

As the **Department of Agriculture, Land Reform and Rural Development (DALRRD)** drafts a new animal welfare bill, leading academics and animal lawyers are determined that the process should include the voices of people who work with animal rescue and welfare every day. To provide this opportunity, webinars titled the Animal Law Project were held in July 2023.

Attorney Amy P. Wilson

Co-founder and director of **Animal Law Reform South Africa** and the first South African to graduate with a Master's degree in Animal Law in 2018, said: *"Animals are not mere instruments of commerce"*.



She explained that information gathered from participants in the webinars would be included in a proposal to DALRRD for inclusion in the draft new animal welfare bill.

Attorney Tony Gerrans

is Director of the **Humane Society International (Africa)**. He has a Master's degree in Animal Law. He said law was not always synonymous with justice and was often used not to protect animals but to regulate the utilisation and exploitation of animals.

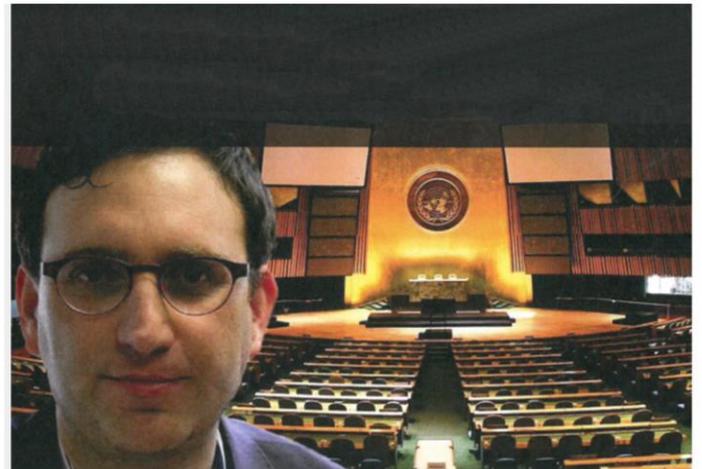


A fundamental problem in our law has been the classification of animals as legal property. **"The animal welfare community must make sure our voices are heard. Success depends on people's engagement, and we have to be activists in government policy. We need to propose a legal framework of fundamental principles on which to build, layer by layer,"** he said.

South Africa's Constitutional Court judges are unanimous...

- Animals have intrinsic value as individuals
- Guardianship of the interests of animals reflects constitutional values and the interests of society at large
- Animal protection safeguards the moral status of humans and the degeneration of human values

<http://www.saflii.org/za/cases/ZACC/2016/46.html>



Professor David Bilchitz

is Professor of Fundamental Rights and Constitutional Law at the University of Johannesburg, Professor of Law at the University of Reading, UK, and Director of the South African Institute for Advanced Constitutional, Public, Human Rights and International Law. He explained that while DALRRD had committed to drafting a new animal welfare bill, it had not included animal protection organisations as part of the discussion. It was vital, he said, that animal organisations should be afforded the chance to make submissions. The existing Animals Protection Act 71 of 1962 was ripe for reform and the opportunity to do so was two-fold:

- not only does the South African Constitution state that South Africa belongs to all who live in it, united in our diversity
 - but, in addition, in a ground-breaking judgment from 2016, the Constitutional Court recognised that animals are sentient beings with intrinsic value as individuals. 'Intrinsic value' implies a right to dignity.
- Another issue, he said, especially in regard to farmed animals, was the inherent conflict in animal protection falling under the mandate of the Department of Agriculture. Productivity was often at odds with welfare. One possibility was for the Department of Justice to hold the mandate instead.

Attorney Tokyo Ndlela, a director of **Animal Law Reform SA** and **Tokya Ndlela Attorneys Inc.** with a Master's Degree in Environmental Law, pointed out that factory farming was about maximising production and increasing profits, irrespective of the cost in suffering to the animals. Mutilations without anaesthetic were routine.



Dr Sheena Swemmer, human rights attorney and head of the **Gender Justice Programme** at the *Centre for Applied Legal Studies, Wits University*, called for special recognition in the new animal welfare bill for companion animals as they have a reciprocal relationship with their caregivers.



He said that while Section 24 of the Constitution stated that everyone has a right to a healthy environment, factory farming was in conflict with this right in that it leads to environmental damage through pollution, deforestation, climate change and a greater chance of zoonotic diseases.

He said a shift needed to take place in the law, from animals being viewed as legal objects to them becoming legal subjects.

Additionally, she said, South African law needed to acknowledge 'the link' between animal abuse and domestic violence. Companion animals were often used against women and children as tools of coercive control. She said animals needed legal representation in domestic disputes so that their best interests could be served.

For further information go to the project's website : <http://www.animallawproject.org.za/>

See global developments in animal protection legislation here : <https://www.globalanimallaw.org/>

The welfare of horses is tragically neglected in South African law with no consideration for their highly evolved mental states of being.



**For instance...
should race-horses be afforded
a comfortable retirement?**