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**A Critical Analysis and Suggested
Reform of Sentencing and
Disqualification Orders under the
Animal Welfare Act 2006**

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Research Declaration

I confirm that I have already submitted my Project Synopsis and Ethical Approval Form, which has been signed by my supervisor. I further confirm that this project is entirely my own work and that research undertaken for the completion of this project was based entirely on secondary material or data already in the public domain (case law, journal articles, published surveys etc.) It did not involve people in data collection through empirical research (e.g. interviews, questionnaires, or observation).

Signed: 

Dated: 26th May 2020

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Introduction

Much like the evolution of man, the relationship that humans hold with animals has also evolved over time. However, as this relationship constantly develops, it is crucial that the importance of animal welfare does not fade into the background. Humans rely on animals on a daily basis, regardless of whether this relationship is for commercial purposes or companionship, an animal's welfare should always be preserved. As with all aspects of society, protection resides within the law, however, within the UK, such protection requires improvement. This need for improvement is evident due to the UK's recent demotion from Category A to Category B in the Animal Protection Index, an index that is collated to assess the protection of animals on a global scale.¹ The purpose of this dissertation is to evaluate the current protections animals have within the legal system, giving specific reference to the enforcement of sentencing powers available to courts for animal related offences.

To fully assess this lack of protection and the need for change, three main areas will be considered. Firstly, in Chapter 1 the philosophy behind animal rights and their welfare will be discussed, giving specific reference to the Citizenship theory. This will initiate thought around this area and allow for clarity on why animals are deserving of further protection within the law.

Secondly, an outline and analysis of the current law and sanctions available within the UK will be provided. This critique will not just be limited to that of custodial sentencing, but also the lack of enforceability surrounding other sentencing measures such as disqualification. Furthermore, there will be focus on how it is in the public interest to increase animal protection. This discussion will draw reference to numerous points such as the correlation between animal and human violence and how these offences intertwine within the legal system. This, coupled with the philosophy discussion, will offer not just why animals are deserving of protection but how such protection may also benefit humans.

Finally, after establishing a need for change, an assessment of animal welfare measures within international legal systems will be provided. This will allow for suggestions to be made as to how the UK system could be reformed and improved to tackle the issues discussed.

¹ Animal Protection Index, 'United Kingdom' (*Animal Protection Index*, 10 March 2020) < <https://api.worldanimalprotection.org/country/united-kingdom> > accessed 4 May 2020

Comparisons of the UK measures will be made to both European, Australian and United States' legal systems. The propositions put forward will range from a simple increase in sentencing, to further measures such as the introduction of an animal abuse register and upward departures for animal related crimes.

Chapter 1: The Philosophy Behind Animal Welfare

Introduction

Philosophy and the theories behind it play a crucial part in critiquing and influencing various aspects of human society. Although the discussions within this area may not have a direct link to legal innovation, inferences from these discussions put forward some interesting thoughts to consider. Whether these theories can be used to improve the whole of the English legal system, or just specific areas, is yet to be established. However, for the purposes of this chapter, and the text as a whole, only theories regarding animal welfare will be discussed.

In order to understand the need for reform within the legal system, readers must understand the nature behind animals and their sentience on this planet. Therefore, a brief introduction to the history of animal welfare will be provided together with how the current theories have been furthered in recent years, to evoke a change in society's outlook. This chronological development will serve as a backbone of thought to allow readers to fully consider the proposed changes presented.

The History of Animal Welfare

The discussion surrounding animal welfare and their entitlement to a life without suffering is not a new debate, however, it is a debate that has not been furthered substantially in the past two centuries, with evidence of such laboured progression being displayed in England's legal and political history.

Debates surrounding this area were first sparked in 1800 by political and legal pioneers such as William Pulteney, who introduced the first Bill proposing the protection of animals, specifically bulls. The Bill was brought on 2nd April 1800 to prevent a sport known as bullbaiting, in which specially bred dogs would be set upon bulls for human entertainment.² The Bill failed by a close margin of 43 votes to 41.³ A close margin that comes with heightened frustration when compared with other Bills passed by parliament in the same year, such as a

² Great Britain House of Commons, *Journal of the House of Commons* (vol.55, 1799-1800) 362

³ Hilda Kean, *Animal Rights: Political and Social Change in Britain since 1800* (Reaktion Books Ltd 1988) 31

Bill that was designed to regulate the price of bread.⁴ Although Mr Pulteney's actions did not result in the Bill being passed, his actions sparked inspiration for future politicians to further the argument to newfound levels. Politicians such as Lord Thomas Erskine, who was the first member of Parliament to suggest the idea that animals should be deserving of not just protection, but rights, in 1809. This suggestion, however, alongside Mr Pulteney's Bill, was quite quickly rejected in the House of Commons after passing a second reading in the House of Lords.⁵

It was not until 7th June 1822 that the first legislation surrounding the protection of animals was finally passed. This legislation was known as Martin's Act, in honour of the MP of Galway who promoted the Bill, Richard Martin. With the introduction of this Act, for the first time in English legal history, it was an offence to "beat, abuse, or ill-treat any horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep or other cattle".⁶ A breach of such an offence was punishable by both a fine and imprisonment.⁷ Although this legislation explicitly refers to which animals are worthy of protection, mainly those which were victim of publicly-displayed cruelty at that time, the introduction of this Act led to even further development surrounding animal welfare in England and Wales.

Two years after the introduction of Martin's Act, the Society for the Prevention of Cruelty to Animals (SPCA) was established in 1824, the first society of its kind in Britain.⁸ Although the introduction of such a society can be seen as a landmark in the history of animal welfare, the Society's outlooks were very much based on the provisions set out in the Martin's Act. Therefore, similar to the law at the time, protection was not afforded to animals of all sorts. The early years of the SPCA were spent preventing public displays of animal cruelty, such as the abuse of carriage horses, rather than pushing for the protection to be expanded to private dwellings and the animals residing in these i.e. domesticated pets.⁹

The SPCA was then reformed in 1840, providing us with what is now the most established society for animal welfare in Britain, the Royal Society for the Prevention of Cruelty to

⁴ Ibid 32

⁵ Ibid 33

⁶ Ibid 34

⁷ Ibid

⁸ Ibid 35

⁹ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 1

Animals (RSPCA).¹⁰ However, even with the introduction of this newly-branded society, the scope of animals that were worthy of protection remained the same. The RSPCA, for years to come, enforced a strange form of ‘see no evil, hear no evil, speak no evil’ in an attempt to prevent humans from witnessing acts of animal abuse in public, rather than preventing the abuse of animals altogether.¹¹ It wasn’t until the early 1900s that this focus was changed and the RSPCA moved away from protection of only farm animals, to focus on the protection of both domesticated and wild animals. However, this movement was more of a mirroring of the previous movement, as although wild and domesticated animals were now at the forefront of their work, the protection of farm animals had taken a retrograde step, damaging the public awareness of such issues and their importance.

This has thankfully come to an end in the past few decades with the RSPCA’s activities, once again, returning to the farming industry, with this prevalence, possibly, being instigated by the rise of intensive farming practices that occurred post World War II in an attempt to spike food production around the UK.¹²

Importantly, they have also expanded their focus on other issues such as the use of animals in lab testing and experiments, hunting, the use of animals in circuses and the treatment of animals in zoos. It is encouraging to note that the RSPCA has managed to incorporate all these additional areas without causing detriment to the protection they have continued to provide for domesticated and wild animals, therefore, proving themselves as the most essential society in the history of animal welfare and its development within England over the past two centuries¹³.

The essential work that the RSPCA undertake in their fight against animal cruelty is aided by current legislative measures in place within the UK. Although previous discussion has outlined the history of legal innovation, the statutes and Bills mentioned prior are not currently circulating today. Instead, the RSPCA base the majority of their prosecutions on offences under the Animal Welfare Act 2006 and rely on the robustness of this Act to ensure the correct sanctions are placed on those individuals who breach these provisions. These sanctions, as will

¹⁰ Hilda Kean, *Animal Rights: Political and Social Change in Britain since 1800* (Reaktion Books Ltd 1988) 35

¹¹ Peter Singer, *Animal Liberation* (First Published 1990, Pimlico 1995) 218

¹² Abigail Woods, ‘From Cruelty to Welfare: The Emergence of Farm Animal Welfare in Britain, 1964-1971’ [2012] 36:1 *Endeavour* 14, 17

¹³ Peter Singer, *Animal Liberation* (First Published 1990, Pimlico 1995) 219

be discussed in subsequent chapters, are, unfortunately, not as robust as they could be and are, therefore, leaving vulnerable animals in danger of abuse.

Nevertheless, it is clear that the basic relationship that humans hold with animals is partially lacking. Whether this be the use of animals in agriculture or the testing on animals for medical advances, animals are continually being abused for the ‘benefit’ of human gain. This abusive relationship has been described by some theorists as an “external Treblinka” and unfortunately, a relationship that is showing no signs of changing.¹⁴

Why Animal Suffering Matters

Firstly, it is important to clarify what is meant by the term suffering. This term has many definitions that may be relevant, however, the most common of these is the association of physical pain with suffering. As much as physical pain can go hand in hand with suffering, it must be made clear that suffering can exist in many different forms, not just that of a physical nature.¹⁵ The suffering an animal may endure as a result of stimuli could amount to mental suffering such as anxiety, stress and terror, rather than the physical feeling of pain.¹⁶ Therefore, suffering can broadly be defined as “harm that an animal experiences characterised as a deficiency in (or negative aspect of) that animal’s well-being.”¹⁷

In modern society it is generally believed that most humans would refrain from imposing or witnessing such suffering on another human, whether the suffering was of a mental or physical nature.¹⁸ However, being in a position to extend the prevention of suffering to animals will only be possible once humans are educated on the similarities they have, especially in infancy, with their animal counterparts.¹⁹

It is unfortunate that animal suffering, especially in Western society, is generally accepted as a result of human arrogance or selfishness. This acceptance is demonstrated daily throughout the global farming industry. Here, animals are viewed as part of the production line, another

¹⁴ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 2

¹⁵ Animal Welfare Act 2006, s 62

¹⁶ Andrew Linzey, *Why Animal Suffering Matters* (Oxford University Press 2009) 10

¹⁷ *Ibid*

¹⁸ *Ibid* 1

¹⁹ *Ibid* 4

essential cog in the process of providing humans with food. Simply viewing animals as ‘things’ rather than living beings, as coined by *Gary Francione*, is known as a ‘moral schizophrenia’.²⁰ An ideal that has been enshrined in human nature, dating as far back as the seventeenth century where *René Descartes* “likened animals to “automatons, or moving machines”.”²¹

As mentioned though, the sad truth is, this archaic view is still prominent today, with much of this ‘moral schizophrenia’, similar to the one outlined above, being justified by fallacious arguments and justifications. Whether it be the proposition that we “need” meat to survive in response to the suggestion of a plant-based diet, or the argument that animals simply aren’t as “aware” as humans are to their surroundings. For the purpose of this dissertation, it is the latter of these propositions which needs clarified in order to reinforce the argument that animal suffering really does matter.

The awareness animals have of their surroundings, from a philosophical perspective anyway, relates more to an animal’s ability to feel, rather than their instinctive ability to hunt prey or detect predators. This is why it is more commonly put forward that animals lack the ‘sentience’ that humans do. Despite this label, even in the field, this definition of ‘sentience’ is contested and therefore carries with it some ambiguity. Some dictionaries define it as “sense perception”, however, the majority of philosophers and animal advocates use the term to “denote the capacity for suffering... pain and pleasure”.²² Therefore, in other words, the quality of being able to experience feelings. It is true that humans are social animals and therefore experience feelings and concepts that other animals may never even consider within their lifetime, such as “the angst relating to whether life is worth living or the concept of death at all”.²³ However, importantly, these feelings are only prevalent in adult humans and are developed later in life. Therefore, starving a being of the protection against suffering, purely because they cannot experience these feelings seems somewhat perverse. It may not just be animals that cannot experience these feelings of sentience; surely infant humans and individuals with specific disabilities lack this function also. Yet it would be inconceivable to accept such suffering to

²⁰ Gary L Francione, ‘Animals – Property or Persons?’ in Cass R Sunstein and Martha C Nussbaum (eds), *Animal Rights: Current Debates and New Directions* (OUP 2004) 108

²¹ Ibid 110

²² Andrew Linzey, *Why Animal Suffering Matters* (Oxford University Press 2009) 47

²³ Ibid 31

these groups. This distinction is known, and discussed further below, as the “argument from marginal cases” and is a well-renowned contradiction to the “sentience” theory above.²⁴

Andrew Linzey, a leader in the animal rights movement, put forward a test case relating to this very point. He imagined a scenario in which you were staying at your old friends’ house; an older, wiser philosopher than yourself. Throughout the night you were woken by the sounds of screaming and consequently went to investigate the origin of this noise. Upon investigation you found your friend beating his young infant child, of no more than one year old. Instead of forcibly protesting against the matter, you instead spark a debate with your friend, as he is a philosopher himself. You ask for the reasoning behind such action and demonstrate your objection to such a breach of morality. However, your friend justifies his actions as him having more superior interests than his infant son and how his son lacks the intelligence and awareness to experience the amount of suffering that an adult can including a lack of angst surrounding the concept of death. Your friend goes on to state further that with the absence of language, there is no way of determining whether the groans and cries heard are in fact from suffering or just a “gurgling of his stomach”.²⁵ Furthermore, and to finalise, your friend states that a living being without an adult level of human intelligence and responsibility cannot have moral rights, and therefore, his actions are just.²⁶

Although this scenario is perhaps quite extreme, it is once again clear that any normal human would object to such treatment of another human, especially an infant. However, on further inspection, the similarities of such a case and the way humans treat animals is uncanny. Yes, it is true that animals lack the capability to communicate with our created languages and they obviously have nowhere near as much social responsibility as we do as adults. However, they are not absent of these factors altogether. They too have ways in which they communicate, and responsibilities of their own, similar to the way in which infant humans do.²⁷ It is arguable, in fact, that animals bear greater responsibilities than that of a human infant, but this lack of responsibility on the side of the infant does not void its entitlement to rights. It is, therefore, remarkably clear why animal suffering matters. Animal suffering matters, just as infant and

²⁴ Elizabeth Anderson, ‘Animal Rights and the Values of Nonhuman Life’ in Cass R Sunstein and Martha C Nussbaum (eds), *Animal Rights: Current Debates and New Directions* (OUP 2004) 277, 280

²⁵ Andrew Linzey, *Why Animal Suffering Matters* (Oxford University Press 2009) 31

²⁶ Ibid 30, 31

²⁷ Richard L Jr Cupp, ‘Litigating Nonhuman Animal Legal Personhood’ (2018) 50 Tex Tech L Rev 573, 585

vulnerable humans' suffering matters, and drawing a distinction between the two is flawed. All are living creatures inhabiting the same environment, each striving for the same goal, survival.

Common Theories and Why They are Failing

Regardless of the abusive relationship that humans hold with animals, theorists are constantly striving to change society's outlook on animals for the better, in their quest for a fairer world for animals. It is safe to say that these theories, that have been created, innovated, and expanded throughout the centuries, have made greater advances than the changes observed in England's legal or political systems. However, a theory is worth nothing without proper implementation. A theory is properly executed when it evokes a change in society's outlook on a wider scale than what is being observed in modern times.

There are many theories currently in circulation, but this chapter will concentrate on the most common in use and offer analyses of why these theories are failing, shedding light on the changes required, to fully expand the protection of animals to a new level. The majority of humans will not relate their views to a particular 'theory' but would more commonly refer to their views as 'morals', or in this case 'moral frameworks'. As one could imagine, there are endless possibilities when trying to compile various individuals' morals into one generic formula. However, it is safe, for the purposes of animal welfare debates, to assume there are three 'basic moral frameworks' that are observed in modern society, with each of these frameworks potentially bearing similarities to wider used philosophical theories.²⁸

The first of these frameworks is a concept referred to as the 'welfarist' approach. This is the framework that is most widely observed or associated with most members of society. This framework acknowledges that the majority of humans accept that animal welfare matters, but it does not rank highly on their agenda.²⁹ Therefore, they believe that, from a moral perspective, human beings stand above animals in the hierarchy. This belief, in philosophy, is known as speciesism – a “prejudice or attitude of bias in favour of the interest of members of one's own species and against those of members of other species”.³⁰

²⁸ Ibid 3

²⁹ Ibid

³⁰ Peter Singer, *Animal Liberation* (First Published 1990, Pimlico 1995) 6

The second of the proposed frameworks is known as the ‘ecological’ approach. This approach, in general, provides more protection to animals than would be observed under a ‘welfarist’ approach. The ‘ecological’ approach focuses on the health of ecosystems as a whole, rather than the protection of individual animals or species themselves. It does, therefore, protect animals from a wide range of human practices that have a negative impact on both animals and their ecosystems. Such protections range from the prevention of habitat destruction to limiting the polluting and carbon-generating effects of, for example, factory farming. Besides this broader application, the approach does not serve as blanket protection for animals as a whole. This is due to situations that may occur that would involve the killing of animals to preserve the health of the ecosystem as a whole, such as: sustainable hunting, livestock farming or the culling of invasive or overpopulated species.³¹

The final of the proposed frameworks is known as the ‘basic rights’ approach or animal rights theory (ART). This is the approach that the majority of animal welfare advocates and societies adopt in the fight for improving the standards humans impose on animals. The theory revolves around the idea that animals, like humans, should be seen as possessing certain rights under law. Rights that are referred to as inviolable, in the sense that they should never be broken, infringed or dishonoured. These rights could be observed as an extension of the statutory human rights enshrined in law, with such an extension contributing to the overall concept of moral equality.³² It is the ART’s intentions that animals will one day benefit from the inviolable rights available to humans. These rights include, but are not exhaustive to, the right to life, “the right not to be tortured, imprisoned, subjected to medical experimentation, forcibly separated from their families or culled”.³³ It is the concept that these rights should be mutually exclusive for both animals and humans and not just limited to the protection of humans under statute. It is this theory that has been relied upon by animal welfare societies and advocates for decades, however, no real change has been observed in relation to animals’ protection. This being said, there are some potential reasons for this failure.

One of the reasons for ART failing is as a result of individuals holding a different perspective to how animals should be treated. For example, an individual who is party to the major moral approach outlined above (the ‘welfarist’ approach) is unlikely to agree with the suggestions put

³¹ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 3

³² *Ibid* 4

³³ *Ibid*

forward by a supporter of ART. But why is it seemingly the case that the majority of society are a supporter of this ‘welfarist’ approach and not ART?

The answer to this question once again falls to the philosophy of speciesism and the development of this philosophy in Western culture. Western culture has, for centuries, operated on the premise that animals are lower than humans on some ‘cosmic moral hierarchy’.³⁴ It is this operation that has been engrained into humans from the lowest of ages, even if such manipulation is done so unconsciously. This hierarchy is especially prevalent within the agricultural industry; however, such hierarchy could be extended to the domestication of household pets or the dominion over wild animals also.

Relating specifically to the agricultural industry, this manipulation relates to the tainted picture presented to children from an early age surrounding the welfare and treatment of animals in agriculture. Whether this be the stuffed animals they are given as gifts in the appearance of bears or lions rather than that of pigs or cows, or the books they are read before bed by their parents. Books such as ‘Farm Animals’ which presents a child with the construed image that farm animals are happily surrounded by their young without a cage, shed or stall in sight and that all pigs have to do is “enjoy a good meal, then roll in the mud and let out a good squeal”.³⁵ Further to this, other books which portray a similar message show agricultural animals benefiting from “rural simplicity” and that animals run freely with their young in orchards and fields. It is no surprise, therefore, that with this image children develop the concept of speciesism in later life. That they develop the belief that animals “must” die to provide for humans, as they have lived a happy and suffering-free life up until that exact point.³⁶ An ideal that consequently extends to the dominance over all animals, regardless of their species or origin.

It is important to note that society is not purely reliant on a ‘welfarist’ approach due to speciesism, but their direction may be reinforced by the failings observed with ART itself. The societies and individuals that enforce ART mainly focus on negative rights such as the right not to be owned, confined, tortured, or separated from one’s family, rather than the duties owed

³⁴ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 5

³⁵ Peter Singer, *Animal Liberation* (First Published 1990, Pimlico 1995) 215

³⁶ *Ibid*

to animals.³⁷ Although these are rights that animals should benefit from, providing society with relational duties they must adhere to, would allow for the development of respect between humans and animals. These relational duties would relate to a human's obligation to respect animals' habitats, their obligation to rescue animals who are unintentionally harmed by human activities or their obligation to care for the animals who, either by domestication or another way, have become dependent on them.³⁸ The enforcement of these relational duties and the development of respect thereof will in turn aid the protection of animals against the negative rights mentioned above.

Without a change of direction on the enforcement of these duties, or a change of the theory altogether, society will remain trapped in their current ways, with no further developments occurring as a result of this. However, it appears that one theory regarding this matter is being developed. A theory with the potential for a real change in society's outlook, this theory is the theory of 'citizenship'.

New Directions: Citizenship

The theory of citizenship has been developed in acknowledgement of the potentially defective theories available currently, with the intention of providing a new moral framework. This framework works on connecting the treatment of animals to the fundamental principles of democratic justice and human rights.³⁹ The theory not only draws reference to these principles, but it does so by acknowledging the complicated relationship humans hold with their animal counterparts. Co-existence is required to further the development of animal protection worldwide and this theory could act as an underlying framework for this development.

The theory, quite obviously, focusses on the idea that animals should be issued with citizenship of some sort, depending on their status in society. The application of this theory to animals is logical because it is the same system that is afforded to humans from various countries around the world. Humans are residents to their own distinct societies and countries, to which they are deemed citizens of. Then you have co-citizens and visitors to specific countries who are afforded these titles as a result of their residence. It is the current stance, in human society, that citizens of a country are afforded more rights in general than that of co-citizens or visitors to

³⁷ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 6

³⁸ *Ibid*

³⁹ *Ibid* 3

that specific country. However, all parties benefit from fundamental rights that cannot be breached, regardless of title or status. Citizenship theory suggests that this malleable approach to rights should not only be imposed on humans, but animals also.⁴⁰

Applying this theory, animals which would be afforded full citizenship, similar to those humans who are nationals to their country, would be animals that have been domesticated by or for the use of humans. This would be the most just and moral option because their domestication is a product of selective breeding over generations by humans, similar to the human creation of borders and nations centuries ago.⁴¹ With these animals being essentially forced into their living by humans as their ‘masters’, they should be provided with the relevant protection in light of this. The protection of those we bring into the world is an ongoing responsibility and is one that cannot be derogated from if and when we please. Parents, who bring their child into the world, do so for life. This innate social responsibility should be extended to the animals we bring into our lives also, as they are dependent on our care and nurture on the same level as an infant. Parental neglect of a child would be frowned upon in society and so should that of an animal companion.

Moving on from the idea of full citizenship, there are a minority of individuals who reside in their chosen country and are subject to that country’s governance, but who are not afforded citizenship. This would relate to what is known as ‘denizens’, which is normally the term used to refer to migrant workers or refugees of a country.⁴² Similar to the human equivalent, animals that bear the same characteristics of these minorities should be afforded a similar level of rights. These rights would be protected under the fundamental rights but would not include the granting of all the rights observed by full citizens, such as the right to vote. Animals in this category would relate to opportunistic animals such as foxes, rats and pigeons (or any other scavenging animal relevant).⁴³ Finally, under the theory, a third level of rights would be afforded to animals which, from a human analogy, reside in different countries or colonies. This is particularly relevant to wild animals who reside in their own territory but are still vulnerable to human invasion and colonisation such as deer, badgers, and wild rabbits.⁴⁴

⁴⁰ Ibid 13

⁴¹ Ibid 14

⁴² Ibid 13

⁴³ Ibid 14

⁴⁴ Ibid

With the other theories available for the fight against animal cruelty, such as the ‘welfarist’ approach and the ART theory falling short of the protection required, the Citizenship theory provides a new, more formatted structure. After all, although it may sound extreme, the ideas behind Citizenship theory have proved essential in combatting the worst forms of austerity humankind has ever seen.

Although racism and the horrors that run alongside it are not totally eradicated in modern society, the granting of citizenship has aided the fight against racism around the world. In the United States Constitution, the *14th Amendment* allows for “all persons born or naturalized in the United States... [to be] citizens of the United States and of the State wherein they reside”.⁴⁵ This ratification of this amendment in 1868 allowed for African-Americans to be “emancipated from slavery, [representing] a turning point in the country’s history”.⁴⁶ Therefore, the granting of citizenship provided rights to these individuals, such as the *15th Amendment’s* right to vote.⁴⁷ This application of what is essentially the backbone of the Citizenship theory shows how change can be successfully achieved. This is not just down to the success imposing citizenship has had in the past, but the familiarity humans have with imposing such measures. Of course, it may seem abnormal to provide animals with rights now, however, it is abnormality that inspires change and change is what is needed.

However, even with this need for change, the Citizenship theory is not free of criticism. Firstly, it is suggested issues lie within the structure of the theory itself. It has been argued by academics that the categorisation of different animals and what rights they hold as a result of this could “deny outsiders their just entitlements, and [could] unfairly privilege the rights of insiders.”⁴⁸ With the current structure of the theory, domesticated animals would be deemed as ‘citizens’, therefore, affording them more rights than that of opportunistic animals or ‘denizens’. Therefore, although the theory may work in practice by improving the overall welfare of the animals we commonly interact with, it may struggle to provide blanket protection to all animals of all categories. It is this potential limit on protection that has been raised as challenge to the theory.

⁴⁵ The Constitution of the United States of America 1789, Amend. XIV

⁴⁶ Dennis Parker, ‘The 14th Amendment Was Intended to Achieve Racial Justice – And We Must Keep It That Way’ (*American Civil Liberties Union*, 9 July 2018) < <https://www.aclu.org/blog/racial-justice/race-and-inequality-education/14th-amendment-was-intended-achieve-racial-justice> > accessed 1 April 2020

⁴⁷ The Constitution of the United States of America 1789, Amend. XV

⁴⁸ Alasdair Cochrane, ‘Cosmozoopolis: The Case Against Group-Differentiated Animal Rights’ (*University of Sheffield: Law, Ethics and Philosophy*) [2013] Vol. 1, 127-41, 135

Secondly, a further challenge relates to the political nature of the theory, more specifically the ability of an animal to democratically vote. These arguments, however, are fuelled by a misunderstanding of the term citizenship. Individuals must be made aware that citizenship relates to the allocation of “individuals to territories [and] to allocate membership in sovereign peoples” (as discussed above).⁴⁹ It is not determined by a beings ability to politically vote, as, once again, infants are deemed as citizens but lack the capability to democratically vote.⁵⁰ Therefore, restricting the definition of citizenship to this ability alone would exclude “large numbers of humans from citizenship rights” also.⁵¹ However, with this criticism in mind, it shows clarification is needed to the role in which imposing Citizenship theory on animals will have on their legal protection.

Citizenship and Legal Protection

For the purpose of this theory and its implication, it must be stressed, once again, that activists are not lobbying for animals to have rights that are fully equal to that of humans, such as a dog being given the right to vote or freedom of speech, as these rights would not be cohesive with the animals’ characteristics. They are simply striving for transferable rights to be imposed on animals of all sorts, with these rights being variant of their specific title or residence in society.

The introduction of this style system would innovate the legal protection afforded to animals. Legal protection, similar to that of the Human Rights Act 1998, that would allow for fundamental rights to be imposed on animals. In application of this protection, domesticated animals would be afforded more rights, as citizens, than that of foxes and pigeons, as denizens. The balance of these rights, based on an animal’s status would have to be clarified, however, the introduction of strict statutory inviolable rights will automatically increase public awareness to the issues observed in modern society. This combination of statutory control and public awareness could be the key to resolving the issues currently observed in our country and act as a template for reform for many more countries around the world.

⁴⁹ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 61

⁵⁰ *Ibid* 57

⁵¹ *Ibid*

Chapter 2: UK Law on Animal Cruelty and the Need for Change

Introduction

Improvement of welfare standards, and protection as a whole, may well be enforced by the protective organisations that work tirelessly in pursuit of their aims. However, these are stretched to their limits, both with regards to investigation and the aftercare available to affected animals. In 2018, the RSPCA was responsible for the rescue of 102,900 animals and the investigation of 130,700 complaints of cruelty from the public, all of which were investigated by a limited number of approximately 350 inspectorate officers.⁵² These figures show the struggle these officers face daily. Therefore, the real protection must come from reinforcement and development of the law. Improving the law relating to animal welfare will allow for the legal system to work in tandem with the protective organisations that currently lead the fight against animal cruelty.

Outline of the UK Law

There are numerous statutes that cover various aspects of animal welfare, ranging from the overall welfare of animals in the United Kingdom, to more niche practices and regulated areas such as the use of animals in scientific procedures.⁵³ For the purpose of this dissertation, the statute relating to the overall protection of animals will be analysed: the Animal Welfare Act 2006.⁵⁴

The AWA 2006 is a relatively robust Act that aims at providing protection that covers all possible aspects of animal cruelty. In fact, upon introduction, the AWA 2006 was described as “the most significant animal welfare legislation for nearly a century”.⁵⁵ This was because it replaced the *Protection of Animals Act 1911*, a statute that “merely protected [animals] by the coincidence of a collection of outdated laws written primarily to protect people’s property”.⁵⁶

⁵² Royal Society for the Prevention of Cruelty to Animals (RSPCA), ‘Trustees’ Report and Accounts’ (2018) < <https://www.rspca.org.uk/documents/1494939/7712578/RSPCA+Trustees+Report+and+Accounts+2018+%28PDF+1.07MB%29.pdf/3d1ed803-2485-9300-6058-1108409f014a?t=1560511878538> > accessed 29 January 2020

⁵³ Animals (Scientific Procedures) Act 1986

⁵⁴ Henceforth referred to as ‘AWA 2006’

⁵⁵ Sally Case, ‘The Animal Welfare Act 2006’ [2007] Crim Law 169, 3-5

⁵⁶ Ibid

The existence of this new legislation ensured that this was no longer the case. The earlier sections (s.1 – s.3 AWA 2006) set out the animals and species in which the Act applies, alongside other important provisions. Animals covered are listed as any ‘vertebrates other than man’, giving specific reference to the Act not including invertebrates or embryonic/foetal animals. However, this restriction is only limited so far as the national authority wish not to extend such protection.⁵⁷ The Act then specifies that, although it applies to all vertebrates other than man, not all animals that fall under this category shall be regarded as ‘protected animals’. The Act states that vertebrates that are deemed as protected must be; “of a kind commonly domesticated in the British Islands, ... under the control of man whether on a permanent or temporary basis, OR ... not living in a wild state”.⁵⁸ The earlier sections also define who will be deemed responsible for the animals that fall under the Act. It states that a person will be deemed responsible for an animal if they are: in charge of it, the owner of it, or responsible for it on a permanent or temporary basis.⁵⁹ Furthermore, if an individual under the age of 16 is responsible for the care and control of an animal, and breaches of the Act occur, the person in charge of the minor responsible for such a breach would be deemed as responsible for the animal also.⁶⁰

After setting out who and what is covered by the Act, the subsequent sections (s.4 – s.8 AWA 2006) determine what acts would constitute an offence. These sections aim to mainly prevent harm coming to a ‘protected animal’ and range from the prevention of unnecessary suffering to the prevention of mutilation, administration of poison and fighting. Key points related to the prevention of suffering is that an individual can be liable for both an act and an omission that leads to the suffering of a protected animal. However, the individual would have to have been aware that their act or omission would have (or likely to have) caused suffering. Furthermore, the suffering experienced would have to have been unnecessary.⁶¹ Suffering would be deemed unnecessary if the suffering could reasonably have been avoided or reduced. On the other hand, suffering would be deemed necessary if it were done so for a legitimate purpose, such as: the purpose of benefiting the animal, or the purpose of protecting a person, property, or another animal.⁶²

⁵⁷ Animal Welfare Act 2006, s 1

⁵⁸ Ibid s 2

⁵⁹ Ibid s 3

⁶⁰ Ibid s 3 (4)

⁶¹ Ibid s 4 (1)

⁶² Ibid s 4 (3)

It must be noted, however, that the Act does not focus all of its attention on physical acts of violence against animals. Sections 9 – 12 (s.9 – s.12) relate to the promotion of welfare for animals. These focus on the duties imposed on the person responsible for the protected animals. These relate to the responsible person being under a duty to provide a suitable environment and diet for the protected animal, alongside considering the animals' needs to: exhibit normal behaviour patterns, be housed with (or apart from) animals and its protection from pain, suffering, injury and disease.⁶³ In fact, this introduction of welfare offences was one of the biggest steps taken to improve welfare within UK legislation. When introducing the Bill to Parliament, it was clarified that the creation of a welfare offence will allow for “enforcement agencies to take action if an owner is not taking all reasonable steps even where the animal is not currently suffering.”⁶⁴ This pre-emptive strategy for suffering has proved essential in the fight against animal cruelty. So much so that the RSPCA, the leading organisation in this fight, reported that in 2018, out of the 1,626 offences they dealt with that fell under the AWA 2006, 674 of these were related to the s.9 offence of welfare.⁶⁵

The sections listed above, not only the ones relating to the prevention of physical violence but those relating to the promotion of the welfare also, are only as good as the sanctions in place for individuals who are found to have breached these provisions. These sanctions are predominantly listed towards the end of the Act (s. 32 – s. 34 AWA 2006). The two sanctions are divided into two main categories, however, the punishments available are not exclusive of each other and can, therefore, be imposed alongside one another.

The first of these punishments would be in the way of imprisonment and/or fine. Both physical and welfare offences can constitute a maximum prison sentence of 6 months.⁶⁶ However, the nature of an offence determines the level of fine that can be imposed on an offender, with welfare offences having a capped fine not exceeding level 5 on the standard scale.⁶⁷ It must be noted that the wording within the statute states that the maximum sentence available is in fact

⁶³ Ibid s 9 (2)

⁶⁴ House of Commons Library: Science and Environment Section, *The Animal Welfare Bill* (Bill No 58 of 2005-06)

⁶⁵ RSPCA, 'Prosecutions Annual Report 2018' (*RSPCA UK*, 2019) < <https://www.rspca.org.uk/documents/1494939/7712578/ProsecutionReport2019.pdf/a2ae6cdc-efe2-f6bf-cac3-0fb53da37bf6?t=1556101041009> > accessed 4 April 2020; Animal Welfare Act 2006, s 9

⁶⁶ Animal Welfare Act 2006, s 32

⁶⁷ Ibid s 32 (2)(b)

51 weeks, however, this should be disregarded and therefore read as 6 months (as stated above).⁶⁸ This is due to the penalties for summary offences being altered by the *Criminal Justice Act 2003*.⁶⁹

The second punishment available is disqualification. Disqualification can prevent the convicted individual from: owning animals, keeping (whether wholly or participating) animals, or being a party to an arrangement in which they are entitled to control or influence the keeping of animals.⁷⁰ A disqualification order can be granted as a standalone punishment or paired with the potential imprisonment or fine(s) listed above.

The AWA 2006 does, in fact, cover large amounts of cruelty offences that can be imposed on animals and it is therefore difficult to critique the law for lack of scope. However, it is not the protection that the Act provides that is the issue. It is, instead, the sanctions and sentencing powers available to the courts when pursuing convictions that fall under this Act. In evaluating these powers, further light may be shed on the importance of rectifying the issues we currently face.

Critique of the UK Law

As the sentencing powers mentioned above are separated into two main categories, each shall be considered in turn, starting first with disqualification orders.

Disqualification Orders

The power and relevance of disqualification orders being granted by courts can only truly be reflected by analysis of the case law surrounding this subject. Unlike other sentencing powers (which will be discussed further below), disqualification orders are not flawed by their issuing but more so by their enforcement. It is the unfortunate stance that individuals subject to disqualification orders are still able to be in close proximity to animals. These eventualities, perhaps understandably, occur because it is virtually impossible to monitor an individual's every movement. However, frustration surrounding this matter manifests when an individual is apprehended for breaching their disqualification order, and their breach is quashed by the

⁶⁸ Ibid s 32 (5)

⁶⁹ Criminal Justice Act 2003, s 281 (5)

⁷⁰ Animal Welfare Act 2006, s 34

judge hearing their case. This is what occurred in the case of *Patterson v Royal Society for the Prevention of Cruelty to Animals (RSPCA)*.⁷¹

The *Patterson* case was one which could have been a benchmark case in UK animal welfare law. However, the judge's ruling on the matter moved in a different direction and inadvertently allowed for less protection to be available for future animals in similar situations. *Patterson* (P) had been subject to a disqualification order which made it a criminal offence for him to participate in the keeping of animals, or to be party to an arrangement under which he was entitled to control or influence the way they were kept. Despite being subject to this order, the RSPCA discovered, upon a future inspection, that P still had numerous animals living with him, his wife (C) and their two young children. P attempted to justify this by claiming the title of such animals had been passed solely to his wife C, and therefore they were her responsibility and not his. Naturally, as it is rather clear that regardless of this title being passed from P to C, P was still somewhat participating in the keeping of animals and therefore, in breach of his order, the RSPCA applied for the animals to be re-homed.

This re-homing process was never initiated by the owners and upon a third inspection, the RSPCA seized the animals. P was consequently charged with breaching his order and aiding and abetting animal cruelty offences (offences that P's wife C was responsible for). Upon hearing the case, the judge, in short, deemed that C was in fact guilty of animal welfare offences. However, the judge did not deem P to be in breach of his order.

The judge viewed that the order imposed on P was "not so wide as [to prevent] any form of contact with a dog or with an animal or control of an animal".⁷² In order for a breach to be present, the defendant would have to have been "entitled to control or influence the way in which they were kept under an arrangement to which [he was] a party".⁷³ The judge stated that although P may be involved in the keeping of the animals, for example when C left the house, there was no evidence to show that he was entitled to such care or whether he ever provided this care in the past. Furthermore, there was no evidence of P being subject to an arrangement between himself and C to provide such care and "the fact that [P's] presence meant that he was

⁷¹ *Patterson v Royal Society for the Prevention of Cruelty to Animals (RSPCA)* [2013] EWHC 4531 (Admin)

⁷² *Ibid*, at [26]

⁷³ *Ibid*, at [21]

able to care in event of a contingency requiring care was not sufficient in itself”.⁷⁴ Therefore, P was not entitled to, or did ever (based on the evidence provided), influence the way the animals were kept, leading to no breach of his order.

The *Patterson* case is perhaps one of the most questionable rulings in relation to the enforcement of disqualification orders. It was the non-existence of an arrangement and the argument over P’s entitlement that rendered this case a failure. However, in the case commentary itself it was stated, and P did not contest the fact, that he “looked after [his] two young children when [C] was not there”.⁷⁵ It seems that the judges in the case omitted to address this statement and it is unclear what they thought P did “when the children went to play with the animals or the animals “played” with the children.”⁷⁶ Even from a layperson’s perspective, it is clear that P will have participated in the keeping of animals at some point in the past and therefore was in breach of his order, regardless of whether this participation was subject to an arrangement between the two parties. Its existence shows that not only are disqualification orders potentially unenforceable by way of surveillance, but they can even be unenforceable within the court. It raises the question to why orders are even in existence without the proper enforcement being in place. It seems that the courts, in many cases, are inhibiting the expansion of animal welfare by strict interpretation of the Acts available, with little attempt to further the common law surrounding this area. Granted it may not have been “envisaged that the AWA [2006] would develop its own jurisprudence and... cover many hitherto unforeseen eventualities, this [however] should not prevent the Act’s provisions from developing.”⁷⁷

The *Patterson* case was ruled in favour of humans and in degradation of animals, with true speciesism being displayed in the courtroom. However, this is not the only case to do so. A case, heard a year previous, was not concerned with the breach of an order, but a claim to remove an order altogether. The case of *R v Guildford Crown Court*⁷⁸ demonstrated speciesism at its finest and was another blow to animal welfare law and its enforcement within the UK. The claimant in the case applied by way of judicial review for a declaration as to the court’s

⁷⁴ Ibid, at [27]

⁷⁵ Ibid, [10]

⁷⁶ Criminal Law Week, ‘New Cases: Substantive Law: Animal Welfare: R. (Patterson) v Royal Society for the Prevention of Cruelty to Animals’ CLW/14/45/15

⁷⁷ Darren Calley, ‘Developing a Common Law of Animal Welfare: Offences Against Animals and Offences Against Persons Compared’ (*Crime, Law and Social Change*) [2011] 55(5) 421-436, 6

⁷⁸ *R (on the application of RSPCA) v Guildford Crown Court* [2012] EWHC 3392 (Admin)

discretion when making disqualification orders. The claim arose from prosecution of a traveller and horse dealer (B) for offences concerning the ill-treatment of three horses. The 3-year order prevented B from: owning animals, keeping, or participating in the keeping of animals and being party to an arrangement under which the offender was entitled to control or influence the way in which animals were kept. The court allowed the appeal and removed the disqualification order from B.

The court even acknowledged that under a natural construction of the law the ban would not have been lifted, however, a variation had to be made to B's concerns that his lifestyle as a traveller would be interfered with as he could inadvertently commit a "technical breach" of the order.⁷⁹ Such a variation was made in light of the obligation to read legislation and give effect of such legislation in a way which is compatible with the European Convention on Human Rights (ECHR).⁸⁰ Determining compatibility with the ECHR, the court felt that disqualification from participating in the keeping of animals would have disproportionately affected B's private life. The court deemed this to be necessary as, under *Article 8* of the ECHR, "everyone has the right to respect for his private and family life, his home and his correspondence.", even though the court did not directly consider the whole of the Article.⁸¹

This partial consideration led to, by some account, an incorrect ruling of the case. Human Rights and the legislation bound to these principles are of course of the utmost importance to society, however, they should be interpreted in full. Upon further inspection of *Article 8* it states that a person's right to respect for his private life is subject to interference for "the prevention of disorder and crime, for the protection of health and morals, or for the protection of the rights and freedoms of others."⁸² It is arguable, that lifting the order would lead to further animal welfare offences being carried out by the defendant, it was, after all, his entire argument that he essentially has to interfere with animals (given his occupation as a horse trader and traveller), therefore, likely leading to further disorder and crime. Additionally, as discussed in Chapter 1, on the most part, it would be deemed immoral to neglect and harm an animal, so is the granting of the disqualification order the protection of morals and if so, is removing this ban also removing this protection? This unfortunate ruling and interpretation allows for any

⁷⁹ Ibid, at [6]

⁸⁰ Ibid, at [9]; Human Rights Act 1998, s 3

⁸¹ European Convention on Human Rights 1980, Art 8

⁸² Ibid

person who is in direct contact with animals, and makes a living doing so, potential immunity from prosecution in relation to animal welfare crimes. Surely those who are constantly involved with animals should be held to higher standards, not provided with a trump card to negate their irresponsible and immoral actions. This case was another example of humans favouring their own welfare over the welfare of animals. Alongside this it highlighted, once again, the lack of enforcement powers the legal system places regarding disqualification orders granted under the AWA 2006.

Imprisonment

As with the majority of criminal offences, animal related crimes do carry with them the potential for custodial sentences. However, the likelihood of these being granted is very small, even for the most graphic of animal related crimes such as causing death and mutilation. This reduced likelihood of custodial sentencing has put strain on the judicial system in recent years. According to an RSPCA report, which does not count for all of the UK prosecutions, but still provides a good base for comparison, it was stated that in 2018 there were 1,626 cases of cruelty offences contrary to the AWA 2006⁸³, with only 797 of these offences leading to prosecution.⁸⁴ However, only 65 of these prosecutions led to an immediate custodial sentence being imposed on the offender⁸⁵, whereas, 159 suspended sentences were issued and 370 community orders.⁸⁶ Furthermore, out of the 65 custodial sentences granted, only one was granted for the maximum period of 6 months, whereas 43 were issued for between 3 and 6 months and 21 for less than 3 months.⁸⁷ This shows that the sentencing powers available to the courts are potentially unbalanced and in need of reform. Anger from the public regarding such figures has sometimes been directed at the Magistrates responsible for the rulings in these cases. However, this anger has been misplaced and the issues surrounding imprisonment need clarifying.⁸⁸

⁸³ RSPCA, 'Prosecutions Annual Report 2018' (*RSPCA UK*, 2019) < <https://www.rspca.org.uk/documents/1494939/7712578/ProsecutionReport2019.pdf/a2ae6cdc-efe2-f6bf-cac3-0fb53da37bf6?t=1556101041009> > accessed 6 April 2020

⁸⁴ House of Commons Library, *Animal Welfare (Sentencing) Bill* (Briefing Paper, No. 8612, 2019) 5

⁸⁵ *Ibid*

⁸⁶ RSPCA, 'Prosecutions Annual Report 2018' (*RSPCA UK*, 2019) < <https://www.rspca.org.uk/documents/1494939/7712578/ProsecutionReport2019.pdf/a2ae6cdc-efe2-f6bf-cac3-0fb53da37bf6?t=1556101041009> > accessed 6 April 2020

⁸⁷ House of Commons Library, *Animal Welfare (Sentencing) Bill* (Briefing Paper, No. 8612, 2019) 5

⁸⁸ Alice Collinson and Robert Sardo, 'Increased Maximum Sentences for Deliberate Animal Abuse: Part of the Armoury of the Criminal Justice System in Tackling Violent Crimes Towards People and Animals' (*The UK Journal of Animal Law*) [2017] ISSN 2516-2225 30

It is true that the Magistrates are mostly in charge of the sentencing of the individuals, however, the lack of custodial sentences being granted is not a fault of the magistrates but the maximum sentence available to courts for these crimes.⁸⁹ Currently, as discussed previously, the maximum sentence associated with animal-related offences stands at 6 months. This makes granting a custodial sentence extremely difficult. Taking this maximum sentence at face value does not portray this struggle, however, when giving any sort of sentence, Magistrates must consider aggravating or mitigating circumstances, such as: no previous convictions or a guilty plea. After consideration of these factors, a reduction to their sentence is made.

Consequently, a reduction placed on a 6-month custodial sentence normally leads to a non-custodial sentence.⁹⁰ An increase of the maximum sentence available in animal related offences from 6-months is likely to mean that prison sentences are more likely and potentially longer. Not only does an increase of sentence punish those who commit such crimes more severely, but it also signals to society that it will not tolerate crimes of violence. This seriousness surrounding violent crimes, regardless of whether inflicted on humans or animals, may act as a deterrent for future behaviour and potentially reduce animal cruelty cases observed throughout the UK.⁹¹

In relation to these increased sentences and the public scrutiny surrounding it, the government responded with some action. On 25th June 2019, the government introduced the *Animal Welfare (Sentencing) Bill 2019*, which proposed the maximum sentence for animal related offences be increased from 6 months to 5 years.⁹² Upon first introduction the Bill looked promising, however, since introduction the lack of urgency surrounding animal welfare has once again been all too apparent. The Bill is currently awaiting a date for the report stage of the hearing after passing the Committee stage on 23 July 2019.⁹³ However, this lack of progress in the last year may not be down to a lack of priority in protecting domestic animals in law, but is most likely to be as a result of parliament being preoccupied with “Brexit” proceedings.

⁸⁹ Ibid 29, 30

⁹⁰ Ibid

⁹¹ Ibid

⁹² Animal Welfare (Sentencing) Act 2019, s 1(2)

⁹³ Parliament, ‘Animal Welfare (Sentencing) Bill 2017-2019’ < <https://services.parliament.uk/bills/2017-19/animalwelfaresentencing.html> > accessed 7 February 2020

Whilst domestic animals have been specifically referenced, there have been some advancements in relation to other animals, particularly animals protected by ‘Finn’s Law’ or as the statute reads the *Animal Welfare (Service Animals) Act 2019*.⁹⁴ This Act was enacted on 8th April 2019 and carried with it some amendments to the AWA 2006. The Act expanded the definition of what would constitute unnecessary suffering under the AWA 2006, with actions against animals, such as police dogs and horses, under the control of officers and being used in the course of the officers duties now being deemed as causing unnecessary suffering.⁹⁵

It would be wrong to state that this development is limited, as any furtherment of the law that provides protection for animals is advantageous. It is strange, however, that this law was passed so quickly, and we are still awaiting an increase in the maximum sentences available for more general animal welfare offences. Especially since, although ‘Finn’s Law’ is enacted, it falls under an animal related offence, and therefore, still only carries with it a maximum sentence of 6 months. Perhaps the urgency surrounding the development of ‘Finn’s Law’ was as a result of further public pressure, with the initial petition leading to the Bill’s first hearing “topping 100,000 signatures in a month”.⁹⁶ However, it may be the fact that the animals in question are at the service of humans. It feels like, once again, our own intentions (protecting those who protect us) are outweighing the overall protection needed. Furthermore, despite planned action from the government, the increase in sentence also carries with it further questions; is a 5-year custodial sentence, especially for extreme acts of animal cruelty, sufficient for tackling the problem? This is where the analysis of sentence lengths becomes more complex.

The issue with analysing sentence lengths arises when considering one of the key factors of the legal system, ordinal proportionality. Ordinal proportionality requires that “a penalty should be proportionate to the gravity of the offence for which it is imposed”.⁹⁷ However, for a maximum sentence to be deemed ordinally proportionate, comparisons to other offences must be drawn.⁹⁸ General comparison would normally involve the following – “The maximum sentence for offence X appears too low when compared to the maxima for offences Y and Z”.⁹⁹ It is

⁹⁴ Animal Welfare (Service Animals) Act 2019

⁹⁵ *Ibid* s 1

⁹⁶ BBC News, ‘Finn’s Law Petition gets debate in Parliament’ (*BBC News*, 3 November 2016) <
<https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-37859146> > accessed 6 April 2020

⁹⁷ Rory Kelly, ‘Reforming Maximum Sentences and Respecting Ordinal Proportionality’ [2018] *Crim LR* 6, 45-461, 1

⁹⁸ *Ibid* 2

⁹⁹ *Ibid*

beneficial in any comparison to include two comparator offences (Y and Z) as comparison to only one offence would make it harder to identify an anomaly in the system (a potentially disproportionate X). The issue is that comparisons cannot just be made by randomly selecting comparator offences, as these offences also have to be deemed ordinally proportionate for comparison to be successful.¹⁰⁰

This problem exists as a result of the history relating to maximum sentencing and the reviews that have been carried out in relation to this, specifically a review done by the Advisory Council in 1978. The review, carried out over a 30-month period, focussed specifically on maximum sentences. Within the review, the Council described the maximum sentences as “governed by historical accident”, giving specific reference to “the lack of any rational system of maximum penalties”.¹⁰¹ The Council reinforced their claims by giving reference to the crime of theft that, with the introduction of the *Theft Act 1968*, faced an increase in maximum sentence from 5 to 10 years imprisonment. The Council stated that in relation to this, the increase was done so without any real reference to “any other branch of criminal law, except aggravated forms of theft and related dishonesty offences, and with scarcely any consideration for penal policy.”¹⁰² This, therefore, backed up their claim of maximum sentences being increased without any sort of rational systems in place. This evidence to their claim shows the difficulty in comparing sentence length, as not all offences have sentences that are themselves ordinally proportionate.

Furthermore, despite this report by the Council in 1978, alongside the evidence and examples provided within the report, there has been no further review or amendment of statutory maxima by the government. Therefore, this report provides potential evidence that ordinally proportionate comparator offences may not actually exist at all, making the debate for increased sentences continuously harder.¹⁰³

In relation to animal welfare, issues surrounding ordinal proportionality may arise when applying the theory of Citizenship, as discussed in Chapter 1, to animals. If it were recognised that domesticated animals were to be labelled as ‘citizens’ then “they too [would be] owed full protection under the law and... the criminal law [would] be used to reflect and uphold their

¹⁰⁰ Ibid

¹⁰¹ *Advisory Council on the Penal System, Sentences of Imprisonment (1978)*, paras 63-66

¹⁰² Rory Kelly, ‘Reforming Maximum Sentences and Respecting Ordinal Proportionality’ [2018] Crim LR 6, 45-461, 3

¹⁰³ Ibid 2

membership in the community.¹⁰⁴ Applying this principle, does this put forward the notion that “people who intentionally kill a dog or cat should be subject to the same sorts of penalties as the murderers of humans?”¹⁰⁵ In assessing whether this proposal is ordinally proportionate, a comparator offence has already been provided: murder. However, in order to fully compare these two offences, an understanding of the relationship between criminalisation and punishment is required.¹⁰⁶ The proportionality of an offence lies, in large amounts, with the extent in which an individual has “deliberately and flagrantly violated well-established social norms”.¹⁰⁷

For the offence of murder, it is clear that the maximum punishment available (life imprisonment)¹⁰⁸ is “proportionate to the gravity of the offence for which it is imposed”, and is therefore, ordinally proportionate in its own right.¹⁰⁹ However, if the sentencing for the equivalent killing of an animal were to be increased to match that of murder, such an increase, at current, would not be deemed ordinally proportionate. This is largely because the social norms surrounding animal welfare “are not yet well established... [and therefore] the guilty party is likely to be less deserving of punishment.”¹¹⁰ However, this does not render the statement impossible, as sentencing guidelines “are likely to change over time in light of evolving social norms and patterns of socialisation.”¹¹¹ This means that, if animals are ever awarded the label of ‘citizenship’ and their rights and social norms increased thereafter, the potential of equal and increased sentencing beyond that of the 5-years proposed may then become possible.

Despite these difficult debates, arguments put forward in Parliament can result in positive change, regardless if they are deemed as ordinally disproportionate. This scenario occurred in 2017, when the initial proposal for increased sentencing for animal related offences was presented in Parliament. In this proposal, Neil Parish MP stated that “we should consider the message that it sends if the sentence for beating to death a sentient being that relies entirely on

¹⁰⁴ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 133

¹⁰⁵ *Ibid*

¹⁰⁶ *Ibid*

¹⁰⁷ *Ibid*

¹⁰⁸ Sentencing Council, ‘Life Sentences’ < <https://www.sentencingcouncil.org.uk/about-sentencing/types-of-sentence/life-sentences/> > accessed 15 May 2020

¹⁰⁹ Rory Kelly, ‘Reforming Maximum Sentences and Respecting Ordinal Proportionality’ [2018] *Crim LR* 6, 45-461, 1

¹¹⁰ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 133

¹¹¹ *Ibid*

human care is less than that for, perhaps, stealing a computer, it is really not on.”¹¹² Although this argument is logical in a sense, and did put in motion the Bill discussed above, his comparison is one that is legally flawed, as he has used, as his comparator offence, an offence that, in itself, is not ordinarily proportionate: theft.¹¹³

The above discussion highlights how complicated making simple legal comparisons can be and what factors and considerations are relevant. With such a complicated process, comparison to any given sentence is almost impossible, especially in relation to animal welfare offences, therefore, maybe an analysis of sentencing needs to be stemmed from another source. Maybe it is not the comparison to other crimes that should instigate change in the governments outlook, but more so the need for change by way of public interest.

Public Interest and the Need for Change

Changes within the government and the laws that they impose on society have always been done so by way of public interest. However, the laws imposed most successfully are ones that aim to protect humans rather than animals. The current situation within the legal system and the poor sentencing powers available for the courts are leaving animals unprotected in many situations. This stance may well carry on, but, if so, and animal abuse goes unchecked, it may well lead to a less safe world for humans also, both morally and physically.¹¹⁴

This indication comes from the long-standing recognition that animal cruelty and interpersonal violence are linked in some way, however, research surrounding such an area has been rather sparse until recent years.¹¹⁵ The research carried out is categorised into three main areas; the connection between animal abuse and interpersonal violence (broadly speaking), animal abuse and domestic violence and animal abuse and child abuse. These three categories, providing the research behind them is conclusive enough, will show the importance of protecting animals in order to protect vulnerable humans from violence in the future.

¹¹² Rory Kelly, ‘Reforming Maximum Sentences and Respecting Ordinal Proportionality’ [2018] Crim LR 6, 45-461, 4

¹¹³ Ibid 2

¹¹⁴ Andrew Linzey, *Why Animal Suffering Matters* (Oxford University Press 2009) 106

¹¹⁵ Sarah DeGue and David DiLillo, ‘Is Animal Cruelty a “Red Flag” for Family Violence?’ 2009 4:6 *Journal of Interpersonal Violence*, 1036 < <https://journals.sagepub.com/doi/pdf/10.1177/0886260508319362> > accessed 15 February 2020

Animal Cruelty and Interpersonal Violence

Links between animal cruelty and interpersonal violence throughout history have mainly been focussed on extreme acts of violence and high-profile cases. An example of such a case would be the actions of Mary Bell, an 11-year-old girl who strangled two children aged 3 and 4, where it was later found that she had a previous history of strangling cats and pigeons.¹¹⁶ A further case of child violence and animal cruelty was the murder of James Bulger, where one of the children responsible for the death of Bulger, Robert Thompson, had a history of the killing and mutilation of stray cats and pigeons.¹¹⁷ However, these acts of violence and the links between them and cruelty to animals are not just contained to childhood acts. Ian Brady, perhaps one of the UK's most notorious serial murderers, frequently enjoyed "tossing alley cats out of apartment windows and watching them splat on the pavement".¹¹⁸ This rather dramatic wording of Brady's actions shows the sort of commentary that has been used in relation to such high profile cases. However, these are not just anomalies in the system. Further studies, on a less high-profile level, have been carried out in recent years to reinforce this connection between animal violence and interpersonal violence.

One of these was a study by Merz-Perez *et al.* which focussed on how animal cruelty in childhood can relate to violence in later life. The study was a comparison between 45 violent offenders and 45 non-violent offenders. It was found that 56% of the violent sample admitted to cruelty to animals in childhood, whereas only 20% of the non-violent sample admitted to such violence. This is a significantly higher percentage, one which strongly suggests the correlation between the two.¹¹⁹ A further study on inmates was carried out by Tallichet *et al.* which took a larger sample of inmates, 261, and investigated their history of animal cruelty. It was found that 43% of the male inmates had engaged in some form of animal cruelty with 63% of that sample reporting hurting or killing dogs and 55% admitting to abusing cats.¹²⁰

¹¹⁶ Marie Louise Petersen and David P Farrington, 'Cruelty to Animals and Violence to People' 2007 2:21-43 *Victims and Offenders* 21 < https://www.tandfonline.com/doi/pdf/10.1080/15564880600934187?casa_token=woFCLAZhE7gAAAAA:Wm2uyZtF8yMOGi8HwrUV6AcPJWvG2rxK6IC7cqSplCdmna_AZehauRGgCFFMysrl5xQ8IPkIg3T3 > accessed 17 February 2020

¹¹⁷ *Ibid.*, 28

¹¹⁸ *Ibid.*

¹¹⁹ Merz-Perez, Heide and Silverman, 'Childhood Cruelty to Animals and Subsequent Violence Against Humans' (*International Journal of Offender Therapy and Comparative Criminology*) [2001] 45 (5), 556-573

¹²⁰ Tallichet, Hensley, O'Byran and Hassel, 'Targets for Cruelty: Demographic and Situational Factors Affecting the Type of Animal Abused' (*Criminal Justice Studies*) [2005] 18 (2), 173-182

Although these studies do not show a large majority of cases having a connection between animal abuse and interpersonal violence, there is still some argument to state that it is in the public interest to increase the protection provided to animals. As mentioned previously, an increased sentence could potentially act as a deterrent for animal abusers. Coupling this with the findings of the studies, which show that 1 in 2 individuals who engage in animal cruelty will go on to engage in interpersonal violence, preventing and deterring the early cases of animal cruelty could reduce the total amount of violent offences in the future. However, these broader figures on violence may not be compelling enough, therefore, some more distinct acts of violence will now be provided, alongside their connection to animal cruelty.

The Link Between Animal Abuse and Domestic Violence

Research surrounding this area focussed less on general acts of violence (as discussed above) and focussed instead on family-related violence. One of the leading psychologists that have been researching this link, Ascione, provided a study that compared how different women had reported witnessing animal abuse in their homes. Half of the women sampled were seeking refuge at a domestic abuse shelter whereas the other half, which were sourced as a control group, were non-abused. Ascione found that the women in the shelters were 11 times more likely to report their partners to have hurt or killed a pet (54% reported compared to 5% of the non-abused sample). Furthermore, in relation to these findings, the recollection of stronger acts of violence towards pets came from victims of severe physical domestic abuse. This shows that not only is the presence of abuse linked, but the severity of partner-perpetrated animal cruelty may increase as the severity of domestic abuse in the home increases. Ascione also found, in the same sample, that the women seeking refuge were 4 times more likely to indicate that their partners had threatened a pet (52.5% when compared to 12.5% of the non-abused sample). However, in relation to threats this time, it was found that the stronger threats came from the partners of those who suffered minor domestic abuse cases.¹²¹ This study shows, once again, the link between animal cruelty and interpersonal violence but provides an extra layer to the findings. Being able to compartmentalise the acts of violence occurring allows for a stronger focus on reform. This research shows that the violence will not just occur randomly and in public but could occur behind closed doors. This being the case, it makes preventing such

¹²¹ Ascione, Weber, Thompson, Heath, Maruyama and Hayashi, 'Battered Pets and Domestic Violence: Animal Abuse Reported by Women Experiencing Intimate Violence and by Non-abused Women' (*Violence Against Women*) [2007] 13, 354-373

violence even more important. It can be seen from this research that introducing a deterrent to animal cruelty offences and, therefore, cutting the violence off at the source could reduce the cases of domestic violence observed. However, domestic abuse is only one half of family violence, there are further links between the presence of animal abuse and child abuse within the home.

The Link Between Animal Abuse and Child Abuse

Although interpersonal violence causes detriment to society and domestic abuse should never be taken lightly, the most vulnerable human victim discussed in the last three links is, without doubt, children. A study by DeVinvey, Dickert and Lockwood analysed 53 pet owning families being treated by a state child welfare agency for cases of child abuse. In analysing these families, they found that 60% of these households reported both animal and child abuse. Under further investigation, it was found that 80% of this sample had reported physical child abuse and 34% had suffered sexual abuse or neglect.¹²² This 60% of abuse is a larger finding than that of general interpersonal violence or domestic abuse, but all figures were in the majority. This link, and the links previously discussed, demonstrate evidence relating to the link between animal abuse and further crime and violence.

Conclusion

The introduction of increased sentencing for animal abuse, essentially acting as a deterrent, will not completely solve interpersonal and family violence. Similarly, the introduction of such sentencing will not eradicate all animal abuse cases. However, it may work towards reducing the cases observed. Even if such an argument could be seen as subjective, there are certainly no negatives to enforcing harsher sentencing.

The following chapter will focus on the UK's proposed increase in sentencing with a comparison to global legal systems. Here, analysis will be made as to whether the proposed 5-year increase is substantial enough in progressing the fight against animal cruelty. Or should more be done by the UK government, perhaps beyond that of sentencing, to increase the protection available to animals.

¹²² DeVinvey, Dickert and Lockwood, 'The Care of Pets within Child Abusing Families' (*International Journal for the Study of Animal Problems*) [1983] 4, 321-329

Chapter 3: Comparison to International Legal Systems and Proposed Changes

Introduction

The chapters leading up to this point have outlined and explained the need for change within the law. This change is not just limited to a philosophical level, but for the overall protection and interest of the wider public also. It has already been established that the written law available within the UK is broad enough to offer appropriate protection, it just requires the correct implementation. Therefore, with the proposed increase in sentencing in the Government's agenda, an analysis of the animal welfare laws available on a global scale is necessary. This analysis will allow for assessment of whether the UK is finally on its way to providing sound protection to both the animals and humans affected in animal abuse scenarios.

The UK's proposed 5-year maximum sentence shall be compared to the sentencing available to other countries. Further to this, an assessment will be made to whether the UK's protection should solely be limited to an increase in sentencing or, as is the case in other countries, should additional measures be introduced to aid and protect animals. These measures can create a more coherent legal system for the benefit of both animals and humans. Therefore, an analysis of these measures and the potential for implementation within the UK legal system will also be provided.

Comparison to International Legal Systems

The consideration of animal welfare laws on a global scale is inevitably a difficult task due to the amount of countries that exist, so to allow for varied comparison, specific countries have been selected from around the world to compare to the UK system and its proposed changes. An overall summary of European sentencing will be provided, including more in-depth discussions relating to France and Switzerland, followed by comparison to both the Australian and American legal systems and what legal measures they have imposed to increase animal protection.

Sentencing

Figure 1: Maximum prison sentences for animal cruelty available in Europe ¹²³

Country	Maximum prison sentence available	Notes
Austria	1 year	Under review to increase
Belgium	3 months	
Bulgaria	3 years	
Croatia	1 year	
Cyprus	1 year	Under review to increase
Czech Republic	3 years	
Denmark	2 years	
Estonia	1 year	
Finland	4 years	
France	2 years	
Germany	3 years	
Greece	2 years	
Hungary	3 years	
Ireland	5 years	
Italy	3 years	
Latvia	5 years	
Lithuania	1 year	
Macedonia	6 months	
Malta	1 year	Planned to raise to 3 years

¹²³ Parliament: Environment, Food and Rural Affairs, 'Animal Welfare in England: Domestic Pets Contents – Enforcement' [2016] < <https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/117/11709.htm> > accessed 8 April 2020

Montenegro	5 years	
Netherlands	3 years	
Norway	3 years	
Poland	2 years	
Portugal	2 years	
Romania	1 year	
Serbia	3 years	
Slovakia	3 years	
Slovenia	1 year	
Spain	18 months	Recently increased from 1 year
Sweden	2 years	
Switzerland	3 years	
Ukraine	2 years	
<u>UK</u>		
England & Wales	6 months	Planned to raise to 5 years
Northern Ireland	5 years	Recently increased from 2 years
Scotland	1 year	

France

Punishment for animal cruelty in the French courts seems to aim more at depleting an offender's financials rather than their liberty. This is because the offences can carry with them a large fine of up to €30,000, however, this is only an 'up to' figure.¹²⁴ Therefore, there is no guarantee that any prosecution would impose such a large fine. Whilst there is the 'potential' of a large fine, the French legal system only imposes a maximum sentence of 2 years for animal

¹²⁴ Criminal Code of the French Republic 2005, Art. 521-1

welfare offences.¹²⁵ Granted this measure is four times than what is currently observed within the UK legal system, but it falls far short of the intended changes proposed by the recent UK sentencing Bill.

Therefore, taking only France as an example, it would seem that the UK protections and proposed changes are holding up against scrutiny. However, it would seem that France are not the most engaged country in the fight against animal cruelty, therefore, outperformance in comparison is not that great of an accomplishment. In a report published by the European Court of Auditors, it was shown that France had the highest reports of non-compliance with farm welfare standards. Depending on the area of agriculture, France reported non-compliance on a range of 25% to 65% of all sites inspected, this is compared to the ranges of other countries such as Italy and Germany that only displayed ranges of around 3% to 14%.¹²⁶

Switzerland

The Swiss legal system is renowned for having great protection for animals. It is granted an overall rating level of B by the Animal Protection Index with their laws relating to animal protection being awarded an A grade.¹²⁷ This is because the Swiss legal system acknowledges not only the physical welfare of its animals in its laws but their mental health also. This has been seen by Switzerland's response to modern animal behavioural research that shows specific animals' needs for social contact. In response to this research, the Swiss government stated, in law, that certain animals that were deemed to be social, such as Guinea Pigs and Rabbits, should not be housed alone, as social contact with animals of their own species guarantees their emotional wellbeing.¹²⁸ Further to this, it is not just the emotional wellbeing of domestic animals that is important to the Swiss judiciary, but the wellbeing of livestock also. Provisions have been written in law stating that calves separated from their mother and kept individually should be kept in a location that is in eyesight with animals of the same species, in an attempt to reduce the emotional distress caused to the calves during weaning.¹²⁹

¹²⁵ Ibid

¹²⁶ European Court of Auditors, 'Animal Welfare in the EU: closing the gap between ambitious goals and practical implementation' (2018) ISBN 978-92-847-1150-5, Annex II

¹²⁷ Animal Protection Index, 'Switzerland' (*Animal Protection Index*, 10 March 2020) <<https://api.worldanimalprotection.org/country/switzerland>> accessed 8 April 2020

¹²⁸ Margot Michel and Eveline Schneider Kayasseh, 'The Legal Situation of Animals in Switzerland: Two Steps Forward, One Step Back – Many Steps to Go' (*Journal of Animal Law*, Vol. VII) 31

¹²⁹ Swiss Animal Protection Ordinance 1998, Art. 16a

Despite Switzerland having these extra measures in place, their sentencing falls short of the UK's proposed 5-year increase. In Swiss law, as in all systems, animals are referred to as property.¹³⁰ Therefore, as there is no separate sentencing guidelines for animal related offences, the laws relating to animal cruelty and welfare are sentenced in line with the laws relating to criminal damage. With this being said, in Switzerland, any individual who is prosecuted for an animal welfare/cruelty related offence could be liable to a monetary penalty or a custodial sentence not exceeding three years.¹³¹

Once again, at current, the Swiss law carries with it a custodial sentence that is six times lengthier than the UK's current system, at 3 years. However, also similar to France, it falls short of the proposed 5-year increase for the UK system. In addition to this, it would seem the Swiss system imposes on its offenders either a custodial sentence or a fine, whereas offenders within the UK can be dealt both a custodial sentence and a fine. It would seem that, once again, the UK's proposed 5-year increase is outperforming their European associates, but how does the UK system fair against countries outside of the European continent?

Australia

The laws in Australia and the sentencing available varies depending on the location of an offence, as the sentencing guidelines are different throughout the different Australian states and territories. Therefore, for the purposes of comparison, a demonstration of the range of sentencing available throughout Australia will be provided.

Starting first at the low end of the spectrum, if an offence is carried out and sentenced within the 'Northern Territory' of Australia, offenders will only be faced with a maximum sentence of 1-year imprisonment, or a maximum fine of \$13,700 (with this maximum fine relating to a 'natural' person).¹³² It would seem again, similar to France, that the punishment in the Northern Territory is more focussed on financial punishment rather than imprisonment. However, like all the countries observed, the maximum within the Northern Territory is still twice as high as

¹³⁰ Swiss Criminal Code 1937, Art. 110

¹³¹ Ibid, Art. 144

¹³² RSPCA, 'What are the Penalties for Animal Cruelty Offences?' (*RSPCA Australia*, 1 May 2019) < <https://kb.rspca.org.au/knowledge-base/what-are-the-penalties-for-animal-cruelty-offences/> > accessed 25 February 2020

what is currently observed within the UK, but also, falls far short of the proposed increase within the UK legal system.

This rather minor punishment, however, is only observed within the Northern Territory of Australia. The state in Australia with the harshest of sentencing, both in relation to imprisonment and fines is the Queensland state. Queensland imposes on offenders a maximum prison sentence of 7-years.¹³³ However, this sentence is only available for extreme acts of cruelty, for example the killing or causing of serious injury.¹³⁴ With serious injury being defined as “the loss of a distinct part of an organ of the body; or a bodily injury of such a nature that, if left untreated would – endanger, or be likely to endanger, life; or cause, or be likely to cause, permanent injury to health.”¹³⁵ Any infliction of harm on an animal that does not fall under this definition, that may be described as ‘minor’ carries with it a maximum sentence of 3-years imprisonment.¹³⁶

In analysing the sentences available in Queensland, even on a minor level the sentences available seem quite solid. The fact that there are two sentencing guidelines available for differing severity of animal welfare offences is an attractive prospect and is possibly something that the UK legal system would benefit from. This is not only because of the subjective nature behind how to classify severity of animal abuse, with a written definition removing such ambiguity, but, also, this increased sentencing for extreme acts of cruelty acknowledges the public interest argument put forward in Chapter 2 about the risks associated with severe acts of animal cruelty and interpersonal violence in the future. Therefore, the Queensland system seems to have a comprehensive approach on sentencing and imprisonment.

The sentencing possibilities in relation to fines within Queensland also do a consistent job in protecting animal welfare. An interesting point in relation to the available fines is the differing fines available to both ‘natural’ and ‘legal’ persons: ‘natural’ persons giving reference to individuals and ‘legal’ persons to corporations. The maximum fine in relation the breach of animal welfare provisions for a ‘natural’ person being \$235,600 and for a ‘legal’ person

¹³³ Queensland Criminal Code Act 1899, s 242 (1)

¹³⁴ Ibid

¹³⁵ Ibid s 242 (3)

¹³⁶ Queensland Animal Care and Protection Act 2001, s 18

\$1,178,000.¹³⁷ This scale of fine has not yet been observed, in any of the countries or territories discussed previous and is therefore totally unique to Queensland.

The inconsistencies of sanctions within certain countries and territories has already been discussed, stating that they are not always balanced, with most favouring financial punishment over that of a custodial sentence. It would seem that Queensland, as a whole, both in relation to sentencing and fines, has a successful system in place to tackle breaches of animal welfare. Not only do they have differing sentences available for various levels of animal cruelty, but differing fines also, with fines holding corporations to a higher standard than individuals, and rightly so, but the fines imposed on ‘natural’ persons hardly being in favour of the offender. Such large fines and large custodial sentences may act as a deterrent within this territory and perhaps provide a good precedent for further development within the UK system.

United States of America (USA)

The United States (US) legal system is one that operates in a similar way to the Australian system. Each individual state has their own legal constructions, however, federal laws are also in place to provide blanket protection across the entire nation. With 50 states being present throughout the USA, it would, similar to Australia, be unsuitable to assess every state law relating to animal welfare offences. Therefore, an overall assessment will be made. This will be done by focussing on the federal laws available throughout the nation, but also giving reference to some particularly robust laws observed in certain states.

The US is a country that has advanced their laws relating to animal welfare offences at a surprising pace in the past 20 years, with around 28 of the 41 proposed referenda for the improvement of animal welfare measures being passed.¹³⁸ The most recent development being introduced by President Trump towards the end of 2019. This improvement consisted of the introduction of a federal offence for animal cruelty related offences, with the creation of the *Prevention of Animal Cruelty and Torture Act 2019*.¹³⁹ The introduction of a federal offence for animal cruelty reinforces the protections that are already observed within the US on a state

¹³⁷ RSPCA, ‘What are the Penalties for Animal Cruelty Offences?’ (*RSPCA Australia*, 1 May 2019) < <https://kb.rspca.org.au/knowledge-base/what-are-the-penalties-for-animal-cruelty-offences/> > accessed 25 February 2020

¹³⁸ Sue Donaldson and Will Kymlicka, *Zoopolis* (Oxford University Press 2011) 1

¹³⁹ Henceforth referred to as ‘PACT 2019’

level and allows for prosecutors to “address cases of animal abuse that cross [several] state lines”.¹⁴⁰ The PACT 2019 has been described as a “necessary tool” to provide animals with the protection they deserve and allow for the “most horrific acts of animal cruelty [to be] prosecuted to the fullest extent of the law”.¹⁴¹

The construct of the Act refers to the act of “animal crushing” being an offence.¹⁴² Although this wording may be interpreted on a literal basis, the Act goes on to define what sort of actions would constitute as “crushing”. These being any action that results in “one or more living non-human mammals... [being] purposely crushed, burned, drowned, suffocated, impaled or otherwise subject to serious bodily injury”.¹⁴³ Alongside this protection against the act of inflicting injury itself, the Act also provides protection against the creation of “animal crushing” videos. Once again, this does not just apply to the creation of “video” in its literal sense, but is defined further as “any photograph, motion-picture film, video or digital recording, or electronic image”, so long as this video “depicts animal crushing and is obscene”.¹⁴⁴ Therefore, the introduction of this federal offence provides wider protection for animals on a national level in the US, however, it is not just this wide protection that shows the strength of the US legal system, but the sanctions in place for the breach of these provisions.

In comparison to the previous countries and states discussed, the US legal system carries with it the largest sentencing potential for breach of its federal provisions. A breach of the Act discussed carries with it a maximum term of 7-years imprisonment. In addition, the available custodial punishment also benefits from the capability of fines being imposed alongside imprisonment, not either/or as observed within the Swiss legal system. That said, the capability of fines being imposed alongside custodial sentences is nothing new, with such options also being observed within the UK system.¹⁴⁵

With the above sentencing guidelines being discussed, it would seem that the UK’s proposed increase is good, but not quite perfect. The analysis provides some room for improvement, with

¹⁴⁰ Mihir Zaveri, ‘President Trump Signs Federal Animal Cruelty Bill Into Law’ (*The New York Times*, 25 November 2019) < <https://www.nytimes.com/2019/11/25/us/politics/trump-animal-cruelty-bill.html> > accessed 8 April 2020

¹⁴¹ Ibid

¹⁴² Prevention of Animal Cruelty and Torture Act 2019 (a) (1)

¹⁴³ Ibid, (f) (1)

¹⁴⁴ Ibid, (f) (2)

¹⁴⁵ Animal Welfare Act 2006 s 32

such improvements being discussed later, however, maybe the analysis should not be limited to a comparison of sentence length. The US legal system and the organisations that work in tandem with the system have further protections available, protections that could also be of benefit to the UK legal system.

Further Protections

The further protections observed within the US legal system and beyond are sparse, however, there are two distinctive features which seem to lead the way in the protection of both animals and the wider American public. For the purposes of this dissertation, the two features that will be discussed are the presence of an animal abuse register and the concept of cross-reporting, protective orders, and upward departures.

Abuse Register

The introduction of an animal abuse register within the US legal system was as a result of public interest across various states, with three of New York State's counties being the first to act by introducing an Animal Abuser Registry in 2010.¹⁴⁶ The counties that initially introduced this registry were Albany, Rockland and Suffolk, with the introduction in Suffolk being as a result of "71 per cent of battered women say[ing] their pets have been killed or threatened by their abusers".¹⁴⁷ The registries availability was then expanded across the remainder of the New York State in 2014, with the creation of the *Animal Abuse Registration Act*.¹⁴⁸ The introduction of the registry demonstrates the US's appreciation and acknowledgment of the research proposed throughout Chapter 2, that highlighted the public interest aspects associated with an increase in the legal protection of animals. This acknowledgement was not just observed in a single US State, Tennessee also introduced a register of their own in 2016.¹⁴⁹

It must be noted, however, that the abuse registers available across States are not identical and for the purposes of providing an example structure of one, an analysis of the New York

¹⁴⁶ N C Sweeney, 'Why We Need an Animal Abuser Registry' (*Criminal Law & Justice Weekly*) [2013] 177 JPN 322

¹⁴⁷ Ibid

¹⁴⁸ Alice Collinson and Robert Sardo, 'Increased Maximum Sentences for Deliberate Animal Abuse: Part of the Armoury of the Criminal Justice System in Tackling Violent Crimes Towards People and Animals' (*The UK Journal of Animal Law*) [2017] ISSN 2516-2225 29, 32

¹⁴⁹ Ibid, 33

legislation will be provided. The New York conditions require that any individual, over the age of 18, who is convicted of animal abuse in the county is added to the registry for 5-years following sentencing or following their release from their custodial term. Further to this, a consequential conviction (upon release or after sentencing) of animal related offences can extend this period to an additional 10-years' registration. Finally, failing to register or abide by the conditions in relation to the registration can result in a 1-year sentence or a \$1,000 fine.¹⁵⁰ It would seem, therefore, that the implementation of a register is not just to provide sanctions to those individuals who have already committed animal related offences, but, also, provide further, harsher, sanctions on those individuals who continue abusing animals. This is an attractive sentencing possibility to enhance the animal welfare standard within the UK and provides a further message to the UK public that cruelty to animals will not be taken lightly within the legal system.

Currently, the New York system is only available for inspection from certain organisations. These organisations are referred to as 'relevant bodies' and include law enforcement, pet shops and animal shelters. With this being said, this access comes with specific responsibilities. The organisations are required to check the register before any transfer of an animal and are required, by law, to refuse such a transaction if it is found that the individual in question appears on the register.¹⁵¹ However, this selective availability for the register in New York is not observed within the State of Tennessee, where the register is available for the full public to view.¹⁵²

The introduction of a register within the UK legal system, is an attractive possibility. It will not only act as a deterrent for animal related crimes, but if similar measures are proposed as in the New York registers, it would also prevent re-offending in relation to these crimes, as the registration period can be doubled as a result of this. Further to the register acting as a deterrent, the granting of disqualification orders in relation to animal welfare crimes, as discussed in Chapter 2, is a sanction that works well on paper but not so much in practice. The issues observed in the previous chapter emphasise the lack of surveillance available to the authorities to monitor those individuals who have been subject to disqualification orders. The introduction of a register would allow for specific organisations to monitor those who have been convicted

¹⁵⁰ Ibid

¹⁵¹ Ibid

¹⁵² Ibid

of animal related offences in the past, and who may be subject to disqualification orders, but also prevent potential future cruelty of animals by those who are prone to repeat behaviour.

Although, it would seem that the presence of a register would help in the ways mentioned above, such assistance comes with various downsides. The first of these issues is surrounding the availability of the register in US States, an issue that would have to be considered if such a register were introduced within the UK system. The issue put forward is that if the register were available for the whole public to view, there would certainly be some queries regarding data protection. It is argued by commentators that, with a register similar to that observed in Tennessee, presence on the register may amount to some sort of public shaming.¹⁵³ Public shaming which would lead to an individual becoming “further isolated from society”, similar to those individuals who are listed on the sex offenders’ registers.¹⁵⁴

This aspect of availability is only an issue that would have to be decided if the UK were in the process of introducing a register of their own, however, it would seem from past debate that this won’t be happening any time soon. In 2016, the UK government stated that it was satisfied with the disqualification orders that are currently in place, stating that these are a way to “prevent animal abuse, cruelty and poor welfare in the future”.¹⁵⁵ We have already seen that this is not the case, and the enforceability of such orders may as well be non-existent. The government was challenged on this aspect in 2016, but they maintained their previous position.

After their defence to the successfulness of disqualification orders, the government responded to the introduction of a register by giving reference to certain privacy issues discussed above. It stated that the introduction of a register would not so much shame the individuals on it, as put forward above, but could rather “facilitate vigilantism”.¹⁵⁶ This is a belief that is not just conjured by the government itself, but one that is supported by the police also.¹⁵⁷ It is the government’s belief, therefore, that the introduction of a register could do more harm than good, especially since they are satisfied that they already have sufficient systems in place to

¹⁵³ Ibid

¹⁵⁴ Ibid

¹⁵⁵ Parliament: Environment, Food and Rural Affairs, ‘*Animal Welfare in England: Domestic Pets Contents – Enforcement*’ [2016] < <https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/117/11709.htm> > accessed 3 March 2020

¹⁵⁶ Alice Collinson and Robert Sardo, ‘Increased Maximum Sentences for Deliberate Animal Abuse: Part of the Armoury of the Criminal Justice System in Tackling Violent Crimes Towards People and Animals’ (*The UK Journal of Animal Law*) [2017] ISSN 2516-2225 29, 34

¹⁵⁷ Ibid, 33

highlight offenders. In their report, the authorities gave reference to the Police National Computer, a service that “provides a searchable, single source of locally held operational police information”.¹⁵⁸ In using this computer, it allows for authorities to “bring together data and local intelligence so that every force can see what is known about an individual, including any operational information relating to animal cruelty or mistreatment.”¹⁵⁹

The issue with this system, however, is not the storing of information, but once again, who is entitled to access this information. The current system in place does not allow for animal organisations, who are responsible for distributing animals to specific individuals, to access this database. Instead, the process states that “if a person has concerns about another individual, they can approach the police who can check their records on the Police National Computer. The police may then take the most appropriate action.”¹⁶⁰ This is problematic because it relies on quite a lengthy and formal process to take place. An organisation would have to be suspicious of an individual and be confident enough in their suspicions to pursue the matter further with the police. It seems unlikely, that animal abusers and offenders are displaying their convictions publicly, and therefore, it would be difficult for organisations to decide which suspicions are worthy of pursuit, especially since the constant checking of innocent individuals may well amount to the wasting of police time.

This process, therefore, undoubtedly, allows for many animal abusers to pass under the radar once again, similar to that seen with the enforcement of disqualification orders. A change in the system, that allows for specific organisations to search a register for such offenders would not allow for this eventuality. Granted, it is of the utmost importance to not allow this register to be available to the public, to avoid the shaming and vigilantism listed above. Furthermore, it is important that the use of such a register would be done so in compliance with the relevant data protection laws. However, it is clear that the correct introduction and use of a register could allow for animal cruelty offenders to be monitored more effectively and prevent any further abuse to animals by their hand. Monitoring that would not be available to the wider public, but specific organisations prescribed by the government and acting alongside the police.

¹⁵⁸ Ibid, 34

¹⁵⁹ Ibid

¹⁶⁰ Ibid

Cross-Reporting, Protective Orders and Upward Departures

The existence of an abuse register is not the only measure the US has in place beyond sentencing. They also have a concept of cross-reporting. The motivation behind cross-reporting stems, once again, from the US's acknowledgement of the links between animal abuse and interpersonal violence (as discussed in Chapter 2). The existence and “development of mandated cross-reporting systems for child protection and animal welfare agencies... allow animal investigators to refer families to child welfare services and vice versa”.¹⁶¹ Furthermore, cross-reporting legislation allows relevant investigators to “refer families with identified child maltreatment or animal cruelty for investigation by parallel agencies” for example, “suspected adult victims of violence”.¹⁶² The introduction of cross-reporting mechanisms, therefore, acknowledges all three links highlighted in Chapter 2, ranging from standard interpersonal violence to child abuse and domestic violence.

The initial reporting of animal abuse to the differing authorities not only stops the abuse that has been experienced first-hand but allows for the authorities to investigate potential further abuse that other individuals or animals may be subjected to by a perpetrator. Furthermore, if it is found that the abuse spills out to affect others, the US legal system has measures in place to provide protection to those who are affected. Victims of domestic abuse cases within the US are normally granted protective orders against their abuser, however, these protective orders can also be extended to include the animal owned by the victim alongside the victim themselves.¹⁶³ This is an extension that is available in 32 US states as of the start of 2020.¹⁶⁴ These orders are, especially with the existence of the register that runs within US states, adding to the protection of both the victims themselves (both animal and human) and the risk of re-offending in the future.

In addition, the deterrent factor that is imposed on individuals in relation to animal welfare offences is furthered once more with the existence of ‘upward departures’ in the US legal

¹⁶¹ Sarah DeGue and David DiLillo, ‘Is Animal Cruelty a “Red Flag” for Family Violence?’ (*Journal of Interpersonal Violence*, Vol 4, No. 6, June 2009) 1036 < <https://journals.sagepub.com/doi/pdf/10.1177/0886260508319362> > accessed 4 March 2020

¹⁶² Ibid

¹⁶³ Alice Collinson and Robert Sardo, ‘Increased Maximum Sentences for Deliberate Animal Abuse: Part of the Armoury of the Criminal Justice System in Tackling Violent Crimes Towards People and Animals’ (*The UK Journal of Animal Law*) [2017] ISSN 2516-2225 29, 34

¹⁶⁴ Rebecca F Wisch, ‘Domestic Violence and Pets: List of States that Include Pets in Protection Orders’ (*Animal Legal & Historical Center*, 2020) < <https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders> > accessed 7 March 2020

system. These are measures that are in place that allow for heightened sentencing available to individuals who carry out specific animal welfare offences under certain circumstances. These circumstances include where “there is a previous conviction of domestic violence; the animal abuse occurred in front of a child; or the abuse was carried out so as to threaten another person.”¹⁶⁵ This further measure, once again, increases the protection available to animals. With the introduction of this third, and final measure, the US legal system is not just acknowledging the link between animal abuse and domestic violence, an acknowledgement which is not observed within the UK legal system, but the US system also demonstrates that violence and harm in general is not tolerated, regardless on whom this harm is imposed.

Conclusion

The analysis provided within this chapter has shown that the UK’s proposed increase in sentencing stands up to scrutiny when compared with their European neighbours, however, further afield legal systems offer protection beyond that of sentencing which seem beneficial. The further measures observed within the Australian and the US system provide for potential to expand UK measures to a new-found level. These measures not only acknowledge the need for protection of animals, but also the links between animal and interpersonal violence outlined within Chapter 2. This progression, if implemented, will allow for further protection across the whole of the legal system, not just the areas relating to animal welfare.

¹⁶⁵ Alice Collinson and Robert Sardo, ‘Increased Maximum Sentences for Deliberate Animal Abuse: Part of the Armoury of the Criminal Justice System in Tackling Violent Crimes Towards People and Animals’ (*The UK Journal of Animal Law*) [2017] ISSN 2516-2225 29, 34

Conclusion

Although the philosophy behind animal welfare may not be directly linked to legal innovation, the discussions put forward act as a foundation of thought. One that should be considered by each and every individual. Thoughts that not just further the government's action on animal welfare, but ones that further all of the moral duties owed to another.

It is clear that the past has not been kind to animals, but it seems like change is on the horizon. However, it is the responsibility of humans to ensure that this change is demanded, implemented, and enforced. Such change may be noticed in the welfare societies or the advocates that act on behalf of them, but the ultimate change must be observed within the English legal system. A system that, up until now, considerably limits the protection it affords to animals of all sorts. Protection that is not necessarily limited by statute, but by the sentencing powers available to the courts in relation to these statutes.

It should be noted, however, that the protection of animals can be improved merely beyond the increase in sentencing, such as the introductions of systems akin to those within the US legal system. Upon evaluation, we have shown how these systems favour animals more so than that observed within the UK system. The particulars discussed have not been reserved to that of sentencing but also the sanctions in place to protect the wider public as well as the animals directly affected. This wider application has shed further light on the lack of protections available within the UK legal system and reinforced the arguments put forward. It is in the public interest, regardless of how you view the sentience or importance of animals or their citizenship, to increase the sanctions and protections that are granted to animals by law.

Currently, the 5-year proposed increase for maximum sentencing within the UK seems to stand up to scrutiny, especially with comparison to their closest European neighbours. However, potential improvements in the law are observed when compared to the Australian system and their split offence sentencing. Further to this, the US legal system not only contains a higher available sentence, on a federal level, but the further measures available to authorities extend beyond that of the UK. These measures are partly as a result of the US government

acknowledging the crucial links between interpersonal and animal violence and imposing such protections to reflect this link.¹⁶⁶

Therefore, the UK system requires change to be as protective and consistent with their international counterparts. It is suggested, firstly, there should be an introduction of split sentencing guidelines, enshrined in law, that relates to the severity of animal abuse cases. This introduction would allow for clarity within the law as what constitutes ‘serious harm’ and ‘less than serious harm’ thereby eliminating the apparent subjectivity in UK courts today. Further to this, it would allow for harsher punishment to those who commit the more disturbing crimes against animals, as these types of offences have been observed to lead to human-human violence later in life (as seen in Chapter 2). Furthermore, although the 5-year maximum sentence falls short of the US equivalent, it may still be substantial enough, especially after comparison to the European legal systems. However, if two separate sentencing guidelines were adapted, it is suggested that a 7-year maximum on the crimes that constitute ‘serious harm’ be imposed and allow for the 5-year maximum to be available for all other offences.

Secondly, comparisons to the US system revealed that the UK system is deficient in protections outside of imprisonment. The introduction of an animal abuse register, for all relevant authorities, similar to that seen in New York, would be of great benefit to the legal system as a whole. The existence of a register allows for disqualification orders to be properly executed, as individuals subject to such orders, or past offenders in general, will no longer be able to obtain animals from the relevant establishments. Further to this, as we have seen with the Government’s response to a register, the current system relies on the police to enforce and investigate those who may be a risk to an animal’s welfare. The introduction of the register will allow for this burden to be passed to the organisations leading the fight against such abuse and reduce the strain on the emergency services.

Finally, the theory of ‘upward departures’ being directly written into law, giving specific reference to animal abuse, child abuse and domestic violence, may contribute towards protecting those who are perhaps the most vulnerable in society. Granted, the theory of ‘upward departures’ is already prevalent within the legal system, especially sentencing, when considering aggravating factors such as previous convictions, but the introduction of specified

¹⁶⁶ Ibid

animal-related offences eliminates the risk of judges being subjective in their rulings and may ensure the protection required is granted.

These changes within the UK legal system may seem small, but with the correct implementation would evoke much-needed change. Change that would not just be observed in the fight against animal cruelty but one that would further protect all individuals who rely on the legal system for their overall welfare and safety. The improvement of animal welfare standards will increase the nobility of the UK as a whole, along with its legal system, as “the greatness of a nation and its moral progress can be judged by the way its animals are treated”.¹⁶⁷

¹⁶⁷ David Hume, ‘Empathy and the Moral Status of Animals’ [1998] UCL Juris Rev 5, 101-115, 110

Bibliography

Primary Sources

Cases

Patterson v Royal Society for the Prevention of Cruelty to Animals (RSPCA) [2013] EWHC 4531 (Admin)

R (on the application of RSPCA) v Guildford Crown Court [2012] EWHC 3392 (Admin)

International Law

Criminal Code of the French Republic 2005

Prevention of Animal Cruelty and Torture Act

Swiss Animal Protection Ordinance 1998

Swiss Criminal Code 1937

The Constitution of the United States of America 1789

Queensland Animal Care and Protection Act 2001

Queensland Criminal Code Act 1899

Statute

Animal Welfare Act 2006

Criminal Justice Act 2003

European Convention on Human Rights 1980

Human Rights Act 1998

Secondary Sources

Books

Donaldson S and Kymlicka W, *Zoopolis* (Oxford University Press 2011)

Great Britain House of Commons, *Journal of the House of Commons* (vol.55, 1799-1800)

Kean H, *Animal Rights: Political and Social Change in Britain since 1800* (Reaktion Books Ltd 1988)

Linzey A, *Why Animal Suffering Matters* (Oxford University Press 2009)

Singer P, *Animal Liberation* (First Published 1990, Pimlico 1995)

Command Papers

Advisory Council on the Penal System, Sentences of Imprisonment (1978)

House of Commons Library, *Animal Welfare (Sentencing) Bill* (Briefing Paper, No. 8612, 2019)

House of Commons Library: Science and Environment Section, *The Animal Welfare Bill* (Bill No 58 of 2005-06)

Contributions to Edited Books

Elizabeth Anderson, 'Animal Rights and the Values of Nonhuman Life' in Cass R Sunstein and Martha C Nussbaum (eds), *Animal Rights: Current Debates and New Directions* (OUP 2004)

Gary L Francione, 'Animals – Property or Persons?' in Cass R Sunstein and Martha C Nussbaum (eds), *Animal Rights: Current Debates and New Directions* (OUP 2004)

Journals

Abigail Woods, 'From Cruelty to Welfare: The Emergence of Farm Animal Welfare in Britain, 1964-1971' [2012] 36:1 *Endeavour*

Alasdair Cochrane, 'Cosmozoopolis: The Case Against Group-Differentiated Animal Rights' (*University of Sheffield: Law, Ethics and Philosophy*) [2013] Vol. 1, 127-41

Ascione, Weber, Thompson, Heath, Maruyama and Hayashi, 'Battered Pets and Domestic Violence: Animal Abuse Reported by Women Experiencing Intimate Violence and by Non-abused Women' (*Violence Against Women*) [2007] 13, 354-373

Alice Collinson and Robert Sardo, 'Increased Maximum Sentences for Deliberate Animal Abuse: Part of the Armoury of the Criminal Justice System in Tackling Violent Crimes Towards People and Animals' (*The UK Journal of Animal Law*) [2017] ISSN 2516-2225

Criminal Law Week, 'New Cases: Substantive Law: Animal Welfare: R. (Patterson) v Royal Society for the Prevention of Cruelty to Animals' CLW/14/45/15

Darren Calley, 'Developing a Common Law of Animal Welfare: Offences Against Animals and Offences Against Persons Compared' (*Crime, Law and Social Change*) [2011] 55(5) 421-436

David Hume, 'Empathy and the Moral Status of Animals' [1998] UCL Juris Rev 5, 101-115

DeViney, Dickert and Lockwood, 'The Care of Pets within Child Abusing Families' (*International Journal for the Study of Animal Problems*) [1983] 4, 321-329

European Court of Auditors, 'Animal Welfare in the EU: closing the gap between ambitious goals and practical implementation' (2018) ISBN 978-92-847-1150-5, Annex II

Merz-Perez, Heide and Silverman, 'Childhood Cruelty to Animals and Subsequent Violence Against Humans' (*International Journal of Offender Therapy and Comparative Criminology*) [2001] 45 (5), 556-573

N C Sweeney, 'Why We Need an Animal Abuser Registry' (*Criminal Law & Justice Weekly*) [2013] 177 JPN 322

Richard L Jr Cupp, 'Litigating Nonhuman Animal Legal Personhood' (2018) 50 Tex Tech L Rev 573

Rory Kelly, 'Reforming Maximum Sentences and Respecting Ordinal Proportionality' [2018] Crim LR 6, 45-461

Sally Case, 'The Animal Welfare Act 2006' [2007] Crim Law 169, 3-5

Tallichet, Hensley, O’Byran and Hassel, ‘Targets for Cruelty: Demographic and Situational Factors Affecting the Type of Animal Abused’ (*Criminal Justice Studies*) [2005] 18 (2), 173-182

Online Journals

Marie Louise Petersen and David P Farrington, ‘Cruelty to Animals and Violence to People’ 2007 2:21-43 *Victims and Offenders* 21 <
https://www.tandfonline.com/doi/pdf/10.1080/15564880600934187?casa_token=woFCLAZhE7gAAAAA:Wm2uyZtF8yMOGi8HwrUV6AcPJWvG2rxK6IC7cqSplCdmna_AZehauRGgCFFMysrl5xQ8IPkIg3T3 > accessed 17 February 2020

Parliament: Environment, Food and Rural Affairs, ‘*Animal Welfare in England: Domestic Pets Contents – Enforcement*’ [2016] <
<https://publications.parliament.uk/pa/cm201617/cmselect/cmenvfru/117/11709.htm> >
accessed 3 March 2020

Royal Society for the Prevention of Cruelty to Animals (RSPCA), ‘Trustees’ Report and Accounts’ (2018) <
<https://www.rspca.org.uk/documents/1494939/7712578/RSPCA+Trustees+Report+and+Accounts+2018+%28PDF+1.07MB%29.pdf/3d1ed803-2485-9300-6058-1108409f014a?t=1560511878538> > accessed 29 January 2020

Sarah DeGue and David DiLillo, ‘Is Animal Cruelty a “Red Flag” for Family Violence?’ 2009 4:6 *Journal of Interpersonal Violence*, 1036 <
<https://journals.sagepub.com/doi/pdf/10.1177/0886260508319362> > accessed 15 February 2020

Websites

Animal Protection Index, ‘Switzerland’ (*Animal Protection Index*, 10 March 2020) <
<https://api.worldanimalprotection.org/country/switzerland> > accessed 8 April 2020

Animal Protection Index, 'United Kingdom' (*Animal Protection Index*, 10 March 2020) < <https://api.worldanimalprotection.org/country/united-kingdom> > accessed 4 May 2020

BBC News, 'Finn's Law Petition gets debate in Parliament' (*BBC News*, 3 November 2016) < <https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-37859146> > accessed 6 April 2020

Dennis Parker, 'The 14th Amendment Was Intended to Achieve Racial Justice – And We Must Keep It That Way' (*American Civil Liberties Union*, 9 July 2018) < <https://www.aclu.org/blog/racial-justice/race-and-inequality-education/14th-amendment-was-intended-achieve-racial-justice> > accessed 1 April 2020

Mihir Zaveri, 'President Trump Signs Federal Animal Cruelty Bill Into Law' (*The New York Times*, 25 November 2019) < <https://www.nytimes.com/2019/11/25/us/politics/trump-animal-cruelty-bill.html> > accessed 8 April 2020

Parliament, 'Animal Welfare (Sentencing) Bill 2017-2019' < <https://services.parliament.uk/bills/2017-19/animalwelfaresentencing.html> > accessed 7 February 2020

Rebecca F Wisch, 'Domestic Violence and Pets: List of States that Include Pets in Protection Orders' (*Animal Legal & Historical Center*, 2020) < <https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders> > accessed 7 March 2020

RSPCA, 'What are the Penalties for Animal Cruelty Offences?' (*RSPCA Australia*, 1 May 2019) < <https://kb.rspca.org.au/knowledge-base/what-are-the-penalties-for-animal-cruelty-offences/> > accessed 25 February 2020

RSPCA, 'Prosecutions Annual Report 2018' (*RSPCA UK*, 2019) < <https://www.rspca.org.uk/documents/1494939/7712578/ProsecutionReport2019.pdf/a2ae6cdc-efe2-f6bf-cac3-0fb53da37bf6?t=1556101041009> > accessed 4 April 2020

Sentencing Council, 'Life Sentences' < <https://www.sentencingcouncil.org.uk/about-sentencing/types-of-sentence/life-sentences/> > accessed 15 May 2020