

# On behalf of animals

*It's time to shift our thinking on the legal status of animals, says a UVic law scholar*



Deckha

by Peigi McGillivray

When British Columbians learned about the slaughter of dozens of sled dogs following the 2010 Olympic games in Vancouver, they were horrified by the cruelty of the act and by the seeming inability of our criminal code to prevent such things from happening.

The fact is that under the law, animals—whether raised to give us food or clothing, to pull sleds for our entertainment, or to be cuddled and cared for as pets—are possessions, like tables or chairs. We can do what we like: pamper them, cage them, even kill them, as long as we don't cause them “unnecessary suffering” while we're doing it.

Maneesha Deckha, a University of Victoria law professor and expert in animal law, believes this should change. “Our current laws about animals are as outdated as laws about child labour and women's rights were many years ago,” she says. “As a society that claims to care about its weakest members, we need to challenge our thinking about the legal status of animals.”

If animals weren't property, what would they be? “The law offers only two options,” says Deckha. “You're either a person or you're property. If you're a person, you have certain rights; if you're property, you don't. If animals were considered ‘persons’ under the law, they could be represented in court by someone who could protect their interests, just as small children are today.”

Deckha's research into animal law springs from her interest in issues like feminism, anti-racism, and health law and policy.

“I'm fascinated by the evolving legal boundary between property and personhood—how unjust laws denying personhood for women and other disadvantaged groups changed as society's attitudes shifted. It seems natural to extend this critique to the way our laws treat non-humans, or animals.”

Legal research is different from research in other academic disciplines. “Instead of asking a question and experimenting to find the answer, we analyze an existing law and discuss its strengths and weaknesses, often suggesting areas for legal reform,” explains Deckha.

These opinions become part of the legal

literature, and can influence lawmakers when they're passing legislation, or judges when they're deciding a case.

Topics that Deckha has written about in recent years include the slow pace of animal law reform in Canada compared to the US, the ethics of medical research on animals and the need for more regulation, and alternatives to property status for animals.

“My work focuses on changing the way we think about animals,” she says. “For example, if we think of animals as persons rather than property, instead of selling dogs, cats and other companion animals in pet stores, perhaps we might set up a system of adoption as we do for all beings that we believe should not be for sale.”

While public outrage after the slaughter of the sled dogs has resulted in tough new animal cruelty laws—including \$75,000 fines and two-year jail terms—the property status of animals, for now, remains the same.

Deckha's work and the work of other animal law scholars may well change that. As she says: “We have a duty to protect those who cannot speak for themselves.”

## EDGEwise

Deckha's work is respected around the world. She has held the prestigious Fulbright Visiting Chair in Law and Society at New York University where she created and taught a seminar on animals, culture and the law. In 2006, the seminar won an Animals and Society New Course Award from the US Humane Society.

In the seminar, which Deckha now offers at UVic, students are introduced to current legal and cultural controversies about human-animal relations. “Courses like this allow students to explore the cultural and legal issues involved,” says Deckha. “Like what kind of rights or other interests animals could have and how those entitlements could be protected.”

A recent example of evolving animal law is the groundbreaking dissenting opinion last year by the Chief Justice of the Alberta Court of Appeal. She agreed with animal law advocates that Lucy, an elephant kept in isolation at the Edmonton Valley Zoo, deserved representation in court when decisions were made about her future.

UVic researchers were awarded more than \$103 million in outside research grants and contracts in 2010/11—more than triple the amount achieved 10 years ago.

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