

## **BOOK REVIEW**

### **ANIMAL WELFARE AND INTERNATIONAL ENVIRONMENTAL LAW: FROM CONSERVATION TO COMPASSION**

REVIEWED BY: Iyan Offor\*

Since J Baird Callicot wrote that environmental ethics and animal ethics grow out of 'profoundly different cosmic visions', animal ethics have been troublingly and needlessly divorced from environmental ethics. This situation is mirrored in law. Legal actors overplay regulatory circumstances that feed this fiction: pest control (supposedly compassionless by nature) is required for ecosystem flourishing; ballooning population levels necessitate more intensive animal farming (as if it weren't true that the livestock industry is a protein factory in reverse (Peter Singer, *Animal Liberation*)); and mass adoption of vegan diets is unsustainable (evidently we ought to breed and feed billions of mutated, mutilated, and overgrown farm animals instead). Such false claims run rampant within the academy. Consequently, the title of this collection alone is bound to draw scorn. Scholtz and the contributors to this collection deserve the greatest praise for their bravery and intellectual integrity in supporting a compassionate approach to conservation. May the scorners read on and pay heed to this book's groundswell of movement-building ideas.

Environmental lawyers' shudder at animal liberationists' conceptualization of conservation as anthropocentric, utilitarian and lacking in compassion. After all, conservation is necessary for healthy ecosystems and animals are a part of that. Surely that's enough? Not so. Schaffner (chapter two) reveals that choosing conservation as a tool to regulate animals involves conceptualizing animals as resources maintained for use by future populations. This is hardly consonant with animals' intrinsic value. Schaffner argues we must emphasize protection and preservation over conservation in order to avoid instrumentalization. Sykes (chapter eight) and Scholtz (chapter seven) both concur, favouring 'protection' which can encompass both welfare and conservation.

Bilchitz (chapter six) deconstructs the meaning of 'conservation', illuminating and problematizing our species-centric understanding of the term. It is not self-evident that conservation ought not to promote respect for the individuals that are integral to a species' survival. Accordingly, Bilchitz promotes an integrative approach to conservation that respects individuals. The alternative aggregative approach is self-defeating because it facilitates dispositions towards treating animals instrumentally.

These deconstructions are resisted by conservations who believe individualized, compassionate approaches to conservation are sentimentalist, inappropriately womanly, and emotional (thus irrational). This book adds to the rich canon of work demonstrating that there is nothing irrational about compassion for animals. Nevertheless, emotion is a valid, though markedly undervalued, knowledge-form and animal lawyers ought not to shy away from referencing insightful anger or despair.

This book displays commendable clarity in outlining the void of compassion in legal approaches to wild animals. Scholtz (chapter one) identifies wildlife welfare as situated at the very fringes of environmental law. Scholtz favours a seismic shift whereby animal welfare bounds for the centre of international environmental law. The time is now because of the shrinking wild, increasing globalization and trafficking/trade, and deep entanglement of animal interests with transnational environmental protection. Each contribution to this collection offers a puzzle piece fitting within this burgeoning corpus of work. Its conclusions invite more puzzlers to the table, for we are just beginning to see clarity in the picture.

Two contributors propose ethical ideas to underpin compassionate conservation. Schaffner (chapter two) explores the concept of value, for humans only protect that which they attribute value to. International environmental instruments increasingly recognise animals' intrinsic value but require no related action. Indeed, respecting intrinsic value requires a compassionate conservation which remains unrealized. Scholtz credits Schaffner with establishing the ethical context for the other contributions. Value *is* ethical, but also exceedingly economic and persistently anthropocentric. This is but one of many possible approaches to ethically grounding

compassionate conservation. Future research ought to pick up this thread, revisiting oft-quoted heavyweights of animal ethics (Peter Singer, Tom Regan, etc), but also exploring critical animal ethics of significance for global issues like conservation. These include the application of earth jurisprudence to animals, feminist care theory, and other-facing ethics like Donna Haraway's posthumanism. Bowman (chapter three) paves an alternative route of ethical enquiry which, like the rest of the book, is reformist in nature. He proposes applying existing concepts of human dignity and intrinsic value to animals, forming a bioethical approach to normatively underpin a more cohesive international order. This proposal is likely to instigate fascinating conversation with more abolitionist animal ethicists.

Some chapters address the overemphasized cases of conflict between species conservation and individual welfare. Scholtz (chapter seven) addresses situations where sustainable use and killing is thought to be required for overall conservation. Riley (chapter four) addresses the problematic dichotomization of animals that are harmful (pests and alien or invasive species) and those that are useful. It is to this book's credit that it does not shy away from these tricky issues that have seen animal welfare subordinated to conservation.

Two chapters are more forward-looking in nature. White (chapter five) parallels other chapters by reviewing burgeoning global regulatory pronouncements on animal welfare. His favoured approach is the establishment of a 'distinct international organization focused solely on animal welfare protection'.<sup>719</sup> Finally, Sykes (chapter eight) argues that the World Trade Organization does not pose an obstacle to the development of a compassionate wildlife law. In fact, the dispute settlement body's recognition of animal welfare as a matter of global concern in the *EC – Seals* dispute<sup>720</sup> may aid development of such a law. Sykes' chapter is a highlight and ought to be referenced as a definitive guide to the WTO disputes relating to animals.

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<sup>719</sup> At 200-201.

<sup>720</sup> (Appellate Body, *EC – Seal Products* (2014) WT/DS400/AB/R, WT/DS/401/AB/). In this dispute, the WTO Appellate Body determined that the EU ban on marketing of seal products was a restriction on trade that could be justified under an exception to WTO free trade rules based on public morality. Revision of

I was fortunate to attend the first two iterations of the conference from which this book stems: the Lincoln University Conference on Animal Welfare and International Law. I wish here to reiterate an idea about doing *global* animal law. We ought to be mindful that the calls for compassionate conservation are emanating primarily (exclusively?) from Western scholars; it is our responsibility now to reach out to non-Western academics, non-academics, indigenous communities, and marginalised people. We cannot go much further without inviting them to the discussion. This book is an integral building block for welfare-conscious wildlife law. It is encouraging to see that the conference's kindling drive for compassionate conservation has sparked to life in this collection.

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the measure was required in order to tighten an exception for indigenous hunts. However, the EU was ultimately able to continue enforcing its measure.