

[Review] Lacey Levitt, David B. Rosengard,
Jessica Rubin Northampton, editors.

Animals as Crime Victims.

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My local newspaper recently reported that a 28-year-old woman was found guilty by a jury of felony aggravated cruelty to animals. Inside her home was found a dead dog in a crate who had starved to death, and two headless cats. She was also found guilty of a misdemeanour drug paraphernalia charge. The article noted that she had two children, aged 3 and 10, one of whom had evidently reported the situation. Her home was described as full of garbage, filth, dirt, bugs, and rodent droppings. At the time of writing, the woman has not been sentenced in the case, but because hers was judged to be a felony crime that resulted in the death of animals, the offence in Pennsylvania carries a maximum sentence of up to 7 years in jail and/or a \$15,000 fine. It was noted that the woman escaped conviction of child endangerment (Scarcella 2024).

Such stories appear regularly in our local newspaper and to my mind send the strong message to readers that cruelty and mistreatment to animals is not tolerated in Pennsylvania and that offenders will be punished. This reportage appears to suggest that there is also a probable connection between this individual's apparent drug use, living in squalor, and the potential abuse of both animals and human children.

How to take action against animal cruelty as well as against what are considered lesser crimes of animal neglect, typically (but not only) aimed at dogs and cats, is the subject of much legal debate within animal studies and the edited collection *Animals as Crime Victims* represents a recent contribution. The book contains an introduction and four main sections, with a foreword

by Douglas E. Beloof, who is recognized as a foundational voice in arguing that animal crime victim law can be modelled on that of human victim law (1999), but who cautions that the interests of the state do not always align with those of the victim. In addition to the Introduction and individual essays, the editors also weigh in on a chapter presenting ‘opposing views and responses’ on the topic. The 16 chapters of the book are organized into four sections. The first, ‘An Introduction to Animal Maltreatment, the Law, and Crime Victims’ Rights’, outlines the history of animal cruelty laws in the United States; the second, ‘Arguments Underlying the Reclassification of Animals as Crime Victims,’ traces the evolution in understanding animals as beings with sentience, cognition, emotions, and so on, which has enabled them to be classified as crime victims within the law; Part 3, ‘Legal Issues in the Reconceptualization of Animals as Crime Victims’, focuses on legal arguments for animal victimhood, such as statutory processes and the courts; and Part 4, ‘Reconceptualizing Animals as Crime Victims: Policy and Practice’, proposes steps for preparing law enforcement, mental health professionals, veterinarians, and others to address animal abuse. The chapters in this final section together step out of the theoretical and historical and into the practical, charting a way forward that suggests that law enforcement provides the leadership and necessary tools in early detection, investigation, reporting, training, and guiding these other professionals to work in concert at ameliorating animal mistreatment and abuse.

At the outset the editors lay out one of the central theses of the book, which is that although there are many laws against animal abuse, this has not translated into animals acquiring the legal status of ‘crime victims’ (3). I have learned that ‘crime victims’ are not the same thing as ‘victims of crimes’ under U.S. law. As the Animal Legal Defense Fund (nd) explains:

the former applies to anyone who has been harmed by someone else’s criminal act, whereas ‘crime victim’ is a legally meaningful category, defined either in statute or constitutionally, which argues that animals are not just harmed by cruelty but have the status of victim which gives them access to certain rights and protections.

Though there are many laws on the books for protections for animals and penalties for those who harm them, historically to today, these authors aim to improve the position of animals within the law, arguing that they should be treated as actors able to use the law for their own

interests and to seek resolution of their cases and restitution; what the editors call a ‘victim-forward’ approach. David Rosengard (132-133) explains that acts of commission (animal abuse), acts of omission (animal neglect), and animal fighting and sexual exploitation are all already covered within current U.S. animal law, and that in such cases, they are considered criminal because they are perpetrated on recognizably living, feeling ‘someones’.

Rosengard further develops the themes of the Introduction in what I would consider the centrepiece of the book in his chapter, ‘Applying Crime Victims’ Rights to Victims of Animal Maltreatment’. Here he argues against getting stuck in the ‘morass’ of the personhood/property debate about animal status within the law (143) – i.e. a core conflict in animal legal studies focused on whether animals must be designated as persons before they can acquire rights under the law (see for example Kymlicka 2017). Rosengard explains that because we share a notion that animals are sentient ‘someones’ and are not mere inanimate things or possessions, like tables, they can and should have rights as either persons or property. Overall, these authors’ perspective parallels the field of human crime victims’ law by aspirationally recognizing not two but three parties in court cases – the state, the defendant, and the animal crime victim – each with potentially different interests. In other words, they argue for moving beyond both ‘prosecutor-oriented’ approaches to vindicate animal interests, and ‘defence-oriented approaches’ that hope to benefit defendants in some way, both of which, to them, leave out the animal victim.

The editors and authors together present a united approach to addressing the problem, which is to say that a carceral outcome for offenders is movement in the right direction and indeed should be accelerated. *Animals as Crime Victims* is a passionate, well-intentioned, if narrowly framed study by attorneys, legal scholars, and activists who advocate that responses to animal maltreatment and abuse be resolved through the state’s legal apparatus and the courts, by criminalizing and punishing offenders in various ways. At the heart of it these scholars are obviously dedicated to protecting animals, through what they envision as the most expedient means available, but I have doubts about the efficacy, justness, and ethics of their approach.

First, recognizing an act as lawful or unlawful does not get us very far. The courts, the police, the corrections industry, and the criminal ‘justice’ apparatus have a poor track record in improving the lives of anyone, especially of any disadvantaged groups or identities, human let alone nonhuman. The carceral state as we know it, as an extensive system of surveilling, warehousing, and punishing mostly vulnerable humans, has not succeeded in reducing or deterring crime or rehabilitating offenders, and in fact, by its very nature produces more violence than it alleviates (Morin, *Carceral Space, Prisoners and Animals*). The structural problems of racism and classism are baked right into the system. Most offenders in animal neglect and cruelty cases are already marginalized individuals who end up being represented in court by inexperienced, poorly paid, overworked public defenders. As Justin Marceau asserts (*Beyond Cages*), these offenders are individuals already on the receiving end of disproportionate punitive attention who try to take care of their pets. Yet the fact is that many prosecutors and others working within the animal law agenda argue that punishment for many crimes against animals should be increased, including raising crimes of neglect to felonies, which could likely lead to increased incarceration for offenders (Gruen and Marceau 2022). Marceau outlines the U.S. PACT (Preventing Animal Cruelty and Torture) Act passed in 2019 that enables animal cruelty to be charged as a federal felony, which he calls a ‘palliative intervention’ that ‘provides a sense of accomplishment without addressing any of the underlying causes of animal suffering’ (‘Palliative Animal Law’ 250-251). Moreover, it is debatable whether categorizing certain acts as felonies actually deters people from committing crimes, and this would seem to be especially the case with animal cruelty since most of these crimes are the result of poverty and/or mental illness or some combination (Gruen and Marceau 8). And as we know as well, the carceral state extends well beyond jails and prisons anyway, and so relying on the courts, the police, and the whole criminal justice apparatus to do the work of animal liberation seems limited in potential.

This brings me to a second major pitfall of *Animals as Crime Victims* – that the primary focus is on companion animals (or sometimes other ‘charismatic’ species) who already enjoy, as a category, the privilege of being considered ‘humanized’ animals. Dogs and cats can be considered family members, receive inheritances, find themselves in the middle of custody battles, and so on. Giving such animals additional protections has the potential to distract from

the bigger picture of most animal abuse and cruelty, rather than make progress. For example, Lacey Levitt argues that a focus on companion animals is appropriate because they are the only (live) animals most members of industrialized nations have regular contact with (67-97). This imagined litmus test for animal protection is misleading and ignores a much broader spectrum of acts of cruelty towards animals, with ‘the law’ entrenched in corporate interests behind them, such as those occurring daily in factory farms, slaughterhouses, and research labs. Animal cruelty laws have, to date, ignored the vast majority of animals who are victims of human abuse, cruelty, violence, and mass killing, as that violence is considered acceptable, customary, and normal – certainly not criminal.

Moreover, a focus on horrendous acts committed against pets might lead the public to assume that at least bona fide ‘cruelty’ is being addressed and punished, and that only ‘humane’ treatment of animals occur at these industrial sites, particularly in relation to animals used in food production, so long as corporations and farmers are following legally accepted practices. Thus, I am in agreement with Marceau who argues that overall, the kinds of protections advanced in *Animals as Crime Victims* tend to do more harm than good, because they reinforce the invisibility of most animal suffering (‘Palliative Animal Law’). It therefore seems a better direction first of all to address what types of practices and activities must be considered a ‘crime’, perhaps more so than who can be considered a victim of one. Yet it is also the case that we know that victim and crime cannot be easily separated. I find relevant Gottschalk’s analysis of how in the 1980s the battered women’s movement was essentially co-opted by the state and conservative ‘law and order’ penal forces to mobilize against domestic violence, ultimately reflecting rather than challenging the increasing size of the carceral state.

The chapter devoted to providing ‘opposing views and responses’ on these topics (the only one of the volume oddly enough not available open access) represents a limited attempt to engage with ‘other’ animals. Will Lowrey, for example, acknowledges that much animal abuse is institutionalized and perfectly legal, but argues that progress has been made particularly in animal agriculture. But again, the problem with focusing on the most extreme, heinous examples that are in fact prosecuted in animal agriculture – excessive electric prodding of cows, tossing live chicks into a grinder, and the like – distract from the normal, everyday – and cruel –

practices of factory farming, and allow the public to continue eating their burgers without a troubled conscience, confident that the ‘real’ abuses are being addressed. Additionally, the penalties for such acts have limited impact – corporations might be subject to fines easily absorbed, outside monitoring and the losing of contracts might occur, but also their already vulnerable, low-paid workers can be prosecuted, disbarred from future employment, or deported.

At the end of the day, what will most benefit animals will happen outside the law and the courts. Focusing resources away from the carceral state and toward community health care, capacity, and development, and elevating the status of animals via culture as well as paying attention to corporate interests and commerce – without the interference of ‘the law’, are more promising. Increasingly, progressive and abolitionist movements speak of victimization in terms that encompass entire communities and not just already disadvantaged individuals. The same structural inequalities that put animals and humans at risk can be addressed without nonprofit and nongovernmental organizations partnering with law enforcement and criminal legal institutions for training and guidance (Struthers-Montford et al., forthcoming). Recently there have been relatively rapid cultural changes in the plant-based food industries, circuses closing, and zoos realigning discourses around their purported purpose. I think perhaps we are living in a time of cultural upheaval wherein humans are generally coming to a better understanding of animal suffering and cruelty, of our sharing of the earth and its resources with animals. And clearly, all members of the family mentioned at the beginning of this review – perhaps most especially the deceased animals – were at grave risk of abuse and needed assistance other than that which will be provided by a jail sentence or hefty fine.

Disclosure: I along with two other colleagues originally contracted to write the chapter on opposing views voluntarily withdrew from the project when the editors at a final stage enlisted three additional writers and the editors themselves to fill out the conversation in favour of alternate views and in my case, cut my contribution from the allotted 2000 words to 600.

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