

Chapter 10

Toward International Animal Rights



Anne Peters

Abstract The chapter starts from the observation that while animal welfare is increasingly protected in domestic jurisdictions, animal rights are still hardly recognised, although they would serve animals better. It argues that animal rights would need to be universalised in order to deploy effects in a globalised setting. The international legal order is flexible and receptive to non-human personhood which goes with rights. Also, the historical experience with international human rights encourages the animal rights project, because it shows how similar conceptual and normative difficulties have been overcome. Animal rights would complement human rights not the least because the entrenchment of the species hierarchy as manifest in the denial of animal rights in the extreme case condones disrespect for the rights of humans themselves.

1 Introduction: The Spectre of Dehumanisation

In May 2018, US President Donald Trump spoke about illegal border crossings: ‘We have people coming into the country, or trying to come in—and we’re stopping a lot of them—but we’re taking people out of the country. You wouldn’t believe how bad these people are. *These aren’t people. These are animals.*’¹

Such *dehumanisation* (in this case: of foreigners at the Californian-Mexican border) has—throughout history—been a standard discursive strategy to prepare, instigate, facilitate, and exculpate violence committed by humans against other humans.² It is exactly in reaction to excesses of such dehumanising mass violence

¹The White House, Remarks by President Trump at a California Sanctuary State Roundtable, 16 May 2018, available at: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-california-sanctuary-state-roundtable/> (emphasis added).

²Bain/Vaes/Leyens, *Humanness and Dehumanization* 2014.

A. Peters (✉)

Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany
e-mail: apeters-office@mpil.de

© The Author(s) 2020

A. Peters (ed.), *Studies in Global Animal Law*, Beiträge zum ausländischen öffentlichen Recht und Völkerrecht 290,
https://doi.org/10.1007/978-3-662-60756-5_10

109

committed in the Third *Reich* and during World War II that the Universal Declaration of Human Rights (UDHR) was adopted in 1948. This chapter argues that the objectives of the UDHR itself would be furthered if the United Nations (or another international body such as the FAO, the WHO, or the Animal Health Organisation (OIE)) seriously engaged in work on a universal animal rights' declaration. Importantly, the declaration should—firstly—endorse rights (as opposed to welfare). Secondly, it should proclaim universal rights as opposed to rights on the state level. Thirdly, in order to eventually become hard law, it must be backed by governments, not 'only' by civil society organisations, although these need to be involved in its preparation.

While animal welfare is increasingly protected in domestic jurisdictions, animal rights are still hardly recognised, although they would serve animals better (Sect. 1). Animal rights would need to be universalised in order to deploy effects in a globalised setting (Sect. 2). The international legal order is flexible and receptive to non-human personhood (Sect. 3). The historical experience with international human rights encourages the animal rights project, because it shows how similar conceptual and normative difficulties have been overcome (Sects. 4–6). Animal rights would complement human rights not the least because the entrenchment of the species-hierarchy as manifest in the denial of animal rights in the extreme case condones disrespect for the rights of humans themselves (Sect. 7).

2 The Trend Towards Animal Welfare and Rights in Domestic Laws

Since 1948, the rise and entrenchment of human rights in state constitutions and in the international system has not been paralleled by widespread and firm recognition of animal rights. Rather, animals have been protected by objective standards rather than through rights in a growing number of states around the world.³

Only very recently, some few domestic jurisdictions have begun to acknowledge animal rights. Courts in Argentina and Colombia have granted habeas corpus to apes⁴ and a bear.⁵ The Indian Supreme Court recognised fundamental animal rights

³See two databases: Sabine Brels/Antoine F. Goetschel, 'Animal Legislations in the World at National Level' (status of 1 March 2017), available at: <https://www.globalanimallaw.org/data-base/national/index.html>; World Animal Protection, 'Animal Protection Index', 2014, available at: <https://api.worldanimalprotection.org/>.

⁴Argentina: Tercer Juzgado de Garantías Mendoza, case no. P-72.254/15, 3 November 2016 - *Chimpanzee Cecilia*.

⁵Colombian Supreme Court of Justice, AHC4806-2017, Radicación n.o 17001-22-13-000-2017-00468-02, 26 July 2017 - *bear Chucho*. This decision was overturned by the Constitutional Court with a public hearing on 8 August 2019.

under the Indian constitution.⁶ In a criminal trial against animal activists for trespassing, a German lower court has accepted self-defence in favour of farmed animals which could be creatively read as implying that these are ‘persons’ within the meaning of the law.⁷ The pattern has not been one of unambiguous progress towards recognition of animal rights, however: in US American lower courts, judges have been hesitant to endorse animal rights. Rather, they have denied habeas corpus to chimpanzees⁸ and the standing of a Macaque in a copyright suit.⁹

The novel judicial practice in some few states towards animal rights is good for animals themselves, because rights confer a stronger and more sustainable legal protection for the interests of animal individuals than the safeguards offered by ‘objective’ laws.¹⁰ The benefits of granting (or acknowledging) legal rights to an actor are procedural, legal, social, and symbolic. Rights facilitate standing in court, rights trigger an obligation to justify their curtailment, rights are dynamic with regard to their exact content and addressees, and rights allow adapting the law to evolving moral attitudes. Not all of these blessings of rights are equally relevant for animals. The main asset for animals is that rights confer a legal position which is elevated above the ordinary balancing of conflicting goods. When animals only benefit from protective rules, their welfare is but one interest among others. Balancing the animals’ interests against human interests typically ends up prioritising the human interests, even trivial ones. Arguably, this type of balancing is structurally biased against the animals. In contrast, animal rights would allow a fair balancing in which the proper value of fundamental animal interests (such as the interest to live) could be integrated.¹¹ Animal rights would not categorically rule out animals being slaughtered for food, kept as pets, and used in scientific experiments but they would place a higher burden on the justification of such uses. Animal rights would thus preclude the current routine sacrifice of fundamental animal interests in favour of trite human interests.

⁶Supreme Court of India, *Animal Welfare Board of India v. Nagaraja and others*, Civil appeal no. 5387, 7 May 2014. See most recently also High Court of Punjab and Haryana at Chandigarh, CRR 533-2013, judgment of 31 May 2019, esp. para. 29: ‘The entire animal kingdom including avian and aquatic are declared legal entities having a distinct personality with corresponding rights, duties and liabilities of a living person.’

⁷LG Magdeburg, Az. 28 Ns 182 Js 32201/14 (74/17), 28 Ns 74/17, judgment of 11 October 2017; OLG Naumburg (Saale), judgment of 9 May 2018 rejected self-defence but not because the pigs were not ‘others’, but rather because the act of trespass did not avert an imminent danger for those same pigs.

⁸See on the various decisions in the state of New York Söhner, ‘Habeas Corpus-Beschwerden’ 2016.

⁹US Court of Appeals (9th Circ), *Naruto v. Slater*, No. 16-15469 D.C. No.3:15-cv-04324-WHO, judgment of 23 April 2018.

¹⁰Seminally Stucki, *Grundrechte für Tiere* 2016, notably 296-301.

¹¹See in detail Peters, ‘Liberté, Égalité, Animalité’ 2016, 25-53, sect. 5.

3 The Need for International Animal Rights

But purely domestic animal rights would not be enough. Nation-state based regulation would not suffice because the problem is a global one. The industrialised mode of meat, dairy, and pet production is now spreading to countries of the global south and to developing countries in which the demand and purchase power for animal products is steeply rising. Those industries have become globalised, with transnational supply chains. The manufacturing and trade conditions are leading to a dramatic increase of ‘normal’ violence against animals in sheer numbers (confinement, mutilation, killing). Also, the transnational dimension of these more or less violent activities has been intensified, it has become cross-border violence.

I submit that the principled arguments which have led to the codification of human rights in international catalogues are relevant for potential animal rights as well. Firstly, from the perspective of fairness and justice, such rights (once accepted as a matter of principle) are incumbent on animals independent of their place of birth and abode, and they are therefore universal. Secondly, international rights would serve as a benchmark for domestic law. International instruments would potentially allow for some monitoring or at least facilitate the formulation of criticism against domestic practices which do not satisfy the international standard. Thirdly, while the main mechanism for enforcing rights in domestic law is a court process where standing for animals creates additional problems, international rights are mainly monitored in non-adversarial reporting procedures in which the rights-holders do not act as parties. The factual difference between human victims and animal victims which cannot speak for themselves does not bear on these proceedings.¹²

Fourthly and most importantly, the endorsement of animal rights only on the national level in some states would probably lead to the outsourcing of the relevant industries.¹³ This risk is already present when one state has higher protective standards than others,¹⁴ and it could be exacerbated when one but not all states embrace a rights-based approach to animal protection. In order to prevent a competitive disadvantage of industries subject to higher domestic standards, and in order to forestall a race to the bottom, harmonised universal standards and a level playing field must be sought.¹⁵ Such harmonisation is also desirable to accommodate consumers’ concerns about the importation of animal products from low-standard countries, and would obviate import prohibitions based on such public morality concerns.¹⁶

¹²I thank Tom Sparks for making this point.

¹³See also Anne Peters, Introduction, in this volume.

¹⁴See, e.g., on the outsourcing of animal experiments: Sueur, ‘La fuite de la recherche biomédicale’ 2016, 19.

¹⁵Baldwin/Cave/Lodge, *Understanding Regulation* 2012, 362 et seq.

¹⁶For example, the production of foie gras and frog legs is prohibited as animal cruelty in Switzerland but the import of such products is allowed. Swiss animal organisations have so far in vain sought to introduce an import ban on ‘cruelty products’.

This consideration is not alien in the field of human rights, and manifests the parallel urgency. The economic motive to create an obstacle to any attempt at ‘social dumping’ has at times provided the stimulus for new transnational or supranational regulation spanning various (competing) national economies. The classic example is the provision on equal pay for male and female workers which was inserted in the Treaty on the European Economic Community (now art. 157 TFEU) chiefly to prevent that ‘competition is not distorted’ by low wages.¹⁷

For all these reasons, an inter-governmental universal declaration on animal rights is warranted. A different strategy, alternative to writing a separate instrument for animals, would be a novel expansive interpretation of the relevant human rights instruments to extend their application to non-human animals. Along that line, it has been suggested that the terms ‘everyone’ (such as in Art. 2 of the UDHR), or ‘individual’ (such as in Art. 2(1) ICCPR) could be re-read so as to encompass animals too.¹⁸ But this ‘ecological interpretation’ runs against the history and wording of the UDHR which at other places specifically refers to the ‘human person’ (Preamble of the UDHR) and to ‘human beings’ (Art. 1 UDHR). More importantly, many of the rights of the UDHR are not relevant for animals or would have to be adapted in order to fit. While animals do not need free speech, freedom of religion, or equal access to public office, sentient animals do need a right to life, a right to be free from torture, and physical liberty¹⁹—which could be acknowledged in a separate international instrument.

4 International Animal Personhood

In law, personhood (personality, syn. subjecthood) is a precondition or correlate for holding rights. Personhood is best understood as a cluster concept that does not depend on a set of definite properties but has blurry boundaries.²⁰ The *legal* ascription of personhood is internal to a given legal order.²¹ This means that an actor or an entity can be a person for some purposes (or in some subfields of the law) and a nonperson for others.

Importantly, international law has dynamically recognised the personhood of a host of actors, and international law is particularly *open* to the personhood of non-humans—with states being the main persons in this legal order. Humans were

¹⁷ECJ, *Defrenne v. Belgium*, case 80/70, Opinion of Advocate General Dutheillet de Lamothe, ECR 1971, 445 (455).

¹⁸Fischer-Lescano, ‘Natur als Rechtsperson’ 2018, 215. In favour of applying the extant fundamental rights provisions to animals, see also Stucki, *Grundrechte* 2016, 352.

¹⁹In addition, the right to legal personality, the ‘right to have rights’ would be the explicit or implied pre-condition for all other rights.

²⁰Kurki, ‘Why Things Can Hold Rights’ 2017, 69-89.

²¹Radbruch, ‘Rechtsphilosophie’, 3rd ed. 1932, 1993, 363-365.

in the late nineteenth century and early twentieth century explicitly and adamantly qualified as ‘objects’ of international law.²² Accordingly, early international treaties to suppress the trade in women and girls (often referred to as the ‘white slave trade’) were intended to preserve morality; rights of women and children were unknown.²³ With regard to animals, that line of reasoning persists. Until the beginning of the twentieth century, all normative restrictions on animal abuse served to protect public morality, ‘decency’, or ‘chastity’. Animal cruelty was a ‘public misdemeanour’ and prohibited only if it took place in public.

The parallels between the past status of humans in international law and the present status of animals is striking, as a textbook recognises: ‘In modern systems of municipal law all individuals have legal personality, but in former times slaves had no legal personality; they were simply items of property. Companies also have legal personality, but animals do not (. . .). In the nineteenth century (. . .) international law regarded individuals in much the same way as municipal law regards animals.’²⁴

In international regulation against human trafficking, the purely other-regarding ‘public morals’-rationale has been overcome. Similarly, modern domestic animal laws protect animals for their own sake, as sentient beings. However, the difference remains that animals are mostly protected without granting them rights. Only for humans has an actual rights revolution taken place in national and international law.²⁵

Against the background that corporations can be persons for purposes of domestic commercial law, and that the legal status of humans has changed from objects to subjects of international law, there is no intrinsic conceptual barrier to assigning international legal personality to animals—basically because personhood is a purely technical juridic device, a legal fiction. Hence, a leap from the protection of animals by rebound to protection through international animal legal rights is legally possible. But in social and cultural terms, this will be a long shot.

5 Animal Rights and Human Rights: Foundations

Scepticism against international animal rights is tempered by recalling that fundamental objections against the internationalisation of rights have likewise bedevilled the international *human* rights regime. In the context of human rights, these problems were, if not resolved then somehow circumvented or brought to productive use.

²²Tripel, *Völkerrecht und Landesrecht* 1899, 20-21. See also Manner, ‘Object Theory’ 1952.

²³International Agreement for the Suppression of the White Slave Traffic, 18 May 1904, 1 LNTS 83, Preamble and art. 1; International Convention for the Suppression of the White Slave Traffic, 4 May 1910, 211 Consol. TS 45, art. 2; International Convention for the Suppression of the Traffic in Women of Full Age, 11 October 1933, 53 UNTS 49, art. 1.

²⁴Malanczuk, *Akehurst’s Modern Introduction* 1997, 91.

²⁵See for doubts about the advent of a time-lagged animal rights revolution: Pinker, *Better Angels* 2011, 473-474.

The first problem is that—notwithstanding the entrenchment of international human rights in international hard law texts—the moral, political, and juridico-theoretical value of human rights remains precarious and in endless dispute. The contemporary debate moves away from naturalistic justifications of human rights based on controversial assumptions about human nature.²⁶ It rather pivots around instrumental justifications ranging from enabling the realisation of capabilities²⁷ over the protection against vulnerability²⁸ to the structuration of relationships of power, responsibility, trust, and obligation.²⁹

Protagonists of the so-called political approach (‘human rights without foundation’³⁰) have even given up the search for a normative justification and contend themselves in a purely positivist manner to observe the international human rights practice so as to glean from this to what extent human rights are in fact accepted as an argument that disables the sovereignty-based defence against any outside critique.

Despite these debates and doubts, the oppressed and marginalised of the world seem to regard rights as a useful legal instrument, and continue to reclaim them. This shows that deep theoretical controversy over rights as a legal institution,³¹ and specifically over fundamental human rights (both on the national and the international level)³² has so far not led to the abandonment of rights as a practical institution of positive law—quite to the contrary. And this in turn implies that the academic controversy about animal rights need not be an obstacle for trying them out as a tool for protecting animal interests.

6 Animal Rights and Human Rights: Universality

Both international human rights and potential international animal rights protection face the critique of cultural imperialism. Mirroring the critique against the ‘Western’ human rights movement, it has been said that the animal rights movement—like the human rights movement before it—is ‘yet another crusade by the West against the practices of the rest of the world’,³³ and that the propagators of such crusades claim universal validity in order to impose their own purely local preferences on other cultures, so as to consolidate cultural and political dominance over the non-Western

²⁶Cruft/Liao/Renzo, ‘Philosophical Foundations’ 2015, 1-41.

²⁷Nussbaum, *Frontiers of Justice* 2006.

²⁸Albertson Fineman, ‘The Vulnerable Subject’ 2008.

²⁹Nedelsky, *Law’s Relations* 2011.

³⁰Raz, ‘Human Rights without Foundations’ 2011, 321-337, especially at 332, building on John Rawls.

³¹Seminally Tushnet, ‘An Essay on Rights’ 1984.

³²Dembour, ‘Critiques’ 2017, 41-59.

³³This is how the fictional character Thomas O’Hearn, ‘professor of philosophy of Appleton’, puts it (Coetzee, *Lives of Animals* 1999, 60).

world, especially the Global South. This charge is not trivial. There is a real risk that the protection of animals targets minority practices (such as Muslim ritual slaughter³⁴ or indigenous seal and whale hunting), although these practices are in numerical terms insignificant in comparison to the majority's 'normal' massive use and killing of animals. This targeting manifests and fuels majority prejudices against the singled out groups, and can pave the way for intervention and domination. In fact, 'dominant groups have long justified their exercise of power over minorities or indigenous peoples by appealing to the "backward" or "barbaric" way they treat (...) animals.'³⁵

However, references to cultural traditions suffer from three flaws. First, historical experience shows their frequently pretextual character. Typically, ruling elites abusively invoke 'culture' in order to secure illegitimate privileges. Second, we should not exaggerate cultural difference. The massive use of animals for human needs and the paucity of reflection on and justification of these practices in ethical terms is a shared feature of all cultures. Thirdly, cultures do not unfold inevitably, as if according to a genetically defined pattern. Eating shark soup made from fins cut off live sharks, fox hunting with hounds, staging bullfights, and stuffing geese for foie gras may be a tradition just like relegating women to the house and prohibiting them from exercising certain professions or driving a car. But simply because these are traditions they are not immutable, and are not worth protecting as such. Instead, morals, traditions, and legal provisions (in short: culture) are made, practiced, and applied by human beings capable of learning, and can change.

7 Conclusions

The legal correspondence (and arguably mutual enrichment) of rights for human and non-human animals was intuitive when the quest for human rights was still exotic. The great English social activist Henry Stephens Salt, who campaigned against the death penalty, co-founded the British Humanitarian League, and propagated vegetarianism, started his trailblazing study entitled *Animals' Rights* with the opening sentence: 'Have the lower animals 'rights'? Undoubtedly—if men have.'³⁶ In 1892, Salt noted that human ('men's') rights were 'looked upon with suspicion and disfavour by many social reformers', and Salt basically used the term in quotations marks only.³⁷

³⁴Cf. CJEU, *Liga van Moskeeën en islamitische Organisaties Provincie Antwerpen et al v. Vlaams Gewest*, Grand Chamber Judgment of 29 May 2018, Case C-426/16; Peters, 'Religious Slaughter' 2019.

³⁵Kymlicka/Donaldson, 'Animal Rights' 2014, 127.

³⁶Salt, *Animals' Rights* 2013, 1.

³⁷Ibid.

In the decades to follow, the quotation marks around the ‘rights of men’ disappeared. After 1948, the terms of the UDHR even guided protection for animals. For example, the Preamble of the UDHR proclaims ‘the advent of a world in which human beings shall enjoy *freedom of speech and belief and freedom from fear and want*’.³⁸ These famous four freedoms inspired the so-called ‘five freedoms for farm animals’ of the 1965 Brambell report³⁹: Freedom from hunger and thirst, freedom from discomfort, freedom from injury, pain or disease, freedom to express normal behaviour, and freedom from fear and distress. These ‘freedoms’ could be creatively understood as legal rights, and could be complemented by further, more fundamental rights such as the right to life and liberty.

Along this line, at the occasion of the 50th anniversary of the UDHR in 1978, a ‘Universal Declaration on Animal Rights’ (UDAR) was elaborated by an NGO coalition in deliberate alignment with the UDHR.⁴⁰ This Animal Rights Declaration was revised in 1989 and again in 2018.⁴¹ The 1978 version of its Art. 1 was modelled on Art. 1 UDHR and runs: ‘All animals are born with an equal claim on life and the same rights to existence.’⁴² The UDAR was formally proclaimed in 1978 in the UNESCO premises in Paris (albeit not by UNESCO).⁴³ Although this ceremony attracted a lot of public and media attention, the declaration did not in the long run result in palpable practical effects. Neither have the academic (both philosophical and legal) debates on animal rights—ongoing since the 1960s—led to any serious international codification. It is now time to tackle international animal rights not only at the NGO-level but among governments.

The classic argument in favour of moral duties towards animals has been that prohibiting cruelty on animals suppresses callousness in men.⁴⁴ This consideration has traditionally motivated animal welfare laws. It could and should also motivate more ambitious animal rights codifications. Along that line, the preamble of the

³⁸These ‘freedoms’ draw on US President Franklin D. Roosevelt’s ‘four freedoms’ proclaimed in the State of the Union address on January 6, 1941. The President proposed four fundamental freedoms that people ‘everywhere in the world’ ought to enjoy.

³⁹Rogers Brambell (Chairman), *Report of the Technical Committee to Enquire into the Welfare of Animals Kept under Intensive Livestock Husbandry Systems* (London: HMSO 1965), 13.

⁴⁰Neumann, ‘Universal Declaration’ 2012.

⁴¹LFDA (Fondation Droit Animal, Éthique et Sciences), ‘Déclaration des droits de l’animal’ (2018), available at: <http://www.fondation-droit-animal.org/la-fondation/declaration-des-droits-de-lanimal/>.

⁴²Art. 1 of the significantly revised version of 1989 was: ‘All animals have equal rights to exist within the context of biological equilibrium. This equality of rights does not overshadow the diversity of species and of individuals.’ Art. 1 of the 2018-version (n. 41) is available in French only: ‘Le milieu naturel des animaux à l’état de liberté doit être préservé afin que les animaux puissent y vivre et évoluer conformément à leurs besoins et que la survie des espèces ne soit pas compromise.’

⁴³UNESCO was the site probably because the author of an initial text of 1972, Georges Heuse, was a member of the UNESCO Secretariat (Neumann, ‘Universal Declaration’ 2012, 95).

⁴⁴Kant, *Metaphysics of Morals* 2015, § 17 ‘Doctrine of virtue’, 192-193.

UDAR of 1978 had stated ‘that the respect of humans for animals is inseparable from the respect of man for another man’. The intuition that there is a ‘link’ between animal abuse and violence against humans has been frequently investigated in sociological and criminological research—with contradictory results.⁴⁵ The assertion of such a ‘link’ is however a double-edged sword. On the one hand, the ruthless criminal prosecution of dog-and-cat-abusers, exactly exploiting this intuition,⁴⁶ risks to criminalise low income people, to perpetuate racial stereotypes and actually deflects concern from animals.⁴⁷ On the other hand, it has also been shown that the belief in a rigid human—animal divide seems to condone the dehumanisation of humans.⁴⁸ The acknowledged need to combat such dehumanisation is an argument in favour of dismantling the legal species hierarchy.⁴⁹ The incident with US President Trump at the US-Mexican border demonstrates its relevance.

And because the probably most powerful symbol against such a hierarchy would be the institution of animal rights, the legalisation of some relevant rights for some non-human animals (notably the right to life, liberty, and freedom from torture), should be seriously considered—as a complement to the UDHR. This anthropocentric rationale for animal rights might appeal to different audiences than animal-centred arguments do, and could contribute to building an ‘overlapping consensus’⁵⁰ on animal rights. We should not wait until a human, ecological, or health-related⁵¹ catastrophe comparable to the horrors which motivated the adoption of the UDHR occurs. An international animal rights codification would not only offer a window of opportunity for mitigating animal suffering but would additionally create positive synergies with the UDHR towards fulfilling its core mission which is to prevent the commission of ‘barbarous acts which [outrage] the conscience of mankind’, as the Declaration’s preamble says.

⁴⁵See critically and with numerous references, ultimately concluding that the intuitive link is not supported by sociological and criminological evidence: Marceau, *Beyond Cages* 2019, chapter 6 (193-250).

⁴⁶This is the current situation in the United States where numerous ‘link’ programmes seek ‘to stop violence against people and animals’, as the US ‘National link coalition’ says. See <http://nationallinkcoalition.org/>.

⁴⁷Marceau (n. 45), at 274, pointing out that this prosecution practice also entrenches a hierarchy among high and low animals, and demeans low-status humans based on their treatment of high-status animals.

⁴⁸Costello/Hodson, ‘Explaining Dehumanization Among Children’ 2014. See Kymlicka, ‘Human Rights without Human Supremacism’ 2018, 763-792, with further references.

⁴⁹As feminism has taught us, the problem are neither the real differences between species nor necessarily their different treatment, but the moral, social, and political hierarchy manifest in differential treatment.

⁵⁰Rawls, ‘Overlapping Consensus’ 1987.

⁵¹Yamada/Kahn/Kaplan/Monath/Woodall/Conti, *Confronting Emerging Zoonoses* 2014.

References

- Albertson Fineman, M. (2008). The vulnerable subject: Anchoring equality in the human condition. *Yale Journal of Law and Feminism*, 20, 1–23.
- Bain, P., Vaes, J., & Leyens, J.-P. (Eds.). (2014). *Humanness and dehumanization*. Abingdon: Routledge.
- Baldwin, R., Cave, M., & Lodge, M. (2012). *Understanding regulation: Theory, strategy, and practice* (2nd ed.). New York: Oxford University Press.
- Coetzee, J. M. (1999). *The lives of animals*. Princeton: Princeton University Press.
- Costello, K., & Hodson, G. (2014). Explaining dehumanization among children: The interspecies model of prejudice. *British Journal of Social Psychology*, 53, 175–197.
- Cruft, R., Liao, S. M., & Renzo, M. (2015). The philosophical foundations of human rights: An overview. In R. Cruft, S. M. Liao, & M. Renzo (Eds.), *Philosophical foundations of human rights* (pp. 1–41). Oxford: Oxford University Press.
- Dembour, M.-B. (2017). Critiques. In D. Moeckli, S. Shah, & S. Sivakumaran (Eds.), *International human rights law* (3rd ed., pp. 41–59). Oxford: Oxford University Press.
- Fischer-Lescano, A. (2018). Natur als Rechtsperson. *Zeitschrift für Umweltrecht*, 29, 205–217.
- Kant, I. (2015). *The metaphysics of morals* (19th ed.). Cambridge: Cambridge University Press (German original 1797).
- Kurki, V. A. J. (2017). Why things can hold rights: Reconceptualizing the legal person. In V. A. J. Kurki & T. Pietrzykowski (Eds.), *Legal personhood: Animals, artificial intelligence and the unborn* (pp. 69–89). Cham: Springer.
- Kymlicka, W. (2018). Human rights without human supremacism. *Canadian Journal of Philosophy*, 48, 763–792.
- Kymlicka, W., & Donaldson, S. (2014). Animal rights, multiculturalism, and the left. *Journal of Social Philosophy*, 45, 116–135.
- Malanczuk, P. (1997). *Akehurst's modern introduction to international law* (7th rev. ed.). London: Routledge.
- Manner, G. (1952). The object theory of the individual in international law. *American Journal of International Law*, 46, 428–449.
- Marceau, J. (2019). *Beyond cages: Animal law and criminal punishment*. Cambridge: Cambridge University Press.
- Nedelsky, J. (2011). *Law's relations: A relational theory of self, autonomy, and law*. Oxford: Oxford University Press.
- Neumann, J.-M. (2012). The universal declaration of animal rights or the creation of a new equilibrium between species. *Animal Law*, 19, 63–109.
- Nussbaum, M. (2006). *Frontiers of justice: Disability, nationality, species membership*. Cambridge: Harvard University Press.
- Peters, A. (2016). Libert ,  galit , Animalit : Human-animal comparisons in law. *Transnational Environmental Law*, 5, 25–53.
- Peters, A. (2019). Religious slaughter and animal welfare revisited. *Canadian Journal of Comparative and Contemporary Law*, 5, 269–297.
- Pinker, S. (2011). *The better angels of our nature: Why violence has declined*. New York: Viking.
- Radbruch, G. (1932). Rechtsphilosophie. In G. Radbruch (Ed.), *Gesamtausgabe Band 2: Rechtsphilosophie II* (3rd ed., pp. 206–450). Heidelberg: M ller. 1987 (1993).
- Rawls, J. (1987). The idea of an overlapping consensus. *Oxford Journal of Legal Studies*, 7, 1–25.
- Raz, J. (2011). Human Rights without foundations. In S. Besson & J. Tasioulas (Eds.), *The philosophy of international law* (pp. 321–337). Oxford: Oxford University Press.
- Salt, H. (2013). *Animals' rights: Considered in relation to social progress*. Miami: HardPress Publishing (Originally published New York: Macmillan & Co 1892; repr. of the revised ed. 1922).
- S hner, S. (2016). Habeas Corpus-Beschwerden zugunsten von Menschenaffen. *Rechtswissenschaft*, 7, 556–564.

- Stucki, S. (2016). *Grundrechte für Tiere*. Baden-Baden: Nomos.
- Sueur, C. (2016). La fuite de la recherche biomédicale sur les primates en Chine: quelles implications éthiques?, *Droit animal éthique & sciences: Revue trimestrielle de la Fondation LFDA* 90.
- Triepel, H. (1899). *Völkerrecht und Landesrecht*. Leipzig: Hirschfeldt.
- Tushnet, M. (1984). An essay on rights. *Texas Law Review*, 62, 1363–1403.
- Yamada, A., Kahn, L. H., Kaplan, B., Monath, T. P., Woodall, J., & Conti, L. (Eds.). (2014). *Confronting emerging zoonoses – The one health paradigm*. Tokyo: Springer.

Anne Peters is Director at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Professor at the Universities of Heidelberg, Freie Universität Berlin and Basel, and a William W. Cook Global Law Professor at the University of Michigan. She has been a member of the European Commission for Democracy through Law (Venice Commission) in respect of Germany (2011–2015) and served as the president of the European Society of International Law (2010–2012) and the German Association of International Law (DGIR, since 2019). Her current research interests relate to public international law including its history, global animal law, global governance and global constitutionalism, and the status of humans in international law.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

