



Animals and the Criminal Code of Canada

By Charlene Schafer*

“The greatness of a nation and its moral progress can be judged by the way its animals are treated”

~ Mahatma Gandhi

Historically animals have been regarded as property under Canadian law. As such, when the first Criminal Code of Canada provisions relating to animal cruelty were enacted, they were structured in the context of animals being the property of people. Given this treatment as “property”, animals have not been seen to have “rights” nor have they been granted legal protection of their own accord. Criminal laws relating to animal cruelty continue to be criticized as being archaic and inadequate to truly protect animals from abuse, neglect and exploitation.

Section 445.1 of the Criminal Code of Canada prohibits anyone from wilfully causing animals to suffer from neglect, pain or injury. Animal cruelty laws have gone through various reforms, but the fundamental intent behind them has remained the same.

Amid a great deal of criticism from animal welfare organizations, ordinary citizens and the NDP, the most recent amendment came about in February 2008 when Bill S-203 was passed which increased the maximum penalties associated with contravention of the animal cruelty provisions from six months’ imprisonment to five years’ imprisonment. Maximum fines for contravention of these provisions also increased from \$2000 to \$10,000.

Critics of the Bill argued that the underlying and archaic concept of animals as the property of humans remained entrenched in these provisions, requiring ownership to be proven in cases of neglect and animal abuse. Proving intent to commit such abuse or neglect is another difficult legal challenge in prosecuting these provisions as indictable offences.

Those in favour of strengthening animal cruelty provisions call for such things: (i) moving animals out of property law and extending protections to wild animals and strays; (ii) making it illegal to train animals for fighting or profit from animal fighting; (iii) closing loopholes that allow for the majority of those charged with animal cruelty to escape conviction; (iv) supporting the proposed “Universal Declaration on Animal Welfare”; and (v) strengthening other laws, not just those under the Criminal Code, that relate to animals and their welfare.

These issues raise many interesting legal and moral questions and engage a myriad of stakeholders with varying interests. I often wonder what Mahatma Gandhi would have to say...

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