Part 2:  
Criminal and Cruelty Offences

The Link between Animal Cruelty and Interpersonal Violence

Alan Parkes

http://www.pinterest.com/pin/123849058476408922/

1 Introduction

Animal cruelty and violence to humans contain common characteristics. 1 For instance, the victims in both are sentient beings, implying they do endure pain from the injuries sustained. 2 The purpose of this essay is to explore the connection between these two forms of crime and the influence of the ‘human’ and ‘non-human’ interpretation. In addition, the laws that govern these offences, their adequacy, and the potential for reform will be examined.

2 Ibid.
According to studies in psychology, sociology and criminology, individuals who carry out acts of animal cruelty do not stop here. Instead, several escalate to humans,\(^3\) in which the expectation of committing murder or other violent offences is fivefold.\(^4\) The preliminary acts of cruelty to animals are not simply indications of a slight personality defect, but rather a sign of a deep psychiatric illness. The American Psychiatric Association classifies this illness as a conduct disorder,\(^5\) which is defined in the Diagnostic and Statistical Manual of Mental Disorders IV (DSMIV) as a recurring and persistent behaviour pattern where the rights of others, social customs or rules are disregarded.\(^6\)

Individuals with conduct disorder begin with the abuse of something they are capable of controlling.\(^7\) Such people only feel power and control when enforcing pain or death and need to repetitively retain this rush by executing exploits that are all the more shocking.\(^8\) A case of escalation is Roderrick Ferrell, the Vampire cult leader, who earlier in his life tortured, murdered, and disfigured two pups before his renowned beating of a couple to their demise, in which he is currently imprisoned.\(^9\) In his testimony, Mr Ferrell described these slayings as a ‘rush.’\(^10\) Furthermore, in discussions with twenty-five University students in America, who confessed to animal cruelty previously in their lives, the abuse of animals was not the desired conclusion.\(^11\) Instead, the possibility of being caught carried emotions of excitement accompanied by achievement if undetected, which was defined too, as a ‘rush.’\(^12\)

The link between animal cruelty and interpersonal violence is also backed by statistics. For instance, of the 117 male prisoners in South Africa who were studied, fifty-eight had committed violent offences.\(^13\) Out of the fifty-eight, 63.3% admitted to acts of animal cruelty.
during childhood, compared to just 10.5% of the fifty-nine prisoners in for nonviolent crimes. In addition, a NSW police investigation of sexual homicide offences found 100 percent of the offenders studied, committed acts of animal cruelty in the past.

Generally, the majority of mass murderers and serial killers also have animal cruelty in their past. In fact, one of their first acts of violence is the torture and/or killing of companion animals and/or rodents, which often then escalates to abusing younger siblings ahead of moving to the streets, where violence against strangers is committed. The first victims of serial killer Jeffrey Dahmer were animals. During his childhood, he would commit such acts as beheading dogs and impaling cats and frogs to trees and on sticks. Ultimately, he was guilty of seventeen murders. Similarly, school shooters also have an extensive history of animal abuse before focusing their anger on colleagues and educators. For example, Andrew Golden, one of the shooters of the Westside Middle School in Arkansas, United States, claimed to have shot dogs, including his own, prior to killing five people.

A strong correlation also exists between acts of animal cruelty and domestic violence. Domestic violence generally starts with the abuse of household pets, with a study of fifty refuges for abused women revealing 85% of women and 63% of children confirming instances of pet abuse in the family. The children that reside in the same home as abusers are not just in danger of being abused, but are too at greater risk of becoming abusers.

14 Ibid.
16 Hodges, above n 4.
17 Daugherty, above n 8.
18 Hodges, above n 4.
themselves. In actual fact, a survey in 1995 displayed that 32% of domestic violence victims indicated that one or more of their children had hurt or murdered a pet.

2 Differential Treatment

For a number of reasons society tends to view animals as inferior to humans.

Firstly, the brutal acts to animals are not taken as seriously as humans. For instance, out of 326 animal cruelty cases prosecuted in Victoria between 2010 and 2012, the most common penalty was a fine. In human violence cases on the other hand, the Australian Bureau of Statistics in 2004 reported 80% of defendants accused of sexual assault and associated crimes were guilty, in which approximately 70% received a prison term.

Secondly, animals are regarded as not consciously aware and so incapable of recognizing poor welfare conditions. In contrast, such an archaic view was dismissed in 2012, when a group of renowned scientists signed the Cambridge Declaration on Consciousness, which confirms their support for the notion that animals are just as consciously aware as humans.

The evidence that led to the signing showed that humans are not special because they simply contain the neurological components necessary to produce consciousness. Part of this research revealed a recognizable behaviour change amongst octopuses contained in tanks that did not hold enough arousing items.

Thirdly, animals are considered ‘property’ of humans, thus making any animal mistreatment by humans acceptable. This argument equates an animal, a sentient being, to an office desk, a lifeless object; meaning if a person is permitted by law to demolish their property e.g.

23 Ibid.
24 Ibid.
29 Ibid.
30 Ibid.
31 The Hunter’s Institute, above n 27.
chop up their desk, then animal cruelty should also continue without punishment. The degree of protection given to animals today is similar to a period in the United States before 1874, in which children were too considered ‘property’ of their parents.32 It was not until 1874; the case of Mary Ellen McCormack, a severely beaten girl, that child abuse was legally acknowledged.33 At the time, it was uncommon for a government organization or a person to intervene once a child was wounded, exploited, or abandoned by unworthy parents. However, in this case the American Society for the Prevention of Cruelty to Animals supported Mary Ellen and was successful in their bid for the judge to consider that if Mary Ellen were an animal; her ill treatment would have been deemed illegal.34 The child was worthy of at least the same protection as an animal, just like an animal is worthy of the same protection as a child today.

Finally, animals do not feel the same pain as humans.35 Amongst humans themselves, pain is a subjective experience, meaning it cannot be measured;36 therefore the association between humans and animals is difficult to prove. Pain is defined as an unpleasant sensory and emotional experience related to actual or possible tissue damage,37 and even though there are biological similarities between human and animal nervous systems e.g. nociceptors, spinal cord, brain, which explains the sensory element, the emotional element is scientifically unresolved. Therefore, since we are uncertain of the pain experienced by animals we cannot reject that their pain is not the same as humans. Until this is established we must stop avoiding the uncomfortable fact of covering the harmful treatment of animals.38

33 Ibid 451-54.
34 Ibid 451-52.
37 International Association for the Study of Pain, IASP Taxonomy<
38 Peter Sankoff and Steven White, Animal Law in Australasia (2009), 34.
3 The Legal Framework and its Adequacy

All states and territories control crimes of animal cruelty and violence to humans in their respective jurisdictions through legislation.

Animal welfare legislation at face value looks as if it defends the rights of animals. However, in reality it fails to succeed at reassuring its prime intention, which is the appropriate treatment of animals. In spite of earlier evidence emphasizing the risk these offenders pose to the public, acts of aggravated animal cruelty are constantly penalized by lenient punishments. In fact, the maximum jail sentence for aggravated animal cruelty in Australia is between 1.5 and 7 years but this is rarely applied. For example, a 2012 case in Victoria revealed that a person, who asphyxiated a kangaroo, by tying a rope around its neck and fastening it to a car which dragged behind for two kilometers, received no prison sentence. Furthermore, a Tasmanian case established the shortfall of such animal welfare legislation, with a man receiving a three month suspended sentence and community service for beheading two kittens. Inappropriate sentencing demonstrates a total disregard for animals and their safety.

Section 530 of the Crimes Act 1900 (NSW) encompasses a number of ‘loopholes’ that hinder the prosecution of serious animal abusers. The term ‘and’ requires that all three elements be proven beyond reasonable doubt i.e. intent, the act amounts to torture, beating, or a serious act of cruelty, and the act killed, seriously injured, or prolonged suffering to the animal.

---

39 Prevention of Cruelty to Animals Act 1979 (NSW); Animal Care and Protection Act 2001 (Qld); Prevention of Cruelty to Animals Act 1986 (Vic); Animal Welfare Act 1992 (ACT); Animal Welfare Act (NT); Animal Welfare Act 1985 (SA); Animal Welfare Act 1993 (Tas); Animal Welfare Act 2002 (WA).
40 Crimes Act 1900 (NSW); Criminal Code Act 1899 (Qld); Crimes Act 1958 (Vic); Criminal Code 2002 (ACT); Criminal Code Act 1983 (NT); Criminal Law Consolidation Act 1935 (SA); Criminal Code Act 1924 (Tas); Criminal Code Act Compilation Act 1913 (WA).
42 Criminal Code Act 1924 (Tas) s 9.
43 Hatten, above n 41, 9.
45 Ibid.
46 Hatten, above n 41, 10.
47 Criminal Code 1900 (NSW) s 530(1).
48 Criminal Code 1900 (NSW) s 530(1)(a).
The difficulty arises in not just proving all these very extensive elements, but similar to Victorian and Tasmanian legislation, charges are generally dropped or the magistrate considers the offenders actions not worthy of a tougher punishment.50

On the contrary, a Victorian woman in 2009 who stood convicted of stabbing her ex-boyfriend’s bull terrier 23 times with a kitchen knife was sentenced to three years jail,51 which seems optimistic. However, it was not the charge of aggravated cruelty52 that was imposed, which brings a maximum two year prison term, but rather the charge of criminal damage to property,53 which carries a maximum fifteen year prison sentence. Although some could view this as a victory in enforcing tougher penalties for animal cruelty offenders, it mostly strengthens the already established classification of animals as ‘property’ in law, implying they are incapable of having individual standing.54 Whether tougher penalties are the answer will be explored later.

With the exception of the ACT and SA,55 in which intent or recklessness must be present in causing the act, aggravated cruelty provisions apply when a person causes death or severe injury to an animal. Yet, there are many exceptions which appear within the animal welfare legislation that safeguard possible offenders from animal cruelty charges. For instance, the law defines the terms ‘stock animal,’56 and ‘farm animal,’57 so as to omit them from the scope of legislative power, meaning acts such as teeth clipping, castration, tail docking, dehorning and debeaking are all legal in factory farms.58 This method of institutionalised abuse is endorsed by the Federal Model Codes of Practice for Animal Welfare, which sets the ‘minimum standards’ and operates in conjunction with animal welfare legislation.59 However, if an inconsistency arises between the legislation and the codes, the latter will always

49 Criminal Code 1900 (NSW) s 530(1)(b).
50 Voiceless, Giles Abattoir Case (2013) <https://www.voiceless.org.au/content/giles-abattoir-case> at 2 November 2013: Watkins held a tougher punishment was not needed, since “the defendants had already suffered enough by losing their jobs.”
53 Crimes Act 1958 (Vic) s 197.
54 Hatten, above n 41, 3.
57 Prevention of Cruelty to Animals Act 1986 (Vic) s 3.
58 Hatten, above n 41, 8-12.
59 Ibid 11.
succeed. For example, in the Animal Care and Protection Act 2001 (Qld), a person is considered cruel to an animal if they cause unjustifiable, unnecessary or unreasonable pain, which raises concerns over whether the castration of a two to seven day old pig without analgesia or the dehorning of cattle not more than six months of age without anaesthetic is justified. Paradoxically, these acts are justified as it is recommended in the applicable Codes of Practice.

The problem with lawful approval of such mutilating acts in factory farms is that some abattoir employees are more susceptible to violence than other members of the public and it also indicates a greater level of crime, especially in regions where abattoirs are situated. In addition, research shows that these acts performed in abattoirs on a regular basis desensitized employees, making them more disconnected and less empathetic. Critics were quick to blame the rigours of factory work if not for a comparison study that uncovered those who too worked in factories, where the work remained just as perilous and monotonous, but without the butchering of animals, were not linked to an increase in crime, but rather the reverse, in which the amount of crime reduced.

The Australian Veterinary Association’s (AVA) policy on Animal Abuse only recommends veterinarians report cases of suspected animal cruelty, as opposed to making it compulsory. Some regard this as one more drawback in reporting crimes of animal cruelty, whereas others such as the AVA believe mandatory reporting will simply disparage people from taking their animals to the veterinary clinic, as they could be reported. However, providing sentient beings are comparable, the assumption that the veterinarian’s

---

60 Ibid 5.
61 Section 18.
66 Ibid.
68 McHendrix, above n 22, 311.
69 Australian Veterinary Association, above n 67.
duty to animals is equivalent to that of medical practitioners to children could be made. Therefore, taking into account the specialized training, knowledge, and responsibility of both professions to thoroughly inspect their patients for medical reasons, suggests they are the finest people to properly recognize and report cases of mistreatment.\textsuperscript{70}

Aware of the superior knowledge of physicians, all Australian states and territories have enacted legislation that involves mandatory reporting of suspected child abuse by physicians to the relevant authorities.\textsuperscript{71} Yet, the same promise is not exhibited in the animal/veterinarian relationship, since no such laws are in place, nor does the Code of Professional Conduct for veterinarians offer encouragement with its terms and clauses i.e. a client’s right to confidentiality must be valued.\textsuperscript{72} Although this standard may be pardoned upon the veterinarian obtaining written consent from the client or by a court order, veterinarians would rather not risk civil liability, defamation, and their ticket to practice if they wrongly accuse a client of animal cruelty.\textsuperscript{73} However, unlike abused children, who are most likely spotted by people outside the family home e.g. school, crèche, physician appointments, neighbours, mistreated animals are usually only spotted by veterinarians.\textsuperscript{74} Hence, veterinarians play an important part in the detection of animal cruelty cases.

The enforcement of animal welfare legislation by government agencies, the RSPCA,\textsuperscript{75} and police departments also raises inadequacy issues. These issues mostly arise from the lack of government funding, which result in suspended prosecutions and no rehabilitation prospects for animal cruelty offenders.\textsuperscript{76} Despite the fact Federal and State budgets are predicted to be almost balanced in the next few years, research projects the burden from infinite healthcare costs is determined to place them with a deficit of approximately 4\% of the GDP\textsuperscript{77} each year for the next ten years.\textsuperscript{78} The effect this will have on animal welfare in the future will be

\textsuperscript{70} McHendrix, above n 22, 311.
\textsuperscript{71} Sara Bird, ‘Child Abuse – Mandatory Reporting Requirements (2011) 40 Australian Family Physician 921, 921.
\textsuperscript{73} McHendrix, above n 22, 311-12.
\textsuperscript{74} McHendrix, above n 22, 312.
\textsuperscript{75} Royal Society for the Prevention of Cruelty to Animals.
\textsuperscript{77} Gross Domestic Product is used to measure the condition of a country’s economy.
catastrophic. For instance, if Victoria are able to prosecute around 130 cases per year (40 on average for the Department of Primary Industries compared to 90 for the RSPCA) and 4 cases per year for each municipal council,\(^{79}\) together with a $30.8 billion outlay on health per year,\(^{80}\) then an additional rise will certainly reduce the total number of cases these authorities already prosecute.

Generally, government organizations such as police handle livestock prosecutions whereas the RSPCA, a private organization, focuses on cases implicating companion animals e.g. killing of a dog due to a domestic dispute.\(^{81}\) ‘At present, the latter is not seen as a main concern for police, even if their powers are the same as the RSPCA; as they fall short of expanding their already tight budget to build cases against animal cruelty offenders.\(^{82}\) During 2009-2010, 53,544 complaints of animal cruelty were reviewed by the RSPCA countrywide, in which 247 prosecutions transpired, with 185 resulting in convictions.\(^{83}\) The RSPCA, who are a charitable institution that largely survive on private donations,\(^{84}\) face similar, if not tighter, restrictions when it comes to resources, budgets and organizational priorities, however still produce a better outcome than police in prosecuting animal abusers.\(^{85}\)

4 The Potential for Reform

Overall, it is evident that the treatment of animals in Australian law is mostly inadequate on numerous grounds.\(^{86}\)

Animal welfare legislation fails to progress at the same rate as the continually changing views regarding animal status in Australia.\(^{87}\) Over time, human knowledge of animal behaviours and

---


81 McEwen, above n 79, 17.

82 Ibid.

83 Hatten, above n 41, 10.

84 E.g. In 2008-2009, RSPCA NSW was given $424,000 from the Government; however this amount was increased by donations from private citizens as well as the support from unpaid lawyers, which mirrors the charitable nature of the organization: Elizabeth Ellis, ‘Making Sausages and Law: The Failure of Animal Welfare Laws to Protect both Animals and Fundamental Tenets of Australia’s Legal System’ (2010) 4 *Australian Animal Protection Law Journal* 6, 25.

85 Hatten, above n 41, 10.

The existing animal welfare laws fail to openly replicate this point of view and instead retain the extremely inflexible, archaic and unsuitable notion of animals as property. One suggestion to lawmakers is to give more thought to the concerns of animals, as well as do everything within their power to ensure the ancient legal principles relating to animals as property are transformed to better reflect the views of modern Australia. 89

Another matter is the vagueness of statutory provisions. In all animal welfare legislation of state and territories, the employment of restrictive language i.e. ‘unjustifiable,’ ‘unnecessary’ or ‘unreasonable,’ proves that some acts can be ironically acceptable in particular situations, as argued earlier. It is essential legislators establish a strong definition of these terms so that prosecutors can successfully build a case against animal cruelty offenders that meets the applicable burden of proof.90

The treatment of animals as property restricts victim compensation in cases where the offender murders or injures an animal. 91 According to Australian law, victim compensation does not make allowances for the loss or damage endured by an animal.92 Instead, it only awards damages of economic loss to an owner in the form of the animal’s market value.93 In many other countries with similar common law jurisdictions, a desire to distinguish animals as more significant than property has been demonstrated by the granting of compensation to victims purely on the basis of their emotional value to humans.94 For instance, two criminal cases in New Zealand awarded damages to victims for ‘emotional harm.’ The first case, in which a dog was viciously thrown against a tree and killed, saw the owner receive $2000 for emotional harm.95 The second case compensated an owner $1000 for also emotional harm

88 Visic, Henderson and Gilbey, above n 86, 2.
89 Ibid 16.
90 Ibid 3.
91 Ibid 6.
92 Ibid.
93 Ibid.
94 Ibid.
that originated from the beating to death of his dog by the defendant. It is time for Australian courts to follow suit and reassess their unwillingness in awarding costs to victims for emotional harm by empathizing with owners.

As a long-term goal, amending the vocabulary assigned to people liable for the care of their animal from ‘owner’ to ‘guardian’ on items such as animal chips, public signs, veterinary documents and publications, as seen in the United States, may contribute further to the shifting values of society. Despite the fact these modifications might appear a little insignificant to some, it gives animals the appreciation they deserve to be perceived as sentient beings with emotions, instead of simply property.

With regard to ‘tougher’ penalties, amendments to the existing enforcement regimes must transpire so as to be perceived as ‘truly effective’. Tougher penalties are only the solution if animal abusers can be prosecuted to the full extent of the law, otherwise it is worthless. Since judges are hesitant to changing precedent until something catastrophic occurs, a faster alternative than ‘tougher’ penalties is required to reflect society’s values. Urging politicians to rephrase the legislation as well as advocating for a separate police division that manages only animal cruelty grievances, addresses these concerns and portrays to the larger society that law enforcement agencies are taking animal cruelty seriously. Putting aside the species of the victim, cruelty is cruelty; and as evidence suggests, somebody callous enough to torture a defenseless animal is capable of anything.

5 Conclusion

In summary, it is evident a strong link exists between animal cruelty and violence to humans. Many cases of animal cruelty are overlooked until it is too late, that is, until the violence is

96 Ibid.
97 Rhode Island.
99 Visic, Henderson and Gilbey, above n 86, 16.
101 Watson, above n 44.
102 Hatten, above n 41, 10.
directed at humans. Generally, this is attributable to the language of the law as well as the appropriate Codes of Practice, in which animals are regarded as significantly inferior to humans. However, the critical discussion of whether animals acquire any cognitive capacity beyond sentience, to support their existence is mostly irrelevant, since the meaning of sentience is self-awareness.\textsuperscript{103} This is all that is needed to have interests in living.\textsuperscript{104} Yet, in spite of the people who hold such rational explanations for why animals are inferior to humans, at least understand the ramifications animal cruelty has on humans, as confirmed in psychology, sociology and criminology. With respect to reform, amendments to legislation that fit the views of society, empathetic judgments for victims, and a separate police division that only handles animal cruelty cases, must all emerge ahead of tougher penalties.

\textsuperscript{104} Ibid.
Bibliography

Articles/Books/Reports


Peter Sankoff and Steven White, Animal Law in Australasia (2009).


Legislation

Animal Care and Protection Act 2001 (Qld)
Animal Welfare Act 1992 (ACT)
Animal Welfare Act (NT)
Animal Welfare Act 1985 (SA)
Animal Welfare Act 1993 (Tas)
Animal Welfare Act 2002 (WA)
Crimes Act 1900 (NSW)
Crimes Act 1958 (Vic)
Criminal Code 2002 (ACT)
Criminal Code Act 1983 (NT)
Criminal Code Act 1899 (Qld)
Criminal Code Act 1924 (Tas)
Other


International Association for the Study of Pain, *IASP Taxonomy*<
http://www.iasppain.org/AM/Template.cfm?Section=Pain_Definitions#Pain>

John Daley, *Australian Governments Face a Decade of Budget Deficits* (2013) The Conversation


National Association for Biomedical Research, *Ownership vs Guardian* (2011)
http://www.nabranimallaw.org/State/Ownership_v_Guardianship/


