

BENDING THE RULES? INCLUDING ANIMALS IN A SUBSTANTIVE ACCOUNT OF THE RULE OF LAW

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TOPIC AND IMPORTANCE

This paper explores how the rule of law can be expanded to strengthen legal protections for animals in Canada.

Traditionally, Canadian law has treated animals as property, reinforcing a human-centered system that overlooks their interests. This article argues that the idea of the rule of law (which restricts the arbitrary exercise of power, and affirms that the law should apply equally to all) can be expanded beyond human interests to support legal reforms that recognize and protect animals' rights. Informed by this article's broad vision of the rule of law, Indigenous legal traditions, and Canada's commitments to customary international law, legal reforms could recognize animals as rightsholders and aim for substantive multispecies justice.

MAIN ARGUMENTS

This paper's main argument is that Canadian courts have all the means necessary to interpret the notion of the rule of law in a broad way and, consequently, to apply it to matters of animal justice. It first addresses how Canadian law prioritizes human interests over animal welfare, with minimal regulations on industries' treatment of animals. The article then argues that though Canadian courts often view the rule of law narrowly—focusing on legal rules and stability—some cases show a broader approach, emphasizing fairness, justice, and protecting vulnerable groups. For example, in *Sauvé v. Canada (AG)* (1993), the Supreme Court of Canada struck down a law barring prisoners from voting, recognizing that fundamental rights involve social and political values. This flexibility suggests that the rule of law can evolve to challenge injustice, including the exploitation of animals.

This paper also suggests that Canada has a legal obligation to integrate Indigenous laws within Canadian law. Considering that many Indigenous legal traditions conceive of humans and animals as equals and intrinsically related, Canadian courts' interpretation of the current treatment of animals—if informed by Indigenous laws—might be aligned with the need for additional animal rights' protections.

Finally, the authors also contend that Canadian courts already rely on climate science and international law in environmental cases, showing a commitment to evidence-based decision-making that connects animal-use industries to the climate crisis and international legal developments framing the climate crisis as a rule of law issue. Since international law is part of Canada's legal system unless explicitly overridden, courts should also consider it when shaping domestic environmental law on animal rights.

CONCLUSION AND ADDITIONAL CONSIDERATIONS

Some worry that expanding the rule of law to protect animals would weaken its purpose by relying on judges' personal views about what the rule of law should mean instead of legal rules. But Canadian law already has examples of courts shaping justice, and it may be that true fairness means considering all vulnerable groups, including animals. Others fear that giving animals rights could harm marginalized humans by making them seem less important. However, research shows that treating animals as inferior also reinforces human inequalities. This article suggests that to create a fairer world, courts need to move beyond human-centered laws and recognize that all living beings are connected.

Thus, this paper calls for a rethinking of Canadian legal principles to move toward an inclusive, multi-species approach to justice. Linking animal exploitation to the rule of law opens new avenues for advocacy and legal reform.