

# **Wild Law and Animal Law: Commonalities and Differences**



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# Introduction

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- Animal Law and Wild Law:
  - *Similarities*
    - problem: animals and nature conceptualised as property.
    - remedy: need to overturn property status and recognise ‘rights’ .
  - *Differences*
    - animal jurisprudence ‘narrower’ than Earth jurisprudence.
    - what does ‘nature’, and wild law, encompass: wild animals in their natural state or all animals?



# Animal Welfare Model: Anthropocentrism Writ Large

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- [T]oday, legally speaking, it is not possible to murder an animal . . . no matter what the magnitude of the slaughter is or what degree of brutality, depravity or cruelty is involved. At worst one might fall foul of animal cruelty laws (which are probably mainly intended to protect human sensibilities): Cormac Cullinan, *Wild Law*



# Nature as Property: Anthropocentrism Writ Large

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- In the eyes of [Western] law today, most of the community of life on Earth remains mere property, natural “resources” to be exploited, bought, and sold just as slaves were. This means that environmentalists are seldom seen as activists fighting to uphold fundamental rights, but rather as criminals who infringe upon the property rights of others. It also means that actions that damage the ecosystems and the natural processes on which life depends, such as Earth’s climate, are poorly regulated: Cormac Cullinan, ‘If Nature Had Rights’ .



# Challenging the Property Model: Rights of Animals and of Nature

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- Animal Law (Francione): animals have the right to be recognised as persons → abolish ownership and end farming, use of animals in entertainment and use of animals in research.
- Wild Law: rejection of property, and legal recognition of the ‘rights of nature’ .



# Ecocentrism of Wild Law

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- Wild Law and Earth Jurisprudence:

[T]he rights of all beings are derived from the most fundamental source of all, the universe. Since the universe is, in [Berry's] words "a communion of subjects and not a collection of objects", it follows that all the component members of the universe are subjects capable of holding rights and have as much right to hold rights as humans. **One of the beauties of this approach is that it avoids the difficulties that have bedevilled those who have tried to argue that only certain "sentient" or "higher" forms of life should have rights:** Cormac Cullinan, *Wild Law*.



# Animal Jurisprudence: Anthropocentrism Redux?

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- Narrow focus on extracting animals from property doctrine, no wider critique of property doctrine per se.
- If animals sufficiently similar to humans, then extension of universal, individual rights justified.
- But this ‘similarity argument’ is itself anthropocentric: Steiner; Bryant.



# What Counts as 'Nature' ?

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- Central tension in Wild Law (Burdon) – as between earth rights, human rights, and animal rights, what is meant by 'nature' ?
- Mirrors debates between proponents of an animal ethic (individualistic, narrow) and an environmental ethic (holistic, wide-ranging, species-based).



# What Counts as 'Nature' ?

## (cont)



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- [A]nimal liberationists can hold many of the same normative views as environmental ethicists. This is because many of our most important issues involve serious threats to both humans and animals as well as to the non-sentient environment; because animal liberationists can value nature as a home for sentient beings; and because animal liberationists can embrace environmental values as intensely as environmental ethicists: Dale Jamieson, *Morality's Progress*.

# What Count as 'Nature' ?

## (cont)



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- Does Wild Law encompass domestic animals (eg farm animals)?
- Lack of judicial clarity about whether farm animals can be subject of “environmental protection”: *Rural Export & Trading (WA) Pty Ltd v Hahnheuser*.



# Reconciliation

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- A broad conception of ‘nature’ is warranted:
  - animal agriculture is one of the leading contributors to the major environmental challenges of today, including climate change, habitat and biodiversity loss through land clearing, pollution and so on; and
  - given the central idea of interconnectedness which emerges from Wild Law, domestic animals such as farm animals must be a part of ‘nature’ broadly conceived.