that animals may be protected by fundamental rights. There have been efforts in the USA courts and other countries to utilise the common law remedy of habeas corpus for animals in captivity. Further creative efforts to expand the sphere of legal protection currently offered to animals are being pursued around the globe. The law in this area is evolving constantly.

Increasingly, activists and lawyers are recognizing that there is a connection between cruelty to animals and the violation of human rights. Studies have demonstrated the link between domestic violence and animal abuse; specialists in the right to food (including the FAO) have drawn a link between food insecurity and the mass production of meat; and the slaughter industry itself is now recognized as one of the most dangerous industries in which to work. The well-being of animals, therefore, is not extraneous to human rights; it is inextricably intertwined with the pursuit of social justice for humans.

On the environmental front, a number of Constitutions have included rights to environmental protection such as South Africa’s section 24. Some such as that of Ecuador in 2008 have recognized what are termed ‘rights of nature’. These provisions have spawned a number of developments with the Colombian Constitutional Court granting rights protection to a river, and similar developments taking place in different parts of the world, including New Zealand and India. Bolivia has also formally recognised the rights of nature in legislation. These developments take place against an increasing climate emergency and its potential to cause environmental devastation.

What is clear from all of these developments, is that it is no longer possible to assume that only humans are entitled to fundamental rights and legal protection. The tide, so to speak, has turned.

In light of this shift in law and practice, the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC), a Centre of the University of Johannesburg together with Animal Law Reform South Africa (ALRSA) are holding a ground-breaking conference on the theme: ‘Legal Evolution and the New Rights Revolution: Expanding the Sphere of Protection to Animals and the Environment’.

The conference aims to focus on the expansion of rights and law beyond the human sphere. The questions this conference seeks to address include:

- What is the relationship between the ‘rights revolution’ that has expanded rights protection to all humans (imperfectly) and the ‘new rights revolution’ – i.e. moving beyond the human species?
- Should rights be confined to protecting sentient beings or can they expand to protect inanimate parts of the environment too? Indeed, should we understand nature itself to have a form of sentience?
- Should violations of human rights, animal rights and environmental rights be regarded in a similar way as forms of injustice?
- Is there a relationship between forms of oppression? Should there be a hierarchy of rights protection?
Date and Time

The conference will take place on 3 and 4 December 2020 in Johannesburg, South Africa.

Abstracts

We request abstracts to be submitted by Monday 20 April 2020 to amywilson@animallawreform.org. A decision upon whether to accept the abstract will be communicated by the middle of May 2020. The abstract should be submitted in WORD and be no more than 500 words. It should be accompanied by a brief bio of the presenter, of not more than 250 words.

Full Papers

All presenters are required to submit full papers by 15 November 2020. The best papers will be selected for inclusion in an edited volume on the topic. Further details and requirements for the publication will be provided in due course.

As part of the Conference there will be activities and sessions specifically for students and lawyers. Information about these will be released in due course.