



2013 Voiceless **Animal Law Lecture Series**

# **The Animal Voice:** Securing Interests Through Law

Keynote Speaker: Antoine F Goetschel  
Tas Speaker: Meg Good  
Chair: Ruth Hatten  
Voiceless CEO: Dana Campbell

Monday April 29<sup>th</sup> 2013  
UTAS Faculty of Law  
Hobart, Tasmania  
5.45 – 7.15



The Animal Voice:  
Securing Interests  
Through Law

2013 Voiceless

Animal Law Lecture Series

[www.voiceless.org/lecture](http://www.voiceless.org/lecture)

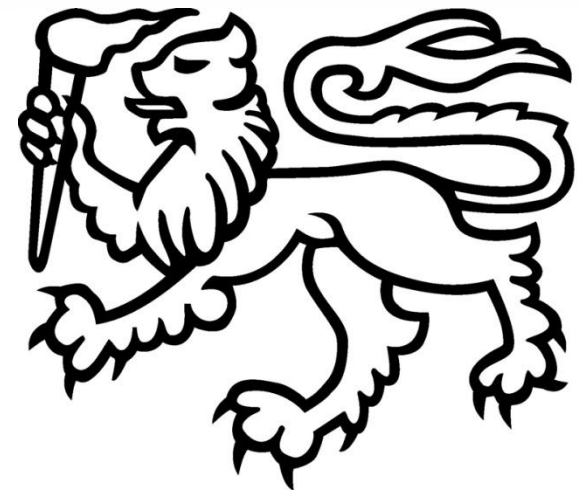
# ***The Role of Animal Rights in Australian Animal Protection***

**Meg Good**

PhD Candidate, UTAS Faculty of Law

Tasmanian State Co-ordinator, Barristers Animal Welfare Panel

Hobart, April 29<sup>th</sup> 2013, UTAS Faculty of Law



**UTAS**

# Summary

**Main claim:** Like humans, non-human animals have an interest in leading their lives in dignity, free from arbitrary discrimination.

Australia should consider recognising two fundamental animal rights:

- 1. Animals of equal status deserve equal treatment under the law;**
- 2. Animals have a right to live their lives in dignity.**



# Assign a 'label' to each of these animals

## Labels:

- Pet
- Pest
- Wild animal
- Farm animal
- Vermin
- Pedigree animal
- Entertainment animal
- Endangered species
- National icon



# Are these animals 'equals'?

- ✓ Do they all have sentience?
- ✓ Can they all feel pain?
- ✓ Can they all experience suffering?
- ✓ Do they have similar levels of intelligence?

Are they equals?

If so, do they *deserve* equal treatment under the law?

Do they *receive* equal treatment under Aus law?

---

**Why can we keep a hen in an extremely confined space for the majority of its life, but not a dog?**

**Why do we protect the Freckled Duck, but not feral cats?**

### **ANSWER**

**The level of legal protection afforded to animals in Australia is determined according to human values and priorities.**

**It is *not* determined according to a consistent ethical rationale, based upon recognition of animal 'rights' and the intrinsic value of animal life.**



At present in Australia, animals of equal status are subject to differential treatment under the law.

This occurs due to:

- **lack of uniformity** in the substantive law, and;
- **differential law enforcement.**



# Treated equally?

---

# Lack of uniformity

## **Absence of comprehensive federal animal welfare legislation**

- Reliance on Model Codes of Practice

## **Differing state/territory approaches**

- Different animal welfare legislation applies in each jurisdiction
- Different adoption of the Codes of Practice

**Different types of animals** (i.e. 'farm animals', 'companion animals') receive **different levels of protection** under the law.

# Differential Enforcement

Enforcement trend:

- Low prosecution rates
- High conviction rates.



# RSPCA – 2011/2012 Complaints and Prosecutions Statistics

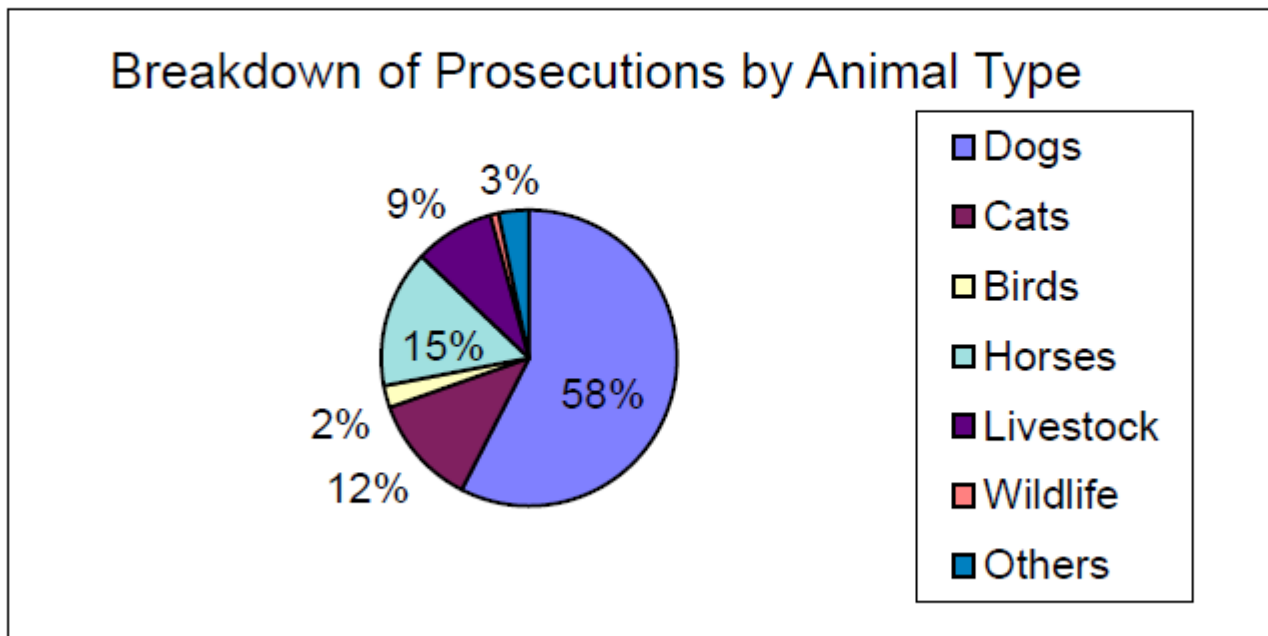
**Table 6: National complaints, prosecutions and convictions over the past 5 years**

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
<b>Complaints</b>	41,915	49,494	50,765	53,544	59,916	51,961
<b>Prosecutions</b>	352	266	259	247	275	266
<b>Convictions</b>	236	253	202	185	208	298



# Differential Enforcement

## Total RSPCA cruelty prosecutions by type of animal in 2011-2012



Source: RSPCA Aus (2012)

# Animals have a right to live their lives in dignity

**Do all Australian animals have a right to live their lives in dignity in Australia?**

**What might be the consequences of recognising such a right in AUS?**

## Example – Layer Hen Welfare

**Code of Practice:** ‘It is noted that there are particular behaviours such as perching, the ability to fully stretch and to lay eggs in a nest that are not currently possible in certain (caged) poultry housing systems.’ (*Model Code of Practice – Poultry*).

**Animal welfare organisation:** ‘One of a hens most fundamental desires is to build a nest and lay her eggs in private. But in factory farms, they are forced to eat, sleep and lay their eggs in a crowded cage.’ (*Animals Australia*)

---

# Animals have a right to live their lives in dignity

## Consumer choice, or producer duty?

**Egg Industry:** ‘The market share for free range egg sales has increased from about 8% in 2002 to around 25% in 2011 in Australia. These changes have come about by consumers exercising their right to choose, not by any government regulations – and that is the way it should be.’

*(Australian Egg Corporation Limited)*



# Likelihood of Recognition at the Commonwealth Level

Types of recognition	Legal challenges	Political challenges	Practical challenges
Constitutional	No power under the <i>Australian Constitution</i> to enable the Commonwealth to legislate <i>directly</i> with respect to animal welfare (possible to do so indirectly).  Traditionally, a state/territory responsibility.	History of failed attempts to amend the <i>Australian Constitution</i> .  Australia is economically reliant on animal industries – might mitigate against achieving political consensus.  Would the rights be actionable? Aspirational? Would it matter?	Increasing animal welfare standards is often perceived as an economically expensive alternative to maintaining the status quo.
Legislative			
Policy			

Professor Weisbrot:

*“Just as we now look back on the past 40 years with some bewilderment and embarrassment that we were so slow to recognise the human rights of indigenous people, children, people with a disability, older people and others, it is intriguing to wonder whether our children will look back in 40 years and wonder how we possibly failed for so long to take animal rights seriously.”*

**Any further questions:**  
Meg.Good@utas.edu.au