

Justitiële verkenningen

jrg. 27, nr. 9, november/december 2001

Animals and the law

Summaries

Animal protectors and animal protection law in the Netherlands from 1864 to the present

K. Davids

This contribution deals with the relation between the animal protection movement and the development of animal protection law in the Netherlands from the end of the nineteenth century till the present. After a brief survey of the rise of the animal protection movement since 1864 (when the first, and largest, Dutch society for the protection of animals was founded in The Hague), the article focuses on the question, how and to what extent the animal protection movement has influenced the evolution of animal protection law and why she has been successful or not. The author shows that the gradualist tactics of the movement, its cooperation with other interest groups and its strong ties of the movement to social and political elites were indeed at various stages instrumental in the introduction and design of new laws and regulations concerning the protection of animals at the local, provincial and national level, but that more sweeping and more comprehensive legislation could only be realized in the later twentieth century after the social and political context in which the movement operated had been thoroughly transformed and its social base and tactics had markedly changed.

The rattling pea; possibilities and limitations of ethical theories about animals and nature

M. Cornelisse

We cannot just do with animals as we please. Cruelty towards animals has always been criticized, sometimes for religious reasons, sometimes because it was considered to corrupt human dignity. Theories of animal ethics attempt to find a different sorts of justification. Animals can and do suffer and that is a morally relevant fact, according to Bentham and Singer. For other philosophers it is not the suffering alone, but a combination of capacities and characteristics that human and non-human animals share. In this contribution these positions are sketched and found to be limited and inevitably anthropocentric. In search of a different approach, the author examines the ideas of Aldo Leopold and Arne Naess. Because of their ecological premises, their theories are definitely more ecocentric. However, on closer examination the new insights of ecophilosophy create many new dilemmas as well. These dilemmas raise doubts about the applicability of accepted moral standards of impartiality and equality in this domain. The diversity of nature itself, as well as the diversity and complexity of interactions between man and nature, calls for a pluralistic theory. On outline is given of Peter Wenz' *Environmental justice*.

Ethical questions relating to genetically modified (lab)animals

Tj. de Cock Buning

Genetically modified animals have raised several public and political debates the last decade. Three main ethical themes can be distinguished: (1) Are species barriers allowed to cross and to mix? (2) Worries about the fundamental instrumentalisation of animals (3) Worries about the animal welfare. Firstly, a brief review is given of the parliamentary history regarding animal protection acts. An important notion is the concept of 'intrinsic value of the animal', accepted by the parliament already in 1981 as the starting point for governmental policy regarding animals. Secondly, three acts are discussed regulating the humane and careful use of (lab) animals. One of them, the Animal Health and Welfare Act 1992, is unique in the world because of section 66. Here an explicit ethical committee of experts is enacted to advise the minister directly about the acceptability of every 'proposed' experiment to modify an animal genetically. Thirdly, the activities of this committee are evaluated in the light of the three ethical questions prompted by the public and the parliament. It is concluded that erected legal framework is sound in its construction, but in practice only partly addresses the worries of the public.

Animal welfare science; how to apply its concepts in legislation?

F.H. de Jonge and B.M. Spruijt

Animal welfare science deals with animal feelings. Therefore, scientific knowledge has to be translated into a subjective concept before it can be applied. Although animal welfare science has been well developed during the past thirty years, this translation generates interpretative problems when concepts are to be applied in the development and execution of legislation. Under Dutch legislation (especially the so called Gezondheids- en welzijnswet voor dieren), concerns for animal welfare should underly the rules and conditions under which animals are allowed to be kept for commercial purposes. However, under the influence of the 'rule by bargaining', scientific arguments are readily adjusted to the interests of those who appear the most powerful in the debate. As a result, Dutch legislation can be characterized by an implicit and inconsistent weighing of human and animal interests.

European law and the welfare of farm animals

M. Haan

European law on the welfare of farm animals stems from two institutions: the European Union (EU) and the Council of Europe (CoE). First and foremost, the EU is still an economic institution. Forming a part of the EU agricultural policy, the EU has adopted several legally binding Directives containing minimum standards of animal welfare. One should bear in mind, however, that these Directives have an economic aim as well as an ethical aim. As of late, the principle of subsidiarity puts a burden on the EU. The EU can only adopt measures on animal welfare when action on the EU-level has proven to be necessary and useful. In a number of cases the European Court of Justice explained the issue of the competence of member states to adopt stricter welfare measures. The CoE has provided a number of treaties on animal welfare. The provisions of these treaties are elaborated in Recommendations, which can be specific (addressed to one or more parties) or general (addressed to all parties). The contents of the general Recommendations are quite similar to that of EU-Directives. The latter are more useful in court since they are legally binding. The risk of international criticism should keep members of the CoE from neglecting general Recommendations.

Organisational structures and working methods in legal and illegal trade in exotic animal species

C.M. Vinke

The trade in exotic animal species is said to be one of the most lucrative. Additionally, the trade in exotics seems to have some unclear aspects, as the trade can be conducted both in a legal and illegal way. The non-transparent organization structure of the animal trade often results in confusing situations in our society, or during control and reinforcement of the law. Although, the Dutch organization of wholesalers and traders does not show indications of structural contacts with forms of other regular criminal organizations and/or activities, interviews with participants, however, showed a paradox relation: the motivation for illegal actions increases parallel to more strict law, regulations and policy. Although an international stop of the trade in exotic animals is not sorted as a realistic possibility, the improvement of the welfare situation of animals in trade seems to have future perspectives, referring to some recent regulations. The organization of a more professional sector might be a next option for policymakers.