



**LEGAL EVOLUTION AND THE NEW RIGHTS REVOLUTION:
EXPANDING THE SPHERE OF PROTECTION
TO ANIMALS AND THE ENVIRONMENT**

**UPDATED CONCEPT NOTE AND CALL FOR PAPERS
AS AT 4 JUNE 2020**

Joint Statement by Animal Law Reform South Africa and the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC), a Centre of the University of Johannesburg

We would like to thank everyone who has expressed interest in the Conference thus far, as well as those who have submitted abstracts. We are extremely delighted with the Submissions we have received from around the world.

Unfortunately, given all of the current uncertainty in relation to COVID-19, we have taken the difficult decision to postpone the in-person Conference until the end of 2021 or early 2022. We have done this as we believe that is valuable to have a physical Conference and bring stakeholders together on the African continent. We will confirm the final dates in due course once we have more clarity about the restrictions and requirements that will apply to South Africa.

We are of the view that it is of critical importance to continue with the objectives and research areas we have provided for in our Concept Note and accordingly, we still intend to proceed with both the Conference as well as the Publication. We are also exploring the option of an interim online seminar in November or December 2020.

We will thus be receiving abstracts on a rolling basis and exploring different options on how to coordinate these and our efforts in the best practicable way. A new deadline will be communicated when a new date can be confirmed.

We encourage you to continue submitting abstracts on the themes as per the Concept Note and Call for Papers to amywilson@animallawreform.org and to reach out with any ideas, queries or concerns.

We appreciate your patience as we navigate these difficult times, and please continue to check our Website and Facebook Page for further details.

Yours in solidarity,

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On the pages that follow, we include the original Concept Note and Call for Papers with updated information.

Background to the Conference

Most democratic states are characterized by legal systems that draw a sharp distinction between those who hold fundamental rights, protected by the state – humans; and those who do not - animals. South African law, for instance, distinguishes between persons and things: only persons may claim the protections of rights. After the horrors of the Holocaust, there was global recognition that all human beings, at least, should be recognized as bearers of dignity and rights-holders. This erected a sharp divide between humans, other animals and the environment more generally.

In 1970, scholars and activists began to critique this divide. They challenged the philosophical assumption that was used to justify the barrier between species and their concomitant legal protection, or lack thereof. This era is characterized by Peter Singer’s foundational argument that the unjustifiable, arbitrary premises underlying race or gender supremacy, were similar in nature to those that underpinned the hierarchy established between humans and animals. A new term – speciesism – was coined which provided a new and radical conceptualization of the structural and arbitrary privileging of the human in contrast with other animals. This work was a catalyst for forms of social activism which connected and challenged injustices against humans as well as those perpetrated against animals.

At the same time, there were also developments in environmental ethics with Christopher Stone’s seminal contribution on whether trees have standing and the resulting discussions that ensued. A strong conservation movement developed which sought to emphasize the human role in ensuring species were preserved. The development of thinking around Sustainable Development in the late 1980’s placed emphasis on the relationship between our present activities in relation to the environment and the well-being of future generations. Unfortunately, tensions developed between the environmental movement and animal rights movement. Nonetheless, both share a common concern for expanding the realm of protection beyond the human species.

As the activist impetus has grown, so too has the pressure for these developments to be enshrined in law. In the last few decades, these efforts have begun to bear fruit. Germany amended its Constitution to recognise that animals have interests that demand a level of constitutional protection and Switzerland recognised that living beings have dignity. In a 2016 judgment, the South African Constitutional Court, for the first time, recognized that the rationale for the protection of animal welfare lay not in human interests but the ‘intrinsic value of animals as individuals.’ It also recognized that conservation and animal welfare needed to be recognized as intertwined. Similarly, the courts in India have in a number of judgments started to recognise that animals may be protected by fundamental rights. There have been efforts in the USA courts and other countries to utilise the common law remedy of habeas corpus for animals in captivity. Further creative efforts to expand the sphere of legal protection currently offered to animals are being pursued around the globe. The law in this area is evolving constantly.

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Increasingly, activists and lawyers are recognizing that there is a connection between cruelty to animals and the violation of human rights. Studies have demonstrated the link between domestic violence and animal abuse; specialists in the right to food (including the Food & Agriculture Organization of the United Nations) have drawn a link between food insecurity and the mass production of meat; and the slaughter industry itself is now recognized as one of the most dangerous industries in which to work. The well-being of animals, therefore, is not extraneous to human rights; it is inextricably intertwined with the pursuit of social justice for humans.

On the environmental front, a number of Constitutions have included rights to environmental protection such as South Africa's section 24 of the Bill of Rights. Some, such as that of Ecuador in 2008, have recognized what are termed 'rights of nature'. These provisions have spawned a number of developments with the Colombian Constitutional Court granting rights protection to a river, and similar developments taking place in different parts of the world, including New Zealand and India. Bolivia has also formally recognised the rights of nature in legislation. These developments take place against an increasing sense of a climate emergency and its potential to cause environmental devastation.

What is clear from all of these developments, is that it is no longer possible to assume that only humans are entitled to fundamental rights and legal protection. The tide, so to speak, has turned.

In light of this shift in law and practice, the South African Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC), a Centre of the University of Johannesburg together with Animal Law Reform South Africa (ALRSA) are holding a ground-breaking conference on the theme:

'Legal Evolution and the New Rights Revolution: Expanding the Sphere of Protection to Animals and the Environment'

The conference aims to focus on the expansion of rights and law beyond the human sphere. The questions this conference seeks to address include:

- What is the relationship between the 'rights revolution' that has expanded rights protection to all humans (imperfectly) and the 'new rights revolution' – i.e. moving beyond the human species?
- Should rights be confined to protecting sentient beings or can they expand to protect inanimate parts of the environment too? Indeed, should we understand nature itself to have a form of sentience?
- Should violations of human rights, animal rights and environmental rights be regarded in a similar way as forms of injustice?
- Is there a relationship between forms of oppression? Should there be a hierarchy of rights protection?
- What changes will the expansion of rights require in a different areas of law? Can other areas of law be used to expand the protection of animals and the environment?
- Are there limits to what entities or creatures rights can provide protection?

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- Are there tensions between the recognition of animal rights and the recognition of the rights of nature?
- What are specific considerations, challenges, barriers and/or opportunities in the African context for expanding legal protection beyond the human species?
- Can the tensions between human rights, environmentalism and animal rights be resolved?
- How do concepts such as sustainable development and sustainable utilization of natural resources relate to the expansion of rights, particularly in relation to wildlife?
- On what basis have courts or other organs of government expanded rights in different jurisdictions – is this an exercise of judicial activism or based in positive law? What analysis can be provided of the reaction to these developments?
- What is necessary for the expansion of rights protection to be effective rather than illusory?
- Are there differentiations that need to take place between those that are the subjects of rights protection?
- How do we provide for and adjudicate conflicts between different subjects of rights protection?
- Are there particular approaches and challenges to the expansion that are specifically relevant to particular regions of the world?
- What are the economic, political and cultural implications of this shift?
- How can other legal avenues and academic disciplines work together for the expansion of rights?

Date and Time

We envisage that the conference will take place towards the end of 2021 or early January 2022 in Johannesburg, South Africa. At present, we are exploring the option of an interim online seminar in November or December 2020.

Abstracts

We are receiving abstracts on a rolling basis and encourage you to submit these via email to amywilson@animallawreform.org. The abstract should be submitted in WORD and be no more than 500 words. It should be accompanied by a brief bio of the presenter, not more than 250 words.

Full Papers

We will liaise with those who are selected for the Publication about the dates for submitting full papers in due course. The best papers will be selected for inclusion in an edited volume on the topic. Further details and requirements for the publication will be provided in due course.

Student and Lawyer Sessions and Activities

As part of the Conference there will be activities and sessions specifically for students and lawyers. Information about these will be released in due course.

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