Looking at Animals: How Animal Advocacy Groups are using the Courts and the Ballot Box to Reinforce a Welfarist Agenda

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Description of Presentation

My proposed session for Chancellor’s Research Day is entitled, “Looking at Animals: How Animal Advocacy Groups are using the Courts and the Ballot Box to Reinforce a Welfarist Agenda.” “The field of animal law contains diverse subjects and philosophical perspectives about the legal relationship between humans and animals.”\(^1\) Advocates of animal rights oppose the use of animals by humans, including the consumption of animals and animal products, and the use of animals for experimentation.\(^2\) Proponents of animal welfare focus on the humane treatment of animals, including the prevention of cruelty to animals.\(^3\)

Since the late 1980s most national animal advocacy organizations have pursued a welfarist agenda. However, in the past decade several groups have pursued litigation that has resulted in making the animals at issue seem legally irrelevant,\(^4\) much less deserving of rights. In the first part of this presentation, I will discuss how, in a series of federal appellate court cases, the plaintiffs gained standing by transforming the physical injury of the animals into the “aesthetic injury” of persons.\(^5\) As Professor Sunstein has observed with similar cases, the framing of these issues as “aesthetic” may even be duplicitous as the plaintiff is likely to be concerned ethically or morally, not aesthetically.\(^6\)

In addition to winning favorable court decisions on standing, animal advocacy groups are becoming more and more successful with single-issue campaigns to improve the treatment of farm animals.\(^7\) Whether approaching animal law from a rights or a welfarist perspective, the loss

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\(^1\) Taimie L. Bryant, Rebecca J. Huss & David N. Cassuto, ANIMAL LAW AND THE COURTS: A READER vii (Thomson West 2008).
\(^3\) Id.
\(^5\) Id. at 1212-13.
\(^7\) In 2002, Florida voters passed a ballot measure banning the use of gestation crates (a confinement practice for breeding pigs that immobilizes sows for the majority of their pregnancies). In 2006, Arizona voters passed a similar
of everyday contact between people and animals, and specifically the loss of eye contact, has left people confused about how they relate to animals other than the ones they keep as pets.\textsuperscript{8} Perhaps this is why the emotional aspects of animal advocacy are often inextricably linked to iconic, sometimes simplistic, images of animals.\textsuperscript{9} In the second part of this presentation, I will examine how a coalition of animal advocacy groups relied on iconic, simplistic images of farm animals to persuade California voters to pass California Proposition 2: The Prevention of Farm Animal Cruelty Act.\textsuperscript{10}

\textsuperscript{8} John Berger, \\textit{ABOUT LOOKING} (1980).


\textsuperscript{10} See e.g., \url{http://www.youtube.com/watch?v=oqPJsfljyZU} (television ad in support of Proposition 2, the California ballot initiative to prohibit the confinement of farm animals in a manner that does not allow them to turn around freely, lie down, stand up, and fully extend their limbs. Proposition 2, which appeared on the November 2008 ballot, passed with over 65 percent of the vote).