

[Review] Elizabeth Ellis,  
*Australian Animal Law: Context and Critique*.  
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Ellis's *Australian Animal Law: Context and Critique* both demonstrates and interrogates how, notwithstanding that it is constitutive of animals' experiences of the world, Australian law recurrently and systemically fails to accord animals the protection they require to enjoy their lives. Ellis identifies certain key themes or 'characteristics', which she contends explain – in large part – the critical deficiencies in Australian animal law. In summary, Ellis constructs her critique of Australian animal law by reference to the following propositions:

- The field confers protection on animals by reference to arbitrary, anthropocentric criteria, rather than the needs of the animal.
- It is therefore inconsistent in its distribution of legal protection to animals, a situation which is compounded by inconsistency and inefficiency in regulation and enforcement.
- Animal law is beset by multiple patent conflicts of interest, including by virtue of the substantial influence industry wields in the development of codes of practice, and the central role of government departments – with arguably divergent economic priorities – in regulating compliance with animal law.
- The field is underpinned by the designation of animals as property, not legal persons.

Ellis follows the introduction with a dense but instructive doctrinal cross-jurisdictional survey of animal welfare legislation in the Australian states and territories. This statutory analysis is accompanied by discussion of key case law, enforcement infrastructure, and penalties, and for this reason Chapter Two, ‘Legal and Regulatory Framework’, should be bookmarked by readers – both those familiar with and new to animal law – as a foundational reference work. This chapter also advances aspects of the author’s critique of the legislation and its administration, echoing the propositions summarised above and presaging their further treatment in later chapters.

In the subsequent chapters, Ellis examines the position of different animals under Australian law by reference to their relationship with – and, in many cases, utility to – humans. That the book is divided in such a way in order to engage sensibly with the content of Australian animal law neatly reflects one of Ellis’s main contentions about law’s tendency to distribute protection to animals by reference to human-centric priorities.

Ellis first considers the position of companion animals, who are ‘comparatively well protected by existing laws’. Amongst other issues, she considers the prosecution of animal welfare offences involving companion animals, including the frequency with which custodial sentences are recorded. While the imposition of terms of imprisonment has widely been regarded by the animal law literature as evidence of effective enforcement, Gruen and Marceau’s work, *Carceral Logics*, could provide a thought-provoking rejoinder to this line of reasoning. This chapter also traverses other intersections between law and companion animals, such as family law and estate planning.

'Farmed Animals' are the subject of the chapter which follows. Drawing upon various case studies, from poultry to pigs, this chapter demonstrates how codes of practice for the welfare of agricultural animals repeatedly fail to deliver meaningful protections. Ellis then considers the peculiar – and inherent – challenges afflicting the live export industry, notorious for its 'history of regulatory failure' (142). She adverts to the powerful discourses which have enabled the industry to retain its social licence to operate, despite ongoing problems with compliance; as Ellis incisively observes, regulatory improvements precipitated by (public) examples of profound cruelty within supply chains have been 'incorporated into a narrative that industry cares about animal welfare', and that '[w]here cruelty is exposed, it is framed as an exception to a system that otherwise functions well' (155).

Ellis goes on to consider the position of animals used for entertainment, sport, and recreation, engaging with illuminating examples such as greyhound racing. She again considers how the characteristics identified in the introduction to the book figure in the management of animals kept for human entertainment, such as by illustrating cross-jurisdictional inconsistencies in welfare requirements, shortcomings in enforcement, and the prioritisation of (even trivial) anthropocentric interests. Next, Ellis examines the peculiar legal status of wild animals, in a chapter which is relatively case study-heavy: it considers the regulation of kangaroo hunting, trade in wildlife, and introduced species, amongst others. These issues provide instructive examples against which Ellis tests her foundational propositions. In closing this chapter, she insightfully concludes that '[t]he focus on controlling animals rather than addressing human causes of biodiversity loss is also an abdication of our responsibility and leaves animals to bear the burden of problems created by us' (241). Such a reflection connects with aspects of Martha C. Nussbaum's recent work on human responsibility for the plight of wild animals. The penultimate chapter, 'The Use of Animals in Research', undertakes a detailed survey of the regulation of the use of animals for scientific purposes, which posits a compelling argument about how conflicts of interest and opacity in regulation produce poor welfare outcomes for animals.

Ellis's final chapter takes a forward-looking, theoretically inflected approach as it analyses pathways for change. Ellis also explains how dominant discourses have shaped social understandings about how law permits animals to be treated: 'official narratives about animal protection are powerful and pervasive but fail to tell a complete or accurate story about the role of law' (309). She concludes that two central reforms are required: transparency and independent regulation.

Ellis has written a masterful book, which engages with the field of animal law in novel and important ways. The book is ambitious in its breadth: it introduces foundational concepts and key elements of statute and doctrine, while also undertaking advanced critical analysis. While this makes the book versatile and enables it to accommodate a wide audience, it is occasionally disruptive of flow. It might also make it slightly different to categorise; it is not a traditional textbook but is more in the nature of an erudite commentary or a monograph with enlightening case studies and perceptive critique. Nonetheless, it will certainly be a 'useful resource for animal law students and teachers', and it delivers its aim of providing 'a contextual critique that is... accessible to the general public, as well as to animal studies scholars and lawyers without specific expertise in this field' (xi). *Australian Animal Law: Context and Critique* is a commendable and courageous piece of work, which will no doubt contribute to the development and expansion of animal law in Australia.

## Works Cited

Gruen, Lori, and Justin Marceau. *Carceral Logics: Human Incarceration and Animal Captivity*. Cambridge University Press, 2022.

Nussbaum, Martha C. *Justice for Animals: Our Collective Responsibility*. Simon & Schuster, 2022.