

The Implications of Instrumental Animal Protection for the Legal and Moral Status of Animals

Authors : Ankita Shanker, Angus Nurse

Abstract : The notion of animal rights is an emerging trend in various spaces, including judicial and societal discourse. But one of the key purposes of recognizing the fundamental rights of anyone is their de-objectification. Animals are a prime example of a group that has rights that are neither recognized nor protected in any meaningful way, and anything that purports differently fails to ameliorate this because it still objectifies animals. Animals are currently treated by law and society as commodities with primarily (though not exclusively) instrumental value to some other rights-holder, such as humans or nature. So most protections that are afforded to them are done so in furtherance of the interests that they allegedly further, be it social morality or environmental protection. Animal rights are thus often seen as an application or extension of the rights of humans or, more commonly, the rights of nature. What this means is that animal rights are not always protected or even recognized in their own regard, but as stemming from some other reason, or worse, instrumentally as means to some other ends. This has two identifiable effects from a legal perspective: animal rights are not seen as inherently justified and are not seen as inherently valuable. Which in turn means that there can be no fundamental protection of animal rights. In other words, judicial protection does not always entail protection of animal 'rights' qua animal rights, which is needed for any meaningful protections to be afforded to animals. But the effects of this legal paradigm do not end at the legal status of animals. Because this status, in turn, affects how persons and the societies of which they form part see animals as a part of the rights of others, such as humans or nature, or as valuable only insofar as they further these rights, as opposed to as individuals with inherent worth and value deserving of protection regardless of their instrumental usefulness to these other objectives. This does nothing to truly de-objectify animals. Because even though most people would agree that animals are not objects, they continue to treat them as such wherever it serves them. For individuals and society to resolve, this inconsistency between stance and actions is for them to believe that animals are more than objects on a psychological and societal level. In this paper, we examine the implications of this perception of animals and their rights on the legal protections afforded to them and on the minds of individuals and civil society. We also argue that a change in the legal and societal status of animals can be brought about only through judicial, psychological, and sociological acknowledgment that animals have inherent value and deserve protection on this basis. Animal rights derived in such a way would not need to place reliance on other justifications and would not be subject to subjugation to other rights should a conflict arise.

Keywords : animal rights law, animal protection laws, psycho-socio-legal studies, animal rights, human rights, rights of nature

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