



Covid19, Brexit and much more in 2020: A Bad Year for Animal Welfare?

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An Existential Set of Crises

This special edition of the *Liverpool Law Review* is the second special edition focusing issues in Animal Law and contains a number of papers presented at the second United Kingdom Animal Law,¹ Ethics and Policy Conference, held in Liverpool during November 2019 and organised by the School of Law, Liverpool John Moores University in conjunction with the United Kingdom Centre for Animal Law (A-law).² Even now, it seems that the conference was held in a different world to the one we are facing, forever changed by Covid19. This pandemic raises questions as to our relationship with animals. However, it should not have come as a surprise when it emerged, as this was one of the threats scientists had been warning us of for years. Since the pandemic began, it has been transmitted from animals through markets in China and then carried across the globe by unsuspecting international business people and holiday-makers. The effects on animals cannot be underestimated such that a special edition focused on Animal Law is very timely.

This edition features various articles on Animal Law which collectively bring together concerns over the impact of human activity on animals. The overall effect on animals of Covid19 has yet to be measured and will form the basis of future research. However, the Covid19 outbreak is part of the family of collective concerns that clearly demonstrates our impact on the natural world from our use of animals as food, tools for medical research, medicine, and the clearance of land for farming

¹ For the first see Brooman (2018).

² A short video of the conference is available at <https://www.youtube.com/watch?v=a9Tdof6QuVM>. More details of the work of the United Kingdom Centre for Animal Law (A-law) can be found at <https://www.alaw.org.uk/>.

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and forestry. There has been an economic impact on zoos and wildlife parks and an increase in animal cruelty during the period of lockdown. Loss of income from conservation tourism, such as safaris, may lead to a move to more agriculture, resulting in the destruction of forests, and more poaching. There is emerging evidence that poaching has escalated due to increased demand for items such as rhino horn which, although dismissed by scientists, was falsely claimed to be a cure for Covid19. The impact of the pandemic has also led to a lack of rangers in the field who previously protected these animals. In addition, the world faces its continuing race to slow down climate change that is forecast to reap further havoc on environments and societies across the globe.

Although trivial by comparison when compared to these generation-defining struggles, there is also the concern around animal welfare arising from the United Kingdom's new relationship with the world after Brexit. The trade talks on Brexit, reaching another 'crucial point' as this special edition went to press in mid-2020, may lead to a weakening of farm welfare standards and wildlife controls and other environmental protections. There are fears that new trade deals, particularly with the United States, would expose our markets to meat produced from animals reared and slaughtered under poor welfare standards. There are reports amongst animal welfare charities that the agriculture bill currently passing through Parliament (June 2020), which will replace much of the protection previously provided under European Union law, is causing concern due to the lack of safeguards for agricultural welfare standards or the environment.³

A final context to this special edition is the emerging crossover of ideas between environmental law and animal law and vice versa, such as the call for extinction targets resulting from climate change.⁴ The opening up of this boundary is explored in some of the articles in this edition, and we suggest that this dialogue needs to escalate in line with the current magnified set of global crises. However, the pandemic has pushed back both climate change and biodiversity goals, with both the UN Climate summit and the Convention on Biological Diversity meetings postponed to 2021.⁵ Many changes that are needed to prevent damage to the environment and suffering/destruction of species will now take more time to come into effect. However, the impact of Covid19 has caused many people to 'press the pause button' and to question the status quo—to postulate the best way forward in preparation for making these defining decisions in 2021. Even the simple fact of clear skies and less polluted air resulting from the global lockdown gave city-dwellers across the globe a 'scent' of a possible reality if global emissions could be reduced.

We suggest that never in human history have the issues raised in these articles been so pertinent to our future on the planet. The cost of erroneous decision-making has been laid bare as thousands have paid the ultimate cost of others tampering with nature without understanding (or caring?) about the consequences. There are calls for a general green recovery post-Covid19 and a new national nature service. There

³ All these issues are covered on the Guardians' environment page. <https://www.theguardian.com/uk/environment>.

⁴ Briggs (2020).

⁵ Briggs (2020).

is an opportunity to do things differently, to develop environmental law, animal law and social justice together—if we are willing to grasp the chance.

Animal Law at a Time of Crisis in Legal Education

At the moment in the history of legal education that Animal Law appears to be a perfect area of research and scholarship made for the present it faces the prospect, in the United Kingdom at least (probably elsewhere too), of its demise. It may be one of a number of new areas of legal education that connect law with the outside world, the may be squeezed out of the legal education altogether.⁶ Legal education in the UK is re-setting to satisfy the competing demands of the new Solicitor's Qualifying Examination and calls for content more directly suitable and related to practice as a barrister such as mooting. Meanwhile, universities are demanding more research to help with their profile in national tables, whilst students and parents demand more face-to-face contact for a service for which they are now footing the bill. It does not overstate the matter to suggest that these demands are tearing legal education apart and may make it impossible for subjects like Animal Law to be taught in the higher education context. This is ironic, as Animal Law is growing in popularity and is very well received in student feedback. It matches student expectations of higher education but not, apparently, the demands made by the professions for 'practice-ready' students. Legal scholarship in Animal Law may be reduced or disappear as academics are encouraged/forced to carry out research relevant to their new areas of teaching, rather than areas they are drawn to as a matter of conscience. Groups with legal expertise outside universities, such as A-Law, may have to take up the slack.

Is this good for law students? The precise detail of these professional changes is beyond the scope of this article. However, the impact of this is that many law degrees in the UK are being re-designed to act as preparatory programmes for the new solicitor's exam, so drawing in much more study related to professional competence. For many of us in the legal academy this looks far less inviting or relevant to those students who study law but do not wish to become solicitors or barristers. In some universities less than 20% of law students move on to the professions.⁷ Removing from legal education subjects relevant to the external world, such as Animal law, may deny legal academics and students their voice in defining the future.

Whilst we recently rejoiced (2017–2019) at the number of new Animal Law courses in the UK, we almost immediately faced the disappointment of seeing others come under pressure to be dropped from the curriculum as they do not fit the new landscape of professional legal education. Debate about the purpose of legal education is also beyond the scope of this article, but, there is much disagreement. We suggest that it is undesirable and troubling that legal education has focussed in on itself—at the very time it could have grasped the opportunity to increase its

⁶ Brooman (2017).

⁷ Brooman and Stirk (2020).

contribution to answering global challenges, it was immersed in bitter debate over changes to business skills for the legal professions.

The United Kingdom Centre for Animal Law (A-law) has already provided open-access podcasts on Animal law, and drawn significant national audiences, as familiarity with new technology increased exponentially during the pandemic lockdown.⁸ Moving to new ways of teaching has given us time to reflect on what we are teaching and why. It has allowed us to explore novel ways to teach Animal Law, reach larger audiences, draw together academics across disciplines, professionals and campaigners, to improve the curriculum by including social and ecological justice in our research. Perhaps we can use these new alliances, ways of thinking about Animal Law, and technology to compensate for the narrowing of focus in legal education.

The Articles in this Special Edition

The articles presented here provide us with some challenging starting points to consider how animal welfare may be improved in the context of external challenges. There are some novel interdisciplinary and practical examples of how we can improve animal welfare in several different areas. They illustrate how, whatever the future holds, there will always be academics and professionals in the field who work tirelessly to challenge and debate current norms of practice that result in poor animal welfare.

The first paper, by Rachel Dunn, links to initial Royal Society for the Prevention of Cruelty to Animals (RSPCA) reports that there was more harm to animals during the Covid 19 lockdown in 2020. Although the paper was written before the crisis, it discusses arguments for the use of extended welfare assessment grids (EWAGs) in cases concerning breaches of animal welfare, which we suggest is even more pertinent since the crisis. Rachel explains how the use of EWAGs involves a visualisation mapping tool of welfare impact and considers whether the RSPCA can use it to support their assessments of the current welfare of an animal under a person's ownership. This is an interesting study of how modelling could be used by the RSPCA to help improve animal welfare and could provide a useful practical tool to help those trying to enforce animal welfare standards.

The use of novel strategies for improving animal welfare is also considered in the second paper by Michelle Strauss. It focusses on planning and animal welfare in Ireland and discusses whether planning authorities in the Republic should be required to have regard to animal welfare laws as part of the planning process. This is a novel approach that could be useful, as Michelle argues, as a tool to protect not just public health and the environment but also animal welfare. Planning law can be used in the context of the housing used for commercial dog breeding by examining the proposals for the generation and disposal of wastewater. The theory is that this would provide a proactive approach to animal welfare, as behavioural and psychological issues are often linked to careful provision for hygiene as exhibited in the

⁸ See A-law website <https://www.alaw.org.uk/>.

approach to waste generation and the risk of providing inadequate facilities. This also links to the Covid19 crisis, as in May–June 2020 there was evidence emerging across Europe including Wales and Germany that businesses profiting from our relationship with animals through meat production may be particularly susceptible to spreading the virus, as well as animals kept in fur farms in the Netherlands being slaughtered because of their high incidence of Covid19 transmission. Evidence of the link between the virus and our relationship with animals emerged almost daily. Examining plans through the lens of animal hygiene is certainly a novel approach to improving animal welfare using existing law that also leads to a wider debate about pet ownership and its impact on the environment and animal welfare.

In the third article, Joe Wills considers whether imposing a ban on non-stun slaughter is compatible with obligations to protect religious freedom and non-discrimination under the European Convention of Human Rights. This follows calls by the RSPCA and the British Veterinary Association (BVA) for a repeal of a legal exemption that permits the slaughter of animals without prior stunning. Those who carry out religious slaughter of animals contend that non-stun slaughter, when properly conducted, is both humane and a religious requirement.⁹ Joe focuses on the narrower question of how these competing concerns relating to religious freedom, non-discrimination and animal welfare would likely be resolved in the legal human rights framework of the European Convention of Human Rights (ECHR). This article raises important issues that are pertinent to designing an inclusive legal education curriculum for Animal Law. When considering how law should evolve, we need to be aware that the law itself is built on foundations that raise contextual issues in terms of diversity and inclusion. Environmental lawyers and those in the environmental movement have long argued that ecological and social justice go together and that this should be reflected in the conversations we have about how animal law should develop and how we teach it.¹⁰

In the fourth article, Eva Bernet Kempers assesses the potential of the concept of ‘animal dignity’ being used as a normative principle for the legal approach towards animals. Eva argues that, despite its conceptual vagueness, the concept of ‘animal dignity’ has the potential to address some of the shortcomings in the current paradigm based on animal welfare, and in the oft-proposed paradigms based on animal rights. Eva gives us an overview of the meaning of ‘animal dignity’, contrasting its jurisprudential treatment with that of the more well-known animal welfare and animal rights approaches. Innovative thinking in relation to the foundations of what law should be based on provides us with new dialogues from which we can move away from old foundations of law towards ones that best reflect our changing relationship and consciousness around ecology and law, and animal law.

In the fifth and final article, we reflect on 25 years of teaching Animal Law, and present a proposal that emerged from our discussions at the second United Kingdom Animal Law, Ethics and Policy Conference in 2019. We examine some of the concerns that inspired us to introduce the Animal Law course at Liverpool John Moores

⁹ Brooman (2016).

¹⁰ Lakhani and Watts (2020).

University in 1994 by considering three case studies. We then consider how Environmental Law has responded to the issue of climate change and how this might interact with Animal Law. We consider suggestions for an international crime of 'Ecocide' and suggest the inclusion of a specific crime of 'Animal Ecocide'. This is an illustration of just one way in which legal educators and professionals in Animal Law can contribute to the wider debate on climate change by opening potential legal solutions, encouraging novel responses and reducing the damage caused by our actions – including the suffering of our fellow creatures. The knowledge and skills of legal scholars, professionals and educators across legal areas as well as across disciplines are important voices that are needed to help shape a new consciousness.¹¹

Together, these articles reflect the theme of the conference held in September 2019, which is mirrored by many of the concerns for animals that seem to have multiplied in 2020. They provide us with both practical and theoretical solutions through which we can reassess how Animal Law could be taught and developed in practice. The study and scholarship of Animal Law is connected to the outside world in a way that goes beyond most traditional legal subjects. It is not a niche area that is beyond the scope of legal education, on the contrary, it is a subject of the present and the future. It places the law into the context of real life that is often lost to legal professionals and educators, as we continue to debate which personal skills need to be the focus of our attentions at the legal education stage – it places the law into nothing less than the context of human survival, our interaction with the planet, and the damage we cause to it and its many species.

The study of Animal Law gives rise to deep-rooted questions about human frailty and about the presumption that we can do to animals and the environment as we please without consequence. Rather than being at the fringes of legal education both Animal and Environmental Law should be at the heart of twenty-first century legal education provision.¹² Animal Law should not be battling for survival in the face of professionals' demands for students with work-related skills. It is not that these 'employability skills' are unimportant, rather we suggest that ecological or sustainable based education should also form at least a part of every law student's educational experience otherwise they will be less prepared to join the response to the greatest challenges of our time. The interface of animal law with a range of other areas of law is central to developing our relationship with animals and the environment. The challenges to those teaching/researching/practicing Animal Law in the UK are daunting but also they provide us with new opportunities to conceptualise how Animal Law is taught and where and how to widen out the audience to whom we as lawyers speak.

¹¹ Capra and Mattei (2015) and Mattei and Quarta (2018).

¹² Silva (2014).

References

- Briggs, H. 2020. Nature crisis: New global extinction target proposed, *BBC News*, 12th June 2020, <https://www.bbc.co.uk/news/science-environment-53008292>. Accessed 12th June 2020.
- Brooman, S. 2016. In search of the missing ingredient: religious slaughter, incremental failure and the quest for the right to know. *Journal of Animal Ethics* 6 (2): 153–163.
- Brooman, S. 2017. Creatures, the academic lawyer and a socio-legal approach; introducing animal law into the legal education curriculum. *Liverpool Law Review* 38 (3): 243–257. <https://doi.org/10.1007/s10991-017-9205-7>.
- Brooman, S. 2018. Animal law in the United Kingdom: academics, conferences, a-law and student engagement. *Liverpool Law Review* 39 (1): 1–7. <https://doi.org/10.1007/s10991-018-9215-0>.
- Brooman, S., and S. Stirk. 2020. Who am I?: Using reflective practice and self-determination to redefine 'employability' in legal education. *Liverpool Law Review* 41: 79–98. <https://doi.org/10.1007/s10991-020-09240-5>.
- Capra, F., and U. Mattei. 2015. *The ecology of law: Toward a legal system in tune with nature and community*. California: Berrett-Koehler Publishers.
- Lakhani, N. and J. Watts. 2020. Environmental Justice means racial justice say activists. *The Guardian*, 18th June 2020. <https://www.theguardian.com/environment/2020/jun/18/environmental-justice-means-racial-justice-say-activists>. Accessed 18th June 2020.
- Mattei, U., and A. Quartas. 2018. *The turning point in private law, elgar studies in legal theory*. Cheltenham: Elgar Publishers.
- Silva, T. 2014. Origins and development of teaching animal law in Brazil. *Pace Environmental Law Review* 31 (2): 500–530.

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