

ARTICLES

ANIMAL LAW: THE NEXT GENERATION

By
Pamela Frasch* and Joyce Tischler*

The animal law movement and animal law education in law schools has grown over the years. In this Article, prominent figures in the animal law world discuss this growth as well as changes that are expected within the next generation of animal law practice. The authors suggest important goals necessary to strengthen the movement in order to allow law students to access the resources needed to be powerful animal advocates in the years to come.

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* © Pamela Frasch is the Executive Director of the Center for Animal Law Studies (CALS) and the Associate Dean of the Animal Law Program at Lewis & Clark Law School. Ms. Frasch has served as general counsel for the Animal Legal Defense Fund (ALDF) and, in 1996, she created the ALDF Criminal Justice Program, which assists both law enforcement and animal advocates in the investigation and prosecution of animal abuse and neglect cases. Joyce Tischler is the cofounder of the Animal Legal Defense Fund and served as the Executive Director for twenty-five years. Ms. Tischler now teaches at Lewis & Clark Law School and is an internationally recognized speaker and author.

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I. INTRODUCTION

From the very start of the animal law movement, law students have been our indispensable partners, creating demand for animal law classes, handling legal research for practitioners, and serving as foot soldiers within their law school environment by introducing their classmates to the problems faced by animals and exploring the solutions. The activities carried out by law students were, and continue to be, essential to building animal law as a movement.

When Lewis & Clark Law School (Lewis & Clark) law students first approached Joyce with the idea of creating a law review solely devoted to animal law, and asked Animal Legal Defense Fund (ALDF) to fund it, Joyce was excited and intrigued. Though willing to pay the costs to publish the journal and get it off the ground, Joyce wondered if Lewis & Clark would ever embrace and help fund this endeavor. Joyce also wondered if the Animal Law Review (ALR) would be more than a passing fancy. To our delight, ALR became and continues to be a leader in the greater animal protection movement to establish animal law in the legal academic community (hereinafter “Academy”). And, after twenty-five years, it has long been a critical and beloved academic journal and a provider of student opportunity within the Lewis & Clark community. Everyone who has been involved in or supportive of ALR has been humbled by its laudable history as a consistently high-quality law publication that has given the animal law movement an important avenue to establish and expand animal law scholarship. There are many people to thank for this accomplishment: the student editors, authors, advisors, supporters of ALR, and especially, Lewis & Clark Law School. We are grateful to them all. In this article, the authors wish to look to the future and offer some thoughts on what animal law, animal law education, and ALR might look like in the next twenty-five years.

II. ENCOURAGING THE ACADEMY TO FULLY EMBRACE ANIMAL LAW EDUCATION

A. *What is and What Could Be*

*Some men see things as they are, and ask why.
I dream of things that never were, and ask why not.*

— Robert Kennedy¹

As this article goes to publication, the Center for Animal Law Studies (CALs) at Lewis & Clark Law School is the only specialized law program in the world where students can receive a full-scale education in all aspects of animal law. At most other law schools in the United States, students have the opportunity to study the fundamentals of animal law, a survey course that can only briefly cover the many topics found under the animal law umbrella.² At Lewis & Clark, students are offered separate, full semester animal law courses on a variety of topics such as animal rights law, animals in agriculture, animals in testing, and other subjects.³ Students are able to graduate with a far greater depth and breadth of understanding of how the law impacts animals, and how they can apply this knowledge to their future work. It is the difference between dipping your toe in the ocean and diving under the waves.

B. *Trends in Animal Law Studies*

In the past twenty years, we have seen a dramatic increase in the levels of knowledge and understanding that students bring with them as they start survey animal law classes. Previously, more emphasis had to be paid to *why* animal protection was important. Basic information about farmed animal conditions, or the reality of roadside zoos

¹ CONG. RESEARCH SERV., RESPECTFULLY QUOTED 465 (Suzy Plat ed., Library of Congress 1989).

² See *Animal Law Courses*, ANIMAL LEGAL DEF. FUND: LEGAL RESOURCE, <https://aldf.org/article/animal-law-courses/> [https://perma.cc/7EEH-JLLM] (accessed Apr. 11, 2019) (listing all law schools offering an animal law course). Other law schools have integrated additional animal law opportunities in their curriculum. For instance, Harvard Law School offers two animal law courses in addition to the fundamentals of animal law and is launching its Animal Law and Policy Clinic in 2019. *Courses*, HARV. L. SCH. ANIMAL L. & POL'Y PROGRAM, <http://animal.law.harvard.edu/for-students/courses/> [https://perma.cc/W2QV-WSFB] (accessed Apr. 11, 2019); *Clinical Opportunities*, HARV. L. SCH. ANIMAL L. & POL'Y PROGRAM, <http://animal.law.harvard.edu/for-students/clinical-opportunities/> [https://perma.cc/4UU2-Z674] (accessed Apr. 11, 2019). Both George Washington University Law School and Georgetown University Law School offer opportunities for animal law involvement. *Animal Law*, GEO. WASH. L., <https://www.law.gwu.edu/animal-law> [https://perma.cc/4W3R-ZJFF] (accessed Apr. 11, 2019); *Complete list of J.D. Courses*, GEO. L., <https://curriculum.law.georgetown.edu/jd/alpha-schedule/> [https://perma.cc/DB5L-W6LH] (accessed Apr. 11, 2019).

³ See *Curriculum*, Center for Animal Law Studies, LEWIS & CLARK L. SCH., https://law.lclark.edu/centers/animal_law_studies/curriculum/ [https://perma.cc/G3K2-KSRC] (accessed Apr. 11, 2019) (listing various animal law courses offered).

had to be taught to those in our classes, to ensure that everyone had the same baseline information about the problems animals face in our world. Today, most students enter our classes already well versed in these issues and ready to focus more on the *how* of animal law. How do we protect more animals? How do we change the laws? How do we influence public opinion? How do we achieve rights while still seeking improved welfare?

We are proud of Lewis & Clark's impressive accomplishments, but, in order for the field of animal law to flourish, more schools must fully embrace and integrate into their curricula animal law opportunities. This means more specialized, in-depth classes, more clinics, and more tenured professors teaching animal law. This is critically important to educating future generations of animal lawyers and professionalizing the animal law movement as a whole.

1. *Technology*

Access to animal law education remains elusive to too many interested students. Improvements in technology, including live streaming and webinars, enable animal law instructors to reach out with classes and continuing legal education (CLE) to a far broader audience. The brick and mortar law school experience, as important as it is, could be supplemented with a wide variety of online offerings, something we will be working to increase in the next decade and beyond.

2. *Clinics*

We will also likely see more animal law clinics. Lewis & Clark's first⁴ animal law clinic is the longest running, and since its launch in 2008, a handful of other clinics have come and gone. Recently, however, the realm of animal law clinical education appears to have new life. Besides Lewis & Clark's, there are six animal law clinics that currently operate in the United States. The others are at the University at Buffalo School of Law,⁵ South Texas College of Law Houston,⁶ Michigan State University College of Law,⁷ UCLA School of Law (Dog Adju-

⁴ In the fall of 2019, Lewis & Clark Law School is launching a second animal law clinic, this one focused on farmed animal litigation.

⁵ *Animal Law Clinic*, U. BUFF. SCH. L., <http://www.law.buffalo.edu/beyond/clinics/animal.html> [https://perma.cc/W7KD-NJS8] (accessed Apr. 11, 2019).

⁶ *Animal Law Clinic*, S. TEX. C.L. HOUS., <http://www.stcl.edu/academics/legal-clinics/animal-law-clinic/> [https://perma.cc/QHF5-2LYU] (accessed Apr. 11, 2019).

⁷ *Animal Welfare Clinic*, MICH. ST. U.C.L., <https://www.law.msu.edu/clinics/animal.html> [https://perma.cc/44SF-VKUB] (accessed Apr. 11, 2019).

dication Clinic),⁸ and University of Connecticut School of Law.⁹ Harvard is launching its first animal law clinic in 2019.¹⁰

Clinics play an important role in legal education. They provide hands-on experience with real cases—something students do not typically get in other classes—and the opportunity to build practical skills while learning about important issues affecting animals in the legal system. Although the majority of students who participate in animal law clinics (or take animal law courses) will not necessarily become animal law attorneys, they will gain an awareness of the core issues, which they will carry with them into their careers as prosecutors, judges, lawmakers, government attorneys, and practitioners—paving the way for a broader acceptance of animal protection and rights as an important social justice issue.

The recent appearance of new animal law clinics is reflective of development in the field. Clinics are resource-intensive, which is likely why we do not see more of them—yet. But the fact that all but one of the eight (including the two Animal Law Clinics at Lewis & Clark) existing animal law clinics have formed just within the last couple years suggests a definite trend that is likely to accelerate.

3. *Living Laboratories*

Either in addition to or through animal law clinics, we hope to see greater use of the “living laboratory” model, which provides students with education through experiential learning. The living lab is an emerging research concept that fosters “the development and implementation of innovation, experimentation, and knowledge in urban [and other], real-life settings while highlighting the important role of participation and co-creation.”¹¹ Living labs utilize the concept of place-based learning, which emphasizes that the “specific location of learning is important and can produce more engaged students.”¹² Living labs can be a type of service-based learning, which promotes civic engagement and addresses the problems of “real life.”¹³

⁸ *Dog Adjudication Clinic*, UCLA SCH. L., <https://law.ucla.edu/academics/clinical-and-experiential-programs/dog-adjudication-clinic/> [https://perma.cc/5SGM-4Y3V] (accessed Apr. 11, 2019).

⁹ *Clinic: Animal Law*, U. CONN. SCH. L., <https://www.law.uconn.edu/academics/courses/LAW7384/clinic-animal-law> [https://perma.cc/72WJ-FK3A] (accessed Apr. 11, 2019).

¹⁰ *About*, ANIMAL L. AND POL’Y PROGRAM: HARV., <http://animal.law.harvard.edu/> [https://perma.cc/MRV7-Z5AJ] (accessed Apr. 11, 2019).

¹¹ Kris Steen & Ellen van Bueren, *The Defining Characteristics of Urban Labs*, 7 TECH. INNOVATION MGMT REV. 21, 21 (2017).

¹² *Why Use the Campus as a Living Laboratory?*, PEDAGOGY IN ACTION: THE SERC PORTALS FOR EDUCATORS, <https://serc.carleton.edu/sp/library/campusbased/why.html> [https://perma.cc/D93Z-EEH9] (accessed Apr. 11, 2019).

¹³ James Stewart, *Learning by Developing in a Living Lab*, SLIDESHARE (May 3, 2017), <https://www.slideshare.net/LornaMCampbell/learning-by-developing-in-a-living-lab> [https://perma.cc/NRN9-X2CL] (accessed Apr. 11, 2019).

While often the campus itself is used as the living lab, off-campus locations can also function as sites of place-based learning.

Though some have noted the concept of the living lab lacks a cohesive definition and is at risk of becoming a buzz phrase,¹⁴ this form of innovation shares some common characteristics. Living labs typically take place in real-world environments, form the “4Ps” or public-private-people partnerships, employ multiple stakeholders who pursue multiple roles, and emphasize collaboration, grounded in principles of open innovation, as an essential feature.¹⁵

In the context of animal law—which we believe is particularly well-suited to living lab learning—a living lab can either be structured as a semester-long class or incorporated into more traditional courses through field trips. Pamela was an early adopter of this teaching method and the first animal law professor to employ a living lab as a component of her class. The “AWA Trip to the Oregon Zoo,” which has met with much success, is a several hour-long living lab experience assigned as part of the Animal Law Fundamentals course at Lewis & Clark.¹⁶ As part of the assignment, students are placed into teams, assigned a species,¹⁷ given the text of the federal Animal Welfare Act—which regulates zoos—and provided the following instructions:

Prior to the trip to the Zoo, your team is responsible for researching the facts and figures relating to the species to which you are assigned. For example: What is their native habitat? Weather? Topography? How much territory do they need? Are individuals of that species social or solitary? What would their eating, traveling, hunting, mating, socialization and other habits be in their native environment? Other pertinent information specific to that species. Your team is also responsible for researching the applicable federal Animal Welfare Act (AWA) regulations that cover your species.¹⁸

When at the Zoo, you should be prepared for the following:

- Present a brief primer to your classmates and professor on the facts and figures relating to your species/animals;
- Discuss the relevant AWA regulations that relate to your species of animal;
 - You may wish to bring a tape measure.
- Analyze the efficacy of the relevant AWA regulations;
- Reference any other laws that address this species specifically;

¹⁴ Seppo Leminin, Q&A. *What Are Living Labs?* 5 *TECH. INNOVATION MGMT. REV.* 29 (2015).

¹⁵ *Id.* at 29–30.

¹⁶ *Animal Law Fundamentals*, LEWIS & CLARK L. SCH., https://law.lclark.edu/courses/catalog/law_449.php [<https://perma.cc/7JJR-BZYM>] (accessed Apr. 11, 2019).

¹⁷ The species included in the AWA Oregon Zoo assignment have, in the past, included chimpanzee, cougar, polar bear, black rhino, Asian elephant, and bald eagle. But species can vary, and this assignment can be adapted to zoos in other regions, aquariums, or other facilities covered by the AWA (e.g. retail stores that sell animals).

¹⁸ These instructions are modified each year, but the sample in the text provides an example.

- Discuss what, if anything, you would recommend to change or improve in the AWA regulations covering your species;
- Discuss what, if anything, the Oregon Zoo is doing (or planning on doing) to change or improve the exhibit.

If the living lab is offered as a semester-long course, students could have the opportunity to partner with shelters and sanctuaries to learn about the issues facing the animals in these facilities—including how and why they came to be at the shelter or sanctuary—and the concomitant issues facing those who operate and work at such facilities. Through the living lab model, students can immerse themselves in the world of an animal shelter or sanctuary to understand the role of these sites in the broader society—why is there a need for them? What challenges do the animals and facility operators face? How do internal policies diverge and where do they overlap across facilities with similar missions—for example, farmed animal sanctuaries, companion animal shelters, or wild animal sanctuaries? How are these policies informed by the nature of the residents (whether temporary as in the case of most companion animal shelters, or permanent as in the case of a farmed animal or wildlife sanctuary) and how are the animals' needs balanced against one another's, as well as against externalities, like the need to fundraise to maintain operations? What are the legal issues faced by such shelters and sanctuaries, including, but not limited to, human resource issues, the need for well-drafted foster and adoption agreements, liability issues, and zoning? How do the issues within shelters and sanctuaries reflect or challenge law, policy, and culture beyond the lab?

These are just some of the questions that could be brought to the table in an immersive context and natural research setting. Students could be brought to such settings either through a clinic, externship, independent study, or even a class trip. The living lab could be combined with a volunteer project to assist the shelter or sanctuary. A sample assignment might be drafting a statute that would have a positive impact on the facility, with part of the assignment being to identify and offer potential solutions to overcome the opposition such model legislation would invariably face. Students can also act as research partners, assessing the needs of the shelter or sanctuary and proposing solutions to targeted problems, such as drafting board policies, or agreements for the responsibilities of volunteers.

Living labs are an innovative and interdisciplinary way to ignite student interest and engagement with the issues. For those who wish to pursue animal law either part-time or full-time, attending "class" in real-world settings like animal rescue facilities provides an unparalleled opportunity not only to get one's feet wet, but to also meet the clients. Depending on the type of law that students plan to practice, both the animals and the facility staff represent potential types of future clients. For this reason, living labs can be extremely helpful not only for the clients, but also for burgeoning attorneys, giving them experience akin to medical school residencies for aspiring doctors, or doc-

toral internships and postdoctoral fellowships for clinical psychologists in training. Living labs, much like clinics, bridge the gap between academia and practice, both of which are vital to the animal law movement, which is but one branch of the broader animal protection and rights movement.

C. Animal Law Needs More Tenured and Tenure-Track Professors

It is our vision and hope that animal law will become as mainstream as other emerging areas of the law. While there has been significant growth in the number of survey animal law courses and animal law student groups, animal law is now experiencing a plateau,¹⁹ and it will take a concerted effort on our part to fully integrate animal law into law school curricula.

A primary need of the animal law movement is greater involvement in teaching animal law by tenured law professors. Currently, most animal law classes are taught by adjunct professors, local practitioners who are not part of the academic establishment, and as such, animal law classes can have a tenuous future at the school.²⁰ Indeed, the fact that most animal law courses are taught by adjuncts signals that the study of animal law is not yet worth investing scarce resources into. When courses are taught by full-time faculty, they are less likely to be cut from the schedule due to financial concerns and are more likely to be taken seriously by other tenured and tenure-track scholars and academics. Although law school enrollment has recently begun to increase, following the precipitous decline that began five years ago,²¹ many schools still face fiscal challenges.²² Courses taught by adjuncts are among the first to be cut when schools experience a budget shortfall.²³ Tenured professors must be brought into the fold and take on the duties of teaching animal law as an ongoing part of the curriculum. These full-time professors can influence their colleagues

¹⁹ See Joyce Tischler, *A Brief History of Animal Law, Part II (1985-2011)*, 5 STAN. J. OF ANIMAL L. & POL'Y 27, 36-37, 39 (2012) (discussing the rise in animal law classes, chapters, and groups); Joyce Tischler, *Building Our Future*, 15 ANIMAL L. 7, 10 (discussing the need for "fresh visions and new dreams" in expanding the influence of animal law).

²⁰ Tischler, *A Brief History of Animal Law*, *supra* note 19, at 36; Tischler, *Building Our Future*, *supra* note 19, at 8; see also Bryan Alexander, *Vermont College Cuts Staff, Adjuncts, Classes* (Mar. 19, 2015), <https://bryanalexander.org/uncategorized/vermont-college-cuts-staff-adjuncts-classes/> [<https://perma.cc/HU66-FYS3>] (accessed Apr. 11, 2019) (discussing that the classes first impacted by budget cuts are often taught by adjunct professors).

²¹ Elizabeth Olson & David Segal, *A Steep Slide in Law School Enrollment Accelerates*, N.Y. TIMES (Dec. 17, 2014), <https://dealbook.nytimes.com/2014/12/17/law-school-enrollment-falls-to-lowest-level-since-1987/> [<https://perma.cc/DT42-64KZ>] (accessed Apr. 11, 2019).

²² Jack Crittenden, *Vermont, Minnesota Shows That Law Schools Are Still Grappling with Budget Challenges*, NAT'L JURIST (June 27, 2018), <http://www.nationaljurist.com/national-jurist-magazine/vermont-minnesota-show-law-schools-are-still-grappling-budget-challenges> [<https://perma.cc/9SQP-8KJ2>] (accessed Apr. 11, 2019).

²³ Alexander, *supra* note 20.

and assure the continued existence and growth of an animal law focus at their schools.

It is our hope that tenured and tenure-track law professors will increase their publication of scholarly articles on animal law topics, both in ALR and other journals. The Academy responds to robust publication of scholarly articles, and thus both animal law and other interdisciplinary areas of law will benefit from scholars producing articles specifically on animal-related issues. Scholars should also consider publishing opportunities beyond specialty journals to widen the reach of animal law and expand the conversation to those in other disciplines. For better or worse, publications in top tier law journals weigh more heavily in hiring and tenure decisions, so faculty are rewarded more for publishing in generalist law reviews and journals than in specialty journals, which is an important consideration for professors who have not yet received tenure. While those up for tenure often need to have a prolific publishing record, quantity is only one factor in the equation.²⁴ Publications in generalist journals will facilitate animal law scholars getting tenure, which at the same time will raise the prestige factor of animal law—both through having more tenured faculty specializing in this area, as well as the dissemination of scholarly work in animal law to broader audiences. By making this argument, we are in no way abandoning ALR; it remains the premiere resource for animal law scholarship. Rather, our intent is to point out the pressures that exist for professors seeking tenure, which can constitute a roadblock to advancing the field of animal law. It behooves us to find ways around that barrier.

Interdisciplinary research and writing that focuses on the myriad of connections between animal law and other well-established fields, such as constitutional law, will also be attractive to many academicians and bolster animal law's standing in the Academy. Professors at Lewis & Clark Law School, Cornell Law School, Harvard Law School, and Emory University School of Law, among others, have already taken a leadership role in this regard and published interdisciplinary articles on a broad array of topics.²⁵ The role of ALR will continue to be that of the forerunner, as the specialty journal with a deeper and broader knowledge of the issues, which can inspire groundbreaking ar-

²⁴ *Tenure and the Unspoken Rule*, INSIDE HIGHER ED (May 25, 2007), <https://www.insidehighered.com/views/2007/05/25/tenure-and-unspoken-rules> [https://perma.cc/JSY3-6YT2] (accessed Apr. 11, 2019).

²⁵ See e.g., James M. Oleske, Jr., *Lukumi at Twenty: A Legacy of Uncertainty for Religious Liberty and Animal Welfare Laws*, 29 ANIMAL L. 295, 296–97 (2013) (discussing religious targeting and exemptions in animal sacrifice bans); see also SHERRY COLB & MICHAEL DORF, *BEATING HEARTS: ABORTION AND ANIMAL RIGHTS 2* (Gary L. Francione & Gary Steiner eds., 2016) (discussing the intersect of animal rights and abortion); Kristin A. Stilt, *Constitutional Innovation and Animal Protection in Egypt*, 43 L. & SOC. INQUIRY 1364, 1364 (2018) (discussing the inclusion of animal protection in Egypt's 2014 Constitution); Ani B. Satz, *Animals as Living Accommodations*, 24 ANIMAL L. 1, 2 (2018) (discussing the use of animals to assist individuals with disabilities).

ticles which otherwise might not be accepted for publication elsewhere, and that should receive an audience.

D. Working Across Disciplines with Professors, Scholars, Practitioners in Other Legal Arenas

We often say that animal law is all law. That may sound simplistic, but it is true. The use and exploitation of animals is pervasive in all societies, and touches on legal issues in all realms of the law. Thus, a first-year class on contracts can include the challenges faced by tenants who wish to live with their companion animals, or a custody battle between a divorcing couple that adopted a dog during their marriage. A criminal law course would benefit from adding a focus on the special circumstances raised by cruelty crimes, and how state legislatures have strengthened cruelty laws to include forfeiture and cost of care provisions. The teaching of property law would be enhanced by a discussion of animals as property, and the cases that challenge that status, calling for personhood. The crossover between animal law and environmental law is more obvious if an environmental law course includes a segment on the impacts of industrialized animal agriculture on air quality, water quality, climate change, and environmental justice.

One way this can be accomplished is by encouraging professors and scholars in other areas to work in a cross-disciplinary way.²⁶ Animal law is inherently interdisciplinary, which lends itself well to collaboration. But, as with broader social justice issues, the animal law community should not only ask scholars in other disciplines to incorporate animal law into their scholarship and practice; we should also do the same. So, while we invite those from other areas of law to consider the myriad ways animals populate other areas of the law—and why their interests matter—we must also continue to strengthen our connection with and lend our professional support to other areas of public interest law, and other social justice causes. In that spirit, Pamela will begin teaching the survey Food Law class at Lewis & Clark in the spring of 2020. This class will include elements of animal, business, environmental, regulatory, intellectual property, and several other areas of law.

III. THE NEXT GENERATION OF ANIMAL LAW PRACTICE

A. Trends in Criminal Animal Law Practice

In the past twenty-five years, state anti-cruelty laws have been significantly strengthened to include felony provisions, mandates for the forfeiture of animal victims of crime, and provisions forcing the

²⁶ To that end, Professors Kathy Hessler, Joyce Tischler, Pamela Hart and Sonia Waisman have published a casebook that offers animal law cases as an additional way to teach the traditional law courses. KATHY HESSLER ET AL., *ANIMAL LAW: NEW PERSPECTIVES ON TEACHING TRADITIONAL LAW* (2017).

abuser to pay for the cost to rehabilitate and care for the animal victims.²⁷ This is a clear sign of a society that is more concerned about the needs and interests of animals than at any time in the past.

Other signs of this shift include a far greater willingness by prosecutors to handle cruelty cases, and the establishment of dedicated animal cruelty units in district attorneys' offices, which have proliferated in recent years. Launched in 2005, Los Angeles County's Animal Cruelty Task Force was one of the first such programs and became a model for other jurisdictions. Prosecutor, Debbie Knaan, who oversaw all of the district attorney's prosecutions for animal abuse, said of the task force: "We reflect society, and society feels that [animal abuse] should be taken seriously."²⁸ In 2015, Virginia established the nation's first attorney general's Animal Law Unit dedicated to "issues involving animal welfare, animal fighting, or abuse."²⁹ In 2016, the Queens County District Attorney's Office created an Animal Cruelty Prosecutions Unit, the first of its kind in New York City.³⁰ In the last few years, more of these units have begun to appear across the country. Most recently, in 2018, the San Diego County District Attorney's Office launched its first Animal Cruelty Prosecution Unit.³¹

We've also witnessed an increase in legislation allowing domestic violence protective orders to include companion animals, further signaling the recognition of their status as family members. As of 2017, thirty-two states (up from twenty-six states in 2014) as well as the District of Columbia and Puerto Rico have enacted such laws.³²

²⁷ See *Animal Cruelty Stats and Facts*, HUMANE SOC'Y U.S., <https://www.humanesociety.org/resources/animal-cruelty-facts-and-stats> [https://perma.cc/A7QX-G826] (accessed Apr. 11, 2019) (noting that, as of 2014, "animal cruelty laws include felony provisions in all 50 states"); ANIMAL LEGAL DEF. FUND, 2018 U.S. ANIMAL PROTECTION LAWS RANKINGS (2019), <https://aldf.org/wp-content/uploads/2019/01/Animal-Protection-Laws-of-the-United-States-2018-full-report.pdf> [https://perma.cc/9D99-VT7B] (accessed Apr. 11, 2019); An Act Concerning Animals, 2001 Ill. Laws, Pub. L. No. 92-0454 Sec. 5, §3.05(a) (2001).

²⁸ Jack Leonard, *Animal Cruelty Crackdown in Los Angeles Has Results*, L.A. TIMES (Feb. 8, 2009), <https://www.latimes.com/local/la-me-cruelty8-2009feb08-story.html> [https://perma.cc/A8U5-7M3R] (accessed Apr. 11, 2019).

²⁹ *Va. Creates Nation's First Attorney General's Animal Law Unit*, NBC WASH. (Jan. 25, 2015), <http://www.nbcwashington.com/news/local/Herring-Animal-Law-unit-Virginia-289496161.html> [https://perma.cc/QP7B-GT8H] (accessed Apr. 11, 2019).

³⁰ *Queens DA Announces Animal Cruelty Prosecutions Unit That Will Partner with NYPD's Animal Cruelty Investigations Squad*, NYPD NEWS (Jan. 11, 2016), <http://nypdnews.com/2016/01/queens-da-announces-animal-cruelty-prosecutions-unit-that-will-partner-with-nypds-animal-cruelty-investigations-squad/> [https://perma.cc/UF44-89CR] (accessed Apr. 11, 2019).

³¹ Toni McAllister, *Animal Cruelty Prosecution Unit Launched by San Diego County DA's Office*, TIMES OF SAN DIEGO (May 31, 2018), <https://timesofsandiego.com/crime/2018/05/30/animal-cruelty-prosecution-unit-launched-by-san-diego-county-das-office/> [https://perma.cc/369X-WKWM] (accessed Apr. 11, 2019).

³² *Map of State Laws Allowing Domestic Violence Orders to Include Pets*, MICH. STATE UNIV.: ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/content/map-state-laws-allowing-domestic-violence-orders-include-pets> [https://perma.cc/FS3V-WNG3] (accessed Apr. 11, 2019).

More laws have been enacted that mandate cross-reporting in cases of child abuse and animal cruelty due to a growing awareness of their co-occurrence,³³ as well as legislation that requires or encourages veterinarians to report suspected animal cruelty or neglect.³⁴ In 2016, the FBI began tracking cruelty to animals alongside felony crimes such as arson, burglary, assault, and homicide in its criminal database.³⁵ Prior to this, crimes against animals were lumped into the “all other offenses” category in the agency’s Uniform Crime Report, a nationwide crime-reporting system. That made it impossible to track patterns—and refine intervention strategies—regarding animal abuse and neglect.³⁶

We can expect to see a greater understanding of companion animals as family, and equally important, for that understanding to be reflected in criminal law and policy. This will likely encourage continued growth in the trends mentioned above, e.g., animal cruelty prosecution units, domestic violence protective orders, the recognition of animals as crime victims,³⁷ and mandatory cross-reporting laws. Awareness of “the link” between violence toward animals and violence directed at human beings³⁸ has helped in this regard, causing prosecutors to take violent cruelty cases more seriously.

B. Trends in Companion Animal Law (Civil) Practice

What those of us in the animal protection and rights movement have intuited for years is now being supported by scientists: The intellectual capacities and personalities of animals are far more complex

³³ *State Summary Report: Cross-Reporting of Animal and Child Abuse*, AM. VETERINARY MED. ASS’N (Apr. 2018), <https://www.avma.org/Advocacy/StateAndLocal/Pages/sr-animal-abuse-cross-reporting.aspx> [<https://perma.cc/5H84-GDND>] (accessed Apr. 11, 2019).

³⁴ *Abuse Reporting Requirements by State*, AM. VETERINARY MED. ASS’N, <https://www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/Abuse-Reporting-requirements-by-State.aspx> [<https://perma.cc/CR2J-WG3J>] (accessed Apr. 11, 2019).

³⁵ *Tracking Animal Cruelty: FBI Collecting Data on Crimes Against Animals*, FBI NEWS (Feb. 1, 2016), <https://www.fbi.gov/news/stories/tracking-animal-cruelty> [<https://perma.cc/2HRC-AK9J>] (accessed Apr. 11, 2019).

³⁶ *Id.*

³⁷ *See State v. Fessenden*, 310 P.3d 1163 (Or. Ct. App. 2013), *review allowed*, 354 Or. 597 (2013), *aff’d*, 355 Or. 759 (2014) (extending the emergency aid exception for humans to nonhuman animals); *State v. Dicke*, 310 P.3d 1170 (Or. Ct. App. 2013), *review allowed*, 318 P.3d 749 (2013) (agreeing with other courts that the emergency aid exception reasonably extends to protect animals under certain circumstances); *State v. Nix*, 334 P.3d 437 (Or. 2014), *vacated*, 356 Or. 768 (2015) (holding that the animal was a victim of the crime of second-degree animal neglect for purposes of anti-merger statute).

³⁸ *See, e.g.*, THE LINK BETWEEN ANIMAL ABUSE AND HUMAN VIOLENCE (Andrew Linzey ed., 2009); Lisa Lunghofer & Kenneth Shapiro, *The Co-Occurrence of Human Violence and Animal Abuse: Policy Implications and Interventions*, 35 PSYKE & LOGOS 130 (2014); Cynthia Hodges, *The Link: Cruelty to Animals and Violence Towards People*, MICH. ST. U. ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/article/link-cruelty-animals-and-violence-towards-people> [<https://perma.cc/T588-LVHX>] (accessed Apr. 11, 2019) (indicating the link between violence toward animals and violence toward humans).

and varied than previously thought.³⁹ In particular, the study of dog behavior has flourished in recent years and, following the path of animal law, moved from the margins to the mainstream as a legitimate area of scientific inquiry. Alexandra Horowitz, a psychologist and leading expert on dog cognition and behavior, writes that when she began the research that would become her 2009 book *Inside of a Dog: What Dogs, See, Smell, and Know*:

At the time I was unwittingly part of a sea change taking place in science's attitude toward studying dogs. The transformation is not yet complete, but the landscape of dog research is already remarkably different than it was twenty years ago. Where once there was an inappreciable number of studies on dog cognition and behavior, there are now conferences on the dog, research groups devoted to studying the dog, experimental and ethological studies of the dog in the United States and abroad, and dog research results sprinkled through scientific journals.⁴⁰

There is a profound impact on our ability to win legal protection for animals stemming from society's acceptance of animals as beings who possess inherent needs, complex social lives, and intelligence. Students who take the survey animal law course can also see this development as they read recent decisions in which divorcing couples are fighting for custody of the companion animals in their lives, and judges are increasingly willing to decide those cases, not with a straight property analysis, but by considering what is in the best interests of all of the family members. Divorce and dissolution laws, like those in Alaska,⁴¹ Illinois,⁴² and California⁴³ are starting to catch up with changing social norms about the status of companion animals. The legislative trend of puppy mill/retail sales bans also reflects that animals are family, not commodities.⁴⁴ However, legal efforts to increase the value of an animal's life through torts lawsuits have met with mixed success, battling not only traditional attitudes towards animals, but also the limitations of tort law.⁴⁵

³⁹ See Ed Yong, *This is How You Study the Evolution of Animal Intelligence*, NAT'L GEOGRAPHIC (Apr. 22, 2014), <https://www.nationalgeographic.com/science/phenomena/2014/04/22/this-is-how-you-study-the-evolution-of-animal-intelligence/> [https://perma.cc/5MXL-GC3E] (accessed Apr. 11, 2019) (noting that "the study of animal intelligence is rich").

⁴⁰ ALEXANDRA HOROWITZ, *INSIDE OF A DOG: WHAT DOGS SEE, SMELL AND KNOW* 6 (2009).

⁴¹ ALA. STAT. § 25.24.160 (2018).

⁴² 750 ILL. COMP. STAT. ANN. 5/503(n) (West 2018).

⁴³ CAL. FAM. CODE. § 2605 (2019).

⁴⁴ See Steven Luke, *California Becomes First State to Ban Retail Sale of Dogs, Cats and Rabbits*, NBC 7 (Dec. 28, 2018), <https://www.nbcsandiego.com/news/local/California-Becomes-First-State-to-Ban-Retail-Sale-of-Dogs-Cats-and-Rabbits-503644401.html> [https://perma.cc/6TC9-CY7W] (accessed Apr. 21, 2019) (showing that California has prohibited some retail animal sales).

⁴⁵ See, e.g., *Strickland v. Medlen*, 397 S.W. 184, 197–98 (Tex. 2013) ("It is an inconvenient, yet inescapable, truth: 'Tort law . . . cannot remedy every wrong.'"); SONIA S. WAISMAN ET AL., *ANIMAL LAW CASES AND MATERIALS* 240–45 (5th ed. 2014) (discussing how "[t]ort law . . . cannot remedy every wrong").

In the past quarter century, we have made surprising progress for animal protection in the usually sleepy realm of wills and trusts law. In response to changing societal norms about companion animals, we have witnessed not only changes in statutory and case law, but also a proliferation of mainstream articles about the importance of planning for your companion animal when you are unable to be there.⁴⁶ With the addition of Minnesota in 2016, all fifty states and the District of Columbia now have ‘pet trust’ laws on their books, which enable guardians to create legally enforceable arrangements for the care of their animal companions.⁴⁷

All of this progress reminds us that companion animals are the ‘gateway animals,’ i.e., the species that humans are most familiar with and attached to. As companion animals become increasingly identified as members of the family, companion animal law will flourish and help to bring about advances in protections for all animals.

C. Trends in Captive Wild Animal Law Practice

For wild animals forced to live in captivity, the tide has shifted dramatically in recent years and is likely to continue to do so. Statutory bans on traveling animal acts and using animals in entertainment are increasingly being enacted in the U.S. and worldwide.⁴⁸ The closure of Ringling Brothers circus has been a clear sign of the times.⁴⁹ Zoos and aquaria offer a different challenge, but we are seeing traction with roadside zoos. The federal Endangered Species Act, which has

⁴⁶ See, e.g., Judy Mandell, *The Pets Are All Right (Even Though You're Gone)*, N.Y. TIMES (May 24, 2018), <https://www.nytimes.com/2018/05/24/well/family/pets-dog-cat-death-will-trust-care.html> [<https://perma.cc/WVL9-X3RS>] (accessed Apr. 11, 2019) (explaining how ‘owners’ can take care of their pets after they have died).

⁴⁷ *Map of States with Companion Animal Trust Laws*, MICH. STATE UNIV.: ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/content/map-states-companion-animal-pet-trust-laws> [<https://perma.cc/2JB8-BFV6>] (accessed Apr. 11, 2019).

⁴⁸ Nicole Pallotta, *Illinois and New York Pass First Statewide Bans on the Use of Elephants in Entertainment*, ANIMAL LEGAL DEF. FUND (Nov. 17, 2017), <https://aldf.org/article/illinois-new-york-pass-first-statewide-bans-use-elephants-entertainment/> [<https://perma.cc/4332-WERY>] (accessed Apr. 11, 2019); Alicia Graef, *Victory! New Jersey Just Became the First State to Ban All Wild Animals in Circuses*, CARE2 (Jan. 10, 2018), <https://www.care2.com/causes/victory-new-jersey-just-became-the-first-state-to-ban-all-wild-animals-in-circuses.html> [<https://perma.cc/J5MH-7LQW>] (accessed Apr. 11, 2019); Emmett Berg, *San Francisco Board Approves Wild Animal Performance Ban*, REUTERS (Apr. 21, 2015, 2:21 PM), <https://www.reuters.com/article/us-usa-circus-california/san-francisco-board-approves-wild-animal-performance-ban-idUSKBN0NC2G720150421> [<https://perma.cc/AS7P-E8WC>] (accessed Apr. 11, 2019); Karin Brulliard, *Many Countries Ban Circuses with Wild Animals. These Lawmakers Want the U.S. to Follow Suit*, WASH. POST (Mar. 29, 2017), https://www.washingtonpost.com/news/animalia/wp/2017/03/29/many-countries-ban-circuses-with-wild-animals-these-lawmakers-want-the-u-s-to-follow-suit/?utm_term=.b7380a17f8fa [<https://perma.cc/NLN4-KX87>] (accessed Apr. 11, 2019).

⁴⁹ Sarah Maslin Nir & Nate Schweber, *After 146 Years, Ringling Brothers Circus Takes Its Final Bow*, N.Y. TIMES (May 21, 2017), <https://www.nytimes.com/2017/05/21/nyregion/ringling-brothers-circus-takes-final-bow.html> [<https://perma.cc/E88T-UV CZ>] (accessed Apr. 11, 2019).

long been a staple of animal law practitioners to protect animals in the wild, is being successfully applied to rescue endangered species in captivity.⁵⁰ And the writing is on the wall with regard to the presence of captive elephants in zoos, and orcas and dolphins in aquatic theme parks.

In advocating for free-living wild animals, we hope to make continued progress in developing policies that value coexistence over killing wild animals for sport, entertainment, or when they are ‘in the way.’ Goals for animal lawyers and advocates should include instigating a radical restructuring, or perhaps even the demise of the federal Wildlife Services agency, which champions lethal control of predators and other animals who ‘compete’ with livestock for forage on the range.⁵¹ This competition for scarce resources will only intensify in coming years, as the human population continues to balloon. And, as urban areas become even more crowded, humans will move to previously undeveloped areas, further displacing wild animals. Climate change will intensify these problems. With increased and more intense wildfires and unpredictable catastrophic weather events like hurricanes and flooding, both humans and animals will continue to be displaced, causing even more competition for space. As a result, animal protection lawyers will be facing new challenges as they work to protect animals, both domestic and wild, and we anticipate that specialized animal law courses and course materials will be developed to help students anticipate the issues they will face as practitioners.

D. Trends Relating to Animals Used in Research and Testing

While the problems faced by wild predators will intensify, animals used in research and testing may be in for some long-awaited good news. The 2007 publication of “Toxicity Testing in the 21st Century: A Vision and a Strategy,” by the National Research Council marked a sea change in governmental attitudes towards the use of animals.⁵² This report, which embraced the development of *in vitro* alternatives, i.e., research methods that do not use animals and produce results that are faster, less expensive, and better predictors of human response, heralds a future where animal exploitation in the name of science could become a thing of the past.⁵³ While that may sound implausible, nonanimal methods are already advancing rapidly, and societal atti-

⁵⁰ *Kuehl v. Sellner*, 887 F.3d 845, 848 (8th Cir. 2018). Plaintiffs sued Sellner and the Cricket Hollow Zoo for violating the federal Endangered Species Act by keeping endangered captive wild animals in substandard conditions. The court held that the substandard conditions constitute harassment under the Act.

⁵¹ Savannah Cox, *This U.S. Government Agency Kills Millions of Animals a Year*, ALL THAT’S INTERESTING (Sep. 27, 2016), <https://allthatsinteresting.com/wildlife-services> [<https://perma.cc/5FN9-HEUH>] (accessed Apr. 11, 2019) (noting the governmental change in attitude towards the use of animals).

⁵² See generally NAT’L RESEARCH COUNCIL, TOXIC TESTING IN THE 21ST CENTURY: A VISION AND A STRATEGY (2007).

⁵³ *Id.* at 16.

tudes towards the use of animals in research are changing. More companies in private industry are announcing they will stop testing on animals.⁵⁴ Medical schools have eliminated the use of animals as teaching tools,⁵⁵ and veterinary schools are starting to train students in more of a clinical setting, rather than merely using animals as experimental tools.⁵⁶

The announcements by the National Institutes of Health, that it will no longer fund research on chimpanzees and that chimpanzees in federally funded research will be retired to sanctuaries, are signs of a brighter future for animals.⁵⁷ Animal law specialists will play a key role in creating this future: They are needed to guide this process, as well as to draft progressive regulations that institutionalize the acceptance of *in vitro* data, and other forward-thinking changes.

E. Trends in Farmed Animal Law Practice

In the U.S., a large-scale focus on the plight of farmed animals started less than two decades ago, and, for a variety of reasons, the U.S. trails far behind Europe and the European Union in legislating realistic protections for farmed animals. Indeed, until relatively recently, animal protection lawyers felt adrift in their efforts to protect this class of animals, because there are no federal laws in existence in the U.S. which offer protections to farmed animals while they are be-

⁵⁴ See Chelsea Ritschel, *Covergirl Becomes Biggest Makeup Brand to Receive Cruelty-Free Leaping Bunny Logo*, INDEPENDENT (Nov. 5, 2018), <https://www.independent.co.uk/life-style/cover-girl-cruelty-free-leaping-bunny-makeup-coty-a8619126.html> [<https://perma.cc/V3ND-ZPBX>] (accessed Apr. 11, 2019) (discussing an example of a company that is moving beyond testing on animals).

⁵⁵ Darryl Fears, *One Last U.S. Medical School Still Killed Animals to Teach Surgery. But No More.*, WASH. POST (June 30, 2016), https://www.washingtonpost.com/news/animalia/wp/2016/06/30/one-last-u-s-medical-school-still-killed-animals-to-teach-surgery-but-no-more/?utm_term=.91b3dcdff9c [<https://perma.cc/R7HQ-HGLN>] (accessed Apr. 11, 2019).

⁵⁶ *Veterinary School to Expand Training Using Animal Simulators*, NAT'L ANTI-VIVISECTION SOC'Y, <https://www.navs.org/veterinary-school-expand-training-using-animal-simulators/#.XCghP1VKj3g> (accessed Apr. 11, 2019); HUMANE SOC'Y VETERINARY MED. ASS'N, ANIMAL WELFARE-FRIENDLY SURGERY TRAINING (2009), <https://www.hsvma.org/assets/pdfs/animal-welfare-friendly-training.pdf> [<https://perma.cc/NW45-6EFS>] (accessed Apr. 11, 2019).

⁵⁷ Francis S. Collins, *NIH Will No Longer Support Biomedical Research on Chimpanzees*, NAT'L INST. OF HEALTH (Nov. 17, 2015), <https://www.nih.gov/about-nih/who-we-are/nih-director/statements/nih-will-no-longer-support-biomedical-research-chimpanzees> [<https://perma.cc/RWU8-NYLD>] (accessed Apr. 11, 2019) ("Since June 2013 . . . NIH has phased out all previously active biomedical research protocols using chimpanzees that did not meet the IOM principles and criteria, and no new biomedical research projects have been approved . . . I have reassessed the need to maintain chimpanzees for biomedical research and decided that effective immediately, NIH will no longer maintain a colony of . . . chimpanzees for future research. All NIH-owned chimpanzee . . . are now eligible for retirement . . . These decisions are specific to chimpanzees. Research with other non-human primates will continue to be valued, supported, and conducted by the NIH.").

ing raised—that is, prior to transport to the slaughterhouse.⁵⁸ Further, the majority of state and local criminal anti-cruelty laws either exclude farmed animals or contain exemptions for ‘standard industry practices,’ which are defined by the industry itself.⁵⁹

This is no accident. It is the result of a massive agricultural industry that exercises significant and long-term control over both the federal and state legislatures and has effectively silenced regulation of the treatment of these animals.⁶⁰

Of all the animals used and abused in society, farmed animals far and away comprise the largest number.⁶¹ Though all animal suffering matters, in terms of scale, the total number of animals used in all other industries combined is dwarfed in comparison to the almost incomprehensible number of individual animals killed annually for food.⁶² They are—paradoxically or predictably, depending on how you look at it—also the most vulnerable to abuse and mistreatment because they have the fewest legal protections.

Beyond the incalculable harm to the animals caused by Concentrated Animal Feeding Operations (CAFOs)⁶³ and slaughterhouses, there is extensive ‘collateral damage’; including the abuse of farm and slaughterhouse workers, air and water pollution and the deleterious health effects on humans living near these facilities, the fact that CAFOs are disproportionately located in impoverished areas or communities of color, and food safety and other public health issues.⁶⁴

Many advocates consider industrial animal agriculture to be the most important issue in animal law and animal protection, due to the sheer number of animals involved, the staggering incidence of routine cruelty inherent in the system of modern animal agriculture, and the fact that these animals receive minimal to no legal protections.⁶⁵ Even our strongest animal protection laws are less effective than they could be due to lax enforcement—especially when combined with standing and other justiciability issues—yet, farmed animals are routinely denied even the minimal protections provided by cruelty laws, if not be-

⁵⁸ SONIA S. WAISMAN ET AL., *supra* note 45, at 378–79.

⁵⁹ *Id.* at 379.

⁶⁰ David J. Wolfson, *Beyond the Law: Agribusiness and the Systematic Abuse of Animals Raised for Food or Food Production*, 2 ANIMAL L. 123, 145–46 (1996).

⁶¹ COMPASSION IN WORLD FARMING, STRATEGIC PLAN 2013-2017 FOR A KINDER, FAIRER FARMING WORLDWIDE (2013), https://www.ciwf.org.uk/media/3640540/ciwf_strategic_plan_20132017.pdf [<https://perma.cc/D4QD-7HRY>] (accessed Apr. 21, 2019). Compassion in World Farming estimates that, on a worldwide basis, 70 billion animals are raised and slaughtered annually for food production.

⁶² *Id.*

⁶³ See 40 C.F.R. § 122.23 (2018) (defining a CAFO as an animal feeding operation with a specified number of each species held in a confined space leading the operation to be a significant wastewater producer).

⁶⁴ Wendee Nicole, *CAFOs and Environmental Justice: The Case of North Carolina*, 121 ENVTL. HEALTH PERSP. A182, A183 (2013).

⁶⁵ *Farmed Animals and the Law*, ANIMAL LEGAL DEF. FUND, https://aldf.org/focus_area/farmed-animals/ [<https://perma.cc/V774-VKS4>] (accessed Apr. 11, 2019).

cause they are written out of the law, then due to a pervasive unwillingness to prosecute.⁶⁶

Animal law educators and animal law practitioners will have to be particularly creative in the next decades in order to bring into place effective protections for farmed animals. That means using the laws currently in place, passing new, more protective laws, utilizing seemingly unrelated laws such as consumer protection and labelling laws to force greater transparency about the treatment of farmed animals, and working with attorneys and advocates from the environmental, environmental justice, food policy and public health movements toward the common goal of challenging the interconnected harms caused by CAFOs.

Legal efforts will also have to be focused on criminal prosecutions of abusers of farmed animals. Historically, and at present, criminal prosecutions for cruelty to farmed animals have been few and far between. Because ‘standard and customary practices’ in raising and treating farmed animals are beyond the reach of most state anti-cruelty laws, prosecutions have focused on individual farmers who leave animals to starve,⁶⁷ claiming economic reasons, or individual workers in CAFOs or slaughterhouses, who are often in a vulnerable position themselves,⁶⁸ and whom the company can write off as ‘bad actors.’⁶⁹ If a prosecution occurs, the abusive conditions remain, while the worker is replaced with another who will likely be forced to abuse the animals in the same manner.⁷⁰ There is little incentive for a worker to be a whistleblower, either—they would certainly lose their job, and many are undocumented immigrants who cannot afford to ‘make waves.’⁷¹ Animal protection lawyers will be called upon to create change within the system, either by becoming prosecutors, or working closely with prosecutors to enforce those anti-cruelty laws that do not exempt farmed animals. The repeal of exemptions for farmed animals and ‘standard or customary practices’ from state anti-cruelty laws should be a high priority.

⁶⁶ *Why Prosecutors Don't Prosecute*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/why-prosecutors-dont-prosecute/> [<https://perma.cc/X7FY-ZGHB>] (accessed Apr. 11, 2019).

⁶⁷ See *State v. Schott*, 384 N.W.2d 620, 622 (Neb. 1986) (holding that evidence was sufficient to confirm a sentence for cruelty to animals for allowing more than fifty livestock animals to starve to death); *Iowa Man Accused of Letting Cattle Die of Starvation*, AGWEB (Feb. 14, 2019), <https://www.agweb.com/article/iowa-man-accused-of-letting-cattle-die-of-starvation/> [<https://perma.cc/YL5Y-JBAU>] (accessed Apr. 11, 2019).

⁶⁸ *Slaughterhouse Workers*, FOOD EMPOWERMENT PROJECT, <http://foodispower.org/slaughterhouse-workers/> [<https://perma.cc/2N7L-FVY3>] (accessed Apr. 11, 2019).

⁶⁹ See Donald G. McNeil Jr., *KFC Supplier Accused of Animal Cruelty*, N.Y. TIMES (July 20, 2004), <https://www.nytimes.com/2004/07/20/business/kfc-supplier-accused-of-animal-cruelty.html> [<https://perma.cc/WU5H-H74Y>] (accessed Apr. 11, 2019) (showing that while workers are accused of animal cruelty, the company is not).

⁷⁰ *Slaughterhouse Workers*, *supra* note 68.

⁷¹ *Id.*

The animal agriculture industry fights transparency at every turn. When CAFOs and slaughterhouses operate in secrecy, whistleblowing is unfortunately one of the few ways we have to document conditions, which is a necessary first step to raising awareness and effectuating change.

A formidable foe, the animal agriculture industry not only resists efforts toward greater transparency and accountability, it also marshals its considerable political and economic resources to pass “Right to Farm” legislation, which protects the agricultural industry from nuisance lawsuits that otherwise could have been brought by neighboring residents.⁷² The industry challenges state laws that afford greater protections to farmed animals,⁷³ governmental regulations that would force industry to be more accountable for the harm it causes to the environment,⁷⁴ and proactively works to keep the public in the dark with “Ag-Gag” laws⁷⁵ and legislative end-runs around fair competition and free speech.⁷⁶ Animal lawyers have used false advertising and consumer protection laws, claiming that meat, dairy and egg producers are misleading the consuming public about the manner

⁷² Right to Farm Laws have been passed in all fifty states. Alexandra Lizano & Elizabeth Rumley, *States’ Right-To-Farm Statutes*, THE NAT’L AGRIC. L. CTR., <https://nationalaglawcenter.org/state-compilations/right-to-farm/> [<https://perma.cc/S99Z-9VWX>] (accessed Apr. 11, 2019); see also *Parker v. Obert’s Legacy Dairy*, 988 N.E.2d 319 (In. Ct. App. 2013) (holding that the Indiana Right to Farm law precluded recovery by the neighbor of a CAFO).

⁷³ *Ass’n des Éleveurs de Canards et d’Oies du Quebec v. Becerra*, 870 F.3d 1140, 1143 (9th Cir. 2017), *cert. denied sub nom*; *Ass’n des Eleveurs de Canards et d’Oies du Quebec v. Becerra*, 139 S. Ct. 862 (2019) (showing an industry challenge to the California law that bans the production and sale of foie gras); *Nat’l Meat Ass’n v. Harris*, 132 S. Ct. 965 (2012) (showing the industry successfully overturning a California law aimed at protecting “downed” animals).

⁷⁴ See, e.g., *Nat’l Pork Producers Council v. U.S. E.P.A.*, 635 F.3d 738, 742 (5th Cir. 2011) (holding in part that the EPA could not require CAFOs to apply for a National Pollutant Discharge Elimination System permit).

⁷⁵ Ag-Gag laws make it a crime to record or videotape inside an industrial animal facility. Animal attorneys have successfully challenged the constitutionality of these laws in Utah, Idaho and Iowa. *Animal Legal Def. Fund v. Herbert*, 263 F. Supp. 3d 1193 (D. Utah 2017); *Animal Legal Def. Fund v. Otter*, F.Supp.3d, 2015 WL 4623943 (D. Idaho 2015); *Animal Legal Def. Fund v. Reynolds*, 297 F.Supp.3d 901 (S.D. Iowa 2018).

⁷⁶ See Emily Sullivan, *What’s Meat, Anyway? Missouri Label Law Says It Comes From An Animal; Some Disagree*, NPR (Aug. 29, 2018), <https://www.npr.org/2018/08/29/642937901/whats-meat-anyway-missouri-label-law-says-it-comes-from-an-animal-some-disagree> [<https://perma.cc/A2U7-H4GE>] (accessed Apr. 11, 2019) (explaining the arguments for and against the new Missouri meat law which mandates that only products that come from slaughtered, once-breathing animals may be marketed as ‘meat’); see also *NMPF Legislative Push Builds Support for DAIRY PRIDE Act*, NAT’L MILK PRODUCERS FED’N, <https://www.nmpf.org/nmpf-legislative-push-builds-support-for-dairy-pride-act/> [<https://perma.cc/7MYV-L699>] (accessed Apr. 11, 2019) (discussing the as-yet unsuccessful federal DAIRY PRIDE Act).

in which the animals are raised.⁷⁷ They have also effectively challenged the Ag-Gag laws of several states.⁷⁸

While meat consumption remains high, a new industry is making waves, by producing meat, dairy, and eggs that are plant based and do not involve the exploitation of animals.⁷⁹ The agriculture industry engages in strenuous efforts to use the courts and legislatures to stifle competition from plant-based and clean or slaughter-free meat producers,⁸⁰ and regulation of animal welfare labels on products is like the proverbial Wild West, with little to no oversight. A number of lawsuits and petitions for rulemaking have challenged these packaging claims, and we can anticipate many more in the future.⁸¹ Animal lawyers would be well-advised to work for and with this rapidly growing industry, to assure that it is legally protected and able to flourish.

What does the next twenty-five years hold for farmed animal law? While we can expect the animal agriculture industry to introduce regressive legislation, like Ag-Gag, Right to Farm, and anti-competition laws meant to preserve the industry's hegemony, we are also seeing positive momentum to outlaw the most extreme forms of confinement of farmed animals. California's Proposition 12,⁸² and a similar law passed in Massachusetts,⁸³ banned the cruel confinement of pregnant pigs, egg-laying hens, and calves raised for veal. While legislation of

⁷⁷ See, e.g., *Animal Legal Def. Fund v. Hudson Valley Foie Gras*, (N.D. Cal. 2013) (alleging that a foie gras producer was violating the federal Lanham Act and California false advertising and unfair trade laws by advertising their foie gras as "the humane choice," although it engaged in the industry standard of force feeding ducks to produce the diseased liver); *PETA v. California Milk Producers Advisory Bd.*, 125 Cal. App.4th 871 (2005) (challenging claims that California cows are happy as they wander through spacious, outdoor fields); *Physicians Comm. for Responsible Med. v. Tyson Foods*, 119 Cal. App. 4th 120 (Ct. App. 2004) (challenging deceptive advertisement by Tyson Foods on packages of poultry).

⁷⁸ See *supra* text accompanying note 75.

⁷⁹ See Michele Simon, *Plant Based Foods Sales Experience 8.1 Percent Growth Over Past Year*, PRWEB, <http://www.prweb.com/releases/2017/09/prweb14683840.htm> [<https://perma.cc/7LAZ-BWUJ>] (accessed Apr. 11, 2019) (explaining a study that shows the market for the plant-based sector is up).

⁸⁰ *Id.*

⁸¹ See *What is "Meat"? Plant-Based Food Producers Sue US State Over Law that Criminalizes Certain Uses of the Word "Meat"*, CLEAN MEAT NEWS, <https://www.cleaneats.com.au/2018-09/07/what-is-meat-plant-based-food-producers-sue-us-state-over-law-that-criminalises-certain-uses-of-the-word-meat/> [<https://perma.cc/6BUU-F5UF>] (accessed Apr. 11, 2019) (noting how "[a]dvocates of plant-based alternatives and clean meat are not giving up without a fight though and are suing the state").

⁸² *California Proposition 12, Farm Animal Confinement Initiative (2018)*, BALLOTPEdia (2018), [https://ballotpedia.org/California_Proposition_12,Farm_Animal_Confinement_Initiative_\(2018\)](https://ballotpedia.org/California_Proposition_12,Farm_Animal_Confinement_Initiative_(2018)) [<https://perma.cc/K3AL-UBUW>] (accessed Apr. 22, 2019).

⁸³ *Wins for Animal Protection in the 2016 Election*, ANIMAL LEGAL DEF. FUND (Nov. 15, 2016), <https://aldf.org/article/wins-for-animal-protection-in-the-2016-election/> [<https://perma.cc/GU7C-SPHP>] (accessed Apr. 11, 2019) ("This new legislation—which passed by a landslide with 78% in favor—is stronger than any similar law in the U.S. and sends a clear message that people care about farmed animals. We can expect more challenges in the future to the egregious methods of animal confinement that have become standard in the agriculture industry.")

this nature faces steep obstacles in the legislature due to the powerful agricultural lobby, citizens in states with the ballot initiative process, like California and Massachusetts, have been able to bypass entrenched interests and put the question of farmed animal confinement directly before the voting public.⁸⁴ The voting public overwhelmingly supports greater protections for farmed animals. A handful of states have outlawed the most extreme forms of confinement via the ballot initiative process, but the recent laws in Massachusetts and California also include sales bans. These bans apply to animal products produced out of state, making their impact wider (this is especially the case in California because it is the most populous state in the U.S. and has a significant agriculture sector).⁸⁵

In addition to the promise of slaughter-free meat on the horizon and positive legislative reforms like Prop 12, some companies are voluntarily changing their corporate practices to source animal products from farms with purportedly higher welfare standards.⁸⁶ The animal law movement has had some recent success connecting with other stakeholders such as environmental, food safety, and community activists, who are also battling against industrialized animal agriculture.

The trend to reform and replace the present, unsustainable, and cruel animal agriculture industry will continue and gain momentum with animal lawyers, educators, and ALR serving as essential advocates in the fight.

⁸⁴ *California Ballot Initiative Seeks to Prevent Animal Cruelty, Protect Food Safety in the Golden State*, HUMANE SOC'Y U.S. (Aug. 29, 2017), <https://www.humanesociety.org/news/california-ballot-initiative-seeks-prevent-animal-cruelty-protect-food-safety-golden-state> [https://perma.cc/8RY8-AE3X] (accessed Apr. 11, 2019).

⁸⁵ *Ass'n des Éleveurs de Canards et d'Oies du Québec*, 870 F.3d 1140; *Nat'l Meat Ass'n v. Harris*, 132 S. Ct. 965 (2012); Nico Pitney, *Massachusetts Voters Pass Historic Animal Protection Law*, HUFFINGTON POST (Nov. 8, 2016), https://www.huffingtonpost.com/entry/massachusetts-animals-question-3_us_581e4893e4b0e80b02ca7afe [https://perma.cc/63FN-K7NB] (accessed Apr. 11, 2019).

⁸⁶ See, e.g., *Knorr Advances Global Higher Welfare Commitments*, COMPASSION IN WORLD FARMING, <https://www.compassioninfoodbusiness.com/our-news/2017/09/knorr-advances-global-higher-welfare-commitments> [https://perma.cc/XCJ4-QYEZ] (accessed Apr. 11, 2019) (“Working with Compassion, Knorr first announced its ambition to push for higher welfare standards above industry practice at a global level in 2015 . . . Since then the brand has been working closely with Compassion to start transforming its supply chain.”); Monica Watrous, *Growing Animal Welfare Concerns Signal Three Opportunities for Food Companies*, FOOD BUS. NEWS, <https://www.foodbusinessnews.net/articles/9233-growing-animal-welfare-concerns-signal-three-opportunities-for-food-companies> [https://perma.cc/QK3G-37KE] (accessed Apr. 11, 2019) (“Recently, Panera Bread switched to bacon sourced from pigs that meet the company’s animal welfare standards for reduced confinement and antibiotics. Chipotle Mexican Grill has long held similar standards for the meat it serves in its restaurants. Meanwhile, a growing number of national restaurant chains and retailers have made commitments to serving or selling cage-free eggs.”). And, clean meat or plant-based burgers are now on the menu at fast food establishments.

*F. Meeting Other Needs of Future Clients**1. Case Study: Sanctuaries and Temporary Shelters*

Animal law and ALR have always been responsive to the needs of the animal protection movement, and the educational offerings to students of animal law should complement the changing demands placed on the movement. As the animal protection movement becomes more successful and mainstream, a pressing question has emerged: What do animal advocates do with the animals they have the opportunity to rescue from abusive situations? This has been a conundrum since the first farmed-animal sanctuaries formed in the 1980s,⁸⁷ and it has become more central to the work of advocates and attorneys over the last thirty-plus years. Farmed animal sanctuaries can only take in a small number of the billions of farmed animals produced and killed annually. While the number of farmed animal sanctuaries is growing, they cannot keep up with the number of farmed animals in need because of the costs associated with running these sanctuaries. If they tried to house more without the proper resources, they would compromise the well-being of the farmed animals already living there.

Having a safe-haven infrastructure, however, is vital to the movement's continued success in teaching the general public about the true nature of those animals who are raised solely for food or fiber. The same observation holds true for sanctuaries created to serve the needs of captive wild animals rescued from zoos, roadside zoos, research laboratories, and other sources. Specialized sanctuaries now provide homes and dignified, caring treatment for elephants, wolves, bears, chimpanzees, and other wildlife.⁸⁸

As sanctuaries have grown in both scale (capacity) and number (more sanctuaries of all capacities, from small to large), the legal and operational complexities they face have also grown. Lawyers and law students will encounter a host of issues, ranging from the mundane (copyrighting the sanctuary logo) to the cutting edge (whether sanctuary residents can possess legal rights).

Additionally, as climate change brings about a greater number of hurricanes, fires, floods, and other disasters, the need for temporary

⁸⁷ Gene Baur, *Farm Sanctuary Co-Founder & President Gene Baur on Finding Common Ground*, FARM SANCTUARY, <https://www.farmsanctuary.org/videos/events/president-gene-baur-on-finding-common-ground/> [<https://perma.cc/HYH3-VFFG>] (accessed Apr. 11, 2019) (showing that Farm Sanctuary, formed in 1986, refers to itself as the first animal rescue organization devoted to farmed animals).

⁸⁸ THE ELEPHANT SANCTUARY, <https://www.elephants.com/> [<https://perma.cc/86JK-YAD8>] (accessed Apr. 11, 2019); WHITE WOLF SANCTUARY, <http://www.whitewolfsanctuary.com/> [<https://perma.cc/CD4D-SBSB>] (accessed Apr. 11, 2019); *Mission and Philosophy*, AM. BEAR ASS'N, <https://www.americanbear.org/the-sanctuary/mission-and-philosophy/> [<https://perma.cc/N86U-B3CE>] (accessed Apr. 11, 2019); CHIMPANZEE SANCTUARY NW, <https://chimpsnw.org/> [<https://perma.cc/A6Z9-H4HK>] (accessed Apr. 11, 2019); *Visiting the Sanctuary*, AUDUBON SOC'Y OF PORTLAND, <https://audubonportland.org/sanctuaries/visiting> [<https://perma.cc/35WY-MAGV>] (accessed Apr. 11, 2019).

shelters and new types of sanctuaries will increase. This trend will usher in unique opportunities for legal education and practice. For example, as a result of Hurricane Katrina, thousands of companion animals were separated from their human ‘owners,’ leading to legal questions as diverse as: could *pro bono* veterinarians provide medical attention to these animals without the owner’s consent, how could authorities successfully reunite animals with their ‘owners,’ and what was the legal status of animals whose ‘owners’ could not be located readily?⁸⁹ The outcry after Hurricane Katrina led to the passage of the federal Pets Evacuation and Transportation Standards (PETS) Act, which requires states seeking federal funds for their disaster relief plans to include companion and service animals in their planning.⁹⁰

Progress can sometimes be accompanied by unexpected challenges. More successful approaches to hoarding prosecutions and lawsuits have also created a sudden influx of companion animals that most humane societies and shelters are not prepared to absorb quickly. For example, in a civil lawsuit brought against a hoarder in North Carolina, under Gen. Stats. 19A, ALDF was awarded custody of over 330 sick and unsocialized dogs.⁹¹ The local animal control facility had room for a maximum of five dogs, and there was no ready answer for where the dogs would go as the lawsuit moved through the appellate process.⁹² The trial court denied the plaintiff’s request for monies to care for the dogs, and awarded ALDF custody of the dogs, but not ownership.⁹³

ALDF was forced to open and operate a temporary ‘dog shelter’ to house, care for, seek medical treatment for, socialize, and place the dogs: a process that took more than a year.⁹⁴ There are numerous legal complications with setting up temporary animal shelters. Because ALDF had custody but not ownership of 330 intact dogs until the final appeal was decided two years later,⁹⁵ legal issues included: whether ALDF had the authority to provide medical treatment, spay and neuter dogs, euthanize terminally ill dogs, and send dogs to foster care in the homes of individual families (given that ALDF could not legally adopt out the dogs until the case ended).⁹⁶ ALDF also grappled with the potential for reversal of the victory on appeal, and a host of other fascinating and provocative issues. For practitioners, the level of legal involvement in such situations can be intensive and long term. In the

⁸⁹ Megan McNabb, *Pets in the Eye of the Storm: Hurricane Katrina Floods the Courts with Pet Custody Disputes*, 14 ANIMAL L. 71, 77 (2007).

⁹⁰ 42 U.S.C. § 519(a)–(d) (2006).

⁹¹ *The Woodley Case*, ANIMAL LEGAL DEF. FUND (June 9, 2009), <https://aldf.org/case/the-woodley-case/> [<https://perma.cc/QBJ8-LVET>] (accessed Apr. 11, 2019).

⁹² *See id.* (showing that ad-hoc shelters were used to care for the dogs).

⁹³ Record at 57, *Animal Legal Def. Fund v. Woodley*, 181 N.C. App. 594 (2007) (No. COA06-358).

⁹⁴ *The Woodley Case*, *supra* note 91.

⁹⁵ *Id.*

⁹⁶ *Id.*

law school setting, the unpredictable nature of these cases presents challenges to incorporating them into a clinic or living lab model; however, with some flexibility, a class may be able to become involved on an impromptu basis, or perhaps role-play what they would do in a similar situation, even if they are not on site.

IV. THE IMPORTANCE OF DIVERSIFYING THE ANIMAL LAW MOVEMENT

Having diversity in the animal law movement—and each of its organizations—is one of the keys to success. People from diverse backgrounds bring perspectives and life experiences that enrich us and help us to develop ideas and approaches that we might not have otherwise considered. This enhances our ability to communicate effectively with our intended audiences.

The animal law movement deserves criticism for its lack of inclusion of people of color,⁹⁷ and the glass ceilings and sexual harassment experienced by women.⁹⁸ Responding effectively to this problem is far more difficult than it might appear; it involves challenging our societal assumptions about women and people of color, attitudes that we, as a country, have developed over the course of our lifetimes.⁹⁹

With estimates ranging from 68–80%, women make up the bulk of the animal rights, protection, and law movements,¹⁰⁰ and yet too few

⁹⁷ Aph Ko, *3 Reasons Black Folks Don't Join the Animal Rights Movement – And Why We Should*, EVERYDAY FEMINISM (Sept. 18, 2015), <https://everydayfeminism.com/2015/09/black-folks-animal-rights-mvmt/> [<https://perma.cc/CRJ7-PZHF>] (accessed Apr. 11, 2019).

⁹⁸ James McWilliams, *Foxes in the Hen House: Could the Animal Welfare World be an Unusually Bad Place for Women to Work?*, PAC. STANDARD (Feb. 6, 2018), <https://psmag.com/social-justice/foxes-in-the-hen-house> [<https://perma.cc/6ML5-5GRP>] (accessed Apr. 11, 2019); Ian Kullgren, *Female Employees Allege Culture of Sexual Harassment at Humane Society*, POLITICO 3 (Jan. 30, 2018), <https://www.politico.com/magazine/story/2018/01/30/humane-society-sexual-harassment-allegations-investigation-216553> [<https://perma.cc/M5CB-TWKG>] (accessed Apr. 11, 2019).

⁹⁹ Keith Payne, Laura Niemi & John M. Doris, *How to Think About “Implicit Bias,”* BEHAVIOR & SOC’Y (Mar. 27, 2018), <https://www.scientificamerican.com/article/how-to-think-about-implicit-bias/> [<https://perma.cc/3CRX-S2D4>] (accessed Apr. 11, 2019); see Mike Noon, *Pointless Diversity Training: Unconscious Bias, New Racism and Agency* (Sept. 1, 2017), <https://journals.sagepub.com/doi/abs/10.1177/0950017017719841> [<https://perma.cc/34NQ-UUBL>] (accessed Apr. 11, 2019) (“The latest fashion of ‘unconscious bias training’ is . . . unlikely to help eliminate racism in the workplace. Knowing about bias does not automatically result in changes in behavior by managers and employees.”); Jessica Nordell, *Is This How Discrimination Ends?*, ATLANTIC (May 7, 2017), <https://www.theatlantic.com/science/archive/2017/05/unconscious-bias-training/525405/> [<https://perma.cc/L4K6-GB8L>] (accessed Apr. 11, 2019).

¹⁰⁰ Emily Gaarder, *Where the Boys Aren't: The Predominance of Women in Animal Rights Activism*, 23 FEMINIST FORMATION 54, 55 (2011). See, EMILY GAARDER, WOMEN AND THE ANIMAL RIGHTS MOVEMENT 95 (2011) (“While women have comprised the majority of animal activists, men have historically dominated the political and philosophical leadership of the movement. Men constitute seventy five percent of the notable writers, organizers, and philosophers featured in Marc Bekoff’s *Encyclopedia of Animal Rights and Welfare*, according to Herzog (2007).”). In this book however, Gaarder also

are in positions of power, not because they lack the capacity, but because the animal movement is not immune from the problems of a larger society in which sexism persists. California animal protection lobbyist, Jennifer Fearing, reported in her presentation at the 2017 Animal Law Conference, that the animal protection movement lacks gender parity at the leadership level: “Across eighteen leading organizations, the male CEOs outnumber the females fourteen to four, and that disparity is even more pronounced if we were to account for the financial resources that these organizations each have.”¹⁰¹ In addition, when one looks at the CEOs and board chairs for the same organizations, “we find that the male CEOs and board chairs number twenty-five, the women nine, which is a seventy four percent male leadership domination.”¹⁰² Fearing pointed out that the nonprofit sector in general shares this industry-wide problem.¹⁰³

Recent media coverage has shined a bright light on the movement’s underlying sexism and unfair treatment, problems that have been ignored for decades, except by a tiny minority. We have lost, and will continue to lose, some of our brightest and most passionate advocates, who have left the movement because of its tacit acceptance of sexism. As law professor Maneesha Deckha explains, “[w]hile women dominate in animal movements across the world, they still encounter gendered experiences in the movement, which, are further complicated by class and race dimensions.”¹⁰⁴

In writing about the recent uncovering of the prevalence of sexual harassment, and sexism generally, within the animal rights movement, Carol J. Adams wrote:

. . . the movement has remained extraordinarily indifferent to the ways in which the seemingly impersonal structures of patriarchy introduce patterns of sexual dominance and submission within the movement itself, patterns which inevitably play out in workplace conditions and interpersonal relations . . . So long as the movement fails to address the problem of sexual inequality, it is endangered by the dominant patriarchal culture, colluding in a regime of sexual hierarchy and domination that hurts women and gender nonconforming men—as well as non-human animals— and damages its own radically transformative potential. Each activist should be asking,

notes a “gender-equitable trend” may be emerging and that in her sample of twenty-seven women, twelve had started or were running their own organizations. *Id.* at 114. Perhaps, she included smaller organizations and sanctuaries, as opposed to Jennifer Fearing in her talk where she focused on eighteen “leading,” i.e., large and established organizations. *Infra* note 101.

¹⁰¹ Jennifer Fearing, *Gender and Race Redux*, YOUTUBE (Oct. 14, 2017) (8:29:00–8:42:00), <https://www.youtube.com/watch?v=4v6tT1Ja0Gc> [<https://perma.cc/RW9U-3MP3>] (accessed Apr. 11, 2019).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Maneesha Deckha, *Animal Advocacy, Feminism and Intersectionality* 23 DEPORTATE, ESULI, PROFUGHE 48, 53 (2013), https://www.unive.it/media/allegato/dep/n23-2013/Documenti/03_Deckha.pdf [<https://perma.cc/MHW7-QYKL>] (accessed Apr. 11, 2019).

“Am I defending objectification and protecting men who abuse and harass women or not? When will we have an ethical commitment to women’s equality in the animal rights movement?” For feminists, animal activism’s failure to confront sexual inequality is tragic; but for animal activism, this failure may be fatal.¹⁰⁵

Others have pointed out that the problems faced by women in the animal rights and protection movements are longstanding and cultural in nature, rather than being the result of a few “bad actors.”¹⁰⁶

Equally important is that people of color face micro-aggressions (commonplace, everyday discriminatory comments or actions, which may be conscious or unconscious, that are subtler and more indirect than overt discrimination), that remind them they are not welcome in the animal rights or protection movements.¹⁰⁷ Recently, at an animal rights conference, both an African American woman and a Latina were approached and asked why more people of color are not involved in the movement.¹⁰⁸ Both women were rightfully offended by the question.¹⁰⁹ Apparently, the questioner did not realize that (a) no one can or should be asked speak for an entire race or group of people, and (b) singling out people of color for a question like that is, in and of itself, a clear instance of micro-aggression.

The 2018 Animal Law Conference included a panel titled “In Search of Race and Gender Diversity in Animal Law: Finding Workable Approaches.” Employment attorney, Carolyn Walker, offered the following questions and actions that the animal law movement can take as part of an effective response to the lack of diversity in the movement:

In recruitment, where are you looking for your employees. Are you . . . advertising in the local papers geared towards people of color, like the Scanner or the Asian Reporter? Are you seeking to speak with student groups whose demographic is not adequately represented in jobs within the move-

¹⁰⁵ Carol Adams, *The Second Class Status and Exploitation of Women in the Animal Rights Movement. Ten Questions*, CAROL J. ADAMS (Aug. 11, 2017), <https://caroljadams.com/carol-adams-blog/the-second-class-status-and-exploitation-of-women-in-the-animal-rights-movement-ten-questions> [https://perma.cc/2GB4-EUNB] (accessed Apr. 11, 2019).

¹⁰⁶ “The leadership of the animal welfare ‘industry,’ as it were, is largely male. The notable exception is PETA, where Ingrid Newkirk, who co-founded the organization over 35 years ago, is still in charge. But PETA is the one animal welfare operation known primarily for making advertisements that brutally objectify women, thereby undermining whatever gender justice might be achieved through charismatic female leadership. PETA’s decision to raise awareness about animal welfare through the sexual objectification of women therefore adds to the argument that sexual harassment is a problem that goes beyond the HSUS. Indeed, there’s much to indicate that it’s endemic to animal advocacy in general.” McWilliams, *supra* note 98.

¹⁰⁷ Kassy O, *One Person of Color’s Experience at the 2017 National Animal Rights Conference*, ENCOMPASS, (Aug. 15, 2017), <https://encompassmovement.org/one-person-of-colors-experience-at-the-2017-national-animal-rights-conference/> [https://perma.cc/7F9M-2F63] (accessed Apr. 11, 2019).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

ment, like the Black or Hispanic Student Unions, or Asian student associations on college campuses? . . . In hiring, if you always choose experience over talent and potential and dedication and enthusiasm, your organization is guaranteed to stay white and those at the top to stay male. Why? Because there's a good possibility that people of color coming into the movement may not have experience because they are not necessarily given the same opportunities or exposure as their white counterparts. But they might have deeper connections to a group or community that your organization is trying to reach. . . . Challenge your assumptions about who will make a good employee—someone who “fits” better with the current team may be “fitting” better because he or she looks like others on the team, has attended the same types of schools and has the same point of view—continue to choose only those individuals and you're guaranteed to stay white In retention, watch your behavior that results from implicit biases and avoid microaggressions. If you don't know how or don't fully understand, push your organization to get some real training on these issues and issues of cultural competency. If your organization won't do it or can't afford it, get online and go to your library and educate yourselves—this is all part of seeking understanding In promotions, are you considering and giving greater credence to individuals (read “males”) whom you perceive are most confident and assertive over competence and effectiveness in a leadership position? Challenge your assumptions about all of these things—ask yourself what makes a good employee, what makes a good leader.¹¹⁰

We believe strongly that it is not enough just to care about the suffering of nonhuman animals. We must extend our compassion and respect to all living beings; including the people we work with, the people who volunteer for our movement, the people we wish to draw closer to our way of viewing the world, and even the people we disagree and fight with. The movement has a long way to go in effectively addressing these problems, and a continued failure to do so will weaken the movement as a whole.

We should note that, in certain ways, the animal law movement *has* become more diverse. Environmental law and food safety advocates have joined our ranks. The movement has also developed partnerships with prosecutors, and groups working to protect children and victims of domestic violence. And, diversity has blossomed in the wake of the international growth of animal law.

V. THE BLOSSOMING OF ANIMAL LAW AROUND THE GLOBE

One of the most exciting developments in the past two decades has been the exponential growth of animal law in places outside the U.S. Animal law is taking hold in Canada, Great Britain, South America,

¹¹⁰ CAROLYN WALKER, REFLECTIONS OF AN AFRICAN AMERICAN FEMALE EMPLOYMENT ATTORNEY ON ISSUES OF RACE AND GENDER WITHIN THE ANIMAL PROTECTION MOVEMENT 4 (2018), <http://animallawconference.org/wp-content/uploads/sites/7/2018/10/Reflections-Of-An-African-American-Female-Employment-Attorney-On-Issues-of-Race-and-Gender-Within-the-Animal-Protection-Movement.pdf> [<https://perma.cc/EX46-LZZM>] (accessed Apr. 11, 2019).

Africa, Asia, Australia, and New Zealand.¹¹¹ The emergence of a global animal law movement shows no sign of slowing, and in fact, is picking up speed. Internationally-based animal law conferences bring together scholars and practitioners from around the globe, comparing the problems that animals face in their respective countries, the laws at their disposal, and legal approaches that work within varying legal systems. For example, while American civil litigators lack the authority to prosecute cruelty cases, their counterparts in Australia can and do.¹¹² This leads to a lively discussion of how our legal systems are alike and different and how tactics may or may not apply in different countries.

The growth of animal law internationally is also reflected by the fact that several countries have amended their constitutions to protect animal interests or to address animal dignity, sentience, or rights. Professor Jessica Eisen writes:

Until recently (and likely still, in many places), it has been unthinkable that the state might be constitutionally obliged to place limits upon human use of their animal property for reasons independent of the rights or interests of another human person. Yet, a number of diverse jurisdictions have now adopted constitutional provisions committing the state to protect the interests of animals. In particular, animal interests are now protected in the national constitutional texts of Switzerland (as of 1973), India (1976), Brazil (1988), Slovenia (1991), Germany (2002), Luxembourg (2007), Austria (2013), and Egypt (2014). In most cases, these constitutional commitments are supported by complex legislative and regulatory schemes governing the use and treatment of particular species in particular contexts.¹¹³

¹¹¹ See, e.g., *Center for Animal Law Studies*, LEWIS & CLARK L. SCH., https://law.lclark.edu/centers/animal_law_studies/international_animal_law/ [<https://perma.cc/NQ3Z-BKR4>] (accessed Apr. 11, 2019) (“The International Animal Law program is our newest endeavor aimed at elevating the field of animal law around the world.”); *Master’s Degree in Animal Law and Society (Onsite)*, UNIVERSITAT AUTÒNOMA DE BARCELONA, https://www.uab.cat/web/postgraduate/master-in-animal-law-and-society-onsite-/general-information-1217916968009.html/param1-2826_en/param2-2012/ [<https://perma.cc/34FB-DGL6>] (accessed Apr. 11, 2019) (showing that the Universitat Autònoma de Barcelona provides a Master’s Degree in Animal Law and Society to have students learn “how to acquire and apply critical knowledge for anyone interested in working as a lawyer or a consultant to animal production industries”); *China’s lifting of its Rhino Horn Ban Reverberates*, AFRICA NETWORK FOR ANIMAL WELFARE (Nov. 16, 2018), <https://www.anaw.org/> [<https://perma.cc/F8EB-8TQZ>] (accessed Apr. 11, 2019) (discussing how ANAW works on networking for animal welfare in Africa); VOICELESS: THE ANIMAL PROT. INST., <https://www.voiceless.org.au/> [<https://perma.cc/7BXS-TF5X>] (accessed Apr. 11, 2019) (operating in Australia, Voiceless envisions “a world in which animals are treated with respect and compassion”).

¹¹² *What is Animal Law?*, VOICELESS: THE ANIMAL PROTECTION INST., <https://www.voiceless.org.au/what-is-animallaw> [<https://perma.cc/R99N-RVQ5>] (accessed Apr. 11, 2019).

¹¹³ Jessica Eisen, *Animals in the Constitutional State*, 15 INT’L J. CONST. L. 909 (2017).

In 1973, animal welfare became enshrined in Switzerland's constitution as a protected interest.¹¹⁴ In 1992, Switzerland became the first nation to recognize the dignity of animals in its constitution.¹¹⁵ Germany followed in 2002.¹¹⁶ Individual cities have enacted similar legislation as well. Most recently, in November 2018, Brussels recognized animals as sentient beings distinct from property.¹¹⁷ Under the new legislation, animals will be categorized as "a living being endowed with sensitivity, interests of its own and dignity, that benefits from special protection."¹¹⁸

There has been some progress in obtaining legal rights for animals in courts around the world, as well. Earlier this year, the highest court in the Indian state of Uttarakhand ruled that animals are legal entities,¹¹⁹ finding:

The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Uttarakhand are hereby declared persons in loco parentis as the human face for the welfare/protection of animals.¹²⁰

And in 2016, an Argentinian court found that a captive chimpanzee named Cecilia was a "non-human legal person" with inherent rights, ordering her to be released from the zoo where she was being held and transferred to a sanctuary.¹²¹

¹¹⁴ Gieri Bolliger, *Legal Protection of Animal Dignity in Switzerland: Status Quo & Future Perspectives*, 22 ANIMAL L. 316–17 (2016).

¹¹⁵ *Swiss Fact: Switz. First Country to Consider Dignity of Animals in Const.*, LE NEWS (May 10, 2016), <https://lenews.ch/2016/10/05/swiss-facts-animal-dignity/> [<https://perma.cc/7494-LBTJ>] (accessed Apr. 11, 2019); Bolliger, *supra* note 114, at 313.

¹¹⁶ Erin Evans, *Constitutional Inclusion of Animal Rights in Germany and Switzerland: How Did Animal Protection Become an Issue of National Importance?*, 18 SOC'Y & ANIMALS 231, 231 (2010); Kate Connolly, *German Animals Given Legal Rights*, GUARDIAN (June 21, 2002), <https://www.theguardian.com/world/2002/jun/22/germany-animalwelfare> [<https://perma.cc/347F-BRDG>] (accessed Apr. 11, 2019).

¹¹⁷ Christopher Vincent, *Brussels Parliament Adopts Crucial Animal Rights Bill*, BRUSSELS TIMES (Nov. 23, 2018), <http://www.brusselstimes.com/brussels/13242/brussels-parliament-adopts-crucial-animal-rights-bill> [<https://perma.cc/V8Z8-JSDP>] (accessed Apr. 11, 2019).

¹¹⁸ *Id.*

¹¹⁹ Apoorva Mandhani, *Uttarakhand HC Declares "Entire Animal Kingdom" As Legal Entity, With Rights, Duties, & Liabilities of A Living Person*, LIVE LAW, <https://www.livelaw.in/uttarakhand-hc-declares-entire-animal-kingdom-as-legal-entity-with-rights-duties-liabilities-of-a-living-person-read-judgment/> [<https://perma.cc/GG3P-YGHE>] (accessed Apr. 11, 2019); *see also* Narayan Dutt Bhatt v. Union of India, (July 5, 2018) 43 AIR 1, 50 (India) (declaring that "the entire animal kingdom" are legal entities, having corresponding rights, duties and liabilities of a living person).

¹²⁰ *Bhatt*, *supra* note 119, at 50.

¹²¹ Gabriel Samuels, *Chimpanzees Have Rights, Says Argentine Judge as She Orders Cecilia Be Released from Zoo*, INDEPENDENT (Nov. 7, 2016), <https://www.independent.co.uk/news/world/americas/argentina-judge-says-chimpanzee-poor-conditions-has-rights-and-should-be-freed-from-zoo-a7402606.html> [<https://perma.cc/239H-E3E7>] (accessed Apr. 11, 2019); Lauren Choplin, *Chimpanzee Recognized as Legal Person*, NON-

The close tie between animal law in practice and animal law in academia is likewise developing at the international level. The publication of casebooks and articles reflects this important trend.¹²² And, the LL.M. program in Animal Law at Lewis & Clark Law School is, and will continue to be, the academic hub for attorneys from other countries who wish to learn everything they can about animal law and import that knowledge back to their countries of origin.

VI. THE ETERNAL DEBATE: RIGHTS V. WELFARE

In animal law circles, a continuing debate is whether the movement should focus on legal rights or welfare. Advocates for each position argue vehemently that theirs is the only truly effective route to changing how our society views and treats animals.

Steven Wise¹²³ has said that after several years of handling animal welfare lawsuits early in his career, he felt that he was doing nothing more than nibbling around the edges.¹²⁴ He contends that the real problem is the property status of animals, and he has spent the last thirty years focusing his energies on challenging that status.¹²⁵

HUMAN RIGHTS BLOG (Dec. 5, 2016), <https://www.nonhumanrights.org/blog/cecilia-chimpanzee-legal-person/> [<https://perma.cc/7RAE-E38F>] (accessed Apr. 11, 2019).

¹²² See, e.g., PETER SANKOFF ET AL., CANADIAN PERSPECTIVES ON ANIMALS AND THE LAW (2015) (utilizing legal analysis combined with principles of ethics and philosophy to address significant human-animal justice questions); ALEX BRUCE, ANIMAL LAW IN AUSTRALIA: AN INTEGRATED APPROACH (2011) (analyzing Australian animal legal and regulatory frameworks through an ethical and philosophical lens); DEBORAH CAO & STEVEN WHITE, ANIMAL LAW IN AUSTRALIA AND NEW ZEALAND (2010) (providing an in-depth examination of animal law as a discipline and independent branch of law in Australia and New Zealand); PETER SANKOFF, STEVEN WHITE & CELESTE BLACK, ANIMAL LAW IN AUSTRALASIA (2013) (addressing emerging concerns surrounding animal law in Australia and New Zealand); RAJ PANJWANI, WILDLIFE LAW: A GLOBAL PERSPECTIVE (2008) (providing an in-depth examination of wildlife law in several countries across the globe); MIKE RADFORD, ANIMAL WELFARE LAW IN BRITAIN (2001) (providing a detailed study of present-day animal welfare law in Britain).

¹²³ Professor Wise has been teaching a critical and compelling course on Animal Rights Law and Jurisprudence at Lewis & Clark Law School for over ten years. This course is offered as a two-week intensive class in the summer and is one of our most popular courses.

¹²⁴ Mark Bekoff, *The Nonhuman Rights Project: An Interview with Steven Wise*, PSYCHOL. TODAY, <https://www.psychologytoday.com/us/blog/animal-emotions/201612/the-nonhuman-rights-project-interview-steven-wise> [<https://perma.cc/EW7E-XLCH>] (accessed Apr. 11, 2019) (“After working for five years with the Animal Legal Defense Fund, I concluded that there was a powerful structural bias in the law against protecting even the most fundamental interests of nonhuman animals. Every one of them had always been considered a legal thing incapable of possessing any legal rights. I decided this had to change.”).

¹²⁵ *Center for Animal Law Studies: Steven Wise*, LEWIS & CLARK L. SCH., <https://law.lclark.edu/live/profiles/6509-steven-wise> [<https://perma.cc/Q8TR-65D6>] (accessed Apr. 11, 2019) (“Wise has been the president of Nonhuman Rights Project, a civil rights organization working to attain legal rights for nonhuman animals since 1995.”); *Our Objectives*, NONHUMAN RIGHTS PROJECT, <https://www.nonhumanrights.org/who-we-are/> [<https://perma.cc/JGM6-83FV>] (accessed Apr. 11, 2019) (“To change the common law status of great apes, elephants, dolphins, and whales from mere ‘things,’ which lack the

Thus, the Nonhuman Rights Project has filed lawsuits in which they argue that chimpanzees, and more recently elephants, must be recognized as legal persons.¹²⁶ They offer compelling legal, scientific, and ethical arguments.¹²⁷ Professor David Favre has also focused on rights, however, with a more incremental approach.¹²⁸

Animal welfare advocates argue that while Wise and Favre focus on rights, there are many more opportunities to make incremental changes and score victories that will help protect animals today, rather than at some imaginary date in the future.¹²⁹

Who's right?

They all are.

Changing society is a non-linear process; in fact, a successful movement will utilize a variety of techniques and approaches. Animal law is strengthened and energized by advocating for incremental change wherever possible, as well as developing a long-range plan and strategy that questions a legal system built on the exploitation of beings based on their species.

If we imagine contemporary society as a river, and the animal protection movement as a boat on that river, we need “many hands on many oars”¹³⁰ to move forward and achieve social change. As we row for the opposite shore, we'll pass islands that represent milestones, and sometimes the current may take us backward momentarily, or drag us off course, but as we self-correct we may find a better course. The currents are not entirely predictable, and we can't see everything beneath the water, which represents the culture we are pushing through and immersed in. We do our best to move forward. And for those who care about animals and advocate for a better future for them, we truly are in the same boat and are each other's allies in this one very important thing—we care passionately and dedicate our-

capacity to possess any legal right, to ‘legal persons,’ who possess such fundamental rights as bodily liberty and bodily integrity.”)

¹²⁶ See, e.g., *Matter of Nonhuman Rights Project, Inc. v. Presti*, 999 N.Y.S.2d 652 (2015) (seeking a writ of habeas corpus on behalf of Kiko, a chimpanzee); *Nonhuman Rights Project, Inc. ex rel. Beulah, Minnie & Karen v. R.W. Commerford & Sons, Inc.*, No. LLICV175009822S, 2018 WL 1787370 (Conn. Super. Ct. Feb. 27, 2018) (seeking a writ of habeas corpus on behalf of three elephants, Beulah, Minnie, and Karen).

¹²⁷ NONHUMAN RIGHTS PROJECT, <https://www.nonhumanrights.org/> [<https://perma.cc/G57F-WBTV>] (accessed Apr. 11, 2019).

¹²⁸ DAVID S. FAVRE, *RESPECTING ANIMALS: A BALANCED APPROACH TO OUR RELATIONSHIP WITH PETS, FOOD, AND WILDLIFE* (Steven L. Mitchell ed., 2018).

¹²⁹ See Jonathan Lovvorn, *Animal Law in Action: The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis for Legal Reform*, 12 *ANIMAL L.* 133, 139, 146 (2006) (“But as we daydream about a heroic legal victory for animals that will most likely not occur in our lifetime, millions and millions of animals are suffering in conditions that we have the power, and the societal support, to change today.”).

¹³⁰ LAWRENCE FINSEN & SUSAN FINSEN, *THE ANIMAL RIGHTS MOVEMENT IN AMERICA: FROM COMPASSION TO RESPECT* 72 (1994).

selves to serving the best interests of animals. And, we're building a bigger boat.

This is not to say we cannot criticize approaches we feel are harmful, such as campaigns that rely on sexist tropes and the objectification of women, or approaches that lionize certain individuals in the movement as 'heroes' (historically, white men) to the detriment of other advocates. The same goes for animal law. In a field that is still developing, we must be cautious in our teaching, writing, litigating, legislating, and speaking, of the potential for setting a harmful precedent and creating bad law where previously there was none. However, in most cases there is room for a plethora of approaches to gain greater recognition of animals' interests in the legal system. And, especially when the problem is of the magnitude and pervasiveness of animal exploitation, we are stronger when we work together, or when we at least respect each other's sincerely held differences regarding philosophy and strategy, rather than tearing each other down. Progress in changing how our society views and treats animals has been and will continue to be painfully slow and circuitous. More often than not, we simply won't know what will work until we get to the other side of the river and have a chance to look back.

VII. EYEING THE FUTURE: WHAT ANIMAL LAW MIGHT LOOK LIKE

In the early days of animal law practice, every case was breaking new ground, addressing whether or not a given law could be applied in a way that would offer greater protections to animals. Early practitioners started with a blank slate and developed models for later cases. The very act of litigating these cases over the past forty years and building a scholarly field within the Academy has generated a foundation of knowledge from which the current practitioners and scholars can draw. We are already finding more sophisticated legal arguments and approaches, building on what has been learned from earlier successes and failures, and that progress is sure to continue.

Today, animal law attorneys successfully build coalitions with non-animal focused organizations to challenge laws that are harmful to animals. Animal advocates, for instance, unite with journalists and organizations focused on civil liberties to fight Ag-Gag laws, which punish whistleblowers and others seeking to expose animal cruelty on factory farms and in slaughterhouses.¹³¹

¹³¹ See *supra* note 75; *Herbert*, 263 F. Supp.3d 1193 (holding that "ag-gag" laws violate first amendment rights); Alicia Prygoski, *Brief Summary of Ag-Gag Laws*, MICH. STATE UNIV.: ANIMAL LEGAL & HIST. CTR., (2015), <https://www.animallaw.info/article/brief-summary-ag-gag-laws> [<https://perma.cc/N3BG-GK7M>] (accessed Apr. 11, 2019); Civil Rights Complaint at 7–13, *Herbert*, 263 F.Supp.3d 1193 (No. 2:13-cv-00679-RJS); see also Daniel Sternberg, *Why Can't I Know How the Sausage is Made?: How Ag-Gag Statutes Threaten Animal Welfare Groups and the First Amendment*, 3 CARDOZO PUB. L. POL'Y & ETHICS J. 625, 637–38 (2015) ("Amy Meyer joined national non-profit animal

In addition to using existing animal protection laws in new and expanded ways and engaging in successful coalition building with non-animal organizations through litigation, current animal law practitioners demonstrate considerable creativity and ‘outside the box’ thinking. While simultaneously working through the legislatures to remedy a situation, the lack of strong animal protection laws has engendered the skillful use of laws not directly related to animals being employed to protect them—which also highlights the ways animal law overlaps with other areas of law. Examples of such creative litigation on behalf of animals include using gambling and cruelty laws to prosecute defendants engaged in dog fighting,¹³² nuisance laws to fight factory farms,¹³³ consumer protection laws to challenge puppy mills,¹³⁴ and deceptive advertising and labeling laws regarding false claims about farmed animal treatment and healthfulness of meat and dairy consumption.¹³⁵ Another expanding focus for lawyers will be participating in the passage of laws that directly protect animals who are currently without legal protection. This need is most obvious in the area of farmed animal law, where, at present, there is no federal law offering protection to animals, other than in transport or slaughter, and the majority of state anti-cruelty laws exempt farmed animals.¹³⁶

protection groups, journalists, academics, and investigators to challenge the constitutionality of . . . the Utah Ag-Gag statute.”).

¹³² See *Animal Fighting: Related Cases*, MICH. STATE UNIV. ANIMAL LEGAL & HIST. CTR., https://www.animallaw.info/cases/topic/animal-fighting?page=1&order=field_primary_citation&sort=desc [<https://perma.cc/5FD3-R3YT>] (accessed Apr. 11, 2019) (summarizing and linking to several dog fighting judgements which were won on gambling, cruelty laws, or both).

¹³³ JoAnn Alambaugh, *A Third Smithfield Lawsuit Verdict Creates Alarm Among Producers*, PORK NETWORK (Aug. 4, 2018), <https://www.porkbusiness.com/article/third-smithfield-lawsuit-verdict-creates-alarm-among-producers> ([<https://perma.cc/G9PE-2DM6>] (accessed Apr. 11, 2019) (“[A] third lawsuit against Smithfield Foods had found the company guilty for ‘unreasonable nuisances they suffered from odors, flies and rumbling trucks.’”)).

¹³⁴ *Challenging the Sale of Puppy Mill Dogs – Barkworks Class Action*, ANIMAL LEGAL DEF. FUND (Dec. 18, 2018), <https://aldf.org/case/challenging-the-sale-of-puppy-mill-dogs-barkworks-class-action/> [<https://perma.cc/S8FV-G84F>] (accessed Apr. 11, 2019).

¹³⁵ *E.g.*, *Animal Legal Def. Fund v. HVFG*, No. C 12-05809 WHA, 2013 U.S. Dist. LEXIS 89169, at *1 (N.D. Cal. June 25, 2013) (“Plaintiffs Animal Legal Defense Fund . . . allege that defendants HVFG . . . violated the Lanham Act and California’s unfair competition and false advertising laws by marketing their foie grass as ‘the humane choice.’”); *PETA v. Cal. Milk Producers Advisory Bd.*, 22 Cal. Rptr. 3d 900 (Cal. Ct. App. 2005); *Physicians Comm. for Responsible Med. v. Tyson Foods*, 13 Cal. Rptr. 3d 926 (Ct. App. 2004); see also Carter Dillard, *False Advertising, Animals, and Ethical Considerations*, 10 ANIMAL L. 25, 25–27 (2004) (“PETA also filed suit . . . in 2003 against the Kentucky Fried Chicken Corporation and its parent company alleging that the defendants were making grossly false representations regarding the treatment of their chickens.”).

¹³⁶ SONIA WAISMAN ET AL., *supra* note 45, at 378–79. See ANIMAL WELFARE INST., LEGAL PROTECTIONS FOR ANIMALS ON FARMS 1 (Oct. 2018), <https://awionline.org/sites/default/files/uploads/documents/FA-AWI-LegalProtections-AnimalsonFarms-110714.pdf> [<https://perma.cc/455J-CWQZ>] (accessed Apr. 11, 2019) (elaborating on the two federal laws that cover farm animals in the United States, the Humane Methods of Slaugh-

Animal law practitioners have begun to specialize their practices, so that some are focused solely on companion animal issues, others on wildlife, and still others on industrial animal agriculture, or food safety as it relates to farmed animals. Out of necessity, the first generation animal lawyers were generalists; however, today, specialization brings an enhanced level of expertise to the practice of animal law.

Not only is the field becoming more sophisticated, but our society as a whole is shifting with regard to dominant attitudes about animals. People are increasingly aware of animal abuse and questioning the status of animals as property. According to a 2015 Gallup poll, support for the view that “animals deserve the exact same rights as people to be free from harm and exploitation” has increased 25% since 2008.¹³⁷ According to a 2015 Harris Poll, 95% of respondents who reported having at least one companion animal considered that animal to be a member of the family—a number that has increased since the question was first asked in 2007.¹³⁸

Interestingly, the 2018 Faunalytics Animal Tracker survey found that little has changed in the last ten years regarding Americans’ attitudes about the importance of animal welfare and protection—with the one exception being “the perceived adequacy of laws protecting animals.”¹³⁹ For this category, perceptions of animal protection laws became more negative from 2015 to 2018, suggesting the public is becoming more aware of the inadequacy of current legal protections for animals.¹⁴⁰ This broad-based increase in awareness of animal abuse, combined with the publication of scientific studies on animal intelligence, will directly impact the quality and kinds of litigation that animal law practitioners will bring in the next several decades.

Animal law has moved inexorably into the mainstream since its emergence in the early 1980s, with that trend beginning to accelerate at the turn of the century. Since 2000, the momentum has only in-

ter Act and the Twenty-Eight Hour Law, neither of which cover poultry or any animal while on farms).

¹³⁷ Rebecca Riffkin, *In U.S., More Say Animals Should Have Same Rights as People*, GALLUP (May 18, 2015), <https://news.gallup.com/poll/183275/say-animals-rights-people.aspx> [https://perma.cc/D47Z-8YTY] (accessed Apr. 11, 2019).

¹³⁸ Larry Shannon-Missal, *More Than Ever, Pets are Members of the Family*, HARRIS POLL (July 16, 2015), <https://theharrispoll.com/whether-furry-feathered-or-flippers-a-flapping-americans-continue-to-display-close-relationships-with-their-pets-2015-is-expected-to-continue-the-pet-industrys-more-than-two-decades-strong/> [https://perma.cc/AQK3-JF9G] (accessed Apr. 11, 2019).

¹³⁹ Che Green, *Animal Tracker 2018: Analysis & Takeaways*, FAUNALYTICS (Aug. 15, 2018), <https://faunalytics.org/animal-tracker-2018-analysis-takeaways/> [https://perma.cc/BG4V-GUCC] (accessed Apr. 11, 2019).

¹⁴⁰ See Linda Tyler, *Animal Tracker 2018: Adequacy Of Laws*, FAUNALYTICS (July 25, 2018), <https://faunalytics.org/animal-tracker-2018-adequacy-of-laws/> [https://perma.cc/8QK3-GPTT] (accessed Apr. 11, 2019) (“For all of the types of animals listed above, U.S. adults’ perceptions of animal protection laws became more negative from 2015 to 2018. In fact, for all but two categories (animals in laboratories and horses/dogs used in racing), opinions that current laws are ‘adequate’ are at the lowest levels since the Animal Tracker survey began.”).

creased. Animal law is in the headlines daily, from stories about companion animal abuse, to the business woes of Ringling and SeaWorld, to clashes over emotional support animals, to farmed animal confinement, and treatment of wildlife.¹⁴¹

As with the presence of animals in society generally (who populate our homes, urban areas, and wild spaces as denizens; songs, literature and pop culture as symbols; and meals, clothing, and other products as “absent referents”),¹⁴² animal law is more pervasive than one unfamiliar with the field might think at first glance. Today, when we meet people and explain that we work in the field of animal law, the response we generally receive is: “thank you; that’s wonderful,” as opposed to twenty years ago, when the more common response was, “what’s that?”

In the future, we hope to see more specialty animal law classes, mirroring the expansive curriculum offered at Lewis & Clark through the Center for Animal Law Studies.¹⁴³ The current law school climate remains an obstacle to the addition of more animal law courses. As noted earlier, law school enrollment took a steep dive about five years ago,¹⁴⁴ which resulted in layoffs and cutbacks, especially of elective courses. In a financially challenged environment that, in some cases, caused the closure of entire law schools,¹⁴⁵ the addition of new courses has proven more challenging. However, law school enrollment has re-

¹⁴¹ See generally Cole Higgins, *A Proposed Bill Will Make Animal Cruelty a Federal Felony*, CNN (Jan. 28, 2019), <https://www.cnn.com/2019/01/28/us/animal-cruelty-federal-felony-bill-trnd/index.html> [<https://perma.cc/ZZ2D-E47E>] (accessed Apr. 11, 2019) (reporting on proposed bill for animal cruelty); Sandra Pedicini, *As Ringling Circus Shuts Down, SeaWorld Faces Similar Challenges*, ORLANDO SENTINEL (Jan. 17, 2017), <https://www.orlandosentinel.com/business/tourism/os-ringling-closing-seaworld-20170117-story.html> [<https://perma.cc/M8RR-CEQ3>] (accessed Apr. 11, 2019) (explaining that as public attitudes have changed, companies have been under scrutiny for using animals as entertainment); Christine Calder, *Pets Don't Want to Be Emotional Support Animals*, SLATE (Nov. 20, 2018), <https://slate.com/technology/2018/11/pets-emotional-support-travel-thanksgiving.html> [<https://perma.cc/2CV5-X8LY>] (accessed Apr. 11, 2019) (arguing emotional support animals may not fare well); Marissa Ortega-Welch, *California Proposition 12: Farm Animal Confinement Initiative*, KALW (Sept. 20, 2018), <https://www.kalw.org/post/california-proposition-12-farm-animal-confinement-initiative#stream/0> [<https://perma.cc/S9B4-4URQ>] (accessed Apr. 11, 2019) (reporting on California farm animal confinement initiative); Nancy Trejos, *Animal Welfare for Travelers: How to Enjoy Wildlife Without Harming It*, USA TODAY (Apr. 27, 2018), <https://www.usatoday.com/story/travel/destinations/2018/04/27/animal-welfare-travelers-how-enjoy-wildlife-without-harming/544938002/> [<https://perma.cc/RJW3-CZQ4>] (accessed Apr. 11, 2019) (discussing how human interaction with certain wildlife can cause suffering for the animals and how some companies are altering policies in response).

¹⁴² CAROL J. ADAMS, *THE SEXUAL POLITICS OF MEAT* 20–21 (Continuum Int’l Publ’g Grp. Ltd. 1990).

¹⁴³ *Center for Animal Law Studies*, LEWIS & CLARK LAW SCH., https://law.lclark.edu/centers/animal_law_studies/curriculum/ [<https://perma.cc/7JJJ-WT4D>] (accessed Apr. 21, 2019).

¹⁴⁴ Olson & Segal, *supra* note 21.

¹⁴⁵ Staci Zaretsky, *Yet Another Troubled Law School to Close Its Doors*, ABOVE THE LAW (Oct. 31, 2018), <https://abovethelaw.com/2018/10/yet-another-troubled-law-school->

cently begun to increase again,¹⁴⁶ which may herald a more favorable academic climate in years to come. Also as noted above, we will also want to see more tenured faculty teaching animal law to secure the class's presence and future at the school.

In addition to more courses focusing specifically on animal law, we hope to see the subject matter increasingly woven into "traditional" law courses, due to animal law's intersection with most other fields of law and the importance of an interdisciplinary approach to animal law and legal education more generally. The new casebook *Animal Law—New Perspectives on Teaching Traditional Law* (2017), is a valuable resource that can help professors introduce animal law concepts and issues into courses such as constitutional law, contracts, property, criminal law, wills and trusts, torts, and environmental law.¹⁴⁷

Another area where the animal law movement has seen and will continue to experience significant growth is in the *pro bono* sector. ALDF reports that approximately 2,300 attorneys in the U.S. currently serve as members of its *pro bono* network, providing it with approximately \$3 million of annual *pro bono* support.¹⁴⁸ Twenty-five years ago, 'Big Law' wanted nothing to do with animal law (generally speaking); now it is widely considered a cutting edge, exciting, and meaningful area of law in which to get involved.

This also gives us hope that the trend toward greater animal protection will continue at the local, state, and federal level. Perhaps, some future administration in Washington, D.C. will support the establishment of a separate federal agency that oversees and enforces all federal laws relating to animals. A federal "Animal Protection Agency" would be a significant step forward.

And, as law students often ask us: will there be jobs for attorneys who wish to practice animal law? Progress has been slow, and today there are more people who want to practice animal law than there are paying jobs to follow that passion. But, creative minds have increased the odds of actually working in the field. Twenty-five years ago, it was relatively rare for animal protection organizations to have attorneys on staff. This is no longer the case. Most of the largest animal protection agencies now employ at least a few attorneys, if not an entire litigation department. Attorneys now work as prosecutors of cruelty cases, as city attorneys handling civil matters involving cities and animal shelters, as staff attorneys for local, state, and federal agencies that focus on animal issues, as counsel for humane societies, shelters, sanctuaries, plant-based and clean meat companies, and as lobbyists

to-close-its-doors/ [https://perma.cc/FP32-7PZL] (accessed Apr. 11, 2019) (discussing Valparaiso University Law School officially announcing its closure).

¹⁴⁶ Mike Stetz, *Enrollment Up at Some Schools, But is that Good or Bad?*, NATIONAL JURIST (Sept. 4, 2018), <http://www.nationaljurist.com/national-jurist-magazine/enrollment-some-schools-good-or-bad> [https://perma.cc/PY9R-VAWP] (accessed Apr. 11, 2019).

¹⁴⁷ KATHY HESSLER ET AL., *supra* note 26.

¹⁴⁸ E-mail from Tom Linney, Dir. of the Pro Bono Program, Animal Legal Def. Fund (Dec. 17, 2018) (on file with author).

and legislators working to protect animals.¹⁴⁹ The evolution of animal law has depended on a growing awareness of the importance of using the legal system to effect change, in concert with many other efforts—which brings us again to the metaphor “many hands on many oars.”

VIII. CONCLUSION

Every once in a while, it is refreshing to take a giant step back from the toil and heat of the day and, as if we were in a glider, view the movement from a vantage point of 5,000 feet above the ground. Giving it this frame of reference, and considering what has been accomplished, as well as what is possible for the future, helps us to maintain the perspective we need as legal professionals advocating for animals. In order to chart a course for the future, it helps to remember where we’ve been, what worked, and what did not. This is important work. In the words of author and historian, Rebecca Solnit, “. . . we can’t see the future. We have the past. Which gives us patterns, models, parallels, principles and resources, and stories of heroism, brilliance, persistence, and the deep joy to be found in doing the work that matters. With those in our pockets, we can seize the possibilities and begin to make hopes into actualities.”¹⁵⁰

We must try multiple and varied approaches, because we can’t know ahead of time which one will work. Returning to where we started with this article, it bears repeating that law students are essential to building the movement. Animal law education, and animal law scholarship like that we see in *Animal Law*, and at Lewis & Clark, are critical to the fight; always have been, and always will be. We are dedicated to making the future of animal law within the Academy a strong one. As we meet and work with the brilliant young lawyers who start in this field every year, and as we continue to learn and benefit from the groundbreaking work of the original animal law pioneers, we have hope for the future because together, we can make a difference. In the words of poet and farmer, Wendell Berry:

¹⁴⁹ See *Career Advice for Aspiring Animal Attorneys*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/career-advice-for-aspiring-animal-attorneys/> [https://perma.cc/ECK6-DZXY] (accessed Apr. 11, 2019); see also *Q&A With an ALDF Attorney About Pursuing a Career in Animal Law*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/qa-with-an-animal-legal-defense-fund-attorney-about-pursuing-a-career-in-animal-law/> [https://perma.cc/QCA7-DS63] (accessed Apr. 11, 2019) (discussing other areas of law that may implicate animal protection indirectly as alternatives to practicing animal law).

¹⁵⁰ Rebecca Solnit, *Protest and Persist: Why Giving Up Hope is Not an Option*, GUARDIAN (Mar. 13, 2017), <https://www.theguardian.com/world/2017/mar/13/protest-persist-hope-trump-activism-anti-nuclear-movement> [https://perma.cc/WQ7A-83VT] (accessed Apr. 11, 2019).

*We clasp the hands of those that go before us,
And the hands of those who come after us.*¹⁵¹

For the animals' sake, let's never let go.

¹⁵¹ WENDELL BERRY, *Healing, in* WHAT ARE PEOPLE FOR? 10 (1990).